

**Remarks of FCC Commissioner Michael O’Rielly
before the NTCA – The Rural Broadband Association’s
“Legislative & Policy Conference”
April 15, 2019**

Thank you, Shirley, for that very kind introduction. Many of you may be unaware, but Shirley and I became fast friends when I first arrived at the Commission and have remained so over the last five-plus years. Granted, she was somewhat skeptical about me pre-Senate confirmation, but we have worked together on so many issues over the years – often deep in the same trenches – that we have built a special bond based on honesty, respect, and understanding. That’s quite rare these days in this town, especially for folks with different political leanings.

By way of background, I was born and raised in Western New York, just outside of Buffalo, went to college down the road at Rochester, and have lived in the Washington, D.C. area ever since then. For those who know me, I did not grow up in an area that many would consider rural, have never pretended that I did, and never envisioned myself becoming so engaged in rural communications issues. Ultimately, I have focused a significant portion of my FCC career on rural connectivity—not because I am partial to any particular demographic, but because I believe my obligation as a Commissioner is to address the nation’s communications needs on behalf of *all* Americans.

It seems only appropriate to take this opportunity to discuss my involvement in just *some* of the substantive FCC issues that NTCA and its members have cared deeply about:

- I led the 2016 rate-of-return reform item that allowed USF support for standalone broadband offerings;
- I championed the creation of a truly voluntary cost model for rate-of-return providers, better known as A-CAM, and secured its adoption at the Commission;
- I fought and continue to fight to preserve the right of rate-of-return carriers to remain on legacy support and not be forced to the model;
- I led the Commission’s efforts to adopt the so-called “punch list” of rate-of-return reform ideas and fixes that painstakingly took so long to approve;
- I helped craft and implement the Alaska Plan for increased broadband buildout in the toughest terrain in our great nation;
- I demanded that *extra* rate-of-return tribal support go to only those providers that actually need it—without exceptions in the absence of just cause—as every dollar spent inefficiently or unnecessarily comes at the expense of another deserving carrier and their customers;
- When faced with evidence of the need for an expanded rate-of-return budget, I was at the forefront of endorsing such action; and
- I have advocated for and supported numerous efforts to strike or reduce unnecessary and burdensome FCC regulations imposed on your businesses – with more to come;

As I mentioned, it was not originally my intent to direct so much of my energy towards rural issues. Yet, I didn’t hesitate to jump into numerous fires to improve communications offerings in rural America. In doing so, I have taken the time to meet with many of you in my office, at NTCA events, and out in your service territories. I hope that I have earned a certain level of trust that you know I am more than in tune with the challenges of providing rural service, and that when I propose new ideas they should be examined seriously and not reflexively dismissed as contrary to rural interests.

Universal Service Funding Cap

One item that I have pushed for the Commission to consider and adopt is an overall cap on the Universal Service Fund (USF). Recently, a Notice of Proposed Rulemaking, which in FCC parlance means the start of a public comment period, was circulated for this purpose and I look forward to its adoption in the coming weeks. Simply put, we are starting a process to explore the best way to establish a top-line budget on USF spending, and in turn, inject more accountability and fiscal responsibility into our funding decisions.

The premise behind this proposal is sound. Nearly everyone lives within a budget. From individual families, to multi-billion-dollar businesses, to most Federal programs, budgets force overseers to exert proper scrutiny to ensure that spending doesn't exceed available resources or reasonable limits. Budgets help drive out program waste, fraud, and abuse by encouraging those running up against a cap to eliminate inefficiencies that detract from achieving the program's mission and value. Moreover, budgetary restrictions generate necessary debate about overall priorities before new spending is authorized.

Additionally, and perhaps most importantly, budgets protect those responsible for paying into the system from being on the hook for every imaginable impulse purchase or expenditure. On that point, I fundamentally believe that setting an upper limit of what we're willing to take from hardworking American consumers to support these subsidies is critical to prevent consumer revolt. Under today's structure, many consumers are well-aware of the outrageous fees and taxes imposed by state and local governments on their phone bills. From a consumer's point of view, an ever-increasing USF charge is liable to be lumped in optically with other taxes and fees, threatening the viability of the fund in the future. If consumer support evaporates, that will put the USF in a very precarious situation.

