

Mississippi Public Service Commission



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August 22, 2011

Julius Genachowski, Chairman
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, S.W.
Washington, DC 20554

Re: Universal Service Reform and the Role of the States; WC Docket Nos.
10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; and GN Docket No.
09-51

Dear Chairman Genachowski:

We write to you concerning the Federal Communication Commission's current effort to reform the Universal Service Fund. In particular, we are concerned that current reform proposals would improperly interfere with or entirely undo the critical role that states play in determining the eligibility and distribution of Universal Service Support.

In the 1996 Telecommunications Act, Congress recognized that each state may face unique circumstances in assuring the law's universal service goal: that all Americans have access to reasonably comparable telecommunications capabilities at reasonably comparable prices.¹ As a result of this recognition, states were permitted to play an important role in determining carriers' eligibility for the receipt of USF support. In Mississippi, the Mississippi Public Service Commission fulfills this role of carrying out the essential public interest analysis before awarding any carrier USF eligibility.

The current system has proven effective. In our state, Universal Service support has provided Mississippians' near ubiquitous access to wireless technology -- spurring innovation and economic growth through new businesses, increased access to educational and healthcare tools, and otherwise supporting a Mississippi economy that is strong enough to compete in today's challenging circumstances.

We, therefore, believe the FCC should reject any Universal Service reform proposal that would preempt a state's role in determining USF eligibility. States should continue to have a decisive role in determining which telecommunications carriers are eligible to receive USF support within their borders.

¹ See, The Communications Act of 1934, as amended by the Telecommunications Act of 1996, § 254(b).

The reform proposal recently put forward by the largest wireline providers (the "ABC Plan") attempts to limit the states' authority to designate carriers as eligible to receive USF support and to distribute USF support.

The ABC Plan proposes to grant each incumbent carrier (ILEC) a right of first refusal of universal service support if it has made high-speed internet service available to more than 35-percent (35%) of the service locations in its wire center. By granting ILECs this right of first refusal, the ABC Plan proposal would effectively remove a state's ability to (1) designate carriers as eligible to receive funding and (2) perform the necessary public interest analysis. The right of first refusal would give ILECs a unilateral right to exclude competitors from USF support (or the proposed "Connect America Fund" support) without any state participation or input.

The ABC Plan would also eliminate states' universal service designation authority. Because the FCC proposes to transition the Universal Service Fund to provide support for broadband service and because broadband is classified as an "information service" by the FCC, supporters of the ABC Plan assert that the FCC will have to exercise exclusive jurisdiction over the evaluation and determination of which broadband providers should be eligible for post-reform USF support.

As the National Association of Regulatory Utility Commissioners recently noted in comments regarding the states long history as a source of innovation when dealing with USF issues, any efforts at reform should not diminish the role of the states.²

The Mississippi Public Service Commission could not agree more and fully supports NARUC's recommendation that the FCC should not undermine the role and authority of the states in the distribution of Universal Service with preemptive measures that are likely to result in unfair and narrow decisions that are not in the public interest or might otherwise result in unnecessary legal conflict.

Sincerely,

Mississippi Public Service Commission



Lynn Posey, Chairman



Leonard Bentz, Vice-Chairman



Brandon Presley, Commissioner

cc: Commissioner Mignon Clyburn
Commissioner Michael Copps
Commissioner Robert McDowell

² See Letter from James Bradford Ramsay, General Counsel, National Association of Regulatory Utility Commissioners, to Marlene H. Dortch, Secretary, FCC, (July 20, 2011).