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ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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October 4, 2013

The Honorable Robert M. McDowell  
Visiting Fellow, Hudson Institute  
1015 15th Street, N.W., 6th Floor  
Washington, D.C. 20005

Dear Commissioner McDowell:

Thank you for appearing before the Subcommittee on Communications and Technology on Thursday, July 11, 2013, to testify at the hearing entitled "Improving FCC Process."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Monday, October 21, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at [Charlotte.Savercool@mail.house.gov](mailto:Charlotte.Savercool@mail.house.gov) and mailed to Charlotte Savercool, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Greg Walden  
Chairman  
Subcommittee on Communications and Technology

cc: Anna Eshoo, Ranking Member, Subcommittee on Communications and Technology

Attachment

## **The Honorable Henry Waxman**

1. Section 13(a)(1)(A) of the draft legislation effectively requires the FCC to issue a Notice of Inquiry (NOI) for every new rulemaking.

- Can you think of situations in which an NOI confers no benefit and unnecessarily leads to delay? For example, if the FCC is looking to update technical rules that would re-designate certain spectrum from voice to broadband services, would the requirement for the FCC to issue a NOI really contribute to the process?
  
- What happens when the FCC has to address routine matters, such as fee proceedings, or refresh the record in an already open proceeding? Would an NOI still be necessary in such instances?

2. Mr. McDowell, while serving as an FCC Commissioner, you eloquently explained why not printing a draft rule in an NPRM made sense in some instances. In the Text-to-911 NPRM, you expressed support for the “prudent decision” to refrain from including draft rules in the NPRM at issue and you noted it made sense for the FCC to refrain from including draft rules because “putting forth proposed rules at this delicate stage may only distort the private sector’s creative process,” and the open-ended nature of an NPRM allows the Commission to “elicit greater insight regarding the costs and technical feasibility of potential implementation.” I think your previous statement was an appropriate call for agency flexibility. Have you changed your mind? Do you now support a blanket requirement requiring the FCC to include the specific language of a proposed rule in every NPRM?

3. Do you support the provision in the bill requiring the FCC to make proposed final rules public before Commissioners have a chance to vote on adoption? How do you think this provision would square with FCC rules regarding unauthorized disclosure of any FCC nonpublic information, such as the contents of agenda items?