BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	

REPLY COMMENTS OF TIME WARNER TELECOM

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TABLE OF CONTENTS

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	)	
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Time Warner Telecom ("TWTC"), by its attorneys, hereby submits these reply comments in response to the Notice of Proposed Rulemaking[1] in the above-referenced proceeding.

I. INTRODUCTION AND SUMMARY

The comments thus far in this proceeding illustrate the major factors that must be assessed by the Commission in reforming intercarrier compensation. There is no question that reform is needed. The question is whether reform should consist of gradually eliminating anomalies in the existing calling party's network pays ("CPNP") system or replacing that system with bill and keep. Bill and keep (whether COBAK, BASICS, or some other regime) has its limits. Like the current CPNP system, it is not based on accurate assumptions as to calling and called party's incentives, and it cannot eliminate ILECs' incentives to deny, delay, and degrade interconnection and associated transport arrangements. Furthermore, although bill and keep addresses the problem of differential prices for the same switching function (*i.e.,* the application

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1 *See Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001) ("NPRM").

of a different charge depending on the regulatory classification of the traffic) that problem could also be addressed by setting all of the prices under CPNP at the same level.

Bill and keep does have one major advantage over CPNP. By recovering switching costs directly from end users, bill and keep offers the possibility that prices for that functionality could be set by the market rather than by regulators (as in CPNP). Of course, in the early stages of implementation (and perhaps beyond), it seems highly likely that regulators will need to regulate the rates charged to end users. One form of regulation will likely need to be replaced with another. But the potential upside of bill and keep is that eventually market forces might be brought to bear on enough of the end-user switching prices that all of the costs associated with implementing a new regime for intercarrier compensation will have been worthwhile. This is the fundamental issue facing the Commission in this proceeding.

To the extent that the Commission does decide to pursue bill and keep, it must ensure that it is implemented in a manner that does not introduce significant new inefficiencies. Thus, as explained in more detail below, the Commission must not implement bill and keep on a piecemeal basis, it must not grant ILECs premature pricing flexibility to recover from end users costs currently recovered through intercarrier compensation payments, it must ensure that increases to end-user rates that come as part of bill and keep do not result in significant increases in federal and state universal service funds, and it must ensure that whatever default transport rule is adopted does not create new inefficiencies and impose unnecessary implementation costs on carriers.

Two general observations are worth emphasizing regarding implementation of bill and keep. First, such implementation will require extensive cooperation between federal and state regulators. State cooperation will be required, at the very least, to (1) move intrastate access to bill and keep;[2] (2) ensure appropriate recovery mechanisms from end users of costs allocated to the intrastate jurisdiction; and (3) ensure that bill and keep does not result in inappropriate increases in the size of state universal service funds.

Second, although COBAK and bill and keep in general have been touted as deregulatory, the list of implementation issues highlights the substantial role that regulators must continue to play under bill and keep. Most importantly, regulators would need to limit the various new opportunities bill and keep would give ILECs to engage in inefficient behavior by preventing ILECs from (1) delaying and degrading transport/interconnection arrangements; and (2) recovering costs currently recovered through intercarrier payments in a way that harms competition and/or results in unreasonable end-user rates. In addition, regulators obviously would dictate any changes in universal service required by COBAK or some other form of bill and keep.

Finally, while the various proposals for reform of the existing CPNP regime have no credible support in the record and are easily rejected, this proceeding does offer the Commission the opportunity to clarify the application of its existing CPNP rules in situations where CLECs have chosen a single point of interconnection ("POI") in a LATA. Specifically, the Commission

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[2] SBC has argued that the Commission has the authority under Section 251(b)(5) to mandate bill and keep for intrastate terminating access. *See* SBC Comments at 38-43. Even under SBC's aggressive construction of the Act, the states would still have authority over originating intrastate access. In any event, this construction of the Act appears to be incorrect even as to intrastate terminating access. As SBC emphasizes, Section 251(b)(5) does require LECs to establish reciprocal compensation arrangements for the transport and termination of "telecommunications," both interstate and intrastate. *See* 47 U.S.C. § 251(b)(5). But this language must be read in context. For example, the definition of "exchange access" in the statute includes both origination and termination of toll traffic. *See* 47 U.S.C. § 153(16) (note as well that the definition does not differentiate between interstate and intrastate exchange access). If Congress had intended for Section 251(b)(5) to govern exchange access traffic, it would surely have required that reciprocal compensation arrangements be established for *both* origination and termination.

should clarify that, where the calling and called parties are physically located in the same local calling area, there is a presumption that the calling party's carrier pays for originating transport to the POI.

II. BILL AND KEEP ISSUES

A. COBAK, BASICS, And Bill And Keep In General Have Important Limitations That Must Be Fully Understood Before Any Further Steps Are Taken.

