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UNIVERSAL SERVICE REFORM—BRINGING BROADBAND TO ALL AMERICANS

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

OCTOBER 12, 2011

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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UNIVERSAL SERVICE REFORM—BRINGING BROADBAND TO ALL AMERICANS

WEDNESDAY, OCTOBER 12, 2011

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, 2:34 p.m. in room SR–253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV., U.S. SENATOR FROM WEST VIRGINIA

The CHAIRMAN. Ladies and gentlemen, this hearing will come to order. And it's going to be a very interesting hearing.

And it's not going to be started off by me, but it's going to be started off by John Kerry, who has to leave immediately for that wonderful thing called the "super committee," which is solving all the problems of all the eastern, western, and north, south countries. Plus, he's a subcommittee chairman.

Go ahead, Mr. Kerry, Senator Kerry.

STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Mr. Chairman, thank you. I didn't realize you were going to put me ahead of yourself. I appreciate it very much—and my colleagues, and especially Senator Warner, who made extra efforts to get here before me, I know.

Mr. Chairman, an article that appeared in my state's papers recently on the Universal Service Fund was titled, "Massachusetts Phone Charges Fuel Communications Investments Around the Country." The article's point was to highlight a dramatic inequity.

Massachusetts telephone customers pay $1.47 billion in surcharges into the Universal Service Fund, but draw only $415 million in benefits in return. Put another way, at a time when household budgets are squeezed and middle class and working families in Boston and throughout the state are subsidizing phone customers in other states in very large amounts, people are obviously very concerned about why the inequity between my state and others might be OK if you had a USF that you could say was really efficient and targeting only those communities that need it the most, and you can make an argument for that.

But that's not what's happening. It might be OK if Massachusetts didn't have large pockets of geography without access to broadband and with spotty wireless service, but we do.

Now, we need to start getting a fair share of the fund, and the fund needs to target areas of need in a financially responsible way.

In a speech last week, Chairman Genachowski said this: “The Universal Service Fund is outdated. It still focuses on the telephone, while high-speed Internet is rapidly becoming our essential communications platform. USF is wasteful and inefficient. The fund pays some companies almost $2,000 a month. That’s more than $20,000 a year for a single home phone line. USF is unfair. Some parts of rural community are connected to state-of-the-art broadband, while other parts of rural America are entirely left behind, because the program doesn’t direct money where it’s most needed. USF is broken. And the related Intercarrier Compensation System—a complex system of payments phone companies make to each other when they connect calls—doesn’t work anymore either.”

Those are all Chairman Genachowski’s words.

Well, I agree with that assessment. And I don’t want my constituents’ money to continue to be spent this way any longer. The specific details of the FCC Chairman’s proposal for reform are on circulation at the FCC and are not yet public, so none of us can judge them yet. But I support the Chairman’s intent.

I have written two letters over the last year to the FCC on this; and one was with Senator Warner, asking the FCC to focus on efficiency and broadband deployment where it’s most needed. And then another one we sent with Senators Lautenberg and Nelson, focusing on providing for greater equity in distribution.

So today’s hearing is focused on the potential for these reforms at the FCC of the most costly of the Universal Service Fund programs, the High Cost program.

I support universal service as a concept. I remember, Mr. Chairman, you and I on this committee, when we were struggling with it in the incipient days—I remember in 1996, when we wrote the Telecommunications Act, which we all learned within 6 months was completely outdated almost before the ink was dry—because all we did was talk about telephony, when the entire system was moving to data transmittal.

So, we have a huge opportunity here to learn the lessons, to recognize that modern communications systems pose new challenges in a time of fiscal constraints. And I think we have to make sure we fund services with the end user in mind.

And I thank you very, very much, Mr. Chairman, for letting me make this statement.

The CHAIRMAN. Thank you, Senator Kerry. And thank you for the work you not only do here, but what you’re doing all day, every day.

With the permission of the Ranking Member, of the getting-redder-and-redder Mark Warner, I would like to ask if Dan Inouye would like to say something.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII

Senator INOUYE. I appreciate this very much.

I wish to commend the FCC for its efforts to reform the Universal Service Fund and Intercarrier Compensation programs to support broadband growth and implement the goals of a National Broadband Plan.

The draft order circulated by FCC, based on the scarce details available, appears to be a very concrete step forward in the effort to help sustain the investments that have already been made and will encourage new investment in broadband infrastructure in unserved areas.

Furthermore, I'm pleased the proposal recognizes the adjustments must be made to recognize unique needs. But I am concerned the proposal will not go far enough to help native communities and remote, insular areas.

For example, although the FCC Chairman's proposal would dedicate special funds for tribal areas, the amounts, I believe, appears inadequate. Further, the Native American, Native Alaskan and Native Hawaiian communities face similar hardships and challenges when it comes to deploying broadband services and should all be eligible for any funds dedicated to assisting native communities.

With respect to remote, insular areas, many of my colleagues have heard me speak over the years about the unique challenges facing these communities and the need to target assistance to ensure the availability of affordable, advanced communications services comparable to the services available in urban areas.

To this end, during deliberation on the Telecommunications Act of 1996, I advocated the inclusion of a provision to specifically recognize the needs of remote, insular areas, including the state of Hawaii and the American territories.

There is no question that there are severe geographic and economic obstacles to providing broadband technology in these areas, including geographic isolation, volcanic activity, difficult terrain, severe weather, and high transportation costs. In addition, these areas are further challenged by the limited availability and capacity of fiber and microwave links and the need for inter-island distribution facilities.

While I've been disappointed that the FCC never completed its early efforts to identify how to give meaning to the term insular, I appreciate the fact that the FCC Chairman's proposal recognizes the need to target remote areas. However, I question whether sufficient resources will be dedicated to meet these needs.

Further, for many of us in the Pacific, satellite is not a viable option; and Hawaii has routinely been subject to discrimination in its access to direct broadcast satellite video services and direct-to-home broadband satellite services, resulting in services that are substantially inferior to those available to the rest of the United States.

USF reform is indeed a difficult task. And I wish to thank all the witnesses for being here today to share their thoughts with the members of this committee on how best to reform this vital program.

And it's my hope that at the end of the day, reforms to the USF program will, in fact, result in the promised benefits to consumers throughout this land.

And Mr. Chairman and members, I thank you very much for this consideration.

The CHAIRMAN. Thank you, Mr. Chairman. Haven't you chaired every committee?

Senator INOUYE. I try not to.

The CHAIRMAN. You try not to, but you do.

I want to make a statement, and then we'll go to the distinguished senator from Texas and then to the most distinguished senator from Virginia. And I'll repeat some of what's been said, but it needs to be said again and again and again.

As far back as the Communications Act of 1934, this country had a proud history of making sure that all of us have the opportunity to access modern communications networks. That is why universal service is a cherished principle. In years past, universal service has meant that we connect every community with basic telephone service. In the years ahead, it means that we connect our communities with something called broadband.

Let me start by saying that I wholeheartedly applaud—and have told him so in a meeting in my office—FCC Chairman Genachowski for his efforts to reform this system. It is huge, the effort, and it is complicated to help bring broadband, both wired and wireless, to all Americans. He wants to do this. And he's working assiduously at it. And he's good at it.

We've been talking about reform for more than a decade. I think it's time really to do something about it.

This committee understands that this challenge is not an easy one. It's going to pit sector against sector; how much do I get paid, as opposed to how much do you get paid. I have a little speech I'm going to give about that at some point.

Reform almost always means that some vested stakeholders will be unhappy because they prefer the status quo. And that is the definition of reform. That is the definition of reform. There are going to be unhappy people, unhappy companies, unhappy senators, unhappy constituents, or not as happy as they might be otherwise.

Our nation's communications infrastructure is the backbone of everything that we do in this economy, and we just simply can't keep putting this off until we get everybody happy, because we never will.

So, this Chairman wants to move ahead. Let me tell you why I think this is so important, and indulge me an extra minute.

For too long, our universal service has focused upon communication challenges of the last century. We are analogs. We eat analogs; we wake up to analogs; we do analogs for our telecommunications.

Obviously, it's a digital age. We have not made the switch. And to the extent that it has been made, it has not been made psychologically or formally.

Broadband is not just a technology. It's a platform for opportunity. It's the essential infrastructure of our day. I say that again: the essential infrastructure of our day. It is how we will grow in America, expand businesses, foster innovation, increase access to education, et cetera, et cetera, et cetera—even transform entertainment.

There's no doubt about it: Having widespread access to high-speed service is what this country requires to compete internationally—something we do rather poorly. And if we get this right, we can close the digital divide in rural America, or in all parts of

America; and we can provide the broadband and wireless access that is essential for every community to have a fair shot at prosperity in this century.

Reform will require some very hard choices. But the fact is, there are big sections of this country that universal service policy barely benefits today. The fact of the matter is that, in some places, reimbursement is based upon the company rather than the constituency.

The fact is that most people are pretty unhappy about what they're getting—especially the size of their bills. That can come during questioning.

We have to start targeting universal service support to areas of the country without service that truly need it—but not just them. This is not just about West Virginia that you're about to hear. It's not just them.

Some states are underpaying. Some states are overpaying. As long as those people hold onto the status quo, we will not progress an inch, because they can block it from getting out of this committee, much less getting it onto the floor—such a complicated subject, with so little time left.

The American people deserve better than an inefficient system that was designed to support the technologies—analog—of another era. Many members of this Committee have first-hand experience; they know it very well. So, making hard choices means developing a universal service system that works for the entire nation—and, if not equally for all parts of the entire nation, a movement in that direction.

Senator Inouye, Chairman Inouye mentioned insular—a very important word for Alaska and for Hawaii. That's in our public safety spectrum bill. That can be taken seriously. He said there won't be enough money. Yes, probably true, the way things are these days. Does that mean, therefore, we don't make changes; we don't bite the bullet; we don't set the framework? No, it doesn't—not to this person.

There is no one right reform plan. There isn't any perfect one. More work needs to be done and is being done. I know there are serious questions about how to provide sufficient support for wireless networks in areas of the country where towers are too few and reliable signals are scarce. Actually, West Virginia is among those.

I know there are serious questions about the impact of reform on consumer bills. I look at mine very, very closely these days. Very interesting, actually. Consumers need to get more value for what they pay for—not less value.

I know there are serious questions about state commissions and the important role that they play, how they fit into reforms. I know that more accountability at the universal service system is critical. I know that deployment is the focus of this reform effort. Deployment. Yet we would be remiss if we do not also consider efforts to promote broadband adoption. That is an essential part of our broadband mission.

And I also know this: We have an opportunity now that we better seize. People get tired of this stuff. People get weary. And that cannot happen.

Companies will lobby as they will lobby. Senators will lobby as they will lobby. But somewhere, there has to be a breakdown in this, so that we can reach a common purpose and pass something called a bill out of here, and out of there or whichever way the House is. Waiting only relegates too many communities to the wrong side of the digital divide. And I say, heavens, we've waited long enough.

So, this is not just my clarion call. Comparable services at comparable rates—which is the going phrase—is a matter of law.

I look forward to hearing the witnesses, and I turn now to my esteemed Co-Chairman, Senator Kay Bailey Hutchison.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Thank you very much, Mr. Chairman. Thank you for calling this hearing, because clearly so much good has happened since we established the Universal Service Fund in 1996. I think just about every area of our country is covered with telephone service. Now is the time, with all of the options available, for a clear reform of the program.

The FCC has recognized the problem, and I am pleased that their reform effort seems to be beginning to move forward. I don't know what's in their proposal, but I'm glad that they are seeing this issue as something that needs reform.

I'm just going to lay out the things that I hope are in the FCC reform proposal.

I believe that we need to ensure that the fund does not keep growing unsustainably. Consumers can't afford the constantly increasing fees, and I hope that we will be able to fully utilize what is there without further raising the rates.

The High-Cost program needs to focus on supporting carriers only where no one else is providing unsubsidized services. I think it should be clear that we don't want to get in the way of free enterprise.

While we've been subsidizing broadband indirectly through the USF for years, it's time for the Universal Service Fund to officially become a broadband-centric program. As the chairman said, we're in a digital age now, no longer in an analog age, and we need to adapt to that. This will lead to more efficient and effective use of USF dollars.

Americans get broadband from a variety of technologies—telephone lines, cable TV wires, wireless communications, and satellites. The USF needs to be technology-neutral so it reflects today's broadband marketplace.

And last, the rates telephone companies charge each other needs to be rationalized; but the transition has to be done in a gradual manner. Providers who have made investments under the current system must have adequate time to plan for and adapt to a new system, and use what they have invested in. Otherwise consumers could get a disruption during the transition.

I hope that the FCC will stay on course, and I hope they will be measured in the reforms that they put forward. And I am looking forward to working with you—our experts—but also with the FCC to try to address this problem in the right way.

Thank you Mr. Chairman.

The CHAIRMAN. Thank you very much.

This is such an important hearing that I'm torn—but not for long.

Senator Warner just came up to me and said, look, let me just put mine in the record. Now that's an amazing thing for Senator Warner to say——

[Laughter.]

The CHAIRMAN.—because he has very strong ideas, for very good reasons, about everything that we're discussing here.

So, what I would like to do—and I think Senator Wicker wants to make his statement—what we should do here—we don't have all that many people—is those who want to say something, let them so do, and those who want to put it in the record, let them so do.

Senator Warner, you are not in the record.

STATEMENT OF HON. MARK WARNER, U.S. SENATOR FROM VIRGINIA

Senator WARNER. I'm not?

The CHAIRMAN. You will be when you finish.

Senator WARNER. Well, can I keep my time for some extra questions? I've got some questions for these folks. But I just want to commend the Chairman and the Ranking Member for doing this.

You know, we kind of know where we're at. The National Broadband Plan says we need $23 billion to build, at a minimum, a broadband system—$55 billion if we've got to do fiber to the home. We got a $4 billion a year high cost fund that we've got to figure out a smarter way, that is competitively neutral and technology-neutral, to get us there in a timely fashion.

And, you know, my concern, and why I'm so anxious for this hearing and anxious to get to the questioning phase, is there have been some I think good faith efforts put together by industry already. I've got some very specific questions about some of those efforts.

I, like I think all of our members, want to see this USF reform take place, take place in a timely way, and in a way where our communities who are still under-served, in terms of broadband access, get that, as I agree with the Chairman, absolutely critical 21st Century infrastructure.

And I would simply add—and something that I'll come back to in the question period—our minimal standards we're thinking about right now—for example, four megabits per second—sounds fast now. That isn't going to sound very fast a few years from now. We need to lock in on standards that can move with technology.

So, thank you, Mr. Chairman. I hope I'll get my extra 2 minutes on questions.

The CHAIRMAN. Thank you.

So that I can be updated and humiliated, I would point out to the Committee that the FCC can do a USF thing without even consulting us. They just put it out.

Senator Cantwell, Senator Pryor, Senator Klobuchar, Senator Wicker?

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Mr. Chairman, I just want to welcome Commissioner Phil Jones from the Washington Utilities and Transportation Commission. And I'll submit my statement for the record.

[The prepared statement of Senator Cantwell follows:]

PREPARED STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Thank you Mr. Chairman for calling this important hearing.

I want to welcome Washington Utilities and Transportation Commissioner Phil Jones to what I call the other Washington. Thank you for making the trip and for testifying at this hearing.

Phil has served on the WUTC since 2005. He is very involved in telecom policy at the national level through the National Association of Regulatory Utility Commissioners. I know earlier in your career, you worked for Senator Dan Evans here in this Washington a number of years ago. Thank you for your public service in both Washingtons.

There is broad agreement that reform of the universal service fund high cost support mechanism and the inter-carrier compensation system is long overdue. These programs were put in place years ago. They have served us well but have not kept pace with changes in technology and the competitive landscape. For one thing, the change from circuit switched networks to IP networks is accelerating. The cost to complete a call should be going down. While universal broadband is a policy imperative it should not be seen as a blank check. Ultimately funding for Universal Service Fund comes out of the pockets of consumers.

I understand that fundamental change to long standing business models seem to present more challenges than opportunities. For that reason there have been several attempts at USF and inter-carrier compensation reform that have fallen short. I applaud Chairman Genachowski for taking on the issue and the various stakeholders for weighing in. I look forward to hearing from the panel.

The CHAIRMAN. All right. Thank you very much.

Senator Wicker?

STATEMENT OF HON. ROGER F. WICKER, U.S. SENATOR FROM MISSISSIPPI

Senator WICKER. Well, I'll put my one-page statement in the record if I can make two points, Mr. Chairman.

A reformed USF needs to adequately be responsive to the unique needs of rural America. And that's one of the main points that needs to be made here today. The Commission needs to make sure it does not embrace one technology over the other. And I think our Ranking Member stressed that also. Rather, they need to ensure that the best technology for each geographic region receives support.

Further, it's important that carriers willing to invest in rural broadband infrastructure—a primary goal of 21st Century USF—are not impeded by anti-competitive regulatory framework.

Having made those two points, I thank you, Mr. Chairman. Thank you for this hearing. And I'll put my statement in the record as a whole.

[The prepared statement of Senator Wicker follows:]

PREPARED STATEMENT OF HON. ROGER F. WICKER, U.S. SENATOR FROM MISSISSIPPI

The issue of Universal Service and Intercarrier Compensation reform is an important and challenging one. With the FCC's circulation of a draft order last week and an expected vote at month's end, this process is well underway. But this hearing, with this broad cross-section of witnesses, can provide a good forum to underscore the fact that there are many moving parts surrounding this issue, all of which need to be considered.

As we transition the Universal Service Fund (USF) to focus on broadband availability, it is imperative that we rein in costs, making it more efficient and effective. At the same time, a reformed USF needs to be adequately *responsive* to the unique needs of rural America.

The Commission needs to assure that our Nation's vast rural areas, including significant portions of my home state of Mississippi, have access to the vital economic benefits of broadband.

USF and ICC reform has been under consideration for over a decade. Now that we have reached critical mass, with an adoptable draft order on hand, the Commission needs to make sure it does not embrace one technology over another, but rather ensure that the best technology for each geographic region receives support. Further, it is important that the carriers willing to invest in rural broadband infrastructure—a primary goal of a 21st century USF—are not impeded by an anti-competitive regulatory framework.

To proceed otherwise is to risk having a severe adverse impact on private sector investment and technological growth and in some cases may represent a step backward through reduced broadband availability.

I applaud the efforts taken by the FCC to act on this important issue. I look forward to hearing our witnesses' perspectives, suggestions and concerns as reform becomes a reality.

The CHAIRMAN. It's so ordered, and I thank you.

Our witnesses today are Ms. Kathleen Abernathy. She's the Chief Legal Officer and V.P. of Frontier Communications; and Ms. Mary Dillon, President and CEO, U.S. Cellular; Mr. Michael Powell, President and CEO, National Cable and Telecommunications Association—I think this is your first appearance here in that capacity. Ms. Shirley Bloomfield, CEO, National Telecommunications Cooperative Association; and, as has been noted, Mr. Philip Jones, Commissioner, Washington Utilities and Transportation Commission.

I'll just go down this list as it is and start with Ms. Abernathy.

STATEMENT OF HON. KATHLEEN Q. ABERNATHY, CHIEF LEGAL OFFICER AND EXECUTIVE VICE PRESIDENT, REGULATORY AFFAIRS, FRONTIER COMMUNICATIONS; FORMER COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION (FCC)

Ms. ABERNATHY. Thank you very much. Good afternoon, Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee. It is a privilege to appear before you with my fellow panelists to discuss proposed reforms to universal service that will further promote broadband deployment to all Americans.

Universal service reform, intercarrier compensation reform, broadband deployment—they're all issues that I have worked on for a long time, first in the private sector, later on as an attorney in private practice, and then as a commissioner at the FCC, and now as an executive with Frontier Communications.

Frontier is the largest provider of broadband, voice and video services focusing on rural America, and the fourth largest incumbent local exchange carrier in the country.

During the last century, Frontier's mission was ensuring that everyone in our area had access to reliable telephone voice service. That was the main means of communication.

While Frontier continues to provide quality voice service, we agree with all of you that broadband has become the essential communications technology of the 21st Century; and we've redefined our mission to provide reliable broadband service throughout our footprint.

Frontier is committed to deploying broadband to some of the hardest-to-serve areas of the nation—areas where the population is scattered and the terrain challenges are significant.

But despite these obstacles, we've been aggressively deploying broadband across our rural footprint. As of 15 months ago, prior to our most recent acquisition, we had high-speed Internet in 91 percent of the population in our footprint. And when we extended our commitment through the purchase of wireline operations from Verizon, we reaffirmed that commitment. We're now in 27 states.

And I'm happy to say, Mr. Chairman, we're the largest service provider in West Virginia.

We've made clear that our focus is on deploying broadband in these newly acquired markets, many of which had only 60 percent broadband penetration when we finalized the acquisition. We've invested heavily in the network, with the goal of extending broadband reach to 85 percent of the households in the newly acquired markets by the end of 2013. So, we are well aware of the challenges of delivering service to all of our customers and particularly the last 10 to 15 percent of the population that remains unserved, even with our aggressive deployment.

The cost of deploying to these customers is exponentially higher than in the most densely populated areas, and the base of customers to absorb these costs is limited. Even given Frontier's existing phone network in these low-density, high-cost areas, upgrading the existing facilities to make them broadband-capable is fundamentally uneconomic, absent government support.

The FCC's National Broadband Plan recognized this challenge and proposed transitioning the current Universal Service Fund to a broadband fund that would also reform the outdated intercarrier compensation scheme, and Chairman Genachowski, as you noted, announced last week that the FCC is moving ahead with this proposal.

So, we've been working with our other wireline carriers—AT&T, CenturyLink, FairPoint, Verizon and Windstream—in support of what we call America's Broadband Connectivity Plan, or the ABC Plan.

The ABC Plan, in conjunction with the reform proposal of the rate-of-return carriers, is a consensus framework for reforming key areas of universal service and intercarrier competition—compensation to provide greater accountability, and to better direct the resources to the high-cost parts of the country.

I want to stress that reform of intercarrier compensation is necessarily linked to USF reform. The intercarrier compensation system, which dictates how much carriers pay each other to complete calls, has always been a critical component of how rural carrier recover their costs. But it has become outdated, as technology has shifted from legacy voice networks over to broadband networks.

So, the ABC Plan offers up a carefully constructed solution that combines a phase down of access charges with replacement revenue streams, and greater targeting to more accurately fund high cost parts of the country. This reform will also eliminate arbitrage opportunities, which, frankly, make no sense and simply undermine the goals of universal service funding.

Finally, the plan meets the four principles articulated by Chairman Genachowski: First, the ABC plan transitions the current voice support mechanism to one for broadband. Second, it is fiscally responsible. It does not increase the size of the High Cost Fund, and more precisely and more accurately targets support to the most expensive, hardest- to-reach parts of the country. Third, the plan requires accountability: funding recipients are required to document and provide defined results. And fourth, the plan has market-driven policies and uses a forward-looking model to distribute funds.

So, in closing, the ABC Plan reflects a compromise and consensus, and is carefully balanced to provide ongoing stability and funding necessary to support broadband investment and deployment.

Thank you.

[The prepared statement of Ms. Abernathy follows:]

PREPARED STATEMENT OF HON. KATHLEEN Q. ABERNATHY, CHIEF LEGAL OFFICER AND EXECUTIVE VICE PRESIDENT, REGULATORY AFFAIRS, FRONTIER COMMUNICATIONS; FORMER COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION (FCC)

Good afternoon Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee. It is a privilege to appear before you this afternoon to discuss proposed reforms to universal service that will further promote broadband deployment to all Americans. Universal Service Fund (USF) reform, intercarrier compensation (ICC) reform, and broadband deployment are all issues I have been working on for a long time—as a telecommunications attorney in private practice, as a commissioner at the FCC, and now as Chief Legal Officer and Executive Vice President of Regulatory Affairs at Frontier Communications.

Frontier is the largest provider of broadband, voice and video services focusing on rural America and the fourth largest incumbent local exchange carrier in the Nation. During the last century, Frontier's mission was ensuring that everyone in its service area had access to reliable voice telephone service—the main means of communication. While Frontier continues to provide quality voice service, broadband has become the communications technology of the 21st Century, and Frontier has redefined its mission to provide reliable broadband service throughout its footprint.

At Frontier, we embrace the position expressed by this Committee, Congress, the Administration and the FCC that broadband is the essential infrastructure of our time, capable of advancing job creation and economic growth, ensuring public safety, providing access to improved healthcare, enhancing education, and opening the doors of opportunity for all. But, to achieve these benefits, broadband should be available to all. Frontier is committed to deploying broadband to some of the hardest-to-serve areas in the Nation—areas where the population is scattered and the terrain challenges are hard to manage.

Despite these challenges, Frontier has been aggressively deploying broadband throughout rural America. As of 15 months ago, Frontier had deployed high speed Internet to 91 percent of the households in its footprint. In July 2010, Frontier extended its commitment to serving rural America when we purchased the rural wireline operations of Verizon in 14 states. As a result, Frontier now has a coast-to-coast rural footprint in 27 states and is the largest service provider in West Virginia. Frontier made clear that it would focus on deploying broadband in these newly acquired areas. Over the past year, Frontier has invested heavily in the network with the goal of bringing broadband access from approximately 60 percent availability up to 85 percent in the newly acquired markets by the end of 2013. Additionally, over the same period, Frontier has invested more than $750 million in capital expenditures. And, our commitment to the rural markets we serve is demonstrated by our 100 percent U.S. workforce.

Frontier's mission of providing high speed Internet to rural America is directly aligned with the Committee's objective of ubiquitous broadband. At the same time, we are well aware of the challenges of delivering service to the last 10 percent to

15 percent of the population that remain unserved. The economics of deploying broadband to this hardest-to-serve segment of the population with private capital alone are daunting. The cost of deployment is exponentially higher than in the more densely populated areas and the base of customers is limited, which in turn limits potential return on investment. Even given Frontier's existing infrastructure, which provides traditional phone service to these areas, the cost of upgrading the existing facilities to make them broadband-capable dwarfs any potential revenues. Simply stated, there is no business model for providing broadband service in these areas without an effective government support program to bridge the gap.

The National Broadband Plan accurately concluded that serving most of the currently unserved areas of the country would be a money-losing proposition. To address this, the National Broadband Plan recommended transitioning the current Universal Service Fund for voice to a broadband fund while also reforming the arcane and outdated intercarrier compensation system. After reviewing various proposals, FCC Chairman Julius Genachowski announced last week that the FCC would act on a recommendation later this month. Frontier has been active in the FCC proceeding and joined with AT&T, CenturyLink, FairPoint, Verizon and Windstream in support of the America's Broadband Connectivity Plan, or ABC Plan. The ABC Plan, in conjunction with the reform proposal for rate-of-return providers offered by the rural local exchange carrier associations NTCA, OPASTCO and WTA, provides a consensus framework for key areas of universal service and intercarrier compensation reform.

It was no small task to find common ground among the six largest incumbent local exchange carriers. All of the companies have historically had varying and adverse positions on how to reform the existing system. But after several months of deliberations, negotiations and compromises, we were able to agree on a proposal that meets the principles articulated by Chairman Genachowski: a transition to broadband, fiscal responsibility, accountability and market-driven policies.

- The ABC Plan transitions the current voice support mechanism to one that supports broadband. The newly created broadband fund will provide millions of Americans in high-cost areas with broadband access.
- The ABC Plan is fiscally responsible. It does not increase the size of the current High Cost Fund.
- The ABC Plan requires accountability. Funding recipients are required to provide defined results.
- The ABC Plan has market-driven policies. It uses a forward-looking model to distribute funds quickly and efficiently, where applicable.

Transition to broadband with limited funds.

It is a complex project to transition the fund that currently supports voice service to one that supports deployment and operation of broadband service, all while maintaining the size of the fund. The ABC Plan meets these goals by more precisely targeting support for broadband to the most expensive and hardest-to-reach areas of the country on a granular, census block level. In addition, no support will be available where an unsubsidized broadband provider such as cable already offers service.

Funding framework provides for quick and efficient deployment.

In addition, the ABC Plan leverages existing broadband investment in certain areas to achieve rapid build-out to adjoining unserved areas. In particular, where an existing provider has already built out broadband to 35 percent of an area, the proposal offers that provider the opportunity to speedily complete build-out to the entire area with support calculated by the approved cost model. Some oppose this aspect of the proposal and recommend instead a lengthy, complex and burdensome reverse auction process to determine how new broadband support should be distributed. Before even getting to the "race to the bottom" with a reverse auction, the FCC will have to develop the ground rules for this cumbersome approach to funding the 900,000 census blocks in play. The initial result will be to delay broadband build-out for several years. Yet, incumbent carriers such as Frontier have been providing voice service under Title II, as well as under state regulations such as Carrier of Last Resort requirements, to these areas for some time. With incremental investment, the existing voice infrastructure can be upgraded to provide broadband. It is unlikely that a new provider would have both existing infrastructure and experience in the area to produce similar efficiencies within the same timeframe. Given the need for rapid deployment of broadband service to these high cost, unserved areas, and the fact that these areas are already served by traditional phone service, the ABC proposal best accomplishes the FCC's goals.

Ubiquitous broadband benefits all.

Clearly, this Committee recognizes the great benefits that broadband will bring to Americans—in both rural and urban areas. While Frontier chiefly serves rural America and focuses on the benefits that broadband will bring to its residents, urban and suburban residents will benefit from this Plan as well. On a very basic level, the Plan maintains the size of the fund, which means that the FCC will not require increased contributions from urban and suburban ratepayers. Most importantly, the entire country benefits from having access to 21st Century technology; friends, relatives, businesses and potential customers can connect with each other—whether in urban or rural markets.

Intercarrier compensation reform is inextricably linked to modernization of USF.

I hesitate to discuss intercarrier compensation because it can make USF reform seem like a walk in the park. But I must stress that reform of ICC is inextricably linked to USF reform. The intercarrier compensation system—which dictates how much carriers pay each other to complete calls over each other's networks—grows more outdated as communications technology shifts from legacy voice networks to broadband. The ABC Plan proposes a five year transition of the many intercarrier compensation rates to a much lower uniform rate, and gives carriers options to try to make up revenue lost to mandated rate cuts. In particular, the proposed uniform intercarrier compensation rate for the termination of voice traffic will go from as much as 36¢/minute for some intrastate rates, to .07¢cent. That means that long distance and wireless providers will be paying significantly less to have their customers' calls terminated on the public switched telephone network (PSTN), and we believe that benefit—which has been estimated to translate to $9 billion per year nationwide in consumer benefits—will get passed on to consumers in numerous forms including long distance rate reductions and increased investment and innovation. In addition, a unified terminating rate will eliminate arbitrage opportunities such as phantom traffic and traffic pumping, which have resulted in significant administrative costs, lost revenues and uncertainty for providers.

Revenue Replacement For Losses In Access Revenues

With this significant decrease in intercarrier compensation rates, many providers will lose revenues used to maintain and upgrade networks in high cost areas. Incumbent local exchange carriers' monthly basic service rates for consumers are generally regulated by state public utility commissions and range from under $10 to $30 or more, depending on the state. In addition to the state component of the basic service rate, the Federal government permits carriers to apply a limited subscriber line charge (SLC). Under the ABC Plan, in areas where local telephone rates plus the SLC and all taxes are below a benchmark of $30, carriers may raise their subscriber line charges by 50¢ to 75¢ per year to help compensate for some revenue losses that result from intercarrier compensation reform. These potential increases are optional, and in some places carriers will not be able to raise their SLCs because their rates already hit the benchmark, while in other markets the companies will need to forego the opportunity to recover the revenue as competitive or other factors will not enable an increase in local voice rates. Frontier takes any rate increase very seriously, as do our customers, but we note that our voice competitors, such as competitive local exchange carriers, wireless providers and cable through voice over Internet protocol (VoIP), have no similar rate regulation or service area requirements.

In closing, we believe the time to act on comprehensive reform of universal service and intercarrier compensation is now. As the senior Members of this Committee and the panelists sitting with me here know well, updating universal service and intercarrier compensation is difficult. The ABC Plan along with the rate-of-return proposal provides a framework for comprehensive reform of the existing systems while observing the key principles laid out by FCC Chairman Genachowski and providing significant benefits to consumers. It is a carefully negotiated proposal among the carriers with the most history and involvement in universal service and intercarrier compensation. We urge the FCC to take momentous action later this month by implementing as closely as possible, our comprehensive proposal. And we hope you will support us in this process. Thank you.

The CHAIRMAN. Thank you.

Let me see. Ms. Dillon.

STATEMENT OF MARY N. DILLON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, UNITED STATES CELLULAR

Ms. DILLON. OK. Thank you, Mr. Chairman and members of the Committee. Thank you very much for inviting me here today on this issue of great importance to all Americans, and including those living in rural communities.

As you know, the FCC is working hard to reform and re-purpose the Universal Service Fund to support high speed broadband. We support reform, and believe that the goal should be to invest funds efficiently to deliver affordable access to both wireline and wireless high speed broadband to all Americans.

What concerns me is that the Commission's current proposal appears to favor wireline service over wireless. Wireless, which is currently capped at $1.2 billion in the fund, would be reduced to only $300 to $400 million, while wireline carriers would see their support increase from approximately $3 billion to $4.2 billion. So, that just doesn't make sense for a couple of reasons.

First, as we all know, consumers are moving very rapidly to wireless services, and that trend is accelerating. Today, roughly one-third of households are wireless only, and the array of wireless services that facilitate consumer lifestyles and business productivity, they are rapidly expanding.

Second, the job of providing coverage throughout America—particularly in the rural areas, as has been noted here today—it's not complete. And as you know, when you travel throughout your state, everybody experiences dead zones today.

So, here's what we think makes more sense for consumers. A recent study estimated that it will take up to $20 billion to build high-quality, mobile broadband networks across the rest of rural America. So, at a minimum, $1 billion a year, or less than 25 percent of the available funding, is what's required to make a significant progress and difference in the next decade.

Given the importance of wireless in public safety and economic development, the proposed $300 million, or 7 percent of the fund, is simply just not enough.

There's additional benefits to providing adequate funding for mobile broadband: investing in wireless drives economic growth. In fact, Deloitte recently published a study that indicates and shows that for every billion dollars invested in mobile infrastructure, 15,000 jobs are created.

In addition, mobile broadband can deliver high speeds even faster than what was recommended in the National Broadband Plan.

So, let me offer two final observations. First, there needs to be a focus on the transition from the old program to the new. The FCC may be beginning to plan a phase down of the existing wireless funding while they consider a new distribution method and another proceeding. It's risky, because if the FCC action on a new replacement approach is delayed, investments in rural networks that we and others have planned today would also be, likewise, delayed or canceled. So, we therefore ask you to ensure a smooth transition from the old to the new approach.

And second, I want to be clear that I strongly believe that every participant in this program should be held accountable for how they use the support that they receive. Today, we keep track of our investments; we report on our progress to regulators often. And we believe proper accountability is a critical element of reform.

So, in closing, decisions that the FCC makes today will affect the development of broadband for a decade or more. Properly allocating universal service funding is probably the most important thing the FCC will do for a long time.

So, reform must put the interests of consumers first and recognize the undeniable trend in the industry that wireless continues to grow, while wireline continues to shrink. Mobile broadband is absolutely critical to our Nation's ability to compete in the global marketplace. And therefore, the FCC needs to ensure sufficient funding to ensure that our citizens have access to the tools that they need to be successful.

So, thank you very much for the opportunity today.

[The prepared statement of Ms. Dillon follows:]

PREPARED STATEMENT OF MARY N. DILLON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, UNITED STATES CELLULAR CORPORATION

Chairman Rockefeller, Ranking Member Hutchison, members of the Committee, my name is Mary Dillon, and I am President and Chief Executive Officer of United States Cellular Corporation. Thank you for the opportunity to discuss the FCC's imminent action to reform the universal service and intercarrier compensation mechanisms.

Introduction

U.S. Cellular provides wireless service in nearly 200 markets across 26 states located in regional clusters across the country, including many of the states represented on this Committee such as Maine, Missouri, New Hampshire, Virginia, West Virginia and Washington. The overwhelming majority of the geography we serve is rural in character. Our opinions and perspectives on the Universal Service Fund are informed by our experience as an eligible telecommunications carrier ("ETC") serving rural America.

Fifteen years ago, Congress declared that rural citizens should have access to telecommunications and information services that are reasonably comparable to those available in urban areas. Last week, Chairman Genachowski announced that his vision of universal service reform includes the creation of a mobility fund, recognizing the critical role that mobile broadband plays in public safety and economic development in rural and high-cost areas. We thank him for his leadership in recognizing the important role of mobile broadband in enriching the lives of all of our citizens. What we hope to see in the upcoming order is a mobile broadband program that is sufficiently funded so that we can effectively expand and deploy mobile broadband networks in rural America.

From our perspective, mobility and broadband are the two "must have" applications to enable our citizens and businesses to be competitive with other developed countries. Our country is stronger when citizens living in both urban and rural areas have access to the tools needed to participate in the world economy. As you know, mobile broadband uptake is exploding, and roughly one in three households is now wireless-only.

We use federal universal service support to build new cell sites and operate facilities in many high-cost rural areas that would not otherwise have access, and we see first-hand the profound effect that access to advanced wireless service has on jobs and the quality of life of the consumers in rural America that we serve. In furtherance of the mission you gave them, to both "preserve and advance" universal service, the Federal Communications Commission must include funding to build, maintain and upgrade state of the art and high-quality broadband networks throughout those areas of the country that would not otherwise attract sufficient private capital.

Between 1999 and 2010, over $34 billion of universal service support has been invested in ***fixed voice service*** while less than $8 billion has funded *mobile voice* *service.*[1] In the wireless industry, support has been integral to our ability to extend new cell towers into rural areas, beyond the major towns and highways. Included with my statement as Exhibit 1, are a series of maps that demonstrate two things. First, we've made tremendous progress in improving coverage for rural Americans thanks to USF support, and second, that significant coverage gaps remain.

These maps are instructive, because it is readily apparent that building new towers and providing high-quality coverage is the essential building block in delivering future mobile broadband services. That is, support is needed to build new towers, and overlay new 4G broadband technology in order to provide rural areas with high-quality mobile broadband service that they can depend on.

Here is one small example of what is happening in the marketplace. Amazon recently announced that its new Kindle Fire device includes free cloud storage for all Amazon content. Consumers are discovering the convenience of cloud storage for their digital content, including books, music, video and periodicals. As this transition commences, demand for mobile broadband will increase exponentially, as consumers will access this content any place that network quality is good. They do not intend to plug these devices into a wire in order to access their content.

As a carrier that invests in rural communities and wants to deliver these services to our customers, we offer the following views on the Commission's upcoming action and the role of universal service in helping all Americans access broadband services:

1. High-Quality Mobile Service is Critical to Rural Americans

As we've previously testified before this Committee, our research indicates that, given an either/or choice, most rural citizens would give up their home connection to the Internet because they view mobile access as a critical communications tool. Traveling in remote rural areas without a wireless device capable of dialing 911 or communicating with family is just not done in today's world. This is not to suggest that rural areas don't deserve access to both fixed and mobile broadband, but it highlights how important our rural citizens believe mobile services are in today's world.

Many of our new customers tell us that the reason for choosing our service is superior coverage in rural areas, much of which has been made possible by the FCC's current universal service mechanism. In addition, policy makers often tell us they personally experience dead zones, or that their constituents have identified a lack of coverage in areas they live, work and travel. The symptoms include an inability to receive e-mail messages or access the Internet, inability to use smart phone functionalities, and batteries that die quickly because the device is constantly searching for a network.

I would like to address up front the well-worn assertion that almost everyone has access to two or more mobile carriers. While technically that statement could be true it is misleading at best because it says absolutely nothing about the quality of that access experienced by citizens living in rural areas. For us, universal service is the difference between *some mobile service in some areas* (think "one bar" that flickers in and out) and *high-quality service* (think "five bars" that remain steady as you move) *everywhere that rural citizens live, work and travel.* A robust and ongoing program is needed to enable mobile carriers to fill in coverage gaps that continue to plague rural areas, otherwise citizens will be forced to settle for service quality that is inferior to that which is available in urban areas. And, as I mentioned above, coverage delivered by building towers is the gateway to high-quality broadband.

Further evidence that more investment is needed in rural America to deliver high-quality mobile services can be found in a recent poll we commissioned. We have included a copy of this data as Exhibit 2. Currently, the Federal high-cost mechanism disburses approximately $4.5 billion per year. When asked how that amount should be divided going forward between fixed and mobile services, the great majority of Americans surveyed would invest approximately 50 percent in each category.

This indicates a clear understanding that mobility plays a critical role and that more needs to be done. The idea that over 90 percent of universal service funds should be invested in either technology polled at 14 percent approval. Yet, the wireline-sponsored industry proposals that the FCC is considering would invest 93 percent of available funds to landline technology and it would reduce existing funding for mobile broadband by 75 percent, or perhaps more, depending upon whether wireline carriers choose to take 100 percent of the funds which under their proposal they have the ability to do so.

[1] 2010 Federal-State Joint Board Monitoring Report at Table 3.2; *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303886A5.pdf*.

