



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

Office of the Director

September 27, 2017

The Honorable Marsha Blackburn  
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 Blackburn:

Enclosed please find responses to Questions for the Record submitted for Chairman Ajit Pai regarding his appearance before the Subcommittee on Communications and Technology on July 25, 2017, at the hearing entitled "Oversight and Reauthorization of the Federal Communications Commission."

If you have further questions, please contact me at (202) 418-2242.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy B. Strachan", with a long horizontal flourish extending to the right.

Timothy B. Strachan  
Director

## Additional Questions for the Record

### The Honorable Gus M. Bilirakis

1. **The FCC is currently proposing rules that would give service providers more authority to block certain types of illegal robocalls. That way, many of these calls never reach the consumer. Some legitimate callers, such as healthcare providers, who want to make legal robocalls with consumer consent, are concerned that their calls might be blocked as well.**
  - a. **What is your opinion on the rights legal callers have, if any, to ensure their calls are successfully completed?**

Response: Lawful callers have every right to expect that the calls they place will be successfully completed. The Commission has had a long-standing policy of ensuring that phone networks work seamlessly and that the Telephone Consumer Protection Act and carriers' blocking of unlawful robocalls do not prevent legitimate callers from reaching consumers. In the *Call Blocking Notice of Proposed Rulemaking/Notice of Inquiry*, the Commission sought public input on how we can best protect consumers from illegal robocalls while ensuring that lawful calls – including those from healthcare providers – are received by consumers. For example, we sought comment on allowing carriers to block calls where the Caller ID is spoofed so that the call appears to be coming from an invalid or unassigned phone number. It is extremely difficult to see why a legitimate caller would engage in such spoofing. Moreover, we sought comment on establishing a mechanism for legitimate callers to proactively avoid having their calls blocked. The Commission also sought comment on implementing a process to allow legitimate callers to notify voice providers when their calls are blocked and to require voice providers to cease blocking such calls immediately. With appropriate protections for legitimate callers, we can achieve our ultimate goal in this proceeding of ensuring that consumers receive fewer illegal robocalls while also preserving the ubiquity and reliability of the nation's communications network.

2. **The Commission is currently considering potentially creating a “reassigned number” database so that legitimate robocallers who want to call a particular person can avoid accidentally calling the wrong person if the intended recipient has given up his phone number and it has been reassigned to someone else.**
  - a. **What do you perceive as the possible benefits resulting from such a data base?**

Response: A business or other robocaller unknowingly calling a reassigned number can annoy the new consumer, deprive the previous consumer of an expected call, and subject the caller to potential legal liability. With the *Reassigned Number Notice of Inquiry (NOI)*, the Commission took an important first step to address the issue of robocalls to reassigned phone numbers by exploring ways that businesses can verify whether a number has been reassigned prior to initiating a call. Specifically, the *NOI* sought public comment on the best way to structure a useful, cost-effective database that businesses, schools, and the like can use to avoid accidentally calling numbers that are no longer used by the consumer who gave their consent to receive these calls. Establishment of a comprehensive resource with an up-to-date list of reassigned numbers enjoys broad support among businesses and consumer advocates alike, and will benefit

consumers by ensuring that callers do not continue to place calls without realizing the number has switched hands. The Commission may move forward on further actions such as rulemakings based on the input we receive in response to the *NOI*.

**The Honorable Susan W. Brooks**

- 1. You recently proposed to add a Blue Alert code to the Emergency Alert system. Could you describe what this does?**

Response: On June 22, 2017, the Commission adopted a Notice of Proposed Rulemaking (NPRM) that proposed to add an alert option to the nation’s Emergency Alert System (EAS) to help protect the nation’s law enforcement officers. Called a “Blue Alert,” the option would be used by authorities in states across the country to notify the public through television and radio of threats to law enforcement and to help apprehend dangerous suspects.

Blue Alerts can be used to warn the public when there is actionable information related to a law enforcement officer who is missing, seriously injured or killed in the line of duty, or when there is an imminent credible threat to an officer. A Blue Alert could quickly warn people if a violent suspect may be in their community, along with providing instructions on what to do if they spot the suspect and how to stay safe.

The NPRM proposes to amend the FCC’s EAS rules by creating a dedicated Blue Alert event code so that state and local agencies have the option to send these warnings to the public through broadcast, cable, satellite, and wireline video providers. Comments on this proposal were due on July 31, 2017, and replies were due on August 29, 2017. The Commission is currently evaluating the record to determine next steps.

