Federal Communications Commission
Office of Legislative Affairs
Washington, D.C.20554

Office of the Director

August 28, 2014

The Honorable Greg Walden
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Walden:

Enclosed please find responses to the Questions for the Record submitted for Chairman Tom Wheeler regarding his appearance before the Subcommittee on May 20, 2014, at the hearing entitled, "Oversight of the Federal Communications Commission."

If you have further questions, please feel free to contact me at (202) 418-0095.

Sincerely,

Sara W. Morris

Sara W. Morris

Enclosure

cc (with enclosure): The Honorable Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology
Committee on Energy and Commerce

Responses of Chairman Tom Wheeler to
Additional Questions for the Record
May 20, 2014, Hearing on "Oversight of the Federal Communications Commission"

The Honorable Greg Walden

1. In light of the Commission's proposed deferral of the Skilled Nursing Facility pilot program designed to increases access and connectivity for rural health providers, how does the Commission plan to ensure that skilled care facilities (SNFs) will be able to benefit from access to Universal Service Funds? More specifically, can you outline the FCC's current efforts to: (1) increase access to broadband for health care providers, particularly SNFs that serve rural areas; and (2) foster the development and deployment of broadband health care networks and the Commission's plans to incorporate SNFs and other long-term care providers into those programs?

   RESPONSE:

   In 2012, the Commission released a *Report and Order* that created the Healthcare Connect Fund to reform, expand, and modernize the Rural Health Care Program. The Healthcare Connect Fund provides support for high-capacity broadband connectivity to eligible health care providers and encourages the formation of state and regional broadband health care provider networks. In adopting the Healthcare Connect Fund, the Commission also established a three-year, $50 million SNF Pilot to test how to support broadband connections for skilled nursing facilities.

   As you note, implementation of the SNF Pilot was deferred pending the Commission's consideration of health care related proposals outlined in the *Technology Transitions Order*. Although ineligible for funding under Healthcare Connect, skilled nursing facilities may still be part of a network in the Healthcare Connect Fund and take advantage of the economies of scale that are driven by bulk buying and competitive bidding. The Commission has been working with the skilled nursing facility community to educate them about how they can utilize the Healthcare Connect Fund, and I welcome further dialogue with you and other stakeholders about how we can ensure they are aware of this opportunity.

2. The Consumer & Governmental Affairs Bureau has pending before it a number of petitions seeking clarification of the Commission's rules promulgated under the Telephone Consumer Protection Act ("TCPA"). Several of these have been filed by businesses seeking clarity of the rules to ensure that they may contact customers with whom they have an established relationship without violating the law. Please update us on the current status of these petitions.

   RESPONSE:

   Multiple issues are raised in the petitions, including calls and texts to wireless telephone numbers, autodialed or prerecorded telemarketing calls, and fax advertisements, among other matters. The petitions present a wide variety of specific questions about the application of the TCPA and the Commission's implementing rules, including what types of equipment are covered by the statute, how callers can obtain consent from consumers

for calls and texts to wireless numbers, and which parties are liable for TCPA violations. To build a full record on which to base resolution of such issues, the Consumer and Governmental Affairs Bureau routinely issues *Public Notices* seeking comment on all TCPA petitions. We are reviewing the records for these petitions and plan to have many of them resolved within the next several months. Our strategy for efficiently and effectively resolving the petitions includes grouping petitions together where there are common issues. This approach will likely include an order currently under active consideration that is intended to resolve more than one-third of the pending TCPA petitions.

3. We understand that there are nearly 40 petitions for eligible telecommunications carrier (ETC) designation in the federal jurisdiction states that have been pending with the Commission for up to 4 years. Please provide a status update on:
   a) the number of pending petitions,
   b) how long each has been pending, and
   c) the plan and timeframe for resolving this backlog.

