

Testimony of
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of the
Washington Utilities and Transportation Commission
before the
***United States Senate Committee on Commerce, Science and
Transportation***
Hearing on
“Universal Service Reform – Bringing Broadband to all Americans”

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INTRODUCTION

Chairman Rockefeller, Ranking Member Hutchison and members of the Committee, I appreciate the opportunity to testify today on reform of the federal universal service fund (USF) program and intercarrier compensation (ICC) rules

My name is Phil Jones. I have been a Commissioner with the Washington Utilities and Transportation Commission since 2005. Currently, I am the Second Vice President of the National Association of Regulatory Utility Commissioners (NARUC), Co-Chair of NARUC's Washington Action Committee, Chair of the Board of Directors of the National Regulatory Research Institute, and Chair of the Federal Legislation subcommittee of NARUC's Committee on Telecommunications. During my six years as a Telecommunications Committee member, I have served on several task forces that have pressed hard for both intercarrier compensation and universal service reform, including the well known NARUC task force on intercarrier compensation that facilitated the filing of the first broad consensus on reform – the so-called “Missoula Plan”—and a separate earlier task force focused upon “Eligible Telecommunication Carrier” designations.

I am here today to testify on behalf of myself and the Washington Utilities and Transportation Commission (UTC).

No one seriously disputes that reform of particular aspects of the existing federal universal service scheme is long overdue. What is in dispute is the way to achieve that reform.

There is no question that the federal USF has played an integral role in the near ubiquitous deployment, adoption, and maintenance of voice service nationwide. If reformed properly I believe USF can retain this role in achieving the same level of deployment and adoption of broadband services.

On October 6, 2011, Federal Communications Commission (FCC) Chairman Julius Genachowski announced circulation to his colleagues of a draft order that undertakes comprehensive reforms of federal universal service policy and federal rules on intercarrier compensation. The FCC should be applauded for finally trying to grapple with some of the glaring abuses in federal policy. Based on the limited information released about the draft order the Chairman circulated last week, I certainly applaud the Chairman for following through on the proposed rulemaking issued in February and trying to resolve the vexing and long-standing challenges in these two regimes.

However, the Washington UTC shares the concerns of many other State commissioners and consumer advocates about specific portions of the proposed reform framework that seem directly counter to Congress' instructions. In particular we find fault in the process that has resulted in the proposal to adopt specific mechanisms that lack adequate support in the record.

The FCC has a difficult yet important task. This is a complex area where issues of law, rate design, network engineering, and social policy intersect and sometimes collide. As the Chairman and the agency deliberate, they should ensure that the final plan enhances the interests

of consumers and provides a fair, more efficient way for carriers to provide service in rural, high-cost areas. It is not clear that all aspects of the current draft achieve these objectives.

The Good

On the positive side, the draft order's proposals to stop traffic pumping and eliminate phantom traffic are non-controversial and long overdue. These "transparently abusive"¹ regulatory arbitrage schemes should have been eliminated years ago. I also personally believe that Congress has already given the FCC authority to eliminate excessive and inefficient fund disbursements by more narrowly targeting support. If the FCC keeps within its Congressional prescribed authority, such changes are long overdue. The draft order also *apparently* recognizes the crucial role reserved to the States by Congress with respect to carrier of last resort obligations (COLR) and so-called ETC designations under Sections 254 and 214(e) of the 1996 Act.

I take comfort in some of the statements the Chairman made last week in his prepared remarks. He stated that the draft order does not "rubber stamp or adopt wholesale" the plan of any carrier-sponsored group or other stakeholders. The Chairman said he does not intend to eliminate the States' carrier of last resort obligations. He also said that the proposed draft does not eliminate the States' traditional role in designating ETCs and will provide for a "vital and meaningful role" in ensuring accountability for broadband investments made under the Connect America Fund, or CAF. Moreover, he reiterated the States' "crucial role" in protecting

¹ See, e.g., The *Resolution Supporting Expeditious FCC Action on Traffic Pumping Schemes*, <http://www.naruc.org/Resolutions/Resolution%20Supporting%20FCC%20Action%20on%20Traffic%20Pumping.pdf>, which I sponsored and which NARUC passed on November 17, 2010. See also, Letter from Sally Brown, Senior Assistant Attorney General, Office of the Attorney General of Washington, Utilities and Transportation Division to Ms. Marlene Dortch, FCC Secretary (filed June 17, 2011), detailing a WUTC ex parte providing data obtained from rural local exchange carriers in Washington State related to phantom traffic and possible spoofing of SS7 information needed for billing inter-state and intra-state calls, available online in the FCC's ECSF system at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021688209>.

consumers as we move forward in the transition of this federal subsidy regime from voice services (POTS) to broadband services.