If you look forward a decade under the wireline industry proposal, $42–45 billion would be invested in fixed services, while $0–3 billion would be invested in mobile services. At this time, when smart phones now place enormous computing power in an average person's hands, when tablets are on the verge of revolutionizing industry and education, and when demand for mobile broadband is exploding in our urban centers, this is not an investment mix that will provide rural Americans with the opportunities they need to compete. It will fail to provide rural Americans with access to reasonably comparable services, which is what Congress mandated that the FCC do.

I note that South Korea has set a goal to connect every one of its citizens at a speed of one gigabit per second by the end of 2012,[2] while here in the U.S., wireline carriers propose to connect most of our citizens at 4 megabits per second, ten years from now. This is hardly the kind of big thinking that has been the hallmark of this country from its inception.

In areas where population density and geographic challenges make it too expensive to string fiber to homes, mobile broadband can today provide speeds far greater than 4 megabits, and next generation LTE technology promises significant increases in speed, in addition to mobility.

It is absolutely essential to provide enough support for mobile broadband to "move the needle" and bring meaningful infrastructure development to rural areas. We are prepared to build new towers that provide coverage and will be broadband-ready on day one. Accordingly, it is essential that at least $1 billion per year be invested in expanding our mobile broadband networks. That is less than 25 percent of the high cost fund to support the technology that rural consumers are demanding.[3] Given that consumers of mobile services now contribute over $3 billion per year into the fund each year, they should not have to subsidizing networks they have abandoned to the exclusion of the networks they have chosen and be denied access to reasonably comparable services that Congress intended they receive.

We thank FCC Chairman Genachowski for announcing last week that the FCC will adopt an FCC plan, not an industry plan, and we ask this Committee to insist that the FCC reject the plan for our rural areas that the wireline industry has included in its recent proposals.

Access to high-quality mobile broadband service that is reasonably comparable to that which is available in urban areas must be a core component of universal service reform.

2. Universal Service is a Driver of Jobs and Economic Development

The high-cost fund can be a powerful engine of economic development, especially with respect to mobile broadband. When carriers use support to build infrastructure, it has a substantial multiplier effect in the economy. Jobs are created in construction, and more are created when mobile broadband enables people to build businesses.

Deloitte recently released a study indicating that every one billion dollars of investment in mobile infrastructure creates 15,000 jobs.[4] Accordingly, at this critical time, when jobs and growth are foremost in every government decision, if you want program funds to go farther, to deliver faster speed in a shorter time, while creating thousands of jobs and accelerating economic opportunities for rural Americans, more funding should be directed toward mobile broadband services.

When a business decides whether to move to a rural area, or move out of it, high-quality mobile wireless coverage is a factor. Each year, it will be more of a factor, especially as new 4G networks continue to proliferate. At a time when our economy is struggling, and millions of people are unemployed, we have urged the FCC to reject any proposal that would constrain funding to mobile wireless carriers, an industry that continues to buck national trends by investing in infrastructure and hiring new workers.

Yet, as I understand the wireline industry plans, they propose to cut funding for mobile wireless, perhaps to zero. Today we're using those funds to build towers, and related infrastructure. Every time we turn on a tower, all of the consumer and economic development benefits we've talked about are made available. Nobody has adequately explained to me why, at this moment, reducing infrastructure investment in our economy is being seriously considered.

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[2] *http://www.nytimes.com/2011/02/22/technology/22iht-broadband22.html*.

[3] The FCC's Technological Advisory Council recently estimated that by 2018, only 8 percent of the population will subscribe to residential telephone service on the public switched network. See, *http://transition.fcc.gov/oet/tac/TACJune2011mtgfullpresentation.pdf*.

[4] *http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/TMT_us_tmt/us_tmt_impactof4g_081911.pdf*.

A one billion dollar investment in mobile broadband infrastructure each year would create 15,000 jobs and stimulate economic growth in rural America. We believe that an investment of that order of magnitude—although less than what is being invested today—is needed to keep rural America from falling further behind.

3. Improving Mobile Coverage and Enabling Mobile Broadband Will Deliver Enormous Public Safety Benefits to Rural Americans

As you know, a mobile phone has become the single most important safety tool that a person can have. Seemingly every day you can find a story on the web about someone who has been helped, including an incredible one a few weeks ago where a severely injured man trapped in a ravine in a remote area of California was rescued with the help of mobile wireless technology.

Anyone who travels throughout rural areas knows there remain dead zones that need to be filled in, and that mobile phones do not work on all mobile wireless networks. That problem will continue in the coming 4G world, because there remain significant challenges in developing interoperable networks in both commercial and public safety networks. Accordingly, as mentioned above, funding mobile technology so that carriers can continue to fill in dead zones in rural areas has critical public safety benefits for all Americans.

The FCC is now moving forward on a proceeding to enable people to contact 911 operators and first responders through text messaging and other media devices, such as a tablet, a book reader, or any device with a web connection, enabling people to not only speak to first responders, but to send pictures or video that can assist them. These tools have incredible potential, but at their core they are meaningless without towers and the coverage they provide which enable these devices.

Senator Rockefeller, you and others on this committee have championed the cause of public safety by advocating that they receive additional spectrum so they can have an interoperable broadband network. When the time comes to build that network, its cost and the time it takes to build it can be greatly reduced, while coverage can be improved if commercial carriers have towers in place on which public safety can hang their radios, rather than building a new cell site.

For years, we have advocated that support be targeted more accurately to the high-cost areas that need investment, including those with "some service in some areas" so that carriers become more accountable for the funding they receive and that rural consumers see meaningful improvement in network quality. Properly targeting support increases program accountability and accelerates benefits to rural communities.

Accordingly, the best thing you can do for your rural constituents is to see that the FCC creates a robust mobile broadband fund with proper accountability, so that rural citizens have the benefit of high-quality mobile wireless coverage—and mobile broadband.

4. The Transition to New Support Mechanisms Must be Measured and Orderly

The Broadband Plan and the Commission have said that reform should be done without "flash cuts," so that carriers can make appropriate adjustments and prepare for significant changes as reform is implemented. We agree with that approach. Yet, our understanding is that a phase down of support to wireless carriers under the existing mechanism would begin immediately, even though a new mobility fund mechanism may not be in place for several years.

It is critically important that the timing of a phase-out of existing support coincides with the phase-in of new mechanisms. First, if support to wireless carriers is reduced without a replacement mechanism, cell sites built in remote areas will be immediately at risk, especially those where revenues are not covering cell site operating costs.

Second, it is counterproductive to rapidly reduce funding to rural areas that still require significant capital investment to be brought up to par with urban areas. Third, as a part of how we are accountable for the funds we receive, we have submitted build plans to many states, the accomplishment of which depend on high-cost support. Cutting funding will undermine the regulatory promises we have made to state commissions and deny many communities the benefit of new cell sites that we have committed to deliver.

A new mobility fund that provides sufficient funding for rural America must be phased in coincident to the phasing out of the current support mechanism.

Concluding Thoughts

We are likely to get a reform order within weeks. This Committee's oversight responsibility must include direction that a new broadband fund that does not include sufficient funding to meaningfully improve the lives of rural Americans is not acceptable. All four Commissioners have made clear how important it is to reform this program, and all share the goal of investing funds more efficiently and directing more funds to the services that consumers are actually using.

Unfortunately, last minute proposals from the wireline industry maintain the status quo for them, while gutting investment in mobile broadband. To date, the Chairman has made clear that he will not be adopting such proposals.

I urge you to continue to monitor the process, as there is no more important mission for the FCC at this time than to ensure that public funds are invested efficiently, targeted toward areas that need them, that companies who receive funds are accountable, and that universal service is used to accelerate both fixed and mobile broadband service throughout our Nation.

The CHAIRMAN. Thanks very much.

Michael Powell?

STATEMENT OF MICHAEL K. POWELL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

Mr. POWELL. Chairman Rockefeller, thank you very much.

It's a privilege to be sitting at this table again, particularly at the maiden voyage in my new capacity as President and CEO of the National Cable and Telecommunications Association.

And Senator Hutchison, thank you as well for hosting this hearing today, as well as other distinguished members of the Committee.

As you've no doubt ascertained, USF can be a complex, arcane, downright mind-numbing subject. The subject is important, however. Getting it right will advance our communications goals. Getting it wrong will retard competition and innovation for the better part of the next decade—something the United States can ill afford.

I would submit that, despite the depth of detail, there is one overarching principle that can guide Congress and the FCC to the right place: Focus on the American consumer, and not the financial interests of corporations.

The USF program is not designed to maximize profit, protect any one particular business model, or federally guarantee loans. It is meant to get service to consumers at affordable rates.

Focusing on the consumer brings a number of the complex issues into clearer relief: first, because it is the public interest that is paramount, the FCC has to write the plan, and not any group of self-interested, even if well-meaning, companies. Consensus or not, you should not be surprised that a draft principally developed by a subset of telephone companies favors their private interests in meaningful respects. I would probably do the same. And, though I concede that they have been valuable starting points—and we agree with many of the supposed consensus plans—it cannot be treated as "take it or leave it" if we hope to get reform right.

But more importantly, we cannot forget that, while companies get the money, it's consumers that write the check. And while all communications consumers share the burden, not all directly share in the benefits. A bloating fund will jeopardize public support for this critical program.

We accept, as we should, that the universal service goals of ubiquity and affordability are critical to the national welfare. But it becomes clear when you understand that consumers bear the costs that we should have a clear fiduciary responsibility to: one—do not collect or spend any more money than is absolutely necessary; two:

demand accountability and efficiency; and target subsidies not to classes of companies, but to areas clearly in need of support where our citizens live. For this reason, NCTA has pressed vigorously for a cap, or financial controls, on the fund to require targeting in unserved areas in large measure, recognizing the danger of an ever-ballooning fund.

Consumer contributions in the first quarter of 2011 hit record levels. $15.50 of every $100 spent by an American consumer goes to this $8 billion program.

Competition is what favors consumers. For the better part of the last century, policymakers accepted that the communications market was best served by a government-supported monopoly. In fact, the term “universal service” was actually coined by Theodore Vail in 1907, the CEO of AT&T, as a basis for justifying the efficiencies in his claim for the need for monopoly. The government accepted that compact at a time when only 35 percent of American homes had phone service; and indeed, it abided by that for nearly 80 years, until divestiture—and not without regret, I might add.

Today, 98 percent of homes have telephone service. And in the 1996 Act, Congress wisely came to recognize that competition is the key to bringing consumers more choice, promoting efficiency, driving technological innovation, and encouraging fresh investment.

Competition is not a risky experiment. It is more proven than a monopoly business model, or government computer models, in bringing the highest value to consumers.

NCTA is the leading competitive industry in the United States in telephone, and the leading provider of broadband. It has built broadband infrastructure to 93 percent of American homes without government subsidies or benefits.

We want universal service reform to give us a fair chance to compete to bring broadband to those remaining areas where, by all admission, it is economically difficult to do so. This is why we press for targeting—so that we’re not competing with companies with private risk capital that have the advantages of government-subsidized capital. If there is to be competition, it should be fair.

It’s also why we strenuously reject proposed ideas of rights of first refusal. Why should it be that only an incumbent, by virtue of having been in an area first, be exclusively allowed to receive Federal subsidy programs, and others not?

Finally, consumers want broadband. As we’ve mourned the passing of Steve Jobs and paid homage to his notable career, I would note that all the devices he developed only became magical when he put an “I” front of them. IPads and iPods became fantastic when they became Internet devices.

Consumers who have no access to that are being left out of the information age. And in these kinds of networks, a bit is a bit—no matter how or what type of service that can be transferred efficiently over data networks. And the regulatory regime should treat all technologies, including Voice over IP, equally. And if there are funds to be collected, they should be able to share equally in them.

Finally, I would conclude by saying we recognize this stuff is hard and it’s complex. I have every faith, having run the agency myself, that the FCC has the expertise to complete this process.

But over a decade, we've worked to get reform right and on the right passage. It will likely be another decade before it is fundamentally reformed again. Any reform that is not fiscally responsible, competitively friendly or technologically neutral, will be a travesty and a lost opportunity; it will be an expensive government program that does not drive America toward the future, but instead just pays expensive homage to our past—and, unfortunately, paid for by cash-strapped consumers.

Mr. Chairman, thank you for your time. I look forward to your questions.

[The prepared statement of Mr. Powell follows:]

PREPARED STATEMENT OF MICHAEL K. POWELL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

Good morning, Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee. My name is Michael Powell and I am the President and Chief Executive Officer of the National Cable & Telecommunications Association. Thank you for inviting me today to testify on universal service and intercarrier compensation reform.

NCTA represents cable operators serving more than 90 percent of the Nation's cable television households and more than 200 cable program networks. The cable industry is the Nation's largest provider of residential high-speed Internet service, having invested more than $173 billion since 1996 to build two-way, interactive networks with fiber optic technology.

Relying almost solely on private risk capital, the cable industry has made broadband available to more than 123 million American households. Using efficient, advanced IP technology, cable companies also provide state-of-the-art digital telephone service to more than 22 million American consumers in urban, suburban, and rural markets—almost wholly without any universal service support. Cable operators are committed to expanding access to quality voice and Internet services, and the dramatic growth in cable broadband subscribers is evidence of their success in doing so.

For at least a decade, policymakers have agreed that our system of subsidizing the operation and maintenance of rural communications networks is in critical need of reform. Our current support mechanisms—the high-cost support portion of the Federal Universal Service Fund ("USF") and intercarrier compensation ("ICC")—were first established decades ago to ensure that every American had access to basic telephone service. That national priority has long been met, but these programs are still propelled by past history rather than any vision for the future.

As Committee members are aware, earlier this year the Federal Communications Commission opened a rulemaking proceeding for the purpose of fundamentally reforming the existing USF and ICC programs. We share the goal of all of the Commissioners to put these programs on a "fiscally responsible path that provides incentives for efficient operations and accountability for every dollar spent." It is important to remember that consumers, not companies, are the intended beneficiaries of universal service funding, and it is also consumers who ultimately pay for the USF program. If the Commission fails to meaningfully constrain the USF program, consumers will inevitably see their bills rise. In these depressed economic times, government should do everything it can to limit the economic burden of government programs on consumers, even programs like USF that serve worthy goals.

Cable companies strongly support and appreciate efforts to modernize the universal service program and to rationalize the intercarrier compensation regime. As competitors to the incumbent telephone companies, in both rural and non-rural areas, cable companies are directly and significantly affected by the FCC's universal service and intercarrier compensation rules. While our cable companies operate in rural areas largely without subsidies, they compete directly with incumbent carriers that collectively receive billions of dollars annually in USF subsidies. Carriers have also refused to pay the appropriate intercarrier compensation on VoIP traffic we exchange with them. ICC reform must treat VoIP in a competitively neutral manner that encourages rather than penalizes investments in IP technology. The pending proceeding offers the opportunity to transform these programs into ones that can help accomplish our Nation's telecommunications goals of tomorrow while limiting further taxpayer exposure.

Principles to Guide Effective Universal Service and Intercarrier Compensation Reform

The goal of Universal Service Fund reform should be to provide support, on a fiscally responsible and competitively neutral basis, for broadband services in those areas of the country where there is no business case for providing broadband without government subsidy. The goal of reform of the intercarrier compensation regime should be regulatory certainty that ensures fair treatment of competitors and encourages the migration from circuit-switched to IP technology. These goals can be achieved within a framework that embodies the following principles.

Intercarrier Compensation Reform Must Ensure Competitive and Technological Neutrality. The intercarrier compensation system must be reformed so that it treats voice over Internet protocol (VoIP) calls the same as "circuit-switched" calls. The FCC must provide regulatory certainty by making sure that carriers are able to collect and pay for VoIP calls under the same rules that apply to traditional circuit-switched calls. Adopting different intercarrier compensation rules for circuit-switched and IP calls will continue the arbitrage inherent in the existing system today. In making reforms, the FCC must also maintain the interconnection and transport rules adopted in 1996 that ensure continued growth of competition in the voice market.

Target USF Broadband Support to Unserved Areas. The FCC should focus its reform efforts on bringing broadband to areas that do not have broadband today. Its policies should reward efficiency and make the best use of each taxpayer dollar of USF support. A common sense reform would be to prioritize support to providers that will bring broadband service to areas that lack such service today. We agree with members of Congress from both sides of the aisle that reform should end subsidies to providers that face competition from unsubsidized providers, whose presence in a market demonstrates that no subsidy is necessary.

Cap USF High-Cost Fund at $4.5 Billion. High-cost support has more than doubled since 2000, and consumers currently contribute $4.5 billion per year that is disbursed in high-cost program support. The Commission should cap high-cost support for broadband and voice services at this amount. Limiting the growth of USF is important for one reason above all; consumers ultimately pay for subsidizing this program. In these challenging economic conditions, policy-makers should do everything possible to limit the economic burden of government programs on consumers, even programs that serve worthy goals, as does USF.

Promote Competitive Neutrality and the Most Efficient Use of Subsidies. The FCC has acknowledged that it must modernize a 20th century program to serve 21st century needs. The USF high-cost support mechanisms that we have today were created in an era when wireline telephone service was provided on a monopoly basis, and are out of place in the modern, competitive communications marketplace. There is no justification for using subsidy funds simply to preserve incumbent phone companies' existing revenue streams. Real USF reform must be fiscally responsible and competitively-and technologically-neutral, and should recognize and encourage the continued growth of voice and broadband competition rather than serving as a mechanism to further entrench incumbent phone companies. The FCC should put in place support mechanisms that harness marketplace competition, like competitive bidding or reverse auctions, to award subsidies to the most efficient provider, regardless of what type of technology that provider uses. At that point, legacy high-cost support should end.

Improving Telephone Company Reform Proposals

Recently, much of the reform discussion at the FCC has centered on proposals made by two groups of incumbent telephone companies. One proposal, put forward by a group of larger incumbents, including Verizon, AT&T, and CenturyLink, has been labeled the ABC Plan. The other, made by a group of smaller rural incumbents, has been dubbed the RLEC Plan. While these plans have been represented by their proponents as a consensus proposal put forward by all providers, that is not the case. The plans were created by, and are endorsed by, the incumbent phone companies and include many provisions designed to benefit those companies to the detriment of their competitors.

In spite of these flaws, there are some positive components of the ABC Plan that could serve as a basis for real reform that benefits consumers in all areas of the Nation. Consequently, rather than encouraging the Commission to reject these plans entirely, the cable industry has encouraged the Commission to eliminate or fix those elements of that plan that run counter to the reform principles set out by the FCC earlier this year, particularly in terms of fiscal responsibility and competitive neutrality.

To assist the FCC in achieving reform that genuinely meets its goals of modernization, fiscal responsibility, accountability, and market-driven policies, NCTA has proposed an "Amended ABC Plan" that addresses weaknesses in the phone companies' USF and ICC proposals and promises to yield a modern Universal Service Fund and intercarrier compensation regime that is more consistent with a competitive marketplace and the FCC's reform principles.

USF Reform

Our Amended ABC Plan embodies several major improvements to the proposals put forward by the incumbent carriers. Our proposals are aimed at ensuring true fiscal responsibility for the USF program, taking full advantage of competition in the marketplace to eliminate the need for subsidies in areas where they are not necessary and to ensure the greatest possible efficiency in areas where they are.

Instituting Enforceable Fiscal Controls. NCTA's Amended ABC Plan proposal ensures that consumers will contribute no more than they do today for high-cost funding by establishing an enforceable cap on the size of the high-cost support program, with the possibility of limited waivers where the Commission determines that such exceptions are necessary. The phone companies' proposal professes to be tied to an estimated "budget," but it contains no meaningful mechanism for constraining—or reducing—the size of the fund.

In particular, the phone companies propose no meaningful constraints on rural phone companies' receipt of support. Instead, their suggested "limits" on fund size would be enacted by eliminating the very reforms that are the goal of this proceeding, *e.g.,* by delaying the availability of support in areas with significant unserved populations and deferring the reduction in excessive access charges that is an important aspect of intercarrier compensation reform. NCTA also has explained that caps or other mechanisms to limit the overall amount of support should not preclude the Commission from taking any necessary steps to ensure adequate support in areas that have been historically challenged, such as Alaska.

Targeting Government Subsidies to Areas Where Support is Necessary for Service. NCTA's Amended ABC Plan proposal would also target support only to those areas of the country where there is no business case for providing broadband without a subsidy. The presence of a cable operator offering broadband service in a given geographic area without subsidy shows that the area can be served without government support. While the ABC Plan put forward by the phone companies also targets support consistent with NCTA's proposal in areas served by the larger, price cap companies, it does not do the same for areas served by small and rural rate-of-return phone companies, allowing those companies to continue to receive subsidies even if the area is already served by cable companies or other broadband providers. This approach unfairly advantages one provider over another and discourages the investment of private risk capital that could make subsidies unnecessary.

Promoting Savings through Technological Neutrality. NCTA's Amended ABC Plan proposal relies on marketplace approaches like competitive bidding to target the most efficient provider for support in an unserved area. By ensuring that subsidies go to the most efficient provider, these mechanisms would keep costs in check and possibly lead to overall reductions in the size of the fund. Consistent with this goal, USF should not be structured to favor incumbents by giving them a "right of first refusal" for USF support. By granting incumbents a preference over more efficient competitors, a right of first refusal would violate the principle of competitive neutrality and increase the size of the high cost program by denying support to a competing provider that could provide the same or better service at a lower cost.

Modernizing Outdated and Inefficient Regulatory Regimes. NCTA's Amended ABC Plan proposal would establish a clear sunset date for outmoded and inefficient rate-of-return regulation applied to small and rural telephone companies and ask the Federal-State Joint Board on Universal Service to develop a transition plan to eliminate this out-of-date regulatory regime. In contrast, the phone companies' plans make only minimal changes to rate-of-return regulation.

ICC Reform

Of equal importance are our proposed changes to the ABC Plan's ICC proposal. Getting ICC reform right is essential to promoting full and fair competition and encouraging investment in IP networks. The goal of ICC reform must be a unified compensation system, not one in which a new disparity between traditional voice and IP technology is allowed to take root.

Reaffirming Reciprocal Obligations to Collect and Pay Access Charges. Through its reform efforts the FCC must provide regulatory certainty that carriers will be able to collect and pay intercarrier compensation for VoIP traffic under the new rules. The FCC should affirmatively resolve issues surrounding compensation for carriers exchanging VoIP traffic that have been the source of many disputes and litigation, providing needed certainty and incentives for providers to transition from the legacy phone networks of the past to the forward-looking IP networks of the future.

Preserving Existing Regulatory Authority over Interconnection and Transport Charges. The NCTA's Amended ABC Plan proposal preserves interconnection and transport policies enacted as part of the Telecommunications Act of 1996 that have been the foundation for competition to the voice market. The FCC should ensure that these critical services remain available and affordable to competitors, rather than allowing incumbent phone companies to hinder competition either by increasing the prices competitors must pay or by using strong-arm negotiating tactics to prevent competitors from using state commission-approved interconnection agreements as provided in the Telecommunications Act of 1996.

Restricting Access Charge Replacement Funding Based on Need. The phone companies' plans propose to create significant new transitional funding allowing telephone companies to obtain Universal Service Fund subsidies to replace access charge revenues lost through intercarrier compensation reform. Price cap carriers are generally large, financially-healthy companies that do not need "access replacement" funding to weather the transition to a new regime. The NCTA's Amended ABC Plan proposal demonstrates fiscal discipline by making clear that such funding should not be available to these incumbent phone companies, and should be provided to other carriers only upon a demonstrated showing of need.

Conclusion

These issues are not easy and many of them are not new. NCTA welcomes the Committee's continuing interest in USF and ICC reform. After a lengthy and considered review, the FCC appears poised to undertake major and welcome reform to universal service programs and the related intercarrier compensation regime. We remain committed to working cooperatively and constructively with Members of this Committee, the FCC, and with other stakeholders, including the incumbent telephone companies, to address remaining issues and achieve reforms that best meet the needs of the American public.

We appreciate the opportunity to share our views with you and thank you again for the opportunity to appear today.

The CHAIRMAN. And I thank you very much.

We come now to Ms. Shirley Bloomfield. Would you please go ahead?

STATEMENT OF SHIRLEY BLOOMFIELD, CHIEF EXECUTIVE OFFICER, NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

Ms. BLOOMFIELD. Mr. Chairman, thank you to you and your colleagues for allowing us to participate in this discussion today.

My remarks today are on behalf of NTCA, OPASTCO and WTA. And collectively, we represent the vast majority of the small rural communication providers and broadband providers across this country.

As community-based providers, our members hold a very deep commitment to their community and to their consumers. These are small businesses who create jobs; they create economic growth; they feed our nation; and they connect rural America to the rest of the world.

Recent studies have shown that rural carrier investments in operations have a significant multiplier effect on jobs and wages in these areas; and they contribute over $14.5 billion to state economies in 2009, of which $9.5 billion was a direct benefit to urban economies. So, when we speak of universal service, we really need to view these support programs in the context of a universal economy.

So, with that backdrop, in terms of USF, we're very eager for reforms in USF and intercarrier comp mechanisms, because USF enables providers to deploy and operate the most advanced networks possible, in places where density and distance, frankly, deter even the most optimistic business case that could be imagined.

Our members have leveraged the existing investments that they have made amazingly well and amazingly efficiently. They've taken their broadband speeds, which are at basic broadband speeds, as well as higher speeds, and they've got them available to over 92 percent of their customers within their service territory, with only a very small 3 percent compounded growth rate in High-Cost USF over the past 5 years, even as intercarrier compensation revenues have declined.

So, high-cost broadband for USF is also, it's also an adoption program. Mr. Chairman, I know you mentioned that's very important to you. But what USF does is, it actually keeps these prices affordable for Americans to be able to have these broadband services.

But notwithstanding the success, the time for reform is certainly now. We have arbitrage that is undermining the intercarrier comp system. Updates are desperately needed to ensure that there's predictability and a predictable broadband future. But the reforms have to be done in a way that they are surgical and certainly well planned.

So, the reform debate that has taken many turns since the National Broadband Plan was released—one of the things the broadband plan tried to really do is tried to assess the need for and the cost of providing broadband. And there have been a lot of policy discussions that have generated from that. And one of the things that it has done is really created a great deal of uncertainty. And as we all know, nothing stills investment like uncertainty. And we have certainly seen that in our sector of the industry.

So, our association and our membership are hearing the call for reform, to modernize USF, intercarrier comp, ensure fiscal responsibility and promote accountability. We also want to meet the statutory mandate for universal service, and the ultimate objective of providing broadband on a sustainable basis throughout these high cost areas.

So, with these principles in mind, our associations, and over three dozen other organizations, submitted a very detailed proposal to redefine today's cost recovery systems. This "RLEC Plan" would transition to a new "Connect America Plan" that encourages even greater efficiency and promotes budgetary goals.

We've also made very good faith efforts—and with the support and urging policymakers—to see common ground with others, and to reach agreement on changes to the RELC Plan as part of a "Consensus Framework" with a number of larger and mid-size providers as well.

So, while this is not perfect from our perspective, the Consensus Framework provides a very reasonable path forward for reform.

And others recognize this, as well. Just a few days ago, there were 15 organizations representing different business, agriculture, health care and medical groups, that included the Grange, the Net Literacy organization, the American Tele-Medicine Association, that also called upon the FCC to give serious consideration to the plans that are included in the Consensus Framework.

However, as everybody else has noted, the Devil is in the details. The RLEC Plan is the only detailed and practical plan on the record for rural consumers served by rural companies. It is clear, and a carefully balanced road map for reform. It also reflects substantial compromise and firm rejection of the status quo. This is as far as our sector can go before rural communications will certainly be in peril.

So, this brings me to one final issue. There can be no doubt the severe debt crisis that our country is facing, and the fact that we need to really address this with due speed. But nonetheless, legal precedent and good policy confirm that privately managed and funded USF program has no place in these public debt discussions.

Such a step would certainly constitute a taking and a new tax. And it would also undermine reforms that are currently under consideration, and would certainly halt broadband deployment.

So, our organization and our members took up the challenge to develop a detailed reform plan. We took up the challenge to seek industry consensus. Our members took up the challenge to provide data to the FCC to create a reformed, informed process. And we hope that the FCC will now be able to enable the small rural carriers to meet their most important challenge—and that is the delivery of affordable, high quality broadband to millions of rural Americans.

Thank you very much.

[The prepared statement of Ms. Bloomfield follows:]

PREPARED STATEMENT OF SHIRLEY BLOOMFIELD, CHIEF EXECUTIVE OFFICER, NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

Introduction

Thank you for the opportunity to participate in today's discussion regarding the critical and ongoing role that universal service and related cost recovery mechanisms will play in bringing broadband to all Americans.

I am the Chief Executive Officer of the National Telecommunications Cooperative Association (NTCA), which represents approximately 580 small, rural telecommunications cooperatives and commercial companies. However, my remarks today are also being made on behalf of the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and the Western Telecommunications Alliance (WTA), which together with NTCA; represent the vast majority of rural rate-of-return-regulated community-based communications and broadband service providers around the Nation. These small businesses hold a deep commitment to the consumers and communities they serve. They are the very models of what policymakers are in search of and what America is in such need of today—the creators of rural jobs, the fuel of the rural economy, and the conduit between citizens and their government.

The Benefits of Rural Carrier Investments and Operations Flow to the Entire Economy

We know that a robust broadband infrastructure is critical to economic development. We know from a technological standpoint that all broadband networks, whether wireless or wired, ultimately rely upon the wired network. And we know that wired networks provide the capacity to support the type of applications that this Nation critically needs: telehealth, distance learning, civic participation, and interstate and global commerce.

But, as we consider social and commercial impacts, can we quantify rural broadband's impact on the economy? The answer is, yes.

A study undertaken by New Mexico State University reported that, in 2012 alone, reductions in USF based upon early 2011 proposals by the Federal Communications Commission (FCC) could lead to a total employment loss of 335 jobs, with more than 260 of those jobs being *outside* the telecommunications industry. In that first year alone, New Mexico personal income would be reduced by $14.1 million; over ten years, personal income in the state would decline $200.3 million, leading to a loss in State tax revenue of $13.6 million.

New Mexico is not alone: Oklahoma City University predicts 3,000 lost jobs over five years, with lost wages of $123 million. The news from Kansas is no better: Wichita State University estimates that USF reductions proposed by the FCC in its February 2011 Notice of Proposed Rulemaking would cost rural Kansas 367 jobs and $51 million in wages over a five year period. These results are not limited to the telecommunications sector, but instead extend to firms that do business with the carriers and their employees.

In fact, the impact of rural telecommunications on *all* of America is substantial. A study being released this week by the Hudson Institute indicates that rural telecommunications companies across the country contributed a collective $14.5 billion to the economies of the states in which they operated in 2009. Of this amount, $10.3 billion was through the carriers' own operations, while $4.2 billion arose out of the follow-on impact of their operations. Notably, the study also finds that of that $14.5 billion total, two-thirds—or $9.57 billion—accrues to the benefit of urban areas. We speak of universal service; let's talk about a universal economy. The rural telecommunications sector supported 70,700 jobs in 2009, both through its own employment and also through the employment that its purchases of goods and services generated.

The USF Program is Essential to Broadband Availability, Service Quality, and Adoption in Rural Areas

This level of economic activity and employment is consistent with the values underpinning access to advanced communications and advanced services in all regions of the nation, as supported by universal service. High-cost USF is a program that enables providers to deploy and operate advanced networks in places where low customer density and vast distances would deter even the most optimistic business cases. The availability of these networks, the investment in them, and the operation of them generates substantial economic activity to the extent described above. But the high-cost USF program does so much more as well. It is a service-quality program, requiring rate-of-return-regulated carriers to show how they are making good use of valuable USF resources to invest in and operate these essential networks for the benefit of their consumers. Indeed, small carriers have used the existing USF program to invest efficiently in advanced networks, increasing broadband service penetration to 92 percent of consumers using the FCC's current definition of broadband. This has occurred over the past 5 years with only a small 3 percent compound annual growth rate in high-cost USF support. It is also an adoption program—high-cost USF helps to keep rates reasonably comparable with urban areas in places where the costs of providing service would yield otherwise unaffordable prices.

If USF support were to decline, or disappear altogether, two scenarios would almost certainly result. In one, companies would raise prices and rural users would pay substantially more for communications service. In the other, companies would cut investment and the networks would shrink, deteriorate, and possibly disappear over time. Both outcomes would be inconsistent with our long-standing national statutory universal service policy demanding that all Americans receive access to affordable advanced communications services that are comparable in price and quality. And for those who think that someone else would fill such a void, consider again the nature of the areas served and the essential nature of these networks. These areas are served by small rate-of-return-regulated providers precisely because no one else could justify a business case to serve there in the first instance. These networks offer the only lifeline between these rural communities and outlying farms and ranches on the one hand and the rest of America and the world on the other; even if a wireless carrier might happen to operate in some portion of such an area, that wireless carrier cannot deliver high-quality broadband without the robust underlying capacity of the networks provided by these small entrepreneurial community-based carriers. There is good reason that Congress mandated universal service in the Telecommunications Act of 1996—it stimulates the rural and national economy and ensures the availability, affordability, and quality of communications products and services.

Today, this statutory mandate is more important than ever, as all Americans increasingly rely upon such products and services to meet their social, economic, and civic needs. Rural communications providers throughout the country continue to respond aggressively to this challenge, rapidly transforming their traditional switched voice systems into powerful and dynamic Internet protocol (IP)-based broadband networks. This is a natural response for these community-based providers that have a long history of taking their service responsibilities seriously and responding to the demands of their consumers—their neighbors. Yet, the successful fulfillment of their mission of service requires predictable and sufficient support in the form of high-cost USF and a reliable intercarrier compensation (ICC) system.

It is Time to Restore Regulatory Certainty and Promote Sustainable Broadband

Universal service, intercarrier compensation, and consumer rates all play important delicately balanced roles in enabling rural providers to overcome these challenges and provide services that are reasonably comparable in quality and price. Each is a necessary part of justifying efficient network investment and operation in rural areas—and each has proven successful to date, promoting the kind of responsible and effective network deployment and service availability described earlier in this testimony.

Clearly, this is a model of success, but the time has come for change. The intercarrier compensation system needs reform, as arbitrage and self-help threaten to undermine its stability. High-cost USF has worked very well, but we acknowledge that updates are needed to provide greater predictability and to promote a broadband future. Our highest priority in reform must be to strengthen and preserve our cost recovery policies in a manner that both acknowledges their value and re-positions them for a sustainable future.

Small rural providers have experienced both lows and highs as policymakers debate reform and consider how to show their commitment to universal service. In the lead-up to the release of the FCC's National Broadband Plan (NBP) in March 2010, we had high expectations, for the FCC was putting in significant effort to evaluate our national communications landscape. We believed with all of the facts before them, the FCC would take advantage of the opportunity by making bold recommendations that would include a call for a national commitment to invest in and maintain state-of-the-art communications technologies throughout *all* of America. Unfortunately, while the NBP made substantial efforts to quantify the demands for and costs of broadband service, some of its policy recommendations were less specific and more experimental than pragmatic, leading to a substantial amount of uncertainty and confusion among service providers. In particular, as many highlighted in the wake of the NBP, the plan seemed focused upon delivery of broadband to the "unserved" without taking into account: (1) whether such service would be sustainable once deployed; or (2) what would happen if USF support or ICC revenues were slashed for those who were already making services available in high-cost, hard-to-serve rural areas.

Our associations and hundreds of our small business members have had many conversations in subsequent months with the FCC, many of you here in Congress, and other stakeholders to help explain how the NBP recommendations and other FCC proposals would harm rural consumers and undermine network investment and operation in rural areas. We believe these conversations have been extremely productive in shedding light on how reform could proceed down an alternate path without upsetting the careful balance of universal service in areas served by small rural companies. I mentioned that this has been a period marked by both lows and highs, and today, I can say we are now at least cautiously optimistic that sensible and carefully crafted reform could be on the horizon.

The "RLEC Plan," the "Consensus Framework," and Efforts to Pursue Balanced, Common-Sense Reform

In the early wake of the NBP's release, NTCA, OPASTCO, and WTA recognized from conversations with policymakers that it was not enough to "just say no." We heard the calls of FCC Chairman Genachowski for reforms that would modernize the USF and ICC systems and ensure fiscal responsibility and promote accountability in these mechanisms. We looked too, however, to the statutory mandates for universal service as a guidepost for reform, and also kept as an overriding principle of our own that the ultimate objective was to promote the availability and affordability of broadband on a sustainable basis throughout high-cost areas. With all of these principles firmly in mind, we set forward to develop a creative plan that would build upon the best aspects of the existing cost recovery mechanisms while re-positioning other aspects of them for a broadband-based, IP-enabled world. We looked to develop a plan that would balance the needs of those providers who had already invested to recover their costs in order to keep providing service with those providers who still needed the opportunity and support to invest in broadband-capable networks over time.

NTCA, OPASTCO, WTA and approximately 40 other state, regional, and tribal communications oriented organizations took up this challenge, putting forward in April 2011 a detailed, credible, and workable proposal centered on redefining the

USF and ICC cost recovery systems. In particular, our Rural Local Exchange Carrier (RLEC) plan modernizes USF and ICC for today's broadband era and related needs, providing a transition from legacy high-cost USF mechanisms to a new Connect America Fund that will promote broadband services in rural areas. At the same time, through new constraints, the plan has been calibrated to seek even greater efficiency and aims toward a budget over the next several years that seeks to accommodate policymakers' desire for fiscal responsibility in the USF program. The plan also demands accountability by requiring that USF recipients live up to the carrier-of-last-resort obligations that are historically the hallmark of rural rate-of-return-regulated providers.

We all recognize the complexity of modernizing these systems, and the years of effort that have already been put into this process. We also recognized that no one party in this divided industry could hope to move a program for reform without some attempt at compromise and effort to seek consensus. Accordingly, earlier this year, with the support and urging of policymakers, we and some from other industry sectors made good faith attempts to seek common ground and crystallize differences on reform. While some industry sectors chose to hold back, small rural providers represented by NTCA, OPASTCO, and WTA stepped forward, reaching agreement on amendments to the previously filed RLEC Plan as part of a "Consensus Framework" with U.S. Telecom, Verizon, AT&T, CenturyLink, Windstream, Frontier, and FairPoint. This Consensus Framework is comprised of two distinct but complementary plans—the RLEC Plan that would govern USF and ICC mechanisms in areas served by small rate-of-return-regulated carriers, and the America's Broadband Connectivity Plan that would govern reform of these same mechanisms in areas served by the larger and mid-sized providers. In addition to providing a reasonable path forward on USF reform, the Consensus Framework would shut down many of the arbitrage and self-help problems that threaten to eviscerate the ICC system today and establish a more unified, transparent, and enforceable means of ensuring that providers pay one another for use of each other's network. The bottom line is that the Consensus Framework will restore much-needed regulatory certainty and more predictable cost recovery, which will ultimately allow the industry to refocus on investments and operations in response to consumer demand and community need.

Outside of this framework, these parties have divergent interests and would not necessarily agree to these compromises. For example, the rate-of-return associations would be unlikely to support in other contexts any of the ICC reforms included in this framework. Similarly, the price cap carriers would have been unlikely to support certain constraints on the use of the forward-looking cost model described in their proposal outside of the Consensus Framework. Others still would have refused to reach resolution on how carriers should be compensated for VoIP traffic terminating onto their networks.

For these reasons, we have emphasized to policymakers the need to recognize that material changes to individual components of the Consensus Framework could cause individual parties to withdraw their support for—or even oppose—other components of these proposals and/or the then-negated consensus framework as a whole. The parties to this consensus made substantial concessions in the interest of obtaining an industry agreement that could restore regulatory certainty and allow providers to focus more closely once again on the business of building and providing broadband.

The Consensus Framework is aimed at balancing sustainability of broadband where it is today with the need to promote more widespread deployment of broadband over time. It has also been designed to provide a path to meet consumer demand over time for upgraded services and improved networks. Recalling that the ultimate objective of this exercise is to promote a better experience for the consumer and a better outlook for the economy, we were pleased to see that fifteen organizations representing rural business, agricultural, educational, and economic development interests—including the National Grange, the American Farm Bureau Federation, the American Telemedicine Association, the Independent Community Bankers of America, and the Rural School and Community Trust—sent a letter last week to FCC Chairman Genachowski expressing concern over certain changes to the USF and ICC mechanisms as previously proposed and asking for further consideration of the plans in the Consensus Framework.

The Path Forward on USF and ICC Reform—and the Roadblocks Still Ahead

The devil is now in the details as the FCC considers final steps forward. While others continue to make broad policy arguments and press high-level principles, we are diving into the details. With valuable USF resources, the success of the rural economy, the experience of the rural consumer, and the livelihood of small business telcos all at stake, we believe good public policy can only be made by moving past sweeping rhetoric and making sure that any reforms actually work to the benefit of the American consumer. The RLEC plan is the only detailed and practical plan on the record for high-cost areas in which small providers are the carriers of last resort. It defines a clear roadmap of exactly how we can get from the USF and ICC status quo to the next generation of cost recovery. It avoids radical and untested concepts such as permanent caps, ill-defined auctions, or flash-cuts in ICC rate reductions that would only spike end user rates or lead to retrenchment in service. Indeed, the FCC should not and cannot adopt such proposals when there is no basis in the record for them—for example, there is simply no definition in the record of the processes for auctions and no detailed examination of what more aggressively paced ICC cuts would mean for consumers.

