

THE BUDGET AND SPENDING OF THE FEDERAL COMMUNICATIONS COMMISSION

HEARING BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

FEBRUARY 16, 2012

Serial No. 112-117



Printed for the use of the Committee on Energy and Commerce
energycommerce.house.gov

U.S. GOVERNMENT PRINTING OFFICE

82-543 PDF

WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON ENERGY AND COMMERCE

FRED UPTON, Michigan

Chairman

JOE BARTON, Texas	HENRY A. WAXMAN, California
<i>Chairman Emeritus</i>	<i>Ranking Member</i>
CLIFF STEARNS, Florida	JOHN D. DINGELL, Michigan
ED WHITFIELD, Kentucky	<i>Chairman Emeritus</i>
JOHN SHIMKUS, Illinois	EDWARD J. MARKEY, Massachusetts
JOSEPH R. PITTS, Pennsylvania	EDOLPHUS TOWNS, New York
MARY BONO MACK, California	FRANK PALLONE, Jr., New Jersey
GREG WALDEN, Oregon	BOBBY L. RUSH, Illinois
LEE TERRY, Nebraska	ANNA G. ESHOO, California
MIKE ROGERS, Michigan	ELIOT L. ENGEL, New York
SUE WILKINS MYRICK, North Carolina	GENE GREEN, Texas
<i>Vice Chairman</i>	DIANA DeGETTE, Colorado
JOHN SULLIVAN, Oklahoma	LOIS CAPPS, California
TIM MURPHY, Pennsylvania	MICHAEL F. DOYLE, Pennsylvania
MICHAEL C. BURGESS, Texas	JANICE D. SCHAKOWSKY, Illinois
MARSHA BLACKBURN, Tennessee	CHARLES A. GONZALEZ, Texas
BRIAN P. BILBRAY, California	JAY INSLEE, Washington
CHARLES F. BASS, New Hampshire	TAMMY BALDWIN, Wisconsin
PHIL GINGREY, Georgia	MIKE ROSS, Arkansas
STEVE SCALISE, Louisiana	JIM MATHESON, Utah
ROBERT E. LATTA, Ohio	G.K. BUTTERFIELD, North Carolina
CATHY McMORRIS RODGERS, Washington	JOHN BARROW, Georgia
GREGG HARPER, Mississippi	DORIS O. MATSUI, California
LEONARD LANCE, New Jersey	DONNA M. CHRISTENSEN, Virgin Islands
BILL CASSIDY, Louisiana	KATHY CASTOR, Florida
BRETT GUTHRIE, Kentucky	
PETE OLSON, Texas	
DAVID B. MCKINLEY, West Virginia	
CORY GARDNER, Colorado	
MIKE POMPEO, Kansas	
ADAM KINZINGER, Illinois	
H. MORGAN GRIFFITH, Virginia	

SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY

GREG WALDEN, Oregon

Chairman

LEE TERRY, Nebraska	ANNA G. ESHOO, California
<i>Vice Chairman</i>	<i>Ranking Member</i>
CLIFF STEARNS, Florida	EDWARD J. MARKEY, Massachusetts
JOHN SHIMKUS, Illinois	MICHAEL F. DOYLE, Pennsylvania
MARY BONO MACK, California	DORIS O. MATSUI, California
MIKE ROGERS, Michigan	JOHN BARROW, Georgia
MARSHA BLACKBURN, Tennessee	DONNA M. CHRISTENSEN, Virgin Islands
BRIAN P. BILBRAY, California	EDOLPHUS TOWNS, New York
CHARLES F. BASS, New Hampshire	FRANK PALLONE, Jr., New Jersey
PHIL GINGREY, Georgia	BOBBY L. RUSH, Illinois
STEVE SCALISE, Louisiana	DIANA DeGETTE, Colorado
ROBERT E. LATTA, Ohio	JOHN D. DINGELL, Michigan (<i>ex officio</i>)
BRETT GUTHRIE, Kentucky	HENRY A. WAXMAN, California (<i>ex officio</i>)
ADAM KINZINGER, Illinois	
JOE BARTON, Texas	
FRED UPTON, Michigan (<i>ex officio</i>)	

C O N T E N T S

	Page
Hon. Greg Walden, a Representative in Congress from the State of Oregon,	
opening statement	1
Prepared statement	3
Hon. Anna G. Eshoo, a Representative in Congress from the State of Cali-	
fornia, opening statement	5
Hon. Doris O. Matsui, a Representative in Congress from the State of Cali-	
fornia, opening statement	6
Hon. Lee Terry, a Representative in Congress from the State of Nebraska,	
opening statement	6
Hon. Marsha Blackburn, a Representative in Congress from the State of	
Tennessee, opening statement	7
Hon. Fred Upton, a Representative in Congress from the State of Michigan,	
prepared statement	83
Hon. Henry A. Waxman, a Representative in Congress from the State of	
California, prepared statement	84
WITNESSES	
Julius Genachowski, Chairman, Federal Communications Commission	7
Prepared statement	11
Answers to submitted questions	86
David L. Hunt, Inspector General, Federal Communications Commission	32
Prepared statement	34
Answers to submitted questions	107
D. Scott Barash, Acting Chief Executive Officer, Universal Service Adminis-	
trative Company	67
Prepared statement	70
Answers to submitted questions	111

THE BUDGET AND SPENDING OF THE FEDERAL COMMUNICATIONS COMMISSION

THURSDAY, FEBRUARY 16, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:03 a.m., in room 2123 of the Rayburn House Office Building, Hon. Greg Walden (chairman of the subcommittee) presiding.

Members present: Representatives Walden, Terry, Shimkus, Blackburn, Bilbray, Bass, Scalise, Latta, Upton (ex officio), Eshoo, Matsui, Barrow, Dingell, and Waxman (ex officio).

Staff present: Ray Baum, Senior Policy Advisor/Director of Coalitions; Michael Beckerman, Deputy Staff Director; Nicholas Degani, FCC Detailee; Mike Gruber, Senior Policy Advisor; Debbie Keller, Press Secretary; Katie Novaria, Legislative Clerk; Roger Sherman, Democratic Chief Counsel; Hadass Kogan, Democratic Legal Fellow; and Kara Van Stralen, Democratic Special Assistant.

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. Good morning, everyone, and welcome to today's hearing on what I am sure will be a riveting subject, especially if you are the chairman of the FCC: the budget and spending of the Federal Communications Commission. Despite the groans and droopy eyelids, some of us were up pretty late last night negotiating on the final spectrum fees and the big fees, and some of you were watching pretty intently, this is really important. This is important work that we are doing here today. We have an obligation as a subcommittee to review the budgets and spending activities of every agency under our jurisdiction, whether they get that money from rate payers or users, or from the general taxpayers. And so I welcome the Chairman of the FCC, Mr. Genachowski, here today.

Given the state of our Nation's finances, I think it is time to call all hands on deck. As the committee with jurisdiction over the Federal Communications Commission, it is our responsibility to review how the Federal Communications Commission collects and spends Federal funds.

We are the committee that created the FCC; although I don't think any of us was exact—well, maybe some were around when that happened. I don't think so, though. We are the committee that created the FCC; we are the committee that authorized it to collect regulatory fees; we are the committee that authorized spectrum

auctions; and we are the committee that enabled the creation of the Universal Service Fund. It is high time that we looked clearly and deeply at how this Commission spends money outside of the yearly appropriations process.

Three days ago, the administration released its proposed budget for fiscal year 2013, and the FCC has in turn submitted its corresponding budget estimates. And I was pleased to see some of those numbers. Last year, the FCC was given a budget of \$424.8 million, and the FCC has reported that it can maintain current services with a budget of \$421.2 million. Although that is less than a 1 percent decrease, hey, it is a start, and I appreciate the work the FCC is doing to keep costs down.

But the FCC's proposal still leaves some open questions about its budget. What are the concrete results that taxpayers and regulatees can expect if Congress funds the FCC's requested new programs? If it consolidates its data centers, as proposed, what will that produce in terms of savings and will those savings be rolled into a lower base budget next year? And what is it doing to redirect its existing resources to address and resolve its backlogs and respond to changes in the marketplace?

Similarly, I want to explore a bit about the sources of the FCC's funding. For example, it withholds up to \$85 million each year to cover the costs of spectrum auctions. Is that sufficient? Does it actually need all of that money to conduct auctions? The rest of the FCC's own funding comes from regulatory fees, which are supposed to be assessed on the communications industry in proportion to the benefits that industry receives from the Commission. Given the swiftly converging communications marketplace, I am interested in how the Commission has reevaluated and reapportioned regulatory fees to ensure that all are paying their fair share.

Finally, I want to better understand how the FCC's watchdogs, the Inspector General and the Universal Service Administrative Company, are funded and what they are doing to combat waste, fraud, and abuse. Although the Universal Service Fund isn't paid for with taxpayer funds, it does come out of the pocketbooks of taxpayers in the form of consumers, and the American people deserve to know that that money is being well spent. What is USAC doing to streamline the universal service funding process so that funded companies can focus on serving their constituents and not on filling out paperwork? Conversely, what are USAC and the Inspector General doing to make sure that universal service funds are not wasted or fraudulently obtained? What is the bang for the buck that we are getting from these watchdogs, and are additional resources needed to equip their oversight efforts?

I thank today's witnesses, Chairman Genachowski, Inspector General Hunt, and Mr. Barash, for attending today's hearing and helping us sort through these important budgetary issues. With your help, we will have a better handle on what Congress can do to reduce the costs of government and improve its efficiency and accountability.

[The prepared statement of Mr. Walden follows:]

Statement of the Honorable Greg Walden
Chairman, Subcommittee on Communications and Technology
Hearing on "The Budget and Spending of the Federal
Communications Commission"
February 16, 2012
(As Prepared for Delivery)

Welcome to today's hearing on what I am sure will be a riveting subject: the budget and spending of the Federal Communications Commission. Despite the groans and droopy eyelids I'm observing from the audience, budgeting isn't just a subject for accountants and paper pushers. Budgeting is in many ways the heart of what Congress does—it's the power of the purse.

Now, some may argue that the annual appropriations process is enough to track the Commission's budget and spending. I certainly agree that the Appropriations Committee should scour the Commission's budget. After all, it's the Appropriations Committee that sets the actual funding level of the Commission's budget each year.

But given the state of our nation's finances, I think it's time to call all hands on deck. As the committee with jurisdiction over the Federal Communications Commission, it's our responsibility to review how the FCC collects and spends federal funds. We are the committee that created the FCC; we are the committee that authorized it to collect regulatory fees; we are the committee that authorized spectrum auctions; and we are the committee that enabled the creation of the Universal Service Fund. It is high time that someone looked at how the Commission spends money outside of the yearly appropriations process. We are that "someone."

Three days ago, the administration released its proposed budget for Fiscal Year 2013, and the FCC has in turn submitted its corresponding budget estimates. And I was pleased to see some of those numbers. Last year, the FCC was given a budget of \$424.8 million, and the FCC has reported that it can maintain current services with a budget of \$421.2 million. Although that's less than a one percent decrease, it's a start, and I appreciate the work of the FCC to keep costs down.

But the FCC's proposal still leaves some open questions about its budget. What are the concrete results that taxpayers and regulatees can expect if Congress funds the FCC's requested new programs? If it consolidates its data centers, as proposed, will that produce savings and will those savings be rolled into a lower base budget next year? And what is it doing to redirect its existing resources to resolve its backlogs and respond to changes in the marketplace?

Similarly, I want to explore a bit the sources of the FCC's funding. For example, it withholds up to \$85 million each year to cover the costs of spectrum auctions. Is that sufficient? Does it actually need all of that money to conduct auctions? The rest of the FCC's own funding comes from regulatory fees, which are supposed to be assessed on the communications industry in proportion to the benefits that industry receives from the Commission. Given the swiftly converging communications marketplace, I am interested in how the Commission has reevaluated and reapportioned regulatory fees to ensure that all are paying their fair share.

Finally, I want to better understand how the FCC's watchdogs—the Inspector General and the Universal Service Administrative Company—are funded and what they are doing to

combat waste, fraud, and abuse. Although the Universal Service Fund isn't paid for with taxpayer funds, it does come out of the pocketbooks of consumers, and the American people deserve to know that that money is being well spent. What is USAC doing to streamline the universal service funding process so that funded companies can focus on serving their constituents and not on filling out paperwork? Conversely, what are USAC and the Inspector General doing to make sure that universal service funds are not wasted or fraudulently obtained? What's the bang for the buck that we're getting from these watchdogs, and are additional resources needed to equip their oversight efforts?

I thank today's witnesses—Chairman Genachowski, Inspector General Hunt, and Mr. Barash—for attending today's hearing and helping us sort through these important budgetary issues. With your help, we will have a better handle on what Congress can do to reduce the costs of government in the best way possible.

###

Mr. WALDEN. With that, I would welcome my colleague from California, Ms. Eshoo, and turn over the time to her for an opening statement.

OPENING STATEMENT OF HON. ANNA G. ESHOO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. ESHOO. Thank you, Mr. Chairman, and good morning to everyone. Welcome, Chairman Genachowski.

The last time this committee authorized appropriations for the FCC was in 1990, before I came to Congress, and it was when my friend, Ed Markey, chaired what was then known as the Telecommunications and Finance Subcommittee. At that time, Congress authorized 109.83 and \$119.83 million for fiscal years 1990 and 1991 for spending on what now seems like a technological—technology stone age. Today, we are examining the proposed fiscal year 2013 budget of \$346.78 million for the Commission and its operations over a complex, advanced telecommunications sector.

The FCC is charged with a portfolio of technological challenges. These include making broadband available to all Americans, finding new sources of spectrum, upgrading and reforming universal service, fostering public safety interoperability, E-911 dependability and availability, and reforming the internal mechanisms of an agency that has been in continuous operation since 1934. These are not easy tasks, but they are essential to the economic well-being of our country.

In reviewing the Commission's budget, I am sure we want to know, first and foremost, that the Commission has made very effort to streamline its budget while ensuring that it has the financial resources to perform its mission. In my view, we have to balance budget costs with smart investments. Our Nation's advanced communications are increasingly essential for new opportunities in almost every sector, including small businesses, education, health care, and the government. Money spent wisely at the Commission can give us a good bang for our buck. Enhancements in the Agency's cloud security and upgrades to the technical equipment used in the FCC's laboratory are two such examples.

I can see from the FCC's budget that the Commission has a 10-year low in Federal employees, that the contracting staff has been cut nearly in half during the past year. I wish that were the case in the Intelligence community. The Commission is currently operating under a budget that is lower than it was in 2009, with a 2 percent increase over the previous year's spending level. This doesn't sound exactly like empire building to me.

Chairman Genachowski, I look forward to hearing about where the FCC stands today, and where you envision the agency to be in the future. I also look forward to hearing from the FCC's Inspector General Hunt. Inspector Generals are, in my book, a group of the most important people in the Federal Government. And Scott Barash—I hope I have pronounced your name correctly, the CEO of the Universal Service Administrative Company, USAC, on how their work and budgets compliment the mandate of the Communications Act.

So thank you, Mr. Chairman, for holding this very important hearing. It has been a long time since we have had one on this subject matter, and I will yield the balance of my time to Congresswoman Matsui.

OPENING STATEMENT OF HON. DORIS O. MATSUI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. MATSUI. Thank you, Ranking Member Eshoo, for yielding me time. I also thank Chairman Genachowski for being with us here today.

The FCC, under the Chairman's leadership, has been dealing with important issues, head on, many of which were difficult to address. The FCC's funding is essentially flat, and has had limited staff movement since 2008, yet the FCC has moved major policy reforms forward. Just over the past few months, for instance, some of the important reviews to the Universal Service Fund. While not perfect, the reforms that the FCC put forth to both the high cost fund and to low income fund are both attempts to bring the USF into the 21st century.

The FCC maintains its commitment to restrain any uncontrolled growth within the Universal Service Fund. I also support USF reforms aimed at addressing duplication and abuse within these programs. These reforms will likely require additional, yet effective, resources to properly certify households and enforce necessary requirements. The FCC's Lifeline proposal to develop a pilot program to extend lifeline for broadband will enable Americans living in both rural and urban areas to access affordable broadband services. After a viable pilot is conducted, it is my hope that the program becomes permanent and available to millions of Americans.

Lastly, I look forward to your continued leadership, as Congress seems poised to provide the FCC authority to conduct incentive auctions and supporting the continued use of unlicensed spectrum for American innovation.

Thank you, Mr. Chairman, for holding today's hearing, and I yield back the balance of my time.

Mr. WALDEN. The Chair recognizes—thank you. The Chair recognizes the gentleman from Nebraska.

OPENING STATEMENT OF HON. LEE TERRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. TERRY. Thank you, Mr. Chairman, and I thank our witness, Mr. Genachowski, for being here today, and we have had a good working relationship, and I really appreciate that.

The FCC, this last year, has tackled many of the toughest issues, particularly high cost USF, and while I think maybe the screws were ratcheted a little too tightly and we may have to review that order, that is not the subject of why we are here today. It is to review the budget, see where you see the FCC going forward. Like all of Congress and committees and our individual offices who have received 12 percent cuts and cutting staff and really focusing to be lean and financially lean. We are seeing where you see the FCC doing the same thing, and that is what we want to hear.

On issues of USF overall, while you were able to get some controls in place on the high cost, we see lack of controls and explosion in other areas of USF, particularly in Link Up and Lifeline, and want to see how you are going to control that, what your plans are in that area.

So I look forward to your testimony, and with that, I will yield to the gentlelady from Tennessee.

OPENING STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mrs. BLACKBURN. I thank the gentleman, and Mr. Chairman, we welcome you. We appreciate that you are here and you are going to give us the opportunity to talk with you about this budget. You know, at a time when the Defense Department is taking a \$32 billion cut and looking at that right on the table, we are kind of curious as to why the FCC would say we need a 2 percent bump. And we want to make certain that we review that with you. As others have said, you know, part of this focus is on your agenda. Some of us think that you have supported or have moved toward an agenda that is restricting free markets and innovation, and that sometimes you are getting into issues that we don't—places where we don't think you should be going. And you do it because you say you can.

Section 706, your interpretation on that, the same language that you used for net neutrality regulations, data roaming mandates, things of that nature, you and I have discussed that and so maybe this is a time for us to see some regulatory humility and restraint and pull those issues, and say is that the proper use of your time?

And so I appreciate the chairman of the subcommittee allowing us to work with you and have the time to review this purpose that you have in your budget, and then the means that you go through in using the dollars that are given to you.

I yield back.

Mr. WALDEN. Do any of our other members want to—Mr. Scalise, Mr. Latta, do you want to use any of the remaining time, or should we get on with the hearing? OK.

Mr. Dingell, would you like to offer an opening statement?

Mr. DINGELL. Mr. Chairman, defer just briefly, if you please.

Mr. WALDEN. I don't believe we have any other speakers on our side, or I would.

Mr. DINGELL. Then at your suggestion, I will proceed.

I don't have an opening statement, so I will defer on that.

Mr. WALDEN. All right, thank you.

Then I don't see any other members who have not had a chance to say something, so Mr. Genachowski, the microphone is yours for a limited duration. We will take it back later, but we do appreciate your being here and we look forward to your testimony. Welcome.

STATEMENT OF JULIUS GENACHOWSKI, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Mr. GENACHOWSKI. Thank you, Chairman Walden and Ranking Member Eshoo, the other members who are here, for the opportunity to appear today. Before taking your questions, I would like to make two overarching points about the FCC's budget.

First, the FCC creates tremendous value for our economy and the American people. Indeed, few, if any, Federal agencies deliver a high return on investment than the FCC. Spectrum auctions have raised more than \$50 billion for the U.S. Treasury, and economists regard the economic value created by FCC auctions as being about 10 times that number, \$500 billion. The U.S. has long led the world in developing policies to unleash spectrum for mobile investment and innovation. The FCC was the first agency to develop spectrum auctions, and also the first to free up so-called junk bands for unlicensed use, such as Bluetooth, cordless phones, and Wi-Fi. As Wi-Fi plays an increasingly important role in the spectrum ecosystem, the economic benefit created by unlicensed spectrum is estimated at up to \$37 billion a year.

Because of the work of this committee and the Senate Commerce Committee, the voluntary incentive auctions proposed in the FCC's National Broadband Plan could become the next big value creating breakthrough in spectrum policy, leading to very substantial new auctions of spectrum and freeing up unlicensed spectrum for white spaces and other higher-powered unlicensed use holds tremendous promise to become another value-creating breakthrough on the order of magnitude of Wi-Fi.

Spectrum policy is just part of the FCC's overall efforts to create value by promoting private investment, innovation, competition, and job creation. Through our Broadband Acceleration Initiative, the FCC has removed barriers to broadband deployment and accelerated broadband buildout. For example, we have adopted orders to ease access to utility poles and established a shot clock to speed cell tower and antenna siting.

As the FCC does its work under the Communications Act, more than 95 percent of our decisions have been bipartisan and our policies are working. Investment, job creation, and innovation are up across the information and communications technology sector, the broadband economy. These metrics are up both when looking at broadband services and when looking at broadband providers and networks. In 2011, the U.S. tech sector grew three times faster than the overall economy. Broadband is helping create new jobs all across the country, and not just for engineers, but also for construction workers, salespeople, and small business owners who are increasingly using the internet to increase sales and lower costs. The apps economy, which barely existed in 2009, has already created almost 500,000 new jobs, according to expert estimates.

The U.S. has regained global leadership in mobile innovation. We are also now ahead of the world in deploying 4G mobile broadband at scale. These next generation 4G networks are projected to add \$151 billion in GDP growth over the next 4 years, creating a projected 770,000 new American jobs.

Broadband providers invested tens of billions of dollars in wired and wireless networks in the first three quarters of 2011, a double digit increase over the same period in 2010. Internet startups attracted 7 billion in venture capital in 2011, almost double 2009 levels, and the most investment since 2001.

The value contributions I have identified would be enhanced even further by closing broadband gaps, and so the agency is focused on bringing universal service into the broadband era. Today,

approximately 18 million rural Americans live in areas with no broadband infrastructure. Our plan adopted in October to modernize the Universal Service Fund will spur wired and wireless broadband buildout to hundreds of thousands of rural homes in the near term, and put us on a path to universal broadband by the end of the decade without increasing the size of the fund. The major overhaul of USF and intercarrier compensation was done on a unanimous basis at the Commission, and with bipartisan support by this committee, and I thank you for that.

In addition to the broadband deployment gap, we are making strides on the broadband adoption gap. Nearly a third of Americans, 100 million people, haven't adopted broadband. Our Connect to Compete Initiative enlists government, nonprofit, and private sector leaders to tackle the barriers to adoption, one of several public private partnerships driven by the Commission to promote solutions to major challenges.

We have adopted smart reforms to the successful E-Rate program, helping schools and libraries, and working with this committee, the FCC is also implementing the recently enacted legislation, such as the Communications and Video Accessibility Act, and the Local Community Radio Act.

The agency is working to harness the power of communications to make our public safer. We granted waivers authorizing more than 20 jurisdictions to begin development of an interoperable public safety broadband network, and we support bipartisan congressional efforts to fund such a network. We are working with multiple stakeholders to advance next generation 911, an issue that Ranking Member Eshoo and Congressman Shimkus have championed, along with others on the committee. And we accelerated the launch of PLAN, a reverse 911 alert system that allows local, State, and Federal authorities to send targeted alerts to mobile devices during an emergency.

The FCC also provides value by protecting and empowering consumers, as we have done with our bill shock, text alert initiative, and our small business cyber planner, as well as our enforcement activities.

The FCC provides value to our economy and the American people in many ways. That is point one. Point two is that the FCC is committed to smart, responsible government, and we have taken significant steps to modernize our programs and ensure that they are efficient and fiscally responsible, saving billions of dollars.

Our work to modernize USF and Intercarrier Compensation will not only spur broadband buildout, it also eliminates billions of dollars in hidden subsidies on consumers' phone bills. Our work to reform the Lifeline program is expected to save up to \$2 billion over the next 3 years, and includes an elimination of link up. Even before the order was adopted, we made changes that eliminated 270,000 duplicate subscriptions, saving \$33 million in 2011. We have reformed our Video Relay Service Program, which provides vital communications for people who are deaf or hard of hearing, saving about \$250 million without reducing availability of service.

In addition to our programmatic changes, we have also reviewed the agency's rules and processes, asking tough questions to make sure the agency is operating efficiently and effectively. In connec-

tion with this review, we have already eliminated more than 200 outdated rules and five unnecessary data collections. We have identified two dozen more data collections for elimination, including seven voted on at yesterday's Commission meeting. We have significantly reduced backlogs, including, for example, a 52 percent reduction in satellite licensing applications, and increased the inclusion of proposed rules in NPRMs from 38 percent to 86 percent. We have made it a priority to move information and processes online, for example, revising our rules to the filing of all tariffs electronically, decreasing burdens on carriers and the Commission. We estimate that internal reforms like consolidated IT maintenance and new financial system have already saved the agency \$8 million. And we have been able to do everything I have listed and more with the lowest number of full-time employees in 10 years.

Harnessing 21st century communications technology to deliver value to the American people, and doing so in a smart and fiscally responsible way, that is the FCC's record the past 3 years and that is our plan for the year and years ahead as reflected in our fiscal year 2013 requested budget.

Because we are funded by fees, the budget is deficit neutral. Though of course, we are sensitive to those regulatory fees. The budget reflects a 2 percent increase in spending. It is flat on dollars adjusting for inflation. We plan to be flat on the number of full-time employees. The budget includes a few new initiatives, primarily technology investment designed to save money, and public safety investments aimed at saving lives. The budget includes proposals to reauthorize the Commission's auction authority, which expires in September 2012, and to provide incentive auction authority, which I hope Congress will grant, in a way that enables the FCC to maximize the amount and benefit of recovered spectrum for our economy. The budget lays out strategic goals for the FCC, such as promoting innovation, investment, and America's global competitiveness. This will keep the agency focused on policies that will yield a substantial return on investment for our economy and the American people.

