

# **OPASTCO**

**2009**

## **REGULATORY AFFAIRS**

**Organization for the Promotion and  
Advancement of Small Telecommunications  
Companies**

# OVERVIEW

The following pages list the formal documents that OPASTCO has produced during 2009 for consideration in various federal arenas. The list includes comments, letters, and *ex partes* OPASTCO filed at the Federal Communications Commission and other government agencies.

OPASTCO is a member-run organization with a professional staff dedicated to advancing the small telecommunications carrier agenda that the membership establishes. There are several OPASTCO committees that address the various legislative and regulatory issues facing small telecommunications carriers. In addition to making presentations at the OPASTCO conventions, OPASTCO is also frequently called upon to make presentations to state associations and other industry groups. The Regulatory Affairs Department currently consists of Stuart Polikoff, Vice President – Regulatory Policy and Business Development, Stephen Pastorkovich, Director of Business Development/Senior Policy Analyst, and Brian Ford, Regulatory Counsel.

# FCC FILINGS

## **Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers and Handset Manufacturers RM No. 11497**

**Type** OPASTCO, RTG, and NTCA comments

**Date** February 2, 2009

**Subject(s)** RCA petition for rulemaking seeking a ban on exclusivity arrangements between commercial mobile radio service (CMRS) licensees and handset manufacturers

**OPASTCO** The Commission should prohibit CMRS licensees from entering into  
**RTG** exclusive arrangements with wireless handset manufacturers. Many rural  
**NTCA** wireless carriers face competition from larger carriers who offer consumers popular handsets with advanced features that rural wireless carriers are unable to offer because of exclusive arrangements. These arrangements are discriminatory, place rural wireless carriers at a significant competitive disadvantage, and deny rural consumers the benefits of advanced telecommunications technology. In addition, exclusivity arrangements impose impediments to rural wireless carriers attempting to comply with hearing aid compatibility rules, because the handsets that comply with these rules are often the same ones unavailable to rural carriers.

## **Feature Group IP Petition for Forbearance Pursuant to 47 U.S.C. §160(c) from Section 251(g) of the Communications Act and Sections 51.701(b)(1) and 69.5(b) of the Commission's Rules WC Docket No. 07-256**

**Type** OPASTCO, NECA, ITTA, WTA, and NTCA opposition

**Date** March 5, 2009

**Subject(s)** Feature Group IP petition seeking reconsideration of the Commission's denial of their earlier petition for forbearance from the application of access charges to voice-embedded Internet communications

**OPASTCO** The Commission should summarily deny Feature Group IP's petition.  
**NECA** The petition does not meet the standard for reconsideration. It simply  
**ITTA** repeats previously made arguments, does not show any material error or  
**WTA** omission in the Commission's original Order, and does not assert any facts

**NTCA** not previously known or existing. The Commission should, however, address the underlying issues raised by Feature Group IP's petition, but in a more appropriate proceeding. Specifically, the Commission should confirm that access charges apply to all interexchange voice traffic terminating on the public switched network, regardless of the technology used to originate the call.

**Petition for Declaratory Ruling That, Pursuant to the Carve-Out Provisions of 47 U.S.C. § 251 (g), Interstate Originating Switched Access Charges, Not Reciprocal Compensation Charges, Apply to ISP-Bound Calls That Are Terminated via VNXX-type Foreign Exchange Arrangements  
WC Docket No. 09-8**

**Type** OPASTCO, NECA, ITTA, WTA, and NTCA Comments

**Date** March 12, 2009

**Subject(s)** Blue Casa Communications petition seeking a declaratory ruling that originating access charges apply to calls delivered to Internet Service Providers (ISPs) via virtual NXX (VNXX) arrangements

**OPASTCO** The Commission should confirm that VNXX calls are non-local and  
**NECA** subject to interstate or intrastate access charges, and not reciprocal  
**ITTA** compensation, based on the actual location of the calling and called  
**WTA** parties. In addition, the Commission should confirm that carriers  
**NTCA** deploying VNXX or similar arrangements involving disparate rating and routing treatment are responsible for the costs of transporting those calls to their networks when the point of interconnection is located outside the service territory of a rural incumbent local exchange carrier (ILEC). Ongoing disputes regarding the treatment of VNXX calls as local or non-local traffic, as well as varying jurisdictional classifications and cost recovery methods for the additional transport costs required by calls with disparate rating and routing instructions, warrant a decision by the Commission with respect to the issues in Blue Casa's petition. Rural ILECs should not be forced to make significant new transport investments in order to reach interconnecting carriers that establish points of interconnection outside rural ILECs' serving areas. Based upon the Commission's long-standing "end-to-end" analysis, whereby the physical location of the customers determines the geographic end-points of the call, VNXX calls should be declared interexchange and originating rural ILECs should receive access charges for them.

**Report on Comprehensive Rural Broadband Strategy  
GN Docket No. 09-29**

**Type** OPASTCO comments

**Date** March 25, 2009

**Subject(s)** Public Notice seeking comment on how the FCC can develop a rural broadband strategy that uses existing federal agencies and removes obstacles to broadband deployment

**OPASTCO** The FCC should add broadband to the list of services supported by the rural High-Cost program. This would provide the necessary funding to deploy broadband in areas that currently lack it, while also improving the ability of rural ILECs to upgrade and maintain existing broadband facilities. In order for the High-Cost program to sufficiently fund this new service, the cap on the high-cost loop support (HCLS) mechanism must be lifted. This could be accomplished without making contributions too burdensome by eliminating the inefficient identical support rule and by expanding the base of contributors to include all providers of broadband services.

The Commission should ensure that rural ILECs have equitable and affordable access to the Internet backbone. Doing so would remove an obstacle to increased broadband deployment and the availability of higher broadband speeds for rural consumers. In addition, because broadband subscribership rates increase when this service is offered along with video, the FCC's video access rules should be reformed.

Federal agencies should continue to improve coordination of broadband programs, and share information so that rural ILECs are not burdened with duplicative requests for data. Finally, while rural ILECs support reasonable and fair auditing and reporting requirements, they should be clear and applied uniformly.

**The Commission's Consultative Role in the Broadband Provisions of the Recovery  
Act  
GN Docket No. 09-40**

**Type** OPASTCO comments

**Date** April 13, 2009

**Subject(s)** Public Notice seeking comment on how the FCC can fulfill its consultative role in the broadband provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

**OPASTCO** The FCC should advise the National Telecommunications and Information Administration (NTIA) and the Rural Utilities Service (RUS) to be as forward-looking as possible when establishing the definitions of the terms “unserved area,” “underserved area,” and “broadband” because rapid technological and marketplace changes can very quickly render these definitions out of date. In addition, the FCC should encourage NTIA and RUS to fund projects that utilize technologies that are best able to evolve with consumer demands for higher speeds. Overall, wireline technologies are best suited to accomplish this goal.

An “unserved area,” for wireline technologies, should be defined as any location that lacks access to at least 768 kilobits per second (Kbps) in the faster direction. This is the minimum speed the FCC uses to define basic broadband and is also the speed level that is necessary to utilize an increasing number of commonly used applications. An “underserved area,” for wireline technologies, should be defined as any location that lacks access to at least 12 megabits per second (Mbps) in the faster direction. This is the approximate minimum speed needed for today’s “triple play” of broadband data, voice, and video bundles. “Broadband” should be defined utilizing the speed tier system established by the FCC in 2008. This system is a forward-looking definition that recognizes that broadband remains an evolving concept, based on rapid changes in technology and evolving consumer demands.

The FCC’s 2005 Broadband Policy Statement is sufficient to serve as the non-discrimination obligations of NTIA grant recipients and should not be supplemented. Adding new obligations beyond these principles would threaten to discourage investment by creating additional costs and risks to deploying broadband in areas that are already difficult to serve. Finally, transport and Internet backbone providers should be obligated to provide funding recipients with interconnection at just, reasonable, and non-discriminatory rates, terms, and conditions. This is necessary to ensure that rural ILECs can provide their customers with the bandwidth necessary to access and use the online content, applications, and services of their choice.

**In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board  
CC Docket No. 80-286**

**Type** OPASTCO, NECA, WTA, ERTA, and NTCA comments

**Date** April 17, 2009

**Subject(s)** Notice of Proposed Rulemaking (NPRM) seeking comment on the FCC’s tentative conclusion to extend, until June 30, 2010, the current freeze on part 36 category relationships and jurisdictional cost allocation factors

**OPASTCO** The current separations freeze should be extended for a period not to exceed one year following the issuance of FCC orders reforming its  
**NECA** intercarrier compensation (ICC) and Universal Service Fund (USF) rules.  
**WTA** This approach has several advantages. First, it avoids the need to have an  
**ERTA** additional proceeding regarding further extension of the freeze in the event  
**NTCA** the Commission is unable to resolve interrelated ICC, USF, and separations reform questions by June 2010. Extending the freeze for a maximum one-year period following issuance of ICC and USF reform orders will also enable the Commission and the industry to focus efforts on ways to adapt separation policies and procedures to newly-established ICC and USF reform initiatives, rather than attempt to resolve all three areas at once. Yet, because the extended freeze will continue to have a firm one-year expiration date following ICC and USF reform, the Commission, the Joint Board, and industry participants will retain a strong incentive to resolve separations reform issues in a timely manner.

In addition, for the remainder of the extended freeze period, the FCC should provide all rate-of-return (RoR) carriers with a one-time option to freeze or unfreeze their part 36 category relationships based on their current investment and expense levels. RoR carriers that chose to freeze their category relationships in 2001 did so with the expectation that their election would last no longer than five years. Many of these companies are currently seeking to upgrade their networks to meet demands for advanced services, including broadband, but are in many cases unable to recover a significant portion of those costs due to outdated cost categorizations.

In addition, a decision extending the freeze should not prejudice other needed adjustments to part 36 and part 54 rules, including correction of the “one-way ratchet” rule for local switching support (LSS) that is presently under consideration.

**High-Cost Universal Service Support  
WC Docket No. 05-337**

**Type** OPASTCO, NECA, WTA, ERTA, and NTCA comments

**Date** April 20, 2009

**Subject(s)** Petition for Clarification filed by the Coalition for Equity in Switching Support seeking clarification or modification of the Commission’s LSS rules

**OPASTCO** The Commission should grant the Coalition’s petition by modifying or  
**NECA** clarifying its rules to permit small ILECs to receive LSS based upon their  
**WTA** current number of access lines. Under the current interpretation of the  
**ERTA** rules, a small ILEC whose access line count decreases and crosses a DEM  
**NTCA** weight threshold is not permitted to adjust their DEM weighting factor to its proper level and receive an increased amount of LSS. This interpretation of the rules is not consistent with the universal service goals of the 1996 Act, nor is it equitable for small ILECs that have experienced a threshold-crossing decrease in access lines to be denied USF support consistent with that received by other ILECs with similar characteristics. In an era where all companies are experiencing significant financial pressures and where wireline companies are experiencing reductions in access lines served, the one-way ratcheting of LSS has the effect of reducing or eliminating much needed high-cost universal service support for small carriers that would otherwise qualify for higher LSS amounts. To prevent further imposition of hardship on small ILECs and eliminate the inequities between similarly-situated companies, the FCC should promptly issue the clarification requested by the Coalition.

