Testimony on behalf of the

National Association of Regulatory Utility Commissioners (NARUC)

by

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NARUC COMMITTEE ON TELECOMMUNICATIONS

before the

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Energy and Commerce Committee
Subcommittee on Communications and Technology

hearing on

The Evolution of Wired Communications Network

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Summary: We are here today because technology is doing what it has always done – evolve. In this latest evolution, which has been underway for several years, networks are migrating from circuit-switched voice and data services to IP-based service. During times of transition it is crucial for Congress, as well as state and federal regulators, to focus on the right issues.

The reason for regulatory oversight *never changes* regardless of changes in technology used to provide a service - and there are only two. First, we regulate where competition is not vigorous enough to adequately protect consumers. Second, we intervene to impose public interest obligations. Regardless of the level of competition, some oversight is always necessary to provide things the market will not. This includes consumer protection, local number portability, interconnection, prioritization of restoration of services after disasters, 911 service, disabled access and universal service.

VoIP services are not new. AT&T and others began deploying VoIP in the early 2000's and already 30% of all U.S. voice traffic is IP based. Why then are "transition trials" needed now? The real reason is because the FCC has focused on the wrong issues. The 1996 Act, while far from perfect, focused on services and did not differentiate between services provided over different technology platforms – a technology neutral approach. For over 10 years, the FCC has been unable, under both Democratic and Republican Chairmen, to provide needed certainty by classifying VoIP services as either a "telecommunications service" or an "information service". The result has been regulatory arbitrage that undermined the intercarrier compensation system and is the *raison d'être* for the call completion problems that continue to plague rural areas. It also left some consumers of IP-based services with fewer protections than users of the older circuit-switched/copper network.

If the FCC is truly interested in facilitating rollout of IP services, and saving taxpayers/ratepayers money, the best thing it can do is provide legal certainty – not open-ended trials. Either VoIP is a "telecommunications service" or an "information service". Should the FCC move forward with trials and delay a decision on the vital IP-to-IP interconnection issue, Congress should encourage the agency to first seek the obvious benefits of a fact-based recommendation from an adequately funded Federal-State Joint Board. Thank you for the opportunity to provide NARUC's position on these crucial issues.

Testimony: Chairman Walden, Ranking Member Eshoo, and Members of the Subcommittee, thank you for the opportunity to testify today on the IP Transition.

Since 2001, I have been a Commissioner with the Vermont Public Service Board. I currently serve as the Chairman of NARUC's Committee on Telecommunications and as the Chair of the Federal-State Joint Board on Separations. Just last year, I completed a six-year term as a member of the Federal-State Joint Board on Universal Service.

NARUC is – like Congress – a bipartisan organization. NARUC's members include public utility commissions in all your States, the District of Columbia and U.S. territories with jurisdiction over telecommunications, electricity, natural gas, water and other utilities. NARUC member commissioners are the in-State experts on the impact of FCC programs in your State and on your constituents.

In my home State of Vermont we face many challenges. Little fiber is being deployed to the home. Our largest incumbent, Fairpoint, has not deployed fiber to the home and to my knowledge has no plans to do so. Comcast provides voice, video and broadband to about two-thirds of the population but speeds vary greatly depending on where you live and none by fiber to the home. Two companies are deploying fiber to the home. The first is a municipal network run by the City of Burlington and the other is small, rural VermontTel which received a federal grant from the ARRA. And while there is some competition, mainly from cable, it is mostly in the cities and population centers and the quality of that offering varies greatly. And yet, even in Vermont, the transition to IP-based voice communications has begun.

When Are Regulators Required? The Reasons for Regulatory Intervention

We are here today because technology is doing what it has always done – evolving. In this latest evolution, which has been underway for quite a few years now, networks are migrating away from circuit-switched voice and data services to IP-based service.

But during this transition, like the previous technology evolutions of the network, it is crucial for Congress, as well as state and federal regulators, to continue to focus on the right issues.

The reasons why regulatory oversight remains necessary *never changes* regardless of changes in technologies used to provide a service. That is why NARUC has for years consistently urged Congress (and federal regulators) to take a technology-neutral approach to regulation.[1]

No regulator or legislator should be intervening in the market to put a thumb on the scale to favor one technology over another. The market should make those choices. Sometimes a technology can engender new problems.[2] But the basic reasons why public service commissions and agencies like the FCC were created remains the same.

And there are only two.