I look forward to continuing to work with this committee. We have incorporated many of your suggestions over the last 3 years. I look forward to continuing constructive engagement with each of you.

[The prepared statement of Mr. Genachowski follows:]

PREPARED STATEMENT OF
FCC CHAIRMAN JULIUS GENACHOWSKI
ON
"THE BUDGET AND SPENDING OF THE FEDERAL
COMMUNICATIONS COMMISSION"
BEFORE THE
COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.
FEBRUARY 16, 2012

Chairman Walden, Ranking Member Eshoo, members of the subcommittee, thank you for this opportunity to appear today.

Before taking your questions, I'd like to make two overarching points in connection with the FCC's fiscal 2013 budget request.

First, the FCC creates tremendous value for our economy and the American people. Indeed, few, if any, federal agencies deliver a higher return on investment than the FCC.

Spectrum auctions have raised more than \$50 billion for the U.S. Treasury, and economists regard the economic value created by FCC auctions as being about 10 times that number, or \$500 billion in value.

The U.S. has led the world in developing policies to unleash spectrum for mobile investment and innovation. The FCC was the first agency to develop spectrum auctions, and also the first to free up so-called "junk bands" for unlicensed use such as Bluetooth, cordless phones, and Wi-Fi. As Wi-Fi plays an increasingly important role in the spectrum ecosystem, the economic benefit created by unlicensed spectrum is estimated at up to \$37 billion a year.

Spectrum policy is just part of the FCC's overall efforts to create value by advancing policies that promote private investment, innovation, competition, and job creation.

Through our Broadband Acceleration Initiative, the FCC has removed barriers to broadband deployment and accelerated broadband buildout. For example, we've adopted orders to ease access to utility poles and established a shot clock to speed cell tower and antenna siting.

As the FCC does its work under the Communications Act, more than 95 percent of our decisions have been bi-partisan, and our policies are working. Investment, job creation, and innovation are up across the Information and Communications Technology sector – the Broadband Economy. These metrics are up both when looking at broadband apps and services, and when looking at broadband providers and networks.

In 2011, the U.S. tech sector grew three times faster than the overall economy. Broadband is helping create new jobs all across the country – and not just for engineers, but also for salespeople, construction workers, and small business owners increasingly using the Internet to increase sales and lower costs.

The apps economy, which barely existed in early 2009, has already created almost 500,000 new jobs, according to expert estimates.

And similar reports estimate that over the past several years wireless innovation and investment are responsible for more than 1.5 million new jobs.

The U.S. has regained global leadership in mobile innovation. We are also now ahead of the world in deploying 4G mobile broadband at scale. And these next-generation networks are projected to add \$151 billion in GDP growth over the next four years, creating a projected 770,000 new American jobs.

Broadband providers invested tens of billions of dollars in wired and wireless networks in the first three quarters of 2011, a double-digit increase over the same period in 2010.

Internet start-ups attracted \$7 billion in venture capital in 2011, almost double the 2009 level and the most investment since 2001.

The value contributions I've identified would be enhanced even further by closing broadband gaps, and so the agency has focused on bringing universal service into the broadband era.

Today, approximately 18 million rural Americans live in areas with no broadband infrastructure. Our plan, adopted in October, to modernize the Universal Service Fund will spur wired and wireless broadband buildout to hundreds of thousands of rural homes in the near term, and puts us on the path to universal broadband by the end of the decade – without increasing the size of the Fund.

The major overhaul of USF and intercarrier compensation was done on a unanimous basis at the Commission, and with bipartisan support by this Committee. I thank you for that.

In addition to the broadband deployment gap, we are making strides on the broadband adoption gap

Nearly one-third of Americans – 100 million people – haven't adopted broadband. Our Connect to Compete Initiative enlists government, nonprofit, and private sector leaders to tackle the barriers to adoption – one of several public-private partnerships driven by the Commission to promote solutions to major challenges.

The FCC's successful E-Rate program has already helped connect virtually every library and classroom in America, and in 2010 we adopted several important modernizations of the program, including removing barriers to wireless use, and removing barriers to schools opening their computer labs as hot spots for community Internet use when students aren't in school.

Working with this Committee, the FCC is also implementing recently enacted legislation such as the Communications and Video Accessibility Act and the Local Community Radio Act.

Public safety is a core mission of the FCC, and the agency is working to harness the power of communications to make our communities safer.

We've granted waivers authorizing more than twenty jurisdictions to begin development of an interoperable public safety broadband network, and we support bipartisan Congressional efforts to fund such a network.

We are working with multiple stakeholders to advance next-generation 9-1-1, an issue that Ranking Member Eshoo and Congressman Shimkus have championed. And we accelerated the launch of PLAN, a reverse 9-1-1 alert system that allows local, state and federal authorities to send targeted alerts to mobile devices during an emergency.

The FCC also provides value by protecting and empowering consumers.

Working with wireless providers, we found a common-sense solution to bill shock, a problem that has cost millions of consumers tens, hundreds, and sometimes thousands of dollars in unexpected charges.

Working with government, private-sector, and nonprofit partners, we developed a Small Business Cyber Planner to help small businesses guard against cyber attacks, which are estimated to cost targeted small businesses an average of \$200,000 in damages.

The FCC provides value to our economy and the American people in many ways – that’s point one.

Point two is that the FCC is committed to smart, responsible government, and we have taken significant steps to modernize our programs and ensure that they are efficient and fiscally responsible -- saving billions of dollars.

Our work to modernize USF and Intercarrier Compensation will not only spur broadband buildout, it also eliminates billions of dollars in hidden subsidies on consumers’ phone bills.

Our work to reform the Lifeline program is expected to save up to \$2 billion over the next three years. Even before this order was adopted, we made changes that eliminated 270,000 duplicate subscriptions, saving \$33 million in 2011.

We reformed our Video Relay Service Program, which provides vital communications for people who are deaf or hard-of-hearing, saving \$250 million per year without reducing availability of service.

In addition to our programmatic changes, we have also reviewed the agency’s rules and processes – asking tough questions to make sure the agency is operating efficiently and effectively.

In connection with this review, we’ve already eliminated more than 200 outdated rules and five unnecessary data collections. We have identified two dozen more data collections for elimination, including seven voted on at yesterday’s Commission meeting.

We've significantly reduced backlogs, including, for example, a 52% reduction in satellite licensing applications, and increased the inclusion of proposed rules in NPRMs from 38% to 86%.

We are using technology to improve engagement with outside stakeholders, improving both the information we provide to and receive from the public.

We've made it a priority to move information and processes online - for example, revising our rules for the filing of all tariffs electronically, decreasing burdens on carriers and the Commission.

We estimate that internal reforms like consolidated IT maintenance and new financial system have already saved the agency almost \$8 million.

And we've been able to do everything I've listed and more with the lowest number of full-time employees in 10 years.

Harnessing 21st century communications technology to deliver value to the American people, and doing so in a smart and responsible way. That's the FCC's record the past three years, and that's our plan for the year and years ahead, as reflected in our fiscal 2013 requested budget.

The budget reflects a 2% increase in spending. It is flat on dollars adjusting for inflation. We plan to be flat on the number of full-time employees.

The budget includes a few new initiatives – primarily technology investments designed to save money, and public safety investments aimed at saving lives.

The budget includes proposals to reauthorize the Commission's auction authority, which expires in September 2012, and to provide incentive auction authority.

The budget lays out strategic goals for the FCC, such as promoting innovation, investment, and America's global competitiveness, which will keep the agency focused on policies that will yield a substantial return on investment for our economy and the American people.

I look forward to continuing to work with this Committee on all of these important issues.

Mr. WALDEN. Chairman, thank you. I can't help myself. We had been here until one o'clock in the morning negotiating some of these things. Part of your testimony is so like 10:38 p.m., you know, others like—thank you for being here.

I want to ask you about the Universal Service Fund. Obviously there is a lot of discussion about that and Jerry and others have spent a lot of their life trying to help improve this system, and I am sure you will hear more from them. But the contribution factor at 17.9 percent this quarter projected to stay above 17 percent so it is coming right off the phone bill. When will the Commission take a hard look at contributions reform?

Mr. GENACHOWSKI. We will be doing that in the near future. Our strategy was to first tackle the spend in the programs, get those under control, direct them to where they should be directed. Having done that, the next step is to look at the contribution base and get that in a healthy place. We thought it made sense to sequence them, and the next step in sequence is contributions.

Mr. WALDEN. So are you thinking 6 months, 3 months, next week, a year?

Mr. GENACHOWSKI. I would say starting the process certainly within the next 6 months.

Mr. WALDEN. OK. I noticed in the Commission's budget there is a proposal for \$1.1 million for eight new vehicles along with equipment that can be used to detect sources of radio interference. Can you explain to us how these eight vehicles end up costing \$1.1 million? I know that is pretty specific and granular, but it does stand out.

Mr. GENACHOWSKI. These are vehicles that are used to detect and prevent interference across the spectrum, so to speak, from aviation interference to pirate radio. It does require sophisticated equipment. They are also used in times of disaster to help with early assessment and recovery efforts. We certainly insisted that the professional staff at the agency responsible for this keep those numbers as low as possible. In many cases, they are replacing equipment that objectively should have been replaced 10 years ago.

Mr. WALDEN. All right. We may follow up a little bit on that.

The Commission's budget proposal is half a million dollars for a study on the link between the identity of broadcast—a broadcast station owner and that station's "service, including important content to all Americans." Do you know what is about and what the link is? Is that to something regarding ongoing media ownership?

Mr. GENACHOWSKI. There are several statutory provisions that in order for us to implement we need data, and this is agreed upon by everyone at the Commission. There is Section 257, which requires us to understand what is going on with small businesses, there are the ownership provisions and there are the EEO provisions. We are also under a directive from the Third Circuit to improve our data in this area. As you know, we are starting small with an initial essentially study of studies so that we can make sure that what we do in this area, what we need to do under the Communications Act is done as efficiently as possible.

Mr. WALDEN. It just seems like \$500,000 is a lot of money for a study of studies.

Mr. GENACHOWSKI. No, well the study of studies will cost much less than that, under 100,000. The 500,000 is a budget amount for what would be the next step. I will tell you that the prior studies of the sort have cost closer to a million dollars, and in the spirit of fiscal responsibility, what we have said to our team at the agency is we are just going to have to figure out a way to do it for a lot less.

Mr. WALDEN. So this is a link between media ownership and content, or what? What are you really looking at?

Mr. GENACHOWSKI. The media ownership provisions in the statute are one area where the studies will help us exercise our responsibilities. They are not the only area, small businesses and EEO. So this will—it is part of what we need to do to have the data that we need to be able to take whatever steps are appropriate.

Mr. WALDEN. The Commission opened a docket to consider reclassifying broadband as a Title II service, as you all know, back in '09. That docket remains open today. How many employees are currently working on that docket and why is it still open?

Mr. GENACHOWSKI. I am not aware that any employees are working on the docket now.

Mr. WALDEN. Well, why not close it?

Mr. GENACHOWSKI. I am sorry?

Mr. WALDEN. Why not close it, then, if nobody is working on it? It has been open since '09.

Mr. GENACHOWSKI. It is something that we will consider. It is not—we have been focused on—

Mr. WALDEN. Well, you are here. We could consider it now, you know.

Mr. GENACHOWSKI. It is something I will discuss with our staff and colleagues.

Mr. WALDEN. All right. Finally on my questions, you note in your written statement the Commission is allowed 20 jurisdictions to start deploying interoperable communications in the 700 MHz public safety spectrum. My understanding is that 30 more applications are waiting in the wings, but that the review process has stalled. If States are ready to go, including—we have heard from Oklahoma—and already have the funding to deploy their own networks at their own costs, why is the Commission holding them back?

Mr. GENACHOWSKI. Well, I will say that assuming Congress in the next—in the near term adopts the legislation before including funding in the Public Safety Broadband Network, that will make it very easy for us to complete this very quickly. We have had a certain amount of humility and caution here because we don't want to start things going that then will be different from what Congress instructs us to do. So I think we are at a point where I understand the frustration, and at some point we have to go ahead and do the waivers, even if Congress doesn't act. But I am hoping that Congress is on a path to make this easy. Certainly if Congress does pass the legislation we will move forward very, very quickly because it is very important.

Mr. WALDEN. All right, thank you. My time is expired. I turn to the gentlelady from California.

Ms. ESHOO. Thank you, Mr. Chairman.

I think that you raised the point about the \$85 million in auction proceeds in your—I think you did in your opening statement, but I would like Chairman Genachowski to elaborate on how the FCC uses the 85 million.

Mr. GENACHOWSKI. Sure. In many different ways, you know. Auction is a constant activity at the FCC, preparing for auctions, licensing post auction, and we conduct many more auctions than people realize, because many auctions are not high profile auctions. We conducted——

Ms. ESHOO. How long do they usually take? What is the average length of time for an auction?

Mr. GENACHOWSKI. Weeks would be the average, but the work that goes into all the auctions and the work that comes in implementing auctions is really very significant. The—we receive as an agency internally requests each year to spend to what would amount to more than the \$85 million figure, because we do think that there is more and more work we could do that would generate a positive return on investment, but we work within the \$85 million cap and there are things that we say no to because they hit the cap.

Ms. ESHOO. Under the 2013 budget request submitted to Congress earlier this week, the agency requested \$2.5 million to consolidate agency data centers. It is not a huge amount of money, but do you have an estimate on the agency's long-term savings from the decision?

Mr. GENACHOWSKI. Yes, for the various data initiatives that we have included, we have run ROI analyses for the data center consolidation. Our analysis shows that we would save a little over a million dollars a year, about \$1.1 million a year once it is completed. So it is a \$2.5 million investment to save a million a year on an ongoing basis, so it should pay for itself in 2 years. We expect that to be complete in the next 12 to 18 months.

Similarly on the actual cloud updates, we expect that to yield a savings of about almost \$1.5 million a year, so again, it pays for itself in the first year or two, and then on an ongoing basis we expect it to save 1.4 over time.

And these are both the kinds of things that private companies are doing and they know that they need to do to save money.

Ms. ESHOO. Right. It is my understanding that there are increasing bottlenecks in the FCC's laboratory in terms of reviewing new advanced hand-held devices, like smartphones and tablets that use LTE technology. What is the FCC doing to expedite the device approval process, and does this require additional engineering staff?

Mr. GENACHOWSKI. Well this is something that I am concerned about, and your question is right on target. We have had an unbelievable proliferation of devices in the last few years, and each device has more antennas inside of it than it used to. And so the work of—to certify devices has gotten a lot greater, and that process is under pressure. We launched an internal review of this a few months ago. This is handled out of our Office of Engineering and Technology, and they are working on recommendations on how we can meet this new world where the volume of devices that have to be certified is going way up.

Ms. ESHOO. Do you have any outstanding issues relative to the IG that have not yet been fully implemented by the FCC?

Mr. GENACHOWSKI. Not that I am aware of. We take the role of the IG very seriously. He has independence and a track record of savings prosecutions over the last few years has been very significant.

Ms. ESHOO. Thank you. I will yield back.

Mr. WALDEN. Gentlelady yields back her time. Chairman recognizes the vice chairman of the subcommittee, Mr. Terry.

Mr. TERRY. Thank you, Mr. Walden.

I want to thank you again for coming to Nebraska and coming to a couple of our great cities like Liberty and Diller, towns of what, 50 people or something like that, and 290, so it was a great event and hopefully everyone learned a little bit.

Speaking of high cost fund, though, as Greg mentioned—asked a question about the contribution side and the bill that Rick Boucher and I did paired the two, and on the contribution side there was always a thought that you needed legislative support for that area. Do you feel that you need legislative support to be able to change or adopt different ways to bring new revenue in, or not new revenue, but make everyone that does primarily voice pay into the Universal Service Fund as it was intended? Do you need us?

Mr. GENACHOWSKI. I am not sure yet. Our general counsel's office has looked at this. This will be something that we look at in the proceeding. Certainly we come to you and ask for help if we need it, and we will work together to make sure that we understand the authority that is there.

Mr. TERRY. All right. Well, I appreciate the work that has been done so far, but keep us up to date.

The second part is on the other part as I mentioned in my opening statement of Link Up and Lifeline. You mentioned that Link Up is going to be phased out. I would like you to comment further on that, time, are you just going to merge the two into Lifeline? And then how do we control the exploding costs in Lifeline, specifically, is there a plan set out and—well, go ahead and answer that.

Mr. GENACHOWSKI. So we took this reform very seriously, and we reviewed all aspects of the program. We eliminated Link Up completely. It wasn't eliminated over here and put in over there because we thought that the mechanism of providing, I believe it was a \$30 bounty for every Lifeline customer that was signed up, created incentives for waste, fraud, and abuse, and as the market changes it simply couldn't be justified. And there were some people who came to us and said why don't you just reduce the amount? We looked at it and said we can't justify that part of the program at all and we eliminated it, and I think—as a sign of our seriousness. With respect to the rest of the program, we tackled in a systematic way the problems that we saw. There were problems with duplicates, people receiving Lifeline support twice when they shouldn't. We have taken steps on that, including moving toward a database that will make it much, much easier for States and companies to enforce or to prevent duplicates. We tackled—we identified and tackled other unscrupulous practices.

It is an important program. We have a history in this country of making sure that the lowest income among us have access to

basic communication services, so we wanted to make sure that the program is on a strong foundation, and we were highly motivated to make sure that anything in the program we couldn't defend, we got rid of.

Mr. TERRY. I appreciate that.

You mentioned 2 billion over 3 years. I want you to get into that a little more granular. Where is that 2 billion coming from?

Mr. GENACHOWSKI. It is the status quo increases that we inherited if we had done nothing. We are on a curve. I think both Chairman Walden and you mentioned it. That curve was going up at a rate that was very hard to defend. Now in a bad economy, it is not surprising that this particular program goes up because low income people are eligible for it. In a bad economy there are more people who qualify, so it is not surprising that this program would go up in bad times, and it should go down in good times. Also, communications services are becoming more essential. But it was going up too fast and our goal was to remove from the, you know, the up all of the wasteful, inefficient, unjustified spending. And so what we believe we did is turn this line into this line, and over the next 2 or 3 years, that is a \$2 billion difference in the program.

Mr. TERRY. My next question will take more than 25 seconds to answer, so I will just submit it in writing.

Mr. GENACHOWSKI. Thank you, and thank you for inviting me to Nebraska. That trip was very valuable and informed in a positive way our reform only the things that you liked. The other things we got from other States.

Mr. WALDEN. Wow, and you said that under oath, right?

The Chair now recognizes the gentleman from California, Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

Since the 20 years that Congress last reauthorized the FCC, this subcommittee has held oversight hearings to look at your budget and to also review how the agency is functioning. I want to say that by all accounts, the FCC under your leadership is well-managed and it operates in a transparent and open manner. Since you became chairman, the agency has reformed the way dockets are managed. The number of notices in proposed rulemaking that contain the full text of rules has increased from 38 percent to 85 percent. The amount of time between a vote on a Commission decision and the release of the full text of the decision has decreased from 14 calendar days to 3 calendar days, with a majority of actions released in 1 calendar day. The ex parte rules underwent significant reform. The FCC has closed 999 dormant dockets, which represents approximately 1/3 of the agency's open proceedings, while reducing the number of pending broadcast applications by 30 percent and the number of pending satellite applications by 89 percent. In addition, the FCC has removed or streamlined unnecessary requirements. One hundred and ninety obsolete regulations have been removed since November 2011, and the Commission is working to eliminate unnecessary data collections and exempting small businesses from certain reporting requirements.

The FCC has also made great efforts under your leadership to work on a bipartisan basis. Ninety-five percent of agency actions over the past 2 years have been bipartisan. And finally, staff mo-

rale has improved so much that the FCC was named the most improved Federal agency. This was accomplished despite a flat budget and flat staffing levels.

On the issues, FCC has been greatly ambitious. The Commission has tackled difficult topics from universal service and intercarrier compensation reform, open Internet protections, and numerous measures to promote broadband deployment. These efforts require a tremendous amount of time and dedication from the FCC staff, as well as agency resources. Based on my experiences over the past few years working closely with the agency, I am convinced that the FCC employs a disproportionate number of the most talented, experienced, and dedicated public servants in government.

Now while you deserve a great deal of credit for all these accomplishments, I am confident that these accomplishments would not happen unless you realize you have to come before this subcommittee and answer our questions. But I do want to pay tribute to the work that you have been doing.

Since this is an opportunity to ask you a question and the hearing is on the FCC's budget, you are going to be overseeing one of the most innovative and complex spectrum auctions ever. I want to know from you what sense of expertise is going to be required to administer this process, and could you provide us with a sense of what skills the Commission's staff requires to do the work that they do overseeing the communications marketplace? You have got to be able to pay them adequately, give them a sense of job satisfaction, and as we look at the budget for the FCC, we have to recognize your needs. So if you could give us some sense of this?

Mr. GENACHOWSKI. Well first of all, thank you for those very generous comments, and I particularly appreciate the comments about the staff. It is a great staff. They work very hard every day to deliver value to the American public. And as you know, in addition to honoring the staff, the career staff that was there, we focused on bringing in new people representing the full range of skills that the agency needs. And so lawyers obviously, but not just lawyers. We need very strong economists. We need very strong engineers. We need very strong business analysts. We need to understand the landscape in a very sophisticated way. I do spend a lot of my time on talent. I think we have recruited terrific people to the agency. It has to be an ongoing job, and you are right that implementing the auctions will require the very best of the agency, and may well require us to add to our expert resources to make sure that we get it right.

Mr. WAXMAN. Well, I think the FCC is government at its best, and I commend you and your staff for doing the excellent work that you have been doing. That is why we are going to give you more work to do.

Mr. GENACHOWSKI. Thank you.

Mr. WAXMAN. Thank you very much, Mr. Chairman.

Mr. WALDEN. Thank the gentleman.

The Chair recognizes the gentlelady from Tennessee, Ms. Blackburn.

Mrs. BLACKBURN. Thank you, Mr. Chairman.

Chairman Genachowski, as we are talking about budget and I was getting ready for the hearing, I saw some data from the IRS that suggests that there is a growing trend with regard to FCC employees failing to pay their Federal taxes. Were you aware of this?

Mr. GENACHOWSKI. No.

Mrs. BLACKBURN. You were not, OK. Well it seems that with the majority of your employees making over \$125,000 a year, and with there being a growing percentage of them not paying their taxes, I would think that since the President has as one of his goals for people to pay their fair share that we would appreciate if this is an issue that could be addressed. I would like to have your commitment and maybe something in writing that you are going to address this and that we are going to get in behind it and get it cleaned up.

Mr. GENACHOWSKI. I haven't heard that. We will certainly look into it.

Mrs. BLACKBURN. And will you respond back to me on that?

Mr. GENACHOWSKI. Yes.

Mrs. BLACKBURN. Thank you. I appreciate that.

Looking at regulations that we have got out there, did—have you paid attention to the Canadian radio and TV service, and they have just gone through a process where they are eliminating and streamlining 60 percent of their rules. And I think that that is certainly something that—it caught my eye. I hope it is catching the eye of you and your employees. Now, you are going to ask for 140 new employees, is that correct?

Mr. GENACHOWSKI. That is not correct. I would be happy to explain.

Mrs. BLACKBURN. OK, what is the number of new employees that you are requesting?

Mr. GENACHOWSKI. The number of employees that we expect to have next year based on the appropriations we are requesting is flat to this year. There is a higher number that appears that is essentially a ceiling for flexibility, but our appropriations are targeted and in fact, the budget says that we are planning on being flat for the next year.

Mrs. BLACKBURN. OK, so you have got the flexibility in case you need to add people?

Mr. GENACHOWSKI. In the circumstances where that could theoretically arise, because it doesn't change our appropriations. If, for example, we determine that we could save money by in sourcing contractors—we have reduced contractors by about 50 percent over the last year, so conceivably we might say we might save money if we took contractors, made them FTEs, so under our budget we could do that because—

Mrs. BLACKBURN. OK, well let me ask you this. In your budget, you had stated a top priority was to, and I am quoting, "conduct a review of rules and regulations within each FCC bureau and office with the goal of eliminating or revising requirements that are outdated." With what the Canadian radio and television agency has done, I hope that that is going to be a top priority.

My question and my curiosity was if you were going to bring in people to make that stated objective a deliverable and an outcome that a year from now, we can say the FCC has indeed done this?

So my question is what is the degree of priority that you are going to—budgets are about priorities, and we would like to see removing outdated rules and regulations a priority.

Mr. GENACHOWSKI. So if I may, this has been a priority from day 1. One of the first hires that I made was a special counsel for government reform and she was tasked with exactly this. We have someone again who is in that role now who is accountable for ongoing review, ongoing elimination of rules. I would be happy to look at the Canada situation. I know that other agencies around the world have looked at our reforms. But I agree with you that one, it is a priority, and two, that if—that one has to organize for it and set goals in order to achieve them.

Mrs. BLACKBURN. Well, and there is a lot of outdated things we would like to get off the books.

One more question. I understand that Section 9 of the Communications Act requires regulatory fees to be apportioned among industries based on full-time equivalent employees. Here is what I don't understand. Your budget proposal suggests that the wireless bureau and the media bureau each have more employees than the wire line bureau, and wire line providers pay more in regulatory fees than their competitors, so how do you reconcile this with the Act?

Mr. GENACHOWSKI. I would like to get back to you on the specifics. In general, I do think it is possible that a—I don't know if rebalancing is the right word, but looking at the way we do the fees to make sure that they are fair as the markets change is an appropriate goal and that is something that we are looking at.

Mrs. BLACKBURN. OK. I think that, as you know, one of the things we would love to see is for the reach and the scope to come down, your costs to come down, see you go through the type of reduction we have done in Congress. We have cut our budget 11 percent. We would like for you to do the same.

I yield back.

Mr. WALDEN. Chair recognizes the gentleman from Michigan, Mr. Dingell.

Mr. DINGELL. Mr. Chairman, I thank you.

