



Statement

of

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On behalf of the

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Before the

United States Senate Committee on Commerce, Science and Transportation

Regarding

**S. 2686, The Communications, Consumers, Choice,
and Broadband Deployment Act of 2006**

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Introduction

Good morning. I am Shirley Bloomfield, Vice President of Government Affairs and Association Services for the National Telecommunications Cooperative Association. I am here today to testify on behalf of the Coalition to Keep America Connected which represents rural consumers and small businesses from all across the nation. We thank you for the committee's leadership on universal service issues that are so critical to rural America and specifically for the opportunity to testify before you.

The Coalition to Keep America Connected is organized by the Independent Telephone and Telecommunications Alliance (ITTA), the National Telecommunications Cooperative Association (NTCA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and the Western Telecommunications Alliance (WTA). Collectively, our memberships include more than 700 small and midsize communications companies. Together these companies serve millions of consumers that reside throughout more than 40% of the landmass of rural America. Additional members of the Coalition include the National Cooperative Business Association, the Center for Rural Affairs, the Association of Educational Service Agencies, along with other rural focused organizations and businesses, including over 300 community-based communications providers.

Generally, the rural sector of the communications industry views the comprehensive nature of the "Communications, Consumer's Choice, and Broadband Deployment Act of 2006" very positively. The legislation includes many pro-consumer provisions and takes many positive steps to modernize, and ensure accountability within, the universal service program and its related funding mechanism.

Summary/Overview

Early on in the discussions about the potential Communications Act rewrite our organizations, like so many, set about identifying what we believed would be necessary from a rural consumer and small business perspective to ensure the development of a successful rewrite package. Today's hi-tech revolution continues to yield unparalleled economic and policy pressures for the entire communications industry. Yet, as always the industry's rural sector persists in aggressively embracing and offering the exciting new technologies and services associated with this era.

Over time, it has become crystal clear that the deployment of advanced infrastructure is more and more important as Americans increasingly rely upon communications services to satisfy their commerce, security, and entertainment needs. It is our conclusion that the deployment of advanced infrastructure that is fully capable of offering such services should become the hallmark of our national universal service policy.

Likewise, we believe that industry responsibilities must accompany the opportunity for any communications provider to operate in a competitive deregulatory environment. Universal service and intercarrier compensation and the ability to effectively negotiate interconnection and access matters are major keys to the ability of rural communications providers to recover their

costs. For us to retain and build upon a nationwide ubiquitous communications network, all providers must embrace these elements of our national communications policy.

Early on we identified the following specific issues as being those we should focus our attention on during the rewrite debate.

- Universal service should be strengthened by tightening the process for determining program eligibility, providing support based on a carrier's own costs, expanding the base of contributions, providing support for advanced systems, and removing the program from the federal budgeting process.
- Intercarrier compensation arbitrage that is plaguing today's system must be limited, yet in a way with minimal consumer impact and with appropriate transitions for carriers and policymakers alike.
- Nondiscriminatory interconnection and access to infrastructure content, roaming, spectrum, rights-of-way, and financing at appropriate rates, terms, and conditions with government default rates should be required.
- Finally, we believe it is imperative that policymakers practice smart rather than absolute deregulation, which is the key to achieving the regulatory flexibility so many seek. Generally a more flexible approach, rather than rigid deregulation will best serve consumers – and particularly those in rural markets. Following this policy course will maintain and encourage the entrepreneurial spirit that has long ensured America's economic and technological superiority.

So, the question becomes, "how does S. 2686 stack up against this policy course outline that our rural organizations envision? The short answer is that we believe the bill has hit the mark on virtually every point. Really, the suggestions offered in our submission today are merely to strengthen the already solid core that has already been built into S. 2686.

Universal Service

Universal service has long served as the cornerstone of our nation's communications policy. It ensures that all Americans enjoy the benefits of a nationwide integrated communications network. And it is clear that our economic and national security insists that this policy be preserved. Driven by a unique cost-recovery process, today's universal service system effectively ensures that all Americans, urban, suburban, and rural alike, have access to quality communications services that are comparable in price and scope. By emphasizes an assurance that necessary cost recovery is available to those that make the commitment to serve the nation's most economically challenging markets, the policy concurrently ensures the highest level of communications connectivity among the public. Unfortunately, in many ways it could be argued that our national universal service policy has become the victim of its own success. Too often regulators and competitors alike have viewed the program as little more than a means of inciting artificial competition rather than serving as a cost recovery mechanism for those with a genuine commitment to high-cost markets. Policies must be crafted that will reestablish the value of this

program for all consumers. In evaluating the universal service aspects of S. 2686 as well as other rewrite bills that are emerging both in the Senate and the House of Representatives we have been determining the degree to which they meet the following objectives:

