

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2015

THURSDAY, MARCH 27, 2014

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:02 a.m. in room SD-138, Dirksen Senate Office Building, Hon. Tom Udall (chairman) presiding.
Present: Senators Udall, Johanns, and Moran.

FEDERAL COMMUNICATIONS COMMISSION

STATEMENT OF HON. TOM WHEELER, CHAIRMAN

ACCOMPANIED BY: HON. AJIT PAI, COMMISSIONER

OPENING STATEMENT OF SENATOR TOM UDALL

Senator UDALL. Good morning. I am pleased to convene this hearing of the Appropriations Subcommittee on Financial Services and General Government.

First, I want to welcome my ranking member, Senator Mike Johanns. We don't have anybody else here, but we expect a few to show up. But great to be here with you and share this opportunity to learn from our Federal Communications Commission (FCC) members that are here. I also want to—

Senator JOHANNs. Mr. Chairman, sometimes it is about quality, not quantity.

Senator UDALL. Yes, that is right. That is very, very well put. Yes. We have got real quality here. There is no doubt about it.

And I also want to welcome our witnesses. Chairman Tom Wheeler, who recently was confirmed as the new chairman of the FCC. I want to thank you for your service and look forward to your testimony today. And also with us is Commissioner Ajit Pai. Really good to have you with us again and look forward to your testimony as well.

The FCC has been very busy on a number of initiatives, initiatives that are critical to many Americans. And these are initiatives that I strongly support.

The FCC is modernizing the almost \$9 billion Universal Service Fund to expand access to vital communications systems for everyone in America.

The United States invented the Internet, but now we lag behind many countries in broadband access. This is especially so in rural parts of New Mexico. So I am pleased to see new broadband and

wireless investments in my home State and on tribal lands. And that is all thanks to universal service reforms.

The FCC is also updating and streamlining the E-Rate program to support Internet access at schools. In New Mexico, E-Rate already makes a big difference, benefiting over 350 schools and libraries and more than 370,000 school children.

There is no doubt, as you both know, that we live in an Internet age. And as Chairman Wheeler has noted, every student in America should have access to state-of-the-art tools for education. E-Rate helps make that possible.

In 2012, Congress authorized the FCC to conduct spectrum auctions to make more spectrum available for mobile broadband use. This fuels innovation in wireless technologies. It helps build FirstNet, our Nation's public safety broadcast network for first responders. And it will generate significant revenue for the U.S. Treasury.

The FCC also has a crucial safety and security role. Our Nation's communications networks do more than just keep us in touch with friends and family. In emergency situations, these networks save lives. This committee explored these issues at a hearing I chaired last fall in how we can improve emergency communications. So I look forward to an update from you about the progress that is being made there.

The FCC request for this fiscal year is—in 2015 funding is \$375 million. This is a modest increase from the fiscal year 2014 enacted level. FCC spending is fully offset, as we all know, by regulatory fees and from spectrum auctions.

This committee has an important oversight responsibility, ensuring that the FCC uses that money wisely for the American people. There are two basic questions. What are the resource needs of the FCC, and what are the consequences of the shortfalls?

I have the honor of chairing this subcommittee and serving with Senator Johanns, and I look forward to working with him to advance these critical FCC initiatives. So now I would turn to my ranking member for any opening statement that he would make.

STATEMENT OF SENATOR MIKE JOHANNNS

Senator JOHANNNS. Mr. Chairman, thank you very much for holding the hearing today on the fiscal year 2015 budget request for the FCC.

Let me also say welcome, Chairman Wheeler and Commissioner Pai. We are glad to have you both here.

This is an important hearing as the policies and actions of the FCC reverberate across our economy and impact our Nation's international competitiveness. The hearing is also significant as it is our first this year and serves as the kickoff for the fiscal year 2015 appropriations cycle.

I very much appreciate the work of the chair of the Appropriations Committee, Senator Mikulski, and Ranking Member Shelby and other committee members to try to restore regular order to the congressional appropriations process. However, it is no secret that I opposed the decision last fall to amend the Budget Control Act to escalate Federal discretionary spending back over a \$1 trillion.

The changes Congress made to the Budget Control Act simply raise more money to spend more money. I did not object to replacing the sequester cuts, but we should have included targeted cuts that addressed waste or fraud or achieved long-term savings through structural changes. Unfortunately, in my judgment, the agreement reached last year just didn't meet the standard.

Given my concern, I did not support the omnibus appropriations bill for fiscal year 2014 enacted earlier this year. There were numerous provisions in that bill that I supported and would vote for without reservation, but the package was all or nothing, and the good was unfortunately outweighed by the trillion dollar price tag.

Because last year's budget agreement increased the spending caps for fiscal year 2015 as well, I am concerned we are on the same path for this fiscal year.

I was disappointed that the President's budget for fiscal year 2015 proposed \$56 billion in new spending this year and \$791 billion in spending increases over the next decade, paid for with tax hikes on American families.

With soaring annual deficits and nearly \$18 trillion in debt hovering over our economy, our country is in need of serious budgeting that spends responsibly.

As we begin the process of reviewing agency budget requests for fiscal year 2015, I intend to work with my colleagues on the committee to ensure we make the difficult decisions necessary to get our spending under control.

We must also be mindful of the need to clear the way for economic opportunity and for international competitiveness. The FCC plays an important role in ensuring that the United States continues to lead the world in digital innovation and communications infrastructure. Its policies and actions can have an enormous impact on our country's economic growth.

I am eager to hear more today about the Commission's efforts to promote economic growth, reduce regulatory burdens, and promote greater transparency, predictability, and accountability in its regulatory process.

So, again, I thank the two of you for being here. I look forward to your testimony today and to working with you to address the challenges before us and to clear the way for continued U.S. leadership in communications, and I look forward to working with you in the future.

Mr. Chairman, thank you.

Senator UDALL. Thank you very much, Senator Johanns. Really appreciate your opening comments.

And Chairman Wheeler, at this point, I invite you now to present your remarks on behalf of the FCC, followed by Commissioner Pai.

SUMMARY STATEMENT OF HON. TOM WHEELER

Mr. WHEELER. Thank you very much, Mr. Chairman, and Ranking Member Johanns. We appreciate the opportunity to be here.

This is my first time presenting before you. But it is not the first time in my life that I have presented a budget. So let me revert to some of my business experience and try and go to the core of what the issues are.

As you pointed out, Mr. Chairman, we have a reasonable \$35 million increase that we are requesting, but it deserves explanation and discussion. You can really think of it in three parts.

About a third of that goes for technology upgrades that produce cost savings and efficiency increases. About a third goes to universal service reform in the form of both expanded enforcement and new rules. And about a third is essentially for two things. One, those mandated costs of inflation—salaries, benefits, et cetera—that happen, as I say, by mandate. And second, the movement of the National Broadband Map from the National Telecommunications and Information Administration (NTIA) to the FCC and our need to pick up that expense.

Let me see if I can unpack each of those. First, let us look at information technology (IT), which is about \$13.5 million. Our IT systems are old, inefficient, and insecure. Let me give you a couple of examples.

Forty percent of our IT systems are more than 10 years old. This means that most of them aren't even supported by their vendors anymore, and they are costly to maintain. Worse, we have 207 different systems that are a hodgepodge of incompatible and inefficient. For instance, we cannot build a consumer database that works across the entire agency because we have so many different incompatible systems.

But worst of all, these are insecure systems. I would be happy to explain in a less public setting some of my concerns about that, but let me give you one example. We are still using Windows XP in many of our computers, and it is well known that it is the access point of hackers worldwide. But we don't have the money to get out of it.

UNIVERSAL SERVICE FUND

The second leg of this three-legged stool is Universal Service Fund reform, which is \$10.8 million. We have an \$8.4 billion program going through big changes with big challenges. The lifeline program has been abused. We will save \$160 million this year by stopping some of the duplicate payments and the inappropriate participation that was there. But we are also dealing with companies, not just consumers, and we have had inefficient enforcement.

I said from day one, when I came in, I want heads on pikes. I want to find out who the miscreants are and deal with them. We have insufficient resources to do that.

Our High-Cost Rural Fund, we are shifting from voice to broadband, and we are putting out new trial programs. But our resources in the Wireline Competition Bureau are constrained in many other directions.

And the E-Rate program, as you pointed out, Mr. Chairman, is an 18-year-old program, built around 18-year-old ideas and priorities. We have to change that to reorient it to high-speed broadband. We are in the process of a rulemaking to modernize that right now.

But let me talk a little bit about management. We need more muscular enforcement. I am standing up a strike force on waste, fraud, and abuse in the Universal Service Program. But it doesn't

make sense that on an \$8.4 billion program, we have 25 full-time equivalents (FTEs) for enforcement. It is insufficient.

And so, what we ask for here are new employees, and let me be clear—we need investigators. We need auditors. We need financial enforcement folks. We need to expand by 15 the folks that we have in our Enforcement Bureau. That is almost doubling the current FTEs. We need to expand by 10 the folks that we have doing audits in our Office of Managing Director. That is doubling the numbers. We need to expand the Office of Inspector General by 6, and we need to put 14 more in the Wireline Competition Bureau for rules and enforcement appeals and things like this.

And I would just say the last third are things that we are mandated for, for \$5.7 million in Consumer Price Index (CPI) and other increases and \$4 million for the broadband map.

AUCTION

One quick observation. We also, as you know and you pointed out, Mr. Chairman, are responsible for auctions. And while that is paid for out of the auctions themselves, we are asking for an additional \$7 million there. We have generated \$53 billion from auctions and have spent less than 2 percent of that to run them, a 98 percent return. I think that is a pretty good return on investment for America.

We have had many auctions recently, in the last 5 years or so, that haven't had a very high profile. But in the last 5 years, we have had 10 auctions that have auctioned off more than 16,000 new licenses. And we are now dealing with a mandate that we have from you given in 2012 to conduct the world's first incentive auction, which is literally inventing things as we go.

As you pointed out, Mr. Chairman, the FCC pays its own way. It has no impact on deficit or taxes, and we take our responsibility at the heart of 21st century economies seriously. And that responsibility is multifold.

One, we need to make sure that we are going away from the "regulator knows best" approach. We can't be as smart as the Internet. We need to make sure that we are providing stability for those who invest and create jobs.

And two, we need to make sure that we are fulfilling our responsibility for consumer protection.

And three, we need to make sure that we are fulfilling our responsibility to deliver about two-thirds of our program, about \$8.4 billion to assist the development of 21st century communications in rural America.

PREPARED STATEMENT

I appreciate the opportunity to be here and look forward to discussing these issues with you.

[The statement follows:]

PREPARED STATEMENT OF HON. TOM WHEELER

Chairman Udall, Ranking Member Johanns, and members of the subcommittee, I am pleased to appear before you today, alongside my colleague Commissioner Pai, to present the Federal Communications Commission's (FCC's) fiscal year 2015 budget request.

Although I have testified before a number of other congressional committees during my career, this is my first appearance before a Senate Appropriations subcommittee. I see this as an important opportunity to update you on the FCC's activities while providing you with information essential to developing the Commission's funding levels.

When I assumed the Chairmanship of the FCC last November, I was impressed by the Commission's moderate budget levels and the extraordinary work that this agency has accomplished during the past few decades. The Commission has raised more than \$53 billion for the Treasury in auctions revenues since 1994—\$1.56 billion of that just last month. We are on course to raise billions more in the next few years to fund, among other things, the deployment of an interoperable broadband network for our Nation's first responders, as well as to reduce the deficit. The Commission supports an industry that is essential to our Nation's economy and stimulates ever-higher levels of financial growth. We have repurposed and re-engineered significant amounts of spectrum to fuel these industries—including spectrum that would have been considered almost useless barely a decade ago. During the past 3 years, the Commission has reformed the Universal Service Fund (USF)—a massive undertaking designed to take this 20th century program into the next decades of the 21st century—and now we are building on that reform with a sharpened enforcement focus.

The Commission's activities are entirely funded by those it regulates. In other words, there is a zero relationship between Commission expenditures and the Federal deficit. We have no direct appropriation, and we work hard to raise funds to put money back into the Treasury. In fact, the industries that we regulate contributed \$17 million to sequestration since that money was derived from their licensing fees. Auctions revenues cover auctions costs, and the USF funds cover USF program costs.

The FCC's fiscal year 2015 budget request is \$375,380,313, including \$11,090,000 specifically allocated to the Office of Inspector General. Our auctions cap request is \$106,200,000. Adopting this request will allow us to follow through on important priorities identified by your committee and our authorizers: the continued reform of USF programs to combat waste, fraud, and abuse and enhanced enforcement to put teeth into those reforms; as well as internal agency reform designed to make our processes responsive to consumers and the industry in a cost-effective fashion. Importantly, the auctions funds will support spectrum auctions identified in the 2012 Spectrum Act, which will make additional spectrum worth tens of billions of dollars available for commercial licensed services as well as providing nationwide spectrum for unlicensed use, and will support FirstNet.

Although it is important to keep costs down in the current budget environment, let me give you a snapshot of the Commission's recent budget restraints. The FCC's spending levels decreased after fiscal year 2009 from \$341 million to \$335 million, and hovered just at that mark for 2 years, finally hitting \$339 million during the next 3 years—with \$17 million of that number going toward sequestration in fiscal year 2013. During fiscal year 2013, the FCC cut its programming to the bone and worked hard to find cost savings, often delaying lifecycle replacements and improvements for facilities and equipment. In fiscal year 2011, the FCC had 1,776 employees. Today, we are down to 1,725, which is a 30-year low in full-time equivalents (FTEs). The number of FCC contracting personnel also has steadily decreased from a high of 959 in fiscal year 2009 to a current level of 470.

These cost reductions had real consequences. We have been unable to replace our Office of Engineering's Equipment Authorization System, and at this year's Consumer Electronics Show, I heard complaints about how sequestration's impact had slowed the approval of new products before last year's holiday shopping season. Cuts in employees left us chronically understaffed in enforcement, for example, so that our work to police pirate radio activities suffered—a big concern among some broadcasters—as we focused all available resources on public safety and homeland security activities. Likewise, we never replaced or upgraded our enforcement equipment. In fact, we have more than 200 relic information technology (IT) systems that are costing the agency more to service than they would to replace over the long term.

An effective and well-resourced FCC is critical, because we oversee the networks that power our information economy. The Commission's policies to unleash spectrum, promote competition, and provide regulatory certainty can help spur innovation and investment in a vital sector that drives economic growth and job creation. And the information and communications technology sector continues to be one of the leading lights of our economy and a key to our global competitiveness. For example:

- American firms account for 84 percent of global profits in the computer hardware and software industries.
- In 2010, the Information and Communication Technology (ICT) sector accounted for 24 percent of real gross domestic product (GDP) growth.
- Each year, the ICT sector generates more than \$300 billion in free goods and services that are not captured by GDP statistics.
- The mobile apps economy, which didn't exist at the start of 2008, has created more than 750,000 U.S. jobs.
- Since 2009, more than \$250 billion has been invested by private companies to expand, extend and upgrade broadband networks, which exceeds investment by the major oil and gas or auto companies.
- Annual investment in U.S. wireless networks grew more than 40 percent between 2009 and 2012.
- Venture capital financing of "Internet-specific" businesses has doubled in the past 4 years, from \$3.5 billion in 2009 to \$7.1 billion in 2013.

During the next year, the FCC will be hard at work on activities that will deliver significant benefits to consumers, businesses and our economy. We will be developing and licensing spectrum resources to spur innovation in new communications devices; upgrading, enhancing and securing our internal systems to better serve consumers and the industries that rely on us; and modernizing and enforcing our USF programs. That is really what the Commission's fiscal year 2015 budget is designed to support—another boom year of communications services for the American consumer and another year of growth for the industries that we support.

During that same year, the FCC, like the technology and telecommunications industries, needs to adapt to keep pace with the exploding marketplace. The FCC needs the basic tools to sustain and encourage industry growth; to protect licensees; and ensure the reliability and safety of the systems that we use. We need to do so in a way that fosters solid management practices that support, sustain and enhance the industries that we regulate.

One of the primary reasons that I initiated a process reform review upon assuming the FCC Chairmanship was because of my commitment to create an agency that is highly efficient, as well as responsive to the needs of all Americans. Instituting reform at this level will require the expenditure of resources that support essential programmatic changes. To support these efforts, the Commission is requesting a total of 1,790 FTEs for fiscal year 2015, which includes an additional 10 FTEs for Information Technology (IT) programming and 45 FTEs for USF modernization and oversight. These numbers are projections over the current low number of FTEs, and they represent an increase of only 14 FTEs over fiscal year 2011 levels.

The FCC carefully considered the need to hire additional employees prior to submitting its fiscal year 2015 budget request. We have far fewer personnel in IT than comparable agencies, and, as I mentioned earlier, we have more than 200 incompatible, aging computer systems that, because they cannot talk to one another, act to increase the cost of doing business. We must overhaul, upgrade, secure and replace IT systems that are antiquated relics—costly to maintain and harmful to agency productivity. The Process Reform report that I commissioned draws a direct line between inefficient and unreliable IT systems and sluggish administrative and regulatory activities. Certainly, the FCC, of all agencies, must be able to communicate effectively inside and outside the Commission. The failure to invest in IT now will keep us from achieving many of the reform goals that Congress has set—from transparency to timeliness.

Our other major spending target is USF modernization and oversight. The need here is urgent and resource-intensive. I intend to place a heavy—but not heavy-handed—emphasis on modernization and enforcement to ensure that USF adheres to Congress' vision and provides essential access to telecommunications services to all Americans—whether they live in a remote area of Alaska, in one of our American territories, or on an Indian reservation in North Dakota. On that note, I would emphasize that closing the infrastructure gaps in Indian country is an agency-wide priority, and I am committed to greater consultation with tribal leaders to promote broadband deployment and adoption in their communities.

We envision hiring a broad range of USF specialists with the regulatory, enforcement, economic, legal, accounting and auditing skills necessary to provide oversight of the USF programs in multiple offices and bureaus. Although our budget estimates for fiscal year 2015 indicate that most hires for USF would be targeted in the Wireline Competition Bureau (WCB), our new Managing Director currently is reviewing and revising the individual bureau staffing levels in accordance with the Commission's mission objectives. While the final recommendation has not yet been made, the USF employees will likely be distributed among WCB, the Enforcement Bureau (EB), Office of Inspector General (OIG), and the Office of the Managing Di-

rector (OMD). Every time I read or hear a news story about someone who tries to game the USF system, I recommit myself to the goal of dedicating qualified staff to reducing fraud.

Our requested auctions spending bump will support current auctions activities as well as the complex process of developing the Incentive Auction Program. Since 1994, the auctions expenses have been approximately 2 percent of our total auctions revenues. The Commission operated the auctions program for 10 years under a cap without inflationary adjustments, only receiving an increase in fiscal year 2013 to fund the start-up for the Incentive Auctions program.

The Commission welcomed the statutory authority to initiate and operate Incentive Auctions because of its benefits to consumers and stakeholders, as well as the Treasury. We are grateful that you recognized the need to ensure that this program is properly funded and that you provided us with the necessary resources to move ahead with our work, even as other programs were facing sequestration. The importance of this auction to the public safety community and the boost it will provide for nationwide interoperable communications will benefit all Americans. We also see this auction as a significant financial opportunity for many broadcasters—it will enhance the ability of broadcasters retaining their spectrum to continue providing the public with diverse, local, free over-the-air television service.

At the same time, the reclaimed spectrum will promote economic growth and enhance America's global competitiveness. More spectrum means more speed, capacity and ubiquity of mobile broadband services such as 4G LTE and Wi-Fi networks. These benefits will be magnified by another auction scheduled for the next year, AWS-3, which will provide access to reclaimed Federal spectrum.

I appreciate this subcommittee's attention to the Commission's funding needs during the next fiscal year, and I look forward to working with you to fulfill our statutory mission efficiently and effectively. Thank you.

Senator UDALL. Thank you very much for your testimony.

And Commissioner Pai, good to see you here, and please proceed with your testimony.

SUMMARY STATEMENT OF HON. AJIT PAI

Mr. PAI. Thank you, Mr. Chairman.

Chairman Udall, Ranking Member Johanns, Senator Moran, thank you for inviting me to testify this morning on the work of the Federal Communications Commission.

This morning, I would like to focus my opening remarks on two critical issues: Reforming the Universal Service Fund (USF) and modernizing the agency's processes.

First, USF. The Communications Act makes an important promise in the very first sentence: Congress created the FCC "to make available, so far as possible, to all the people of the United States" communication services.

We at the FCC take this promise seriously. And that is one reason why the Commission reoriented USF support away from telephone service and toward next-generation broadband networks in 2011.

And, of course, not every reform of the Universal Service Transformation Order has worked out as intended. Chairman Wheeler and I were not yet at the Commission when that order was adopted. So we can take a fresh look and reexamine whether any aspects of that order have actually deterred rural investment and harmed rural consumers.

Fortunately, it appears the Commission will soon cross one such aspect off the books—the Quantile Regression Analysis, or QRA, benchmarks. For over a year, I and many others have warned that the QRA benchmarks have increased regulatory uncertainty, chilled the investment climate, and impeded the deployment of broadband to rural Americans.

That said, the benchmarks were unanimously adopted. So it was no small matter when Chairman Wheeler announced a change of course in December. I applaud him for that decision. Ending regulatory uncertainty was the right thing to do, especially given that the QRA benchmarks did not save the Fund a single dollar.

