November 29, 2016

***Ex Parte* Letter**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: WC Docket No. 11-42, Federal-State Joint Board on Universal Service Lifeline and Link Up Reform and Modernization

WC Docket No. 09-197, Telecommunications Carriers Eligible for Universal Service Support

WC Docket No. 10-90, Connect America Fund

Dear Ms. Dortch:

NTCA–The Rural Broadband Association ("NTCA")[1] and WTA-Advocates for Rural Broadband ("WTA")[2] hereby submit this letter to highlight once again an unfortunate incongruity between implementation of the *Rate-of-Return Reform Order*[3] and one particular provision of the *Lifeline Modernization Order*[4] which requires high-cost support recipients to offer a standalone broadband service to Universal Service Fund ("USF") Lifeline-eligible

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1 NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers ("RLECs"). All of NTCA's members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities.

2 WTA – Advocates for Rural Broadband is a national trade association representing more than 350 rural telecommunications providers offering voice, broadband and video services in rural America. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities.

3 *Connect America Fund*, *et al.*, WC Docket No. 10-90, *et al*., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (rel. March 30, 2016) ("*Rate-of-Return Reform Order*").

4 Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) ("*Lifeline Modernization Order*").

consumers.[5] As NTCA and WTA noted in an October 24, 2016 Petition for Temporary Waiver,[6] even with reforms intended to resolve the "standalone broadband issue," it will still be more costly for rural consumers in many cases to purchase standalone broadband Internet access service ("BIAS") rather than a bundle of voice and broadband service due to the structure of High-Cost support mechanisms and budgetary constraints that limit support and, when combined, increase consumers' share of a standalone broadband retail rate. As noted in the Petition, this reality, and the fact that certain state universal service funding mechanisms still tie support to voice lines, will render insufficient high-cost support to RLECs for broadband-only loops, pushing upward retail rates for standalone fixed BIAS for rural consumers.

Because of this fact, many RLECs today do not offer any current or potential customers the option to purchase standalone broadband service and are unlikely to do so in the foreseeable future barring substantial changes to Federal and state high-cost support mechanisms and budgets. Simply put, many RLECs have determined that it makes little sense to offer a product that few, if any, consumers – let alone low-income consumers – would find affordable. In addition, to comply with the new requirement, RLECs and their affiliates would be required to undergo the administrative expense to develop a new service offering. At a time when RLECs are faced with other substantial regulatory compliance and costly network buildout obligations, diverting additional resources to development of such a service offering would be futile for RLECs and their customers alike.

NTCA and WTA send this letter now because data just recently available for the Commission's consideration reaffirms that the insufficient High-Cost program budget and the ensuing budget control mechanism set to take effect January 1, 2017 will undermine the professed objective of the reforms adopted in the *Rate-of-Return Reform Order*, as well as render futile the requirement for RLECs to undertake the effort to create and track specialized standalone broadband Lifeline offerings for low-income rural consumers. As the Commission itself is undoubtedly now aware from its own High Cost reform implementation efforts, and as a group of NTCA members recently discussed (and as memorialized in the attached *ex parte*), the budget control that will apply as of January 1, 2017 due to the insufficient High Cost Program budget will result in broadband-only loop rates that are *$20 per month to over $100 per month higher* than the $42 broadband-only benchmark specified in the Commission's *Rate-of-Return Reform Order*. The further addition of: (a) mandatory imputed Access Recovery Charges; (b) "second mile" and "middle mile" network transport; (c) dedicated Internet access transit; (d) non-regulated operating functions such as Internet marketing and customer service help-desk functions; and (e) federal USF contribution charges that apply to the broadband-only loop will push expected retail rates for standalone broadband services to exorbitant levels.

There is no realistic Lifeline discount large enough to enable a rural low-income consumer to obtain standalone broadband when the "starting price" for all rural consumers is approximately $90 per month or far more in most cases. Until such time as the High-Cost Program is structured to enable access by all rural consumers to standalone broadband services at "reasonably comparable" rates, it would be futile for RLECs to undertake the effort to create and track

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5 *Id.*, fn.133.

6 NTCA and WTA Petition for Temporary Waiver, WC Docket No. 11-42, et al., (fil. Oct. 24, 2016).

specialized standalone broadband Lifeline offerings for low-income rural consumers, and a temporary waiver of this Lifeline requirement is thus warranted. At the very least, the Commission should grant such a waiver to RLECs that certify that the price of the standalone broadband offering would be equal to or in excess of that of a bundled voice and broadband offering from the same RLEC.[7]

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,
/s/ *Michael Romano*
Michael Romano
Senior Vice President –
Industry Affairs & Business Development

cc: Stephanie Weiner
Lisa Hone
Travis Litman
Claude Aiken
Nicholas Degani
Amy Bender
Carol Mattey
Trent Harkrader
Ryan Palmer
Garnet Hanly
Christian Hoefly

Attachment: November 21, 2016 *Ex Parte*

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[7] GVNW ex parte, WC Docket No. 11-42, *et al*. (fil. Nov. 10, 2016).

