

Testimony of
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of the
Washington Utilities and Transportation Commission
before the
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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. Staffs 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=7021238853>.”

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 prefiled 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	38,838,939	36,318,951	88,214,302	93,882,843	99,662,304	92,281,622	100,839,113	109,415,182	113,140,070	111,668,488	108,300,837	128,206,250	126,936,038
ALASKA	64,131,624	67,816,605	70,315,653	74,543,628	79,758,272	90,253,444	110,059,113	115,799,596	146,248,282	160,123,108	178,198,592	188,272,590	182,076,887
AMERICAN SAMOA	124,410	1,254,410	4,731,511	4,666,828	8,176,238	1,860,943	1,860,943	74,272,132	2,333,936	3,164,546	8,611,013	16,649,457	30,013,951
ARIZONA	32,846,473	31,174,674	36,577,804	49,305,566	61,391,530	66,881,669	80,980,919	87,398,416	82,110,328	72,368,416	70,093,920	67,904,480	74,915,962
ARKANSAS	68,334,600	73,247,163	71,691,402	75,398,735	101,091,612	113,008,628	134,304,285	142,918,813	130,665,392	126,873,723	151,017,220	146,872,519	144,881,862
CALIFORNIA	49,667,300	49,667,300	64,070,553	82,647,989	96,528,021	82,182,679	96,293,632	96,566,458	107,387,682	107,923,873	104,010,660	107,407,829	98,777,686
COLORADO	43,928,578	43,789,464	53,761,542	62,035,400	66,831,777	76,256,120	83,298,668	80,625,597	81,471,228	81,471,228	78,178,290	79,597,436	79,514,486
CONNECTICUT	1,212,220	969,953	962,617	1,192,074	1,456,356	2,242,655	2,446,617	2,066,222	1,728,025	531,111	1,177,920	(390,392)	882,143
DELAWARE	0	0	199,512	398,947	373,665	320,397	286,293	259,146	260,862	264,499	212,709	228,002	288,439
DISTRICT OF COLUMBIA	0	0	0	0	0	0	0	0	0	0	0	0	0
FLORIDA	20,036,950	18,547,028	49,781,316	64,827,030	85,609,445	80,109,854	83,780,751	86,524,810	82,565,590	86,524,810	77,233,483	70,396,871	82,917,036
GEORGIA	67,816,605	71,765,064	79,228,268	79,228,268	110,244,112	116,564,412	110,244,112	116,564,412	116,564,412	116,564,412	116,564,412	116,564,412	116,564,412
GUAM	1,006,672	2,321,256	3,169,872	2,318,839	2,326,656	9,965,213	9,965,213	11,579,566	17,872,329	12,284,445	15,043,629	16,649,457	22,241,517
HAWAII	4,172,913	1,472,913	2,403,015	4,431,833	7,010,390	9,967,473	14,139,556	26,505,975	40,864,410	52,866,115	60,840,785	58,416,699	63,292,250
IDAHO	28,889,473	29,219,699	36,487,777	44,531,159	49,019,804	51,909,801	53,012,322	54,678,971	55,163,724	56,156,724	54,429,733	50,739,351	56,187,002
ILLINOIS	22,589,490	38,898,339	31,342,473	39,137,372	48,484,898	50,082,866	57,479,322	63,229,442	62,542,311	62,515,190	62,807,919	74,617,672	73,781,954
INDIANA	16,278,438	17,068,453	30,488,022	42,060,071	47,141,468	53,161,533	55,473,147	58,933,960	65,985,506	74,619,618	70,985,209	74,619,618	74,619,618
IOWA	26,990,409	28,802,260	30,643,488	35,299,604	43,689,380	40,438,242	46,571,252	54,130,147	106,807,988	121,432,819	110,671,143	127,454,732	155,676,537
