



September 18, 2019

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**RE: *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*
WC Docket No. 18-155**

Dear Ms. Dortch:

WTA – Advocates for Rural Broadband (“WTA”) generally supports the draft “Report and Order and Modification of Section 214 Authorizations,” FCC-CIRC1909-02, that was released on or about September 5, 2019 and that is scheduled to be considered during the Commission’s September 26, 2019 Open Meeting. WTA wholly agrees with the Commission’s efforts to target specific access stimulation abuses and to defend the integrity of the intercarrier compensation system.

However, WTA notes that the proposed Report and Order’s addition of a second, alternate test – one that defines “access stimulation” with no reference to a revenue sharing agreement but rather solely when an incumbent or competitive local exchange carrier has “an interstate terminating-to-originating traffic ratio of at least 6:1 in a calendar month” -- is very likely to erroneously brand some WTA members and other Rural Local Exchange Carriers (“Rural LECs”) as “access stimulators” and unfairly subject them to harsh financial responsibility penalties. It is WTA’s understanding that National Exchange Carrier Association (“NECA”) data indicates that approximately three-to-four percent of Rural LECs that are not in any manner engaged in “access stimulation” may have interstate terminating-to-originating traffic ratios that exceed 6:1 during some months. A common reason for this is that the carrier has a call center or other legitimate business customer that receives many more interstate terminating calls than it originates. WTA members are also concerned that increasing trends by cellular customers to originate calls predominately on their mobile phones while using their residential wireline phones primarily to receive calls will push many more Rural LECs toward and over the 6:1 ratio within the foreseeable future.

Due to the likelihood of false positives now and increasingly in the future, WTA agrees with NTCA – The Rural Broadband Association (“NTCA”) that the contemplated new alternate “access stimulation” test should be accompanied by a rebuttable presumption that will enable Rural LECs and other carriers to show that they are not engaged in “access stimulation” but rather that the “6:1 ratio test” was triggered by economic development, seasonal variations, changes in technology or other factors that were not part of, or related to, any access stimulation scheme.

WTA also asks the Commission to clarify in the “Report and Order” that any interstate terminating-to-originating traffic ratio test must be calculated on the basis of ALL of the subject local exchange carrier’s interstate terminating and originating traffic, and not solely the terminating and originating traffic relating to a single interexchange carrier. WTA members are concerned that certain interexchange carriers may calculate the interstate terminating-to-originating ratio for the traffic that they deliver to a particular Rural LEC, and engage in self-help by refusing to pay access tandem and transport charges if their own traffic ratio exceeds the test criterion even if the Rural LEC’s ratio for all of its interstate traffic is well below that criterion. The Report and Order should make it clear that any traffic ratio standard with respect to “access stimulation” applies to all of a local exchange carrier’s traffic, and that interexchange carriers are not entitled to relief on the sole basis of their own individual interstate terminating-to-originating traffic ratio with respect to a local exchange carrier.

Respectfully submitted,
WTA – ADVOCATES FOR RURAL BROADBAND

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