The current system of intercarrier compensation must be reformed. The question is how. The inefficiencies in the existing regime are caused by three fundamental problems. First, the CPNP system incorrectly assumes that only calling parties benefit from a call. Second, given their market power, the ILECs lack the incentive to establish interconnection and associated transport arrangements in an efficient manner. The current system does not adequately address this problem with detailed and clear rules to limit the ILECs' ability to leverage their market power by inefficiently raising their rivals' costs. Third, the switching rates for the exchange of traffic are inefficient. Part of the problem is that different rates apply to different kinds of traffic, even where the same functionality is performed. This creates the incentive for some firms to invest in ways to ensure that they pay the lower rate (investments that are generally unrelated to increasing efficiency), and it creates the incentive for consumers to purchase services that are subject to the lower rate, even though those services may not in fact be the lower cost services. In addition, even if the same price applied to all traffic, the CPNP system requires that regulators set switching rates, thus reducing the likelihood that the rates will be cost-based. Such prices, if passed through to end users, can cause end users to purchase either too much or too little of a service (depending on whether the rate is set too low or too high). Moreover, in the particular case of reciprocal compensation rates, the Commission has expressed concern that switching rates set too high or too low can cause carriers that exchange traffic subject to reciprocal compensation to engage in regulatory arbitrage by selectively serving customers that are either large net recipients or large net originators of traffic.[3]

Unfortunately, COBAK and bill and keep in general are not especially helpful answers to the first two major problems. It is clear from the Farrell and Hermalin paper filed along with the TWTC comments that COBAK, BASICS, and bill and keep more generally cannot produce optimal short-run efficiency (*i.e.*, they cannot ensure that calls will only be made where the value of a call to the called and calling parties exceeds the marginal cost to the carriers of completing the call).[4] COBAK is the most promising bill and keep proposal, but as Farrell and Hermalin explained, it is based on the assumption that the demand between the calling and called parties is equal. *Id*. This assumption is almost certainly inaccurate in many, if not most, cases. In this sense, COBAK offers little or no improvement over the existing CPNP system.

COBAK and bill and keep also do not solve the problem of inefficient transport arrangements and unclear rules. To begin with, COBAK's default rule for transport only makes sense where both parties to interconnection negotiations have efficient incentives. Yet this is clearly not the case where ILECs are involved. Moreover, bill and keep proposals like COBAK

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[3] *Compare Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, ¶ 1112 (1996) ("*Local Competition Order*") (expressing concern that bill and keep could "distort carriers' incentives, encouraging them to overuse competing carriers' termination facilities by seeking customers that primarily originate traffic"), *with Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, Order on Remand and Report and Order, 16 FCC Rcd 9151, ¶ 73 (2001) ("*ISP Intercarrier Compensation Order*") (concluding that distortions in intercarrier charges "encourage[] carriers to overuse competing carriers' *origination* facilities by seeking customers that *receive* high volumes of traffic.") (emphasis in original).

[4] *See* Dr. Joseph Farrell and Dr. Benjamin E. Hermalin, "Analysis of Central Office Bill And Keep ("COBAK")", Exhibit 1, at 3-7, TWTC Comments (filed Aug. 21, 2001) ("Farrell & Hermalin").

generally make no attempt to reduce the ILECs' market power in the context of interconnection and associated transport (nor could they). Even where proposals, such as BASICS, attempt to set interconnection prices at efficient levels, they cannot eliminate the very substantial ILEC incentives and opportunities to game the regulatory process to raise their rivals' costs.

COBAK and bill and keep do, however, offer some promise of addressing the third cause of inefficiency in the current CPNP system: inefficient rates for switching intercarrier traffic. To begin with, COBAK and bill and keep in general eliminate the differential in prices carriers charge each other for performing the same switching function by setting a uniform price of zero (although of course the price carriers charge their end users may vary). While this is a helpful improvement, it is also one that could be accomplished under the current CPNP regime by simply requiring that the same price apply to switching all intercarrier traffic (as well as switching other relevant traffic, such as VoIP).

What is special about COBAK and bill and keep in general is that they offer a means of addressing, at least to some extent, the inherent problem of having regulators set switching rates for intercarrier compensation. Even if the same rate applied to the switching function for all traffic, there would still be the problem that the rate applicable to all traffic would probably not be cost-based.[5] COBAK and bill and keep seek to address these problems by forcing carriers to recover switching costs directly from end users.

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5 *See ISP Intercarrier Compensation Order* ¶ 76. The Commission has also expressed the related concern that flat monthly charges for local service (and presumably other averaging mechanisms applied to end user rates) by themselves create distortions in a CPNP system where traffic is out of balance. *See id.* ¶ 68. However, this problem would appear to be more directly caused by averaging of end-user rates than by CPNP. In fact, if bill and keep were implemented and end-user switching charges were averaged, presumably the same distortions would continue to exist. This is not to say that end-user rates should never by averaged; in some cases averaging is appropriate. The point is rather that distortions created by averaging are just that; they are not distortions caused by CPNP.