There is another aspect of the Universal Service Transformation Order I hope the Commission will reexamine soon, and that is the so-called rate floor. The rate floor was designed to reduce “excessive subsidies for basic phone service.” But it doesn’t do that. Instead, it increases the rates rural consumers pay without reducing the subsidies that carriers receive.

Specifically, the rate floor offers certain rural telephone companies Federal universal service dollars to increase consumers’ phone bills. And these rate hikes are not minimal. Today, the rate floor is \$14 per month, but it is set to go up soon to \$20.46 on July 1, increasing rates for over 1 million rural consumers. That is a 46 percent jump for some consumers, many of whom are still waiting for the economic recovery to arrive.

And for small carriers in these areas, it may mean more serious financial problems. Rate shock could send customers off their networks entirely, which means further uncertainty about the economics of rural investment.

My view is that we should not add to the challenges our fellow citizens face in rural America. Instead, we should freeze the rate floor indefinitely and reexamine this policy. We followed that path with respect to the QRA benchmarks under the Chairman’s leadership, and I hope we do so here, too.

Second, process reform. This is important because it affects every area of the Commission’s work. On the legislative front, a bipartisan supermajority of the U.S. House of Representatives passed recently the FCC Process Reform Act of 2013. The House also passed the FCC Consolidated Reporting Act of 2013 back in September by a vote of 415 to 0. Together, these bills would eliminate outdated mandates on the agency, streamline our operations, and make it more accountable to the public. I hope these bills become laws soon.

However, the FCC cannot and should not wait for Congress to act. There is much that we can do on our own. All too often, proceedings at the FCC drag on needlessly for many years. I am encouraged that Chairman Wheeler from the get-go has said that process reform is a priority, and many of the reforms proposed in last month’s staff report on this topic are a good starting point.

For instance, we should establish more deadlines and set an internal schedule for meeting those deadlines. We should also become more transparent to the public and to Congress about the work we do, and we can do that by creating an FCC dashboard on our Web site that collects in one place key performance metrics, such as how long it takes us to process consumer complaints.

And Chairman Udall, I support your call to make our consumer complaint database searchable and user friendly. You are absolutely right that this idea, which is included in the FCC Process Reform Act I just mentioned, would benefit consumers. I believe it should be a part of our dashboard. For if we make it easier for others to hold us accountable for our performance, I am confident that all of us would act with more dispatch.

PREPARED STATEMENT

Finally, I should note that while all commissioners are asked to vote on a budget proposed by the Chairman and submitted to the Office of Management and Budget, I have not been asked to participate in the development of the agency's budget request. But with that context in mind, I will do my best to respond to any questions you might have on that score or on any of the policy priorities that the FCC is tackling.

Thank you once again, Mr. Chairman, Ranking Member Johannis, and I look forward to our exchange.

[The statement follows:]

PREPARED STATEMENT OF HON. AJIT PAI

Chairman Udall, Ranking Member Johannis, and members of the subcommittee, it is a privilege to appear before you today. Thank you for inviting me to testify on the work of the Federal Communications Commission (FCC).

We have been busy, and today I'd like to share with you my views on several important issues that we are confronting, namely: freeing up spectrum for commercial use, reforming the Universal Service Fund's high-cost and E-Rate programs, removing regulatory barriers to infrastructure investment, adjusting our rules to the changing media marketplace, ensuring Americans can always reach help when they dial 911, and reforming the agency's processes.

Spectrum.—Given this subcommittee's focus on appropriations, it is worth noting that the FCC is one of few agencies that can generate a profit for the Federal Government. By auctioning off spectrum, the Commission has raised tens of billions of dollars for the Treasury over the last two decades. Between 2005 and 2008, for example, the Commission's spectrum auctions raised over \$33 billion that was used for deficit reduction, and the FCC's auctions program was a net contributor to the Treasury each and every year.

But the Commission's auction program has not always turned a profit. From January 2009 through December 2013, the Commission raised a paltry \$72 million in auction revenue, or about two-tenths of 1 percent of the amount raised in the prior 4 years. Indeed, when you account for the Commission's spending on auctions, our auctions program has actually lost money during the last 5 years. This is bad news not just for the Treasury but also for American consumers, whose demands for additional bandwidth have increased as their use of tablets and smartphones has spiked over this same period of time.

That is why, since joining the Commission, I have concentrated on trying to accelerate the allocation of spectrum for mobile broadband and to rejuvenate the Commission's auction program. And I am pleased to report that we recently have made real progress on both of these fronts. Just last month, the Commission completed its first major spectrum auction in 6 years by auctioning off the H Block, 10 MHz of long-fallow spectrum once thought to be virtually worthless, to the tune of \$1.564 billion. Former Chairwoman Clyburn deserves credit for pushing that auction through, as does Chairman Wheeler for finishing the job.

But our work isn't finished. In the Middle Class Tax Relief and Job Creation Act of 2012, often called the Spectrum Act, Congress entrusted the Commission with holding a number of spectrum auctions, all with the twin goals of getting new spectrum into the commercial marketplace and raising at least \$27.95 billion for national priorities.

What are those national priorities? In short, they are deficit reduction and public safety—two things I'm sure every member of this subcommittee holds as priorities. Regarding the former, our incentive auctions hold the promise of raising more than \$20 billion for deficit reduction. Indeed, Congress counted on us raising this money when it passed the Spectrum Act, so if the Commission fails to follow through, we will be responsible for increasing the budget deficit.

As for public safety, successful spectrum auctions will provide money for key public safety priorities, such as the First Responder Network Authority's (FirstNet's) build-out of a nationwide, interoperable public safety broadband network. That \$7 billion build-out makes good on the recommendation of the 9/11 Commission that first responders need interoperable communications systems in times of disaster. The Spectrum Act also set aside up to \$135 million for State and local public safety officials, up to \$300 million to advance the research and development of wireless public safety communications, and up to \$115 million for the deployment of next-

generation 911 (NG911). Under the law, all of this funding will be realized only if the net revenues of our wireless auctions are at least \$27.95 billion.

Given these important national priorities, we need to aim high. The H Block auction was a first step toward those goals, but a chunk of the money raised there will pay for running our auctions program. We still have about \$27 billion to go.

The next step towards raising these needed funds will be the auctioning of Federal spectrum as required by the Spectrum Act. Most important to that effort are two bands of spectrum, 1755–1780 MHz paired with 2155–2180 MHz, that will hopefully become part of a new Advanced Wireless Service-3 (AWS-3) service. These bands are already internationally harmonized for commercial use, which means deployment will be swifter and cheaper than other options. That also means carriers are likely to bid more for this spectrum, which can lead to greater net revenues for the national priorities I described above.

Note that I said “hopefully.” Under the Commercial Spectrum Enhancement Act, the Commission can only assign commercial licenses for this spectrum if the revenues from the auction exceed 110 percent of the costs of relocating Federal users out of that spectrum and coordinating with those that remain. And the best way to make sure that we hit that mark and push that spectrum out into the marketplace is to invite all carriers to participate in the auction and offer a band plan that incentivizes the carriers to bid up the spectrum without restraint.

One further note on this band: I regret that we will not be bringing all of this spectrum to the marketplace free and clear from interference by incumbent Federal users. Clearing 1755–1780 MHz of Federal users would be the best way to maximize the value of spectrum, both at auction and for consumers. That’s what we did 10 years ago when we created the AWS-1 band that is so important to mobile broadband today, and that’s why the Spectrum Act puts a thumb on the scale for clearing and allows sharing only if clearing is “not feasible because of technical or cost constraints.” But it appears that the decision has been made that clearing is not feasible at this point. I therefore hope that the Government will do its part for the public, publishing specific and detailed transition plans as early as possible and coordinating with carriers quickly so that this spectrum can be put to use soon.

After this auction of Federal spectrum in the fall, the broadcast incentive auction will be the Commission’s best opportunity to push a large amount of spectrum well-suited for mobile broadband into the commercial marketplace and raise the billions we need. With this auction, television broadcasters will have the opportunity to relinquish their spectrum that wireless carriers will then have the opportunity to purchase, with the bid-ask spread (i.e., the net revenues) going to the Treasury once the Commission has paid for the relocation expenses of broadcasters remaining in business.

As the Commission moves forward on incentive auctions, I believe that five principles should guide our work. *First*, we must be faithful to the statute. It is our job to implement the Spectrum Act, not to rewrite it to conform to our policy preferences. *Second*, we must respect the laws of physics. Our band plan and approach to repacking must work from an engineering perspective. *Third*, we must be fair to all stakeholders. This is especially important because the incentive auction will fail unless both broadcasters and wireless carriers choose to participate. *Fourth*, we must keep our rules as simple as possible. The broadcast incentive auction is inherently complicated; unnecessary complexities are likely to deter participation. And *fifth*, we need to complete this proceeding in a reasonable timeframe. Prolonged uncertainty is not good for anyone.

My greatest worry regarding the incentive auction, at this point, is about participation. In order for the incentive auction to be successful, we will need robust participation by broadcasters and wireless carriers alike. But right now, I am concerned that the Commission will make unwise policy choices that will deter participation in both the reverse and forward auctions. My position on the reverse auction is simple. Prices paid to broadcasters should be determined by the market. The Commission should not set them by administrative fiat. The Commission should not deter broadcaster participation through a complicated “scoring” scheme that tries to pre-judge the compensation television station owners should receive. Any attempt to restrict payments to broadcasters will prove to be penny-wise and pound-foolish. Indeed, without sufficient broadcaster participation, the entire incentive auction will fail.

And on the forward auction, the Commission should not limit carriers’ ability to participate, such as by setting a spectrum cap or narrowing the spectrum screen despite the significant competition that exists in the wireless market. The inevitable effect of such a policy would be less spectrum for mobile broadband, less funding for national priorities, a higher budget deficit, and an increased chance of a failed auction. With a \$27.95 billion target, we cannot let this auction fail.

Finally, there's one last piece of spectrum I'm excited to discuss: the 5 GHz band. Although we are not planning to auction this spectrum, it can—and I believe will—be of substantial value to the American economy. The 5 GHz band is tailor-made for the next generation of Wi-Fi. Its propagation characteristics minimize interference in the band and the wide, contiguous blocks of 5 GHz spectrum allow for extremely fast connections, with throughput reaching 1 gigabit per second. The technical standard to accomplish this, 802.11ac, already exists, and devices implementing it are already being built. All of this means we can rapidly realize these benefits: more robust and ubiquitous wireless coverage for consumers; more manageable networks for providers; a new test bed for innovative application developers; and other benefits we can't even conceive today.

Following the instructions set forth by Congress in the Spectrum Act, the Commission launched a rulemaking last year to make up to 195 MHz of additional spectrum in the 5 GHz band available for unlicensed use. We also proposed to allow greater utilization of those segments of the 5 GHz band already available for unlicensed use. Last summer, I urged the FCC to move forward with its 5 GHz proceeding in stages, addressing the easier questions (such as how to modify the service rules for the UNII-1 band) before moving on to the hard ones.

And at the end of this month the Commission will be taking action. Although I cannot comment on specifics, I can say that I am pleased that we will be making the band attractive for commercial Wi-Fi while safeguarding incumbent users. That means better, faster devices for consumers, which is all the more important given the growing congestion in the 2.4 GHz band (which consumers right now commonly rely upon for Wi-Fi access).

Universal Service Fund.—Another big ticket item in the Commission's budget is the Universal Service Fund, which disbursed over \$8.36 billion last year. The Fund contains four separate programs, three of which are capped. The high-cost program has a yearly budget of \$4.5 billion, which is used to keep rural telephone rates "affordable" and deploy broadband to areas where the competitive market would not otherwise go. The E-Rate program, which supports schools and libraries, had a \$2.38 billion cap last year, which is adjusted each year for inflation. And the rural healthcare program is capped at \$400 million, but spending totaled only \$157 million last year. The only uncapped program is the Lifeline program, which disbursed \$1.79 billion last year, more than double the \$817 million disbursed in 2008. In addition to these disbursements, the Fund spent \$109 million in 2013 on administrative costs (not including the costs of Commission staff overseeing the program), with the majority (\$65.6 million) dedicated to administering the E-Rate program. My testimony will focus on the high-cost program and the E-Rate program.

High-Cost.—The Communications Act of 1934 makes an important promise in its very first sentence: Congress created the Federal Communications Commission to "make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." We at the FCC take this promise seriously. That is one reason why the Commission adopted the 2011 *Universal Service Transformation Order*, which reoriented the Fund away from supporting telephone service and toward supporting next-generation, broadband-capable networks.

Fortunately, it looks like the Commission will soon be crossing one obstacle to rural investment off its books: the quantile regression analysis (QRA) benchmarks. For over a year, I and many others have warned that the QRA benchmarks have increased regulatory uncertainty, chilled the investment climate, and impeded the deployment of broadband to rural Americans. That said, the benchmarks have been the law for over 2 years so it was no small matter when Chairman Wheeler announced a change of course in December. Ending regulatory uncertainty is the right thing to do, especially given that the QRA benchmarks did not save the Fund one dollar. I am hopeful that ending the QRA benchmarks means that bringing next-generation technologies to our Nation's rural citizens will be a priority during Chairman Wheeler's tenure, and I look forward to continue working with him to make that happen.

But sometimes it seems that every step forward for rural America is accompanied by a step back. I am concerned about another aspect of the Universal Service Transformation Order that is likely to have serious and unfortunate consequences for rural consumers: the so-called "rate floor," which was adopted before Chairman Wheeler or I arrived at the Commission. The rate floor was designed to reduce "excessive subsidies for basic phone service," but in fact it increases the State-set rates rural consumers pay without reducing the subsidies that carriers receive. Specifically, the rate floor offers certain rural telephone companies Federal universal service dollars to increase customers' phone bills. So if a company increases its rates by a dollar, it'll receive an extra dollar for per line from the Fund.

And these rate hikes are not de minimis. Today, the rate floor is \$14 per month, but it is set to go up to \$20.46 on July 1 under the terms of the Universal Service Transformation Order. That's a 46 percent jump for rural consumers, many of whom are still waiting for the economic recovery to arrive. And for small carriers, it may mean more serious financial problems. Such a rate shock could send customers off the network entirely, which means further uncertainty about the economics of investing in rural America. We should not be adding to the challenges our fellow citizens face in rural America. Instead, I hope the Commission will soon freeze the rate floor indefinitely and reexamine this policy.

There are other steps that we must take to follow up on the promise of universal service. For example, we have yet to implement phase II of the Connect America Fund, which is the FCC's primary vehicle for delivering broadband to the millions of rural Americans without it. The second phase was supposed to commence at the beginning of 2013 but it looks like it won't start until 2015 at the earliest. Given that the Wireline Competition Bureau has been doing yeoman's work to complete the model necessary for that effort—and given the urgent need for broadband in the country—we should aim to make sure that effort does not fall further behind. That means setting out the competitive bidding process that will occur in areas where price-cap carriers decline Connect America Fund support sooner rather than later because no part of rural America should miss the broadband revolution while waiting for the regulatory dust to settle.

Similarly, it is time for the Commission to start moving forward with a Connect America Fund for rate-of-return carriers. In constructing that fund, we must recognize that broadband operators in rural America today face unique challenges. Rural carriers must carefully plan their infrastructure over a 10- or 20-year time scale if they are to recover their costs. Indeed, Congress embedded this principle into section 254 of the act, including a statutory command that universal service support be “predictable.” What is more, line loss in rural America is real. As such, we must recognize that direct support for broadband-capable facilities, within the existing budget, is critical.

E-Rate.—I am hopeful that, in the next few months, we will bring about real reform of that program. Established at the direction of Congress 18 years ago, the E-Rate program is intended to bring advanced communications services to schools and libraries across America.

In many ways, the E-Rate program has been a success. Internet access in public schools has almost tripled, and speeds have grown alongside availability. For example, a 2010 FCC survey showed that 22 percent of respondents were “completely” satisfied and another 58 percent were “mostly” satisfied with the bandwidth they're getting. And just last year, 87 percent of educators responding to an independent survey reported that “access to adequate bandwidth is available for robust communication, administrative and instructional needs” in “all” or “most” classrooms on a school campus.

But like all Federal programs, E-Rate has had its share of difficulties. For applicants, the funding process from start to finish can stretch for years. To navigate arcane steps like Form 470 competitive bidding, Form 471 Program Integrity Assurance review, and the Form 500 commitment adjustment process, schools must enlist specialized E-Rate consultants, draining scarce dollars away from students and technology.

For parents, the process is so opaque that they cannot know ahead of time how much funding their child's school might receive and cannot track whether it is actually spent on enriching the education of their kids.

For school boards, E-Rate's “priority” system (under which things like paging and Blackberry services for administrators get prioritized over connecting a classroom to the Internet) distorts their spending decisions since some services are discounted by up to 90 percent while others may or may not receive any discount in a given funding year.

For Government watchdogs, there's plenty of waste and abuse to worry about. For example, one Brooklyn school has gotten millions of E-Rate dollars over the years including money for Internet access services—even though the students are not allowed to use the Internet.

And for everyone with a phone line, and who hence contributes to the program, it's hard to tell what bang we're getting for our universal service buck—there is no meaningful transparency with respect to E-Rate spending and no real information on the impact of that spending.

There is a better way—one which would focus the E-Rate program on children. To create a student-centered E-Rate program, we need to fundamentally rethink how we structure the program. That means starting each school and library with an upfront allocation of funding so they know how much they can spend and can

plan accordingly (a concept a subcommittee like this one should appreciate). That means establishing a meaningful matching requirement so that schools and libraries have a strong incentive not to waste money. That means cutting the red tape so that the initial application is just one page and there's only one other form needed before funds are disbursed. That means targeting funding at next-generation technologies like broadband and Wi-Fi while still letting local schools set their own priorities. And that means publishing all funding and spending decisions on an easily accessible, central Web site so that every parent, every journalist, every Government watchdog, every American can see just how E-Rate funds are being spent.

The student-centered E-Rate program I have outlined (a summary is appended to this testimony) would fulfill E-Rate's statutory mission of bringing advanced services to schools and libraries across the country. It would reduce waste, fraud, and abuse in the program and increase transparency and accountability. By streamlining the rules, we would also reduce the need for administrative overhead, saving the Government millions more. And it would free an extra \$1 billion for next-generation services in its first year (\$600 million of which is currently spent each year on basic telephone service and other outdated technologies), all without collecting an extra dime from the American people.

Given the potential savings at hand, I do not support increasing the program's budget at this time, and I am pleased that Chairman Wheeler appears to be on the same page. For example, last week he said that "[s]imply sending more money to the E-Rate program to keep doing business as it has been for the last 18 years is not a sustainable strategy." I concur. Indeed, under no circumstances should we increase the size of the E-Rate program without finding corresponding new savings elsewhere in the Universal Service Fund. We cannot ask Americans to pay even more in their monthly phone bills, especially when median household income in this country is lower than it was in 2007.

If we are willing to make the "hard decisions," as Chairman Wheeler has put it, I believe that real reform of the E-Rate program can become a reality. A student-centered E-Rate program—that's what teachers and librarians need, and that's what America's students and parents are counting on us to deliver.

Infrastructure Investment.—Removing regulatory barriers to the deployment of infrastructure is another Commission priority. To give entrepreneurs, investors, and innovators the regulatory certainty they need to invest in next-generation infrastructure, we need to make sure that we are not saddling them with last-generation rules. That means hastening the Internet protocol (IP) Transition and facilitating wireless infrastructure deployment.

IP Transition.—Almost every segment of the communications industry is competing to offer newer, faster, and better broadband services. Telecommunications carriers are upgrading DSL with IP-based technology and fiber. Cable operators have deployed DOCSIS 3.0 to increase bandwidth 10-fold. Satellite providers are offering 12 megabit packages in parts of the country that never dreamed of such speeds. And millions of Americans—many of whom don't subscribe to fixed broadband service at home—now have access to the Internet on the go using the mobile spectrum the Commission auctioned back in 2006 and 2008. Indeed, according to the State Broadband Initiative of the National Telecommunications and Information Administration, 98.8 percent of Americans had access to high-speed broadband as of December 2012. The common thread knitting all of these changes together is the Internet protocol (IP), a near-universal way to route and transmit data.

What are the results of all this competition? More choices for consumers, and major challenges to old business models. Thirty years ago, most American consumers had access to one network largely run by one carrier, Ma Bell. Today, Americans are fleeing the copper network. 33.6 million Americans dropped their copper landlines over the past 4 years. About one in seven households with plain old telephone service over the public-switched telephone network (PSTN) dropped their service last year alone. And competition is rampant: 99.6 percent of Americans can choose from at least three wireline competitors, and 92 percent can choose from 10 or more. The evidence also shows that consumers are in fact exercising that choice: Interconnected voice over Internet protocol (VoIP) providers added 14.6 million subscriptions over the last 4 years. Essentially, voice is becoming just another application riding over the Internet.

Over a year ago, I called on the Commission to move forward with an All-IP Pilot Program, one that would give forward-looking companies a path to turn off their old time division multiplexing (TDM) electronics in a discrete set of wire centers and migrate customers to an all-IP platform. Why? Because we cannot continue requiring service providers to invest in both old networks and new networks forever. Every dollar that is spent maintaining the networks of yesterday is a dollar that

can't be invested in building and upgrading the networks of tomorrow. Our goal should be to maximize investment in IP infrastructure so that high-speed broadband extends to every corner of our country.