   RESPONSE:

   There are 40 pending ETC petitions. Almost all of these petitions concern carriers that are seeking ETC designations in order to resell Lifeline services only (as opposed to seeking designation to provide high-cost and low-income services, including Lifeline). The two oldest petitions were filed on December 30, 2009 and December 29, 2010; 8 petitions were filed in 2011, 19 in 2012, and 11 in 2013. A list of petitions with the filing date is below:

Petitioner	Date Filed
Consumer Cellular, Inc.	12/30/2009
Boomerang Wireless, LLC	12/29/2010
OneLink Wireless, LLC	2/8/2011
Nexus Communications, Inc.	4/5/2011
Budget PrePay, Inc.	4/18/2011
TAG Mobile, LLC	6/7/2011
TerraCom, Inc.	6/13/2011
PlatinumTel Communications, LLC	8/5/2011
Cintex Wireless, LLC	8/29/2011
True Wireless, LLC	12/22/2011
Q Link Wireless, LLC	1/5/2012
Kajeet, Inc.	3/12/2012
Total Call	3/16/2012
Global Connection Inc. of America	4/4/2012
Telrite Corporation	4/4/2012
IM Telecom dba Infiniti Mobile	4/16/2012
SI Wireless, LLC	4/23/2012
Tempo	4/27/2012

Petitioner	Date Filed
EZ Reach Mobile, LLC	5/10/2012
Blue Jay Wireless, LLC	5/21/2012
Linkup Telecom, LLC	5/22/2012
You Talk Mobile -Federal, LLC	6/19/2012
Tele Circuit Network Corporation	7/6/2012
Airvoice Wireless, LLC	8/6/2012
Free Mobile, Inc.	9/13/2012
LTS of Rocky Mount, LLC	10/31/2012
Prepaid Wireless Retail, LLC dba Odin Wireless	12/10/2012
Flatel Wireless, Inc. dba ZING PCS	12/14/2012
Telscape Communications Inc.	12/19/2012
Assist Wireless, LLC	1/4/2013
Talk N Text Wireless, LLC dba TNT Wireless	1/4/2013
TelOps International, Inc., dba AmTel	1/18/2013
FedLink Wireless, Inc.	1/28/2013
Amerimex Communications Corp.	2/22/2013
U-Phone, LLC	4/4/2013
Millennium 2000, Inc.	4/5/2013
Vast Companies, LLC dba Vast Communications	4/5/2013
American Broadband and Telecommunications Company	6/6/2013
Buffalo-Lake Erie, Wireless Systems Co. dba Blue Wireless	8/16/2013
Sage Telecom Communications, LLC	12/18/2013

In 2008, the Commission made changes to the Lifeline program which allowed a substantial number of ETCs into the market. As soon as the Commission became aware that additional protections were necessary, we shifted resources away from facilitating Lifeline market entry towards reforming the Lifeline program to eliminate waste, fraud, and abuse. These efforts culminated in the *2012 Lifeline Reform Order and FNPRM* that mandated significant reforms to the Lifeline program with the goal of saving the Fund $2 billion by the end of 2014. The Commission has been focused on implementing those reforms and is on track to meet the $2 billion savings target. One of the major reforms was to establish a database to address the problem of duplicative support in the Lifeline program. The implementation of the National Lifeline Accountability Database (NLAD) was a cornerstone piece of the 2012 Lifeline reforms. The process of eliminating duplicative subscribers detected by the NLAD during the loading process is now nearly complete.

With those reforms well underway, the program is now on firmer footing and the Commission can direct resources toward examining the pending ETC petitions more closely. The Commission is now actively working on plan to review these petitions in an expeditious manner.

The Honorable Lee Terry

1. Chairman Wheeler, in your testimony, you indicated that the FCC should preempt states that either limit or prohibit municipal broadband networks. Nebraska law generally prohibits municipal broadband except public power utilities can provide wholesale services under limited conditions. As the FCC's own National Broadband Plan cautions, "municipally financed services may discourage investment by private companies." We can agree that the deployment of broadband networks involves substantial up-front investment costs. Why should the FCC preempt the determination by a state like Nebraska that the potential benefits of municipal broadband are outweighed by its potential to harm private investment?