I have some questions, Mr. Chairman Genachowski. I ask that the questions be responded to by yes or no.

I note your fiscal year 2013 budget requests cuts in the wire line bureau's funding by 9 percent, while increasing the budget of your office and that of the other commissioners. Now am I correct in assuming that the wire line bureau is heavily involved in the implementation of the Universal Service and Intercarrier Compensation Order? Yes or no?

Mr. GENACHOWSKI. Yes.

Mr. DINGELL. Mr. Chairman, does the 9 percent increase in the wire line budget mean that the Commission will complete by the end of this fiscal year all work associated with the USF and ICC Order, as well as the necessary follow on reforms of the USF contribution system? Yes or no?

Mr. GENACHOWSKI. Yes, that is our goal, I believe.

Mr. DINGELL. I am sorry?

Mr. GENACHOWSKI. I believe that is our goal. We have a timetable for the implementation.

Mr. DINGELL. So it is a yes, or hopefully yes?

Mr. GENACHOWSKI. Hopefully yes.

Mr. DINGELL. Hopefully. Is that—is the cut that you are making in the budget there going to expedite or retard the completion of that responsibility?

Mr. GENACHOWSKI. We sought to—neither. We sought to make sure that we have the resources we need to move efficiently.

Mr. DINGELL. Now, Mr. Chairman, I would like to discuss Executive Order 13589 issued by President Obama November 15, 2011. The order seeks to promote fiscal responsibility amongst the sundry executive agencies. Now this strikes me as imminently sensible; however, Section 8(c) of the order requests independent agencies to adhere to it. Does the Commission intend to adhere to Executive Order 13589? Yes or no?

Mr. GENACHOWSKI. Yes, and we have announced that previously.

Mr. DINGELL. Now, Mr. Chairman, Section 2 of the order instructs agencies to reduce their travel, technology printing, and certain other costs by 20 percent, compared to 2010, 11. I commend you for reducing yours and the other Commissioners travel budget by 10.6 percent. Will similar cuts agency-wise help achieve the order's 20 percent reduction goal? Yes or no?

Mr. GENACHOWSKI. I am not sure I completely understand the question, but we are focused on operating efficiently, meeting our obligations with respect to international treaties like the WARC, but reducing travel budget is something that we are certainly looking at.

Mr. DINGELL. I will ask, Mr. Chairman, that you provide documentation for the record to confirm this. You will have a chance to look at it and give it perhaps to your purposes a more satisfactory response.

Mr. GENACHOWSKI. Thank you.

Mr. DINGELL. Now, Mr. Chairman, Section 3 of the order encourages agencies to devise strategic alternatives to government travel, including local technological alternatives such as teleconferencing and video conferencing. Has the Commission begun any analysis on this particular matter and compliance here?

Mr. GENACHOWSKI. Yes, we have begun to implement that and we would like to implement—we would like to take advantage of it more. It will require resources to be able to conduct effective teleconferences.

Mr. DINGELL. Thank you, Mr. Chairman. Would you please provide a copy of the preliminary results for the record?

Mr. Chairman, I note Section 3 of the order directs agencies to designate a senior level official to be responsible for the development and implementing policies and controls related to travel costs. Has the Commission complied with that mandate?

Mr. GENACHOWSKI. I believe we have.

Mr. DINGELL. Would you tell us the name of the senior level official, if you could insert that for the record who will have that responsibility?

Mr. Chairman, if so, which official has been—well, I have asked that question already. Now on a different topic, Mr. Chairman, are you familiar with the voluntary incentive auction legislation this committee approved last year? And I assume you are, are you not?

Mr. GENACHOWSKI. Yes.

Mr. DINGELL. Mr. Chairman, do you recognize the strong possibility of interference in border areas of this country with Canadian and Mexican television stations which might be associated with repacking the markets along border areas? Yes or no?

Mr. GENACHOWSKI. We recognize that that is an issue.

Mr. DINGELL. Now, Mr. Secretary, this is a matter of very special concern to me and a number of other members from border States. Can you assure me that as a result of the repacking process, none of my constituents in Michigan will lose access to over the air television signals? Yes or no?

Mr. GENACHOWSKI. That is the goal and of course, we will faithfully implement the provisions of the law that is adopted.

Mr. DINGELL. Now, Mr. Secretary, can you give me and my colleagues on this committee the same insurance—assurances, namely that none of their constituents will lose access to an over the air television signal? Yes or no?

Mr. GENACHOWSKI. Again, that is the goal and we will be guided by the act that is adopted.

Mr. DINGELL. Now, Mr. Chairman, you understand that there are two problems that plague us all. One here is that we will have loss of access to over the air television signals, but the other is that there will be the creation of significant interference, which will cause trouble to all manner of services if that is not addressed. Are we going to have the service continuing but somewhat defaced by interference? Yes or no?

Mr. GENACHOWSKI. I think yes. I didn't hear the last part of the question, but I—

Mr. DINGELL. Well, let us find what that yes means. The yes means that we are going to have the service, but we are also going to have interference. Is that right?

Mr. GENACHOWSKI. Well, the yes means that we are aware of these concerns and an important part of our work will be to address them consistent with the provisions in the statute.

Mr. WALDEN. And Mr. Chairman—

Mr. DINGELL. I have used more time than I am entitled to. For your courtesy, Mr. Chairman, I thank you.

Mr. WALDEN. Thank you. And we are going to go now to Mr. Scalise. You are up next.

Mr. SCALISE. Thank you, Mr. Chairman, and thank you, Chairman Genachowski for coming before us to talk about your budget.

I want to follow up on some questions Mr. Terry was asking on the free cell phone program, as I know a lot of my constituents refer to it. What is the actual amount of the tax that people pay to provide that service?

Mr. GENACHOWSKI. Well as the Chairman mentioned, there is an overall contribution rate that funds several things, high cost fund for rural areas, schools, libraries—

Mr. SCALISE. Right. Do you have any kind of a breakdown, though? Is it just as it relates to the free cell phone program, because that—we have seen a mushrooming, a 1,000 percent increase in that program over the last 15 years, and it just seems like that specific program has been rife with waste, fraud, and abuse. I know you said you are looking into it and hope to achieve \$2 billion in

savings. I mean, the fact that over a 3-year period you feel you can get 2 billion in savings says there is tremendous waste, fraud, and abuse, and you know, especially in tough economic times you have got people that are struggling, they are maybe working two jobs, and they are struggling to pay their cell phone bill, and yet they are paying an increased tax to provide somebody else with a free cell phone. In some cases, you might have a family with four or five free cell phones in the household that they are paying for. A lot of people find that real offensive, and it just seems like can we quantify how much in taxes are people paying for that particular program that has mushroomed over the last 15 years.

Mr. GENACHOWSKI. So a couple of points. I completely agree with your point that in looking at these programs, we both have to look at the recipients and the consumers who are paying into it. And that has been a core part of our work and it is why we have been so serious about removing any waste or inefficiencies from the program.

Mr. SCALISE. Can you get me or the full committee the actual costs to consumers, how much people are paying for that—

Mr. GENACHOWSKI. Yes.

Mr. SCALISE (continuing). That component, and you know, of course we can see if we can break it down for how much an individual would pay, but definitely the broad costs or what the total cost of the program is. And then if you were to achieve that \$2 billion in savings by rooting out the waste, fraud, and abuse, which unfortunately should have been done years ago, but if it is done tomorrow or over the next 3 years, would your Commission actually reduce the amount of taxes people are paying under that program to accommodate for the \$2 billion in savings?

Mr. GENACHOWSKI. Yes, we don't—the contribution rate is set by the payouts, and so these savings will translate into lower contributions that otherwise we would have—

Mr. SCALISE. Is that automatic, because it seems like an open-ended entitlement as the program has mushroomed by 1,000 percent increase, basically just forces an increased tax on what folks were paying.

Mr. GENACHOWSKI. The savings are—and the reflection of contribution rate are automatic. We can't control things—

Mr. SCALISE. So it is not at the discretion of the Commission? If the usage goes down by \$2 billion, the tax will go down by 2 billion, or does your Commission have to actually do something to lower it?

Mr. GENACHOWSKI. My understanding is that the answer is yes. Whether or not technically the Commission has to do something, I don't know, but there is a direct—

Mr. SCALISE. And we will take a look, because clearly if it is not automatic, I surely would like to see us bring legislation forward that would ensure that the taxpayers would get that 2 billion in savings, it wouldn't just be spent in other places.

Looking at your budget, you have 12 full-time employees requested in the wire line bureau under the goal to maximize the benefits of spectrum. That seems like a duplication of—between wire line and wireless. Is there any reason why that request is

there to do something that looks like it is duplicated somewhere else?

Mr. GENACHOWSKI. I would like to get back to you on that. In general, we see more and more overlap between what happens, for example, for a healthy and successful wireless infrastructure. The wire line back haul is very important, because of course the signals go into a tower and then they go into the wires. So that could explain what you are pointing to, but we will get you a specific explanation.

Mr. SCALISE. I appreciate that.

Switching gears, I want to talk a little bit about video regulation. I would just like to get your take on the marketplace when you have got MVPDs negotiating between broadcasters. Would you consider the current relationship a true free market, or is there some government intervention there?

Mr. GENACHOWSKI. Well as you know, we have exercised humility, regulatory humility in the area of retransmission consent negotiations. Certainly some have argued that there isn't a true free market there, that there are advantages that one side has over the other. We have opened a proceeding to monitor it. We haven't yet seen a strong enough case for government intervention.

Mr. SCALISE. But there is—I mean, there are rules right now for channel placement, basic to your must carry. Those are government mandates that interfere with a pure free market. I don't know if you would agree with that or not.

Mr. GENACHOWSKI. I think there is certainly the argument is that provisions like that distort the market when it comes to retransmission consent negotiations. That is the subject of an open proceeding that we have right now.

Mr. SCALISE. And a final question. I know this is something that Congress would have to decide, but if Congress were to repeal compulsory copyright license and retransmission and go to kind of a broader free market, in that relationship between—with the satellite and the cable carriers and the broadcasters, wouldn't there still need to be a negotiation over a copyright license? If we were to repeal those laws, would the carriers just be able to get it for free or would they have to have still some negotiated agreement to carry that signal from a broadcaster?

Mr. GENACHOWSKI. I presume there would have to be an arm's length negotiation in any situation.

Mr. SCALISE. Yes, because there would still be traditional copyright laws that would be in effect, wouldn't that be the case?

All right, I appreciate it. I yield back the balance of my time.

Mr. WALDEN. The gentleman yields back, and I am sure he doesn't know anybody that has a bill that would do any of those things, but we—

Mr. SCALISE. We could sure get one out there and have a hearing on it, if you would be so gracious, Mr. Chairman.

Mr. WALDEN. We now go to the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman. Thank you, Chairman, for coming here. I was talking to some colleagues before I was moseying over, and I just told them, you know, you were going to be appearing before us. I said a lot can be learned about friendliness,

returning phone calls, gracious smile. I mean, even though I am public policy, there is always fights. You handle yourself with great decorum, and I just—I appreciate that and I think that helps us in the bipartisan nature in trying to deal with some of this stuff, so—

Mr. GENACHOWSKI. Thank you.

Mr. SHIMKUS. This is—Congresswoman Blackburn and actually Congressman Scalise kind of hit on this, and you answered a little bit about the employees in the landline, as I would use the vocabulary, and how, you know, everything is moving to cellular technology. And of course, you know, my interest in broadband applications to rural America. You did mention how there is a backbone so there is still a need, but is there—I guess in looking through the budget, seeing the number of full-time employees that are dealing in the wire line, is there a plan to be able to shift full-time equivalent positions while keeping what you need for the backbone, but also there is still more of an explosion in the area of broadband and wireless technology.

So I guess that is the question is how many—not exactly, but this shifting of that, is that a possibility in what you have got planned?

Mr. GENACHOWSKI. Well these are exactly the kinds of issues we talk about in the budgeting process, and we run it as a company would run it, and different bureaus make their case for what they need, and we regard our job as doing capital allocation as against overall targets. So it is—I would say that, you know, no one—none of our specific areas are completely satisfied with their budget, but we also think at the end of the day they have what they need to get their work done.

Mr. SHIMKUS. And again, obviously the turf fights that are involved in government and also in private sector, trying to—we would hope to see that move and that a new technology area maintaining enough to maintain, like we talked about, they need a backbone, but we want to make sure that we have the people on the ground. And of course, we are not in a growing government mode, as everyone agrees, so that—the shifting would be a better aspect of being able to do that.

Following up on last July, the Commission promised to open a further rulemaking on rebalancing the regulatory fees before the end of 2011. Can you give us a status report on where that is at?

Mr. GENACHOWSKI. I asked about this, and the status report that I got is it is being actively worked on. We recognize that it is something that we should move forward on, and I have asked the team to accelerate that.

Mr. SHIMKUS. And the final question I have is really the fees used to manage the spectrum auctions. Obviously based upon what may happen pretty soon, that is going to be really important. We have seen some years where there is a big need, and some years may not be as big. But you can correct me if I am wrong, but there seems to be a consistent \$85 million per year every year. And the concern is, is that really an evaluation of the costs needed to do the spectrum auction, ramping up or ramping down, some years that may not be enough. We may be coming to one. Some years it may

be way too much, so can you give me some analysis on that pot of money and the whole spectrum debate?

Mr. GENACHOWSKI. Yes, of course, a few thoughts. One is the auction work is very active all the time, even when it is not in the newspapers. For example, we held several auctions last year. They were not super high value auctions, but they require the machinery, they require the expertise, and they require them to be professionally handled. And then the auction teams are always getting ready for the next auction and licensing and implementing the last auction.

We do find that almost every year the requests from the auction team for funding are higher than the \$85 million cap, and I have mixed feelings about it because on one hand, auctions have proven to be such a high return on investment for the country. If we could put more resources into it, could we move faster on auctioning spectrum? Possible, although given fiscal constraints, we are working within the cap that is there, and yes, we will have a challenge next year assuming incentive auction legislation passes to do what we need to do, but we will burn all the candles, the midnight oil, whatever it is that one has to burn to get it done.

Mr. SHIMKUS. So you are basically saying the 85 is really a ceiling that really is accounted for every year, regardless of what the perception maybe is the real value of an auction? You are saying that that is a pretty good baseline for what you need every year?

Mr. GENACHOWSKI. Yes, and we have internal processes to make sure that it is appropriate, yes. And we didn't go back and look at what the value would be if we increased that by 10 or 20, you know, in this fiscal climate we think our obligation is to work with what we have to be efficient everywhere. Because we are working through assuming the legislation is passed. We are working through it. If issues come up, you can be sure I will be back and we will work on it together.

Mr. SHIMKUS. Thank you. Thank you, Mr. Chairman.

Mr. WALDEN. I now recognize the gentleman from Ohio, Mr. Latta.

Mr. LATTI. Well thank you, Mr. Chairman, and thank you, Mr. Chairman, for being with us today. I appreciate it, and also to hear your testimony.

There has been a lot of discussion, first, with the USF and I might change gears just a little bit here and might get back to it, but I find in your testimony it is kind of interesting. You were talking about the small business cyber planner, and to ward off cyber tax. I served on the Republican Cyber Security Task Force not too long ago. It is an ongoing problem.

I guess a couple of the questions are how are you getting that information out to businesses, that they know they should be contacting, who they can contact? Who—is it someone specifically at the Commission that is in charge of it? Are you working with other departments and agencies so you are not—once again, like sometimes we do in government, reinvent the wheel each time someone touches it, then somebody else does it, instead of having it all put together?

Mr. GENACHOWSKI. It is a great point, and I feel very strongly about this. In the cyber planner, we did that together with the

Small Business Administration, the Chamber of Commerce, the National Urban League, some other companies. We wanted to start with a base of people who said listen, here is one piece of paper. You don't have to look at a lot of different pieces of paper. Since then, we have been working to extend the distribution. We just met 2 days ago and I asked my team for a game plan to take distribution to the next level. What agencies, can we work with members of Congress and ask you to distribute it in your communities? What else can we do? We did something similar with FEMA and emergency communication tips, where I approached Craig Fugate at FEMA and said let us work on this together. We put out a joint tip sheet to help consumers prepare for disasters, and we are now putting in a place—a plan in place to get other agencies, Federal, State, and local to look at those, work on having a common set of advice for consumers, and then use all our collective distribution capacities to get it out. And I very much enjoy working with you on this.

Mr. LATTA. Well, that is important, because I know the more that I have talked with a lot of my constituents there is just little—you know, they are not really aware of it. They—it happens to somebody else, it never happens to me, or they don't even know it happened to them, you know. They are hit by someone from another country and we just had hearings in this committee last week, a week ago Wednesday it was, and how fast these cyber attacks occur. I think it is really important that we make sure that these small businesses—but also I think that we always talk in some cases about the small businesses. I think some of the larger businesses out there don't realize what risk they are at. So I think it is incumbent on us also to make sure we get that information out to everybody out there to make sure they understand that there is a real problem.

But I am sorry, did you say that you do have somebody at the Commission that is designated as the point person so you will be all coordinating and working together like with Homeland Security or whoever else?

Mr. GENACHOWSKI. Yes—

Mr. LATTA. OK, thank you.

And going back to the gentlelady from Tennessee and her line of questions and talking to you had mentioned your testimony about that you eliminated more than 200 outdated rules and five unnecessary data collection. Now this is going in the reverse way whatever we were just talking about.

We hear from a lot of different businesses, and again, small and large, that there is a lot—one of the things that really costs them a lot of money and a lot of time is they have six agencies or departments that they have got to comply with. Is that something that you all are looking at within the Commission to make sure all of a sudden that, you know, there are other agencies and departments out there that are trying to do the exact same thing that are incurring more costs on these individuals out there, small businesses, to prevent them from going out and making a profit?

Mr. GENACHOWSKI. Yes, I will give you a bit of what we did yesterday. We found that—yesterday—the way that the landscape

works—different circles. So in doing now what was yesterday—essentially the same over what they did——

Mr. LATTI. Mr. chairman, I see my time is expired, and I yield back.

Mr. WALDEN. Gentleman yields back his time.

Mr. Chairman, thank you for being here today. We look forward to continuing our good work together, and if all comes to fruition on the spectrum bill as part of the overall agreement. I have no reason to doubt it won't. We will be spending a lot of time, because I don't think anybody has ever done an incentive auction before and we want to make sure we are in partnership with you to get it right, so thank you very much.

Mr. GENACHOWSKI. Thank you.

Mr. WALDEN. We will call up our second and final panel of witnesses, the Inspector General for the Federal Communications Commission, Mr. David L. Hunt, and the Chief Executive Officer of the Universal Service Administrative Company, Scott Barash.

I will just give you the microphone guidance here. The closer you can get to them, the better they work, and the light needs to be on, so then we will be able to hear you. You really have to get close to these microphones.

Mr. Hunt, thank you for being—well, thank you both for being here. Mr. Hunt, thank you and we will start with your testimony today, sir. I am not sure that microphone is on. Push the button there. No.

Mr. HUNT. Is that OK?

Mr. WALDEN. That is much better, thank you.

Mr. HUNT. Oh, the light was on before.

STATEMENTS OF DAVID L. HUNT, INSPECTOR GENERAL, FEDERAL COMMUNICATIONS COMMISSION; AND D. SCOTT BARASH, ACTING CHIEF EXECUTIVE OFFICER, UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

STATEMENT OF DAVID L. HUNT

Mr. HUNT. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to come before you today to discuss the activities and budget of the Office of Inspector General for the Federal Communications Commission. I have been the Inspector General at the FCC since June of 2009, first in an acting capacity and then a permanent role since January 2011.

Somebody mentioned to me when I first walked in, I understand you are a veteran of these and I am not. This is my first time at a hearing, and I really appreciate the opportunity. I have a very well-written speech by my staff, but as a former trial attorney I am better just going off my notes and that is what I am going to do. The silent groan you hear behind me is my staff who wrote my speech.

What I would like to talk about primarily because I think I may have given you more information than you may have wanted in my written statement, just about my staff and their dedication. It ties to the fact that we have a very small staff looking over a very large amount of money. In the past 2 years alone, I have had an auditor who—we had a filing that was due at midnight, a mandatory filing.

She had suddenly gotten sick, was sent to the hospital. She, on her own accord, ripped the IVs out of her arm and came back to work to make sure everything was filed on time. I have an auditor who has worked on E-Rate for over a decade. He has spent, on average, 6 to 9 months of his life on the road, tracking down fraud, waste, and abuse in schools and libraries. I have an attorney who dictated an affidavit from a hospital bed with the nurse taking notes, running faxes to and from a judge in Texas, because he required the affidavit before he made a filing on a motion in court. I had sent half of my staff to Texas to support the Department of Justice in another USF investigation because of the number of staff that we had left, I had to send interns with them. These attorneys and auditors, including just regular staff people, had to crawl under wireless equipment, had to crawl under buildings, had to pull wires and just check everything. You would be surprised how many times you go to a school and see all the lights on, and you go behind it and there's nothing plugged in except a—somebody wrote a program to make the lights go on and off. I have had an attorney who had to do a conference call, and had to do the conference call in the emergency room while the nurse was placing nitroglycerin under his tongue. Our staff works very, very hard with what assets we have.

You are asking for actually very few people to oversee billions and billions of dollars. Any other IG office out there would have several people, if not dozens of people, working on the stuff that we rely on one or two people to do.

Anyway, I just want you to know that we really appreciate the chance to come here. We work very closely with the Department of Justice, the Department of Education, Department of Interior. We are trying to save money all the time. We are trying to run as efficiently as humanly possible. Financially-wise we can't do anything less, because like I said, we are operating on such a tight budget. But I want to let you know that the staff you have at the FCC Office of Inspector General are as dedicated a staff as you will ever see in the Federal Government, and we appreciate this chance to talk. I look forward to coming back and talking again, if I have the opportunity.

Thank you very much.

[The prepared statement of Mr. Hunt follows:]

Written Statement of
DAVID L. HUNT
INSPECTOR GENERAL
FEDERAL COMMUNICATIONS COMMISSION

Before the
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
of the
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES
On
THE BUDGET AND SPENDING OF THE FEDERAL COMMUNICATIONS COMMISSION

February 16, 2012

SUMMARY

Over the years, the Commission has taken on what, in effect, are significant grant making responsibilities, including the USF and TRS programs. I have been asked to ferret out waste, fraud and abuse in programs involving annual disbursements of over \$9.3 billion (\$8.73 billion for USF and over \$ 600 million for TRS). With very limited staff, OIG has demonstrated that it can make significant strides in protecting the USF and TRS Funds and those who fund them. The VRS investigation is, perhaps, the best example of OIG's capabilities. Using no more than two full-time attorney investigators, and with significant assistance from the FBI and Department of Justice, we were able to bring indictments against 26 individuals and one corporate entity and caused VRS claims against the interstate TRS Fund to fall 18% (over \$130 million) in the 2009-2010 rate year alone and the exponential growth the Funds experienced from 2003 to 2009 was stemmed. Those savings were repeated in the 2010-2011 rate year and should continue as long as the Commission and OIG remain vigilant.

While I don't want to over promise and while I acknowledge that in High Cost USF it's more difficult to establish a false claim or fraud, with the right people and the right tools, I believe OIG can apply the lessons learned from VRS to the Commission's USF programs and greatly improve the effort to detect and deter waste fraud and abuse in the USF programs. Indeed, with the temporary employees Congress has authorized us to hire, we have already begun to do so. We are working today with the DOJ and with AUSAs across the country on both civil and criminal false claims cases involving the all USF programs. Most of these investigations are highly confidential and cannot be discussed publicly. All take time to develop and require boots on the ground.

We (the Commission, USAC and OIG) need auditors and investigators in the field doing on site work, at schools, libraries, and service provider locations across the country and abroad. This is particularly the case in E-rate, Low Income and the TRS programs. Some TRS providers have operations outside the continental United States. Thus, we need travel money to do site work, for example, in the Philippines.

We also need improved data mining and computer forensic computer capabilities. We are dealing with hundreds of thousands, if not millions of transactions and massive amounts of data. As the Commission has done in its Low Income fraud prevention program, we all need to improve our ability to develop computer programs to examine the data associated with myriad transactions and USF and TRS payments associated with them to identify outliers and potential fraud.

Finally, we believe the Commission needs to develop a more robust suspension and debarment regime that allows it to stop waste, fraud and abuse as quickly as possible. We need a process that extends beyond E-rate and includes all USF programs and TRS. We need a program that does not, as the E-rate suspension and debarment regime currently does, rely on criminal convictions to debar those who defraud Commission programs.

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to come before you today to discuss the activities and budget of the Office of Inspector General for the Federal Communications Commission (FCC, or Commission). I have been the Inspector General at the FCC since June 2009, first in an acting capacity and in a permanent role since January 2011. I will discuss our oversight and investigative activities for the FCC's major program areas, and then I will discuss the budget for OIG and some of the challenges we face in providing efficient and effective oversight of the Commission.

Video Relay Services

Background

Title IV of the Americans with Disabilities Act of 1990 (ADA), codified as Section 225 of the Telecommunications Act, requires the FCC to ensure that interstate and intrastate telecommunications relay service (TRS) are available, to the extent possible and in the most efficient manner, to persons with hearing and speech disabilities in the United States. Rules promulgated under Section 225 require all common carriers providing voice telecommunications services to provide TRS in the areas in which they provide telephone service. The rules, adopted in 1993, were designed to provide access to the telephone system as it existed at the time - that is when telephone calls were made using a 10-digit phone number, identified with a physical location, and more often than not, an identified customer. The ADA provides that - just as a wheel chair-bound individual cannot be charged the costs of a wheel chair ramp at a restaurant - deaf, hard-of-hearing or speech impaired callers cannot be charged for the costs of TRS. Rather, the costs of providing interstate TRS are to be paid by all users of interstate telecommunications

through the TRS Fund. Local TRS calls were (and are) paid for by the states, and long distance TRS calls are paid for by the FCC's Interstate TRS Fund.

