

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
8YY Access Charge Reform)	WC Docket No. 18-156

COMMENTS OF COMCAST CORPORATION

Comcast Corporation (“Comcast”) hereby submits these comments in response to the Further Notice of Proposed Rulemaking on “transitioning both inter- and intra-state originating end office and tandem switching and transport charges for 8YY calls to bill-and-keep,” as well as on limiting database query rates.¹ As set forth below, Comcast continues to urge the Federal Communications Commission (“Commission” or “FCC”) to consider and resolve *all* of the intercarrier compensation (“ICC”) issues that have remained unresolved since the 2011 *Transformation Order*.² As one part of that broader objective, Comcast generally supports both gradually transitioning originating inter- and intrastate 8YY traffic to bill-and-keep and reducing database dip charges to a unified rate over a reasonable transition period.

¹ 8YY Access Charge Reform, WC Docket No. 18-156, Further Notice of Proposed Rulemaking, FCC 18-76, ¶ 3 (rel. June 8, 2018) (“*Further Notice*”).

² See *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (“*Transformation Order*”).

I. THE COMMISSION SHOULD ADOPT A PLAN FOR MOVING THE PRINCIPAL REMAINING LEGACY ICC ARRANGEMENTS TO BILL-AND-KEEP OVER A REASONABLE PERIOD

Comcast consistently has supported the Commission's efforts to replace legacy ICC arrangements with bill-and-keep,³ and now is the time for the FCC to phase out the most significant remaining legacy compensation systems.⁴ 8YY originating access charges are anomalies in the current ICC regime, which relies overwhelmingly on the exchange of traffic on a bill-and-keep basis. Accordingly, Comcast agrees with the Commission that compensation for all originating 8YY end office, tandem switching, and transport access charges should be phased down to bill-and-keep whenever the originating service provider controls the call path to the appropriate IXC.⁵ This would effectively address the abuses identified in the *Further Notice*. Notably, this structure also would eliminate any need for a special 8YY network edge rule.⁶

To implement this transition to bill-and-keep for 8YY traffic, the Commission should begin by capping the affected rates at current levels. Those charges then should be gradually

³ See, e.g., Comments of Comcast Corporation, WC Docket No. 10-90, at 2-3 (July 31, 2017); see also *Transformation Order* ¶ 1297 (expressing the FCC's intent to "reach the end state for all rate elements as soon as practicable").

⁴ For example, the Commission should strengthen the rules applicable to terminating access traffic that is delivered via tandem facilities. The Commission previously has phased out charges for such traffic that is delivered to a LEC that owns those facilities. *Transformation Order* ¶¶ 819-20. The Commission should extend this bill-and-keep requirement to include tandem facilities that are owned either by a subsidiary of the terminating LEC or an affiliated entity that is owned, directly or indirectly, by the parent of the LEC. See *Parties Asked to Refresh the Record on Intercarrier Compensation Reform Related to the Network Edge, Tandem Switching and Transport, and Transit*, Public Notice, 32 FCC Rcd 6856 (2017). A LEC should not be permitted to skirt the Commission's rules by shifting ownership of the facilities to another affiliated entity.

⁵ *Further Notice* ¶ 34 ("[E]ach carrier should be responsible for the costs of the parts of the call path which it has the discretion to choose.").

⁶ *Id.* ¶ 85 (seeking comment on "whether the network edge requires a distinct approach in the 8YY context").

reduced to zero over a reasonable, uniform period. A phased reduction of the current rates would permit service providers to gradually adjust their charges to their end users that originate 8YY calls. Put differently, a well-ordered transition for 8YY originating access would “prevent consumers from immediately being asked to assume a significant financial burden.”⁷ Indeed, the Commission previously has emphasized that the use of a measured transition to implement ICC reforms serves the Commission’s goal of “minimiz[ing] disruption to consumers and service providers by giving parties time, certainty, and stability as they adjust to . . . a new compensation regime.”⁸

Importantly, failure to pursue this path would perpetuate incentives for the originating and terminating carriers involved to engage in traffic pumping and other arbitrage schemes.⁹ As the Commission has noted, “[t]he current intercarrier compensation system for telephone calls made to toll free (8YY) numbers is rife with opportunities for arbitrage and fraud.”¹⁰ Similarly,

⁷ Comments of Comcast Corporation, WC Docket No. 10-90, at 6 (Feb. 24, 2012).

