Advocates for Rural Broadband

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Filed Via ECFS
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: *Connect America Fund*, WC Docket No. 10-90

Dear Ms. Dortch:

On Wednesday, December 9, 2015, Keith Gibson of Lavaca Telephone Company, Inc. d/b/a Pinnacle Communications of Arkansas and Oklahoma ("Pinnacle"); Mark Gailey of Totah Communications, Inc. of Oklahoma and Kansas ("Totah"); and Derrick Owens and Gerry Duffy representing WTA – Advocates for Rural Broadband ("WTA") met separately with Stephanie Weiner, Senior Legal Advisor, Wireline to Chairman Tom Wheeler, and Alexander Minard of the Wireline Competition Bureau; with Travis Litman, Senior Legal Advisor to Commissioner Jessica Rosenworcel; with Nicholas Degani, Legal Advisor, Wireline to Commissioner Ajit Pai; and with Amy Bender, Legal Advisor, Wireline to Commissioner Michael O'Rielly, to discuss their experience in serving rural areas and its relevance to universal service reform.

Pinnacle indicated that it had deployed fiber-to-the-home ("FTTH") networks in both its Arkansas and its Oklahoma study areas six years ago. It emphasized that completing a 100 percent FTTH network does not mean that a carrier's build-out costs are eliminated for decades. Rather, electronic central office equipment and line cards at customer locations need to be replaced (often throughout a network because they are no longer supported by a vendor) at substantial costs that can exceed $1 million. Totah's networks are not yet FTTH, but it has been deploying the higher and higher broadband speeds needed and demanded by its customers. Both companies emphasized that most rural local exchange carriers ("RLECs") do not upgrade their networks by ten percent (10%) increments per year. Rather, they find it much more efficient and economical to negotiate loans, equipment purchases and contractor arrangements at one time, and to have the work done during one or two construction seasons. Even in the unlikely event they were available, it would be prohibitively expensive to bring contractor work crews and their heavy equipment back to remote rural exchanges virtually every year.

Given that it has built out FTTH to 100 percent of both of its study areas, Pinnacle recognized that it likely would not be allowed to opt into the contemplated model-based support path. Totah estimated that it would receive a substantial increase in support via the model in one study area, and a substantial decrease in the other. Both companies expressed skepticism regarding the accuracy of a model that appeared to provide substantial and inexplicable windfalls of increased high-cost support to some study areas, and substantial decreases to others. Pinnacle (which estimates that it would lose 87 percent of its high-cost support under the model) expressed frustration that the model appears to penalize carriers that previously heeded White House, Congressional and Commission urgings to deploy broadband and to reward those that did not.

Both companies also expressed serious concerns about the contemplated bifurcated approach for RLECs that opted not to elect the model-based path. They understood that attempts to estimate the workings of the bifurcated approach to date had estimated that roughly half of the RLECs would lose about a quarter to a third of their high-cost support while the remaining ILECs would have similar gains. It was not yet clear why a bifurcated approach would create so many "winners" and "losers,' but such volatility and uncertainty is much more likely to discourage future broadband investment than to encourage it. They also noted that the bifurcated approach seemed extremely complicated, and feared that it would significantly increase accounting, legal and other operating costs that were simultaneously being further limited or capped.

Whereas a primary initial attraction of the bifurcated approach was that it would allow recovery of past investment, both companies indicated concerns that this potential attraction was being eaten away by rumors that: (a) the Commission was seeking a very short three-to-five year transition away from the High Cost Loop Support ("HCLS") and Interstate Common Line Support ("ICLS") mechanisms – either directly via a specified transition rule or indirectly via use of a "net plant" allocation system; (b) the Commission was intending to apply budget control mechanisms to reduce HCLS and ICLS support as well as support for new investment; and (c) the Commission was considering the elimination or reduction of HCLS and ICLS support as well as support for "new" investment in areas determined to be served by "unsubsidized competitors."

Both companies expressed concerns about the lack of clear and reasonable standards as to who is and is not a "competitor," about the accuracy and completeness of Form 477 data, and about the validity of claims that some entities are "serving" rural areas. They questioned the benefits to the local public of a finding that an entity that is barely able to provide even a minimal 10/1 service is a "competitor" with (and therefore able to reduce or eliminate the high-cost support of) an RLEC that has deployed fiber far into its network and is able to provide virtually any speed requested by its customers during the next 10-to-20 years. Pinnacle noted that Form 477 data indicates only census blocks where an entity claims to "offer" service in some unclear fashion (rather than whether the entity is actually serving or currently able to serve the entire census block), and asserted that the entity that the Commission apparently believed was serving about 80 percent of its Oklahoma study area was virtually unknown there.

Finally, Totah noted that the Commission's $2.0 billion high-cost budget for rate-of-return carriers is becoming increasingly unreasonable and impracticable in light of the increasing prices RLECs must pay for construction services, equipment, vehicles and other necessities. RLECs appear to be the only regulated entities that are required to undertake and complete difficult and expensive transitions to a new technology platform at a time of increasing construction and operating costs while their largest and most critical revenue streams are kept capped for the better part of a decade. While the Commission has significant additional support demands from its E-Rate, Rural Health Care and Lifeline programs, none of those programs can operate effectively and communicate with their rural constituents without the underlying broadband networks being deployed by RLECs and their price cap counterparts.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceeding.

Respectfully submitted,

/s/ Gerard J. Duffy

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