I am pleased that, under Chairman Wheeler's leadership, the Commission adopted an order establishing an All-IP Pilot Program consistent with the four guidelines I set forth last year. *First*, carrier participation should be voluntary—and the order announced that “no provider will be forced to participate in an experiment.” *Second*, trials should reflect the geographic and demographic diversity of our Nation—and the order sought “experiments that cover areas with different population densities and demographics, different topologies, and/or different seasonal and meteorological conditions.” *Third*, no one can be left behind—and the order declared that “no consumer [may] lose[] access to service or critical functionalities” and that residential and business customers must receive “clear, timely, and sufficient notice of any service-based experiment.” And *fourth*, we must be able to evaluate an all-IP trial with empirical data—and the order sought “experiments that collect and provide to the Commission data on key attributes of IP-based services.” With these core principles in place, I am optimistic that the trials will be a success.

I am especially happy that the All-IP Pilot Program is moving forward on a unanimous, bipartisan basis. As I said last year, this isn't an issue that divides the left from the right or Republicans from Democrats. Accordingly, the order reflects our consensus that companies should have the opportunity to go all-IP. What is more, the order demonstrates that reaching an agreement does not mean compromising your values. I look forward to continuing our collaborations as we assess the proposed trials that are already coming in.

Of course, preparing for the IP Transition does not end with conducting an All-IP Pilot Program. We also need to take a hard look at our regulations in light of the coming transition, if for no other reason than that the private sector needs flexibility to make investment decisions based on consumer demand, not outdated regulatory mandates. Accordingly, I believe four principles should shape our approach to the overall transition.

First, we must ensure that vital consumer protections remain in place. For example, when consumers dial 911, they need to reach emergency personnel; it shouldn't matter whether they are using the (public switched telephone network (PSTN), a VoIP application, or a wireless phone. The same goes for consumer privacy protections and antifraud measures like our slamming rules. *Second*, we must not import the broken, burdensome economic regulations of the PSTN into an all-IP world. No tariffs. No arcane cost studies. And no hidden subsidies that distort competition to benefit companies, not consumers. We must also repeal the old-world regulations such as retail tariffing that no longer make sense in a competitive all-IP world. While they remain on the books, wholesale expansion to IP may just be too tempting. *Third*, we must retain the ability to combat discrete market failures and protect consumers from anticompetitive harm. *Fourth*, we must respect the limits of the Communications Act and not overstep our authority. If the law does not give us the authority to act, we must turn back to Congress for guidance rather than venturing forth on our own.

Wireless Infrastructure.—Along with ending the economic regulations that deter wireline infrastructure investment and delay the deployment of next-generation networks, we need to address the business and technical challenges of deploying wireless broadband. Building a wireless network is expensive enough, but numerous Federal, State, and municipal regulations can make further deployment difficult or even prohibitive. To be sure, some oversight is necessary to ensure sound engineering and safety and to respect environmental, historical, and cultural concerns. But many procedures simply frustrate, rather than facilitate, deployment. That ultimately harms consumers who are denied better and cheaper wireless services.

I am therefore pleased that the Commission moved forward last September with a Notice of Proposed Rulemaking seeking comment on a variety of ideas for reducing regulatory barriers to the construction of wireless infrastructure. In particular, I'd like to highlight three of them in my testimony this morning.

First, we should make clear that local moratoria on the approval of new wireless infrastructure violate Federal law. The FCC has already put in place a shot clock for localities to address tower siting permits and other building applications. Prohibiting moratoria would address the tactic some localities have used to evade those deadlines by adopting an indefinite “time out” on the approval of wireless infrastructure.

Second, we should modernize our rules to exempt distributed antenna systems (DAS) and small cells from our environmental processing requirements, except for rules involving radio frequency emissions. Given their small size and appearance—some small cell equipment can fit in the palm of your hand, for instance—there is

no reason to subject DAS and small cells to the same environmental review process as a 200-foot tower. We should similarly update our historic preservation rules, which add yet more regulatory requirements, in order to facilitate the deployment of DAS and small cells. It bears noting that the greater the deployment of wireless infrastructure like this, the less reliance carriers (and hence consumers) must place on larger, “macro” cell sites and the less power networks and devices will consume.

Third, we should address what happens when a local government doesn’t comply with our shot clock. Currently, if a city does not process an application within 150 days, the only remedy is to file a lawsuit. This increases delay and diverts investments away from networks. To fix this problem, we should supplement our shot clocks with a backstop: If a locality doesn’t act on a wireless facilities application by the end of the time limit, the application should be deemed granted. (As a legal matter, I believe the FCC has this authority following the Supreme Court’s decision last May in *City of Arlington, Texas v. FCC*.)

There are also other steps that the Commission can take to hasten the deployment of wireless infrastructure. For example, we have sought comment on clarifying the scope and meaning of section 6409(a) of the Spectrum Act, which prohibits State and local governments from denying certain collocation requests. I hope that we make appropriate clarifications in the near term. And we are looking for ways to expedite the deployment of infrastructure to implement positive train control, as required by the Rail Safety Improvement Act of 2008. I support moving forward on all these fronts swiftly; the American public deserves no less.

Net Neutrality.—Given the amount of work the Commission must do to remove regulatory barriers to infrastructure investment, I hope that we do not divert our attention to promulgating rules that may in fact erect new barriers. I am of course talking about “net neutrality,” which has apparently returned to the FCC’s agenda after the courts ruled—for the second time in 4 years—that the FCC exceeded its authority in attempting to regulate the network management practices of Internet service providers.

Without delving too far into the subject, let me say this. For over a decade, the Nation’s broadband infrastructure has been governed by four Internet Freedoms, set forth by then-FCC Chairman Michael Powell. *First*, consumers should have their choice of legal content. *Second*, consumers should be able to run applications of their choice. *Third*, consumers should be permitted to attach any devices they choose to the connection in their homes. And *fourth*, consumers should receive meaningful information regarding their service plans. Although our Nation’s broadband marketplace is dynamic and rapidly evolving, these four freedoms have remained vibrant throughout—they are in a sense the pillars, the foundation of the market—and they have long received bipartisan support.

With those principles already entrenched, the FCC should stay its hand and refrain from any further attempt to micromanage how broadband providers run their networks. Such restraint is the best way to ensure that the market—and hence consumers—dictate the future of the Internet. This, in turn, will encourage innovation throughout the entire Internet ecosystem and incentivize the continued deployment of high-speed, quality broadband service. Our goal should be to connect all Americans with smart networks, not to enact rules that require networks to be dumb pipes. So let’s recognize net neutrality for what it is: an unnecessary distraction from the pressing need to end regulatory barriers that stand in the way of ubiquitous broadband.

Media Marketplace.—The media landscape has undergone revolutionary change in the last few decades. But the FCC’s rules have not kept pace with the realities of the marketplace. Accordingly, since joining the Commission, I have advocated updating our regulations on a variety of fronts while at the same time preserving the Commission’s commitment to the core values of competition, diversity, and localism. Today I will focus on two aspects of our work: reviewing our media ownership rules and revitalizing the AM radio band.

Media Ownership.—The Commission is required by law to review its media ownership regulations every 4 years. This cycle’s review began in September 2009 as we announced a series of workshops to begin gathering information from various stakeholders. Now, more than 4 years later, our review is still not complete. The time has come for us to launch our next review, but we have not yet finished the last one. This is unacceptable and shows a troubling disregard for our legal obligations. We should bring the current quadrennial review to a close at the Commission’s March 31 meeting.

We should make sensible reforms to our rules so that they reflect the marketplace realities of 2014 rather than those of 1975. For example, I supported then-Chairman Julius Genachowski’s proposal to eliminate the newspaper-radio and radio-television cross-ownership rules. I also believe that the time has come to eliminate the news-

paper-television cross-ownership rule. In this day and age, if you want to operate a newspaper, we should be thanking you, not placing regulatory barriers in your path. I am a realist and understand that whatever reforms we end up implementing will not go as far as I might prefer. But I do believe that we should be able to find common ground and move forward with some sensible reforms.

Unfortunately, it appears that the Commission is set on tightening our media ownership rules in a piecemeal fashion rather than engage in the holistic review that Congress envisioned. Most disturbing is a proposal to make Joint Sales Agreements (JSAs) attributable under our local television ownership rule. As broadcasters' share of the advertising market has shrunk in the digital age, television stations must be able to enter into innovative, pro-competitive arrangements in order to operate efficiently.

JSAs allow stations to save costs and to provide the services that we should want television broadcasters to offer, particularly in our Nation's mid-sized and small media markets. In my home State, for example, a JSA between two Wichita stations enabled the Entravision station, a Univision affiliate, to introduce the only Spanish-language local news in Kansas. Across the border in Joplin, Missouri, a JSA between Nexstar and Mission Broadcasting not only led to expanded news programming in that market but also nearly \$3.5 million in capital investment. Some of that money was spent upgrading the stations' Doppler Radio system, which probably saved lives when a devastating tornado destroyed much of Joplin in 2011.

JSAs are also an important tool for enabling minority ownership of television broadcasters. Although the Commission has not studied the link between joint sales agreements and ownership diversity, my office's own review estimated that 43 percent of female-owned and 75 percent of African-American-owned full-power commercial television stations currently are parties to JSAs. For example, WLOO serves the Jackson, Mississippi market and is owned by Tougaloo College, a historically African-American college. WLOO is also party to a JSA with another Mississippi station, WDBD, which, in the words of WLOO's general manager, "has permitted WLOO to become a real success story, enabling a new, minority station owner to reinvigorate this station and expand its local services." Without the JSA, WLOO reports that it would have to stop creating locally-produced programming so that it could redirect that money to hiring a small sales staff, and its general manager is worried that it may not have the funding to survive an equipment failure.

For stations in smaller markets like Wichita, Joplin, and Jackson, the choice isn't between JSAs or having both television stations operating vibrantly on an independent basis. Rather, the real choice is between JSAs and having at most one television station continue to provide news programming while the other does not. Indeed, the economics suggest that there likely will be fewer television stations, period.

Another piecemeal change to our media ownership rules was teed up in September with a notice of proposed rulemaking (NPRM) proposing to eliminate the ultra high frequency (UHF) discount portion of our national television ownership rule. Given the transition from analog to digital television, there is a strong case for ending the UHF discount; UHF signals are not inferior to very high frequency (VHF) signals in the digital world. Unfortunately, the Commission's NPRM went about it the wrong way.

We should not modify the UHF discount without simultaneously reviewing the national audience cap, which currently stands at 39 percent. The NPRM recognized the interdependent relationship between the national audience cap and the UHF discount, acknowledging that "elimination of the UHF discount would impact the calculation of nationwide audience reach for broadcast station groups with UHF stations." Or, to put the matter succinctly, eliminating the UHF discount would substantially tighten the national ownership limit. For example, one company that is now more than 19 percentage points under the cap would be only 3 points below the cap if the UHF discount were eliminated.

I was therefore disappointed that we proposed to end the UHF discount without asking whether it is time to raise the 39 percent cap. Indeed, this step is long overdue, notwithstanding *any* change to the UHF discount. The Commission has not formally addressed the appropriate level of the national audience cap since its 2002 Biennial Review Order, and it has been about a decade since the 39 percent cap was established. The media landscape is dramatically different today than it was then, and I wish that the NPRM had addressed the national television rule in a comprehensive manner.

AM Radio.—This past October, the Commission launched an AM Radio Revitalization Initiative, something I had championed for more than a year. It's been over two decades since we last comprehensively reviewed our AM radio rules. Over that time, the AM band has struggled. Interference problems, declining listenership, fi-

nancial challenges for minority-owned broadcasters, and other factors have brought the band low. But millions of Americans—myself included—still rely on and believe in AM radio. So this initiative is close to my heart.

The Commission's NPRM embraced a sensible two-stage strategy for improving AM radio service. *First*, we proposed several ways to give AM broadcasters relief in the short term. For instance, we suggested a number of changes to our technical regulations, such as eliminating the "ratchet rule," which effectively prevents AM broadcasters from improving their facilities. And perhaps most importantly, we sought public input on letting AM stations apply for new FM translators so that it is easier for them to reach listeners with a quality signal. I'm the first to acknowledge that these and other proposals will not be an immediate panacea for the difficulties confronting the AM band. But based on the conversations I have had with AM broadcasters across the country during the past year, I am convinced that they can make a substantial, positive difference to numerous AM stations.

Second, we also invited the American public and stakeholders to share their proposals for the long-term future of the AM band. What steps can the Commission take so that there will be a vibrant AM radio service 10 or 15 years from now?

The comment cycle closed last week, and we received many insightful and creative submissions from broadcasters, engineers, and others with an interest in AM radio. While we continue to review those comments, I am optimistic that the Commission will act quickly to implement an initial set of reforms to help the AM band. Indeed, my office's quick review of the comments that were filed suggests overwhelming support for many of the Commission's proposals.

Connecting Americans to 911.—Federal law designates 911 as "the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance." So when Americans dial 911, they expect and deserve to reach emergency personnel who can assist them in their time of need. Unfortunately, a recent tragedy shows that this is not always the case.

On December 1, Kari Rene Hunt Dunn met her estranged husband in a Marshall, Texas hotel room so that he could visit their three children, ages 9, 4, and 3. During that encounter, Kari's husband forced her into the bathroom and began stabbing her. Kari's 9-year-old daughter did exactly what every child is taught to do during an emergency. She picked up the phone and dialed 911. The call didn't go through, so she tried again. And again. And again. All in all, she dialed 911 four times—but she never reached emergency personnel. Why? Because the hotel's phone system required her to dial 9 to get an outside line. Tragically, Kari died as a result of this vicious attack. Kari's daughter behaved heroically under horrific circumstances. But the hotel's phone system failed her, her mother, and her entire family.

At first, I was shocked to hear that such a situation could exist. But when you think about it, it's probably the case in many places—hotels, office buildings, college campuses, and schools—that use "multiline telephone systems" or MLTS. But the truth of the matter is that we don't know the extent of the problem. That's why I launched an inquiry in January to gather the facts. As a first step, I sent a letter to the chief executive officers (CEOs) of the 10 largest hotel chains in America. As we continue to examine the information provided by those companies, I am encouraged by their willingness to respond and work with us to ensure everyone can reach a 911 operator when they need to. I am also encouraged that the American Hotel and Lodging Association, which represents 9 of the top 10 chains and many, many more hotels and motels, has convened an internal task force to address the issue.

So what is the issue, precisely? In the case of Kari Hunt Dunn, it was what we call the "Direct Dial" issue—whether somebody picks up on the other end if you dial 911. But there are a couple of accompanying issues that come along with it. First is the question of who should pick up the other end of the line. Should it always be someone at the Public Safety Answering Point (PSAP)? Or in some buildings, should it be an on-site security office or front-desk clerk? And if the call does to go the PSAP, how does someone in the building find out that a call has been placed so that he or she can provide more immediate assistance or guide first responders to the correct room?

The second question is *location*. Do the first responders know where the call is coming from? In large office buildings or complexes, on college campuses, and in hotels, it's not enough for first responders to show up at the front door, if one even exists. Conveying accurate location information to these emergency personnel is critical. If someone calls 911 in this building, for instance, think about how long it could take emergency medical technicians (EMTs) to find a person in distress if they don't know exactly where to go.

We can't erase the tragedy that occurred in a Marshall, Texas hotel room last December. But we can work to prevent such tragedies from happening again, and that's what I am determined to do. I am confident that everyone here shares my

belief that when an emergency strikes, people, whether in a hotel or office building, should be able to reach someone who can help.

Process Reform.—Before concluding, I would like to touch on a subject that affects all areas of the Commission's work: process reform. The U.S. House of Representatives recently passed the Federal Communications Commission Process Reform Act of 2013, H.R. 3675. I hope that this commonsense bill, as well as the Federal Communications Commission Consolidated Reporting Act of 2013, H.R. 2844, which the House of Representatives passed 415 to 0 back in September, will soon be enacted into law. Together, these bills squarely address the need to modernize the FCC to reflect our dynamic, converged communications marketplace. And they would eliminate outdated mandates on the agency, streamline its operations, and make it more accountable to the public. These are two pieces of straightforward, good-government legislation, and I hope that the President will soon have the opportunity to sign them.

The FCC, however, should not and need not sit still waiting for Congress to act. We should do what we can on our own to improve our internal processes. Our goal should be clear: The FCC should be as nimble as the industry that we oversee. All too often, proceedings at the Commission needlessly drag on for many years. I am encouraged that Chairman Wheeler has said that process reform is a priority, and many of the reforms proposed in last month's staff process reform report are a good starting point.

Indeed, a variety of reforms would improve the Commission's performance. We should streamline our internal processes where possible. For example, let's adopt a procedure akin to the U.S. Supreme Court's *certiorari* process for handling applications for review—but one that maintains accountability by giving each of the five Commissioners the opportunity to bring a Bureau-level decision up for a Commission vote. Let's speed up our processing of smaller transactions. Let's establish more deadlines, such as a 9-month deadline for ruling on applications for review and petitions for reconsideration along with a 6-month deadline for handling waiver requests—and let's ensure our internal calendar sets a schedule for getting those items prepared and circulated in time so that we can meet those deadlines. When we adopt industry-wide rules, let's more frequently use sunset clauses that require us to eventually revisit the wisdom of (and, if necessary, revise or repeal) those rules.

We should also become more transparent to the public and to Congress about how long it takes the Commission to do its work. One way to do this would be by creating an FCC Dashboard on our Web site that collects in one place key performance metrics. Let's keep track of how many petitions for reconsideration, applications for review, waiver requests, license renewal applications, and consumer complaints are pending at the Commission at any given time. And let's compare the current statistics in all these categories against those from a year ago, from 5 years ago, so everyone can see if we are headed in the right direction. If we make it easier for others to hold us accountable for our performance, I'm confident that we would act with more dispatch.

My emphasis on acting promptly is not just about good government. It is also about the impact that the FCC's decisions (or lack thereof) have on our economy. As the pace of technological change accelerates, so too must the pace at the Commission. We can't let regulatory inertia frustrate technological progress or deter innovation.

Finally, I should note that while all Commissioners are asked to vote on a budget proposed by the Chairman that is delivered to the Office of Management and Budget, I have never been asked to participate in the development of the agency's budget request. With that context in mind, I will do my best to respond to any questions you may have.

APPENDIX—A STUDENT-CENTERED E-RATE PROGRAM

A student-centered E-Rate program focuses on five key goals:

- (1) Simplify the Program
 - Schools need to fill out *only two forms*: an initial application and a report back on how the money was spent
 - Initial application can be *no more than one page*
 - Universal Service Fund (USF) administrator does all the calculations, reducing the burden on schools
 - Less red tape* means fewer delays, more predictability, and no need to hire consultants
- (2) Fairer Distribution of Funding

- Allocates E-Rate budget across *every school in America*; every school board and parent knows how much funding is available on day one
- Schools receive money on a per-student basis; *funds follow students* when they change schools
- Additional funds* allocated for schools in *rural and/or low-income areas as well as small schools* to account for higher costs and different needs
- (3) Focus on Next-Generation Technologies for Kids
 - Eliminates disincentive to spend money on *connecting classrooms*
 - No more funding for stand-alone telephone service
 - Students come first*; funding directed only to instructional facilities, rather than non-educational buildings like bus garages
 - Equal funding for all eligible services; *local schools (not Washington) set priorities*
- (4) More Transparency and Accountability
 - Creates Web site* where anyone can find out exactly how any school is spending E-Rate funds; *enables parents, schools boards, press, and public to conduct effective oversight*
 - School district superintendent or school principal must *certify* that E-Rate funds were *used to help students*
- (5) Fiscal Responsibility
 - Ends the “more you spend, more you get” phenomenon*: Schools given fixed amount of money and must contribute at least one dollar for every three E-Rate dollars they receive
 - Better incentives, reduced waste, and less red tape* allows program to *accomplish a lot more* with the same amount of money; over \$1 billion more in first year provided for next-generation technology
 - Caps overall USF budget* before any increase in E-Rate budget; any expansion in E-Rate must be accompanied by *corresponding cuts* elsewhere in USF

	Legacy E-Rate Program	Student-Centered E-Rate Program
Spending Priorities	—Prioritizes voice telephone service, long-distance calling, cell phone service, and paging ahead of connecting classrooms with broadband Internet access —Funding available for non-instructional facilities such as bus garages and sports stadiums	—Focuses on next-generation services; no funding for stand-alone telephony service —All eligible services treated equally (including connecting classrooms); local schools, not Washington, should set priorities —Students come first; funding directed only to instructional facilities
Process	—Complicated —Schools face up to 6 separate forms plus outside review by an approved planner —Schools must spend money on consultants to navigate web of rules such as the 28-day rule, the 2-in-5 rule, and discount calculations —Backlog of appeals stretches back a full decade	—Simple —Only 2 forms required; initial application is only one page —Streamlined rules eliminate need for consultants —USF Administrator does all the calculations
Funding Allocation	—Funding tied to discounts; higher-discount schools get more funding overall and funding for more services —Complex rules encourage arbitrage and gaming —Differences in spending among States and within States are largely arbitrary —More than \$400 million lost each year due to red tape	—Funding follows the student —Funding allocated to all schools based on student population, adjusted for challenges that schools in rural and low-income areas face —Additional allocation for very small schools and schools in remote areas like Alaska —Much less money lost as a result of red tape means more money for students
Financial Planning	—Funding available to a school may change dramatically from 1 year to the next —Funding tied to decisions of every other school in the country —Schools must bid out services before they know if funding is available —Funding not secured until months or even years after funding year starts	—Funding available immediately to all schools, independent of decisions made by other schools —Minimal fluctuations from 1 year to the next allow for long-term financial planning

	Legacy E-Rate Program	Student-Centered E-Rate Program
Fiscal Responsibility	—The more you spend, the more you get —Some schools have little skin in the game by receiving up to a 90 percent discount —Priority and group-discount rules discourage long-term, efficient-scale purchasing —Cap on E-Rate but not overall Universal Service Fund	—Fixed pot of money for each school and matching requirement of one dollar for every three from E-Rate promotes prudent spending —Reducing wasteful spending allows the program to accomplish a lot more with the same amount of money; over \$1 billion more provided in first year for next-generation technology —Cap overall Universal Service Fund before any increase in E-Rate budget
Transparency and Accountability.	—Funding available to schools not disclosed until after the fact —Parents can't go online to see precisely how a school's E-Rate funds are being spent; online catalog just shows funding for each recipient divided into four broad categories —Relies on complicated rules and Federal audits and investigations for accountability	—Funding available to schools publicly disclosed immediately to enable parents, school boards, press, and public to conduct local oversight —Schools to report online exactly what they're getting for E-Rate dollars; school administrators must certify it's spent on students —Transparency and local control are key; Federal oversight a backstop
Relation to Libraries	—Libraries receive about 10 percent of E-Rate funding	—Libraries receive about 10 percent of E-Rate funding

Senator UDALL. Thank you very much, Commissioner Pai. Thank you both for your testimony.

