

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Connect America Fund*, WC Docket No. 10-90

I emphatically believe that one of our primary obligations as Commissioners is to serve as trustees of the Universal Service Fund (USF) and protect ratepayers' hard-earned contributions to the best of our ability. It's why I have repeatedly championed reforms to our high cost program to improve accountability. It's why I have fought wasteful overbuilding, both within the USF and across the federal government. It's why I am leading an effort to establish an upper limit on USF spending. It's why I have consistently and vociferously opposed any attempt to impose USF fees on broadband Internet access. And, it's why I have supported the concept of a rate floor to guard against abuse of scarce USF dollars.

I have taken these positions out of principle, not because they are the most popular, represent the path of least resistance, or conform to the political whim of the day. In the case of the item at hand, it would, of course, be convenient to rail against the rate floor and then scream, "look at me!" while wrapping myself in a proverbial cape as a superhero of "rural America." Beyond the fact that such showmanship is obviously not my style, dismissing our rate floor policy in a reductive and simplistic manner is unbecoming of our role as regulators. This issue implicates serious policy considerations and requires a much more thoughtful approach.

At the outset, I completely agree that the current rate floor is flawed and problematic. The particular formula was established before I arrived at the Commission, and I've heard nothing but complaints ever since. Specifically, it's been claimed that the scheduled 2019 rate increase would be unduly jarring and burdensome for certain rural telephone providers and subscribers and wouldn't be justified under our statutory mandate. I fully accept these arguments. Coupled with the fact that the rate floor's significance has become limited due to the fading stature of standalone telephone service and rate-of-return carriers' increasing shift to incentive regulation, a change in policy is clearly warranted.

However, the problem with abolishing the rate floor altogether is that we leave the USF open to the same type of abusive practices that spurred the Commission to adopt the policy in the first place. Specifically, prior to the 2011 *Transformation Order*, certain carriers maintained significantly and artificially low end-user rates while relying on USF ratepayers, rather than their own subscribers, to recoup an appropriate level of costs. In other words, poor families living in urban areas were on the hook to subsidize rural rates that were often outrageously below what they themselves paid for service, regardless of the means or income of the recipient rural subscribers. This use of scarce USF dollars was completely unfair and inappropriate then, and we would be foolish to allow it to be repeated.

As a result, I sought to include *some* protective mechanism to prevent abuses going forward. My first step was to request a very minimal amount that carriers must charge their customers to avoid a reduction in high cost loop support. I suggested that we could even set the threshold at *half* the current frozen rate or perhaps even lower. In response, I was told that the record could not justify establishing such a minimum, which was perplexing since the Commission has done far more with far less.

Since that request was off the table, I turned to ensuring that at the very least, we don't create a glaring blind spot with respect to monitoring our change in policy. Thus, I requested that instead of immediately ending all reporting obligations associated with the rate floor, we extend reporting for an additional year to ensure that the Commission has some visibility into carriers' rates following our action today. While experts on this matter don't expect the change in policy to have much impact on rural telephone rates, with this very minimal requirement there will at least be some accountability to ensure that the ill that the rate floor sought to address will not return. I thank the Chairman for his willingness to work with me on this issue.

To further guarantee protection of USF ratepayers, I also sought a commitment from the Chairman to introduce basic means-testing reforms to the high cost program. As I have stated in the past, I fundamentally disagree with our current monolithic approach that treats all individuals within a

geographic area as having the same means. Just like urban America features individuals of all different incomes, rural America is not universally poor, and many rural Americans are in fact very wealthy. While I applaud their success, it makes no sense to allocate scarce USF dollars to those individuals who are more than able to pay full freight. Why should we be in the business of subsidizing telephone service to a billionaire's fourth home or ranch, especially when the USF fee is regressive and therefore disparately burdens low-income consumers? The federal government tailors subsidies to a consumer's means in numerous subsidy programs, including Medicare, and the USF should be no exception. That is why, along with former Commissioner Clyburn, I initiated a conversation to incorporate means-testing into the high cost program.¹ I appreciate the Chairman's willingness and promise to work with me to initiate appropriate reforms while not imposing excessive burdens on rural providers.

In the end, I am comfortable voting to eliminate the rate floor while preserving a minimal reporting requirement to guard against new mischief. Every recipient of high cost loop support should be on notice that their actions going forward will likely determine whether the Commission will need to revisit the issue in the future. I urge everyone to do the right thing. And, to further protect hardworking USF ratepayers, I look forward to our next steps in establishing means-testing in the high cost program.

¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, 33 FCC Rcd 2990, 3048-49, para. 166 (2018); *see also* Commissioner Michael O'Rielly and Commissioner Mignon Clyburn, Would Means-Testing Bring More Efficiencies to the High-Cost Program? (May 31, 2017), <https://www.fcc.gov/news-events/blog/2017/05/31/would-means-testing-bring-more-efficiencies-high-cost-program>.