RESPONSE:

The deployment of advanced broadband networks is critical to our Nation's future. Broadband is a powerful platform that encourages economic growth and facilitates improvements in education, health care, public safety and other key policy areas. This is particularly true for small and rural communities, where the availability of high quality broadband can be the difference between economic decline and a vibrant future.

Private sector incumbent telephone and cable companies have invested billions of dollars in broadband deployment in the past decade. That investment has been of great benefit to our Nation in many ways. However, that investment has not reached every corner of America. Around the country, communities have focused on the importance of ensuring that their citizens receive the benefits of broadband, and some have concluded that investing in their own broadband efforts - or authorizing others to invest on their behalf - will provide more competition and the economic and social benefits that accompany competition for their residents and businesses.

Section 706 of the Communications Act charges the Commission with ensuring that broadband is being deployed to all Americans in a reasonable and timely fashion. I believe that competition is a strong means to achieving that critical goal. Many states have enacted laws that place a range of restrictions on communities' ability to make their own decisions about their future. There is reason to believe that these laws have the effect of limiting competition in those areas, contrary to almost two decades of bipartisan federal communications policy that is focused on encouraging competition.

I respect the role of state government in our federal system, but when state laws come into direct conflict with critically important federal law and policy, it is a long-standing principle of Constitutional law that state laws can be subject to federal preemption in appropriate cases. I do not view federal preemption as a matter to be undertaken lightly. Such action must be premised on careful consideration of all relevant issues. Any Commission decision on community broadband issues will be made only after a full opportunity for comment by all interested parties in an open proceeding and a careful analysis of the specific factual, policy, and legal issues involved, including any evidence presented regarding the potential impact of community broadband on private investment. I assure you that the final decision on these issues will be based on a careful analysis of the full record in agency proceedings.

2. Mr. Chairman, the Public Assistance Reporting Information System is an information exchange system designed and operated by the Administration for Children and Families within the U.S. Department of Health and Human Services. This database helps state public assistance agencies validate applicant data for Federal assistance programs. In its Report No. 01-935 entitled 'PARIS Project Can Help States Reduce Improper Payments,' the Government Accountability Office endorsed PARIS as a model system for validating Federal assistance applicants. Why hasn't the FCC advocated for PARIS to be used to validate Lifeline program applicants?

   RESPONSE:

   Since the release of the *2012 Lifeline Reform Order & FNPRM*, the Commission has been working closely with its Federal and State partners to establish an electronic means for verifying Lifeline program applicants. Much of the data necessary to determine who qualifies for Lifeline is housed at the State level. Commission staff has encouraged State efforts to establish an electronic means for verification of Lifeline applicants. As part of its work with Federal agencies, the Commission earlier this summer released a joint letter with the United States Department of Agriculture (USDA) in which the USDA designated Lifeline as a "Federal Assistance Program" pursuant to Section 11(e)(8)(A) of the Food and Nutrition Act. By taking this step, state Supplemental Nutrition Assistance Program (SNAP) administrators are now required to disclose SNAP information to Eligible Telecommunications Carriers (ETCs) and state Lifeline administrators for the purposes of verifying Lifeline eligibility.

   In the *2012 Lifeline Reform Order and FNPRM*, the Commission identified the Public Assistance Reporting Information System (PARIS) as a database that could potentially provide assistance in verifying the eligibility of Lifeline applicants. The Commission is working alongside the Administration for Children and Families (ACF) and other agencies to explore whether PARIS and any other federal databases may help in developing an electronic means for verifying Lifeline subscriber eligibility.