- 2. Your staff recently briefed the Committee on a 911 outage that occurred last March. The FCC did a report. I understand that the cause of that outage was attributable to “human error” but there are always lessons to be learned. The report also concluded that there the need for close working coordination between industry and PSAPs to improve overall situational awareness and ensure consumers understand how best to reach emergency services and the FCC was going to engage on this issue.**

- a. What has the Public Safety Bureau done since it made this recommendation to address this issue?**

Response: The March 8, 2017 AT&T Mobility Voice-over LTE 911 outage exemplified the need for continuing coordination between industry and public safety answering points (PSAPs) to improve situational awareness during 911 outages, and for ongoing efforts to improve network reliability. Accordingly, the Bureau’s Final Report committed to taking three next steps to address these issues: (1) release a Public Notice to remind industry of the importance of network reliability best practices; (2) conduct stakeholder outreach to promote these best practices; and (3) convene consumer groups, public safety entities, and service providers in the 911 ecosystem to participate in a workshop in order to discuss best practices and develop recommendations for improving situational awareness during 911 outages. The Bureau has completed each of these steps, as described below.

On July 13, 2017, the Bureau released a Public Notice encouraging communications service

providers to take measures to improve network reliability to prevent major service disruptions. The Commission's Federal Advisory Committee, the Communications Security, Reliability, and Interoperability Council (CSRIC), recommended the best practices that the Public Notice highlighted. The Public Notice also provided the industry with lessons learned from the Bureau's analysis of Network Outage Reporting System (NORS) reports on recent outages.

The Bureau used this Public Notice as a basis for stakeholder outreach to raise and reinforce awareness about network reliability best practices and lessons learned. The Bureau reached out to major service providers required to file in NORS, such as Verizon and T-Mobile, to small carrier associations, such as the Competitive Carriers Association and NTCA – The Rural Broadband Association, and to the Alliance for Telecommunications Industry Solutions's Network Reliability Steering Committee.

Finally, on September 11, 2017, the Bureau convened consumer groups, public safety entities and service providers in the 911 ecosystem to participate in a workshop. The workshop consisted of two roundtable discussions. The first roundtable focused on identifying best practices for communicating outage information among service providers and PSAPs. The second roundtable focused on identifying best practices for communicating 911 outage information to the public. The Bureau is currently evaluating the record from the workshop and identifying next steps to build upon the best practices discussed during the roundtables. The Bureau intends to present the Office of the Chairman with its recommendations within the next 60 days.

### **The Honorable Brett Guthrie**

- 1. During the hearing, we briefly discussed the Mid-band NOI, so I understand that there is a robust process in place to consider how to increase efficient and effective use of the spectrum in this range, specifically 3.7-24 GHz.**
  - a. To drill down a little further regarding incumbent licensees, is there any information you can share at this time to provide insight into how you anticipate working with these users to ensure a smooth process?**

Response: The *Mid-band Notice of Inquiry* was adopted on August 3, 2017, and comment and reply comments are due on October 2, 2017 and November 1, 2017, respectively. Our open and transparent process will allow interested parties, including incumbent licenses, to provide input on how to share the band to enhance the efficient use of the spectrum between 3.7 GHz and 24 GHz, with specific focus on 3.7-4.2 GHz, 5.925-6.425 GHz, and 6.425-7.125 GHz bands. We will work collaboratively with stakeholders, including federal government partners, to determine appropriate next steps.

### **The Honorable Bill Johnson**

**Broadband infrastructure deployment is especially important to my district in rural Eastern and Southeastern Ohio. As a member of both the Communications and Technology and Energy Subcommittees, I understand there are many factors and issues facing its successful deployment. Meaningful engagement means getting all sides of the issues surrounding pole attachments – engagement that incorporates the views of all stakeholders, such as States and localities, and**

**telecommunications and electricity providers. To better understand these issues, your responses to the below questions will be helpful.**

- 1. Chairman, this year you formed the Broadband Deployment Advisory Committee. Can you explain where pole attachments are positioned in this discussion on improving our broadband infrastructure?**

Response: I have heard from countless consumers about the importance of increasing broadband deployment and heard from numerous ISPs that access to existing poles, conduit, and rights-of-way is critical to delivering better, faster, cheaper broadband. That's part of the reason why I established the Broadband Deployment Advisory Committee (BDAC)—to provide advice and recommendations to the Commission on how to accelerate deployment of broadband by reducing and removing regulatory barriers to infrastructure investment. Among other issues, the BDAC Working Group on Competitive Access to Broadband Infrastructure is developing recommendations on measures to promote speedier and more efficient competitive access to utility poles, while ensuring safety and the integrity of existing attachments. I look forward to seeing recommendations from the BDAC on that issue.

