

Statement of

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On behalf of the

Coalition to Keep America Connected

Before the

United States Senate Committee on Commerce, Science and
Transportation

Regarding

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

June 13, 2006

Good Morning. I am John Rose, President of the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO). Today, I am testifying on behalf of the Coalition to Keep America Connected, a coalition of rural communications providers, consumers and small businesses. We appreciate both the opportunity to testify and the leadership this committee has shown on these important issues.

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 companies and cooperatives that serve millions of consumers that reside throughout more than 40% of the landmass of the United States.

S. 2686, the “Communications, Consumer’s Choice, and Broadband Deployment Act of 2006,” contains many positive aspects for rural America. I will comment today on the new draft of this legislation and specifically the portions dealing with the Universal Service Fund (USF).

First of all, I want to thank you, Mr. Chairman, and others on this committee for the strong leadership and support for the Universal Service Fund that is reflected in this legislation. The goal of universal service policy is to ensure that every American, regardless of location, has affordable, high-quality access to a variety of modern telecommunications and information services. Rural incumbent local exchange carriers are the embodiment of the universal service concept, having built the infrastructure that provides ubiquitous, high-quality local telecommunications service to some of the country’s most remote and difficult to serve areas. The provision of a robust infrastructure in these areas would never have been possible were it not for the nation’s long-established policy of universal service and the federal Universal Service Fund. This is important not only to those living in rural areas, but also to those in urban areas who wish to communicate with individuals and businesses in less populated communities.

As introduced, S. 2686 seeks to update America's telecommunications laws to meet the current and ever evolving communications market. In our view, the Staff Discussion Draft released on June 9th contains improvements on that effort and in some areas gives us concern.

The Coalition is pleased that the bill provides the Federal Communications Commission (FCC) with the flexibility to base universal service contributions on several different factors, including revenues, working phone numbers, other identifier protocols, connections, and network capacity. This type of flexibility is necessary in a continually evolving communications marketplace.

The bill provides the FCC with the flexibility to assess contributions from broadband service providers. The long-term sustainability and stability of the USF necessitates that broadband service providers should contribute to the fund. Current market data continues to demonstrate significant growth in subscribership to broadband services. For example, the FCC recently reported that for the twelve month period ending June 30, 2005, the number of broadband service connections increased by 32%, from 32.5 million to 42.9 million. In light of this growth, permitting broadband service to be assessed in a combination of ways, based on revenues and/or capacity ensures a sustainable contribution base for the long term as consumers continue to migrate to broadband platforms. In turn, this enables consumers in rural and high-cost areas to continue to have affordable access to high-quality telecommunications and information services that are comparable to those available to urban and suburban residents, as Section 254 of the telecommunications act requires. Regardless of the methodology the FCC establishes, it is important for broadband providers to contribute to the Fund. We include ourselves in that; rural providers fully plan to contribute in an equitable manner as well.

We applaud the language in Section 715 of the discussion draft stipulating that IP-enabled voice traffic shall not be exempted from intercarrier compensation. The Coalition has long advocated the simple concept that regulatory arbitrage should not prevent carriers from being fairly compensated for the use of their networks.

Thank you for including language that prohibits the limitation of USF support to a single connection or primary line. Limiting support in this

manner would be devastating to the small businesses that generate a large percentage of the jobs in rural areas.

Also, the bill clarifies that intrastate revenue may be assessed for USF contributions. As bundled services become more common, the problem of distinguishing between intra- and interstate revenues has become increasingly difficult. This provision eliminates the unnecessary confusion generated by the current requirement to assess only interstate revenue.

We are also very grateful for the exemption of the USF from the Anti-Deficiency Act, an issue that we believe needs to be resolved by the end of this calendar year. The Coalition appreciates the leadership shown on this issue by many members of this committee.

The Coalition is also pleased with the inclusion of the new provisions in this version of the bill that would apply the geographic toll rate averaging and integration requirements of the 1996 Act to any services that can be used as a substitute for traditional long distance toll services. The geographic averaging of toll rates has long been a cornerstone of telecommunications policy in the United States. It is critical to rural subscribers, who typically have to make a greater number of long distance calls than their urban counterparts due to smaller local calling scopes. For rural subscribers, calls to schools, doctors, and government agencies can often times be toll calls. By extending the geographic rate averaging and integration requirements to successor services, it will help to ensure that consumers in rural and insular areas continue to have access to affordable long distance rates as communications networks and services evolve. We applaud you for extending the rate averaging concept to the IP world.

Another positive provision in the new draft clarifies that portions of study areas may qualify for support from the Broadband for Unserved Areas Account. This will be helpful in enabling rural telecommunications companies to come closer to achieving full broadband coverage throughout their areas. Rural telecommunications companies are committed to offering broadband services to their communities and have done a tremendous job thus far in deploying it where it economically feasible. For example, OPASTCO estimates that its members are presently capable of offering broadband to nearly 90% of their customers. However, there are portions of some rural study areas that are so prohibitively expensive to serve, that ubiquitous broadband deployment throughout the study area is unachievable

absent high-cost support. By making targeted support for broadband deployment available to rural telecommunications companies who have, thus far, been unable to achieve full coverage, it will help to bring our country closer to the goal of affordable broadband availability for all Americans, no matter where they live.