With the advent of the Internet and the availability of broadband communications, the FCC approved funding for Video Relay Service (VRS) in 2001. VRS is a form of and encompassed within TRS and enables persons with hearing disabilities who use sign language to communicate with voice telephone users through video equipment, rather than through the older method of typed text. VRS receives about 75% of TRS funds disbursed because of increased costs of providing same. TRS Fund disbursement data is provided in the table below.

<u>TRS Funding</u>			
<u>Rate Year</u>	<u>TRS Fund</u>	<u>VRS Payments</u>	<u>IP Relay Payments</u>
2007-2008	\$636.7 million	\$504.4 million	\$94.5 million
2008-2009	\$805.5 million	\$622.5 million	\$84.1 million
2009-2010	\$891 million	\$612.5 million	\$ 71.8 million
2010-2011	\$683 million	\$559 million	\$69.8 million
7/2011-12/2011	\$343.6 million	\$277.7 million	\$26.3 million

For the 2005 and 2006 TRS rates years, VRS providers were compensated \$6.64 per minute for minutes billed. Tiered VRS compensation rates were implemented in the 2007 rate year and the highest tiered rate was reduced to \$6.24 per minute. Nonetheless, the cost of an hour-long phone call is greater than \$374. Interestingly, the TRS Fund administrator completed a study in 2010 that found that TRS rates could be cut in half and not impair service.

Other types of TRS include Internet Protocol (IP) Relay Services (included in the table above), a service in which an individual with a hearing or speech disability uses the Internet or a web-enabled mobile device to type a message to a Communications Assistant (CA). The CA then calls a hearing person and relays the text message by voice and vice versa.

Criminal Investigations

Having received allegations of fraud in the provision of VRS, OIG commenced an investigation in August, 2008. An overarching tenet in the provision of TRS is the notion that in order to provide functionally equivalent service, CAs, who interpret relayed conversations for individuals with a hearing or speech disability are required to act as “transparent conduits.” Thus CAs are prohibited from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of a call.

By December, 2008, the investigation revealed evidence sufficient to justify referring the matter to the Fraud Section of the Criminal Division of the Department of Justice (DOJ). The case was formally accepted by DOJ in January, 2009, whereupon, in addition to attorneys in the Criminal Division, four special agents of the FBI and an agent of the U.S. Postal Inspection Service, were assigned to work on the investigation. OIG investigators maintained a constant and active role in the VRS investigation.

In the summer of 2009, search warrants were executed and raids were conducted at the offices of Viable Communications, Inc. (Viable) an uncertified provider of VRS billing the interstate TRS Fund through CAC, a certified VRS provider, and at the offices of several of Viable’s affiliates.

The raids were conducted by DOJ, with over 40 Federal Bureau of Investigation agents and the FCC OIG present to support same. Additional wide-ranging investigations across the country led to six indictments and the arrest of 26 individuals from nine states in November, 2009. All but one of the indictments dealt with schemes involving Viable. The other dealt with paid callers billing through an unidentified certified TRS provider based in New York City that provided VRS through home-based Video Interpreters (Vis) throughout the country.

The individuals (and one corporation) charged in connection with the operations were alleged to have participated in schemes to steal tens of millions of dollars from the TRS Fund. In one allegation, owners and employees of Viable were alleged to have paid individuals, including Viable's own employees, to make calls through Viable for no purpose *other than* to generate revenue. These calls took various forms, such as computer-generated calls in which no VI was present, nor was any communication taking place. It was, essentially one computer hooked up to another to give the impression of a connected call. These were, in actuality, "run calls" in which paid callers placed calls to podcasts, conference calls, books on tape, etc., for the sole purpose of running up fraudulent minutes. Callers often did not even pay attention to the VI interacting with the call participants. Often the VI would stop interpreting completely without receiving a complaint from the caller. Use of double privacy screens was another method whereby fraudulent calls were being made. In these calls, a deaf caller and the VI would put up privacy screens, so that neither the VI nor the caller could see each other resulting in zero communication. In other instances, callers would admit they were being paid to make calls, and in some, callers would instruct VIs not to bother interpreting their call.

In June, 2010, one defendant at trial was found guilty on all but one count. The 25 remaining defendants (with one exception of an individual who was given probation) as well as the sole indicted corporation, pleaded guilty to having defrauded the TRS Fund. While the majority of the defendants are still awaiting sentencing, the principals of Viable, John and Joseph Yeh were sentenced in late November to nine years and four years seven months of jail time, respectively. The Yeh brothers were significant individuals within the VRS world. At the sentencing, the government offered evidence establishing that the money derived from the fraudulent schemes was paid out of the \$55 million received by Viable from the TRS Fund. OIG's Assistant IG for Investigations was the sole government witness at sentencing, and presented the victim's loss statement. Both Yehs were ordered to pay, jointly and severally, \$20 million in restitution. While the Viable case is largely behind us, we know that several individuals and entities formally associated with Viable's operations remain active in the VRS industry. In fact, Viable acted as sort of a "training institute" for future wrongdoers.

On December, 14, 2011, an additional indictment was unsealed naming two defendants working with yet another certified VRS entity, alleging VRS fraud perpetrated through fraudulent marketing and outreach schemes.

The investigations into VRS fraud are continuing. The effects of these criminal enforcement efforts have been palpable. The TRS Fund increased from approximately \$64 million for the 2002-2003 Fund year (the first year VRS was widely offered), to just over \$890 million in the 2009-2010 Fund year (the year in which the initial arrests and the VRS investigation became public). The fund administrator projected TRS payments for the July 1, 2009 through June 30,

2010 rate year would be \$891 million. Implicit in this projection were estimated claims of \$712.8 million for VRS, because in recent years, claims for VRS had comprised 80% of all claims from the Fund. However, the fund administrator reported that VRS reported minutes of use fell over 18% after the initial arrests were made, and the investigation became known. This resulted in approximately \$138.3 million loss prevention/savings to the Fund in the 09-10 rate year alone. The only logical explanation for this precipitous decline is that usage slowed (dramatically over the years) because of fear that those individuals perpetrating the fraud would be prosecuted. Subsequently, based on information obtained in the course of the investigations, the Commission has adopted several declaratory orders and has implemented rules directly addressing VRS fraud. The exponential growth experienced by the Fund from 2002-2009 likely would have continued but for the deterrent effect of the criminal indictments and the ensuing Commission actions. And this at a time when deaf individuals are very much increasingly taking advantage of phone texting messaging to communicate. Rather, the size of the Fund has remained relatively stable. The actual VRS payments made in the 2010-2011 rate year were approximately \$556 million. Further, the projected savings as a result of OIG's VRS investigation are in perpetuity, saving taxpayers money year after year – in actuality and in the future potentially *hundreds* of millions of dollars every year.

Civil Investigations

In its continuing efforts to investigate VRS-related fraud, OIG referred three cases to the Civil Division of DOJ in late 2010 involving three different providers of VRS service for possible prosecution under the Civil False Claims Act. All three involve varying schemes to manufacture additional minutes for compensation from the VRS.

Lastly, OIG is assisting DOJ in resolving a pending *qui tam* case in which the relator alleges improper handling of IP Relay calls. This case could potentially result in a payback to the United States Treasury of tens of millions of dollars in damages, and result in the restructuring of the IP relay program that, to date, has paid providers approximately \$750,000,000 in TRS reimbursements. This is, of course, by the very monies alone at issue, a tremendously significant investigation for OIG.

Audits of the VRS

In 2010 the OIG initiated audits of all ten VRS providers to determine whether three years' worth of required cost information submitted to support reimbursements claimed from the fund were accurate and in compliance with regulations, memos and orders. This cost information is critical because it is used in developing the reimbursement rates. These audits were completed a month ago and determined that none of the providers were in compliance with reporting requirements.

We concluded that the cost reports certified and submitted to the TRS Fund Administrator by the VRS providers under audit did not fully comply with the instructions provided by TRS Fund Administrator, FCC Rules and Orders, and other applicable regulations. Based on our audit test results, the total dollar value of the exceptions noted is \$9.2 million. These reports have been submitted to the FCC for appropriate action.

In 2011, we initiated five more audits of VRS providers increasing the scope of the audits. Instead of auditing cost information submitted to the TRS Fund Administrator by the VRS providers, we revised the scope of our audits to address the use of VRS revenue received by the provider to determine whether funds were spent on activities and cost objectives that were related to the VRS program. The preliminary results of one of our reviews shows that at least one provider might have been overpaid by \$384 million over a two-year period for providing VRS services.

Summary

The overarching lesson learned from the criminal investigations is that the TRS program, as it exists today, remains too easy to defraud. Effective oversight is hampered by: (1) call detail records that only identify obviously suspicious calls (unusually long calls, many calls from or to the same number, calls to recorded messages) and that, because calls are susceptible to spoofing (misleading information) and caller ID blocking, may, according to the TRS Administrator, be of questionable validity; and (2) the simple fact that millions of calls are made monthly from call centers all over the country.

It clearly appears that the Commission has engaged in efforts to revise all aspects of the TRS program- both efforts to detect and reduce fraud, and efforts to restructure the program more broadly. However, much remains to be done and these activities are on-going.

The FCC has been very supportive of the OIG in their VRS reform efforts. OIG has offered many suggestions to help stop the fraudulent activity, and looks forward to continuing the effort,

to eliminate waste, fraud and abuse in the TRS program and to returning the program to that which Congress intended.

UNIVERSAL SERVICE FUND

Background

The Assistant Inspector General for Universal Service Fund Oversight (AIGUSF) has principal responsibility for providing oversight of the Universal Service Fund (USF) programs except for investigative matters, which fall under the purview of the Assistant Inspector General for Investigations.

In addition to the four USF programs (High Cost, Schools and Libraries, Low Income and Rural Health Care), OIG also has oversight responsibility for the required contributions to the fund by entities that provide telecommunications services. Under FCC rules those contributors include all telecommunications carriers providing international and interstate telecommunications services, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, interconnected Voice Over Internet Protocol (VOIP) providers, and payphone providers that are aggregators.

Additional information on our oversight of the USF, by program is, described below:

High Cost Program

OIG accepted responsibility to conduct eight High Cost (HC) audits as part of the Commission's improper payments process due to conflicts with Universal Service Administrative Company's (USAC) external auditors. As a Competitive Eligible Telecommunications Carrier (CETC), each of these entities is entitled to receive USF support based on the number of eligible lines it serves in a particular service area which in turn is based on the support the Incumbent Local Exchange Carrier (ILEC) would receive for each such line. Therefore each audit focused on the method by which eligible lines were counted and reported in each ILEC service area served. Payments from the USF to the eight entities under audit for the period 7/1/07 to 6/30/08 totaled \$46,263,300. Audit findings included duplicate and non-eligible lines included in USF claims. The auditees have indicated that new procedures have been implemented to address these findings. Final reports have been issued.

We initiated a project to develop statistically based tools to review and analyze cost submissions submitted by companies for the High Cost Loop Support (HCLS) and Local Switching Support (LSS) components of the High Cost Program. We planned the model to identify high risk accounts and potential audit targets – identifying specific accounts with the highest monetary significance and risk of fraud, waste, and abuse. Disbursements to cost companies are approximately \$935 million in HCLS and \$250 million in LSS annually.

Initial testing included a visit to an ILEC identified as one of the Top 10 receivers of USF HC disbursements on a per line basis. These analytic tools were being developed and tested by the

OIG statistician and the OIG HC team and were intended to assist in mid and long term risk-based audit planning to aid in the efficient use of limited resources. This was to be the first of a series of analytical, data mining tools that could also be applied to other HC support mechanisms; an effort that, despite its strong potential for increasing the efficiency and size of recoveries, has had to be delayed.

We need to restart oversight efforts of the HC program, including analytical, data mining projects, and monitoring the significant changes to the HC programs with the addition of new staff.

Schools and Libraries Program

Beneficiary audits conducted have provided on-the-job training opportunities and familiarity with the Schools and Libraries (SL) program.

As an example, an OIG audit report (completed as part of the Commission improper payments process) found that a school district that received \$7,780,000 in Fiscal Year 2008 was materially compliant with FCC rules and regulations and orders except that: (1) the District certified receipt of cabling based on estimates instead of actual charges resulting in an improper payment of \$432,423 for cabling costs; 2) the District's service provider did not remove ineligible items from invoices and as a result an improper payment of \$31,805 was paid from USF; and 3) the District received \$6,318 of free goods and services from the service provider and did not pay their share of the cost of ineligible items.

In another example, a soon to be issued final report finds the school district did not comply with program rules regarding: (1) application matters; (2) procurement and service provider selection matters; (3) asset and inventory records; and (4) receipt of services and reimbursement matters. For the internal connections application, the District failed to submit a signed and approved contract prior to the submission of its FCC Form (Form) 471 (Services Ordered and Certification Form). We could not determine if the district evaluated the cost effectiveness of the single bid it accepted for internal connections. The district failed to maintain adequate asset and inventory records to locate E-Rate equipment and ensure it was received and installed prior to USF disbursements. We found that the district certified receipt of equipment and USF payments were made without verifying the amount of cabling received resulting in service provider overcharges for cabling costs. We intend to recommend recovery of the total disbursement to the district of approximately \$2.1 million.

Another soon to be issued draft report will find that the charter school in question did not comply with program rules related to: (1) assets and inventory records, (2) reimbursement matters, and (3) record retention. The school violated state law by failing to have E-Rate services approved by its Board as required by FCC rules that require adherence to state and local law.

The team also monitors USAC Internal Audit Division (IAD) SL audit reports; Commission activity related to appeal of SL related audit findings and recommendations; and reform efforts impacting the SL program.

Low Income Program

On July 28, 2009, OIG decided to withdraw the USF 100% erroneous payment determination for the Low Income (LI) program from a December 12, 2008 report. The basis for the original determination of a 100% erroneous payment level in the low income program was that it had been concluded that the source documentation could not be provided as needed to permit verification of the calculations of the program amounts disbursed. After reviewing USAC's response to the OIG report and additional information, and considering that OIG did not conduct an audit or other structured examination of the disbursement system, it was decided to withdraw the 100% erroneous payment level for the low income program.

We have completed fieldwork and will soon issue a report on the LI disbursement system. The purpose of the audit was to determine whether the disbursement system was in accordance with applicable law, and met the goals of eliminating fraud, waste, and abuse in the federal universal service program. The current version of our draft report contains one significant recommendation consistent with an action already initiated by FCC – revising the disbursement system from a projection based system to a system disbursing funds based on actual data. We anticipate issuing our draft report shortly.

An OIG-initiated audit of a company that received LI program support found that it materially complied with the FCC's rules, regulations and orders related to information reported by the company on the FCC Form 497. The report did note, however, three weaknesses in internal controls. The company: (1) charged each subscriber a monthly Federal USF charge but could not document or explain how it was computed; (2) did not have adequate policies and procedures

to ensure compliance with the FCC's low income program rules; and (3) did not consistently follow its own procedures for documenting proof of subscriber eligibility (however it did comply with minimum procedures required by FCC rules). Our final report included three recommendations which the company had already implemented.

The team monitored the identification of the root cause and corrective measures taken to address a serious situation; specifically USAC discovered it made an error in its entire monthly disbursement of LI program funds. As a result, USAC was required to collect overpayments from 178 participants totaling nearly \$37 million.

Currently, we are conducting audit surveys of fourteen carriers participating in the LI program. We have received the requested data and are in the process of completing survey audit steps. Following this process, a go/no go decision will be made as to whether we will expand the survey to a full performance audit.

Rural Health Care Program

We have conducted no audits in this area. Note that this program is by far the smallest of the USF funding programs.

Contributors

FCC rules require telecommunications providers of international and interstate telecommunications services to contribute to the USF. This includes providers that offer interstate telecommunications for a fee on a non-common carrier basis and interconnected VOIP providers. OIG has completed twelve contributor audits.

Typical examination findings include failing to include all appropriate revenue in the contribution calculation (thereby reducing the contribution amount) and errors and inaccurate certifications in submitting required forms and documentation. For the twelve completed audits, we identified approximately \$18 million in under-reported revenues.

Coordination with USAC IAD

In 1998, USAC was designated as the permanent Administrator to administer the four universal service programs: high cost, low income, rural health care, and schools and libraries. The USAC Internal Audit Division (IAD) provides audit services for the USF programs as well as the internal operations of the administration of the Universal Service Fund.

In February 2010, the FCC directed USAC to establish a comprehensive universal service beneficiary and contributor compliance audit program, known as the Beneficiary Compliance Audit Program (BCAP). The primary objective of BCAP is to evaluate universal service beneficiary and contributor compliance with FCC rules. The audit plan developed covers 343

audits across the support mechanisms and contributors. Consistent with the approach of the OIG universal service audit program for obtaining audit resources, USAC proposed conducting the initial round of 343 BCAP audits almost exclusively with external audit firms. In an attempt to become more cost efficient and to avoid delay in implementing the audit program, USAC management, with USAC Board of Directors approval, implemented a plan to move from a fully outsourced staffing model to a partially in-sourced staffing model.

IAD's authorized strength was increased by 23 to 51 positions to: (1) conduct targeted audits; (2) increase the capacity to conduct approximately 125 first-round BCAP audits, and (3) manage the remaining 200+ audits outsourced to the audit firms.

The AIGUSF meets on a regular basis with the IAD Vice President to share and discuss audit plans, status, and current issues.

Support to Investigations

The AIGUSF team provides assistance to OIG Investigations on an as-requested basis. Typical audit support includes providing assistance on site visits, preparation and analysis of spreadsheets and memoranda, and assisting with preparation of material for DOJ presentation.

National Exchange Carrier Association, Inc. Review

OIG prepared a report in response to a Congressional mandate directing the OIG to report whether, and to what extent, the National Exchange Carrier Association, Inc., (NECA) was acting in compliance with the Communications Act of 1934, as amended (the Act), and associated regulations, and whether, and to what extent the FCC has delegated authority to NECA consistent with the Act.

The report provided a history, membership information, and information on the various NECA activities. Briefly, OIG found no mention of NECA in the Act or in any amendment subsequent to NECA's establishment pursuant to the Commission order adopted in 1983. Also, that the Commission has not delegated final decision-making authority to NECA. There is no express Congressional intent that the FCC delegate decision-making authority to NECA, an outside entity, nor did the OIG find any evidence that the FCC has attempted to do so. The Commission has also clearly and consistently stated that it retained ultimate decision-making authority when it has assigned functions to NECA. OIG is finalizing a very brief update to the report to keep Congress as up-to-date on matters as possible.

Future USF Oversight

USF reform, including Broadband expansion, will require review and redirection of our oversight efforts. Nonetheless, we will not have adequate resources to conduct the number of beneficiary or contributor audits necessary to have an impact on the programs. Looking ahead,

we anticipate a need to reevaluate our oversight plans. With the ongoing and significant USF reform and program changes, opportunities to provide oversight must continue to be efficient and strategic.

We are currently preparing to contract for audits of all programs using available funding. A risk-based approach will be used to determine which audits are to be conducted by independent public accountants. A disadvantage to having such audits conducted by outside contract auditors is that it serves as a substitute for ensuring that the OIG has the experienced audit staff necessary to ensure an efficient ongoing expertise and institutional memory for the oversight of this complex program. We continue to search for the best way to be an agent of positive change, striving for continuous improvement in FCC's management and program operations.

USF Investigations

An increasing number of investigations related to the E-rate program arise pursuant to the False Claims Act (FCA, known as "qui tam" lawsuits). The FCA provides for liability for anyone who knowingly submits or causes the submission of a false or fraudulent claim to the United States. A provision of the FCA allows a private party (known as the relator) with evidence of fraud is able to sue the person(s) engaged in the fraud, on behalf of the government. The FCC OIG assists DOJ in investigating qui tam allegations that relate to FCC programs or operations, including the E-rate program.

In the past three years there have been five settlements of civil lawsuits arising from such qui tams that included payments of \$19.6 million to the government and parties agreeing to relinquish more than \$185 million in requests for federal funds in connection with the E-Rate program.

In June 2009, the Dallas Independent School District (DISD) agreed to settle claims that the school district violated the False Claims Act in connection with the E-Rate program. Under the terms of the settlement, DISD relinquished more than \$150 million in requests for federal funds, and paid the United States \$750,000. In addition to allegations that DISD provided false information to the government by engaging in non-competitive bidding practices, the government contended that school district officials improperly received gratuities from technology vendors, including trips, meals, golfing and the free use of a yacht. The school district's former chief technology officer, Ruben B. Bohuchot, was convicted in July 2008 on bribery charges stemming from his role in these allegations, and was sentenced to 132 months in prison and ordered to pay \$979,221 in restitution.

In July 2009, Computer Assets Inc. and its principals, Abraham Salazar and Damon Salazar, agreed to pay \$350,000 and surrender up to \$35 million in pending funding applications to settle allegations the company violated the FCA in connection with the E-Rate program. The government contended the company violated the competitive bidding rules of the E-Rate program in its dealings with the Kayenta Unified School District in Kayenta, Arizona. Additionally, the United States alleged that Computer Assets billed for installing excess and unnecessary networking cable, and in some instances billed twice for the same work.

In October 2009, a unit of AT&T, AT&T Missouri (formerly known as Southwestern Bell Telephone L.P.), agreed to pay the United States \$1.4 million as part of a civil settlement alleging that the company violated the FCA in connection with the E-Rate program. The United States contended that AT&T Missouri provided false information to E-Rate administrators and otherwise violated the program's requirements by engaging in non-competitive bidding practices for E-Rate contracts. The United States further alleged that AT&T Missouri employees colluded with officials in the Kansas City, Missouri School District to award contracts to the company, extended contracts in violation of E-Rate rules, and provided meals and other inducements to school district employees. The United States previously filed suit against and settled with the school district.

In March 2010, the Houston Independent School District (HISD) agreed to relinquish over \$100 million in requests for E-Rate funds and paid \$850,000 to settle a civil suit alleging the school district filed false claims in connection with the E-Rate program. Resolution of this case resulted from a collaborative federal investigation involving DOJ's Civil Division and the U.S. Attorney's Office for the Northern District of Texas. The United States contended that HISD provided false information in order to obtain E-Rate funds and otherwise engaged in non-competitive bidding practices for contracts to be funded with E-Rate money. The government further alleged that school district officials received gratuities from technology vendors, including trips, meals, and loans.

In November 2010, the United States settled two qui tam whistleblower lawsuits with the Hewlett-Packard Company (HP). The suits alleged HP violated the competitive bidding rules of the E-Rate program and the company agreed to pay the government \$16.25 million, most of which is to be returned to the E-Rate program. Following tips from the whistleblowers, the FCC OIG and DOJ investigated allegations that contractors working with HP and other companies lavished gifts on the DISD and HISD personnel in order to obtain contracts that included some \$17 million in HP equipment. The United States also intervened in those same lawsuits against HP's former business partners, Micro Systems Engineering and Analytical Computer Services, as well as against Ruben Bohuchot, DISD's former chief technology officer and Frankie Wong, the former chief executive officer of Micro Systems Engineering. Like Bohuchot, Wong was convicted in July 2008 on bribery charges stemming from his role in these allegations and was sentenced to 120 months in prison.

Criminal prosecutions have also increased over the past three years and reflect the FCC OIG's continuing joint and coordinated investigation and prosecution efforts with the DOJ Antitrust Division and its field offices and with various U.S. Attorney Offices across the country. In eight separate criminal cases since June 2009, 13 individuals have entered guilty pleas and have been sentenced to 264 months in prison, fined \$22,000, and ordered to pay restitution of almost \$1 million.

One of the convicted individuals worked as an E-Rate consultant who acted on behalf of various school districts across the country. Signed letter of agency agreements by school officials gave permission to Jonathan M. Slaughter and his company, E-Rate Consulting Services, LLC (ERC),

to act on their behalf in all dealings with the E-Rate program. Slaughter admitted he violated the trust of the school district officials when he converted money intended for the school districts for his personal use. In September 2011, Slaughter pleaded guilty in United States District Court for the Middle District of Alabama to one count of mail fraud stemming from his theft of nearly \$900,000 from the E-rate program, money intended for 20 school districts or private schools in 13 states through the program's Billed Entity Reimbursement (BEAR) process. The process permits a school or library to pay the full amount for eligible services and then receive reimbursement from its telecommunications service provider once the related universal service discount subsidies are approved and paid to the provider. Slaughter's company would receive checks from the E-Rate program that were payable to ERC's clients. ERC was obligated to forward the checks to its clients, but Slaughter deposited the checks into an ERC bank account and kept the money, which he used largely for personal expenses. In January 2012 he was sentenced to 51 months in prison; an order for restitution to the victims is pending.

The most recent criminal action took place last week when Gloria Harper was sentenced in United States District Court in New Orleans to 30 months in prison for her role in a conspiracy to defraud the E-Rate program by providing bribes and kickbacks to school officials across the nation. In addition to Harper, Tyrone Pipkin and Barrett White have pleaded guilty to participating in the conspiracy and each was sentenced to one year in prison in March 2011. According to the Pipkin and Harper plea agreements, the co-owners of Global Networking Technologies (GNT), along with White and Harper's company, Computer Training and Associates (CTA), obtained contracts funded by the E-Rate program by obstructing the competitive bid processes at schools and school districts located in Arkansas, Illinois, Louisiana,

Texas, Florida and North Dakota. In return for bribes and kickbacks, school employees gave the co-conspirators control of their competitive bidding process and ensured that their companies obtained E-Rate funded contracts at those schools. As a result of their fraudulent actions, CTA and GNT unlawfully obtained approximately \$4.16 million from the E-Rate program.

There have been 51 individuals and 23 companies involved in 31 different investigations and prosecutions of alleged fraud involving the E-Rate funds since the beginning of the program. Disposition of those include 10 charges dismissed, one individual arrested in Pakistan, 13 civil settlements, 45 guilty pleas and five guilty verdicts in four separate courtroom trials. Sentences for 50 individuals total 192 months of probation, 22 months of home confinement, and 1,186 months of incarceration in prison. In addition, almost \$100 million has been ordered by the courts or agreed to by the parties in fines, settlements, and restitution to the E-Rate program, and almost \$300 million in claims have been relinquished by the parties.