- Removes the ambiguity that has evolved over the definitional differences between Information Services, Telecommunications Services, and Telecommunications.
- Alters the Contribution aspects of today's program to:
 - Allow for the full assessment of intrastate in addition to interstate and international revenues, or at the very least looks at alternatives or hybrids involving any combination of revenues, numbers, connections or IP addresses that will best ensure no parties are able to escape contribution responsibilities..
 - Expand the base of supporters to include all providers of 2-way communications regardless of the technology involved.
 - Set the stage for supporting cost recovery of broadband capable infrastructure.
 - Provide for the FCC to modify the scope of contributors in future.
- Alters the Distribution aspects of today's program to:
 - Clarify that support is for cost recovery of networks that benefit all consumers throughout a given market, and not just those that are the most economical or easy to serve.
 - Reject the concepts of providing support directly to consumers or states via vouchers, auctions and/or block grants.
 - Eliminate the Federal Communications Commission's (FCC's) identical support rule that allows competitors to receive universal service support based on the incumbents costs.
 - Eliminate the FCC's parent trap rule that forces carriers acquiring exchanges to receive support based on the level of support, if any, that the previous owner/carrier was receiving.
 - Prohibit regulators from using universal service to incite artificial competition through the development of a much stricter checklist to determine universal service eligibility (eligible telecommunications carrier (ETC) determinations).
 - Maintain non-rural and rural fund distinctions.
 - Eliminate the regulatory cap on fund the fund that has already deprived rural carriers of more than \$2 billion in cost recovery they otherwise qualified for under the program.

Contributions to Universal Service

Clearly, overall the provisions of S. 2686 appropriately touch on most of these issues. We believe that for the most part the Title II, Subtitle A provisions of this bill will in fact help expand the base of contributors to the program which will provide relief to consumers at all levels. Naturally, our first choice with regard to a methodology is to stick with a purely revenues approach. It is a system that is proven and that has worked. The only reason we need to look at

modifying it today is because interstate revenues have begun to drop due to the changing lines of business and the regulatory classification of different lines of business.

Thus, the language in this bill that provides for the assessment of all revenues is entirely appropriate. The bill also allows for assessments based upon working phone numbers or equivalents, identifier protocols, connections, or combinations thereof. The intent of the language seems to be clear that no methodology should unfairly allow certain industry sectors to escape participation in the assessment process. Some have suggested that perhaps a cooling off period should accompany the provisions that would allow methodologies other than the expanded revenues approach. This would allow the other aspects of this legislation to become effective and would provide policymakers and the industry with a period of time to see if the expanded revenues approach might address the bulk of the shortfall issues we are observing today. We think this idea has a great deal of merit and would encourage the committee to give it serious consideration.

We agree completely with the legislations approach to expanding the base of contributors to include all those that are making use of the network today. As representatives of our industry have stated in prior testimony to this committee, infrastructure does in fact have a cost attached to it, and one way or another, those costs must be recovered. This is one way to effectuate that objective.

We also believe the legislations new definition of Communications Service will serve the industry as a whole well and will alleviate today's confusion between the definitions of telecommunications services and information services.

Regarding the proper accounting of universal service funds is language that has been necessary for more than a decade. This language will remove all questions as to what these funds are and how they should be treated in the future. Removing them from the clutches of the federal budget and other federal statutes such as the AntiDeficiency Act will serve the program and consumers well.

Distributions from Universal Service

This section amends section 214(e) of the Act that determines whether a carrier is eligible to receive universal service support, and what sort of deployment it will receive such cost recovery for. Overall we are supportive of the approach of this subtitle and think it will help bring a great deal of stability to the universal service fund. We particularly agree with the vision of the underlying intent of this section which is to advance the idea that universal service should eventually be supporting the deployment of infrastructure that is broadband and advanced services capable.

