



March 30, 2011

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

RE: WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC  
Docket No. 01-92, 96-45 EX PARTE COMMUNICATION

Dear Ms. Dortch:

Please be advised that on March 28, 2011, representatives of the National Association of State Utility Consumer Advocates (“NASUCA”) had a telephonic conversation with Federal Communications Commission (“FCC” or “Commission”) staff regarding the above-captioned dockets and the pending February 9, 2011 Notice of Proposed Rulemaking (“NPRM”). Discussion centered around the concerns of NASUCA that will be expressed in the comments due April 1 and 18, 2011.

On the call for NASUCA were David C. Bergmann of the Ohio Office of the Consumers’ Counsel, Chair of the NASUCA Telecommunications Committee; Joel Cheskis and Barrett Sheridan of the Pennsylvania Office of Consumer Advocate; Regina Costa of The Utility Reform Network in California; Tom Dixon of the Colorado Office of Consumer Counsel; Chris White of the New Jersey Division of Rate Counsel (“Rate Counsel”); Chris Witteman of the California Office of Ratepayer Advocate; and Susan Baldwin, consultant for the Rate Counsel. On the call for the FCC were Carol Matthey, Jay Atkinson, Amy Bender, Ted Burmeister, Ken Burnley, Joe Cavender, Rohit Dixit, Patrick Halley, Trent Harkrader, and Gary Seigel.<sup>1</sup>

---

<sup>1</sup> This notice may be supplemented if NASUCA learns of other FCC personnel who were on the call.

The concerns expressed on the call included:

- For the long run the FCC should address separations first (to determine the costs that need to be supported, for only then will we know how much support is needed for local service and how much for broadband); then should address intercarrier compensation (“ICC”) (to determine the share of those costs that carriers will have to pay, as described below); and then should address the universal service fund (“USF”) (to determine the amount of support needed to ensure reasonably comparable rates for legacy service), which reforms will free up additional funding for broadband).
- For the short run, the Commission can do the ICC reforms proposed in Section XV of the NPRM and the USF reforms proposed in Section VI.
- We have significant questions about the legal authority to explicitly support broadband through the USF, and about the legal authority to take over all ICC;
- The NPRM overlooks the robustness of the POTS network in seeking to replace it with broadband where voice is just a broadband application.
- The NPRM issues ICC proposals without data on the actual level of regulatory arbitrage resulting from current ICC disparities (without knowing this, how can a decision to reduce access charges because of arbitrage be data-driven?);
- Phantom traffic and traffic pumping problems are not the result of inter- or intra-jurisdictional differentials in ICC;
- ICC must be priced above carriers’ incremental costs, given the need to contribute to joint and common costs; thus ICC will vary from carrier to carrier; we thus oppose an imposed ICC zero-cost regime or minimum cost just for ICC; if all services were priced that way, companies would go out of business;
- Specifically with regard to the Connect America Fund, we oppose the use reverse auctions, and prefer a government procurement mechanism that allows local governments to participate
- We support the focus on unserved and underserved areas, and on capex with opportunity for opex support
- We support a requirement for “scalable” networks capable of 1 Mbps, but able to be easily upgraded

- We support a requirement for the most cost-effective approach for each unserved area
- We support a (waivable) requirement that states contribute to broadband deployment
- Those receiving support must be eligible telecommunications carriers and must offer standalone broadband at affordable, reasonably comparable prices;
- We support consideration of broadband over power line as a service eligible for support.

NASUCA appreciates this opportunity for a discussion with Commission staff.

Respectfully submitted,

*/s/ David C. Bergmann*

Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485  
614.466.8574; Fax 614.466.9475

Chair, NASUCA Telecommunications  
Committee

CC: Carol Matthey, Jay Atkinson, Amy Bender, Ted Burmeister, Ken Burnley, Joe Cavender, Rohit Dixit, Patrick Halley, Trent Harkrader, Gary Seigel