Public Service Commission
State of North Dakota

COMMISSIONERS

Tony Clark
Brian P. Kalk
Kevin Cramer

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

September 9, 2011

Hon. Julius Genachowski, Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: 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 a Unified Intercarrier Compensation Regime, CC Docket 01-92, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109

Dear Chairman Genachowski:

We greatly appreciate the time and effort that the Federal Communications Commission and its staff (FCC) have devoted over the past two years to understand and document the enormous benefits that broadband service brings to our nation, and to develop plans to modernize the current federal Universal Service Fund (USF) and Intercarrier Compensation (ICC) regimes to enable the more widespread and sustainable delivery of broadband services to consumers. We are concerned, however, that certain proposals contained in the Notice of Proposed Rulemaking (NPRM) released February 9, 2011 may have the unintended consequence of reducing the availability, affordability, and/or sustainability of broadband services for consumers in the most rural areas of our states. Any reforms that the FCC undertakes must be carefully crafted to address needed improvements in existing programs, and to ensure that rural consumers have ongoing access to broadband services that are reasonably comparable in price and quality to those available in urban areas.

Among our concerns are the following:

1. Many consumers in the most rural parts of our states receive affordable, high-quality broadband service today precisely because regulatory support mechanisms such as federal USF enable the deployment of broadband-capable networks. In fact, the federal high-cost USF program achieves multiple public policy goals, enabling *both* the availability and maintenance of such networks *as well as* the adoption of broadband services offered over those networks because they are more affordable.

2. Many carriers serving the most rural areas have taken out loans to construct necessary infrastructure based upon the reasonable expectation of the continued receipt of such support. Any abrupt elimination or reduction of this funding, without a reasonable opportunity for carriers to recover investments made in good faith under current rules, would have serious repercussions on the availability, affordability, and/or quality of broadband services for rural consumers.
3. As broadband speeds increase over time, carriers must make additional infrastructure investments. Failure to provide adequate continued funding to do so would cause rural communities to fall further and further behind their urban counterparts, with serious consequences for rural economic development and quality of life. In reforming the USF High-Cost program, the FCC must take care to include provisions that provide the ability and incentives for carriers to make necessary rural broadband infrastructure investments and to sustain the delivery of affordable, high-quality, reasonably comparable services to rural consumers over the long term.
4. The NPRM contains proposals that would reduce ICC rates to zero or near-zero without a clear path toward a sufficient and predictable restructure mechanism. Because of the threatened impact of such reforms on end-user rates and/or the availability of services, ICC rates for Carriers of Last Resort (COLRs) in high-cost, rural areas should not be reduced unless and until an adequate restructure mechanism is in place and funding is confirmed to be available.
5. The NPRM suggests implementing concepts such as reverse auctions and mandatory disaggregation of USF support that would place considerable strain on state Commission resources, and are of questionable value (at best) in the achievement of universal service goals. Before the FCC mandates such programs they should be carefully pre-tested, and subjected to a reasonable cost/benefit analysis.
6. States will continue to have an important role in preserving COLR principles and rules, and in protecting and enforcing consumer interests. The FCC must ensure that any actions it takes with respect to reform do not undermine the states' interests in protecting consumers. The states can be essential partners with the FCC in demanding accountability of USF support recipients through reasonable, well-defined COLR obligations that are applicable to an increasingly Internet Protocol-based/broadband environment.

We look forward to working in a cooperative and collaborative manner with the FCC to develop USF and ICC reforms that ensure that the many benefits of affordable, robust broadband service will both become ***and*** remain available to all Americans.

Sincerely,

[Signature Page Attached]

CC: Hon. Michael J. Copps
Hon. Robert M. McDowell
Hon. Mignon Clyburn

Tony Clark, Chairman
North Dakota Public Service Commission

Kevin Cramer, Commissioner
North Dakota Public Service Commission

Brian P. Kalk, Commissioner
North Dakota Public Service Commission