⁸ *Transformation Order* ¶ 798; *see also id.* ¶ 801 (stating that a gradual transition will “moderate potential adverse effects on consumers and carriers”); *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554, ¶ 12 (2011) (“*Transformation Notice*”) (indicating that the Commission intends to “avoid sudden changes or ‘flash cuts’ in [its] policies, acknowledging the benefits of measured transitions that enable stakeholders to adapt to changing circumstances and minimize disruption”).

⁹ *See, e.g., Transformation Order* ¶¶ 1297 (noting that failure to take action on all rate elements “could perpetuate inefficiencies . . . and maintain opportunities for arbitrage”), 1307 (outlining parties’ concerns that the continued ability to charge for transport and tandem services has served as a disincentive for efficient interconnection and has perpetuated arbitrage).

¹⁰ *Further Notice* ¶ 1; *see also id.* ¶ 27 (there is “evidence in the record that companies are using traffic pumping schemes to exploit inflated access rates”); *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Notice of Proposed Rulemaking, ¶ 1 (rel. June 5, 2018) (“The Commission has long recognized that arbitrage opportunities in the intercarrier compensation system harm consumers, undermine

“the current system encourages bad actors to place fraudulent, or otherwise illegitimate, robocalls with the sole purpose of generating originating access revenues.”¹¹ Eliminating these incentives plainly would benefit consumers.¹²

Reform of the remaining legacy compensation arrangements for TDM traffic also would remove a provider’s economic incentive to delay the conversion of its network to IP technology to preserve the revenue stream. As the Commission has noted, removing such revenue streams encourages the “deployment of IP networks and IP-to-IP interconnection.”¹³ Thus, adoption of this reform to the legacy ICC arrangements would also further the Commission’s interest in promoting the transition to an all-IP world.¹⁴ The additional consumer benefits that the completion of the IP transition would produce – including facilitating Nationwide Number

broadband deployment, and distort competition.”); *Transformation Notice* ¶ 637 (“Access stimulation imposes undue costs on consumers, inefficiently diverting the flow of capital away from more productive uses such as broadband deployment, and harms competition.”).

¹¹ *Further Notice* ¶ 17.

¹² *See id.* ¶ 39 (“[I]n the end, consumers indirectly subsidize inefficiencies and abuses of the 8YY intercarrier compensation system.”).

¹³ *Transformation Order* ¶ 1297 (agreeing with commenters who “warn that failure to take action promptly on these elements could . . . delay the deployment of IP networks and IP-to-IP interconnection”); *see also id.* ¶ 820 (“[I]f transport rates are allowed to persist, it gives incumbent LECs incentives to retain a TDM network architecture and therefore likely serves as a disincentive for incumbent LECs to establish more efficient interconnection arrangements such as IP.”); *Further Notice* ¶ 45 (“We are concerned that the current compensation regime creates disincentives for carriers to transition to IP.”).

¹⁴ *See, e.g., Technology Transitions, USTelecom Petition for Declaratory Ruling that Incumbent Local Exchange Carriers are Non-Dominant in the Provision of Switched Access Services, Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers, Declaratory Ruling, Second Report and Order, and Order on Reconsideration*, 31 FCC Rcd 8283, ¶ 1 (2016) (“In recent years, the Commission has focused closely on the ongoing transitions from networks based on time-division multiplexed (TDM) circuit-switched voice services running on copper loops to all-Internet Protocol (IP) multi-media networks.”); *Transformation Order* ¶ 34 (Adopting bill-and-keep “is consistent with and promotes deployment of IP networks” and “best promotes [the FCC’s] overall goals of modernizing . . . rules and facilitating the transition to IP.”).

