



December 12, 2010

Via ECFS  
Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: *Written Ex Parte Presentation*  
*ET Docket Nos. 09-191 and WC Docket No. 07-52*

Dear Ms. Dortch:

Txox Communications LLC provides Fixed Wireless broadband Internet service in Weber County, Utah. We rely primarily on unlicensed spectrum to deliver broadband Internet service to consumers that may have several broadband choices while in other parts of our area the consumers may have no other choice. My company built our network from the ground up using equipment authorized under Part 15 rules. I first want to take this opportunity to thank the previous Commissions initiatives that have been adopted because without them many businesses, households and churches would not have broadband Internet. I also want to thank the current Commission for having the fore site to undertake the challenges that our Nation currently faces in regards to the rapid change and metamorphosis of the Internet. As you are fully aware the Internet is currently undergoing a major change from what once was called the "Information Highway" to what I call the "Entertainment Super Freeway".

Txox Communications currently serves just over 1000 residential, business, government and church customers in the Weber County, Utah area. Many of the above mentioned types of customers would not have high speed broadband Internet if it were not available through the Fixed Wireless delivery system. With companies like Netflix, Hulu, Vudu, Blizzard Entertainment, to name just a few, delivering through my network a constant sustained stream of data, it is making it increasingly difficult to deliver important content and information that the Internet was founded upon. Advancements in the Fixed Wireless Technology area has helped but still fall short in the ever increasing demand for sustained data speeds because of streaming video and online gaming.

Txox Communications is very concerned that certain Network Neutrality rules, if adopted, would severely and adversely affect our ability to continue to provide our customers with affordable Fixed Wireless broadband services. It is our understanding that although mobile broadband will have a special set of rules allowing them to protect their networks, Fixed Wireless broadband will be lumped in with traditional wire line services and be subject to a stricter set of rules. We feel that the Network Neutrality rules imposed on Fixed Wireless broadband should be no more rigid than the rules that will apply to mobile wireless broadband providers. The physics of wireless technology and delivery necessitate a relaxed set of rules for all wireless technologies.

Many of the proposed rules will destroy our industry, our business and our customers' Internet experience. We believe wireless networks, either Fixed or mobile, will be unable to operate effectively if the definition of what constitutes "reasonable" network management practices does not account for the unique obstacles faced by small businesses with congested networks, bandwidth constraints, tower and middle-mile access limitations and a lack of investment capital. **For many households in rural America, this will mean the loss of broadband services entirely at a time when the country is seeking to accomplish ubiquitous coverage.**

We need to face the reality that content delivery and demand is outpacing the technology and spectrum available to meet consumer demands, especially for Fixed Wireless networks that have limited spectrum, capacity and throughput. Many regions of our country do not have the wire line broadband infrastructure available to meet this demand. The past has proven that often times it is economically unfeasible to build a new wire line infrastructure in rural areas; thus Fixed Wireless broadband is often the only economical delivery mechanism to deliver quality broadband services to those households that have been overlooked or bypassed by traditional wire line Internet providers.

It should not be taken lightly that the FCC was charged by the ARRA to write a National Broadband Plan so that all Americans could receive affordable broadband service. If the proposed rules are approved, this one action alone would cripple this goal. Why would the FCC protect one method of wireless broadband delivery and not apply the same good fortune to a similar technology that is in place and actively servicing many households and businesses today? As Fixed Wireless technology improves, and more spectrum is opened to the Fixed Wireless industry, then a more relaxed set of Network Neutrality rules may be revisited in the future, but **now is not the proper time.**

In nearly every industry in the world, flow is managed whether it is sewer systems, hydraulic fluid, natural gas, air traffic, the highway system, or countless other systems. Flow management is essential for orderly delivery of a medium in a safe and effective process. Data is no different than anything mentioned above. Without proper management, systems will fail and the data highways will be disrupted leaving millions of businesses and residents without service.

Companies that are building and maintaining the data highways should be able to control and manage the traffic coming in and out of their network as they see fit in order to effectively deliver the high levels of sustained traffic that are starting to clog the Internet. Adopting rules that does not allow Fixed Wireless Internet Providers to protect its very infrastructure that so many customers depend upon is the wrong path for our government to take. My companies network has been completely funded with private funds and organic growth. As Internet traffic grows exponentially, Fixed Wireless broadband providers are seeing not only their middle mile transport costs increasing but last mile transport costs increasing exponentially as well. Given the state of our current economy, we do not feel that we can pass these increased costs on to our customers. Now is not a time to increase regulation in order to satisfy the consumer thirst for more content delivered to their doorstep for the same cost that they are currently paying. **The economics just do not justify it.**

Our company completely supports the positions taken by WISPA, the Wireless Internet Service Providers Association in their Ex Parte presentation filed on December 10, 2010.

Sincerely,  
Douglas Clark – President/Founder