Written Statement of

H. WALKER FEASTER III

INSPECTOR GENERAL

FEDERAL COMMUNICATIONS COMMISSION

Before the

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

of the

COMMITTEE ON ENERGY AND COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

On

Guarding Against Waste, Fraud and Abuse in Post-Katrina

Relief and Recovery: Plans of the Inspectors General

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Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to come before you today to discuss the FCC's plans for participation in Hurricane Katrina rebuilding activities and our plans to provide oversight of these activities. Since the majority of the actual funds used by the FCC in the recovery efforts will come from the Universal Service Fund (USF), I will place emphasis on the plans to use the USF in the rebuilding efforts. However, I will also discuss other FCC efforts and discuss the overall risks that I believe we must consider in our oversight of Katrina-related activities.

FCC Use of the USF in Katrina Rebuilding Support

The Commission took the unprecedented step of holding an Open Meeting in Atlanta, Georgia on September 15, 2005. At this meeting, the Commission announced that it would use $211 million of funds from the USF to assist recovery efforts in the disaster area. The FCC will use the four existing support mechanisms of the USF to provide this assistance, as follows:

- The Low Income program will be used to provide evacuees and persons in the affected areas still without telephone service wireless handsets and a package of 300 minutes. This fund will also be used to provide support for reconnecting consumers as the area is rebuilt. The FCC has estimated this will amount to $51 million of Low Income support.
- The Rural Health Care program will allow public and for-profit health care providers to apply for assistance with the cost of telecommunications services under relaxed

participation requirements. The FCC has estimated this will amount to $28 million of Rural Health Care support.

- The Schools and Libraries program (or E-rate) will be used to reconnect schools and libraries in the affected areas to telecommunication and network services. Using a variety of program rule waivers, the FCC will be able to authorize an amount estimated to range from $96 million to $132 million in E-rate funds for the 600 schools and libraries hit by the hurricane.
- The High Cost program will allow greater flexibility for telephone carriers to use high cost funds to prioritize facilities affected by Katrina.

Other Rebuilding Support by the FCC

The Commission has also announced the creation of a new Bureau – the Public Safety/Homeland Security Bureau. This Bureau will be comprised of existing functions currently in other FCC bureaus and offices and will have responsibility for the FCC's public safety, national security, disaster management programs.

Additionally, the Commission has undertaken several actions that allow the telecommunications industry regulatory flexibility in rebuilding efforts. Through the issuance of temporary rule waivers and special temporary authorities, the FCC is assisting in re-establishing emergency communications, providing assistance and relief to television and radio stations in getting back on the air, extending regulatory fee payments, extending filing due dates for licensees, and performing a host of activities to

contribute to the recovery efforts. The FCC is coordinating with the Federal Emergency Management Agency and the National Communications System, as well as state and local governments and organizations to communicate the FCC's flexibility in eligibility standards and processes to aid in the Hurricane Katrina relief efforts.

Audit Oversight of the FCC's Katrina-related Efforts

I applaud the Commission's efforts to be a positive force in the post-Katrina recovery, and I am supportive of all that this agency can do to assist. However, I am mindful that in my role as Inspector general, I am responsible for ensuring that these relief efforts do not present unacceptable risks to the agency and the taxpayer's dollar. I would like to discuss my plans for oversight of the FCC's Katrina-related efforts.

The myriad of rule waivers and special temporary authorities the Commission is granting has only a small impact on audits conducted by my office. I have not received any indication from agency management that, insofar as appropriated funding goes, any additional costs or requests for budgetary resources are contemplated for Katrina-related efforts. The primary cost to the FCC appears to be in terms of personnel costs such as overtime and travel. Our primary audit role in these functions is to ensure that adequate internal controls are in place and operating effectively to ensure regulatory compliance and that financial cost accumulation and reporting are current, accurate and complete. While the reorganization and formulation of a new bureau carries a higher level of risk, our concerns are the same – are the financial and operational controls in place to ensure

that the agency's programs and functions are operating in an effective and efficient manner and in compliance with applicable laws and regulations. My financial statement audits for FY 2005 and 2006 are the best tools I have available to make this assessment. My staff is coordinating with our contracted independent public auditors to ensure that testing under our financial statement audit will address any concerns.

OIG Oversight of the USF Katrina Funding

The FCC's financial contribution to the recovery is via the USF. In regards to the USF, this Subcommittee is aware of the special risks this program carries and my concerns about the fund. We have testified before this Subcommittee on three occasions, as well as other House and Senate committees, about concerns regarding the E-rate program, one of the two large USF mechanisms. I will summarize the four parts of the USF, our efforts to provide oversight of the fund, and new concerns as a result of the Hurricane Katrina efforts.

The FCC has issued an Order on September 21, 2005, that details several rule waivers for USF recipients in the hurricane-affected area. This Order allows State Commissions, carriers, and program beneficiaries to postpone filing certain USF forms, payments and data for a period of up to one hundred and fifty (150) days. At this time I have not been advised as to whether these waivers represent all of the actions needed to implement the Commission's USF Katrina relief or if more rule waivers will be forthcoming.

Due to materiality and our assessment of audit risk, we have focused much of our attention on the USF mechanism for funding telecommunications and information services for schools and libraries, also known as the "Schools and Libraries Program" or the "E-rate" program. The E-rate program has expended $10 billion since its inception in 1998. Our involvement in E-rate audits and investigations has highlighted numerous concerns with this program. The Commission has announced that they will distribute additional funds in the hurricane affected areas by setting all schools and libraries in the disaster area at the 90% level of support, which is the highest level of support available under the program. They will open a new 2005 funding window for schools and libraries in the affected areas to request new or additional support, and they will allow schools and libraries serving evacuees to amend their 2005 funding to account for increased student populations.