This brings me to one final concern as we approach what could be the culmination of a decade-long effort to achieve reform. Specifically, we are concerned whether the path forward on reform—or the successful implementation of any reforms—might be derailed through a "raid" on USF in the name of Federal debt reduction. There can be no doubt regarding the severe nature of the debt crisis confronting our nation, the interest of the public in responding to it, and the absolute necessity of doing so in a manner that is consistent with legal mandates and precedents. Nevertheless, we are extremely concerned to know that certain concepts may be under consideration that have no place in such discussions.

Our concern first materialized upon seeing the recommendation in the December 1, 2010 report of the National Commission on Fiscal Responsibility and Reform that identified the *private* USF as a source of *public* debt reduction. Some months later we were further troubled to learn that debt negotiators were giving serious consideration to this concept. And in recent weeks, our unease has grown as we have learned that the Joint Select Committee on Deficit Reduction may also consider this ill-advised proposal.

In response, our organizations sent a letter dated September 23, 2011, to your colleagues serving on the Select Committee underscoring the unique nature of the federally mandated—yet *privately managed and funded*—USF program and why it has no place in these conversations. We have also sent a similar letter to you and your Commerce Committee colleagues urging you to call upon the Select Committee to refrain from further consideration of this idea.

Throughout its long history, the USF has always been maintained outside the U.S. Treasury and managed by a non-governmental entity. While the Telecommunications Act of 1996 amended the previously existing framework of the USF, and thereafter the Office of Management and Budget displayed the private USF in the Federal budget, there is no legislative or other official indication that Congress ever intended to change the manner in which the fund is maintained and administered.

Legal precedent and guidance confirm that the USF monies do not constitute "public monies" that are received for the use of the United States, but rather are private funds that are merely derived and distributed at the direction of Federal statute. This conclusion was embraced and underscored by both the General Counsel of the FCC and the General Counsel of the Office of Management and Budget in an exchange of official correspondence dated April 28, 2000. Thus, the raiding of the privately funded and administered USF as a source of debt reduction would constitute a "taking" and the imposition of a new "tax" on the American people—in addition to the unfortunate follow-on impact that would upset the FCC's USF and ICC reform efforts thus leaving the industry, and particularly its rural sector, vulnerable to ongoing uncertainty and revenue disruption. An unforeseen consequence of raiding the USF in the name of debt reduction is that it would likely ultimately add to the Nation's debt as carriers find themselves unable to repay the Federal RUS loans many of them hold. There can be no question that going down this road would likely curtail broadband deployment that is so critical to our national and economic security today.

The objective of getting broadband out to rural areas and keeping it there is far too important to gamble on untested theories and ill-defined concepts. We are far too close to meaningful reform to have this process fall apart now, or to have this reform be for naught because some portion of the USF is subsequently siphoned away to address purposes unrelated to the reasons for which these funds are collected. NTCA, OPASTCO, WTA and our collective members took up the challenge to develop a detailed plan for USF and ICC reform. We took up the challenge to seek industry consensus on reform. Our members took up the challenge to provide detailed data to support an informed course of action on USF and ICC reform. We now hope the FCC will enable small rural carriers of last resort to meet their most important challenge—that of delivering affordable, high-quality broadband to millions of rural Americans who depend upon such access. To this end, we are hopeful that the FCC will give serious consideration instead to the RLEC Plan and pursue a common-sense, fact-based path for USF and ICC reform in its meeting later this month. We are also hopeful that the benefits of any such reform, once finally achieved after this long journey, will not be frustrated, undermined, or defeated by the siphoning of USF funds for other purposes.

Conclusion

We are excited to have a committee comprised of members with such knowledge of our industry and such a deep commitment to rural America. It is our sincere hope that we can count on each of you to help guide the FCC to adopt a well-defined and carefully developed reform framework that will promote sustainable and affordable broadband access for all Americans. Thank you again for the opportunity to testify today.

The CHAIRMAN. Thank you very much, Ms. Bloomfield.

Mr. Jones.

STATEMENT OF PHILIP B. JONES, COMMISSIONER, WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Mr. JONES. Thank you, Mr. Chairman, Ranking Member Hutchison, and members of the Committee.

I come to you today representing myself, the Washington Commission, and the state perspective, which I think needs to be represented today, and the consumer perspective that you mentioned, Mr. Chairman.

I'll make a few overall remarks and then talk about a few specific things like VoIP traffic and ETC designations and a nagging issue called "call termination."

Comprehensive reform is key. As you said, Mr. Chairman, the time to do something about this is now. We agree. Ever since I've been a commissioner, I've been grappling with, as the other panelists have said, these complex and difficult issues.

The focus on re-targeting is good. Increased accountability is necessary. Elimination of multiple carriers in the study area is necessary. And we need to really focus these Federal subsidies on where they're needed.

Having a budget of $4.6 billion is a good thing and a bad thing. As Senator Warner said, the needs out there for broadband are great. We are making a big transition from plain old telephone service to broadband. Let's make no mistake about it. It's going to be expensive. So, if we impose a budget—if the FCC does—at $4.6 billion—or, $4.5 billion, excuse me—this becomes a limiting factor. So, the whole issue of competitive neutrality, in my opinion, becomes less important than living within that budget.

The state members of the Joint Board on USF submitted a plan. The rural LEC submitted a plan. And now the large carriers have submitted a plan called the ABC Plan. Of course, the states would prefer to go with the state members' plan, but it looks as if Chairman Genachowski's draft is based on the ABC Plan.

I broke my testimony into what is called good, bad and the ugly. The ugly part of the FCC Chairman's proposal, as we understand it, is mandatory preemption of State authority in the Act over intrastate access rights.

As some of you know, in the rulemaking teed up in February, there were two ways proposed on intercarrier compensation. One was voluntary, one was mandatory. And he appears to have gone with the mandatory approach. We would have preferred a voluntary approach.

The other not so good thing about the proposal is the SLC increases. These are subscriber line charges. And, as the Chairman noted, in this economy, to impose a maximum Federal SLC increase of $3.50 on people who can basically hardly afford to pay their electric and gas bills could be a problem.

So, the whole issue of consumer benefit cries out for an answer.

Let me say a couple of things about ETC designations. Congress designated the states to play a role in designating carriers and having them be accountable for the funds. We've done that.

The ABC Plan, as we understand it, wants to give us hardly any role in designating the ETCs, whether they be wireless, broadband providers or wireless. We think this is a mistake. So, we think if the FCC decides to preempt states' jurisdiction over intercarrier compensation—which is not something we would prefer—they need to provide us with a robust role in protecting consumers, providing for interconnection, and doing all the other things that we currently do under Section 214–E and 254 of the Universal Service statute.

On VoIP, we believe that VoIP is a service that acts like a telephone service; it's not an information service. And if it's being used as an information service for intercarrier compensation purposes, states should have the ability to deal with that.

We get consumer complaints all the time about telephone service. Carriers in our state have been switching from traditional big switches for circuit switch networks to soft switches. This has been going on. It's no secret.

So, the question is—can the carrier sever the traffic, identify the traffic? We hear rumors that they are billing certain types of traffic for terminating, not originating. So, it appears to me, and us at the states, that they can do it.

So, we are very wary of the FCC Chairman's appeared attempt to not allow us to have any jurisdiction over VoIP.

Just let me finish with call termination, because I know this is an issue in our State of Washington. Calls are now not being terminated to rural clinics, to Washington State Patrol offices, because, allegedly, the terminating access rates in that rural area is too high. So, the carriers are using a system of call, which they call "Least Cost Routing" to use the best and cheapest way to terminate a call. And sometimes they don't terminate a call.

And this is creating a real public safety hazard. And it really, I think, Mr. Chairman, gets at the basis of: What is the public switch telephone network? What is a broadband network? And what are the duties of carriers to originate and terminate traffic on the network?

So, those are just a few points I would make. The rest is in my testimony. And I would be happy to answer your questions.

[The prepared statement of Mr. Jones follows:]

PREPARED STATEMENT OF PHILIP B. JONES, COMMISSIONER, WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Introduction

Chairman Rockefeller, Ranking Member Hutchison and members of the Committee, I appreciate the opportunity to testify today on reform of the Federal universal service fund (USF) program and intercarrier compensation (ICC) rules.

My name is Phil Jones. I have been a Commissioner with the Washington Utilities and Transportation Commission since 2005. Currently, I am the Second Vice President of the National Association of Regulatory Utility Commissioners (NARUC), Co-Chair of NARUC's Washington Action Committee, Chair of the Board of Directors of the National Regulatory Research Institute, and Chair of the Federal Legislation subcommittee of NARUC's Committee on Telecommunications. During my six years as a Telecommunications Committee member, I have served on several task forces that have pressed hard for both intercarrier compensation and universal service reform, including the well known NARUC task force on intercarrier compensation that facilitated the filing of the first broad consensus on reform—the so-called "Missoula Plan"–and a separate earlier task force focused upon "Eligible Telecommunication Carrier" designations.

I am here today to testify on behalf of myself and the Washington Utilities and Transportation Commission (UTC).

No one seriously disputes that reform of particular aspects of the existing Federal universal service scheme is long overdue. What is in dispute is the way to achieve that reform.

There is no question that the Federal USF has played an integral role in the near ubiquitous deployment, adoption, and maintenance of voice service nationwide. If reformed properly I believe USF can retain this role in achieving the same level of deployment and adoption of broadband services.

On October 6, 2011, Federal Communications Commission (FCC) Chairman Julius Genachowski announced circulation to his colleagues of a draft order that undertakes comprehensive reforms of Federal universal service policy and Federal rules on intercarrier compensation. The FCC should be applauded for finally trying to grapple with some of the glaring abuses in Federal policy. Based on the limited information released about the draft order the Chairman circulated last week, I certainly applaud the Chairman for following through on the proposed rulemaking issued in February and trying to resolve the vexing and long-standing challenges in these two regimes.

However, the Washington UTC shares the concerns of many other State commissioners and consumer advocates about specific portions of the proposed reform framework that seem directly counter to Congress' instructions. In particular we find fault in the process that has resulted in the proposal to adopt specific mechanisms that lack adequate support in the record.

The FCC has a difficult yet important task. This is a complex area where issues of law, rate design, network engineering, and social policy intersect and sometimes collide. As the Chairman and the agency deliberate, they should ensure that the final plan enhances the interests of consumers and provides a fair, more efficient way for carriers to provide service in rural, high-cost areas. It is not clear that all aspects of the current draft achieve these objectives.

The Good

On the positive side, the draft order's proposals to stop traffic pumping and eliminate phantom traffic are non-controversial and long overdue. These "transparently abusive" [1] regulatory arbitrage schemes should have been eliminated years ago. I also personally believe that Congress has already given the FCC authority to eliminate excessive and inefficient fund disbursements by more narrowly targeting support. If the FCC keeps within its Congressional prescribed authority, such changes are long overdue. The draft order also *apparently* recognizes the crucial role reserved to the States by Congress with respect to carrier of last resort obligations

[1] *See, e.g.,* The *Resolution Supporting Expeditious FCC Action on Traffic Pumping Schemes, http://www.naruc.org/Resolutions/Resolution%20Supporting%20FCC%20Action%20on%20Traffic%20Pumping.pdf,* which I sponsored and which NARUC passed on November 17, 2010. *See also, Letter from Sally Brown, Senior Assistant Attorney General, Office of the Attorney General of Washington, Utilities and Transportation Division to Ms. Marlene Dortch, FCC Secretary* (filed June 17, 2011), detailing a WUTC ex parte providing data obtained from rural local exchange carriers in Washington State related to phantom traffic and possible spoofing of SS7 information needed for billing inter-state and intra-state calls, available online in the FCC's ECSF system at: *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021688209*.

(COLR) and so-called ETC designations under Sections 254 and 214(e) of the 1996 Act.

I take comfort in some of the statements the Chairman made last week in his prepared remarks. He stated that the draft order does not "rubber stamp or adopt wholesale" the plan of any carrier-sponsored group or other stakeholders. The Chairman said he does not intend to eliminate the States' carrier of last resort obligations. He also said that the proposed draft does not eliminate the States' traditional role in designating ETCs and will provide for a "vital and meaningful role" in ensuring accountability for broadband investments made under the Connect America Fund, or CAF. Moreover, he reiterated the States' "crucial role" in protecting consumers as we move forward in the transition of this Federal subsidy regime from voice services (POTS) to broadband services.

We take the Chairman at his word and look forward to working with him and his colleagues to make the pledges a reality. Yet, based on the sparse details released thus far, we don't have sufficient information to make an informed judgment, and as always in the field of ICC and USF issues, the devil will be in the details.[2]

The Bad

I and many of my State colleagues remain vigilant as to how these words on ETC designations and COLR obligations will actually be put in to practice, and how they interact with other portions of the draft order. For example, it appears that specifying a uniform "interstate" rate for all VoIP traffic, will operate over time to undermine if not eliminate those obligations—along with your constituents' ability to seek State commission assistance with service quality issues, State emergency communications and disaster recover policies, and perhaps even existing State Universal Service programs.

State COLR obligations, which, among other things, require carriers to serve consumers in their service territory, are tied to jurisdictional authority. Some stakeholders have pressed for a uniform "*inter*state" tariff for all VoIP traffic—regardless of whether the traffic is currently (or can be) identified as jurisdictionally "*intra*state."[3]

Specifically, as my agency pointed out in its most recent FCC comments, at pages 9–10, elimination of such VoIP traffic from State jurisdiction will have significant consequences:

> State Commissions would be precluded from exercising any jurisdiction over that service or potentially the companies that provide that service. Consumers who use VoIP as the equivalent of traditional landline telephone service could no longer seek redress from the state commission or any other state agency for billing, service quality or other service-related issues. The result would be to shift the resolution of such complaints from the state agency, which is in the best position to address them to the FCC which has neither the expertise nor the resources to take them on. These concerns are not hypothetical. Comcast is one of the largest providers of voice service in Washington based on the number

[2] The FCC has announced it will use a competitive bidding process to assign funds. I do not know what the new "designation process" can look like in such a circumstance. It is certainly unclear what role States can play that is consistent with the tasks assigned them by Congress. A process that simply has States "rubber stamp" any carrier that wishes to participate in a bidding process and reduces or eliminates the role assigned with respect to modification of study area boundaries is not only a swipe at Congressional authority and judgment, it is also poor policy. As noted in the April 14, 2011 *Comments of the Washington Utilities and Transportation Commission,* at page 4, note 10: "UTC Staff does not take ETC petitioners' general compliance statements at face value. Rather, Staff scrutinizes applicants' credentials and commitments in fulfilling universal service obligations. Staffs inquiries include applicants' financial condition, corporate structure, detailed coverage in proposed service areas, capital investment plans, operational performance (*e.g.,* subscribership, spectrum of services and products, consumer complaint records), and compliance with other state rules and regulations. In doing so, UTC Staff attempts to balance the potential benefits of designating additional ETCs (most saliently, infrastructure build out in rural areas, promoting market competition and benefits for low income households) with the need to protect the Federal Universal Service Fund against waste, fraud and abuse. Over the past fifteen years, Staff has made favorable and unfavorable recommendations to the UTC on various ETC petitions reflecting application of above-described framework and principles. See WUTC comments at: *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021238853*.

[3] It is true the WUTC FCC comments do appear to go beyond asking the FCC to make sure VoIP pays "interstate" access for "interstate" transactions. See, for example, the WUTC's April 18, 2011 comments, at *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021238853* and also the WUTC's April 4, 2011 comments, also online at *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021236705*. However, our comments also detail the panoply of bad policy outcomes that would accompany FCC preemption of State authority over VoIP services. ***I personally believe that a unified interstate tariff for VoIP traffic could well have the exact same jurisdictional impact as classifying it as an "information" service.***

of subscribers, and that company provisions service as VoIP. Most, if not all regulated telecommunications companies in this state provision or have affiliates that provide VoIP. Verizon Northwest Inc. (now Frontier Northwest Inc.), the second largest incumbent carrier in Washington, replaced two of its circuit switches with IP-based switches, and other carriers are doing the same. Companies are increasingly converting their circuit switched networks to IP-based networks, and if the Commission were to determine that VoIP . . . {is not state jurisdictional} . . ., many, if not most, of them would likely seek to discontinue local telecommunications subject to state oversight in favor of FCC-regulated VoIP service. Complaints about telecommunications service, however, top the list of complaints consumers make to the WUTC. The Washington Commission received 722 customer complaints in 2010 against regulated telephone companies concerning billing disputes, disconnection threats, quality of service and customer service issues. Similarly, the Consumer Protection Division of the Washington Attorney General's Office received more complaints about telephone companies and service (both landline and wireless) than any other industry on an annual basis from 2001—09, and such complaints for 2009 (the latest year for which the WUTC has such figures) was only second to the number of complaints about collection agencies. The FCC Enforcement Bureau's backlog of cases is already substantial, and adding complaints that are currently filed with state agencies would overwhelm the system to the detriment of consumers.

Any approach that allows the FCC to assume exclusive jurisdiction over VoIP services is short-sighted and will likely only provide yet another arbitrage opportunity. Moreover, long term such an approach could well jeopardize the funding streams for the more than 20 States that have adopted State-specific universal service programs, as well as threaten State authority over emergency calling, outage restoration, and, as already referenced earlier—service quality. As we noted in those same comments, at pages 10–11:

> The FCC should be mindful of all consequences that result from its actions, both intended and the unintended. The Commission can reform intercarrier compensation without assuming exclusive jurisdiction over VoIP and therefore should only make those determinations that are necessary to reach its goals.

I also have real concerns about the proposals to preempt State intrastate access charge authority. Such an approach is directly contrary to the express terms of the statute and Congress' view of the appropriate role of the States.[4] Indeed, the current ICC dilemma is far more attributable to the FCC's refusal to classify VoIP-based services than to States' intrastate access charge regulation.

States have long held that all carriers should pay according to State and Federal access tariffs. The market, not the regulator, should make such choices under a consistent federal-State regulatory regime. The lack of a Federal policy on the appropriate treatment of VoIP provides as telecommunications carriers has created a huge ambiguity during the last ten years that carriers have exploited to their advantage, resulting in the declines in intrastate access charge compensation that the telephone companies we regulate have experienced. The overwhelming majority of States, on the other hand, have already engaged is significant reform of intrastate ICC, and most of the remaining States are poised to act.[5]

The Ugly

Chairman Genachowski has often noted that a "fact based and data driven process" is crucial to informed and efficient decision-making.[6] Indeed, in one of his first statements after becoming Chairman, he argued that his universal broadband plan:

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[4] *See*, 47 U.S.C. Sec. 251(d)(3) (1996): "Preservation of State Access Regulation: In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that (a) establishes access and interconnection obligations of local exchange carriers; (b) is consistent with the requirements of this section "

[5] *See, e.g.,* Oral Ex Parte Notice from NARUC General Counsel James Bradford Ramsay to FCC Secretary Marlene Dortch, filed September 26, 2011, detailing the current status of State ICC reform efforts. The letter is available online at: *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021711173*.

[6] *See, e.g.,* Pham, Alex, *FCC's Genachowski reinforces call for rules on net neutrality,* LA Times (October 08, 2009) ("Genachowski called for a "fact-based, data-driven" open dialogue with the industry."), available online at: *http://articles.latimes.com/2009/oct/08/business/fi-fcc8*; *Prepared Remarks of Chairman Julius Genachowski,* The Brookings Institution, Washington DC (September 21, 2009) ("I will ensure that the rulemaking process will be fair, transparent, fact-based, and data-driven. Anyone will be able to participate in this process, and I hope everyone

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. . . will be data-driven. That means not starting with conclusions, but using data to develop analysis. It also means not just accepting data, but digging into data, to find concrete solutions that supersede ideology—and that can make a difference in the lives of real Americans.[7]

I agree with the Chairman. The development and final version of the National Broadband Plan (NBP) was a good example of this: a comprehensive, long-term analysis of the telecommunications/broadband industries and related public policy purposes based on exhaustive analysis and large amounts of data. *A decision can only be as good as the record it is based upon.* Unfortunately, I am concerned that while the original NPRM issued in February was comprehensive and asked many good questions based on analysis and data, the process over the last several months used to generate the draft circulated last week did not measure up to this standard.

I have attached a chart to my testimony that estimates the flow of Federal USF funds, by State, based on data from the FCC's 2010 USF Monitoring Report. For example, if you set off contributions against receipts from the Federal program, West Virginia is currently a net recipient of about $30 million dollars in Federal revenues. Washington State, on the other hand, is net contributor to the Federal programs sending about $15 million dollars to assure universal service in other states.[8] Other members of the Committee can determine approximately from that chart the current net benefit of the Federal program to your respective States.

Last week the Chairman pointed out in his speech that:

> So in the transition areas, until the shift to competitive bidding, the Commission will base support on a rigorous model estimating the costs of deploying broadband, ensuring carriers receive no more than necessary to enable broadband build out. And that cost model will be adopted only after an open and transparent public review process. [9]

In other words, only after the plan is adopted can the FCC possibly have any realistic chance of estimating the actual costs of taking this approach. The FCC Commissioners—as well as other interested stakeholders and public officials—cannot look at the record and ascertain with any degree of certainty even the approximate impact on Federal funds flowing into and out of their States under the new paradigm. The only thing any interested policy maker can be sure of is that over the next five years the "net" amount of money you receive in your State to support universal service will change—and it is likely that change will be dramatic. Indeed, the FCC has expressed an interest in controlling the growth in the size of the fund, but current Federal legislation *mandates* reasonably comparable service. Without a fully vetted model, no policy maker can determine with certainty the likelihood that the FCC will be able to constrain the growth in fund size in the face of likely litigation.

Unfortunately, the FCC *appears* poised to closely follow an industry drafted proposal at least on the timing and phase-down of intrastate access charges and the use of an access charge recovery mechanism. The so-called "America's Broadband Connectivity" (ABC) plan proponents have filed at the FCC, and no doubt circulated on Capitol Hill, a list of how States purportedly "make out" if the agency adopts their proposal. Significantly, that list does not show net benefit amounts since it does not show the change in net benefits from the status quo. Also, one must be skeptical of the analysis done by the industry-sponsored consultants since the underlying model and assumptions haven't been adequately vetted and tested. Verizon, AT&T, and the other ABC plan proponents did not file the model at the same time they filed the plan. Instead, they waited until all the comments responding to the Notice on their plan were filed. And then a week before the Chairman was slated to circulate his draft, they finally "offered" full access to the model and supporting

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will.") available online at: *http://www.openinternet.gov/read-speech.html;* Eggerton, John, *Genachowski Addresses Broadband, Indecency and Future FCC Plans* (Broadcasting & Cable) 6/16/2009, ("Genachowski said his would be an open and transparent FCC, that made data-driven policy decisions that kept the consumer foremost . . ." online at: *http://www.broadcastingcable.com/article/294770-Genachowski__Addresses__Broadband__Indecency__and__Future__FCC__Plans.php*.

[7] *See*, Chairman Julius Genachowski, *Prepared Remarks on National Broadband Plan Process,* (July 2, 2009), at page 2, available online at: *http://hraunfoss.fcc.gov/edocs__public/attachmatch/DOC-291884A1.pdf*.

[8] According to this chart, Washington State residents pay about $155,701,000 into the Federal program but State residents only receive the benefits in the amount of about $140,092,000 from the fund, leaving us a net contributor state.

[9] *See*, Chairman Julius Genachowski, *Prepared Remarks on National Broadband Plan Process,* (July 2, 2009), at page 9, available online at: *http://hraunfoss.fcc.gov/edocs__public/attachmatch/DOC–291884A1.pdf*.

documentation—but even then only to stakeholders who could afford, on short notice, to travel to certain offices in the State of Ohio and pay a minimum of $600.

Universal service and intercarrier compensation are large and complex regimes the reform of which will have major impacts on the retail rates your constituents pay, the subsidies carriers receive, and the flow of these subsidies among States. Some realistic assessment of the impact and outcome of any proposal should—logically—occur *before* any policy maker commits to a proposed spending plan. Certainly reform of the Federal program is necessary and long overdue. However, without thorough evaluation any new system could cause as many (and perhaps more) problems than it solves.

Adoption of any major USF and intercarrier compensation reforms prior to full vetting of the underlying cost model would be putting the proverbial cart before the horse. It would be bad policy and definitely undermine the foundation for reform.

It also appears the FCC may be considering at least one legal determination that is definitely not "data-driven" or "fact based." To establish a unified interstate tariff to cover all (inter-and intrastate) traffic, the law requires a factual finding that the underlying traffic cannot be divided or "severed" into local/in-State and interstate calls. That poses a real obstacle. Other than self-serving statements by carriers looking to avoid jurisdiction, there is *no* evidence provided in this FCC reform proceeding that such traffic is not severable. Moreover, it is, at a minimum, counterintuitive that a network that has to deliver bi-directional voice traffic in real time is incapable of locating the end-points of that communication at least within existing State geographic boundaries. Claims of lack of severability are also completely at odds with Federal CALEA mandates and the unswerving FCC goal of assuring ever better and more precise routing of E911 emergency calls, regardless of the technology used to provide the underlying voice service. Such claims also cannot be reconciled with the undeniable fact that the majority of fixed VoIP providers (and wireless providers) pay into the Federal universal service program based on jurisdictional traffic distinctions—that is they actually do "sever" their traffic. Indeed, with respect to facilities-based or "fixed" interconnected VoIP services, severability is a non-issue. For them, it appears the traffic never touches the "Internet" but interfaces with the PSTN just like other communications systems with different dedicated protocols.[10]

[10] *See, e.g.,* Lawson, Stephen, *Comcast Calls on VoIP—Cable company announces plans to launch phone service this year,* IDG News Service (2006) According to *Comcast Chairman and Chief Executive Officer Brian Roberts,* Cable operator Comcast VoIP service "[w]ill not be an Internet telephony service, he says: Though they will use IP, *the voice calls won't touch the Internet, running instead over Comcast's private data network, with priority over regular data packets to ensure good quality*." Available at: *http://pcworld.about.com/news/Jan112005 id119241.htm*. (Last accessed October 28, 2008) {emphasis added} *See also,* July 23,2008 *Sworn Initial Testimony of James R. Burt on behalf of Sprint Communications Company L.P.* filed before the Arkansas Public Service Commission, *In the Matter of Petitions for Arbitration by Sprint Communications Company L.P. against Yelcot Telephone Company, DOCKET NO. 08–0764, and against Northern Arkansas Telephone Company, DOCKET NO. 08477–U,* Exhibit JRB–1 at page 65, and at pages 29–30, where Mr. Burt notes: available at *http://www.apscservices.info/pdf/08/08-076-u__14__1.pdf*. (Excerpt: "Is the proposed service an Internet Telephony, Internet-based VoIP or over-the-top VoIP service? No. I am not speaking to the regulatory treatment of these services, but rather, the functionality of the proposed service. . .The terms Internet Telephony, Internet-based VoIP and/or over-the-top VoIP services are used to describe voice services that utilize the public Internet. *An example would be the service provided by Vonage. By contrast, the service provided by Sprint and Suddenlink does not use the public Internet in any manner. . . . The voice services provided by Sprint and Suddenlink are not nomadic; the customers only use the service in their homes.* Internet Telephony, Internet-based VoIP service and over-the-top VoIP services have also struggled with providing 911 service consistent with customer or public safety official expectations. The voice services provided by Sprint and Suddenlink provide reliable 911 service. . . . There is one factor that is sometimes used to attempt to create confusion between Internet Telephony, Internet-based VoIP service and over-the-top VoIP service and the voice service king provided by Sprint and Suddenlink. It is the fact that all of these services happen to use the Internet protocol. Since all of these services use the Internet protocol, there is a tendency to claim the services are the same. The mere fact that there is one technical similarity, use of the Internet protocol, should not lead one to the conclusion that the services are the same.) {emphasis added} *Cf.* June 6, 2008 Prefiled Testimony of Corey R. Chase on Behalf of the Vermont Department of Public Service, *State of Vermont Public Service Board Docket No. 7316 Investigation into regulation of Voice over Internet Protocol Services,* at pages 12–14, 13, (Excerpt: Q. Is it true that CDV packets "flow interwoven with other data packets such as e-mail or video along Comcast's private IP data network" as Mr. Kowolenko stated on page 10 of his prefiled testimony? A. It appears to be true that at some points within the Comcast network, packets containing CDV data travel with packets containing other data types on the same IP network, with CDV packets marked to maintain quality. However, in the response to DPS Information Request 1–12, Mr. Kowolenko stated that,

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Even the FCC conceded in a June 2006 Order that fixed interconnected VoIP services currently contribute to the Federal program based on actual revenues (*i.e.,* severed traffic).[11] Because there is no question it is possible to separate intrastate non-nomadic facilities-based VoIP calls from interstate calls, the FCC has no jurisdiction over such intrastate calls. Indeed, now that the FCC has *required* both constructive severance by means of a proxy interstate safe harbor for nomadic VoIP providers to contribute to the Federal universal service programs, as well as actual severance, by requiring nomadic VoIP providers to have functioning 911services,[12] it may be time to re-examine that FCC action. The only facts currently in the record support rejection of a unified Federal VoIP tariff approach. But if the FCC is seriously contemplating creating a factual record to allow it to consider granting the petition, these are precisely the types of issues that require the development of such a record through discovery, sworn testimony, and the opportunity for cross-examination before any final legal determination is possible—either here or in the broader proceeding. That examination has yet to take place.

Partnership, not Preemption

The Telecommunications Act of 1996 established a federal-State partnership to oversee the universal service and intercarrier compensation regimes. In that statute, Congress specifically and explicitly reserved State authority over, among other things, intrastate access, carrier of last resort obligations, service quality, State universal service mechanisms, and the designation of eligible telecommunications carriers. This partnership you established has worked well and is even more important as the Nation looks to expand broadband penetration. Regardless of goals or reasoning, this partnership cannot be undone by the FCC. The FCC, and this Committee, are to be commended for their courage in tackling USF and intercarrier compensation reform. Everyone in this room knows reform is necessary and long overdue. However, I, and I believe my agency, joins a substantial number of other State commissions and many consumer groups in raising concerns with what we know about the currently circulating FCC draft order. Any reform must benefit the consumers and not the bottom line of carriers, assure accountability, and maintain

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"It [CDV] does not contend with other IP based traffic destined for the public Internet that flows across the Comcast access network." Since packets carrying various data types do not contend for bandwidth and thus cannot affect each other, they should not be considered "interwoven" because CDV traffic can be identified separately from other data. Furthermore, as discussed above combining various traffic types on a single network is a function of all modern networks, not just IP networks. *See also,* July 25, 2008 Prefiled Rebuttal Testimony of David J. Kowolenko on behalf of Comcast of Vermont, *State of Vermont Public Service Board Docket No. 7316 Investigation into regulation of Voice over Internet Protocol Services,* at pages 8–9, where he points out, as does his CEO, *supra*, that Comcast's phone service "uses IP technology but provides a facilities-based service that does not traverse the public Internet unlike 'over the top' providers that do not directly connect via a private network to the PSTN as Comcast does. It also does not conflict with other IP-based traffic destined for the public Internet that flows across the Comcast access network." All 3 documents can be downloaded from: *http://www.naruc.org/Publications/Testimony%20filed%20in%20Vermont%20PSB%202008%20Examination%20of%20VOIP.pdf. See also,* May 9, 2008 FINAL DECISION, *in Public Service Commission of Wisconsin Docket 5911–NC–101, Application of Time Warner Cable Information Services (WI), LLC to Expand Certification as an Alternative Telecommunications Utility,* at 8, Findings of Fact # 8 "Under the business model established by Sprint and TWCIS, Digital Phone uses IP technology as a transmission protocol, but does not use the Internet as such." Available at: *http://www.psc.wi.gov/apps/erf__search/content/docdetail.aspx?docid=94163. See also,* Briefing Memorandum *in Public Service Commission of Wisconsin Docket 5911–NC–101, Application of Time Warner Cable Information Services (WI), LLC to Expand Certification as an Alternative Telecommunications Utility,* available at: *http://www.psc.wi.gov/apps/erf__search/content/docdetail.aspx?docid=84954.*

[11] *See* Universal Service Contribution Methodology, WC Docket 06–122; CC Dockets 96–45, 98–171, 90–571, 92–237; CC Dockets 99–200, 95–116, 98–170; WC Docket 04–36, *Report and Order and Notice of Proposed Rulemaking,* 21 FCC Rcd 7518 (2006), available at: *http://hraunfoss.fcc.gov/edocs__public/attachmatch/FCC–06–94A1.pdf* (Contribution Order), *aff'd in part, vacated in part, Vonage Holdings Corp.* v. *FCC,* 489 F.3d 1232, 1244 (D.C. Cir. 2007), at note 189 ("Because we permit interconnected VoIP providers to report on actual interstate revenues, this Order does not require interconnected VoIP providers that are currently contributing based on actual revenues to revise their current practices.").

[12] "In May 2005, the FCC adopted rules requiring providers of interconnected VoIP services to supply 911 emergency calling capabilities to their customers as a mandatory feature of the service *by November 28, 2005.* "Interconnected" VoIP services are VoIP services that allow a user generally to receive calls from and make calls to the traditional telephone network. Under the FCC rules, interconnected VoIP providers must: Deliver all 911 calls to the local emergency call center; Deliver the customer's call back number and location information where the emergency call center is capable of receiving it." See: *http://www.fcc.gov/pshs/services/911-services/voip/Welcome.html*.

buildout and service quality requirements—a role that States are best positioned to handle. Finally, as Chairman Genachowski has often noted, reform must be "data-driven and fact based." Unfortunately, this is not the case with the actions the FCC apparently intends to take.

I thank you again for the opportunity to testify today and I welcome any questions you may have.

Federal Universal Service Support Mechanisms by State: 2009

[Annual Payments and Contributions in Thousands]

State or Jurisdiction	High-Cost Support				
	Payments from USF to Service Providers		Estimated Contributions by Carriers to USAC		Estimated Net Dollar Flow
	Amount	% of Total	Amount	% of Total	Amount
Alabama	$100,061	2.3%	$68,579	1.6%	$31,482
Alaska	$168,272	3.9%	$11,250	0.3%	$157,022
American Samoa	$3,939	0.1%	$298	0.0%	$3,641
Arizona	$67,204	1.6%	$84,352	2.0%	($17,148)
Arkansas	$148,253	3.5%	$39,246	0.9%	$109,007
California	$107,508	2.5%	$474,280	11.0%	($366,772)
Colorado	$79,397	1.8%	$76,670	1.8%	$2,727
Connecticut	($390)	0.0%	$57,085	1.3%	($57,475)
Delaware	$226	0.0%	$15,761	0.4%	($15,535)
Dist. of Columbia	$0	0.0%	$19,773	0.5%	($19,773)
Florida	$70,396	1.6%	$285,907	6.7%	($215,511)
Georgia	$136,139	3.2%	$140,561	3.3%	($4,422)
Guam	$16,650	0.4%	$2,251	0.1%	$14,399
Hawaii	$58,416	1.4%	$21,298	0.5%	$37,118
Idaho	$50,779	1.2%	$21,336	0.5%	$29,443
Illinois	$74,939	1.7%	$177,462	4.1%	($102,523)
Indiana	$74,418	1.7%	$83,888	2.0%	($9,470)
Iowa	$127,435	3.0%	$38,837	0.9%	$88,598
Kansas	$230,301	5.4%	$37,973	0.9%	$192,328
Kentucky	$101,805	2.4%	$55,949	1.3%	$45,856
Louisiana	$156,494	3.6%	$61,345	1.4%	$95,149
Maine	$27,443	0.6%	$18,209	0.4%	$9,234
Maryland	$3,966	0.1%	$94,073	2.2%	($90,107)
Massachusetts	$2,413	0.1%	$97,758	2.3%	($95,345)
Michigan	$63,193	1.5%	$122,460	2.9%	($59,267)
Minnesota	$127,037	3.0%	$68,112	1.6%	$58,925
Mississippi	$281,267	6.6%	$38,489	0.9%	$242,778
Missouri	$108,639	2.5%	$82,943	1.9%	$25,696
Montana	$79,855	1.9%	$14,539	0.3%	$65,316
Nebraska	$116,611	2.7%	$24,051	0.6%	$92,560
Nevada	$25,570	0.6%	$39,948	0.9%	($14,378)
New Hampshire	$8,576	0.2%	$20,901	0.5%	($12,325)
New Jersey	$1,058	0.0%	$143,512	3.3%	($142,454)
New Mexico	$71,391	1.7%	$27,820	0.6%	$43,571
New York	$44,967	1.0%	$277,114	6.5%	($232,147)
North Carolina	$85,635	2.0%	$130,102	3.0%	($44,467)
North Dakota	$94,452	2.2%	$9,478	0.2%	$84,974
Northern Mariana	$1,309	0.0%	$465	0.0%	$844
Ohio	$33,858	0.8%	$149,536	3.5%	($115,678)
Oklahoma	$142,547	3.3%	$45,232	1.1%	$97,315
Oregon	$78,826	1.8%	$51,882	1.2%	$26,944
Pennsylvania	$57,770	1.3%	$177,475	4.1%	($119,705)
Puerto Rico	$74,387	1.7%	$39,829	0.9%	$34,558
Rhode Island	$34	0.0%	$14,102	0.3%	($14,068)
South Carolina	$98,376	2.3%	$63,774	1.5%	$34,602
South Dakota	$97,338	2.3%	$11,053	0.3%	$86,285
Tennessee	$58,896	1.4%	$91,074	2.1%	($32,178)
Texas	$262,049	6.1%	$299,043	7.0%	($36,994)
Utah	$19,221	0.4%	$32,031	0.7%	($12,810)
Vermont	$21,208	0.5%	$10,415	0.2%	$10,793
Virgin Islands	$15,986	0.4%	$2,961	0.1%	$13,025
Virginia	$72,933	1.7%	$120,689	2.8%	($47,756)
Washington	$94,459	2.2%	$89,779	2.1%	$4,680
West Virginia	$58,640	1.4%	$28,323	0.7%	$30,317
Wisconsin	$139,287	3.2%	$72,198	1.7%	$67,089
Wyoming	$50,740	1.2%	$8,709	0.2%	$42,031
Total	$4,292,179				

Federal Universal Service Support Mechanisms by State: 2009—Continued

[Annual Payments and Contributions in Thousands]

State or Jurisdiction	Low-Income Support				
	Payments from USF to Service Providers		Estimated Contributions by Carriers to USAC		Estimated Net Dollar Flow
	Amount	% of Total	Amount	% of Total	Amount
Alabama	$25,652	2.5%	$16,380	1.6%	$9,272
Alaska	$24,480	2.4%	$2,687	0.3%	$21,793
American Samoa	$39	0.0%	$71	0.0%	($32)
Arizona	$21,813	2.1%	$20,148	2.0%	$1,665
Arkansas	$4,019	0.4%	$9,374	0.9%	($5,355)
California	$194,238	18.9%	$113,283	11.0%	$80,955
Colorado	$2,905	0.3%	$18,313	1.8%	($15,408)
Connecticut	$5,389	0.5%	$13,635	1.3%	($8,246)
Delaware	$661	0.1%	$3,765	0.4%	($3,104)
Dist. of Columbia	$1,077	0.1%	$4,723	0.5%	($3,646)
Florida	$74,720	7.3%	$68,289	6.7%	$6,431
Georgia	$33,514	3.3%	$33,573	3.3%	($59)
Guam	$307	0.0%	$538	0.1%	($231)
Hawaii	$495	0.0%	$5,087	0.5%	($4,592)
Idaho	$3,603	0.4%	$5,096	0.5%	($1,493)
Illinois	$13,649	1.3%	$42,387	4.1%	($28,738)
Indiana	$4,917	0.5%	$20,037	2.0%	($15,120)
Iowa	$4,314	0.4%	$9,276	0.9%	($4,962)
Kansas	$3,128	0.3%	$9,070	0.9%	($5,942)
Kentucky	$9,802	1.0%	$13,364	1.3%	($3,562)
Louisiana	$12,011	1.2%	$14,652	1.4%	($2,641)
Maine	$6,798	0.7%	$4,349	0.4%	$2,449
Maryland	$858	0.1%	$22,470	2.2%	($21,612)
Massachusetts	$21,043	2.1%	$23,350	2.3%	($2,307)
Michigan	$30,329	3.0%	$29,250	2.9%	$1,079
Minnesota	$7,043	0.7%	$16,269	1.6%	($9,226)
Mississippi	$9,880	1.0%	$9,193	0.9%	$687
Missouri	$8,198	0.8%	$19,811	1.9%	($11,613)
Montana	$3,875	0.4%	$3,473	0.3%	$402
Nebraska	$2,157	0.2%	$5,745	0.6%	($3,588)
Nevada	$2,906	0.3%	$9,542	0.9%	($6,636)
New Hampshire	$746	0.1%	$4,992	0.5%	($4,246)
New Jersey	$15,053	1.5%	$34,278	3.3%	($19,225)
New Mexico	$14,595	1.4%	$6,645	0.6%	$7,950
New York	$60,082	5.9%	$66,189	6.5%	($6,107)
North Carolina	$33,899	3.3%	$31,075	3.0%	$2,824
North Dakota	$3,101	0.3%	$2,264	0.2%	$837
Northern Mariana	$168	0.0%	$111	0.0%	$57
Ohio	$36,707	3.6%	$35,717	3.5%	$990
Oklahoma	$71,141	6.9%	$10,804	1.1%	$60,337
Oregon	$5,413	0.5%	$12,392	1.2%	($6,979)
Pennsylvania	$21,603	2.1%	$42,390	4.1%	($20,787)
Puerto Rico	$28,854	2.8%	$9,513	0.9%	$19,341
Rhode Island	$3,425	0.3%	$3,368	0.3%	$57
South Carolina	$9,629	0.9%	$15,233	1.5%	($5,604)
South Dakota	$3,334	0.3%	$2,640	0.3%	$694
Tennessee	$31,349	3.1%	$21,753	2.1%	$9,596
Texas	$101,914	9.9%	$71,427	7.0%	$30,487
Utah	$3,808	0.4%	$7,651	0.7%	($3,843)
Vermont	$2,576	0.3%	$2,488	0.2%	$88
Virgin Islands	$77	0.0%	$707	0.1%	($630)
Virginia	$15,198	1.5%	$28,827	2.8%	($13,629)
Washington	$17,704	1.7%	$21,444	2.1%	($3,740)
West Virginia	$1,189	0.1%	$6,765	0.7%	($5,576)
Wisconsin	$9,341	0.9%	$17,245	1.7%	($7,904)
Wyoming	$469	0.0%	$2,080	0.2%	($1,611)
Total	$1,025,195				

