

Testimony of Tom Simmons
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before the

Senate Committee on Commerce, Science and Transportation

on

Universal Service Fund Contributions

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Chairman Stevens, Co-Chairman Inouye and members of the committee thank you for inviting me to testify today. My name is Tom Simmons and I am the Vice President of Public Policy for Midcontinent Communications, a leading provider of cable telecommunications services including analog and digital cable television, broadband Internet and local and long distance telephone services. We serve over 200,000 customers in approximately 200 communities in North and South Dakota, Western Minnesota, and Northern Nebraska generally classified as small or rural. The size of our communities range from densities of 5 to 116 homes per mile of cable plant and populations ranging from less than 30 in Barlow, North Dakota to our largest community, Sioux Falls, South Dakota, which has a population of more than 140,000.

Midcontinent launched its broadband Internet service nearly ten years ago, on April 15, 1996 in Aberdeen, South Dakota, and made a pledge then to bring advanced broadband services to as many customers as possible regardless of the size of community. At the end of 2005, we completed a project to rebuild cable plants to 750 MHz or better in 50 more Midcontinent

communities bringing our total of upgraded systems to 152, serving over 95% of Midcontinent's customers. Customers in these communities now enjoy over 150 channels of analog and digital video programming, broadband Internet service, high definition television, and digital video recording capability. Midcontinent Communications is also a certificated local exchange telephone service provider in North Dakota, South Dakota, and Minnesota. Midcontinent first launched facility based circuit switched telephony in 2000, and recently launched its first digital VoIP phone service in Mitchell, South Dakota. Our plans include the roll out of digital phone services in a number of additional communities throughout our service area this year.

Midcontinent is a privately held company that has invested, and continues to invest, substantial amounts of private risk capital to bring advanced services to our customers without the assistance of public funds. We're proud of our ability to deliver the services our customers demand which are no less than those demanded and expected in major metropolitan areas.

As a provider of telephone service in rural America, Midcontinent strongly supports the goals and purposes of the universal service fund (USF). We believe that quality telecommunications services should be available to all regions of the country at just, affordable and reasonable rates. In that regard, like every other cable operator that offers voice telephone service—either by way of traditional circuit switched telephony or VoIP—Midcontinent contributes to the universal service fund.

A strong universal service program is an essential component of national telecommunications policy and we share the concerns of policymakers, industry stakeholders and the public that, in its current form, the universal service program is not sustainable. While there

is general consensus that all aspects of the system, including contributions, eligibility and level of support are in need of reform, there are a wide range of views as to how the program should be restructured. I will focus my remarks on the cable industry's position with respect to reforming the contribution mechanism. However, I will also briefly discuss our view on proposals to extend universal service distributions to broadband service.

The current USF contribution mechanism, which relies on the assessment of interstate telecommunications revenues, virtually guarantees that the fund will continue to shrink. An increasing number of companies offer consumers voice telephone service for a fixed monthly rate that does not differentiate between local or long distance calls. Companies also offer bundled packages of digital services that include voice telephony. Most consumer VoIP services are offered without regard to intrastate or interstate distinctions. The fact is that interstate telecommunications revenues have been declining and are predicted to continue declining for the foreseeable future. As the line between what is a local and long distance call continues to blur, the existing USF contribution mechanism will become increasingly obsolete which threatens the viability of the program itself.

The cable industry has long advocated the adoption of a telephone numbers-based contribution mechanism, a simple yet effective reform that will sustain the long-term health of this fund while adapting to the evolving technology and economics of voice telephony. Using telephone numbers would be a relatively simple means of determining who should contribute as well as when contributions were owed and in what amount. There would be no need to apportion provider revenues into interstate versus intrastate or to determine which portion of a

bundled offering represents interstate telecommunications. It would also make no difference whether a service was defined as a telecommunications service or as an information service. Under a telephone number-based system, all that matters is whether or not the service uses a phone number. As such, a numbers-based system promotes competitive neutrality among providers and technologies and ensures that no provider of a voice telephone service is placed at a competitive disadvantage due to disparate treatment with respect to universal service fund contributions.

While a numbers-based approach would capture any service designed as a replacement for plain old telephone service (POTS), it would avoid assessments on a service that might include a voice component. Few would argue, for example, that applications, or devices, where voice functionality is ancillary to the actual purpose of the service or device—such as voice enabled gaming—should be assessed for USF purposes.

Some have expressed concern that a numbers-based system would collapse as proposals to map telephone numbers to Internet addresses, such as ENUM, become a reality. However, ENUM requires that a subscriber have an active telephone line. If someday in the distant future a non-number based system were developed and widely implemented, the telephone number-based contribution mechanism could easily be adapted, as some form of unique identifier or address will always be necessary to route various types of voice communications.