Recovering switching costs directly from end users has some benefits. By placing more of the costs associated with providing telecommunications service directly on the end-user rates, this approach may well cause more of those costs to be exposed to competitive pressure. To the extent that this is true, switching rates are likely to be more efficient. On the other hand, where competition does not exist, federal and state regulators would almost certainly be in the position of setting the rates again, only this time for end users. One set of regulated rates would replace another. Finally, as a practical matter, recovering switching costs directly from end users would eliminate some of the implicit subsidies built into the averaged long distance rates required by Section 254(g).[6] That is because the above-average switching rates for access now recovered (due to Section 254(g)) from customers using low cost LECs to originate and terminate long distance calls would have to be recovered directly from end users (or possibly from universal service funds). It is worth mentioning, however, that the magnitude of the subsidy created by Section 254(g) is gradually shrinking as the Commission implements the CALLS and MAG plans.[7]

The ultimate question for the Commission is whether these possible benefits are worth the expense and risk of introducing a major reform of the nation's intercarrier compensation regime. The expense would be very significant, since the plan would require numerous federal

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6 *See* 47 U.S.C. § 254(g).

7 This is because both CALLS and the Multi-Association Group plan ("MAG") purport to remove subsidies from interstate access rates by recovering them instead from end users and from increased universal service subsidies. *See Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) ("*CALLS*"); *FCC Adopts Order to Reform Interstate Access Charge System for Rural Carriers*, News Release (rel. Oct. 11, 2001) (adopting reform to the interstate access charge system and universal service for rate-of-return carriers based in part on the MAG proposal).

and state regulatory proceedings on a range of related implementation issues. In addition, any new regime is likely to introduce new arbitrage opportunities of unquantifiable magnitude. Furthermore, a critical, and as yet largely unexplored, aspect of this assessment is the extent that any possible reform will have on longer term efficiencies. Bill and keep may not offer optimal short-term outcomes. But as Farrell and Hermalin explained, it is also unclear the extent to which intercarrier compensation rates affect end users' longer term choices of which carriers to subscribe to and the even longer term questions of which network architecture carriers choose and whether prospective new entrants decide to enter the market. *See* Farrell & Hermalin at 2. These longer term efficiency considerations must be fully explored before bill and keep can be adequately assessed.

Finally, if adopted, it is critical that any bill and keep regime be implemented in a manner that does not introduce new inefficiencies. Specifically, bill and keep must not be implemented in a piecemeal fashion, ILECs must not be granted premature pricing flexibility to recover costs from end users that are currently recovered from intercarrier compensation payments, the state and federal universal service funds must not be allowed to increase significantly beyond their current size, and transport rules should remain stable (although further clarity is needed, as described in Section III below). These issues are examined in the sections that follow.

B. The Comments Overwhelmingly Demonstrate That Piecemeal Application Of Bill And Keep Would Only Make Existing Problems Worse.

As TWTC explained in its comments, if the Commission adopts bill and keep, it is imperative that it adopt it only as a unified intercarrier compensation mechanism applicable to all forms of traffic. Piecemeal adoption of bill and keep would increase the price differentials for the same functions depending on the regulatory classification of the traffic. By widening the gap, piecemeal adoption would increase carriers' incentives to engage in inefficient regulatory arbitrage.

As the Commission explained in the NPRM, regulatory arbitrage is "profit-seeking behavior that can arise when a regulated firm is required to set different prices for products or services with a similar cost structure." *See* NPRM ¶ 11, n.18. The Commission has also recognized that LECs perform the same functions and incur the same costs for terminating all types of traffic regardless of whether that traffic is ISP-bound, local traffic subject to Section 251(b)(5), or access traffic.[8] By proposing a unified intercarrier compensation regime, the Commission seeks to eliminate regulatory arbitrage resulting from the existing disparities in pricing for termination. However, if the Commission applies bill and keep in a piecemeal fashion to only certain types of traffic, even if only on a transitional basis, carriers will have greatly increased incentives to engage in regulatory arbitrage, the exact behavior that the Commission seeks to eliminate.

Despite the harmful consequences of piecemeal adoption of bill and keep, a small number of commenters support this approach. For example, Verizon advocates immediate application of bill and keep to all ISP-bound traffic, while vehemently opposing bill and keep for intercarrier compensation that benefits Verizon. *See* Verizon Comments at 3-4, 13.[9] Likewise, the California Commenters oppose uniform application of bill and keep to all traffic, citing concerns

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8 *See Local Competition Order* ¶ 1033; *ISP Intercarrier Compensation Order* ¶ 90. Although TWTC does not believe that this warrants a flash-cut to the same rate for all three classes of traffic, it demonstrates that increasing the differential between the intercarrier payments for these types of traffic by adopting bill and keep for some but not others would only serve to increase opportunities for regulatory arbitrage.