3. At the FCC budget hearings for FY 2015 several weeks ago, Chairman Wheeler, you mentioned "heads on a pike" in the context of Lifeline abusers. You also stated that you "created a strike force focused on attacking 'waste, fraud and abuse' and the need for 'more muscular enforcement,' with investigators and auditors rather than simply lawyers." Several companies have been issued Notices of Apparent Liability (NALs), and it is my understanding that these NALs were based on the In Depth Validation (IDV) process. How does the IDV process work, and is this process driven by the Universal Service Administrative Company (USAC) or the FCC? Are you looking at ways to enhance the review methods, or are they working as they are currently structured?

   RESPONSE:

   The Commission has worked diligently to eliminate duplicative subscriptions in the Lifeline program. Earlier this year, the Commission and USAC together launched the National Lifeline Accountability Database (NLAD). Now that the database is on-line, no Lifeline provider can enroll a new subscriber without first confirming that no one in a prospective subscriber's household, including the prospective subscriber, is already receiving Lifeline service.

Prior to the establishment of the NLAD, the Commission directed USAC to conduct IDVs to identify and resolve instances where consumers received multiple Lifeline benefits from one or more ETCs, in violation of Commission rules. As part of the IDV process, USAC would send a letter to the ETCs requesting subscriber data and analyze the data to determine whether there were any duplicate subscribers. If USAC determined that the same subscriber had multiple Lifeline benefits from several ETCs, USAC would then send a letter to the consumer to provide them with an opportunity to select one ETC. If USAC determined that a subscriber was the recipient of multiple Lifeline benefits from the same ETC, USAC sent a letter to the ETC identifying the instances of intra-company duplicative support, sought recovery, and notified the ETC that it must de-enroll those intra-company duplicates. In addition, the Commission's Enforcement Bureau will continue to investigate potential violations of the Lifeline program rules, and to impose forfeiture penalties on ETCs that have improperly claimed Lifeline support for ineligible subscribers or have failed to de-enroll consumers who no longer qualify for the program. These enforcement actions can be based on information from individual USAC audits, tips submitted to the Bureau's dedicated Lifeline Fraud voicemail and email tip lines, and other sources identifying possible fraud in the Lifeline program.

With the NLAD in place, there is no need now for continuing these types of IDVs. Both the Commission and USAC will continue to monitor the NLAD to protect the Lifeline program from waste, fraud, and abuse.

The Honorable Brett Guthrie

1. Last week, CTIA and NTCA filed a joint proposal related to the AWS-3 auction in which they asked the Commission to make clear in its auction procedures Public Notice that down payment and final payment dates for the auction will be in early 2015. The proposal noted that uncertainly around when payments will be due could complicate bidders' financial planning for the auction and their management of cash outlays. For some small players, the financial impact of this decision could even affect their ability to finance their participation in the auction. While the Commission recently put forward additional information regarding the auction, this information has yet to be released. Do you have any update on their request or indication on when the payment dates will be for the AWS-3 auction?

RESPONSE:

On July 23, 2014, the Wireless Telecommunications Bureau released the auctions procedures *Public Notice* for the AWS-3 spectrum auction (Auction 97). The Public Notice details the timing and payment schedules for any entity participating in the AWS-3 spectrum license auction scheduled to begin on November 13, 2014. The Commission recognizes that certainty for capital planning purposes is important to participants in the auction; therefore the *Public Notice* states that the down payment deadline will be the later of January 7, 2015 or ten business days after the release of the auction closing public notice. Further, the *Public Notice* sets the final payment deadline as the later of January 21, 2015 or ten business days after the applicable deadline for submitting down payments.

The Honorable Cory Gardner

1. Colorado Telehealth Network (CTN) is a consortium of health care providers that administers the FCC's Healthcare Connect Fund in Colorado. Under the Healthcare Connect Fund Order issued by the Commission on December 21, 2012, the Commission ordered the Universal Service Administrative Company (USAC) to begin funding certain organizations on July 1, 2013 that met certain eligibility criteria. While the Colorado Telehealth Network has fully met that criteria, USAC's portal is still not fully functional which necessarily delays CTN's critical path over the next 12-18 months. Without the full deployment of this critical functionality, which is essential for CTN's strategic plan to double the number of connected health care sites in Colorado from 200 to 400, CTN does not possess the ability to move ahead with strategic network expansion and operations.

