

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Updating the Inter-carrier Compensation Regime to	)	WC Docket No. 18-155
Eliminate Access Arbitrage	)	

**REPLY COMMENTS  
OF  
WTA – ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”) hereby files its Reply Comments with respect to the Commission’s *Notice of Proposed Rulemaking*, FCC 18-155, released June 5, 2018, in the captioned proceeding (“*NPRM*”). These Reply Comments are submitted in accordance with the schedule set forth in the Public Notice (*Wireline Competition Bureau Announces Comment Dates for NPRM on Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage*), WC Docket No. 18-155, DA 18-689, released July 2, 2018.

WTA, a national trade association that represents more than 340 rural incumbent local exchange carriers (“RLECs”), has long opposed and worked to discourage and eliminate schemes that artificially generate, block, reduce or otherwise manipulate access traffic. WTA and its RLEC members have devoted much time and effort to discovering and deterring arrangements by interexchange carriers (“IXCs”) and/or their least cost routing intermediaries to block or drop calls to RLEC exchanges in order, *inter alia*, to avoid or reduce terminating access and transport charges. They do not want their gains in decreasing call completion fraud to be counter-balanced by comparably dishonest attempts to pump up access traffic in order to inflate terminating access and transport revenues. In addition, unjust and unreasonable access stimulation practices by a few entities damage the reputations and increase the regulatory costs of the vast majority of RLECs

and rural competitive local exchange carriers (“CLECs”) that operate honorably and honestly to serve their rural customers in the face of changing technologies, steep and increasing per-customer costs, and limited customer revenues and high-cost support.

During recent months, WTA has met and worked with other industry representatives to try to develop targeted approaches and rules to address and put an end to specific existing access stimulation tactics and arrangements. These discussions culminated in the April 11, 2018 letter to the Commission from NTCA, AT&T, Verizon, Windstream, NCTA, Frontier, CenturyLink, WTA and USTelecom referenced in Note 12 of the *NPRM*. WTA continues to support the proposals in that letter to require access stimulating local exchange carriers (“LECs”) to revise their tariffs to remove any terminating interstate tandem switching and tandem transport charges of their own and to assume financial responsibility for all intermediate switched access provider interstate tandem switching and transport charges for traffic bound for such access-stimulating LECs.<sup>1</sup>

WTA recognizes that access stimulation schemes exist, but has seen no evidence that they are as numerous and pervasive as some IXC claim or imply. WTA is not aware that any of its RLEC members engage in activities that would result in them being designated as “access stimulating LECs,” and believes that there has been little or no access stimulation by RLECs in general – particularly since the Commission addressed and clarified “access stimulation” matters in the 2011 proceeding that culminated in the *USF/ICC Transformation Order*.<sup>2</sup> During the industry meetings referenced in the preceding paragraph, the thrust of the discussion was that the

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<sup>1</sup> WTA believes that the “financial responsibility approach” is the most effective and most comprehensive way to discourage access stimulation. It does not oppose the proposed “direct connection approach” but believes that: (a) direct connections are not economically feasible in many situations due to the lack of sufficient amounts of traffic on specific IXC-RLEC and IXC-rural CLEC routes; (b) there are substantial disputes among the larger IXCs as to how a direct connection approach would work; and (c) there are questions regarding how direct connections would be implemented during a time when technology is changing [e.g., the ongoing transition of voice traffic from time division multiplexed (“TDM”) to Internet Protocol (“IP”) technology].

<sup>2</sup> *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011)

access stimulation problems that needed to be addressed were the work of CLEC's and not RLECs. However, even there, WTA has yet to see any evidence that numerous rural CLECs are engaged in access stimulation. WTA does not dispute claims that a very small group of LECs identified in the *NPRM* and/or in AT&T complaints or comments have engaged in access stimulation activities. But it has seen no evidence that their actions and those of other actual but unidentified access stimulating LECs have resulted in “*billions* of minutes of long distance traffic . . . [being] routed through a handful of rural areas, not for any legitimate engineering or business reasons, but solely to allow the collection and dispersal of inflated intercarrier compensation revenues to access stimulating LECs and their partners [emphasis in original]” (AT&T Comments, p. 1).

WTA strongly recommends that the actual and currently existing access stimulation problem be accurately sized and precisely targeted rather than being addressed in a blunderbuss fashion on the basis of unsupported and potentially overstated claims. For example, AT&T wastes little time before using its “billions of artificially stimulated access minutes” allegation to propose the immediate transition of all originating switched access charges to bill-and-keep (AT&T Comments, p. 5). Of one thing WTA is certain: originating access is neither related to, nor involved in, any known or surmised form of access stimulation. There is simply no credible scenario wherein RLECs and rural CLECs would be able to induce their rural customers, or hire ringers or robocallers, to place tens or hundreds of thousands of unnecessary long distance calls every month in order to jack up their originating access revenues. Rather, the AT&T proposal appears to be a transparent attempt to use its asserted “access stimulation crisis” to gain free use of RLEC and rural CLEC networks. Similarly, Sprint seeks to employ the same alleged “crisis” to gain free use of all LEC “last mile” networks for origination and termination purposes via the universal bill-and-keep regime that it has repeatedly proposed after divesting its wireline last-mile

networks (Sprint Corporation Comments, p. 2), while CenturyLink attempts to go beyond access stimulation relief to seek imposition of its direct connection proposal upon both innocent and access stimulating LECs (CenturyLink comments, pp. 9-10).