A common element of these prosecutions is the alleged violation of the E-Rate programs competitive bidding processes, procedures, rules and regulations. As such, the OIG is continuing its oversight in this area to deter individuals and companies who may be engaging in activities that defraud the E-Rate program.

OIG has investigations involving other USF programs, including the High Cost and the Low Income programs, which exceed well in excess of \$150 million in at-risk dollars. The investigations involved allegations of criminal wrong doing and civil false claims; most involve DOJ attorneys or Assistant U.S. Attorneys; and most cannot be discussed in public. Suffice it to

say that OIG is working diligently, albeit with limited resources, with law enforcement and others, including USAC, to eliminate waste, fraud and abuse in all the USF programs.

Conclusion

Our oversight of the USF has evolved from conducting audits of the E-rate program in 2002 to a wide-ranging and varied program of audits and investigations. Given the amount of money this fund represents to the public and the vital services being provided by the fund, it is critical that we continue to provide this oversight, and expand our activities.

In 2008, OIG was provided \$21.48 million from the universal service fund to fund oversight of the fund. With these funds we hired 19 limited term employees, and funded training and travel related to their roles. Thirteen of these limited term employees remain with the Office, and we have \$11.3 million remaining of the original allocation from the USF at the beginning of FY 2012. However, despite this seemingly sufficiency of funds, we have concerns about our ability to continue to provide the kind of oversight we believe that Congress wants for this program.

Other Oversight Areas

The Assistant Inspector General for Audit (AIGA) has principal responsibility for providing oversight of FCC programs and operations to include VRS (discussed previously in this statement) and except for the USF and investigative matters which fall under the purview of the Assistant Inspector General for Investigations.

Financial Statement Audits

Financial statement audits are mandatory and provide reasonable assurance as to whether the agency's financial statements are presented fairly in all material respects. Other objectives of financial statement audits are to provide an assessment of the internal controls over transaction processing for accurate financial reporting and an assessment of compliance with applicable laws and regulations. We have audited FCC's financial statements since FY 1999, and the agency has attained "clean" opinions (the highest rating available) on its statements since FY 2006.

Information Technology and Security

Our information technology (IT) and security program includes annual reviews required by the Federal Information Security Management Act (FISMA). Additionally, in recent years we have conducted policy compliance reviews and assisted the agency in mitigating data breaches and access issues.

Performance Audits

Performance audits are systematic examinations that are conducted to assess the performance of a government program, activity, or function so that corrective action can be taken, if appropriate. Performance audits include audits of government contracts and grants with private sector organizations, as well as government and non-profit organizations that determine compliance with contractual terms, Federal Acquisition Regulations (FAR), and internal contractual administration. In the past two years, OIG has completed audits and inspections of such functions as travel and purchase cards, financial management and property systems, and American Recovery and Reinvestment Act activities.

Recommendations made in audit reports have generally been accepted and implemented by the FCC on a consistent basis.

Mandatory Review of FCC Improper Payments Requirements

We have contracted with an independent public accounting firm for the first mandatory review of FCC compliance with the Improper Payments Information Act of 2002 (IPIA)/ Improper Payments Elimination and Recovery Act of 2010 (IPERA) requirements. In order to assess its agency's compliance, each agency IG is required to review the method and results of its agency's improper payment reporting in the agency's annual Performance Accountability Reports or Annual Financial Reports, and accompanying materials. IG's are to begin reviewing these materials for FY 2011 annual reporting and continue to do so in subsequent years. An IG must complete its review and compliance determination within 120 days of their publication. Each fiscal year, the agency IG should determine whether the agency is in compliance with IPIA.

Internal Investigations

OIG has a team of three investigators that deals with allegations involving internal Commission operations. The group also handles the initial intake of allegations received via the OIG telephone and e-mail Hotlines. The team looks into allegations of waste, fraud and abuse, including, but not limited to, into allegations of (1) ethical violations; (2) improper hiring practices – the subject of a report in a recent OIG Semiannual Report to Congress; (3) time and attendance abuse; (4) misuse of computer property, including misuse of Commission computers; and (5) failures in the contracting process. Matters requiring additional attention can be referred to OIG's audit group or to DOJ or the Office of Government Ethics. More often than not,

personnel-related and management-related findings are referred to management for appropriate action.

The IG Reform Act of 2008 and IG Independence

The Inspector General Reform Act of 2008 (IG Reform Act of 2008) was enacted to enhance the independence of the Inspectors General throughout the government. To that end, the Act strengthened the independence of Inspectors General through changes in Inspectors General compensation, access to independent legal counsel, and other measures. In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act sought to add another measure of independence by changing the definition of to whom certain Inspectors General report - from the individual head of an agency to the full commission or board of that agency - and by requiring concurrence of two-thirds majority of a commission or board to remove such commission or board's Inspector General from office. I believe that these statutory provisions have improved my office's independence and ability to effectively carry out our mission to help prevent and detect fraud, waste, abuse, and mismanagement and promote economy, efficiency, and effectiveness.

The IG Reform Act of 2008 also mandated that Inspectors General have or obtain independent legal advice from their own counsel, the counsel of another Inspector General office or the Council of the Inspectors General on Integrity and Efficiency. I have appointed my own legal counsel and have within my office several highly-skilled attorneys who provide support to Jay in his role as legal counsel.

Consistent with the IG Reform Act of 2008, I transmitted my budget request to the FCC on July 6, 2011 for Fiscal Year 2013, and the FCC included that request in its proposed budget. I will discuss my budget further later in this statement, however I will state that we have found the Commission to be very responsive to our budgetary needs and has freely provided assistance to our Office. I would note that the Congress could ensure additional independence if it provided for me and other Inspectors General to request budgets separate and apart from our respective agencies and departments.

Finally, I note that, although the primary focus of the IG Reform Act of 2008 was strengthening the independence of Inspectors General, it also sought to provide greater public access to Inspectors General. Consistent with these requirements, the public may access information about the FCC's Office of Inspector General by way of a direct link on the FCC's website. In addition, any individual may report fraud, waste, and abuse by way of a direct link to our hotline email address or by calling our toll-free hotline number listed on my office's page on the FCC's website.

Budget Concerns and Future OIG Plans

The budgetary process within the FCC works satisfactorily for our Office. OIG has funding concerns that I believe impedes the Office's ability to provide more effective oversight of the many programs and functions of the FCC.

In our FY 2012 budget request, OIG requested additional positions to replace the limited term employees acquired with the transfer of \$21.48 million for the USF in FY 2008. The limited terms were to expire in FY 2012; however, the Office of Personnel Management recently granted a one year extension for these terms, extending most of them to early FY 2013. Our capabilities would be improved if we had permanent employees in lieu of temporary ones. The continuing lack of permanence impacts both the Office's ability to effectively plan and execute work for the long term. Since we hired the original 19 term employees, six of them have left the Office for permanent positions inside and outside the FCC.

Our requested FY 2012 budget included an increase of \$2.3 million for additional contract funds and \$3.2 million for 19 new permanent employees. In response to our FY 2012 budget request, Congress provided us with an authorized budget of \$9.75 million. This amount, while a substantial increase over our FY 2011 budget, does not provide for the \$3.2 million we would need to replace the term employees with permanent ones. OIG repeated its request for the funding of 19 permanent employees in our FY 2013 budget request.

Currently, the AIGUSF team includes two Audit Directors, one permanent auditor and three temporary staff auditors. On an as-needed basis, the team is assisted by the USF Special Counsel and staff investigative attorneys assigned to the Assistant Inspector for Investigations. However, we have been authorized to hire two auditors and we are currently interviewing candidates. These new auditors are to replace the complete loss of staff on the HC team, who left OIG for permanent positions within the FCC.

On the AIGA's team, we have one Audit Director, who performs all oversight and management of contracted auditors performing our VRS audits and one Audit Director performing and overseeing the FISMA evaluations and other IT projects. We currently have only one auditor who oversees the financial statement audits that are performed by contract auditors. The one additional Audit Director on the AIGA team covers all remaining audit activities of FCC operations, such as compliance and reporting requirements.

Additional permanent staff would enable OIG to expand our efforts to combat fraud and to enhance our oversight of such areas as agency operations and programmatic areas such as improper payments and VRS. In particular, OIG needs more auditors and both criminal and noncriminal investigators. We would expand our forensic and data-mining capabilities for use in investigations and USF oversight. Further, additional administrative staff would better equip us to effectively manage our budget, procurement activities and external reporting requirements.

We have the ability to contract for audit resources and we could request authority to obtain additional term limited employees, but it would be more effective and efficient if OIG had permanent staff so that we can develop the skill sets needed to ensure the funds entrusted to and on behalf of the FCC are spent wisely and protected from waste, fraud and abuse.

CONCLUSION

The real and potential savings noted herein are well in excess of \$1 billion. These amounts do not include the total magnitude of dollars we have examined or where the money cannot yet be estimated. FCC OIG is dedicated to the principles of the IG Act and to ensuring that we perform the work necessary to meet the goals of our mission. We are determined to meet the needs of

Congress; and we believe we have done so to date. We believe we have accomplished a lot with our current staff, but think that there is much left to do and we could do much more if provided the resources. Your mandates, and the taxpayers' need for efficient and cost-effective government, require nothing less than the very best effort we can make.

Thank you for the opportunity to address these important matters with the Subcommittee. I will be happy to answer any of your questions.

Mr. WALDEN. Thank you, Mr. Hunt. That is very moving testimony. We appreciate and applaud the work that you and your people do at the agency.

Mr. HUNT. Thank you.

Mr. WALDEN. We might want to have some guidance here about pulling out IVs and things, but—

Mr. HUNT. It wasn't easy, apparently. One of our staff drove her to the hospital, Mr. Chairman, and just waited there with her. In fact, the hospital had called wondering where she was. She was back in her office. But thank you very much.

Mr. WALDEN. Thank you, Mr. Hunt.

Sir, is it Barash or Barash.

Mr. BARASH. Barash.

Mr. WALDEN. Barash, I am sorry. Mr. Barash, thank you for being here. We look forward to learning more about USAC and we appreciate your testimony.

STATEMENT OF D. SCOTT BARASH

Mr. BARASH. Good morning, Mr. Chairman, and good morning, Ranking Member Eshoo. My name is Scott Barash and I am the acting Chief Executive Officer of the Universal Service Administrative Company, or USAC. USAC is the independent, not-for-profit corporation created in 1997 to administer the universal service support mechanisms. USAC is governed by a Board of Directors selected by the Chairman of the FCC from nominations by universal service stakeholder groups. USAC's mission is to collect FCC-mandated contributions from telecommunications carriers and distribute these funds to beneficiaries in the four universal service support programs—High Cost, Low Income, Rural Health Care, and Schools and Libraries—in accordance with FCC rules, orders, and directives. As a neutral administrator, USAC does not establish policy and may not advocate for policy positions. In order to accomplish our mission, we work very closely with the FCC, which oversees our operations.

In 2011, USAC collected \$8.4 billion in contributions from telecommunications carriers and disbursed approximately \$8.1 billion to beneficiaries. USAC spent \$106.9 million to collect and distribute these funds, generating an administrative expense rate of 1.34 percent. In other words, 98.66 percent of contributions from telecommunications carriers went to universal service program beneficiaries. This percentage compares favorably to the rate at which other Federal assistance programs and non-profit organizations deliver funds to their beneficiaries.

I will now briefly describe the four universal service programs, what USAC does to administer those programs, and how much we spent in 2011 to do so.

The High Cost Program provides support to ensure that telecommunications rates and services available to customers who live in rural or hard-to-serve areas are reasonably comparable to rates and services available in urban areas. In calendar year 2011, the High Cost Program disbursed \$4 billion to 1,903 companies in support of 110 million lines. To provide program support, every month USAC gathers data from companies, performs extensive calculations to derive the support they are eligible for, and makes dis-

bursements to them. To administer the High Cost Program in 2011, USAC spent \$16.9 million.

The Low Income Program provides support to make voice telephony affordable to eligible low-income consumers. USAC's role is to disburse to telecommunications carriers a defined dollar amount each month for each eligible consumer to whom they provide discounted service. Administering the Low Income Program is similar to the High Cost Program: we gather data from companies every month, performs calculations on that data, and then makes monthly disbursements. In 2011, the Low Income Program disbursed \$1.7 billion to 2,025 companies. To administer the Low Income Program in 2011, we spent \$5.4 million.

The Rural Health Care Program provides reduced rates to eligible health care providers for telecommunications and Internet services necessary for the provision of health care. Eligible participants must be a rural public or non-profit health care provider.

USAC is responsible for processing applications for support, confirming eligibility pursuant to FCC rules, and reimbursing service providers for discounts delivered to rural health care providers. We review applications, invoices, and other program information to ensure that applicants and service providers follow FCC rules and support FCC efforts to prevent and detect waste, fraud and abuse. In 2011, the Rural Health Care Program disbursed \$81.5 million to 472 companies representing 3,088 eligible health care providers, and another \$54.3 million to beneficiaries of the Rural Health Care Program. To administer this program, we spent \$12.7 million.

The Schools and Libraries Program, commonly known as E-Rate, provides discounts of up to 90 percent to assist most schools and libraries in the United States in obtaining affordable telecommunications and Internet access services. Program funds are disbursed to companies providing services to eligible beneficiaries, in this case public and most non-profit K through 12 schools, and all public and many private libraries. Administration of the Schools and Libraries Program is much like it is in the Rural Health Care: we process applications for support, confirm eligibility, and reimburse telecommunications companies and Internet access providers for discounts delivered to beneficiaries. In 2011, the program reviewed 44,651 applications and disbursed \$2.2 billion to 4,165 companies providing services to tens of thousands of schools and libraries in all States and territories of the United States. To administer the program, we spent \$71.9 million.

Universal service contributions, which we spoke of in the prior panel, come from telecommunications carriers earning revenues from providing interstate and international calling services. These companies file revenue data with USAC, which we aggregate and submit to the FCC. In 2011, to bill and collect the \$8.4 billion in universal service contributions, we spent approximately \$3 million.

An important responsibility of USAC is to support FCC efforts to protect the integrity of the fund. We do this in many ways, from reviewing information submitted by contributors and beneficiaries to assessing details about individual payments to full-scale audits of contributors and beneficiaries. These measures are designed to verify the accuracy of data used in calculating collections and disbursements, the eligibility of supported goods and services, and

participants' compliance with program requirements. A Memorandum of Understanding between the FCC and USAC defines the roles and responsibilities, and contains detailed operational and reporting requirements.

Once we disburse money to beneficiaries, we want to validate that the payments were properly made. To this end, working with the FCC and OMB, we launched in 2010 a Payment Quality Assurance, or PQA, Program. PQA is designed to provide estimates of improper payments in all four programs, as required by the Improper Payments Elimination and Recovery Act, or IPERA. Based on these assessments, an independent statistician calculates estimates of improper payment rates for each program and reports this information to the FCC.

We also use these results as a basis to improve internal procedures associated with improper payments and provide outreach to beneficiaries. Results for 2011, based on 1,600 assessments, show improper payment rates in the High Cost Program of 0.11 percent, the Low Income Program of 0.23 percent, the Rural Health Care Program of 1.7 percent, and the Schools and Libraries Program of 0.94 percent. We spent \$1.3 million on this activity in 2011.

We have also done audits of beneficiaries and contributors. Shortly after the PQA launch in 2010, again in close consultation with the FCC and OMB, we launched the Beneficiary and Contributor Audit Program, or BCAP. Under BCAP in 2011, we completed 79 audits examining \$1.7 billion in universal service funding. When fully implemented, BCAP will give USAC the capacity to conduct up to 343 audits each year. As with PQA, results will shape corrective actions for both auditees and USAC.

Outside auditors have consistently delivered clean opinions on USAC's finances and procedures. In the last 4 years, USAC has significantly revised and upgraded its internal controls review program, in compliance with the principles of OMB Circular A-123. Program staff members have incorporated these controls into operational activities to enhance the security and accuracy of procedures that define how we handle the information we gather and the funds we collect and distribute.

The GAO has recommended that USAC and the FCC conduct robust risk assessments in the Schools and Libraries Program and the Low Income Program. We are working with the FCC to identify independent contractors to carry out these risk assessments and we expect to use these results as a basis for efforts to strengthen further the internal controls already in place.

Thank you for the opportunity to appear before you today. I would be happy to respond to any questions.

[The prepared statement of Mr. Barash follows:]

**Summary of Testimony by D. Scott Barash, USAC Acting Chief Executive Officer
House Subcommittee on Communications and Technology
February 16, 2012**

USAC's administrative function:

- Independent, not-for-profit corporation created in 1997 to administer the universal service support mechanisms.
- Collecting FCC-mandated contributions from telecommunications carriers and distributing these funds to beneficiaries in the four universal service programs: High Cost, Low Income, Rural Health Care, and Schools and Libraries.
 - In 2011, USAC collected \$8.4 billion in contributions from telecommunications carriers and disbursed \$8.1 billion to beneficiaries.
 - Spent \$106.9 million to collect and distribute these funds, generating an administrative expense rate of 1.34%.

Calendar year 2011 disbursements and beneficiaries:

- High Cost Program: \$4.0 billion to 1,903 companies in support of 110 million lines.
- Low Income Program: \$1.7 billion to 2,025 companies providing discounted telephone service to 13.7 million households eligible for support.
- Rural Health Care Program: \$81.5 million to 472 companies serving 3,088 eligible health care providers; \$54.3 million to beneficiaries of the Rural Health Care Pilot Program.
- Schools and Libraries Program: \$2.2 billion to 4,165 companies providing services to tens of thousands of schools and libraries in all states and territories of the U.S.

Measures to protect the integrity of universal service funds:

- Payment Quality Assurance Program generates estimates of improper payment rates:
 - High Cost Program, 0.11%; Low Income Program, 0.23%; Rural Health Care Program, 1.7%; Schools and Libraries Program, 0.94%.
- Beneficiary and Contributor Audit Program helps ensure compliance with program rules:
 - In 2011, USAC completed 79 audits examining \$1.7 billion in universal service funding, including \$1.68 billion in contributions and \$20 million in disbursements.
- Audits of USAC's finances and procedures, including both financial operations and programmatic activities.
 - Consistently clean results from outside auditors.
- Extensive internal controls review program, in compliance with the principles of OMB Circular A-123.
 - In 2011, the USAC assessed 15 financial and operational business processes and tested 90 key controls, with no material weaknesses identified.
- Memorandum of Understanding between the FCC and USAC defines operational and reporting requirements.

**Testimony of D. Scott Barash
Acting Chief Executive Officer
Universal Service Administrative Company**

**Before the
Energy and Commerce Committee
Subcommittee on Communications and Technology
United States House of Representatives**

February 16, 2012

Good morning. My name is Scott Barash, and I am the Acting Chief Executive Officer of the Universal Service Administrative Company, or USAC. USAC is the independent, not-for-profit corporation created in 1997 to administer the universal service support mechanisms. USAC is governed by a Board of Directors selected by the Chairman of the Federal Communications Commission (FCC) from nominations by universal service stakeholder groups. USAC's mission is to collect FCC-mandated contributions from telecommunications carriers and distribute these funds to beneficiaries in the four universal service programs – High Cost, Low Income, Rural Health Care, and Schools and Libraries – in accordance with FCC rules, orders, and directives. As a neutral administrator, USAC does not establish policy and may not advocate policy positions. In order to accomplish our mission, we work closely with the FCC, which oversees our operations.

I will be providing information today about how USAC administers the universal service programs and collects universal service contributions. In 2011, USAC collected \$8.4 billion in contributions from telecommunications carriers and disbursed \$8.1 billion to beneficiaries. USAC spent \$106.9 million to collect and distribute these funds, generating an administrative expense rate of 1.34%. In other words, 98.66% of contributions from telecommunications carriers went to universal service program beneficiaries. This percentage compares favorably to the rate at which other federal assistance programs and non-profit organizations deliver funds to

their beneficiaries. USAC strives every day to minimize administrative costs, which are part of universal service collections. For example, last year we worked with the FCC to streamline Schools and Libraries Program procedures, resulting in a \$4 million savings.

I will now briefly describe the four universal service programs, what USAC does to administer those programs, and how much USAC spent in 2011 to do so.

High Cost Program

The High Cost Program provides support to ensure that telecommunications rates and services available to customers who live in rural or hard-to-serve areas are reasonably comparable to rates and services available in urban areas.

In calendar year 2011, the High Cost Program disbursed \$4.0 billion to 1,903 companies in support of 110 million lines. To provide program support, every month USAC gathers significant amounts of data from companies, performs extensive calculations to derive the support they are eligible for, and then makes disbursements to them. To administer the High Cost Program in 2011, USAC spent \$16.9 million. As with USAC's expenses in the other programs, this figure includes the people and information technology costs associated with collecting and analyzing data, determining support for eligible beneficiaries, disbursing funds, and conducting on-going audit and quality assurance programs to prevent and detect waste, fraud and abuse.

Low Income Program

The Low Income Program provides support to make voice telephony affordable to eligible low-income consumers. USAC's role is to disburse to telecommunications carriers a defined dollar amount each month for each eligible consumer to whom they provide discounted

service. Administering the Low Income Program is similar to the High Cost Program: USAC gathers data from companies every month, performs extensive calculations to derive support, and then makes monthly disbursements. In 2011, the Low Income Program disbursed \$1.7 billion to 2,025 companies providing discounted telephone service to 13.7 million households eligible for support. To administer the Low Income Program in 2011, USAC spent \$5.4 million.

Rural Health Care Program

The Rural Health Care Program provides reduced rates to eligible health care providers for telecommunications and Internet services necessary for the provision of health care. USAC disburses payments to companies providing telecommunications services to health care providers so that these services end up costing about what they would cost in urban areas. Eligible participants must be a rural public or non-profit health care provider.

USAC is responsible for processing applications for support, confirming eligibility pursuant to FCC rules, and reimbursing service providers for discounts delivered to rural health care providers. USAC reviews applications, invoices, and other program information to ensure that applicants and service providers follow FCC program rules and to support FCC efforts to prevent and detect waste, fraud and abuse. In 2011, the Rural Health Care Program disbursed \$81.5 million to 472 companies serving 3,088 eligible health care providers, and another \$54.3 million to beneficiaries of the Rural Health Care Pilot Program. To administer the Rural Health Care Program in 2011, USAC spent \$12.7 million.

Schools and Libraries Program

The Schools and Libraries Program, commonly known as “E-Rate,” provides discounts of up to 90% to assist most schools and libraries in the United States in obtaining affordable

telecommunications services and Internet access. As in the Rural Health Care Program, program funds are disbursed to companies providing services to eligible beneficiaries, in this case public and most non-profit K-12 schools, and all public and many private libraries.

Administration of the Schools and Libraries Program is much like it is in the Rural Health Care Program: USAC processes applications for support, confirms eligibility, and reimburses telecommunications companies and Internet access providers for discounts delivered to beneficiaries. USAC reviews applications, invoices, and other program information to ensure that applicants and service providers follow FCC program rules and to support FCC efforts to prevent and detect waste, fraud and abuse. In 2011, the Schools and Libraries Program reviewed 44,651 applications and disbursed \$2.2 billion to 4,165 companies providing services to tens of thousands of schools and libraries in all states and territories of the U.S. To administer the Schools and Libraries Program in 2011, USAC spent \$71.9 million.

Universal Service Contributions

Universal service contributions come from telecommunications carriers earning revenues from providing interstate and international calling services. These companies file revenue data with USAC, which USAC aggregates and submits to the FCC. In 2011, to bill and collect the \$8.4 billion in universal service contributions, USAC spent approximately \$3.0 million.

USAC's Administration of Universal Service Funds

An important responsibility of USAC is to support FCC efforts to protect the integrity of universal service funds. We work hard to make sure we collect correct amounts from carriers and disburse correct amounts to eligible beneficiaries for allowable purposes. We do this in many ways, from reviewing information submitted by contributors and beneficiaries to assessing

details about individual payments to full-scale audits of contributors and beneficiaries. These measures are designed to verify the accuracy of data used in calculating collections and disbursements, the eligibility of supported goods and services, and participants' compliance with all program requirements. A Memorandum of Understanding between the FCC and USAC defines the roles and responsibilities of each party in overseeing and carrying out universal service administration, and it contains detailed operational and reporting requirements.

Once USAC disburses money to beneficiaries, we want to validate that the payments were properly made. To this end, working with the FCC and OMB, we launched in 2010 a Payment Quality Assurance (PQA) Program. PQA is designed to provide estimates of improper payment rates in all four programs, as required by the Improper Payments Elimination and Recovery Act (IPERA). Under this program, USAC assesses a statistically valid sample of individual payments made to beneficiaries to determine if these payments were made in accordance with FCC rules. Based on these assessments, an independent statistician calculates estimates of improper payment rates for whole programs and reports this information to the FCC. USAC also uses the results as a basis, when appropriate, to improve internal procedures associated with improper payments and provide outreach support to beneficiaries. Results for 2011, based on 1,600 assessments, show improper payment rates in the High Cost Program of 0.11%, the Low Income Program of 0.23%, the Rural Health Care Program of 1.7%, and the Schools and Libraries Program of 0.94%. USAC spent \$1.3 million on this activity in 2011.

Since USAC started operations, we have conducted audits of beneficiaries and contributors. Shortly after the 2010 PQA launch, again in close consultation with the FCC, we implemented our current audit program, the Beneficiary and Contributor Audit Program (BCAP). Under BCAP in 2011, USAC completed 79 audits examining \$1.7 billion in universal

service funding, including \$1.68 billion in contributions and \$20 million in disbursements. When fully implemented, BCAP will give USAC the capacity to conduct up to 343 audits each year. As with PQA, results will shape corrective actions for both auditees and USAC.