   Now approaching one year after its strategic target date for execution, Colorado's safety net health care providers stand at risk by being unable to apply for critical funds that could greatly benefit patients and communities due to ongoing delays with USAC's online portal. While CTN has clearly demonstrated a willingness to work with USAC staff in addressing functionality issues, CTN has been provided no timeline when they can expect full functionality of USAC's online portal nor is CTN receiving updates as to the progress USAC is making in this regard. Further, USAC has had a lack of leadership without a CEO for many years, thus compromising the efficacy of programs like the Rural Health Care Program.

   - When will the portal be fully functional? Until that time, what plan does USAC have in place for working with CTN to provide updates on this process?
   - Does USAC or the Commission have a plan in place to reduce the unreimbursed administrative burden on consortium leader participants as mandated by the Order? How does the proposed plan accomplish this? What avenue for redress do participants have if the proposed plan is not accomplished?
   - How does the Commission intend to reform its supervision of USAC? When will a new permanent CEO be in place?

   RESPONSE:

   While the USAC on-line portal did have some initial operational difficulties, as of late spring 2014, Healthcare Connect Fund (HCF) applicants/participants have been able to file all required forms via the portal. In fact, CTN's recent HCF Form 460 was revised via the portal in July and approved in July as well. As of August 11, 2014, no CTN funding request forms or invoicing forms were pending with USAC.

   USAC continues to enhance its portal to enable applicant and service provider ease of use. USAC sends updates about its portal via e-mail to HCF subscribers. Starting in June 2014, this information was also posted to the latest news section of USAC's HCF website.

   One of the goals behind promoting the consortia concept in the HCF was to enable many small healthcare sites that might not otherwise have the resources to seek HCF funding

pool their resources through participation in consortia, and obtain the economies of scale and scope that stem from being part of a larger group. The Commission and USAC continue to monitor for opportunities to streamline the HCF application process, and Commission staff are in constant communication with USAC as part of our oversight of the Universal Service Fund, including the rural health care programs, to ensure that processes are working as intended, consistent with the Commission's rules and requirements.

Finally, I am pleased to note that USAC recently appointed Chris Henderson to be its CEO. I fully support this selection. The USAC Board of Directors conducted an extensive and thoughtful search process. And Chris's background and qualifications are ideally suited to working with the Commission as we continue to modernize the universal service fund programs.

The Honorable Anna Eshoo

1. Last summer during the CBS/Time Warner Cable dispute, I raised concerns about a troubling trend in which content providers block otherwise freely available online content to customers of select ISPs as leverage during retrans negotiations. Now, once again, we're seeing this anti-consumer practice play out in a dispute between Viacom and several small cable operators. Should programmers be allowed to selectively block freely available, online content during programming negotiations?

   RESPONSE:

   It is a matter of concern that consumers are often caught in the middle of carriage disputes between content providers and video programming distributors - regardless of whether the disputes are for broadcast station retransmission rights or for the carriage of video programming networks. The recent development of some content providers blocking all users of a particular ISP during a carriage dispute – regardless of whether the consumer is a subscriber to the video service of that distributor – is particularly troubling. We will continue to actively monitor these disputes. As in the past, where warranted, we will not hesitate to weigh in with parties to urge them to negotiate in good faith, and keep consumers' best interests at the forefront.

2. Broadband providers who oppose Title II suggest it would curtail investment and lead to market uncertainty. But as more than 100 venture capitalists and angel investors wrote to you in in a May 8th letter, Section 706 and the use of an ambiguous "commercially reasonable" standard could have the same chilling effect on innovative Internet startups. How do you propose to balance these competing views?