9 Verizon argues that "it is likely that exchange access service should be treated differently because of the *magnitude of the revenues* involved," revealing its attempt to preserve its own opportunities to "game compensation

about end-user rates and concluding that "arbitrage fears are overblown."[10] However, the record demonstrates that these views should be soundly rejected.

There is no basis for singling out any class of traffic for selective application of bill and keep. First, the Commission should reject arguments to apply bill and keep to ISP-bound traffic immediately while continuing to consider future action on other forms of intercarrier compensation. As an initial matter, the Commission has already taken drastic action in its *ISP Intercarrier Compensation Order* that will severely limit regulatory arbitrage of ISP-bound traffic that has been of concern to the Commission in the past.[11] As a result, there is no need for the Commission to selectively adopt bill and keep for ISP-bound traffic at this point. In any event, as TWTC explained in its comments, applying bill and keep only to ISP-bound traffic would create new incentives for carriers to disguise that traffic as another type of traffic that is subject to intercarrier compensation, for example local traffic subject to reciprocal compensation. *See* TWTC Comments at 20. Anticipating this problem, the Illinois Commerce Commission urges the Commission not to adopt a bill and keep regime only for ISP-bound traffic due to the difficulty in distinguishing it from other traffic. *See* Illinois Commerce Commission Comments at 2-3.[12]

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systems for [its] own personal benefit to the detriment of consumers and the industry overall." Verizon Comments at 1, 13 n.29 (emphasis added).

10 Comments of the People of the State of California and the California Public Utilities Commission at 8 ("California Commenters"); *see also, e.g.,* Comments of The Independent Telephone & Telecommunications Alliance at 15 ("Regulatory restructuring need not be an 'either/or' choice between separate regimes."); Michigan Exchange Carriers Association Comments at 8 ("A single unified approach is disadvantageous.").

11 TWTC's reference to this order does not indicate any support by TWTC for the factual or legal basis of the order. TWTC believes that the rate levels and the growth restrictions adopted in this order are arbitrary and the legal basis of the order is highly flawed. Accordingly, TWTC has appealed this order.

12 *See also* CenturyTel Comments at 2 ("The Commission should proceed with caution, even with respect to reciprocal compensation for traffic subject to Section 251(b)(5) or 251(g)…."); USTA Comments at 29 ("While the

The Commission should likewise reject imposing bill and keep on ISP-bound traffic and local traffic subject to Section 251(b)(5) while exempting access charges from this mandate. It is striking that most BOCs -- those that benefit most from the access charge system -- insist that bill and keep can only be successful in eliminating regulatory arbitrage if it is adopted uniformly, including replacing ILEC access charges with bill and keep.[13] For instance, SBC argues that

> [i]n order to eliminate existing arbitrage opportunities and avoid creating new arbitrage problems, it is critical that the transition to bill-and-keep be mandatory for the exchange of all telecommunications traffic between a LEC network and another carrier's network (including transport arrangements) in all states. Bifurcation would create additional arbitrage opportunities. … Thus, the Commission must implement a uniform bill-and-keep structure to achieve a competitively neutral regulatory regime that avoids many of the problems created by the current rules.

SBC Comments at 25. Other commenters also agree on this point. Dr. DeGraba explains that implementing bill and keep "for local traffic before toll traffic would leave untouched some opportunities for arbitrage and delay realization of some efficiencies" of bill and keep.[14] For example, adoption of bill and keep "for local traffic alone would do nothing to reduce the opportunity for regulatory arbitrage between the interexchange calling via IXC and ISPs using dial-up service," because the ISP will continue to have lower costs for "origination and termination of an interexchange call than the IXC, even though there is essentially no difference in the network facilities used for these functions." *Id*. at 30, 31.

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application of the current reciprocal compensation rules created gaming opportunities that the FCC had to address, it is not clear what impact, if any, moving ahead with bill and keep for ISP bound traffic on a different timeframe will have on the market.").

[13] *See* BellSouth Comments at 15; Qwest Comments at 18; SBC Comments at 25. These commenters emphasize that a transition to bill and keep for access charges must be accompanied by the implementation of appropriate end-user and universal service cost recovery mechanisms. Verizon appears to be the only BOC that advocates a piecemeal approach. *See also* USTA Comments at 27.