We take the Chairman at his word and look forward to working with him and his colleagues to make the pledges a reality. Yet, based on the sparse details released thus far, we don't have sufficient information to make an informed judgment, and as always in the field of ICC and USF issues, the devil will be in the details.²

The Bad

I and many of my State colleagues remain vigilant as to how these words on ETC designations and COLR obligations will actually be put in to practice, and how they interact with other portions of the draft order. For example, it appears that specifying a uniform “interstate” rate for all VoIP traffic, will operate over time to undermine if not eliminate those obligations – along with your constituents’ ability to seek State commission assistance with service quality issues, State emergency communications and disaster recover policies, and perhaps even existing State Universal Service programs.

² The FCC has announced it will use a competitive bidding process to assign funds. I do not know what the new “designation process” can look like in such a circumstance. It is certainly unclear what role States can play that is consistent with the tasks assigned them by Congress. A process that simply has States “rubber stamp” any carrier that wishes to participate in a bidding process and reduces or eliminates the role assigned with respect to modification of study area boundaries is not only a swipe at Congressional authority and judgment, it is also poor policy. As noted in the April 14, 2011 *Comments of the Washington Utilities and Transportation Commission*, at page 4, note 10: “UTC Staff does not take ETC petitioners' general compliance statements at face value. Rather, Staff scrutinizes applicants' credentials and commitments in fulfilling universal service obligations. Staff's inquiries include applicants' financial condition, corporate structure, detailed coverage in proposed service areas, capital investment plans, operational performance (e.g., subscribership, spectrum of services and products, consumer complaint records), and compliance with other state rules and regulations. In doing so, UTC Staff attempts to balance the potential benefits of designating additional ETCs (most saliently, infrastructure build out in rural areas, promoting market competition and benefits for low income households) with the need to protect the Federal Universal Service Fund against waste, fraud and abuse. Over the past fifteen years, Staff has made favorable and unfavorable recommendations to the UTC on various ETC petitions reflecting application of above-described framework and principles. See WUTC comments at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=702123853>.

State COLR obligations, which, among other things, require carriers to serve consumers in their service territory, are tied to jurisdictional authority. Some stakeholders have pressed for a uniform “*interstate*” tariff for all VoIP traffic – regardless of whether the traffic is currently (or can be) identified as jurisdictionally “*intrastate*.³

Specifically, as my agency pointed out in its most recent FCC comments, at pages 9 – 10, elimination of such VoIP traffic from State jurisdiction will have significant consequences:

State Commissions would be precluded from exercising any jurisdiction over that service or potentially the companies that provide that service. Consumers who use VoIP as the equivalent of traditional landline telephone service could no longer seek redress from the state commission or any other state agency for billing, service quality or other service-related issues. The result would be to shift the resolution of such complaints from the state agency, which is in the best position to address them to the FCC which has neither the expertise nor the resources to take them on. These concerns are not hypothetical. Comcast is one of the largest providers of voice service in Washington based on the number of subscribers, and that company provisions service as VoIP. Most, if not all regulated telecommunications companies in this state provision or have affiliates that provide VoIP. Verizon Northwest Inc. (now Frontier Northwest Inc.), the second largest incumbent carrier in Washington, replaced two of its circuit switches with IP-based switches, and other carriers are doing the same. Companies are increasingly converting their circuit switched networks to IP-based networks, and if the Commission were to determine that VoIP . . . {is not state jurisdictional} . . . , many, if not most, of them would likely seek to discontinue local telecommunications subject to state oversight in favor of FCC-regulated VoIP service. Complaints about telecommunications service, however, top the list of complaints consumers make to the WUTC. The Washington Commission received 722 customer complaints in 2010 against regulated telephone companies concerning billing disputes, disconnection threats, quality of service and customer service issues. Similarly, the Consumer Protection Division of the Washington Attorney General’s Office received more complaints about telephone companies

³ It is true the WUTC FCC comments do appear to go beyond asking the FCC to make sure VoIP pays “interstate” access for “interstate” transactions. See, for example, the WUTC’s April 18, 2011 comments, at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021238853> and also the WUTC’s April 4, 2011 comments, also online at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021236705>. However, our comments also detail the panoply of bad policy outcomes that would accompany FCC preemption of State authority over VoIP services. **I personally believe that a unified interstate tariff for VoIP traffic could well have the exact same jurisdictional impact as classifying it as an “information” service.**

and service (both landline and wireless) than any other industry on an annual basis from 2001 – 09, and such complaints for 2009 (the latest year for which the WUTC has such figures) was only second to the number of complaints about collection agencies. The FCC Enforcement Bureau’s backlog of cases is already substantial, and adding complaints that are currently filed with state agencies would overwhelm the system to the detriment of consumers.