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[1] *NARUC Legislative Task Force Report on Federalism and Telecom* (July 2005). See also, NARUC's February 2003, NARUC passed *Resolution Relating To Voice Over The Internet Telecommunications*, available online at: http://www.naruc.org/Resolutions/voice_over.pdf, that notes "a significant portion of the nation's total voice traffic could be transported on IP networks within a few years" and urged the FCC to "confirm its tentative decision that certain phone-to-phone calls over IP networks are *telecommunications services*." In November 2003, NARUC passed a *Resolution on "Information Services",* at http://www.naruc.org/Resolutions/info_services.pdf, cautioning the FCC to consider the negative implications associated with a finding that IP-based services are subject to Title I jurisdiction, including the (i) uncertainty and reduced capital investment while the FCC's authority under Title I is tested; (ii) loss of consumer protections applicable to telecommunications services under Title II; (iii) disruption of traditional balance between federal and State jurisdictional cost separations; (iv) increased risk to public safety… content; (vi) loss of State and local authority over emergency dialing services…" Those warnings remain valid today. See also, NARUC's 2008 *Resolution Regarding the Interconnection of New Voice Telecommunications Services Networks*, online at: http://www.naruc.org/Resolutions/TC%20Interconnection.pdf ("NARUC applauds the numerous advances in technology . . . to enable the efficient transmission of voice telecommunications traffic and the continued successes in developing innovative means to deliver voice telecommunications services . . . it is in the public interest for telecommunications carriers to interconnect their networks to exchange traffic in a technologically neutral manner, as provided for under Sections 251 and 252.") See also, NARUC's February 2012 *Resolution on Mandatory Reporting of Service Outages by Interconnected Voice over Internet Protocol Service Providers*, asking the FCC to, *inter alia*, extend the mandatory service outage reporting requirements in 47 C.F.R. Part 4 to interconnected VoIP service providers.

[2] Some argue some technology specific rules may be needed to address the reduced resiliency of wireless and fiber networks. But there is no question that competing services should face similar rules. Both rely more on commercial power both at the network level and at the customer premise. The battery backup system installed with FiOS service is the responsibility of the consumer, after one year. There is a similar question, given the increasing number of wireless-only households, of backup power to cell towers. NARUC has raised concerns about the problem and will be having a panel on the interdependencies between the telecom and energy sectors at our conference in November.

First, we regulate where competition[3] is not vigorous enough to adequately protect consumers. Where competition is sufficient to protect consumers and insure market choice and innovation, then there is little need for regulatory oversight.

Second, we intervene to impose public interest obligations. Regardless of the level of competition, some oversight is always necessary to provide things the market will not. This includes consumer protection mechanisms, local number portability,[4] interconnection between competing carriers, prioritization of restoration of services after disasters, 911 service, disabled access and universal service.

By definition, competition is unlikely to either yield "comparable services at comparable rates" between urban and rural high-cost areas or provide appropriate interconnection between carriers with widely divergent market power. One need only compare the services in Vermont to the high-speed fiber-based offerings in more lucrative markets to understand this reality. And Vermont is not alone. The status of competition and high-speed services in my State is similar to many other parts of the country.

Why are we having this hearing? FCC Inaction on Crucial Classification Questions.

Packet-based services have been a feature of the network for decades. The migration from the dedicated pathways characteristic of the circuit-switched network to router-based communications, while more recent, has also been with us since at least the early 2000's if not before. This "evolution" to all-IP-based communications has been underway for several years. Already "[t]he Commission's own 477 data indicates that perhaps as high as 30% of all U.S. Voice traffic is being switched using IP-based SIP/IMS systems now, often over highly managed IP networks in order to maintain effective Quality of Service and Quality of Experience guarantees."[5] One of the requests that has sparked greater scrutiny of so-

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[3] Experts will always argue about how to define a competitive marketplace or what level of competition is needed to eliminate market power concerns but that is a different question and debate, but that is a broader question than the one facing policy makers under the current law. Here the question is, does the 1996 Act allow the FCC to treat functionally equivalent services differently under an ad hoc (FCC-created) regulatory regime.

[4] Number portability, which unquestionably facilitates competition, had to be forced on the wireless industry at a time when many considered that sector to be the poster child for a competitive market.