In addition, in April, the Commission proposed and sought comment on a number of actions designed to accelerate the deployment of next-generation networks and services by removing barriers to infrastructure investment. In particular, that document seeks comment on how to reform the FCC's pole attachment rules to make it easier, faster, and less costly to access the poles, ducts, conduits, and rights-of-way necessary for building out next-generation networks. Streamlining rules, accelerating approvals, and removing other barriers, where possible, will better enable broadband providers to build, maintain, and upgrade their networks, which in turn will lead to more affordable and accessible Internet access and other broadband services for consumers and businesses alike.

- 2. Can you highlight the successes and shortcomings of 2011 FCC's order reforming pole attachment rules and rates? What is different about what the FCC is doing now? Can you please highlight what options are being considered, and what alternatives are being offered by parties involved?**

Response: The 2011 pole attachment order took some important steps towards accelerating broadband infrastructure deployment. What we're hearing from many attachers, however, is that the cost and timeliness of the pole attachment process can still be an impediment, sometimes a significant impediment, to deploying broadband.

To that end, the Commission's April *Wireline Infrastructure Notice of Proposed Rulemaking* item sought comment on a number of different options to further reform the pole attachment process to facilitate broadband deployment. First, that item seeks comment on a number of alternatives to speed access to poles, ranging from accelerating the Commission's existing four-stage pole attachment timeline to instituting a completely different pole attachment process.

Second, the item explores steps to ensure that "make ready" charges for poles are reasonable and transparent and that pole attachment rates do not reflect charges that have already been recovered as part of the make-ready process.

Third, the item seeks public input as to whether incumbent local exchange carriers should receive reciprocal access to the poles and related infrastructure of other local exchange carriers.

And fourth, the item seeks comment on the adoption of a 180-day shot clock for resolving pole attachment access complaints, which might lead to more swift resolution of pole access disputes.

- 3. You have conducted an impressive tour of the country to ascertain the needs for rural broadband. As someone that is chairing a working group on broadband deployment for Chairman Blackburn, please tell me more about the model you have used on this tour to bring folks to the table. How do you see this model working to reduce regulation, promote partnerships, encourage investment, and avoid disputes regarding pole attachments?**

Response: During my tours, I have tried to meet and hold roundtables with a wide variety of parties. Expanded broadband deployment is an important issue for a wide range of stakeholders, and it is therefore critical that we work together to advance this common goal. For example, I have tried to bring together state and local government representatives, broadband providers, representatives from the business, education, health care, and agricultural sectors, and public safety officials (for whom Next Generation 911, which involves Internet Protocol-based public safety networks, is critical) to discuss this issue. I've also tried to visit as much of the country as I can to explore these issues, from Wardensville, West Virginia to Mission, South Dakota to Flagstaff, Arizona.

- 4. This Committee is very familiar with the important role that the stakeholders involved in this debate have on American's everyday life, whether it's the energy to power one's home or the medium to connect us when far away from home. How can we ensure that grid reliability and increased broadband deployment are not mutually exclusive?**

Response: I am firmly committed to ensuring that whatever reforms the Commission undertakes with respect to broadband deployment take into account legitimate concerns about safety and the protection of existing infrastructure, including the reliability of the electrical grid. For instance, as the April *Wireline Infrastructure Notice of Proposed Rulemaking* stated with respect to pole attachments, the Commission is working "toward an approach that facilitates new attachments without creating undue risk of harm." To that end, we will be closely reviewing the submissions from, and consulting with, electrical utilities and other relevant parties that are participating in the proceeding.

**Ranking Member Frank Pallone, Jr.**

- 1. When you were asked at the hearing whether you believe in net neutrality, you said that you believe in a free and open internet. As you know, there has been some dispute about what that might mean. Many net neutrality supporters believe that a free and open internet entails firm net neutrality rules that the FCC can both enforce and police to prevent circumvention. Do you agree with that?**

Response: I believe in a free and open Internet, and the Commission is currently considering the best regulatory framework for securing that value and providing broadband providers with strong incentives to build and expand next-generation networks. Any decision that the FCC makes in

this proceeding will be based on the facts and the law, and we will look to the comments filed in the record to guide our determinations on the relevant issues. Right now, we are reviewing the extensive record that has been compiled in the proceeding, and I have made no final decision on the way forward.