The Coalition also supports having the Universal Service Administrative Company (USAC) serve as the administrator of the Broadband for Unserved Areas Account, subject to FCC oversight. It is efficient and logical to have the current administrator of all the other universal service programs administer this new account. Furthermore, rural carriers appreciate the consistency of being able to interact with the same administrator for all universal service programs on a long-term basis.

However, with regard to the new Broadband for Unserved Areas Account, we question the collection of these new monies under Section 254(d) of the Act. We are also concerned that the fund covers the customer premises equipment (CPE) for satellite service. Residential CPE is generally not covered in the other programs, and this provision risks focusing a disproportionately large segment of the Unserved Areas Account on this element.

We are highly supportive of the language that requires the FCC, if it modifies the distribution rules for the high-cost support, to adopt transition mechanisms designed to alleviate any harmful effects on existing Eligible Telecommunications Carriers (ETCs) and their customers. As you may know, the Federal-State Joint Board on Universal Service is in the midst of a proceeding that is considering changes to the high-cost support distribution mechanism for rural telecommunications companies. If the distribution mechanism that is ultimately adopted in that proceeding reduces the high-cost support that rural carriers receive, it is critical that there is not a flash-cut to the new system. Unlike the largest local exchange carriers, rural telecommunications companies have limited resources and rely heavily on universal service support as a source of cost recovery. As a result, they will need ample time to adjust to any negative impacts of a new distribution system in order to prevent undue short-term hardships and to enable them to continue providing their customers with high-quality service.

On another positive note, the legislation addresses the issue of Phantom Traffic and proposes language that would help alleviate this

growing problem. Phantom Traffic refers to communications traffic that cannot be properly tracked and billed for. It is a growing phenomenon that, by Verizon's own estimate, accounts for 20% of all traffic on its network. This translates into billions of minutes of communications traffic that are being terminated on the networks of other carriers for free. This is problematic because it places increased pressure on consumers – who are ultimately paying for this unidentified traffic through higher rates or increased universal service fees. It is essential that all service providers receive reasonable and fair compensation for the use of their networks.

The Coalition is particularly happy to see new language in the latest version of the bill that would require a provider that transports or transits traffic between communications service providers to forward without alteration the call signaling information it receives from another carrier. This is very important to rural carriers because much of the network traffic they receive comes to them through a transiting carrier. Rural carriers must rely upon the transiting carrier to receive the necessary call-identifying information to properly bill for the call. We are also pleased that the legislation would require the FCC to establish rules and enforcement provisions for traffic identification, including penalties, fines and sanctions for rule breakers. By fixing the problem of phantom traffic, Congress will help alleviate pressures on end user rates and the USF.

We have concerns about the Group Plan Discount provision that is included in the new draft. We believe it is vague and overly broad by allowing an unspecified number of “additional numbers” to be eligible for the discount. It is positive that the discount is limited to residential customers only.

We have three areas of concern that are not included in the introduced legislation or discussion draft. First, we would like to see the inclusion of a provision that would require support to be based on a carrier's actual costs. Currently, competitive ETCs receive support based on the incumbent's costs. Incumbents must not only follow more regulations than other carriers, they also serve the least lucrative consumers. This often results in many ETCs receiving unwarranted windfalls of support, which increases costs to consumers nationwide with no corresponding benefit. Secondly, the legislation should recalibrate the current method used to calculate the USF growth factor to account for access line loss. The current method fails to recognize that local exchange carriers are losing customers to other services

and, in many rural areas, out-migration. The current mechanism used to calculate the inflationary adjustment penalizes carriers due to customer loss even as we continue our carrier of last resort obligations.

The third area that we would like to see addressed in the legislation is the so-called “parent trap.” There is a need to reconfigure how universal service support is calculated and distributed to rural areas in order to align the current disconnect between the rural characteristics of purchased properties with the ridged regulatory classification of the acquired properties. In many instances, current rules serve as a significant impediment to the kind of network investment this bill is designed to encourage. By modifying these rules, consumers living in rural areas would be able to enjoy the benefits of a broadband capable network because carriers would be inclined to purchase and invest in rural areas that need and deserve rehabilitation.

As stated earlier, the Coalition applauds this legislation’s move towards a sustainable Universal Service Fund and we pledge to continue working with this committee on this vitally important issue.

At this point I would like to step away from the Coalition to Keep America Connected perspective on USF and comment on other parts of the bill on behalf of OPASTCO. OPASTCO supports the inclusion of the Section 335 Shared Facilities portion of the bill. This will help rural carriers control costs of bundled, innovative new services, and thus assist furthering the deployment of broadband to rural areas. Similarly, subtitle A of Title IV will help small providers obtain content demanded by consumers on an equitable basis, encouraging the bundling of video and broadband services. OPASTCO is also pleased with the inclusion of the Section 602 language. This so-called “white space” spectrum can be utilized on an unlicensed basis to provide wireless broadband to consumers.

Once again, thank you for listening and working with us on these very important issues.