**High-Cost Universal Service  
WC Docket No. 05-337  
Federal-State Joint Board on Universal Service  
CC Docket No. 96-45**

**Type** OPASTCO, NECA, NTCA, ERTA, and WTA comments

**Date** May 8, 2009

**Subject(s)** Notice of Inquiry (NOI) seeking comment on reform of the non-rural high-cost support mechanism

**OPASTCO** The Commission should consider issues relating to high-cost support for  
**NECA** non-rural carriers separately from issues relating to high-cost support for  
**NTCA** rural carriers. It should also refrain from making any decisions or  
**ERTA** recommendations in this proceeding that might negatively impact high  
**WTA** cost support for rural RoR-regulated telephone companies. Separate consideration of rural high-cost support mechanisms is well-supported by the record in this and related proceedings. Were the Commission to use the same definition of “sufficient” for rural ILECs and non-rural carriers, it could threaten rural ILECs’ ability to continue investing in their networks and place upward pressure on rates. In addition, the

Commission should refrain from mandating the use of forward-looking cost models or statewide averaging to determine rural ILECs' support amounts.

Also, should the Commission decide that rural price cap carriers need additional support, that should be entirely outside the existing cap on the rural ILEC HCLS mechanism and should not disadvantage the customers of rural RoR ILECs. Finally, the Commission should consider that any changes to the non-rural support mechanism that adversely impact the support amounts received by rural RoR ILECs would be inconsistent with the goal of deploying high-quality broadband infrastructure throughout rural ILEC service territories.

**A National Broadband Plan for Our Future  
GN Docket No. 09-51**

**Type** OPASTCO comments

**Date** June 8, 2009

**Subject(s)** NOI seeking comment on a national broadband plan for our future

**OPASTCO** Areas served by rural ILECs should have the same broadband definitions and standards, and access to the same speeds, as urban areas. They should also have access to robust and scalable wireline broadband technologies that can be upgraded to meet future bandwidth demands. It would be a fundamental error to establish goals for bandwidth capacity that are merely sufficient to accommodate today's broadband-enabled applications and services. Research, along with current demand in rural service areas, show that the "need for speed" will continue to accelerate.

There is no compelling public policy argument for artificially incenting new wireline broadband entrants in rural service areas. Once provided with a robust, affordable wireline connection, rural consumers have the ability to enjoy the vast universe of broadband-enabled applications and content on the Internet.

A national broadband plan must account for the growing preponderance of video embedded in broadband applications and services. Wireline technologies are uniquely capable of scaling up to meet the bandwidth needs of residents and businesses in rural service areas. While wireless platforms can offer complementary services, these technologies cannot provide the faster speeds that wireline broadband technologies are capable of delivering.

Broadband should be made a supported service under the High-Cost program. This would enable deployment to the highest-cost consumers in rural service areas, as well as the network upgrades needed to provide “next generation” broadband.

The FCC should maintain the embedded cost-based support system for rural ILECs and remove the cap on HCLS, which fails to account for the additional deployment and upgrade costs that rural ILECs must incur in order to provide ubiquitous robust broadband services. Also, support should be provided for the high middle-mile transport costs that rural ILECs often incur in reaching the Internet backbone. In addition, intercarrier compensation reform, including a replacement mechanism for lost access charge revenues, is key to rural ILECs’ ability to make future network investments.

The FCC should establish a rebuttable presumption that it is not in the public interest to support multiple wireline broadband providers in rural service areas. In addition, the Commission should eliminate the identical support rule and require all facilities-based broadband providers to contribute to the USF, which would sustain the Fund for the long term while still allowing rural service areas to be sufficiently supported. Finally, broadband service should be supported by the Low Income program.

The FCC can encourage wider deployment of wireless broadband services in rural areas by increasing rural carriers’ opportunities to acquire spectrum, and by declaring data roaming to be a Title II service. It should also ban the use of exclusive agreements between handset manufacturers and large wireless carriers.

The FCC’s existing Internet Policy Statement is sufficient to address discriminatory behavior and the Commission has demonstrated its willingness to take remedial action against those who commit violations. Thus, adoption of an anti-discrimination principle is unnecessary, and would discourage future broadband investment in already difficult-to-serve rural service areas.

The FCC and some states presently collect a significant amount of detailed data from broadband providers, and the Commission should not burden rural ILECs with additional and unnecessary reporting requirements. Given rural ILECs’ record of success in deploying broadband, municipal provision of broadband is unnecessary in rural service areas, and would only serve to discourage further private investment. Finally, the FCC’s video access rules should be reformed expeditiously, because bundling video and broadband spurs broadband adoption, which gives rural ILECs increased incentive and resources to invest in their broadband networks.

**Annual Assessment of the Status of Competition in the Market for the Delivery of  
Video Programming  
MB Docket No. 07-69**

**Type** OPASTCO comments

**Date** July 29, 2009

**Subject(s)** NOI seeking comment on the status of competition in the market for the delivery of video services

**OPASTCO** The Commission should carefully monitor the evolution of the market for web-based video content. Exclusive arrangements between content providers and large multichannel video programming distributors (MVPDs) that would prevent rural carriers from providing web-based programming would be highly detrimental to rural consumers. Furthermore, it would harm competition for video services in rural markets while reducing the incentive of consumers to subscribe to broadband.

Web-based video content should be available to rural MVPDs and broadband providers at the same rates, terms, and conditions that it is made available to large providers. In addition, rural MVPDs and broadband providers need the same access to customer premises equipment and at the same rates, terms, and conditions as other providers.

In the traditional subscription video market, the Commission should prohibit programmers' use of mandatory tying practices, which force rural MVPDs to purchase undesired programming along with "must-have" content. These practices force rural MVPDs to either raise end-user rates or absorb the additional costs in order to avoid the loss of subscribers. The Commission should also reform its program access rules that allow programmers to dictate "take it or leave it" rates and terms to rural MVPDs. Demands for increasingly higher retransmission consent payments and rules that allow broadcasters to block access to lower cost alternative sources of content prevent rural MVPDs from obtaining "must-have" programming at reasonable rates.

The Commission should also prohibit the use of mandatory broadband tying, where rural MVPDs are required to pay an additional fee for access to online content based on the number of broadband subscribers they serve, regardless of whether or not these customers subscribe to video services. This practice goes well beyond the realm of any reasonable conditions for access to traditional subscription video content.

In addition, the FCC should use its authority under the Communications Act to close the “terrestrial loophole,” a significant barrier to rural MVPDs’ access to “must-have” content. Furthermore, the Commission should prohibit the use of mandatory non-disclosure provisions in contracts between video programmers and rural MVPDs. These provisions obscure the true market value of programming, which places rural MVPDs at a disadvantage in negotiations with content providers.

Finally, the use of shared headends allow rural MVPDs to pool their limited capital resources, and like Internet Protocol television (IPTV) platforms, do not compromise the security of video content. Therefore, the Commission should clarify that the use of either shared headends or IPTV platforms do not, by themselves, justify the denial of access to video programming.

**Providing Eligible Entities Access to Aggregate Form 477 Data as Required by the Broadband Data Improvement Act**

**WC Docket No. 07-38**

**GN Docket No. 09-47**

**GN Docket No. 09-51**

<b>Type</b>	OPASTCO and ITTA comments
<b>Date</b>	July 30, 2009
<b>Subject(s)</b>	Public Notice seeking comment on how to implement section 106 of the Broadband Data Improvement Act (BDIA), which requires the Commission to provide states and municipalities access to Form 477 data reported by broadband providers
<b>OPASTCO ITTA</b>	The data culled from Form 477 is competitively sensitive, and were it to be made available without significant restrictions and disincentives against improper disclosure, it could undermine broadband providers’ network investments. At a minimum, the Form 477 data must be aggregated further than in the raw format reported by broadband providers. The Commission should ensure that any Form 477 data disclosed does not identify, even by anonymous designation, the number or types of subscribers of various broadband providers in a particular area. Any disclosure of subscribership counts should only occur at the state level. In addition, data to be handed over to eligible entities should be secured through stringent and enforceable contractual non-disclosure agreements that include stiff penalties for disclosure of the proprietary data.

**Local Number Portability Porting Interval and Validation Requirements**  
**WC Docket No. 07-244**  
**Telephone Number Portability**  
**CC Docket No. 95-116**

**Type** OPASTCO and NTCA comments

**Date** August 31, 2009

**Subject(s)** Further Notice of Proposed Rulemaking (FNPRM) seeking comment on additional steps the FCC should take regarding its local number portability (LNP) rules

**OPASTCO** The Commission should not approve a definition of “business day” that  
**NTCA** includes a four hour Local Service Request (LSR)/Firm Order Confirmation (FOC) interval. This LSR/FOC interval is the amount of time that the “porting out” provider is allotted to verify the customer porting request and confirm the due date of the port with the “porting in” carrier. For rural ILECs, a four hour LSR/FOC interval would overwhelm these carriers if a large number of port requests were received in a single business day, which could lead to service disruptions. Should the Commission adopt a definition of business day that includes a four hour LSR/FOC interval, it should include an exception for rural ILECs that does not require them to complete more than five port requests, simple or complex, in any single business day.

**Comment Sought on Defining Broadband**  
**NBP Public Notice #1**  
**GN Docket No. 09-47**  
**GN Docket No. 09-51**  
**GN Docket No. 09-137**

**Type** OPASTCO comments

**Date** August 31, 2009

**Subject(s)** Public Notice seeking comment on defining “broadband”

**OPASTCO** Customers served by rural ILECs should have the same definition of broadband as urban areas, based upon the Commission’s speed tier system. As part of its annual review of broadband deployment under Section 706, the Commission should consider upgrading the speed ranges that are associated with each tier in order to reflect changes in technology, consumer demand, and the need for the nation’s broadband capacity to achieve and maintain a leading place in the competitive world economy.

In addition, the definition of broadband and subsequent reviews should emphasize the need for scalable networks, and the lower long-term cost of deploying greater capacity (specifically through the use of fiber), as opposed to managing the traffic on lower-capacity networks. Mobile technologies can provide complimentary services, but lack the scalability needed to keep pace with the demands of consumers.

In addition, the definition of broadband should recognize that the universal availability of higher speeds enables additional applications. This enhances the value of broadband to consumers and spurs additional consumer adoption. The definition should also recognize that sufficient and affordable transport and backbone access are vital components necessary to provide rural consumers with the broadband capacity they demand.

