

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of :
 : **WC Docket No. 10-90**
Connect America Fund :

**REPLY COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In its *ICC/ISF Transformation Order (Transformation Order)*, the Federal Communications Commission adopted rate floors for eligible telecommunications carriers (ETCs), including rural incumbent local exchange carriers (ILECs) seeking high-cost support from the Universal Service Fund.¹ ETCs whose stand-alone local service rates² fall below the rate-floor could experience reduced high-cost support on a dollar-for-dollar basis per line for each dollar that their rate is below the benchmark rate.³ The *Trans-*

¹ See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform-Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, at ¶ 239 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. argued Nov. 19, 2013).

² Local rate plus state subscriber line charge, mandatory EAS and state universal service charge.

³ *USF/ICC Transformation Order* at ¶ 239.

formation Order established a benchmark rate of \$14.00, from July 1, 2013 to June 30, 2014.⁴

On March 20, 2014, the FCC's Wireline Competition Bureau (WCB) issued a public notice announcing the results of its urban rate survey for fixed services that was used to adjust the 2014 rate floor for ILEC ETCs.⁵ In that same notice, the WCB announced that the survey results were used to calculate the 2014 benchmark rate to be \$20.46. The Public Utilities Commission of Ohio (Ohio Commission) is concerned that the \$6.46 increase captured in the 2014 rate floor will adversely affect many of Ohio's small, rural ILECs. Accordingly, the Ohio Commission appreciates this opportunity to submit comments on the increase for the FCC's studied consideration.

The benchmark rate applies to voice telephone service on a stand-alone basis. In Ohio, such service is identified as basic local exchange service or BLES and, unlike most other retail service offerings in Ohio, it remains largely price regulated. Under Ohio law, ILECs that have received BLES pricing flexibility may increase their BLES rate no more than \$1.25 during any 12-month period.⁶ If the benchmark rate continues to increase at a proportionately higher level than Ohio ILEC BLES rate increases, these carriers will never reach the benchmark rate, resulting in many of Ohio's small, rural ILECs losing an ever-increasing amount of the high-cost support upon which they heavily rely to provide quality telecommunications services, including increased access to advanced technol-

⁴ *USF/ICC Transformation Order* at ¶ 239.

⁵ *Connect America Fund*, WC Docket No. 10-90 (Rel. March 20, 2014).

⁶ *See* Ohio R.C. 4927.12(C)(1)(b).

ogies for those living and working in rural areas. In both the long and short term, this will severely undermine the ability of these carriers to continue to provide basic telephone service in Ohio. While legislative changes could be considered to increase BLES rates, such action takes time and would likely not occur before the 2014 benchmark goes into effect on July 1, 2014. It is imperative that the FCC carefully consider the implications for states like Ohio as it considers implementing such a large increase in the rate benchmark.

The Ohio Commission recognizes that some ILECs, particularly small, rural ones, have very low rates for basic local service because of subsidies available through high-cost support and access revenue. While the Ohio Commission appreciates the need for rate rebalancing in these situations, such rebalancing should be done over time through a measured, phased-in approach. With the new 2014 rate floor, the benchmark rate has more than doubled from the 2012 benchmark of \$10.00. The Ohio Commission agrees with NTCA that this new rate floor will attract heavy attention from consumers and public interest groups as carriers seek to raise their rates to meet the benchmark.⁷ Indeed, the \$6.46 increase in the rate floor represents an increase of 46 percent over the 2013 benchmark. Customers in those states where an increase of this magnitude is possible will face extreme “sticker shock” and, as NTCA points out, may force many customers to cancel their basic local service in favor of a substitute service. Again, in states like Ohio in which an increase of this magnitude is limited by statute, many small, rural providers will

⁷ See *Connect America Fund*, WC Docket No. 10-90, NTCA Notice of *Ex Parte* at 2 (filed Mar. 21, 2014).

face a significant loss in high-cost support. In all states, it is likely that the 2014 benchmark will present significant challenges for these providers.

As stated above, rate rebalancing, while certainly necessary in some instances, should be accomplished through a phased-in approach rather than a single large increase. In requiring that the WCB conduct an annual survey of voice rates to adjust the rate floor, the FCC assumes that it will be necessary to adjust the rate floor on an annual basis. The Ohio Commission does not necessarily believe this has to be the case. The 2014 rate benchmark is the first benchmark rate that is derived from a survey average. Accordingly, it should come as no surprise that the increase is significant when compared to the 2013 benchmark rate. However, the rate survey upon which the 2014 benchmark rate was derived was limited to urban carriers in competitive markets where large rate fluctuations from year-to-year are less likely to occur. The Ohio Commission believes that future surveys to the rate floor can be conducted on a less frequent basis without compromising the intent and effect of the benchmark itself where future increases are not likely to be as significant as the 2014 increase. If surveys were conducted every other year, for instance, the FCC would have an additional year in which it could incrementally phase-in the affects of the 2014 benchmark rate, allowing affected carriers more time to increase their basic local service rates and adjust to any reductions in high-cost support.

As previously noted, the 2014 rate floor goes into effect on July 1, 2014. To receive full high-cost support, ILECs must adjust their basic local service rates to meet this benchmark by that date. It is impractical to expect that those carriers can do this in slightly more than three months. This very compressed time frame fails to take into

account statutory or regulatory processes and limitations that can and do affect the ability of carriers to implement rate adjustments to meet the benchmark. Further, it is likely that many ILECs may have anticipated support based on either the \$14.00 2013 benchmark level or, some other benchmark that is lower than \$20.46 rate. Carriers will be forced to quickly adjust business plans to account for additional reductions in high-cost support. The Ohio Commission supports the NTCA and others⁸ in requesting a delay in the deadline for compliance with the 2014 benchmark rate. While the Ohio Commission urges the FCC to take a more measured approach that phases in any increased benchmark rate, should the FCC ultimately decide that the \$20.46 rate is appropriate, the Ohio Commission believes it would be both necessary and appropriate to extend the compliance deadline to January 2, 2015 to allow affected ILECs additional time to adjust their business plans.

The FCC's efforts to rebalance basic local service rates to bring rural rates in line with urban rates and the magnitude of the 2014 local rate benchmark has profound implications for small, rural ILECs in Ohio and across the country. Ergo, the Ohio Commission respectfully requests that the FCC take a more measured approach that phases the benchmark rate in over time, to enable affected carriers adequate opportunity to adjust to the new rate floor while maintaining the same level of services that their customers expect. Again, the Ohio Commission appreciates this opportunity to comment and to assist the FCC in this endeavor.

⁸ *Connect America Fund*, WC Docket No. 10-90, Petition for Extension of Time by ERTA, ITTA, NECA, NTCA, USTelecom (filed Mar. 11, 2014).

Respectfully submitted,

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Summary: Comments submitted on March 31, 2014 by Assistant Attorney General Thomas McNamee to the Federal Communications Commission to be filed in WC Docket No. 10-90, In the Matter of the Connect America Fund. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio