



**INTERGOVERNMENTAL ADVISORY COMMITTEE**  
**TO THE**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**POLICY RECOMMENDATION 2013 – 3**

Regarding Technological Transition  
from Legacy Copper Wire Infrastructure to Newer Technologies

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**I. INTRODUCTION**

The Intergovernmental Advisory Committee (IAC) to the Federal Communications Commission (Commission) submits this Recommendation to address important issues raised by the transition of the nation’s copper telecommunications infrastructure to newer wired and wireless technologies. While the issues are many and broad, and highly influenced by the type of communications company involved, they can be summarized based on the policy implications and actions necessary to address them.

Overall, we know that the change from one provider, one technology, one service to multiple providers, multiple technologies and multiple services forces us to ask some critical questions on how things should be handled in the future, including whether and how such matters should be regulated. What we do know is that delivery will be IP based and there will be a growing reliance on mobile. The IAC provides the following summary of issues, suggested policy questions to help guide the FCC, state regulators, and local officials, and specific recommendations regarding a process to address these issues as we consider how telecommunications consumers will be affected.

**II. IAC SUMMARY OF ISSUES**

1. Carrier of Last Resort: In a competitive environment in which wire, wireless, IP-based, satellite and other technologies exist to move voice and data communications, a legitimate question exists as to whether the requirement for a designated carrier of last resort should remain.

From a consumer protection perspective, a wireline is the most secure and reliable communications technology available and because the infrastructure and carrier of last resort designation have largely been in place for decades, it is the most expedient to continue.

From a competitive marketplace perspective, an increasing number of voice and data customers are electing to leave the wireline system for alternative technologies that provide greater portability and flexibility of use.

For federal and state regulators and policy-makers, the question of whether the customer should determine his/her carrier or have the regulatory community provide a “backstop” is steeped in potential perils. What assurances or guarantees can be provided customers that an alternative telecommunications carrier will be available and able to meet the customer’s voice and data needs, especially in a cost-effective manner in the long term? How will this transition impact existing public safety communications networks and the deployment of a nationwide, interoperable public safety communications network? From an ILEC telecommunications company’s perspective, how can the company continue to maintain a legacy communications system with a declining customer base without ever increasing federal/state subsidies, politically and economically unacceptable customer rates, or abandoning those customers? From a CLEC’s perspective, how can the existing subsidy program to maintain a voice-based carrier of last resort that places a financial burden on the CLEC’s customers be justified in a competitive marketplace?

As the FCC moves from supporting voice services to supporting broadband deployment such that every American residence and business can secure access, a designated broadband deployment assistance fund has been carved out of the federal Universal Services Fund. This represents an acknowledgement that voice communications alone are inadequate for a 21<sup>st</sup> century society and that society as a whole continues to have a politically and socially “moral” obligation to help those citizens least able to afford broadband expansion costs.

Some people are quick to state that rural residents make a choice to live outside the broadband telecommunications umbrella. Broadband will facilitate rural residents ability to continue to make the choice to maintain a rural way of life, and their ability to stay in the community and the culture in which they grew up. In addition, most Americans recognize that the food they eat comes from those rural residents and forcing them off the farms and ranches so that their children can access education opportunities or the parents can access healthcare services is not the American way. While we import large amounts of foodstuffs, the essential meats, vegetables, and grains come from America’s farm community – a community that needs to access markets (economic opportunities), education, healthcare, recreation, and all other opportunities available to urban residents.

### **Questions to Frame Policy and Regulatory Discussions:**

What now constitutes “Basic Service,” meaning what is the minimum service all people should expect regardless of provider technology utilized? How does the FCC, in partnership with state regulators and policy-makers, telecommunications providers, and customers make that determination? Will the FCC or state regulators retain jurisdiction over basic services, regardless of technology employed to deliver them?

How will consumer quality service be defined in an environment where multiple services are available from multiple providers using multiple and varied technologies? If state regulatory

responsibilities continue to diminish as most telecommunications providers increasingly utilize non-state regulated technologies, how will consumer quality of service standards be enforced?

In a competitive marketplace in which the carrier of last resort requirement is eliminated or severely reformed through legislative or regulatory actions, how will the FCC or state regulators ensure that all residents have access to adequate telecommunications services from their primary place of residence – “adequate” meaning an acceptable and measurable standard and quality of services and affordability?

How do the FCC, state regulators, local governments, consumers react if the competitive marketplace for individual customers fails (i.e., either only one provider remains or no provider wishes to provide service)? Is there a residual role for regulation to ensure that no American is left without adequate telecommunications services at their primary place of residence?

Should there be uniform national standards for companies wishing to be released from carrier of last resort requirements or should these be negotiated/legislated at the state level? Should there be uniform standards regarding pricing of alternative provider services (i.e., if the telecommunications provider is permitted to use an alternative technology or exit carrier of last resort status is there a role for the FCC or state regulators/policy-makers to have in ensuring affordability of service)?

Does release from carrier of last resort requirements imply more difficulty in providing ubiquitous broadband access (recognizing that business, academic, healthcare and e-government matters are not suitable in their entirety for mobile devices)? If so, what steps should the FCC and/or state regulators and policy-makers take to address this issue?

**2. Federal Universal Service/State Universal Service Funds:** The USF and state USFs have focused on maintaining affordable rates for customers in high cost to serve areas by providing assistance to the incumbent provider of telecommunications services. As noted above, the telecommunications marketplace is rapidly changing, and questions about who is eligible to receive USF funds are being fought through the regulatory and court systems.

From federal and state regulatory and policy-maker perspectives the issue is transitioning from what carriers are eligible for support to what services will be supported to what is the most cost-effective means of supporting those high cost service area customers and providers. Again, questions exist about whether providers seeking to forego their existing carrier of last resort status should receive USF funds; whether the existence of two or more telecommunications providers within an exchange removes the necessity for USF support; whether broadband service to “smart phones” constitutes sufficient access to broadband, and whether the competitive marketplace becomes service and price noncompetitive if the wireline voice and data provider loses USF support. Also in question is whether self-provisioning communities or community based networks should be eligible for USF support and support from the Connect America Fund.

Calculating high cost service areas is a mathematical matter that the federal and state regulators have addressed in different ways. A question arises as to whether the customer cost of alternative technologies (e.g., satellite, fixed base wireless) should be included in the calculation

of what USF subsidies should be. For example, some data shows that approximately 10 percent of households only have a wireline device, with approximately 40 percent having no wireline, and the remaining 50 percent having both.

### **Questions to Frame Regulatory and Policy Discussions:**

If a carrier of last resort is released from that requirement because of a competitive marketplace, should this also mean that no carrier should be eligible for USF/state USF support, especially if an alternative technology is used to provide more cost-effective service to the customer or the customer elects to use an alternative technology?

Should USF/state USF assistance only be available to customers only having a wireline to their primary residence (i.e., where no wireless or other technology provides service to that household)? If this option is pursued, how would the FCC or state regulators determine whether the alternative technology option is effective at the primary residence (the assumption would be that if no wireline exists, the alternative technology is available)?

Should the FCC or state regulators even be concerned with defining affordable rates for basic services when relatively few customers utilize such services (however defined in the evolving telecommunications options world) and many, even most, use bundled services? In other words, should USF/state USF funds be available to support only those customers in need of assistance to secure broadband services, including those with a voice option?

### **III. RECOMMENDATION**

1. The IAC recommends that the FCC formally work with State Regulatory, Gubernatorial, Legislative, and local government telecommunications policy leaders to develop more contemporary definitions and operationalizations for what constitutes telecommunications “Basic Service,” regardless of the provider or technology utilized. Such discussions should include establishing technology neutral, measureable provider quality of service requirements and FCC and state and local regulatory jurisdictional responsibilities for ensuring customer protections.

2. The IAC recommends that the FCC formally work with State Regulatory, Gubernatorial, Legislative, and local government telecommunications policy leaders to assess if the competitive telecommunications marketplace, with the myriad of providers and technologies, warrants changes in carrier of last resort requirements. Such discussions should include determining if a uniform national standard for telecommunications providers wishing to be released from carrier of last resort requirements is appropriate or if such releases should be negotiated/legislated at the state level.

Such discussions should address concerns about an appropriate FCC or state regulatory role to ensure that no American is left without adequate, affordable telecommunications services at their primary place of residence if the competitive marketplace for individual customers fails (i.e., either only one provider remains or no provider wishes to provide service).

Furthermore, such discussions should address whether release from carrier of last resort requirements will result in more difficulty in providing ubiquitous broadband access in rural and economically challenging areas (recognizing that business, academic, healthcare, and e-government matters are not suitable in their entirety for mobile devices), and the impact on public safety communications nationwide. If the results of such discussions indicate broadband deployment and/or public safety communications may be adversely impacted, then the FCC and its state and local partners should determine what steps are necessary to avoid the anticipated difficulties while recognizing technological and cost factors require transitioning from copper wires.

3. The IAC recommends that the FCC's discussions with state and local telecommunications policy leaders to address the above recommendations occur and conclude in 2013.

4. The IAC offers to take a lead role in working with the FCC, its staff, and any other FCC committees that has an interest in these issues, in facilitating the discussions that we recommend today. We respectfully suggest feedback from the Commission on these recommendations, and if accepted, we can work with FCC staff to begin the process at our second meeting in 2013.

Approved on this 8th day of January, 2013.

INTERGOVERNMENTAL ADVISORY COMMITTEE

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Joyce Dickerson, Chair