2. **You recently responded to my May 18, 2017 letter on the comment periods for the net neutrality proceeding. In your response, you indicate that you are not inclined to extend the timing for the replies in the net neutrality docket because the pre-decisional draft was available to the public three weeks before the vote to adopt the Notice of Proposed Rulemaking. Please respond to the following questions about your response:**

- a. **Will you treat comments filed before the vote the same as those filed after?**

Response: As an initial matter, it is important to point out that the Wireline Competition Bureau did, in fact, extend the deadline for reply comments in the *Restoring Internet Freedom* docket by two weeks. The Bureau found that granting “an additional two weeks in which to file their reply comments [would] allow parties to provide the Commission with more thorough comments, ensuring that the Commission has a complete record on which to develop its decisions.” I supported that decision.

In terms of your specific question, the Commission will treat all comments filed in compliance with our rules the same.

- b. **When did you make the public aware that your decision to make the draft available early would substitute for extensions for replies?**

Response: I made no such decision. In fact, not only did my pre-meeting publication of the *Notice of Proposed Rulemaking* give the public three more weeks to comment on the specific text of the proposal than they received with respect to the related notice issued during the prior Administration, but also, as indicated above, the deadline for submitting reply comments in the proceeding was extended for two weeks.

- c. **As you note in your response, the public filed millions of comments in the initial filing round. Do you see comments filed before the vote the same as replies to the initial round of millions of comments?**

Response: I see all comments filed in compliance with the Commission’s rules before the vote on the Notice of Proposed Rulemaking the same as those filed after the vote.

- d. **Has any court ever approved your interpretation of the Administrative Procedure Act (APA)?**

Response: After the Notice of Proposed Rulemaking was approved by the Commission and released, the public had over three months to submit comments. That is significantly longer than the typical comment period for FCC matters and is well within the range of comment cycles that have been approved by courts under the Administrative Procedure Act.

- e. **You have decided that the public should have more time reviewing your initial draft than any edits made by your fellow commissioners. Were they consulted about this decision?**

Response: I do not believe that the premise of your question is accurate. The initial draft of the NPRM was released three weeks before the vote on the NPRM. By contrast, the comment cycle on the NPRM approved by the Commission lasted for more than three months. I therefore never made the decision referred to in your question.

**Subcommittee Ranking Member Michael F. Doyle**

1. **In April, the Commission deregulated virtually all of the market for Business Data Services. This action was radical break from where the Commission was headed mere months before – and a complete rejection of a framework put forward last year by a large coalition of companies that buy and sell in the marketplace. Despite data showing near-monopoly condition, the Commission deregulated in large part based upon a seemingly nonsensical prediction that competitive entry by “nearby” providers within a few years constituted a competitive market. The FCC has tried its hand at predications in the past – and failed- in this very proceeding.**
  - a. **As a proponent of a data-driven approach to regulating, will you commit now to the public release of a timeline to quickly define a specific, ongoing process for assessing market conditions in Business Data Services?**

Response: In the *Business Data Services Order (BDS Order)*, based on the data and other information that was part of the proceeding, the Commission found that there is substantial and growing competition in the provision of BDS in areas served by price cap incumbent local exchange carriers. Upon review of the record, the Commission adopted a new framework for BDS regulation of price cap carriers. In those counties where competitive conditions justifying pricing deregulation exist, the Commission provided for a 36-month transition to pricing deregulation for DS1 and DS3 end user channel terminations. In counties where the data did not indicate that competitive conditions exist, the Commission provided for continuing price cap regulation, with some modifications. Recognizing change will occur over time, the Commission adopted a process for updating the results of the competitive market test every three years using data collected by the Commission.

The Commission also reminded stakeholders that all telecommunications services remain subject to the Commission’s regulatory authority under sections 201 and 202 of the Communications Act of 1934, as amended, requiring carriers to provide services at rates, terms, and conditions that are just and reasonable and that do not unreasonably discriminate. If a party believes that another party is not complying with sections 201 or 202, or with the *BDS Order* and adopted rules, it may file a complaint with the Commission pursuant to section 208 of the Act. The annual tariff filing process each summer, which requires the submission of tariff review plans to support proposed revisions to rates, also provides an opportunity for FCC staff to monitor the application of sections 201 and 202 of the Act, as well as the *BDS Order*, as parties modify their tariffs to implement that *Order*.