Federal Universal Service Support Mechanisms by State: 2009—Continued

[Annual Payments and Contributions in Thousands]

State or Jurisdiction	Schools & Libraries				
	Payments from USF to Service Providers		Estimated Contributions by Carriers to USAC		Estimated Net Dollar Flow
	Amount	% of Total	Amount	% of Total	Amount
Alabama	$28,922	1.5%	$30,011	1.6%	($1,089)
Alaska	$22,542	1.2%	$4,923	0.3%	$17,619
American Samoa	$4,282	0.2%	$130	0.0%	$4,152
Arizona	$49,278	2.6%	$36,913	2.0%	$12,365
Arkansas	$14,974	0.8%	$17,174	0.9%	($2,200)
California	$281,161	15.0%	$207,549	11.0%	$73,612
Colorado	$14,452	0.8%	$33,552	1.8%	($19,100)
Connecticut	$22,255	1.2%	$24,981	1.3%	($2,726)
Delaware	$831	0.0%	$6,897	0.4%	($6,066)
Dist. of Columbia	$8,440	0.4%	$8,653	0.5%	($213)
Florida	$75,933	4.0%	$125,116	6.7%	($49,183)
Georgia	$67,875	3.6%	$61,511	3.3%	$6,364
Guam	$334	0.0%	$985	0.1%	($651)
Hawaii	$1,930	0.1%	$9,320	0.5%	($7,390)
Idaho	$4,750	0.3%	$9,337	0.5%	($4,587)
Illinois	$63,987	3.4%	$77,659	4.1%	($13,672)
Indiana	$22,702	1.2%	$36,710	2.0%	($14,008)
Iowa	$9,899	0.5%	$16,995	0.9%	($7,096)
Kansas	$15,278	0.8%	$16,617	0.9%	($1,339)
Kentucky	$28,136	1.5%	$24,484	1.3%	$3,652
Louisiana	$35,427	1.9%	$26,845	1.4%	$8,582
Maine	$6,159	0.3%	$7,969	0.4%	($1,810)
Maryland	$9,850	0.5%	$41,167	2.2%	($31,317)
Massachusetts	$22,729	1.2%	$42,780	2.3%	($20,051)
Michigan	$51,300	2.7%	$53,590	2.9%	($2,290)
Minnesota	$17,168	0.9%	$29,807	1.6%	($12,639)
Mississippi	$29,982	1.6%	$16,843	0.9%	$13,139
Missouri	$26,168	1.4%	$36,297	1.9%	($10,129)
Montana	$4,201	0.2%	$6,363	0.3%	($2,162)
Nebraska	$9,004	0.5%	$10,525	0.6%	($1,521)
Nevada	$4,295	0.2%	$17,481	0.9%	($13,186)
New Hampshire	$2,285	0.1%	$9,146	0.5%	($6,861)
New Jersey	$37,106	2.0%	$62,802	3.3%	($25,696)
New Mexico	$26,912	1.4%	$12,174	0.6%	$14,738
New York	$237,857	12.7%	$121,267	6.5%	$116,590
North Carolina	$57,744	3.1%	$56,934	3.0%	$810
North Dakota	$3,560	0.2%	$4,148	0.2%	($588)
Northern Mariana	$1,142	0.1%	$203	0.0%	$939
Ohio	$63,578	3.4%	$65,438	3.5%	($1,860)
Oklahoma	$35,314	1.9%	$19,794	1.1%	$15,520
Oregon	$15,057	0.8%	$22,704	1.2%	($7,647)
Pennsylvania	$69,524	3.7%	$77,665	4.1%	($8,141)
Puerto Rico	$8,735	0.5%	$17,430	0.9%	($8,695)
Rhode Island	$5,466	0.3%	$6,171	0.3%	($705)
South Carolina	$37,412	2.0%	$27,908	1.5%	$9,504
South Dakota	$5,536	0.3%	$4,837	0.3%	$699
Tennessee	$49,110	2.6%	$39,855	2.1%	$9,255
Texas	$155,009	8.3%	$130,864	7.0%	$24,145
Utah	$15,628	0.8%	$14,017	0.7%	$1,611
Vermont	$1,382	0.1%	$4,558	0.2%	($3,176)
Virgin Islands	$2,014	0.1%	$1,296	0.1%	$718
Virginia	$29,056	1.5%	$52,815	2.8%	($23,759)
Washington	$27,850	1.5%	$39,288	2.1%	($11,438)
West Virginia	$10,647	0.6%	$12,394	0.7%	($1,747)
Wisconsin	$22,569	1.2%	$31,594	1.7%	($9,025)
Wyoming	$3,559	0.2%	$3,811	0.2%	($252)
Total	$1,878,296				

Federal Universal Service Support Mechanisms by State: 2009—Continued

[Annual Payments and Contributions in Thousands]

State or Jurisdiction	Rural Health Care				
	Payments from USF to Service Providers		Estimated Contributions by Carriers to USAC		Estimated Net Dollar Flow
	Amount	% of Total	Amount	% of Total	Amount
Alabama	$229	0.4%	$970	1.6%	($741)
Alaska	$29,122	48.0%	$159	0.3%	$28,963
American Samoa	$141	0.2%	$4	0.0%	$137
Arizona	$1,954	3.2%	$1,193	2.0%	$761
Arkansas	$401	0.7%	$555	0.9%	($154)
California	$942	1.6%	$6,707	11.0%	($5,765)
Colorado	$234	0.4%	$1,084	1.8%	($850)
Connecticut	$0	0.0%	$807	1.3%	($807)
Delaware	$0	0.0%	$223	0.4%	($223)
Dist. of Columbia	$0	0.0%	$280	0.5%	($280)
Florida	$854	1.4%	$4,043	6.7%	($3,189)
Georgia	$1,989	3.3%	$1,988	3.3%	$1
Guam	$101	0.2%	$32	0.1%	$69
Hawaii	$196	0.3%	$301	0.5%	($105)
Idaho	$257	0.4%	$302	0.5%	($45)
Illinois	$1,389	2.3%	$2,510	4.1%	($1,121)
Indiana	$822	1.4%	$1,186	2.0%	($364)
Iowa	$571	0.9%	$549	0.9%	$22
Kansas	$327	0.5%	$537	0.9%	($210)
Kentucky	$708	1.2%	$791	1.3%	($83)
Louisiana	$40	0.1%	$868	1.4%	($828)
Maine	$63	0.1%	$258	0.4%	($195)
Maryland	$0	0.0%	$1,330	2.2%	($1,330)
Massachusetts	$150	0.2%	$1,382	2.3%	($1,232)
Michigan	$941	1.6%	$1,732	2.9%	($791)
Minnesota	$2,637	4.3%	$963	1.6%	$1,674
Mississippi	$148	0.2%	$544	0.9%	($396)
Missouri	$578	1.0%	$1,173	1.9%	($595)
Montana	$843	1.4%	$206	0.3%	$637
Nebraska	$1,391	2.3%	$340	0.6%	$1,051
Nevada	$73	0.1%	$565	0.9%	($492)
New Hampshire	$11	0.0%	$296	0.5%	($285)
New Jersey	$0	0.0%	$2,029	3.3%	($2,029)
New Mexico	$386	0.6%	$393	0.6%	($7)
New York	$62	0.1%	$3,919	6.5%	($3,857)
North Carolina	$312	0.5%	$1,840	3.0%	($1,528)
North Dakota	$1,201	2.0%	$134	0.2%	$1,067
Northern Mariana	$0	0.0%	$7	0.0%	($7)
Ohio	$426	0.7%	$2,115	3.5%	($1,689)
Oklahoma	$809	1.3%	$640	1.1%	$169
Oregon	$312	0.5%	$734	1.2%	($422)
Pennsylvania	$109	0.2%	$2,510	4.1%	($2,401)
Puerto Rico	$0	0.0%	$563	0.9%	($563)
Rhode Island	$0	0.0%	$199	0.3%	($199)
South Carolina	$47	0.1%	$902	1.5%	($855)
South Dakota	$1,388	2.3%	$156	0.3%	$1,232
Tennessee	$242	0.4%	$1,288	2.1%	($1,046)
Texas	$889	1.5%	$4,229	7.0%	($3,340)
Utah	$666	1.1%	$453	0.7%	$213
Vermont	$115	0.2%	$147	0.2%	($32)
Virgin Islands	$74	0.1%	$42	0.1%	$32
Virginia	$731	1.2%	$1,707	2.8%	($976)
Washington	$80	0.1%	$1,270	2.1%	($1,190)
West Virginia	$308	0.5%	$401	0.7%	($93)
Wisconsin	$5,281	8.7%	$1,021	1.7%	$4,260
Wyoming	$148	0.2%	$123	0.2%	$25
Total	$60,698				

Federal Universal Service Support Mechanisms by State: 2009—Continued

[Annual Payments and Contributions in Thousands]

State or Jurisdiction	Total Federal Universal Program *				
	Payments from USF to Service Providers		Estimated Contributions by Carriers to USAC		Estimated Net Dollar Flow
	Amount	% of Total	Amount	% of Total	Amount
Alabama	$154,864	2.1%	$118,935	1.6%	$35,929
Alaska	$244,417	3.4%	$19,511	0.3%	$224,906
American Samoa	$8,400	0.1%	$516	0.0%	$7,884
Arizona	$140,249	1.9%	$146,289	2.0%	($6,040)
Arkansas	$167,647	2.3%	$68,063	0.9%	$99,584
California	$583,849	8.0%	$822,527	11.0%	($238,678)
Colorado	$96,989	1.3%	$132,967	1.8%	($35,978)
Connecticut	$27,253	0.4%	$99,000	1.3%	($71,747)
Delaware	$1,719	0.0%	$27,334	0.4%	($25,615)
Dist. of Columbia	$9,518	0.13%	$34,291	0.5%	($24,773)
Florida	$221,903	3.06%	$495,839	6.7%	($273,936)
Georgia	$239,517	3.3%	$243,770	3.3%	($4,253)
Guam	$17,392	0.2%	$3,904	0.1%	$13,488
Hawaii	$61,037	0.8%	$36,936	0.5%	$24,101
Idaho	$59,389	0.8%	$37,003	0.5%	$22,386
Illinois	$153,964	2.1%	$307,767	4.1%	($153,803)
Indiana	$102,858	1.4%	$145,484	2.0%	($42,626)
Iowa	$142,218	2.0%	$67,353	0.9%	$74,865
Kansas	$249,034	3.4%	$65,855	0.9%	$183,179
Kentucky	$140,451	1.9%	$97,031	1.3%	$43,420
Louisiana	$203,972	2.8%	$106,388	1.4%	$97,584
Maine	$40,463	0.6%	$31,580	0.4%	$8,883
Maryland	$14,673	0.2%	$163,148	2.2%	($148,475)
Massachusetts	$46,335	0.6%	$169,539	2.3%	($123,204)
Michigan	$145,763	2.0%	$212,378	2.9%	($66,615)
Minnesota	$153,885	2.1%	$118,125	1.6%	$35,760
Mississippi	$321,278	4.4%	$66,750	0.9%	$254,528
Missouri	$143,583	2.0%	$143,845	1.9%	($262)
Montana	$88,774	1.2%	$25,215	0.3%	$63,559
Nebraska	$129,163	1.8%	$41,711	0.6%	$87,452
Nevada	$32,845	0.5%	$69,280	0.9%	($36,435)
New Hampshire	$11,617	0.2%	$36,248	0.5%	($24,631)
New Jersey	$53,218	0.7%	$248,888	3.3%	($195,670)
New Mexico	$113,284	1.6%	$48,248	0.6%	$65,036
New York	$342,968	4.7%	$480,589	6.5%	($137,621)
North Carolina	$177,591	2.4%	$225,632	3.0%	($48,041)
North Dakota	$102,314	1.4%	$16,438	0.2%	$85,876
Northern Mariana	$2,619	0.0%	$806	0.0%	$1,813
Ohio	$134,569	1.9%	$259,335	3.5%	($124,766)
Oklahoma	$249,812	3.4%	$78,444	1.1%	$171,368
Oregon	$99,608	1.4%	$89,978	1.2%	$9,630
Pennsylvania	$149,006	2.1%	$307,789	4.1%	($158,783)
Puerto Rico	$111,977	1.5%	$69,074	0.9%	$42,903
Rhode Island	$8,925	0.1%	$24,456	0.3%	($15,531)
South Carolina	$145,463	2.0%	$110,601	1.5%	$34,862
South Dakota	$107,595	1.5%	$19,168	0.3%	$88,427
Tennessee	$139,598	1.9%	$157,946	2.1%	($18,348)
Texas	$519,860	7.2%	$518,620	7.0%	$1,240
Utah	$39,323	0.5%	$55,550	0.7%	($16,227)
Vermont	$25,282	0.3%	$18,062	0.2%	$7,220
Virgin Islands	$18,152	0.3%	$5,136	0.1%	$13,016
Virginia	$117,918	1.6%	$209,307	2.8%	($91,389)
Washington	$140,092	1.9%	$155,701	2.1%	($15,609)
West Virginia	$70,784	1.0%	$49,119	0.7%	$21,665
Wisconsin	$176,478	2.4%	$125,210	1.7%	$51,268
Wyoming	$54,917	0.8%	$15,103	0.2%	$39,814
Total	$7,256,372		$7,443,782		($187,410)

* Estimated contributions include an administrative cost of approximately $187 million.

The CHAIRMAN. I thank you, Mr. Jones.

If I might start—I spoke in my opening statement about opposition to reform. And there's no question there's going to be that. And I decline to glorify it, because I think it's useless for the modern world that we seek. Those that benefit from the existing system will want to keep the status quo. That will be the case.

But the status quo is not acceptable. Too many areas in this country are untouched by universal service support, requiring their consumers and businesses to do without the broadband access they need. That is not fair.

I have been served in the state that I represent by endless numbers of companies, large and small, all of whom promised to be able to deliver, to get to every single last person, and then they'd show you maps if you really asked for them, and they were pretty embarrassing. They were pretty embarrassing. And I have to say that—it's nothing personal—but Verizon has an ad out on wireless service, a TV ad. And I see it about two or three times a day, I guess. And it's most interesting that the only totally white place in the entire country, that is uncovered, is a place called West Virginia. I can't help but notice that. And I think that's accurate.

So, my question to you all is this: What are the essential attributes of something called a fair system? I'd like to hear from all of you.

Ms. ABERNATHY. Mr. Chairman, I think the essential attributes are that the support is targeted to the truly high cost areas; that there is accountability to document how you're spending the money; and that there's a real world recognition that, because these are high cost areas that can't support multiple competitors, that some entity is going to benefit, in the sense that it will provide service there. But you can't support multiple entities. It doesn't work that way. That's why these are the least dense, highest-cost parts of the country.

But I think it has to be targeted, and you have to be accountable for it. And then you have to be willing to accept a level of regulation, because you're getting government funding.

Ms. DILLON. I will build on that. I would say that, to me also, fairness means that the role of wireless is recognized as much as wireline, because, as we know, there's plenty of parts of this country and your state where companies like U.S. Cellular really focus on making sure that the rural consumer has access to wireless voice, and, in the future, data. And, you know, our concern in terms of fairness is that the current proposal really dramatically reduces funding to wireless in a way that just doesn't dovetail with how consumers and businesses are—what the needs are today and in the future.

So, in our estimation, accountability is critical. We're not asking for wireless funding to go higher than it's been historically, but at a minimum, to not go dramatically lower. Because if it does, I think the consumer is the one who pays the price there, because, while it's important to have both, it's important to have fixed mobile access, but it's also very important for people, as they leave their homes and travel and go to work, that they also have the ability to communicate wirelessly.

The CHAIRMAN. Thank you.

Mr. Powell?

Mr. POWELL. Senator, I would agree with those comments. I think a fair system is one that focuses on un-served consumers and not rural companies, per se.

I think that if you understand that the program, at its heart, is a cost subsidy program—we ask all Americans to pay a burden in order to achieve a national social aim of universal availability—that we must make sure that you have fiscal constraint and restrictions in the system that demand no more money than necessary, the kind of efficiency that will, at least, keep to a bare minimum what those in Senator Kerry's state are asked to pay in order, to the benefit of people living in another state.

We can't emphasize enough the importance that we attribute to competitive focus. Let companies do what they do best, fight for the business of consumers. And let the benefits that history has demonstrated flow from those competitions be a part of any plan.

And finally, we will be very unfair in our system if we don't recognize the enormous value that the technological innovation path is on, as you referenced in your opening remarks, and as Senator Warner talked about the speeds.

When we do this, we better ensure that we're incenting investment in the kind of architecture and technological platforms that will grow and migrate and innovate, so that all consumers have an opportunity to benefit from the kinds of thing that are in the personal technology section of the New York Times.

The CHAIRMAN. Thank you. Ms. Bloomfield.

Ms. BLOOMFIELD. Mr. Chairman——

The CHAIRMAN. I have about 10 seconds left.

Ms. BLOOMFIELD. I would be remiss if I didn't tell you that you have Hardy Telephone Cooperative in Lost River, West Virginia——

The CHAIRMAN. I do.

Ms. BLOOMFIELD.—that has had 99.4 percent broadband penetration for the past 3 years. And what they have done is, they have not given capital credits out over the last 4 years, because their Board has decided that any money they have, any resource they have, goes into building fiber to their subscribers.

And that's a lot of the spirit that you get with some of these companies. So, I did want to note that you do have a coverage area in West Virginia.

But, too, to answer——

The CHAIRMAN. They're the Green Bay Packers of telecommunications.

[Laughter.]

Ms. BLOOMFIELD. We agree. And you picked the right team, by the way.

Also, just, you know, a couple of the things that, in terms of answering your question—carrier of last resort obligation is really important. It basically says if you're getting USF funding, you've taken on the obligation that you are going to provide service to every one of those subscribers out in that area. You're not going to cherry pick; you're not going to take, you know, the area where you've got a population base. You're going to provide service to the entire area. And that's going to be very important.

You also have to make sure—I think one of the accountability factors that would be valuable is for USF to go, when folks receive USF, that that funding go to that service area, that it becomes very targeted in that area, instead of companies receiving USF support and no accountability in terms of where it goes.

And the last point that I would make is sustainability. You know, infrastructure is not something you throw into the ground and walk away and hope that you're able to continue to meet consumers' needs, business needs, public safety needs. It's a living, breathing network that needs continued investment.

The CHAIRMAN. Thank you.

Mr. Jones?

Mr. JONES. Since time is out, I'll keep this short. Just four points: Reasonable and comparable. I think you mentioned it. We don't want to create a rural/rural divide, or a rural/urban divide. Rates should be reasonably comparable as we move into the IP architecture and the broadband world.

Interconnection: Systems need to be interconnected. And there are always disputes that are raised among carriers. Remember, this is not a tax-based system. This is a carrier-based system. Michael makes a good point about perhaps the equity of that. But it has always been a carrier-based system. So, when disputes come up on terminating, originating, and all these other things, state commissions have played that role.

Consumer complaints is another one. Consumers should have one body close to the ground, we think, in the states where they can go and complain to. This is a very complained about industry.

The last thing is the contribution mechanism. For whatever reason, Chairman Genachowski decided to keep the contribution mechanism out of this proposal. If you want to make it fair to all Americans, instead of paying 14 percent, 15 percent on interstate toll, you could put a charge per either telephone number or IP address, or whatever. And that, in my opinion, would make it more fair.

The CHAIRMAN. I thank you all.

And Senator Hutchison?

Senator HUTCHISON. Well, I thank you. Mr. Chairman, I have to say, I think you really covered the waterfront. Asking the sort of simple question "What's fair to the whole group?" really answered a lot of the questions I would have asked.

I'll just, I guess, go micro a little bit here, and ask Ms. Bloomfield—I have said that I think the intercarrier charges that phone companies pay each other need to be reformed, but gradually. My question to you is, what impact do you think that would have on rural communities if the intercarrier regime is too abruptly reformed, and there's not an absorption time?

Ms. BLOOMFIELD. That's a great question. Thank you very much, Senator.

There's really three places where these carrier get their funding from. One is the customers. One is from other carriers, you know, carrier-to-carrier compensation. And one, typically, is USF reform, in terms of rural carriers that we represent.

Intercarrier comp is a big portion of that. So, as you talk about reform—and it's one of the things that we have been brought to the table, in terms of USF and ICC reform—is that we are agreeable to reform. We are agreeable to taking those rates down. That will mean a financial hit for our companies. They'll definitely have to figure out ways to kind of make up some of that. It may slow down some future investment. But we knew that was the only way to actually achieve real reform and find any kind of consensus.

So, the most important thing for us will be that that transition be thoughtful, that it be slow enough that companies have the opportunity to figure out how they're going to adjust.

And one of the proposals that we submitted to the FCC gives us about a six or seven, 8-year glide path, so that companies can adjust as the reform kicks in and as the rates go down, so you can kind of find that balance at some course through the process. But a flash cut would be incredibly detrimental, and I will tell you, it will again halt all broadband—you know, a lot of broadband investment.

Senator HUTCHISON. Mr. Powell, welcome, in your new——

Mr. POWELL. Thank you.

Senator HUTCHISON.—and different capacity.

You are not a big user of the USF Fund right now. You've mostly gone into the urban areas, the cable companies, I mean. But I would just like to ask you how you envision the cable industry's role in bringing more broadband out into the rural and high-cost areas?

Mr. POWELL. Well, thank you for your question.

I would emphasize the first thing you said, which is, we do reach 93 percent of households without subsidy. And we're very proud of that.

If you think about cable's roots, where did we come from? We began in rural America. You know, Comcast was founded in Tupelo, Mississippi. Many cable companies have their original roots in rural America, because their original purpose was to bring television service to communities that could not receive service from broadcast transmissions. So, we have presence in many parts of the country, and look for opportunities to extend what is now a bundled service network to more parts.

I would also say that, while the headlines may be big companies that are centered around urban areas at times, we have lots of members of our company who are very much, just as much a part of the fabric of rural America. We have cable companies as small as Dick Sjoberg's company that is serving a town with 67 people in it in rural Minnesota. He has a small number of the 30 homes available, and is offering up to 11 megabit-per-second speed. So, we do have companies that provide those services in that part of the world.

I think the fundamental challenge is what we would always agree, we all agree here—the areas that are harder to serve are hard to serve because they're uneconomical. And if the Federal Government is going to direct subsidy to turn what was otherwise uneconomical into economical, I think our companies would have a strong interest in having a fair opportunity to provide that service as well.

Senator HUTCHISON. Thank you.

I would just say, Mr. Chairman, I think the key here is going to be trying to get the Universal Service Fund to be technology-neutral and allow everybody to, at least, try to participate, and give the most service and the most options into these rural areas. Because certainly Texas has a number of them. You do. And, we don't have broadband service everywhere in Texas yet. I've been to a lot of places where I can't use my BlackBerry. So, I hope we can at least provide insights into the FCC's proposals.

And you know, I think we could act in this area if we wanted to. And if we didn't like what the FCC was doing, we have, you know, a little bit of leverage with the Congressional Review Act. So, I hope that we can all work together to do what we think is best.

Thank you.

The CHAIRMAN. It's interesting—before I go to Senator Warner—this is not a delaying tactic. It was brought on by the Ranking Member of this Committee. The thought popped into my head and it's going to pop out.

Actually, the FCC was not thrilled about the thought of our having this hearing. And I had that conversation with the relevant folks. And I said that I think it's very important that, in fact, it happen. And there was a worry—- Well, what would happen then if we did it? Wouldn't that mean that the House would do it? And all of that strikes me as kind of missing the point.

What we're all saying here is that we're very much behind what is going on at the FCC, and the incredible effort that they're making over a long period of time, without a full complement of commissioners, to put forward something in the relatively near future. And so, what I wanted to emphasize was that I think this kind of thing is very important. They should hear each other; they should hear us.

Senator Warner?

Senator HUTCHISON. If you would just permit me, on that point, to say I support what they're doing in this area. If they would just stick to the things that we've authorized them to do——

[Laughter.]

Senator HUTCHISON.—rather than go into other areas which we haven't, I'd be supportive, too.

Thank you.

[Laughter.]

The CHAIRMAN. It's all yours, Senator Warner.

Senator WARNER. On that note——

[Laughter.]

Senator WARNER.—let me at least say I completely agree that—and I want to thank the chair for holding this hearing. This is a really important focus. And I agree with the Ranking Member as well, in terms of how we get this—technology-neutral, and in a competitive way—out to literally millions of Texans, Virginians, Washingtonians, West Virginians, maybe even a few Alaskans, you know, who don't have this broadband service yet.

And let me also say to my friends from the wireline side up there that, you know, I think it's great that you all have started an approach that has suggested some areas of agreement.

I've got three questions, though, on the ABC Plan. You know, I agree—and I hope that the, you know, with a limited amount of money, $4 billion—we haven't even talked about how we're going to cap, or not, the High Cost Fund, and the delta between $23 billion and $55 billion, in terms of what we need to build out—we have to use these dollars effectively and efficiently, number one.

Number two, we should make sure that we don't sprinkle it around so much in an underserved area that we don't get quality service to that, if not 100 percent, close to 100 percent of the potential customer base receives service.

So, I get the idea of what was behind your, you know, incumbent right of first refusal if you've got 35 percent built up. But it seems to me a pretty blunt instrument, and frankly, not within the spirit of competitiveness.

One of the questions I've wondered is, you know—since we, you've talked about a 35, if you've got to hit that 35 percent service threshold, you get a right of first refusal—you know, why not let the market play out a little bit more? Why not let any competitor come to the table, if they've got an ability?

And if there needs to be a way to at least acknowledge previous investment, rather than just having this arbitrary right of first refusal that would then allow 10 years of support in a 5-year build-out schedule, why not have some kind of sliding scale that said, OK, we're going to, you know, if you can get up to 90, 95 percent penetration of coverage in 3 years, we'll give you, you know, some greater ability in terms of a reverse auction point system? So, some way to give you some advantage for your capital that you've already invested.

But if there is a wireless or cable or satellite or other technology, I just don't think being the incumbent alone should give you that right of first refusal.

So, Ms. Abernathy and Ms. Bloomfield, if you want to take that?

Ms. ABERNATHY. Thank you, Senator.

The issue really had been how do we most efficiently, and quickly get broadband deployed to these markets where there is no one else other than the incumbent provider today? These are the areas that no one else is serving.

So, the only infrastructure in place today is the wireline infrastructure; and, even with our existing infrastructure, it needs to be subsidized in order to ensure ongoing deployment of broadband.

So, clearly, the thought was, we'll get it there faster than if you go through and try to design an auction process. And we've already accepted carrier of last resort obligations. We've already accepted the quid pro quo for the funding, which is, we have to report; we have service metrics; we have to deploy within a certain timeframe. We've accepted all of that regulatory framework that goes along with the support.

So, in the interest of, here's the way you can get it there the fastest, you do, in effect, sacrifice the more, you know—do you want to have an auction? It will take longer.

And so the interest was, let's get it out there. And these are areas that no one is serving anyway, other than ourselves. So, it seemed like a reasonable compromise.

Senator WARNER. Let me see if Ms. Bloomfield wants to answer, because I just, I've got a couple other questions.

Ms. BLOOMFIELD. Well, let me clarify, Senator Warner, that the RLEC Plan does not have a right of first refusal. So, that is the plan that is carrying the price cap companies.

But in terms of the one of the points that you raised about—wireless is really important, because I think more and more consumers see wireless and wireline services as really complementary services to one another. And I think one of the things that gets lost a little bit in the technology discussion—and you can probably draw the diagram as well as anybody—is the fact that you actually need a wired network to do the backhaul.

And we can talk about, you know, what is the right speed? What is the right data capacity? And we know how much that data capacity and the desire is growing. But you can't do it without a wired network.

You know, you talk about fiber to the home. Some of those facilities and that plant in the ground is what allows the wireless providers to actually a lot of the services they do, as well.

So, in terms of technology neutrality, that's an important thing to keep in the back of everybody's head as we——

Senator WARNER. Well, it would raise the issue, though, that, if you've got that last mile wireless——

Ms. BLOOMFIELD. Mm-hm.

Senator WARNER.—and you predesigned a cap on the wireless side, it may not be the way—again, if we trying to—how do we get the service there the quickest?

And I know my time has expired. I'm going to take 30 seconds more. Is that all right?

Just the fact that, as someone who, you know, personally lost a lot of money in the late 1990s on CLEX with the promise of interconnection, that, with some of the incumbents, never came to pass, I do think—and Mr. Jones has already raised this point—the failure to have in the ABC Plan—or somewhere in this, I hope the Commission would have—is really clear interconnection requirements, so that whoever is providing this service, they can interconnect back into the network. It is terribly important.

And I would only just also like to mention—and I know that I won't get a chance to it get answered—but the ABC Plan, I understand, actually offers a lower access charge for IP connectivity than for traditional service. And doesn't that, in effect, have the incentive reversed? Because doesn't that mean that if we wanted everybody to move to Voice-over-IP, and we want to move to an IP protocol, that if we've got a lower access charge versus conventional service—who's going to want to upgrade their system if they're going to actually decrease their access charge reimbursements?

Ms. ABERNATHY. They actually reconcile over time—the interconnection charges—so that you're not advantaging or disadvantaging either.

Senator WARNER. I may wait for a second round. Thank you, Mr. Chairman.

The CHAIRMAN. You're welcome.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

Mr. Bloomfield, we're obviously hearing a lot at home about the issue of rural areas and the failure to connect, or long delays. And obviously, people here have already talked about Least Cost Routing as a potential cause of that problem. And I know that you've encouraged the FCC to take action on this. They're holding some sort of a hearing or something——

Ms. BLOOMFIELD. Workshop, next week.

Senator CANTWELL.—workshop next week.

To the best of your knowledge, do you think the intercarrier compensation reforms in the ABC Plan would address this issue?

Ms. BLOOMFIELD. The FCC's perspective is that because the access rates are high, that is what's causing the Least Cost Routing, and creating this problem where the calls are simply not terminating in these rural markets. And——

Senator CANTWELL. So, I mean, I'm just asking you, does the plan address it? And if not, should it?

Ms. BLOOMFIELD. Oh. I—you know what? I, the plan does address it, because intercarrier comp rates go significantly low. They go to .0007 in a six, seven-year time frame. So, there's a significant drop.

The thing that I worry about with arbitrage is, somebody's always clever enough to come up with the next scheme to, kind of, come around and do, you know, what is the next call termination issue?

So, while yes, I do think this will be part of the solution, I think there's going to be another issue. You know, as with everything, once you kind of squeeze the balloon, something else pops out somewhere else.

Senator CANTWELL. Right. So, what would you do? Because obviously, having a plan that wouldn't really solve the problem for rural communities——

Ms. BLOOMFIELD. Well, I think, you know, one of the things that's really important that we're finding right now is that our carriers don't even know who to go to. So, one of the things that the FCC did a few weeks ago is, they put up on their website, you know, if you're having issues with these different carriers, who to call. I mean, it's that basic first-step problem of, you know, calls aren't coming through. I don't know who to go to in these different carriers. So, that has been the first step that they have done.

I think the second step will be next week when they have this workshop, because it will be having all of the folks around the table. And it will be what—they're really setting it up as a discussion for coming up with solutions to this. You know, what are some answers? What are, you know, are there significant carriers that are the biggest problem area? How do you actually resolve some of this?

So, I hope that by the end of next week we actually have a little bit more of a clear path forward. And we'd certainly be happy to circle back to you at that point in time.

Senator CANTWELL. OK.

Commissioner Jones, will Washingtonians be better off under the Universal Service Fund in these compensation reforms, along the lines of the ABC proposal?

Mr. JONES. It's difficult to tell right now, because we do not understand the model properly. And what the ABC Plan proponents are advocating before you on the Hill is an incomplete picture.

I attached to my testimony an appendix that shows the total net flows—high cost support for price-capped rural carriers, and the competitive, you know, the wireless CETCs. So, that's what you have to look at.

Under the price-cap carriers, yes, we may be advantaged to some extent. But if we do not have some jurisdiction over VoIP, and the traditional carriers like Frontier and CenturyLink switch traffic, or a larger amount of traffic, to the IP network, we may not have the ability, as Senator Warner says, to deal with the interconnection issues, the consumer complaint issues, because the Federal Government will have exclusive jurisdiction over that. So, in that sense, I think we would be worse off.

Ms. DILLON. Chairman, can I add a point? Can I add something to that? Which is, I just want to say that I think in the state of Washington, which is a state that U.S. Cellular operates in, that consumers would be worse if the plan is adopted as currently worded, because the funding to wireless and the ability to reach the rural communities that we would want to reach and further expand in Washington would be hampered.

And you know, if the right of first refusal is activated, that further, you know, hampers our ability against a smaller fund to even go in and provide service. And I think that, you know, for the price-cap carriers or the wireline carriers, if they get the funds through right of first refusal, they could still use that to build out a wireless network. So, you know, that may or may not happen.

But I know that given the way that the wireless companies like U.S. Cellular look at rural communities, they would be hurt in that scenario.

Senator CANTWELL. So, Commissioner Jones, does it make a difference that the FCC is not, obviously, reforming the contribution mechanism at the same time it's reforming the high cost distribution mechanism?

Mr. JONES. I think it does, but I think it's a remedy that we can address later. We were hoping—especially some of my state members—were hoping we could do it all at once. Chairman Martin, the previous chairman, put it in his plan, as you know, at the end of 2008. And that was almost passed. I think Commissioner Copps and Commissioner McDowell were actively involved in discussion of both contribution and disbursement. But for whatever reason, they've chosen not to put that in.

So, I would prefer that it be dealt with now. But the issues of how to assess contributions, the IP issues, are somewhat complex. So, I think they can be dealt with later.

Senator CANTWELL. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cantwell.

Senator Pryor, to be followed by Senator Ayotte.

STATEMENT OF HON. MARK PRYOR, U.S. SENATOR FROM ARKANSAS

Senator PRYOR. Thank you.

Ms. Bloomfield, let me start with you, if I may. Regarding the ABC Plan, and I guess the consensus plan as well, there is this right of first refusal that is in the proposal. What—and I'm just not as familiar with it as you are—but, what is the time-frame for an incumbent carrier to determine whether they're going to exercise their right of first refusal?

Ms. BLOOMFIELD. And Senator Pryor, I don't mean to be passing the buck, but the RLEC Plan does not have a right-of-refusal proposal in it. So, Ms. Abernathy is probably better situated to answer that question than I am.

Senator PRYOR. Good. Good.

[Laughter.]

Senator PRYOR. Down the table we go.

[Laughter.]

Ms. ABERNATHY. Here we go. OK. I'm looking at the timeframe. I believe the way it works, though—and I'll have to be clear on this—is that you have within the first year of—well, it depends on how the FCC ultimately adopts the plan.

Senator PRYOR. Right. Sure.

Ms. ABERNATHY. But if there is a right of first refusal, there would be a period of time where the model would first identify the very high-cost areas where there is no competition today, so the only infrastructure is wireline infrastructure. And you would calculate that service area, and determine whether or not you want to provide service to that territory with the support mechanisms that the revised USF funding program would offer. And you would have to either take the money and build out; or you could say that you're not going to take the money, and then it could be opened up to auctions.

Senator PRYOR. And so, is there a time frame, though, in the ABC proposal?

Ms. ABERNATHY. There is a time frame in the ABC proposal. But what I don't know is exactly how the FCC is going to——

Senator PRYOR. And do you remember what your time frame is?

Ms. ABERNATHY. I think within the first year of generating the model and adopting the program, you would have to identify if you're going to take the money.

Senator PRYOR. And then, what happens if you, say you want the right of first refusal, but then you end up not deploying broadband? What happens? Is there a "use it or lose it" provision?

Ms. ABERNATHY. Well, you know, there's certainly—traditionally, the FCC would have fines and penalties and reporting obligations. Certainly, under the plan, you would have to demonstrate that you're using the support to build out and to deploy broadband. And it would be that way whether you use an auction, or whether you get a right of first refusal. You would have to demonstrate that you're, in fact, building out and offering the services within the time-frame that's been proposed.

The big issue is the cost, and how quickly you can deploy to some of these high cost areas to get to your complete coverage over a period of time. Because it won't flash cut in 1 year to complete coverage. It'll take a multi-year process, because you'll be investing capital investment.

Senator PRYOR. All right.

And so let me ask—this kind of goes to that. On Senator Rockefeller's question a few moments ago about fairness, he asked about, you know, fairness and how do you define that? And you mentioned accountability. And that's part of the fairness that you think we ought to have.

Ms. ABERNATHY. Mm-hm.

Senator PRYOR. Does the accountability, in your mind, include the quality of the service that's being provided and a commitment to improve the technology over time? Or is accountability just a one-time expenditure, and once you put something in, you've put it in?

Ms. ABERNATHY. Well, under the wireline world in which Frontier lives, accountability is every year, every month reporting on the quality of our service, how quickly we put things back when they go down, service metrics, unbundling obligations. So, we live in a world where we report and identify the quality of our service all the time.

The issue that is, I guess, the unknown is, the ongoing investment to continue, continually bring up to the next——

Senator PRYOR. Right.

Ms. ABERNATHY.—level of service. It's hard for us, as we're building right now in all of our territories, to know exactly where we need to take it. But every year, we ask ourselves that question—Are we delivering the right speeds and the right services to our customers?

Senator PRYOR. Thank you.

Mr. Jones, let me ask you a question about the mandatory preemption that's in the ABC Plan. And you talk about how consumers in Washington State would be hurt by that.

Give the Committee, if you can, a few examples of how you think that might actually hurt consumers in your state.

Mr. JONES. One of the traditional issues in examining intercarrier comp proposals is to look at consumer benefits, consumer welfare. The ABC Plan proponents put out a paper on consumer benefits.

But a lot of that hinges on how the carriers price long distance services and how they bundle. And as you know, a lot of these services are bundled, sometimes with cable VoIP, wireless, wireline service. And it's difficult I think for consumers to understand how much of the reduction in intercarrier comp charges—and make no mistake. AT&T and Verizon, and the other long distance carriers, are going to save billions—hundreds of millions of dollars by going to .0007 or some similar rate.

So, but it's difficult to see what the consumer benefits are going to be. And so that's one of my issues, is, Washington State consumers, if you're talking about large, consolidated companies that have substantial market power, that can bundle services and not break it out—as the Chairman said, it's kind of difficult on a line item basis to see. You know—intercarrier comp is going to .0007; my bill's going down?

The other thing is consumer complaints. We just don't think that shifting consumer complaints about billing, service quality, to the FCC in Washington, D.C., instead of Little Rock or Olympia, Washington, is a good thing. It takes longer. They're going to be inundated with consumer complaint issues.

So, those are just two issues I would raise.

Senator PRYOR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Pryor.
Senator Ayotte?

STATEMENT OF HON. KELLY AYOTTE, U.S. SENATOR FROM NEW HAMPSHIRE

Senator AYOTTE. Thank you, Mr. Chairman.

Chairman Powell, I wanted to follow up with you on Senator Warner's question that Commissioner Abernathy answered, with respect to replacing the right of first refusal with a reverse auction. I'm a strong advocate for this process to be competitively and technologically neutral. So, as you're aware, when we talk about what the commissioner said in terms of how long it would take to implement an auction, can you help us understand how do you think that process would work, if the Commission chose to go in that direction, as opposed to this right of first refusal?