Finally, the Commission should not adopt bill and keep for traffic within its jurisdiction without also ensuring that all of the states follow the same course. Both carrier and state commission commenters correctly argue that a unified bill and keep regime must apply to both interstate access and intrastate access traffic. Otherwise, the Commission risks creating significant incentives for long distance carriers to disguise intrastate access traffic as interstate to avoid switching charges. For example, BellSouth argues that achieving the Commission's goals in a unified bill and keep system will require the simultaneous implementation of the new regime in the state and federal jurisdictions and that the Commission must assist states in making the transition if the plan is to succeed. *See* BellSouth Comments at 15.[15] Although states generally oppose any action that would preempt their authority over intrastate rates, state commissions, such as Florida and Wisconsin, acknowledge that differential treatment of interstate and intrastate would "create significant bypass and arbitrage incentives relative to state access charge systems."[16]

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14 Declaration of Patrick DeGraba, at 29, Attachment to WorldCom Comments (filed Aug. 21, 2001) ("DeGraba Decl.").

15 *See also* SBC Comments at 25 ("[B]ill-and-keep must be implemented for interstate and intrastate switched access services at the same time. If the Commission were to implement bill-and-keep only for interstate services, there would be rampant regulatory arbitrage to avoid intrastate switched access charges."); Minnesota Independent Coalition Comments at 7 ("While it would be possible to implement bill-and-keep to replace interstate access charges without *explicitly* requiring a similar regime for intrastate access charges, maintaining very different compensation requirements for interstate and intrastate long distance services would not be feasible in practice. Attempting to operate such different regimes would be extremely burdensome and would provide very strong incentives to misreport intrastate traffic as interstate in order to avoid intrastate access charges. Such a result is at odds with the core rationale of bill-and-keep, to minimize arbitrage opportunities and incentives.") (emphasis in original); ALLTEL Comments at iii ("The mechanism that emerges from this rulemaking must apply to all carriers, networks and technologies equally, and be implemented in both interstate and intrastate jurisdictions simultaneously. Otherwise, the regulatory arbitrage that limits the current system will continue to infest the next regime."); USTA Comments at 26.

16 Florida Public Service Commission Comments at 5; Public Service Commission of Wisconsin Comments at 6-7.

Moreover, the Commission should approach the simultaneous reform of intrastate and interstate regimes in a cooperative, rather than confrontational, manner. It should reject requests that the Commission unilaterally alter the intercarrier payments subject to its jurisdiction in an attempt to force states to do the same. Such an approach would likely lead to increased arbitrage during the period in which states keep CPNP rules in place. Further, such unilateral action would leave each state to resolve complex issues, such as end-user recovery and universal service, that are more appropriately addressed in a unified national context in which the federal rules complement the state rules.

In sum, the comments confirm that adopting bill and keep on a piecemeal basis would only serve to magnify existing opportunities for regulatory arbitrage and to open the door for new and creative attempts by carriers to engage in arbitrage based on differential pricing of like services. This approach would negate one of the primary benefits that the Commission seeks in proposing a unified regime, namely the elimination of inefficient regulatory arbitrage.

C. ILECs Should Not Be Granted Premature Pricing Flexibility For End-User Recovery Of Costs Currently Recovered Through Intercarrier Compensation Charges.

Implementing bill and keep will cause carriers to recover costs from end users that they currently recover from each other. The ILECs generally argue that they should be given pricing flexibility to recover these costs from end users as they please. But absent a demonstration that competition has developed in a particular geographic/product market, a flash-cut adoption of pricing flexibility would be bad policy. If pricing flexibility were granted prematurely, ILECs would have the incentive and ability to charge unreasonably high rates to some customers and to engage in strategic pricing to exclude entrants. The Commission and the states must therefore regulate ILEC end-user charges (both rate levels and rate structures) created by bill and keep unless and until it has been conclusively demonstrated that competition can replace regulation in disciplining ILEC behavior.

In a competitive market, raising prices results in a loss of profits, as customers turn to alternative suppliers.[17] If a carrier has market power, however, raising prices can lead to higher profits overall because customers lack alternative providers. *1983 Rates Order* ¶ 7. The Commission has long recognized that carriers with market power are able to raise prices, restrict output, and diminish consumer welfare. *Id.* In order to avoid these harms, the Commission has established a regulatory framework that classifies carriers as either dominant, because they possess market power, or non-dominant, because they lack it. *Id.* ¶ 1. Carriers that are non-dominant qualify for reduced, streamlined regulation. *Id.* Dominant carriers are subject to greater regulatory requirements based on the fact that they can set prices contrary to the goals of the Act. *Id.*

Where barriers to entry are high, market share is a good indicator of market power, and thus whether a carrier is able to profitably raise prices. Although the ILECs' share of the local market has declined somewhat since passage of the 1996 Act, they, and the BOCs in particular, continue to provide the overwhelming share -- over 90% -- of local exchange and exchange access services.[18] There can be no doubt therefore that the ILECs continue to possess market power in the local market (probably for all business customers as well as residential

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[17] *See, e.g., Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, Fourth Report and Order, 95 FCC 2d 554, ¶ 7 (1983) ("*1983 Rates Order*").

