

## **Advocacy Submits Comments to the Federal Communications Commission regarding Small Business Engagement and Regulatory Flexibility Act Compliance**

On September 25, 2014, Office of Advocacy Chief Counsel, Dr. Winslow Sargeant, sent a letter to the Federal Communications Commission (FCC) regarding its proceeding to establish new regulations for protecting and promoting the open internet (net neutrality), as well as several other proceedings affecting small internet service providers and small business users of broadband.

Following the D.C. Circuit Court's January 2014 decision striking the FCC's existing net neutrality regulations in *Verizon v. Federal Communications Commission*, 740 F.3d 623; 11-1355 (D.C. Cir. 2014), the FCC opened a proceeding to determine the appropriate legal foundation and scope for new net neutrality regulations. During the public comment period ending on September 10, 2014, the FCC received more than 3 million comments from members of the public. The FCC is continuing to engage with the public through a series of roundtables and is expected to finalize new net neutrality regulations before the end of 2014.

In an *ex parte* letter to the FCC, Advocacy provided the small business perspectives of stakeholders, including small internet service providers (ISPs), and stressed the importance of maintaining small businesses' ability to utilize the internet to share and receive information with their customers. Advocacy also advised the FCC to exercise appropriate caution in tailoring its final rules to mitigate any anti-competitive pressure on small broadband providers given the FCC's obligation to insure fair competition in the broadband marketplace.

Specifically Advocacy recommended the following:

- The FCC should conduct direct engagement with small entities in any rulemaking that will have a significant economic impact on small entities.
- The FCC should conduct a small business roundtable to hear from small ISPs before it finalizes its net neutrality regulations, because their concerns are unique and may be rooted in issues related to other proceedings at the FCC.
- The FCC should develop a better understanding of small ISPs' concerns after analyzing the public record and completing a thorough Final Regulatory Flexibility Act Analysis (FRFA), which will ultimately help the FCC judge where the appropriate competitive balance lies, between protecting small business broadband users and supporting business broadband providers.
- Finally, if the FCC does not have adequate information on the record to complete a FRFA, the FCC should publish a supplemental analysis for public comment specifically limited to comments regarding impacts of various proposals to small ISPs.