2. **I'm disturbed by the recent revelations of internet service providers throttling consumers' services and doing so without telling their customers. These actions highlight the need for net neutrality protections.**
  - a. **While net neutrality is the law of the land, if you receive a net neutrality compliant—formally or informally—will you commit to following through on it and undergoing a full and complete investigation?**

Response: The Commission will enforce these rules just as it enforces all other rules that are on the books.

3. **Please breakdown the enforcement actions taken by the Commission by individuals, small businesses, and large businesses.**
  - a. **How many enforcement actions have been taken and what proportion of these actions have been taken against the entities in each category?**

Response: Since January 23, 2017, the Commission has taken 22 enforcement actions against businesses of many sizes, as well as individuals. For the purposes of this question, the Commission defines “enforcement action” as an action taken by the Commission resulting in a proposed or assessed monetary forfeiture, civil penalty, or settlement payment. Because we lack the relevant information to reliably categorize businesses as either large or small, for the purposes of this question I will distinguish the enterprise as being either “publicly traded” or “privately held.” Under this standard, during the relevant period, the Commission has taken one enforcement action against publicly traded businesses (5%), 13 actions against privately held businesses (59%), and eight actions against individuals (36%).

### **The Honorable Yvette Clarke**

1. **It has been several years since the Commission looked at radio ownership rules. Can you tell us your views on the current state of the radio industry and the ownership rules and whether you plan to revisit them, particularly the rules that limit one owner to a maximum number of stations in a particular market as well as a cap on the number of stations in a particular service (i.e., FM or AM)?**

Response: On August 10, 2016, the Commission adopted an order attempting to resolve the 2010 and 2014 quadrennial broadcast ownership review proceedings. As part of this recent proceeding, the Commission reviewed the local radio ownership rule and concluded that the existing rule—including the market limits and the AM/FM subcaps—continued to serve the public interest. While several parties subsequently filed petitions for reconsideration of various aspects of this order, including an element of the radio ownership rules involving the treatment of so-called “embedded markets,” no party sought reconsideration of the overall radio ownership rules. Consistent with its statutory obligation under section 202(h) of the Telecommunications Act of 1996, as amended, the Commission will once again review its broadcast ownership rules, including the local radio ownership rule, as part of its next quadrennial review proceeding. Any decision that the Commission makes in that proceeding will be based on the facts gathered in the record.

- 2. Is diversity of ownership a priority with the FCC? What efforts have you taken, or will take, in addition to the new Advisory Committee, to foster competition and diversity in ownership for broadcasting, cable, satellite, wireless, wireline, Internet – all media and telecommunications services regulated by the FCC? When will the FCC undertake the requisite Adarand Studies that will document the past and current discriminatory practices and/or regulatory actions that have prevented robust diverse ownership?**

Response: As I mentioned in my May 8, 2017, letter to you, I share your goal of facilitating competition in the video marketplace and a diverse media. Indeed, diversity in the communications industry is of such importance that I created the Advisory Committee on Diversity and Digital Empowerment (ACDDE), which met for the first time on Monday, September 25, 2017. I have identified three working groups that will assist the ACDDE in carrying out its mission: (1) Broadcast Diversity and Development; (2) Digital Empowerment and Inclusion, and (3) Diversity in the Tech Sector. I envision that these working groups and the ACDDE, as a whole, will be instrumental in ensuring that all Americans have the opportunity to participate in the communications marketplace, no matter their race, gender, religion, ethnicity, or sexual orientation. I hope this advisory committee will help the Commission take important strides towards increasing diversity throughout the communications industry and bringing digital opportunity to all Americans.

The important work of the advisory committee is just getting underway, and I look forward to reviewing their recommendations, including any proposals for further FCC action to facilitate ownership diversity. In particular, I have asked the ACDDE to develop recommendations for how to structure an incubator program that would increase broadcast diversity. In the meantime, however, I would be open to further discussions and working with you to figure out what we can do within the existing legal framework to find ways to move forward on this very important issue.

### **The Honorable Bobby L. Rush**

- 1. I have a constituent that's a facilities-based broadband provider that wants to provide high-speed broadband as a Lifeline provider to underserve people on the South Side of Chicago. It was granted a Lifeline Broadband Provider designation by the FCC in January, but in February you directed your Bureau to revoke all of those approvals, on the ground that under the Communications Act only state PUCs can grant such authority. You also said in formal statements and in many letters to Members of Congress that you support Lifeline broadband grants through the state process, and that "New companies can enter the program using this process, and I encourage them to continue to do so." BUT that isn't so: my constituent has been told by the Illinois Commerce Commission and that they can't grant designation because an FCC rule (rule 54.201(j)) preempts states from doing it. So the FCC tells them they have to go to the state, and the state responds that an FCC rule prevents states from acting. I've read the rule-- it does say that: "A state commission shall not designate a common carrier as a Lifeline Broadband provider eligible telecommunications carrier." Meanwhile, underserve people in the South Side are being deprived of broadband service under Lifeline, because the incumbent companies are getting out of Lifeline.**