The definition of broadband should also be based on the fact that networks with sufficient speed and throughput capacities virtually eliminate the impact of jitter and latency. OPASTCO appreciates the Commission's desire to measure all performance indicators that impact consumers' broadband experience. Therefore, OPASTCO will assist the Commission to assess which network elements and performance indicators are feasible for rural ILECs to measure, and will help the Commission to obtain as much relevant data as possible.

Finally, different definitions that reflect the lower capabilities of mobile wireless and satellite technologies can be established. The definition should reflect that these technologies deliver services that are complimentary to more scalable fiber networks.

**Inquiry Concerning the Deployment of Advanced Telecommunications Capability  
to All Americans in a Reasonable and Timely Fashion, and Possible Steps to  
Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications  
Act of 1996, as Amended by the Broadband Data Improvement Act  
GN Docket No. 09-137  
A National Broadband Plan for Our Future  
GN Docket No. 09-51**

<b>Type</b>	OPASTCO comments
<b>Date</b>	September 4, 2009
<b>Subject(s)</b>	NOI concerning whether broadband is being deployed to all Americans in a reasonable and timely fashion

**OPASTCO** Rural ILEC service areas should have the same definition of broadband as urban areas, based upon the Commission’s speed tier system, which should be annually examined to consider changes in technology and consumer demand. The definition of broadband should not be set at a “lowest common denominator” level in order to ensure that service providers utilizing technologies with limited bandwidth capacities can achieve it. The primary definition of broadband should focus on the capabilities of highly scalable fixed networks. While other technologies can offer benefits such as mobility, these services must not be deemed as a substitute for fixed technologies as a result of a substandard, generalized definition of broadband. Instead, different definitions for these lower bandwidth technologies can be established.

Middle mile and special access facilities and services should be included in the definition of broadband because they directly impact the end user’s broadband experience. If the Commission adds broadband to the list of supported services under the High Cost universal service program, including middle mile facilities and services in the definition of broadband would allow these costs to be supported. Also, data collections overseen by the FCC, NTIA, and other government bodies should be synchronized wherever possible, so that rural ILECs are not unnecessarily burdened by overlapping reporting requirements.

Broadband deployment in rural ILEC service areas has been reasonable and timely, thus far. However, to ensure that it remains reasonable and timely, the Commission should reform universal service and intercarrier compensation mechanisms, and update retransmission consent and other video access rules. These actions will accelerate deployment and network upgrades by rural ILECs and spur adoption by consumers.

**Petition of the Nebraska Public Service Commission and the Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rules Allowing State Universal Service Funds to Assess Charges on Nomadic VoIP Intrastate Revenues  
WC Docket No. 06-122**

**Type** OPASTCO, NECA, NTCA, ITTA, ERTA, WTA, Arizona Local Exchange Carrier Association, Georgia Telephone Association, New Hampshire Telephone Association, Rural Arkansas Telephone Association, Tennessee Telecommunications Association & Wisconsin State Telecommunications Association comments

**Date** September 9, 2009

**Subject(s)** Petition asking the FCC to declare that states can assess nomadic voice over Internet protocol (VoIP) providers for contributions to state universal service funds

**OPASTCO et al.** The Commission should promptly issue a declaratory ruling allowing states to require nomadic VoIP providers to contribute to state-level universal service funds. Despite a recent court decision that concluded that the Vonage Preemption Order was intended by the FCC to preempt all regulation of nomadic VoIP, the Commission itself explained to the court that there is a clear distinction between the economic regulation addressed by that Order (*e.g.*, market entry and exit limitations, tariffing requirements, *etc.*) and imposition of state-level USF assessments. The latter does not in any way “frustrate” the federal regulatory scheme covering nomadic VoIP services.

Also, even Vonage apparently agrees nomadic VoIP providers can reasonably be subjected to state universal service fund assessments, though it opposes a declaratory ruling and supports a rulemaking proceeding instead, fearing that states will “double count” portions of a multi-state nomadic VoIP providers’ revenues. However, state regulators frequently resolve similar accounting issues without need for federal rules, and procedures can easily be put in place to assure nomadic VoIP revenues are not assessed twice in different jurisdictions.

**Petition of the United States Telecom Association for Waiver from Application of the Equal Access Scripting Requirement  
WC Docket No. 08-225**

**Type** OPASTCO, NECA, WTA, and ERTA comments

**Date** September 11, 2009

**Subject(s)** Petition for waiver of the Commission’s equal access scripting requirement

**OPASTCO  
NECA  
WTA  
ERTA** The Commission should waive, or forbear from enforcing, the outdated equal access scripting requirement as requested by USTelecom, and extend such regulatory relief to all ILECs. The Commission has already seen fit to lift this requirement from AT&T, Verizon, and Qwest. In addition, this rule was adopted to introduce long distance competition to consumers. But subsequent changes in technology and the marketplace, most especially the development of “all distance” wireless and wireline services, have resulted in drastically different conditions. It is difficult to imagine at this point that consumers in any area need to be told by their local telephone company that they have “choices” in long distance service

providers. Since no other providers of voice services are subject to the equal access scripting rule, waiver of, or forbearance from the rule would permit small and mid-sized ILECs to operate on the same plane as other service providers.

**Petition of the Nebraska Public Service Commission and the Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rules Allowing State Universal Service Funds to Assess Charges on Nomadic VoIP Intrastate Revenues  
WC Docket No. 06-122**

**Type** OPASTCO, NECA, NTCA, WTA, ERTA, ITTA, Arizona Local Exchange Carrier Association, Georgia Telephone Association, New Hampshire Telephone Association, Rural Arkansas Telephone Association, Tennessee Telecommunications Association and Wisconsin State Telecommunications Association reply comments

**Date** September 24, 2009

**Subject(s)** Petition for declaratory ruling that states can assess nomadic VoIP providers for contributions to state-level universal service funds

**OPASTCO et al.** The Commission should promptly issue a declaratory ruling allowing states to require nomadic VoIP providers to contribute to state-level universal service funds. The arguments of other commenters opposing such a ruling have no merit. The record makes clear that the Vonage Preemption Order did not preempt all state authority over VoIP providers, it merely preempted Minnesota from enforcing its certification and tariffing requirements. In addition, the fact that VoIP uses Internet protocol (IP) technology to transmit telecommunications traffic does not justify exempting such services from contributing to state-level universal service programs, as their competitors are required to do. Finally, the FCC can issue the requested ruling without further notice and comment proceedings, because there is no evidence that VoIP providers will be subject to inconsistent and overlapping state assessments.

**Telcordia Petition to Reform or Strike Amendment 70, to Institute Competitive Bidding for Number Portability Administration, and to End the NAPM LLC's Interim Role in Number Portability Administration Contract Management  
WC Docket No. 09-109**

**Type** OPASTCO comments

**Date** September 29, 2009

**Subject(s)** Petition to reform or strike amendment 70 of the contract between the North American Portability Management, LLC (NAPM) and the Number Portability Administration Center (NPAC) database administrator Neustar

**OPASTCO** The Commission should deny the Telecordia petition to alter Amendment 70 of the contract between NAPM and the current number portability administrator, NeutStar. This provision gives wireline and wireless carriers a cost effective method of routing calls that originate from the traditional public switched telephone network, as well as from wireless networks, to be terminated on new IP-enabled networks without the need for additional database queries. Therefore, OPASTCO supports the retention of Amendment 70.

The Commission should also reject the petition's suggestion to institute competitive bidding for number portability administration and cancel the NAPM's role in number portability administration and contract management. The petition has not shown that NAPM has failed to appropriately oversee Neustar or has otherwise acted contrary to the Commission's vision for number portability. The petition also fails to show any benefits that would result from the adoption of its proposals.

**Consumer Information and Disclosure**  
**CG Docket No. 09-158**  
**Truth-in-Billing and Billing Format**  
**CC Docket No. 98-170**  
**IP-Enabled Services**  
**WC Docket No. 04-36**

**Type** OPASTCO comments

**Date** October 13, 2009

**Subject(s)** NOI seeking comment on ways to protect and empower consumers by ensuring sufficient access to relevant information about communications services

**OPASTCO** The Commission should not impose additional truth-in-billing rules on rural ILECs. A consumer's choice of service provider and service plan is based in large part on information provided by rural ILECs' customer service representatives, from the carriers' websites, and from advertisements. The existing rules, coupled with the information available from these other sources, are sufficient to ensure that customers of rural ILECs are able to make informed decisions. For rural ILECs, the cost of mandatory modifications to their end-user bills would be higher than for most other service providers and could delay other network upgrades.

Thus, imposing additional truth-in-billing rules on rural ILECs would most likely fail to pass a rational cost-benefit analysis.

In the event that the Commission determines that additional rules are necessary for rural ILECs, it should consider permitting the industry to develop one or more consumer codes. This would allow carriers to utilize their expertise in customer relations to develop the most appropriate billing format and disclosure policies. If the Commission chooses not to take this approach, any new truth-in-billing rules applied to rural ILECs should continue to take the form of flexible, broad principles.

Finally, the Commission should extend the existing truth-in-billing rules to interconnected VoIP providers. Consumers are increasingly substituting VoIP services for traditional telephone service, and these providers hold their services out as substitutes for traditional telephone service. Thus, it is appropriate that these carriers comply with the same truth-in-billing rules as local exchange carriers (LECs).

**Comment Sought on Request for Universal Service Fund Policy Guidance Requested by the Universal Service Administrative Company**

**WC Docket No. 05-337**

**WC Docket No. 06-122**

**CC Docket No. 96-45**

<b>Type</b>	OPASTCO and WTA comments
<b>Date</b>	October 13, 2009
<b>Subject(s)</b>	Public Notice seeking comment on requested guidance from the Universal Service Administrative Company (USAC) on a number of USF policy issues
<b>OPASTCO WTA</b>	The Commission should clarify that the document retention rule contained in section 54.202(e) was not intended to be applied retroactively to time periods prior to the rule's effective date. Section 54.202(e) requires rural ILEC high-cost support recipients to retain certain documents that they were not previously required to retain, and which they may not have retained for the duration of time now required, or perhaps at all. The Commission should not now, more than a year and a half after this rule became effective, expect rural ILEC high-cost support recipients to have complied with this rule prior to its effective date. In addition, the Commission should also seek to clarify all of its document retention rules, so that they can be better understood by both rural ILECs and the auditors contracted by the FCC Office of Inspector General (OIG) and enable the audits to proceed more smoothly.

The Commission should clarify that section 54.201(d)(2) of its rules does not require rural ILEC eligible telecommunications carriers (ETCs) to individually list each of the existing supported services in their advertisements. Taken together, the existing supported services make up retail “local exchange service.” It is this service, and not the individual supported services, that consumers expect to purchase from a LEC. Requiring rural ILEC ETCs to advertise the individual supported services would only serve to suggest that they could be purchased separately when they cannot, leading to needless consumer confusion.