Measures to Assess Expenses and Operations

Outside auditors have consistently delivered clean opinions on USAC's finances and procedures, including both financial operations and programmatic activities. Over the last three years, USAC's internal audit team has performed audits of USAC operations in many areas. In all cases, the audits concluded that sufficient controls were in place.

In the last four years, USAC has significantly revised and upgraded its internal controls review program, in compliance with the principles of OMB Circular A-123. Program staff members have incorporated these controls into operational activities to enhance the security and accuracy of procedures that define how we handle the information we gather and the funds we collect and distribute. In 2011, the USAC internal controls team assessed the risks associated with 15 financial and operational business processes and tested 90 key controls. No material weaknesses were identified as a result of the testing.

The Government Accountability Office (GAO) has recommended that USAC and the FCC conduct robust assessments of risks in the Schools and Libraries Program and the Low Income Program. USAC is working with the FCC to identify independent contractors to carry out these risk assessments and expects to use the results as a basis for efforts to strengthen further the internal controls already in place.

Thank you for the opportunity to appear before you today. I would be happy to respond to any questions you may have.

**Summary of Testimony by D. Scott Barash, USAC Acting Chief Executive Officer
House Subcommittee on Communications and Technology
February 16, 2012**

USAC's administrative function:

- Independent, not-for-profit corporation created in 1997 to administer the universal service support mechanisms.
- Collecting FCC-mandated contributions from telecommunications carriers and distributing these funds to beneficiaries in the four universal service programs: High Cost, Low Income, Rural Health Care, and Schools and Libraries.
 - In 2011, USAC collected \$8.4 billion in contributions from telecommunications carriers and disbursed \$8.1 billion to beneficiaries.
 - Spent \$106.9 million to collect and distribute these funds, generating an administrative expense rate of 1.34%.

Calendar year 2011 disbursements and beneficiaries:

- High Cost Program: \$4.0 billion to 1,903 companies in support of 110 million lines.
- Low Income Program: \$1.7 billion to 2,025 companies providing discounted telephone service to 13.7 million households eligible for support.
- Rural Health Care Program: \$81.5 million to 472 companies serving 3,088 eligible health care providers; \$54.3 million to beneficiaries of the Rural Health Care Pilot Program.
- Schools and Libraries Program: \$2.2 billion to 4,165 companies providing services to tens of thousands of schools and libraries in all states and territories of the U.S.

Measures to protect the integrity of universal service funds:

- Payment Quality Assurance Program generates estimates of improper payment rates:
 - High Cost Program, 0.11%; Low Income Program, 0.23%; Rural Health Care Program, 1.7%; Schools and Libraries Program, 0.94%.
- Beneficiary and Contributor Audit Program helps ensure compliance with program rules:
 - In 2011, USAC completed 79 audits examining \$1.7 billion in universal service funding, including \$1.68 billion in contributions and \$20 million in disbursements.
- Audits of USAC's finances and procedures, including both financial operations and programmatic activities.
 - Consistently clean results from outside auditors.
- Extensive internal controls review program, in compliance with the principles of OMB Circular A-123.
 - In 2011, the USAC assessed 15 financial and operational business processes and tested 90 key controls, with no material weaknesses identified.
- Memorandum of Understanding between the FCC and USAC defines operational and reporting requirements.

Mr. WALDEN. Thank you for your testimony. I appreciate your testimony and the work you that you are doing to try and continue to improve and reduce fraud and deal with all that.

I was made aware a year or two ago about a situation in my district, and I won't get into the specifics of it, but they had overlapping people that were on sort of both sides of some of the USAC funding. I think it was in the E-Rate program. And the problem, I think they may not have followed all the rules, I don't know. That is something for all of you to figure out, but we got these really isolated, remote communities. I am talking one person for every 8 miles of power line. Counties with fewer than 2,000 people and thousands of miles, and there is very, very few people, like the main town, the county hub is 399 people, I think. And so when they go to try and take advantage of these programs, there isn't a giant pool of people who can be—you know, you are on the school board, you are also the guy running the—now having said that, I have also served on the Oversight Committee where we did a lot of looking at the waste, fraud, abuse and all of that. We can't tolerate that.

But I hope there is some way to find a balance here for these really remote communities where there are only—they are very—there is only a handful of people that do everything, and not because of collusion or anything else, there just ain't anybody else around, you know? And so I hope maybe we can have some general discussion about somewhere down the road, because I think it is a problem that is unique to sort of the rural West, perhaps, where literally you have a hospital in three of these counties. I mean, it is just remote. No stop light for probably 3 hours, you know what I mean? This is high desert remote, and so I—and yet, they are trying to figure out how to serve their communities, and so I just throw that out for your consideration.

Mr. BARASH. Well, we are very sensitive to the needs of our customers, and—

Mr. WALDEN. Is your mic on?

Mr. BARASH. Yes, I will get closer.

Mr. WALDEN. There you go.

Mr. BARASH. We are very sensitive to the needs of our customers, particularly the small rural customers, both in—for schools and libraries and rural health care, as well as high cost, and what we have tried to do in recent years is to really expand our outreach and that includes training sessions around the country, that includes our webinar presence, that includes going out to stakeholder groups, whether it is schools, whether it is health care providers or telecom groups. So we have really tried to focus on that, because you are correct that one of the problems is that you might have the same person who is doing everything.

Mr. WALDEN. And they are, and they do that in everything in these small towns.

Mr. BARASH. And then in addition, there is often turnover, so the person who knows everything and who had the files leaves, and then someone else inherits this and they may not understand what the—

Mr. WALDEN. Or they may also be on the school board and at the phone company, and by the way, the county judge who drives the snow plow truck. I mean, it literally happens that way.

Mr. BARASH. I think you are absolutely right.

Mr. WALDEN. And they are just trying to figure out how to get broadband or whatever out to their schools and their communities and connect them, and then lo and behold, they realize they have stumbled across some line that said oh, you can't be on both of these. And then they get penalized—the community gets penalized because it is like well, you don't get any more money and by the way, we are going to take back what you have, et cetera, and they are just going oh, all I was trying to do here—and yet I have seen the other side of this coin where people manipulated the system and had warehouses full of computers they never intended to deploy and ripped off the fund. And so—

Mr. BARASH. It is a balance that we try to strike every day in administering the program. We try to do as much up front review as possible, and to prevent having to go back. That is the worst of all worlds. So we are very focused on the average piece and also on the up front review piece.

Mr. WALDEN. Yes, so anyway, this group is in the middle of that and trying to dig its way out, and it is not good.

Mr. HUNT, in your written testimony you highlighted single company that was able to defraud the FCC's telecommunications relay service of \$55 million, and you also suggest that the work of the IG ultimately led to 26 indictments in that case. What happened there?

Mr. HUNT. Mr. Chairman, thank you. It was a program that we have been aware of for a while. It is something where you don't know how bad it is until you get into it, and we were surprised, too. I mean, the entire FCC Inspector General Office hasn't had 26 indictments and non-USF cases ever in the over a decade it has operated. The more we dug, the worse it got, and again, not to be crying or bemoan my staffing situation, two people sitting behind you who pretty much did it was apart from the rest of our staff, but when we did the—that one raid, we had 40 FBI agents going with us. We had to go in nine different States. You are looking at a program that just wasn't looked at that much, and 26 indictments was amazing for us. We had no idea, but it is so easy on that program to defraud the government. I could go in my home, get a computer, light it up and I could defraud the government, frankly.

Mr. WALDEN. I appreciate that, and maybe you can help us identify more areas we need to spend more time digging into as well, and be helpful in that respect.

Mr. HUNT. Yes, Mr. Chairman, we have been working with Congress as much as we can. We have been working with the chairman's office, we have made many recommendations, as had DOJ, on how to stop this fraud and stop it from occurring. We are working both ends, stop it on the front end with the chairman's help, and get it from the back.

Mr. WALDEN. And then maybe your people won't have to pull out their IVs to go stop if we can get it stopped first.

So—and those recommendations, I am sure you have made those available to us in past reports and all, but if there are some spe-

cifics you think we should dig down into more and kind of look at the policy and help shine the light on, we would be happy to do that.

Mr. HUNT. Absolutely.

Mr. WALDEN. I thank you.

I turn to my friend from California, Ms. Eshoo.

Ms. ESHOO. Thank you, Mr. Chairman, and I want to concur with you that—on this last item that how we can help support and advance the work that you are doing. We are eager to do that.

I want to thank you, not only for doing what you do, but with the—really a high level of integrity and commitment and dedication. We are going through an era, I think, where because of all the challenges in the country, so many people are angry. They feel let down. You could go on and on. I was at a telephone town hall meeting last night where 9,000 people participated. Obviously I didn't get to answer 9,000 questions, but if there was a common thread that went through it, it was how people—how concerned they are about our country. I wish every TV station in the country could have carried your opening statement today, because it is a reflection of really professional, good, solid people working to make the country better and the government more accountable, so I really salute you. I don't know if—I don't think my words are adequate to describe all that I am sensing, but bravo to you and to your team, and thank you.

Mr. HUNT. Thank you very much.

Ms. ESHOO. You have really restored a great deal of faith in all of us, and as I said in my opening statement, I think the IGs are just—if you want to know what is going on in the government and you want a clear, unbiased, nonpartisan, hard look at what is going on in every agency, just go to the IG inspectors and the work and the reports that they issue. So thank you again.

Your most recent semi-annual report indicated that the proposed reforms of the Universal Service Fund “will have a significant impact on OIG planning and conduct and oversight activities.” Can you explain exactly what that means? What will be the change under the reforms? Is that what you are referring to, what you are going to have to do to track the new program?

Mr. HUNT. Yes, Congresswoman. Whenever any change is made, we sometimes have to tack to left or tack to the right. We study everything. You know, I have a separate person who studies—he is dedicated to working on Hill matters. He studies everything that comes out, looks at everything from USAC. We work with USAC quite a bit. But every time a rule or regulation changes, it may change one of our cases, even civilly or criminally. And so it is something we have to track pretty much constantly.

A large part of what we do is—

Ms. ESHOO. Do you have the resources to do this, what you are describing?

Mr. HUNT. Well, let me just say—

Ms. ESHOO. Well is not a good answer. I don't mean that in a personal way. You sound skeptical.

Mr. HUNT. No, Congresswoman, I am not skeptical. We don't, but I just want to let the Congresswoman know, we have been working very closely with the chairman's office to try to get additional staff,

and Congress was kind enough to give us additional monies for 2012, fiscal year 2012. We spend those monies, if not on personnel, on contracts to do further auditing work. But I thought about it several times, where is the cap? I mean, how many people would you have to add to the IG shop before it is not worth adding people, and a number could be—I mean, you could give me 50 people tomorrow and I could put them all to work, so I don't know how else to explain it.

Ms. ESHOO. What my sense is is that you don't think you have enough to do what needs to be done, but do you think you are going to be able to fulfill your oversight responsibilities?

Mr. HUNT. Well, Congresswoman, the staff we have is very good, and any program this big always needs additional oversight, could always use it. I know USAC has added additional people to their staff to help do audits, but like I said, you are trying to track about \$10 billion with 30 people, and when the economy goes south, the crime rate, at least in our field, goes up so white collar crime is booming, and on one case alone we have a single person tracing down \$110 million with no FBI support and no other support from DOJ. So they have had to cut back as well. So as they cut back, all of a sudden we find ourselves having to do depositions and interviews, when normally the FBI would do those for us. Now there are not enough FBI agents around to help us accomplish that.

Ms. ESHOO. Well, we want to be of all assistance to you, because your work is so important.

Mr. Barash, I am sorry, I don't have time to ask you the great questions I was going to ask you, but I will submit them to you in writing.

Thank you, Mr. Chairman, and thank you both for your very important work, and to your entire team.

Mr. HUNT. Thank you, Congresswoman.

Mr. WALDEN. Thank you. Gentleman from Ohio, Mr. Latta, is now recognized.

Mr. LATTA. Thank you, Mr. Chairman.

Mr. Hunt and Mr. Barash, thanks very much for being with us today. I appreciate your testimony.

If I could just start off with this question maybe to both of you that State commissions have also been out there detecting duplication and other waste within the Commission's Lifeline program, and what efforts have your respective offices made to reach out to the State commissions to also address these and related concerns?

Mr. HUNT. Thank you, Congressman, for that question. Actually, Congressman, another one of my IGs behind me is coordinating an effort within our office and has contacted, literally, all 50 States. We are actively coordinating with, I believe at last count, eight or nine, so we work very closely with the States on low income and Lifeline issues. Primarily what we do is basically ask for their support, because they can offer us the most help at the local level than we can offer from Washington, DC. But we are very much interacting with local governments and do so frankly all the time.

Mr. LATTA. OK. Let me ask this. Going back to the chairman's testimony I am sure you heard a little bit earlier, and you all know that in the Lifeline program, the whole idea is in the next 3 years

to be able to save up to \$2 billion that is going to be out there, and also in 2011 alone saving \$33 million and eliminating 270,000 duplicate subscriptions.

Could you go through the procedures of how you find these folks, and what happens when you do, and do you recoup payment or what happens?

Mr. BARASH. Yes, I would be happy to do that. What we do is we collect data from the companies, collect subscriber data from the companies. We then bump that data up against each other in a system that we built last year to do this job. We then identify potential duplicates. We reach back out to the companies and say are these, in fact, duplicates. They get back to us. We then have a final list of duplicates. We then allocate the duplicates to one of the other companies randomly, and then instruct the other company to de-enroll the subscriber.

So it is a relatively cumbersome process at this point.

Mr. LATTA. Pardon me for interrupting. How long does that—you know, from point A to point B, how long does that take?

Mr. BARASH. A couple months by the time the back and forth occurs. So it is a relatively cumbersome process at the moment. It is one that we initiated in very close consultation with the FCC last year. What we are moving toward, and this is in the recent order that was approved by the Commission, is a national Lifeline accountability database that we are now working on that we hope to have up in early 2013 that will allow companies on a real-time basis to determine whether someone is already receiving Lifeline service or not.

So right now we are in an interim phase where we are identifying duplicates and saving money, but then in the future we will be doing this up front and preventing this problem from occurring in the first place.

Mr. LATTA. OK, and then going back to my one question, after you do identify that individual, let us just say that they might have had three or four that might have happened. Is there recoupment or what happens at that stage?

Mr. BARASH. At this stage there is not recoupment. They are cut off. If they have more than one they are cut off from all of them. We have seen an instance or two where there are—someone might be getting three and they would be cut off from two of those.

Mr. LATTA. OK. Thank you very much, and Mr. Chairman, I yield back.

Mr. WALDEN. Gentleman yields back. Mr. Guthrie has no questions.

We appreciate the incredible work you all do, and we look forward to working with you to improve transparency, efficiency, and accountability in the work that is done by the agency. So thank you for being here, and with that, we will have the usual and customary opportunity for members to submit statements and questions. We look forward to your responses, and thanks again.

Mr. BARASH. Thank you very much.

Mr. WALDEN. This hearing is adjourned.

[Whereupon, at 10:47 a.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

Statement of the Honorable Fred Upton
Chairman, Energy and Commerce Committee
Subcommittee on Communications and Technology Hearing on
The Budget and Spending of the Federal Communications Commission
February 16, 2011

American families are taking a hard look at their budgets these days, trying to spend less and save more as they struggle in this stagnant economy. Meanwhile, American businesses have been forced to cut investments as the slow recovery leaves them behind and the ever-growing regulatory state threatens to increase their costs.

The House of Representatives has cut its own budget, tightening our belts just like our constituents are doing. It's time for federal agencies to do the same. An important part of congressional oversight is to examine how regulatory agencies are spending Americans' hard-earned tax dollars. That's what today's hearing is all about.

We need to live within our means and cut back where we can, while still producing results for the American people. At the same time, we should also make sure that the federal dollars we do spend are getting the biggest bang for the buck.

For example, the Federal Communications Commission is charged with overseeing the \$8 billion Universal Service Fund, and the American ratepayer deserves to know that money spent on that program is actually doing what it's supposed to do and not being diverted to fraudulent ends. This may mean increased oversight and investigations to cut off waste, fraud, and abuse at the head.

Our oversight of federal agencies is about the dollars they spend, but it's also about how they do the people's business. We want to make sure they operate in a fair and transparent manner. We want to make sure the policies they enforce are in the best interest of the American people. In the next couple of days, Congress will enact legislation to provide the FCC with incentive auction authority. This authority will facilitate the auction of a significant portion of the broadcast television band. I expect the FCC to follow the new law to permit all qualified entities to participate in this auction. This spectrum is critical to ensuring that all mobile providers can address the spectrum crunch and keep pace with the explosive demand for spectrum caused by the increased use of smartphones and tablets. Otherwise, millions of U.S. mobile consumers will experience slower speeds and less innovation. I look forward to working together with the FCC to ensure a fair and smooth process for taxpayers, participants, and consumers.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (2021 225-2927
Minority (2021 225-3641

Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on "The Budget and Spending of the
Federal Communications Commission"
Subcommittee on Communications and Technology
February 16, 2012

It has been over twenty years since Congress last reauthorized the FCC. Although this Subcommittee has always played an important oversight role with regard to FCC activities, I think it is fitting that we not only review the FCC's policy actions, but also learn more about how the agency functions from a budgetary perspective.

By all accounts, the Genachowski FCC is well managed and operates in a transparent and open manner. Since he became Chairman, the agency has reformed the way dockets are managed. The number of Notices of Proposed Rulemakings that contain the full text of rules has increased from 38% to 85%.

The amount of time between a vote on a Commission decision and the release of the full text of the decision has decreased from 14 calendar days to three calendar days, with a majority of actions released in one calendar day. And the ex parte rules underwent significant reform.

The FCC has closed 999 dormant dockets, which represents approximately one-third of the agency's open proceedings, while reducing the number of pending broadcast applications by 30% and the number of pending satellite applications by 89%.

In addition, the FCC has removed or streamlined unnecessary requirements. One hundred and ninety obsolete regulations have been removed since November 2011. And the Commission is working to eliminate unnecessary data collections and exempting small businesses from certain reporting requirements.

The Genachowski FCC has also made great efforts to work on a bipartisan basis. Ninety-five percent of agency action over the past two years has been bipartisan.

Finally, staff morale has improved so much that the FCC was named the most improved federal agency. This was accomplished despite a flat budget and flat staffing levels.

On the issues, the FCC has also been ambitious. The Commission has tackled difficult topics like universal service and inter-carrier compensation reform, open Internet protections, and numerous measures to promote broadband deployment.

All of these efforts require a tremendous amount of time and dedication from the FCC staff, as well as agency resources. Based on my experiences over the past few years working closely with the agency, I am convinced that the FCC employs a disproportionate number of the most talented, experienced, and dedicated public servants in government.

In order to address these management challenges, I am pleased that the Chairman also is focused on modernizing the agency itself, making it more responsive to consumer needs and industry challenges.

Chairman Genachowski, I look forward to hearing how you plan to capitalize and build upon this success.

Thank you, Mr. Chairman.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 325-2927
Minority (202) 225-3841

April 5, 2012

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Genachowski,

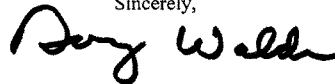
Thank you for appearing before the Subcommittee on Communications and Technology on February 16, 2012, to testify at the hearing entitled "The Budget and Spending of the Federal Communications Commission."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for 10 business days to permit Members to submit additional questions to witnesses, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and then (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please e-mail your responses in Word or PDF format, to katie.novaria@mail.house.gov by the close of business on Thursday, April 19, 2012.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Greg Walden
Chairman
Subcommittee on Communications and Technology

cc: The Honorable Anna Eshoo, Ranking Member,
Subcommittee on Communications and Technology

Attachment

**The Budget and Spending of the Federal Communications Commission
February 16, 2012**

Questions for the Record

**House Energy and Commerce Committee
Subcommittee on Communications and Technology**

The Honorable Greg Walden

Question. What was the FCC's IT spending for FY2011 and FY2012 (estimated)? Please detail the amounts spent on federal employees, contractors, and service as those amounts relate to the Commission's various IT programs (including, for example, the electronic Comment Filing System, the Universal Licensing System, etc...).

Answer. Please see the chart below, which provides the information requested in your question.

FY 2011 and FY 2012 IT Cost		
	FY 2011	Estimated FY 2012
FTEs	\$5,147,705	\$5,386,803
Contract Services:		
--Licensing Systems	21,429,215	22,454,937
--Business Systems	4,724,083	4,950,204
--Infrastructure Support	19,605,235	20,543,650
--Cyber Security Initiative	0	4,500,000
	<u>\$45,758,533</u>	<u>\$52,448,791</u>
Software & Hardware Maintenance	8,623,668	7,660,253
ITC Hardware	1,711,248	1,919,663
-- Cyber Security Initiative	0	5,500,000
ITC Software	1,528,270	282,188

Telecommunications	4,847,834	5,223,441
ITC Other Cost	122,556	60,653
	<u>\$67,739,814</u>	<u>\$78,481,792</u>

Question. The Commission has requested \$6.1 million in its FY2013 budget for commission-wide IT initiatives, including the consolidation of redundant data centers and the use of hosted online services. Your testimony indicates that previous IT consolidations have saved the agency almost \$8 million. Will these initiatives lower the expected IT spending of the FCC in the future? If so, by how much and in what fiscal years?

Answer. The new initiatives will save money through increased efficiencies projected to begin in the next fiscal year when the data center consolidation is complete and when Agile Cloud Provisioning is complete. The charts below detail the savings:

Data Center Consolidation	Annual Savings
Energy Cost Savings	\$ 189,433
Staff Productivity	\$ 459,200
Operational Efficiencies	\$ 515,200
	\$ 1,163,833

Agile Cloud Provisioning, Management and Security	Annual Savings
Energy Cost Savings	\$ 236,791
Staff Productivity	\$ 574,000
Operational Efficiencies	\$ 644,000
	\$ 1,454,791

Question. The FCC's recently redesigned website has received mixed reviews from stakeholders. How much did the FCC spend on that redesign? How have the costs of maintaining the FCC website changed as a result of that redesign?

Answer. After the creation of its original website in 1995, the FCC underinvested in maintaining and updating it – dedicating only approximately \$300,000 for maintenance

and upgrades during the next fifteen years. The FCC's website failed to keep pace with changing technologies and user expectations. In 2010, the FCC redesigned its website with an initial cost of \$1,330,470 and became the first federal agency to use the cloud to host its public-facing website. Since its launch in May 2011, support for the new website, combined with cloud-hosting and the development of new tools and technologies, has resulted in additional costs. Over time and in combination with the other IT initiatives described above, however, we expect the FCC will save money from the website overhaul as a result of increased efficiencies.

Question. At our hearing, you noted that you were not aware of any employees working on GN Docket No.10-127, Framework for Broadband Internet Service, and you promised to discuss with your staff and colleagues whether that docket should be closed. Have you spoken with your staff and Commissioners McDowell and Clyburn about closing that docket? Is the Commission planning further action in that docket? If so, when? And if not, when will the Commission close the docket?

Answer. The Commission routinely leaves notice of inquiry proceedings open so that the public can continue to comment as appropriate. After discussion with staff, I concluded that this continues to be the right approach. The Commission is not planning further action in this docket at this time.

Question. Your testimony noted that the agency is at a ten-year staffing low and that the FCC has reduced the number of contractors by 50 percent in the past year. To provide the Committee with a fuller understanding of the FCC's staffing, please detail the total number of full-time equivalent employees, contractors, and special counsels each bureau and office had or will likely have each year for FY2009, FY2010, FY2011, FY2012, and Y2013.

Answer. Please find below in the first chart a list of FCC staff by bureau and office. The second chart below is a list of contractors by bureau and office. We do not have information for FY2009 contractors by bureau and office. "Special Counsels" are not a separate category of employment within the Commission.

**Federal Communications Commission
Full-Time Equivalents (FTEs) History
At End of Each Fiscal Year**

Bureaus/Offices	Actual FY 2009	Actual FY 2010	Actual FY 2011	Estimated FY 2012	Estimated FY 2013
Office of the Commissioners	23	27	30	30	30
Consumer & Governmental Affairs Bureau	193	183	180	180	180
Enforcement Bureau	301	286	276	276	276
International Bureau	124	122	124	124	124
Media Bureau	218	215	197	197	198
Public Safety & Homeland Security Bureau	110	109	112	112	112
Wireless Telecommunications Bureau	215	217	214	217	223
Wireline Competition Bureau	148	148	157	157	157
Office of Administrative Law Judges	3	3	3	3	3
Office of Communications Business Opportunities	14	13	12	12	12
Office of Engineering & Technology	84	81	81	81	85
Office of the General Counsel	73	73	72	72	72
Office of Inspector General	42	45	41	41	41
Office of Legislative Affairs	10	13	14	14	14
Office of Managing Director	210	216	213	215	218
Office of Media Relations	15	15	14	14	14
Office of Strategic Planning & Policy Analysis	23	25	30	30	30
Office of Workplace Diversity	4	4	6	6	6
Total FTE by Fiscal Year	1,810	1,795	1,776	1,781	1,795

**Federal Communications Commission
Contractor History
At End of Each Fiscal Year**

Bureaus/Offices	Actual FY 2009	Actual FY 2010	Actual FY 2011	Estimated FY 2012	Estimated FY 2013
Office of the Commissioners	0	0	0	0	0
Consumer & Governmental Affairs Bureau	0	36	25	25	25
Enforcement Bureau	0	1	1	1	1
International Bureau	0	0	0	0	0
Media Bureau	0	6	0	0	0
Public Safety & Homeland Security Bureau	0	6	2	2	2
Wireless Telecommunications Bureau	0	0	0	0	0
Wireline Competition Bureau	0	14	14	14	14
Office of Administrative Law Judges	0	0	0	0	0
Office of Communications Business Opportunities	0	0	0	0	0
Office of Engineering & Technology	0	3	1	1	1
Office of the General Counsel	0	0	0	0	0
Office of Inspector General	0	18	15	15	15
Office of Legislative Affairs	0	25	0	0	0
Office of Managing Director	0	689	493	493	493
Office of Media Relations	0	0	0	0	0
Office of Strategic Planning & Policy Analysis	0	15	0	0	0
Office of Workplace Diversity	0	0	0	0	0
Total Contractors by Fiscal Year	959	813	551	551	551

Question. To provide the Committee with a fuller understanding of the FCC's engineering staff, please detail the total number of full-time equivalent engineers employed by each bureau and office for FY2009, FY2010, FY2011, FY2012, and FY2013. Similarly, what resources is the FCC devoting to its Certification Laboratory to make sure it does not become an innovation bottleneck?