[5] See, the July 19, 2013 *Reply Comments of Shockey Consulting*, in FCC WC Docket No. 13-97 et al., at 4, available online at: http://apps.fcc.gov/ecfs/document/view?id=7520931878.

called "transition issues" associated with the wireline transition that is the subject of this hearing was AT&T's relatively recent request for "wire center deregulation" trials. Presumably that's one reason why Mr. Cicconi was invited to testify. AT&T, however, began rolling out its U-verse services, which utilize existing copper facilities for last-mile access, in 2006. According to "Wikipedia", it added U-verse Voice almost six years ago in January of 2008. It *already* has at least 2.7 million VoIP customers utilizing the service.[6] It also announced in 2012 plans to expand and enhance its wireline IP network to 75% of all customer locations by the end of 2015.

The AT&T request, on its face, raises the question of why trials are needed now? And why are policy makers still talking about this technology almost 6 years after VoIP service was rolled out to almost 3 million AT&T customers – and at least 30 percent of traffic on the network is already IP-based?

Apparently, AT&T has had no significant problems rolling out the service to date. Indeed, the company alleged in its February 25, 2012 Reply Comments (GN Docket No. 12-353, at 21) that only 21 percent of residential housing units in States where AT&T is an ILEC will still subscribe to ILEC POTS services *by the end of this year*. Similarly, Verizon began deploying its fiber-based FiOS service to homes and businesses about seven years ago.[7]

Obviously, the transition is well underway, and the major reason why issues remain is that policy makers – predominately at the FCC – have focused on the wrong issues. Congress established the framework in the 1996 Act. Values incorporated in that legislation include consumer protection, universal service and competition. Without new legislation, the FCC is not free to abandon these goals. And yet, that appears to be exactly what the agency is doing by singling out one technology – VoIP – for special treatment rather than focusing on the service provided to consumers.

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[6] See, AT&T U-Verse (from Wikipedia, the free encyclopedia): http://en.wikipedia.org/wiki/U-verse (Last Accessed on August 2, 2013).

[7] Krause, Reihhardt, "Will Verizon Go Wireless-Only and Spinoff FiOS?" *Investor's Business Daily* (9/26/13): http://news.investors.com/technology/092613-672670-speculation-verizon-restructures-to-go-all-wireless.htm?ven=rss&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed:%20InternetTechnologyRss%20%28Technology%20RSS%29.

The transition is not about regulation or deregulation. The FCC has ample tools in the 1996 legislation to eliminate unneeded regulation.[8]

Nor should the debate be technology-focused.

Instead, FCC Policy makers should, as Congress required, adopt a *functional approach* to defined services.

The 1996 Act is far from a model of perfection. But in key areas, it does properly focus on services – not the technologies used to provide those services. The FCC should do the same.

What Congress intended is obvious on the face of the 1996 legislation. It expected States and the FCC to work together to facilitate competition, broadband deployment, and universal service.[9] It is no accident that the definition of "telecommunications services" is technologically neutral.[10]

Laudably, Congress did not expect either federal or State regulators to intervene in the market to protect competitors based on the technology they use to provide service. But that is the result of the FCC's inaction. Rather than inventing new legal theories with no statutory support specifically to avoid classifying "VoIP Telephony," as the FCC did in the November 2011 *USF/ICC Transformational Order*, the agency should just classify the service.[11]

For over 10 years, the agency's inability, under both Democratic and Republican Chairmen, to provide needed certainty by classifying VoIP services as either a "telecommunications service" or an

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[8] See, e.g., 47 U.S.C. § 160(c) ("Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers."). See also, 47 U.S.C. § 253.

[9] See, e.g., 47 U.S.C. §§251-2, 254 (1996).

[10] According to Congress,"[t]he term "telecommunications service" means the offering of telecommunications for a fee directly to the public…regardless of the facilities used."47 U.S.C. §153 (46). {emphasis added} "The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. §153 (43).

[11] See, e.g., *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011), at ¶¶ 76-77.

"information service" has continued to undermine the telecommunications market and spawn a plethora of unnecessary agency and court proceedings.

It has left this question unresolved for over 10 years creating the regulatory arbitrage that undermined the intercarrier compensation system and is the *raison d'être* for the call completion problems that continue to plague rural businesses and homeowners in each of your states. It has also left some consumers who choose IP-based services with fewer protections than users of the older circuit-switched/copper network have, even though, from the consumer perspective, the voice service offered is exactly the same.

NARUC, the States, and industry stakeholders continue to waste significant resources, all at the ultimate expense of the taxpayer and ratepayers, on proceedings that would be unnecessary if the FCC acted.