Any approach that allows the FCC to assume exclusive jurisdiction over VoIP services is short-sighted and will likely only provide yet another arbitrage opportunity. Moreover, long term such an approach could well jeopardize the funding streams for the more than 20 States that have adopted State-specific universal service programs, as well as threaten State authority over emergency calling, outage restoration, and, as already referenced earlier - service quality. As we noted in those same comments, at pages 10-11:

The FCC should be mindful of all consequences that result from its actions, both intended and the unintended. The Commission can reform intercarrier compensation without assuming exclusive jurisdiction over VoIP and therefore should only make those determinations that are necessary to reach its goals.

I also have real concerns about the proposals to preempt State intrastate access charge authority. Such an approach is directly contrary to the express terms of the statute and Congress’ view of the appropriate role of the States.⁴ Indeed, the current ICC dilemma is far more attributable to the FCC’s refusal to classify VoIP-based services than to States’ intrastate access charge regulation.

States have long held that all carriers should pay according to State and federal access tariffs. The market, not the regulator, should make such choices under a consistent federal-State

⁴ See, 47 U.S.C. Sec. 251(d)(3) (1996): “Preservation of State Access Regulation: In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that (a) establishes access and interconnection obligations of local exchange carriers; (b) is consistent with the requirements of this section”

regulatory regime. The lack of a federal policy on the appropriate treatment of VoIP provides as telecommunications carriers has created a huge ambiguity during the last ten years that carriers have exploited to their advantage, resulting in the declines in intrastate access charge compensation that the telephone companies we regulate have experienced. The overwhelming majority of States, on the other hand, have already engaged in significant reform of intrastate ICC, and most of the remaining States are poised to act.⁵

The Ugly

Chairman Genachowski has often noted that a “fact based and data driven process” is crucial to informed and efficient decision-making.⁶ Indeed, in one of his first statements after becoming Chairman, he argued that his universal broadband plan:

.....will be data-driven. That means not starting with conclusions, but using data to develop analysis. It also means not just accepting data, but digging into data, to find concrete solutions that supersede ideology -- and that can make a difference in the lives of real Americans.⁷

I agree with the Chairman. The development and final version of the National Broadband Plan (NBP) was a good example of this: a comprehensive, long-term analysis of the

⁵ See, e.g., Oral Ex Parte Notice from NARUC General Counsel James Bradford Ramsay to FCC Secretary Marlene Dortch, filed September 26, 2011, detailing the current status of State ICC reform efforts. The letter is available online at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021711173>.

⁶ See, e.g., Pham, Alex, *FCC's Genachowski reinforces call for rules on net neutrality*, LA Times (October 08, 2009) (“Genachowski called for a "fact-based, data-driven" open dialogue with the industry.”), available online at: <http://articles.latimes.com/2009/oct/08/business/fi-fcc8>; *Prepared Remarks of Chairman Julius Genachowski*, The Brookings Institution, Washington DC (September 21, 2009) (“I will ensure that the rulemaking process will be fair, transparent, fact-based, and data-driven. Anyone will be able to participate in this process, and I hope everyone will.”) available online at: <http://www.openinternet.gov/read-speech.html>; Eggerton, John, *Genachowski Addresses Broadband, Indecency and Future FCC Plans* (Broadcasting & Cable) 6/16/2009, (“Genachowski said his would be an open and transparent FCC, that made data-driven policy decisions that kept the consumer foremost...” online at: http://www.broadcastingcable.com/article/294770-Genachowski_Addresses_Broadband_Indecency_and_Future_FCC_Plans.php.

⁷ See, Chairman Julius Genachowski, *Prepared Remarks on National Broadband Plan Process*, (July 2, 2009), at page 2, available online at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-291884A1.pdf.

telecommunications/broadband industries and related public policy purposes based on exhaustive analysis and large amounts of data. *A decision can only be as good as the record it is based upon.* Unfortunately, I am concerned that while the original NPRM issued in February was comprehensive and asked many good questions based on analysis and data, the process over the last several months used to generate the draft circulated last week did not measure up to this standard.

I have attached a chart to my testimony that estimates the flow of federal USF funds, by State, based on data from the FCC's 2010 USF Monitoring Report. For example, if you set off contributions against receipts from the federal program, West Virginia is currently a net recipient of about \$30 million dollars in federal revenues. Washington State, on the other hand, is net contributor to the federal programs sending about \$15 million dollars to assure universal service in other states.⁸ Other members of the committee can determine approximately from that chart the current net benefit of the federal program to your respective States.

Last week the Chairman pointed out in his speech that:

So in the transition areas, until the shift to competitive bidding, the Commission will base support on a rigorous model estimating the costs of deploying broadband, ensuring carriers receive no more than necessary to enable broadband build out. And that cost model will be adopted only after an open and transparent public review process.⁹

⁸ According to this chart, Washington State residents pay about \$155,701,000 into the federal program but State residents only receive the benefits in the amount of about \$140,092,000 from the fund., leaving us a net contributor State.