Finally, the Commission should clarify that income taxes attributable to the shareholders of S-corporation rural ILECs are properly included in the carriers’ interstate revenue requirement and recoverable through the USF. State and federal income taxes are an expense that rural ILECs incur as part of providing communications services to their customers, and this expense should be recoverable regardless of their corporate form. In addition, the Commission has already approved a similar practice for cable companies, and it has also been recognized as appropriate by the Kansas Court of Appeals and NECA.

**High-Cost Universal Service Support  
WC Docket No. 05-337**

<b>Type</b>	OPASTCO, NECA, NTCA, WTA, and ERTA comments
<b>Date</b>	November 24, 2009
<b>Subject(s)</b>	NPRM seeking comment on proposed changes to the Commission’s LSS rules
<b>OPASTCO</b> <b>NECA</b> <b>NTCA</b> <b>WTA</b> <b>ERTA</b>	The Commission should adopt the proposed amendments to sections 36.125 and 54.301 of its rules, so as to permit carriers experiencing reductions in lines to receive LSS payments based on their actual line sizes, rather than prior levels. By revising the rules as proposed in the NPRM, the Commission will ensure that these companies receive LSS payments more reasonably reflecting their size, and eliminate the inequitable treatment of companies losing lines compared to other similarly-situated carriers. Further, the Commission should specify in its order adopting the proposed rules that LSS payments based on the new rules should be effective beginning with calendar year 2008 data.

**Comment Sought on the Role of the Universal Service Fund and Intercarrier  
Compensation in the National Broadband Plan**

**GN Docket No. 09-47**

**GN Docket No. 09-51**

**GN Docket No. 09-137**

**Type** OPASTCO comments

**Date** December 7, 2009

**Subject(s)** Public Notice seeking comment on the role of the USF and ICC in the National Broadband Plan

**OPASTCO** The FCC should not limit its definition of “universalization” of broadband to just making broadband available to those Americans that are presently unserved. The High Cost program needs to be sufficiently sized to enable rural ILECs to make available robust, high-speed broadband connections that are reasonably comparable in quality and price to what is offered in urban areas.

It is vitally important that the Commission require all broadband Internet access providers, over all platforms, to contribute in a competitively neutral manner to the Fund. This will establish a contribution base that is sustainable for the long term and that allows for prudent growth in the rural High Cost program.

The Commission should transition the current High Cost program for rural ILEC service areas to one which explicitly supports the actual costs of deploying and operating an advanced broadband network. In that regard, OPASTCO has developed a broad outline for reforming the High Cost USF program for rural ILEC service areas that would hasten progress toward the ubiquitous availability of affordable, high-speed broadband services in their territories.

Rural ILECs must be able to retain the revenues they receive from high-cost support and ICC in order to provide advanced broadband to rural consumers. Any reduction in the revenues that rural ILECs collectively receive from these two sources would eliminate the ability of most of these carriers to provide advanced broadband services at affordable rates throughout their territories and may jeopardize their ability to serve as carriers of last resort (COLR).

The rural High Cost program should support one fixed broadband provider in a rural service area, and that provider should serve as a broadband COLR. Rural ILECs are well-positioned to assume that role. However, rural ILECs can only become the broadband COLR in their service areas if

they are sufficiently funded to meet the obligations that come with this designation.

In addition, oversight mechanisms applied to rural ILECs should factor in the inherent accountability of an embedded cost-based support system and should not be excessively burdensome. Specifically, the Commission should reassess the FCC Office of Inspector General’s audit program of High Cost program beneficiaries, at the very least for rural carriers. Furthermore, the Commission can greatly improve accountability in the rural High Cost program by basing support for all competitive ETCs on their own actual costs.

Finally, the Commission should establish a broadband Lifeline/Linkup program. By making broadband more affordable for low income consumers in rural service areas, it will likely increase rural ILECs’ “takes rates” which, in turn, will improve their ability and incentive to make further investments in their broadband infrastructure.

**Comment Sought on the Transition from a Circuit-Switched Network to an All-IP Network**

**GN Docket No. 09-47**

**GN Docket No. 09-51**

**GN Docket No. 09-137**

<b>Type</b>	OPASTCO comments
<b>Date</b>	December 17, 2009
<b>Subject(s)</b>	Public Notice seeking comment on questions that should be asked in a prospective NOI regarding the transition from the public switched telephone network (PSTN) to an all-broadband network utilizing Internet protocol (IP) technology
<b>OPASTCO</b>	<p>OPASTCO supports the issuance of an NOI that would examine the transition from the PSTN to an all-broadband network more closely. Among other things, the NOI should ask:</p> <ul style="list-style-type: none"><li>• How long should the transition to an all-broadband network take?</li><li>• Would it be beneficial to establish a date certain at which time carriers are no longer obligated to provide PSTN-based services?</li><li>• Prior to the completion of the transition, how will ILECs currently under rate-of-return regulation be ensured of full cost recovery for the PSTN investments they have previously made as COLRs?</li></ul>

- Is it necessary to ensure that rates for voice service do not increase dramatically for those customers that do not want Internet access and only want to use their broadband connection for voice?
- How will consumers be ensured of access to at least one reliable and affordable high-speed fixed broadband network, no matter where they live? Do there need to be COLRs for broadband service?
- In an all-broadband environment, there is a clear distinction between the network (*i.e.*, the physical layer) and the applications and services that ride over the network (*i.e.*, the service layer). How should regulations distinguish between these layers, if at all?

## **EX-PARTE MEETINGS**

**Date** January 5, 2009

**Subject(s)** Representatives of OPASTCO, ITTA, WTA, and NECA met with a legal advisor to Commissioner Copps to discuss the Feature Group IP petition for forbearance from access charges. The parties also discussed the Embarq petition that seeks confirmation that the “enhanced service provider (ESP) exemption” does not apply to IP-to-PSTN voice traffic. The Commission should dismiss or deny Feature Group IP’s petition insofar as it seeks relief from the obligation to pay access charges on interconnected VoIP traffic. The Telecommunications Act of 1996 does not give an access customer the right to seek forbearance from its obligation to pay access charges. The Associations also stated that its member companies are terminating a rapidly increasing number of interexchange calls from entities who improperly claim that their traffic is enhanced and therefore exempt from access charges. Therefore, the Commission should issue an Order confirming that access charges do apply to interconnected IP-originated VoIP traffic.

**Attendance** Scott Deutchman (FCC)  
 Brian Ford (OPASTCO)  
 Josh Seidemann (ITTA)  
 Derrick Owens (WTA)  
 Colin Sandy (NECA)

**Date** January 7, 2009

**Subject(s)** Representatives of OPASTCO, ITTA, WTA, and NECA met with a legal advisor to Chairman Martin to discuss the Feature Group IP petition for forbearance from access charges. The parties also discussed the Embarq petition that seeks confirmation that the ESP exemption does not apply to IP-to-PSTN voice traffic. The Commission should dismiss or deny Feature Group IP's petition insofar as it seeks relief from the obligation to pay access charges on interconnected VoIP traffic. The Telecommunications Act of 1996 does not give an access customer the right to seek forbearance from its obligation to pay access charges. The Associations also stated that its member companies are terminating a rapidly increasing number of interexchange calls from entities who improperly claim that their traffic is enhanced and therefore exempt from access charges. Therefore, the Commission should issue an Order confirming that access charges do apply to interconnected IP-originated VoIP traffic.

**Attendance** Amy Bender (FCC)  
Brian Ford (OPASTCO)  
Josh Seidemann (ITTA)  
Derrick Owens (WTA)  
Colin Sandy (NECA)

**Date** January 7, 2009

**Subject(s)** Representatives of OPASTCO, ITTA, WTA, and NECA met with a legal advisor to Commissioner McDowell to discuss the Feature Group IP petition for forbearance from access charges. The parties also discussed the Embarq petition that seeks confirmation that the ESP exemption does not apply to IP-to-PSTN voice traffic. The Commission should dismiss or deny Feature Group IP's petition insofar as it seeks relief from the obligation to pay access charges on interconnected VoIP traffic. The Telecommunications Act of 1996 does not give an access customer the right to seek forbearance from its obligation to pay access charges. The Associations also stated that its member companies are terminating a rapidly increasing number of interexchange calls from entities who improperly claim that their traffic is enhanced and therefore exempt from access charges. Therefore, the Commission should issue an Order confirming that access charges do apply to interconnected IP-originated VoIP traffic.

**Attendance** Nick Alexander (FCC)  
Brian Ford (OPASTCO)  
Josh Seidemann (ITTA)

Derrick Owens (WTA)  
Colin Sandy (NECA)

**Date** January 13, 2009

**Subject(s)** Representatives of OPASTCO, ITTA, and NECA met with a legal advisor to Commissioner Adelstein to discuss the Feature Group IP petition for forbearance from access charges for voice-embedded Internet communications. The parties also discussed the Embarq petition that seeks confirmation that the ESP exemption does not apply to IP-to-PSTN voice traffic. The Commission should dismiss or deny Feature Group IP's petition insofar as it seeks relief from the obligation to pay access charges on interconnected VoIP traffic. The Telecommunications Act of 1996 does not give an access customer the right to seek forbearance from its obligation to pay access charges. The Associations also stated that its member companies are terminating a rapidly increasing number of interexchange calls from entities who improperly claim that their traffic is enhanced and therefore exempt from access charges. Therefore, the Commission should issue an Order confirming that access charges do apply to interconnected IP-originated VoIP traffic.

**Attendance** Brian Ford (OPASTCO)  
Josh Seidemann (ITTA)  
Colin Sandy (NECA)  
Scott Bergmann (FCC)

**Date** February 6, 2009

**Subject(s)** Representatives of OPASTCO, RTG, WTA, and NTCA participated in a conference call with staff from the Wireline Competition Bureau to discuss the FCC's revised Form 477 that requires broadband providers to compile broadband subscribership data by Census Tract. In light of the impending March 2 deadline for broadband providers to complete the new form, the parties discussed ways that the FCC could assist small, rural carriers in completing the form. The Associations also urged flexibility in the March 2 deadline. Instructions on how to complete the form and screen shots of the form have only recently become available, and the final version of the form will not be available until a week prior to the deadline. With so little time to learn the mechanics of the complex and lengthy new form, rural providers will be hard pressed to provide accurate data to the Commission. More accurate data brought about by a slight delay in the deadline will be more useful to policymakers than data collected in a manner that emphasizes speed at the expense of accuracy.

**Attendance** Stuart Polikoff (OPASTCO)  
Steve Pastorkovich (OPASTCO)  
Brian Ford (OPASTCO)  
Ken Johnson (RTG)  
Derrick Owens (WTA)  
Jill Canfield (NTCA)  
Scott Reiter (NTCA)  
Julie Veach (FCC)  
Kirk Burgee (FCC)  
Randy Clarke (FCC)  
Rodger Woock (FCC)  
Ellen Burton (FCC)  
Alan Feldman (FCC)

**Date** February 11, 2009

**Subject(s)** Representatives of OPASTCO, WTA, ITTA, and NTCA participated in a conference call with staff from the Wireline Competition Bureau to discuss the FCC's revised Form 477 that requires broadband providers to compile broadband subscribership data by Census Tract. In light of the impending March 2 deadline for broadband providers to complete the new form, the parties discussed ways that the FCC could assist carriers in completing the form. The Associations also urged the Commission to extend the deadline for submitting the form, given the fact that an electronic version is not yet available. Participants discussed general data collection and logistical problems associated with the Form 477 submission. Problems with the Geocode system were explained and participants expressed their concern about the accuracy of the data collected if the Commission forces a hasty submission.