   RESPONSE:

   The Commission has struggled for over a decade with how best to protect and promote an open Internet. While there has been bipartisan consensus, starting under the Bush Administration with Chairman Powell, on the importance of an open Internet to economic growth, investment, and innovation, we find ourselves today faced with the worst case scenario: we have no rules in place to protect and promote the open Internet. The *status quo* is unacceptable.

The Commission has a responsibility to provide certainty, guidance and predictability to the marketplace as we protect and promote the open Internet. I believe that the Section 706 framework set forth by the court provides us with the tools we need to adopt and implement robust and enforceable Open Internet rules. Nevertheless, the Commission is also seriously considering moving forward to adopt rules using Title II of the Communications Act as the foundation for our legal authority. The *Notice of Proposed Rulemaking* adopted by the Commission in May seeks comment on the benefits of both Section 706 and Title II, including the benefits of one approach over the other, to ensure the Internet remains an open platform for innovation and expression.

The proposals and questions in the *Notice* are designed to elicit a record that will give us a foundation to adopt strong, enforceable rules to protect the open Internet and prevent broadband providers from harming consumers or competition. The *Notice* also proposes clear rules of the road and aggressive enforcement to prevent unfair treatment of consumers, edge providers and innovators. Small companies and startups must be able to reach consumers with their innovative products and services, and they must be protected against harmful conduct by broadband providers.

The *Notice* is the first step in the process, and I look forward to comments from all interested stakeholders, including members of the general public, as we develop a fulsome record on the many questions raised in the *Notice*.

3. It's my understanding that the FCC's open Internet rules were never intended to alter a broadband providers' responsibility to support emergency or public safety communications. In fact, the proposed rules you put out for comment last week speak to this very point. So do you agree that banning anti-competitive pay for priority schemes has nothing to do with public safety? Hasn't the FCC already demonstrated that you can make an exemption to ensure emergency communications, including 9-1-1 are protected?

RESPONSE:

I am especially sensitive to concerns about paid prioritization arrangements, and the potential such arrangements have for creating an Internet that is fast for a few, and slow for everyone else. Let me be crystal clear: prioritization that harms consumers or competition, or that impairs the virtuous cycle of innovation that has made the Internet such a powerful platform, is unacceptable. The *Notice* addresses this issue head-on, even asking if paid prioritization should be banned outright.

The Commission's 2010 Open Internet rules expressly did not alter broadband providers' rights or obligations to address the needs of emergency communications or law enforcement, public safety, or national security authorities. *See* 47 C.F.R. § 8.9; *Open Internet Order*, 25 FCC Rcd at 17963-64, paras. 108-10. The Commission further established that the rules did not prohibit broadband providers from making reasonable efforts to address transfers of unlawful content and unlawful transfers of content. *See* 47 C.F.R. § 8.9; *Open Internet Order*, 25 FCC Rcd at 17964-65, para. 111. We have proposed to retain this approach without modification. The *Notice* seeks comment on this tentative conclusion.

4. Through Twitter, one of my constituents asks - what are implications of the FCC's proposed net neutrality rules on political advertising?

RESPONSE:

The proposals and questions in the *Notice* are designed to elicit a record that will give us a foundation to adopt strong, enforceable rules to protect the open Internet and prevent broadband providers from harming consumers or competition, regardless of content or viewpoint. A key goal of our proceeding is ensure that the Internet remains open for all voices.

5. I commend you for the steps you've taken to rebalance the playing field during retrans negotiations, but in light of the 127 blackouts that occurred last year, I believe much more needs to be done. Should consumers be guaranteed a refund when programming they pay for goes dark?

RESPONSE:

As you note, it is our hope that the modifications we made in March to our good faith rules to prohibit joint retransmission consent agreements between two Top-4 stations in the same market will help prevent parties from obtaining undue leverage by eliminating competition between them and will potentially reduce instances of blackouts. We will continue to actively monitor when there are disputes and weigh in, as warranted, to urge the parties to reach an agreement for the benefit of consumers. With regard to the issue of refunds, I can understand the frustration of consumers when they are paying for programming that they cannot access due to a dispute between their MVPD and the programmer. I encourage video programming distributors to consider providing refunds where appropriate, especially for prolonged outages. Indeed, I believe some distributors have done this as a matter of good business practice.

