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January 12, 1999

ORIGINAL

VIA HAND DELIVERY

Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Iowa Communications Network Request for Determination
CC Docket No. 96-45, File No. ASD/USB 98-37
Written Ex Parte Presentation

Dear Chairman Kennard:

As the newly elected Governor of Iowa, I am writing to reiterate the State of Iowa's continuing support of the request of the Iowa Communications Network ("ICN") for a determination that the ICN is a common carrier, as that term is defined in the Federal Communications Commission's (FCC) universal service proceeding. This request has now been pending for close to a year.

As you know, the ICN is a state-owned telecommunications network that has served schools, libraries, medical facilities and governmental entities in Iowa since 1991. As *The New York Times* explained in a recent article, the ICN "is nearly a decade old, but is still revolutionary," because the ICN's statewide network, which links all 99 Iowa counties, allows educational "opportunities afforded to students in Des Moines and Cedar Rapids [to] be made available to those in rural Inwood." The ICN, because it is connected throughout the State, gives students and other citizens in even the most rural areas access to educational experiences and medical services that otherwise are available only to those in urban centers. Indeed, I believe, as did my predecessor, that the ICN and its educational programs are critical to strengthening rural communities all across Iowa. The ICN is particularly important because, despite repeated efforts, the State has been unable to convince private carriers in rural Iowa to provide the services that are available from the ICN today. In other words, the ICN provides advanced services to rural areas where no one else will.

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To continue to serve these needs, the ICN has requested a ruling acknowledging that ICN is a common carrier for purpose of the FCC's Universal Service Fund (USF). This ruling will confirm that Iowa schools and libraries that elect to use the ICN can participate in the FCC's universal service discount programs.

It is my understanding that the central issue in the FCC proceeding is whether the ICN is a "common carrier" or a "private carrier" for the purposes of the USF. This issue, in turn, depends on whether the ICN serves its customers "indifferently" and whether it chooses the specific customers it serves. I believe the answers to these questions are self-evident. The ICN services are available to all schools, libraries and health care providers in Iowa, regardless of whether they are public or private, urban or rural, large or small. Schools, libraries and health care providers can choose to use the ICN's services at any time, and are free to stop taking service from the ICN or to switch to another carrier if they so desire. The freedom of USF beneficiaries to choose the ICN is reflected in the fact that only 50 percent of Iowa local school districts use the ICN for long distance phone service. The ICN serves these customers indifferently and, in fact, must charge customers based on a rate schedule that is set annually by a special commission. This rate schedule, like a telephone company tariff, sets rates for general classes of customers, and every customer in a class is charged the same rates. While there have been some questions raised as to whether the ICN fits the common carrier status for colleges and universities, there should be no doubt that it serves schools, libraries and health care providers in Iowa as a common carrier. As you know, the Iowa Utilities Board has reached the same conclusion, and has urged the FCC to grant the ICN's request.

Moreover, I believe that fairness requires the FCC to give the ICN every possible consideration in this matter. If the FCC denies the ICN's request, Iowa schools, libraries and rural health care providers will be denied the exact benefits now available in every other state, simply because Iowa had the vision ten years ago to meet the needs of its rural communities. This would be a manifest injustice that the FCC should do its very best to avoid. Indeed, in light of the nature of the ICN's services, there is every reason to grant, and no reason to deny, ICN's request.

Finally, I urge the FCC to act expeditiously. As mentioned above, this proceeding has been pending for nearly a year. Simply put, this delay has had the same effect as denying the ICN universal service funding, even though the Commission never has found services provided by the ICN to be ineligible for funding. Ironically, although the FCC's rules do not require Internet service providers to be carriers to be eligible for funding, even requests for funding Internet service provided by ICN have not been granted. Prompt action is necessary to prevent Iowa schools and libraries from suffering further from these continuing delays in USF funding.

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In accordance with Section 1.1206 of the FCC's rules, two copies of this letter are being submitted to the Secretary's office on this date.

Sincerely,



Thomas J. Vilsack
Governor-Elect

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