



August 16, 2013

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW B204
Washington, DC 20554

Re: Ex parte communication in *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, CC Docket No. 00-175, WC Docket No. 12-61 & WC Docket Nos. 10-32, 09-206, 08-225, 08-190, 07-273, 07-204

Dear Ms. Dortch:

Having reviewed the Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice Of Proposed Rulemaking (rel. May, 17, 2013), the three comments filed on July 12, 2013, and the single reply comment filed on August 12, 2013, the National Association of State Utility Consumer Advocates (“NASUCA”) can only reiterate its longstanding view that the Federal Communications Commission (“FCC” or “Commission”) should not forbear from rules that have served consumers well. In its recent comments, NASUCA member the New Jersey Division of Rate Counsel (“Rate Counsel”) opposed forbearance for rate of return incumbent local exchange carriers from structural separations requirements because nonstructural safeguards do not provide the same level of protection against misallocation of costs as do separate affiliate requirements. Rate Counsel stated that there is no evidence the existing rules inhibit carriers’ innovation, broadband deployment or adoption of IP technology.

NASUCA has consistently opposed the carriers’ view that intermodal competitive pressures will adequately protect consumers, in numerous comments over the years.¹ This view leads to the

¹ See, e.g., *In the Matter of Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, et al, Reply Comments of NASUCA and Rate Counsel (May 31, 2013).

carriers' ultimate goal, the elimination of all regulation.² Yet the FCC seems determined to continue to loosen the strings, allowing a level of customer abuse that is – because of the lack of reporting and control – largely unknown.³

Recently, NASUCA moved the D.C. Circuit Court of Appeals to dismiss NASUCA's appeals of two of the Commission's seminal orders granting regulatory forbearance.⁴ The dismissal was not based on qualms about what NASUCA sees as the misguided direction of the Commission's recent forbearance decisions but rather on the intrinsic difficulty of "unbreaking the egg." That is, given the long abeyance of the appeals, at the Commission's request, and the Commission's numerous subsequent actions that followed on the grants of forbearance that were the subject of the appeals, any relief afforded by a remand order from the Court would be illusory.

NASUCA fully expects the FCC, consistent with its previous consumer-averse forbearance decisions, to grant the requests for forbearance on which the few comments were recently filed. This grant will further whittle away at the Commission's own authority, contrary to the public interest.

Respectfully submitted,

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² Except, perhaps, the regulation that benefits individual classes of carriers, or restricts their competitors.

³ See *In the Matter of Modernizing the FCC From 477 Data Program*, WC Docket No. 11-10, Report and Order (released June 27, 2013) (rejecting reporting of service quality data and pricing information (¶¶13, 24), public disclosure of 477 Reports to states and consumer advocates (¶78), reporting of actual speeds (¶20), and reinstatement of ARMIS reporting).

⁴ See *NASUCA v. FCC*, DC Cir Case Nos. 08-1226 and 08-1353, NASUCA Motion (August 7, 2013). In May 2013, the FCC finally ruled on the petitions for reconsideration, which had been pending since 2008, for which NASUCA's appeals had been held in abeyance. See *Petition of US Telecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, FCC 13-69 (rel. May 17, 2013).