Mr. Chairman, the reality is that interstate telecommunications revenues are declining and will continue to decline. Conversely, an FCC staff analysis shows that the number of active

telephone numbers is expected to grow for the foreseeable future, from 554 million numbers in use in 2004 to nearly 600 million numbers in use in 2007. Moving to a numbers-based USF contribution mechanism embraces this reality and will ensure the universal service fund remains solvent well into the future. Furthermore, it would create a more predictable and equitable split between assessments collected by providers of local and long distance telephone services, and between residential and business subscribers. Residential telephone subscribers would generally pay less under a numbers-based plan. Assuming an appropriate assessment amount, even most one-line households with low long distance usage would pay less under a numbers-based system than they do under the existing interstate revenue model.

As stated above, Midcontinent and the cable industry strongly support the goals and purposes of the universal service program and recognize that changes are necessary to ensure its continued viability. However, we strongly believe that the assessment of broadband service revenues is not appropriate. The imposition of new fees on broadband service at the same time policymakers seek to encourage more widespread deployment and service penetration would be counter-productive and would raise the price of high speed Internet services for current and potential broadband customers. It would also penalize those who have worked diligently to deploy broadband to nearly the entire nation. The cable industry has invested \$100 billion in private risk capital to bring broadband and other advanced services to households across the country. Today, 93% of all households in this country have access to cable's high speed Internet service.

Contrary to assertions that broadband is negatively impacting universal service, the impact has been minimal at best. Most VoIP services, for example, already pay into the universal service fund and a number-based plan would, in any case, capture these services into the future. The assessment of broadband service is unnecessary to the goal of a stable, sufficient and predictable fund. Instead, a number-based contribution mechanism addresses the current problems with declining interstate revenues and bundling of services, and captures new technologies and protocols such as VoIP.

We also believe it would be a mistake to make broadband services eligible for USF distributions. Mr. Chairman, Midcontinent shares your desire to ensure that all Americans, including those who live in rural communities have access to broadband service. As I stated at the outset, Midcontinent has spent hundreds of millions of dollars to upgrade its facilities and deploy broadband services in rural communities. We did this without a government mandate and without a government subsidy. We did it because we want to make certain that our customers have the same access to advanced digital technology as all Americans. We took the risk and invested private capital in order to provide broadband services in the communities we serve. It is unnecessary and profoundly unfair for the government to subsidize a broadband competitor to Midcontinent or any other broadband provider that has already stepped up to the plate and answered the call to help close the digital divide.

We recognize that some form of subsidy may be necessary to promote broadband deployment in remote rural areas where no provider is currently offering a broadband service and it is otherwise uneconomic to do so. The cable industry has offered support for legislation that

would offer tax credits or tax expensing to companies that deploy broadband services in clearly defined and carefully targeted unserved areas. But the government should take great care not to subsidize broadband in communities where companies are already offering consumers broadband service. Subsidizing competition is unfair and a waste of scarce resources that should be targeted to areas where a market based solution has not developed.

While government subsidies may be necessary to promote broadband deployment in unserved areas, the cable industry does not believe that universal service funds should be used to support broadband deployment. Such an expansion of the program will put further stress on the universal service fund and undermine its principle purpose of promoting the availability of affordable telecommunications services to all regions of the country. We believe there are better ways to promote broadband deployment in unserved areas through tax credits, tax expensing or existing loan and grant programs.

However, any program that subsidizes private entities to deploy broadband service is fraught with the potential for abuse. An example of such a program, though well intentioned, is the current Rural Utilities Service broadband loan program. Loan money from this program is being used to subsidize cable and phone competitors in markets where there are already two or more broadband providers. This type of subsidized competition penalizes private entities serving those markets and discourages private investment in rural America. In its September 30, 2005 report, the Office of Inspector General of the U.S. Department of Agriculture found that the RUS had not maintained its focus on rural communities without preexisting service, questioned whether the Government should be providing loans to competing rural providers when many

small communities might be hard pressed to support even a single company, and observed that the RUS, by granting such loans, may be “creating an uneven playing field for preexisting providers operating without Government subsidies.”

Midcontinent supports the goal of the federal government to assure that all Americans have access to broadband services. We have invested hundreds of millions to help that goal become a reality. We recognize that government subsidies may be the only answer in some high cost rural areas. However, any government program designed to promote broadband deployment must be carefully defined and targeted to only those areas that lack broadband service. Furthermore, any such program must receive the most stringent government oversight to ensure that government funds are allocated only to areas that are defined as unserved and are not used to subsidize competition.

Mr. Chairman, thank you for inviting me to testify today. I would be happy to answer any questions you or the members of the committee may have.