**Attendance** Mark Gailey (Totah Communications)  
Stuart Polikoff (OPASTCO)  
Brian Ford (OPASTCO)  
Derrick Owens (WTA)  
Gerry Duffy (WTA)  
Eric Keber (WTA)  
Josh Seidemann (ITTA)  
Jill Canfield (NTCA)  
Scott Reiter (NTCA)  
Evelyn Jerden (LICT Corp.)  
John Kuykendall (JSI)  
Chuck Richoz (JSI)  
Jim DeLoss (Consolidated Communications)  
Kevin Castor (Consolidated Communications)  
Ellen Burton (FCC)

Alan Feldman (FCC)  
Mike Goldstein (FCC)  
Kenneth Lynch (FCC)  
Jim Eisner (FCC)  
Rodger Woock (FCC)  
Jeremy Miller (FCC)  
Kirk Burgee (FCC)  
Randy Clarke (FCC)

**Date** February 12, 2009

**Subject(s)** Representatives of OPASTCO, WTA, ITTA, ACA, and NTCA met with a legal advisor to acting Chairman Copps to discuss the FCC's revised Form 477 that requires broadband providers to compile broadband subscribership data by Census Tract. In light of the impending March 2 deadline for broadband providers to complete the new form, the parties discussed ways that the FCC could assist carriers in completing the form. The Associations also urged the Commission to extend the deadline for submitting the form, given that an electronic version is not yet available. Given that the online form can only accommodate a finite number of filers, service providers will likely face significant technical challenges while attempting to submit their data. Furthermore, Geocoded data is often inaccurate in rural areas. Thus, service providers are reluctant to certify the accuracy of data that they know or suspect contains errors or omissions. Should the Commission not grant an extension, the Associations urged the Commission to declare that service providers making best efforts to comply will not be subject to any enforcement actions.

**Attendance** Steve Pastorkovich (OPASTCO)  
Derrick Owens (WTA)  
Gerry Duffy (WTA)  
Josh Seidemann (ITTA)  
Ross Leiberman (ACA)  
Jill Canfield (NTCA)  
Scott Reiter (NTCA)  
Jennifer McKee (FCC)

**Date** February 19, 2009

**Subject(s)** Representatives of OPASTCO, WTA, ACA, and NTCA met with a legal advisor to Commissioner McDowell to discuss the FCC's revised Form 477 that requires broadband providers to compile broadband subscribership data by Census Tract. In light of the impending March 2

deadline for broadband providers to complete the new form, the parties discussed ways that the FCC could assist carriers in completing the form. The Associations also urged the Commission to extend the deadline for submitting the form, given that an electronic version is not yet available. Given that the online form can only accommodate a finite number of filers, service providers will likely face significant technical challenges while attempting to submit their data. Furthermore, Geocoded data is often inaccurate in rural areas. Thus, service providers are reluctant to certify the accuracy of data that they know or suspect contains errors or omissions. Should the Commission not grant an extension, the Associations urged the Commission to declare that service providers making best efforts to comply will not be subject to any enforcement actions.

**Attendance** Steve Pastorkovich (OPASTCO)  
Derrick Owens (WTA)  
Gerry Duffy (WTA)  
Ross Leiberman (ACA)  
Jill Canfield (NTCA)  
Nick Alexander (FCC)

**Date** February 19, 2009

**Subject(s)** Representatives of OPASTCO, WTA, and NTCA met with a legal advisor to Commissioner Adelstein to discuss the FCC's revised Form 477 that requires broadband providers to compile broadband subscribership data by Census Tract. In light of the impending March 2 deadline for broadband providers to complete the new form, the parties discussed ways that the FCC could assist carriers in completing the form. The Associations also urged the Commission to extend the deadline for submitting the form, given that an electronic version is not yet available. Given that the online form can only accommodate a finite number of filers, service providers will likely face significant technical challenges while attempting to submit their data. Furthermore, Geocoded data is often inaccurate in rural areas. Thus, service providers are reluctant to certify the accuracy of data that they know or suspect contains errors or omissions. Should the Commission not grant an extension, the Associations urged the Commission to declare that service providers making best efforts to comply will not be subject to any enforcement actions.

**Attendance** Steve Pastorkovich (OPASTCO)  
Derrick Owens (WTA)  
Gerry Duffy (WTA)  
Jill Canfield (NTCA)  
Scott Bergmann (FCC)

**Date** March 26, 2009

**Subject(s)** A representative of OPASTCO met with staff from the Wireline Competition, Wireless Telecommunications, and Consumer and Government Affairs Bureaus of the FCC. The purpose of the meeting was to discuss how specific Federal agency programs can best respond to rural broadband requirements and overcome obstacles to further deployment. Specifically, OPASTCO's recommendations included: (1) adding broadband to the list of services supported by the USF; (2) lifting the cap on the HCLS mechanism; (3) eliminating the identical support rule and broadening the base of USF contributors; (4) ensuring that rural carriers have affordable and nondiscriminatory access to the Internet backbone; (5) reforming retransmission consent rules and other video access rules; (6) continuing to improve coordination among federal agencies; and (7) adopting reasonable reporting requirements that are not overly burdensome.

**Attendance** Stephen Pastorkovich (OPASTCO)  
William Kehoe (FCC)  
Melissa Kirkel (FCC)  
Jennifer Prime (FCC)  
Charles Mathias (FCC)  
Christine Clearwater (FCC)  
Shana Barehand (FCC)

**Date** March 31, 2009

**Subject(s)** Representatives of OPASTCO met with staff from the FCC's Wireline Competition, Wireless Telecommunications, Media, and Public Safety and Homeland Security Bureaus, as well as the Office of Engineering and Technology. The purpose of the meeting was to discuss the FCC's consultative role in the broadband provisions of the Recovery Act. OPASTCO stated that: (1) an "unserved area" should be defined for wireline broadband as any location that cannot receive Basic Broadband Tier 1 service as defined by the FCC (at least 768 Kbps downstream); (2) an "underserved area" should be defined for wireline broadband as any location that cannot receive at least 12 Mbps downstream (the approximate bandwidth needed for today's "triple play" of video, data, and voice service); (3) "broadband" should be defined per the FCC's speed tier system; (4) the FCC's 2005 Broadband Policy Statement is sufficient to serve as the non-discrimination obligations of NTIA and RUS funding recipients and should not be supplemented; and (5) transport and Internet backbone providers should be obligated to provide NTIA and RUS funding recipients with interconnection at just, reasonable, and non-discriminatory rates, terms, and conditions.

**Attendance** John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Brian Ford (OPASTCO)  
Ian Dillner (FCC)  
Theodore Burmeister (FCC)  
Bill Deaver (FCC)  
Krista Witanowski (FCC)  
Jennifer Salhus (FCC)  
Mary Woytek (FCC)  
Ron Repasi (FCC)  
Walter Johnson (FCC)  
Alan Stillwell (FCC)  
Carol Simpson (FCC)

**Date** June 4, 2009

**Subject(s)** Representatives of OPASTCO, NECA, WTA, NTCA, and the Coalition for Equity in Switching Support met with Commissioner Adelstein and his legal advisor to discuss a petition to eliminate the “one-way ratchet” on the amount of LSS a carrier receives. Under this rule, a small ILEC whose access line count decreases and crosses a dial equipment minute (DEM) weight threshold is not permitted to adjust their DEM weighting factor to its proper level and receive an increased amount of LSS. The Commission should grant the Coalition’s petition by modifying or clarifying its rules to permit small ILECs to receive LSS based upon their current number of access lines.

**Attendance** Roger Nishi (Waitsfield and Champlain Valley Telecom)  
Lyman Horne (Star Telephone Membership Cooperative)  
Randy Tyree (OPASTCO)  
Colin Sandy (NECA)  
Derrick Owens (WTA)  
Karlen Reed (NTCA)  
Richard Coit (South Dakota Telecommunications Association)  
Cheryl Parrino (Coalition for Equity in Switching Support)  
John Logan (Coalition for Equity in Switching Support)  
Jonathan Adelstein (FCC)  
Renee Crittendon (FCC)

**Date** June 4, 2009

**Subject(s)** Representatives of OPASTCO, NECA, and the Coalition for Equity in Switching Support met with a legal advisor to Commissioner McDowell to discuss a petition to eliminate the “one-way ratchet” on the amount of LSS

a carrier receives. Under this rule, a small ILEC whose access line count decreases and crosses a DEM weight threshold is not permitted to adjust their DEM weighting factor to its proper level and receive an increased amount of LSS. The Commission should grant the Coalition's petition by modifying or clarifying its rules to permit small ILECs to receive LSS based upon their current number of access lines.

**Attendance** Roger Nishi (Waitsfield and Champlain Valley Telecom)  
Lyman Horne (Star Telephone Membership Cooperative)  
Randy Tyree (OPASTCO)  
Colin Sandy (NECA)  
Cheryl Parrino (Coalition for Equity in Switching Support)  
John Logan (Coalition for Equity in Switching Support)  
Nicholas Alexander (FCC)

**Date** June 8, 2009

**Subject(s)** Representatives of the Coalition for Competitive Access to Content (CA2C) (of which OPASTCO is a member) met with staff from Commissioner Copps' office to discuss the recent DC Circuit Court decision that upheld the multi-dwelling units (MDUs) Exclusivity Order. The court's opinion was consistent with the CA2C position that the Commission has the authority to close the "terrestrial loophole" which allows cable-affiliated programmers to engage in anti-competitive behavior to the detriment of rural ILEC video providers. Thus, the CA2C requested that the Commission move forward and close the terrestrial loophole by the end of the year.

**Attendance** Martin Stern (CA2C)  
John Goodman (CA2C)  
Jamila Bess Johnson (FCC)  
Rick Chessen (FCC)

**Date** August 19, 2009

**Subject(s)** Representatives of OPASTCO met with Commissioner Meredith Baker and a legal advisor to discuss the regulatory reforms necessary for rural ILECs to offer broadband services throughout their service areas going forward. OPASTCO stated that the FCC should: (1) adopt definitions and standards for "broadband" in rural service areas that are the same as in urban areas and that keep pace with the rapid evolution of technology and consumer demand; (2) recognize that mobile wireless platforms are not a viable substitute for wireline technologies for providing high-quality, high-speed broadband; (3) add broadband to the list of services supported

by the High-Cost and Low Income programs; (4) continue to base support for rural ILECs on their actual embedded costs; (5) remove the cap on the high-cost loop support mechanism; (6) support rural ILECs' high middle-mile transport costs; (7) expand the base of contributors to the USF to include all facilities-based broadband Internet access providers; (8) reform the intercarrier compensation rules, including the establishment of a replacement mechanism for rural ILECs' lost revenues from access charges; (9) ensure that rural ILECs receive equitable rates, terms, and conditions for middle-mile transport, Internet backbone access, and video programming; and (10) maintain the existing principles in the FCC's 2005 Internet Policy Statement, without supplementation.

