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COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEES:

RANKING MEMBER, ENERGY
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Received & Inspected

AUG 14 2017

FCC Mail Room

August 7, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

Dear Chairman Pai:

I write to express my grave concern over what I hope is an unintended consequence of your recent decision to abolish the federal "Lifeline Broadband Provider" designation process and instead require all such broadband Lifeline provider applicants to seek designation from individual state commissions. I represent one of the facilities-based applicants whose designation you rescinded in a Bureau order on February 3. It proposes to serve low-income residents on the South Side of Chicago with high-speed broadband on a Lifeline basis.

I agree with your view that the Communications Act reserves the authority to grant these Lifeline designations to the states. However, the service provider in my district has been advised by commissioners in Illinois that they cannot grant such designations because of FCC rule 54.201(j), which clearly states: "A state commission shall not designate a common carrier as a Lifeline Broadband Provider eligible telecommunications carrier." Therefore, Lifeline applicants are stuck in a regulatory "Catch-22": the FCC will not consider new broadband Lifeline designations on the basis that only the states may do so, and the states won't consider them because they are preempted from doing so by the FCC.

I would note that in your statements on March 29 and in recent letters to at least 15 of my colleagues that you stated that "new companies can enter the program using this process, and I encourage them to continue to do so" and "nor did the *Order* affect the designation of Lifeline broadband carriers by state commissions; that process proceeds apace... New companies can enter the program using this process, and I encourage them to continue to do so." Evidently, though, this is not true, because the FCC preemption rule remains in force, and state commissions will not move until the FCC formally abolishes it. I recognize that rulemaking is the standard way to abolish a rule, but am also cognizant that rulemaking might not happen in the near future due to your other priorities.

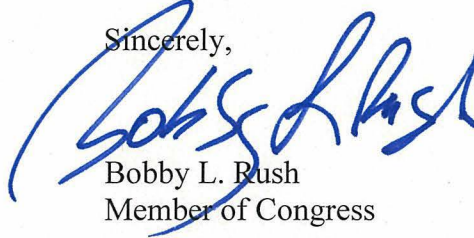
I also recognize your legitimate concerns regarding possible waste, fraud, and abuse by wireless resellers in the Lifeline program, and the problems noted in the recent GAO Report and in your recent directives to the universal service administrator. My constituent, however, is a facilities-

based provider and a certified Minority Business Enterprise with a 15-year track record. As long as this regulatory barrier remains in effect, underserved people on the South Side of Chicago and in communities all over America are being denied affordable broadband service under the Lifeline program.

I trust you agree that this is an anomalous and very unfair situation. Therefore, I ask your commitment to correct it immediately, either by initiating and completing the appropriate rulemaking before the end of this year, or by otherwise suspending the effectiveness of the state preemption rule. State commissions need a clear signal that they can go forward on a firm legal footing and my low income constituents should be able to start receiving this badly-needed and affordable high-speed broadband service through the Lifeline program without further delay.

I look forward to working with you to reach an equitable solution on this urgent problem. Should you or your staff have any questions please do not hesitate to contact my Chief of Staff, Yardly Pollas, at Yardly.Pollas@mail.house.gov or by telephone at (202) 225-4372.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bobby L. Rush". The signature is stylized and written over the printed name and title.

Bobby L. Rush
Member of Congress