November 21, 2016

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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

Dear Ms. Dortch:

On Thursday, November 17, 2016, the undersigned on behalf of NTCA–The Rural Broadband Association ("NTCA"), together with Douglas Boone and Ryan Boone (participating by telephone) of Premier Communications and Denny Law of Golden West Telecommunications, held separate meetings with: (1) Lisa Hone, legal advisor to Chairman Tom Wheeler, and Carol Mattey, Alexander Minard, and Ryan Palmer of the Wireline Competition Bureau; (2) Claude Aiken, legal advisor to Commissioner Mignon Clyburn; (3) Nicholas Degani, legal advisor to Commissioner Ajit Pai; (4) Amy Bender, legal advisor to Commissioner Michael O'Rielly; and (5) Travis Litman, legal advisor to Commissioner Jessica Rosenworcel.

In these meetings, we urged additional funding in an amount of up to $260 million for both the cost model and non-model universal service fund ("USF") mechanisms to ensure that the intended effects of both mechanisms as reformed can in fact be achieved. *See Ex Parte* Letter from Michael R. Romano, Senior Vice President, NTCA, to Marlene H. Dortch, Secretary, Federal Communications Commission (the "Commission"), WC Docket No. 10-90 (filed Nov. 14, 2016).

With respect to the non-model mechanisms, the NTCA members shared recently available data indicating how the current lack of sufficient funding will directly and adversely affect rural consumers. Specifically, the members explained that the budget control that will apply as of January 1, 2017 due to the insufficient USF budget will result in broadband-only loop rates that are *$20 per month to over $100 per month higher* than the $42 broadband-only benchmark specified in the Commission's reform order. It must be noted that these are *not* the retail rates that consumers will actually pay; these are *only* the broadband-only loop components of the retail service provided to consumers. When these component costs are combined with unavoidable costs of: (a) mandatory imputed Access Recovery Charges; (b) "second mile" and "middle mile" network transport; (c) dedicated Internet access transit; (d) non-regulated operating functions such as Internet marketing and customer service help desk functions; and (e) federal USF contribution charges that apply to the broadband-only loop, we noted that the actual retail broadband prices to consumers (putting aside any prospect of actual return or profit margin) would need to be $90 to $110 per month in some cases, and in some very rural service areas with few standalone broadband consumers to start the rates could approach $200 per month.

These data now becoming available confirm NTCA's long-standing concern, as first expressed in its Petition for Reconsideration, that the insufficient USF budget and the ensuing budget control mechanism will play a critical and troubling primary role in undermining the professed objective of these reforms – ensuring that consumers in areas served by rural local exchange carriers will have access to standalone broadband at rates that are reasonably comparable to those paid by urban consumers. Petition for Reconsideration and/or Clarification of NTCA, WC Docket No. 10-90, *et al.* (filed May 25, 2016) ("NTCA Petition"), at 2-9. We further observed that the USF contributions that will need to be paid as noted above actually include an assessment on the amount of the USF budget shortfall that must be recovered through increased broadband-only loop rates – put more simply, adding insult to injury, non-model carriers will now actually be forced to contribute more to USF specifically because they need to charge higher prices to rural consumers in the face of insufficient USF support. For these reasons, the Commission should grant NTCA's Petition with respect to remedying the patent insufficiency of the non-model USF budget.

NTCA further observes that a lack of sufficient funding on the model side in the amount of $160 million to respond to election demand will lead to deployment of broadband to fewer locations and at lower speeds, leaving more rural consumers lacking access to reasonably comparable services. NTCA therefore continues to support full funding of the model elections; such sufficient funding is needed to enable the model mechanism to function as designed for the benefit of unserved rural consumers, and full funding would best help facilitate prompt distribution of additional support (and thus initiation of additional buildout) starting January 1, 2017. In the absence of providing such sufficient funding for the model, however, it will be important to ensure proper, thoughtful recalibration of buildout obligations to available funding levels, and we highlighted the fundamental importance of ensuring at the very least that such a lack of funding will not have an adverse effect on those companies that did not or could not participation in those elections. *See Ex Parte* Letter from Michael R. Romano, Senior Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 10-90 (filed May 12, 2016); NTCA Petition, at 12-14.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ *Michael R. Romano*
Michael R. Romano
Senior Vice President –
Industry Affairs & Business Development

cc: Lisa Hone
Carol Mattey
Alexander Minard
Ryan Palmer
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