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ORIGINAL

Notice of Ex Parte meeting with FCC on May 18, 2010, regarding Notice of Proposed Rulemaking and Notice of Inquiry on Universal service; WC Docket No. 10-90; GN Docket No. 09-51, WC Docket No. 05-337.

FILED/ACCEPTED

JUN 02 2010

Federal Communications Commission
Office of the Secretary

In attendance:

Representatives of National Tribal Telecommunications Association (NTTA): Jose Matanane, General Manager, Fort Mojave Telecommunications Inc., Co-Chair, NTTA, also member of Arizona-New Mexico Telecommunications Association; Anthony Newkirk, Gila River Telecommunications Inc., Board Member; Rebecca Kisto, Board Member, Gila River Telecommunications Inc .; Melanya S. Pasqual, Board Secretary, Gila River Telecommunications, Inc; Godfrey Enjady, General Manager, Mescalero Apache Telecommunications Inc. and Board Member, Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO); Jerome Block, MATI; Al Pederson, General Manager, Sandwich Isle Telecommunications Inc. and Board Member OPASTCO; Eric Jensen, Policy Counsel, NTTA

OPASTCO: James Kail, President and CEO of Laurel Highland Total Communications, Inc. (LHTC) and Board Member OPASTCO; Eric Smith, LHTC; Deana Richter, LHTC;

FCC: Irene Flannery, Wireline Competition Bureau; Rebekah Goodheart , Wireline Competition Bureau, Yul Kwon, Deputy Bureau Chief, Consumer and Governmental Affairs Bureau

NTTA and OPASTCO members presented the following information:

Tribal communities: the least-connected areas in America

1) The National Tribal Telecommunications Association is comprised of 8 regulated tribal telecommunications companies, several tribal competitive companies newly formed to serve their communities, and additional tribes that wish to serve themselves;

2) 8 Indian Tribes organized self-provisioning regulated Eligible Telecommunications Carriers out of necessity to provide for their communities;

3) In the 1990 census, 7 of the 8 tribal regulated telecommunications companies (telecos) had less than 10% telephone penetration;

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Cost vs. Efficiency considerations; financial predictability

4) With the Exception of the Hopi telecommunications company that was formed less than 2 years ago, all the other tribal telecos now serve over 90% of their tribal residents;

5) Small and independent telecos are operating in low-density, poor and high cost areas that were no-longer profitable for large price cap carriers and are the only providers willing to serve these non-viable service areas;

6) The existing high cost support mechanisms have been key to supporting tribal networks that now reach previously unserved or underserved communities;

7) The group stated grave concerns that the movement away from actual or real cost support mechanisms to an incentive regulated forward looking model will put small telecos in remote and rural areas out of business;

8) Equating "efficiency" to "low cost" or "cheapness" would create catastrophic results for rural and tribal residents. Example: the 800% average penetration and connectivity gain in subscribership in the tribal teleco communities is a model of "efficiency", but did not come cheaply. Nor should cheap service, technology or infrastructure be the strategy for the tribal communities (who are the worst served communities in America). "Lowest cost" solutions for tribes would be an extension of the legacy telecommunications service that has isolated tribal and rural communities. Another Example: 80% of Indian Tribes are in price cap territories. The current plan to move all high cost funding to the incentive model would do little to change the digital divide for Indian and rural communities;

9) If a reverse auction method of winning support were applied, the largest carriers, the price cap companies, by virtue of deep pockets and market size, would win the service area support bid and small telecos who have been efficient would be displaced. In a short period of time remote service areas would revert back to underserved legacy.

10) Actual cost recovery via rate of return regulation is the only funding model that works. In addition, financial lenders and investors require stable and reliable bases of cost projections and capitalized collateral in order to continue investing in high-cost areas. Forward looking models with complex shifting elements create uncertainty that lenders and investors will be able to recoup their funds and cause funding retraction for networks. The financial sector has stated deep concerns with the proposed change to the current funding mechanisms.

