

1 BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

2 COLUMBIA, SOUTH CAROLINA

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6 HARGRAY WIRELESS, LLC -- *Allowable Ex Parte Communication*  
7 *Briefing to Discuss Status of Federal Universal Service*  
8 *Program Following the FCC's Report & Order in CC Docket No.*  
9 *96-45, Released March 17, 2005; Review of ETC Designation*  
10 *Cases in other States; Q&A on Federal Universal Service*  
11 *Mechanisms and Criteria for Designation.*

12 BRIEFING BEFORE: COMMISSIONERS John E. "Butch" HOWARD, David  
13 A. WRIGHT, and Mignon L. CLYBURN.

14

15 **APPEARANCES:** David A. LaFuria, Esq. and William W. Jones,  
16 Jr., Esq., representing Hargray Wireless, Inc.; and Bob  
17 Labonte, VP and COO for Hargray Wireless, Inc.

18 Wendy Cartledge, Esq., Lessie Hammonds, Esq.,  
19 and Nanette Edwards, Esq., representing the State of South  
20 Carolina, Office of Regulatory Staff.

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23 REPORTED BY: Janet L. LeVeque  
24 Registered Professional Reporter

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J. LeVEQUE COURT REPORTING  
Columbia, SC 29206  
803-787-5825/803-787-6525 Fax  
LeVequeReporting@aol.com

1           MR. LAFURIA: The federal ETC program that we have,  
2 and I guess I was picked because, for better or for worse,  
3 over the last six years or so I've been in about 25 or so  
4 states and in front of the FCC doing little other than these  
5 universal service issues, so it was thought I might be able to  
6 bring along a little bit of experience and a few ideas about  
7 this program and go through it and maybe generate some  
8 questions that you all might have.

9           You may already know this, but, first of all --  
10 well, I brought some slides for you to look at. They are  
11 really abbreviated bullets, because I really would much prefer  
12 that, if possible, we have a more casual conversation on this,  
13 as much as can be casual with a roomful of people here.

14           But just to start off, real quickly, you may already  
15 know the federal universal service program is funded by  
16 consumers. Everybody who purchases interstate communication  
17 services pay into that fund, including wireless consumers,  
18 consumers of all the telecommunication services today.

19           And the federal program includes several different  
20 components: There's a high-cost program, which is intended to  
21 fund rural infrastructure for telecommunications carriers;  
22 there is low-income program, which is intended to provide  
23 subsidies to consumers who are in a low-income bracket; and  
24 there's a schools and libraries program, which is intended to  
25 fund broadband connections to the various schools and

1 libraries around the country. And, finally, there's a small  
2 rural healthcare program. I say small because not many  
3 healthcare entities have taken advantage of it yet and it's a  
4 very small fraction of the total.

5           The program, overall, nationwide is a \$7-billion  
6 program, now with about 4 billion of that being the high-cost  
7 program.

8           I'm really only here to talk about the high-cost  
9 program. It's the piece of this which applies to competitors  
10 the most, and I can answer questions, if you have any, on the  
11 other programs, but I'm not nearly as up to speed with, for  
12 example, the rural healthcare program.

13           Today, around the country, wireless consumers are  
14 contributing about a third of that \$7 billion or, roughly,  
15 \$2.5 billion per year; and wireless carriers, Hargray Wireless  
16 obviously, here, is not drawing from the fund. Nationwide in  
17 2005 wireless carriers drew a little bit less than 10 percent.

18           The number that wireless carriers are drawing is  
19 increasing as carriers are designated around the country.  
20 Nationwide, we're down to really just a few states that  
21 haven't designated a competitive carrier to be an ETC pursuant  
22 to the '96 act.

23           I brought along a map. You may notice that this is  
24 a map of the Lower 48. Alaska and Hawaii are not on here, but  
25 both of those states have also designated competitors. I have

1 a state in Illinois, which is expected to conclude any day,  
2 depending on when they finish their work; but, as you can see,  
3 it's really the urban states up in the Northeast corner that  
4 are predominantly not designating competitors, because there  
5 are no real rural areas up there. The rural states, by and  
6 large, have all designated one or more competitors in their  
7 areas.

8           In addition to the states' designated carriers,  
9 there are nine states out there -- I think there's nine --  
10 that have said that they don't have jurisdiction over wireless  
11 carriers, and therefore they have decided not to designate;  
12 and in those cases you have to go to the FCC and get  
13 designated. And a year ago this week, March 17th, the FCC put  
14 out an order, which I distributed copies to each of you on. I  
15 don't invite you to read it, it's pretty dry; get somebody  
16 smart to summarize it and not have to go through it all. But  
17 that order set forth the rules of the road for competitors.  
18 When they want to be an ETC and they apply to the FCC, it's  
19 "here's what you've got to do."

20           And what they also said in there is, Even though we  
21 don't have the authority make states to do this as their rules  
22 of the road, we invite states to use this as a guideline for  
23 what we think is appropriate for a new carrier coming in; so  
24 it really sets forth a solid road map that balances the road  
25 map for consumers and carriers alike.

1           And I can tell you in the last year a number of  
2 states have either opened proceedings or they designated other  
3 carriers to be ETCs using that as their road map. I will tell  
4 you I have a couple of problems with what the FCC did, but  
5 overall it was a very hard and contentious proceeding, and  
6 they made a lot of compromises, and they looked at how much  
7 regulation of competitive carriers they wanted and they looked  
8 at how much consumer protection they want, then they looked at  
9 how do we determine the public interest and all those  
10 different things; and overall, given that it was very  
11 contentious, I think they did a very good job of reaching a  
12 reasonable set of guidelines: If you're willing to do these  
13 things, you can be designated.