⁹ See, Chairman Julius Genachowski, *Prepared Remarks on National Broadband Plan Process*, (July 2, 2009), at page 9, available online at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-291884A1.pdf.

In other words, only after the plan is adopted can the FCC possibly have any realistic chance of estimating the actual costs of taking this approach. The FCC Commissioners – as well as other interested stakeholders and public officials – cannot look at the record and ascertain with any degree of certainty even the approximate impact on federal funds flowing into and out of their States under the new paradigm. The only thing any interested policy maker can be sure of is that over the next five years the “net” amount of money you receive in your State to support universal service will change – and it is likely that change will be dramatic. Indeed, the FCC has expressed an interest in controlling the growth in the size of the fund, but current federal legislation *mandates* reasonably comparable service. Without a fully vetted model, no policy maker can determine with certainty the likelihood that the FCC will be able to constrain the growth in fund size in the face of likely litigation.

Unfortunately, the FCC *appears* poised to closely follow an industry drafted proposal at least on the timing and phase-down of intrastate access charges and the use of an access charge recovery mechanism. The so-called “America’s Broadband Connectivity” (ABC) plan proponents have filed at the FCC, and no doubt circulated on Capitol Hill, a list of how States purportedly “make out” if the agency adopts their proposal. Significantly, that list does not show net benefit amounts since it does not show the change in net benefits from the status quo. Also, one must be skeptical of the analysis done by the industry-sponsored consultants since the underlying model and assumptions haven’t been adequately vetted and tested. Verizon, AT&T, and the other ABC plan proponents did not file the model at the same time they filed the plan. Instead, they waited until all the comments responding to the Notice on their plan were filed. And then a week before the Chairman was slated to circulate his draft, they finally “offered” full

access to the model and supporting documentation – but even then only to stakeholders who could afford, on short notice, to travel to certain offices in the State of Ohio and pay a minimum of \$600.

Universal service and intercarrier compensation are large and complex regimes the reform of which will have major impacts on the retail rates your constituents pay, the subsidies carriers receive, and the flow of these subsidies among States. Some realistic assessment of the impact and outcome of any proposal should – logically – occur *before* any policy maker commits to a proposed spending plan. Certainly reform of the federal program is necessary and long overdue. However, without thorough evaluation any new system could cause as many (and perhaps more) problems than it solves.

Adoption of any major USF and intercarrier compensation reforms prior to full vetting of the underlying cost model would be putting the proverbial cart before the horse. It would be bad policy and definitely undermine the foundation for reform.

It also appears the FCC may be considering at least one legal determination that is definitely not “data-driven” or “fact based.” To establish a unified interstate tariff to cover all (inter- and intrastate) traffic, the law requires a factual finding that the underlying traffic cannot be divided or “severed” into local/in-State and interstate calls. That poses a real obstacle. Other than self-serving statements by carriers looking to avoid jurisdiction, there is *no* evidence provided in this FCC reform proceeding that such traffic is not severable. Moreover, it is, at a minimum, counterintuitive that a network that has to deliver bi-directional voice traffic in real time is incapable of locating the end-points of that communication at least within existing State

geographic boundaries. Claims of lack of severability are also completely at odds with federal CALEA mandates and the unswerving FCC goal of assuring ever better and more precise routing of E911 emergency calls, regardless of the technology used to provide the underlying voice service. Such claims also cannot be reconciled with the undeniable fact that the majority of fixed VoIP providers (and wireless providers) pay into the federal universal service program based on jurisdictional traffic distinctions – that is they actually do “sever” their traffic. Indeed, with respect to facilities-based or “fixed” interconnected VoIP services, severability is a non-issue. For them, it appears the traffic never touches the “Internet” but interfaces with the PSTN just like other communications systems with different dedicated protocols.¹⁰