Technology: Infrastructure vs. Broadband

11) There is a misconception by policy makers that there are two separate technologies: the legacy infrastructure (or PSTN) technology and Broadband technology;

12) In reality, 92% of all incumbent rural networks possess some element of advanced technology already, and with each evolution of equipment upgrades and technology convergence (to soft switches), most networks are already on the glide-path to broadband capacity;

13) However, nearly 20-35% of Indian residents, up to 50% on the Navajo reservation, lack basic voice dial-tone and the ability to call 911 for help;

Unintended Consequences; a different way of looking at results

14) The real inefficiency has been in the "price cap" model markets, where, 80% of tribal communities reside, broadband is largely absent;

15) The misperception is small companies in rural markets are "gold-plating" their systems or not building out their networks (failing to evolve to advanced technologies), which is totally untrue;

16) In the name of efficiency, the National Broadband Plan would eliminate the small companies that have been efficient. The proposed Plan would move nearly $1.8 billion to providers that have been inefficient in deploying service and technology to their rural markets. Not only would this eliminate small and efficient telecom carriers, but it would void service and technology gains in remote markets that had been abandoned by price cap carriers;

17) The existing method of re-investing in infrastructure and technology is an incremental method of growing networks using commercial platforms. In contrast, a wholesale deployment of broadband networks using the forward-looking model raises the question of how commercially unsustainable these broadband networks will be in remote and non-competitive areas. This top-down potentially unsustainable deployment may require far greater federal subsidies than the zero-growth funding envisioned in the National Broadband Plan;

18) The proposed termination of access charges will eliminate up to 60% of the revenues for rate of return carriers, ensuring the demise of small independent carriers who have been efficient and willing to serve these high-cost marginal markets;

Evolving the existing support system

19) The current support system is not broken;

20) Because 92% of small rural networks already have advanced technology components, evolving networks to broadband capacity using actual and predictable costs entails a shorter time horizon and smoother technology expansion than uprooting the predictable high cost support system. Moving to a new incentive model puts complete reliance on an untested and unpredictable model, and expend 6-10 years to uproot the support mechanism creating uncertainty in the financing sector in the pursuit of efficiency and stability;

21) Competition is unlikely in the most remote markets, so the funding mechanisms and underlying predictability remain essential for evolving technology to broadband;

22) Providers (internet providers, VoIP providers, and wireless providers) that use the underlying PSTN system to deploy their services, must contribute equitably to the support fund;

23) The proposed upheaval to eliminate the existing support system comes from the key predicate that the Universal Service Fund should not be grown. If, however, contributions to the Universal Service Fund can be increased, reasonable efficiencies are crafted and enforced, and allocation is increased strategically and efficiently, there should be no need to eliminate an effective and predictable support mechanism in rate of return markets that are effectively evolving networks toward advanced technology capcity.

24) Efficiency should include carving out "unserved" and "underserved" services areas into newer cost support service areas with only one carrier receiving support;

25) Efficiency requires support for only actual costs and not the proxy costs of competing technology platforms or services;

26) Cost support incentives and efficiency should be measured by outcomes of connecting "unserved" tribal and rural communities. Connection strategies must include price-capped markets, but should not achieved by eviscerating long-term support for high cost and non-competitive market areas;

Regulatory application to Tribal Nations

27) Indian tribes, as sovereign nations, trust beneficiaries, and victims of historic under-service and disparity, should be able continue to access rate-of-return support mechanisms in order to attain universal access to high speed public networks;

28) Indian tribes, as historic victims of telecommunications disparity, particularly in unserved or underserved areas, should be given control over which willing provider receives high cost support in return for the obligation to connect the entire community.

29) Because of the underlying mandates of both the Federal trust responsibility and the Communications Act requirement for universal service, Indian communities should receive sufficient funding—through a Tribal Broadband and Infrastructure Fund—to support full parity of telecommunications technology and quality of service with non-rural and non-tribal communities.

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