**Attendance** Commissioner Meredith Baker (FCC)  
Chisti Shewman (FCC)  
Mark Gailey (Totah Communications)  
Ron Laudner (OmniTel Communications)  
Keith Oliver (Home Telephone Company)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Brian Ford (OPASTCO)

**Date** August 20, 2009

**Subject(s)** Representatives of OPASTCO met with a legal advisor to Chairman Julius Genachowski to discuss the regulatory reforms necessary for rural ILECs to offer broadband services throughout their service areas going forward. OPASTCO stated that the FCC should: (1) adopt definitions and standards for "broadband" in rural service areas that can accommodate the growing number of bandwidth-intensive applications and services; (2) recognize that mobile wireless platforms are not a viable substitute for wireline technologies for providing high-quality, high-speed broadband; (3) add broadband to the list of services supported by the High-Cost and Low Income programs; (4) reform the intercarrier compensation rules, including the establishment of a replacement mechanism for rural ILECs' lost revenues from access charges; (5) ensure that rural ILECs receive equitable rates, terms, and conditions for middle-mile transport, Internet backbone access, and video programming; and (6) maintain the existing principles in the FCC's 2005 Internet Policy Statement, without supplementation.

**Attendance** Priya Aiyar (FCC)  
Ron Laudner (OmniTel Communications)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Brian Ford (OPASTCO)

**Date** August 25, 2009

**Subject(s)** Representatives of OPASTCO met with staff from the wireline competition bureau to discuss the regulatory reforms necessary for rural ILECs to offer broadband services throughout their service areas going forward. OPASTCO stated that the FCC should: (1) adopt definitions and standards for “broadband” in rural service areas that can accommodate the growing number of bandwidth-intensive applications and services; (2) recognize that mobile wireless platforms are not a viable substitute for wireline technologies for providing high-quality, high-speed broadband; (3) add broadband to the list of services supported by the High-Cost and Low Income programs; (4) continue to base support for rural ILECs on their actual embedded costs; (5) remove the cap on the high-cost loop support mechanism; (6) support rural ILECs’ high middle-mile transport costs; (7) expand the base of contributors to the USF to include all facilities-based broadband Internet access providers; (8) reform the intercarrier compensation rules, including the establishment of a replacement mechanism for rural ILECs’ lost revenues from access charges; and (9) ensure that rural ILECs receive equitable rates, terms, and conditions for middle-mile transport, Internet backbone access, and video programming.

**Attendance** Julie Veach (FCC)  
Donald Stockdale (FCC)  
Kris Monteith (FCC)  
Rebekah Goodheart (FCC)  
Jennifer McKee (FCC)  
Lynne Engledow (FCC)  
Marcus Maher (FCC)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Brian Ford (OPASTCO)

**Date** October 5, 2009

**Subject(s)** Representatives of OPASTCO and CoBank met with staff from the Office of Strategic Planning & Policy Analysis and the Wireline Competition Bureau to discuss universal service and intercarrier compensation reform in the context of the FCC’s National Broadband Plan. OPASTCO presented a broad outline for a plan for rural ILEC service areas that would enable the ongoing achievement of affordable, ubiquitous high-speed broadband services in these territories. The plan would: (1) create a new Universal High Speed Broadband Fund, which would support last-mile loops costs, middle-mile transport costs, and access to the Internet backbone; (2) support one fixed technology high-speed network provider

in each rural service area; (3) allow rural ILECs to “opt-in” to the new Fund at any time during a seven-year transition period; (4) transition all ICC rates down to zero over seven years, with the ICC revenues that rural ILECs are receiving at the time they opt-in gradually transitioned into the support received from the new Fund, as the ICC rates are reduced; (5) eliminate, at the end of the seven year transition period, the existing rural high-cost support mechanisms and ICC regime and also fully convert the public switched telephone network to a broadband network; (6) require all fixed technology providers receiving support through the new Fund to commit to offering broadband throughout the service area at speeds that are at least equal to the national average broadband speed, and at end-user rates that are reasonably comparable to the national average rate; (7) require support recipients to make their network available to other retail providers on a common carrier basis; (8) expand the Low Income program to support broadband; and (9) base contributions to all USF programs, including the new High Speed Broadband Fund, on a combination of working telephone numbers and public network connections, including all broadband connections in service, regardless of technology.

**Attendance** Carol Matthey (FCC)  
Tom Koutsky (FCC)  
Mukul Chawla (FCC)  
Rebekah Goodheart (FCC)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Sara Tyree (CoBank)

**Date** October 27, 2009

**Subject(s)** Representatives of OPASTCO met with staff from the Wireline Competition Bureau to discuss universal service and intercarrier compensation reform in the context of the FCC’s National Broadband Plan. OPASTCO presented a broad outline for a plan for rural ILEC service areas that would enable the ongoing achievement of affordable, ubiquitous high-speed broadband services in these territories. The plan would: (1) create a new Universal High Speed Broadband Fund, which would support last-mile loops costs, middle-mile transport costs, and access to the Internet backbone; (2) support one fixed technology high-speed network provider in each rural service area; (3) allow rural ILECs to “opt-in” to the new Fund at any time during a seven-year transition period, at which time a rural ILEC would immediately begin receiving the support amount they were presently receiving from the existing mechanism, as a starting point. Those rural ILECs choosing not to opt-in immediately would continue to receive support through the existing mechanisms; (4) transition all ICC rates down to zero over seven years, with the ICC

revenues that rural ILECs are receiving at the time they opt-in gradually transitioned into the support received from the new Fund, as the ICC rates are reduced; (5) eliminate, at the end of the seven year transition period, the existing rural high-cost support mechanisms and ICC regime and also fully convert the public switched telephone network to a broadband network; (6) require all fixed technology providers receiving support through the new Fund to commit to offering broadband throughout the service area at speeds that are at least equal to the national average broadband speed, and at end-user rates that are reasonably comparable to the national average rate; (7) require support recipients to make their network available to other retail providers on a common carrier basis and submit to quality of service oversight; (8) expand the Low Income program to support broadband; and (9) base contributions to all USF programs, including the new High Speed Broadband Fund, on a combination of working telephone numbers and public network connections, including all broadband connections in service, regardless of technology.

**Attendance** Donald Stockdale (FCC)  
Irene Flannery (FCC)  
Alexander Minard (FCC)  
Jennifer McKee (FCC)  
Katie King (FCC)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)

**Date** October 30, 2009

**Subject(s)** Representatives of OPASTCO, Leap Wireless, NTCA, NTELOS, RCA, RTG, SouthernLINC Wireless, and US Cellular met with staff from the Wireless Telecommunications Bureau to discuss voice and data roaming. Specifically, the group asked the FCC to eliminate the in-market exception to the automatic roaming rule and to extend the rule to data roaming.

**Attendance** Brian Ford (OPASTCO)  
Jim Barker (Leap Wireless)  
Jill Canfield (NTCA)  
Mary McDermot (NTELOS)  
Steve Berry (RCA)  
Carri Bennet (RTG)  
Holly Henderon (SouthernLINC Wireless)  
Grant Spellmeyer (US Cellular)  
Ruth Milkman (FCC)  
Christina Clearwater (FCC)  
Nese Guendelsberger (FCC)

Paul Murray (FCC)  
Peter Trachtenberg (FCC)

**Date** November 12, 2009

**Subject(s)** Representatives of OPASTCO, Verizon, DirectTV, RCN, SureWest, Hiawatha Broadband, Knology, USTelecom, AT&T, Media Access Project, and the CA2C met with a legal advisor to Commissioner Baker to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the “terrestrial loophole,” which allows incumbent cable operators to withhold programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs’ access to programming at affordable rates. It would also serve to further the Commission’s goal of increased broadband deployment, since the “take rates” for broadband increase when it is offered with video services.

**Attendees** Brian Ford (OPASTCO)  
Leora Hochstein (Verizon)  
Stacey Fuller (DirectTV)  
Richard Ramlall (RCN)  
Jack Day (Surewest)  
Gary Evans (Hiawatha Broadband)  
Felix Boccucci (Knology)  
Kevin Rupy (US Telecom)  
Jim Smith (AT&T)  
Parul Desai (Media Access Project)  
John Goodman (CA2C)  
Marty Stern (CA2C)  
Millie Kerr (FCC)

**Date** November 12, 2009

**Subject(s)** Representatives of OPASTCO, Verizon, DirectTV, RCN, SureWest, Hiawatha Broadband, Knology, USTelecom, AT&T, Media Access Project, ITTA, and the CA2C met with Commissioner Clyburn and one of her legal advisors to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the “terrestrial loophole,” which allows incumbent cable operators to withhold programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs’ access to programming at affordable rates. It would also serve to further the Commission’s goal of increased broadband deployment, since

the “take rates” for broadband increase when it is offered with video services.

**Attendees** Brian Ford (OPASTCO)  
Leora Hochstein (Verizon)  
Stacey Fuller (DirectTV)  
Richard Ramlall (RCN)  
Steve Oldham (Surewest)  
Gary Evans (Hiawatha Broadband)  
Felix Boccucci (Knology)  
Glenn Reynolds (US Telecom)  
Jim Smith (AT&T)  
Parul Desai (Media Access Project)  
Josh Seidemann (ITTA)  
John Goodman (CA2C)  
Marty Stern (CA2C)  
Commissioner Mignon Clyburn (FCC)  
Rick Kaplan (FCC)

**Date** November 12, 2009

**Subject(s)** Representatives of OPASTCO, Verizon, DirectTV, RCN, SureWest, Hiawatha Broadband, Knology, USTelecom, AT&T, Media Access Project, ITTA, and the CA2C met with a legal advisor to Commissioner McDowell to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the “terrestrial loophole,” which allows incumbent cable operators to withhold programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs’ access to programming at affordable rates. It would also serve to further the Commission’s goal of increased broadband deployment, since the “take rates” for broadband increase when it is offered with video services.

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Richard Ramlall (RCN)  
Jack Day (Surewest)  
Steve Oldham (Surewest)  
Gary Evans (Hiawatha Broadband)  
Felix Boccucci (Knology)  
Glenn Reynolds (US Telecom)  
Jim Smith (AT&T)  
Parul Desai (Media Access Project)  
Josh Seidemann (ITTA)

John Goodman (CA2C)  
Marty Stern (CA2C)  
Rosemary Harold (FCC)

**Date** November 12, 2009

**Subject(s)** Representatives of OPASTCO, Verizon, DirectTV, RCN, SureWest, Hiawatha Broadband, Knology, USTelecom, AT&T, Media Access Project, and the CA2C met with staff from the Media Bureau to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the “terrestrial loophole,” which allows incumbent cable operators to withhold programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs’ access to programming at affordable rates. It would also serve to further the Commission’s goal of increased broadband deployment, since the “take rates” for broadband increase when it is offered with video services.

