

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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Information Collection(s) Being Reviewed By	)	78 Fed. Reg. 12750
The Federal Communications Commission	)	

**PAPERWORK REDUCTION ACT COMMENTS OF  
JOHN STAURULAKIS, INC.**

John Staurulakis, Inc. (“JSI”)<sup>1</sup> hereby submits these comments in response to the Notice of Information Collection<sup>2</sup> regarding the Paperwork Reduction Act (“PRA”)<sup>3</sup> burdens associated with the new Federal Communications Commission (“FCC”) Form 481. JSI is concerned that the information collection process that rural rate-of-return eligible telecommunications carriers (“ETCs”) must undergo in order to complete the Form 481 imposes an unreasonable burden on small companies, and that the FCC did not accurately consider the time and cost burden associated with this information collection. JSI is also concerned that Form 481 does not correspond exactly with the Section 54.313 reporting requirements established in the November 2011 USF/ICC Transformation Order (“*USF/ICC Order*”)<sup>4</sup>, and further refinements to Form 481

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<sup>1</sup> John Staurulakis, Inc. is a consulting firm offering regulatory, financial and business development services to more than two hundred rate-of-return rural incumbent local exchange carriers throughout the United States.

<sup>2</sup> Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested, 78 Fed. Reg. 12750 (published Feb. 25, 2013).

<sup>3</sup> Paperwork Reduction Act of 1995, Public Law No. 104-13, 109 Stat. 163 (May 22, 1995), codified at 44 U.S.C. §3501, *et seq.* (“PRA”).

<sup>4</sup> *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*,

are necessary in order to enhance the quality, utility, and clarity of the information that is being collected. JSI welcomes the opportunity to provide input on the time and cost burdens associated with this information collection so that the FCC can better understand what rate-of-return carriers are doing to comply with this reporting requirement by July 1, 2013. JSI argues that Form 481 should not be approved until the information collection burdens are properly evaluated, acknowledged and reduced; and various items that are confusing or inconsistent with the *USF/ICC Order* are clarified.

### **I. The FCC Vastly Underestimates the Burden of Form 481 for Rate-of-Return ETCs**

Form 481 is 21 pages long and covers numerous items that ETCs must collect, report, and certify (collectively, the “ETC Annual Report”), including:

- A five-year service quality improvement plan (“5-year plan”) that includes an extensive study of the company’s financial status and business strategies, maps, investment projections and capital project descriptions, and explanations of how the company uses USF support
- Outage reports
- Unfulfilled service requests including “descriptive documents”
- Number of complaints per 1,000 customers for voice and broadband
- Certification of service quality standards and consumer protection rules
- Certification of functionality in emergency situations
- Company price offerings for voice and broadband
- A list of affiliate companies
- A descriptive Tribal engagement report for ETCs that serve Federally-designated Tribal lands
- Terms and conditions for Lifeline customers
- Financial statements

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WC Docket No. 03-109, *Universal Service – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011)(“*USF/ICC Order*”) *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

### **A. Deadline for Filing Form 481 is Imminent**

Since the *USF/ICC Order* was released in 2011, various items in the ETC Annual Report have been delayed, modified and removed; ETCs have requested clarification and reconsideration on multiple items; the FCC has delayed seeking Office of Management and Budget (“OMB”) approval for other items. With the July 1 deadline fast approaching, the FCC now seeks to obtain eleventh-hour input on the Form 481 through the PRA process. Additionally, two petitions have been filed raising issues not only about the form but also the unreasonable burden that the information collection process imposes on rural rate-of-return ETCs.<sup>5</sup> Of these petitions, the FCC has only sought comment only on one with the comment cycle for that petition ending with a little over one month from the July 1 filing deadline.<sup>6</sup>

### **B. FCC Estimate of Time Needed to Respond to Form 481 is Woefully Inadequate**

The FCC arbitrarily estimates the annual amount of time needed to respond to Form 481 is “0.5 to 100 hours,”<sup>7</sup> but also states the average burden per respondent is 20 hours on the form itself.<sup>8</sup> As explained below, a reasonable average estimate of the time required for preparing, completing, and filing Form 481 is 60-80 hours, which does not include internal coordinating and planning activities which are difficult to estimate given the diversity of the companies required to complete Form 481. JSI agrees with arguments set forth in the *USTelecom Petition*, namely “the Commission severely underestimates the time and resources necessary to collect,