Answer. Please see the chart below of FCC Engineers for each year requested. We do not expect the FY 2013 numbers to be any different from the FY 2012 numbers.

FCC Engineers as of End of FY				
Bureau	FY09	FY10	FY11	FY12 (5/5/12)
EB	82	85	86	82
IB	34	35	34	31
MB	49	48	46	46
OET	49	47	50	49
PSHSB	21	21	19	21
WCB	4	4	3	3
WTB	30	30	30	30
Total	269	270	268	262

***The FCC has requested \$500,000 for Fiscal Year 2013 to upgrade the OET's Columbia Laboratory facility as part of the plan to ensure that authorizations and certifications are timely.

Question. The Middle Class Tax Relief and Job Creation Act of 2012 authorized the Commission to conduct several spectrum auctions over the next ten years, including voluntary incentive auctions of broadcaster spectrum. You testified that given the Fiscal environment, your auctions team was planning to work within the current \$85 million per year cap. Please delineate the FCC's expected schedule for auctioning spectrum through FY2022.

Answer. Based on the hearing transcripts and my recollection, I testified that (1) the auctions cap was a ceiling that prevented additional expenditures; (2) we were working within current fiscal restraints; (3) we could possibly work faster with additional funding; and (4) we would have significant challenges during the next fiscal year to ensure that the incentive auctions process is funded under the \$85 million cap.

At this stage, the House and Senate Financial Services Appropriations Subcommittees have granted the FCC permission to reprogram \$2.1 million of FY12 auctions spending toward implementation of The Middle Class Tax Relief and Job Creation Act of 2012. The Commission has asked for an increase in the \$85 million cap of \$13 million during the next fiscal year, in order to purchase and contract for necessary IT equipment and workforce adjustments, as well as other administrative costs. These costs were anticipated in section 6403 of the Act and will represent a temporary increase in funding related to implementation.

The Commission is working to implement several spectrum auctions within the timeframe required by the law. This includes auctioning 65 megahertz of specified frequencies within three years, as well as an incentive auction of broadcast TV spectrum. We are aiming for Notices of Proposed Rulemaking implementing the incentive auction provisions of the new law by the fall of this year. The Commission intends to meet statutory deadlines and move expeditiously to meet the growing demand for wireless spectrum. I anticipate a positive return on investment from the auctions process.

Question. Current policy would keep the FCC's budget for auctions at \$850 million through FY2022, with the FCC receiving \$85 million each year no matter what auctions (if any) were conducted that year. If the FCC could reallocate \$850 million through FY 022 to maximize the speed and efficiency of spectrum auctions, how would it do so? Under that reallocated budget, what would be the FCC's expected schedule for auctioning spectrum through FY2022?

Answer. As noted above, the FCC has already requested and received reprogramming authority for the current fiscal year and is requesting additional, temporary funds above the cap level. The Commission does not have a schedule for the process through FY2022, but I will keep this committee and the Appropriations Committee apprised of our progress.

Question. Section 9 of the Communications Act requires regulatory fees to be apportioned among industries based on full-time equivalent employees, but there seems to be a continuing mismatch between employment in the bureaus and the assessment of regulatory fees. For example, the Wireless Bureau and the Media Bureau each have more employees than the Wireline Bureau, and yet wire line providers pay almost three times as much in regulatory fees as wireless providers and cable providers. Last July the Commission promised to open a further rulemaking on rebalancing regulatory fees before the end of 2011. What is the status of that rulemaking? Do you believe the current assessment of regulatory fees accurately reflects the changing .communications marketplace?

Answer. The Commission's Office of Managing Director has now circulated for consideration a Regulatory Fee Notice of Proposed Rulemaking to provide a complete review of the process and ensure the proper balancing of regulatory fees. Regulatory fee reform and rebalancing is complex, and it is likely that we will receive a high volume of comments in the proceeding. I anticipate that the rebalancing of regulatory fees will be implemented in FY 2013.

Question. The FCC's FY2013 budget notes that the agency as collected \$66 million in excess regulatory fees in the last few years. Are those excess fees available to the Commission to spend? Is there any reason, legal or otherwise, those excess fees should not be transferred to the Department of Treasury to reduce the deficit?

Answer. The allocation and use of these funds are within the purview of Congress. The Commission does not control the distribution of these funds or their use.

Question. The administration of the Universal Service Fund is an important part of the Commission's work. Ratepayers deserve to know that their funds are being spent efficiently and that Commission rules minimize the potential for waste, fraud, and abuse. Although current rules may serve these ends, that bureaucratic process means that applicants must navigate reams of paperwork to qualify for USF funding. For thousands of schools, libraries, health care providers, and rural carriers, the administrative burden can be daunting. What steps has the Commission taken to identify needless paperwork and strike red tape from the funding process? Conversely, what steps has the Commission taken to prevent waste, fraud, and abuse? How do the remedies differ for honest or technical mistakes and malicious actions?

Answer. Please see responses to each of your questions:

Reducing Regulatory Burdens

During my tenure, the Commission has taken a broad range of actions to eliminate unnecessary and burdensome regulations. These include unanimously adopted USF program reforms that have streamlined and otherwise improved processes for schools, libraries, rural health care providers and rural carriers, including:

- Simplification of the E-rate application process, which includes removal of the E-rate program technology plan requirement for priority one (telecommunications services and Internet access) services.
- Transition to an electronic support disbursement process for all USF programs.
- Elimination of some existing high-cost reporting requirements for rural carriers and implementation of narrowly tailored, uniform high-cost reporting requirements to demonstrate compliance with statutory requirements and Commission rules.
- Reduction of paperwork in the Lifeline program by allowing eligible telecommunications carriers (ETCs) and state agencies to capture a qualifying consumer's signature electronically at sign-up, including through the use of interactive voice response systems and via text message in compliance with the requirements of the E-Sign Act and the Government Paperwork Elimination Act.
- USAC's recent implementation of a streamlined online interface ("MyPortal") to help simplify the process for applicants in the rural health care telecommunications and Internet access programs (the "Primary Program"). USAC has also expanded its training programs for Primary Program applicants and conducts intensive training sessions in approximately 10 cities each fall. FCC participated in each applicant training session last year.
- USAC conducts training around the country each year focused on providing assistance to service providers participating in the E-rate program. In addition, USAC also conducts Helping Applicants to Succeed (HATS) consultations with individual schools and school districts to help applicants with their participation in the E-rate program.

Preventing Waste, Fraud and Abuse

The FCC is focused on eliminating waste, fraud and abuse from all program we administer, including USF. Based on reforms adopted over the past three years, the Commission has saved or will save billions of dollars for consumers who pay into these programs. For example, in establishing the Connect America Fund, the Commission, for the first time put high-cost universal support on a budget and made a commitment to eliminating wasteful and duplicative support.

Through targeted efforts to eliminate waste, fraud and abuse in the Lifeline program, the Commission expects to save at least \$200 million this year and up to \$2 billion over the next three years compared to the pre-reform status quo path. Additional examples of actions that will eliminate waste, fraud and abuse across the USF programs include but are not limited to:

Lifeline:

- Development of a comprehensive subscriber database that, when launched in 2013, will safeguard against duplicate Lifeline subscriptions.
- Audits in a number of states to identify and eliminate duplicative support.
- Release of periodic reports made to each FCC Commissioner providing information on whether the Lifeline reforms are succeeding in meeting the first-year \$200 million savings target.
- Creation of clear goals and performance metrics to measure program performance and effectiveness.

High-Cost:

- Improved accountability, including regular financial and performance reporting, from companies receiving support to ensure that public investments are used wisely to deliver intended results.
- Benchmarks for reasonable spending by rate-of-return carriers in the high cost program, based on comparisons to similarly situated companies, to ensure carriers are not receiving excessive support.

E-Rate:

- Strengthened rules regarding gifts between applicants and service providers.

Rural Health Care:

- USAC site visits to participants in the Commission's Rural Health Care "Pilot Program," at the Commission's direction, to guard against waste, fraud, and abuse, through records checks to ensure compliance with Commission rules and procedures.

Technical Errors and Malicious Activity

Pursuant to the Commission waiver and application review process, petitioners are afforded an opportunity to demonstrate why application of a rule should be waived or a funding decision should be reversed. Factors considered include technical mistakes for funding denials in the decision-making process.

Question. In his written testimony, Inspector General Hunt stated that the FCC "needs to develop a more robust suspension and debarment regime" that extends beyond the E-Rate program. Please describe the current suspension and debarment procedures of the FCC for all of the programs funded by the Interstate TRS Fund and the Universal Service Fund, as well as the plans of the FCC to broaden and invigorate these procedures to ensure a robust oversight regime.

Answer. Suspensions and debarments under 47 C.F.R. Section 54.8 are an important part of overall efforts by the Commission to combat waste, fraud, and abuse related to the Universal Service Fund support mechanisms. Since 2003, the Enforcement Bureau has taken 40 suspension and debarment actions for criminal and civil violations related to the Universal Service Fund, primarily the E-Rate program. Suspension and proposed debarment actions generally are initiated within 45 days of notification that a person has been convicted or found civilly liable for committing or attempting to commit a wrongful act against one of the Universal Service Fund programs.

A person may contest the suspension, scope of the suspension, proposed debarment or scope of the debarment within 30 days of notification or publication of the notice in the Federal Register. In the absence of extraordinary circumstances, the Enforcement Bureau will notify the person of its decision to debar within 90 days of receiving any information submitted by the respondent.

In addition to these procedures, the FCC has broadened and invigorated its oversight in other ways. For instance, with regard to Lifeline, the FCC has taken significant steps to cut waste, fraud and abuse, projected to save up to \$2 billion over three years compared to the program's status quo path:

- Adopted a savings target of \$200 million in 2012
- Eliminated duplicate subscriptions through a National Lifeline Accountability Database
- Imposed verifiable eligibility standards with biannual audits

With respect to interstate telecommunications relay services (TRS), section 64.604 of the Commission's rules permits the TRS Fund Administrator or the Commission to suspend or withhold payments from TRS providers if they fail to comply with the Commission's mandatory minimum standards, including technical and functional standards. All providers of Internet-based TRS (such as video relay service (VRS) and IP Relay), are required to be certified by the Commission in order to receive compensation from the interstate TRS fund. The Commission can revoke that certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In addition, the Commission can grant certifications on a conditional basis, and if it denies permanent certification, the conditional certification automatically terminates after 35 days

The FCC's April 2011 Fraud Order succeeded in weeding out approximately 50 VRS providers that had been engaged in questionable and potentially illegitimate practices. Several of these "white label" companies as they came to be called, were – at

varying levels – involved in schemes designed to pump minutes to obtain reimbursement from the TRS Fund for illegitimate relay calls. The result was a number of indictments, which in turn resulted in multiple guilty pleas and two convictions. The Commission has been working closely with law enforcement authorities, most notably the Department of Justice, to investigate and prosecute actions pertaining to illicit TRS claims.

Specific examples of successful cost-saving Commission actions include a consent order with the Publix Companies revoking its certification to operate as a carrier – and also as a TRS provider – based on its fraudulent receipt of TRS funds. The Commission also entered an agreement with Purple Communications that provided for the recovery of more than \$18 million for the TRS fund.

The Commission has taken several additional steps to reduce fraud, waste, abuse and improper payments from the TRS Fund:

- Awarded a contract to a new TRS Fund Administrator, Rolka Loube Saltzer and Associates (RLSA). This contract allows for greater oversight of TRS payments.
- Developing an audit program with the new Administrator that will target all recipients of TRS Fund money.
- Initiated a rulemaking to reform the structure and compensation of VRS.

The Honorable Lee Terry

Question. Payphones, which are deployed and serviced by all businesses, are the only form of telephone service for low income Americans that currently do not receive lifeline subsidies. Between \$500 million and a billion calls a year are made over pay phones. Payphone providers argue that accelerated deployment of subsidized cellphones are effectively putting them out of business, and that many low income Americans will lose access to the public telephone network as a result. Has the commission performed an analysis of the impact of its policies on payphones and whether the extinction of payphones serves the public interest? While circumstances have certainly changed, I note that Section 276 of the 96 Act does give the commission specific responsibility for oversight of payphones.

Answer. The Commission addressed this issue in its January 31, 2012 Lifeline Order in response to a petition filed by the American Public Communications Council (APCC), which represents payphone providers. APCC asked the Commission to redefine “qualifying low-income consumers” to include payphone service providers. The Commission concluded that Lifeline support should not be redirected in this manner. The Order also found that APCC’s request was inconsistent with our longstanding commitment to ensure that low-income consumers have access to phone service in their homes.

Question. I am concerned about the new eligibility requirements. The FCC is expanding its current eligibility from "one Lifeline discount per residential address" as noted in paragraph 70, to one Lifeline discount per "separate economic unit" where more than one

"economic unit" can reside at one physical address. Won't this significantly expand eligibility and hence the overall size of the Fund? I would like data on how the new eligibility requirements will impact the overall size of the Fund.

Answer. Before the Commission comprehensively and unanimously reformed Lifeline in January of this year, some eligible telecommunications carriers (ETCs) argued and presumed for many years that Lifeline did not have an enforceable one-per-household limitation, while others argued that it was unclear whether the program permitted more than one benefit per household. As a result, Lifeline may have been providing funding for multiple benefits in many households, but the Commission does not have data on the extent of such practices.

In the January 31, 2012 Lifeline Order, the Commission unanimously took the necessary step of further defining the one-per-household limitation in the Lifeline program. The Commission determined that a one-per-household rule, limiting Lifeline support to one supported line in an economic unit, is a "reasonable way to ensure that voice and broadband service are available to low-income consumers while minimizing the contribution burden on consumers."

The Commission deemed it an appropriate balance between ensuring that support is available for low-income families and that universal service funds are spent in a fiscally prudent way.

The Honorable Cliff Stearns

Question. I appreciate the responsiveness you demonstrated when Congresswoman Eshoo and I wrote to you back in November and asked you to provide direct access from the Commission's homepage to data about the agency's budget and performance. One element that we asked you to include, however, has not been added to the Budget and Performance Reports tab, and that is the number of full-time equivalents employed at the FCC. Other agencies, such as the Federal Trade Commission, make this information accessible. Will you commit to add this data to the FCC's Budget and Performance page?

Answer. Although information about FTEs and funding levels is routinely included in the FCC's budget submission, which is located on that page, I have instructed the Office of Managing Director to place a quarterly tally of FTEs on that page going forward. The actual current number of employees on staff as of this submission is 1723.

Question. At the FCC Budget Hearing, Rep. Waxman pointed out a number of housekeeping efforts you have made as Chairman, for example, eliminating 190 rules. Congratulations on that achievement. Can you describe which, if any, of the rules that were eliminated were economically significant and whether their elimination has helped improve the climate in a way that will lead to both preserving existing jobs and creating new ones?

Answer. The Commission thus far has eliminated 219 obsolete regulations and modified others to reduce regulatory burdens and to spur economic growth. In addition to eliminating outdated rules such as the Fairness Doctrine, we removed rules to eliminate unnecessary programs, such as Link Up for non-tribal consumers, simplified and streamlined the E-rate program and amended rules to make USF more fiscally responsible. We also eliminated paper filings for tariffs and eliminated regulatory barriers to efficient use of spectrum for wireless backhaul, wireless broadband services and satellite services. In our effort to eliminate unnecessary rules, we have been mindful of the need to foster a climate in which companies can preserve existing jobs and create new ones, for example, by pursuing new spectrum opportunities.

Below is a list of the eliminated rules, many of which are economically significant:

Eliminated rules for International Fixed Public Radio Communication Services.
Part 23

Eliminated restrictions on mobile repeater stations for the business radio frequency users.
90.247(b), 90.247(c), 90.267(e)(3)

Eliminated restrictions on WCS service.
27.53(a)(6), 27.53 (a)(9)

Removed rules in order to simplify and streamline the E-rate program.
54.506, 54.517, 54.522

Revised the Amateur Radio Service rules to clarify the rules with respect to amateur service vanity call signs, eliminating licensee confusion.
0.191(o), 0.392(g)

Eliminated restrictions on Amateur Radio Service: Eliminated the automatic power control provision in order to reduce implementation costs, and encourage amateur stations to experiment with spread spectrum communications technologies.
97.311 (d), 97.5(b)(4)

Eliminated outdated and unnecessary reporting requirements related to international telecommunications traffic.
43.53, 43.61 (b), 43.61 (c), 63.23 (e)

Rule revisions enabling all tariff filers to file tariffs electronically over the Internet.
61.21, 61.22, 61.23, 61.32, 61.33, 61.151, 61.152, 61.153, 61.52(a)

Eliminated Fairness Doctrine, Personal Attack & Political Editorial Rules.
73.1910, 76.209, 76.1612, 76.1613

Eliminated Broadcast Flag.
73.8000, 73.9000-9009

Eliminated Cable Programming Service Tier Complaints.
76.950-951, 76.953-957, 76.960-961, 76.1402, 76.1605-1606

Eliminated Part 1, Subpart D Broadcast Applications & Proceedings (duplicative of rules in Part 73).
1.502-615

Eliminated rules requiring Commission to review the Interstate Cost Recovery Plan (the TRS Fund) and the TRS Fund administrator's performance after two years (i.e., in 1995). Removed note that certain provisions of the rule are not effective until OMB approval. OMB approval received August 2000.
64.604(c)(5)(iii)(J), 64.2401

Eliminated rule describing the Commission's former "protest" process, which does not apply to applications filed on or after December 12, 1960.
1.120

Eliminated rules pertaining to comparative hearings for broadcast license renewal applications. The enactment of section 309(k) of the Communications Act eliminated comparative broadcast hearings for license renewal applicants.
1.227 (b)(6), 1.229(b)(2)

Eliminated rules pertaining to comparative hearings involving applicants for new commercial broadcast facilities and calling for the production of a Standardized Integration Statement and other information pertaining to the Commission's former integration standard and other broadcast comparative hearing criteria. Under §309(j), the Commission no longer has authority to conduct comparative hearings for new commercial broadcast facilities and instead awards licenses for new broadcast service using competitive bidding.
1.325(c)

Eliminated rules requiring common carriers to file reports regarding pensions and benefits, and compliance with a regulation in Part 43 of the rules that the Commission has eliminated.
1.788

Eliminated rules requiring common carriers engaged in public radio service operations to file reports in conformance with Part 23, which the Commission has eliminated.
1.805

Eliminated rules requiring that carriers engaged in domestic public radio services report and file documents in accordance with Part 21, which has been eliminated.
1.811

Eliminated rules that had set forth random selection procedures for Multichannel Multipoint Distribution Service (MMDS). The Commission no longer has authority to use random selection for MMDS or its successor service, Broadband Radio Service.
1.821, 1.822, 1.824

Eliminated duplicative rule (Anti Drug Abuse Certification).
1.2003

Eliminated rules implementing PUHCA 1935, which was repealed and replaced with Public Utility Holding Company Act of 2005.
1.5000, 1.5000, 1.5002, 1.5003, 1.5004, 1.5005, 1.5006, 1.5007

Eliminated provisions regarding complaints filed by television stations alleging that a satellite carrier has retransmitted their signals in violation of Section 325(b)(1) of the Communications Act. No new complaints may be filed after December 31, 2001, and no complaints filed on or before that date are pending.
1.6000, 1.6001, 1.6002, 1.6003, 1.6004, 1.6005, 1.6006, 1.6007, 1.6008, 1.6009, 1.6010, 1.6011, 1.6012

Eliminated backup power requirements for communications providers. This rule never took effect.
12.2

Eliminated rule providing that UHF television translators on Channels 70 to 83 must operate on a secondary basis to land mobile operations in the 800 MHz band and will not be protected from such operations. There are no UHF television translators operating on Channels 70 to 83, and the Commission has eliminated the TV allocation from these channels.
90.621 (d)

Eliminated allocation of specified channels for Basic Exchange Telecommunication Radio Service (BETRS). FCC removed the allocation in 2005.
90.621 (h)

Eliminated rule provisions that provided a framework for the relocation of incumbent site-based licensees in the upper 200 channels of the 800 MHz Band by incoming geographically based (EA) licensees. These provisions were a component of the 1995 reconfiguration of the 800 MHz band from site-based to geographic-based service that has since been completed.
90.699 (a), (b),(c), (e), (f)

Question. After paying close attention to the FCC's process this Congress, I am concerned that the elimination of old rules is often offset by the imposition of new rules. How many new proceedings have been opened during your tenure and how many new rules have resulted from those proceedings?

Answer. During my tenure, the Commission has initiated proceedings in response to new laws passed by Congress, such as the CVAA, which has expanded access to 21st century technology for persons with disabilities. We also initiated proceedings to update programs that were no longer functioning efficiently, such as the Universal Service Fund and the Video Relay Service fund, resulting in savings of hundreds of millions of dollars annually. Accordingly, the Commission published 99 new rules in the Federal Register from October 1, 2009 to April 30, 2012, including 34 new rules required by statutory provisions such as the CVAA, and 37 new rules as part of the USF reform effort.

Consistent with administrative law practice, the Commission publishes all new rules in the Federal Register, which publishes a quarterly update that is publicly available online.

Question. I think the FCC would save significant amount of resources if it focused on actual, rather than theoretical, problems. For example, I understand you appear to be replacing the 2007 "enhanced disclosure" rules with new disclosure obligations that will require TV stations to post their public inspection files, including political advertising records, online. This could cost an average of \$120,000 -140,000 per station per year, ultimately diverting resources for local programming. And it appears you are working to wrap up this proceeding as soon as possible. So, Mr. Chairman, what's the rush here? Wouldn't it be wiser if we got a better idea of what this is really going to cost, what the competitive implications are, and how burdensome this will be for broadcasters?

Answer. On April 27, the Commission adopted an order to move broadcasters' public files from paper to online. The Commission voted unanimously with respect to the non-political component of the public file, including hosting those components in an online database on the Commission's website.

The final order provided an extensive analysis of the cost and benefits of converting from paper to online files, based on the substantial record developed in the proceeding. The analysis shows substantial long-term cost savings from the conversion. As with all paper-to-paperless conversions, the broadcasters will experience some one-time upfront costs. Based on the record, the Commission has estimated these costs at an average of \$80 -- \$400 per station, spread over a six month period.

After the conversion, however, broadcasters will realize cost savings and efficiencies. Moving the file online will minimize disruptions in the daily operation of a station, and reduce the burdens placed on station staff that currently field phone calls and chaperone in-person requests to inspect files. In order to assist smaller stations in preparing for any additional costs, the conversion to electronic files will be completed in phases. Stations in the top 50 DMAs, approximately 200 stations out of approximately 2000 stations nationwide, must post new public file materials online when the rules become effective, with the rest of the industry complying by July 2014.

In 2007 when the Commission last considered this issue, broadcasters claimed that the greatest cost would be for them to individually host the information on their

websites. To reduce that cost, the Commission will host the information on the FCC's website to save the broadcasters this potential cost.

Question. Earlier this week, the FCC released a public notice about removing LightSquared's authority to build a terrestrial network within 24 hours of receiving a recommendation from NTIA. Have you examined the basis for the NTIA recommendation 'independently? How could you have possibly acted so quickly, before even asking for any sort of input on the NTIA letter?

Answer. The Public Notice you refer to seeks public input on the NTIA recommendation, as well as on other related issues. Commission staff is currently reviewing the record developed in response to that Public Notice.

The Honorable Anna Eshoo

Question. How do your programmatic initiatives on IT benefit both industry and consumers?

Answer. The Commission's programmatic IT initiatives are designed to save costs over the long term and to improve the Commission's ability to serve the public and industry. For example, as detailed in the charts below, we expect to reap significant cost saving efficiencies from a number of IT improvements while improving performance. The Agile Cloud Provisioning and Management initiative will save \$1.45 million annually and improve transparency, promoting greater access for consumer and industry. The Data Center consolidation follows OMB directives on consolidation and virtualization and will eliminate redundancies between Gettysburg and DC sites, while ultimately saving \$1.1 million annually.

Data Center Consolidation		Annual Savings
Energy Cost Savings	\$	189,433
Staff Productivity	\$	459,200
Operational Efficiencies	\$	515,200
	\$	1,163,833

Agile Cloud Provisioning, Management and		Annual Savings
--	--	----------------

Security		
Energy Cost Savings	\$	236,791
Staff Productivity	\$	574,000
Operational Efficiencies	\$	644,000
	\$	1,454,791

The Honorable Henry Waxman

Question. Under your chairmanship, the FCC has eliminated 210 obsolete regulations and identified 25 data collections for elimination. How have the collective experiences of the agency's FTEs played a role in making the Commission more efficient? Explain how any further reduction of the number of FTEs would impact the Commission's ability to carry out its responsibilities?

Answer. Lowering expected personnel costs would result in fewer employees and reduced levels of service to the public, with adverse consequences for the Commission's ongoing efforts to auction spectrum, reform the Universal Service Fund, protect consumers, enforce the Communications Act and the Commission's rules, and protect public safety.

The FCC's engineering operations are particularly essential to unleashing spectrum and facilitating product development activities that spur economic growth. For instance, last year a senior Apple executive advocated additional staffing for the FCC's OET. Apple's executive wrote, "If OET can complete its work efficiently, companies building innovative devices can get those new products to customers quickly. But if applications for innovative devices are delayed because OET staff is overtaxed, consumers are the losers."

Moreover, the Middle Class Tax Relief and Job Creation Act of 2012 places additional human resource demands on the Commission, and any reductions at this juncture would have a negative impact on important congressionally mandated tasks.

