



N A R U C
National Association of Regulatory Utility Commissioners

February 2, 2013

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

**RE: NOTICE OF WRITTEN AND ORAL EX PARTE
FILED IN THE PROCEEDINGS CAPTIONED:**

In the Matters of Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92; Rules and Regulations Implementing the Truth in Caller ID Act of 2009, WC Docket No. 11-39;

AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition & Petition of the National Telecommunications Cooperatives Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, WC Docket No. 12-353;

Meetings with the FCC's Technology Transitions Policy Task Force, GN Docket No. 13-5;

Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Lifeline and Link Up, WC Docket No. 03-109, Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Madam Secretary:

The undersigned is filing the following notice of ex parte contacts based on meetings involving NARUC commissioners and FCC Commissioners and personnel since last Friday.

ORAL EX PARTES:

On Friday, February 1, 2013, NARUC Communications Committee Chairman John Burke met with FCC Commissioner Pai. The undersigned and Commissioner Pai's legal advisor, Nicolas Degani. Commissioner Burke noted that States continue to receive complaints about calls not being completed to rural areas. He urged Commissioner Pai to push for enforcement action referencing NARUC's written ex parte from September of 2012.

On Saturday, February 2, 2013 the FCC's Sean Lev and Rebecca Goodheart met with NARUC's Task Force on Federalism and Telecommunications, including NARUC President Phil Jones (WA), the Chair, Commissioner Isiogu (MI), NARUC Telecommunications Committee Chair John Burke, Commissioner Jim Cawley (PA), Chairman Ronald Brise (FL), Commissioner Catherine Sandoval (CA), Commissioner Paul Kjellander, and Commissioner Chris Nelson and the NARUC task force staff which included Rebecca Beaton (WA Staff to President Jones), Brad Ramsay (NARUC General Counsel), Brian O'Hara (NARUC Director of Legislative Affairs for Telecommunications), Sherry Lichtenberg (NRRI),

George Young (VT Staff to Commissioner Burke), Bill Johnston (CA staff to Commissioner Sandoval), Gene Hand (NE staff to Commissioner Boyle), and Anne-Marie Clark.

President Phil Jones went over the NARUC task force's charter, which states the task force will "revise the 2005 NARUC "Federalism and Telecom" White paper, to (i) include a framework for the role of States and how States interact and react to decisions by the FCC, other federal agencies, and the Courts on State jurisdiction; (ii) provide an updated negotiating framework for any pending federal rewrite of the federal telecommunications law; and (iii) provide principles to evaluate State-level telecommunications legislation. The Task force will also consider and address, as time permits, the impacts/issues associated with the rise of smart grid and the increasing nexus between telecommunications and other sectors, cybersecurity and relations with DHS; any State role with respect to the public safety agencies for interoperable broadband networks administered by FirstNet of NTIA; the strong role States must retain with respect to telecommunications infrastructure and disaster response; the impact on State staff resources as the telecommunications oversight role changes, the relation of privacy issues to services delivered by IP architecture and smart grid mart Grid data and information transmitted over the networks of communications providers including whether they should be treated differently than that over networks owned and operated by the electric utility.

In turn, Mr. Lev and Ms. Goodheart when over the FCC's task force current activities. They are currently in the middle of a data collection effort and working on how to prioritize the long list of issues that need to be addressed. They mentioned that practically every FCC bureau is involved in the effort.

NARUC suggested that both task forces should look at the future and include an emphasis on the small business perspective and impact on underserved communities. The State members emphasized that not only should both task forces be looking at what makes sense, but what is proper from a legal perspective. Commissioner Burke pointed out that for some states, the recently filed AT&T petition is a real concern and raised a lot of red flags, but that that petition has a little nub of all we are talking about – it raises intrastate concerns about COLR and other State imposed obligations and could in some ways be a microcosm of the issues we are looking at. Commissioner Isiogu listed the stakes that are part of the roadmap for the NARUC task force, which include examination of consumer protection, public safety, competition, interconnection, universal service, constitutional/statutory roles (federalism), evidence based decision making, broadband access affordability and adoption. Commissioner Sandoval noted that the FCC should be starting with what the legal framework allows and pointed out that includes the constitutional framework – which in some ways puts a frame around the Statutory framework. Noting in any consideration of COLR requirements, the FCC must consider first what gives the FCC authority to preempt obligations that are within the specific jurisdiction of the state and subject to state statutory process. There was also some discussion of how the FCC could make the existing structures – mean by Congress to be vehicles for cooperative federalism – could be made more useful, e.g., the Joint Board procedures.

On Monday, February 4, 2013, NARUC President Phil Jones(WA), NARUC Telecommunications Chair John Burke(VT), NARUC Presidential Task Force on Federalism and Telecommunications Orjiakor Isiogu (MI), State Chair of the Federal State Joint Conference on Advanced Services, and a recent addition to the Federal State Joint Board on Separations, Commissioner Larry Landis (IN), and the undersigned, met with FCC Chairman Genachowski and Michael Steffan his legal advisor, and Carol Matthey. During the conversation, the State Commissioners pointed out the need for enforcement action on the call completion problem. They also pointed out that the lifeline program is facing enforcement challenges and that Oklahoma might be one area that seems to be inviting additional scrutiny. Commissioner Isiogu also briefly described the meeting between the members of the NARUC Federalism task force and the FCC's task force from Saturday.

WRITTEN EX PARTE:

On Sunday, February 3, 2013, after Commissioner Rosenworcel spoke generally to a group of NARUC Commissioners at lunch, Commissioner Chris Nelson, the Vice Chair of the South Dakota commission, spoke briefly to Commissioner Rosenworcel of the need for enforcement action to provide incentives for carriers to complete all calls to rural areas. Commissioner Nelson provided Commissioner Rosenworcel with the attached letter which he had received from a company who's business operations were severely impacted by the continuing call completion problem.

If you have any questions about the foregoing, please contact the undersigned.

Sincerely,

James Bradford Ramsay
NARUC General Counsel

cc: *Zachary Katz, Chief of Staff, Office of the Chairman*
Michael Steffen, Legal Advisor, Office of the Chairman
Christine D. Kurth, Policy Director & Wireline Counsel, Office of Commissioner McDowell
Angela Kronenberg, Wireline Legal Advisor, Office of Commissioner Clyburn
Priscilla Delgado Argeris, Legal Advisor, Office of Commissioner Rosenworcel
Nicholas Degani, Legal Advisor, Wireline, Office of Commissioner Pai