[18] The CLECs' share of end-user lines as of last December was 8%. *See* Industry Analysis Division, Common Carrier Bureau, *Trends in Telephone Service*, Table 9.5 (FCC 2001).

customers).[19] Granting the ILECs pricing flexibility would enable them to raise prices for end-user rates with impunity in those areas where no competitors are present.

In addition to raising prices, dominant carriers like the ILECs can also engage in strategic pricing to exclude entrants. Such a practice, which entails setting prices above the competitive price, but not sufficiently above to attract entry, is known as "limit pricing." Specifically, incumbent LECs will set their prices taking into account the likelihood that a given price will attract new firms that in turn will erode the ILECs' monopoly power, and thus lower long-run profits.[20] Unlike predatory pricing, which seeks to drive recent entrants from the market, limit pricing deters market entry or expansion of existing entry.[21] It is particularly effective in a marketplace fraught with entry barriers, asymmetrical information, and high sunk costs, as is the case here.[22]

The Commission has repeatedly recognized the potential effects of such strategic pricing on new entrants. In the *Pricing Flexibility Order*, the Commission allowed ILECs to gain pricing flexibility throughout an MSA even where competitive facilities are not present in every wire center in that MSA. *Pricing Flexibility Order* ¶ 83. Where it faces no competition, the Commission recognized that "an incumbent LEC could use pricing flexibility in a predatory

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19 While there has been some significant competitive entry in the provision of special access service to large businesses, those services do not include intercarrier switching charges. Thus, the end-user recovery issue is not relevant to this part of the market.

20 *See Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers, Petition of US West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA*, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 14221, ¶¶ 79-80 (1999) ("*Pricing Flexibility Order*").

21 The Commission typically discusses limit pricing as a subset of predatory pricing. *See Pricing Flexibility Order* ¶ 79.

22 *See generally Pricing Flexibility Order* ¶¶ 79-80 and materials cited therein.

manner to deter investment in competitive facilities in those wire centers." *Id.* Although the Commission ultimately concluded that its concerns about limit pricing were not sufficient to require a more granular analysis, it did so based upon its belief that the administrative costs of such an undertaking (*e.g.*, on a wire center by wire center basis) would far outweigh the benefits of protecting against the harms of limit pricing in those wire centers and of deregulation more generally. *Id.*

Similar issues were raised by a Southwestern Bell ("SWBT") tariff filing in 1997.[23] That tariff would have allowed SWBT to offer access services at rates below its other tariffed rates in response to a customer's "Request for Proposal," or RFP. *RFP Order* ¶ 1. In examining the tariff, the Commission found that the proposed modification would "allow[] SWBT a virtually unlimited opportunity to preempt new market entrants in its territory by reducing rates to individual customers to which it believes new entrants may make offers, without making those rates available to similarly situated customers elsewhere." *Id.* ¶ 42. The broad geographic reach of SWBT's proposal also troubled the Commission because it "would allow [SWBT] to respond to any RFP within its region, even in areas in which new competition is incipient or is absent altogether." *Id.* ¶ 50. This ability to target new entrants aggressively in select markets would enable SWBT to protect its monopoly position in *all* of its markets, thus "weigh[ing] heavily in a new entrant's decision to establish a facilities-based presence in *any* SWBT geographic market." *Id.* (emphasis added).[24] Absent a persuasive showing of competition, the Commission concluded

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[23] *Southwestern Bell Tel. Co., Tariff FCC No. 73*, *Transmittal No. 2633*, Order Concluding Investigation and Denying Application for Review, 12 FCC Rcd 19311 (1997) ("*RFP Order*").

[24] Such a strategy would also be efficient, because it would cost SWBT less than if it had to lower prices throughout its region. *Id.*

that SWBT's ability to deter entry outweighed any purported benefits of the proposed pricing flexibility. *See id.* ¶¶ 41, 49-50. The same conclusion is warranted in the local exchange market where ILECs seek pricing flexibility here for end-user surcharges.

Moreover, deterring new entry through strategic pricing benefits ILECs not just in those areas without competition, but throughout their regions. As the Commission has previously concluded, an ILEC's ability and incentive to engage in discrimination is enhanced as it expands its geographic region because the ILEC is able to internalize the previously external "spill-over" benefits of discriminatory behavior in the new region.[25] As a result of the recent trend of mega-mergers, the areas in which several of these carriers operate have become so large as to enhance their incentives to slow-roll or otherwise impede entry.[26] Pricing flexibility would provide these ILECs with the means -- previously unavailable -- to act on those incentives by charging end users higher rates in areas without competition. Permitting the ILECs to set end-user surcharge rates selectively would also allow them to subsidize end-user costs in more competitive areas with supracompetitive charges levied in areas without competition. Such cost shifting would further serve to unfairly undercut competitors in those areas where entry has occurred.