And how long do you think that would take, in terms of moving forward to address getting down to the user level of where consumers in New Hampshire might have greater access to broadband?

Mr. POWELL. You know, as best as I've understood the ABC's consensus plan participants' principal talking point that, you can't do competitive bidding because somehow it will take too long, as measured against what, you know, decades of not serving these communities; and that somehow the competitive bidding process is some order of magnitude worse.

I think that's an exaggerated argument. First of all, it downplays how complex and how time-consuming it's going to be to even build the first refusal model—the FCC computer model that's going to determine these areas.

It also ignores the fact of what the Commission is going to have to do, design an auction process anyway, because there will be carriers who don't exercise the first refusal. They won't have the luxury of doing one or the other. They'll have to be prepared to have an auction system in any event, for areas that won't be subject to this particular model; and, even in the cases of the model, when people choose not to do it.

The Commission is the probably the best expert in the world on auctions. I think it has more technical expertise and capability and experience than any other regulatory body on the planet. I have every confidence. They have been tasked numerous times to develop competitive bidding processes for everything from wireless to other kinds of auctions. And I just think that, at the end of the day, being hasty and being efficient for the long term are two different things.

And I think that the loss of ability and the sanctioning of a monopoly model over the efficiencies that are gained by competition over time are not worth the couple of extra months—even if I were prepared to concede that, which I'm not—that might be gained by first refusal over a competitive process.

Senator AYOTTE. Thank you.

Ms. Dillon, I wanted to follow up. Thank you for taking the time to come in and meet with me yesterday.

As a follow-up to your testimony, when we met yesterday, one of the things that really kind of shocked me when I delved into this further was that my state, New Hampshire, is contributing to the Universal Service Fund $25 million per year more than we are receiving back. And in a state of 1.3 million people, that's a lot of money.

So, what steps do you think the FCC should take to ensure a more equitable distribution of the Universal Service Funds to those unserved households in each state?

Because in my state, there is a very significant part of northern New Hampshire that doesn't have full access to technology. It would enhance our economic development in that area. And so, when I look at this number and I think, wow, we're giving $25 million more back to other people, so that New Hampshire consumers are paying in, that's really shocking to me. So, I'd just love to get your thoughts on that.

Ms. DILLON. Sure, absolutely.

Senator AYOTTE. If anyone else has any insight, I'd appreciate it.

Ms. DILLON. Yes. I was going to say, I bet there are some experts here. I'm kind of the new kid on the block in the industry. I'll tell you, that is one of the things that has me scratching my head, too. It doesn't really make a lot of sense. And I certainly know that is, the FCC is looking to reform USF. The more fair distribution to states I'm sure is part, I know is part of the agenda. I'm sure there's others here who can speak more specifically to what would be the right way to get at that. But I think that's a great opportunity for the reform that's on the table.

Senator AYOTTE. Mr. Jones, did you have something you wanted to add?

Mr. JONES. Well, I don't mean to be humorous here, but we are not—you live in a relatively small state, and fairly densely populated. States in the west—Montana, Wyoming and others—are less densely populated. They have great expanses.

So, it's just a fact of the way we've designed the system, to support carriers in high cost areas, that states like yours, and Massachusetts and others, have traditionally been net donor states. And then other states are net recipient states. And that is probably an issue of fairness that we've been grappling with, with this program for decades.

And it gets back to, I think, when the Congress and FDR developed the Rural Electrification Service and Rural Telephone Service in the 1930s and 1940s. These were Federal appropriated funds. And the country decided to do this, to extend service out to these rural areas. And obviously, there was a cost proportionally more to people in your state than in the state, in these vast expanses in the west. And that's beyond my pay grade. That's more of your decision.

Senator AYOTTE. I just want to be clear—any of you that come visit New Hampshire, I'd like you to come to the northern part of our state.

Mr. JONES. OK.

Senator AYOTTE. Ninety percent of the population lives in the bottom half of the state. So, the other half of the state, the top half of the state, where some wonderful people live, my constituents, basically they don't have full broadband access. They are underserved in many ways. So, it's tough for me to go home to my constituents and say, we're donating $25 million and we should keep doing this. So I hope that the FCC will take up this issue.

Ms. BLOOMFIELD. And Senator, if I could just add, that's where I think the carrier of last resort obligations will actually be pretty powerful. Because what they will say is, if you're getting USF support, you must build out, and particularly as it transitions to a broadband fund, you must build out in those areas.

So, I think you'll see—again to that point of accountability. It has the potential to shift where some of those resources are spent.

Mr. POWELL. And Senator, if I could just add, one thing you might focus on, that I think is always challenging—and you want the FCC to get right—is whether the targeted areas are sufficiently granular that they will pick up remote parts of your community and not be swept in by some more populated density that's within the jurisdictional boundary.

That's part of what goes wrong with this program all the time—that it doesn't change the life of the citizen in rural northern New Hampshire who doesn't have the service, but in a sense is being penalized, because they're being captured by a study area or a area in the model that sweeps in other, more dense populations.

So, I think the more granular the FCC can be in the way that it targets the program, the better the chances are that you get a, quote, fairer share of that support.

Senator AYOTTE. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Begich, and then Senator Thune.

STATEMENT OF HON. MARK BEGICH, U.S. SENATOR FROM ALASKA

Senator BEGICH. Thank you very much, Mr. Chairman. And thank you for holding the hearing.

When you made your comment about the one carrier, you weren't—your picture of your map was all white, not the red—we, we're not on the map, just so you know. We don't have that service at all.

[Laughter.]

Senator BEGICH. So, I want to make that point, because that's interesting—when you look at the data, you know, 1 percent of the country is not served by wireless—almost 15 percent of Alaska. So, when I hear Senator Ayotte talk about New Hampshire, which is about the size of this little bit of Alaska—no disrespect to New Hampshire——

The CHAIRMAN. Senator, please be respectful to New—[Laughter.]

Senator BEGICH. I am. I just pointed out the size of Alaska. I always——

The CHAIRMAN. One of the states, one of the original states.

Senator BEGICH. That's right. And I always like to—on my business card, instead of putting Alaska by Baja or down by Mexico, I put it where it's in proportion to the rest of the country. And you can kind of, you see from here.

[Laughter.]

Senator BEGICH. Probably people in the back can see it.

The reason I bring that point up is, Alaska—when you talk about high cost delivery system, there's no state—maybe Hawaii because of its location and so forth.

So, I guess I first want to get a general comment from each one of you. Do you—and I, you know, absolutely, I'm parochial and biased about this, because anytime someone says reform, it usually means a state that's just become a state in less than a little over 50 years, doesn't have the infrastructure, like a New Hampshire or West Virginia, Arkansas, Minnesota. We're building our infrastructure for the first time.

How do you view—and it is a leading question—How do you view Alaska in comparison to these national plans? I mean, it is a very unique and different place.

And I'll start from here and kind of move down, if that's OK. Because, I guess my point is—and also, with tribal lands, we're much different than the lower 48. We don't have reservations. We decided to take a different route, which has actually been more beneficial for the first people of our state, economically, socially, educationally, many other avenues. So, I think we've done some things that have actually proved to be right.

So, how do we address the high cost when they start capping or limiting capacity for landline as well as wireless, in the sense of what they can utilize from the Universal Service Fund?

Ms. ABERNATHY. Thank you, Senator.

The FCC has always traditionally treated the insular areas and Alaska, Hawaii, separate and apart from what this plan would focus on, because, frankly, designing a plan for the other states just would not work in Alaska.

I know Chairman Powell and I had the opportunity to visit Alaska when——

Senator BEGICH. Right.

Ms. ABERNATHY.—we served on the Commission. And until you've been there, you fail to appreciate the challenges. So, I fully expect that the FCC will have a totally separate program.

Senator BEGICH. And, do you agree with that?

Ms. ABERNATHY. I do agree with that.

Senator BEGICH. OK.

Ms. ABERNATHY. Absolutely.

Ms. DILLON. Yes, I'm not as familiar about what the FCC plans as a separate program. I would just say that, you know, the whole spirit of Universal Service funds is to make sure that people have access to the technologies that they need.

And you know, in a state like Alaska, you know, all the more so I think that the need for wireless technology—and even if there's not lines, but we also have plenty of licenses in areas that we use microwave technology to move, you know, the signal from tower to tower.

So, you know, I think it's in the spirit of why I feel strongly that wireless, as part of this equation, needs to be adequately funded, whether it's for any part of the United States where service is still required.

Mr. POWELL. Senator, I'd just say quickly, I always knew that it was different. I didn't fully understand until I spent 10 days there. And, it is a remarkable environment, but one, from a communications standpoint, if you throw it into the average, will always break. It can't be treated, it just can't be treated in the common, run of the mill approach to the average of the Nation in that way. It's one of the reasons why, when we submitted our amended version of the ABC Plan, we just carve out Alaska. And it should be addressed uniquely.

And by the way, the Commission always has flexibility to deal with outlying situations——

Senator BEGICH. Right.

Mr. POWELL.—and they should. I mean, I think any plan that wouldn't provide the Commission the legal flexibility to make exceptions around the edges would be a mistake.

Two other points I'd make real quickly—and this is to Alaska's benefit—the reason it's so important to get financial control of the program is so that the money is used in the most needy of areas, and it's redirected from areas that need it less so.

And so, you know, I think it's in Alaska's interest, and most rural states' interests, to make sure that there's a fiscal efficiency in the program.

And then finally, I would say the beauty of the technology revolution is that it's built new tools and put them in our toolbox to solve hard problems. Alaska is a multi-technological problem. The idea that you'll solve——

Senator BEGICH. Challenge, we like to say.

Mr. POWELL. Challenge, challenge, OK. Opportunity.

Senator BEGICH. There you go.

Mr. POWELL. But it's just the reality. You want wireless. You want wired. You want wireline. You want satellite. You want anything that the wizards of technology can invent that change the fundamental economics of serving those communities. And that's why we think technical neutrality is so valuable in the program as well.

Senator BEGICH. Sure.

Ms. BLOOMFIELD. So, as you know, Senator, we represent a lot of carriers in Hawaii and Alaska——

Senator BEGICH. Right.

Ms. BLOOMFIELD.—and some of the very tribal areas. And we are really hopeful that the FCC will find a way to craft, for those carriers of last resort in those areas, a path forward, and a way to do it without necessarily taking away from other rural consumers.

And I think one of the things that would be really helpful would be to have those carriers in Alaska and Hawaii, as a matter of fact, come into the FCC and really open up their books and show their costs.

Senator BEGICH. Mm-hm.

Ms. BLOOMFIELD. Their costs are very unique. Their infrastructure is very unique. Come in and show those. And I am very hopeful that the FCC will figure out a way to kind of carve a different path, and kind of address those different challenges that those carriers actually face.

Senator BEGICH. Very good.

Mr. Jones?

Mr. JONES. Alaska is not only unique, but it's a good business partner of the State of Washington.

Senator BEGICH. We know that.

Mr. JONES. And we have many—we know GCI. We know your fiber networks well. And we also know the unique needs that you have. And I think most of your needs are met under the rate-of-return, the *restriction on removal,* the rate-of-return carrier plan that was submitted jointly on July 29th. It pretty much makes them whole.

And I haven't been an FCC commissioner like Michael and Kathleen. But my understanding is that they always make exceptions for remote and insular areas, and recognizing those unique needs.

Senator BEGICH. Very good. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. And congratulations on your extensive explanation of Alaska, and how it belittles every other state.

[Laughter.]

The CHAIRMAN. Indeed, the United States itself is barely visible.

Senator BEGICH. We just like to make the point.

The CHAIRMAN. I see. OK.

Senator BEGICH. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Thune, and then Senator Klobuchar.

STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Thank you, Mr. Chairman.

And hearing about the distinctiveness of Alaska explains the distinctiveness of Senator Begich. I think that's a——

[Laughter.]

Senator BEGICH. Please note, I did not mention your state in a comparison.

Senator THUNE. Yes, yes, yes. Thank you. I appreciate that.

I, too, want to thank the Chair and the Ranking Member for having today's hearing. This is an issue that's important to a lot of us that represent rural areas. And South Dakota isn't as rural as Alaska, but we have lots of people who have an expectation, I think, and many of us have become accustomed to using home computers and mobile devices to pay bills, make purchases, conduct business and just communicate.

And it's essential in a knowledge-based economy that we have broadband service. In fact, it's become an absolute necessity. So, I, I'm enthusiastic about the substantial growth that we've seen in the telecommunications sector of our economy, but it's concerning that we still have areas in the country that are un-served and that lag behind the rest of the U.S. population. And I hope that—it's very important, in my view, to ensure that the FCC enacts USF reforms that help give all Americans, including those in rural areas and tribes, access to broadband service.

And Senator Klobuchar and I, a month ago, wrote the FCC, basically expressing general support for the ABC Plan, that it was a good framework for U.S. reform, and that it's achieved a remarkable level of consensus on an issue that's very complex, and which sometimes defies a, you know, a consensus of that type.

So, it's not a perfect solution, but we think it would be unfortunate that if, that that consensus, after having been reached, after so much difficult negotiation, get destroyed as a consequence of making the perfect the enemy of the good.

So, anyway, I would just like to pose a couple questions, if I might today, to a couple of folks on the panel.

Mr. Powell, I know your organization's voiced opposition to the plan's proposed right of first refusal. And I know you've addressed some questions about that today. But I'm interested in knowing what your thoughts are about tailoring the ABC Plan to take into account the cable industry's concerns, but still permit a right of first refusal. Is there a middle ground that the cable companies would find acceptable with regard to that issue?

Mr. POWELL. Well, I would reiterate that we generally still oppose right of first refusal under any modification, because we think, at the end of the day, we still should be given a fair opportunity to compete.

We do think, though, we have proffered, at the request of the Commission, alternative proposals that we would find, you know, more palatable.

For example, the current approach in the ABC Plan would allow for right-of-refusal for a company that serves 35 percent or more of an area. We believe if the public interest is to bring architecture and infrastructure to areas that have previously been unserved, it should be—it's upside down. It should be the other way. If you serve less than 35 percent, and you get the right of first refusal, then at least the public benefits by you assuming an obligation to serve the remainder of that unserved area, as opposed to receiving a subsidy for an entire area in which you already are substantially currently serving.

I can get you the specific details of the proposal we submitted. But that was one thing offered in the spirit and at the invitation of the Commission, to try to find compromise on that point.

Senator THUNE. At the end of the day, though, doesn't the cable company—cable industry, I should say—benefit from achieving a reasonably acceptable result with respect to USF reform, rather than having no result at all, or even maintaining the status quo?

Mr. POWELL. Oh, absolutely. And we've said repeatedly that we agree with a huge percentage of the ABC Plan. We've said 70, 75 percent. Who knows how to exactly measure it? And in fact, the plan that we submitted to the Commission in August, late August of this year, we dubbed the "amended ABC Plan".

We've been very disciplined to try to focus on four or five issues, discrete issues that are specifically important to the industry, and to champion the importance of this opportunity to reform the system.

I don't think anyone at this table believes otherwise. Missing this opportunity would be a disaster. I do take issue with the idea that if the ABC Plan is not adopted in whole, in a "take it or leave it" fashion, that that's the only path to an acceptable result.

Senator THUNE. For Ms. Bloomfield or Ms. Abernathy, we've had some who have argued that USF should not be used to support universal broadband, but rather, used for other purposes, such as deficit reduction. And I'm interested in knowing—can you explain the importance of providing USF support to deploy universal broadband to un-served areas?

Ms. BLOOMFIELD. I would be happy to take the first crack at that, Senator.

USF is really the only tool that has gotten initially even communication service out to these very remote areas. So, it's one of those things, when you look at some of these very high-cost areas, where you've got no business model that you can possibly come up with that would lead you to deploy this infrastructure, then you take it the next step, to a broadband infrastructure, that becomes exponentially more expensive to do.

So, the concern that we've got is a couplefold in terms of USF and the Federal budget. First of all, as we've kind of discussed during the course of this panel, these are funds that go between different carriers. So, it isn't money that is on budget. It isn't money that is in the Treasury. It is carrier to carrier support.

So, to take that, and then to turn it into a public debt issue, it's really, you know, you're basically taking from different pots and you're essentially creating a brand new tax on consumers. So, I think that becomes kind of a philosophical budgetary issue.

But the other thing is that as you talk about universal service and you talk about unserved areas—these areas rely on USF funding to actually get the service. And you look at South Dakota as a perfect example of that. And you know, you talk about taking that support away, and I have to be very frank with you, I'm not sure what kind of business model you could actually create to provide any communication service, and what kind of enticement you would have to have anybody come out there and actually put infrastructure and plant in the ground in some of the remote—you know, western South Dakota is a pretty tough business model.

So, we do think it is absolutely critical to ensure that you have affordable and sustainable broadband.

Senator THUNE. Thank you.

Ms. ABERNATHY. USF is critical for getting service—both phone service to these markets, and then, now, transitioning in to broadband services. And the reality is, these are markets where there will be a subsidized provider. And there will be one subsidized provider, unless we have so much money that we feel like we can subsidize two or three. And I don't think that's the way it's intended.

So, the challenge is, who gets the subsidy, and how you get the deployment out there as quickly as possible. And that's what this plan focuses on—targeting the resources; making sure that broadband is deployed quickly; and making sure that whoever is providing service in that market has carrier of last resort obligations, because that carrier will be the only provider there. You can't afford two.

You can—right now, the only one there are the phone companies—because we have USF, and because we've been able to use that money to deploy. So, as you transition to broadband, you've got to have USF. It's just not going to happen otherwise.

Senator THUNE. OK. My time's expired.

Thank you, Mr. Chairman. Thank you.

Senator BEGICH [presiding]. Senator Klobuchar?

STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thank you very much.

Thank you to all of you.

I was just hearing from our pork producers—ready for this one? There's hog rustling going on. I don't know if you know this—hundreds of pigs being stolen because they're so valuable. They are so frustrated because they don't have broadband so they can monitor the pigs like, nanny-cam type thing. I will just say, it's one example.

Other ones that are more obvious: tourism in northern Minnesota. We can't compete with the Canadian resorts, because they are not able to book as quickly, or their customers aren't able to use them. We have major companies, ADCO in Jackson, Minnesota, a thousand employees, thanks to some early projects they did down there and some of the stimulus money we've been able to connect a number of these companies—Toro—and get better broadband.

But I'm just convinced every day that this is the key for these areas, so that these jobs keep strong in the rural parts of our state.

And I guess my first question would be about the, just, bizarre situation we have right now, where one group, one town, one small county will have broadband, because of how the Universal Service Fund has been set up, but then, literally, their neighbors across the way won't have it.

And I understand that there have been incentives in place that have created that situation. I blame no one exactly. I just want to get it fixed.

And so I wondered how you feel that this, the current reform effort, will level the playing field, and if there are other things that we should consider as we look at how we make a level playing field.

If one or two of you want to answer?

Ms. Abernathy?

Ms. ABERNATHY. Certainly, under the ABC Plan, the idea, if the model works as we believe that it will, is to target the support to the areas that are not being funded today, and to target the support to the customers, not—as Chairman Powell said—not to a company, but to customers in an area. And then, whoever is serving that area will provide service.

And right now, these high-cost, low-density areas are served by the wireline companies. And there's nobody else who's shown up over the years, because, frankly, it's uneconomic.

So, I think that you've got to target the resources more efficiently to the right high-cost areas. Because, as the fund works today, because of historical anomalies—you're exactly right—you can have two communities, neighbors, and one is getting sufficient support, and one is not getting sufficient support. And we struggle with that every day at Frontier, because we have so many rural markets, we have a pot of money, and we've got to try and figure out which ones will get support and which ones won't.

Ms. DILLON. Can I add to that, Senator Klobuchar?

Senator KLOBUCHAR. Yes.

Ms. DILLON. First of all, you asked about leveling the playing field. And you know, there's plenty of states—we operate in 26 states. And much of the geography is rural. Much of it is, we're there because we are able to both put private capital and USF support for wireless.

And I'm sure that what you're talking about for your state is fixed and mobile. I mean, those hogs probably need to be tracked wirelessly, right? As they're wandering around.

Senator KLOBUCHAR. Who knows?

Ms. DILLON. But anyway, so, the notion——

[Laughter.]

Senator KLOBUCHAR. We're going to go GPS, I think.

[Laughter.]

Ms. DILLON. But the, you know, I just want to be clear that there—you know, there was a comment made earlier from the Senator about consensus around the ABC Plan. The gap in our mind is really—it's not about reform, which we agree with. It's not about if there's a role for wireline and wireless; but to take wireless dramatically down. I think most people, when they think about broadband, they're going to think about both fixed and wireless. And that would be a more level playing field.

Senator KLOBUCHAR. The importance of wireless having a role here is, you see more and more of it.

Ms. DILLON. Yes.

Senator KLOBUCHAR. If any of you——

Ms. BLOOMFIELD. So, the only other thing I would add, Senator, is that, one of the things that's a little bit in conflict is that we are working really hard, as we've put together these reform proposals, to stay within a controlled budget. I mean, it's very clear that the FCC, and certainly Congress, are very concerned about the size of the Universal Service Fund. So, you're kind of conflicted with, you know, all of the things you would like to do on an aspirational level, in terms of broadband deployment, and then what you can do from a practical perspective.

One of the things I think the consensus framework does pretty effectively is addressing some of that rural/rural divide, that, how do you have two rural towns where you may have one that is served by an NTCA member or small telephone company, who actually has been a USF recipient, and they have 3,000 subscribers. So, they do a pretty darn good job of making sure that they've got good services and good customer service, and they're very responsive, because that is their customer base. That's their community. How do you then help those other companies that also provide service in a rural area, but, you know, also have different areas they have to be competitive, like the City of Chicago, or Denver, or some of those other challenges?

So, that's where I think the consensus framework really tried to address, how do you do this with a very limited pot of money? How do you do it so that the fund doesn't grow exponentially? And how do you get as much service out there as possible?

Senator KLOBUCHAR. Mm-hm.

Mr. POWELL. Senator, one thing, just a point of clarification. One of the things that's gone wrong with the program—and this is going to end up being a commendation to this commission's leadership. All we subsidized in the past is voice.

Senator KLOBUCHAR. Mm-hm.

Mr. POWELL. It's been a voice network subsidy program. Now, what's been allowed is a certain amount of using that money to build a network that has multiple purposes. The multiple purposes have included broadband to some degree. But as a technical matter, that goes beyond the scope of what's being funded.

So, you get these anomalies in which carriers use their funds in one way——

Senator KLOBUCHAR. Right.

Mr. POWELL.—versus a carrier who used them another way.

What I do think shouldn't be lost about the big change in time in this program is that we're now going to explicitly focus on the criticality of broadband as a 21st century infrastructure.

And for all of this complicated stuff we all have got to whack through, that's really what shouldn't be lost. We've reached a moment in time and history in which the voice network is important and has served us well, but it is not where we need, it's not the ship we need to be in to go into the future. And I think this is an invaluable first step in that journey.

Senator KLOBUCHAR. All right.

One last, Mr. Jones?

Mr. JONES. Mr. Powell makes a good point. The FCC's policy, even though its voice in the Act, in Section 254, the ETCs that we designate and oversee have been deploying broadband over DSL networks for years. We all know that. So, it's—and the FCC has had a policy that its voice support. But if you can promote advanced services in these areas, go and do it.

So, the state commissions have been very cognizant of this. When we review the ETCs every year, they bring in their plans. And they all talk about how much broadband they're deploying.

And it kind of creates—to get back to my point—it creates kind of level of discomfort and potential loopholes for states and the Federal Government, because we don't regulate, or, we have jurisdiction over these services per se, because of the FCC's lack of action in classification.

But point of fact, on the ground, we're looking at the carriers when they come in and saying, northern Minnesota, put a little more—wouldn't it be good if you get a little more broadband up here.

So, it's a strange, outdated situation that needs to get fixed.

Senator KLOBUCHAR. All right. Very good.

Thank you to all of you.

Senator BEGICH. Thank you.

Senator Boozman.

STATEMENT OF HON. JOHN BOOZMAN, U.S. SENATOR FROM ARKANSAS

Senator BOOZMAN. Thank you, Mr. Chairman.

I thought you said, Senator Klobuchar, pig wrestling, instead of pig rustling.

Senator KLOBUCHAR. No, I said rustling.

[Laughter.]

Senator BOOZMAN. That's a Minnesotan accent.

Senator KLOBUCHAR. I said it with a Minnesota accent. But the pig wrestling could be really interesting.

Senator BOOZMAN. Yes. Exactly.

[Laughter.]

Senator BOOZMAN. I was thinking, you'd want wireless to take the photos. Very good.

[Laughter.]

Senator KLOBUCHAR. Thank you for clarifying.

Senator BOOZMAN. Thank you.

I want to thank you all. This has been a good hearing. We appreciate you being here.

I'd just like to kind of clarify a few things, and just ask a couple questions.

Ms. Abernathy, under the ABC Plan, would carriers be eligible for funds from both the Connect America Fund as well as the Mobility Fund?

Ms. ABERNATHY. If the carrier provides both wireless and wireline services, and you served one of these designated high-cost areas—yes. But I think it's unlikely that you'd have both a wireline and a wireless in these last, hard-to-serve parts of the country. I'd find that highly unusual. But I suppose, in theory, yes.

Senator BOOZMAN. Thank you.

Ms. Dillon, you said in your testimony that $300 million—$300 billion for a Mobility Fund is not enough; that you estimate the size of the fund should be $1 billion. Given that it's not likely that the FCC is going to go that far, is there a compromise in there?

Ms. DILLON. Well, let me step back and say that, you know, even at a billion, that's a reduction from where the Mobility Fund is today. And I think as, and we have as a mid-size carrier risk around our ability and others like us to continue to build out using that support at any level——

Senator BOOZMAN. OK.

Ms. DILLON.—if, in fact, you know, that fund can be tapped into, you know, on the price cap side.

So, actually, what we're advocating is for a separate Mobility Fund. And, you know, I would say that even a billion not only is less than today, but doesn't really complete the job. So, I don't know what the right answer is. Certainly anything more than $300 million is moving in the right direction. But less than a billion is really not going to get rural America to 4G wireless.

Senator BOOZMAN. OK.

Anybody else want to comment on——

Mr. POWELL. You know, you would assume the cable industry is all about wired, but, you know, we also are holders of spectrum, and also look at creative business plans that would allow us to use wireless functionality in parts of the country where you could extend your wireline network.

I would say one more thing, because I think it's come up a lot, this importance of COLR. First of all, to be clear on the record, I think the cable industry is more than happy to sign up for every obligation that would be required to serve these communities. That shouldn't be a reason to disadvantage us.

But as a plug for wireless, if you ask the average American consumer, if you had to get rid of every last service, then what would be the one you would most desperately rely on in a crisis or a hurricane or a storm, it would include wireless.

And I think that, at the end of the day, I don't know the right number for them. And I don't know the right number for us. But I know that any system that doesn't take account for the way that the consumers want to embrace and use and rely on communications is a terribly missed opportunity for universal service reform.

Senator BOOZMAN. Yes, ma'am?

Ms. ABERNATHY. Just to add one data point. The wireless amount that's been set aside under this proposed plan is 10 times what the National Broadband Plan thought was necessary for wireless mobility. Under the FCC's National Broadband Plan, $300 million was the total. And under this ABC Plan, it's $300 million per year for 10 years. So, it is a much larger revenue stream for wireless than was ever envisioned by the FCC in its National Broadband Plan.

Senator BOOZMAN. OK. Thank you.

Let me ask a little bit about the Lifeline program. That's something that's been under fire lately, and lots of concerns about.

Let me ask you, Ms. Abernathy, can you tell me how many duplicative claims for Lifeline support were initially found receiving benefits in your entity?

Ms. ABERNATHY. I know that we're still going through to see if there's a lot of duplication. I don't believe we had a lot. And I'll get the final number for you. Because it's easy to track on a wireline basis.

I think the duplication arose because you would fund both a wireless and wireline phone for a particular family member, and that's where the challenges and the duplication came.

Senator BOOZMAN. There may be some duplication from all—individuals duplicating with other carriers, which is another separate problem.

Ms. ABERNATHY. Correct. Which is unfortunate, and I think needs to be corrected. But having observed what the Lifeline plan can mean for certain individuals, I don't want to throw the baby out with the bath water. I think the important thing is to reform and improve Lifeline and Link Up, because it is important especially in these difficult economic times. But the duplication needs to be addressed.

Senator BOOZMAN. Does anybody else want to comment?

Yes, sir.

Mr. JONES. Senator, this is a big issue in our state. We have—I'm in the minority on this with my fellow commissioners. I voted against it. But we have a number of prepaid—these are not the postpaid carriers, but the prepaid—carriers who have come in and sought, and gotten support for, the Lifeline/Link Up program.

We—I can't mention names—but we had one carrier who, we authorized them for 1 year. And then we said we would do an audit to see how much duplicative support was done, because we have our state-based wireline Lifeline program, as well as the Federal program. And of course, that was against the rules to apply to both and receive support from both. And we found substantial duplication, because, as you know, it's a self-certification program. The states don't have an adequate data base. The FCC does not have an adequate data base.

So, it is a real problem, because the Lifeline/Link Up Program is growing dramatically. So, we applaud the FCC for its notice of proposed rulemaking. And they're getting at it.

But this is a difficult issue, because you need state cooperation. You need probably a Federal data bank where you can key in these applicants when they apply, so it's no longer self-certification, but there's some government check, where you can see that they're not receiving duplicate support.

So, it's under investigation in our state.

Senator BOOZMAN. Good. I think that's helpful.

I mean, as you said, Ms. Abernathy, there are people that genuinely benefit from the program. There is a finite amount of money. And so we want to ensure that that money that we do designate towards is going to the right people. So, we appreciate your study.

And again, I think any input that you can give for all of us—it's to all of our benefit to make sure that the system does have integrity.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Boozman.

Senator Warner, you have some additional questions?

Senator WARNER. Absolutely.

Well, let me, first of all just, commend Senator Boozman for his questions on this Lifeline issue. I think we all will concur this is a—particularly during these challenging times—a needed program.

But I have been, it's come to my attention, as I'm sure it has yours, not only some of the duplications but some of the, you know, I guess robust marketing—how's that for a politically correct term——

[Laughter.]

Senator WARNER.—you know, that has been going on in some of these areas, which—in some cases, even here in this, the District, you know—are not necessarily target, what you would think would be the targeted community, and with glaring print that says, while there is self- certification, none of this is reported.

And so, not seeming to me to be the right way to send the right message. So, I thank my colleague for raising this.

I, you know, we had last left off on interconnection. And my hope would be, particularly as we—let me come back again to my wireline friends, but also, to a degree—you know, if cable is going to be the provider, for that matter, or wireless provider—you know, don't you think we need some requirement in this universal service reform to make sure that there is clear, understandable, and timely interconnection?

Because if, you know, building out this network, whomever it may be—if the incumbent then slows down the interconnection ability, you know, you can put a lot of capital to work that looks good on paper, but never gets then into service that folks need.

So, anybody want to address some of those issues?

Ms. BLOOMFIELD. I would just say, Senator, that there really is no incentive for our carriers to not do interconnection. I mean, the more robust—the more options you have for your consumers, the more robust the network is. So, I don't really see interconnection as being a huge issue for our segment of the industry.

Senator WARNER. So, you would then not have a problem with if there was a requirement of robust interconnection——

Ms. BLOOMFIELD. Among all carriers.

Senator WARNER.—amongst all carriers, at a competitive rate, within a certain timeframe, and if suddenly—you know, again, not to show my post-1996 scars, when I was in the private sector. But if, you know, suddenly the incumbent carrier always had some reason or another why they just couldn't get to it right then and there——

Ms. BLOOMFIELD. Right.

Senator WARNER.—you might even, you wouldn't mind your side of the business, a timeline and——

Ms. BLOOMFIELD. Absolutely. I think that would be very easy to live up to, and I think, from a consumer perspective, would be very important. So, no, I don't see that as being an issue.

Mr. POWELL. Senator, if I could?

Senator WARNER. Everybody can. I'd love to get everybody——

Mr. POWELL. If I could, one issue that we have, that is evident in the ABC Plan, is an issue that is related to interconnection, which is tandem switching services.

Under the ABC Plan, the largest incumbents have made a play for having those kinds of connective services be deregulated in markets that we're strongly concerned still desperately depend on good regulatory overseeing—interconnection and traffic distribution networks. Otherwise, we could be left in a situation of having to either replicate that at great expense, or not have an adequate number of competitive alternatives to keep those rates reasonable if they're otherwise not regulated.

So, one of the items and issues that we've put on the record is similar to the line of a concern you're raising, and that's with respect to tandem switching in the ABC proposal.

Senator WARNER. Ms. Dillon and Ms. Abernathy?

Ms. ABERNATHY. I guess I would point out that today the wireline companies are the only ones that are subject to unbundling. And we do this and none of the other competitors do this. None of the other competitors would think about, sort of, sharing their network with their competitors. This is what we do. We interconnect with other competitors. This is the world in which we live and the way in which we're regulated. And it's just the way it is.

And as I said, I think it comes along with when you take Federal Government dollars to provide certain services, there are obligations that go along with them. And those obligations include carrier of last resort. They can include unbundling. They can include performance metrics. They include reports, accounting safeguards. We do it all.

Senator WARNER. So, again, that would, I would take, then again, that as a sign that whatever USF reform came to place, having a requirement for timely interconnection, you know, yes——

Ms. ABERNATHY. I think that will happen anyway. But if the parties think that it needs to be regulated, we're used to regulation.

Senator WARNER. I was very current, circa late 1990s. So, I'm, you know, I'm no——

[Laughter.]

Mr. JONES. Senator, there's something that we've done. As you know, Section 251 and 252—the issue is not so much interconnection as, what happens when the carriers don't agree on terms and conditions? As you know, sometimes the incumbents, as Kathleen said, don't want to open up their network. So, if there's a dispute, where does it go? Does it go to the FCC? Does it go to the state commission?

Under 251 and 252, we think we do that pretty well, in a timely way. We usually complete our arbitration disputes within 9 to 12 months. I think the FCC takes a little bit longer.

So, if you want to give that to us, we'd be happy to take it. But we do have this jurisdictional issue.

We have arbitrated some disputes with some of Michael's companies, cable, VoIP issues like directory listings and, you know, different parts of interconnection. But formally, they aren't subject to our jurisdiction. We, I think we carry out those dispute arbitrations, you know, for the benefit of the network. And we do it. And so we could do it here too.

Senator WARNER. Can I ask another, Mr. Chairman?

And I'm not sure whether—I apologize. I had to step out for a couple other calls. But have of our colleagues gotten into the question of capping the growth of the fund at any point or——

Senator BEGICH. Off and on, members have mentioned and talked about it. But if you want to go into it, it's OK.

Senator WARNER. Yes. I just was, just curious. I mean, you know, we all know that USF has grown to over $8 billion. We all know we've got, you know, this high cost—which most of conversation has been about today—a little over $4 billion.

We also know a lot of our consumers. And I, like, probably many of the states, have got consumers that pay in more than we get back. And there is some notion of shared responsibility on this.

But I'd be curious—and recognizing again we've got that, you know, I think one of you all mentioned there's a study that said on the low end, $20 billion plus to build out broadband availability close to 100 percent. I mean, I think that's still relatively slow. You know, we've probably get a delta more between 20 and 55. Twenty-three and 55 are the numbers I'm using.

You know, what would all expect or anticipate? And should we cap the fund, the High Cost Fund? What should it be? What would it look like in 5 to 10 years, recognizing we've got, we really are going to have this need for this public support to make sure that all our folks get broadband services?

Ms. DILLON. Well, I'll start. You know, the $10 billion to $20 billion that I quoted was through the lens of wireless, and bringing 4G wireless throughout the United States, and more for fixed, obviously.

And, you know, we—I think the notion of——

Senator WARNER. I liked your subtlety with that more for fixed comment.

[Laughter.]

Ms. DILLON. Yes. The—well. The, anyways, the notion of reform, I think, on the table, is capping the fund, which, you know, we don't have a problem with. It's really, I think, the balance of what is in that fund and how it's allocated.

So, you know, I hate to be a broken record, but I think the balance of most of that fund, if it stays at $4.5 billion, shifting to fixed versus wireless, just sort of doesn't—flies in the face of where the world is heading.

So, it's not, I mean, it doesn't need to be an either/or. And the fund should be capped, given that we, you know, that's, I think that's the responsible thing to do.

Senator WARNER. Others want to——

Ms. BLOOMFIELD. I'd love to chime in.

So, one of the things the 1996 Act really set out was that USF should be specific and predictable, and it should be sufficient. And I think that is actually a part of the law, as it stands today.

And I think one of the things about a cap is, how can you ensure that you are actually meeting your legislative mandate if you have a cap on the program? And one of the things—you know, if you look at the High Cost Fund, it's 4.2-some billion dollars.

And you think about—when I listen to everybody talk about, you know, the infrastructure of Kathleen's companies, and certainly the companies in Washington State that Phil works with, you know, when you think about the broadband deployment that's been done with, you know, $4.2 billion, I mean, it's an amazing job that has been actually accomplished with a very limited amount of resources that have been allocated toward it.

And that's only, you know, the High Cost Fund is only half of the entire USF. You've got Schools and Libraries. You've got the Low Income. You've got Rural Health. So, you've got a lot of other pieces out there.

So, I think that, again, part of it comes down to what you all as policymakers want to try to achieve. A cap I think would be stifling. It certainly would not go, fit in with the 1996 law itself.

And I think that, you know, one of the things we have done in terms of our reform proposal is, we have proposed a very small growth factor—2 to 3 percent on an annual basis. What that will allow in the rural carriers that we provide service to—40 percent of the land mass of this country, is the ability to build and sustain those networks.

I, you know, I think a two to 3 percent growth rate on an annual basis is actually very small and gets you a lot of bang for your buck.

Mr. POWELL. You know, one thing worthy of noting for the record—and Shirley mentioned other Universal Service Programs. Every other part of the Universal Service Program is capped.

Schools and Libraries is a worthy, notable objective, put in place in the Universal Service System by Congress in 1996, and it operates under a cap, even though demand exceeds supply.

At the end of the day, when you have a Federal program that's paid for by the American consumers, some degree of fiscal constraint—and not suggesting that a word like sustainability can mean an infinite level of growth, at the expense of consumers, is not a fair balance, in our judgment, of the various equities between both the burdens associated with the program and the benefit.

The Rural Health Care program is also capped. A lot of the industries that object to the cap today were more than happy to have the cap imposed on competitive ETC carriers and wireless when the fund was growing.

Caps shouldn't be done bluntly or without some predictive judgment of need. But the notion that a program of this magnitude, of this size, involving the American taxpayer, without meaningful enforcement of fiscal restraint, seems to me, in this day and age, a big mistake.

Ms. ABERNATHY. I would point out that the ABC Plan is built around a $4.5 billion fund. It's not built around any growth in the fund, because that was one of the mandates that came down from the FCC, as far as what we want to look at and what we want to consider.

And it may be less some years, more other years. But it's supposed to stay right in that framework. And I think it's a challenge. But you have to be fiscally responsible.

Senator WARNER. One last—I just am curious. And this is—and obviously, wireless has been very, very good to me, you know. So—but I, and I understand your concerns from the wireless side. We're at, you know, you're at $1.2 billion right now. The notion on the ABC is about $300 million.

But the whole notion of kind of carve outs, even for something that has been as successful as wireless has been—- I just wonder how we square that if we're going to also continue to think we want to be technology-neutral.

Ms. DILLON. Right. Well, the plan that's being considered is not technology-neutral. It disfavors wireless, because it takes wireless down. So, we're just asking that wireless—we recognize it's probably going to be somewhat down, but not down to the point that it's incapacitated.

So, to me, that makes it more technologically neutral, to bring it up to something that's more workable.

Senator WARNER. Anybody else want to weigh in on that? Because, I mean—Mr. Jones, I just think that we, you know, as we talked about the 1996 Act when it was still telephony; moved to wireless; we're now talking about IP. You know, hopefully somebody is sitting out there who's got the next thing coming along. We want to make sure that we don't box that out of a possible deployment strategy.

Mr. Jones?

Mr. JONES. I just think the very nature of a cap—and as Michael said, it does have the—Schools and Libraries and other programs have caps. Caps have the discipline of wringing inefficiencies out of a system.

And so, whether it's eliminating the identical support role, where wireless carriers are compensated on the basis of wireline costs—I mean, is that rational? Probably not. Is it rational to have multiple carriers in a study area, when you're limited?

I think—so part of the process of setting a cap, I think, will wring some efficiencies, and the re-targeting will work.

However, I don't think wireless should be excluded from the mix. Wireless can compete in certain areas. U.S. Cellular provides a very valuable service in our state, in some of the high-cost areas, to the Yakima Tribal Area. They provide excellent service.

So, the trick is in the details, to try to come up with wringing those inefficiencies out of the system. I support a cap, or a budget, for the time being—I think the carriers are saying the word budget, not cap—because we don't understand all the formulas that support the rate-of-return carriers in particular.

But once we understand that, let's give the budget a try. Let's wring the inefficiencies out of the system.