14           Since that time, both the FCC and several states  
15 have designated other carriers using those guidelines as well.

16           Last weekend I went into the universal service web  
17 site and I pulled out a slide which gives examples of  
18 universal service support that's being distributed to  
19 competitive carriers in neighboring states. In some states  
20 like Tennessee, it's a fairly small amount when you think  
21 about how much telecommunications does a million dollars buy.  
22 I can tell you it probably buys you three or four cell sites  
23 at the most. In a big state like Montana, for example, it  
24 wouldn't go very far.

25           But I want to talk a little bit about Mississippi,

1 because I represent Cellular South down there, which is a  
2 local carrier which is a lot like Hargray. For example, they  
3 are locally owned and operated down there, and they draw a  
4 significant amount of money from this program. And the state  
5 requires them to be accountable, and they're investing those  
6 funds at a tremendous rate down there.

7           And the benefits of Mississippi consumers have been  
8 pretty dramatic as a result of their investment, and it was  
9 really shown this past year when the hurricanes hit that Gulf  
10 Coast. I can tell you that in Biloxi and Gulfport, in those  
11 areas, this carrier had their network operating the day after  
12 the hurricane hit, for first responders at a low level, and  
13 within 13 days their network was at full capacity throughout  
14 their service area. And this was important not only in the  
15 Gulf area, which is by and large a combination of urban and  
16 rural, but northward, which is very rural, it was extremely  
17 important, because it really didn't matter whether you were a  
18 high-income or a low-income person, when you were displaced  
19 from that area and moved north away from the storm,  
20 immediately you needed a wireless phone to keep in touch with  
21 your family members, to call your insurance company, to do the  
22 things you need to do; so when you're in temporary housing or  
23 a shelter or temporary quarters, it's critical to have that  
24 facility.

25           And I will tell you, a big part of their success was

1 the fact that they had a number of cell sites up there in  
2 these rural areas built with support that allowed people who  
3 moved up into those areas to be able to have service.

4 They also had redundancies. They had battery  
5 backups so that when the storm knocked out power they were  
6 able to bring out generators to their switching areas and  
7 their cell sites.

8 And while it took BellSouth -- it was passed the  
9 first of the year before their network was substantially  
10 rebuilt; not because they weren't trying, it's just that in a  
11 major city, it takes a long time to string those wires to  
12 every single place that needs it; whereas the wireless network  
13 was able to get back up in a big hurry.

14 And so in terms of the E911 or the emergency  
15 disaster response and the ability to keep a network running  
16 for consumers out there, these funds, I can state for you  
17 unequivocally have gone a long way toward providing consumers  
18 with real benefits there.

19 I'd be remiss if I didn't note that my understanding  
20 is there is a little over 2.2 or so million wireline access  
21 lines in South Carolina right now. And although there is no  
22 easy statistics available, I think that translates to probably  
23 about 1.2 or 1.4 million wireless lines in the state right  
24 now.

25 The average wireless customer pays in a dollar a

1 month to the federal universal service program; so if we  
2 ballpark that, it's somewhere around a million and, let's say  
3 it's \$1 million a month. There's 12 to \$15 million a year  
4 that wireless consumers alone are putting into the pot that's  
5 going out and it's being distributed to all these other states  
6 that are designated ETCs, but it's not coming back here and  
7 delivering any benefits to those consumers out in the rural  
8 areas who are out there.

9 I wanted to touch just for a moment on the federal  
10 program mechanics, and if I didn't before, let me say you're  
11 welcome to interrupt me anytime with questions. I don't mind  
12 at all and much prefer that.

13 COMMISSIONER HOWARD: Let me clarify some things in  
14 my mind. When you're talking about the competitive ETCs, did  
15 they break down on what percentage are wireless versus  
16 wireline; the 66 million in Mississippi, is all that wireless?

17 MR. LAFURIA: On the competitive side? On the  
18 competitive side, without looking it up, I would say that the  
19 vast majority of that is wireless.

20 And I'll tell you why that is around the country.  
21 It's because when you're a competitive ETC, you don't get  
22 support unless you build network and get customers. If you  
23 get a customer, you get support. And an inefficient provider  
24 such as, let's use the cable companies, they are trying to  
25 compete on the telephone side. And Nebraska is a great

1 example where the cable company has a big share in Omaha, but  
2 the cable companies generally are not stringing wires out into  
3 the rural areas and trying to get this universal service fund,  
4 because even with the money that's available from the  
5 universal service programs, as a general matter, they are not  
6 efficient enough. It costs so much to string those wires that  
7 there's not a lot of incentive for them to enter it, and  
8 that's why those competitors on the wireline side, you know,  
9 they are in the cities for sure, but there is no money in the  
10 cities on the universal service program; so in the rural  
11 areas, they're not generally there trying to draw from the  
12 fund. It's more efficient carriers who have the incentive to  
13 try to enter and that's why most of it is wireless.

14 COMMISSIONER HOWARD: Another question: What does  
15 it cost -- and I know you can't be exact on per tower -- to  
16 build a tower to reach a rural area?

17 MR. LAFURIA: It depends a little bit on technology,  
18 but I can give you a rule of thumb. If we're talking about to  
19 build a tower, the physical tower, then you have to put radios  
20 on it and you have to build a network to get the signals back  
21 to the switch somehow. I've seen a low number of \$225,000 and  
22 a high number of 400,000, and I'd say 250 to 300 is probably  
23 about average.

24 If there is a tower available and you don't have to  
25 build one, or if there's a big water tower where you could put

1 your radio on top of it, that substantially cuts the amount of  
2 dollars.