6. In December, you brokered an agreement with the wireless industry that allows consumers to unlock their wireless phones and use them on any carriers' network. This agreement was applauded as pro-consumer and pro-competition. Consistent with Section 629, shouldn't consumers be able to do the same with their cable set-top box? What steps are you taking to ensure there is a successor to the CableCARD that guarantees consumers will have a choice of devices to access their pay-TV programming?

RESPONSE:

As you may know, Comcast and TiVo recently announced a partnership to collaborate on a successor technology that will support two-way and video-on-demand services and that, they suggest, can be used in other retail devices. It is my hope that the industry will work together to establish the kind of open standards that are necessary to promote a competitive market for retail devices. The Commission remains committed to the goal of Section 629 to ensure a retail market for navigation devices, and we intend to watch closely to see how the market addresses the standards issue and will take action as appropriate.

7. Earlier this year, I wrote to you regarding the use of below-the-line fees on the monthly bills of consumers. The letter stemmed from an inquiry I launched last year with several Members of this Subcommittee where we found that the combination of such charges can add as much as 42 percent to a consumer's monthly bill. Do you agree this is a problem and will the FCC take action?

RESPONSE:

In my response to your letter, I noted that I take such problems seriously and want to ensure that consumers have the protections, tools, and knowledge necessary to know, understand, and control the costs associated with their bills. The Commission has twice adopted Truth–in-Billing rules to empower consumers in the marketplace in order to further these objectives. The Commission staff is continuing to actively look into current billing practices, including the evolving issues with below-the-line fees. Once the Commission determines the best path forward to address ongoing and evolving problems, we will act appropriately to protect consumers.

The Honorable Henry Waxman

1. During the hearing concerns were raised about over 3,000 last-minute changes made to an item at midnight before the Commission voted. You never were specifically asked about those statements, however. Would you please explain?

RESPONSE:

I appreciate the opportunity to respond to these assertions. To preface, my goal is to have efficient processes at the Commission when we are making our decisions, and we can always do a better job. To help facilitate discussions and negotiations, I maintain regularly-scheduled meetings with each Commissioner to discuss the variety of issues before the full Commission and to seek their input. I also regularly discuss issues with my fellow Commissioners outside of those regular meetings. It is the prerogative of every Commissioner to weigh in with his or her views and have them considered as we discuss issues – no matter what time of day or night it is.

The assertion you reference in your question related to the Mobile Spectrum Holdings item that was adopted at the May agenda meeting. Indeed it is accurate that discussions among Commissioners and their staffs continued well past normal working hours on this high-profile and comprehensive item. I also can confirm that there were substantive edits and suggestions offered during those late-night discussions. However, by no means did the total number of substantive changes rise to the asserted *thousands* of edits.

Specifically, the 3,268 "changes" cited, and as enumerated by the Microsoft Word "reviewing pane" function, counted separately every single insertion, deletion, move, and formatting change – including changes to font, capitalization, spacing, and numbering. *E.g.*, replacing one character with another was counted as two changes – an insertion and a deletion. The vast majority of those "changes" were non-substantive staff edits. For example:

- Approximately 600 "changes" were due to changing the date and adding the official FCC number to the header of every page in the document.

- Approximately 500 “changes” were due to changes in the paragraph numbering in the table of contents and throughout the document.
- More than 1600 “changes” were due to filling in footnote citations.

Other edits included summaries, citations, and responses to arguments raised in the record during the three-week white copy period before the agenda meeting. During the three-week period prior to the meeting, there were 66 substantive new filings, representing approximately 350 pages. Staff worked diligently to reflect those filings in the final item on which the Commissioners voted.

I am committed to improving the way the Commission functions, and will continue to seek the counsel of my fellow Commissioners.