- a. What can you do to fix this situation quickly? I worry that a rulemaking will take a very long time, and you haven't even started one yet.**

Response: The Commission is committed to promoting digital opportunity and access to modern communications services for the nation's low-income families. However, the Commission must always act within the legal authority given to it by Congress. State commissions continue to retain the primary authority to designate Lifeline-only eligible telecommunications carriers (ETCs), and ETCs that receive both high-cost and Lifeline funding, which are all eligible to receive Lifeline support for broadband.

Congress gave state governments, not the FCC, the primary responsibility for designating ETCs to participate in universal service under Section 214 of the Communications Act. Any ETC can receive universal service support for all Lifeline-supported services, including broadband. Section 54.201(j) of the Commission's rules only purports to limit state action with regard to Lifeline Broadband Providers (LBPs), and not to other ETC designations. States continue to play an important role in traditional non-LBP ETC designations, where state law grants them authority to do so. The statute and the Commission's rules do not prevent a state from exercising its jurisdiction to designate ETCs, which allows the designated carrier to provide and seek Lifeline reimbursement for voice and broadband services. Indeed, since February 2017, eleven companies in fourteen different states have received ETC designations to participate in the Lifeline program, including one company that was previously granted designation as an LBP.<sup>1</sup>

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<sup>1</sup> See *Application of Boomerang Wireless, LLC d/b/a enTouch Wireless, Hiawatha, Iowa, Seeking Designation as an Eligible Telecommunications Carrier in the State of Nebraska for the Limited Purpose of Offering Wireless Lifeline Service to Qualified Households*, Nebraska Public Service Commission Application No. C-4852/NUSF-105 (Feb. 7, 2017); *Petition of Boomerang Wireless, LLC EnTouch Wireless, Hawai'i Public Utilities Commission, Decision And Order No. 34431* (Mar. 3, 2017); *Illinois Electric Cooperative*, Illinois Commerce Commission, Order, 16-0191 (Mar. 22, 2017); *Midcontinent Communications Designated Eligible Carrier Application*, North Dakota Public Service Commission, Case No. PU-17-50 (Mar. 29, 2017); *Application of Midcontinent Commc'ns, A S. Dakota Gen. P'ship, for a Certificate of Convenience & Auth. to Provide Telecommunications Servs. Within the State of Kansas, & for Designation as an Eligible Telecommunications Carrier*, Kansas State Corporation Commission, Docket No. 17-MCCT-254-ETC (Apr. 13, 2017); *Application of Bommerang Wireless dba EnTouch Wireless for Designation as an Eligible Telecommunications Carrier*, South Dakota Public Utilities Commission, TC13-035 (Apr. 28, 2017); *Petition of Vitelcom Cellular Inc., for Designation as an Eligible Telecommunications Carrier – Lifeline Only*, Government of the Virgin Islands of the United States of America, Public Service Commission, Docket No. 661, Order No. 55/2017 (May 2, 2017); *Petition of the City of Burlington, Vermont, d/b/a Burlington Telecom, for Designation As an Eligible Telecommunications Carrier in the State of Vermont for the Purpose of Offering Lifeline Serv. to Eligible Low-Income Households*, Vermont Public Service Board, Case No. 8883 (May 22, 2017); *Application of BlueBird Communications, LLC, for Designation as an Eligible Telecommunications Carrier*, Wisconsin Public Service Commission, 626-TI-100 (June 5, 2017); *Petition of Peoples Telecom, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky*, Kentucky Public Service Commission, Case No. 2017-00061 (June 9, 2017); *Application of Flat Wireless, LLC d/b/a Cleartalk Wireless for Designation as an Eligible Telecommunications Carrier (ETC) & Eligible Telecommunications Provider (ETP)*, Texas Public Utility Commission, Docket No. 46667 (June 12, 2017); *The Application of Assist Wireless, Inc., for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934, as Amended*, Michigan Public Service Commission, Case No. U-18348 (July 31, 2017); *Application of Glob. Connection Inc. of Am. d/b/a Stand Up Wireless to be Designated as an Eligible Telecommunications Carrier in the State of Nevada Pursuant to NAC 704.680461 & Section 254 of the Telecommunications Act of 1996*, Nevada Public Utilities Commission, Docket No. 17-05018 (Aug. 18, 2017); *Application of Cross Cable Television, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996*, Oklahoma Corporation Commission, Order No. 667619 (Aug. 30, 2017);

These designations enable the carriers to provide Lifeline-supported voice and broadband services within the designated service areas granted by the state.