The Honorable John Dingell

Question. Do you believe that eligibility rules for bidders in voluntary incentive auctions of spectrum will increase or decrease revenues gotten from such auctions by the Commission? Please explain your response.

Answer. The incentive auction authority provided to the FCC by Congress will lead to substantial economic value beyond the one-time revenues raised through the auction. Under Title III of the Communications Act, there are a number of factors the Commission must consider as it makes spectrum available through auctions, including factors related to bidder eligibility. As we address these and other important issues involved in the unprecedented task of developing incentive auctions, please be assured that our process will be open, inclusive, fact-based, and guided by economics and engineering.

Question. Has the Commission issued guidance to device manufacturers and carriers about how to comply with regulations promulgated pursuant to the 21st Century Communications and Video Accessibility Act (Pub. L. No. 111-260)? If so, please submit a copy of such guidance with your response. If not when will the Commission issue such guidance?

Answer. On March 15, 2012, the FCC released the Small Entity Compliance Guide, prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. The Guide is intended to help small entities – small businesses, small organizations (non-profits), and small governmental jurisdictions – comply with the new rules adopted in this matter. The Commission’s Consumer Bureau also is working with the business community to provide outreach programs and additional assistance.

The Small Entity Compliance Guide is available on the FCC’s website:

<http://www.fcc.gov/document/twenty-first-century-communications-and-video-accessibility-act-2010>

The Honorable Frank Pallone

Question. Can you talk briefly about the work the FCC is doing in the health space, for example telemedicine as well as the health care related initiatives in the National Broadband Plan, and what progress the FCC has made on growing this space?

Question. Can you talk briefly about the work the FCC is doing in the health space, for example telemedicine as well as the health care related initiatives in the National Broadband Plan, and what progress the FCC has made on growing this space?

Answer. The National Broadband Plan identified health care as an area of enormous promise for broadband-enabled innovation. The FCC is working to help implement the Plan’s broadband and health recommendations, many of which relate to other federal agencies. The FCC is particularly focused on promoting connectivity,

ensuring that wireless spectrum is optimally allocated and managed, and facilitating the development of wireless medical devices.

To help accomplish these tasks, the FCC entered into an unprecedented partnership with the Food and Drug Administration to ensure that communications-related medical innovations can swiftly and safely be brought to market and also easing testing restrictions on anchor institutions like universities and research organizations. And late last year, the Commission adopted an order to dedicate spectrum for Medical Micropower Networks, which have the potential - literally - to enable paraplegics to stand.

We have taken significant steps to spur broadband connectivity for rural health care providers through reforms to the Universal Service Fund (USF). In establishing the Connect America Fund, the Commission established a specific goal to ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions, including medical and healthcare providers. The Commission has made clear that it expects recipients of USF support to engage with community anchor institutions in the network planning stages with respect to the deployment of CAF-supported networks, and required carriers to identify and report on the community anchor institutions that gain access to broadband as a result of CAF support. These requirements build on the Commission's rural healthcare program, including several pilot projects that have deployed state of the art telemedicine capabilities, creating new opportunities and cost savings for consumers and health care providers alike.

On May 25, 2012, the Commission took the next step forward on our health communication agenda with new rules to allow greater use of spectrum for Medical Body Area Network, or MBAN, devices. This technology has tremendous potential to untether patients from tubes and wires, and improve the quality of health care and ensure better outcomes for patients. These rules will help maximize the potential of MBAN technology by providing access to relatively quiet spectrum where this technology can develop and flourish.

With this order, the U.S. becomes the first country in the world to dedicate spectrum for Medical Body Area Networks in hospitals, clinics, doctors' offices, as well as in homes. Previously, this spectrum was used almost exclusively by commercial test pilots. This order represents a multi-industry effort to foster innovation in this spectrum band by allowing distinct but compatible users to share airwaves. These rules are a great example of how parties working together and with the FCC can achieve win-win outcomes for various industries and for the America people.

Question. Next, would you be able to tell me whether your agency has any current working groups or Task Forces set up to work with the health agencies, specifically those under HHS?

Answer. The FCC collaborates with HHS, FDA, NIH and other health agencies on communications-related health issues, and that coordination is increasingly vital. Collaboration between the FCC and these agencies can help unleash innovations and

breakthroughs in how care is delivered – from improvements in remote diagnostics and treatment, to new devices that can save lives while helping contain rising health care costs. The FCC also is an active member of “FedTel,” a new cross-federal workgroup dedicated to coordination and promotion of telehealth across all sectors of the federal government.

As part of the Rural Health rulemaking, the FCC is currently reviewing the implementation and use of regional health broadband networks that are part of the rural health care “pilot” program and coordinating with HHS staff to ensure program reforms are aligned with broader health care policy objectives.

As I noted in the previous question, the FCC also entered into an unprecedented partnership with the Food and Drug Administration to help ensure that communications-related medical innovations can swiftly and safely be brought to market. The MOU we signed explicitly recognized the significant benefits of providing more certainty and clarity to the innovators and investors who will develop and launch the next generation of health-related communications technologies. I look forward to continuing our work with the FDA and other health agencies to achieve this goal.

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20554



April 19, 2012

The Honorable Greg Walden
 Chairman
 Subcommittee on Communications and Technology
 Committee on Energy and Commerce
 U.S. House of Representatives
 2125 Rayburn House Office Building
 Washington, D.C. 20515

Dear Congressman Walden:

This is in response to your letter dated April 5, 2012, in which you requested additional information related to my testimony at the hearing entitled "The Budget and Spending of the Federal Communications Commission (FCC)."

The Honorable Greg Walden

1. **Your testimony highlighted the importance of oversight in curtailing waste, fraud, and abuse in the Universal Service Fund and the Interstate Telecommunications Relay Service Fund. Your testimony also highlighted your office's lack of resources. Please summarize your office's financial and staffing situation.**

Office of Inspector General (OIG, or Office) Response

The enacted Fiscal Year (FY) 2012 budget for the IG office is \$9.75 million in appropriated funds. In addition to the appropriated funds, there is available to my Office \$805 thousand in FCC auctions funds and \$233 thousand in Credit Reform funds. Further, we have budgeted to use \$ 3.4 million of Universal Service Fund (USF) monies in FY 2012. The USF monies were provided to my Office for use in USF oversight in FY 2008. The monies are "no year" funds to be used at our discretion, and at the end of FY 2012 we will have \$7.95 of these monies remaining for use in future years, until

expended. Note these funds can only be expended to support USF oversight and there is currently no replacement for these funds being contemplated when these funds run out.

Therefore, OIG has budgeted funds of \$14.2 million at the beginning of FY 2012. These funds support 26.5 regular employees (full-time equivalents, or FTEs), 13 term employees (NTEs) and one student intern, as well as contracted services, travel, training and other miscellaneous expenses. The staffing by position is summarized in the table below:

Position	FTE	NTE/Intern	Total
Administrative	3	3	6
Auditors	11	3	14
Attorneys	8.5	8	16.5
Other (includes IG)	4	-	4
Total	26.5	14	40.5

The FCC has recently authorized OIG to hire six new FTEs. We intend to use these slots to hire two auditors, two criminal investigators, a computer forensics examiner and an administrative person. Earlier in the year the FCC provided two other FTE slots to OIG, and we are in progress on filling those slots with two auditors. These staffing increases will be of great assistance to OIG in meeting our mission; however, they fall far short of the 19 new FTEs we have requested in our FY 2012 and FY 2013 budget requests.

2. **If your office were to increase its budget by 50 percent, how many additional staff would that support? How would you use that additional funding and those staff to oversee the Universal Service Fund and the Interstate Telecommunications Relay Service Fund?**

OIG Response

An overall 50 percent budget increase applied entirely to personnel and other directly related costs would allow us to add approximately 40 full-time equivalent (FTE) staff. This new staff would be comprised of audit, investigative and support personnel. However, it is likely that we would also use some of the increased budget in the area of contracted audit services. We have found that contracting for audit services is a very good way to leverage funding into increased oversight. In any event managing and implementing a budget increase of nearly \$5 million (which would be the equivalent effect of a 50 percent increase) would require a significant increase in administrative and direct support.

Additional audit and investigative staff would contribute significantly to expanded oversight of both USF and the TRS fund. Audits and other oversight projects have been hampered by staff shortages and critical investigations are being conducted by investigative attorneys working under term appointments. These investigations (35 active at the present time), all of which have the potential for funding recoveries and criminal charges, will be a challenging workload if we are unable to replace our current

temporary staff with permanent personnel. The USF programs account for over \$16B annually (including contributors) and the TRS program accounts for several hundred million per year. Between efforts to reform and expand the USF mission and the occurrence of fraud in the TRS program, the need for additional oversight cannot be overstated.

3. **The oversight of the Universal Service Fund is an important part of the Inspector General's work. Ratepayers deserve to know that their funds are being spent efficiently and that your office's oversight prevents waste, fraud, and abuse. Although current rules may serve those ends, that bureaucratic process means that applicant must navigate reams of paperwork if they are to qualify for USF funding. For thousands of schools, libraries, healthcare providers, and rural carriers, this process creates opportunities for honest or technical mistakes. How does your office differ in its treatment of honest or technical mistakes and malicious actions?**

OIG Response

During audits of beneficiaries or program participants, we look for compliance with laws, rules, and regulations and an effective system of internal controls. When discrepancies and weaknesses are found, it frequently does not rise to the level of "malicious actions." Findings rising to this level are referred to OIG Investigations for further evaluation. Honest and technical mistakes are routinely disclosed in audit reports. It is important and necessary to determine the reason for the mistake. If the mistake represents a weakness in the auditee's system of internal controls, recommendations are made to improve those controls to prevent similar errors in the future. Perhaps the mistake is due to an unclear form or instruction – if so, a recommendation is made to clarify the particular form or instruction contributing to the error. Professional judgment is used to determine the appropriate recommendation when an error is found.

From the investigative perspective, OIG's pursuit of USF abuse cases focuses on the facts and the law associated with civil and criminal fraud. For example, under the federal civil False Claims Act, liability requires the knowing submission of a false or fraudulent claim. Knowing is defined to include actual knowledge of the fraud or falsity, deliberate ignorance of the truth or falsity of the information, or reckless disregard of the truth or falsity of the information. OIG applies these tests to the facts and where there is substantive evidence of a civil False Claim, refers the matter to the Department of Justice or the appropriate U.S. Attorney. Where the facts provide reasonable grounds to believe there has been a violation of Federal criminal law, the Inspector General Act of 1978, as amended, directs us to report the apparent violation to the Attorney General.

The Honorable Anna Eshoo

1. **Your testimony indicates that you will not have "adequate resources to conduct the number of beneficiary or contributor audits necessary to have an impact on the [USF] programs." Can you describe how this will impact your office's ability to fulfill its oversight responsibilities?**

OIG Response

USF oversight is a growing challenge as program reforms and expanded missions are contemplated. Including fund contributions, the program now represents an annual budget exceeding \$16 billion. Our audit effort in the USF program has been constrained in the past few years, by both a shortage in staff and the loss of qualified staff. The USF funds enabled us to expand our audit coverage of the USF; however these funds are finite. We need permanent funding to hire staff and contract for audit services to continue to expand our coverage of the USF.

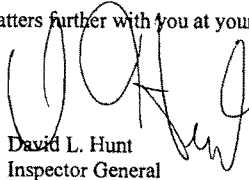
In addition, our on-going active USF investigations – 11 Low Income, 16 E-rate and 8 High Cost – involve potential criminal charges and require the services of seasoned investigators. However, our investigations are being conducted by investigative attorneys working under term appointments. Several of the current cases are before grand juries, several are qui tams, and most involve DOJ/AUSA trial attorneys. Effectively seeing these investigations to successful conclusions will be a challenging workload if we are unable to replace our current temporary staff with permanent personnel.

In our TRS oversight efforts, both audit and investigations indicate a continuing need for more effort, including such issues as:

- The last three rounds of audits of VRS providers' rate filing information show no improvement in compliance with those reporting requirements.
- No audits of the providers are being performed by the Fund Administrator.
- There is continuing fraud and abuse of the TRS program.
- There does appear to be a deterrent effect for not engaging in criminal conduct as long as providers understand that the IG's office continues to audit.

At present, we are only able to devote one FTE to manage contracted auditors in performing audits of TRS. We plan to add one more FTE to oversight of the TRS before the end of this fiscal year. However, in light of the problems we have seen with this program, our oversight effort for the TRS should be in our opinion much more robust.

I would be happy to discuss these matters further with you at your convenience.



David L. Hunt
Inspector General

cc:
The Honorable Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

April 5, 2012

Mr. Scott Barash
CEO
Universal Service Administrative Company
2000 L Street, N.W., Suite 200
Washington, D.C. 20036

Dear Mr. Barash,

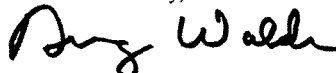
Thank you for appearing before the Subcommittee on Communications and Technology on February 16, 2012, to testify at the hearing entitled "The Budget and Spending of the Federal Communications Commission."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for 10 business days to permit Members to submit additional questions to witnesses, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and then (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please e-mail your responses in Word or PDF format, to katie.novaria@mail.house.gov by the close of business on Thursday, April 19, 2012.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Greg Walden
Chairman
Subcommittee on Communications and Technology

cc: The Honorable Anna Eshoo, Ranking Member,
Subcommittee on Communications and Technology

Attachment

USAC Responses to Questions for the Record

Energy and Commerce Committee
 Subcommittee on Communications and Technology
 United States House of Representatives
 “The Budget and Spending of the Federal Communications Commission”

February 16, 2012

1. Representative Greg Walden. **The E-Rate Program distributes about \$2.25 billion each year to schools and libraries, and yet USAC reports that it has almost \$5 billion in cash in the E-Rate account at the end of 2011. In contrast, the larger high-cost fund had only about \$500 million. Please detail how that \$5 billion in the E-Rate account is allocated. How much is unobligated? How much is obligated for the current funding year? How much is obligated for earlier funding years?**

As of March 31, 2012, the E-Rate Program has approximately \$4.9 billion in cash and U.S. Treasury securities. Also as of March 31, 2012, \$2.9 billion of this amount is currently obligated, of which \$1.6 billion is obligated through funding commitments for the current 2011 funding year. Approximately \$2 billion of the \$4.9 billion amount is unobligated.

E-Rate Program applicants' requests for funding that have not yet resulted in funding commitments total approximately \$1.7 billion, mostly from the 2011 fund year. Support for these requests will come from this \$2 billion of unobligated funding, leaving a total of approximately \$300 million unobligated of the \$4.9 billion amount. This \$300 million of unobligated funds is considered eligible for rollover to subsequent E-Rate Program funding years pursuant to 47 C.F.R. § 54.507. The Federal Communications Commission determines the amount of funds eligible for rollover each year.

When considering whether to roll over all or part of these funds, the FCC determines the amount of cash the E-Rate Program must have to cover near-term and future obligations, granted appeals, and requests for payments for previous years' commitments which have been deobligated.

2. Representative Greg Walden. **For obligated funding from funding years 2010 and earlier, how much is awaiting action by USAC before it can be paid or released? How much is awaiting action by the applicant? By the FCC? By a third party? How many applicants fall into each of these categories for each of the funding years?**

The table below shows obligated funding from funding years 2010 and earlier broken out into categories defined by which party must take an action to trigger a payment: USAC, applicants, or the FCC. In no cases was a third party responsible for taking actions to trigger payments.

In the category of funding awaiting action by applicants, please note that applicants receiving invoice deadline extensions can and do invoice USAC for projects that might have been delayed for various reasons. The money left over from these unspent funding commitments is rolled forward at FCC direction into future funding years to provide support for later funding requests. It is also important to note that in many cases, applicants do not invoice USAC for the entire amount of the funding commitment they receive. Applicants often decide to install only part of the project for which they receive support, or in some instances, they do not even begin the project. In other cases, they substitute items that end up costing less than what they originally expected, also reducing the amount of support required below that of the original funding commitment.

Fund Year	USAC		Applicants		FCC	
	Number of applicants	Amount	Number of applicants	Amount	Number of applicants	Amount
1998	0	\$0	0	\$0	0	\$0
1999	0	0	0	0	0	0
2000	1	120	0	0	0	0
2001	0	0	1	20,329,126	0	0
2002	4	3,170,757	0	0	2	4,226,785
2003	2	605,463	0	0	2	32,832,965
2004	7	6,724,196	1	4,496,235	1	3,390,591
2005	17	2,358,133	6	1,867,270	5	6,588,633
2006	25	4,907,872	9	12,786,292	6	3,119,739
2007	42	29,140,048	5	3,044,725	4	11,266,952
2008	50	29,786,129	1	21,960	4	52,385,723
2009	66	53,415,023	6,414	213,099,360	19	96,049,670
2010	225	146,229,307	7,782	623,486,124	32	144,996,813
Total	439	\$276,337,048	14,219	\$879,131,092	75	\$354,857,871

3. Representative Greg Walden. Please describe USAC's procedures for obligating or reserving E-Rate funding. For example, does USAC reserve funding for each application submitted? Does USAC ever commit to funding an application before USAC has collected the funds necessary to pay that commitment? When does USAC release reserved funding? What happens to funds USAC has released from its reserves?

USAC obligates/commits funding following an application review for compliance with FCC E-Rate Program rules. E-Rate Program funding commitments are a component of total universal service program funding requirements (also including funding requirements for the universal service High Cost, Low Income and Rural Health Care Programs) used by the FCC in determining the universal service quarterly contribution amount that USAC collects from telecommunications companies required to contribute to universal service pursuant to 47 U.S.C. § 254 and 47 C.F.R. § 54.706.

Although universal service funds are exempt through calendar year 2013 from the Anti-Deficiency Act, USAC does not issue a funding decision until USAC has collected the appropriate funds for that decision. With the money collected, USAC sends a Funding Commitment Decision Letter to the applicant and service provider, informing them of the funding decision and providing notice that they can begin to invoice USAC for services rendered to the applicant by service providers selected by the applicant through a competitive bidding process.

USAC decommits previously obligated (reserved) funds, ultimately not used by the applicants upon FCC directive. These decommitted funds comprise the rollover funds, which are used to increase the dollars available to fund applications in current and future funding years.

4. **Representative Greg Walden. About half of USAC's budget is spent on administering the E-Rate Program. Why are administrative costs so high for that program? What is USAC doing to reduce those costs?**

The E-Rate Program costs more to administer than other universal service programs because of the large number of schools, libraries and service providers participating in the program. Annually, applicants submit over 40,000 applications for E-Rate Program benefits. Each application must be processed and reviewed for support, requiring individual review to check compliance with FCC E-Rate Program rules. These applications represent requests for funding eventually reaching tens of thousands of individual school or library beneficiaries. By comparison, approximately 2,000 companies participate in the High Cost and Low Income Programs, and just over 3,000 health care providers participate in the Rural Health Care Program.

Furthermore, the E-Rate program operates more as a retail operation, compared to the wholesale operations of the High Cost and Low Income Programs. The 40,000 applications for support come accompanied by nearly 80,000 contacts with applicants and service providers seeking help with or information about their participation in the program. In addition, in 2011, we received over 150,000 invoices from more than 4,000 service providers, each of which had to be processed and reviewed for compliance with E-Rate Program rules.

USAC works with the FCC on an ongoing basis to identify and implement opportunities for cost reduction through streamlining the application process, including using more online functions, and reducing contractor costs by in-sourcing various functions. In 2011, for example, USAC worked with the FCC to identify \$4 million in reductions to costs associated with reviewing applications.

5. **Representative Greg Walden. Please describe the work USAC has done and is planning to do to implement the FCC's recent reform of the low-income program.**

USAC is working closely with the Wireline Competition Bureau to implement the 2012 *Lifeline and Link Up Reform and Modernization Order* (FCC 12-11), which includes a number of deliverables to be completed by USAC. To date, USAC has met and expects to continue to meet each deliverable date.

Working with the FCC, USAC has created a new form to accommodate changes to the Low Income Program mandated in the FCC order, such as the \$9.25 flat rate per subscriber per month for Lifeline, eliminating Link Up except on Tribal lands where an Eligible Telecommunications Carrier (ETC) is receiving High Cost Support, and phasing out Toll Limitation Support with a \$3.00 per subscriber cap for 2012, \$2.00 cap per subscriber for 2013, and no support for 2014 and thereafter. In addition, USAC has made the system modifications required to begin paying Lifeline support on actual support claims in 3rd Quarter 2012 rather than the current method of including a projected payment in each disbursement calculation.

To educate beneficiaries on the changes to the Low Income Program, USAC has developed web and training materials. For example, USAC has developed print and web materials, including an interactive website to educate consumers about the Low Income Program's one-line-per-household rule. In addition, USAC has developed training material for telecommunications carriers on the types of documentation that may be presented by consumers to demonstrate program and income-based eligibility.

As required by the FCC order, USAC is preparing to conduct a competitive procurement for contractor assistance in developing the National Lifeline Accountability Database.

6. **Representative Greg Walden. Your annual report shows that more than half of all USF contributors were delinquent in 2011, and yet less than half of delinquent contributors were assessed any late fees or penalties. Why is that? What steps is USAC planning to take this year to reduce the number of delinquent contributors?**

The number of delinquent universal service contributors includes companies that are currently delinquent in their monthly contribution obligations as well as those that have older delinquent amounts. USAC pursues collection of older delinquent amounts through referring delinquent debt to the FCC (which refers the debt to the U.S. Treasury) under the Debt Collection Improvement Act (31 U.S.C. § 3716), through an FCC-approved installment payment plan, or in cases where the company has filed for bankruptcy, through the bankruptcy court. The FCC recently directed USAC to, as of May 1, 2012, begin referring companies that are delinquent in their universal service contributions directly to the U.S. Treasury for collection.

When a delinquency involves a company that has gone out of business, USAC continues to show a delinquent amount for that company, whether due to an open bankruptcy case or continued attempts to collect by the U.S. Treasury.

When a company is more than 30 days late in paying its universal service contribution invoice, USAC puts the company under “Red Light” status. In these instances, USAC denies applications for support and/or stops paying out previously authorized support until the delinquency is cured. When the debt is over 30 days late, FCC rules require USAC to assess interest on the unpaid debt. USAC issues collection letters monthly to remind companies of the amount that is outstanding. USAC also reaches out to companies that have habitually paid late to work with them on installment payment plans.

7. **Representative Greg Walden. USAC’s mission is to administer the Universal Service Fund. Ratepayers deserve to know that their funds are being spent efficiently and that Commission rules minimize the potential for waste, fraud, and abuse. Although current rules may serve these ends, that bureaucratic process means that applicants must navigate reams of paperwork to qualify for USF funding. For thousands of schools, libraries, healthcare providers, and rural carriers, the administrative burden can be daunting. What steps has USAC taken to identify needless paperwork and strike red tape from the funding process? Conversely, what steps has USAC taken to prevent waste, fraud, and abuse? What does USAC do to assist applicants that have made honest or technical mistakes? And what does USAC do if it identifies malicious actions?**

USAC has worked since its inception in 1997 to make a beneficiary’s experience with universal service programs as efficient as possible, while also ensuring that our review process has the tools necessary to prevent and detect waste, fraud, and abuse. (Universal service terminology considers an applicant to be an entity that has applied for benefits from a universal service program and a beneficiary to be an applicant that has received benefits.) To ease the burdens of providing information, USAC has developed online versions of forms for applicants and service providers in all four programs to use in requesting support. In the E-Rate Program, for example, over 98% of applications are submitted electronically, up from none in 1998. USAC continues to enhance the functionality of these systems, including the recent launch of a new Rural Health Care Program applicant portal. USAC makes all payments electronically to applicants and service providers, which provides for greater accuracy, speed, and tracking in payments.

USAC works to prevent waste, fraud, and abuse in many ways. In the last five years, USAC has performed over 1,800 audits of universal service contributors and beneficiaries and service providers in all four programs. USAC conducts extensive administrative reviews of requests for support that are designed to identify and prevent improper payments (i.e., payments not in compliance with universal service program rules). A whistleblower hotline allows people to provide USAC with information in any area of universal service activities that might indicate illegal or improper activities. When USAC is informed that illegal conduct might have occurred, USAC refer matters to the FCC Office of Inspector General or the FCC Enforcement Bureau for investigation.

Understanding that program requirements can be challenging, USAC conducts extensive outreach activities. In 2011, over 3,500 representatives of program applicants, beneficiaries, service providers and universal service contributors participated in group training activities held around the country or online via webinars; about 1,800 received individualized assistance; and over 100,000 received electronic newsletters or other communications. In addition, in 2011 USAC's customer service team handled over 162,000 inquiries. Much of this outreach is directed towards program applicants, beneficiaries, and service providers who have made correctable mistakes, missed deadlines, or seem to be at risk for other program difficulties. In the E-Rate Program, for example, the FCC has identified numerous errors as "ministerial and clerical" and therefore fix-able after an application has been submitted. Outreach in these areas has prevented interruptions or problems in funding for many applicants and significantly reduced the number of applicant and beneficiary appeals.

8. Representative Anna Eshoo. In your testimony, you noted that USAC launched a "Payment Quality Assurance Program" to determine the improper payment rate for each of the USF programs. How does USAC use this information to improve operations and distribution mechanisms?

We analyze the results of Payment Quality Assurance Program assessments to determine common findings and causes for program participants' inadvertent failure to comply with program rules as well as intentional waste, fraud, and abuse. USAC uses that information as a basis for developing training curriculums and other outreach communications materials, and when necessary recovering payments that the program participant would not have received if it had complied with program rules.

9. Representative Anna Eshoo. Can you describe how USAC works with the FCC's Inspector General to implement auditing measures?

USAC works with the FCC Office of Inspector General (OIG) by discussing program beneficiaries and contributors who might require an audit as identified by our internal review procedures and referrals made through our whistleblower hotline or by USAC program management. Also, the USAC Internal Audit Division meets regularly with FCC OIG staff to discuss ongoing and planned audits. Weekly, the FCC OIG receives from USAC a status report of ongoing audit efforts.