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Stacey Fuller (DirectTV)  
Richard Ramlall (RCN)  
Jack Day (Surewest)  
Gary Evans (Hiawatha Broadband)  
Felix Boccucci (Knology)  
Glenn Reynolds (US Telecom)  
Jim Smith (AT&T)  
Parul Desai (Media Access Project)  
John Goodman (CA2C)  
Marty Stern (CA2C)  
Bill Lake (FCC)  
Mary Beth Murphy (FCC)  
Steve Broeckaert (FCC)  
Diana Sokolow (FCC)  
Robert Ratcliffe (FCC)

**Date** November 12, 2009

**Subject(s)** Representatives of OPASTCO, Verizon, DirectTV, RCN, SureWest, Hiawatha Broadband, Knology, USTelecom, AT&T, Media Access Project, and the CA2C met with a legal advisor to Commissioner Copps to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the “terrestrial loophole,” which allows incumbent cable operators to withhold

programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs' access to programming at affordable rates. It would also serve to further the Commission's goal of increased broadband deployment, since the "take rates" for broadband increase when it is offered with video services.

**Attendees** Brian Ford (OPASTCO)  
Leora Hochstein (Verizon)  
Stacey Fuller (DirectTV)  
Richard Ramlall (RCN)  
Jack Day (Surewest)  
Gary Evans (Hiawatha Broadband)  
Felix Boccucci (Knology)  
Kevin Rupy (US Telecom)  
Jim Smith (AT&T)  
Parul Desai (Media Access Project)  
Marty Stern (CA2C)  
John Goodman (CA2C)  
Jamilla Bess Johnson (FCC)

**Date** November 30, 2009

**Subject(s)** Representatives of OPASTCO met with a legal advisor to Commissioner McDowell to discuss universal service and intercarrier compensation reform in the context of the FCC's National Broadband Plan. OPASTCO presented a broad outline for a plan for rural ILEC service areas that, among other things: (1) creates a Universal High Speed Broadband Fund which supports all of the major components of providing high-speed broadband service in rural service areas; (2) transitions ICC rates to zero over seven years, and replaces this revenue with support received from the new Fund; (3) supports one provider of fixed broadband services in each rural study area, with that provider serving as the fixed broadband COLR to the area; and (4) fully converts the PSTN to a broadband network at the end of seven years.

**Attendees** Mark Gailey (Totah Communications, Inc.)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Cristine Kurth (FCC)

**Date** November 30, 2009

**Subject(s)** Representatives of OPASTCO met with a legal advisor to Commissioner Baker to discuss universal service and intercarrier compensation reform in

the context of the FCC's National Broadband Plan. OPASTCO presented a broad outline for a plan for rural ILEC service areas that, among other things: (1) creates a Universal High Speed Broadband Fund which supports all of the major components of providing high-speed broadband service in rural service areas; (2) transitions ICC rates to zero over seven years, and replaces this revenue with support received from the new Fund; (3) supports one provider of fixed broadband services in each rural study area, with that provider serving as the fixed broadband COLR to the area; and (4) fully converts the PSTN to a broadband network at the end of seven years.

**Attendees** Mark Gailey (Totah Communications, Inc.)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Christi Shewman (FCC)

**Date** November 30, 2009

**Subject(s)** Representatives of OPASTCO met with a legal advisor to Commissioner Clyburn to discuss universal service and intercarrier compensation reform in the context of the FCC's National Broadband Plan. OPASTCO presented a broad outline for a plan for rural ILEC service areas that, among other things: (1) creates a Universal High Speed Broadband Fund which supports all of the major components of providing high-speed broadband service in rural service areas; (2) transitions ICC rates to zero over seven years, and replaces this revenue with support received from the new Fund; (3) supports one provider of fixed broadband services in each rural study area, with that provider serving as the fixed broadband COLR to the area; and (4) fully converts the PSTN to a broadband network at the end of seven years.

**Attendees** Mark Gailey (Totah Communications, Inc.)  
John Rose (OPASTCO)  
Stuart Polikoff (OPASTCO)  
Rick Kaplan (FCC)

**Date** December 8, 2009

**Subject(s)** Representatives of OPASTCO met with Commissioner Copps and one of his legal advisors to discuss universal service and intercarrier compensation reform in the context of the FCC's National Broadband Plan. OPASTCO presented a broad outline for a plan for rural ILEC service areas that, among other things: (1) creates a Universal High Speed Broadband Fund which supports all of the major components of providing

high-speed broadband service in rural service areas; (2) transitions ICC rates to zero over seven years, and replaces this revenue with support received from the new Fund; (3) supports one provider of fixed broadband services in each rural study area, with that provider serving as the fixed broadband COLR to the area; and (4) fully converts the PSTN to a broadband network at the end of seven years.

**Attendees** Stuart Polikoff (OPASTCO)  
Brian Ford (OPASTCO)  
Commissioner Michael Copps (FCC)  
Jennifer Schneider (FCC)

**Date** December 9, 2009

**Subject(s)** Representatives of OPASTCO, DirectTV, RCN, SureWest, USTelecom, AT&T, ITTA, Media Access Project, and the CA2C met with staff from the FCC's Office of General Counsel and the Media Bureau to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the "terrestrial loophole," which allows incumbent cable operators to withhold programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs' access to programming at affordable rates. It would also serve to further the Commission's goal of increased broadband deployment, since the "take rates" for broadband increase when it is offered with video services.

**Attendees** Steve Pastorkovich (OPASTCO)  
Stacey Fuller (DirectTV)  
Amy Mehlman (RCN)  
Jack Day (Surewest)  
Glenn Reynolds (US Telecom)  
Kevin Rupy (US Telecom)  
Jim Smith (AT&T)  
Christopher Heimann (AT&T)  
Curt Stamp (ITTA)  
Parul Desai (Media Access Project)  
Marty Stern (CA2C)  
John Goodman (CA2C)  
Austin Schlick (FCC)  
Marilyn Sloan (FCC)  
Susan Aaron (FCC)  
Mary Beth Murphy (FCC)  
Steve Broeckaert (FCC)  
Diana Sokolow (FCC)  
Tom Horan (FCC)

**Date** December 9, 2009

**Subject(s)** Representatives of OPASTCO, DirectTV, RCN, SureWest, USTelecom, AT&T, Media Access Project, and the CA2C met with a legal advisor to Commissioner Copps to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the “terrestrial loophole,” which allows incumbent cable operators to withhold programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs’ access to programming at affordable rates. It would also serve to further the Commission’s goal of increased broadband deployment, since the “take rates” for broadband increase when it is offered with video services.

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Stacey Fuller (DirectTV)  
Amy Mehlman (RCN)  
Jack Day (Surewest)  
Kevin Rupy (US Telecom)  
Jim Smith (AT&T)  
Christopher Heimann (AT&T)  
Parul Desai (Media Access Project)  
Marty Stern (CA2C)  
John Goodman (CA2C)  
Joshua Cinelli (FCC)

**Date** December 10, 2009

**Subject(s)** Representatives of OPASTCO, DirectTV, RCN, SureWest, USTelecom, AT&T, and the CA2C met with a legal advisor to Chairman Genachowski to discuss several issues related to access to video content. Specifically, the parties stated that the FCC has the legal authority to close the “terrestrial loophole,” which allows incumbent cable operators to withhold programming from MVPDs if it is transmitted via land-based facilities. Eliminating this loophole would increase rural MVPDs’ access to programming at affordable rates. It would also serve to further the Commission’s goal of increased broadband deployment, since the “take rates” for broadband increase when it is offered with video services.

**Attendees** Steve Pastorkovich (OPASTCO)  
Stacey Fuller (DirectTV)  
Amy Mehlman (RCN)  
Tom Steel (RCN)  
Felix Boccucci (Knology)  
Jack Day (Surewest)

Kevin Rupy (US Telecom)  
Glenn Reynolds (FCC)  
Jim Smith (AT&T)  
Parul Desai (Media Access Project)  
Marty Stern (CA2C)  
John Goodman (CA2C)  
Sherrese Smith (FCC)

## OTHER FILINGS

**Development of Nationwide Broadband Data to Evaluate Reasonable and Timely  
Deployment of Advanced Services to All Americans, Improvement of Wireless  
Broadband Subscribership Data, and Development of Data in Interconnected VoIP  
Subscribership  
WC Docket No. 07-38**

**Type** OPASTCO, RTG, and NTCA request for extension of time

**Date** February 3, 2009

**Subject(s)** Request for extension of the deadline for small broadband providers to file the new FCC Form 477, which requires reporting of broadband subscribership data by Census Tract

**OPASTCO** The Associations seek a 120 day extension of time for small broadband  
**RTG** providers to complete and file the Form 477 Broadband report. The new  
**NTCA** form is a significant departure from the form that providers are accustomed to, requiring the collection of vast amounts of data that is not now kept in the ordinary course of business. In addition, the new form is not yet available online, and small providers lack the resources to complete the form by the deadline. A brief extension will ensure that small providers have the opportunity to collect and submit accurate and useful data to the FCC.

**In the Matter of Rural Telecommunications Group, Inc. Petition for Rulemaking to  
Impose a Spectrum Aggregation Limit on all Commercial Terrestrial  
Wireless Spectrum Below 2.3 GHz  
RM No. 11498**

**Type** OPASTCO ex parte letter

**Date** February 4, 2009

**Subject(s)** RTG petition for rulemaking seeking a spectrum aggregation limit for wireless spectrum

**OPASTCO** The Commission should adopt a spectrum aggregation limit for wireless spectrum. When the FCC decided in 2001 to sunset the spectrum aggregation limit it had adopted in 1994, it did so based, in part, on its finding that substantial competition existed in the wireless marketplace. However, the wireless industry has experienced significant consolidation since 2001, enabling the large nationwide carriers to abuse their increased market power. Adoption of a spectrum aggregation limit as proposed by RTG would provide rural wireless carriers with the opportunity to acquire the wireless spectrum they need to provide seamless, mobile voice and data services to rural consumers.