An FCC-blessed "real-world VoIP interconnection trial" will not help the Commission clarify the statutory basis for incumbent LECs' duty to provide VoIP interconnection. That clarification begins and ends with an interpretation of the statute.

Similarly, the outstanding FCC separate rulemaking to determine if 251 and 252 safeguards apply to VoIP interconnection is a waste of time if the service is properly classified. There is no question such interconnection is technically feasible – AT&T and Verizon manage that on their own networks.[12]

And of course the FCC's inaction has had a ripple impact on a range of State proceedings (and policies) too, even in Vermont,[13] requiring us to grapple with classification issues that should have been resolved 10 years ago.

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[12] The only evidence available strongly suggests that the biggest obstacle to establishing VoIP interconnection agreements is incumbent LECs' unwillingness to do so—*not* any technical issues related to VoIP interconnection. See July 8, 2013 *Comments of Comptel*, filed in the FCC's GN Docket No. 13-5, at 9, available online at: http://apps.fcc.gov/ecfs/document/view?id=7520928883 ("The RBOCs, such as AT&T and Verizon, nevertheless, continue to refuse to enter into VoIP interconnection agreements that would comply with the simple competitive protections of those statutory provisions, such as public disclosure, opt-in rights and arbitration (should negotiations fail).")

[13] See, e.g., *In re: Investigation into Regulation of Voice over Internet Protocol Services*, 2012-109, 2013 VT 23 (Filed 29-Mar-2013) Vt. Supreme Court, online at: http://info.libraries.vermont.gov/supct/current/op2012-109.html

NARUC is on record pointing out the obvious.[14]

The definition of "telecommunications services" in the Act is functional and the voice services provided by all the major carriers, e.g., AT&T, Verizon, Comcast, Cox, etc. meet that definition. Significantly, oversight of VoIP services provided by these carriers has absolutely nothing to do with either the internet or peering arrangements. Indeed, both Verizon and AT&T assure their customers that their VoIP services are not Internet services. See, http://newscenter.verizon.com/press-releases/verizon/2010/fios-digital-voice-heres.html ["To understand the features and quality of FiOS Digital Voice, you first need to know that the service is not the same as the services you get with a little Internet adapter for your modem and phone, *and it does not ever touch the public Internet.*"]; (emphasis added); See also, www.att.com/esupport/article.jsp?sid=KB401031#fbid=L8RYx19uzva ["AT&T U-

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[14] See, May 28, 2005 *Comments of the National Association of Regulatory Utility Commissioners* filed *In the Matter of IP-Enabled Services*, WC Docket 04-36, at http://apps.fcc.gov/ecfs/document/view?id=6516199621, at page 6:

> In § 153(46), Congress made clear that distinctions in technology deployed to transmit voice communication are not relevant in classifying a service as a "telecommunications service." 47 U.S.C. §153(46). Congress' definition of "advanced telecommunications capability" in § 706 likewise makes clear that such capability is "without regard to any transmission media or technology" and "enables users to originate and receive high-quality voice …telecommunications using any technology." 47 U.S.C. §157 (reproduced in note thereto). The fact that any service uses IP technology rather than some other technology to deliver its voice telecommunications service is immaterial to a proper classification of the service. By mandating technology neutral determinations, Congress intended that functionally similar services, like basic telecommunications services, be classified similarly. Indeed, the FCC has affirmed elsewhere that telecommunications services are not limited to those employing circuit-switched technology.[14] [Footnote 14 - *In re Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 13 FCC Rcd 24011, 24032, ¶ 41 (1998). ("Nothing in the statutory language or legislative history limits these terms to the provision of voice, or conventional circuit-switched service. . .The plain language of the statute thus refutes any attempt to tie these statutory definitions to a particular technology").] Moreover, a focus on the functional nature of particular VoIP services *from the end user's standpoint* is consistent with the *1998 Universal Service Report,* where the FCC correctly observed, "Congress' direct[ed] that the classification of a provider should not depend on the type of facilities used … Its classification depends rather on the nature of the service being offered to customers." They also noted: ". . a telecommunications service is a telecommunications service regardless of whether it is provided using wireline, wireless, cable satellite, or some other infrastructure." *Universal Service Report* at ¶ 59.[] The nature of the service in turn "depends on the functional nature of the end-user offering." Id. at ¶86.

verse Voice service is provided over AT&T's world-class managed network and *not the public Internet*."] (emphasis added).[15] As Comptel noted in a recent pleading:

> [I]n their advocacy, AT&T and Verizon . . . repeatedly confuse the IP Interconnection at issue here with Internet peering and transit arrangements that are irrelevant in the managed VoIP environment that exists today. Perhaps one day AT&T and Verizon will forgo its managed voice services (including its existing VoIP products such as UVerse and FiOS which they clearly market to consumers as not being provided over the Internet) and offer only OTT [over the top] voice products to which all its customers - even enterprise customers - will subscribe and for which the Internet peering and transport arrangements might suffice. But that day is not today and not likely anytime in the near future due to the security and quality of service expected by most consumers for voice.[16]

Congress has already established the framework for negotiating interconnection agreements. As Commissioner Rosenworcel (D) recently testified: "Congress, in laying out the definitions at the front of the Communications Act, speaks to telecommunication services *regardless of the technology used*."[17] Commissioner Pai (R) agrees:

> "Section 251 of the Communications Act specifies, among other things, that telecommunications carriers have "the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.'' When discussing interconnection, this provision neither mentions any particular technology that may be used by a telecommunications carrier nor distinguishes between telecommunications carriers using different technologies."[18]

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[15] Nor is regulating a utility service provider, like Vonage, and the few others that actually do use the internet to provide "over-the-top" voice services, "regulating the internet" anymore that regulating financial services, gambling, banks, drug companies, or insurance businesses that, like Vonage, do not own or control any part of the public internet, but do provide services only ***through*** the internet, is "regulating the internet." Do policy makers care if people die because they expect 911 services to work properly and they do not? The FCC has said yes – after several people did die – and imposed 911 services on nomadic VOIP providers like Vonage. Should Vonage and other over-the-top providers be subject to CALEA (law enforcement) requirements? What about contributing to the universal service program – an obligation that only falls on "telecommunications service" providers in the 1996 Act? Again, the FCC, under the last Administration, has said yes and yes. The reasons for imposing these obligations have nothing to do with the technology used to provide the service and everything to do with the characteristics of the offering – which fits squarely within Congress' definition of "telecommunications services." Vonage is positioned exactly like other resellers – other than the service quality of their offering has the reputation of being not quite as high as resellers that use the PSTN or managed VoIP services.

[16] See July 8, 2013 *Comments of Comptel*, filed in the FCC's GN Docket No. 13-5, at 4, available online at: http://apps.fcc.gov/ecfs/document/view?id=7520928883

[17] Transcript, July 10, 2012 House Committee on Energy and Commerce, Subcommittee on Communications and Technology, Hearing on FCC Oversight.

[18] S. Hrg. 112-480 - Nominations of Jessica Rosenworcel and Ajit Pai to the Federal Communications Commission, at 78 available at http://www.gpo.gov/fdsys/pkg/CHRG-112shrg75046/content-detail.html.

A change in the technology to provide the very same "functionally equivalent" service cannot allow carriers to escape State and federal universal service, disabled access, disaster recovery, law enforcement access, service quality and interconnection obligations. If the FCC is truly interested in facilitating rollout of IP services, and saving taxpayers/ratepayers money, the best thing it can do is provide legal certainty – not open-ended trials.

Where do we go from here? Partnership, not preemption.

If the FCC, as seems likely, continues to delay the IP-to-IP interconnection docket and remains intent on instigating trials, Congress should encourage the agency to first seek the obvious benefits of a fact-based recommendation from an adequately funded Federal-State Joint Board. Indeed, once it became clear that the FCC was moving forward with a "trials" based approach, NARUC passed a resolution, a few months ago at our summer meetings.[19] The selection and details of any proposed trials can only benefit with significant state involvement. That resolution points out specifically that the current:

> Federal-State Joint Board on Universal Service has the unique experience and collaborative and technical capabilities to advise the FCC on behalf of the States regarding the design, geographic application, selection of applicants and evaluation of telecommunications technology trials and any subsequent policy recommendations necessary to maintain and advance the statutorily protected universal service concept which entails the fundamental entitlement of end-user consumers to have affordable and reliable access to advanced voice telecommunications and broadband services.[20]

This is the most logical way to proceed.

