

**STATEMENT OF
COMMISSIONER MIGNON CLYBURN
APPROVING IN PART AND DISSENTING IN PART**

Re: *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks*, WC Docket No. 14-192, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Connect America Fund*, WC Docket No. 10-90.

Eliminating unnecessary and obsolete obligations, while preserving requirements that are essential to maintaining the integrity of those abiding principles of ensuring competition, consumer protection, universal service and public safety laid out so eloquently in the Communications Act, is a sound regulatory practice.

In this case, I support granting relief from provisions that seem to have outlived their purpose, including certain provisions of section 271, that are duplicative of section 251, which were designed to enable the Bell Operating Companies – a term that has little meaning these days – to enter the long distance market. Similarly, the separate long distance market has become less relevant, and it is hard to justify retaining an obligation on incumbent carriers to enable their consumers to select a separate long distance carrier (a requirement known as equal access).

Evolution of the market does not always mean, however, that regulations necessary to stimulate such change should be eliminated, because doing so could undermine the very conditions that have enabled competition to flourish. Indeed, I would submit that the need for interconnected networks is as relevant to competition today as it was a century ago when AT&T agreed to the Kingsbury Commitment. While the policies and means of doing so may change, competition may not occur organically absent appropriately-balanced government policies.

While the Order does a reasonable job balancing these issues, I am concerned that forbearance from certain obligations, such as access to entrance conduit in greenfield situations, may inadvertently curtail future competition. I would have greater comfort if the Order included a thorough market analysis to determine the impact on competition and public interest. Unfortunately, in my view, that is not the case.

I hope my fear, that once the conduit is deployed, future competitive options may be inhibited due to the costs to new entrants and burden on private entities, is not realized. The notion that we should take action to reduce the costs of trenching fiber is not a novel issue. Indeed, Congress has been working on a bipartisan basis, under the leadership of Representatives Walden and Eshoo, on the “Dig Once” broadband deployment bill, or the Broadband Conduit Deployment Act of 2015, to deploy conduit once rather than retrenching. While such Congressional actions are for deploying along public roads rather than private property, I submit that many of the concerns and the desire to reduce costs and burdens, are the same regardless of where the construction is located. For these reasons, I cannot support this section of the item.

While I am grateful that the Order does not forbear from entrance conduit in “brownfield” situations, it is just a matter of time before today’s greenfield is tomorrow’s brownfield. And, in the future, the difference will be that competitive providers will have access to certain entrance conduit and not others.

Even so, I do appreciate the effort to create a balanced approach, and that the Order declines to forbear in circumstances where consumers, competition or the public interest could be adversely impacted. As a result, I vote to approve in part and dissent in part.