We are going to proceed with 7-minute rounds for each member, and then we will go through multiple rounds if the members desire, however long.

Chairman Wheeler, I wanted to focus—you have mentioned this, both of us have mentioned the \$36 million increase, which is a 10 percent increase, and you have discussed a little of that. I am wondering if you can talk a little bit—with these additional funds, will they improve the FCC's ability to carry out its mission? And what would be the impact if you didn't have those funds?

I am trying to look at the other side of it. You put, I think, very solidly forward the positive side. What would be the impact of not doing that?

FCC FUNDING

Mr. WHEELER. Thank you, Mr. Chairman.

You know, I am 5 months on the job now. And having come from the private sector, I am still learning the realities of Government. But one of the things that we have been trying to focus on is a basic concept of efficiency and how do you make things work and work well?

As I indicated previously, the IT situation at the FCC is intolerable. It is a situation that no American business would allow to exist. We have begun to put in place solutions. We have brought in a crackerjack chief information officer (CIO) who understands what needs to be done. Absent the resources to do it, however, we are going to sit there with incompatible devices, with the inability to have common databases.

We have—just to give you an example—98,000 different data points inside our agency that make it totally impossible to build the database, to relate back and forth. We have got to consolidate

all of those. So, clearly, one thing is how do we become more efficient?

And one of the frightening things, when you look at it from a budgeting point of view, we are asking for \$13 million to fix IT. It is going to cost us more than that the next 2 years for baling wire and glue if we don't. So, clearly, there is cause and effect here, and there are results that come from it.

Like Commissioner Pai, I strongly support what you have proposed insofar as an online consumer database. We just couldn't do it—we didn't have the tools to do it. Yes, it ought to be online. Yes, it ought to be systematized. It is ridiculous.

And as Commissioner Pai indicated, we are looking at other process reform kinds of activities. If we don't deal with the challenges presented by an \$8.4 billion program that is being overhauled in all of its components and enforce our rules and our expectations, as is our fiduciary responsibility, then we won't be carrying out our fiduciary responsibility.

Twenty-five people enforcing an \$8.4 billion program doesn't make sense. So what I have tried to do, sir, is to—is to bring to the job a businessman's approach and say, okay, what are the challenges? How do we fix them? And then let us demand the results on that.

RURAL BROADBAND

Senator UDALL. Thank you very much for that.

In my second question, I wanted to focus on rural broadband. And as you are well aware, this is a really, really critical challenge.

And I am wondering, how will you continue to advance universal service reform to ensure that unserved areas are targeted for broadband support? How will you balance the need to connect areas with no broadband service while upgrading areas with slow service? And how will the additional staff requested in the budget help achieve these goals?

Mr. WHEELER. So you said the key word, "balance." And one of the joys that I have learned and that you all experience daily is making choices and how do you balance between various things.

Yes, we have to get service into unserved areas. Yes, we have to make sure that in areas where there is service, that that service is expanding in its quality and speed. Yet we have a finite pot. And so, that balance is crucial.

My concern and why we have asked for additional FTEs for the Wireline Competition Bureau is that these are huge issues to have these balancing of interests and to have fairness across an incredibly diverse country.

And what we have—we are constrained in the Wireline Bureau because of all of the issues that we are dealing with. And when we pull people away to do enforcement, we are pulling them off of things like this. And we need to make sure that we have the right kind of enforcement activities so that we are then are not robbing Peter to pay Paul in the rural broadband kinds of decisions that have to be made.

Senator UDALL. The thing that is striking to me from your 2012 Broadband Progress Report is 19 million Americans lack access to broadband. That is 6 percent of the population. Rural Americans

are 13 times more likely to lack access to broadband than Americans in urban areas.

My State of New Mexico ranks 44th among 50 States when it comes to broadband access, and over 14 percent of New Mexicans do not have access to broadband. So we appreciate your initiatives, and we appreciate you working to really push us forward in that area.

And with that, Senator Johanns, I call on you for your first round of questions.

FTE DEPLOYMENT

Senator JOHANNNS. Thank you, Mr. Chairman.

Chairman Wheeler, as you have pointed out, one of the most significant increases in your budget is the 45 FTEs anticipated in the Universal Service Fund program, if you will. You have also acknowledged that the FCC budget request essentially parks most of the new USF hires in the Wireline Competition Bureau, but I think you are anticipating that they could be spread elsewhere.

For example, I could see they could go to the Wireline Bureau, the Enforcement Bureau, the Office of Inspector General, the Office of Managing Director. The difficulty that creates for us who are supposed to be providing some oversight here is how are these people going to be deployed? So I have a couple of questions for you.

Can you give me—give the subcommittee here more specificity as to where you think you are heading here maybe today, but also as this rolls out?

And then the second thing I want to ask because your testimony prompts this question, with the sorry state of your IT as you have described it, does it make sense to try to get that up to speed and allocate resources there more aggressively and think about FTEs in a future budget request? So those are my questions.

Mr. WHEELER. Thank you.

Senator JOHANNNS. And Commissioner, I will ask you to offer some thoughts on that, too.

Mr. WHEELER. Thank you, Senator.

Let me be specific on where the people go. Fifteen people into the Enforcement Bureau, which is almost doubling the number of enforcement people for universal service. Ten people into the Office of Managing Director.

And the reason that is important is that the Universal Service Administrative Corporation, which is the structure, the quasi-independent structure that disburses the funds, reports in through the Office of the Managing Director, and that is where you need to have auditing capability and oversight capability there. So there are 10 people for that.

Six people for the Office of Inspector General, and as you know, they run their own shop.

Senator JOHANNNS. Right.

Mr. WHEELER. We don't dictate how they do that.

And then the remaining 14 are for the Wireline Competition Bureau, which is for multiple reasons. One, what happens in enforcement is you get a series of appeals and things like this, and that gets handled by the Wireline Bureau. And also, as I was saying to

Senator Udall, we have been robbing Peter to pay Paul to do enforcement. So that is the specific breakout of it.

Now insofar as your question about IT versus enforcement, I wish that I could make that decision, sir. But I don't see how—I mean, I think that we have got two fiduciary responsibilities here.

One is to make sure that \$8.4 billion is appropriately spent. And with all respect, I think that we have some catching up to do on our oversight and enforcement of those programs. And we are in the process of modernizing.

And second, as you suggested, the IT system, I mean, we just simply cannot go on this way. Here is a little interesting fact. As a result of my being here today and being in the news, we will see a precipitous increase in the amount of attacks on the FCC Web site, just because people say, “Oh, FCC, let's go.” We cannot tolerate that.

If we have responsibility for the economic engine of the 21st century, we can't be sitting here, one, without capabilities and, two, exposed as we are. So the choosing between these is incredibly difficult.

Senator JOHANNIS. You know, Mr. Chairman, your observation is correct. You know, back in my U.S. Department of Agriculture days, one of the most surprising things I learned in the first days of being there is how aggressively the system was attacked. Every minute, every day, it was just constantly being pinged by somebody who was trying to find a weak point.

So that is what prompted my question. If you had to make tough choices, and I know you would like to do it all, where would you go? Would it be IT, or would you go to employees, the new ones that you have requested?

Mr. WHEELER. And I appreciate what you are saying. I think we have a fiduciary responsibility on both counts. I can't sit here and say to you, sir, and members of the committee, that we can allow enforcement to continue as it has on the Universal Service Fund and all its components.

I have stood up a special strike force to be able to deal with waste, fraud, and abuse. There are two things. Both of these issues undermine the basic foundation of both activities. If you don't have a good IT system, it undermines your ability to get things done at the agency. And if you don't have a good enforcement system, it undermines the credibility of the program itself. I wish I could cut the baby in half, sir.

Senator JOHANNIS. Commissioner Pai, do you have any thoughts?

USF FUNDING

Mr. PAI. Senator, just briefly, I think the exchange you have just heard is reflective of the difficult balance that has to be struck. On one hand, the FCC has to vindicate the public interest. On the other hand, the American people deserve and expect a measure of fiscal responsibility, and that is a difficult balance to strike in any situation.

I think it also comes in the context of the overall cap in domestic discretionary spending, which is slated to increase, as you know, only by 0.1 percent. And so, I think it is incumbent on us, both to

justify the proposed increase and to devote those resources that are approved to worthy causes.

With respect to USF enforcement, I, of course, support robust enforcement of the agency's rules and the law. I, myself, have not been presented with a very specific plan about how those resources would be deployed in terms of the particular tasks the particular employees would be devoted to. Would it be time limited or permanent, et cetera? But I certainly look forward to working with the Chairman and this committee on that regard.

With respect to IT spending, I do agree that we need to devote more attention to our IT systems. For example, our internal tracking system, among other things, is rather slow, shall we say. A charitable way of putting it. And so, I think it would help us operate more efficiently, deliver better results for the American public if that were speedier.

On the other hand, I also think it is important for us to use the IT spending resources we get more effectively. And so, for example, we spent a great deal of money on the FCC Web site. It is a Web site that many people find incredibly difficult to use. More often than not, people actually click through to the old Web site, which looks like it was, you know, cutting edge back in 1998. I myself do that.

And so, I think it is important for us to focus on the IT priorities that really matter and to make sure that that balance between the public interest and fiscal responsibility always is maintained.

Senator JOHANNIS. Mr. Chairman, I have some more questions, but I will wait until the next round.

Senator UDALL. Senator Moran.

Senator MORAN. Mr. Chairman, thank you very much.

Mr. Chairman and Commissioner, thank you very much for being here.

Senator Udall, thank you for having this hearing.

We had a hearing on the FCC in which we had the Chairman and a number of the commissioners here 2 years ago before you were the chairman and when I sat in the chair of Senator Johannis. That was the first hearing this subcommittee had had in 9 years on the FCC.

And I think this is—your agency is one of the most important. You happen to have three Senators here who represent pretty rural States, and I appreciate the focus that we can bring to this attention. And I thank you for your leadership.

On IT acquisition, Senator Udall and I are interested in trying to determine how to have a system of IT acquisition that is well founded across the Federal Government. And I am going to submit for the record a number of questions in writing about IT acquisition at the FCC.

In response to certainly Senator Johannis' question, what I see, Mr. Chairman, is that you have found two areas in which you think there is a need for additional funding, two that are priorities. Hard to differentiate which one has the highest priority.

In your short time that you have been Chair of the FCC, have you found places that the FCC is spending money that it should not or does not need to or is a low priority?

Mr. WHEELER. Yes. I think the issue that we have is, again, when I came on, what I discovered was about 70 percent of the budget is people, without much flexibility in the people other than moving desks around from one assignment to the other. And so, as our priorities change, what we end up doing is reassigning people rather than seeking new budgets or things like this.

So, yes, we have had some dramatic changes from—in the Wireline Bureau, from narrowband activities being repurposed into broadband activities, being repurposed into rural broadband activities in particular.

In the Wireline Bureau things are being repurposed into the new Internet protocol transition that is taking place in networks. I mean, something as current as this morning, sir.

The matter of what are the rights of traditional telephone companies operating on twisted copper pairs to end their service and say we are going to go over to an IP service that can affect the ability to power the phone in the middle of a tornado in Kansas, can affect the ability of a burglar alarm to communicate and other kinds of things. We are having to switch resources.

So what I am trying to say, in an answer to your question, is we are constantly reprioritizing. It doesn't show up like a business account normally does in a line-by-line kind of operation because what we are doing is moving existing bodies back and forth among tasks.

RURAL BROADBAND

Senator MORAN. When you and I first met, Mr. Chairman, the initial conversation, you were going through the nomination process.

Mr. WHEELER. Yes, sir.

Senator MORAN. The first conversation, we had several topics, but rural broadband is often front and center with me. You indicated in a House hearing—and I appreciate that conversation. You said things that I like to hear, and you followed through with changes in the order of 2011.

You indicated in a House hearing that the QRA would be altered. And my question is, can you give us an update on your plans? What will replace the QRA? How long of a term strategy—what is the long-term strategy in regard to Universal Service Fund?

Mr. WHEELER. The long-term strategy for the Universal Service Fund, we could be here past lunch. But first of all, I thank you for the kind words and the credit for the change decision on the QRA and particularly, as you pointed out, that it was a unanimous decision out of the Commission.

But I know you raised this, and believe me, you weren't the only member of this body or the other body that raised it with me. So I had to dive in and learn about it. And you know, the QRA was a really well-intentioned, well-meaning pursuit of perfection. And like everything else in life, you know, the perfect is the enemy of the good. And the complexities just went out of control. And so, my comment was, "Timeout, let us stop this."

Now the question is, what are we going to replace it with? There are multiple proposals that have been submitted by rate-of-return

carriers and their various representatives. We are trying to sort through those right now.

I can't tell you what the answer to that is going to be right now. We have just reverted to the previous process before the QRA and continue working on the old allocation methodologies.

But we will—I believe the record is just in the process of closing, if it hasn't just closed. And we will take all of those and try and piece them together.

The interesting thing to me, though, is that there are different approaches being proposed by the same kinds of carriers, which again puts us back in this position of, okay, how do you make decisions or how do you say, okay, here is another alternative that we ought to be looking at?

Senator MORAN. Timeframe?

Mr. WHEELER. I hope that we get done with that in the next 6 months.

Senator MORAN. Mr. Chairman, I used most of my time complimenting you, but I assume that the time still has expired. I am glad we are having another round.

Thank you.

TRIBAL ISSUES

Senator UDALL. Okay. We will go for another round here.

You mentioned QRA, and I also, I think, communicated with you that we welcomed your plan to scrap that. In the case of New Mexico, I think that hurt many small rural telephone cooperatives, and so we appreciate that effort there.

Wanted to talk a little bit about tribal broadband and the FCC Office of Native Affairs and Policy, Chairman Wheeler. I want to express my appreciation to the Commission's efforts to address the digital divide facing Native American communities. Telephone access on tribal lands still lags far behind the rest of the country.

By the FCC's own report, the number of people without broadband access on rural tribal lands is eight times worse than the national average. This digital divide creates real hardships for people. We know that. We see it on a firsthand basis in visits out in New Mexico in these rural areas. And it is also a barrier to economic development, which is obviously crucial.

So I support the recent positive developments, such as the work of the FCC's Office of Native Affairs and Policy. I am concerned, however, that the FCC's budget request does not include specific funding to support this office's critical mission for Indian Country, which encompasses, as you know, 565 federally recognized tribes, approximately 231 federally recognized Native Alaskan entities, and about 38,000 beneficiaries of Hawaiian homelands.

Can you explain to me how the FCC budget request will address the telecommunication challenges facing Native American communities and how high a priority are tribal issues to you?

Mr. WHEELER. Yes, sir. Thank you.

The only reason it isn't spelled out in the budget is that you don't spell out offices. But I can assure you that the \$300,000 that this subcommittee has in the past suggested and that was affected by sequestration is definitely in there and will be appropriately spent.

Insofar as our policy with regard to tribal lands, I met probably 3 weeks ago with leaders of the Native American community, and I told them several things. First of all, I learned something. I learned about the concept of trusteeship and how I am a trustee and I didn't know I was. And I learned about how the concept of consultation is not the concept—is not the use of the word that I have always grown up using. There are specific responsibilities associated with that.

And I committed to these leaders and I committed in front of their large meeting several things. One, that we would improve the consultations. Two, that I took the trusteeship seriously. And three, that I wanted their help on three specific goals. One is improving broadband in Indian country. Two is dealing with the question of access to the spectrum that passes over Indian country. And three is assuring the diversity of voices, which is the question of priority licensing for radio stations that operate in Indian country.

I also told them that we would refresh and strengthen the Native Nations Broadband Task Force and that I would physically be in Indian country addressing these issues with the people.

I also noted to them in passing that because of my son, I am probably the only FCC Chairman that has ever attended powwows on Indian reservations from the Dakotas down to Arizona. Unfortunately, never in West Virginia—never in New Mexico, Senator.

Senator UDALL. Thank you.

And I think, I know my two Senators who are up here on the dais with me understand a lot of these tribal and Native American issues. But you are absolutely right. The trust responsibility is one that is there, Federal Government with the tribal communities, and needs to be one that is respected and worked with and understood.

And also consultation. I mean, it is a different kind of consultation, and that is why the office we have is so important. Because the folks in there know and understand that. They reach out in a very significant way and involve all of these many communities across the United States to participate and be a part of the dialogue, among many other things. So thank you very much for that.

I am going to try to get one more question in here on E-Rate, and I mentioned the importance of E-Rate in my opening remarks, and I am excited about the potential innovations to help improve student achievement. Could you expand on your testimony about how E-Rate could be modernized to better meet the needs of schools in the current broadband era?

Mr. WHEELER. Yes, sir.

We need to focus on a 21st century goal, which is high-speed broadband to schools. When the E-Rate was put in place in 1996, the world was a little different. We were talking about dial-up modems then. And the idea of connecting schools was quite different.

We are in a situation today where we are spending \$2.4 billion on the E-Rate, and over half of that is not going to high-speed broadband. Now over the years, paying for pagers, paying for dial-up voice service, paying for cell phone service, things like this were logical. But the world has changed, and I am again back to—we have got to make decisions on how we spend a finite pot of money.

So we are in a process right now of developing a new rule-making, which we will bring to the Commission this summer, that modernizes the E-Rate program to focus on the delivery of broadband as a priority. To make sure that rural America doesn't end up dealing with the leftovers as it often has in the P2, the Part 2 of the program—making sure that it is less burdensome on the schools.

I mean, it is—first of all, back to the IT issue, it is done on paper. It is really ridiculous in the way it is done. And it is done annually. Continuing on, we need to make sure that there is efficiency in the way in which the program is both administered at our level and at the local level. And that the buying is done right, that we emphasize buying consortia who can get better prices and that we create a structure that does that. And that is what we are doing in this new modernization order.

Senator UDALL. Thank you very much.

Senator JOHANNIS.

Senator JOHANNIS. Thank you, Mr. Chairman. Just a couple more questions.

Let me, if I might, Chairman Wheeler, shift gears a little bit here to positive train control.

Mr. WHEELER. Yes, sir.

Senator JOHANNIS. My understanding is that the FCC has put together a proposal known as program comment that is intended to function as an amendment to the FCC's 2004 programmatic agreement. I understand that FCC's licensing authority over spectrum necessary for positive train control triggers an FCC role in the infrastructure.

Why would the FCC not be able to recommend to the Advisory Council on Historic Preservation (ACHP) that the utility poles that are necessary here in the railroad rights-of-way be excluded from the historic preservation review? Wouldn't the ACHP exempt activity where the potential effects on historic properties are foreseeable and likely to be, de minimis, minimal and not adverse? And could you—do you feel you could make that recommendation to them?

And I guess what I am looking for here, we know we have got a big problem out here. You must carry this around in the back of your mind as the must-do checklist for the next few months. Isn't there a way to put some streamline behind this, and because at the end of the day, it needs to get done, right? We all face that.

Mr. WHEELER. Yes, sir, Senator.

And it is not in the back of my mind. Yes.

Senator JOHANNIS. Front and center, yes.

Mr. WHEELER. The points you make are all spot-on. There are two roles the Commission has in positive train control (PTC). One is spectrum, and the other is antenna siting. I think on the spectrum side, we get pretty good marks because we facilitated the transfer of spectrum. We facilitated the sharing of spectrum. That is working.

As you point out, the National Environmental Protection Act and the National Historic Preservation Act have specific provisions that say that there needs to be tribal sign-off on any antennas.

Now I came out of the wireless business. When you are going one-off, that can be done. When you come in with tens of thousands

like we have to do here, it chokes the system. So there are two options that I faced.

