

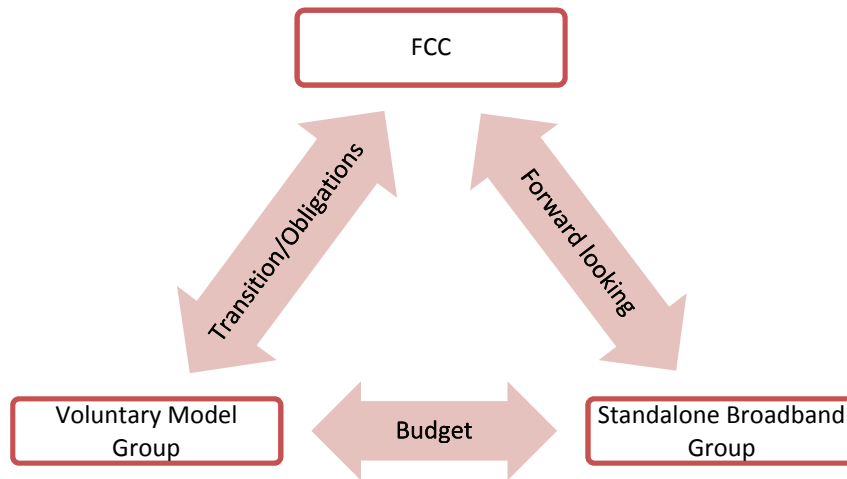
**Remarks of
Commissioner Michael O’Rielly, Federal Communications Commission
Before the Spring Meeting of the WTA – Advocates for Rural Broadband
May 5, 2015**

Thank you for inviting me to join you today. I have had the good fortune to meet with a number of WTA’s member companies out in the field, back at FCC headquarters, and at one of your events last year, so I see several familiar faces. Through these discussions, I’ve come to better understand the challenges and opportunities of carriers serving the most rural parts of the Nation. I still find it incredible that you all serve 40 percent of the America’s land mass but less than 5 percent of its telecom subscribers. That is a daunting task but one that I know you undertake willingly and with pride.

Little did I know when I accepted this meeting that it would be crunch time for discussing the details of a Connect America Fund (CAF) for rate-of-return providers. I hope that this latest development hasn’t caused any of you to have to adjust your activities too much at this lovely location. In all seriousness though, I want you to know that you have my firm commitment – a commitment I made to Senator Thune almost two years ago – that I will work as hard as possible to deliver the remaining pieces of USF reform, especially as it pertains to CAF for rate-of-return carriers. And I am eager to hear your thoughts, ideas, or concerns.

In approaching the issue, I start with the foundational premise, set forth in the statute, that access to advanced telecommunications and information services should be provided in all regions of the nation. That’s the very heart of universal service. But we can’t accomplish it without ensuring that there are networks in place throughout America to deliver those services. Everything else that the Commission may want to do with universal service – make service more affordable for low-income consumers, wire schools and libraries, and connect rural health care facilities – depends on having that infrastructure in place. Therefore, I have been dismayed by the haphazard approach that the Commission has taken to USF reforms, ratcheting up spending and expected broadband speeds while leaving millions of Americans unserved.

It is absolutely critical to complete the Connect America Fund reforms. I appreciate the work that you and other associations have undertaken so far to find paths forward for rate-of-return areas. I recognize that no rate-of-return reform has ever been sustainable without your input. And I am convinced that with some hard work, creative thinking, and compromise from everyone – including us Commissioners at the FCC – we can get this done. Here’s the way I visualize the current situation and key issues.



Please pardon the over-simplification. I realize that there are other important issues being discussed as well. For example, I haven't forgotten about the Alaska plan. But if can we solve these major areas, we should be most of the way there.

I'll start with the budget. I recognize that by splitting rate-of-return reform into two paths, we have to come up with a fair way to divide the budget between the two, especially since some carriers would receive more funding under the model. However, this differential may not be as large as some might fear because I do not expect that the more than 50 percent of you that would do better under a model will actually opt-in.

