

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

In the Matter of )  
 )  
Jurisdictional Separations and Referral to the ) CC Docket No. 80-286  
Federal-State Joint Board )

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

WTA – Advocates for Rural Broadband (“WTA”) is responding to the Federal-State Joint Board on Jurisdictional Separations (“Joint Board”) Public Notice seeking Comment on Part 36 Separations Rules in Response to Commission Referrals.<sup>1</sup> WTA is a national trade association representing approximately 400 rural local telecommunications carriers. The typical WTA member company serves fewer than 5,000 customers per service area and has fewer than 50 employees. WTA’s members provide voice, broadband and other services to some of the most remote, rugged, sparsely populated, and expensive-to-serve areas of the United States, and many of our members could be affected by this proceeding. WTA welcomes this opportunity to comment on the need and suggestions for the long overdue reform and simplification of the

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<sup>1</sup> *Public Notice*, FCC 25J-1, released February 14, 2025, published in the Federal Register at 90 FR 13447, March 24, 2025 (“*Public Notice*”). The *Public Notice* resulted from the Commission’s extension of the separations freeze and the referral of questions to the Federal-State Joint Board. *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, FCC 24-118, at ¶¶ 26-32 (November 13, 2024) (“*2024 Separations Freeze Extension and Referral Order*”).

separations rules, given a freeze that has been in place since 2001,<sup>2</sup> and a referral to the Joint Board to address separations reform going back to 1997.<sup>3</sup>

The *Public Notice* sought comment on three issues referred to the Joint Board. **First, the Commission asked the Joint Board for a recommended decision on:**

*[W]hether comprehensive reform is still in the public interest when the industry is naturally transitioning away from legacy technologies and cost-based ratemaking and the burdens of compliance with any new set of rules, were they to be reformed, would be significant for the limited number of small carriers still subject to the separations rules.*

As a general matter, WTA believes the separations process should be simplified and streamlined using company-specific information. Although the separations process continues to grow less relevant for many – but not all -- service providers, and the scope and potential benefits of the separations process have decreased substantially for the industry as a whole, the separations process remains critical for many smaller companies. In many respects, the Commission has reduced the applicability of the separations process, including: (1) grants of forbearance from Part 36 separations rules to price cap carriers;<sup>4</sup> (2) adoption of rate caps and a transition to bill-and-keep for certain switched access services of RoR carriers in 2011;<sup>5</sup> and (3)

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<sup>2</sup> *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382 (2001).

<sup>3</sup> *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, 12 FCC Rcd 22120 (1997).

<sup>4</sup> *Petition of AT&T Inc. for Forbearance under 47 U.S.C. §160 from Enforcement of Certain of the Commission's Cost Assignment Rules*, WC Docket Nos. 07-21, 05-342; Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008); *Petition of USTelecom for Forbearance Under 47 U.S.C. §160 from Enforcement of Certain Legacy Telecommunications Regulations et al.*, WC Docket No. 12-61 *et al.*, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice Of Proposed Rulemaking, 26 FCC Rcd 7627 (2013).

<sup>5</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).

adoption and implementation of a voluntary Alternative Connect America Cost Model (“ACAM”) and an Enhanced Alternative Connect America Cost Model (“E-ACAM”) for the calculation of federal high-cost support for some RoR carriers in 2016 and 2023.<sup>6</sup> Thus, the scope of the separations process has largely been reduced to the calculation of: (a) special access rates for rate-of-return (“RoR”) carriers; (b) interstate common line support for cost-based RoR carriers; and (c) subscriber line charges (SLCs) for a number of carriers. Further technological, economic and regulatory changes as broadband services replace voice services are very likely to change, and perhaps should be considered in the need for simplification of the rules for jurisdictional separations processes and rules for the industry overall.

Nonetheless, for some service providers the separations process remains very relevant and important. As the Commission’s *2024 Separations Freeze Extension and Referral Order* noted, there are “247 carriers that receive cost-based USF support and make the full use of separations to set end-user common line, BDS, and CBOL service rates, as well as to determine the level of USF support.”<sup>7</sup> For these carriers, the separations process remains an essential component of helping to “make available, so far as possible, to all the people of the United States, ... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service

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<sup>6</sup> *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, 31 FCC Rcd 3087 (2016). *Connect America Fund et al.*, Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 38 FCC Rcd 7040 (July 24, 2023). Some small carriers are understandably reluctant to elect to use the Commission’s cost models because of the uncertainty resulting from factors such as subsequent “true ups.”

<sup>7</sup> *2024 Separations Freeze Extension and Referral Order* at n. 76. Slightly less than half of WTA’s members do not receive universal service support under either the cost allocation models or the Alaska Connect Plan.

with adequate facilities at reasonable charges.”<sup>8</sup> Thus, WTA suggests that the Joint Board should not recommend complete cessation of the separations process.