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<sup>5</sup> See *Emergency Petition for Clarification, or in the Alternative, Waiver of NTCA – The Rural Broadband Association, the Eastern Rural Telecom Association, the Independent Telephone and Telecommunications Alliance, The National Exchange Carrier Association, Inc., the United States Telecom Association, and the Western Telecommunications Alliance with Respect to the Requirement that RLECs submit Five-Year Service Quality Improvement Plans*, WC Docket No. 10-90, et al (filed April 1, 2013) (the “Associations’ Petition”); *The United States Telecom Association Petition for Reconsideration and Clarification and Comments in Response to Paperwork Reduction Act*, WC Docket No. 10-90 et al. (filed April 4, 2013) (“*USTelecom Petition*”).

<sup>6</sup> The FCC has sought comment on the *USTelecom Petition* but not on the Associations’ Petition. Comments on the *USTelecom Petition* are due May 10 with Replies due May 28.

<sup>7</sup> 78 Fed. Reg. 12750

<sup>8</sup> Form 481

analyze, update, verify, submit, and certify the information being collected and reported on Form 481;” and “the Commission has substantially misjudged the burdens associated with its proposed information collection.”<sup>9</sup>

JSI is in a unique position to evaluate the Form 481 information collection burden. JSI is assisting rate-of-return ETCs with the Form 481 process from start to finish, and has been working with companies on the different components of the ETC Annual Report for nearly nine months. Although the exact amount of time to complete the form varies considerably depending on the company, JSI is certain that Form 481 cannot be completed in *under* 20 hours (including preparation, information gathering, filling out the form, and filing it with 3-4 separate government agencies); and the amount of planning, discussing, coordinating, and reviewing could total many times higher than the 20 hour average estimate. Additionally, two items in particular that must be reported on Form 481 require *months* of planning, preparation, and execution at considerable cost to the companies: the 5-year plan and the Tribal engagement requirement. JSI believes that the FCC did not take into consideration the amount of “behind the scenes” work that must be done in order for rate-of-return ETCs to complete Form 481 (work that arguably may not be necessary if it was not tied to a reporting requirement where noncompliance could result in reduced USF support).

Rate-of-return ETCs are currently adjusting to the impacts of the *USF/ICC Order*, and many of these companies have cut spending, terminated key personnel, and drastically reduced corporate operations expenses. Meanwhile, rate-of-return ETCs are expected to “do more with less” in terms of network deployment, accountability, fiscal responsibility, and reporting obligations. The July 1, 2013 ETC Annual Report is the vehicle for these companies to show the FCC and the public that they are fiscally responsible with their USF support and that they are

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<sup>9</sup> *USTelecom Petition* at pp. 27-28.

achieving the voice and broadband public interest obligations implemented in the USF/ICC Order. This is not just a matter of filling out a form, but requires extensive strategic planning within the company and guidance from accounting and regulatory professionals outside the company. The following information is intended to give the FCC a more accurate depiction of the amount of work required for the ETC Annual Report.

### **1. 5-Year Service Quality Improvement Plan: 40-50 hours**

The 5-year plan portion of the ETC Annual Report has been the greatest source of confusion for the majority of rate-of-return ETCs that JSI is assisting. JSI regulatory and financial consultants have been working one-on-one with rate-of-return ETCs to explain the requirements and ensure that companies understand what the FCC is expecting to see in the five-year plan. This process alone takes 2-4 hours and in some cases longer depending upon the nature of follow-up questions. The five-year plan itself requires “an explanation of how much universal service support was received and how it was used to improve service quality, coverage, or capacity,”<sup>10</sup> which includes describing projects, start dates, completion dates, the amount expected to be spent on the project, the area and population associated with the project, and an explanation of how the project will improve the network. The FCC also recently “encouraged” rate-of-return ETCs to explain “what criteria the carrier will use to determine whether a request for broadband is reasonable and how the carrier will decide which areas are feasible to extend terrestrial broadband service to, and which areas are not feasible to serve with terrestrial technologies, given current funding levels.”<sup>11</sup> These topics require considerable thought, planning, communication, and negotiation within the company and its board of directors in