Based on the Commission's own precedent, it is clear that the harms engendered by prematurely granting pricing flexibility outweigh any purported benefits. Where, as here, flexibility is being sought throughout the ILEC's entire territory -- regardless of the presence of competitors -- the cost to consumers will be substantial; the benefits, negligible. Thus, it is

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25 *Applications of Ameritech Corp. and SBC Communications Inc. for Consent to Transfer Control*, Memorandum Opinion and Order, 14 FCC Rcd 14712, ¶¶ 207-208, 215-217 (1999). An example of this effect, known as the Big Footprint, occurs in the merger context. *See id.* ¶ 215. A similar analysis applies here, albeit with the ability, not the incentive, to deter entry being enhanced by a grant of pricing flexibility.

26 *Id.* ¶¶ 207, 229.

improper to grant pricing flexibility without compelling evidence that sufficient competition exists to guard against abuse of that flexibility.

Even if the Commission were to consider granting pricing flexibility to the ILECs now (which it should not), it must be careful to tailor that relief narrowly to the competitive conditions present in the marketplace. First, it should consider the geographic scope of any such relief. As noted earlier, granting relief on an MSA basis may leave certain wire centers vulnerable. Second, the Commission should carefully consider the type of end user, as it has traditionally done.[27] For example, larger business customers in urban MSAs will likely be the first group of end users to experience sufficient competition to constrain ILEC anticompetitive pricing. However, it is not clear which, if any, MSAs (assuming MSAs are appropriate geographic areas for analysis) would qualify for flexibility under this standard today. On the other hand, it may never be appropriate to grant flexibility for either larger business or mass market customers in MSAs where few or no other competitors are present. Third, the Commission should consider whether certain types of services are subject to less (or more) competition, thus making it less (or more) likely that any anticompetitive pricing will be constrained. Similar criteria were used by the Commission in the *Pricing Flexibility Order*, where it decided to deregulate special access services in part because customers for these services were large and sophisticated business customers. *Pricing Flexibility Order* ¶¶ 141-42. At a minimum, the Commission must ensure that any pricing flexibility is "structured to prevent exclusionary pricing behavior so as to safeguard the development of competition" in those areas where flexibility is allowed, but competition is not present. *Id.* ¶ 79.

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[27] *See, e.g., Application of WorldCom, Inc. and MCI Communications Corp. for Transfer of Control*, Memorandum Opinion and Order, 13 FCC Rcd 18025, ¶¶ 26, 65 (1998); *Competition in the Interstate Interexchange Marketplace*, Report and Order, 6 FCC Rcd 5880, ¶ 37 (1991).

In addition to seeking pricing flexibility at the federal level, various ILECs also urge the Commission to establish general requirements, including pricing flexibility, for state end-user recovery mechanisms. *See, e.g.*, SBC Comments at 31-32. Yet these commenters do not explain how the Commission has jurisdiction to establish such general requirements. Indeed, the Commission almost certainly lacks jurisdiction to dictate the manner in which ILECs recover costs allocated to the intrastate jurisdiction (and which are currently recovered through reciprocal compensation and intrastate access) from end users. While the Commission will need to work in close cooperation with the states to establish mechanisms for ensuring appropriate ILEC recovery of intrastate costs,[28] it does not have the authority to mandate intrastate rates. Regardless, for the reasons discussed above, pricing flexibility for intrastate charges is also premature.

D. The Implementation Of Bill And Keep Should Not Result In Significant Increases In Federal Or State Universal Service Funds.

There are three major ways in which implicit subsidies operate in the current intercarrier compensation rates. First, Section 254(g) requires long distance carriers to average their long distance rates throughout the country. Where one LEC's switching costs for originating and terminating interstate long distance traffic are higher than another's, the Section 254(g) averaging requirement eliminates that difference. This results in a subsidy flowing from long distance callers using LECs with low switching costs to long distance callers using LECs with high switching costs. Second, the ILECs claim that interstate access charges contain subsidies necessary to keep local rates low. To the extent that this is true, Section 254(g) averaging again

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[28] *See Qwest Corp. v. FCC*, 258 F.3d 1191, 1200 (10th Cir. 2001).

creates a subsidy flow. This subsidy essentially causes long distance callers across the country to subsidize local rates in the areas served by LECs with purportedly subsidy-laden interstate access charges.[29] Third, ILECs also assert that intrastate access charges, which WorldCom contends result in much larger intercarrier payments than interstate access, *see* WorldCom Comments at 10, also in many cases contain subsidies necessary to keep local rates low. To the extent this is true, high intrastate access rates cause intrastate long distance callers to subsidize local rates.[30]

If the Commission were to adopt bill and keep, all of these purported implicit subsidy mechanisms would be eliminated. ILECs would then claim the need to recover these purported implicit subsidies from explicit universal service subsidies.