But my challenge to you is, I think if you have a need, as you say, that's $10 billion or $20 billion, you have a budget that's $4.5 billion, and then you want to accommodate wireline, wireless, cable VoIP, and maybe even over-the-top VoIP, new technologies—it's very tough to do. So, you have to make some hard choices.

Senator WARNER. Again, then, thank you, Mr. Chairman. I would—good enough to end on it. But we, you know, as I think a couple comments have been made, USF reform is long overdue. But there is still, you know, there's, this is not all a bad story. This is a success story as well. And trying to just give a framework to make sure we get the balance of the country covered in a way that's fair, that provides that 21st century infrastructure that's so desperately, is really helpful.

And I, you know, I know there are differing viewpoints at the table here. You know, but I would commend the industry of trying—this stuff gets very dense, very quickly, when you kind of get to the second and third layer down.

But the more you all can find some commonality—and I know there was one of my wireline—up here, carriers came and talked about the fact that they didn't really realize what the firestorm, the right of first refusal might have set off.

I do think there are other ways to recognize invested capital and how we get it out there quicker that might be more elegant than a right of first refusal. I do think that trying to get, you know, I'm glad to hear that I'm behind on interconnection. But, so, putting something like that in would be helpful, because I think there still can be challenges around that.

I do—and I know we've touched on this briefly, on the acts, and I think Ms. Abernathy made a good comment that there was a transition period—but trying to make sure that we get, that we don't under-compensate on access charges on, you know, kind of next generation IP that we disincent people to make the technology upgrades, because they want to maintain the higher access charges for the, yesterday's technology, are all things that we hope you'll keep working on and sorting through.

And again, Mr. Chairman, I appreciate you holding this open perhaps longer than you anticipated for me to get another round in. Thank you very much.

Senator BEGICH. I'm a patient person.

Thank you all, really, I want to echo those comments—for your work and your comments today, but also before, and I'm sure after, as we continue to work through these issues.

The hearing record will be kept open for 7 days.

And I would like to enter, on behalf of the Chairman, for the record, a statement from ViaSat, a satellite company that provides consumer broadband.

[The information referred to follows:]

PREPARED STATEMENT OF VIASAT, INC.

ViaSat supports the efforts of Congress and the Administration to facilitate the deployment of affordable broadband services to all Americans. We are encouraged that the FCC's National Broadband Plan explicitly recognizes the major improvements we are making in satellite broadband, as well as the role satellite can play in cost effectively ensuring universal availability of affordable broadband access.

As the Senate evaluates the pending reform of the High-Cost universal service support mechanism, it is our hope that you consider the following recommendations.

ViaSat's Credentials

ViaSat is a U.S.-based company founded in the home of one of its co-founders 24 years ago. ViaSat is a leading provider of communications networks to U.S. consumers, enterprises, and the U.S. Department of Defense. We are also one of the leading providers of consumer broadband, enterprise and government satellite networks on a global basis. We invent, design and build telecommunications technology. Our goal is to transform the way satellite broadband services are provided today to homes, businesses, community organizations, and first responders, as well as for other national security purposes. We also plan to help ensure that all Americans have the opportunity to access quality broadband services.

ViaSat is investing over $400 million in the deployment of a highly innovative new satellite network that will more than triple the quality of satellite broadband service in the United States (and Canada), resulting in quality levels and price points that are comparable to, or better than, many of today's terrestrial alternatives. That satellite is scheduled to be launched next week, and to commence service later this year. In 2010, we invested almost $600 million more to acquire WildBlue Communications, Inc., which is one of the top 20 broadband ISPs in the U.S., serving homes across the Nation by satellite. WildBlue, and its distribution partners, including DIRECTV, DISH Network, the National Rural Telecommunications Cooperative, and AT&T, will be the means by which we will deliver this satellite broadband technology to the American public.

Key points:

- *Focus on the consumer*. The FCC estimates that an estimated 18 million Americans do not have access to terrestrial broadband. The satellite broadband industry is focused on the needs of these Americans. We are launching a new satellite next week to start to meet the needs of this segment of the population, by providing them a high-quality broadband experience. We have more satellites under design, and our competitors are similarly targeting new satellite services to "unserved" Americans. The marketplace is responding. Any USF reform that distorts the marketplace risks quelling continued private investment in these networks, and eliminating options for the consumer.
- *Focus on adoption*. The FCC has recognized that adoption of broadband is one of the biggest challenges this Nation faces. Affordability significantly affects the rate of adoption. A significant focus of USF reform should be making broadband affordable—both to underprivileged Americans, and to those in rural areas whose cost of service exceeds that in urban areas.
- *Do not adopt a preference for any incumbent provider*. It is widely recognized that the current USF system is terribly broken. The right of first refusal ("ROFR") mechanism in favor of ILECs that some have advocated would perpetuate the problems with the current system, and actually make things worse. Specifically, by making only one service provider eligible for support in a given geographic area, the ROFR would eliminate competition. The result would be even worse if, as proposed, the ILEC is not obligated to provide broadband to everyone in its service area.
- *Any High-Cost support mechanism should be competitively and technologically neutral.* Support should be distributed through a funding mechanism that is open to all providers, regardless of the technology they may use today or in the future. The support mechanism should eliminate the existing systematic biases that were developed to support traditional, wireline voice telephony, and should avoid creating new biases (*e.g.,* those that would flow from an ILEC "right of first refusal"). If a hard "cap" on support is adopted, it should apply uniformly to *all* service providers—including ILECs.
- *Any High-Cost support mechanism should award funds to the most cost-effective providers.* Support should be distributed to the providers that deliver high-quality, cost-efficient service to the American consumers who contribute to the universal service fund. Support should not be distributed under any "quota" system that reserves funding for less cost-efficient providers.

- *ViaSat stands ready to serve the unserved.* ViaSat and other technology providers promote the competition that today extends new and innovative services to the unserved. Without robust competition, this will not happen any longer.

Our recommendations:

A far better way exists to serve the unserved and deploy support efficiently and without delay.

- *Break down barriers to competition with market-based mechanisms to award support to the unserved.* While we believe reverse auctions are the best solution, we also support other market-based solutions. One alternative would be to employ a cost model to estimate the per-line cost of extending and maintaining service. Take into account all technologies including satellite and award based upon the lowest cost service that meets applicable standards. All broadband providers in a given area should be eligible for the same per-line subsidy. A broadband provider should be eligible for that subsidy once it wins a customer in an unserved area, and only as long as it retains that customer. Customers should be allowed to change broadband providers and port the support to the new provider.
- *Control costs by funding cost-efficient solutions and actually service to consumers.* Today, USF support often bears no relationship to the lowest cost solution, or to the number of consumers actually served. In fact, a provider who loses customers to a competitor may still receive the same level of support. The size of the fund can be constrained by basing support levels on the most efficient solution, and by tying support to the number of customers a provider actually serves. Providing support on a per-line basis would provide an incentive to win and retain customers.
- *Do not establish quotas for different technologies.* An *a priori* allocation of support to different technologies would violate non-discrimination and technology-neutrality requirements. Given the significant role that satellite and other wireless broadband providers are playing in the marketplace, the proposal of ILECs to allocate only about 5 percent of USF support to satellite and wireless technologies is grossly inadequate.
- *An "exit strategy" from the existing High-Cost support mechanism should be developed.* The legacy support and ILEC preferences that exist under the current High-Cost mechanism should not be perpetuated. A short term (*e.g.,* three year) transition mechanism from the existing program may be appropriate, however.

The High-Cost universal service lawmaking process should consider the interests of all stakeholders—including consumers, state governments, and public interest groups. Accordingly, we stand ready to work with all interested parties to develop reform proposals that represent a true reform and a true industry consensus, and that will benefit the American public.

Senator BEGICH. Thank you all very much.

[Whereupon, at 4:51 p.m., the hearing was adjourned.]

APPENDIX

PREPARED STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY

Since 1997, the Federal Government's Universal Service Fund has subsidized the cost of affordable phone service in rural areas and for low-income families.

The public finances this subsidy through a surcharge tacked onto many customers' phone bills. Unfortunately, consumers in the most populous states end up paying more into the fund than others, but without receiving more benefits.

For example, in 2009, consumers in my home state of New Jersey paid $4.68 to the fund for every dollar they got back. The state's total contribution that year was $248 million. Similar disparities exist in other states.

The Federal Communications Commission is planning to modernize the Universal Service Fund, shifting its emphasis from paying for rural phone service to expanding broadband service to the Americans who do not have high-speed Internet access.

I applaud the FCC for taking these steps. In a world where people increasingly go online to find jobs and engage with schools, cultural institutions and their government, there are many benefits to ensuring as many Americans as possible have the fastest possible Internet connections.

However, I am concerned consumers will continue to shoulder too much of the cost of financing the Universal Service Fund. As the FCC updates the fund for the public's need in the Digital Age, one of the agency's primary goals should be bringing relief to consumers in states like New Jersey and making sure their share of the cost is not unfair.

I urge the FCC to move promptly to reform the Universal Service Fund and look forward to hearing what steps the agency will take to address my concerns.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. CLAIRE MCCASKILL TO
HON. KATHLEEN Q. ABERNATHY

Question. What is the genesis of the ABC Plan's proposed $.0007 rate for Intercarrier Compensation? Is $.0007 a cost-based rate for origination, transmission, or termination of calls (access rates) on the Public Switched Telephone Network (PSTN)? Are there any economic studies in the ABC Plan or by any regulatory body that demonstrate $.0007 to be a cost-based rate for termination of calls on the PSTN? With the proceeds from the FCCs Intercarrier Compensation reform, do you expect carriers receiving those funds to pass them along to their customers in the form of lower bills, or to invest those funds in broadband maintenance and deployment?

Answer. The ABC Plan recognizes that new technologies and products are eating away at traditional wireline carriers' access revenues. Carriers are losing access lines that provide the basis for access charges. As a result, the status quo—relying on revenue derived from access payments for use of the PSTN—will not serve such carriers well in the future. Further, jurisdictional access rate disparities have led to countless instances of arbitrage, fraud and abuse, wasting billions of dollars that could have been otherwise used to deploy broadband. A transition from the policies of the circuit-switched world to that of the Internet Protocol-based world is necessary. To achieve this, the ABC Plan proposes a five-year transition to a single, low, default terminating rate of $.0007 per minute starting July 1, 2012 and completing July 1, 2017, coupled with essential opportunities for companies to recover lost revenue due to the transition. The $.0007 number for intercarrier compensation that is used in the ABC Plan and other reform proposals has been associated with intercarrier compensation since 2001. In 2001, the FCC determined that $.0007 was the appropriate compensation rate cap for dial-up ISP-bound traffic. Given the shift to all-IP networks, this rate is appropriate.

It is my impression that recipients of proceeds from intercarrier compensation reform will either pass funds along to their customers or use the funds to deploy and maintain broadband, or both. Economic analysis indicates that consumers can actually expect approximately $9 billion per year in consumer benefits to result from lowering the access rate for terminating traffic to a uniform $0.0007/minute.[1]

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARK PRYOR TO HON. KATHLEEN Q. ABERNATHY

Question I have consistently called for reform of the Universal Service Fund (USF) and the Intercarrier Compensation (ICC) system to further enable broadband deployment in areas it would not otherwise be economical. To what extent do you believe the ABC Plan and/or the RLEC Plan specifically accomplishes this goal? Are there changes to the public interest obligations and cost recovery mechanisms suggested in the ABC Plan and the RLEC Plan the FCC has contemplated that could compromise the ability of broadband providers in states like Arkansas to justify investment in unserved and underserved areas? What adjustments would and should the FCC be able to make this year to ensure that these areas receive broadband service?

Answer. The ABC Plan was filed by Frontier, AT&T, CenturyLink, Fairpoint, Verizon and Windstream in response to the Federal Communications Commission's request for industry input on addressing the outdated and inextricably linked universal service and intercarrier compensation systems. In addition to reforming these two regimes, one of the hallmarks of the Plan is that it transforms the Universal Service Fund into one that explicitly supports broadband, and targets support to the areas that are the highest cost to provide broadband service and are not served by an unsubsidized provider. In fact, the Plan will ensure that four million rural homes and businesses in high-cost areas served by price cap carriers will have access to broadband. Achieving consensus on this proposal required compromise, perseverance, and a leap of faith by all involved. The delicate balance that was ultimately achieved benefits consumers across the country, and furthers the goal of Congress and the FCC outlined in the National Broadband Plan.

Because the Plan is so very carefully constructed, even the smallest adjustments by the FCC could foil the Plan's intended goal of ensuring broadband deployment in currently unserved and underserved areas. For example, the ABC Plan is designed to stay within a budget of $2.2 billion. To abide by this budget constraint, the Plan requires providers to meet certain broadband deployment obligations, such as offering broadband at speeds of at least 4 Mbps down and 768 Kbps up. If the FCC decides to keep the fund size constant but substantially increases the obligations associated with the funding, providers would not receive adequate support and may decide not to accept the funding to deploy broadband in the unserved area. The same unfortunate result would occur if the FCC seeks to decrease the fund size with the same or increased obligations. As for the cost recovery mechanism, any near-term reforms that significantly reduce implicit support under the intercarrier compensation system without creating new, meaningful opportunities for replacement revenues will make it more difficult for companies to extend and sustain broadband networks in high-cost areas.

Frontier recommends that the FCC adopt the ABC Plan as is to ensure that broadband becomes available to currently unserved and underserved areas in the near future.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO HON. KATHLEEN Q. ABERNATHY

Contribution Factor—***Refer to Appendix A for historical data and trend lines.***

Both the industry's ABC proposal and the FCC's current efforts to reform the Universal Service Fund deal primarily with the distribution side of the program and don't really address reforming the contribution mechanism of USF. However, the contribution factor has increased from 5.6 percent in 2000 to over 15 percent present day (figure 1), in part due to the shrinking contribution based that is assessed. To illustrate, the adjusted contribution base for the 4th Quarter of 2011 is $14 billion compared to a contribution base of $17 billion for the 4th Quarter of

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[1] Letter from Robert W. Quinn, Jr., AT&T; Steve Davis, CenturyLink; Michael T. Skrivan, FairPoint; Kathleen Q. Abernathy, Frontier; Kathleen Grillo, Verizon; and Michael D. Rhoda, Windstream; to Chairman Julius Genachowski, Commissioner Michael Copps, Commissioner Robert McDowell, and Commissioner Mignon Clyburn, FCC, CC Docket Nos. 96–45, 96–98, 99–68, 99–200, 01–92; WC Docket Nos. 03–109, 04–36, 05–337, 06–122, 07–135, 10–90; GN Docket No. 09–51, at Attachment 4, Professor Jerry Hausman, *Consumer Benefits of Low Intercarrier Compensation Rates* (filed July 29, 2011).

2007 (figure 2). So if no changes are made to the contribution mechanism, the financial burden to consumers could continue to increase due to a continued decrease in interstate and international revenue.

As the statute stipulates, companies must pay a percentage of their interstate and international telecommunication service revenues to the Universal Service Fund, intrastate revenues are excluded as well as information services such as broadband Internet access. A key recommendation within the National Broadband Plan is to broaden the USF contribution base. [1]

Question 1. Should the contribution base for USF be expanded to all telecommunications and broadband providers to (1) lessen the financial burden on consumers and (2) make such assessment more equitable? And do you believe expanding the base requires Congressional action?

Answer. Under the statute, "every telecommunications carrier that provides interstate telecommunications service shall contribute, on an equitable and nondiscriminatory basis" to the mechanism devised by the FCC to support universal service. Based on this language, it may be appropriate for the FCC to expand the existing base in order for the contribution system to remain sustainable and to ensure equitable allocation of support obligations for both consumers and providers. The FCC has authority to make adjustments to the current contributions mechanism for telecommunications providers under § 254(d) of the Act.

Question 2. If you agree the contribution base should be expanded, what suggestions of reform do you have to meet the previous questions criteria?

Answer. To ensure that the contribution mechanism is equitable and not overly burdensome to both consumers and providers, the FCC should consider the possibility of other methodologies instead of or in addition to a revenues-based methodology. The focus should be on adopting a mechanism that fairly allocates the support obligations.

Contribution Mechanism Methodologies

Some industry groups and companies have advocated for the adoption of a numbers-based contribution mechanism. They have stated that such format would provide a more stable, predictable and nondiscriminatory funding mechanism that would affect all providers and end-users of voice services equitably, irrespective of the particular technology used to provide that service.

However, the major goal of the ABC proposal and the FCC's effort to reform USF are to transition today's voice-focused high-cost Universal Service Fund into a broadband-focused fund. So a numbers-based—particularly phone number based-contribution mechanism would not necessary properly map to a more broadband-centric fund.

Question 3. What are your views on the benefits and disadvantages of both a numbers-based contribution mechanism and a general revenue-based methodology, where a carrier would be assessed based on their total gross communications services (telecommunications and information two-way services) revenue?

Answer. I agree with your above conclusion that a numbers-based methodology does not fit squarely with the reform proposed in the ABC Plan. However, a contribution system based on connections, numbers or revenues, or a hybrid of those or other methodologies may be appropriate based on the requirements of the statute for an equitable and non-discriminatory system.

Voucher Program for USF

Various parties have suggested reforming the USF program's disbursement process. Instead of the USF collecting money from telecommunications carriers and then distributing the funds to households that need assistance paying for phone service, some have suggested giving the low-income households direct vouchers that they could use for communications services.

Such arrangement would be similar to the Housing Choice Voucher Program (Section 8) provided by the Department of Housing and Urban Development (HUD) to subsidize housing for low-income families and individuals. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

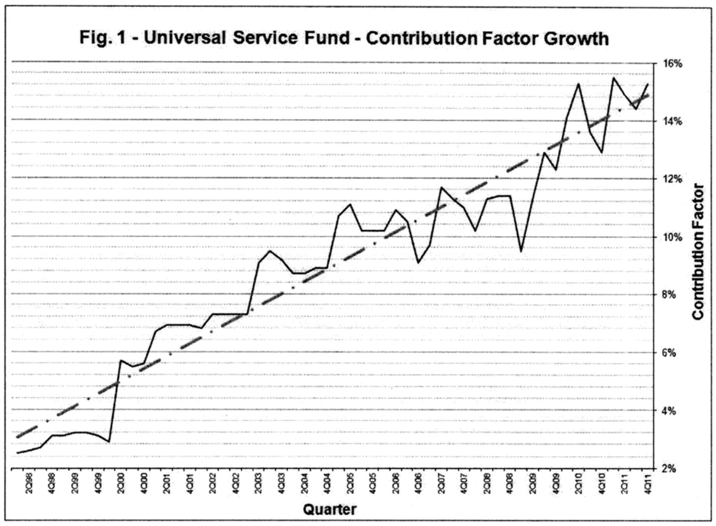
Question 4. Could such modification to a direct voucher program improve the effectiveness of the Fund as well as help reduce waste, fraud, and abuse? Is this something that Congress should examine and possibly implement?

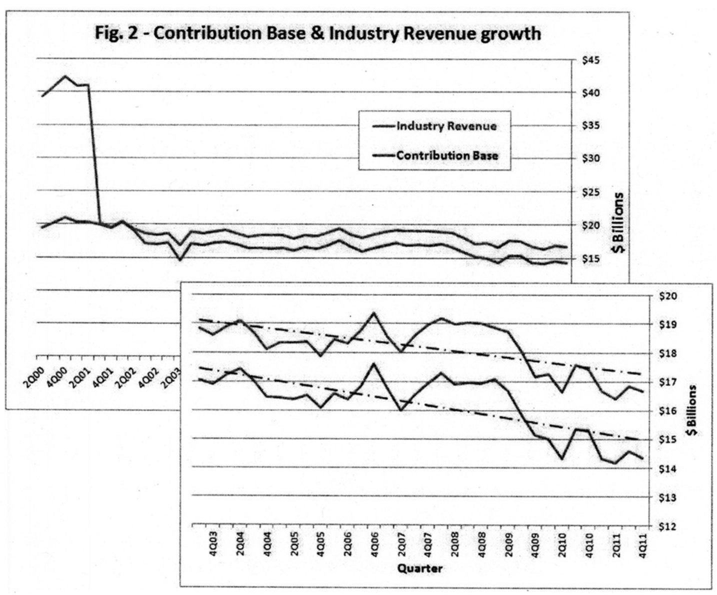
Answer. There are several options both the FCC and Congress could consider to ensure that the Lifeline/Link Up Program effectively helps low-income families and

[1] *Recommendation 8.10: The FCC should broaden the universal service contribution base.*

individuals receive telecommunications services in a way that minimizes waste, fraud and abuse. The FCC has an open proceeding to consider modifications to the Lifeline/Link Up Program that would address efficiency and waste, fraud and abuse concerns.[2] There are statutory limits, however, to the options available to the FCC, and therefore Congress may find it appropriate to examine whether a voucher program would be a more efficient means of distributing Lifeline/Link Up support.

APPENDIX A.—CONTRIBUTION FACTOR & BASE HISTORICAL CHARTS





[2] *See Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding,* Public Notice, 26 FCC Rcd 11098 (2011); *Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link Up,* Notice of Proposed Rulemaking, 26 FCC Rcd 2770 (2011).

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL TO MARY N. DILLON

My chief concern with any reform proposal is ensuring that broadband expands to those who currently do not have it as fast as possible and in a coordinated manner. We need to close the digital divide in this Nation and the current piecemeal approach in providing broadband to rural areas has led to winners and losers—some areas have broadband while many others have dial-up or no service at all.

Question 1. Under the USF reform proposals that appear to be coming out from the FCC, how quickly can you get broadband to rural areas, especially those that are unserved?

Answer. Senator McCaskill, thank you for giving us the opportunity to provide you with additional information on these important issues. At the outset, we offer some background information on the status of broadband in rural America:

As of today, most of rural America, under any rational definition of "rural," is unserved by broadband as the FCC proposes to define it—that is—4 Mb down/1Mb up. Most rural households located outside of the town centers are too far from a telephone company central office to receive fixed broadband from a telephone company and beyond the reach of cable television. Satellite broadband is available throughout the Continental United States, but does not yet deliver 4/1 service, it is a fixed service, and it currently suffers from other technical limitations that make it less useful. Many rural areas have access to narrowband or "3G" data services from mobile wireless companies, but today there are virtually no new mobile "4G" broadband networks operating beyond the Nation's major cities, as this is new technology in early stage roll out.

In urban areas, mobile 4G networks offer real world throughput at speeds well above the FCC's requirement. All four major carriers have achieved speeds between 10 and 20 Mb down and above 4 Mb up in commercial deployments. Small dongles that plug into a USB port on a desktop computer or laptop can bring these fast speeds to homes and businesses. Smartphones, tablets, and other devices with built-in 4G capabilities can put vast computer power in the hands of a mobile user.

Let me explain why mobile broadband is so critical to economic development in rural areas. Many companies are now ramping up "cloud" applications, that store data in remote locations, which a user can access using a computer or a smartphone. There are countless business and personal uses for cloud computing, most of which require a broadband connection to work properly. For example, a broadband connection enables an insurance adjuster on the road to download pictures, manuals, or data from the cloud without having to seek out an Internet connection from the nearest fixed point of service.

These cloud-based applications greatly improve productivity and will soon form a substantial reason for businesses to locate in, or move away from, our Nation's rural areas. Accordingly, high-quality mobile broadband networks are a critical component to rural economic development.

Mobile 4G broadband represents the fastest, and most economically efficient means of delivering broadband to rural consumers. Satellite technology has minimally acceptable throughput, it has latency issues, and most limiting, it is a fixed service, not mobile. Stringing wires to homes and businesses will deliver broadband and it will have societal benefits, however it is extraordinarily expensive and is not the most efficient use of scarce public resources within the universal service fund.

The FCC has just released the text of its universal service reform order, adopted on October 27. It is over 700 pages in length and we have not had a chance to fully digest its contents Accordingly, we may have additional views from those set forth below to provide after we comprehensively review the order.

In response to your question:

Under the USF reform proposals that appear to be coming out from the FCC, how quickly can you get broadband to rural areas, especially those that are unserved?

There are four parts to reform that provide opportunities for mobile wireless carriers to build broadband out to rural areas.

1. *Phase 1 Mobility Fund*

First, the Commission has created a Phase 1 Mobility Fund, a one-time $300 million investment in new cell sites in rural America. These funds will be awarded via auction in the second half of 2012. If you assume an average cost of approximately $300,000 per cell tower, this investment will result in less than 1,000 new cell sites being constructed in rural America, not enough to even make a dent in the needs of rural citizens for additional coverage. We may participate in the auction, however even if we garner 10 percent of the funds nationwide, or $30 million, that will only build at most approximately 90 cell sites, far fewer than we need to fill in our unserved areas. This will not materially improve mobile wireless broadband networks in unserved areas. Since this will be an auction where awards are made to the lowest bidders it stands to reason that the lowest cost of the unserved areas will prevail and will get all of the available funding. This means that the highest cost unserved areas will continue to remain fallow with no mobile broadband.

2. *Phase 2 Mobility Fund*

Second, the Commission created a Phase 2 Mobility fund, designed to provide $500 million per year in rural America, $100 million of which is set aside for tribal lands. The mechanism for distributing funds under the new Phase 2 Mobility Fund is not decided in this order, but are still to be determined in a new rulemaking that will likely conclude in the second half of 2012. If not delayed by litigation, we believe the new Phase 2 Mobility Fund will begin to distribute funds sometime in late 2013.

Accordingly, at this time, it is impossible to determine what the opportunity will be for U.S. Cellular or any other company to roll out mobile broadband services, but it is likely that no new construction under the Phase 2 Mobility Fund will occur until 2014 at the earliest. We may participate in the Phase 2 Mobility Fund, however even if we succeed in obtaining ten percent of the funds nationwide, or $50 million, that will represent approximately 33 percent of the funding we are using today to build cell sites in rural areas. The FCC's decision to significantly reduce funding to mobile broadband platforms constrains both public and private capital flowing to rural America.

3. *Connect America Fund*

Third, the Commission has created a Connect America Fund ("CAF") pursuant to which *any carrier* can access funding to build broadband, purportedly on a competitively neutral basis. As we understand the Commission's executive summary, the Nation's largest "price cap" carriers, AT&T, Verizon, CenturyLink, Windstream, and Frontier, will receive rights of first refusal, allowing them to be the exclusive recipient of funding for at least five years. In areas served by small rural telephone companies, funds will be set aside for the incumbent wireline carriers for up to ten years.

Accordingly, we do not expect to have any opportunity to draw any funds from the CAF for any area served by a rural telephone company for at least a decade. In any area where a price cap carrier exercises its right of first refusal, we do not expect to have any opportunity to draw any funds from the CAF for at least five years. In areas where the right of first refusal is not exercised, if it is within our licensed area we would expect to participate in whatever process the FCC develops, however there is no reason why we should be given second class status in any corner of the country.

Moreover, we think it is a mistake for the FCC to reserve approximately $4 billion out of a $4.5 billion dollar fund each year for wireline technology, despite the fact that nearly a third of residential households have cut the cord and rural Americans are demanding improved mobile services. Just last week, CenturyLink announced that it has 20 percent fewer customers than it did a year ago, continuing an inevitable trend that should cause policymakers to allocate more, not less, funding to the services consumers desire. In sum, we disagree with the FCC's decision to wall off wireline funding in the CAF is a mistake.

4. *Existing CETC Support Mechanism*

Fourth, the FCC intends to continue to provide funding through its existing support mechanism for four more years. In mid-2012, support for wireless carriers participating in the CETC mechanism will begin to phase down in five equal 20 percent increments. When our support is cut each year, we will reduce our universal service budget by a similar amount, meaning that some new cell sites in rural areas will be dropped from our build plans. We have no way of knowing whether new support mechanisms will allow us to build out our networks in rural areas. We will continue to invest whatever funding we receive in our rural networks.

Ironically, in most states, including Missouri, the existing mechanism allows us to leverage our substantial network investments by installing new 4G broadband equipment on existing towers, increasing capacity on links connecting towers, and upgrading our switching platform. An overlay does not ordinarily require building a new tower, obtaining new zoning permits, rights of way or environmental clearances.

U.S. Cellular currently has thousands of cell sites throughout the country, serving almost 6 million customers, many within vast rural areas. In Q1—2012, we will begin to upgrade some of our existing cell sites with 4G technology. Many of these cell sites were constructed with support from the Universal Service Fund Once these sites are upgraded for 4G every person who receives a high-quality signal from U.S. Cellular will have access to broadband at home, at their business, and on the road. The ability to deploy 4G on sites already built with USF support provides tremendous efficiencies and an excellent "bang for the USF buck" for accelerating mobile broadband deployment but it does nothing for areas where coverage is inadequate or doesn't exist at all.

And here is where the FCC's Order comes up short since it does not sufficiently address the obvious and substantial coverage problem in rural America. Reductions in support under the CETC mechanism reduce carriers' ability to build new plant to fill in dead zones and threaten viability of network facilities in rural areas where the revenue generated is insufficient to cover the cost of operations, maintenance, upgrades and a return on invested capital.

At a time when so much work remains to be done to provide high-quality coverage in rural America, the combination of reform programs set forth above reduce funding to mobile broadband. In addition, the FCC's policy shift, to restrict funding to a single carrier, is likely to result in a patchwork quilt of incompatible technologies throughout rural America which is going to leave consumers driving in and out of areas where they have very good signal, but an incompatible handset that cannot even dial 911.

Finally, some carriers have placed evidence into the record demonstrating that significant reductions in support to wireless carriers will result in the redeployment of cell site equipment currently serving remote areas to places where it can provide a return on invested capital.

Given all of the above, we conclude that the FCC's actions will delay service in some rural areas, cause the redeployment of assets in some other areas, pick winners in the marketplace by limiting funding to one class of carrier, or in some cases only one carrier, and unlawfully abandon the pro-competitive mandates set forth in the 1996 Act. Delaying mobile broadband deployments is counterproductive and we will ask the FCC to improve opportunities for rural consumers to access mobile broadband.

Question 2. Will cable companies, which have traditionally not accepted USF support, competitively bid for funding to expand broadband to if given the opportunity and reform is competitively neutral? Proponents of the right of first refusal have argued that the right of first refusal does not negatively impact competition because no one else wants to serve these areas anyway. How do you respond?

Answer. We do not operate cable systems and cannot speak for cable companies, however we have every reason to believe that if support mechanisms were competitively neutral, then cable companies would have an opportunity to participate and in fact many would participate.

Proponents who argue that "no one else wants to serve these areas anyway" have it exactly backward. If the area is so undesirable, that is actually an argument against a right of first refusal. If no party wants to serve an area, then a right of first refusal, which by definition, restricts competitive entry, is completely unnecessary.

Even assuming incumbents are correct that cable companies would not enter, presumably because the cost of installing cable is equal to or greater than the cost of an incumbent wireline carrier upgrading plant, the right of first refusal prevents more efficient technologies, or those that rural citizens actually prefer, from entering the market. That is, more efficient providers are blocked from accessing support to provide consumers with service at a lower cost.

In fact, the problem of a single carrier dominating the market by having all the customers and exclusive access to universal service support is precisely the problem the 1996 Act intended to solve when Congress mandated that new competitors could access support in high-cost areas. As a carrier who has been aggressively investing in rural America, U.S. Cellular can say categorically that it would take the opportunity to invest in areas locked up by a right of first refusal, if given the opportunity.

In the fifteen years since the 1996 Act, the FCC has only adopted one "core principle" of universal service policy, namely that all universal service rules must be competitively neutral so that they do not favor any technology or class of carrier.

On its face, a right of first refusal provision is not competitively neutral, and U.S. Cellular has yet to see any reason why the least efficient provider of services should be favored over more efficient alternatives, especially when consumers are demanding these alternatives and when they form a core component of rural economic development in the decades to come.

In sum, the right of first refusal is legally indefensible under the 1996 Act and the Commission's own rules.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO MARY N. DILLON

*Contribution Factor—**Refer to Appendix A for historical data and trend lines.***[*]

Both the industry's ABC proposal and the FCC's current efforts to reform the Universal Service Fund deal primarily with the distribution side of the program and don't really address reforming the contribution mechanism of USF. However, the contribution factor has increased from 5.6 percent in 2000 to over 15 percent present day (figure 1), in part due to the shrinking contribution based that is assessed. To illustrate, the adjusted contribution base for the 4th Quarter of 2011 is $14 billion compared to a contribution base of $17 billion for the 4th Quarter of 2007 (figure 2). So if no changes are made to the contribution mechanism, the financial burden to consumers could continue to increase due to a continued decrease in interstate and international revenue.

As the statute stipulates, companies must pay a percentage of their interstate and international telecommunication service revenues to the Universal Service Fund, intrastate revenues are excluded as well as information services such as broadband Internet access. A key recommendation within the National Broadband Plan is to broaden the USF contribution base.[1]

Question 1. Should the contribution base for USF be expanded to all telecommunications and broadband providers to (1) lessen the financial burden on consumers and (2) make such assessment more equitable? And do you believe expanding the base requires Congressional action?

Answer. Thank you for the question, as reform of the contribution mechanism is critical to sustaining the universal service fund.

Taking your last question first, U.S. Cellular supports Congressional action to resolve substantial uncertainty in the existing law, and to provide the FCC with flexibility to design universal service mechanisms to ensure that universal service goals are met. U.S. Cellular has taken the position that the current statute authorizes the FCC to support Title II telecommunications services, but authority to support Title I services is far from clear. If it is ultimately determined that the FCC has no authority to fund Title I services, then it may not be able to collect contributions from Title I services. Accordingly, Congressional action can reduce the possibility of litigation that can potentially delay implementation.

The public interest in expanding the base is substantial. The core principles of universal service are, (1) the value of a network increases when everyone is connected, and (2) the definition of supported services must evolve with technology. Today, both fixed and mobile broadband are just as essential to our Nation as basic telephone service was three decades ago. Applying the universal service principles above to a broadband world, policy makers must conclude that it is in the national interest for every citizen to have access to fixed and mobile broadband. Therefore, as many users of the network as possible should contribute, to ensure that each contribution amount is as low as possible and the greatest number of people can access the network.

As your chart below evidences, interstate telecommunications services make up a shrinking revenue base for contributions, as the Nation migrates to all-IP networks. Accordingly, even if program demand remains flat, the contribution factor will continue to rise as the base shrinks.

Despite the strong public interest reasons set forth above, we understand the difficulties that any political body has in assessing charges on what can be described as access to the Internet. Indeed, that is why the contribution mechanism has not been addressed for nearly a decade. The current mechanism is unsustainable, and therefore this issue must be confronted now. Put simply, Congress must authorize and direct the FCC, as the expert agency, to develop mechanisms that broaden the base, and ensure equity among consumers.

Question 2. If you agree the contribution base should be expanded, what suggestions of reform do you have to meet the previous questions criteria?

Answer. U.S. Cellular's experience with the current system makes clear that change is not only advisable, it is a necessity. In the near future, there may be almost no "telecommunications services" being provided as that term is understood in the 1996 Act.

A connection-based system may be much simpler for carriers to assess and collect, however it may disproportionately affect low-volume users. A connection-based system that assesses connections based on capacity or usage may prove to be more eq-

[*] [See p. 80 of this transcript].

[1] Recommendation 8.10: The FCC should broaden the universal service contribution base.

uitable. For example, a low connection charge for a low capacity connection and a higher charge for a high capacity connection.

U.S. Cellular understands the difficulty in using a numbers-based methodology in a broadband world, where in the future traditional ten digit telephone numbers may not be used. One solution would be to assess any connection that is capable of delivering basic voice communications. Such a mechanism would assess a twisted copper pair, as well as a broadband connection, as each are capable of delivering basic voice service.

Another option is to adopt a hybrid methodology, which assesses different types of services in a different manner, some based on revenues and some on connections. This is more complicated, and is likely to require more oversight as technologies continue to evolve, however in the short term it may be more equitable.

In sum, if Congress does act, it should provide the FCC with the greatest possible flexibility to fashion equitable contribution mechanisms, so that the agency's statutory mission can be met. In addition, Congress should require the FCC to complete any proceeding consistent with the statute within one year.

Contribution Mechanism Methodologies

Some industry groups and companies have advocated for the adoption of a numbers-based contribution mechanism. They have stated that such format would provide a more stable, predictable and nondiscriminatory funding mechanism that would affect all providers and end-users of voice services equitably, irrespective of the particular technology used to provide that service.

However, the major goal of the ABC proposal and the FCC's effort to reform USF are to transition today's voice-focused high-cost Universal Service Fund into a broadband-focused fund. So a numbers-based—particularly phone number based—contribution mechanism would not necessary properly map to a more broadband-centric fund.

Question 3. What are your views on the benefits and disadvantages of both a numbers-based contribution mechanism and a general revenue-based methodology, where a carrier would be assessed based on their total gross communications services (telecommunications and information two-way services) revenue?

Answer. A connections-based system (as opposed to a numbers-based system) has the advantage of broadening the base and correspondingly reducing each citizen's burden to support universal service goals. A connections-based mechanism is likely to be easier for carriers and the FCC to administer and audit. It will also make it difficult for carriers to avoid contributing, or use arbitrage schemes to minimize contributions, leading to disputes and increasing compliance costs for both carriers and the government.

An assessment based on gross communications services would be easier than the current interstate and international telecommunications services formula, provided that the term "gross communications services" is broad enough to discourage arbitrage or other avoidance mechanisms. As technology changes, there will be a continuing need to monitor and update the definition to limit avoidance mechanisms that artificially raise the price for others.

Voucher Program for USF

Various parties have suggested reforming the USF program's disbursement process. Instead of the USF collecting money from telecommunications carriers and then distributing the funds to households that need assistance paying for phone service, some have suggested giving the low-income households direct vouchers that they could use for communications services.

Such arrangement would be similar to the Housing Choice Voucher Program (Section 8) provided by the Department of Housing and Urban Development (HUD) to subsidize housing for low-income families and individuals. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

Question 4. Could such modification to a direct voucher program improve the effectiveness of the Fund as well as help reduce waste, fraud, and abuse? Is this something that Congress should examine and possibly implement?

Answer. With respect to the Lifeline fund, U.S. Cellular does not believe Congress needs to enact specific legislation, because the current Lifeline mechanism operates much like the HUD Section 8 program. Today, the program provides a specified discount that a low-income household can use to purchase service from any eligible provider. Low-income support goes directly to the eligible provider who gets the customer and provides the discount. As a result of more carriers being designated as eligible to provide Lifeline discounts, low-income consumers have increasing choices in service providers.

If Congress wishes to legislate, U.S. Cellular recommends funding the development of a nationwide database of eligible households, building on the work of some states, such as Colorado. If carriers signing up new Lifeline customers can check eligibility real time, the possibility of waste is greatly reduced.

Separately, U.S. Cellular suggests that a voucher system for high-cost support, wherein a rural consumer receives a voucher that can be applied to the service provider of the customer's choosing, is superior to the single winner reverse auction methodology recommended in the recent Connect America Fund item. A voucher system for high-cost support would unleash competition in the marketplace, rather than limiting competition to the auction room. Accordingly, any Congressional action to reform the telecommunications laws should include careful examination of why the FCC has chosen a command and control distribution mechanism for high-cost support, rather than ensuring that universal service mechanisms increase consumer choice in rural areas, as required by the 1996 Act.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER F. WICKER TO MARY N. DILLON

Question 1. Ensuring the build out of broadband to unserved areas, such as Mississippi, is vital to ensuring the economic vitality of these rural regions. What do you recommend as the best way to accomplish this while ensuring the most efficient use of taxpayer money?

Answer. At the outset, U.S. Cellular believes that the current law's principle, that rural consumers are entitled to have access to services that are reasonably comparable in quality and price to those available in urban areas, is the correct standard. In today's world, that means access to both fixed and mobile broadband platforms must be provided.

Over the past decade, U.S. Cellular has consistently advocated that the most efficient way to accelerate broadband deployment to rural areas is to establish an amount of support available to each geographic area, and make that support available to the carrier that gets the customer (similar to the voucher discussion above). Such a mechanism allows consumers to have choices and provides marketplace incentives for all carriers to provide better service, and for new carriers to enter.

In the recent Connect America Fund proceeding, U.S. Cellular sponsored experts who opined that the regulatory cost of implementing a command/control system that designates a single dominant provider in rural areas will far exceed a mechanism that provides an efficient amount of support in an area that is provided only to the carrier the customer chooses. Having reviewed the recent order, we are more convinced than ever that this is the right policy choice.

Question 2. How can we achieve true USF reform that improves the fund's efficiency and fulfills its mandate to rural America, while at the same time ensuring adequate competition and encouraging, rather than stifling, private investment?

Answer. To elaborate a bit, the FCC had to decide whether competition should exist within the auction room, or alternatively, in the market. U.S. Cellular believes that market competition will yield far more efficiencies than auction competition. The FCC's regulatory regime for auction winners is substantial, including regulation of rates, collocation, roaming, and a host of reporting requirements. These regulations may be required to control dominant carriers in the market, but they are completely unnecessary in a competitive market. As set forth by U.S. Cellular's experts, Dr. Lee Selwyn and Professor William Rogerson, the cost of implementing these regulations, and the cost to consumers of having new competitors shut out of the market will substantially exceed the savings from a single winner reverse auction.

