



N A R U C
National Association of Regulatory Utility Commissioners

NOTICE VIA ELECTRONIC FILING

January 24, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: Notice of Oral Ex Partes filed in the proceedings captioned:

In the Matter of Technology Transitions Policy Task Force Seeks Comment on Potential Trials, GN Docket No. 13-5

Secretary Dortch:

Today, in separate meetings, I spoke with **Rebekah Goodheart**, *Legal Advisor, Wireline, Office of Commissioner Clyburn*, and **Nicholas Degani**, *Office of Commissioner Pai* about NARUC's written *ex parte* filed yesterday in this proceeding. I am e-mailing a copy of this *ex parte* notice to key FCC staff. During those two meetings, I emphasized the following:

- [1] *The Trials procedural order should not provide either an excuse or a vehicle for the FCC to preempt State Commission authority. Moreover, the FCC must assure that any "trials" do not interfere with ongoing "State proceedings" and that "trials" are in-fact "trials" and not efforts to indirectly bypass open State Commission dockets or override existing State Commission service obligations.*
- [2] *The FCC should include safeguards/stipulations in any voluntary trials order that assure the physical trial cannot be used to advance the legal case for one classification over another or for preemption. (Parties that are voluntarily engaging in these trials can voluntarily stipulate to the applicability of State authority (which will bind the stipulating party) vis-à-vis any service for the trial period and up to the time the FCC makes the long overdue classifications of specific services.)*
- [3] *The FCC must also assure, if a trial is approved, that trial participants cooperate with the impacted jurisdictions. Any trial that affects service offered by a State franchised or certificated carrier must respect State law. The relevant commission must retain authority to approve any withdrawal of service contemplated. Affected State commissions must be allowed to assist in the - and in some cases, veto the - selection of the geographic trial areas, as well as evaluate the trial-related data, and offer assistance to residential and business consumers regardless of the technology used to provide the affected service.*
- [4] *One vehicle to facilitate the obvious need for coordination among federal and State jurisdictions, while identifying the preconditions and required State interactions needed for any technology transition trial, is a referral to an adequately funded Federal-State Joint Board on Universal Service.*

*EXPLICIT STATEMENTS CONFIRMING THESE POSITIONS IN ANY ORDER SETTING
CONDITIONS FOR TRIAL PROPOSALS WOULD BE VERY WELCOME.*

Respectfully Submitted,

JAMES BRADFORD RAMSAY,
GENERAL COUNSEL
**NATIONAL ASSOCIATION OF REGULATORY UTILITY
COMMISSIONERS**
1101 VERMONT AVENUE, SUITE 200
WASHINGTON, DC 20005
202.898.2207

cc Ruth Milkman, FCC Chief of Staff, Office of the Chairman
Gigi Sohn, Special Counsel for External Affairs, Office of the Chairman
Daniel Alvarez, Legal Advisor, Wireline, Public Safety, & HS, Office of the Chairman
Rebekah Goodheart, Legal Advisor, Wireline, Office of Commissioner Clyburn
Nicholas Degani, Office of Commissioner Pai
Priscilla Delgado Argeris, Legal Advisor, Office of Commissioner Rosenworcel
Amy Bender, Legal Advisor, Wireline, Office of Commissioner O’Rielly
Julie Veach, Chief, Wireline Competition Bureau
Patrick Halley, Deputy Bureau Chief, Wireline Competition Bureau