Regulatory and Legislative Issues Affecting FTTH Deployments in Rural Areas
Policy Activities Affecting the Deployment of FTTH in Rural Areas

- National Broadband Plan
  - Universal Service and Intercarrier Compensation Reform
  - Establishment of Performance Standards
  - Lower Pole Attachment Rates and Improved Access
- Broadband Title II Reclassification
- Access to Video Programming
# National Broadband Plan Implementation Schedule

## Proposed 2010 Key Broadband Action Agenda Items*

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<td>Mobile Roaming Order and FNPRM (WTR)</td>
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<td>Launch Strategic Spectrum Plan and Trolley Assessment (WTR, CET, OCS)</td>
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<td>Mobile Wireless Competition Report (WTR, CGB)</td>
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<td>Smart Video Devices NOI (MS, CGB)</td>
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<td>Mobile Tech. Adv. Order, on Record &amp; OPD (CGB, CGB, WTR)</td>
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<td>Launch Speed and Performance Measurement Program (CGB, WTR, WCE, OET)</td>
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*This document outlines key programs of FNPRM, including those on universal service and interconnection. It is designed to provide an overview of the implementation schedule for the National Broadband Plan.*
Reform of Universal Service Funding and Intercarrier Compensation: Some Facts
Reform of Universal Service Funding and Intercarrier Compensation: Some Facts

Intercarrier Compensation Rates Vary Greatly

Source: Derived from AT&T December 23, 2009 submission to FCC.
Reform of Universal Service Funding and Intercarrier Compensation

• What’s at Stake for FTTH Deployments?
  – The majority of revenues for smaller rural (rate of return) carriers are from USF and access charges, and the FCC is proposing to reduce or eliminate them over a 10 year period
  – The proposed Connect America Fund sets performance speeds at only 4 Mbps downstream and 1 Mbps upstream and would be awarded to a single provider by reverse auctions (or other market mechanism)
Reform of Universal Service Funding and Intercarrier Compensation

• **Stage 1 (2010-2011)**
  - Improve USF performance and accountability
  - Create the Connect America Fund (CAF) funding for broadband and high-quality voice-grade service in “unserved” areas
  - Create the Mobility Fund
  - **Identify Opportunities to Shift up to $15.5 billion in High Cost Funding over Next Decade**
    - Reduce use of High-Cost funding as CETCs to zero over five year period
    - Require rate-of-return LECs to move to incentive regulation (leading to freeze of Interstate Common Line Support payments)
    - Redirect access replacement funding (Interstate Access Support) toward broadband deployment
    - Phase out the remaining legacy High-Cost support for CETCs
  - **Initiate Intercarrier Compensation Reform**
Reform of Universal Service Funding and Intercarrier Compensation

- **Stage 2 (2012-2016)**
  - Begin making disbursements from the CAF
  - Broaden the universal service contribution base
  - Begin a staged transition of reducing per-minute rates for intercarrier compensation (ICC)
    - Reduce intrastate access charges to interstate levels over two to four years while permitting increases in subscriber line charges
    - Reduce interstate charges to reciprocal compensation levels
    - Reduce originating access rates
Reform of Universal Service Funding and Intercarrier Compensation

• **Stage 3 (2017-2020)**
  - Manage the total size of the USF to remain close to its current size (in 2010 dollars)
  - Eliminate the legacy High-Cost program, with all federal funding to flow through the CAF
  - Continue reducing ICC rates by phasing out per-minute rates for the origination and termination of telecommunications traffic
Reform of Universal Service Funding and Intercarrier Compensation

Boucher/Terry Legislation (HR 5828)

• Distributions—
  - USF recipients have broadband deployment obligations
  - The FCC is directed to develop a new cost model to calculate high-cost support
  - USF support limited in “competitive areas”
  - Competitive bidding for wireless support
  - Size of USF is constrained

• Contributions
  - FCC to determine whether to assess based on revenues, numbers, or a combination

• Intercarrier Compensation
  - FCC to complete proceeding within one year of enactment
Reform of Universal Service Funding and Intercarrier Compensation

Competing Policy Agendas

• **Incumbent Rural Local Exchange Providers (OPASTCO, NCTA, WTA, NECA)**
  - Provide sufficient support for incumbents to deploy higher-speed broadband

• **Incumbent Mid-Tier Local Exchange Providers**
  - Broadband Now Proposal -- 6 Mbps within 5 years, $800/line of private investment

• **AT&T and Verizon**
  - More amenable to reform proposed in NBP; Pressing for ICC Reforms