¹⁰ See, e.g., Lawson, Stephen, *Comcast Calls on VoIP - Cable company announces plans to launch phone service this year*, IDG News Service (2006) According to *Comcast Chairman and Chief Executive Officer Brian Roberts*, Cable operator Comcast VoIP service “[w]ill not be an Internet telephony service, he says: Though they will use IP, the voice calls won't touch the Internet, running instead over Comcast's private data network, with priority over regular data packets to ensure good quality.” Available at: <http://pcworld.about.com/news/Jan112005id119241.htm>. (Last accessed October 28, 2008) {emphasis added} See also, July 23, 2008 *Sworn Initial Testimony of James R. Burt on behalf of Sprint Communications Company L.P.* filed before the Arkansas Public Service Commission, *In the Matter of Petitions for Arbitration by Sprint Communications Company L.P. against Yelcot Telephone Company, DOCKET NO. 08-0764, and against Northern Arkansas Telephone Company, DOCKET NO. 08477-U*, Exhibit JRB-1 at page 65, and at pages 29-30, where Mr. Burt notes: available at http://www.apscservices.info/pdf/08/08-076-u_14_1.pdf. (Excerpt: ‘Is the proposed service an Internet Telephony, Internet-based VoIP or over-the-top VoIP service? No. I am not speaking to the regulatory treatment of these services, but rather, the functionality of the proposed service . . . The terms Internet Telephony, Internet-based VoIP and/or over-the-top VoIP services are used to describe voice services that utilize the public Internet. An example would be the service provided by Vonage. By contrast, the service provided by Sprint and Suddenlink does not use the public Internet in any manner. . . . The voice services provided by Sprint and Suddenlink are not nomadic; the customers only use the service in their homes.’ Internet Telephony, Internet-based VoIP service and over-the-top VoIP services have also struggled with providing 911 service consistent with customer or public safety official expectations. The voice services provided by Sprint and Suddenlink provide reliable 911 service. . . There is one factor that is sometimes used to attempt to create confusion between Internet Telephony, Internet-based VoIP service and over-the-top VoIP service and the voice service king provided by Sprint and Suddenlink. It is the fact that all of these services happen to use the Internet protocol. Since all of these services use the Internet protocol, there is a tendency to claim the services are the same. The mere fact that there is one technical similarity, use of the Internet protocol, should not lead one to the conclusion that the services are the same.) {emphasis added} Cf. June 6, 2008 Prefiled Testimony of Corey R. Chase on Behalf of the Vermont Department of Public Service, *State of Vermont Public Service Board Docket No. 7316 Investigation into regulation of Voice over Internet Protocol Services*, at pages 12-14, 13, (Excerpt: Q. Is it true that CDV packets “flow interwoven with other data packets such as email or video along Comcast’s private IP data network” as Mr. Kowolenko stated on page 10 of his prefilled testimony? A. It appears to be true that at some points within the Comcast network, packets containing CDV data travel with packets containing other data types on the same IP network, with CDV packets marked to maintain quality. However, in the response to DPS Information Request 1-12, Mr. Kowolenko stated that, “It [CDV] does not contend with other IP based traffic destined for the public Internet that flows across the Comcast access network.” Since packets carrying various data types do not contend for bandwidth and thus cannot affect each other, they

Even the FCC conceded in a June 2006 Order that fixed interconnected VoIP services currently contribute to the federal program based on actual revenues (i.e., severed traffic).¹¹ Because there is no question it is possible to separate intrastate non-nomadic facilities-based VoIP calls from interstate calls, the FCC has no jurisdiction over such intrastate calls. Indeed, now that the FCC has *required* both constructive severance by means of a proxy interstate safe harbor for nomadic VoIP providers to contribute to the federal universal service programs, as well as actual severance, by requiring nomadic VoIP providers to have functioning

should not be considered “interwoven” because CDV traffic can be identified separately from other data. Furthermore, as discussed above combining various traffic types on a single network is a function of all modern networks, not just IP networks. See also, July 25, 2008 Prefiled Rebuttal Testimony of David J. Kowolenko on behalf of Comcast of Vermont, *State of Vermont Public Service Board Docket No. 7316 Investigation into regulation of Voice over Internet Protocol Services*, at pages 8-9, where he points out, as does his CEO, supra, that Comcast’s phone service “uses IP technology but provides a facilities-based service that does not traverse the public Internet unlike ‘over the top’ providers that do not directly connect via a private network to the PSTN as Comcast does. It also does not conflict with other IP-based traffic destined for the public Internet that flows across the Comcast access network.” All 3 documents can be downloaded from: <http://www.naruc.org/Publications/Testimony%20filed%20in%20Vermont%20PSB%202008%20Examination%20of%20VOIP.pdf>. See also, May 9, 2008 FINAL DECISION, in *Public Service Commission of Wisconsin Docket 5911-NC-101, Application of Time Warner Cable Information Services (WI), LLC to Expand Certification as an Alternative Telecommunications Utility*, at 8, Findings of Fact # 8 “Under the business model established by Sprint and TWCIS, Digital Phone uses IP technology as a transmission protocol, but does not use the Internet as such.” Available at: http://www.psc.wi.gov/apps/erf_search/content/docdetail.aspx?docid=94163. See also, Briefing Memorandum in *Public Service Commission of Wisconsin Docket 5911-NC-101, Application of Time Warner Cable Information Services (WI), LLC to Expand Certification as an Alternative Telecommunications Utility*, available at: http://www.psc.wi.gov/apps/erf_search/content/docdetail.aspx?docid=84954.