A brief note on that: I encourage everyone to attend the CostQuest session tomorrow and take a close look at the illustrative results we've put out on our website. The results are available for each state and each study area, so you can see your bottom line and determine whether it is in your interest to at least be part of the discussions as the path to the model is finalized. I looked at the results before flying out here and noticed that a number of you stand to gain. For example, in North Dakota, support would almost double and nearly every study area would benefit. I am at somewhat of a loss as to why more companies that may do better under the model, reject it out of hand. In these cases, it would provide more money, more certainty and more freedom to innovate. It can't simply be blind commitment to an old-school regulatory approach. I am even more impressed by those companies that are willing to consider the model even if it means less USF funds.

Returning to the budget issue, I am open to a discussion about a modest use of the reserves to ease this problem. But it must truly be modest because we also need to ensure that a great portion of funding remains for the even higher-cost areas that will be part of the Remote Areas Fund, or the RAF. Let's be clear, although some may think otherwise, the money being held in reserves was not intended as a piggy bank for rate of return carriers. All Americans have paid higher rates for services than were necessary in order to produce a successful system for everyone. And it has to be a major concern that some Americans living in RAF areas have no prospects to receive broadband under our current structures.

Next is the transition path for those that opt-in to the model, including when and what performance obligations will kick in. In my view, a path to the model must mean full transition to model based support within a reasonable period of time, preferably a short window. In return, I am willing to discuss

some flexibility on the performance obligations that will apply, in recognition that these areas are higher-cost than most price cap areas. However, there will need to be a plan to ensure that the consumers in the highest-cost areas will eventually be served. Perhaps that means that those areas may be served upon reasonable request and/or at the 4/1 standard rather than 10/1.

Last but not least is standalone broadband, where I believe the biggest issue is the extent to which the new plan is forward looking. I have said before that I would like to try to move away from the old structures that, in many ways, have become a hindrance to supporting modern communications networks. In addition, I do not think it makes sense to create a new broadband subscriber line charge (SLC). If that revenue is a necessary part of providing service to consumers, then it should be part of their rate, not a below the line charge. Either way consumers will pay, but we should be upfront about it. I am also interested in hearing the obstacles to combining the standalone broadband portion with interstate common line support (ICLS) as another way to simplify what has been proposed. But I am willing to discuss leaving certain aspects of the current structure in place if there are reasonable limits on both capital and operating expenses in return. I am not sure that is in the best interest for the longer-term but I do not dismiss it out of hand.

Instead of completing Connect America Fund reforms, however, the Commission has bounced from program to program to fulfill political promises and make headlines rather than accomplish real reforms. Most recently, in a pair of orders, the Commission expanded the E-rate program. I say expanded rather than reformed because the Commission didn't engage in any fundamental review of the program. Instead, the first order just tacked on new spending for Wi-Fi within facilities regardless of whether they need the additional capacity or have adequate bandwidth to the building. Then, the second order made it easier for entities to build their own fiber networks with no meaningful checks or limits to ensure that the funding will be targeted to truly unserved areas or used cost-effectively. And to fund these expansions, the Commission increased the E-rate cap by another \$1.5 billion per year. At the time, there were assurances that we would not actually reach the new cap for several years. But the window just closed, and I suspect that we may be very close to if not already at the new cap.

In fact, the only entities that seemed to pay a price for reform – other than ratepayers that have to fund it – were your companies. Without proper notice, the Commission decided that you will have to bid to provide service at rates to be determined at a later date as part of your Connect America Fund obligations. And because that task was delegated to the Bureau, I won't even get a chance to weigh in on their decisions. While I support the Petition for Reconsideration that you filed along with other associations, I don't expect to see action on it anytime soon. Mark that down as another potential reform to the Commission's procedures.

Instead, the Commission seems intent on moving Lifeline reform, which has come to mean expanding the program to include broadband. Once again, this is all premised on broadband being available to consumers in the first place. But there are other problems as well. The GAO recently released a report that raised fundamental concerns about the efficiency and effectiveness of the current program and the pilot program. Clearly the FCC needs to re-evaluate and address these serious deficiencies. If the Commission does move forward nonetheless, I am at least pleased that all five Commissioners have publicly agreed to a cap on the program, which is one of the ten principles I've put forward for reform. The real question is whether we will be able to set it at a reasonable level or ramp up spending yet again.

