

# 36th Annual PURC Conference: Changes in Climate & Information Technologies

## *What Should We Expect From the New FCC?*

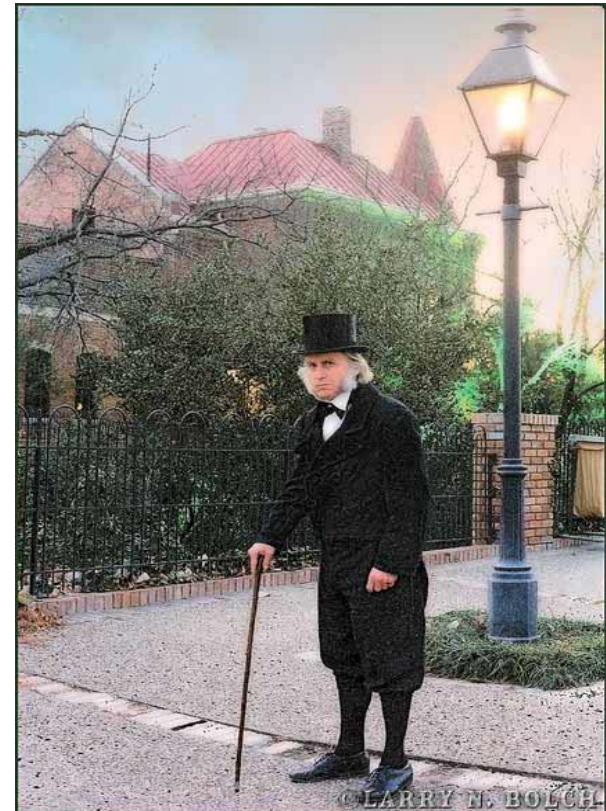
*Larry S. Landis, Commissioner  
Indiana Utility Regulatory Commission  
State Chair, Federal-State 706 Joint Conference  
Member, Federal State USJB*

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## Recent National Developments

**“It was the best of times,  
it was the worst of times....”**

-- Opening lines from Charles Dickens,  
“A Tale of Two Cities”



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- 1. Macro Trends**
- 2. The First Expectation -- Reform**
- 3. The Second Expectation – Help for  
Chairman Genachowski from His  
Two New Best Friends**
- 4. Policy Priorities**

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## **Macro Trends**

**Potential marasmus of all things FCC –**  
**broadcast – radio and TV**  
**satellite (e.g., Sirius/XM)**  
**print media**  
**cable**  
**telecommunications**

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## **Macro Trends**

**Marasmus:**

**Webster – Extreme weakness and wasting secondary to malnutrition**

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## **Macro Trends**

### **Provider commoditization:**

- 1. Mainstream content provider oligopoly/differential pricing**
- 2. Limited ability to monetize “over the top” provider product delivery**
- 3. Limited ability to add value**

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## **Macro Trends**

**Capital crunch – equity, debt constraints  
in a capital-intensive market**

- 1. Large players**
- 2. Midsize players**
- 3. Rurals**

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**Chairman Martin's response to his colleagues' Intercarrier Comp and USF views as archetypical of FCC dysfunctionality**





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## FCC Reform

**“When I consider my opportunities, I marvel at my restraint.”**

**-- Sir Winston Churchill, responding to charges he had been too sharp in his criticism of an adversary during a parliamentary debate**



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## **FCC Reform**

**Adopt a twelve-step program approach:**

**“My name is FCC and I am a  
dysfunctional agency”  
(acknowledge the problem)**

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## **FCC Reform**

**Adopt standard business disciplines and practices which characterize most organizations' operation:**

- ▣ Start by studying the history of the issue... not by convening a team to draft language**
- ▣ Use SWOT analysis as a basic discipline**
- ▣ Proceed with business objectives, strategies and tactics... not with drafting.**

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## **FCC Reform**

**Adopt standard business disciplines and practices which characterize most organizations ' operation:**

- ▣ Use a defined, procedurally robust process for fact-based, data driven gathering of evidence... don't move immediately to drafting**
- ▣ Move on to performance measures... not to drafting.**
- ▣ Test your conclusions and if apparently sound, ONLY THEN move on to drafting.**

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## **FCC Reform**

**Despite dealing with cutting-edge technologies and a rhetorical commitment to intermodal neutrality, the organizational structure of the agency is obsolete and silo-driven.**

**The answer is NOT “new silos.”**

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## **FCC Reform**

**Staffing is archaic and dysfunctional:**

- ▣ **The FCC has less than half the ALJs of a typical state Commission**
- ▣ **Economists, but no behavioral scientists or individuals trained in marketing**
- ▣ **MBA's?**
- ▣ **CFA's?**
- ▣ **Whose job is identification of unanticipated, dysfunctional results? reduce/eliminate them?**

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## **FCC Reform**

**“The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.”**

**-- Anatole France**

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## **FCC Reform**

**Restore procedural fairness, stop abuse of ex parte rules, make sure NPRMs actually propose rules, balance endgame access and issue decisions the day they are voted upon.**

**-- from Public Knowledge**



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## FCC Reform

**Better balance the power of the Chair with that of the Commissioners. Like the Supreme Court Chief Justice, the Chair should be *primus inter pares*.**

-- from Public Knowledge

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## **FCC Reform**

### **Staffing:**

- for public service, not career development, networking and the revolving door**
- reward ownership of policy goals, leadership and innovation, not sycophancy**
- “If you’re not serving the public, then you’d better be serving someone who is.”**