¹¹ See Universal Service Contribution Methodology, WC Docket 06-122; CC Dockets 96-45, 98-171, 90-571, 92-237; CC Dockets 99-200, 95-116, 98-170; WC Docket 04-36, *Report and Order and Notice of Proposed Rulemaking*, 21 FCC Rcd 7518 (2006), available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-06-94A1.pdf (Contribution Order), aff'd in part, vacated in part, *Vonage Holdings Corp. v. FCC*, 489 F.3d 1232, 1244 (D.C. Cir. 2007), at note 189 (“Because we permit interconnected VoIP providers to report on actual interstate revenues, this Order does not require interconnected VoIP providers that are currently contributing based on actual revenues to revise their current practices.”).

911services,¹² it may be time to re-examine that FCC action. The only facts currently in the record support rejection of a unified federal VoIP tariff approach. But if the FCC is seriously contemplating creating a factual record to allow it to consider granting the petition, these are precisely the types of issues that require the development of such a record through discovery, sworn testimony, and the opportunity for cross-examination before any final legal determination is possible – either here or in the broader proceeding. That examination has yet to take place.

Partnership, not Preemption

The Telecommunications Act of 1996 established a federal-State partnership to oversee the universal service and intercarrier compensation regimes. In that statute, Congress specifically and explicitly reserved State authority over, among other things, intrastate access, carrier of last resort obligations, service quality, State universal service mechanisms, and the designation of eligible telecommunications carriers. This partnership you established has worked well and is even more important as the nation looks to expand broadband penetration. Regardless of goals or reasoning, this partnership cannot be undone by the FCC. The FCC, and this Committee, are to be commended for their courage in tackling USF and intercarrier compensation reform. Everyone in this room knows reform is necessary and long overdue. However, I, and I believe my agency, joins a substantial number of other State commissions and many consumer groups in raising concerns with what we know about the currently circulating

¹² “In May 2005, the FCC adopted rules requiring providers of interconnected VoIP services to supply 911 emergency calling capabilities to their customers as a mandatory feature of the service by November 28, 2005. “Interconnected” VoIP services are VoIP services that allow a user generally to receive calls from and make calls to the traditional telephone network. Under the FCC rules, interconnected VoIP providers must: Deliver all 911 calls to the local emergency call center; Deliver the customer’s call back number and location information where the emergency call center is capable of receiving it.” See: <http://www.fcc.gov/pshs/services/911-services/voip/Welcome.html>.

FCC draft order. Any reform must benefit the consumers and not the bottom line of carriers, assure accountability, and maintain buildout and service quality requirements – a role that States are best positioned to handle. Finally, as Chairman Genachowski has often noted, reform must be “data-driven and fact based.” Unfortunately, this is not the case with the actions the FCC apparently intends to take.

I thank you again for the opportunity to testify today and I welcome any questions you may have.

Table 3.14
Total High-Cost Support Payments by State or Jurisdiction
(Dollars)