That leads to another concern, which is how to pay for these costly expansions. I realize that you have advocated for broadening the contribution base to include broadband. I understand your perspective. My concern, however, is that there are not sufficient controls in place to keep spending in check. The current USF fee started as pennies on a bill, but it has only gone up from there. Even if the Commission caps the Lifeline program, it is still important to set an overall cap. That way the FCC cannot increase individual program caps further, as it just did for E-rate, without having the broader discussion of how that impacts funding for other programs or ratepayers.

In addition to CAF fatigue, there has been a distinct lack of energy by Commission leadership to tackle other proceedings that would promote deployment or reduce costly regulations that siphon away money and resources that could be used to expand service for consumers. To the contrary, the Commission continues to propose new burdens, such as new backup power requirements, without any data or analysis that such rules are necessary or cost-justified. In fact, one commenter noted that the cost of extended backup power would be several hundred dollars or more per customer location, which would either raise prices for consumers or reduce the ability of providers to invest or both. Furthermore, I am very concerned about what additional privacy and cybersecurity burdens the Commission may be poised to impose on the industry without having a shred of authority to do so. Privacy and cybersecurity are important issues to be sure, but there are other agencies that have actually been tasked with and have more experience in these matters.

That leads me to my ask for the day: it would be helpful to understand all of the costs that are being imposed on you by the Commission so that I can use that information to streamline existing burdens and push back against unnecessary new ones. Pieces of the puzzle may be filed in each proceeding, but it's hard to piece them together to see the whole picture. I commend Paul Kelly at Cordova, with whom I visited during my trip to Alaska last Summer, for submitting information about the number and cost of all the filings that his companies have to make each year. It was truly eye-opening: over 90 filings with the FCC and USAC each year at a cost of almost \$190,000, and that doesn't even include NECA filings that relate to the FCC. Even worse, those are just the filings. That doesn't account for all of the recordkeeping and other compliance burdens, plus a host of service-related requirements that are part of our rules but don't necessarily result in filings with the FCC. I would like to help, but I need the data to build the case.

Finally, while I realize that a great deal of your policy focus is on USF reform, video-related issues should also be of interest. And the video marketplace is changing every day. In fact, there appears to be early evidence of a direct relationship between the expansion and adoption of broadband and the loss of Multichannel Video Programming Distributor, or MVPD, video consumers. There are a number of reasons for this, including the new so-called millennials' attraction to non-traditional video sources, such as YouTube; the development of the over-the-top, or OTT, video offerings; and the overall cost of video programming and some consumers' willingness to save money by foregoing any paid MVPD subscriptions. You are not alone in your challenges. I have talked to a few large, traditional cable providers that are either breaking even or losing money on the video portion of their packaged bundle.

In terms of cost, I recognize that prices have gone up and programming increases are passed on to consumers in one form or another. Both business reasons and market forces explain the rise in content cost. In some cases, the acquisition costs – especially for coveted sports and other live programming – have increased for programmers. In addition, consumer demand for particular programs, such as *Game of Thrones*, *House of Cards*, *Empire* or *The Big Bang Theory*, allows programmers to seek higher fees. And this affects both broadcast and non-broadcast channels.

The role of the FCC in the retransmission consent process is limited by the statute and the authority provided by Congress. The Commission is not authorized to jump into the middle of a fight between programmer and distributor over rates. In fact, we are limited to ensuring that the private negotiations are being done "in good faith" with certain parameters on what that means. I stand ready to utilize our authority if a party or multiple parties act outside this requirement. Absent that, there is not a tremendous amount of assistance the Commission can offer under the current law.

Additionally, with consumers being ever more interested and accustomed to seeing what they want, where they want and when they want, many are seeking to expand or alter which broadcast stations they receive from their local cable provider or as part of a satellite package, which some of you offer through partnerships. In both circumstances, the law provides the Commission with limited authority to amend the broadcast stations serving a Designated Market Area, or DMA, for purposes of cable or satellite carriage. In fact, Congress enacted new provisions just last year to provide what are known as market modifications for satellite services that are comparable to the existing process for cable. To be fair, it will only provide limited relief. It is not as though consumers will be able to receive any or every broadcast station in their respective state. The Commission has an active proceeding on this and hopefully we can conclude it soon. So stay tuned.

I appreciate your attention so early in the morning and I look forward to answering your questions.