Congress has already recognized, in many ways, the reservoir of useful experience and information residing at the State level. For example, in the 1996 Act, Congress specified that States, which have both the experience and the resources, should handle interconnection negotiations.[21] Indeed, in the single most preemptive provision in the 1996 legislation, Congress specifically reserved State

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[19] See, *Resolution Concerning Numbering and Technology Transition Trials for Voice over Internet Protocol and Other IP-Enabled Services (July 24, 2013), which is available online at: http://www.naruc.org/Resolutions/Resolution%20Concerning%20Numbering%20and%20Technology%20Transition%20Trials%20for.pdf*

[20] Id.

[21] See, 47 U.S.C. §251-2 (1996).

authority over both universal service and service quality.[22] Moreover, in 1996, Congress enhanced the Joint Board provision - requiring a specific type of Joint Board to address universal service issues. Congress recognized the FCC's limited resources along with State commissions proximity and long experience in oversight.[23] Even the FCC has, in several contexts, "recognize[d] . . . that [S]tates play a vital role in protecting end users from fraud, enforcing fair business practices, and responding to consumer inquiries and complaints."[24] In the last few years, the State laboratories of democracy have been busy, with over 20 States legislatures adopting laws scaling back oversight of IP-based services to varying degrees. The States remain at the bleeding edge of telecommunications policy.

State deregulation experiments can inform policy makers at all levels. Competition does not sprout up uniformly. Market by market analysis will be required and this is where States as the "boots on

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[22] 47 U.S.C. Section 253, which is unquestionably the broadest grant of preemptive authority provided to the FCC in the entire statute – allowing the FCC to preempt ANY state or local law that has the effect of prohibiting ANY telecommunications service provider from entering a market - still explicitly reserves State authority over *inter alia*, service quality and universal service. ("Nothing in this section shall affect the ability of a State to impose on a competitively neutral basis and consistent with Section 254…requirements necessary to preserve and advanced universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers.")

[23] See, e.g., the Draft *NARUC Federalism Task Force Report: Cooperative Federalism and Telecom in the 21st Century*, online at: http://www.naruc.org/Publications/Draft%20Federalism%20Task%20Force%20Report.pdf. Important note – this draft has not yet been adopted by NARUC. Action is expected on the draft at NARUC's upcoming meetings next month. However, the June 2013 draft, at 4, accurately describes the federal state collaboration expected by Congress:

> The idea of the States and the FCC working jointly to identify and resolve end user and carrier issues and ensure competition is a central part of TA96. The Act envisions collaboration between the FCC and the States in determining end-user needs, promoting on-going competition between providers and technologies, providing universal service, ensuring public safety and privacy, and protecting consumers from illegal and unfair practices. The Act shares regulatory jurisdiction over communications between the States and the federal government. It divides responsibilities along the traditional lines of inter and intrastate communications but looks to the States to provide insight into the needs of their residents, to ensure that comparable service is available to all users regardless of location, and to encourage competition and the universal availability of service by ensuring that providers interconnect their networks, regardless of the technology those networks use. The Act also recognizes that the States have specific expertise in many areas, particularly those requiring investigation and adjudication. The Act also creates specific mandates for the States and the FCC to work together through . . . Joint Boards to evaluate issues and recommend solutions to problems.

[24] *In the Matter of Preserving the Open Internet Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, FCC 10-201 Report and Order, (rel December 23, 2010) mimeo at 66, note 274 available online at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-201A1.pdf.

the ground" are valuable partners. A one size fits all approach cannot work. It is only logical that that partnership forms the foundation for oversight going forward. For the same reasons, the FCC should utilize the Joint Board process before proceeding with any additional "transition" trials.

In November 2012, NARUC President Philip Jones chartered a task force on Federalism to review NARUC's 2005 policies and paper and to determine any changes to those policies required by the changing communications landscape. The final draft of the resulting whitepaper has been publicly circulated and will be considered and likely passed at the NARUC Annual Meeting in November. At its foundation are core principles in line with that of the 1996 Act: consumer protection; network reliability and public safety; competition; interconnection; universal service; and regulatory diversity.

The FCC's Sean Lev and Rebekah Goodheart, who are chairing the internal FCC task force on the transition, have had several exchanges with the NARUC's Task Force on transition issues. As those exchanges recognize, we in the States are well positioned to work with our FCC counterparts as communications networks evolve.

While technologies change the expectations of consumer do not. Consumers expect the same level of service and protections they are accustomed to.

The FCC should continue to work with States to assure that policymakers at all levels have the information and data needed to fully evaluate impacts of the network evolution and the regulatory gaps. Thank you for your time and I look forward to any questions you may have.