Option one is, yes, we could do what you suggested, and we could go amend the whole process. The joy of that is that the processes you have to go through to get there—and then the court review, and then everything that comes with it—probably puts us on the other side of the deadline date here.

So my decision was how do you make things move faster? Because the reality is the railroads have a date, a deadline that you established. The tribes had no deadline. So we started back to the consultation concept.

We brought together a couple of meetings and have developed a process for batch processing, if you will, to handle these in groups rather than one-off that we hope is going to break through the log-jam. I must say that the issue has been exacerbated by the fact that there were many, as in thousands, of antennas put in place by railroads before any recognition of this. And the need to go back and catch up on those while moving forward on the others is a non-trivial undertaking.

But again, I think that we have developed a process that speeds it up by doing batch. But I can assure you, sir, that we are keenly aware of what you are talking about. And this is a statutory responsibility, two statutory responsibilities, and our job is to facilitate and obey both.

Senator JOHANNIS. Yes, and here is what I would offer, Mr. Chairman and Commissioner Pai. This is the kind of issue where we getting in the middle of it and doing this, that, or the next thing may only interfere with the process. On the other hand, I think both the chairman, myself as ranking member, Senator Moran, others who work with the tribes every day, every week in our office would be more than willing to be as helpful as we can because this deadline is real. And unless we change the deadline, we have all got a big problem on our hands. So I just put that out there.

ISSUE DIALOGUE

The last thing I wanted to say—and I will have some questions that I will just submit to the record. But this is more of an offer, Mr. Chairman, than a question. I think, in your job, if you could satisfy two issues, they would be naming the building after you.

Spectrum and net neutrality. And you know, you have this huge history. You have kind of worked with everybody here. I find these issues enormously interesting and engaging. I have got no ax to grind. I am not running for reelection. I am going to move on in life.

Here is an offer that I would make. I would love to start a dialogue with you in just a general way about these issues. I would welcome it. Obviously, at the end of the day, it might be more dialogue than anything, but I think these are—I love to tell the story about my first car phone where my wife took my car for a day, got this huge surprise for me. Got a phone installed. You know, one of these big clunky things on a cord.

I loved this thing. I used it every day for that first month. I got the first bill, darn near had to mortgage the house to pay the first bill.

Look at the difference that has occurred in a rather brief period of time. The key to the way forward, though, and the impact on our economic growth in this country really deals with many issues, but these two issues are so at the core of it. And I would love to pick your brain about it.

Mr. WHEELER. This afternoon, our offices will be in contact, and I would look forward to that a lot.

Senator JOHANNIS. Thank you. I welcome that dialogue, and let us hope it continues. So thank you.

Mr. WHEELER. Thank you, sir.

Senator UDALL. Thank you both.

Senator Moran.

RURAL RATES

Senator MORAN. Chairman, thank you again.

Commissioner Pai indicated in his opening statement about the impact of the announced rate floor increase. I wanted to highlight for you, Mr. Chairman, in Kansas our companies currently charge rural customers anywhere from \$11.77 to \$18.25 per month for phone service. By State law, they are prohibited from increasing that rate more than \$1.50 in any 1 month for a 12-month period.

So by State law, it just seems to me there is no capability of complying with this decision. The new rate of \$20.46, they just can't meet that July 14 deadline. And so, I am interested in what the FCC's response is into that particular problem.

But further, many rural customers in Kansas receive both phone service and broadband service from the same company. And therefore, when the phone service costs are increased, I think a natural reaction, and it is particularly true in today's world, is to eliminate the land line. And the costs then fall for broadband even more directly. I mean, my guess is that broadband services become even more expensive as a result of the increasing phone rate.

I wondered if you had—if you have any thought that that is a rational occurrence, if I am making something up or that is the propensity to do that exists? Have you given any thought to what the consequence is to broadband customers because of the increasing cost of phone service? And then are you willing to address this issues?

Mr. WHEELER. Well, that is—on the second point, I would like to get some research on that and not just shoot from the hip. But I mean that is a legitimate issue.

On the first point, again, this is the joy of this job. I, Senator Johannis, thank you for your thought that they might name the building after me. This is not a goal, okay?

But if there is anything that I hope that folks will say at the end of my term is that at least we made decisions. Because the thing that American business can't afford and American consumers can't afford is limbo.

Senator MORAN. Certainly.

Mr. WHEELER. So as Commissioner Pai said in his statement, and he and I are in agreement on this, it was a unanimous decision out of the FCC before we arrived to set up the structure that led to exactly what you talk about. So I inherit the results of the algorithm that everybody agreed to that produces this result.

We have two responsibilities—to adhere to the statute and not to be stupid. And it seems to me that if we create a situation where we run headlong into the kind of Public Utility Commission (PUC) problems you were talking about, where we create a situation where suddenly there is a 46 percent rate hike that gets slapped on everybody in July, that is tending towards the other thing that we don't want to have.

So what I am going to be proposing is that, one, we delay the implementation beyond July because you have got to provide the window for the PUCs to be able to deal with—the companies to be able to deal with the PUCs to be able to deal with things. And secondly, that we develop a phase-in so that this isn't hitting everybody's bills bang on, but comes in over time.

Because there still is a statutory responsibility that the rates be reasonably comparable. And it is not just urban subscribers who are doing some of this subsidization of rates. It is other rural subscribers who are doing this subsidization of rates as well.

So it is not a question of whether. It is a question of how, and how do you do it reasonably.

INTERNAL REVENUE SERVICE USF POLICIES

Senator MORAN. Thank you.

I don't want Commissioner Pai to have been here and not had an opportunity. But before I turn to him and before my time expires, let me raise another topic and then hear from either or both you.

I have never thought of this before. This question was brought to my attention, that the Internal Revenue Service (IRS) treats all universal service high-cost funding, including the Connect America Fund Phase 1 dollars, as general revenue instead of a contribution to capital. You are smiling. So you know this topic.

The general revenue has tax liability consequences that will diminish the effectiveness of the fund. And I am curious as to whether or not the FCC has had ongoing conversations with the IRS. I am told that there is a comparable analogous situation that occurred previously, and I am curious as to whether you are addressing this issue between the FCC and the IRS.

Mr. WHEELER. So I am smiling because I recently became aware of this as well. There was literally a company, in seeing this yesterday, that said that they had just been told by the IRS to follow the same rules as had been used in the Broadband Technology Opportunities Program (BTOP) that you are referencing.

And so, what I am doing is asking our general counsel to get into this and to find out what is going on. I was smiling when you mentioned the IRS because it is that time of year.

Senator MORAN. I don't know that the IRS brings many smiles. Here or at home. Commissioner Pai, either one of those topics?

RATE FLOOR

Mr. PAI. Sure. To start, Senator, you should know that the Chairman is already making his mark. The very first floor at the FCC is labeled "TW," and I think it is a sign of things to come. Even in 5 months, he is getting the floors renamed for him.

But more seriously—

Mr. WHEELER. It stands for "12th Street."

Mr. PAI. Well, so they say. I am not buying it yet.

But to the first topic, with respect to the rate floor, the FCC has twin responsibilities here under the law. We have to make sure that the rates are reasonably comparable. We have to make sure that communication services are affordable.

The way I think about it is from the perspective of a consumer in Washington, DC, versus my hometown of Parsons, Kansas. The rates are different. I mean, in DC, it is \$20.46. In Parsons, it is \$14. But if you look at the median income, the median income in Washington, DC, is \$64,000. The median income in Parsons is \$38,000.

So if you try to pair those statutory responsibilities, it seems to me that reasonably comparable doesn't just mean that the exact rate has to be equal. It has to mean that these services are affordable for people, regardless of where they live, taking into account all of the circumstances.

Second, in terms of State law, I think it is critical for us from an institutional perspective to have a good relationship with our State and local colleagues who, to the extent that the rate floor would end up overriding State law or putting these carriers in a catch 22—either they comply with State law or Federal law—I think that is something to be avoided.

The second thing, though, that you mentioned is something that is really close to my heart, and I think the chairman captured it exactly right in his opening statement. We live in an Internet age. And so, it follows from that that the consequence of not having broadband Internet access or access to other advanced communication services is that almost quite literally you live in another era. And that is becoming all too real for people in rural America.

And the reason that I say that in answer to your question is that line loss in rural America is real. I have heard it from carriers in Kansas, Nebraska, New Mexico, States across this country. And so, as a result, if they lose universal service support because people just feel compelled to drop that land line, either the carrier has to try to make a go of it on broadband alone, for which there is no support, or they simply go out of business. And I think that is an untenable state of affairs.

And so, stepping back from the trees of the QRA and the rate floor, et cetera, and looking at the forest of universal service, my own vision is that we would move to a Connect America Fund for rate-of-return carriers. We would move to a system that would allow standalone support for broadband facilities, recognizing that, for an increasing number of Americans today, voice isn't a distinct service as it used to be for the last 100 years. It is simply another application riding over the Internet.

And if we embrace that kind of a vision depending, of course, on what the particulars of the record show, I think we are going to be in a situation where rural Americans and urban Americans will have a more level playing field in terms of, you know, the Internet access and other communications opportunities that truly do fall at the heart of the Communications Act.

So that is something to flag for the future. And I think, Senator Johanns, you would be perfectly positioned to take a role on this

issue going forward. That is the real level playing field, I think, for our people going forward.

Senator MORAN. Commissioner, thank you.

If the voting schedule allows, I will be in your hometown of Parsons tomorrow, visiting the community college and the community hospital.

Mr. PAI. I hope you say “hi” to my parents.

Senator MORAN. I hope to see them. Thank you.

Mr. WHEELER. Are they going to name those after you?

Mr. PAI. I am by far not the most august person from Parsons. Even now there is a quarterback in the NFL who deserves that title.

Senator UDALL. Thank you for those comments.

Chairman Wheeler and Commissioner Pai, I just want to add to the earlier comments about the impact on small rural telephone cooperatives of a potential new increase in terms of the local service rate floor.

New Mexico telephone providers in rural areas of Chaves and Lincoln Counties, for example, are very worried that this will cause a spike in their customers’ phone bills. So I do appreciate your willingness to look carefully at the concerns that are raised here and thank you for doing that.

RURAL TRANSLATORS

I just have one additional question here. And to both of you, this is about TV translators. Nearly 54 million Americans, including most—almost 600,000 New Mexicans rely exclusively on over-the-air TV. In New Mexico, many of those TV viewers rely on more than 200 translators located throughout the State to receive broadcast television. This is especially the case in rural areas and on tribal lands. As the Commission proceeds with the incentive auction rulemaking, will you consider the importance of protecting TV viewers in rural areas who are served by TV translators?

Mr. WHEELER. I have been hogging. Do you want to go first?

Mr. PAI. Sure. So, Senator, I take that concern very seriously. I have heard from folks across the country, but especially in the Mountain West and Midwest that this is an area of concern for a lot of people.

And that is specifically why I mentioned when the FCC adopted the Notice of Proposed Rulemaking on September 28, 2012, that the FCC should flag this issue and make sure that we do whatever we can, within the constraints of the law, to make sure that the people who rely on these translator services don’t suddenly find that they are left in the dark, so to speak.

Mr. WHEELER. Ajit just put it right. Do everything we can within the constraints of the law. I mean, the difficulty in the law is that it specifically excluded translators and low-power TV stations in the repacking kinds of activities.

I believe that there are—I believe that there are solutions to this that range from, one, fortunately these are in rural areas, and the spectrum crunch does not exist in rural areas. So the betting odds that a translator gets caught up in this are slim. There may be some. But in those instances where there are, I think that there are other alternatives, and what we are going to be doing is trying

to work through developing those other pathways so that we can maintain exactly what Ajit said, which was how do you maintain, keep the service from going black, at the same point in time adhering to the law? And again, that is what you pay us for.

Senator UDALL. Right. Thank you very much for that.

I know that I may have additional comments for the record. I know my distinguished ranking member may also.

I think Senator Moran has one final question, he tells me.

INCENTIVE AUCTIONS PROCESS

Senator MORAN. Thank you, Mr. Chairman and Ranking Member, for your indulgence.

I want to talk about license—about spectrum auction, excuse me. There is a lot of focus on the nature of the auction, how that is—how it is going to occur.

What I think may be missing is whether there is going to be any spectrum to auction. And I think broadcasters are looking for, you talked earlier about certainty, the business community needs some certainty. When can a broadcaster begin to understand what their company spectrum may be worth?

They have got to enter into contracts for towers and employees. You have got to plan your business, and I don't know that any broadcaster knows what return, what they may receive if they put their spectrum up for auction. Is there—I think you are going to be in front of the broadcasters here in Las Vegas before very long. I assume this would be a question. Any thoughts?

Mr. WHEELER. Yes, sir.

There is a timeline that basically works this way. Starting next week, we start working inside the Commission with commissioners, such as Commissioner Pai, and working through the options that we see that are on the table and narrowing it down. Same point in time, working with you all up here to share with you what our thoughts are in terms of how to structure the auction.

As you mentioned, then I go out to talk to the National Association of Broadcasters (NAB). I am not going to give a speech that says here are all the answers. But what will follow from that is a series of meetings with broadcasters that roll out here are the various concepts.

But I think that it is beyond that. That I spent the last almost decade investing in companies and selling companies. I am used to seeing a book, that the investment banker comes forward and says, okay, here are all the numbers you need to know. Here are the assumptions. Here are the spreadsheets. Plug in whatever assumptions you want and kick out conclusions at the end.

I think it is incumbent upon us to meet with broadcasters and say here is a book. Here is what it means in your particular circumstance. You make the decision. This is a voluntary auction. You've got to decide whether you want to come, then you decide whether you want to stay in it.

But we are going to approach this in a business-like manner that provides to the broadcasters the information they need to make an informed decision. And you can't do it on a blanket kind of a basis. You have got to sit down and say, okay, now in this community, with these kinds of realities, these are the expectation.

Senator MORAN. I hope you are successful in accomplishing that. Mr. Chairman, thank you.

Senator UDALL. Thank you, and thank you both, Senator Johanns and Senator Moran, for participating today. Really appreciate that.

I want to thank everybody who participated in the hearing. And especially our staff members, who I think worked very closely with your staff to make this a successful hearing. And appreciate hearing from the top officials of the FCC about the resource needs and the opportunity to explore a number of important and timely issues.

Today's discussion has provided helpful insights, I think, into the FCC's operations and, really, the challenges that you all face. This information will be instructive as Congress moves forward with our work on the fiscal year 2015 funding.

ADDITIONAL COMMITTEE QUESTIONS

And with that, I believe our hearing is concluded. And well, let me also say the hearing record will remain open until next Thursday, April 3 at 12 noon for subcommittee members to submit statements and/or questions to be submitted to witnesses for the record.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing.]

QUESTIONS SUBMITTED TO HON. TOM WHEELER

QUESTIONS SUBMITTED BY SENATOR TOM UDALL

CONSUMER COMPLAINTS DATABASE

Question. Chairman Wheeler, thank you for your comments about the importance of improving how the Federal Communications Commission (FCC) handles consumer complaints. As you know, Senator Nelson and I wrote to you before the hearing to ask that the Commission implement an online consumer complaints database.

What steps can the Commission take now to begin to implement a consumer complaints database?

More generally, how should the Commission use new technologies to help guide its enforcement and policymaking activities?

Answer. Despite limited funds for mission-critical information technology (IT) projects, the Commission is making significant progress toward modernizing the FCC's consumer complaints process and supporting IT. To speed this process, we are exploring the use of cloud-based, commercially available, "off-the-shelf" technology to address consumer needs. With careful use of fiscal year 2014 funds and the infusion of fiscal year 2015 funds, we hope to meet our goal of having a new consumer complaint system in place by the end of the calendar year. In the interim, the Commission will make modifications to existing systems that support progress toward a new system, and engage in related outreach efforts.

As part of our modernization process, the Commission will solicit input from stakeholders, including both service providers and consumer groups. These comments will assist the Commission in developing design features for the new consumer complaint Web site that support core mission objectives—accessibility, transparency and functionality. The planned system will be designed to accommodate a more user-friendly complaint portal for consumers and allow consumers to check their complaint status online. This redesign also will make available summarized data about the volume and type of complaints to provide more information to the public and our partners as part of a "dashboard."

A streamlined consumer complaints process and the implementation of modern technologies will provide essential support to Commission staff as they review consumer complaints and initiate enforcement activities. In addition, the Enforcement Bureau is reviewing new methods for streaming information from agents in the field. These combined system improvements and modernization will enable better

tracking of complaints, cases, and related information. Overall, the ability to review complaints in a more efficient fashion will provide a foundation for policy decisions that rely upon statistical data analysis while supporting less workforce-intensive information gathering efforts.

DATA CAPS

Question. Mr. Wheeler, I previously authored legislation to help wireless consumers avoid “bill shock” after inadvertently exceeding monthly usage limits. Today, most consumers are accustomed to online access at home with a broadband subscription that allows unlimited access to data from the Internet. Yet many wireline and wireless Internet service providers are now experimenting with or implementing usage-based pricing and “data caps.” My understanding is that consumer groups have asked the Commission to collect information on how companies implement and administer such data caps.

What steps has the Commission taken to do so?

Will you commit to studying the impacts of data caps for consumers and publicly reporting the Commission’s findings?

Answer. In August 2013, the Commission’s Open Internet Advisory Committee investigated the use of data caps for wireline broadband services and identified policy issues that data caps raise. That report can be found at <http://transition.fcc.gov/cgb/oiaac/Economic-Impacts.pdf>.

Building on the report and consumer concerns, the May 15, 2014 Open Internet Notice of Proposed Rulemaking asked a number of questions about data caps, including whether the Commission should require both wireline and wireless providers to disclose network practices that relate to data caps. We also have asked whether the Commission should require disclosures enabling end users to identify application-specific usage, to distinguish which user or device contributes to total data usage, to identify traffic potentially exempt from caps, and to identify current consumption levels. We will fully examine the record garnered by the Notice of Proposed Rulemaking (NPRM) and from other sources on data caps, and address consumer concerns in any future order.

DIGITAL TELEVISION CHANNEL 6 RADIO INTERFERENCE PROTECTIONS

Question. Public radio stations operating at FM frequencies near the digital television (DTV) channel 6 petitioned the FCC in 2009 to update its interference rules. In general, such rules are important to preventing harmful interference between various broadcasters. Yet my understanding is that the Commission’s current rules for DTV channel 6 interference are based on analogue TV technology.

Given the DTV transition, will the FCC consider reviewing proposals to update its DTV channel 6 interference rules?

Answer. National Public Radio filed a Petition for Rulemaking in October 2009 seeking the elimination of the current rule that protects TV Channel 6 from non-commercial FM station interference. At the end of 2009, the Commission placed the Petition out for public comment. While I recognize that the Petition was filed several years ago, Commission action remains pending given our work to implement the Incentive Auction provisions contained in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). One of the options for TV broadcasters under the Spectrum Act is to volunteer to move from a UHF channel to a VHF channel (which includes Channel 6 allotments). It may well be prudent to wait to see what the final channel plan will look like before modifying any interference rules between the different services.

EMERGENCY 9-1-1 CALL CENTERS “DO-NOT-CALL” REGISTRY

Question. The Middle Class Tax Relief and Job Creation Act of 2012 requires the Commission to create a “Do-Not-Call” Registry for telephone numbers used by emergency 911 call centers, or Public Safety Answering Points (PSAPs), and to prohibit the use of automatic dialing “robocall” equipment to contact those numbers. Your budget request includes a resubmitted fiscal year 2014 base item increase of \$500,000 to implement PSAPs’ Do-Not-Call Registry.

Could you explain in more detail how this funding will be used to improve emergency 9-1-1 operations?

Answer. The Commission’s budget request supports the October 17, 2012 FCC Order establishing the Do-Not-Call Registry for telephone numbers used by Public Safety Answering Points (PSAPs). This registry is essential to protecting the integrity of PSAP communications. Under the Middle Class Job Relief Act of 2012 and the 2012 FCC Order, verified PSAP administrators or managers must be able to place into the registry telephone numbers that are used for the provision of emer-

agency services or for communications between public safety agencies. The current Federal Trade Commission (FTC) Do-Not-Call List does not support these numbers and creates a gap where robocallers can interfere with essential first responder actions and communications. The Commission currently is exploring the least expensive alternatives for implementing this list, including potentially utilizing the software and contractors involved in the development of the FTC's Do-Not-Call List.

FCC REGULATORY FEES

Question. Last year, the Commission adopted an order to update its regulatory fee structure. This followed a Government Accountability Office (GAO) report that found the Commission's regulatory fee structure is out of date given changes in the telecommunications market, in regulation, and in the Commission's work over the last decade. The FCC order describes the changes as initial steps to more comprehensively revising the Commission's regulatory fee program. The order also notes that the Commission will issue "shortly" a Second Further Notice of Proposed Rulemaking once more public input is considered.

When does the Commission plan to take the next steps to modernizing its regulatory fee structure?

Answer. The Commission is currently involved in a multi-year effort designed to ensure fairness and transparency within the section 9 regulatory fee structure. Congress annually requires the Commission to collect regulatory fees "to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities." To calculate regulatory fees, the Commission allocates the total amount to be collected among the various regulatory fee categories. This allocation is based on the number of full time employees (FTEs) assigned to work in each regulatory fee category. Below is a summary of the Commission's rulemaking efforts:

Reform Effort Summary

2008 Further Notice of Proposed Rulemaking.—FCC sought comment on revising its regulatory fee schedule to address significant changes in the communications industry and the Commission since FTEs were allocated to regulatory fee categories in 1998.