Rather, WTA urges the Joint Board to direct its efforts towards reforms to the separations process that would simplify these exceedingly complex calculations so as to reduce the burdens on the Commission and the small carriers for whom the separations process remains important. In other contexts (not necessarily directly applicable here), the Commission uses tools such as models (to approximate the cost of building a network) or sampling (of network performance) to produce reasonably reliable results while also greatly reducing the regulatory burdens.<sup>9</sup> Particularly compared to the overall USF annual budget of some \$8.5 billion, the total relatively small amount of money that would be impacted by means of streamlining the separations process for the carriers still affected by separations would have virtually no effect on the determination of the USF contribution factor.

**The second question referred by the Commission to the Joint Board was “*whether it would be in the public interest to adopt a permanent freeze of the rules while considering the future course of the separations rules and framework.*”** WTA believes the Commission was correct in its decision to maintain the freeze while the Joint Board (and then the Commission) considers how best to reform the separations process. And given the past history of very slow progress towards such reform, it makes sense to keep a freeze in place while separations reform is undertaken. As a practical matter, the Commission, the Joint Board, the carriers and even the

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<sup>8</sup> 47 U.S.C. § 151.

<sup>9</sup> See, e.g., n. 6, *supra*, and *Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509 (2018) (Performance Measures Order).

consultants generally lack the expertise to deal with a process that has not broadly been undertaken in nearly a quarter century. Hence, even if the pre-2001 jurisdictional allocation rules had remained fully relevant with respect to the 2025 telecommunications industry, the costs of re-educating and re-training industry and regulatory personnel would be substantial. And requiring the Commission and the carriers to expend the resources to re-assess the need for continuation of the freeze in six (or however many) years seems wasteful. However, WTA suggests that it would be better to characterize as “indefinite” rather than “permanent” the freeze that would stay in place to allow an option for carriers voluntarily to unfreeze and then re-freeze as discussed below.

**The third set of questions referred to the Joint Board by the Commission concerned:**

*[I]f the Joint Board were to recommend a permanent separations freeze, the Commission asked the Joint Board to consider whether carriers should be given an opportunity to unfreeze their category relationships to enable carriers to update their cost data for categorizing investments and expenses. Relatedly, in asking the Joint Board to assess whether the Commission should allow carriers to unfreeze their category relationships, the Commission asked the Joint Board to consider whether this opportunity should be available only once or periodically, and whether or not these carriers should be permitted to refreeze their category relationships.*

As explained above, WTA urges the Joint Board to recommend an “indefinite” freeze. However, given the changes that have occurred since 2001, WTA believes that the Commission can and should allow for upgrades to the accuracy of carriers’ cost allocations while controlling regulatory compliance costs by permitting one-time options to unfreeze and/or re-freeze/freeze Part 36 category relationships.<sup>10</sup> Specifically, those study areas that elected to freeze category

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<sup>10</sup> WTA, on its own or, in jointly filed comments with other trade associations, has been urging such an option in Docket No. CC 80-286 going back to 2009. See Comments or Reply Comments filed by WTA in Docket No. CC 80-286 on April 17, 2009; April 19, 2010; April 5, 2012; April 12, 2012; April 16, 2014; May 24, 2017; August 27, 2018; and August 19, 2024.

relationships in 2001 should have a one-time option to choose one of three alternatives: (1) make no change in their existing frozen category relationships; (2) unfreeze their existing category relationships as of a specified date (*e.g.*, July 1, 2026), calculate revised category relationships by using prescribed data from their most recent annual interstate access charge tariff filing or (if issuing carriers in the National Exchange Carrier Association (“NECA”) interstate access charge tariff) the most recent true-up of the prescribed data that they have provided to NECA, and re-freeze their re-calculated category relationships as of the same specified date; or (3) unfreeze their existing category relationships as of the same specified date (*e.g.*, July 1, 2026) and calculate their unfrozen category relationships going forward using the same types of studies and procedures employed by those carrier study areas that did not freeze their category relationships in 2001. In addition, those carrier study areas that did not elect to freeze their category relationships in 2001 should have a one-time option to freeze their category relationships as of the same specified date (*e.g.*, July 1, 2026) by using the same process as those carriers electing to re-freeze their category relationships – specifically, by calculating their frozen category relationships using the same types of prescribed data from their most recent annual interstate access charge tariff filing or (if issuing carriers in the NECA interstate access charge tariff) from the most recent true-up of that data that they have provided to NECA.