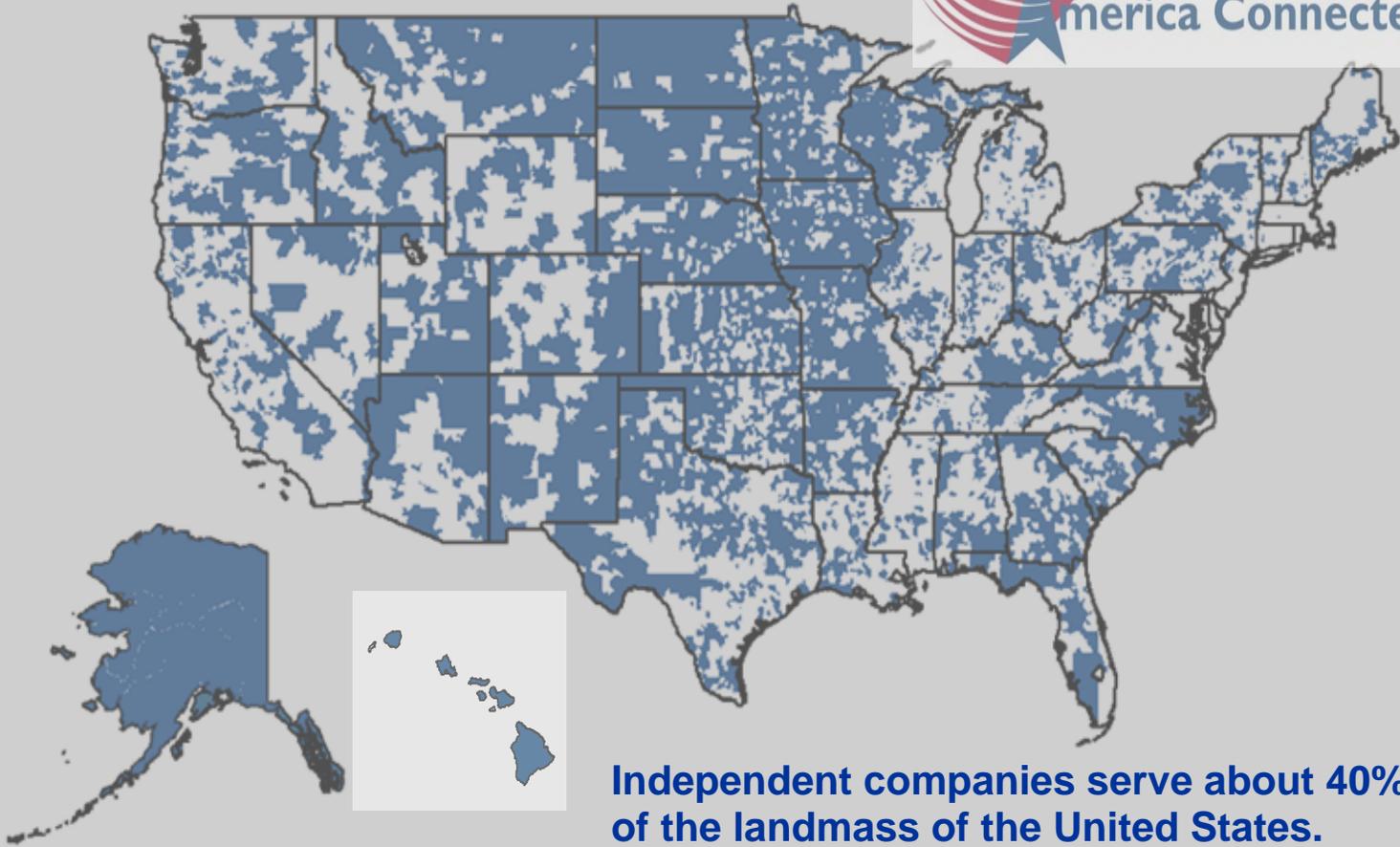
Another very positive development is the language tightening the eligibility requirements for Eligible Communications Carriers. This is long overdue and we would only encourage the committee to consider even stronger guidelines for what constitutes the public interest when determining whether or not multiple carriers are appropriate in given markets. This would be particularly responsive to the concerns of those that have suggested the bill needs additional

language to control the future growth of the fund. Another element that could be added that would truly respond to this issue would be to include language specifically eliminating the identical support rule which provides support to competitors based upon incumbents' costs.

The primary line language is also very positive and will once and for all preclude the FCC from giving further consideration to this concept. Likewise the Phantom traffic language is a positive addition. This is a difficult issue to resolve, yet this language serves as a line in the sand sort of directive to the FCC that the efforts to resolve it must continue until such time a satisfactory outcome is identified.

Mr. Chairman, again, we are pleased with the comprehensive approach that you have taken with your legislation, we have many more detailed thoughts on the bill, some of which we have already outlined with your staff and others which will be provided to you directly in writing. Thank you again for this extraordinary opportunity to work with you and your colleagues in a joint effort to meet the challenges of today and anticipate the opportunities of the future

The Coalition to Keep America Connected looks forward to working with this committee to ensure the best possible legislative outcome for consumers everywhere.



Independent companies serve about 40% of the landmass of the United States.