• **Local Wireline Competitors**
  - Cable – Limit funding to truly unserved areas

• **Wireless Competitors**
  - Major Wireless Companies – Limit funding; any funding should be technology neutral
  - Rural Wireless Companies – Continue sufficient support
Broadband Performance Requirements

What’s at Stake for FTTH Deployments?
• If the proper requirements are adopted and implemented, it is likely to provide a powerful incentive for deploying broadband with greater performance capabilities.
Broadband Performance Requirements

FCC Proceedings on Broadband Performance Disclosure

• Broadband Provider Disclosure for Residential Users and Small-Medium Business Users
  – Broadband Quality Index
  – Timing: Initiate NPRM by Year End 2010

• Disclosure by Multiunit Buildings
What’s at Stake for FTTH Deployments?

- Since FTTH deployments are very large construction projects, if the FCC can expedite the process of pole attachments and lower the cost, it would help accelerate deployments.
Pole Attachments

FCC Proceedings
• Pole Attachments Order – May 20, 2010 Order
  – Focused on Cost and Space-Savings
  – Reconsideration on Select Issues
• Pole Attachments FNPRM
  – Focus on Unified Rates, Timely Access, Expeditious Dispute Resolution
Broadband Reclassification
The Comcast Decision

The Comcast Decision by the U.S. Court of Appeals

• **The Issue**: Whether the FCC has the authority to regulate an broadband Internet service provider’s network management practices pursuant to its Title I (ancillary authority) as set forth in the Comcast-BitTorrent decision

• **The Decision**: “Because the Commission failed to tie its assertion of ancillary authority over Comcast’s Internet service to any ‘statutorily mandated responsibility’,” the Federal Court of Appeals vacated the Order

• **The Impact in General**: The Federal Court of Appeals handed the FCC a major defeat; the Commission now needs to find sufficient authority somewhere in the Communications Act if it will have the ability to impose Net Neutrality/Traffic Management rules and otherwise regulate broadband Internet access service

• **The Impact on the National Broadband Plan**: Can the FCC find sufficient ancillary authority to implement specific parts of the plan, or should it instead base its implementation of the plan on a declaration that broadband Internet access service (or the transport component thereof) is a Title II service?
Broadband Reclassification
The Comcast Decision

What’s at Stake for FTTH Deployments?

• If wireline broadband Internet access service is reclassified as a Title II service, network providers would have an obligation to wholesale capacity to resellers. These resale competitors, who have no investment in the network, would be capable of providing triple-play competition, depriving the network provider of significant revenues.
Reaction to The Comcast Decision

- The FCC’s Launches Title II Reclassification Notice of Inquiry
  - Third Way Approach
    - Internet-based information services remain generally unregulated under Title I
    - Regulate the Internet connectivity service as a telecommunications service
    - Forbear under Section 10 of the Act from applying many provisions of Title II
  - FTTH Council Filings:

- FCC v. Congress: Who should take the lead?

- Negotiations Ensue
  - FCC Chairman’s Efforts
  - Verizon-Google Agreement
  - Other Negotiations
Reaction to
The Comcast Decision

- September 1st FCC Issues Further Notice on Two Under-Developed Issues in the Open Internet Proceeding: Mobile Wireless and Specialized (or Managed) Services

- Specialized Services
  - Concerns – Broadband providers may use specialized services to supplant or bypass broadband Internet access service and any open internet protections or engage in anti-competitive conduct
  - Potential Policy Approaches:
    - Definitional Clarity
    - Truth in Advertising
    - Disclosure
    - Non-exclusivity in specialized services
    - Limit specialized service offerings
    - Guarantee capacity for broadband Internet access service
Access to Video Programming

What’s at Stake for FTTH Deployments?

- The cost of programming is a significant expenditure, especially for smaller FTTH providers, and these costs have been increasing recently. Consequently, margins for the video offering have been declining, which then affects the business case for FTTH deployments.
Access to Video Programming

• Petition for Rulemaking to Regulate Retransmission Consent Negotiations
  – Issue: Television broadcasters have been raising the rates for MVPDs to carry their stations; petition seeks to impose FCC oversight
  – Timing: Uncertain

• Comcast/NBCU Merger Proceeding
  – Issue: Because of the merger, the price paid by MVPDs for programming – NBC O&O, NBCU National Cable Programming, and Comcast Regional Sports Networks – will increase; will FCC/DOJ impose conditions addressing this concern
  – Timing: Late 2010/Early 2011