

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Modification of Subpart G, Section 0.701
of the Commission's Rules

ORDER

Adopted: December 13, 2017

Released: December 20, 2017

By the Commission: Chairman Pai issuing a statement, Commissioner Rosenworcel approving in part, dissenting in part and issuing a statement, and Commissioner Clyburn dissenting and issuing a statement.

I. INTRODUCTION

1. In this Order, we adopt revisions to the rules governing the Federal Communications Commission's (Commission's) Intergovernmental Advisory Committee (Committee or IAC), which advises the Commission on a range of telecommunications issues affecting local, county, state, and Tribal interests, to expand it from 15 members to 30 members. The IAC has been an important source of information and guidance to the Commission over the past 20 years. The rule change we make today will enhance the IAC's role by allowing for a greater diversity of viewpoints representing our municipal, county, state, and Tribal partners throughout the country.

II. BACKGROUND

2. The IAC, formerly known as the Local and State Government Advisory Committee (LSGAC), was created in 1997 to provide guidance to the Commission on issues of importance to state, local, county, and Tribal governments, as well as to the Commission. The Committee is currently composed of 15 elected and appointed officials of those governmental entities.

3. The Committee has provided ongoing advice and information to the Commission on a broad range of telecommunications issues in which state, local, county, and Tribal governments share "intergovernmental responsibilities or administration" with the Commission, including cable and local franchising, public rights-of-way, facilities siting, universal service, barriers to competitive entry, and public safety communications.

1 See Adoption of Subpart G, Section 0.701 of the Commission's Rules, Order, 16 FCC Rcd 1183 (2001).

2 Section 0.701 of the Commission's rules presently provides for an IAC composed of: 1) four elected municipal officials (city mayors and city council members); 2) two elected county officials (county commissioners or council members); 3) one elected or appointed local government attorney; 4) one elected state executive (governor or lieutenant governor); 5) three elected state legislators; 6) one elected or appointed public utilities or public service commissioner; and 7) three elected or appointed Native American Tribal representatives. 47 CFR § 0.701(b).

3 2 U.S.C. § 1534(b)(2). The IAC functions under an exemption to the Federal Advisory Committee Act, 5 U.S.C. App. 2 pursuant to Section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. § 1534(b)(2).

III. DISCUSSION

4. We have often found over the years that an IAC membership of just 15 does not often capture the varied perspectives of our regulatory partners across the country. The IAC works best and its advice helps the Commission the most when it fully represents perspectives of rural, urban, and suburban jurisdictions from various geographic areas throughout the United States.

5. By expanding its membership to 30, we better enable the IAC's ability to represent perspectives and viewpoints from all relevant governmental entities and sectors, and to further promote valuable, comprehensive, and balanced input that more comprehensively reflects the views and expertise of our regulatory partners. Our experience with other advisory committees of similar size shows this to be the case.⁴

6. We continue to believe that IAC representation from each category of state, local, county, and Tribal government is important. Thus, the number of members from each category set forth in our current rules shall now serve as a minimum threshold. The Committee will now consist of 30 members, of which at least four shall be elected municipal officials, at least two shall be elected county officials, at least one shall be a local government attorney, at least one shall be an elected state executive, at least three shall be elected state legislators, at least one shall be a public utilities or public service commissioner, and at least three shall be Native American Tribal representatives. Our approach will give the Commission flexibility to expand the number and diversity of viewpoints from these sectors while ensuring none is under-represented.

IV. ORDERING CLAUSE

7. The rule modifications adopted constitute rules of agency organization, procedure and practice. Therefore, our modification of section 0.701 is not subject to the notice and comment and effective date provisions of the Administrative Procedure Act. *See* 5 U.S.C. § 553(b)(3)(A), (d). Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303(r), Subpart G, section 0.701 of the Rules and Regulations of the Federal Communications Commission, 47 CFR § 0.701, modified as set forth in the Appendix to this Order, **IS ADOPTED**. The rule, as modified, **IS EFFECTIVE** upon publication in the Federal Register.⁵

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴ *See, e.g.*, Consumer Advisory Committee, <https://www.fcc.gov/consumer-advisory-committee> (29 members); Disability Advisory Committee, <https://www.fcc.gov/general/disability-advisory-committee> (37 members); Technological Advisory Council <https://www.fcc.gov/general/technological-advisory-council> (44 members).