3           Now, in rural areas, it's a little trickier, because  
4 around here, for example, you can almost always find someplace  
5 to hang that antenna; but in the rural areas, oftentimes it's  
6 more difficult. Oftentimes in rural areas the construction  
7 costs are higher because you have to build more towers, and  
8 that's a big piece of it. That's at least 100- to 175,000,  
9 sometimes, depending on how high you go. Obviously the higher  
10 you go, the more it gets. We've got folks out in the West  
11 that are 300 feet in the air, and that's an expensive tower to  
12 build and support for the weather.

13           COMMISSIONER HOWARD: What percentage of the Hargray  
14 Telephone area now is covered? Are they covered 100 or so  
15 towers now? What percentage of their areas are, I guess, bad  
16 areas or weak areas?

17           MR. LAFURIA: There is a significant part of their  
18 network that is not built out, and I don't have -- I don't  
19 know if we have a map. I could let you talk to Bob, he's a  
20 company guy.

21           MR. LABONTE: I don't have a map, but we have, in  
22 South Carolina and Beaufort County we have about 54 towers  
23 right now that we either own or lease, and then in the Jasper  
24 and Hampton Counties, where we are an ETA in South Carolina,  
25 we have about 23 towers. A little difference, I guess, in us

1 is we own our own spectrum, we're not a reseller, where  
2 wireless does supply all the facilities and plant for our  
3 wireless program. And as you also know, we are an ILEC in  
4 addition to that.

5 COMMISSIONER HOWARD: How many towers do you think  
6 it would need to be built out completely

7 MR. LABONTE: I'm not the engineer, but I would say  
8 to get full service in those other areas, we need triple or  
9 quadruple the number of towers we're looking at.

10 MR. LAFURIA: That raises a good question that I  
11 often get, which is really related to this, which is a lot of  
12 places, in a lot of states the question comes up, Well, gee,  
13 it seems like your client is out in these areas, they got out  
14 there and they built, they didn't have support, they're  
15 already there, why do you need support?

16 And there is a very real answer to that. You know,  
17 the funny thing is that Texas is a giant state and Alaska is a  
18 giant state, and a lot of them on the eastern side of the  
19 country are not as large geographically; but even in the  
20 states that aren't as big as Texas, the difference is pretty  
21 remarkable when you're here in Columbia and when you drive out  
22 to the rural area.

23 And so wireless is out in rural America. Make no  
24 mistake, you can go CTIA or some other place, and I'm sure you  
25 could find places where they brag about how wonderful cell

1 service is all over this country, but the fact of the matter  
2 is it's a pretty dramatic difference when you go out to Rural  
3 America.

4           Most rural consumers use their wireless phones like  
5 we all in urban America did ten or 15 years ago, really. They  
6 can use it when they get out on the interstate highway, they  
7 can use it when they're in the main towns, and they can  
8 probably use it on the main state roads. But once you get  
9 beyond those arteries, folks can't depend on their cellphones  
10 the way we do here. They don't think of it as a tool that  
11 they can use everywhere that they live, work and play, they  
12 really don't.

13           And the difference between a carrier that's not  
14 getting universal service money and one that is, is the  
15 carrier that is getting the dollars is required to go out  
16 there in these areas and knit together a network that people  
17 can depend on, similar, even if can't be exact, but similar to  
18 the way folks in urban areas do that really gives them all the  
19 benefits of modern wireless communications that we take for  
20 granted.

21           That's why sometimes carriers are out there, and if  
22 there's any interstate you are certainly going to build it  
23 because people are driving along. And if you're going to make  
24 some money out there, you do it properly.

25           But beyond that, where farmers want to use these on

1 their tractors and where small business out there, a guy with  
2 a repair shop in three different locations and wants to move  
3 from place to place and visit customers on the run and conduct  
4 business efficiently, they don't have the ability to do that  
5 today.

6 I think when you leave this area and drive out  
7 there, no matter what network you're on, I think you'll find  
8 it's pretty apparent. I haven't gone to a really rural area  
9 yet that is really well covered with some very few and  
10 remarkable exceptions.

11 COMMISSIONER HOWARD: Clemson would probably be a  
12 place you could look at.

13 MR. LAFURIA: Yes.

14 COMMISSIONER HOWARD: Clemson, if you're looking for  
15 a rural area in the state.

16 MR. LAFURIA: You're going to tell me you've got a  
17 house up there and you need a cell site.

18 Just a couple of minutes on the federal program  
19 mechanics, I just want to make sure, you know, that in terms  
20 of what goes on when someone becomes an ETC at the federal  
21 level. The beauty of what the feds designed is that a  
22 competitive carrier can't get any dollars unless they build a  
23 cell site first. They have to go out and build it, they have  
24 to get a customer, and you only get support dollars if you  
25 have a customer, so you have a pretty strong incentive.

1           Let's say, for example, there's \$20 a month of  
2 support out there for a customer, and you think the average  
3 customer is going to give you maybe 30 or 40 bucks in customer  
4 dollars. If you get that customer, you get all of those  
5 dollars; if you lose that customer, you lose all the dollars.  
6 You lose the revenue and the support, and this is a pretty big  
7 driver of customer service. I mean, if you're going to --  
8 carriers in a competitive marketplace hate to lose customers,  
9 and they doubly hate to lose it when the customer has support  
10 dollars attached to it.

11           The way that they set this up, they basically said,  
12 Look, it's your risk capital that you have to invest. We're  
13 not going to give you any kind of guarantee you're ever going  
14 to get a return on this. You've got to draw up a business  
15 plan and predict how much support is in that area and how many  
16 customers are in that area, and what they will pay for your  
17 service, and you've got to figure this all out and make good  
18 efficient investments. We're not just going to let you go  
19 build it anywhere you want and then just come to us with the  
20 tab and say, Gee, I can't make it here, I need some support.