2. **Given your prior work with Securus, what, if any, consultations did you have with the FCC General Counsel on avoiding the appearance of impropriety and/or whether or not any conflict of interest existed or exists prior to your decision not to defend the FCC rulemaking in court? What was the outcome of those conversations?**

Response: The Office of General Counsel has assured me that I appropriately consulted with agency ethics officials before my participation in any matter involving Securus and that my participation has fully complied with all ethics rules.

### **The Honorable Anna G. Eshoo**

1. **Recent merger proceedings at the FCC built a record that has direct bearing on the current net neutrality rulemaking. A motion was recently filed in the net neutrality proceeding requesting modification of the protective orders in these merger proceedings to ensure that commenters have access to a narrow range of relevant, confidential information collected by the FCC during the merger review process. The FCC has previously allowed confidential information from other proceedings to be used in subsequent rulemakings when it is relevant.**
  - a. **Will you commit to ensuring that all interested commenters have access to this information in order to ensure a full and complete record in the net neutrality proceeding?**

Response: I will commit to continuing to evaluate the motion filed by INCOMPAS and the Oppositions filed in response to it as the Commission determines how best to proceed.

2. **A recent study commissioned by the Wi-Fi Alliance found that the United States will need as much as 1.6 Ghz of new spectrum for unlicensed use by 2025. This same study also showed the importance of making sufficiently large bands of unlicensed spectrum available to support next generation wireless standards.**
  - a. **What does the FCC plan to do to ensure that we meet our unlicensed spectrum needs in the coming years?**

Response: The Commission recognizes the important role of unlicensed spectrum in the communications ecosystem as well as the need to accommodate greater access to spectrum for both licensed and unlicensed services and devices. That is why we recently initiated a *Notice of Inquiry* that, drawing in part on input we have received from the unlicensed community, asks whether parts of the “mid-band” spectrum between 3 and 24 GHz might be made available for broadband services, with a particular focus on potential new unlicensed access in the upper 6 GHz band. This item shows the importance of working with stakeholders to identify new spectrum targets for unlicensed use. We are also analyzing Phase 1 results from our testing program for potential sharing in the 5.9 GHz band for unlicensed operations.

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*Application of Q Link Wireless LLC for Designation as an Eligible Telecommunications Carrier in the State of Arkansas, Arkansas Public Service Commission, Order (Sept. 6, 2017).*

- 3. Do you intend to move forward with the Notice of Proposed Rulemaking on independent programmers that was issued last year? If not, what steps will the FCC take under your leadership to bring attention to the challenges faced by independent programmers?**

Response: The record in this proceeding closed on February 22, 2017. The Commission is reviewing the record and considering next steps. On September 8, 2017, I announced the appointment of 31 members to the Advisory Committee on Diversity and Digital Empowerment (ACDDE), which includes a representative from the independent programming industry. The Committee met for the first time on Monday, September 25, 2017. The ACDDE's work will enhance the Commission's ability to promote policies favoring diversity of media voices. I hope this advisory committee will help our agency take important strides towards increasing diversity throughout the communications industry, especially for independent and minority programmers.

- 4. The E-Rate program has had a real impact in connecting schools in California and around the country to broadband. Will you commit to maintaining the current funding levels for this important and successful program?**

Response: I am deeply committed to doing everything within the FCC's power to close the digital divide. I believe an effective E-rate program—one that promotes better connectivity for students and library patrons alike—can be a powerful tool to help bridge that divide. This is why, four years ago, I said that “E-rate is a program worth fighting for.”

Unfortunately, there have been serious flaws in the administration of the E-rate program, specifically related to the process by which schools and libraries apply for E-rate funding, that are preventing many schools and libraries from getting that funding. I have asked the Universal Service Administrative Company (USAC) to provide a detailed report on plans to fix the existing problems so it can administer the E-rate program in a manner that is fully compliant with our rules and that works for applicants and participants. Currently, my focus is on reducing unnecessary red tape and making it easier for schools and libraries to apply for the program and receive funding.