⁵ *See* 5 U.S.C. § 553(d).

APPENDIX

Subpart G of Chapter 0 of Title 47 of the Code of Federal Regulations is amended by revising the text of section 0.701 to read as follows:

SUBPART G - INTERGOVERNMENTAL COMMUNICATION

§ 0.701 *Intergovernmental Advisory Committee.*

* * * * *

(b) *Membership.* The IAC will be composed of 30 members (or their designated employees), with a minimum of: Four elected municipal officials (city mayors and city council members); two elected county officials (county commissioners or council members); one elected or appointed local government attorney; one elected state executive (governor or lieutenant governor); three elected state legislators; one elected or appointed public utilities or public service commissioner; and three elected or appointed Native American tribal representatives. The Chairman of the Commission will appoint members through an application process initiated by a Public Notice, and will select a Chairman and a Vice Chairman to lead the IAC. The Chairman of the Commission will also appoint members to fill any vacancies and may replace an IAC member, at his discretion, using the appointment process. Members of the IAC are responsible for travel and other incidental expenses incurred while on IAC business and will not be reimbursed by the Commission for such expenses.

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**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Modification of Subpart G, Section 0.701 of the Commission's Rules.*

Today, the Commission takes the simple step of increasing the size of the Intergovernmental Advisory Committee (IAC) to be more consistent with the size of the FCC's other Advisory Committees. By expanding the size of the IAC, we will be able to receive a wider range of input from state, local, and Tribal governments.

In order to achieve consensus on this *Order*, I was ready and willing to accept most of Commissioner Clyburn's requested changes. For example, I was fine with increasing the minimum number of elected municipal officials, elected county officials, elected state executives, public utility or public service commissioners, and Tribal representatives on the IAC. I was also happy to add a requirement that two members come from associations of government representatives. But sadly, she was unwilling to compromise.

Finally, with the adoption of this *Order*, we now need to solicit nominations for the IAC and select many new members. This process will not be completed by January; it takes time to sort through paperwork, evaluate applications, and the like. That's why it was necessary to postpone the IAC's January meeting. But once the IAC is at full strength, we'll quickly schedule its next meeting.

**DISSENTING STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: *Modification of Subpart G, Section 0.701 of the Commission's Rules.*

Expanding the diversity of viewpoints included on the FCC's Intergovernmental Advisory Committee (IAC) should be welcomed, right? Yet in the words of the IAC's own Chair in a November 21st letter to Chairman Pai: "doubling the size of the IAC, without substantive changes to the FCC's approach to and interaction with the IAC, will not result in either increased attendance or increased engagement by the Membership."

Instead of delaying today's decision until a conversation could be had with the IAC, the FCC Chairman chose to move forward anyway. It is deeply troubling that we would simply ignore an advisory committee's recommendation without any discussion. What is the point of having such committees if our response is to just disregard their expertise and guidance?

Second, if the Chairman was intent on moving forward with this item, despite the IAC Chair's concerns, I suggested that the composition of the Committee include two consumer advocates – government employees whose job it is to advocate on behalf of consumers. My request was denied.

Finally, hours after casting my dissenting vote, I learned that the IAC's January meeting had been abruptly canceled. Was this retaliation for expressing concerns about an expanded IAC? While I do not know for sure, the timing certainly appears suspect.

I dissent.

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
APPROVING IN PART, DISSENTING IN PART**

Re: *Modification of Subpart G, Section 0.701 of the Commission's Rules.*

The Intergovernmental Advisory Committee can offer keen insights from the local and state policy trenches. The Commission, in turn, can use these insights to inform its work at the federal level. However, to do so this agency must do more than merely convene meetings of this Committee—it should ask it to offer ideas. But to date, according to the Chair of the Intergovernmental Advisory Committee, its membership “has been repeatedly discouraged from submitting written comments” in our proceedings. This is troubling.

Nonetheless, in this order, the Commission expands the Intergovernmental Advisory Committee. I support this expansion in hope that a larger group can have more influence and ability to offer insights to the Commission about the application of its policies to communities nationwide. But I dissent to the extent that the Commission continues to use this Committee as window dressing, setting up meetings but denying the group the ability to have a full say in the work of the agency. Local and state authorities are our partners in the development of public policy. It is time for this agency to treat them as such.