



Good afternoon distinguished Co-chairman Peterson, Co-Chairman Boyd, Task Force Co-chairman Gutknecht, Task Force Co-chairman Stupak, Members of the Congressional Rural Caucus, Congressional staff, fellow panelists and members of the audience. My name is Michael Britt. I am the Vice President of Regulatory Affairs for Fonix Telecom, formerly LecStar Telecom, Inc., a subsidiary of Fonix Corporation based in Sandy, Utah. I am also speaking on behalf of the CompTel/ASCENT Alliance, a 24-year-old association comprised of 350 competitors. CompTel/ASCENT advocates competition in the telecommunications industry. Fonix Telecom serves customers in 9 states in the Southeastern United States, including rural areas of each state, with a combination of UNE-P and total service resale. Fonix's largest concentration of rural customers is located in Western areas of North Carolina.

All telecom policy arguments boil down to two needs: access to monopoly telecommunications network chokepoints, and access to that network at a fair, "win-win" cost that promotes competition. Competition has, and continues to have an important role in the development of infrastructure, technology, competitive choice and lower prices in rural communities. Competition in telecommunications markets drives the development of innovative products, and the associated direct and indirect investment in rural communities. Any re-write of the Telecom Act should enable competition, lower barriers to entry and encourage new investment by small businesses.

Small businesses are the primary employers in rural communities and the source of most of the new jobs in America. A re-write of the Telecom Act that encourages new entrants and investment in rural communities by

entrepreneurs would help kick start the economy. Most of the big telecom monopolies are abandoning rural America and are shrinking in size due to technology advances, with customer service personnel leaving rural offices, retrenching into large office towers or, worse, outsourcing off-shore. Telecom jobs will come back to your communities by promoting competition, not by strengthening monopolies.

The FCC's recent actions eliminating Pick and Choose rules; Extending unbundling exemptions from "Fiber to the Home" to "Fiber to the Curb" and the Triennial Review Order on remand from the DC Circuit Court of Appeals have been a continuing assault on competition in all markets, but has been particularly devastating to rural competition.

To permit a multi-billion dollar monopoly retailer to control access to its retail competitors' wholesale facilities through a network chokepoint in the next iteration of these laws will continue to limit consumer choices and investment and stifle competitive access to an asset built with captive ratepayer and taxpayer money. Legislation should *require* structural separation of communications networks with incentives for investment by an independent network management company.

Telecom legislation should clearly embrace *intra*-modal competition if rural America is to enjoy the benefits of new technology, rather than permitting monopolies to control communications infrastructure through network chokepoints. Instead, telecommunications networks should remain accessible to competitors at reasonable wholesale rates that promote competition.

The desire to deregulate broadband services is supported by Fonix and most competitive companies; however it does not need to be at the cost of state regulatory oversight of traditional voice services. The Bell operating companies are actively pushing a series of broad brush deregulatory efforts at the state and federal level under the guise of broadband deregulation that actually are far-reaching efforts to eliminate or reduce competition for the end user; to remove state authority for consumer protection, and to achieve what they can't achieve by working through the state public service commissions and courts. Incentives already exist for rapid technological development in the broadband marketplace. Additional incentives do not need to be created that harm and frustrate consumers while raising prices. However, if legislation and regulatory rulings like those recently issued by the FCC further weaken the obligations of the monopoly at a time when they are growing in size, existing antitrust laws will need to be more stringently enforced, *and* the Supreme Court's *Trinko* decision should be overturned, particularly in a regulatory vacuum. To be effective, comprehensive legislation should include reform of outdated inter-carrier competition and universal service regimes that threaten the future of rural telephony.

Underlying transmission facilities must remain under Title II jurisdiction, *regardless* of the applications that ride on those networks. If, not the owner of the pipe will control the content riding over the pipe, limiting consumer choices and driving up prices.

Total Element Long Run Incremental Cost, or TELRIC, which was determined by the US Supreme Court to be a "fair and reasonable" rate that is not confiscatory, is often purported to be below the Bell operating company costs, yet, if this were true: 1) the Bells would have entered each other's territory to take advantage of wholesale rates below their costs or at least to comply with their past commitment to lawmakers when seeking approval of past mergers; and/or 2) there would be more substantial competition for rural customers by competitive local exchange companies. Access to unbundled network elements need to be preserved at rates that *promote* competition in rural America, even if these rates are *below* TELRIC to provide access to incentives to serve rural markets offered to the Bell monopolies but not to competitors.

Ultimately, all parties would agree that regulatory stability and clarity should be the goal for any new Telecom legislation. Thank you for the opportunity to address you this afternoon. I welcome any questions regarding my statement or other topics of interest to the Congressional Rural Caucus membership.