But, this audience needs little education on a USF budget. High-cost support recipients have been subject to a budget with a hard cap for years, while spending on other USF programs has increased dramatically. Installing some level of fiscal discipline does not put at risk the high cost program but makes the Commission act cautiously before expanding overall spending through new items and programs. As an added protection, the item's proposed budgetary cap of \$11.42 billion, subject to inflation indexing, is well-above current disbursement levels, leaving almost a \$2 billion cushion for potential future spending. A cap would be unlikely to affect support or spending in the near-term.

And, to the extent that raising the overall USF cap would be necessary in the future, nothing would preclude the Commission from voting to do so. Given the Commission's recent predilection for raising the individual program budgets, I don't anticipate such a vote would prove to be a hurdle. However, the decision to increase spending would be exercised with much more accountability and transparency than in the past.

Federal Funding for Overbuilding Existing Providers

Switching gears a bit, I have worked over the last number of years to expose and end efforts by the FCC and other federal agencies to use federal funding to overbuild your networks and service areas. More specifically, some have tried to use non-high-cost USF programs to fund the cannibalization your service areas, steal the biggest and most lucrative clients around, and jeopardize your ability to serve remaining consumers. Moreover, government-sponsored overbuilding undermines digital access by directing scare funding away from truly unserved areas.

Let me explain how this phenomenon is occurring within the USF. You may be unaware that the Universal Service Administrative Company, better known as USAC, has approved applications under the multi-billion-dollar E-Rate program and the over half-billion Rural Health Care program for recipients to build and operate what are effectively specialized networks. This has been done notwithstanding the fact that existing local providers could and would be willing to carry any necessary traffic and offer the requisite services. Instead, certain applicants have created extremely targeted requests for proposals that can only be met by a select, hand-chosen provider, sometimes the applicant itself under a self-provisioning scheme. Allowing this to occur is wasteful, drives up of the overall cost of the USF, shuts-out existing providers, and allows the recipient “network” to steal valuable customers that can be critical to your viability.

Similarly, you should know that there is \$600 million tied up in a pilot project overseen by the U.S. Department of Agriculture, as well as billions in annual funding under the last enacted Farm Bill, intended to be used to fund rural broadband buildout. That’s generally good news and many of you work closely with USDA and its Rural Utilities Service programs. But what would be most disturbing, and what I have spent my time trying to prevent, would be the use and approval of this funding to overbuild your service areas. Thankfully, there is general agreement that the USDA must coordinate with the FCC to keep this from happening. However, coordination doesn’t mean a ban on overbuilding; it can mean as little as having a conversation between government agencies. Indeed, depending on the criteria used to review applications and award this funding, recipients may still be able to use this money to build networks to compete directly against you or connect the largest employers in your service area. You need to be very vigilant as these programs are being created and stood up. And, you should be on the look-out for new pots of funding – such as potential federal infrastructure funding – that could create similar mischief.

There have been few willing to take on this overall issue because it can generate significant opposition. Just talking about restricting E-Rate, Rural Health Care, or USDA funding provokes outrage by particular interest groups. Many of these entities don’t want *any* restrictions imposed on their ability to get federal funds, no matter the purposes. But our job as government officials, as I see it, is to stay focused on our primary goal, which is to ensure that all Americans have access to broadband services. The simple fact is that millions of our fellow citizens do not have adequate broadband today. To put a finer point on it, under the FCC’s latest measurements, which have been routinely criticized, almost ten million locations don’t have 10/1 Mbps. Every dollar wasted to overbuild existing provider networks comes at the expense of those Americans without broadband service.

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That’s a lot of ground to cover in about ten minutes so I will stop there and turn to answering some questions on these and other important issues percolating at the Commission. Thanks again for allowing me to join you this morning and I wish you well for the rest of your conference.