



N A R U C
National Association of Regulatory Utility Commissioners

July 20, 2011

NOTICE OF ORAL EX PARTE CONTACT

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: NARUC Notice of oral *ex parte* contact involving the proceedings captioned:

In the Matter(s) of the Connect America Fund, WC Docket No. 10-90, National Broadband Plan for Our Future, GN Docket No. 09-51, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109

Dear Secretary Dortch:

On July 18, 2011, North Dakota Commissioner and the President of the National Association of Regulatory Utility Commissioners (NARUC) **Tony Clark**, joined by NARUC's Second Vice President, Washington State Commissioner **Phil Jones**, the Chair of NARUC's Committee on Communications (and the State Chair, Federal State Joint Board on Separations), Vermont Commissioner **John Burke**, Pennsylvania Commissioner (and the State Chair, Federal State Joint Board on Universal Service) **Jim Cawley**, Tennessee Commissioner **Sara Kyle**, Indiana Commissioner (and the State Chair of the Federal State Joint Conference on Advanced Services) **Larry Landis**, District of Columbia PSC Chairman **Betty Ann Kane**, Nebraska Commissioner **Anne Boyle**, Massachusetts Commissioner **Geoffrey Why**, Iowa Commissioner **Elisabeth Jacobs**, Kansas Commissioner **Wade Lloyd**, California Commissioner **Catherine Sandoval**, South Dakota Commissioner **Chris Nelson**, Wisconsin Commission Chairman **Phil Montgomery**, joined by **Labros Pilalis**, Advisor to Commissioner Cawley, **George Young**, Advisor to Commissioner Burke, **Gene Hand**, Advisor to Commissioner Boyle, and NARUC General Counsel **Brad Ramsay**, met with the following FCC Commissioners and staff: FCC Chairman **Julius Genachowski**, FCC Commissioner and Chair of both Joint Boards and the Advanced Services Joint Conference) Mignon Clyburn, **Zac Katz**, Legal Advisor to the Chairman, **Angela Kronenberg**, Wireline Legal Advisor to Commissioner Clyburn, **Margaret McCarthy**, Wireline Policy Advisory to Commissioner Copps, **Sharon Gillett** (by conference call), Chief, Wireline Competition Bureau, **Carol Matthey**, Deputy Chief Wireline Competition Bureau, and **Kim Scardino**, Attorney, Wireline Competition Bureau in Los Angeles, California.

The NARUC members present raised the following advocacy points during the discussion:

The Chairman's and the FCC's outreach - something that we value – cements the partnership that we believe really has to be the basis of going forward if reform is going to succeed. We will have to work together for reform to have any reasonable prospects. We generally support the effort to extend broadband to areas that are underserved, but how are we going to manage the costs. Existing concerns and obligations don't go away.

We understand that a recent model run of the industry proposal, apparently based on carriers taking a 10 percent reduction up front and assuming carriers have a 25-30 dollar rate and escalating Subscriber Line Charge (.75/year for several years) resulted in a substantial increase to the size of the high cost fund. Isn't it time to look at contribution – isn't that an integral part of this process that should be addressed now?

We are of course, very concerned about what we've been hearing about that proposal. The framework underlying the pending industry reform proposal simply cannot achieve the FCC's goals. Early model runs seem to back that up. In contrast, the State Members of the Federal State Joint Board on Universal Service, based on a substantial financial investment by NARUC, have worked hard to generate and present an integrated plan (*State Plan*) that actually DOES accomplish the FCC goals to increase broadband deployment while STILL addressing reformation of the existing intercarrier compensation regime and the federal universal service fund program. It also preserves a redefined concept of universal service. The FCC should – if the industry plan is filed – seek comment on it and the *State Plan* simultaneously, and ask commenters to contrast the industry proposal with the *State Plan*.

The Commission has acknowledged that whatever plan is adopted it should contain adequate transition periods and no “flash cuts”. In addition to these objectives the plan should allow companies that have built out infrastructure and provided services in unserved areas the opportunity to service their obligations and retire any debts incurred to make those deployments.

While we know the FCC has good intentions, it is useful to consider that the identical support rule, which no one has ever been able to defend on any basis, has remained in effect despite significant industry and regulatory agreement it should be eliminated.

The States have long been the source of innovation in dealing with these issues. We are also the “boots on the ground”. It is critical that we work together on these issues. We urge you to resist the various industry blandishments to undermine the Federal-State partnership with preemptive measures which may result in unnecessary legal conflict. When *only* industry voices combine in a

compromise, the public interest is a frequent casualty. The States will appeal approaches that marginalize the role that Congress wisely assigned to State commissions.

We don't always agree but we appreciate your efforts to give us every chance to let you know where our disagreements lie. We have an obvious concern with preemptive measures that can only hamstring State reform efforts. We share your concern of the need to change intercarrier compensation. Taking access charges to a specific carrier's long run incremental costs – should be part of any over-all solution.² We must ensure that whatever proposal is advanced assures reasonably comparable service at comparable rates.

If you have any questions about this letter, please do not hesitate to contact the undersigned at 202.898.2207 or jramsay@naruc.org.

Respectfully Submitted,

/s/

**James Bradford Ramsay
NARUC General Counsel**

² The industry proposal, which is centered on a nationally uniform intercarrier compensation rate of \$0.0007/MOU and annual increases to the federal subscriber line charge is inimical to end-user consumers and ultimately undermines the FCC's stated goals. The \$0.0007 rate is not compensatory, will unquestionably have detrimental effects on the financial stability and network reliability of providers with carrier of last resort obligations serving rural areas that have already, and will continue to, invest in broadband deployment. It will also place unmanageable pressure on limited federal USF funding resources.