ATC Communications

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Julius Genachowski, Chairman
Federal Communications Commission
445 12th Street, S.W.
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FCC Mail Room

Dear Chairman Genachowski:

It is becoming increasingly clear that the FCC's implementation of its Universal Service Fund (USF)/Intercarrier Compensation (ICC) Transformation Order will have unintended consequences and negatively impact deployment of rural broadband and other telecommunications services in the rural areas where our constituents reside. We are writing to ask you to suspend implementation of the Order, including the July 1, 2012 date for implementation of the impacts of the regression methodology, until the FCC can provide greater certainty that the rules will not jeopardize the services provided by rural rate-of-return carriers and the consumers that rely on them for broadband and other telecommunications services. Moreover, we must ask also for assurances from the FCC that USF and ICC reform will not be used to deprive a carrier of an opportunity to recover existing investments and expenses unless the FCC makes a specific fact-based finding that the investment or expense is not "reasonable" or "used and useful" consistent with the Commission's established policy in place when the investments and expenses were incurred.

Consistently, you have advised Congress that you have instructed staff "to get it right" on USF/ICC reform implementation. Yet, the staff's plans for implementation through the use of a regression methodology have created so much uncertainty among rate-of-return providers that future investment decisions have been put on hold chilling the broadband expansion in rural areas that was at the heart of the National Broadband Plan submitted by the FCC to the Congress.

Narrow reliance on a single and unproven model. The FCC's plans for implementation are putting many small rural companies in jeopardy. For example, there are indications that the regression methodology to be used by the FCC to implement this Order is fundamentally flawed. It is now well recognized that there are potential errors and inconsistencies in the FCC's model assumptions that will unfairly penalize rate-of-return carriers that have made a substantial good faith commitment and are successfully deploying broadband to rural consumers. The FCC's recent release of additional data on May 31, 2012, does not provide sufficient time to evaluate and analyze the model proposed. Release of the underlying data just one month before the implementation date is simply insufficient in light of the risks associated with errors in the data or associated calculations. The questions and insufficient answers surrounding the regression methodology lead us to ask the ultimate statutory question—how does use of the regression methodology result in specific, sufficient and predictable support?

Model is imprecise. The risk for our communities is compounded as the model appears to be grossly imprecise. The FCC has reported that the revised regression methodology has a pseudo-R-squared, which

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quantifies a confidence level, of 0.62 for the operating costs per line and 0.67 for the capital expenditures per line, where a value of 1.0 reflects a perfect prediction. It is difficult for us to understand how the FCC can be comfortable exclusively relying on one and only one model that fails to capture significant cost differences and is yet untested.

Telecommunications services, including broadband, are vitally important to the communities in the states that have elected us to represent their interests. Those services are fundamental to our schools, health facilities, public safety-related departments (fire, police, etc.), government, and local businesses, especially small businesses and individual entrepreneurs. We are concerned that, without adequate infrastructure-based services, our rural communities will be impaired and may even disappear in spite of the mandate of the Telecommunications Act of 1996.

We now worry that the implementation of the FCC's plans will have an immediate economic impact further stressing the already precarious economic recovery, especially in rural America.

The FCC's decision making should reflect careful analysis and predictable results. Before going any further, the FCC has a responsibility to demonstrate that it already has gotten it "right" instead of creating rules on the run. We should not be moving forward with reforms that we know will need to be modified, as we go along, as you have suggested in recent Senate hearings. We feel such an approach is reckless, and our constituents deserve better from their government. There is nothing fiscally responsible about a policy that so fundamentally undermines universal service.

For the reasons outlined above, the undersigned request that the use of regression methodology should be reconsidered to possibly use it as a means to identify and further evaluate potentially high cost regions. At the very least, you should delay the implementation of the regression methodology so that the effects of the use of such a model can be better assessed. In this way, policymakers and industry experts will have the opportunity (if so provided by your agency) to study and respond to the data that are the basis of the impact of specific reforms.

These matters are very important to us and our constituents. The reforms should not be rushed, but should be deliberated with care by all the affected parties. We therefore urge that you be responsive to this reasonable appeal so we can evaluate how best to move forward to achieve the goals of USF/ICC reform in a way that contributes to the fiscal well-being and economic recovery of our nation; is true to the investment made by consumers in universal service; and serves an incentive for continued deployment and expansion of advanced telecommunications services in rural America.

Sincerely,

Rich Redman

Rich Redman
Vice President/General Manager