Question 3. I'm told that the FCC plan may reduce support for rural wireless carriers—which concerns me since a significant number of Mississippians are "cutting the cord" and moving to a wireless world. Additionally, I understand the FCC will wait until a future proceeding to determine how and where the adjustments will take place. How would such regulatory uncertainty impact your business plans for future growth and job creation? I am concerned that in an ailing economy, this hardly seems like a prudent way to proceed.

Answer. Senator, your point is well taken. U.S. Cellular accepts that it is difficult for the FCC to provide a high level of regulatory certainty in a rapidly changing industry. That said, the fact that it has taken ten years to reform universal service has cast a difficult cloud over the wireless industry, at precisely the time we're trying to build out rural areas.

The adoption of reform last month has greatly increased uncertainty, because the rules of the road for reform are not finalized. They are subject to implementation by the bureaus over the next few years, and the entire decision to fund broadband capable networks will have to go through the judicial review process.

The FCC's decision to phase down support to wireless carriers while such regulatory uncertainty exists is unfortunate. We can't speak for the largest wireless carriers, but we can speak for ourselves in stating that there are vast areas in rural states we serve where we're using support to build new cell sites to cover unserved and underserved areas. We know that in areas where support is being used to build infrastructure, our networks perform better, have fewer dropped calls, and provide important health and safety benefits superior to those available in unsupported rural areas. And we've put evidence of that into the FCC's record.

The FCC's record speaks well for Mississippi carriers such as C Spire Wireless (formerly CellularSouth), who have demonstrated how their networks provide critical health and safety benefits for consumers, as evidenced by C Spire's performance during hurricane Katrina. C Spire's network recovered within days and was critical to first responders and public safety, facilitating rescue and recovery efforts. Again, all of this is in the FCC's record.

Accordingly, irrespective what universal service policy choices the FCC ultimately makes, support used to build networks should not have been phased down until the rules are finalized and judicial review is complete. With respect to cord-cutting, it is noteworthy that support to wireless carriers is being reduced while our networks continue to grow, and while rural consumers are clamoring for additional coverage and increased mobile broadband access.

At the same time, the FCC did not phase down support to wireline carriers. In fact the Nation's largest wireline carriers, including AT&T, will receive *more* support under the new mechanism. We fail to understand, at a time when the world is rapidly migrating to wireless platforms that are underdeveloped in rural America, why the FCC would shift support away from wireless and toward the platform that consumers are abandoning.

In sum, your concern about jobs is on point. Wireless networks in rural America need more universal service funding, not less. Every incremental dollar we receive accelerates cell site construction, which has substantial economic benefits for rural areas. Jobs are created to build the infrastructure and new cell sites facilitate job creation when citizens can compete with their counterparts in urban areas, and indeed around the world. Mobile wireless networks have been a consistent job creation engine, even in the fact of the worst economic recession in eighty years. The President has repeatedly cited mobile broadband as critical infrastructure for the 21st Century, setting an agenda of 98 percent coverage in five years. Yet the FCC is shifting support funds in ways that frustrate the administration's agenda.

Improving our Nation's infrastructure has never been a partisan issue, and it should not become one now. Our nation's competitiveness on the world stage is a national priority, shared by all. The FCC's recent order does not go far enough to provide rural consumers with access to both wireline and mobile broadband infrastructure that are high-quality and comparable in price to urban areas.

Question 4. Some plans have provided rural wireless with a $300 million annual mobility fund. Assuming the Commission goes in the direction of favoring certain technology over others, can you tell me what bare minimum funding rural wireless would need to sustain operations in rural areas like my home state of Mississippi or say, West Virginia?

Answer. U.S. Cellular does not serve Mississippi, so we don't have data to understand a minimum amount of support needed to sustain operations in the state. In West Virginia, we are not licensed to serve throughout the state, and therefore we cannot speak to the entire state's needs.

That said, we know that there are many areas with services that lack coverage, or do not have 3G or 4G service. Since wireless carriers are in the process of building networks, the proper question is how fast do policymakers want to advance 4G services in rural America? For example, CTIA submitted a study to the FCC estimating that it would cost over $22 billion to build high-quality 4G service throughout rural America. If the FCC devoted $4 billion per year to the build out, the job could be done in just five years.

Understanding that 4G LTE technology can deliver throughput speeds of up to 16 Mb per second today, with higher speeds to come in the near future, U.S. Cellular believes that wireless is the answer for many rural areas in Mississippi, West Virginia, and throughout the country.

As Congress considers the FCC's recent action, it is worth noting that approximately $4.5 billion per year has been budgeted for high-cost universal service support. Of that amount, roughly ninety percent, or $4 billion, has been set aside for fixed wireline technology, while only $500 million has been allocated to wireless. We find it unfair that wireless consumers, who contribute over 40 percent of the fund, will continue to subsidize wireline networks for many years to come.

Accordingly, while it is difficult to understand the minimum needed to deliver high-quality 4G wireless service to rural America, we know that devoting only ten percent of the high-cost fund to wireless is not the right proportion.

Question 5. What will be the net effect on our constituents in rural America if the funding falls short?

Ultimately, universal service support is for consumers, who pay into the fund. Those living in rural areas deserve to have the benefits that people in urban areas take for granted. The FCC's recent policy choices provide insufficient funding for mobile wireless networks. The net effect will be investments cancelled or delayed.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. CLAIRE MCCASKILL TO MICHAEL K. POWELL

Question My chief concern with any reform proposal is ensuring that broadband expands to those who currently do not have it as fast as possible and in a coordinated manner. We need to close the digital divide in this Nation and the current piecemeal approach in providing broadband to rural areas has led to winners and losers—some areas have broadband while many others have dial-up or no service at all. Under the USF reform proposals that appear to be coming out from the FCC, how quickly can you get broadband to rural areas, especially those that are unserved?

Will cable companies, which have traditionally not accepted USF support, competitively bid for funding to expand broadband to unserved areas if given the opportunity and reform is competitively neutral? Proponents of the right of first refusal have argued that the right of first refusal does not negatively impact competition because no one else wants to serve these areas anyway. How do you respond?

Answer. As I explained at the hearing, cable started as a rural service and we continue to have a significant presence in rural America. In many rural areas, cable providers were the first to offer high-speed broadband service to consumers, and only after cable offered the service did the incumbent phone company also begin to offer it in those areas. NCTA's member companies offer high-speed broadband services based on DOCSIS 3.0 technology to millions of rural customers.

NCTA encouraged the FCC to make broadband subsidies available on a competitively neutral basis (*e.g.,* through competitive bidding) rather than favoring incumbent phone companies. During the course of the FCC's proceeding, many small and mid-sized cable operators met with Chairman Genachowski and others at the FCC and specifically expressed their interest in participating in a competitively neutral high-cost broadband funding mechanism and in expanding their services to additional rural areas. NCTA also explained that the participation of cable operators in the voice service USF program, which has historically been strongly tilted in favor of incumbent phone companies, was not a valid predictor of cable's interest in a competitively neutral broadband support program.

Notwithstanding our advocacy on this point, and the principle of competitive neutrality upon which the USF support program is based, the FCC chose to create a regime in which the vast majority of support is made available to incumbent phone companies on a preferential or an exclusive basis, with no meaningful role for competitive bidding. The effect of this blatant favoritism is that cable operators will be discouraged from serving high-cost areas and consumers in those areas will be limited to inferior broadband service from phone companies.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO MICHAEL K. POWELL

*Contribution Factor—**Refer to Appendix A for historical data and trend lines.***[*]

Both the industry's ABC proposal and the FCC's current efforts to reform the Universal Service Fund deal primarily with the distribution side of the program and don't really address reforming the contribution mechanism of USF. However, the contribution factor has increased from 5.6 percent in 2000 to over 15 percent present day (figure 1), in part due to the shrinking contribution based that is assessed. To illustrate, the adjusted contribution base for the 4th Quarter of 2011 is $14 billion compared to a contribution base of $17 billion for the 4th Quarter of 2007 (figure 2). So if no changes are made to the contribution mechanism, the finan-

[*] [See p. 80 of this transcript].

cial burden to consumers could continue to increase due to a continued decrease in interstate and international revenue.

As the statute stipulates, companies must pay a percentage of their interstate and international telecommunication service revenues to the Universal Service Fund, intrastate revenues are excluded as well as information services such as broadband Internet access. A key recommendation within the National Broadband Plan is to broaden the USF contribution base.[1]

Question 1. Should the contribution base for USF be expanded to all telecommunications and broadband providers to: (1) lessen the financial burden on consumers and (2) make such assessment more equitable? And do you believe expanding the base requires Congressional action?

Answer. NCTA looks forward to participating in any future FCC proceeding to reform the USF contribution regime. NCTA is concerned that imposing a contribution requirement on broadband Internet access services could undermine efforts to promote broadband adoption because it would increase the price that consumers pay for such services. Moreover, to the extent broadband customers already are contributing based on their purchase of voice services (wireline and/or wireless), there is a risk that many customers could end up paying more than they do under the current regime, rather than less, if USF contributions were extended to broadband services as well as to voice services. Congressional action on contribution issues might be helpful in expanding the options available to the FCC as it considers how best to reform the contribution regime.

Question 2. If you agree the contribution base should be expanded, what suggestions of reform do you have to meet the previous questions criteria?

Answer. As noted above, we have concerns that adding broadband Internet access to the list of services subject to the contribution requirement could increase the burden on customers that already are contributing, rather than "expanding the base" of contributors, and could discourage broadband adoption. In the past NCTA has supported a numbers-based regime that would impose a flat contribution on each customer, which could be simpler to administer and more equitable for consumers.

Contribution Mechanism Methodologies

Some industry groups and companies have advocated for the adoption of a numbers-based contribution mechanism. They have stated that such format would provide a more stable, predictable and nondiscriminatory funding mechanism that would affect all providers and end-users of voice services equitably, irrespective of the particular technology used to provide that service.

However, the major goal of the ABC proposal and the FCC's effort to reform USF are to transition today's voice-focused high-cost Universal Service Fund into a broadband-focused fund. So a numbers-based—particularly phone number based—contribution mechanism would not necessary properly map to a more broadband-centric fund.

Question 3. What are your views on the benefits and disadvantages of both a numbers-based contribution mechanism and a general revenue-based methodology, where a carrier would be assessed based on their total gross communications services (telecommunications and information two-way services) revenue?

Answer. In the past NCTA has supported a numbers-based regime that would impose a flat contribution on each customer. A revenue-based regime raises difficult issues regarding the allocation of revenues when customers purchase bundles that include services not subject to the assessment (*e.g.,* multichannel video service). A regime that imposes a flat contribution on each customer can be structured in a manner that is simpler to administer and more equitable for consumers.

Voucher Program for USF

Various parties have suggested reforming the USF program's disbursement process. Instead of the USF collecting money from telecommunications carriers and then distributing the funds to households that need assistance paying for phone service, some have suggested giving the low-income households direct vouchers that they could use for communications services.

Such arrangement would be similar to the Housing Choice Voucher Program (Section 8) provided by the Department of Housing and Urban Development (HUD) to subsidize housing for low-income families and individuals. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

[1] Recommendation 8.10: The FCC should broaden the universal service contribution base.

Question 4. Could such modification to a direct voucher program improve the effectiveness of the Fund as well as help reduce waste, fraud, and abuse? Is this something that Congress should examine and possibly implement?

Answer. The use of vouchers for low-income support is an idea that is worth exploring. From NCTA's perspective, it is critical that any such program allow vouchers to be used with any broadband provider, not just incumbent telephone companies. In deciding whether to switch to such an approach, Congress would need to consider the potential benefits, as well as the potential costs of transitioning to an entirely new regime.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL TO SHIRLEY BLOOMFIELD

Question 1. My chief concern with any reform proposal is ensuring that broadband expands to those who currently do not have it as fast as possible and in a coordinated manner. We need to close the digital divide in this Nation and the current piecemeal approach in providing broadband to rural areas has led to winners and losers—some areas have broadband while many others have dial-up or no service at all. Under the USF reform proposals that appear to be coming out from the FCC, how quickly can you get broadband to rural areas, especially those that are unserved?

Answer. This question gets to the heart of the great disconnect that exists regarding the true meaning of ubiquitous broadband deployment. In many areas today, the universal service fund (USF) has worked thus far to enable the installation and operation of broadband-capable networks—but many of these networks provide only basic levels of broadband service and will need critical upgrades soon or over time. In other areas, where larger carriers have opted out of the "rate-of-return" system, there are few incentives to invest in high-cost areas because these carriers can realize greater returns on their investments in more populated parts of their serving areas.

Reform is therefore needed in both areas, to ensure not only that broadband *becomes* available throughout rural America, but to make sure also that high-quality broadband will *remain* available and affordable for rural consumers and businesses. This reform must be carefully designed and tailored to solve the different problems facing different areas, including the differing needs of the carriers who serve these areas. A "one-size-fits-all" approach to reform—or reforms that threaten to disrupt the predictability and sufficiency of the USF system—will only undermine the dual objectives of getting broadband to and keeping broadband in rural areas.

The small rural local exchange carriers (RLECs) on whose behalf I testified were formed for the specific purpose of providing communications services where high costs deterred larger entities with more profitable markets from doing so. The USF and related intercarrier compensation (ICC) mechanisms have been essential in allowing RLECs to provide and maintain advanced services throughout their service areas. Yet even so, the high cost nature of these rural markets has precluded universal deployment of comparable broadband services. Indeed, in many cases today, RLECs can provide only basic levels of broadband given the great distances to be covered, and upgrades are necessary to ensure that service will remain reasonably comparable over time between rural and urban areas. RLECs also have many customers who go unserved as well, given the nature of the areas they serve.

So the "digital divide" should not and cannot be measured on a static basis—i.e., who may be served or unserved at any given point in time. Instead, it must be measured by identifying where truly comparable broadband can be installed and provided *only through* the availability of USF support for the carrier most committed to serving that area.

The USF and ICC mechanisms remain necessary to ensure ubiquitous deployment and sustained operation of broadband networks in RLEC areas. As noted earlier, these small carriers serve the vast and sparsely populated areas that were left behind long ago by other providers—40 percent of the Nation's geography containing only 5 percent of the Nation's customers. With minor exception at best, customers in areas served by RLECs would not have sustainable access to affordable broadband without sufficient and predictable USF support and ICC revenues. At the same time, we recognize that there is a need to support a better business case for investment by larger entities that serve other rural areas This recognition that no rural consumer should go without broadband, regardless of who serves them—together with the notion that there should be no "one-size-fits-all" approach to reform—led to the development of the industry's "Consensus Framework" for USF and ICC reform, consisting of the small carriers' RLEC Plan and the complementary

ABC Plan. We believed that these two plans, while providing for "shared sacrifice" by RLECs and others across the industry, balanced the needs to inject funding into unserved areas *and* to support existing investment in and ongoing operation of broadband-capable networks.

Leading up to the FCC's October 27th vote on its USF/ICC order, we hoped that the complementary plans in the Consensus Framework would provide a balanced and sensible roadmap for reform. Unfortunately, the FCC has deferred for another day the question of what longer-term reforms are needed to create a "Connect America Fund" for consumers served by RLECs. Instead, the FCC's Order is comprised mostly of short-term changes to the existing USF that will likely reduce or at best maintain the total amount of support that most RLECs receive; the FCC's own estimate is that more than half of small rural carriers will lose some USF support under the Order, and we do not foresee any incremental funding being made available in the aggregate to support new broadband build-out or even significant network upgrades by RLECs.

To be clear, it is possible that an individual RLEC might receive additional funding above what it receives today under these reforms. The few RLECs fortunate enough to fall within that category may have some ability to "edge out" new broadband to unserved portions of their serving areas, or to keep their networks up to pace with the speeds that the FCC has identified as quality broadband in its Order. But the fact that further cuts and changes to the USF and ICC programs loom in a Further Notice of Proposed Rulemaking attached to the Order may deter even these RLECs from investing. Rather, for the most part, until the FCC addresses the long-term vision for reform, we expect that the plan that has been approved will do little more than perhaps permit most RLECs to maintain broadband-capable networks where they have them today.

This is of significant concern not only because it means that many unserved will continue to go unserved, but also because this constrained support may limit the ability to upgrade RLEC networks over time to keep up with those available in urban and even other rural areas. To summarize, we are concerned that the reforms coming out from the FCC will not enable RLECs to deliver on the promise of universal broadband throughout their service areas. Indeed, depending on how they are implemented, these reforms may compromise the ability of RLECs—small carriers based in the communities they serve—to continue providing affordable broadband even where it is available today.

Question 2. How will you ensure that this new government broadband program distributes funds in an accountable and coordinated manner? Are there specific conditions a participant would have agree to in order to receive funding?

Answer. There is a great deal of accountability in the USF system by which RLECs receive support today. Given that the FCC has not changed that system in any material respect as it applies to RLEC support (beyond certain cuts and caps), we believe those accountability measures remain in effect under the recently released Order. Under the USF mechanisms as they work today, detailed cost studies and approvals must be developed and submitted in order to receive USF support. Furthermore, a material amount of USF reimbursement for RLECs is provided on a two-year lag basis, and if subsequent studies suggest the original cost projections were too high, reimbursement can be adjusted downward. Finally, the FCC appears to have adopted additional accountability measures in the Order released since I testified; we continue to evaluate those to determine whether those are reasonable and appropriately tailored for small carriers.

At bottom, RLECs are proud to serve as "carriers of last resort" in their areas—responding to the requests of customers for service in areas where no competitor would want to venture given the lack of business case for doing so. This is perhaps the ultimate measure of accountability, as it ensures that the carrier first and foremost is responsible to satisfy its customers' demands. But the RLECs' ability to continue serving as such carriers of last resort—particularly for upgraded broadband network demands—will be in question if adequate USF and stable ICC mechanisms are not available.

Question 3. What is the genesis of the ABC Plan's proposed $.0007 rate for Intercarrier Compensation? Is $.0007 a cost-based rate for origination, transmission, or termination of calls (access rates) on the Public Switched Telephone Network (PSTN)? Are there any economic studies in the ABC Plan or by any regulatory body that demonstrate $.0007 to be a cost-based rate for termination of calls on the PSTN?

Answer. The Consensus Framework called for a phase-down specifically of *terminating end-office switching* rates from current levels to $0.0007 over the course of 8 years for RLECs. As NTCA and the other rural associations made clear, this phase-down was the product of a substantial industry compromise, and was agreed to subject to the availability of a *fully compensatory*, rate-of-return-based access restructure mechanism for RLECs that would ensure: (1) recovery of the costs of performing transport and termination functions and (2) continued universal service in rural areas. It is also worth noting that this compromise did not include reductions to other ICC rate elements, including originating access charges or most transport rates.

In presenting these economic terms as a potential path forward for FCC consideration, NTCA was careful not to indicate that the FCC could or should adopt those rates without involving the States as required by law or that it could implement such rate reductions without any consideration of the "additional costs" of transport and termination required by the Communications Act. We believe that the FCC's ability to implement these rate reductions and reach the ultimate rate of $0.0007 (or to mandate a rate of zero, which is what the Order does) is necessarily bounded and limited by the plain language of the statute that Congress enacted in 1996. In other words, the FCC might be able to adopt a methodology that leads toward a particular end-office switching rate if structured correctly, but the structure of and process for that reform is critical and the statute precludes any short-cuts in rate-setting or gamesmanship with "methodologies" that are really nothing more than rate-setting exercises.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK PRYOR TO SHIRLEY BLOOMFIELD

Question 1. I have consistently called for reform of the Universal Service Fund (USF) and the Intercarrier Compensation (ICC) system to further enable broadband deployment in areas it would not otherwise be economical. To what extent do you believe the ABC Plan and/or the RLEC Plan specifically accomplishes this goal?

Answer. Subsequent to the hearing at which I testified, the FCC adopted an Order and Further Notice of Proposed Rulemaking that appears to incorporate only portions of the ABC Plan and requests further comment on most of the RLEC Plan. This being said, we continue to believe that these complementary plans would have been the most direct and efficient route to our shared goal—the deployment and operation of broadband-capable networks in the hardest-to-serve reaches of the United States. We hope that, after this opportunity for further comment, the FCC ultimately will find that the RLEC Plan, or at least significant components of it, could represent a reasonable means of achieving this important public policy objective.

We designed the RLEC Plan to carefully ensure the sustainability of broadband-capable networks in high-cost rural areas. As context, small rural local exchange carriers ("RLECs") serve areas that were long ago "left behind" by larger providers who had made the determination that no business case would justify investment or operations in such locations. Those conditions continue today, and RLECs serving those high-cost areas accordingly rely upon USF cost-recovery and other mechanisms (such as intercarrier compensation (ICC)) to ensure that rural consumers have access to advanced communications services.

RLECs take seriously and are proud of the commitment to the communities they serve—they are locally-based small businesses that serve as carriers of last resort for consumers *throughout* these vast rural areas, rather than focusing their operations only on population clusters that dot this rural landscape. Accordingly, RLECs serve where the customers are, whether the small town core or in outlying areas beyond the town.

The RLEC Plan looks to strike a balance by encouraging efficient investment in areas where broadband does not exist today and where the costs of such deployment and operation are not economical. At the same time, it affirmed that carriers that have already made investments in such hard-to-serve areas must have a reasonable opportunity to recover the costs of those investments. It is important to look at universal service as more than just a program to get networks out in rural America—it must be a broader program that ensures those investments *stay* in rural America and that the services on those networks stay affordable for rural consumers and enterprises.

With respect to the question of how the RLEC Plan would enable broadband deployment specifically in areas that would otherwise not be economical to serve, this would be achieved primarily through a "cost of service" benchmark that would compare the costs of providing broadband in rural and urban areas. The difference between the "urban benchmark" and the cost to provide service in a rural high-cost area would isolate whether the area is in fact high cost and then also identify the potential support needed to serve that area. Put another way, under the RLEC

Plan, an RLEC would not receive support unless the actual costs of deploying and operating a broadband-capable network in a given area exceeded those required to deploy the same kind of network in more densely populated areas.

The "benchmark" under the RLEC Plan also reflects that the costs of operating in hard-to-serve rural areas are often driven by so-called "middle mile" costs—specifically, the costs of obtaining critical transport links from rural areas back to Internet points of presence in urban areas. Without cost-effective access to sufficient "middle mile" capacity, consumers with outstanding local broadband-capable networks in their rural areas could still lack quality broadband because of "roadblocks" (*i.e.,* insufficient capacity) in the middle mile network. The RLEC Plan "benchmark" ensures that small carriers can obtain support for those "middle mile" costs that are in excess of those that would typically be incurred in operating in a more urban or suburban setting.

Finally, the RLEC Plan enables broadband deployment by encouraging broadband adoption. The plan is designed to encourage vigorous RLEC promotion of broadband subscriptions, allowing RLECs better opportunity to recover their costs to the extent that more customers in the rural area make use of broadband services. We think this is an important and attractive feature of the plan, since it addresses the clear need for support to enable deployment and operation in such areas while giving RLECs an incentive to create a better business case and seek more revenues directly from their customers over time.

Question 2. Are there changes to the public interest obligations and cost recovery mechanisms suggested in the ABC Plan and the RLEC Plan the FCC has contemplated that could compromise the ability of broadband providers in states like Arkansas to justify investment in unserved and underserved areas? What adjustments would and should the FCC be able to make this year to ensure that these areas receive broadband service?

Answer. Perhaps one of the most significant concerns in any reform process is the need to ensure reasonable transition periods that enable consumers and providers to react appropriately to regulatory change. In contrast, unnecessary and disruptive "flash cuts" can often impose damaging impacts that undermine the benefits that reform was intended to create. There is near-universal agreement that reform is needed, but often overlooked is the fact—at least for RLECs and their consumers—that the existing mechanisms have *proven* effective and efficient in enabling broadband deployment and operation. From the RLEC perspective, reform is necessary primarily to ensure that the existing mechanisms are made more sustainable and re-oriented for broadband.

Absent timely and rational reform, regulatory uncertainty will continue to depress incentives for investment and limit access to both publicly-administered and privately-obtained capital. "Flash cuts" to new mechanisms or reforms that "change the rules" in a way that doesn't allow for providers to adjust will undermine the objectives of such reform. For example, reforms that retroactively undercut a carrier's ability to recover investments made in good faith under existing rules will do little, if anything, to advance the cause of broadband. These sorts of caps would destroy market confidence in the regulatory process, and place individual carriers in an untenable position. While a "prospective" cap or limit on support may be something to which a provider can adjust (if adequate time is given), a retroactively-applied "cap" or similar backward-looking constraint on cost-recovery would upend regulatory principles deriving from retroactive ratemaking. Stated simply, a carrier that invested in good faith under existing rules cannot tear its network out of the ground or undo existing loan commitments (many of which are commitments to a U.S. agency and backed by taxpayer dollars) simply to comply with a new backward-reaching rule that limits recovery of prior investments.

The FCC must therefore be surgical in its approach to reform. The FCC must incorporate the best of what has worked in the existing system, improve aspects that are do not meet current needs, and then take specific, targeted steps to implement change.. Overly broad or so-called "experimental" reforms have no place in the Congressional mandate, as articulated in the Communications Act of 1934, as amended, to ensure universal access to advanced services throughout the Nation. Pursuit of unproven (or disproven) techniques will result in unintended consequences that will have devastating impacts on rural America and, by extension, the National networks. This option should not be selected over more sensible solutions.

Toward these ends, we support carefully designed FCC steps that would start immediately to: (1) shut down long-standing arbitrage practices that undermine the integrity of the existing intercarrier compensation system; (2) begin paced reforms of that intercarrier compensation system that will lead to unified rates, subject to ensuring that implicit support within intercarrier rates will be replaced by explicit and sufficient supplemental universal service support; and (3) begin implementation of a measured, carefully designed universal service reform plan that migrates funding over time and with reasonable opportunity to adjust from support of voice services to support of higher-capacity broadband-capable networks. This sort of calibrated response—such as that advocated in the RLEC Plan—will more effectively ensure the advancement of broadband networks throughout the Nation, restore investment and lender confidence, and thereby affirm the FCC's fulfillment of its Congressional mandate to promote universal service.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO SHIRLEY BLOOMFIELD

*Contribution Factor—**Refer to Appendix A for historical data and trend lines.***[*]

Question 1. Both the industry's ABC proposal and the FCC's current efforts to reform the Universal Service Fund deal primarily with the distribution side of the program and don't really address reforming the contribution mechanism of USF. However, the contribution factor has increased from 5.6 percent in 2000 to over 15 percent present day (figure 1), in part due to the shrinking contribution based that is assessed. To illustrate, the adjusted contribution base for the 4th Quarter of 2011 is $14 billion compared to a contribution base of $17 billion for the 4th Quarter of 2007 (figure 2). So if no changes are made to the contribution mechanism, the financial burden to consumers could continue to increase due to a continued decrease in interstate and international revenue.

As the statute stipulates, companies must pay a percentage of their interstate and international telecommunication service revenues to the Universal Service Fund, intrastate revenues are excluded as well as information services such as broadband Internet access. A key recommendation within the National Broadband Plan is to broaden the USF contribution base.[1]

Should the contribution base for USF be expanded to all telecommunications and broadband providers to: (1) lessen the financial burden on consumers and (2) make such assessment more equitable? And do you believe expanding the base requires Congressional action?

Answer. NTCA has long been concerned about the future of the universal service system as a whole and how to best ensure that both the contribution and distribution sides of the program effectively meet the statutory predictability, sufficiency, and comparability mandates associated with this long-standing national policy. For some time, our association and its members have been concerned about the contribution base and its related assessment factor, and their ability to appropriately carry out their statutory mandates.

There is no question that the dramatic evolution of the communications industry is impacting the program and particularly its contribution aspects. Truly, this is an issue that warrants a meaningful solution. But, it is important to keep the overall matter in perspective and approach it in a way that solves the right problems rather than viewing it as yet another means of undermining the universal service system, as some appear ready to do.

There are meaningful solutions to the contributions dilemma and for the most part congressional action would not be necessary to effectuate such change. While the FCC does not appear to have the authority to move away from the assessment of interstate and international interexchange revenues, the agency does have the authority to merely expand the contribution base to include the assessment of entities beyond the tradition communications industry players that have been subject to such assessment to date. The FCC could dramatically improve the supply equation by expanding the contribution base to fixed and mobile retail broadband Internet Access Revenues, texting revenues, and non-interconnected (1-way) voice over Internet protocol (VoIP) service revenues. Also, serious consideration should be given to how to ensure that web-based enterprises, that clearly place a substantial burden on networks, contribute directly or indirectly to universal service to help sustain the very networks they rely upon for their success.

The FCC has ample authority and good public policy reasons to expand the contribution base. As previously noted, section 254(d) of the Communications Act permits the assessment on any provider of interstate and international telecommunications. And, ensuring that broadband, non-interconnected VoIP, and texting services share in the responsibility of building and maintaining the infrastructure upon which those services rely, is good public policy that is in our economic and national security interests.

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[*] [See p. 80 of this transcript].

[1] Recommendation 8.10: The FCC should broaden the universal service contribution base.

We believe these actions and approaches outlined above could be initiated and implemented by the FCC without additional or specific congressional action.

Question 2. If you agree the contribution base should be expanded, what suggestions of reform do you have to meet the previous questions criteria?

Answer. As noted above, we believe the FCC should immediately initiate action to effectuate the expansion of the contribution base to effectively result in the assessment of fixed and mobile retail broadband Internet access revenues, non-interconnected VoIP revenues, and texting revenues, and that the FCC should consider how to ensure that web-based enterprises, that place a substantial burden on networks, contribute directly or indirectly to USF and ultimately help sustain such networks upon which their business models are entirely reliant.

Contribution Mechanism Methodologies

Question 3. Some industry groups and companies have advocated for the adoption of a numbers-based contribution mechanism. They have stated that such format would provide a more stable, predictable and nondiscriminatory funding mechanism that would affect all providers and end-users of voice services equitably, irrespective of the particular technology used to provide that service.

However, the major goal of the ABC proposal and the FCC's effort to reform USF are to transition today's voice-focused high-cost Universal Service Fund into a broadband-focused fund. So a numbers-based—particularly phone number based—contribution mechanism would not necessary properly map to a more broadband-centric fund.

What are your views on the benefits and disadvantages of both a numbers-based contribution mechanism and a general revenue-based methodology, where a carrier would be assessed based on their total gross communications services (telecommunications and information two-way services) revenue?

Answer. NTCA has long held that the assessment of revenues, as opposed to assessing numbers or other hybrid approaches that have their own problems and issues, is still likely the best approach for ensuring the universal service program is appropriately funded. First it is already statutorily mandated and to move away from revenue's assessment would require legislative action. The FCC could much more easily move in the direction outlined above, which would be to merely expand the contribution base to capture the multitude of revenues that are representative of today's communications traffic patterns and infrastructure users.

Voucher Program for USF

Question 4. Various parties have suggested reforming the USF program's disbursement process. Instead of the USF collecting money from telecommunications carriers and then distributing the funds to households that need assistance paying for phone service, some have suggested giving the low-income households direct vouchers that they could use for communications services.

Such arrangement would be similar to the Housing Choice Voucher Program (Section 8) provided by the Department of Housing and Urban Development (HUD) to subsidize housing for low-income families and individuals. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

Could such modification to a direct voucher program improve the effectiveness of the Fund as well as help reduce waste, fraud, and abuse? Is this something that Congress should examine and possibly implement?

Answer. NTCA has long viewed communications related voucher programs of any nature with a very skeptical eye, primarily because vouchers do nott build infrastructure. America's rural markets have never been natural candidates for competition and particularly when viewed from the perspective that NTCA's small rural community-based providers do. These carriers typically have evolved because no other carrier found it economic to serve in these markets. Cooperatives and small family or community held communications systems have a deep commitment to service rather than profit making and generally have state regulated responsibilities to serve not just the population center of their markets, but each and every consumer that desires service throughout their markets. Responding to these responsibilities is extremely costly and that is why NTCA's members are so reliant upon the universal service and intercarrier compensation cost recovery mechanisms and the Rural Utilities Service financing programs, that together ensure these rural providers are able to fulfill their service missions' and policymakers' expectations. To go down the road of merely providing vouchers to consumers would lead to a situation where the providers that have a commitment and responsibility to serve the entire market area, would no longer have the ability to rely on cost recover streams from the universal service related mechanisms that have traditionally ensured they could plan their network deployment and effectively predict their cost recovery. In the situation of communications, we do not see vouchers in any of the universal service program elements, as a viable or appropriate distribution alternatives, and would vigorously discourage policymakers from such considerations.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. CLAIRE MCCASKILL TO PHILIP B. JONES

Question. What is the genesis of the ABC Plan's proposed $.0007 rate for Intercarrier Compensation? Is $.0007 a cost-based rate for origination, transmission, or termination of calls (access rates) on the Public Switched Telephone Network (PSTN)? Are there any economic studies in the ABC Plan or by any regulatory body that demonstrate $.0007 to be a cost-based rate for termination of calls on the PSTN?

Answer. It appears that the justification of the $.0007 rate derives from the so-called ISP Remand Order of the FCC that was released on April 27, 2001 (CC Docket No. 96–98, 99–68, and FCC 01–131). In that Order, the FCC established rate caps for only ISP-bound traffic (not all circuit-switched traffic that is exchanged among carriers over the PSTN, or public-switched telephone network) that ended at $.0007 after a three-year phase-in period (hence, the term used is interim Federal default rate for ISP-bound traffic). The ultimate rate that the FCC determined to be appropriate for ISP-bound traffic in that Order was bill-and-keep, but they declined to adopt such a regime in that Order suggesting that the Commission would revisit the issue later and examine more evidence. However, the issues surrounding this Order, both the legal rationale used and the economic justification and types of traffic subject to this Federal default rate, have been litigated extensively over the past decade.

Moreover, one must point out several issues related to the determination of the $0.0007 default rate in this Order. First, it was only meant to be an "interim" default rate for a short period of time, until the Commission could gather more evidence on actual costs of exchanging traffic and recent interconnection agreements among carriers. Second, it applied only to ISP-bound traffic at that time, which at that time was largely being carried by CLECs to terminating carriers for dial-up ISP access. Finally, there was no determination or real evidence in the record of the actual costs of exchanging and terminating ISP-bound traffic. Instead, the Commission merely referenced several recently concluded interconnection agreements between a CLEC and a local exchange carrier (LEC) to justify the $.0007 rate, but without having such agreements and their terms and conditions subject to scrutiny and review by the many other stakeholders involved in the process.

Regarding the background of the ABC plan's use of this rate for all traffic, earlier in the proceeding, Verizon—an ABC plan proponent—argued that a substantial amount of traffic is billed at 0.0007 today—but it provided no statistics to back up its claim.[1] It is also difficult to determine if a 0.0007 rate could be cost based. The ABC plan proponents did file a description of a model they claimed supports their proposed 0.0007 rate.[2] But they didn't provide any realistic access to the model to anyone interested in testing or critiquing its assumptions.[3]

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[1] Interestingly, another ABC plan proponent, AT&T argued in 2009 before the Connecticut commission that "merely adopting that [$0.0007] rate based on an inference, which has no record support, that it is somehow above AT&T Connecticut's costs would be arbitrary and capricious." *See, DPUC Investigation into the Southern New England Telephone Company's Cost of Service Re: Reciprocal Compensation,* Docket No. 09–04–21, Reply Brief of SNET, at 41 (December 4, 2009). That seems inconsistent on its face with its current positions.

[2] See, *Letter from Robert W. Quinn, Jr., AT&T, Steve Davis, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, and Michael D. Rhoda, Windstream, to Marlene H. Dortch, FCC,*WC Docket No. 10–90 *et al.,* (filed July 29, 2011), (Transmittal Letter—2 pages): *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698690,* (Company Advocacy Cover Letter—5 Pages): *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698691,* (Attachment 1—Framework of Proposal—14 Pages): *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698692,* (Attachment 2—Summary of Model Results—04 Pages): *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698693,* (Attachment 3 Model Description—28 Pages): *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698694,* (Attachment 4 Purported Benefits—34 Pages): *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698695,* (Attachment 5—"Legal" analysis—69 Pages): *http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698696*.

[3] The circumstances clearly indicate the ABC plan proponents were never interested in any critique of that model. Although they necessarily completed the model before they filed their proposal, they delayed providing any access to the model until too late in the process to allow any serious review and criticism. Some parties complained in late September that the belated "access" first offered was defective. No analyst could make any realistic judgments about the validity of the models outputs based on the limited access provided. Indeed, even if full access had been provided, the proponents studied decision to delay releasing the model until so late

Certainly, more than one of the expert State Commission members and staff of the Federal-State Joint Board on Universal Service believe the proposed 0.0007 cannot be cost based and is likely to harm competitive, mid-sized, small and rural carriers while saving the largest carriers billions of dollars. According to the State member comments, such an intercarrier compensation proposal would affect most small carriers and some mid-sized carriers by reducing revenues, decreasing earnings, and potentially impairing access to capital. Moving to a bill-and-keep regime, which the FCC's recent order proposes, which provides zero compensation for traffic termination can only further exacerbate this problem. It is difficult to see how such a regime could be cost-based. Indeed, based on FCC precedent,[4] the Act's pricing standards cannot be read to support bill and keep absent factual finding that the traffic is substantially in balance or that LECs incur no additional costs to terminate traffic. We must await the publication of the text of the Commission's final order to discern what will necessarily be a novel legal justification for the approach suggested in the draft order.

The biggest problem with the direction suggested by both the FCC order and the ABC plan is that a single, national unified intercarrier compensation rate does not take into account the unique circumstances of each carrier. The State Members' plan makes clear that a Federal unified rate is not necessary right now because of the unique geography and terrain of each state, and the challenges of applying a methodology to determine a one-size-fits-all rate that will actually recover the real variable costs of the access service. The State members analyzed many scenarios and determined a way to reduce interstate and bring intrastate access much lower and very close to interstate while recognizing the unique cost characteristics of classes of carriers.

My State colleagues on the Joint Board also believe the move to a single unified rate not only is bad for small and mid-sized carriers but is also contrary to explicit Congressional direction. The Telecom Act of 1996 clearly preserved State authority over intrastate services and rates. Outright preemption, or indirect preemption through a Federal system that establishes one unitary rate for all 50 states, of states' access charge authority is not necessary to accomplish Congressional goals. Moreover, the legal theory advanced to accomplish preemption by the ABC plan proponents is a clear deviation from Congressional intent. Most states have already substantially reduced intrastate access rates, or are in the process of reducing such rates. The FCC could easily provide incentives for the small minority of remaining States to act in a timely fashion.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO PHILIP B. JONES

Contribution Factor—***Refer to Appendix A for historical data and trend lines.****

Question 1. Both the industry's ABC proposal and the FCC's current efforts to reform the Universal Service Fund deal primarily with the distribution side of the program and don't really address reforming the contribution mechanism of USF. However, the contribution factor has increased from 5.6 percent in 2000 to a level approaching 20 percent today (figure 1), in part due to the shrinking contribution base of interstate toll revenues. To illustrate, the adjusted contribution base for the 4th Quarter of 2011 is $14 billion compared to a contribution base of $17 billion for the 4th Quarter of 2007 (figure 2). Moreover, the latest information from USAC for the First Quarter of 2012 indicates that the contribution factor will increase to about 17.9 percent. So if no changes are made to the contribution mechanism, the financial burden to consumers could continue to increase due to a continued decrease in interstate and international revenue.

As the statute stipulates, companies must pay a percentage of their interstate and international telecommunication service revenues to the Universal Service Fund, intrastate revenues are excluded as well as information services such as broadband

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in the process already denied parties adequate time to vet the model before FCC action. On September 19th, less than seven days before the FCC Chairman circulated a draft of the order voted out at the October agenda meeting, the ABC proponents filed with the FCC a plan to—purportedly—provide "full" access to the model's inner workings—*and in so doing necessarily conceded that the access they provided previously was insufficient for any useful analysis.* But even assuming *arguendo,* two weeks was a legally adequate time to review the model, the proponents further limited access to six workstations a day and to parties that had the financial resources to, on incredibly short notice, send expert staff to Cincinnati, Ohio and pay $500 for access and $100/day to examine the model.

[4] *First Local Competition Order,* 11 FCC Rcd 16055, at Paragraph 1112.

*[See p. 80 of this transcript].

Internet access. A key recommendation within the National Broadband Plan is to broaden the USF contribution base.[1]

Should the contribution base for USF be expanded to all telecommunications and broadband providers to: (1) lessen the financial burden on consumers and (2) make such assessment more equitable? And do you believe expanding the base requires Congressional action?

Answer. Contributions are an integral part of USF reform. I and many of my State colleagues believe the FCC should have tackled contributions in the most recent USF/ICC order. The problem with not addressing contributions at the same time as fund distribution is obvious. There is no program without a sound funding foundation. Logically, that should be established before deriving any distribution plan. However, I am very pleased to hear the FCC is taking steps to address contributions very soon and look forward to working with them.