2012 NPRM.—FCC inquired into updating the FTE allocations for the first time since 1998.

2012 GAO Report.—General Accountability Office (GAO) recommended fundamental reevaluation of how to align regulatory fees more closely with regulatory costs.

2013 NPRM; 2013 Report and Order.—FCC applied current FTE data to determine the number of FTEs working on regulation and oversight of Interstate Telecommunications Service Providers and other fee categories and revised the calculation of FTEs in the International Bureau to categorize most of those FTEs as indirect.

FCC also adopted permitted amendments (reclassification of services in the regulatory fee schedule as defined in section 9(b)(3) of the Communications Act of 1934, as amended (the act)) which requires notification to Congress prior to implementation. Notifications are planned to be provided for fiscal year 2014 regulatory fees.

—Consolidation of UHF and VHF television stations into one regulatory fee category.

—Assessment of regulatory fees on Internet Protocol TV (IPTV) licensees by including them in the cable television category.

The Commission also committed to a further notice to consider additional regulatory fee reform and conclusively readjust regulatory fees within 3 years.

2014 Ex Partes.—FCC staff engaged a wide and numerous array of Commission regulatees to obtain further input concerning regulatory fee reform.

2014 Draft Second Further Notice of Proposed Rulemaking.—FCC staff have drafted and circulated a Further Notice seeking comment on additional reform measures to improve the regulatory fee process, including the adoption of methodologies tailored to ensure more equitable distribution of the regulatory fee burden among categories of Commission licensees under the statutory framework in section 9 of the act. Some of the issues for which the draft Further Notice seeks comment were raised by commenters in fiscal year 2013 (or earlier), along with subsequent *ex parte* meetings, and the Further Notice now tailors its inquiry, in response to the more developed record, to further examine these proposals.

FCC RESOURCES FOR MERGER REVIEWS

Question. Chairman Wheeler, given recent announcements of telecommunications mergers, does the Commission's budget proposal include sufficient funding to support the timely review of major telecommunications transactions? What impact does the review of large transactions have on the Commission's resources?

Answer. The Commission maintains a special Transaction Team within the Office of General Counsel (OGC), which confers with other bureaus and uses administrative efficiencies to ensure transparent and timely review of large-scale mergers. The volume of these transactions varies year-to-year, but we have found that the creative use of intra-agency teams of this nature provides the required level of support for our mission-critical activities.

The Commission overall has the lowest level of FTEs in 30 years as well as half as many contractors as 4 years ago. This situation, coupled with unwieldy, relic IT systems, hobbles our efforts in all agency operations. If this Committee supports our overall budget request, the Commission should have sufficient resources to handle transactions as well as other OGC projects.

LIFELINE

Question. Chairman Wheeler, your testimony highlights plans to increase universal service oversight. I am pleased that the FCC has already increased oversight of the Lifeline program, which helps low income persons get telephone service. As you know, Lifeline dates to the Reagan administration and was expanded to include wireless phone service during the presidency of George W. Bush. This initiative can be a "Lifeline" for low income persons in a time of emergency, or when applying for a job. That is why the Commission must continue reforms to guard against waste, fraud, and abuse. One of those reforms is a new National Lifeline Accountability Database. This will help weed out "double dipping" if there are duplicate participants receiving Lifeline assistance.

How soon will this database be implemented?

Answer. Last month, the National Lifeline Accountability Database (NLAD) became fully operational in all States and has had a significant impact in reducing waste, fraud, and abuse. Thus far, NLAD already has identified \$169 million in annual savings by flagging existing duplicates for elimination while preventing enrollment.

NET NEUTRALITY

Question. Chairman Wheeler, as you know, I am a supporter of a free and open Internet. The principle of such "network neutrality" is that Internet users should be able to access lawful online content and applications regardless of the source, without blocking or interference from their Internet service provider. This helps innovators and startups compete on a level playing field with established companies. Following the *Verizon v. FCC* decision by the U.S. Court of Appeals for the District of Columbia Circuit, you stated that you intend to propose new open Internet rules. You further noted the Commission's responsibility to preserve the Internet "as an open platform for innovation and expression while providing certainty and predictability in the marketplace."

Do you believe that the authority granted under section 706 of the Communications Act gives the Commission adequate authority to ensure a free and open Internet?

Under what circumstances would the Commission use its authority under title II of the Communications Act to ensure a free and open Internet?

Answer. For over a decade, the Commission has struggled with the idea of net neutrality. There has been a bipartisan consensus, starting under the Bush administration with Chairman Powell, on the importance of an open Internet to economic growth, investment, and innovation.

In January of this year, the U.S. Court of Appeals for the D.C. Circuit agreed that the Commission has the legal authority under section 706 of the Telecommunications Act of 1996 to craft enforceable rules to preserve a free and open Internet, even while it found that two of the rules we adopted in the 2010 Open Internet Order went beyond the FCC's authority.

On May 15, 2014, the Commission adopted a *Notice of Proposed Rulemaking* initiating the process of crafting rules to protect and promote the open Internet. The proposals we put forward and the questions we ask in this Notice focus on maintaining an open, fast, and robust Internet that continues to serve as a platform for economic growth, investment, innovation, free expression, and competition.

I believe that the section 706 framework set forth by the Court of Appeals in *Verizon* is sufficient to give us the authority to adopt and implement robust rules that will accomplish this goal. At the same time, the Notice asks whether the best path forward may be under title II. The entire purpose of an NPRM is to give Americans the ability to express themselves and provide analysis and guidance. I look forward to a broad and thoughtful debate on the record.

We have specifically created a means by which Americans who may not otherwise participate in an FCC proceeding can make their voice heard through our new Open Internet e-mail address: openinternet@fcc.gov. And to ensure sufficient opportunity for broad public comment, we have provided for a comment and reply period that will give everyone an opportunity to participate.

NUMBER PORTABILITY

Question. Under the Commission's local number portability (LNP) rules, consumers can generally keep their existing phone number when switching to a new telephone service provider. Today, this is something many consumers take for granted. A private, third-party entity administers the number portability system on behalf of the Commission. My understanding is that the Commission is in the process of considering proposals for administering this system.

Without commenting on any specific proposal before the Commission, will you assure me that the Commission will preserve consumer protections such as number portability in the transition to Internet protocol- or IP-based telephone networks?

Answer. The Commission will work to preserve consumer protections such as number portability in the transition to Internet Protocol- or IP-based telephone networks.

POSITIVE TRAIN CONTROL

Question. After the crash between a commuter train and a freight train in 2008, Congress moved quickly to require the installation of a safety system, known as "positive train control." It was not clear at that time how many antennas and stations would be required along the tracks. We now know that over 20,000 antennas need to be installed and approved by the FCC. In some areas, the approval process includes consultation with tribal governments.

How will the FCC balance the need to move expeditiously to permit this new safety system while ensuring that the proper environmental and historical reviews are taking place?

Does the budget request include enough resources to complete this task in time to meet, the statutory deadline for installing the positive train control system?

How is the FCC coordinating with other Federal, State, local and tribal officials on this issue? Have you encountered any problems in those collaborations?

Answer. On May 16, 2014, the Advisory Council on Historic Preservation (ACHP) voted to approve a Program Comment that modifies the FCC's usual procedures for historic preservation review. The process outlined in the Program Comment is tailored to the unique circumstances surrounding the deployment of Positive Train Control (PTC) facilities, and provides a mechanism for timely review by all parties. PTC is a transformative technology that has the power to save lives, prevent injuries, and avoid extensive property damage. It is a top priority of the Commission to facilitate an efficient and timely review process that complies with the National Environmental Protection Act (NEPA) and the National Historic Preservation Act (NHPA) while expediting this important safety measure. I believe the timelines set forth in the Program Comment will help the Commission reach this balance.

Additionally, I am pleased that we have reached an agreement with the freight rail industry that will resolve the siting issues for one-third of the PTC poles while providing substantial resources to tribal nations and States to support and advance historic preservation. As a result of this agreement, the freight railroads are immediately able to start using nearly 11,000 previously constructed poles for important testing and other preparatory activities and for the ultimate provision of PTC.

As part of the agreement, the seven class I freight railroads have agreed to create a Cultural Resource Fund totaling \$10,000,000 to provide funding directly to tribal nations and State Historic Preservation Offices to support cultural and historic preservation projects. A neutral third-party administrator will administer the fund. Each freight railroad has also committed to training its employees on environmental and historic preservation compliance and to building working relationships with tribal nations.

The Memoranda of Understanding between the freight railroads and the FCC is available on the FCC Web site at <http://www.fcc.gov/encyclopedia/positive-train-control-ptc>.

The Program Comment Public Notice is also available on the FCC Web site at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-14-680A1.pdf.

The FCC moved resources from other projects to the PTC project over a year ago and continues to dedicate additional personnel and resources to resolving this issue. The pending budget request for fiscal year 2015 does not contain a specific request for PTC funding but the Commission has been able to fully fund the necessary resources for this project from its internal S&E account, utilizing FTEs and resources within the Wireless Telecommunications Bureau and the Consumer and Governmental Affairs Bureau.

During this time we have worked closely with tribal nations, State Historic Preservation Officers, the Advisory Council for Historic Preservation, the Federal Railway Administration, the National Transportation Safety Board, and land-holding Federal agencies. We have a constructive working relationship with all of these parties which led to the adoption of the procedures in the Program Comment and the landmark agreement with the freight rail industry.

TELEHEALTH

Question. Telehealth technologies can greatly enhance rural medical services. New Mexico is a large State with many residents living far from urban areas. Telehealth sometimes offers the best avenue to help meet healthcare needs. That is why I am working in a bipartisan manner with Senator Thune and others to help reduce some of the barriers to telemedicine. In December 2012, the Commission updated its existing rural healthcare universal service mechanism, making \$400 million available to rural healthcare providers for broadband services through the “Healthcare Connect Fund.”

What other actions can the FCC take to encourage greater use of telehealth technologies?

Answer. We must leverage all available technologies to ensure that advanced healthcare solutions are readily accessible to all Americans, from rural and remote areas to underserved inner cities. By identifying regulatory barriers and incentives and building stronger partnerships with stakeholders in the areas of telehealth, mobile applications, and tele-medicine, we can expedite this vital shift.

That’s why I recently announced the formation of a new Commission Task Force—CONNECT2HEALTHFCC—that will bring together the expertise of the FCC on the critical intersection of broadband, advanced technology, and health. I appointed a senior, experienced staffer—Michele Ellison as Chair of the Task Force and Deputy General Counsel.

Specifically, the CONNECT2HEALTHFCC Task Force will consider ways to accelerate the adoption of healthcare technologies by leveraging broadband and other next-gen communications services. To advance this broad initiative, our Task Force will work hand in hand with the leadership of the Commission, in particular with the FCC’s Director of Health Care Initiatives and the Chiefs of the Wireline and Wireless Bureaus and Office of Engineering and Technology. The Task Force will also collaborate with public and private stakeholders in the healthcare and technology space.

TRIBAL MOBILITY FUND ELIGIBILITY

Question. The Eastern Navajo Agency in New Mexico, along with the Ramah Navajo and Zuni Pueblo, are some of the most underserved areas in the continental United States. It is my understanding that first phase of the Tribal Mobility Fund auction treated the vast majority of the Eastern Navajo Agency as having 3G service. This meant that those areas were not eligible for funding. Yet my understanding is that mobile broadband service is not actually available throughout this area.

Will the Commission take steps to confirm the level of service available in these areas before excluding them from consideration in future Tribal Mobility Fund auctions?

Answer. I recognize the importance of finding solutions and ensuring robust service on tribal lands and I will continue to take actions that support this goal.

TV BLACKOUTS DURING RETRANSMISSION DISPUTES

Question. Last year during a dispute over retransmission fees, nearly three million Time Warner Cable customers lost access to CBS programming. In response, then Acting Chairwoman Clyburn stated that media companies should “accept shared responsibility” for putting consumers’ interests above other interests during such disputes.

Given the Commission's authority under section 325 of the Communications Act, what more can the Commission do to better protect consumers during such retransmission disputes?

Answer. There is no question that the video marketplace has changed since Congress established the retransmission consent regime in 1992. Additionally, retransmission agreements have become more complicated with the advent of digital distribution options. The Commission's rules require parties to negotiate in good faith for retransmission consent. Although not directly related to blackouts, we recently modified our rules to prohibit joint retransmission consent negotiations between two non-commonly owned, top-four ranked TV stations in the same market in order to help level the playing field and get negotiations back to a one-on-one discussion, as Congress intended. With respect to blackouts, the Commission continues to monitor situations when disputes occur, and we will continue to help facilitate fair and effective completion of negotiations for the benefit of consumers.

TELECOMMUNICATIONS RELAY SERVICES

Question. The Americans with Disabilities Act (ADA) recognizes the importance of telecommunications for persons with disabilities, including those who have difficulty hearing or speaking on the telephone. With Video Relay Service (VRS), individuals using sign language can make relay calls through communications assistants. These assistants then voice what is signed to the called party. For Americans who communicate best with sign language, VRS provides an important service.

Will you give your assurance that the Commission will fully meet its obligations under the Americans with Disabilities Act with respect to telecommunications relay services?

Answer. I agree that the Commission must fully meet its obligations under the Americans with Disabilities Act with respect to telecommunication relay services and I will continue to take all actions necessary to facilitate this program.

21ST CENTURY COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT

Question. Passed by Congress in 2010, the Twenty-First Century Communications and Video Accessibility Act contains protections that enable people with disabilities to access broadband, digital and mobile innovations. According to a 2009 FCC study, persons with disabilities are less likely to use Internet-based communications technologies. For examples, 65 percent of Americans have broadband at home, yet only 42 percent of Americans with disabilities have these services. This gap is due in part to physical barriers that people with disabilities confront in using the Internet.

What is the level of compliance with the communications provisions of the Twenty-First Century Communications and Video Accessibility Act?

What other actions can the FCC to ensure that Americans with disabilities have access to new broadband technologies?

Answer. The Commission has completed all rulemakings associated with statutory deadlines established by the provisions of the Twenty-First Century Communications and Video Accessibility Act (CVAA). You will find below a list of implementation deadlines requiring compliance with the Act's provisions. Generally, the Commission has been very pleased with the efforts of covered entities to meet these deadlines in a timely fashion.

The Commission's Disability Rights Office (DRO), housed in the Consumer and Governmental Affairs Bureau, is active on various proceedings designed to ensure access to new broadband technologies. These include proceedings requiring access to Internet-based telecommunications relay services, updating the hearing aid compatibility requirements, and ensuring disability access to wireline communications as we make the transition from the public switched telephone network to IP-based forms of communication. In addition, through its complaint process, DRO keeps abreast of and addresses accessibility barriers as these arise. Finally, DRO maintains an email list, AccessInfo, of over 2000 individuals through which DRO regularly informs consumers, state and local governments, and industry stakeholders nationally and internationally of Commission rulemakings, events, and other actions pertaining to expansion of the rights of people with disabilities.

SUMMARY OF COMPLIANCE WITH THE ACT
IMPLEMENTATION OF THE TWENTY-FIRST CENTURY
COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT OF 2010 (CVAA)

Section 102. Hearing Aid Compatibility

Extends hearing aid compatibility requirements to handsets used for advanced communications services.

No implementation deadlines.

Section 103. Relay Services

Revises the definition of telecommunications relay services (TRS).

No implementation deadlines.

Requires VoIP service providers to contribute to the TRS Fund by October 8, 2011.

On October 7, 2011, the FCC adopted rules requiring covered entities to register with FCC by December 31, 2011; report revenues for fourth quarter 2011 by April 1, 2012, to determine contributions for the 2012–2013 TRS Fund year; and to report revenues and contribute to the TRS Fund annually thereafter.

Section 104. Access to Advanced Communications Services and Equipment

Adds sections 716 (accessibility requirements for advanced communications services and equipment), 717 (recordkeeping and enforcement provisions), and 718 (accessibility requirements for Internet browsers built into mobile phones) to the Communications Act.

1. Requires implementing rules for Sections 716 and 717 by October 8, 2011.

On October 7, 2011, the FCC released a report and order adopting rules. Covered entities must comply with accessibility requirements by October 8, 2013. FCC established new request for dispute assistance and informal complaint procedures, effective October 8, 2013, for alleged violations of Sections 255, 716, and 718 of the Communications Act.

2. Requires recordkeeping obligations to commence 1 year after rules become effective.

Rules became effective January 30, 2012; recordkeeping obligations began January 30, 2013. FCC established Web-based system for submission of recordkeeping compliance certifications and contact information (RCCCI Registry) by April 1, 2013, and annually thereafter.

3. Requires Section 718 to be effective October 8, 2013.

On April 26, 2013, the FCC adopted rules to implement Section 718. Covered entities must comply with the accessibility requirements by October 8, 2013.

4. Requires the FCC to establish an accessibility clearinghouse by October 8, 2011.

The FCC launched its Accessibility Clearinghouse in October 2011.

5. Requires FCC biennial reports to Congress; first report by October 8, 2012.

The FCC submitted its first biennial report to Congress on October 5, 2012; next report due October 2014.

6. Requires the Comptroller General to conduct a study and report to Congress by October 8, 2015.

Section 105. National Deaf-Blind Equipment Distribution Program (NDBEDP)

Adds Section 719 to the Communications Act, which authorizes up to \$10 million from the TRS Fund annually to support programs that distribute accessible telecommunications, advanced communications, and Internet services equipment to low-income individuals who are deaf-blind. Requires implementing rules by April 8, 2011.

On April 4, 2011, the FCC adopted rules to establish the NDBEDP as a pilot program. The FCC certified state-based entities and launched the pilot program on July 1, 2012. The FCC will adopt rules for a permanent NDBEDP by June 2015.

Section 106. Emergency Access Advisory Committee (EAAC)

1. Requires the FCC to establish the EAAC within 60 days after October 8, 2010.

On December 7, 2010, the FCC announced the appointment of EAAC members.

2. Requires the EAAC, within 1 year after member appointment [or by December 7, 2011], to conduct a national survey and submit a report with recommendations to the FCC.

The EAAC conducted a national survey and submitted a report and recommendations to the FCC on December 6, 2011.

3. Authorizes the FCC to promulgate regulations.

No implementation deadlines. On May 8, 2013, the FCC adopted rules to require bounce-back messages by September 30, 2013, when text-to-911 messages are not supported. Major carriers volunteered to support text-to-911 by May 15, 2014.

Section 201. Video Programming Accessibility Advisory Committee (VPAAC)

1. Requires the FCC to establish the VPAAC within 60 days after October 8, 2010.
On December 7, 2010, the FCC announced the appointment of VPAAC members.
2. Requires the VPAAC to submit, within 6 months after the VPAAC's first meeting on January 13, 2011 [or by July 13, 2011], a report with recommendations about closed captioning of IP-delivered video programming ("first report").

The VPAAC submitted its first report to the FCC on closed captioning on July 13, 2011.

3. Requires the VPAAC to submit, within 18 months after October 8, 2010 [or by April 9, 2012], a report with recommendations about video description, emergency information, user interfaces, program guides, and menus ("second report").

The VPAAC submitted its second report to the FCC on April 9, 2012.

Section 202. Video Description, Emergency Information, and Closed Captioning

Amends Section 713 of the Communications Act with respect to the provision of video description, accessible emergency information, closed captioning on video programming delivered using Internet protocol, and petitions for exemption from the closed captioning requirements.

Video Description

1. Requires, 1 year after the enactment of the CVAA, or by October 8, 2011, the reinstatement of FCC regulations that mandated the provision of video description on video programming, with certain modifications.

On August 25, 2011, the FCC released a report and order reinstating the video description rules, effective October 8, 2011, and requiring compliance by July 1, 2012.

2. Requires, not later than 1 year after the completion of the phase-in of the reinstated regulations, or by July 1, 2013, the FCC to initiate an inquiry on video description and report to Congress 1 year after initiating that inquiry, *i.e.*, by July 1, 2014.

The FCC initiated an inquiry on video description on June 25, 2013.

3. After filing its report to Congress by July 1, 2014, but no later than October 8, 2016, 6 years after the enactment date of the CVAA, the FCC must extend the video description requirements to broadcast stations in the top 60 television markets.

The FCC's video description rules extend requirements to broadcast stations in the top 60 television markets beginning on July 1, 2015.

4. Not before July 1, 2016, 2 years after completing its report to Congress, the FCC may increase the video description requirement by up to 75 percent (from 50 to 87.5 hours per quarter) for televised video programming.

5. Nine years after the date of enactment of the CVAA, or by October 8, 2019, the FCC must submit to Congress a report assessing the provision of video description, particularly with respect to television markets outside the top 60.

6. Ten years after the date of enactment of the CVAA, or on October 8, 2020, the FCC is authorized to phase in the video description regulations for up to 10 additional television market areas each year.

Emergency Information

Requires the FCC to adopt rules, not later than 1 year after the second VPAAC report, or by April 9, 2013, that require video programming owners, providers, and distributors to convey emergency information in a manner that is accessible to individuals who are blind or visually impaired.

The FCC adopted rules on April 8, 2013, to require, by May 26, 2015, the use of a secondary audio stream to convey televised emergency information aurally, when such information is conveyed visually during programming other than newscasts, for example, in an on-screen crawl.

