

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

GREG WALDEN, OREGON
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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July 6, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, N.W.
Washington, DC 20554

Dear Chairman Pai:

We write regarding the pending Notice of Proposed Rulemaking (NPRM) on Unbundled Network Elements (UNE) and Resale (Proposed NPRM).¹ As you know, competitive access to legacy network elements has led to deployment of new and advanced networks in certain cases. While the Telecommunications Act of 1996 intended to promote competition, it is up to the Federal Communications Commission (FCC or Commission) to evaluate continually the state of competition and ensure that priority is met. In rural areas like our districts, competitive access to UNEs can provide such competition.

However, the telecommunications landscape is far different today than when the Telecommunications Act of 1996 was signed into law. Since that time, the proliferation of cellular technology, cable providers, VoIP and the emergence of the Internet has given rise to multiple competitors in the voice and data markets.

Congress contemplated changes in the marketplace and gave the FCC the authority to reassess and modify these obligations when appropriate to reflect such changes. In instances where competitive carriers are using certain loops to provide facilities-based service, we expect the Commission to pay close attention to the benefits afforded rural residents like those in our districts. Under the Commission's Proposed NPRM, the definition of "urban" captures rural areas in our districts that are afforded such benefits; and we encourage the Commission to adopt a definition of "urban" that excludes "urbanized clusters" of areas between 5,000 and 50,000 people. If the Commission finds, based on the data in the record, that there is sufficient

¹ In re Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services, Notice of Proposed Rulemaking, WC Docket No. 19-308, FCC 19-119 (rel. Nov. 25, 2019).

competition in these urban markets consistent with the goals of the Telecommunications Act of 1996, it should take action to ensure regulatory parity among competitors.

While we urge caution to ensure relief does not inadvertently capture truly rural, residential broadband services, the Commission should consider the data and take a thoughtful approach to promoting competition and a level playing field in the broadband marketplace with a reasonable transition period. If you have any questions, please contact Evan Viau or Kate O'Connor of the Minority Committee Staff at (202) 225-3641. Thank you for your attention to this matter.

Sincerely,



Greg Walden
Republican Leader
Committee on Energy and Commerce



Greg Gianforte
Member of Congress

Cc: The Honorable Michael O'Rielly, Commissioner
Federal Communications Commission

The Honorable Brendan Carr, Commissioner
Federal Communications Commission

The Honorable Jessica Rosenworcel, Commissioner
Federal Communications Commission

The Honorable Geoffrey Starks, Commissioner
Federal Communications Commission