

DISSENTING ORAL STATEMENT OF COMMISSIONER AJIT PAI

Re: *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90.

Yesterday, my office finalized a bipartisan compromise with Commissioner Clyburn and Commissioner O’Rielly on a way to modernize the Lifeline program while staying faithful to our core principles. It was not an easy agreement to reach. I had offered my proposal to all five commissioners last week.¹ Our three offices began working on a compromise yesterday morning. My staff worked with theirs through the night revising the *Order* in order to implement that bipartisan agreement. At 9:49 a.m., all three offices formally agreed to a document that, to quote the official chain, “memorializes the exact contours” of the compromise.

At 10:30 a.m., when this meeting was scheduled to start, that agreement remained in place. At 12:00 p.m., when Commissioner O’Rielly and I came downstairs for the meeting and were ready to vote, that agreement remained in place. Now, Commissioner Clyburn has backed out of the agreement.

Why?

It turns out that since early this morning, perhaps even late last night, Chairman Wheeler and his staff have been actively working to unwind that bipartisan compromise. Those efforts started with leaking nonpublic information to the press. The Chairman’s Office then encouraged lawmakers and stakeholders, from the usual gaggle of left-wing, Beltway special interests to former FCC Commissioners, to blast the deal before the votes could be cast—indeed, before they even knew what the deal was.

It is one thing to refuse to work toward bipartisan compromise—something that, for some reason, the Chairman wears with a badge of honor that distinguishes him from everyone else, Republican and Democrat alike, who has ever held that seat. It is quite another thing to launch a political campaign to force a Democratic FCC Commissioner to renege on a bipartisan compromise on her signature issue.

Unlike some on this dais, I have spent the vast majority of my career in public service. I have worked as a staffer on the Senate Judiciary Committee on controversial issues like immigration with members like Barack Obama and Ted Kennedy. I have worked as a staffer at the Justice Department on controversial issues like reauthorization of the Patriot Act with Democrats like Dianne Feinstein. I have worked as a staffer and now as a Commissioner with Democrats at the FCC on many more controversial issues. The common thread of my work for many years has been to find common ground—because I believe common ground exists and it just takes work to find it.

And so it gives me no pleasure to state the obvious: This agency in this proceeding represented the worst of government. Bipartisan agreements that would deliver digital opportunity to millions of Americans are thrown away and even Democratic commissioners are bulldozed simply because the Chairman can get away with it.

I will have a much longer, written statement that will outline the numerous legal and substantive flaws in today’s order. But suffice to say that the Commission’s failure to clean up the waste, fraud, and

¹ That proposal consisted of a \$1.75 billion budget; a mechanism to ensure the FCC stayed within that budget; reform of the “enhanced” subsidy that created incentives for waste, fraud, and abuse; and minimum, “table stakes” standards for fixed and mobile broadband service under the Lifeline program. Statement of FCC Commissioner Ajit Pai on Modernizing the Lifeline Program in a Fiscally Responsible Way (Mar. 29, 2016), *available at* <http://go.usa.gov/cHbk4>.

abuse in the program puts the entire enterprise in jeopardy. It will take a future agency, one whose members work in good faith and believe in good policy, to decide what comes next.

I dissent.