KANSAS	64,603,071	64,603,071	67,053,729	67,053,729	67,053,729	67,053,729	67,053,729	67,053,729	67,053,729	67,053,729	67,053,729	67,053,729	67,053,729
KENTUCKY	24,460,488	19,501,563	29,807,009	29,807,009	36,026,757	59,714,724	72,026,073	94,212,630	97,750,226	97,550,399	103,315,046	101,864,933	108,526,282
KENTUCKY	65,332,857	63,948,414	72,467,664	80,748,606	87,985,016	91,029,193	102,261,432	112,924,381	130,076,788	160,027,936	158,148,472	156,449,230	153,811,143
LOUISIANA	18,176,357	18,988,121	32,099,073	30,927,130	29,498,861	30,558,142	30,021,020	31,139,393	36,179,311	33,633,937	27,741,025	27,442,290	27,281,915
MAINE	669,028	569,790	2,580,717	1,657,430	1,470,481	3,461,702	2,936,899	4,179,408	4,366,435	4,362,041	4,045,619	3,666,605	3,296,330
MARYLAND	489,977	489,977	1,285,080	2,627,622	4,572,445	4,572,445	4,572,445	4,572,445	4,572,445	4,572,445	4,572,445	4,572,445	4,572,445
MASSACHUSETTS	31,188,240	34,728,875	38,393,036	40,422,672	45,278,445	46,392,407	49,208,767	56,160,750	59,344,260	64,854,909	67,486,482	63,933,449	68,475,057
MICHIGAN	41,442,858	28,779,044	48,130,605	59,942,182	56,182,578	80,638,279	94,331,448	111,480,537	120,860,230	130,116,153	109,428,480	127,037,171	140,350,932
MINNESOTA	26,793,236	28,779,044	132,795,751	141,138,943	170,986,927	170,300,715	187,868,196	187,868,196	276,151,217	280,228,119	288,653,421	281,267,374	286,138,638
MISSISSIPPI	47,216,540	50,654,082	63,568,381	73,681,847	84,316,081	91,063,244	85,438,865	86,465,766	98,112,105	100,532,946	108,639,374	110,639,950	127,227,452
MISSOURI	42,064,418	43,346,419	45,254,916	26,378,585	62,834,464	66,314,404	66,314,404	73,163,213	79,569,829	77,243,078	79,569,829	79,569,829	79,569,829
MONTANA	19,889,058	21,377,097	23,729,919	26,378,585	31,464,331	44,359,897	49,170,297	56,006,068	61,666,469	105,205,928	100,761,074	108,639,374	127,227,452
NEBRASKA	10,964,430	10,964,430	15,066,537	22,847,030	23,285,410	30,132,248	37,322,597	29,544,979	30,497,616	29,042,016	26,723,203	25,670,406	28,609,238
NEVADA	8,487,987	8,506,026	8,489,304	9,433,625	11,899,610	11,384,021	9,372,936	9,935,647	9,601,228	8,631,484	7,676,345	6,576,936	11,881,766
NEW HAMPSHIRE	2,976,024	963,234	3,688,165	6,201,140	3,491,193	1,533,302	1,442,797	1,539,982	1,227,378	1,335,449	1,143,719	1,088,289	1,360,966
NEW JERSEY	33,650,080	34,527,114	37,100,202	41,421,404	48,431,824	50,546,709	54,792,931	57,290,231	64,166,443	69,447,908	72,293,267	71,390,670	93,725,356
NEW MEXICO	35,362,672	37,395,060	51,532,657	59,942,182	56,182,578	80,638,279	94,331,448	111,480,537	120,860,230	130,116,153	109,428,480	127,037,171	140,350,932
NEW YORK	40,782,094	31,719,141	33,997,689	39,944,285	51,742,932	71,581,647	80,289,482	81,819,886	80,486,465	83,433,203	71,461,400	85,634,925	97,171,697
NORTH CAROLINA	21,101,916	21,703,082	29,437,877	29,846,627	31,744,182	51,015,932	53,815,938	69,259,871	78,220,518	82,944,673	80,981,744	94,482,207	118,517,167
NORTH DAKOTA	4,236,713	5,629,978	3,257,226	3,694,740	3,526,287	1,662,912	774,314	756,372	997,404	1,625,789	1,330,744	1,308,626	1,610,139