WTA participated in months of discussions and negotiations with other industry members in order to develop targeted measures to discourage access stimulation that were to be aimed specifically at access stimulating LECs and their cohorts. It strongly opposes any and all attempts to impose direct connections or other new regulatory obligations on RLECs and CLECs not engaged in access stimulation, or to reduce or eliminate the access or transport revenues of all RLECs and CLECs by transitioning or flash-cutting them to bill-and-keep. WTA's RLEC members are already struggling to meet customer broadband service needs and Commission broadband build-out obligations during a time of constrained federal high-cost support budgets, and cannot afford the loss or decrease of their significant remaining revenue streams such as access and transport charges.

No commenting party has proposed a modified or alternative definition of "access stimulation." WTA agrees with NTCA – The Rural Broadband Association ("NTCA") that no modification of the current definition of "access stimulation" is necessary or advisable at this time. The current definition reasonably distinguishes inappropriate attempts to increase access traffic in order to inflate terminating access and transport revenues, on the one hand, from legitimate partnership and bundling arrangements and from natural traffic changes and customer growth on the other. In light of the proven capabilities of unscrupulous entities to devise unanticipated stratagems and varied approaches in order to try to end run existing definitions and prohibitions, there is no revised definition capable of countering the misdirected "ingenuity" of all potential scams and scammers. Rather, the just and reasonable charges and practices provisions of Section

201(b) and the complaint provisions of Section 208 of the Act can be utilized generally to address and stop new and varied attempts to artificially pump up access traffic to inflate terminating access or transport revenues.

One exception to this general rule: there is a relatively straightforward way that the Commission can counter and minimize schemes to artificially “stimulate” transport mileage. Specifically, the Commission can freeze and grandfather existing points of interconnection (“POIs”) as of a reasonable recent date – say December 31, 2017. No LEC would thereafter be permitted to change or re-arrange one or more of its POIs if such change would result in an increase of its transport mileage and transport charges to any IXC unless and until the LEC was able to provide clear and convincing evidence to that IXC that the POI change was necessary for technical or economic reasons unrelated to increasing its transport charges to the IXC. If the LEC and IXC cannot agree upon the treatment of a POI change or upon a mutually acceptable alternative transport mileage factor, the POI change can be brought to the Commission for resolution in a Section 208 complaint proceeding. During the course of a POI change dispute, the incremental transport mileage charges can be placed in escrow, and distributed to the prevailing party upon a final Commission decision.

WTA opposes Intelliquent’s proposal to cap at 10 miles the total number of miles of transport that may be charged for access stimulation traffic (Intelliquent comments, p. 6). Ten (10) miles is an unrealistically short distance for the transport connections required to reach many RLEC and rural CLEC service areas. And in at least some cases, transport in an access stimulation situation may be provided by an innocent third party carrier. The “financial responsibility” approach in the April 11, 2018 industry letter and NPRM is a much more reasonable and better targeted approach to discourage and take the profit out of access and mileage stimulation schemes.

Finally, WTA opposes the use of bill-and-keep as a targeted deterrent to access stimulation. Requiring the foregoing assumption of financial responsibility will stop most existing access stimulation schemes by taking the profit out of them, and will deter new schemes. Imposing bill-and-keep upon an alleged access stimulating LEC can deprive it (and its rural customers) of critical revenues needed for broadband deployment and operation, and continue to do so long after its actual or alleged access stimulation activities have ended, and the managers responsible for them have been terminated.

### **Conclusion**

In sum, WTA continues to support effective and narrowly targeted actions to counteract and stop inappropriate schemes to increase access traffic artificially in order to inflate terminating access and transport revenues. WTA believes that the industry proposed “assumption of financial responsibility” approach is the most effective and efficient way to achieve this goal, and has also advanced a limited “POI freeze” as an option for restraining alleged “mileage pumping” tactics. Otherwise, WTA believes that revision of the definition of “access stimulation” is not necessary or feasible at this time, and that this proceeding needs to remain narrowly targeted to address and put an end to actual and ongoing access stimulation activities rather than being expanded to further the “free access to last mile networks” goals of some IXC.

Respectfully submitted,  
**WTA – Advocates for Rural Broadband**

By: /s/ Derrick B. Owens  
 Derrick B. Owens  
 Senior Vice President of Government  
 & Industry Affairs  
 400 7<sup>th</sup> Street NW, Ste. 406  
 Washington, DC 20004  
 (202) 548-0202

By: /s/ Gerard J. Duffy  
 Gerard J. Duffy, Regulatory Counsel  
 Blooston, Mordkofsky, Dickens, Duffy &  
 Prendergast, LLP  
 2120 L Street NW, Suite 300  
 Washington, DC 20037  
 (202) 659-0830

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