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SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
“REFORMING FCC PROCESS”

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Good morning Chairman Walden, Ranking Member Eshoo, and Members of the Subcommittee. It is a privilege to appear before you this morning.

I am Chief Legal Officer and Executive Vice President of Frontier Communications, the largest provider of broadband, voice and video services focused on rural America. As a wireline incumbent telecommunications service provider, Frontier is subject to regulatory oversight by the FCC and, just over the past year, has commented in proceedings and met with FCC Commissioners and staff on issues ranging from transaction review to open Internet regulation to Universal Service Fund reform.

But, I believe I have been asked here today to serve as a resource based on my experience at the FCC. My career in the telecommunications industry has included positions as Legal Advisor to two FCC Commissioners, Special Assistant to the Agency’s General Counsel, and then as an FCC Commissioner from 2001 to 2005.

In addition to my work in the public sector and my current position at Frontier Communications, I have worked at law firms and in-house representing various telecommunications industry stakeholders – including incumbent local exchange carriers, competitive local exchange carriers, Internet service providers, and wireless telephone providers – before the FCC.

My collective experience has provided me with a unique perspective on how the FCC serves the public. I have experienced the privilege and challenge of serving as a regulator, and

have had the opportunity to serve outside as an advocate for industry participants. The draft legislation proposes many reform actions, and I am happy to comment in my capacity as a former FCC Commissioner, as an industry representative, or both.

While I do not take a position on the discussion draft or come here today to suggest specific FCC process reforms, I have made public statements during my tenure as FCC Commissioner and thereafter that relate to some of the proposed legislative reforms. For example, I have stated before and continue to believe that the Sunshine Act is overly restrictive in prohibiting communication among three or more commissioners outside of a public meeting. The prohibition actually works contrary to the notion of collaborative spirit, discourages creative problem solving, and creates hurdles to a timely and effective decision-making process.

When it comes to transaction review and approval, Congress has conferred on the FCC a statutory obligation to review license transfers and to reject the transfer, approve it, or if necessary approve it with conditions necessary to ensure that the transaction at issue complies with the Commission's rules and is consistent with the public interest. As a Commissioner, I always believed that the Commission owed it to the parties to act promptly on license transfers and to impose conditions only when necessary to address merger-specific harms. Merger reviews should not be seen by third parties as an opportunity to impose obligations unrelated to the merger, especially given that, by definition, competitors will remain free from those obligations. My belief is that general obligations not designed to remedy merger-specific harms should be considered and reviewed by the FCC in the context of the rulemaking process, subject to notice, comment, and judicial review.

I have also noted before that there may be a time and place for timelines and shot clocks to encourage Commission action. But it is difficult to implement a uniform timeline for all

proceedings. For example, with particularly complex issues, the FCC must conduct a careful balancing act between moving expeditiously to adopt a timely decision and gathering data necessary to make the right decision.

The issues addressed in the proposed legislation are complex. I applaud Chairman Walden for focusing on FCC process reform. Process and procedure – just as much as the substance itself – have a direct impact on industry participants and consumers. Given the critical role of telecommunications in our daily lives and our global competitiveness, it is appropriate for Congress to consider updating and improving the framework for the FCC’s deliberative process. Thank you for having this important discussion. I look forward to your comments and questions.