### **The Honorable Doris Matsui**

- 1. The FCC's 2016 Lifeline Modernization Order required access interfaces for the National Verifier that service the needs of different users in a cost effective and efficient manner. I understand that USAC recently announced that it will not make available an application programming interface (API) connection for the National Verifier.**
  - a. Did the FCC examine what impact the lack of an API would have on eligible subscribers seeking to sign up Lifeline service? If so, please outline what barriers the lack of API might create. If not, please explain why the FCC did not conduct such an analysis.**

Response: The FCC and USAC have spent considerable time and resources developing a system that interacts with multiple federal and state resources to create a Lifeline Eligibility Database (LED). This database, along with the existing National Lifeline Accountability Database (NLAD), form the National Verifier. In designing the user interfaces for subscribers and

carriers, the FCC and USAC considered compliance with the Lifeline rules and ease of use for end-users, especially consumers attempting to enroll in the program.<sup>2</sup> The FCC and USAC ultimately chose to employ a system that preserved direct control over the consumer form's language and certifications. This system will remove from carriers the burden of ensuring that consumer enrollment forms comply with the Commission's rules in National Verifier states and will reduce consumer confusion during the enrollment process. Additionally, this system will help detect and restrict abusive practices like requesting eligibility checks without consumer consent by requiring carriers and their agents to create individual entries for each enrollment.

- b. What is the estimated cost of real time manual checks of customer eligibility against the Lifeline Eligibility Database versus the cost of allowing service providers to use an API integrated with the National Verifier? If the FCC has not estimated these costs, please explain why such an analysis has not been conducted.**

Response: The 2016 Lifeline Order established that the National Verifier would be responsible for determining subscriber eligibility for the Lifeline program. The National Verifier will determine subscriber eligibility through connections to state and federal databases. If a subscriber's eligibility can be verified using those databases, the National Verifier will provide a real-time "yes" response. If not, the subscriber will need to provide documentation demonstrating eligibility, which will be reviewed by the Lifeline Support Center. The subscriber will be able to upload the documentation to the National Verifier and eligibility determinations will be made within minutes. The FCC and USAC estimate that the eligibility verification cost of the National Verifier will be \$2 per subscriber.<sup>3</sup> This is an estimated \$3 in per-subscriber savings versus what carriers are currently estimated to spend verifying eligibility.<sup>4</sup>

- c. What are the estimated time delays for consumers as a result of manual eligibility checks? Without an API, is real time verification of eligible consumers possible? If the FCC has not estimated these delays, please explain why such an analysis has not been conducted.**

Response: The National Verifier is designed to provide automated near-real-time eligibility checks whenever possible. The National Verifier web portal is designed to collect eligibility information, documentation, and certifications in a manner that allows the system to determine the most efficient means to verify the subscriber's eligibility. Subscribers will be checked against all available federal and state data sources. If a subscriber's eligibility requires manual document review because they cannot be found in an automated data source, the Lifeline Support Center will review the eligibility documentation. Determinations based on manual review will be made within minutes during operational hours.

- 2. I understand that as part of the process of migrating customers to the National Verifier, subscribers enrolled prior to July 2017 may have to provide new and potentially duplicative documentation to re-demonstrate eligibility for the program.**

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<sup>2</sup> Details about design development and system capabilities are included in the National Verifier plan submitted to the FCC by USAC. See USAC, National Verifier Plan (July 2017), <https://usac.org/res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf> (*National Verifier Plan*).

<sup>3</sup> *National Verifier Plan* at 87.

<sup>4</sup> *Id.*

- a. **Did the FCC consider potential barriers this may create for eligible Lifeline subscribers?**

Response: The FCC has endeavored to create a robust and efficient National Verifier to strengthen the integrity of the Lifeline program by minimizing fraud, waste, and abuse. In creating the National Verifier, the FCC and USAC seek to leverage and improve existing enrollment and certification practices while not allowing weaknesses in existing enrollment processes to damage the integrity of the National Verifier. Upon launch of the National Verifier in each state, the FCC and USAC must ensure that the Lifeline program provides support only for eligible subscribers in National Verifier states. The National Verifier will accomplish this by confirming the eligibility of all possible subscribers through automated connections to federal and state data sources, but we anticipate that a small percentage of subscribers will need to use documentation to demonstrate their eligibility. The FCC and USAC chose the July 2017 timeframe for allowing legacy documentation to be used to determine current Lifeline eligibility by balancing the risks of allowing outdated subscriber documentation against the burden on subscribers. This will ensure that subscribers in the National Verifier database have had their eligibility confirmed within a year, thus fulfilling the recertification requirement for many subscribers.