Closed Captioning on Video Programming Delivered Using Internet Protocol (IP)

Requires the FCC to adopt rules, not later than 6 months after the first VPAAC report, or by January 13, 2012, to require closed captioning on IP-delivered video programming that was published or exhibited on television with captions after the effective date of such regulations.

On January 12, 2012, the FCC adopted rules governing the closed captioning requirements for IP-delivered video programming. Implementation was phased in for two different types of IP-delivered programming: (1) programming newly added to an IP distributor's inventory; and (2) programming already in an IP distributor's inventory.

Programming that is newly added to an IP distributor's inventory must be captioned if the program was shown on television with captions on or after the following dates:

- September 30, 2012—for pre-recorded video programming that is not substantially edited for the Internet.
- March 30, 2013—for live and near-live video programming.
- September 30, 2013—for pre-recorded video programming that is substantially edited for the Internet.

Programming already in an IP distributor's inventory must be captioned according to the following implementation schedule:

- Within 45 days after the program is shown on television with captions on or after March 30, 2014 and before March 30, 2015;
- Within 30 days after the program is shown on television with captions on or after March 30, 2015 and before March 30, 2016; and
- Within 15 days after the program is shown on television with captions on or after March 30, 2016.

Exemptions Based on Economic Burden

Replaces the term “undue burden” with the term “economically burdensome” as the standard by which the FCC is to assess requests for exemptions from the closed captioning requirements.

No implementation deadlines. On July 19, 2012, the FCC amended its rules to replace the term “undue burden” with “economically burdensome” and determined that the four factors in Section 7 13(e) of the Communications Act will be used to evaluate requests for exemption.

Section 203. Closed Captioning, Emergency Information, and Video Description Capability

Amends Section 303(u) and adds Section 303(z) to the Communications Act to update requirements for apparatus that receive, play back, or record video programming to be compatible with closed captioning, video description, and accessible emergency information so that these features and services reach viewers.

Apparatus Closed Captioning Capability

Requires the FCC to adopt rules to update apparatus closed captioning capability requirements within 6 months after the first VPAAC report, or by January 13, 2012.

On January 12, 2012, the FCC adopted rules that require apparatus manufactured on or after January 1, 2014 to comply with the updated closed captioning capability requirements.

Apparatus Video Description and Emergency Information Capability

Requires the FCC to adopt rules for apparatus video description and emergency information capability within 18 months after the second VPAAC report, or by October 9, 2013.

The FCC adopted rules on April 8, 2013, to require apparatus manufactured on or after May 26, 2015, to provide a secondary audio stream to convey required video description and televised emergency information aurally, when such information is conveyed visually during programming other than newscasts, for example, in an on-screen crawl.

Section 204. User Interfaces on Digital Apparatus

Adds Section 303 (aa) to the Communications Act. Requires user interfaces on apparatus designed to receive or play back video programming, including IP-delivered video programming, to be accessible to and usable by individuals who are blind or visually impaired, and mandates a mechanism that is reasonably comparable to a button, key, or icon for activating closed captioning and video description features. Requires the FCC to adopt rules for these provisions within 18 months after the second VPAAC report, or by October 9, 2013.

On October 29, 2013, following the shutdown of the Federal government due to a lapse in appropriations, the FCC adopted rules requiring video programming apparatus user interfaces to be accessible to and usable by individuals who are blind or visually impaired, and a mechanism for activating closed captioning and video description by December 20, 2016.

Section 205. Access to Video Programming Guides And Menus Provided on Navigation Devices

Adds Section 303(bb) to the Communications Act. Requires on-screen text menus and guides provided by navigation devices (set-top boxes) to be audibly accessible in real-time upon request by individuals who are blind or visually impaired, and mandates access to any built-in closed captioning capability through the use of a mechanism that is reasonably comparable to a button, key, or icon designated for activating the closed captioning or accessibility features. Requires the FCC to adopt rules for these provisions within 18 months after the second VPAAC report, or by October 9, 2013.

On October 29, 2013, following the shutdown of the Federal government due to a lapse in appropriations, the FCC adopted rules requiring on-screen text menus and guides provided by navigation devices to be accessible to individuals who are blind or visually impaired, and a mechanism for activating closed captioning by December 20, 2016. Small multichannel video programming distributors (MVPDs) must comply by December 20, 2018.

UNLICENSED SPECTRUM

Question. Spectrum is a scarce and valuable resource. This is the case for both licensed and unlicensed spectrum. Unlicensed spectrum fuels innovation and, according to one recent study, helped generate over \$220 billion in value to the US economy last year. Given the growth of WiFi and the explosion of connected devices sometimes referred to as the “Internet of things,” the value of unlicensed spectrum will likely continue to grow.

As the Commission proceeds with upcoming spectrum auctions, will you work to preserve adequate access to unlicensed spectrum?

Answer. As contemplated by the Middle Class Tax Relief and Job Creation Act, the May 15th Incentive Auction Report and Order adopted rules to permit unlicensed use of technically reasonable guard bands required to protect licensed services in the new 600 MHz band, in addition to Channel 37 and remaining TV White Spaces. This action will make available a significant amount of low-band spectrum for unlicensed use, much of it on a consistent, nationwide basis.

We also are actively participating in ongoing efforts with the Department of Transportation and industry to resolve technical issues in a portion of the 5 GHz ITS band currently used for vehicle-to-vehicle communications and with the Defense Department to resolve issues in a portion of the 5 GHz band used for military radar. Resolving these issues could make an additional 195 MHz of spectrum available for wireless broadband. We hope and expect parties to engage productively, and we will be watching closely.

BUDGET REQUEST FOR UNIVERSAL SERVICE FUND (USF) REFORM

Question. The fiscal year 2015 President’s budget requests an additional 45 FTE for Universal Service Reform. Please provide a table that lists each new FTE by office and bureau, with a description of the proposed responsibilities for each new FTE.

Answer. The FCC’s \$10,877,000 request would provide 45 additional FTEs for enforcement-based oversight and supplement the 25 FCC employees tasked with oversight of the \$8.4 billion USF programs. Specifically, the requested funds will provide for a Joint USF Anti-Fraud Task Force to combine resources agency-wide and develop a strategic, targeted approach to identifying, preventing, eliminating and prosecuting activities that undermine the integrity of the USF program. The 45 FTEs will be spread throughout the agency as follows:

- 6 FTEs for Office of Inspector General (investigations and enforcement)
- 20 FTEs for Enforcement Bureau (increasing EB’s capacity to handle complex cases)
- 10 FTEs for Office of Managing Director (financial systems and operational oversight)
- 9 FTEs for Wireline Competition Bureau (oversight and compliance activities such as identifying potential rule violations, reviewing data and reports from beneficiaries)

Below are detailed descriptions of the bureau activities and the bulk of these employees, but note that there may be adjustments based on budgetary constraints and a final programmatic review:

FCC USF Anti-Fraud Joint Task Force Plan: Wireline Competition Bureau

- The Wireline Competition Bureau (WCB) oversees the Federal Universal Service Fund. WCB manages the four USF programs—Lifeline, E-Rate, Connect

America Fund and Rural Health Care—as well as contributions. Because WCB manages the Fund in close coordination with USAC, WCB often becomes aware of potential abuse of the Fund, mainly through USAC audits, appeals, annual filings, press reports and/or through discussions with stakeholders.

—WCB’s role will fall into three main categories: initial inquiry into potential rule violations; internal support and consultation; and coordination and outreach.

—*Initial Inquiry into Potential Rule Violations.*—WCB is well-positioned to serve as the eyes and ears of the agency to identify potential rule violations. WCB meets with funding recipients and others involved with USF on a daily basis and in the course of those meetings frequently identifies situations that deserve further scrutiny. WCB also coordinates with USAC on a daily basis and often becomes aware through that process of potential violations.

WCB staff will enhance and augment these existing functions by dedicating expert staff to these tasks as well as to analyzing data (e.g., National Lifeline Accountability Database data, FCC Forms and Annual Reports), to identify potential targets for investigation, conduct initial assessments, and make prompt referrals to the EB Strike Force.

—*Internal Support and Consultation.*—WCB will serve as a resource on factual (including historical) and legal issues regarding waste, fraud and abuse in each of the USF programs. The team will identify patterns of fraud/fraud risk in and among the USF programs. Based on lessons learned in this process, the team will advise policymakers on how to mitigate the risk of waste, fraud and abuse going forward. The team would also provide USAC with guidance and training on fraud related issues and will have a role in the development and review of compliance plans. Finally, the team will recommend areas for intensive review or auditing to USAC, the EB Strike Force, and the OIG.

—*Coordination and Outreach.*—WCB will work with other representatives of the USF Anti-Fraud Task Force to coordinate efforts with OGC and OIG on fraud issues and will work with OMR on crisis communications.

Role	Description	# FTEs
WCB Anti-Fraud Director	Direct overall Anti-Fraud activities for WCB; report to Chief of TAPD	1
Anti-Fraud Dedicated Staff Experts	For each program, at least one legal expert and at least one finance/auditing expert initially allocated as follows with but with flexibility to shift experts among programs as needed: —2 E-Rate legal experts (also support Rural Health Care) —2 E-Rate compliance/auditing experts (also support Rural Health Care) —1 Lifeline legal expert —1 Lifeline compliance/auditing expert —1 Connect America Fund legal expert —1 Connect America Fund compliance/auditing expert	8

Enforcement Bureau USF Strike Force

—The EB USF Strike Force will target fraud, waste, and abuse in all four components of the USF: Lifeline, E-Rate, High Cost program/Connect America Fund, and Rural Health Care.

—Strike Force—working in teams composed of attorneys, investigators, and forensic analysts—will pursue violations of the Communications Act, the Commission’s rules, the False Claims Act, the Debt Collection Improvement Act, and other laws bearing on USF programs.

—The Strike Force will investigate allegations of wrongdoing by specific targets, analyze data (e.g., NLAD data, USAC E-Rate funding request data, etc.) to identify patterns of misconduct, conduct undercover work, and target recidivists who resurface under different corporate guises.

—The Strike Force will coordinate internally with other components of the Joint USF Anti-Fraud Task Force (e.g., on investigations where appropriate, on rulemakings, on policy issues) and externally with DOJ and State authorities (e.g., Public Utilities Commissions (PUCs), State attorney generals (AGs) and other law enforcement) to investigate and pursue wrongdoers.

POSITIONS

Role	Description	# FTEs
Strike Force Director	Direct overall activities of Strike Force; report to EB Bureau Chief	1

POSITIONS—Continued

Role	Description	# FTEs
Deputy Directors	Three deputies with responsibilities divided as follows: —1. E-Rate —2. Lifeline, Contributions —3. High Cost, Rural Health	3
Strike Force Teams	Three 4-person teams responsible for specific cases. Teams consist of: —1 attorney (team leader) —1–2 investigator (interviews, undercover, doc production, etc.) —2–3 forensic examiners (document and financial analysis)	14
Policy Counsel	One attorney tasked with working collaboratively with other FCC stakeholders on policy matters, rulemakings, etc.	1
DOJ Trial Attorney Detailee	Funding for a DOJ criminal trial attorney detailee dedicated to handling USF fraud, waste, and abuse cases	1

Office of the Managing Director: FTEs to Eliminate Improper Payments; and Improve Operational and Financial Oversight

The Office of the Managing Director (OMD) manages and oversees the functions of the Universal Service Administrative Company related to auditing, improper payments assessments and reporting, finance, accounting, procurement, information technology, administration, and personnel issues.

Identifying, Recovering and Reducing Improper Payments

- As required by the Improper Payments Elimination and Recovery Improvement Act of 2012, OMD has worked to develop assessments for each of the universal service programs that disburse funding: Lifeline, E-Rate, High Cost program, Connect America Fund, and Rural Health Care. Improper payments are any payments that were not made or any payments that should have been made. The law requires the Commission to have an error rate of lower than 1.5 percent of total disbursements for each program.
- For the High Cost/CAF, E-Rate and Lifeline programs, the Commission must analyze and constantly review and improve procedures to accurately capture improper payments based on OMB guidance. Specifically, additional OMD staff will focus on working with other Commission offices and USAC to bolster the assessments for those programs so we can demonstrate that we are testing all of the key components of those programs. In addition, as the programs are reformed, assessments procedures must be updated and revised accordingly.
- Based on the findings in the completed assessments—as well as findings from other audits and investigations—the Commission must develop corrective action plans to reduce improper payments under the statute. OMD staff will work with other Commission offices and with USAC to address areas of concern, including by proposing rule changes, referring actions to the Enforcement Bureau, performing further targeted audits, conducting additional outreach, improving pre-disbursements reviews, and taking other actions as necessary to remediate the issues identified.
- OMD staff will work to increase recovery of funds from payment recapture audits (USF Beneficiary and Contributor Audits, or BCAP). Nearly \$300 million in potential recoveries is outstanding based on audit findings. Staff will determine whether audit findings were correct and if funding can be collected before recovery can proceed. Staff will review outstanding issues and provide guidance to USAC and stakeholders.

Operational and Financial Oversight

- Financial.*—OMD staff will analyze USF program cash management practices to determine whether to revise the current commitment and disbursement policies and procedures. Work with agency's CFO to ensure compliance with Federal financial requirements. Oversee USAC efforts to reduce outstanding commitments and disbursements.
- Information Technology.*—OMD staff will work with USAC and coordinate with other offices to modernize and improve USF financial and programmatic systems. Improvements in the financial systems will (1) ensure the proper funding is being disbursed for each program; (2) provide stakeholders with updated and user-friendly access to Commission and USAC systems, information and data; and (3) improve data collection and analysis to support policymaking and to de-

termine whether the Commission's programmatic and administrative goals are being met for each program.

—*Risk Assessments.*—To comply with GAO recommendations, OMD staff will manage and oversee program risk assessments for E-Rate and Lifeline. OMD staff will also analyze, review and implement recommendations that result from the risk assessments.

POSITIONS

Role	Description	# FTEs
Director of USF Oversight	Direct, plan and coordinate overall activities administrative oversight team; report to Managing Director	1
Improper Payments Reduction and Reporting Team.	As described above	3
Information Technology Modernization Team	As described above	2
Financial Management Team	As described above	2
Risk Assessment Team	As described above	2

QUESTIONS SUBMITTED BY SENATOR MIKE JOHANNIS

Question. In our hearing, you indicated that a change to the regulation governing the FCC's implementation of their responsibilities would take too long and therefore be of little value in helping the rail industry meet the deadlines specified in the Positive Train Control statute.

If the FCC is able to utilize the Program Comment and any modified procedures in the 2004 Programmatic Agreement specified by the Program Comment, what do you expect the pace of Positive Train Control (PTC) pole approval to be, assuming the parties subject to compliance obligations submit timely and complete data packages to the FCC?

Answer. On May 16, 2014, the Advisory Council on Historic Preservation (ACHP) voted to approve a Program Comment that modifies the FCC's usual procedures for historic preservation review. The Program Comment permits several changes to our existing procedures that should significantly reduce the time required for necessary review. First, the Program Comment contains new, significant provisions that, subject to certain exceptions, exclude from review deployments of PTC poles installed in railroad rights of way within 500 feet of existing equipment that is at least 25 feet tall, including signaling equipment that includes a vertical post, catenary bridges or masts, or above ground utility transmission or distribution lines and associated structures.

For those poles not excluded from review, the Program Comment provides for streamlined processing times. Once a railroad submits a deployment notification, State and Tribal Historic Preservation Officers have 30 days to express their interests or concerns. If there is no response within 30 days, the railroad can refer the matter to the FCC, which in turn has 10 business days to decide whether a Tribe or SHPO can participate in the review. In addition, the Commission must resolve disputes between the railroads and Tribes and SHPOs within 10 days. These are meaningful improvements to current processing times.

Question. The FCC's budget proposes to retain \$106 million collected from auction revenues to develop, implement and maintain its auction program. This is \$7.5 million above the fiscal year 2014 level. In fiscal year 2013 the FCC sought a \$13.7 million dollar anomaly, increasing the cap from \$85 million to \$98.7 million, specifically for costs associated with the first-ever incentive auction. The auction cap was again set at the higher level in fiscal year 2014 at \$98.7 million, citing the need for additional resources for the incentive auction. The fiscal year 2015 FCC budget again seeks an increase, now to \$106 million, for essentially the same purpose.

Given concerns about transparency, the fiscal year 2014 Omnibus adopted House report language which required the FCC to submit to the Committees a report with specific detail on the Commission's fiscal year 2015 projected auction expenditures.

The Committee just received the first required Auction Expenditure report and it is difficult to understand what costs are attributable to various auctions and what progress is being made towards the rollout of the incentive auction with the use of these funds.

Would you please provide the Committee with more specific detail on how those funds will be spent and any update you have on the progress of the incentive auction process?

Answer. The Commission must maintain its systems and staff to carry out traditional auctions while creating and maintaining new systems and structures to handle the Incentive Auction process. Prior to 2013, the Commission maintained its systems for a 10-year period at \$85 million without any inflationary adjustments. During that period, the Commission administered its spectrum auction program, raising billions of dollars for the Treasury and providing tens of thousands of licenses. The Commission recently completed the \$1.65B H Block auction, while the AWS-3 auction is scheduled for the current year. Accordingly, the next fiscal year will place additional strain on the traditional auction process.

The increases during the past two fiscal years are specifically geared toward the incentive auctions process. The first increase funded start-up and initiation costs of a complex, unique system, and the next fiscal year will see an intensification of the auctions activities process. Below is a description of the work and continuing activities generating the added costs for the auctions program.

Public Releases

- The Incentive Auction rulemaking process continues, with the adoption of the *Incentive Auction Report and Order*, *Wireless Microphones Report and Order*, and *Mobile Spectrum Holdings Report and Order* on May 15, 2014.
- To assist the Commission in making policy decisions, and to support auction research conducted by our outside auction design experts, the staff runs studies daily, using complex software developed to support these tasks. Preliminary results from these studies have been released to the public in the *Repacking Data Public Notice*,¹ and the accompanying workshop/webinar discussing these results,² and in the *Aggregate Interference Public Notice*,³ which is scheduled to be released concurrent with the *Incentive Auction Report and Order*.

Software Development

- IT Upgrades*.—Conducting the first-ever Incentive Auction is complicated, and requires advanced computer system development and upgrades to the Commission's current auction system to support integrating the reverse and forward auctions with the “repacking” of television stations in the UHF band.
- Feasibility Checking*.—The voluntary reverse auction, where descending prices are offered to broadcast television licensees in return for relinquishing usage rights, can continue only insofar as the Commission is able to guarantee that any bidder that exits the auction can receive a channel in its “home” (UHF, upper VHF, or lower VHF) band. To determine how prices decrease and how winners are selected, our outside auction system designers have developed software called a “feasibility checker” to perform thousands of these checks in real-time.
- Optimization*.—To determine an initial spectrum clearing target, as well as a final channel assignment, the Commission will need to run integer optimization software. In conjunction with our outside auction designers, we are also continuing to explore the use of integer optimization solvers at other points of the reverse and forward auctions, or in the repacking process. The staff has been working to develop elaborate optimization models to achieve a balance between cost and computational time.
- Auction Bidding Systems*.—The Commission has an online auction system (“ISAS”) that has served well since the debut of spectrum auctions. However, the system as it is currently built cannot support the unique nature of the Incentive Auction, and staff has been working with our outside auction service provider to design a replacement bidding system engine that will support our current and future needs. The three components of the Incentive Auction are all integrally connected, and major features, including to the user-experience, require a redesign to allow for a successful bidding process.
- Systems Integration*.—Similarly, if any one component of the Incentive Auction system fails, it could cause the entire auction system to fail. Recognizing that systems integration is a crucial component to achieving the goals of the Spectrum Act, the staff has focused much attention on ensuring that connected

¹*Incentive Auction Task Force Releases Information Related to Repacking; Announces Workshop/Webinar to Provide Additional Detail*, GN Docket No. 12–268, ET Docket No. 13–26, Public Notice, 29 FCC Red 47 (2014).

²LEARN Workshop on Feasibility Checking During Repacking Process, FCC (Feb. 21, 2014), available at <http://www.fcc.gov/events/learn-workshop-feasibility-checking-during-repacking-process>.

³*Incentive Auction Task Force Releases Updated Constraint File Data Using Actual Channels and Staff Analysis Regarding Pairwise Approach to Preserving Population Served*, GN Docket No. 12–268, ET Docket No. 13–26, Public Notice, DA 14–677 (2014).

pieces communicate successfully (from the clearing target optimizer to the reverse auction bidding engine and feasibility checker, for example). We have also begun the process of hiring a team to help with systems user acceptance testing, and an independent verification and validation team.

Studies

- As in the previously mentioned public releases, the Incentive Auction team runs studies and study scenarios to inform staff and Commission decisions regarding policy decisions, and the cost-benefit analysis of certain design considerations. The staff works closely with our outside contractors to develop and refine study software to test auction designs.
- The auction studies feed into cross-bureau and office teams, and have been integral in negotiations with Mexico and Canada on the possibility of performing a joint repacking of the UHF band.

