

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Eliminating Ex Ante Pricing Regulation and Tariffing of Telephone Access Charges*, WC Docket No. 20-71.

Throughout my career, I have focused on removing unnecessary and anachronistic regulatory barriers that do not align with the communications market as it exists today. In recent years, the Commission has taken important steps to modernize the rules governing legacy telephone providers, most notably by granting forbearance from tariffing obligations and eliminating *ex ante* pricing regulation for certain providers in the business data services context. Similarly, I support this item's proposal to deregulate and detariff end-user telephone access charges, which, along with other vestiges—such as jurisdictional separations, Part 32 accounting, cost assignment rules, and the entire intercarrier compensation regime—are out of touch with current market realities and impose regulatory asymmetry on a certain class of providers.

Despite my general support for the item, I do have concerns over our separate proposal to prohibit carriers from continuing to list any separate telephone access charges on customers' bills post-deregulation and detariffing. While the Commission has a duty to protect consumers from misleading and deceptive billing practices, I find it somewhat strange and ironic to characterize these charges as deceptive, when it was the FCC that established the various access charges and all of their confusing terminology in the first place, and the item proposes to continue to use the charges as proxies for calculating rate-of-return carriers' Universal Service Fund support. Further, it has been a long-standing policy of the FCC, consistent with free market philosophy, that it is the role of carriers—and not the government—to determine how to itemize and describe the charges that appear on customer phone bills. And, that is even more so the case when it comes to ensuring customers are rightfully informed of charges imposed by the government, as these will remain on an imputed basis for certain carriers going forward. Would we ever support a rule prohibiting carriers from listing government-imposed taxes? I certainly hope not. It does seem that this proposal runs counter to those well-established, sound principles and practices.

Moreover, one of the many reasons we don't generally micromanage billing is because we believe market forces do a better job meeting the needs of consumers and companies than the government. If one of the underlying premises of deregulating and detariffing local access charges is to reflect the large-scale emergence of facilities-based competition in the voice services market, I don't see why we wouldn't trust those same market forces here. And, more fundamentally, this prohibition seems unnecessary: given the vast number of consumers that have already dumped legacy telephone providers for their competitors, it seems highly unlikely that consumers have been hindered from comparing rates among different providers.

If anything, the proposal may in fact undermine consumer interests. As one *ex parte* filing makes clear, the interstate portion of providing local telephone service needs to be recouped one way or another, and a prohibition on listing the legacy terms doesn't mean consumers won't ultimately foot the bill for it.¹ As with the prohibition on adding a line item to consumer bills for the cost of implementing caller ID authentication, which we consider in a separate item today, it's not clear to me how forcing carriers to bury these costs in their rates, rather than providing discretion to itemize them, will ultimately provide better transparency or protection for consumers.

Finally, the current marketplace realities underlying the item seem to be somewhat at odds with our proposals for allocating revenues between interstate and intrastate jurisdiction for Universal Service

¹ Letter from Mike Saperstein, Vice President, Strategic Initiatives and Partnerships, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-71.

Fund contributions purposes. Given the current technological and competitive landscape, the proposed interstate safe harbor of 25 percent was eyebrow-raising, to say the least. Having served as the Chairman of both the Universal Service and Jurisdictional Separations Federal-State Joint Boards for three-plus years, I predict a few entities will have strong views on the matter.

Ultimately, I look forward to reviewing the record in this proceeding and determining the level of interest in the various interesting proposals. And, I hope this item foreshadows much more substantive and expansive efforts to modernize, detariff, and deregulate other obsolete and unnecessary parts of our legacy telephone regulatory regime.