State or Jurisdiction	1998 Total	1999 Total	2000 Total	2001 Total	2002 Total	2003 Total	2004 Total	2005 Total	2006 Total	2007 Total	2008 Total	2009 Total	2010 Total
ALABAMA	39,630,293	39,318,951	98,214,392	93,682,843	99,662,304	92,281,837	100,039,113	109,415,152	113,140,070	111,669,348	105,300,837	100,000,539	125,393,038
ALASKA	68,131,034	67,816,055	70,375,683	71,593,459	76,755,279	90,455,444	100,070,683	115,793,068	145,248,282	160,123,106	128,199,564	168,272,260	182,019,657
AMERICAN SAMOA	0	124,410	473,151	458,928	728,238	1,230,722	1,860,943	2,333,386	3,154,546	3,611,013	3,988,811	5,018,951	5,018,951
ARIZONA	32,845,473	31,174,674	36,577,804	49,205,586	61,391,530	68,081,699	80,195,919	74,272,332	82,119,338	72,398,416	70,109,923	67,204,499	70,154,959
ARKANSAS	68,338,557	73,247,183	71,691,402	75,398,793	101,091,641	113,939,878	134,304,295	142,418,813	130,685,392	125,873,723	161,015,220	148,252,519	144,051,083
CALIFORNIA	52,643,570	49,657,305	64,070,533	82,347,989	98,228,021	92,182,679	95,339,532	96,958,458	107,387,897	102,923,971	104,010,609	107,507,532	98,772,668
COLORADO	43,988,578	43,769,484	53,761,542	82,003,540	66,931,777	76,921,120	83,829,685	80,767,569	80,625,949	81,471,226	76,176,280	79,397,436	79,191,465
CONNECTICUT	1,212,720	986,953	952,617	1,192,074	1,506,456	2,445,663	2,445,677	2,066,227	1,728,025	531,111	477,150	520,143	350,349
DELAWARE	0	0	199,517	385,947	320,397	268,283	268,283	256,146	280,602	245,499	212,709	226,002	269,439
DISTRICT OF COLUMBIA	0	0	0	0	0	0	0	0	0	0	0	0	0
FLORIDA	20,056,950	18,547,026	49,781,316	84,527,004	85,609,445	80,108,504	83,780,751	89,369,268	82,589,906	85,524,910	77,233,483	70,395,871	82,912,058
GEORGIA	74,656,229	71,765,064	79,228,268	91,334,686	110,244,701	116,864,412	120,411,004	122,878,793	138,197,379	128,284,848	122,878,793	138,197,379	128,284,848
GUAM	1,006,872	2,321,266	3,169,872	2,318,838	2,326,686	5,955,731	9,570,015	17,213,830	17,287,232	15,049,628	16,649,575	22,915,17	22,915,17
HAWAII	286,766	1,472,913	2,458,833	49,531,189	49,118,604	51,000,901	53,013,454	54,073,971	51,763,51	55,193,24	54,429,733	50,779,002	50,779,002
IDAH0	28,885,473	29,219,558	35,787,777	40,531,189	48,586,498	50,982,865	57,973,322	63,227,442	62,592,371	62,575,190	62,870,259	74,471,672	81,194,791
ILLINOIS	22,599,490	30,898,339	31,392,473	39,573,373	48,586,498	50,982,865	57,973,322	63,227,442	62,592,371	62,575,190	62,870,259	74,471,672	81,194,791
INDIANA	16,228,436	17,038,453	30,898,453	30,898,022	46,061,071	47,141,488	53,161,533	54,073,971	51,763,51	55,193,24	54,429,733	50,779,002	50,779,002
IOWA	25,980,409	28,082,260	30,863,498	30,298,684	48,892,980	48,892,980	70,382,422	82,877,212	87,940,147	106,907,861	121,428,819	110,671,143	127,434,732
KANSAS	59,007,484	64,693,071	67,053,779	81,025,787	94,161,683	111,477,724	128,958,500	174,940,354	187,879,561	220,301,598	255,588,228	255,588,228	255,588,228
KENTUCKY	24,460,486	16,191,563	28,007,779	28,007,657	57,147,016	59,175,467	76,028,073	84,161,630	97,107,226	97,550,999	103,315,946	108,404,533	153,811,143
Louisiana	65,302,257	63,648,414	63,648,694	80,748,608	87,161,081	91,028,193	102,252,452	112,282,381	130,076,760	130,076,736	156,493,233	156,493,233	156,493,233
MAINE	18,175,357	18,988,121	32,089,073	30,927,750	28,956,861	30,959,142	36,022,200	31,39,393	36,72,311	33,63,937	27,741,026	27,443,565	27,261,916
MARYLAND	598,028	596,790	61,691	1,265,090	1,057,941	1,30,972	2,21,262	2,29,95,972	2,39,6,316	4,756,919	4,956,919	4,956,919	3,986,679
Massachusetts	489,687	61,841	1,265,090	1,057,941	1,30,972	2,21,262	2,29,95,972	2,39,6,316	4,756,919	4,956,919	4,956,919	3,986,679	3,986,679
MICHIGAN	31,189,240	34,738,971	39,333,036	40,442,672	45,78,472	45,532,407	49,206,767	55,160,750	59,34,605	64,854,904	61,496,482	63,193,449	68,475,057
MINNESOTA	37,439,032	41,442,858	47,070,605	49,78,472	48,892,891	48,892,891	80,39,679	94,33,174	111,480,537	120,360,253	130,116,153	140,380,932	140,380,932
MISSISSIPPI	26,793,286	26,773,044	132,795,751	141,139,843	170,586,977	170,586,977	170,586,977	170,586,977	176,960,476	211,350,992	227,151,217	214,932,219	214,932,219