WTA emphasizes that these one-time unfreeze/re-freeze/freeze options should be wholly voluntary. For example, some of the very small carrier study areas that froze their category relationships in 2001 have made long-term business and investment decisions based in significant part on their frozen allocation factors and the revenue streams they impact. These small carriers generally lack the financial resources and economies of scale to make substantial changes in their business and investment plans once they are put into motion. Moreover, in a

small study area the per-customer costs of the studies needed to unfreeze and refreeze category relationships can outweigh any gains in the accuracy of cost allocations and any changes in the resulting rates.

WTA emphasizes that the unfreeze/re-freeze/freeze options should all be one-time opportunities wherein each carrier study area exercising one or more of the options must notify the Commission, its state commission and NECA by a date certain (*e.g.*, March 1, 2026) that it will be exercising one or more of the specified options, and wherein each unfreeze, re-freeze or initial freeze action must be effective as of a date certain (*e.g.*, July 1, 2026). Common notification and effective dates make the process simple and straightforward, and let all interested industry participants and regulators know at an early date the size and scope of the category relationship changes involved. A single common notice and effective date also requires prompt analysis and decisions by affected carriers, and avoids complications and delays arising from uncertainties as to whether there might be more favorable times to unfreeze and re-freeze some or all category relationships. The per-customer costs of the studies needed to unfreeze and refreeze category relationships can outweigh any gains in the accuracy of cost allocations and any changes in the resulting rates.

WTA believes that any re-freezes or initial freezes of category relationships should be based upon recent relevant category relationship data that is complete and no longer subject to true-up. For example, the Commission could require all re-frozen and initial frozen category relationships to be based upon prescribed data from the carrier's most recent annual interstate access charge tariff filing or (if the carrier is an issuing carrier in the NECA interstate access charge tariff) from the most recent true-up of the prescribed data that the carrier has provided to NECA. The stipulation of a definitive period or filing makes it clear and straightforward for

carriers to know how to calculate their future frozen category relationships, and to decide whether they are reasonable. The use of the most recent completed and filed set of data will improve the accuracy of the recalculated category relationships, make it easy for federal and state regulators to check the accuracy of data and calculations, and provide regulators with assurance that it was not possible for any electing carriers to time expenditures to create more favorable category relationships.

If the Commission determines that it needs to address potential double recovery issues with respect to those carriers that elect to unfreeze the category relationships that they previously froze in 2001, WTA believes that approach adopted in the *Eastex Waiver Order*<sup>11</sup> should be adopted. Specifically, the Commission could require those carrier study areas electing the unfreeze option to use current cost study data to recalculate their current Rate-of-Return Carrier Base Period Revenue using actual, unfrozen categories and to file a revised interstate switched access revenue requirement. WTA emphasizes that any such process must be specific, unambiguous and straightforward so that carriers contemplating the unfreezing option can readily and accurately determine the impact thereof.

WTA expects that the unfreezing of 2001 category relationships will result in a shifting of costs in most affected study areas from intrastate to interstate, and from common line to special access. For example, if the marketing and adoption of broadband-only services has increased in study areas where category relationships have been frozen since 2001, unfreezing would allow more marketing and customer service costs to be assigned to the revenue requirements for these broadband-only services and to the Connect America Fund – Broadband

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<sup>11</sup> *Petition by Eastex Telephone Cooperative, Inc. Pursuant to 47 C.F.R. Sections 36.3, 36.123-126, 36.152-157 and 36.372-382 for Commission Approval to Unfreeze Part 36 Category Relationships*, CC Docket No. 80-286, Order, 27 FCC Rcd 6357 (WCB 2012).



Loop Service (“CAF-BLS”) mechanism. However, until WTA knows how many of the remaining study areas with frozen category relationships will be electing to unfreeze them, it cannot estimate the expected total impacts upon service rates and high-cost support.

Finally, WTA proposes that carrier study areas that did not elect to freeze their category relationships in 2001 be given a one-time opportunity to freeze them at this time. As indicated above, WTA proposes that these initial freezes be subject to the same notice date, effective date and data period requirements as those electing to unfreeze and re-freeze. Freezing category relationships would appear to benefit both small carriers and the public interest, particularly in cases where the carrier’s study area has transitioned most or all of the way from legacy voice service to broadband service. Freezing category relationships during the later stages of a carrier’s broadband transition would mean that such relationships would remain substantially accurate during the foreseeable future, while their freezing would reduce the carriers’ regulatory costs and free up more of its scarce resources for broadband deployment and service upgrades.

Taken together, WTA strongly encourages the Joint Board to recommend the continuation of the indefinite freeze – with a voluntary, one-time option for companies to unfreeze/refreeze/freeze -- while the Joint Board and the Commission work out the details for simplifying and streamlining the separations processes. Such a course of action will best balance

the need for accuracy while also seeking to minimize the burdens of the current separations processes, and thus well serve the public interest.

Respectfully submitted,

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