

**STATEMENT OF  
COMMISSIONER LARRY S. LANDIS**

***In the Matter of High-Cost Universal Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service; CC Docket No. 96-45***

The proposals contained in today's Recommended Decision provide the framework for significant and much-needed reform of the high cost universal service program. Whether the promise inherent in those reforms is realized depends almost exclusively on what happens next, and on how the details of the framework outlined here may be implemented. Those processes and mechanisms must be weighed with great care, because in any public policy decision the odds are reasonably high that when we get to granular implementation the end result will be to produce outcomes which are unintended, undesired, or both.

The level of participation among stakeholders in this proceeding, together with the robustness of the comments and replies, as well as the ex parte communications, has contributed materially to the thinking leading up to today's Recommended Decision. While it is to be expected that the input of stakeholders will reflect their respective interests, for the most part they were thoughtful, productive, constructive and even imaginative, as opposed to reflecting an entitlement mentality which has at times clouded this ongoing debate.

There are four sections of this Recommended Decision which I believe warrant brief comment, because of the critical importance of getting it right when it comes to actual execution of the recommendations set forth here.

The first is the discussion of issues related to current mechanisms as they impact incumbent LECs (participants in the POLR fund, as proposed).<sup>1</sup> Competition is a reality today not only in our urban centers, but also increasingly in the small towns, villages and rural communities which are the population cores of rural areas across the country. It is essential that POLR support be matched as closely as possible to the high cost exurban ("truly rural") areas. This requires adoption of improved analytical and modeling techniques to examine those costs at a far more granular level than has been heretofore been possible. Failure to align support with costs as closely as possible could put rural service at risk as surely as the unmanaged ballooning of the high cost program.

An outgrowth of that concern is a recognition that rural is rural, and the time for distinguishing among RLECs, midsize companies and the largest LECs is past. Just as telecommunications policy should be technologically neutral, it should be neutral when it comes to providing appropriate support to those residing in high cost areas, regardless of the corporate logo or size of the provider delivering the service.

Second, great care and attention must be given to the method by which a transition from the existing, increasingly dysfunctional mechanisms to the proposed new Funds is effected. In the Recommended Decision, appropriate attention is given to the importance of effecting the transition over time, to give providers the time required to adjust their business models to account for shifts in emphasis and process. Too frequently, particularly when it has come to communications policy, remediation has taken the form of a "flash cut" to a new and presumably better framework.

That said, virtually nothing is said in this recommendation about the transition mechanism itself. That process should be guided by the first principle in the Hippocratic oath: "Do no harm." Or if that is not possible, close attention should be given to minimizing the harm which occurs. A great deal has been said and written, including in this Recommended Decision, about the undesirability of continuing "subsidized competition." We need to recognize that the providers who have benefited from the

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<sup>1</sup> See paragraphs 19-23 passim, esp. paragraph 22.

pathology of the existing system have done so in a manner which is entirely legal, if less than visionary.

It is essential that one provider not be advantaged over others as the proposed modifications to support for competitive, especially wireless, ETCs occur and wireless providers are transitioned to the proposed Mobility Fund.<sup>2</sup>

Third, it is time for the states to have a stake not only in policy decisions and in the administration of the high cost universal service program, but also to step up to at least a modest role in its funding. As our former colleague Billy Jack Gregg has pointed out, several states which are among the largest net recipients (disbursements less collections) of funds under the federal universal service program do not have a state universal service program or any other program targeted to address issues such as those addressed in this Recommended Decision.

I strongly support the recommendation that state matching funds<sup>3</sup> should be a requirement for receipt of maximum funding under the proposed Broadband fund, and further believe comment should be sought on whether it is appropriate to structure all three funds in that manner, perhaps consistent with ability (but independent of political will) to pay for those states seeking to maximize the funds allocated to service areas within their boundaries.

Fourth, I concur in the view of my colleagues who support redefinition of supported services to include broadband, employing a mechanism such as that outlined in this recommendation. It is beyond debate that there are those areas in which buildout is sufficiently costly that no business case can be made for buildout, regardless of the technology under consideration, and it is to those areas I would expect the broadband dollars would be primarily directed.

An approach which draws upon the expertise of the states and which follows a logical progression such as is outlined in this Recommendation,<sup>4</sup> relying primarily on the private sector for addressing unserved areas<sup>5</sup> and utilizing funds from the Broadband Fund as a “funding source of last resort” will best and most efficiently reach the goal of ubiquitous broadband availability. Given that many states still do not have an accurate assessment as to precisely how widely available broadband is, and where it is and is not available, enthusiasm should be tempered by a degree of caution. I support the initially incremental approach which is contemplated by a \$300 million initial funding level. I hope that thereby we can avoid the temptation to unnecessarily throw resources at a need before its scope has been clearly and precisely defined.

It may be appropriate to seek input into the latent barriers to achieving more pervasive broadband use. Those who are without computers, whether by choice or circumstance, are still largely precluded from robust broadband usage. We also need to take into consideration those who have made what, for them, is a rational decision that broadband is not a service they need or want, no matter how widely available and no matter what the cost.

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<sup>2</sup> See esp. paragraph 27.

<sup>3</sup> See paragraphs 50-52.

<sup>4</sup> See esp. Paragraph 54

<sup>5</sup> Such as the community-based demand development program which is the core element of the Connect Kentucky and Connected Nation model