21           So in the more remote areas that you go, the better  
22 the incentive is for competitive carriers to make the right  
23 kinds of investments for those areas and not just build  
24 something because you can get some support dollars out of it.  
25 They've got to make smart decisions here.

1           The other thing is that -- I think it's important to  
2 know is that while for competitors, whether you designate one  
3 or three or however many competitors you designate in an area,  
4 they all have to fight over a share of a fixed amount of  
5 support that's available. If there are 100 customers in an  
6 area and there's a certain amount of support that that  
7 generates to competitors, so if you designate three in that  
8 area, you can't get three networks built necessarily, because  
9 those 100 customers are going to generate a certain amount of  
10 support dollars whether one carrier goes in and gets it all or  
11 whether two carriers share 50/50.

12           And so the marketplace, you know, if you get one or  
13 two into a remote area, a third or a fourth is going to look  
14 into that and say, Gee, I'm not going to be an ETC out there,  
15 because there's not enough customer dollars, not enough  
16 support dollars to justify my going out and building this  
17 thing; so the market really does regulate that and we've seen  
18 that in the country.

19           The other thing, too, I want to make sure to point  
20 out that the incumbent carriers don't share in this, that is,  
21 they don't lose the support. The way the federal government  
22 set this program up, if a competitor goes in and gets a  
23 certain amount of support, it doesn't change the amount that  
24 the incumbent carrier gets.

25           There was a proposal at one time that toward the '96

1 act, there was a proposal that would say, Well, we want  
2 everybody to share one set pot of support. That's known as  
3 portability, so if you lose a customer, you lose the support.  
4 But they didn't implement that, and it's not on the drawing  
5 board right now. So the incumbent carriers, at the moment  
6 they are going to get their support and they're going to have  
7 their network supported for consumers, irrespective of whether  
8 you designate one ETC or none, their support stays the same.

9 COMMISSIONER WRIGHT: If they lose a customer to  
10 somebody else, it's as if that customer is still on the books?

11 MR. LAFURIA: What they do is they re-average their  
12 costs and their revenue requirements and get a full amount of  
13 support for whatever network is there. And I can tell you  
14 from an efficiency perspective why that shouldn't be, but  
15 that's not the way it works today. The federal government  
16 decided that they want to do it this way and that's just how  
17 it works.

18 I want to touch for a minute on a couple of the  
19 other consumer benefits of designating wireless competitors  
20 out in these rural areas. We've gotten a tremendous response  
21 in a lot of states from police and EMTs and 911 service  
22 operators.

23 Carriers are designated as a competitive carrier and  
24 they put a cell site in an area that's not served or it's  
25 underserved. In those areas right away consumers get the

1 benefit of 911; and if the PSAPs out there are ready, they'll  
2 get E911 service as well, and that's a tremendous benefit. I  
3 mean, consumers in rural areas, by the way, they are not  
4 really that excited about E911 because they can't make the  
5 call to begin with. They really want the 911 to be able to  
6 get through and say, I've got a problem here that's serious.

7           And so every time a new cell site gets built, the  
8 average is about 144 square miles in a flat area. So you  
9 think of a flatland, every time a cell site goes up there's  
10 144 square miles out there, roughly, where people are going to  
11 be able to pick up that phone and make a 911 call. That's a  
12 pretty big benefit if you knit together a network that knocks  
13 out the dead spots.

14           We had a sheriff come down from Maine and visited  
15 the FCC to try to shake loose an application that the FCC had,  
16 and he spoke about how he uses wireless phones in his job.  
17 And, you know, it came out of the blue, because I didn't -- I  
18 never considered it, none of us had. He said, You know, when  
19 I go out in the field and I get a call -- the example he used  
20 was a domestic disturbance. He said, I get a domestic  
21 disturbance call and I've got to go to someone's house, and I  
22 don't know what's going on in that house. The first thing I  
23 do is I tell the dispatcher, Give me the number of that house.  
24 I get on my cellphone and I call that house while I'm on my  
25 way driving there.

1           He said, Last week I got a lady on the phone, and I  
2 said, Is your husband in the house, is he drunk, does he have  
3 a gun, do you have children in the house, all these things  
4 that, he said, allow me to know what I'm getting into when I  
5 step into that house.

6           He said, In Portland, Maine, I take it for granted  
7 that I can do that, and it's a wonderful thing; but in the  
8 rural areas, I've got to go knock on that door no matter what,  
9 I don't get to not do it. And so when I don't have that  
10 cellphone, it's a big problem for me, to go -- I'm very  
11 apprehensive when I go to these houses and then I don't have  
12 the ability to know what I'm really getting myself into.

13           The EMTs out there use wireless phones an awful lot  
14 in their work, particularly when there are accidents. There  
15 are a lot of people who pick up on radio scanners and notify  
16 next of kin early when they shouldn't; and the EMTs will  
17 typically give out the sensitive information on a license  
18 plate or victims at the scene through their digital  
19 cellphones.

20           They also use digital cellphones for undercover work  
21 on the police force. They'll sit in the car and be able to  
22 communicate with each other that way, in the way that the  
23 police scanners wouldn't be secure.

24           Economic development: I have a good story of a  
25 client who had somebody come out and want to build a plant of

1 sorts in this town, and when they get out of the airport they  
2 drove out there, and two hours out of town the guy was making  
3 calls and his cellphone service dropped off, and he said,  
4 What's the deal? And my client said, Well, we're out of range  
5 down here. Well, when we get to the town up ahead, are we  
6 going to have service or not? And he said, No, sir. Don't  
7 even go, turn around. He literally said, I've had it, I'm not  
8 going there unless there's wireless service.