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<sup>10</sup> 54.313(a)(1)

<sup>11</sup> *Connect America Fund et al.*, WC Docket No 10-90 *et al.*, Order, DA 13-332 (rel. March 5, 2013)(“*March 5, 2013 Order*”) at para. 10.

addition to the time it will take to write, calculate, and compile the information to submit with Form 481.

JSI is currently in the midst of collecting information from companies to draft and assist with completing five-year plans, and JSI estimates that it will take a total of 40-50 hours to complete just the five-year plan portion of Form 481.

## **2. Tribal Engagement Report: 20-30 hours**

The Tribal engagement obligation has been a topic of concern in various petitions for reconsideration and comments, but the FCC has failed to address these concerns or seek OMB approval for the information that ETCs are required to collect and submit in their Tribal engagement reports. Since the Office of Native Affairs and Policy (“ONAP”) and the Wireless and Wireline Bureaus released the *Further Guidance on Tribal Government Engagement Obligation Provisions of the Connect America Fund* (“*Further Guidance*”)<sup>12</sup> in July 2012, JSI has been assisting clients with understanding the obligations, contacting Tribal authorities, and compiling the Tribal engagement report. Some of these companies only serve a tiny portion of Tribally-owned lands or serve no population centers, but are nevertheless required to put significant time into fulfilling the reporting requirement. In order to complete the Tribal engagement section of Form 481 (900 Tribal Lands Reporting), JSI estimates that rate-of-return ETCs will spend approximately 20-30 hours minimum on the Tribal engagement report (this estimate also hinges on the efficiency of communication with the Tribal government and many other factors beyond the ETC’s control), broken down as follows:

- Reading and understanding the *Further Guidance*, attending a webinar or conference about the rules: 4-5 hours

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<sup>12</sup> Office of Native Affairs Policy, Wireless Telecommunications Bureau, and Wireline Competition Bureau Issue *Further Guidance on Tribal Government Engagement Obligations Provisions of the Connect America Fund*, Public Notice, DA 12-1165, WC Docket Nos. 10-90 et al. (rel. July 19, 2012)(“*Further Guidance*”).

- Conducting research about Tribal communities within the service area: 4-5 hours
- Writing and sending letter, e-mails and making calls to the Tribal office requesting a meeting: 3 hours
- Follow-up communications with Tribal office to coordinate meetings: 1 hour
- Internal planning to prepare for a meeting with the Tribal government: 3-4 hours, for at least one executive level “decision maker” and additional support staff in marketing, engineering, and accounting
- Conducting a meeting with the Tribal council: 1-2 hours per person attending the meeting, not including travel time which could be significant
- Ongoing communications with the Tribal government, such that the company can “demonstrate coordination” with the Tribal government on each of the items listed on Form 481: the amount of time largely depends on the Tribal authority. In some cases, it could take months of ongoing meetings to demonstrate “compliance with rights of way processes.”
- Drafting and reviewing a written report with documentation of coordination with the Tribal government to submit with Form 481: 2-4 hours

### **3. Other Sections of the Form**

In addition to the 5-year plan and the Tribal engagement report, JSI estimates that piecing together all of the different sections of Form 481 from internal company records, reviewing the form for accuracy, and making the filing the FCC, USAC, state commissions, and Tribal governments (if applicable) will accumulate an additional 10-20 hours. JSI notes that additional time will be spent ensuring that confidential information is redacted for public filings, and some companies may need to obtain protective orders at the state commission. JSI also notes that some

rate-of-return ETC holding companies will be required to produce ETC Annual Reports for multiple companies, which will significantly add to the burden in terms of both time and expense. The FCC should produce a more accurate calculation of the estimated burden per respondent based on this information as well as estimates provided by other commenters in this proceeding. The 20 hour estimate stated on Form 481 is unsubstantiated, unrealistic, and unreasonably low; and the 0.5 to 100 hour estimate in the Federal Register oversimplifies the requirement by simply considering that ETCs will spend essentially no time at all on Form 481. JSI recommends that the average burden estimate per respondent on Form 481 be increased significantly, and the estimated range be modified to 40-120 hours.