QUESTIONS SUBMITTED BY SENATOR JERRY MORAN

Question. Thank you for your assurance at the hearing that the FCC has a timeline and process to provide broadcast TV stations a “book” of financial data to help stations understand the kind of prices they can expect to earn if they choose to participate in the upcoming incentive auction. Strong participation by broadcasters will be critical to the success of the auction. Could you please provide the Committee with the timeline of the FCC process you referenced in your testimony, including an approximate estimation about when TV stations can expect to receive the financial information they need to determine whether or not to participate in the auction?

Answer. I agree that strong participation by broadcasters will be critical to the success of the Incentive Auction, and I am committed to providing information to facilitate broadcasters’ ability to make informed, fact-based decisions about whether and how to participate. On May 15, 2014, the Commission adopted its rules for the Incentive Auction. We will be providing additional data and information to broadcasters in the coming weeks and months, including a timeline for our future actions, and a “book” of financial data to provide broadcasters with an estimate of potential prices in the reverse auction.

Question. As was noted in Commissioner Pai’s testimony, the FCC has traditionally generated large revenue for the Treasury from its spectrum auction program, but between fiscal year 2009 and fiscal year 2013, Congress appropriated to the FCC \$452 million for auction-related expenses and the Commission only generated \$73.25 million in auction revenue. The FCC budget proposal asks for \$106 million for costs associated with auctions, which is just shy of a 25 percent increase from the \$85 million Congress allocated for most of the last decade. As you know, the administration has suggested that they do not envision clearing additional spectrum for auction after next year’s auctions and they will instead focus on spectrum sharing. If spectrum sharing becomes the preferred strategy, should we expect the Commission’s auctions-related costs and corresponding personnel levels to drop in fiscal year 2016 and beyond since there are no additional major spectrum auctions planned?

Answer. Certainly spectrum sharing is a goal of the Commission, and spectrum clearing is also possible in other instances. In some instances, shared spectrum may be auctioned, as will be the case with our AWS-3 auction scheduled for this Fall. We have spectrum auctions authority during the next decade, and sometimes those auctions will be small but with significant economic impact. For instance, during the period where you noted that the Commission only generated \$73.25 million in revenue, we auctioned more than 16,000 licenses, resulting in important growth benefits for numerous businesses nationwide. Also, it is essential to recognize the overall numbers—that auctions spending has cost less than 2 percent of the revenue received from the program, which is a terrific record for any government or private program.

Question. The Wireline Competition Bureau recently announced a rate floor increase, which will have a major impact on Kansas telephone customers across the country. Rural Kansas telephone companies currently charge rural customers anywhere from \$11.77 to \$18.25 per month for phone service, and under Kansas law, they are only allowed to increase rates by \$1.50 per month in any 12-month period. The new rate of \$20.46 will be impossible for companies in my state to comply with by the July 1, 2014 deadline. Are you willing to commit to delaying the rate floor increase, and will you work with companies to address their challenges so they can comply with the law?

Furthermore, if a carrier increases its rates to match the rate floor, I understand that it does not lose any universal service support. This appears to counter the argument that the rate floor reduces “excessive” universal service subsidies, yet increases rates despite the statute’s requirement that telephone rates be “affordable.” What purpose does the rate floor serve other than making rural rates less affordable?

Answer. For 2014, the Commission has delayed any further reductions in universal service support until we have more information on the number of lines affected. The Commission adopted an Order on April 23, 2014, that maintains the requirement that carriers file with the Universal Service Administrative Company the number of lines with rates below the rate floor, but delays any potential universal service support reductions until January 2015. In addition, the universal service support reductions that go into effect in January will only be for those lines with rates below \$16, with no further increases until July 2016. The Order also excludes Lifeline recipients in order to ensure that people with the least means are not affected. Future reductions will be limited to an increase of no more than \$2 per year.

Although I understand the concern regarding increased landline rates because of the increased rate floor, what we have seen since the Commission implemented this rule in 2012 is a minimal impact. The rate floor increased from \$10 in 2012 to \$14 in 2013, a 40 percent increase. Our rules do not require carriers to raise their rates. The fact that many carriers continue to report some lines with rates well below the \$14 rate floor suggests that they may have made a business decision to grandfather the lower rates for those customers and accept the associated support reductions. In 2013, carriers in 34 study areas in 16 states were still reporting a number of lines with residential local service charges of \$5 or less, further reinforcing that individual carriers may choose not to raise rates in response to the current rate floor.

Question. On March 31, the FCC approved a plan to restrict television broadcasters’ use of joint sales agreements (JSAs). What data and facts were considered by the FCC to make a determination that the use of JSAs was inconsistent with the spirit of media ownership rules? Does the FCC currently collect information on JSA usage among television broadcasters? If so, how many are there in the United States? How many television stations owned by women and minorities participate in JSAs? How many JSAs were approved by the FCC since 2002?

Answer. The Commission’s attribution rules “seek to identify those interests in licenses that confer on their holders a degree of ‘influence or control that the holders have a realistic potential to affect the programming decisions of licensees or other core operating functions.’” The attribution rules are taken into account when calculating ownership interests under the local TV and local radio ownership rules. The Commission first proposed to attribute JSAs that involve the sale of 15 percent or more of the weekly advertising time between same market television stations in 2004, and sought additional comment in 2010.

Based on the records developed, and our ongoing review of TV JSAs as part of license transfer applications, there was growing concern that the increasing prevalence of such agreements warranted attribution similar to the radio attribution rules adopted in 2003, because they “provide incentives for joint operation that are similar to those created by common ownership.”

It is important to note that the Commission does not review or approve JSAs, but does take such agreements into consideration when reviewing applications to transfer licenses between entities. With the adoption of the new rules, TV stations will now be required to file any attributable JSA with the Commission, and will have 2 years to unwind any attributable JSAs where the local TV ownership rule would not allow joint ownership. Additionally, under existing rules, all radio and TV stations are required to place a copy of JSAs in their public files. Based on these self-reporting requirements, approximately 130 stations currently report being involved in a JSA. Within the Order, the Commission recognized that there could be some exceptions to the new rule, where a JSA could be found to be in the public interest, and provided an expedited waiver process to address those instances.

Question. Almost all small and medium-sized cable operators license most of their programming through a single buying group, the National Cable Television Cooperative (NCTC). In October 2012, the FCC issued an FNPRM that tentatively concluding its definition of a “buying group” needs to be modernized and sought comment on this and other related matters to ensure that buying groups utilized by smaller cable operators can avail themselves of certain program access rules as Congress intended. What is the status of this proceeding?

Answer. The Media Bureau is currently evaluating the record in this proceeding, which raises complex legal and policy issues impacting not just small cable operators but also programmers. The Bureau is analyzing the costs and benefits of such a rule change as well as the effect of this proposed rule change on the video market-

place generally. While I understand the concerns raised by the NCTC, nothing is prohibiting the NCTC from qualifying as a buying group under the existing rules, as they previously have done.

QUESTIONS RELATED TO INFORMATION TECHNOLOGY STRATEGY AND INVESTMENTS

Question. Describe the role of your agency's Chief Information Officer in the oversight of IT purchases. How is this person involved in the decision to make an IT purchase, determine its scope, oversee its contract, and oversee the product's continued operation and maintenance?

Answer. The Commission's Chief Information Officer ("CIO") or a member of the CIO's team is involved in every major IT acquisition by the FCC. The FCC IT Team has recently launched an updated enterprise planning approach that will improve transparency, accountability, and responsibility throughout the entirety of the IT investment lifecycle. The IT team is involved from the submission of an investment request to seeing the projects to completion as well as simultaneously tracking the on-going benefits of the investment made as a result of the project.

Question. Describe the existing authorities, organizational structure, and reporting relationship of your agency Chief Information Officer. Note and explain any variance from that prescribed in the Information Technology Management Reform Act of 1996 (aka, The Clinger-Cohen Act) for the above.

Answer. The FCC's CIO is located within the Office of the Managing Director ("OMD"). The Managing Director directs operations in OMD and reports directly to the Chairman. The CIO in turn reports to the Managing Director on the FCC's organizational chart and for practical purposes coordinates with the Managing Director on the day-to-day activities of the IT team at the FCC. For longer term, high priority, and high visibility IT projects, the CIO along with the Managing Director brief the Chairman on a regular basis.

The Clinger-Cohen Act specifically designated the CIO as reporting to the agency head for certain matters related to strategic planning in larger agencies listed in 31 USC § 901(b) that are considered Chief Financial Officer Act ("CFO Act") agencies.⁴ While the FCC is a smaller agency and is not a CFO Act agency; the CIO does regularly advise the Chairman on IT issues as mentioned above.

Question. What formal or informal mechanisms exist in your agency to ensure coordination and alignment within the CXO community (i.e., the Chief Information Officer, the Chief Acquisition Officer, the Chief Finance Officer, the Chief Human Capital Officer, and so on)? How does that alignment flow down to agency sub-components?

Answer. The FCC's smaller size and management structure lends itself to a high level of coordination among the FCC's CXOs. The CIO, CFO, CHCO, and CAO are all a part of OMD. The team meets at least weekly as a group to discuss ongoing issues and to coordinate on agency-wide matters.

Question. How much of the agency's budget goes to demonstration, modernization, and enhancement of IT systems as opposed to supporting existing and ongoing programs and infrastructure? How has this changed in the last 5 years?

Answer. The FCC has spent the vast majority of its fiscal year 2014 IT budget, as it has in previous years, towards ongoing Operations and Maintenance (O&M) of existing systems versus delivering new functionality to the bureaus and offices it supports. To date, the FCC has only spent 23 percent of its budget outlay on development, modernization, and enhancement efforts. The remaining 77 percent has been spent on O&M, mainly directed towards systems far beyond the normal upgrade cycles. These numbers will change as a new system is built out to accommodate the incentive auction scheduled for 2015.

Question. Where and how are you taking advantage of this Administration's "shared services" initiative? How do you identify and utilize existing capabilities elsewhere in government or industry as opposed to recreating them internally?

Answer. Since the arrival of our new CIO, Dr. David Bray, the FCC has conducted a number of information gathering sessions with industry and with agencies and departments in government to ascertain the best practices and best solutions available for various IT functions. The FCC is pursuing avenues to have infrastructure services channeled through larger, and better resourced, agencies in order to minimize its exposure, both physical and monetary, to risks associated with the use of the Internet.

The FCC recognizes that it cannot maintain a security posture nearly as well as larger and better equipped agencies in government. As an example, the FCC has been pursuing a course of action with Defense Information Systems Agency (DISA)

⁴ See 40 USC § 11315(c).

as a provider. Unfortunately, DISA is looking for at least 50,000 users in an organization when it provides these services. The FCC's size at less than 1,800 employees does not readily lend itself to the DISA solution without additional incentives for them to take on the work.

On the application side, the FCC has been working at outsourcing its Office of Inspector General (OIG) system to an agency with mature and well-funded solutions, such as NASA. In this case, both government agencies that do provide the service for other agencies are out of capacity. The CIO is continuing to reach out to other agencies as well as to industry providers to move capacity to a more flexible and modern environment in a modular fashion. The above examples demonstrate some of the FCC's ongoing efforts to find shared solutions. Since 40 percent of the systems at the FCC are 10 years old, or more, the need for a change is absolute, but re-creating the same applications on a new platform inside the FCC's four walls is not the preferred approach.

Question. Provide short, two-page, summaries of three recent IT program successes, projects that were delivered on time, within budget, and delivered the promised functionality and benefits to the end user. How does your agency define "success" in IT program management?

Answer. Please find three summaries of recent FCC IT program successes below. The FCC can provide additional details as necessary.

—*ELS Enhancement.*—The Experimental Licensing System (ELS) Web portal was upgraded to allow for the licensing of four new types of devices, medical in nature. This upgrade accelerates the delivery of these medical devices for use in the population.

—*OGC Tracking System.*—The Office of General Counsel expanded its capabilities for the tracking of court cases. This was an internal upgrade to help OGC's specific business needs. This upgrade deferred the need to build a new system and was accommodated within the existing infrastructure by building upon a system that already existed at the FCC.

—*EAS Redesign.*—An agile development exercise with nine sprints (discrete roll outs of functionality) which addressed some security issues and developed the first phase of a new login system. The new login system improves the ability of users from outside the agency to login without having to go through a separate unrelated system at the FCC to receive a separate numeric login. This improvement assists users and saves time.

Question. What "best practices" have emerged and been adopted from these recent IT program successes? What have proven to be the most significant barriers encountered to more common or frequent IT program successes?

Answer. The introduction and infusion of agile development and behaviors throughout the organization has resulted in more timely and better suited outcomes from development and projects in general. The organization conducted numerous Agile training sessions ensuring that all of the staff is aware of the methodology and practice of Agile.

The process of collecting and communicating requirements has long been a sore point in the development and deployment of successful systems. The FCC, through Agile development and better performance tracking, has been able to overcome the initial challenges of producing requirements that actually meet business goals. Through proper discipline, and breaking down and measuring work in digestible slices, the FCC can better understand and control the deliverables.

The FCC IT department has also adopted a strategy which includes using "intrapreneurs" as the vehicle for strengthening partnerships with the 18 bureaus and offices of the FCC. Using this system, each bureau and office has a liaison working closely with them in defining requirements and establishing a business case which is then fed through a capital planning and investment control (CPIC) process for evaluation. This approach promotes budget transparency and provides the opportunity to drive data driven dashboards across all of the projects in IT.

Question. Describe the progress being made in your agency on the transition to new, cutting-edge technologies and applications such as cloud, mobility, social networking, and so on. What progress has been made in the CloudFirst and ShareFirst initiatives?

Answer. FCC IT has also instituted a layered approach driven by modular development which allows for agility, and cost-savings, through re-use of code, templates, and business functions. Resiliency in FCC operations is also a major driver in the modernization of the FCC. Protecting data, systems, and privacy by design through the use of multiple tools and approaches has delivered a more secure environment for FCC employees and clients. Examples of FCC commitment to modernization and security can be evidenced in the roll-out of Virtual Desktop Infrastructure (VDI) and delivering secure connections to mobile devices, whether FCC or personally owned.

In committing to finding CloudFirst and ShareFirst approaches, the FCC is modernizing in a modular fashion which will allow for faster deployment to new environments as they become available. In moving data to the cloud environment and creating a datamart, the FCC is attempting to consolidate its sources of information to eliminate redundancies in processes and data gathering.

The deployment of VDI, allowing for the use of devices anywhere at any time in a secure fashion, has gone a long way towards making FCC staff more mobile. The FCC has also facilitated the use of staffs personally owned devices by deploying secure technologies allowing for mobile device use in a secure fashion.

Furthermore, the FCC is moving to a new and more interactive platform on its Web site which will allow for more timely and interactive exchanges with the public as well as its employees.

To facilitate these many ongoing efforts and bring strategic vision to the future of IT at the FCC, the CIO's team has identified the 7 tracks below as the primary paths forward for the IT organization's support of the mission of the FCC:

- Improving Security to enhance telework and mobility.
- Securing internal and external collaborations.
- Strengthening FCC's IT security posture.
- Transforming access to FCC enterprise data.
- Modernizing legacy systems and tracking.
- Improving FCC.gov and complaint reform.
- Increasing transparency and system usability.

Question. How does your agency implement acquisition strategies that involve each of the following: early collaboration with industry; RFP's with performance measures that tie to strategic performance objectives; and risk mitigation throughout the life of the contract?

Answer. The newly installed CIO of the FCC has instituted a process by which providers who offer distinct solutions in areas where the FCC is interested have an opportunity to present to relevant staff in our Technology Center. This process is ongoing and allows the staff to understand what is possible rather than focusing on the status quo. Through this process, the FCC has chosen some technology paths which allow for participation with technology providers who can solve present problems with modernization and technology dependent solutions.

There are numerous examples of where the FCC has experienced success in using performance measures for major IT investments. One clear example was the replacement of its Core Financial System. As part of the procurement process, the FCC asked bidders to prepare a quality assurance surveillance plan (QASP) founded on an initial set of performance metrics established by the FCC. The QASPs submitted by the bidders were evaluated as part of the procurement process, and the FCC has used the QASP throughout the lifecycle of the contract to evaluate the quality, accuracy, and timeliness of products and services provided by the vendor that was selected. Using the QASP process, a monetary incentive or disincentive is assigned at regular intervals throughout the lifecycle of the contract. The incentives correspond to the project's performance standards.

Furthermore, the FCC has risk management processes built into its major IT services contracts that were established as part of the acquisition process. Through these processes, the FCC's vendors seek first to plan appropriately to avoid risk. If risks do arise, the vendors track the risks, seek to mitigate them, and generate regular risk management reports by which IT staff can monitor the contracts throughout their lifecycles.

Question. According to the Office of Personnel Management, 46 percent of the more than 80,000 Federal IT workers are 50 years of age or older, and more than 10 percent are 60 or older. Just 4 percent of the Federal IT workforce is under 30 years of age. Does your agency have such demographic imbalances? How is it addressing them? Does this create specific challenges for attracting and maintaining a workforce with skills in cutting edge technologies? What initiatives are underway to build your technology workforce's capabilities?

Answer. The FCC does not base hiring decisions on age or consider age as a factor in determining workforce composition. Being mindful of increasing levels of the staff becoming eligible for retirement, however, the FCC has sought to use a combination of new hires and detailed employees from other agencies to fortify its information technology group.

By building a workforce based on skilled veteran employees as well as new hires and detailed employees from other agencies, the FCC would be able to increase its knowledge base. Outside expertise will help inform the current staff about solutions used in other organizations and agencies.

Question. What information does your agency collect on its IT and program management workforce? Please include, for example, details about current staffing

versus future needs, development of the talent pipeline, special hiring authorities, and known knowledge gaps.

Answer. Having recently brought in a new CIO to the FCC, the CIO's transition team is evaluating the current workforce to identify knowledge gaps and the agency's long-term staffing needs for the IT workforce. Through this process, the CIO has identified staffing needs that it is filling through both outside hires and detailed employees from within the agency. Also, as mentioned above, the CIO is using detailed employees from other agencies to provide a bridge across knowledge gaps while the team seeks to fill open positions.

QUESTIONS SUBMITTED TO HON. AJIT PAI

QUESTIONS SUBMITTED BY SENATOR TOM UDALL

EMERGENCY 9-1-1 IN HOTEL ROOMS

Question. Commissioner Pai, I understand from your testimony that you are examining how to improve emergency 9-1-1 service in hotel rooms. Could you explain briefly what the challenges are?

Answer. Yes. As you know from my written testimony, the problem is that some of the "multiline telephone systems" (or MLTS) that are in use in hotels, office buildings, college campuses, schools, and other large facilities require users to dial an access code (like "9") to complete a 911 call. In the case of Kari Rene Hunt Dunn, which is discussed in my testimony, this meant that her daughter was required to dial "9-911" to complete a call to 911. In emergencies, consumers will not necessarily know that they are dialing from a phone that requires an access code or what that access code might be.

So far, my inquiry has revealed that the challenges are not technical, at least not for modern MLTS systems. Both the MLTS vendors and the hotels I have heard from say that their MLTS systems can be programmed or reprogrammed to allow consumers to reach emergency personnel when they dial "911."

The problem is that a substantial number of these devices just aren't set up that way, and many hotels do not realize that this is an issue. When facilities that use MLTS are made aware of this issue, I have found that they are willing and able to take steps to fix it. Take La Quinta, for example. After surveying its franchisees earlier this year, the company discovered that in about 60 percent of its franchised hotels a guest would not reach emergency services by dialing "911" alone. La Quinta understood that this situation was unacceptable and instructed its franchisees to solve the problem. It stated that, by April 1, 2014, it expected that *all* La Quinta-branded hotels would have systems in place that would connect guests with emergency personnel when they dial "911." This means that one company showed that it was possible to fix this problem in hundreds of hotels in just 2½ months. Similarly, the InterContinental Hotel Group informed me that the telephone provider for two of their hotel brands has already agreed to push out a no-cost software update to allow for direct 911 dialing.

Based on these responses, I am not aware of any challenges that would prevent hotels that use modern MLTS devices from ensuring that their guests can reach emergency personnel when they dial 911. However, from talking with various industry representatives about this issue, I have heard that some older MLTS devices might not be capable of being reprogrammed to allow direct access to 911. I have not heard a definitive age or date range that would define that category of devices (though some have suggested anecdotally that it might be in the 10-15 plus year range); nor do I have data about the percentage of any such devices that may still be in the marketplace. I am going to continue to explore this issue.

Question. How can the Federal Communications Commission (FCC) help address these challenges?

Answer. One of the most important ways the FCC can help address this issue is to bring public awareness and attention to the problem. As suggested above, hotels in my experience are willing and able to fix the problem when they are made aware of it.

I am committed to continuing to work on this issue and raise awareness. As my testimony indicated, I launched an inquiry earlier this year and started out by sending letters to the chief executive officers of the 10 largest hotel chains in the United States. I have also been working with the American Hotel and Lodging Association (AH&LA) to find solutions to this problem. I expanded my inquiry at the end of March by sending letters to some of the leading vendors of MLTS devices and services, because this issue may occur not just in hotels but also in the office buildings where Americans work and in the schools where our children learn, among other

places. In order to address the problem on this broader scale, the entire MLTS vendor community must be involved. I am looking forward to reviewing their responses to my inquiry.

SUBCOMMITTEE RECESS

Senator UDALL. And with the subcommittee being concluded, the subcommittee is hereby recessed.

Thank you.

[Whereupon, at 11:18 a.m., Thursday, March 27, the subcommittee was recessed, to reconvene subject to the call of the Chair.]