We have specific concerns about the E-rate program that will have a direct impact the disaster assistance funding. For example, we have cited a lack of clarity in the program's rules as being a catalyst for both inadvertent errors and deliberate waste and abuse. We have also described weaknesses in the competitive procurement requirements used to purchase E-rate goods and services and the ineffective use of purchased goods and services. These kinds of programmatic weaknesses will be compounded by the confusion of overworked school and library administrators trying to rebuild shattered information systems under less than ideal circumstances. Additionally, I fear these rule waivers or exemptions will be taken advantage of by unscrupulous E-rate service providers that federal criminal investigations have turned up time and again.

Fortunately, we have an aggressive audit plan for E-rate beneficiary compliance in place, and our auditors will incorporate appropriate steps in the audit work programs currently in use to ensure the Katrina rule waivers are considered in audit planning and fieldwork. On a less positive note, I do not have resources that approach being adequate to provide effective oversight of the E-rate program. However, we have worked and will continue to work in close coordination with USAC internal auditors, independent auditors under contract to USAC, and other federal auditors conducting E-rate audits under interagency memoranda of understanding. We will ensure that the special risks that the FCC's proposed rules bring are addressed in the conduct of future audits.

Because we have focused our limited resources on the E-rate program, we have not been able to devote a great deal of attention to the other USF mechanisms. The other large USF program is the High Cost program. This program provides support to telecommunication carriers to ensure that consumers in all regions of the United States have access to and pay rates for telecommunications services that are reasonably comparable to those services provided and rates paid in urban areas. This program has averaged over $2.5 billion in annual expenditures and my office is aware that we need to expand our oversight in this area. However, we have not had the resources to establish an effective oversight program. In the breakdown of the $211 million of Katrina relief there does not appear to be additional funds contemplated for High Cost and I believe that the primary effect of the Katrina support will be the redistribution of existing support. At the present, we are assessing risks in the High Cost program in anticipation of being able to

institute an audit program in the future and will ensure our plans address any considerations brought by the Katrina relief.

I find the proposed Low Income Katrina-related support very interesting. The Low Income program assists eligible low-income consumers to establish and maintain telephone service by discounting services provided by local telephone companies. The USF reimburses the telephone companies for the discounts under the Low Income program. This program provided $759 million in support in 2004 and is considered to be of lower audit risk than the E-rate or High Cost programs. To the best of my knowledge, this support mechanism has not been used in the past to provide wireless handsets and free minutes of service in the past. I am not yet fully briefed on how the Commission intends to implement the intended hurricane relief, and I will give careful consideration as to what sort of oversight to bring to this unique solution. I anticipate that, at a minimum, I will direct my staff to perform an audit of how eligibility for this help is determined and verified and measures the Commission has taken to ensure the products provided are in the hands of the people who need the help.

The Rural Health Care program is the smallest USF program, having disbursed $38 million since 1999. The FCC's proposed $28 million of disaster assistance to emergency health care providers in the affected region will represent a dramatic increase in Rural Health Care expenditures. This is being accomplished by increasing the discount rate, which is the portion of costs covered by the support mechanism to 50% for qualified providers in the affected areas and for health care providers providing assistance to

disaster victims nationwide. Additionally, the FCC will allow health care providers to file new or amended applications for funds in the current year. We are still assessing the requirement for oversight represented by the additional disaster relief funds.

I would like to make an observation about the overall risk to the USF as represented by the Katrina devastation. The Commission is making a commendable effort to provide extra relief to the area in the form of rule waivers and temporary exemptions. However, this effort pales in consideration of the tremendous loss in the networking and telecommunications capability in the schools, libraries and homes of Louisiana, Mississippi, and other devastated areas. Since the inception of the E-rate program in 1998, over $184 million has been expended in Louisiana, and over $79 million in New Orleans alone. As well as E-rate funds, the High Cost program has expended $555 million in the state of Louisiana since 1998. Rebuilding the shattered infrastructure is critical. While the FCC's authorization of additional funding will go a long way in restoring these services for the citizens affected by Hurricane Katrina, the area will require a higher level of support for years before it reaches a level of technological capability that it had before the hurricane. The financial needs will be huge and the risk of misspent funds must be taken into account. This risk is certain to be impacted by errors on the part of public and private participants who are overworked and stressed. Further, you can be sure this level of funding will attract the less honest service providers to the area who might hope to take advantage of the additional funds being expended under relaxed rules.

Conclusion

The Office of Inspector General has been and remains committed to meeting our responsibility for providing effective independent oversight of the USF. My office will dedicate as much of our resources as possible to ensure that the extra measure of support provided by the Commission is utilized in a manner that best benefits the people whose lives have been so horribly uprooted by Hurricane Katrina.

Thank you. I will be happy to answer any of your questions.

SUMMARY

- The Federal Communications Commission (FCC) is using a variety of temporary rule waivers to allow Universal Service Funds (USF) to be used in support of Hurricane Katrina rebuilding efforts.

- Additionally, the FCC has formed a new Bureau of Homeland Security and is coordinating rebuilding efforts with federal, state and local entities.

- The Office of Inspector General (OIG) will provide oversight of the FCC's Katrina rebuilding assistance:

    - In the annual audits of the FCC's financial statements.

    - In audits of recipients of the USF benefits.

- Prior USF expenditures in the areas affected by the hurricane exceed $739 million since 1998. Replacing this infrastructure is critical, and the risk of misspent funds is great.

- OIG is committed to meeting our responsibility for providing effective oversight of the USF.