9           And I think if you talk to folks in the economic  
10 development, the community development directors, they will  
11 tell you this is a pretty big tool that they need to be able  
12 to lure businesses out to rural areas and allow even medium  
13 and larger size businesses. They put this on their checklist  
14 as to whether there is a good wireless network out here before  
15 they'll want to move out.

16           Finally, one of the big provisions in the '96 act  
17 having to do with universal service was that they want states  
18 and the FCC to increase consumer choices, that is, to use  
19 universal service dollars to give rural consumers choices and  
20 telecommunications services that are similar to those in urban  
21 areas, and they put that right in the act.

22           In '96, we had the country wired up pretty well. I  
23 mean, in terms of connected up, I guess I should say. I think  
24 our telephone penetration levels nationwide now is the same or  
25 lower than it was back in '96. It really hasn't advanced a

1 whole lot. And the purpose of universal service wasn't solely  
2 just to hook everybody up. Part of it was to provide choices.  
3 This '96 act was deregulatory and it was pro-competitive, and  
4 I think that Congress and the FCC has understood full well  
5 that in a lot of these areas, there's not going to be  
6 competition unless we find a way to get these networks built,  
7 and there's not going to be a consumer benefit unless they  
8 have access to high-quality services.

9           One of the questions I get a lot has to do with  
10 service quality: What are you going to do about service  
11 quality? And my first answer is always, The biggest, single  
12 biggest factor in service quality is the quality of your  
13 network. Most wireless, even wireline carriers will tell you  
14 that the biggest complaint they have is when the phone doesn't  
15 work. I drive out of an area, I get a dead spot, my call  
16 dropped, I get the fast busy signal, all these different  
17 problems.

18           Those problems largely go away when you knit  
19 together a really good network and give people really high  
20 quality. I dare say, I come to Columbia a lot and I hardly  
21 ever drop a call in this town. It's a great network here. I  
22 don't know that everybody's network is as good as the one I'm  
23 using, but, for whatever it is, I'm not even sure which  
24 network I'm on here, but all I know is it works everywhere  
25 that I go in this town, and it can work substantially similar

1 to that out in the rural areas, but it's not going to happen  
2 without some level of support there.

3 I'd like to say that the cellphone licensees were  
4 given out back in the early '90s, as early as '91 or so; so in  
5 15 odd years, if there was a real business plan to build these  
6 wireless networks, it would have happened by now. We're  
7 pretty entrepreneurial in this country and wireless carriers  
8 have extended their networks about as far as they can in these  
9 rural areas, consistent with a business plan that turns a  
10 profit. It's the highways and the major towns. To get beyond  
11 that, they need a little bit of a boost, they need some  
12 support to get out there and build these towers.

13 And one of the things that I pitch to states all the  
14 time is make them accountable. There's nothing wrong with  
15 having an annual report that says, How much money did you get  
16 last year? What did you do with it? Are we getting the bang  
17 for our buck? You got a million dollars, did you get at least  
18 a couple of new cell sites out in these areas? That's what we  
19 want to know.

20 States can't say you have to put a cell site here or  
21 there, but they certainly can say, If you're getting these  
22 dollars, we want to know that something is happening out in  
23 these remote areas to get improved service quality to these  
24 consumers. You certainly have the ability to do that, and all  
25 carriers should be required. We really don't have a problem

1 with that.

2           What I probably will do is I probably will tell you  
3 a few questions that I get. Obviously, if you have any  
4 questions now, by all means pop them. If not, there's a few  
5 questions that I get pretty much everywhere I go that I'll  
6 probably raise for you if you want.

7           Well, one of the questions that I get oftentimes is:  
8 Will wireless carriers -- you all have -- you all want to get  
9 ETC and you want to get these dollars, but you don't want to  
10 get any regulation, and I hear that a lot. And my answer to  
11 that is: Wireless carriers don't have any objection to being  
12 regulated, none of my clients do. The level of regulation is  
13 really what's at issue.

14           And I use an example of the rental car industry  
15 because it's easy to illustrate. When you go to the airport,  
16 there are four or five counters there and you can choose  
17 whichever one you want. And when you get that contract, it's  
18 clear that that's a regulated industry. Those requirements,  
19 those disclosure requirements that you've got to do, check the  
20 box and go through all that, but it's not regulated like the  
21 electric industry or the telecommunications industry.

22           And the reason is, in most areas of the country,  
23 still to this day, the incumbent wireline carriers remain  
24 monopoly carriers; as such, consumers need protection from  
25 monopoly business practices so they get a higher level of

1 regulation.

2 Carriers in a competitive marketplace have some  
3 regulation for consumer protection. There is zoning or  
4 environment, maybe complaint standards or any number of  
5 things, but they don't have the really high level of  
6 regulation that's on monopolies; and so, for me, the object of  
7 this game is to get the competitors into the market such that  
8 the wireline company is no longer a monopoly carrier, and then  
9 very gradually ratchet down the regulation on the monopoly so  
10 that we have eventually something that looks like the rental  
11 car industry, where we have regulations that apply to all  
12 carriers. They're all competitive and they're all in that  
13 marketplace.

14 That's really what the '96 act was trying to get at,  
15 to try to break up the hold on the local exchange marketplace  
16 on the incumbents.

17 COMMISSIONER WRIGHT: Through subcommittee meetings,  
18 maybe, we've sat through, you hear different things, and the  
19 telecom rewrite that they are talking about, and part of it  
20 was, that I hear universal service, they're talking about  
21 rewriting the rules that govern universal service. Does that  
22 play in what you're -- because I don't think anybody knows  
23 what they are going to be talking about.

