

Resources

FCC Reimagines High Cost Support in Rural and Remote America and on Tribal Lands

June 16, 2014

On June 10, 2014, the Federal Communications Commission (FCC) released its long-awaited *Omnibus Order* and Further Notice of Proposed Rulemaking (FNPRM) articulating its renewed vision of how to structure high cost support in rural and remote areas of the country.[1] The *Omnibus Order* is a step in the right direction to restore more sufficient funding in those areas where federal support is required to guarantee universal access to voice and broadband services.

The FCC recognizes that rural areas and Tribal lands face significant infrastructure challenges.[2] “Meeting the infrastructure challenge of the 21st century will be a multi-year journey.”[3] The Connect America Fund was created to achieve the goal of bringing high-speed internet and mobile broadband coverage to the eighteen million Americans who lack it.[4] It remains to be seen if the FCC will dedicate adequate high cost resources to address these challenges, but the reform appears to be moving in a more positive direction.

Telecommunications carriers serving Tribal lands may receive additional funding to improve telecommunications infrastructure, but it remains unclear whether or not the funding will sufficiently bridge the growing gap in access to broadband on tribal lands.[5] The FCC proposes dedicating funds to building critical middle mile infrastructure and devoting funds to supporting the extension of telecommunications services on Tribal lands.[6] The mechanisms for delivery of these funds to the places that need it most will be under consideration over the next months and years.

The *Omnibus Order* mentions the yet to be implemented Remote Areas Fund (RAF) first introduced in the *Transformation Order* in 2011.[7] Although the FCC intended to implement the RAF in 2013, the highest cost areas are still waiting for access to those funds.[8] The *Omnibus Order* suggests that implementation of the RAF ought to be delayed until after the completion of the Phase II competitive bidding process, projected to be sometime in 2016.[9] Given the depth of need in remote areas of the country, particularly in Alaska, this delay is disappointing. The funding allocated in the budget to the RAF would be better allocated to the Commission’s middle mile funding proposal advocated by the Alaska Rural Coalition.[10]

Interestingly, the *Omnibus Order* does not propose any specific rules or make any changes to the rural broadband experiments program.[11] It does propose to exempt areas which receive funding through the program from other high cost support.[12] The FCC is expected to take further action regarding the broadband experiments, but that will likely be in the form of an additional Notice of Proposed Rulemaking.

Much regarding high cost funding in rural and remote areas and on Tribal lands remains unknown. The *Omnibus Order* appears to indicate the FCC’s willingness to reevaluate reform and consider a wide variety of options. The fundamental recognition that there are many areas of the country where a private business case cannot and will never be made to provide robust broadband reassures carriers serving these areas that the FCC understands federal support is critical. The *Omnibus Order* appears to signal a new willingness to work with industry to address challenges with expensive infrastructure and gaps in remote areas and tribal lands. Although no stakeholder is likely to be completely happy with the *Omnibus Order*, the FCC has successfully recast the conversation as a dialog among all affected parties.

For more information, please contact the author of this alert, **Shannon M. Heim**, at 612-486-1586 or sheim@dykema.com, or any of the attorneys listed to the left.

[1] *In re Connect America Fund; Universal Service Reform – Mobility Fund; ETC Annual Reports and Certifications; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing an Unified Intercarrier Compensation Regime*; WC Dockets No. 10-90, 10-208, 07-135, WT Docket No. 10-208, CC Docket No. 01-92, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (“*Omnibus Order*”).

FCC Reimagines High Cost Support in Rural and Remote America and on Tribal Lands (Cont.)

[2] *Omnibus Order* at para. 16.

[3] *Omnibus Order* at para. 3.

[4] Gillet, Sharon and Kaplan, Rick, *Expanding Broadband and Protecting Voice Service in Rural America*, February 8, 2012, available at <http://www.fcc.gov/blog/expanding-broadband-and-protecting-voice-service-rural-america>.

[5] *Omnibus Order* at paras. 302-304. See Rumelt, Dan, *FCC Establishes Office of Native Affairs and Policy*, August 12, 2010, available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-300855A1.pdf. “Tribal lands and Native communities suffer unacceptably low levels of communications services, especially broadband,” said FCC Chairman Julius Genachowski. “Increasing connectivity in Native America is one of the FCC’s top priorities.” *Id.*

[6] *Omnibus Order* at para.300.

[7] See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC R. 17663 (2011).

[8] Commissioner O’Reilly has been particularly outspoken about the need to implement the RAF to address the needs of the highest cost places to serve. See *Statement of Commissioner Michael O’Rielly Approving In Part and Concurring in Part*, FCC 14-54.

[9] *Omnibus Order* at para. 16.

[10] *Omnibus Order* at paras. 300-308.

[11] *Omnibus Order* at footnote 7.

[12] *Omnibus Order* at paras. 220-23.

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