



October 6, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th 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 October 4, 2011 representatives of the National Association of State Utility Consumer Advocates (“NASUCA”) had a telephonic conversation with Sharon Gillett, Chief of the Wireline Competition Bureau; Rebekah Goodheart, Associate Chief, Wireline Competition Bureau; Carol Matthey, Deputy Chief, Wireline Competition Bureau; Patrick Halley Policy Advisor, Wireline Competition Bureau; Jennifer Prime, Attorney Advisor, Wireline Competition Bureau; and Mark Wigfield, Media Spokesman, Wireline Competition Bureau, regarding the above-captioned dockets and the issues contained in the pending August 3, 2011 Notice of Further Inquiry into Certain Issues in the Universal Service/Intercarrier Compensation Transformation Proceeding, regarding the ABC Plan. Discussion centered around the concerns of NASUCA expressed in comments filed August 24, 2011 and September 6, 2011.

On the call for NASUCA were Earl Poucher, of the Florida Office of Public Counsel; Olivia Wein and Darlene Wong of the National Consumer Law Center (“NCLC”); David C. Bergmann, formerly of the Ohio Office of the Consumers’ Counsel, and former Chair of the NASUCA Telecommunications Committee; Barrett Sheridan of the Pennsylvania Office of Consumer Advocate; Regina Costa and Christine Mailloux of The Utility Reform Network in California; Christopher White of the New Jersey Division of Rate Counsel (“Rate Counsel”); Wayne Jortner of the State of Maine Office of the Public Advocate; and Charles Acquard, Executive Director of NASUCA.

The concerns expressed on the call – many of which concerned both the ABC Plan and

the proposals of the Federal Communications Commission (“FCC” or “Commission”) in this proceeding – included:

- The NPRM posed a series of questions, not conclusions that prompted comment. NASUCA is working from the presumption that the FCC is not using the ABC Plan as a fundamental framework for Universal Service reform, modifications to the Intercarrier Compensation regime and a broadband policy, but is picking and choosing from options presented by parties. NASUCA encourages the FCC to use the State Members Plan as a framework and starting point for this effort. The ABC Plan is a self-serving “wish list” of the large ILECs. It is harmful to the public interest and should not be the framework relied upon by the FCC. The State Members Plan is endorsed by NASUCA, AARP, NCLC and TURN.
- The State Members Plan addresses Intercarrier Compensation Reform and the perception that some basic service customers pay rates that are too low. There are very few of these customers.. At the same time, the State Members Plan also addresses the fundamental point that all of the services that benefit from the use of networks should contribute to those networks.
- For a broadband plan to succeed, accountability is key. The State Members Plan ensures build-out will go where build-out is needed. The State Members Plan does a good job of identifying where funds are needed, where build-out is needed and ensuring that there is no over-earning. The State Members Plan would complement efforts undertaken in states such as Pennsylvania, where a state program allows for grassroots community efforts to foster deployment by demonstrating a commitment to purchase broadband service.
- We are concerned about the proposed sunset date for PSTN COLR and ETC obligations, and the implications of the ABC Plan for lifeline and low income customers. While there is movement to all IP networks, the PSTN is vitally important to all consumers, particularly those on low incomes. Any framework adopted must continue the COLR and ETC obligations that have resulted in the provision of reliable, high quality, affordable voice service and Lifeline. The ABC Plan would do away with the obligation to provide Lifeline voice service, which gives low-income customers the ability to communicate with essential service providers, family and friends.
- The State Members Plan preserves ETC and COLR obligations. It would not disrupt or dismantle the existing state-federal framework. Instead, it would continue to advance those fundamental objectives, while tackling needed reforms.
- States such as California have utilized ETC and COLR provisions to push for better consumer protection rules. ETC obligations have been used to

encourage improvements in the quality and variety of low-income wireless plans.

- Reducing access charges to the levels proposed in either the NPRM or the ABC Plan, with commensurate increases to the Subscriber Line Charge (SLC) would reduce access charges below cost and result in unreasonable, unavoidable rate increases for customers. There is no cost justification for SLC increases in the record. As NASUCA has pointed out, prior to determining that cost increases to the SLC are justified, the FCC must know what the costs are and this cannot be accomplished without separations reform. The ABC Plan would violate §254(k) because access charges would be below cost, not even covering their direct costs, and voice service would therefore be forced to pay an unreasonable share of joint and common costs.
- The notion that wireless access charges represent a “hidden tax” ignores the fundamental point that wireless services that complete calls to the PSTN, and use the PSTN, should pay access charges. The wireless industry is highly concentrated, and dominated by the two largest wireline telephone carriers.
- NASUCA believes parties should have the opportunity to review and comment on both the data that the FCC is relying on regarding revenue impacts of access charges and FCC’s analysis supporting decisions made based upon such data.
- The USF contribution methodology must not solely rely upon voice service. The facilities that would be constructed with USF funding would be intended primarily to provide broadband, but would also provide voice telephone and a number of other services. When considering how much public funding is necessary, the FCC must take into account all sources of revenue from services that will be offered over these networks.
- Any changes beyond the proposed regulations included in the NPRM should be subject to notice and comment under the APA. The authors of the ABC Plan propose significant changes in proposed regulations.
- NASUCA, and other parties, responded in good faith to the FCC’s NPRM and provided thoughtful, carefully considered responses to the questions posed therein. The FCC has failed to acknowledge other filed comments, and instead appears to be focusing on the ILEC’s ex parte submission, issuing a Notice for comment five business days after receiving the ILEC ex parte. NASUCA is concerned that that in doing so the FCC provided inadequate time to other parties for review and response to the ILEC’s ex parte submission. In designing its new framework, the FCC must base its decisions on a full review of the record, which requires rejection of the ABC Plan.

NASUCA appreciates this opportunity for a discussion with Commission staff.

Respectfully submitted,

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