24 MR. LAFURIA: Yes. Well, you're accurate about  
25 that, that nobody knows what they are talking about.

1 Sometimes in the Senate, it depends on who you talk to up  
2 there.

3 But how does it play into this? Well, it could play  
4 into this if they rewrite the rules everybody is going to be  
5 affected, everybody is going to have to deal with it. After  
6 all, it's a federal program and they set up these rules for  
7 how they are going to play out the support. And there's a  
8 certain amount of federal statutes and federal rules that you  
9 have to comply with in order to be in the game, and all of  
10 that could change.

11 What I know is that nobody really knows how much it  
12 will change. It could be very little and it could be a lot.

13 COMMISSIONER WRIGHT: I heard from one of the -- I  
14 can't remember what state -- in Florida, one of the congressmen  
15 up there chairs a subcommittee in this area, but they were  
16 talking about that it was basically going to eliminate the  
17 states, and part of that was going to be federally controlled  
18 totally and we were going to be more just for, I guess,  
19 consumer issues.

20 MR. LAFURIA: It is so all over the place. And I  
21 can tell you there's another proposal in the Senate that would  
22 do block grants to the states and say, Here's a big pile of  
23 money, now you all distribute it among the carriers as you see  
24 fit. So the proposals are just now, and I think this is  
25 indicative, I think it's unlikely that anything is going to

1 get done this year in Congress as a result of all these  
2 different -- the proposals haven't started to mesh together to  
3 something that a lot of senators can get around, and the  
4 action really is in the Senate for the most part.

5           The FCC also has the ability to change the rules in  
6 this program, and I think it will take them -- they probably  
7 won't take it up until the end of the year, because they are  
8 going to let Congress either act or not act. And if they take  
9 it up at the end of the year, because Congress doesn't act, it  
10 will probably take them another year, year and a half to do  
11 something. So I think it's -- if it's going to be Congress, I  
12 think it's going to be in '07. It's possible that it could  
13 happen this year, I've heard that it won't. And if it's going  
14 to be the FCC, it will probably be closer to '08 before they  
15 actually have rules that will change.

16           And what they will do is, it's difficult to tell.  
17 It may even depend on who the commissioners are at the time  
18 more than anything else.

19           One of the other questions that I get is, what about  
20 the effect on the federal fund? I mean, gee, you know, we got  
21 everybody drawing out of this fund. I have a couple of the  
22 answers to that. First of all, given that it's on the  
23 high-cost side, that it's up to \$4 billion now, and the  
24 wireless piece for this year is probably going to be,  
25 depending on who you talk to, between 600 and 750 million

1 taking out of the \$4-billion fund. One million or \$10 million  
2 a year is not going to substantially blow up this fund.

3           As a practical matter, South Carolina consumers are  
4 paying into this fund, and my belief is if the rural consumer,  
5 especially a wireless consumer, is paying in, they ought to  
6 get some bang for their buck, because their dollar has been  
7 going out to South Dakota or Nebraska, and they're building  
8 networks out there, they are contributing to a federal pot and  
9 they ought to be willing -- they ought to be eligible to get  
10 some of those back, and I'm not real excited about the overall  
11 affect on the size of the federal fund.

12           The other question that I get has to do with, gee,  
13 if we fund more than one carrier, are we funding competition  
14 in an area that won't support competition? And my answer to  
15 that is, well, that's essentially what the '96 act did, they  
16 said we want these funds to be available to build networks out  
17 in these rural areas, and if the funds go out there and they  
18 build these networks, one of the keys to the act was "let's  
19 give these people some choices," "let them choose the service  
20 provider that let's them fit how they use their phone and what  
21 their needs are." And if the networks are built and the  
22 consumers have choices, that's the real benefit of the  
23 universal service fund.

24           And so it's not so much about competition as it is  
25 about providing these consumers with choices.

1           Really, that's about all I have, if you want have  
2 any questions.

3           COMMISSIONER HOWARD: Are there any situations where  
4 competitive carriers share the same tower, economics of scale,  
5 sharing the towers; and if that is done, how frequent is it?

6           MR. LAFURIA: Absolutely competitors share towers.  
7 As much as they are competitors with each other, if you're out  
8 in a rural area and a 200-foot tower goes up, you can bet  
9 competitors who want to build out there are going to ask  
10 whether they can get on that tower and do -- they will do an  
11 engineering study to figure out if it fits with their network,  
12 because -- I can't say how much it's done -- Bob, you may know  
13 more than I, but in general it's done more in rural areas even  
14 than in urban.

15           Because in urban oftentimes they're not building  
16 huge towers; they're putting stuff on buildings, and so  
17 oftentimes you can find a tower, you can find a place to put  
18 your radio right across the street on another building. But  
19 out in the rural areas, you might look around for miles and  
20 only find one water tower and one regular tower up there to  
21 put your radios, so a lot of times the option of spending  
22 110,000 to put a radio up on an existing tower as opposed to  
23 350,000 to go build your own is a compelling proposition if it  
24 gives you the coverage that you need.

25           COMMISSIONER HOWARD: What percentage of cellphones

1 now can identify where a call comes from, for EMS purposes?

2 MR. LAFURIA: The E911 piece?

3 COMMISSIONER HOWARD: Yes.

4 MR. LAFURIA: Well, all of the phones sold now are  
5 capable. There are very few phones going into the marketplace  
6 now that are not capable. And those that are like that are  
7 coming from a place like E-Bay, where you get it from somebody  
8 who has got some old stock somewhere. Retailers are not  
9 selling phones that aren't available.

