

September 15, 2011

Marlene Dortch  
Secretary  
Federal Communication Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Ex Parte in Support of Initial Comments and Reply Comments of The National Association of State Utility Consumer Advocates on Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding; WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos 01-93, 96-45

Dear Ms. Dortch:

We write in support of the recommendations submitted by the National Association of State Utility Consumer Advocates (NASUCA) in this docket, and likewise urge the Commission to reject the ABC Plan that proposes substantial increases to the subscriber line charge (SLC), preemption of state Carrier of Last Resort obligations, and elimination of certain “legacy” ETC regulations and requirements. In its Initial Comments, NASUCA clearly details the problems of the ABC Plan for practical, cost, and legal reasons.<sup>1</sup> The undersigned agree that this proposal must be flatly rejected as harmful to consumers, especially low-income consumers and fixed-income seniors.

For some populations, the landline remains an essential service and existing consumer protections for these customers must be maintained.<sup>2</sup> There continues to be a need for consumer protection regulations regarding telecommunications services from which consumers obtain

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<sup>1</sup> Initial Comments of NASUCA at 4-9 (Aug. 24, 2011).

<sup>2</sup> Initial Comments of NASUCA at 67-68 (Aug. 24, 2011) (citing Centers for Disease Control and Prevention analysis).

essential basic voice service as a standalone, or included product. Currently there is no effective competition for stand-alone basic local exchange service. While many households are choosing VoIP as their source for basic service, it is part of a broadband bundle and standalone VoIP basic service remains far more expensive than ILEC basic service. In addition, while a great number of households have wireless service, the majority of households continue to purchase both landline and wireless service.<sup>3</sup> Most senior citizens continue to rely on landline. In many rural areas which are the very areas that the high cost fund is intended to support, wireless signals are unreliable and to date, landline service remains more reliable than wireless service for contacting 911. The FCC cannot assume competition will make basic voice service affordable.

Furthermore, while the technology has evolved, the fundamental nature of the call, from the customer's standpoint has not changed. We agree with NASUCA that:

Many different services are provided on telecom networks. As the technology evolves, IP transmission is being increasingly used to provide traditional telephone service – from the customer's perspective, the service has not changed, just the technical means of transmission. For instance, a customer may be talking on a phone where part of the call is carried on the traditional network, but the call is also carried on a network that uses IP. Under the ABC Plan, telecom companies could argue that all phone service would be deregulated. If adopted, the proposal could eliminate any ability of states to regulate any telecommunication service.<sup>4</sup>

The mere fact that technology has evolved for a customer making a telephone call does not eliminate the need for continued state protections such as: guarding against premature or incorrect terminations of service, fair billing and notification requirements, and special protections that may exist for vulnerable groups such as the ill or the elderly.<sup>5</sup> States have a

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<sup>3</sup> Id.

<sup>4</sup> Initial Comments of NASUCA at 7, 35 (Aug. 24, 2011).

<sup>5</sup> See Massachusetts Rules and Practices Relating to Telephone Service to Residential Customers, D.P.U. 18448 at Rule 5.15 (company shall postpone termination, or restore service, if a seriously ill person resides in customer's

critical role both in: (1) protecting those telephone customers who are migrating to broadband for basic voice service, and (2) continuing to protect those customers who do not view new technologies as a substitute and therefore choose to maintain their traditional wireline phone service.<sup>6</sup>

The FCC cannot ignore the fundamental fact that the ABC plan would direct billions in public funds to ILECs with no provisions to hold them accountable. Preservation of voice quality and customer service quality for universal service is essential. However, as NASUCA notes:

The ABC Plan does not contain any requirements that the broadband services provided over facilities built with public funds would be affordable or of high quality, only that such facilities would be built. And the ABC Plan contains no mechanism to ensure compliance with its build-out provisions.”<sup>7</sup>

Further, the ABC plan proposes annual increases to the subscriber line charge without any cost verification.<sup>8</sup>

We are concerned that the ABC Plan, with its sweeping adverse ramifications for customers, was put forth with a very limited time for review and comment by affected parties. As NASUCA and other parties have pointed out, it is highly questionable as to whether several key provisions of the ABC plan are legal. There is no doubt that both the high cost universal service support mechanisms and the interstate access regime need reform. But the two are not inextricably linked and modifications to both should be accomplished through a process that

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household) and Rules 8.1 – 8.2 (company shall not discontinue service for nonpayment if all household adults are aged 65 years or older).

<sup>6</sup> The ABC plan, however, proposes to increase subscriber line charges that would especially impact elders. *See* Initial Comments of NASUCA at 66-67(Aug. 24, 2011).

<sup>7</sup> Initial Comments of NASUCA at 5 (Aug. 24, 2011).

<sup>8</sup> Initial Comments of NASUCA at 58 (Aug. 24, 2011); Ex Parte Comments of AARP (Aug. 24, 2011).

allows for careful consideration of the issues and a fair opportunity for all affected parties to review proposals under consideration. The FCC has failed to explain why the recently introduced ABC Plan should be given such prominence, while other proposals set forth in response to the Commission's earlier notice were ignored.

The Commission should reject the ABC Plan, and look instead to the State Members Plan and NASUCA's Comments in this docket as the starting point for protecting the interests of telecommunications customers. Additionally, while we urge the Commission to maintain ETC requirements for established ETCs and to impose adequate reliability and security safeguards to benefit customers of small, community-based broadband providers, the Comments of Public Knowledge and Benton Foundation generally appear to provide constructive solutions to the problem of serving high cost areas, by proposing that the Commission require USF recipients to interconnect with networks in underserved areas that are within, or adjacent to, the USF recipient's service territory.<sup>9</sup>

The National Consumer Law Center and The Utility Reform Network, Representative Diane Russell (Maine), Access Humboldt, Advocates for Basic Legal Equality, Center for Media Justice, Chicago Media Action, Crossroads Urban Center (Salt Lake City), Generation Justice, The Greenlining Institute, Inspired Leadership, Inc., Institute for Local Self-Reliance, Low Income Utility Advocacy Project, Media Action Center, Ohio Poverty Law Center, People's Production House, Pineros y Campesinos Unidos del Noroeste - Oregon's Farmworker Union, Public Knowledge, Utility Consumers' Action Network, and Virginia Citizens Consumers Council, request the Commission's consideration of these issues, and rejection of the ABC Plan. Instead, we urge the Commission to use as its starting point, the recommendations submitted in

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<sup>9</sup> See Comments of Public Knowledge and Benton Foundation at 6-7.

the State Members Plan, the Comments of Public Knowledge and Benton Foundation, and NASUCA's Comments.

Respectfully submitted,

/S/ Darlene R. Wong

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