NORTHERN MARIANA ISLANDS	14,040,636	19,501,563	19,503,900	29,246,406	33,911,496	38,248,134	40,738,649	41,303,165	42,214,454	40,618,823	36,179,073	33,847,532	38,779,331
OHIO	59,502,768	58,345,680	67,401,390	76,622,223	85,828,129	106,248,999	102,948,779	116,300,414	121,917,187	130,268,800	134,246,665	142,602,221	177,650,653
OREGON	35,765,689	38,809,635	47,354,880	60,951,409	67,392,263	70,843,148	70,173,166	66,926,504	66,677,866	69,218,410	51,861,380	57,826,698	60,949,274
PENNSYLVANIA	22,169,394	21,611,712	28,472,919	28,472,919	42,712,402	65,174,866	58,649,426	64,926,426	66,677,866	69,218,410	51,861,380	57,826,698	60,949,274
PUERTO RICO	198,864,798	133,459,656	141,441,540	117,848,741	96,548,538	99,028,150	81,411,184	93,296,381	131,986,212	160,785,189	192,519,277	180,697,281	180,697,281
RHODE ISLAND	0	0	26,698	96,477	60,198	46,491	66,457	44,472	30,948	30,948	31,182	33,648	35,514
SOUTH CAROLINA	44,424,832	40,003,113	46,088,145	55,646,667	71,350,010	79,517,759	78,161,203	78,677,113	81,997,705	80,813,893	92,635,765	98,375,877	114,330,215
SOUTH DAKOTA	16,822,254	19,479,967	22,226,041	23,913,584	32,950,982	48,566,136	61,761,635	68,679,926	88,468,182	94,431,924	83,806,242	97,337,625	107,238,281
TENNESSEE	27,398,970	28,449,801	34,482,177	40,735,165	46,365,633	52,880,294	54,726,036	53,948,478	52,130,759	54,909,014	58,896,467	66,032,087	66,032,087
TEXAS	123,089,671	118,600,308	138,101,139	167,709,390	189,183,733	213,890,056	230,333,038	218,775,407	233,670,472	246,442,621	248,366,645	262,048,747	282,131,388
UTAH	9,629,920	10,178,430	12,535,251	14,109,453	18,078,086	23,912,616	22,675,082	23,078,606	23,330,557	22,877,076	21,712,441	21,208,480	20,221,324
VERMONT	16,199,322	22,973,160	23,786,676	25,253,034	25,804,315	26,889,911	26,889,911	26,889,911	27,342,021	23,937,588	21,061,169	21,208,480	20,221,324
VIRGINIA	12,440,891	12,837,987	36,477,018	64,488,462	69,905,989	76,679,700	76,679,700	87,612,166	80,660,605	79,088,817	72,545,446	73,933,243	99,188,864
VIRGINIA ISLANDS	40,942,969	43,165,287	53,485,595	77,047,992	78,046,801	80,293,878	87,913,654	96,427,134	106,938,157	95,146,571	98,056,605	98,056,605	85,289,053
WEST VIRGINIA	24,421,006	22,991,715	53,485,595	77,047,992	78,046,801	80,293,878	87,913,654	96,427,134	106,938,157	95,146,571	98,056,605	98,056,605	85,289,053
WISCONSIN	49,669,584	49,669,584	60,962,323	58,628,714	68,591,370	80,947,776	68,461,154	67,153,862	63,278,816	64,144,733	64,144,733	64,144,733	64,144,733
WYOMING	20,786,386	23,954,848	29,896,880	33,195,050	41,810,187	48,070,187	58,246,968	68,612,102	57,066,607	57,066,607	56,100,513	57,066,607	59,542,730
INDUSTRY	1,690,366,004	1,717,980,381	2,234,771,101	2,591,627,306	2,934,995,831	3,265,232,900	3,469,375,893	3,796,234,466	4,109,806,915	4,289,024,506	4,082,286,258	4,282,180,139	4,751,987,983

Source: Universal Service Administrative Company filings to the FCC.
Note: Payments shown here are the sums of payments shown in Tables 3.6 through 3.13.