10 In rural areas there are a lot of people who still  
11 have -- if you are familiar with the old bag phones? Still  
12 got some of those? Well, those bag phones, there are people  
13 out in rural areas who will not give them up, because they  
14 have free watts of power so you get really good reception, and  
15 they like them, and their view of it is: Don't make me give  
16 this up for something, a little handset that doesn't get as  
17 good of reception as this thing, and I'm willing to take my  
18 chances on the 911.

19 I have a couple clients out -- I think there's one  
20 in Colorado. He says, I have 500 customers that just told me,  
21 Hell no, I'm not giving it up, no matter what, you know. He's  
22 like, well, I got to comply, how am I going to pry this phone  
23 out of this guy's hand out here.

24 But other than that, the phones all coming in now  
25 have it, and the PSAPs, the entities that take the information

1 in, that's really been the hardest piece of the whole puzzle,  
2 because a lot of the carriers now have the ability to send the  
3 location information to the public safety answering point.  
4 But the answering point oftentimes has older equipment and  
5 they are not able to use that information to locate the  
6 customer, and so there's a big push on -- one of the things  
7 Congress, that they are working on now, is a bill which would  
8 provide more funding to those answering points to get their  
9 equipment upgraded since the cellphone companies are coming  
10 around now and delivering the information. It's just they are  
11 not able to use it, so that's a big piece of it.

12 I can tell you Hargray and several other carriers  
13 that have chosen a particular technology called CDMA. There's  
14 a chip that comes in the phone that talks directly to the  
15 satellite, so anywhere you have coverage, you can be located  
16 within a few feet. Even if there's only one tower out there  
17 serving you, if you can get that 911 call through, that chip,  
18 that GPS chip like you have with OnStar or fancy golf carts  
19 now that have them, you hit it and you're like, I only drove  
20 it 112 yards, you know, all that --

21 COMMISSIONER WRIGHT: It can't tell you how to hit  
22 it out of the woods.

23 MR. LAFURIA: Or find it for you, that's right.

24 But those phones have that chip in there that will  
25 locate you if you've got any kind of signal at all, and that

1 kind of knits together with why this is important. If there's  
2 an area that doesn't have a cell site, it's going to be a lot  
3 of square mileage when a new cell site goes up, where all  
4 these folks out there will be able to be located if you can  
5 place that call.

6 COMMISSIONER HOWARD: Being a new commissioner, I  
7 can't use this term too much longer, but in 2003 there was a  
8 document Hargray applied (inaudible.) What happened to that?

9 MR. LAFURIA: It's still pending.

10 COMMISSIONER HOWARD: Still pending?

11 MR. LAFURIA: Yes, sir.

12 COMMISSIONER HOWARD: ETC status gives you federal  
13 universal service -- (inaudible.)

14 MR. LAFURIA: That would require a separate  
15 application. You can't draw from the state fund if you just  
16 apply for federal ETC status. And to date that's all they  
17 applied for, they have not applied for state funding. So if  
18 they were designated, they could draw from the federal fund,  
19 they couldn't draw from the state fund.

20 COMMISSIONER CLYBURN: One of the things you point  
21 out here is the disparity, I guess you would say, between what  
22 wireless companies contribute as opposed to what they draw.  
23 Now, one of the issues I hear, as it relates to some of the  
24 persons who may be bit hesitant about granting status, is what  
25 would the economic impact be on the fund? I mean, I know it's

1 a set amount, but what the impact would be whether or not we  
2 get ourselves in an uncomfortable financial situation, what  
3 say you to that? I think you're pointing this out to me to  
4 make a case, so to speak.

5 MR. LAFURIA: Yes.

6 Well, the total federal fund right now is  
7 \$7 billion, and the part of it that is this high-cost piece is  
8 \$4 billion. And in the case of an individual, a single  
9 carrier who would propose to draw out 1 million or \$10 million  
10 a year, the only way I can put it is, \$10 million a year in a  
11 \$4-billion fund is a relative drop in a bucket. It's not  
12 going to have any substantial effect on the size of the fund;  
13 and even in the past year, the FCC, when they have designated  
14 other competitive wireless ETCs, they pointed that out, that  
15 that amount is not a significant amount.

16 And I can tell you that there are carriers in some  
17 states that are very rural and they have very large networks  
18 that cover sometimes the whole state, and they are drawing  
19 upwards of \$30 million a year. I don't know what the number  
20 is for Hargray, but I know for a fact it's nowhere near \$30  
21 million a year; so without getting into the merits of the  
22 case, my overall pitch would be I don't think the state is  
23 responsible for stewardship of a federal fund which is  
24 administered by the FCC. It's their job to make sure there  
25 are enough dollars in this fund and that they get it

1 distributed properly to all the carriers because they are the  
2 ones responsible to the Congress for administering this  
3 program.

4           Lastly, I mean, I know I don't say it enough, I feel  
5 for wireless consumers in rural areas. I've lived in a rural  
6 area in my life and now live in a city, and I feel for  
7 consumers who, if we got them in here and told them that that  
8 buck a month on your wireless bill goes to this program and  
9 here's how it's being used, and, by the way, there's no funds  
10 available for investing in infrastructure in your part of the  
11 world, they would say, Well, why are my dollars, what benefit  
12 am I getting for my dollars going out to Nevada or Wyoming or  
13 North Dakota?