**Jurisdictional Separations and Referral to the Federal-State Joint Board  
CC Docket No. 80-286**

**Federal-State Joint Board on Universal Service  
CC Docket No. 96-45**

**Type** OPASTCO, NECA, WTA, ITTA, and NTCA ex parte letter

**Date** February 5, 2009

**Subject(s)** Petition for Clarification filed by the Coalition for Equity in Switching Support seeking clarification or modification of the Commission's LSS rules

**OPASTCO** The Associations encourage the Commission to clarify or modify its rules to permit small ILECs to receive LSS based upon their current number of access lines. Under the current interpretation of the Commission's rules, a small ILEC's LSS is reduced when its number of access lines increases and crosses a DEM weight threshold. However, a carrier whose access line count decreases and crosses a DEM weight threshold is not permitted to adjust their DEM weighting factor to its proper level and receive an increased amount of LSS. This interpretation of the rules is not consistent with the universal service goals of the 1996 Act, nor is it equitable for small ILECs that have lost access lines. In an era where all companies are experiencing significant financial pressures and where wireline companies are experiencing reductions in access lines served, the one-way ratcheting of LSS has the effect of reducing or eliminating much needed high-cost universal service support for small carriers that would otherwise qualify for higher LSS amounts. Permitting small ILECs to receive LSS based on their current number of access lines will not have a significant impact on the overall size of the Universal Service Fund. However, on a company-

specific basis, the additional support will greatly assist these carriers in delivering high-quality affordable services to their customers.

**Atlantis Holdings, LLC, Transferor, and Cellco Partnership d/b/a  
Verizon Wireless, Transferee for Consent to the Transfer of Control of  
Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the  
Communications Act  
WT Docket No. 08-95**

**Type** OPASTCO ex parte letter

**Date** February 24, 2009

**Subject(s)** Petitions for reconsideration of the FCC Order approving the Verizon Wireless purchase of ALLTEL Wireless

**OPASTCO** The Commission should clarify that the requirement that Verizon Wireless must honor its and ALLTEL Wireless's existing roaming agreements for four years following the merger applies to *all* the terms and conditions of those agreements, and not just the roaming rates charged. While parties that filed comments and/or attended *ex parte* meetings related to this proceeding believed that the Order would clearly state that, the final Order released by the Commission is ambiguous as to the exact nature of the roaming conditions imposed. In addition, the separate statements of Commissioners Adelstein, Copps, and Tate on the Order indicate that they intended the roaming obligations apply to all of the terms and conditions of Verizon Wireless's and ALLTEL Wireless's existing agreements. While roaming rates are an important part of a roaming agreement, these agreements contain numerous other provisions. The ability of Verizon Wireless to change these provisions in existing agreements with its rural wireless carrier roaming partners can significantly affect rural carriers' ability to offer roaming services to their customers.

**Type** OPASTCO and WTA ex parte letter

**Date** April 27, 2009

**OPASTCO** The Commission should retain the current four-business-day LNP porting interval for rural ILECs. Most rural ILECs still process number porting requests manually due to the fact that they receive very few of them. These manual systems are not capable of consistently porting numbers accurately in less than four business days. Since an automated porting system is necessary to ensure consistent compliance with a shorter porting interval, and investment in these systems by rural ILECs with few porting

**WTA**

requests would be economically irrational, the current four-business-day porting interval should be maintained for these carriers.

If the Commission decides to shorten the porting interval, it should make an exception for rural ILECs operating outside the top 100 metropolitan statistical areas (MSAs) and for those operating inside the top 100 MSAs that receive fewer than 100 port requests per month. Also, rural ILEC exchanges that receive more than 100 port requests a month for six consecutive months should have six additional months to comply with a shorter porting interval, as measured in business days. Finally, rural ILECs subject to the shorter interval should be provided with a method of recovering the costs they must incur in order to comply.

**Type** OPASTCO and WTA ex parte letter

**Date** May 8, 2009

**OPASTCO  
WTA** OPASTCO and WTA nominated OPASTCO's Technical Director John McHugh for membership on the FCC's Technological Advisory Council (TAC). Mr. McHugh has been OPASTCO's Technical Director for 11 years and would bring a wide range of experience to the TAC. His experience in both Internet Protocol and public switched telephone networks would make him an excellent representative for rural ILECs.

**Type** Letter to the Minnesota Supreme Court

**Date** June 8, 2009

**OPASTCO** OPASTCO wrote the Minnesota Supreme Court asking that it accept the petition for review filed by the Bridgewater Telephone Company in the case of *Bridgewater Telephone v. City of Monticello, MN*. The case involves the municipal use of proceeds from bond sales to enter the broadband market. When municipalities obtain financial advantages to enter the broadband market that are not shared by telecommunications providers that serve sparsely populated rural areas, investment in broadband infrastructure is impeded.

**Type** OPASTCO, Corr Wireless, MobiPCS, Leap Wireless, MetroPCS, NTCA, Ntelos, Revol Wireless, RCA, RTG, and SouthernLinc Wireless ex parte letter to FCC Chairman Julius Genachowski

**Date** July 28, 2009

**OPASTCO et al.** The Commission should promptly expand its automatic roaming obligations to encompass *all* mobile wireless services, including data services, so that they must be provided by all wireless carriers upon request on just, reasonable, and nondiscriminatory terms. In addition, the Commission should eliminate the in-market exception to the current automatic roaming rule. These actions are necessary to ensure that all wireless consumers have affordable access to automatic roaming for *all* mobile wireless services, including voice and data, no matter where they may live, work, or travel.

**Type** OPASTCO, NTCA, RCA, RICA, RTG, and GCI letter to Jonathan Adelstein, the RUS Administrator

**Date** August 5, 2009

**OPASTCO et al.** OPASTCO and several other associations wrote to RUS asking it to change its rules for the Broadband Initiatives Program (BIP) that could have the effect of unfairly discriminating against small rural carriers serving sparsely populated unserved areas. Under the rules established in the Notice of Funds Availability (NOFA), RUS awards points to applications based on the *absolute* number of rural residents that would be provided broadband in an unserved area, as opposed to the *proportion* of residents that would be served. This rule is at odds with the American Recovery and Reinvestment Act (Recovery Act), and any applicant serving less than 10,000 unserved rural households will not receive any points under this criterion. Thus, this particular criterion for awarding funding would be skewed toward larger providers. RUS should instead award points based on the percentage of unserved residents, an approach more consistent with the Recovery Act.

**Type** OPASTCO, ACA, ITTA, WCAI, RCA, WTA, CTIA, Comcast, Comptel, AT&T, Verizon, USTelecom, NCTA, and RTG letter to Lawrence Stricking, NTIA Administrator

**Date** August 6, 2009

**OPASTCO et al.** OPASTCO and several other associations wrote to NTIA to propose clarifications and modifications to its rules regarding the data to be collected for state-wide broadband mapping projects. NTIA should require state agencies to protect any confidential, proprietary, or competitively sensitive data from disclosure and enter into confidentiality agreements where requested by providers. In addition, requiring broadband providers to provide broadband availability data on a street-address level would be significantly burdensome and is also highly likely

to be inaccurate. There should be the option to provide data at the Census Block level for Census Blocks that are two square miles or smaller or at the Street Segment Level for Census Blocks that are larger than two square miles.

The obligation of states to collect and report information regarding a provider's "subscriber-weighted nominal speed" and "typical speed" should be modified to require states to calculate advertised speed and "subscriber-weighted nominal speed" across a provider's service or local franchise area, by Metropolitan or Rural Statistical Area (MSA/RSA) or by some sub-set of MSA/RSA such as Census Tract, if the provider prefers. Likewise, because the obligation to report "typical speeds" falls on states, and not providers, NTIA should reiterate that providers are not required to collect or report such data, as this data is more appropriately obtained through end-user surveys or other third-party sources.

Given the burdens and significant security risks of collecting highly-detailed network infrastructure data, this information should be voluntarily provided to awardees (subject to appropriate confidentiality protections) in specific instances where there are reasonable concerns with data reliability and no other avenues of verification are available. Finally, given the critical need to focus energies on broadband availability data, NTIA should eliminate the requirement on awardees to collect average revenue per end-user data, which is not necessary to satisfy its mapping obligations.

<b>Type</b>	OPASTCO, US Telecom, NCTA, ACA, ITTA, and WTA letter to Lawrence Strickling, NTIA Administrator and Jonathan Adelstein, RUS Administrator
<b>Date</b>	October 19, 2009
<b>OPASTCO NCTA ACA ITTA WTA</b>	The associations wrote to Administrators Strickling and Adelstein to express concerns about the information made available on pending applications for broadband stimulus funding for "unserved" and "underserved" areas. Some of the available information makes it difficult, and in some cases impossible, for the associations' members to examine and respond fully to those applications within the 30-day deadline. For example, using the tools available to research each proposed funded service area separately is unnecessarily burdensome. NTIA and RUS should allow incumbent broadband providers to access census block/group/tract data from submitted applications and match that data to their own service area database. In addition, the limit on the number of census blocks that the NTIA/RUS database displays for every proposed funded service area requires the associations' members to zoom-in on each individual census block in order to respond to funding applications. This

approach is impractical and unduly burdensome and the limit should be removed. Finally, some applications in the NTIA/RUS database are linked only to one state but in fact include proposed funded service areas and/or census blocks located in other states. To permit the associations' members to fully review each of the applications, the database should link broadband funding applications to every state covered by proposed funded service areas.

**Type** OPASTCO comments filed before NTIA and RUS

**Date** November 30, 2009

**Subject(s)** Request for Information (RFI) seeking comment on possible changes to the BIP and the Broadband Technology Opportunities Program (BTOP)

**OPASTCO** NTIA and RUS should retain the requirement for funding applicants to provide a financial history, since this is a critical indicator of their ability to offer sustainable broadband service to consumers. In addition, executive summaries of applications should be made public, although proprietary data should remain confidential.

All applicants seeking to serve rural areas should have the option of applying directly for grants under the BTOP, regardless of what percentage of their proposed funded area is rural. It makes no sense to permit applicants wishing to serve areas that have a greater percentage of non-rural territory to apply directly for BTOP grants, while those seeking to serve areas that are primarily rural – which are typically higher cost to serve – are denied this opportunity.

NTIA and RUS should assess each application on its merits rather than automatically giving priority to certain types of projects, since the relative benefits of awarding funding to individual applicants are dependent on many factors that may vary greatly from one proposal to another. Also, actual speeds should not be incorporated into the definition of broadband, because there is no practical method to determine end-user speeds in a reliable and consistent manner. In addition, NTIA and RUS should eliminate the definition of “remote areas” because it is overly restrictive. Applicants seeking a greater percentage of grant funding should be evaluated on a case-by-case basis.

NTIA and RUS should improve the mapping tool and comment process that allows existing broadband service providers to comment on applications for their service areas. Also, interconnection and nondiscrimination requirements should continue to be applied to all types of infrastructure projects, regardless of the nature of the applicant. In

addition, rules prohibiting the sale or lease of funded broadband facilities should be eased when the funded facility is a small part of the entity's assets. Furthermore, factors such as experience serving rural areas and community presence should merit additional consideration when applications are scored. Finally, as required by the Recovery Act, scoring bonuses should be given to BIP applications that serve the highest *proportion* of unserved rural residents, rather than the absolute number of these consumers, as was done in the first round of funding.