Portability,¹⁵ authenticating calls via SHAKEN/STIR,¹⁶ and making interconnection more efficient and cost-effective¹⁷ – have been well-documented.

II. THE COMMISSION SHOULD IMPLEMENT A UNIFORM NATIONWIDE DIP CHARGE OVER A THREE-YEAR TRANSITION PERIOD AND PERMIT THE ASSESSMENT OF ONLY ONE CHARGE PER CALL

The record contains substantial evidence of significant, inexplicable variations among the rates that service providers assess for 8YY database query dips. As AT&T notes, “current rules are not constraining the arbitrage of toll-free database queries” and “inconsistent query rates and revenue-sharing are an impediment to the IP transition.”¹⁸ The Commission further indicates that IXC’s “claim that there are times when they are billed for multiple queries on a single call.”¹⁹

To address these concerns, the Commission should move the current system to a uniform, nationwide dip charge. To do so, current dip rates should be capped at the nationwide average of

¹⁵ See, e.g., *Nationwide Number Portability, Numbering Policies for Modern Communications*, Notice of Proposed Rulemaking and Notice of Inquiry, 32 FCC Rcd 8034, ¶ 6 (2017) (“[T]here is no technologically-inherent restriction on location of use if connectivity is supported via the internet (or via a dedicated network that can connect to it).”).

¹⁶ See, e.g., *Call Authentication Trust Anchor*, Notice of Inquiry, 32 FCC Rcd 5988, ¶ 5 (2017) (recognizing that “ATIS and the SIP Forum have been working to develop standards to verify and authenticate call identification for calls carried over an Internet Protocol (IP) network using the Session Initiation Protocol (SIP) for several years”); Comments of Comcast Corporation, WC Docket No. 17-97, at n.9 (Aug. 14, 2017) (The FCC’s initiatives “should include providing incentives for providers to move to IP-to-IP interconnection, so that SHAKEN/STIR authentication can be as effective as possible.”).

¹⁷ See, e.g., *Transformation Order* ¶¶ 42, 653 (noting the “importance of interconnection to competition and the associated consumer benefits” and seeking comments on “ways to promote IP-to-IP interconnection”).

¹⁸ Letter from Matthew Nodine, Assistant Vice President, Federal Regulatory, AT&T Services, Inc., to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90, at Attachment Slide 8 (Dec. 4, 2017); see also Letter from Matthew Nodine, Assistant Vice President, Federal Regulatory, AT&T Services, Inc., to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90, at Attachment Slide 7 (Feb. 12, 2018).

¹⁹ *Further Notice* ¶ 28.

the charges imposed by the largest incumbent LEC in each state and then reduced to a reasonable level over three years.²⁰ This gradual reduction will reduce potential rate shock given that the national weighted average 8YY database dip query charge is almost three times as high as the rate the Commission proposes.²¹ As Frontier has explained, “just because the proposed end result is not \$0 does not mean that the database query charge proposed would not represent a ‘flash cut.’”²²

The Commission also should make clear that only one dip charge may be assessed per 8YY call.²³ There is no plausible economic basis for imposing more than one charge for an 8YY database dip to route the call to the proper toll-free service provider.

²⁰ Dip rates that are below the computed average should be capped at their current level as the first step of this transition.

²¹ Letter from Gerard J. Waldron, Counsel for Inteliquent, Inc., to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90, at 2 (Dec. 21, 2017) (“The National Weighted Average 8YY database dip query charge is \$0.004248[.]”).

²² See Letter from AJ Burton, Vice President, Federal Regulatory, Frontier Communications, to Marlene H. Dortch, FCC Secretary, WC Docket No. 18-156, at 2 (May 24, 2018).

²³ See *Further Notice* ¶ 77 (“[W]e seek comment on whether billing for more than one query charge per 8YY call is an unjust and unreasonable practice, even if the duplicative queries are performed by different carriers in the call chain.”).

III. CONCLUSION

For the foregoing reasons, the Commission should gradually transition originating 8YY charges to bill-and-keep and database dip charges to a reasonable, uniform rate.

Respectfully submitted,

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