14           And last summer, in Nebraska, we had a public  
15 hearing where the consumers showed up. It was fairly  
16 remarkable hearing. Had one woman show up that we didn't  
17 sponsor, who came into the hearing and said, You know, I have  
18 nine numbers I can call that are free. I get unlimited local,  
19 but I have nine numbers I can call. Every other number is a  
20 toll call because I have a very small local calling area, and  
21 I know this company has a local calling area that's the whole  
22 state of Nebraska; and if I had their phone, I would save \$75  
23 a month in toll calls. I pay \$100 a month in phone bills  
24 right now because most of my calls are toll; and if I could  
25 get their service for 40 to 50 bucks a month, I would be way

1 better off, and the problem I have is there's no wireless  
2 service where I live, can't get it, that's not fair.

3           And I think if you talk to consumers out in this  
4 rural area, they will tell you that it's a very important  
5 thing to consumers, even low-income consumers, to have -- you  
6 know, the low-income consumer today doesn't have a choice in  
7 phone service, oftentimes, because if they want to switch to  
8 wireless they would lose their lifeline benefit. But if a  
9 competitive carrier is designated, they could switch that  
10 lifeline benefit over and get a discount on their wireless  
11 phone, which they may prefer depending on what their job is  
12 and what they are doing.

13           COMMISSIONER CLYBURN: I don't want to ask any more  
14 questions. I know some things are pending.

15           MR. LAFURIA: We'll get to the case and then you can  
16 pepper us with those questions.

17           I thank you all very much for your time today.

18  
19   {WHEREUPON, at approximately 2:54  
20 p.m., on March 15, 2006, the Briefing was  
21 adjourned.)

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CERTIFICATE OF REPORTER

I, Janet L. LeVeque, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

March 15, 2006

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Janet L. LeVeque  
Notary Public,  
State of South Carolina at Large.  
My Commission expires  
July 3, 2006.

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2:14</p>	<p><b>relates</b> <sup>[1]</sup> - 30:23</p> <p><b>relative</b> <sup>[1]</sup> - 31:11</p> <p><b>Released</b><sup>[1]</sup> - 1:7</p> <p><b>remain</b> <sup>[1]</sup> - 22:23</p> <p><b>remarkable</b> <sup>[3]</sup> - 11:21, 13:10, 32:16</p> <p><b>remember</b> <sup>[1]</sup> - 24:14</p> <p><b>remiss</b> <sup>[1]</sup> - 7:19</p> <p><b>remote</b> <sup>[3]</sup> - 14:21, 15:13, 21:23</p> <p><b>rental</b> <sup>[2]</sup> - 22:14, 23:10</p> <p><b>repair</b> <sup>[1]</sup> - 13:2</p> <p><b>Report</b><sup>[1]</sup> - 1:7</p> <p><b>report</b> <sup>[1]</sup> - 21:15</p> <p><b>Reported</b><sup>[1]</sup> - 1:18</p> <p><b>Reporter</b><sup>[3]</sup> - 1:18, 34:1, 34:4</p> <p><b>Reporting</b><sup>[1]</sup> - 1:22</p> <p><b>represent</b> <sup>[1]</sup> - 6:1</p> <p><b>representing</b> <sup>[2]</sup> - 1:12, 1:14</p> <p><b>require</b> <sup>[1]</sup> - 30:14</p> <p><b>required</b> <sup>[2]</sup> - 12:15, 21:25</p> <p><b>requirements</b> <sup>[3]</sup> - 16:12, 22:18, 22:19</p> <p><b>requires</b> <sup>[1]</sup> - 6:5</p> <p><b>reseller</b> <sup>[1]</sup> - 11:1</p> <p><b>responders</b> <sup>[1]</sup> - 6:12</p> <p><b>response</b> <sup>[2]</sup> - 7:15, 16:20</p> <p><b>responsible</b> <sup>[2]</sup> - 31:23, 32:2</p> <p><b>result</b> <sup>[2]</sup> - 6:8, 25:1</p> <p><b>Retailers</b><sup>[1]</sup> - 28:8</p> <p><b>return</b> <sup>[1]</sup> - 14:14</p> <p><b>revenue</b> <sup>[2]</sup> - 14:6, 16:12</p> <p><b>Review</b><sup>[1]</sup> - 1:7</p> <p><b>rewrite</b> <sup>[2]</sup> - 23:19, 24:4</p> <p><b>rewriting</b> <sup>[1]</sup> - 23:21</p> <p><b>risk</b> <sup>[1]</sup> - 14:12</p> <p><b>road</b> <sup>[5]</sup> - 4:17, 4:22, 4:24, 5:3</p> <p><b>roads</b> <sup>[1]</sup> - 12:8</p> <p><b>roomful</b> <sup>[1]</sup> - 2:13</p> <p><b>roughly</b> <sup>[2]</sup> - 3:14, 17:10</p> <p><b>rule</b> <sup>[1]</sup> - 9:18</p> <p><b>rules</b> <sup>[8]</sup> - 4:17, 4:21, 23:21, 24:4, 24:6, 24:8, 25:5, 25:15</p> <p><b>run</b> <sup>[1]</sup> - 13:3</p> <p><b>running</b> <sup>[1]</sup> - 7:15</p> <p><b>Rural</b><sup>[1]</sup> - 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<b>Q</b>		<b>R</b>		
<p><b>Q&amp;a</b> <sup>[1]</sup> - 1:8</p> <p><b>quadruple</b> <sup>[1]</sup> - 11:9</p> <p><b>quality</b> <sup>[7]</sup> - 20:8,</p>		<p>20:10, 20:11, 20:12, 20:20, 21:23</p> <p><b>quarters</b> <sup>[1]</sup> - 6:23</p> <p><b>questions</b> <sup>[12]</sup> - 2:8, 3:10, 8:11, 20:9, 22:3, 22:4, 22:5, 22:7, 25:19, 27:2, 33:14, 33:16</p> <p><b>quickly</b> <sup>[1]</sup> - 2:14</p>		
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