I agree with the State members of the Federal-State Joint Board on Universal Service. The USF assessment must be reformed for the reasons you discuss. Currently, the burden of USF falls on decreasing interstate telecommunications revenue. Section 254 of the Act makes clear that "every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms. . . . Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires." To date the FCC has failed to classify point-to-point fee based VoIP services. Such services easily meet the functional definition Congress designated as "telecommunications services"—which are—in the statute—equivalent to "telecommunication services." The most recent order takes a byzantine discussion and reclassification of funded services—which seems to affirm that only common carriers that provide "voice telephony" services can receive Federal funding, but leaves broader definitions untouched. A few years ago, the FCC overturned years of precedent that high speed data services are "telecommunications services"—as they were so classified at the time the 1996 legislation was enacted and currently, some carriers are allowed to choose whether to provide broadband on a common carrier basis (with a separate ISP of the customers choosing) or as an "information service". Unfortunately, the statute currently specifies that *only a telecommunications carrier that provides a "interstate telecommunications service" (not simply "interstate telecommunications") must contribute to the Federal fund.* This problem is most easily ameliorated by simply classifying at least point to point voice as a "telecommunications service", regarding of which technology is used.

Broadening the base could greatly reduce the Federal surcharge rate and should also be more resistant to the erosion of narrow-band voice service revenue. In their filing the State Members of the Federal State Joint Board on USF's staff estimate that if all revenues currently reported on line 418 of FCC Form 499 were required to contribute, that would reduce the carrier contribution factor to approximately 2 percent from the current level of about 15 percent. While some information services currently reported on line 418 are excluded, that would raise the rate somewhat, but the final USF surcharge rate would be far lower than at present.

Personally, I don't believe the FCC needs Congressional action to expand the contribution base. As a statutory basis for this proposed action, the Commission can use its discretionary Section 254(d) funding authority to require contributions from any "provider of interstate telecommunication." The Commission previously used this authority to impose surcharges on voice over Internet protocol services for E911 services and the like.

However, Congressional action may be preferred to eliminate the potential legal challenge likely to result from FCC action to expand the base to previously un-assessed services. I haven't made any personal conclusion on which approach might be preferable, and NARUC as a whole has not taken a position on contribution reform. But one approach you may wish to consider was a proposal by Cong. Boucher and Terry in the fall of 2009 included in their "Discussion Draft" for Universal Service Reform. Section 102 of that Draft sets forth a draft proposal which I think provides a good starting point for discussion and debate. It requires the FCC to complete contribution reform on passage of the bill, but provides the Commission with sufficient flexibility to accommodate various interest groups and concerns. It suggested that the Commission consider three possible methodologies for assessment: (a) revenues-based system on interstate, intrastate, and foreign communication services; (b) working telephone numbers; and (c) any other current of successor identifier protocols or connections to the network used by communications service providers. It allowed the Commission to consider either one methodology or a combination

[1] Recommendation 8.10: The FCC should broaden the universal service contribution base.

thereof, and also allowed for certain exceptions for low-volume users, *de minimis* use, and group plans (presumably for a working telephone numbers based approach.

The devil will be in the details in terms of the methodology chosen and how it is applied, and it will be difficult to satisfy the needs of each particular interest group and user of today's increasingly diverse communications system. No methodology will be perfect, and the states—both commissions and other agencies—will need to be a part of the solution. But I would urge you to keep a few basic regulatory principles in mind as you craft a new solution. The first is the concept of unforeseen consequences: almost anything the Commission, or Congress, does will have some consequences we cannot foresee today. So I suggest that you build in a certain amount of flexibility for the implementing agencies as we face real-world situations and devise rules; this would include the Commission, USAC as the Federal implementing agency, state commissions (especially those with state USF funds), other state agencies, and of course the communication service providers. You may want to build in a certain mandatory review period after a certain number of years (eg, three or five years) at which point we can review and modify the rule, so that we don't repeat the mistake we have made in relying on interstate toll revenues for such a long period of time. The second is that we should realize that the pace of technological change in this industry is very swift, and that we should not try to favor, or disfavor, any particular technology in the contribution methodology that is selected. We should try to target reform on communications traffic that travels from one point (originating) to the point where the consumer receives and uses the voice/data (termination); we should not try to base our laws and regulations on the type of traffic or technology. Finally, we should keep the principles of universal service in mind as we craft the new rules on contribution reform. Specifically, we should adhere to the principle that all users of communications services should be able to receive the most up-to-date and relevant communications traffic—whatever the content and whatever the medium—in all parts of this country.

Question 2. If you agree the contribution base should be expanded, what suggestions of reform do you have to meet the previous questions criteria?

Answer. As for what should be done, I agree with the State members of the USF joint board (State Members) who recommended that the FCC broaden the Federal universal service contributions base to include all services that touch the public communications network. By "public communications network" they meant the interconnected communications network that uses public rights of way or licensed frequencies for wireless communications. The same contribution base should be used to generate support for High Cost programs and for Schools and Libraries, Rural Health Care and Low Income programs. This proposal would better match the realm of services that benefit from universal access to the services that must contribute to that universal access.

The State Members recognized that some line drawing is needed between the services that should contribute to USF and those that should remain exempt. They did not claim to have fully defined that line at the time when comments were due in the FCC's proceeding earlier this year. They did recommend, however, that broadband and services closely associated with the delivery of broadband should contribute. This change is essential if universal service funds are going to be used to build broadband facilities. Broadening the contribution base matches well with a broadening of the distribution purposes of the fund to include the total network deemed essential for universal service in the future.

The USF surcharge should apply equitably to all broadband services such as DSL, Cable Modems, and wireless broadband. The surcharge may also include services, such as ISP service, that are traditionally bundled with those broadband services. Generally, the State Members did NOT intend that pure content delivered by non-telecommunications carriers over broadband facilities should contribute.

To assist the Commission in defining this line more clearly, the State Members suggested that the Commission examine the current reporting categories defined for FCC Form 499–A. Form 499–A requires reporting on Line 418 some services that should be subject to the USF surcharge, like DSL, and some services, like Westlaw for example, that should not be subject to the USF surcharge.

State Members were aware that the Commission has drawn a fundamental divide between "telecommunications services" and "information services," and the Commission has placed broadband services in the latter group. Nevertheless, they did not believe that distinction would be particularly helpful in defining the contribution boundary for universal service, particularly when the fund is used to support both classes of service. If the "information service" concept is to be useful here at all as an exception from contribution requirements, it should be narrowed to a more traditional scope that excludes services like Westlaw but that includes retail broadband service.

The State Members recommended that the Commission make the maximum effort to separate the question of what services should contribute to universal service from the question of whether service rates are "regulated" and, if so, at what level of government. They concluded that the list of contributors to universal service should have little or no relation to: (1) whether the FCC has authority to prescribe rates and standards for that service; (2) whether States have that regulatory authority; or (3) whether no government has that regulatory authority.

The courts have held that States may constitutionally impose sales taxes on both interstate and intrastate telecommunications. Similarly, State Members believed that the U.S. Constitution does not prohibit either a Federal universal service surcharge or a State universal surcharge, or both, on all services delivered over the public communications network.

The statute requires that contributions must be "equitable and nondiscriminatory." The State Members do not believe it to be either inequitable or discriminatory for a single service to be subject to both a State universal service surcharge and a Federal universal service surcharge. Currently, 23 states have their own complimentary funds that distribute over $1.5 billion each year.[2] While the two universal service programs aim at a common goal, they often support different elements. The Federal program supports schools and libraries, health care, and low-income programs, while many State programs do not. At least one State has a universal service program that supports E–911 services, while the Federal program does not. Moreover, even in States where only high-cost support is provided, the State and Federal programs can and should function cooperatively, not competitively.

The actual benefits of existing universal support programs have only tenuous connections to traditional regulatory classifications or the level of government that collects USF contributions. While two Federal high-cost programs are aimed at "interstate" costs," all the others aim primarily to reduce intrastate rates. Support for Schools and Libraries, Health Care and Low Income support is used by grantees to purchase an inextricable combination of interstate and intrastate services. Moreover, when today's service providers use high-cost support to extend the reach or the capability of their existing networks, they are not deploying an interstate or an intrastate product, only non-jurisdictional facilities. Today's service providers spend new construction dollars to meet the present and future demands of their customers, and jurisdictional distinctions have little to do with that process. The Commission, State Members and carriers all seek to maximize the deployment of the best infrastructure to meet the future needs of our Nation and achieve the goals of universal service.

Efforts to broaden the base of the Federal universal service programs should necessarily clarify that States have equal authority to broaden their assessment base and, if done by the FCC, should specify that such assessments do not "burden" the Federal funding mechanism.

Contribution Mechanism Methodologies

Question 3. Some industry groups and companies have advocated for the adoption of a numbers-based contribution mechanism. They have stated that such format would provide a more stable, predictable and nondiscriminatory funding mechanism that would affect all providers and end-users of voice services equitably, irrespective of the particular technology used to provide that service.

However, the major goal of the ABC proposal and the FCC's effort to reform USF are to transition today's voice-focused high-cost Universal Service Fund into a broadband-focused fund. So a numbers-based—particularly phone number based—contribution mechanism would not necessary properly map to a more broadband-centric fund.

What are your views on the benefits and disadvantages of both a numbers-based contribution mechanism and a general revenue-based methodology, where a carrier would be assessed based on their total gross communications services (telecommunications and information two-way services) revenue?

Answer. Absent new legislation, as long as the contributing carrier is providing an "interstate telecommunications service"—an argument could be constructed to justify either approach under the existing statute. Moreover, the Commission has to clarify the threshold legal issues involving "telecommunications services" and "information service" in order to provide clear guidance to both the communications service providers and the states that administer USF programs. Without sufficient

[2] States with USF programs: Alaska, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Kansas, Maine, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Pennsylvania, Puerto Rico, South Carolina, Texas, Utah, Vermont, Wisconsin, Wyoming.

legal authority and clear guidance, the carriers and states may continue to be quite constrained with regard to how broadly the new contribution is defined, and how it is to be collected and administered—by either USAC as the Federal Administrator, or the state USF Administrator. As I stated above, the Boucher-Terry draft discussion legislation provided a menu of options from which you could choose including gross revenues, working telephone numbers, or a network (Internet) connections-based methodology. One can conceive of a "hybrid" methodology in which each of the various approaches could be incorporated in to an overall mechanism. A numbers-based approach seems more likely to survive judicial review as there is court precedent that suggests the FCC may not calculate fees based upon intrastate revenues. Yet working telephone numbers may have their own disadvantages as well, in terms of the technology assessed, and incentives (depending on how high the surcharge is set per working telephone number—some analysts have suggested $1.00 per number, but no definitive study has been conducted to my knowledge) for carriers to "arbitrage" around this number by adopting new switches, routers, or technologies.

There are arguments both for and against the above approaches. Two things are obvious—if more contribute—the per contribution amount is reduced and if a larger revenue base is assessed—even if the raw fee is the same—the percentage number will be smaller. It is clear to me that the present trend of an increasing contribution factor—now approaching 20 percent—on interstate toll revenues is not sustainable. I have not yet formed an opinion on what might be the best approach. If new legislation is contemplated, one could also consider if it might be appropriate for funding for this program to come from general tax revenues rather than from an agency administered variable phone surcharge. Such an approach could eliminate the costs of the current separate collection mechanisms and might lead to greater efficiencies.

Voucher Program for USF

Question 4. Various parties have suggested reforming the USF program's disbursement process. Instead of the USF collecting money from telecommunications carriers and then distributing the funds to households that need assistance paying for phone service, some have suggested giving the low-income households direct vouchers that they could use for communications services. Such arrangement would be similar to the Housing Choice Voucher Program (Section 8) provided by the Department of Housing and Urban Development (HUD) to subsidize housing for low-income families and individuals. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects. Could such modification to a direct voucher program improve the effectiveness of the Fund as well as help reduce waste, fraud, and abuse? Is this something that Congress should examine and possibly implement?

Answer. I do not have a comparable experience base to evaluate this idea. Let me point out some pros and cons of each approach.

Arguing in favor of a carrier-based subsidy program is the following. First, carriers of great knowledge and expertise in building out advanced communication networks, and dealing with phone subscribers, namely their customers. Secondly, they are usually quite familiar with the terrain and geography of each particular state and region, and know how to adapt their network to the needs of these communities. Third, despite the challenges (including waste and abuse) involved in the current program that is administered by USAC for eligible telecommunications carriers, we have an established program in place that in many respects has done an admirable job of building out voice and advanced telecommunications services to rural America.

Arguing in favor a direct voucher program is the following. First, the consumer would have the ability to choose his or her particular carrier, instead of a government agency or the carrier. Second, one may be able to economize on administration and overhead costs (as well as possible margin for the ETC carrier) if one moves to a direct voucher system, thereby freeing up more funds for the whole program. Third, in a time of increasing choices given to consumers through applications carried out advanced networks, it seems timely to give the consumer more choice and authority to select the carrier and level of services.

Yet each approach has shortcomings as well. The shortcomings of the carrier-based system are well-known and documented, and the subject of numerous Congressional and GAO inquiries. Yet one can anticipate certain challenges with a voucher-based system as well, such as administrative complexity, the lack of familiarity with a non-telecommunications agency (whether it be housing, social services, or whatever) with administering a telecommunication network subsidy program, and so forth. Also, as opposed to a fee-based approach like the current system, a voucher system would more likely than not be subject to the vagaries of the annual

Congressional appropriations process. Moreover, one might not have the flexibility in a voucher-based program to match costs and revenues, which may lock in a higher level of payment to the recipient in a voucher when economies of scale and other forces are forcing costs down in a telecommunications network.

In summary, I believe that the history of the universal service program for telecommunications back to the 1930s offers us a few historical pointers. In general, government agencies perform poorly when they seek to make technology choices through legislative or administrative fiat, rather than letting consumer views and the markets decide. It does seem that a voucher approach would at least have the benefit of being technology neutral and not advantaging any particular technology or provider—just focusing the funding on the people that need assistance. I recognize this "fund company" vs. "fund people" debate has been around ever since we've had Federal and state universal programs to build out telephone networks starting in the Roosevelt Administration over eight decades ago. But if Congress is going to consider legislation to reform the USF contribution methodology, I believe a direct voucher approach should at least be considered along with other more traditional reform options.

October 18, 2011

Senator JOHN D. ROCKEFELLER IV,
Chairman,
U.S. Senate,
Committee on Commerce, Science, and Transportation
Washington, DC.

RE: COMMERCE COMMITTEE HEARING ON UNIVERSAL SERVICE

Dear Mr. Chairman:

It was a privilege to testify at last week's hearing on universal service and intercarrier compensation reform and I thank you for the opportunity. Below, I provide additional information on two items discussed at the hearing, in accordance with the order that the record be held open for seven days following the hearing.

Supplemental Response to Senator Ayotte's Question

At the hearing, Senator Ayotte asked what the FCC should do to ensure a more equitable distribution of funds throughout the country, so that unserved households within each state have a fair opportunity to access technology and spur economic development. I responded that the FCC has on its agenda a plan to reform its distribution methodology throughout the states. Permit me to be more specific.

The FCC's distribution model has frustrated us since 2008, when the FCC imposed an "interim cap" on support to wireless carriers. At that time, we had only recently been designated as eligible to draw from the fund in New Hampshire. Before we could undertake any significant investments, the cap took effect, limiting the state to only about $200,000 per year for mobile services. The cost of a single tower usually exceeds that amount, so our ability to accelerate investment in New Hampshire has been significantly curtailed for three years now, and counting.

U.S. Cellular has for several years now advocated the use of a forward-looking cost model to determine the efficient costs of providing mobile broadband service throughout the country. A cost model has the advantage of targeting support to the areas of greatest need which will result in a more equitable distribution among the states. This summer, we submitted the basics of a cost model in the universal service reform proceeding and I am advised that the FCC intends to seek comment on whether to use our cost model to determine support levels in high-cost areas.

As the FCC works through the process of vetting the model for use in distributing support for mobile broadband, I'm confident that it will identify northern New Hampshire as an area of need that should receive significant additional resources. We will be following this proceeding carefully and we'll keep you informed of its progress.

Clarification of FCC's Intentions With Respect to Mobile Broadband

In the course of preparing for the hearing, I learned that the recent history of universal service reform includes the National Broadband Plan, a proposal for a one-time Mobility Fund, a Connect America Fund ("CAF"), and a sustaining mobility fund, as described by Chairman Genachowski last week. I was advised that the FCC intends for mobile broadband to play a significant role in universal service reform, but that recent ABC Plan and RLEC Plan submitted by the wireline industry would significantly limit funding to mobile wireless. That formed the basis for my testimony that mobile wireless requires significantly more than $300 million per year, citing a recent study that it will take $10–20 billion to build out high-quality mobile broadband in rural America.

So, it was surprising to hear that the amount set aside in the ABC Plan for wireless, "is ten times what the national broadband plan thought was necessary for wireless mobility. Under the FCC's national broadband plan, $300 million was the total—and under this ABC Plan it is $300 million per year for ten years, so it is a much larger revenue stream for wireless than was ever envisioned by the FCC in its national broadband plan."

Following the hearing, I asked our advisors to report back to me as to whether my understanding of the FCC's intent with respect to mobile broadband was incorrect. The information provided proved most helpful to me and the record in this proceeding will benefit from having a more thorough response than I could have provided at the hearing.

The National Broadband Plan, a document authored by FCC staff and never adopted by the Commission, recommended that the FCC create a Connect America Fund, with eligibility criteria that is company and technology agnostic. "Support should be available to both incumbent and competitive telephone companies, fixed and mobile wireless providers. . ..Any broadband provider that can meet or exceed the specifications set by the FCC should be eligible to receive support." Recommendation 8.2.

These principles suggest that the National Broadband Plan intended that the entire $4.5 billion dollar CAF would be available to any carrier meeting the specifications set by the FCC. Indeed, almost all of the Senators at the hearing agreed that competitive and technological neutrality must be principles that guide decisions in reforming universal service. We have found no reference to a $300 million dollar limitation in the National Broadband Plan.

Early this year, when the FCC released its Notice of Proposed Rulemaking proposing to adopt the CAF ("CAF NPRM"), it made scores of proposals, including the use of technology-neutral reverse auctions, which would allow mobile wireless carriers access the entire $4+ billion CAF, on a competitively and technologically neutral basis, free from rights of first refusal or other set-asides. The CAF NPRM also proposed an alternative that would allow incumbents to have a right of first refusal over a portion of the CAF funds. Again, there was no proposal to limit mobile wireless carriers to $300 million dollars of total funding.

Last fall, the FCC proposed to create a one-time mobility fund, intended to provide "an initial infusion of funds toward solving persistent gaps in mobile serves, through targeted, one-time support for the build out of current-and next-generation wireless infrastructure in areas where these services are unavailable." The FCC proposed to allocate $100 [million]–$300 million for this purpose and it sought comment on whether there is an optimal size of the mobility fund. The Commission also noted that its new mobility fund would be one of a set of initiatives to promote deployment of broadband and mobile services in the United States and that it would continue to pursue other policies that promote the availability of mobile voice services in as much of the country as possible.

It is here that it appears the misunderstanding occurred. The reference to one-time funding was in this one item, not in the National Broadband Plan, the CAF NPRM, or the recent speech by Chairman Genachowski. Taken together, there's nothing in the record of the universal service reform proceeding to suggest that the FCC has ever intended for funding to mobile broadband providers to be limited to $300 million or to be subject to rights of first refusal by incumbents.

Finally, it is important to note that the ABC Plan would provide between zero dollars and $300 million each year to mobile broadband. ABC divides the amount of mobile broadband support between mobile service and fixed satellite service. Moreover, funds for mobile and satellite depend upon whether the incumbent wireline carriers use up all available support. So it is possible that mobile broadband will get no funding under the ABC Plan, ever.

I trust that you will find this information to be helpful in completing your record. Should you have any questions or require any additional information, please contact me directly.

Sincerely,

MARY N. DILLON,
President and CEO,
U.S. Cellular.

cc: Hon. Kay Bailey Hutchison
Hon. Daniel K. Inouye
Hon. John F. Kerry
Hon. Barbara Boxer
Hon. Bill Nelson
Hon. Maria Cantwell
Hon. Frank R. Lautenberg
Hon. Mark Pryor

Hon. Claire McCaskill
Hon. Amy Klobuchar
Hon. Tom Udall
Hon. Mark Warner
Hon. Mark Begich
Hon. Jim DeMint
Hon. John Thune
Hon. Olympia J. Snowe
Hon. Roger F. Wicker
Hon. Johnny Isakson
Hon. John Boozman
Hon. Patrick J. Toomey
Hon. Marco Rubio
Hon. Roy Blunt
Hon. Kelly Ayotte
Hon. Dean Heller

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
Olympia, WA, October 19, 2011

Hon. JAY ROCKEFELLER,
Chairman,
Committee on Commerce, Science, and Transportation,
Washington, DC.

Hon. KAY BAILEY HUTCHINSON,
Ranking Member,
Committee on Commerce, Science, and Transportation,
Washington, DC.

RE: SENATE COMMERCE COMMITTEE HEARING ON "UNIVERSAL SERVICE REFORM: BRINGING BROADBAND TO ALL AMERICANS"—OCTOBER 12, 2011

Dear Chairman Rockefeller and Ranking Member Hutchison:

Thank you again for inviting me to testify on universal service reform. I am submitting this letter for the record to provide (i) a revised attachment outlining the net flow of USF dollars by State, (ii) a list of States that operate their own universal service programs, and (iii) clarification of responses to a few questions posed by members of the Committee during the hearing.

My October 12 written testimony contained an attachment that estimates the flow of Federal USF funds by State.[1] Members should pay the most attention to the column which describes the net flow of high cost Federal dollars to or from their States. I have edited the attachment to allow each member to easily determine the net impact on their State. *The FCC's proposed modifications will unquestionably—over the next 5–10 years—change this number significantly.* The amount your State *contributes* is unlikely to be reduced. The amount that is most likely to change is *how much your State receives (or does not receive).* But to really understand the impact of the FCC's proposals on constituents in your State, please consult with in utility commission which has jurisdiction over ETC designations and often administers a State-sponsored universal service fund as well. These experts can provide you with detailed State-specific insight. Staff with the National Association of Regulatory Utility Commissioners can put you in touch with them. (NARUC Contact Brian O'Hara at (202)898–2205, *bohara@naruc.org*).

My written testimony points out that over 20 States have complementary universal service programs that distribute over $1.5 billion each year: Alaska, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Kansas, Maine, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Pennsylvania, Puerto Rico, South Carolina, Texas, Utah, Vermont, Wisconsin, and Wyoming (23).[2] *Whatever action the FCC takes is long term likely to impact the both the operation of and the financial support needed (provided by your constituents) to maintain such State programs.*

Finally, I would like to take this opportunity to expand on my answers to two questions posed at the hearing.

- *Sen. Warner expressed grave concern with the ability of all carriers to interconnect.*

States have long played an important role in arbitrating intercarrier interconnection disputes. As communications moves over to IP we are still seeing the same problems as we did before. In short, there are problems currently with IP-to-IP interconnection which the FCC doesn't appear to address in its draft order. We understand the FCC is planning on asking questions in a further notice about the application of the duty/negotiation/State-arbitration process to IP-to-IP interconnections under Sections 251 and 252 of the 1996 Act. I believe seeking further comment is not a good policy choice, since these statutory provisions apply on their face to

[1] *See*, The chart was based on the FCC 2010 USF Monitoring Report, December 2010 (which has the most recent data publicly available, online at *http://transition.fcc.gov/wcb/iatd/monitor.html.*

[2] Information obtained from a 2009 information survey of State PUCs.

such traffic. Given the rapid movement from a circuit-switched to an IP network, we should recognize that reality and use the good-faith efforts of state commissions to arbitrate disputes of interconnection when they arise, and most certainly they will. If a competitive carrier can't get interconnection to the network, whether it be the PSTN or an IP network, competition will not develop as robustly as it should, and ultimately consumers will suffer. There is no need for the FCC to seek further comment. The FCC should simply clarify the existing obligations of IP providers to interconnect under Section 251(c)(2).

- *Sen. Pryor asked how the proposed ABC plan would hurt consumers.*

There are several portions of the plan that I believe will harm consumers. First is the increase in the subscriber line charge (SLC) (and the separate access charge replacement fee) add-ons to local phone rates. In these economically troubling times, the very last thing the FCC should be suggesting is rate increases on a basic service that people rely upon in emergencies and to find and keep employment. Also, the failure of the FCC to classify VoIP fee based services as "telecommunications services" is long overdue. I understand why the carriers want to delay and obstruct a proper classification decision, which allows them to continue to press flawed arguments that State Carrier-of-last-resort obligations (COLR), State service quality/outage oversight, and other State consumer protection laws have no application to the service. But it makes no sense for consumers to continue to suffer from this "regulatory gap" and the lack of regulatory clarity. In fact, as in other industries that have some type of regulatory construct, I believe the telecommunications/information markets today need regulatory certainty in order to build out advanced broadband networks and applications; uncertainty leads to delays in investment decisions and continued litigation at both the Federal and state levels. Proper, effective regulation should allow markets to function properly with adequate competition, and hopefully eliminate arbitrage opportunities, while providing us with the means to protect consumers at the State level.

I appreciate your leadership on this important issue. The WUTC stands willing to work with Congress, the FCC, and other stakeholders to ensure all Americans have access to advanced services. If you have questions or would like to discuss it further, please contact me at 360–664–1169 or *pjones@wutc.wa.gov*.

Sincerely,

PHILIP JONES,
Commissioner,
Washington Utilities and
Transportation Commission.

cc: Members of the Commerce, Science and Transportation Committee

State or Jurisdiction	High-Cost Support				
	Payments from USF to Service Providers		Estimated Contributions by Carriers to USAC		Estimated Net Dollar Flow
	Amount	% of Total	Amount	% of Total	Amount
Alabama	$100,061,000	2.3%	$68,579,000	1.6%	$31,482,000
Alaska [BEGICH]	$168,272,000	3.9%	$11,250,000	0.3%	$157,022,000
American Samoa	$3,939,000	0.1%	$298,000	0.0%	$3,641,000
Arizona	$67,204,000	1.6%	$84,352,000	2.0%	($17,148,000)
Arkansas [PRYOR/BOOZMAN]	$148,253,000	3.5%	$39,246,000	0.9%	$109,007,000
California [BOXER]	$107,508,000	2.5%	$474,280,000	11.0%	($366,772,000)
Colorado	$79,397,000	1.8%	$76,670,000	1.8%	$2,727,000
Connecticut	($390,000)	0.0%	$57,085,000	1.3%	($57,475,000)
Delaware	$226,000	0.0%	$15,761,000	0.4%	($15,535,000)
Dist.of Columbia	$0	0.0%	$19,773,000	0.5%	($19,773,000)
Florida [NELSON/RUBIO]	$70,396,000	1.6%	$285,907,000	6.7%	($215,511,000)
Georgia [ISAKSON]	$136,139,000	3.2%	$140,561,000	3.3%	($4,422,000)
Guam	$16,650,000	0.4%	$2,251,000	0.1%	$14,399,000
Hawaii [INOUYE])	$58,416,000	1.4%	$21,298,000	0.5%	$37,118,000
Idaho	$50,779,000	1.2%	$21,336,000	0.5%	$29,443,000
Illinois	$74,939,000	1.7%	$177,462,000	4.1%	($102,523,000)
Indiana	$74,418,000	1.7%	$83,888,000	2.0%	($9,470,000)
Iowa	$127,435,000	3.0%	$38,837,000	0.9%	$88,598,000
Kansas	$230,301,000	5.4%	$37,973,000	0.9%	$192,328,000
Kentucky	$101,805,000	2.4%	$55,949,000	1.3%	$45,856,000
Louisiana	$156,494,000	3.6%	$61,345,000	1.4%	$95,149,000
Maine [SNOW]	$27,443,000	0.6%	$18,209,000	0.4%	$9,234,000
Maryland	$3,966,000	0.1%	$94,073,000	2.2%	($90,107,000)
Massachusetts [KERRY]	$2,413,000	0.1%	$97,758,000	2.3%	($95,345,000)
Michigan	$63,193,000	1.5%	$122,460,000	2.9%	($59,267,000)
Minnesota [KLOBUCHAR]	$127,037,000	3.0%	$68,112,000	1.6%	$58,925,000
Mississippi [WICKER]	$281,267,000	6.6%	$38,489,000	0.9%	$242,778,000
Missouri [MCCASKILL/BLUNT]	$108,639,000	2.5%	$82,943,000	1.9%	$25,696,000
Montana	$79,855,000	1.9%	$14,539,000	0.3%	$65,316,000
Nebraska	$116,611,000	2.7%	$24,051,000	0.6%	$92,560,000
Nevada [HELLER]	$25,570,000	0.6%	$39,948,000	0.9%	($14,378,000)
New Hampshire [AYOTTE]	$8,576,000	0.2%	$20,901,000	0.5%	($12,325,000)
New Jersey [LAUTENBERG]	$1,058,000	0.0%	$143,512,000	3.3%	($142,454,000)
New Mexico [UDALL]	$71,391,000	1.7%	$27,820,000	0.6%	$43,571,000
New York	$44,967,000	1.0%	$277,114,000	6.5%	($232,147,000)
North Carolina	$85,635,000	2.0%	$130,102,000	3.0%	($44,467,000)
North Dakota	$94,452,000	2.2%	$9,478,000	0.2%	$84,974,000
Northern Mariana	$1,309,000	0.0%	$465,000	0.0%	$844,000
Ohio	$33,858,000	0.8%	$149,536,000	3.5%	($115,678,000)
Oklahoma	$142,547,000	3.3%	$45,232,000	1.1%	$97,315,000
Oregon	$78,826,000	1.8%	$51,882,000	1.2%	$26,944,000
Pennsylvania [TOOMEY]	$57,770,000	1.3%	$177,475,000	4.1%	($119,705,000)
Puerto Rico	$74,387,000	1.7%	39,829,000	0.9%	$34,558,000
Rhode Island	$34,000,000	0.0%	$14,102,000	0.3%	($14,068,000)
South Carolina [DEMINT]	$98,376,000	2.3%	$63,774,000	1.5%	$34,602,000
South Dakota [THUNE]	$97,338,000	2.3%	$11,053,000	0.3%	$86,285,000
Tennessee	$58,896,000	1.4%	$91,074,000	2.1%	($32,178,000)
Texas [HUTCHISON]	$262,049,000	6.1%	$299,043,000	7.0%	($36,994,000)
Utah	$19,221,000	0.4%	$32,031,000	0.7%	($12,810,000)
Vermont	$21,208,000	0.5%	$10,415,000	0.2%	$10,793,000
Virgin Islands	$15,986,000	0.4%	$2,961,000	0.1%	$13,025,000
Virginia [WARNER]	$72,933,000	1.7%	$120,689,000	2.8%	($47,756,000)
Washington [CANTWELL]	$94,459,000	2.2%	$89,779,000	2.1%	$4,680,000
West Virginia [ROCKEFELLER]	$58,640,000	1.4%	$28,323,000	0.7%	$30,317,000
Wisconsin	$139,287,000	3.2%	$72,198,000	1.7%	$67,089,000
Wyoming	$50,740,000	1.2%	$8,709,000	0.2%	$42,031,000
Total	$4,292,179,000				

This chart is based on the FCC 2010 USF Monitoring Report, December 2010 (which has the most recent data publicly available, online at *http://transition.fcc.gov/wcb/iatd/monitor.html*).

Ocober 25, 2011

COMMENTS TO OCTOBER 12 HEARING ON UNIVERSAL SERVICE REFORM

As a member of a Wireless Safety Organization I am concerned about the physiological effects of radio frequency on people and the environment, I urge this subcommittee to consider that all Broadband is not "Technology Neutral". Rather, numerous studies, independent of industry funding, have found biological outcomes including an increase in breast cancer, sleep disorders and Alzheimer's disease.

Please see the Bionitiative Report at *www.bioinitiative.org* (2007) and the Journal of Pathophysiology (August 2009), for more information. It is extremely unfortunate that the United States has yet to publicly acknowledge the health risks associated with RF microwave radiation sources, as other countries have done so to protect their citizens.

European governments and the World Health Organization, IARC (International Agency on Research and Cancer) recognized in May 2011 that radiation frequencies are Class 2B carcinogens, in the same category as lead, DDT, and gasoline exhausts. In May 2011 the European Parliament recommended that strong precautionary measures be taken to avoid exposures from RF radiation sources primarily by vulnerable sectors of the population, such as children, pregnant women and the elderly. They recommended the establishment of *Wireless Free Zones* for those electrically sensitive or for those who wish other living options.

I ask that this sub-committee urge the FCC to scale down its goals for the Advanced Mobility USF plan and dedicate some of those wireless un-served/under-served areas of the country as *Wireless Free Zones*. Wired or fiber optic technology should be implemented in these areas.

There is a significant portion of the population who find themselves physically compromised from the microwave overload in our living environment (headaches, sleep disorders, cancer, etc.) that seek out these unserved wired areas of the country as a place of refuge and relief from their physical sensitivity to ambient microwave exposures.

My wife is severely electrically sensitive due to radiation exposure. It is estimated that 5 percent of the population suffers from this phenomenon and the numbers are growing daily as radiation exposure levels keep increasing. Our need for *Wireless Free Zones* should and need to be considered in the total scheme for meeting societies broadband needs. Why is it that Europe is taking leadership in this arena? Our United States officials ought to take responsibility and ensure and protect the future health of our citizens. Please do not wait for millions of people to be adversely affected as we did with smoking, asbestos, lead, DDT and chlordane!

Thank you for your time and consideration regarding this matter. I am looking forward to your response.

Kind regards,

CHARLES BUBNIS.

October 21, 2011

Dear Sirs and Madams,

As someone whose life is entirely affected by microwave radiation, please do not go forward with any plan to increase wireless communication.

I am an Air Canada pilot living in Canada. Since last year when a two cell towers were placed behind my home I have become sensitive to all forms of microwave radiation along with electric and electro-magnetic fields. I imagine you can see how this would impact my life and career without me having to go into much detail. It's only through an exhausting effort that I am currently still able to work.

This technology, which I understand quite well, is not safe and shouldn't be forced on the entire population. Scientists in Canada have done studies at the Universities here and conclude that 5 percent of the entire population is severely affected by this technology and about 30 percent are moderately affected. This number is growing as well due to the increased exposure to this technology. Even my occupational health doctor has 10 other patients in his own practice here in my smaller city. At Air Canada where I work there are at least two other pilots with this condition that have had to stop working entirely.

This is all totally avoidable. The world is focusing on cancer and whether or not microwave radiation conclusively causes cancer or not. There is much more than cancer that is affecting people. My condition is called electro-sensitivity. It is a permanent condition and it has essentially ruined my life. My only solution, even according to my doctor, is to find a place with no cell towers around. So far I have been looking all summer and have yet to find something. Since this condition causes sensitivity to electric field and electro-magnetic fields it makes it even harder to find somewhere to live that you don't have to have the power off all the time, since most homes are built without shielding cables. I shouldn't have to be doing this. It is an entire waste of my and family's time for an illness that it totally preventable.

Please do not go forward with any plans concerning this. It will be a costly mistake that will affect the health of many American for the rest of their lives. Wired connections are much safer and money should be allocated for their use.

Thank you for listening,

MELISSA CHALMERS

October 20, 2011

Dear Sirs:

I am opposed to forced Broadband, especially in rural areas, just as I am opposed to forced Smart Meters, WiFi and Cell Phone Towers. The microwave fueling these ever stronger devices is very bad for people's health, not to mention wildlife and the environment. All also open the door to universal, 24/7 surveillance of every move people make.

These initiatives are being forced on us by the Obama administration "to do people a favor". Since when is being sick and depressed and microwaved, and surveilled a favor????? Many people choose to live in rural environments for the purity of the air and water, the peace and quiet, the privacy and tranquility . . . "deploying" these and "accelerating" this, and we are talking about 4G networks—the latest and strongest, possible links with Smart Meter networks, which compound the radiation, and WiMax . . . produces the result that no one in any natural environment can escape being poisoned!!!

I live in the country, and I can FEEL the toxins whenever I go into the nearest town, which has Cell Phone Towers every few hundred feet, everyone on wireless, and WiFi in all public places (plus, coincidentally, everyone is sick) . . . it is terrible. Please listen to those sensitive to this, and to the many courageous and admirable researchers who have studied the effects. We are talking about—long term—cancer, DNA damage, sterility, damage to the blood-brain barrier and to the brain, headaches, sleep disorders, cataracts, depression, confusion, memory loss, damage to cells, disruption of the electronic signaling and rhythms of the human body (as well as that of pollinating insects, birds, and other creatures), suppression of the immune system, susceptibility to mind control, and many other horrors.

There is a reason microwave is the latest "non-lethal" weapon of the military. And, the frequencies that they know cause harm are those being forced upon us.

There is a large group of people who WANT landline phones . . . they are the safest. Analog meters are the most durable, unhackable, and safest for health and privacy. We DO NOT WANT LANDLINE OR WIRED DEVICES PHASED OUT FOR WIRELESS. We DO NOT need lightening speeds or sexy propagandizing . . . if there is a group who thinks the world cannot live without these death traps, let them use them for themselves . . . only. . . . It is beyond arrogance to assume that the whole earth, all the air, all natural environments, and all people must have these artificial, and harmful, creations mandated with taxpayer money.

Fiber Optics, although more expensive than wireless, is, apparently, completely safe. High frequencies over power lines (spikes . . . dirty electricity) and wireless, with the RF radiation, is not.

I close with a few quotes from Zbigniew Brzezinski's Between Two Ages (1970), which he wrote for the Trilateral Commission at the behest of the Club of Rome (both institutions founded by the Rockefellers on orders of the Rothschild banking family, long-term Luciferians):

> "The technetronic era involves the gradual appearance of a more controlled society. Such a society would be dominated by an elite, unrestrained by traditional values. Soon it will be possible to assert almost continuous surveillance over every citizen and maintain up-to-date complete files containing even the most personal information about the citizen. These files will be subject to instantaneous retrieval by the authorities".
>
> "By the year 2018, technology will make available to the leaders of the major nations, a variety of techniques for conducting secret warfare, of which only a bare minimum of the security forces need be appraised. One nation may attack a competitor covertly by bacteriological means, thoroughly weakening the population (though with a minimum of fatalities) before taking over with its own armed forces. Alternatively, techniques of weather modification could be employed. . . ."
>
> "In addition . . . chemical and biological weapons, death rays, and still other forms of warfare. . . ."
>
> "In addition, it may be possible—and tempting—to exploit for strategic-political purposes the fruits of research on the brain and on human behavior. Gordon

> J. F. MacDonald, a geophysicist specializing in problems of warfare, has written that timed artificially excited electronic strokes could lead to a pattern of oscillations that produce relatively high power levels over certain regions of the earth. . .In this way one could develop a system that would seriously impair the brain performance of very large populations in selected regions over an extended period. . . . No matter how deeply disturbing the thought of using the environment to manipulate behavior for national advantage is to some, the technology permitting such use will very probably develop within the next few decades".

It is clear that this technology is not "for our benefit", and it never has been. It is the responsibility of our representatives to adhere to the Constitution, practice The Precautionary Principle, and not mandate anything that will do harm . . . at least, to large segments of the population. Please do not force this wireless Broadband on the public, do not pollute our air and harm our earth, and please start considering already safe technologies, or technologies that do no harm to any living thing.

Thank you.

CYNTHIA PRICE,
Woodville, VA.

October 19, 2011

RE: Comments to the Oct 12th Hearing on Universal Service Reform—Bringing Broadband to All Americans

As a member of a Wireless Safety organization I urge this subcommittee to consider that *all Broadband is NOT 'Techology Neutral'* The *public health and environmental impacts of the technology need to be taken into account.* Wireless RF/Microwave linked communications technologies has a long scientific history of physiological and biological effects on people and the environment.

Although U.S. has yet to acknowledge publicly the health risks associated RF/microwave radiation sources, the FCC's own website states *". . . there is no federally developed national standard for safe levels of exposure to radiofrequency (RF) energy . . ."* European governments and World Health Organization IARC (International Agency on Research and Cancer), have recently recognized that RF radiation frequencies pose potential health risks. IARC in May declared *RF frequencies as Class 2B carcinogens,* in the same category as Lead, DDT, fuel oils, gasoline exhausts. In same month *European Parliament recommended that strong precautionary measures* be taken to avoid exposures from RF radiation sources primarily by vulnerable sectors of population, primarily children, pregnant women, elderly etc. They also recommended the establishment of wireless free zones for those electrically sensitive or wish other living options.

I ask the Subcommittee to urge the FCC to scale down its goals for Advance mobility USF plan and dedicate some of those wireless unserved/underserved areas of the country as Wireless Free Zones. Target exclusively those zones with Wired broadband technology.

Many of us who find ourselves physically compromised from the microwave overload in our living environment seek out these unserved wireless areas of the country as places of refuge and relief from our physical sensitivity to ambient microwave exposures. *We are Consumers too*. Our needs for wireless free zones should be considered in the total scheme for meeting society's broadband needs.

EVELYN SAVARIN

○