**-- adaptation from Public Knowledge**

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## **FCC Reform**

**“Justice alone sustains society: Founded on the principles of right, expressed in the national laws, administered by public officers. No free government can survive that is not based on the supremacy of law. Where law ends tyranny begins. Law alone can give us freedom.”**

**-- US Justice Department, inscription on the building**

**If there were a similar inscription on the FCC building, how would it read? “For sale to the highest-bidding auction participant?”**

**-- Anonymous**

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## **Help from Friends**

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**Congress is eager to help  
Chairman Genachowski shape  
public policy**



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## **Help from Friends**

- 1. The journey started with the “view with alarm” hearing-of-the-week in the last Congress**
- 2. It’s all about...broadband, broadband, broadband**
- 3. Now pitching for Congressman Dingell, Congressman Waxman**

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## **Help from Friends**

- 4. The Stimulus packages appear to have virtually no input from the FCC; significant dysfunctions (e.g., RUS) appear to have been sacrificed to traditional Congressional power blocs**

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## Help from Friends

### 5. New friends, new movers and shakers...

“The fifth and final night of inaugural partying was like a cork popping off a champagne bottle. The inner party animal in thousands of revelers came out....

*At the Google party, the hot ticket of the final night....”*

-- Washington Post, 1/21/09, “Grande Finale of Inauguralpalooza: God, Gays and Gaza”



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## **New Leaders, New Directions**



**Julius Genachowski and Sean Hannity – twins separated at birth?**

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## **New Leaders, New Directions**

**Open Internet/Net Neutrality**

**Diversity in Media Ownership**

**Broadband Deployment**

**More Transparent Decisionmaking**

**“Open government. Open networks. Open markets.”**

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**Julius Genachowski**



**Age 46**

**Parents fled eastern Europe, Holocaust  
“Like Obama, an outsider”**

**BA magna cum laude, Columbia, 1985**

**Law review, JD, Harvard, 1991**

**Low profile, not prolific writer, speaker**

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**Defining career experience at  
Barry Diller's IAC/Interactive:**

**Ask.com; CitySearch; Evite; Expedia;  
Hotels.com; Hotwire; HSN; Lending  
Tree; Match.com; RealEstate.com; TicketMaster;  
Trip Advisor**

**On Boards of at least 6 other Dot Coms**

**Founded incubator LaunchBox Digital**

**Least-reported-upon: management style**

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## **New FCC Composition**



**Acting Chair Mike Copps**

**Issues: Similar to Obama campaign but  
more emphasis on broadband**

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## **New FCC Composition**



**Commissioner Rob McDowell**

**Somewhat more focused on traditional telecomm; somewhat prone to occasional dissent in latter Martin Era; troubled by process flaws esp. last 18 months**

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## **Policy Priorities**

**Observers' focus on key issues, perspectives, possibilities and the overall outlook for change:**

**The Digital TV Transition, February, 2009**

**Broadband Deployment**

**Network Neutrality**

**Intercarrier Compensation**

**Universal Service**

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## **Policy Priorities**

**Obama team's focus on key issues, perspectives, possibilities and the overall outlook for change:**

**Broadband Deployment**

**Network Neutrality**

**Access**

**Wireless/Spectrum**

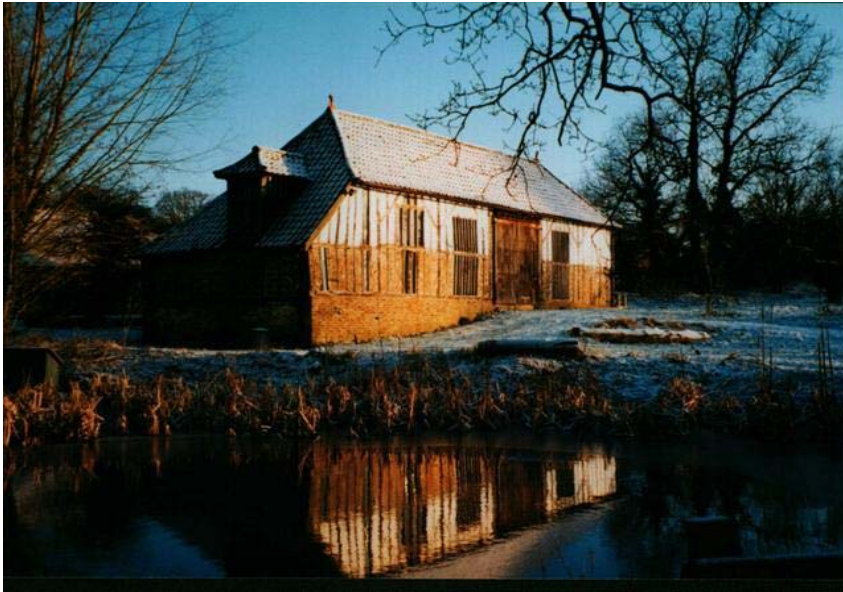
**The Digital TV Transition, February, 2009**

**Intercarrier Compensation/Universal Service**



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## Broadband Buildout



**Fiber to the barn**

(1985)



**Fiber to the [South] Bronx**

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## Net Neutrality



**“Gosh, Toto, I don’t think we’re in Kansas anymore.”**

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## Access



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## Wireless Issues



**Spectrum/license concentration**

**Roaming**

**Open access**

**700 Mhz/D Block re-auction**

**AWS-3**

**Towers**

**“Walled garden”**

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## The Digital TV Transition, February, 2009



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**JUNE?**

**The Digital TV Transition, February, 2009**



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## The Digital TV Transition, *Whenever*

Louie:  
“Round up the  
usual suspects!”

-- Casablanca



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## Intercarrier Comp/Universal Service



**“The Gift that Keeps on Giving”**