

cost carriers should be given optional treatment for broadband deployment to remain as a Title II telecommunications service.

NARUC Recommendation without Merit or Substantiation

NARUC supports and recommends to the Commission that, “the FCC immediately and directly allocate to Part 64 all equipment used to offer any ILEC DSL information service.”¹ Under this proposal, NARUC fails to recognize that by doing so small and rural LECs will suffer devastating consequences, both financially and operationally. In addition, should the FCC adopt any recommendation regarding the allocation of Part 64 costs away from regulated investment, these rate of return LECs, who have in good faith and based on current rules chosen to deploy advanced services and promote universal service in rural high cost areas based on the current funding mechanisms, will be disincented from further providing these services. In relation to this notion, OPASTCO asserts, “Rural ILECs that have deployed advanced services did so according to the rules in force at the time. If alterations lead to a sudden elimination of DSL-based service from the NECA pools, this...could leave these carriers with significant stranded investment and financial losses.”² The reason for this relates to the lack of funding that will materialize should these LECs be forced to concur with legislation that is not applicable to their situation. This lack of funding not only affects the provision and deployment of basic universal service, but also disallows any attempt for small and rural carriers to encourage advanced services, such as DSL, in rural communities.

In addition, NARUC implies that, in another case, the FCC tentatively proposed a 50% allocation of joint and common costs as a starting point.³ Not only is this entirely arbitrary and without basis, but also there is no legal or legislative justification or precedence to support how this remark pertains to this proceeding. Instead, and as the National Rural Telecom Association states, “Rural carriers that have developed advanced

¹ NARUC Comments, p. 13

² OPASTCO Comments, p. 4

services have done so according to the rules in force at the time, and altering those rules can destroy the business case for their deployment decisions. A sudden elimination of DSL-based service from the NECA pools could require significant rate increases, which might force some rural customers to discontinue their DSL-based services. It could also leave these carriers with significant stranded investment and financial losses. Further, pooling carriers would likely be discouraged from expanding DSL-based services, defeating the Commission's goal of encouraging the availability of advanced services to all Americans."⁴ Furthermore, Beacon agrees with OPASTCO, who articulates, "The Commission should continue to permit all loop-related costs to be allocated entirely to voice telecommunications services. A reclassification of wireline broadband Internet access service would not change the fact that, as previously established by the Commission, there is little to no incremental loop cost incurred in the provision of DSL on a loop already in use for voice service. The continued allocation of all loop-related costs to ILECs' voice services would help to keep advanced services affordable for high-cost rural subscribers, consistent with Commission and Congressional goals."⁵

Pooling

As some commenters have noted, the exclusion of DSL and other advanced services from the pooling process would hinder the deployment of wireline broadband Internet access in many rural areas, contrary to the Commission's goals.⁶ Furthermore, since pooling is such an integral and essential part of a rate of return carriers' financial well-being, it follows suit that any step taken by the Commission to deregulate costs that were incurred for the provision of deploying voice telecommunications would likely jeopardize the foundation upon which small and rural LECs have relied. As USTA states, "In some instances, the deregulation of broadband services may discourage rather than encourage broadband investment. . . . These carriers should be allowed to have their broadband

³ NARUC Comments, P. 13

⁴ NRTA Comments, P. 17

⁵ OPASTCO Comments, p. iv and v

⁶ OPASTCO Comments, pgs. iv and 3; Western Alliance, p. 2

service treated as a Title II common carrier service and be permitted to keep their broadband services in the Neca pools and tariffs.”⁷

Contribution to Universal Service

In Beacon’s initial comments in this proceeding, we recommended that since the FCC’s intent is to promote competition, requiring *all broadband providers* to contribute to universal service funding mechanisms would strengthen competitive efforts in this area. In addition, Beacon also noted that in relation to federal statute supporting contributions to universal service, it must be noted that Section 254(b)(4) outlines the requirements of telecommunications providers to contribute: “All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.”⁸ In understanding that Section 254 and 706 of the Act also support the nationwide objectives of ubiquitous deployment and access to all Americans, Beacon also suggests that the most appropriate, fair, equitable, and nondiscriminatory framework to fund the universal service mechanism is by broadening the base of contributors. Verizon Wireless agrees that this approach is fair by stating, “the Commission should examine options for broadening the base of contributors to USF.”⁹ USTA also supports this notion by testifying, “All providers of broadband service, regardless of the technology or platform used to provide the service, should be equally obligated to contribute to universal service support mechanisms.”¹⁰

Conclusion

Beacon strongly encourages the Commission to consider that a “one size fits all” approach to broadband deployment is not appropriate for small, rural, and tribal telecommunications carriers. Access to advanced services and the promotion and advancement of universal service in rural communities should not be hindered by the

⁷ United States Telecom Association, pgs. 3, 11 and 12

⁸ Beacon Comments, p. 7

⁹ Comments of Verizon Wireless, P. 1

adoption of legislation that is not applicable to all situations. Furthermore, equitable and nondiscriminatory contributions to universal service funding requirements should be assessed to all telecommunications service providers per Section 254(b)(4), as noted by various commenters in this proceeding. Beacon therefore urges the Commission to reflect on the recommendations and facts set forth in these comments.

Respectfully submitted,

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[Filed Electronically]

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¹⁰ USTA Comments, p. 3