## **II. Form 481 is Inconsistent with the 54.313 Rules, Which Defeats The Quality, Utility, and Clarity of the Information Being Collected**

JSI has identified numerous areas of concern with the information required on Form 481, and wishes to bring attention to a few of the more significant inconsistencies between Form 481 and the 54.313 ETC Annual Report rules. Modifying and clarifying the reporting requirements of Form 481 will achieve one of the core purposes of the PRA: “ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government.”<sup>13</sup> JSI urges the FCC to maintain strict adherence to the 54.313 ETC Annual Report rules and the subsequent Orders on Reconsideration regarding the ETC reporting requirements for the purpose of ensuring maximum utility of the information collected in Form 481. JSI further notes that the instructions for Form 481 state that if an ETC does not provide the information requested on the form, it will not be eligible to receive support under the High Cost and/or Lifeline support mechanisms. If information

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<sup>13</sup> PRA §3501(1)



contained on the form is not consistent with the rules, ETCs should not potentially face financial penalties for not providing information requested on the form. Some examples of statements in the instruction and/or form that appear to conflict with Commission rules or are confusing are as follows:

- Form 481 Section 100 Service Quality Improvement Reporting portion of the form does not have any reference to the five-year service improvement plan although the rule is cited in the introductory section of the instructions. Instead this part of the form only contains what is required in the progress reports. Do companies upload their five-year plans in this section although the form does not specify that they should? If they do not complete the items which pertain to the progress reports such as providing how much universal service support was received, will they be penalized even though this is not required until the following year when progress reports are due?
- The instructions state that companies are not to report broadband outages until the FCC makes a ruling in its Network Outage Reporting System (“NORS”) proceeding and the form only allows for reporting voice outages; however the rules continue to require outages to be “broken out” for voice and broadband. Does the form and its instructions trump FCC rules?
- Form 481 Section 3000 Operating Report for Privately-Held Rate of Return Carriers includes a 3-page financial reporting worksheet but 54.313(f)(2) requires rate-of-return ETCs to provide copies of their RUS Operating Report or their annual financial statements subject to review by an independent certified public accountant, depending on whether or not the ETC is an RUS borrower.<sup>14</sup> It is unclear in Form 481 if rate-of-return ETCs must also fill out the worksheet even if they are submitting copies of RUS reports or audited financial statements. The rule states that carriers who were not audited in the preceding fiscal year “must make the review and related workpapers and financial information available upon request...” The FCC needs to clarify exactly what information is expected to be either uploaded or entered into the financial reporting worksheet on Form 481. It is clear in both the rule and the instructions for Form 481 that rate-of-return ETCs must include copies of their financial statements, but it is unclear if they must also fill out the worksheet—in order to eliminate duplicative work, the FCC needs to clarify the requirements in this section.

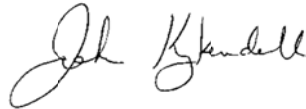
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<sup>14</sup> 54.313(f)(2)

### **III. Conclusion**

For the reasons described herein, JSI urges the FCC to consider the burden of Form 481 on rate-of-return ETCs and substantially increase its expectations of how much time it will take to complete the form from start to finish. The FCC needs to consider the months of planning that rate-of-return ETCs have already invested completing this reporting requirement, not just the time it might take to put numbers into a form. Form 481 furthermore contains notable inconsistencies with the 54.313 ETC Annual Report rules, which need to be fixed before the July 1, 2013 deadline or rate-of-return ETCs should not be threatened with financial penalties for noncompliance. Making modifications to Form 481 to make it more consistent with the rules will increase the efficacy of the data collection, alleviate confusion, and achieve the goals of the PRA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Kuykendall". The signature is fluid and cursive, with the first name "John" and last name "Kuykendall" clearly distinguishable.

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April 26, 2013