DISSENTING STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN

Re: *Connect America Fund*, WC Docket No. 10-90.

Imagine being asked: Would you rather pay $5 per month, or $20 per month, for the exact same voice service plan? If there is really no difference, and if the offers were truly identical, you would opt for the cheaper service plan, right? But if this scenario is only made possible by your carrier's ability to shift the true cost of service onto other carriers, in other words, through everyone else's contributions to the universal service fund, then I must regrettably inform you that we have a real public policy problem.

This is the exact scenario, the Commission addressed a few years ago while we were in the process of reforming our universal service and intercarrier compensation mechanisms. Some rate-of-return carriers were charging their customers extremely low voice service rates and recovering the rest of their revenue requirement from intercarrier compensation and the universal service fund. This resulted in shifting the cost of service from the people who were actually receiving the service onto other ratepayers nationwide, including those who are least able to afford it.

The Commission addressed this issue by adopting a requirement that carriers must recover a certain portion of the ultimate cost of service from their end-user customers rather than from other ratepayers. This was known as the rate floor, and it was pegged to the average urban cost of service for voice. Carriers could charge less than this amount but they would be unable to recover the difference from the universal service fund.

Over two months ago, I made a public commitment fix some outstanding, unforeseen issues that resulted from our efforts at rate-of-return reform. This package of actions included a fix for the capital investment allowance, pausing and finding a new path forward on the rate floor, and dealing with waste, fraud, and abuse in the high-cost program. I have also spoken out in the past, you may have noted, about means-testing the high-cost fund. In an ideal world, we would have dealt with all outstanding rate-of-return issues at the same time, in part because many of these issues are neither difficult nor novel, but they all have an impact not only on rate-of-return carriers, but on ratepayers nationally.

Admittedly, just last month, we fixed one of the issues that I considered part of the package, on a stand-alone basis. I let my misgivings about addressing that issue on an a la carte basis go, and supported that item, because I believed it was good policy. It got something done sooner rather than later, but I continued to hold out hope that the next steps would address those issues left outstanding. I made it clear then, as I do now, that dealing in tandem with the rate floor and with waste, fraud, and abuse, were key.

Déjà vu. Now we are considering a second item, the pausing and fixing of the rate floor, and surprise, it comes before us for consideration on a stand-alone basis. My repeated calls for addressing waste, fraud, and abuse in the high-cost program: ignored; any hope of addressing these concerns in a balanced, comprehensive package: smashed; and the freeing up of additional money to mitigate the budget control mechanism which would have been the result of a more efficient process: not happening. So I respectfully dissent.

Aggressively going after waste, fraud, and abuse in our universal service programs only seems to happen when one program is being discussed, and that is Lifeline. Addressing blatant abuses in the high-cost program? No mention here, even though every dollar that is wasted in the high-cost fund means one less dollar to support rural broadband networks. That is not fair, equitable, nor consistent, when it comes to policymaking.

The American public should not be guaranteeing a return on "investments" for personal travel and expenses, entertainment, alcohol, artwork, corporate jets, corporate boats, and the mortgages of company employees. This is common sense, it is good stewardship, and many in the industry generally support this kind of clarity, so it is unbelievable to me that when a clear opportunity presents itself, we fail to take any action.

Commissioner O'Rielly and I have spoken about ways, we can work to improve the service consumers get in rate-of-return study areas, and I remain hopeful, that these discussions will bear fruit.

Many thanks are due to the staff of the Wireline Competition Bureau for their work on this item. If I am counting right, you have had substantial involvement in at least eight or nine meeting items over the past four months. I know the work has been hard and the hours are long—and while I have occasionally disagreed with what you have been asked to draft—I sincerely appreciate your professionalism and dedication to public service.