MISSOURI	47,215,940	47,654,082	52,780,192	53,881,192	61,171,760	61,171,760	91,063,244	95,043,865	98,112,105	100,332,946	108,639,374	110,839,950	121,350,950
Montana	42,085,201	43,346,418	45,254,916	51,694,230	62,832,494	62,832,494	66,314,404	72,55,213	75,020,809	79,559,582	77,243,076	79,556,364	82,73,676
NEBRASKA	19,888,058	21,377,077	23,798,919	31,456,575	31,456,575	31,456,575	32,225,410	30,33,348	27,153,967	29,35,979	30,49,810	29,04,20,16	25,723,203
NEW HAMPSHIRE	10,482,430	10,994,325	15,066,325	22,847,013	22,847,013	22,847,013	11,389,037	11,389,037	9,357,896	9,357,896	9,357,896	9,357,896	9,357,896
NEW JERSEY	8,497,987	8,596,326	8,486,324	9,433,625	11,389,037	11,389,037	11,389,037	11,389,037	9,357,896	9,357,896	9,357,896	9,357,896	9,357,896
NEW MEXICO	2,976,024	983,234	3,688,195	6,020,140	3,491,374	3,491,374	1,533,372	1,533,372	1,447,797	1,538,962	1,601,228	1,767,346	1,767,346
NEW YORK	33,552,080	34,527,114	37,170,202	41,421,404	48,431,624	50,546,799	50,765,877	57,790,231	64,165,443	69,447,908	73,229,267	71,350,670	83,725,356
NORTH CAROLINA	35,303,672	37,395,080	47,552,557	52,992,192	58,793,579	58,793,579	58,831,885	58,831,885	53,947,314	51,017,905	47,50,1052	44,987,256	48,446,384
NORTH DAKOTA	21,101,916	31,719,741	33,597,689	38,944,285	55,744,627	51,161,647	80,268,482	81,819,989	80,486,465	83,433,203	71,461,400	85,634,925	97,171,697
NORTHERN MARIANA ISLANDS	14,426,713	15,599,978	3,257,226	3,594,740	3,50,267	1,552,912	1,552,912	1,552,912	1,552,912	1,552,912	1,552,912	1,552,912	1,552,912
OKLAHOMA	14,040,836	15,056,687	19,593,687	23,913,594	22,225,041	23,913,594	33,114,954	40,736,490	41,303,165	42,214,545	46,615,923	36,178,073	33,887,532
OREGON	59,552,769	59,345,860	67,491,390	70,622,223	89,828,179	101,245,999	102,948,79	116,303,414	121,917,167	130,268,165	134,246,265	132,547,167	142,602,221
PENNSYLVANIA	59,755,689	36,589,635	47,354,850	60,851,409	67,177,426	70,843,146	70,73,168	69,355,504	73,134,975	80,098,383	78,823,778	77,890,653	77,890,653
Puerto Rico	138,884,798	133,459,656	141,441,560	177,948,741	198,548,582	98,628,150	81,411,184	93,286,381	131,988,212	160,755,159	96,519,277	14,387,462	180,687,281
Rhode Island	0	25,686	27,225,034	27,225,034	27,225,034	27,225,034	44,765,477	27,942,201	29,937,558	28,670,221	160,755,159	14,387,462	180,687,281
SOUTH CAROLINA	44,424,832	40,003,113	46,088,145	55,656,687	67,130,010	70,517,759	76,161,203	78,161,173	81,997,372	99,404,404	1,330,44	1,330,44	1,330,44
SOUTTH DAKOTA	12,440,891	12,837,387	38,477,018	64,489,482	69,908,989	76,628,730	76,628,247	87,642,165	80,590,605	79,088,617	72,545,446	97,933,443	97,933,443
TEXAS	27,395,810	28,449,801	34,482,177	40,735,195	46,355,893	52,882,294	54,149,795	54,322,036	53,949,478	52,130,197	54,589,014	56,895,467	60,022,037
UTAH	123,059,671	119,690,300	139,101,193	161,709,373	189,163,733	213,580,098	230,533,936	216,734,907	233,871,022	236,442,627	217,220,947	220,121,398	220,121,398
VERMONT	12,559,982	11,248,704	26,244,471	22,583,331	25,804,315	28,139,515	30,90,982	34,062,049	33,779,883	31,053,039	28,610,169	21,208,450	20,311,336
VIRGIN ISLANDS	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273	16,199,273
VIRGINIA	40,942,959	43,165,287	53,488,165	72,163,053	73,450,822	80,465,705	76,449,420	68,461,541	67,755,862	70,328,174	63,228,816	64,144,733	59,640,86
WEST VIRGINIA	24,421,006	22,981,171	50,981,171	53,450,822	72,163,053	80,465,705	90,947,275	82,912,202	83,229,174	83,229,174	107,871,116	139,228,745	161,687,169
WISCONSIN	49,669,554	49,669,554	50,982,333	50,982,333	65,763,150	65,763,150	65,763,150	65,763,150	65,763,150	65,763,150	56,228,546	56,228,546	56,228,546
WYOMING	20,766,396	25,394,848	30,356,050	41,610,883	46,070,871	46,070,871	46,070,871	46,070,871	46,070,871	46,070,871	56,228,546	56,228,546	56,228,546
INDUSTRY	1,690,305,004	1,717,980,381	2,234,771,101	2,091,627,306	2,394,955,831	3,265,232,900	3,265,232,900	3,265,232,900	4,109,009,915	4,209,024,006	4,092,286,258	4,202,286,258	4,202,286,258