Such claims create the need to assess the extent to which universal service subsidies (federal and state) must be increased to ensure affordable rates and to ensure that rates are reasonably comparable in urban and non-urban areas. *See* 47 U.S.C. § 254(b)(3). As a threshold matter, both federal and state regulators would need to assess what percentage of the intercarrier payments can be legitimately viewed as subsidies.

Furthermore, the Commission must reassess its construction of Section 254. As several commenters emphasize, the Commission must soon revisit a broad range of critically important universal service issues. Of special relevance to this proceeding is the remand from the Tenth Circuit's decision in *Qwest v. FCC*,[31] in which the Commission must revisit, among other things,

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29 As mentioned, both the CALLS order and the recently adopted (but as yet not released MAG order) diminish the extent of this form of subsidy by replacing some or all of the subsidies built into implicit interstate access charges with higher end-user common line charges and increased explicit universal service subsidies.

30 In addition, the current CPNP system also causes net originators of long distance calls and local measured service calls to subsidize net recipients of traffic, since recipients do not pay to receive traffic (except of course in the case of CMRS traffic).

31 *See Qwest Corp*, 258 F.3d at 1201.

what level of subsidy is "sufficient" and what federal mechanisms can be used to ensure that state universal service subsidies comply with Section 254. Moreover, in the remand from the Fifth Circuit's decision in *Texas Office of Public Utility Counsel v. FCC*,[32] the Commission must revisit the size of the implicit subsidy that should be made explicit as a result of the CALLS plan implementation. TWTC agrees with SBC that the Commission should take the opportunity that these remands provide to fundamentally reassess its approach to universal service. *See* SBC Comments at 21.

Above all, the Commission must ensure that neither the existing universal service system nor, by extension, any increases to universal service funding that accompany the implementation of a bill and keep scheme results in a material increase in carrier contribution obligations. Such obligations in themselves create inefficiencies by, most importantly, causing artificial rate increases in services on which carriers are taxed, thus causing customers to consume less than they would at a lower price. Artificially suppressing demand in this regard is always a significant cost, but it is especially costly in a telecommunications industry that is in the throes of a crippling downturn.

Indeed, this is a price worth paying only where the subsidy in question is targeted in a way that ensures that rates for subsidized services are affordable. While this is not the proceeding to explore these issues at length, it is worth emphasizing briefly that affordability is at least as important a goal of Section 254 as ensuring reasonably comparable rates in urban and non-urban areas. Thus, as TWTC has elsewhere explained, federal subsidies should be targeted,

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[32] *See Texas Office of Pub. Util. Counsel*, No. 00-60434, 2001 U.S. App. LEXIS 19974 (5th Cir. Sept. 10, 2001).

to the extent possible, to granular geographic areas that are characterized by high costs and low income levels, with residual Lifeline funding available for low income customers in other areas.[33] Alternatively, subsidies could, as SBC suggests, be set based on a national affordability benchmark, with Lifeline funding available for financially disadvantaged individuals. *See* SBC Comments at 23. Moreover, the Commission should use its authority, recognized in *Qwest v. FCC*, to encourage or compel states to adopt a similar approach. Again, any such measure should be implemented with an eye toward ensuring that, to the extent the implicit subsidies in intrastate access rates must eventually be recovered directly from end users, such recovery does not result in substantial increases in intrastate universal service contributions.

E. The COBAK Default Rule For Transport Should Not Be Adopted.

Commenters in this proceeding overwhelmingly agree that neither COBAK nor BASICS provides a solution for transport that is both efficient and workable.[34] Although BASICS offers some efficiencies in theory, it would be difficult, if not impossible, to successfully implement as a practical matter.[35] COBAK, on the other hand, is focused on implementation, while introducing inefficiencies that could make the existing system for transport worse by causing significant disruptions to carriers and introducing new problems. Rather than adopt either of these proposals, the Commission should instead adopt a compromise default rule that attempts to

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[33] *See* Comments of Time Warner Communications Holdings Inc. (now TWTC) in CC Docket Nos. 96-45, 97-160 (filed Apr. 27, 1998) and attached study, "Defining The Universal Service 'Affordability' Requirement, A Proposal for Considering Community Income As a Factor in Universal Service Support," at 3 (estimating that approximately 20-30 percent of the high-cost fund could be eliminated if support were limited to households below the 70th income percentile).

[34] *See, e.g.,* SBC Comments at 25-30; Qwest Comments at 24-28.

[35] *See* TWTC Comments at 17-18; Qwest Comments at 25-26.

achieve some efficiencies, yet is practical for carriers to implement and guards against anticompetitive behavior by incumbents.

The COBAK default transport rule is intentionally designed to be inefficient so that carriers would have incentives to seek efficient meet-point billing arrangements through negotiation.[36] However, Dr. DeGraba appears to overestimate the weight of this incentive in an environment in which monopoly providers of transport have countervailing incentives to deny, degrade, and delay interconnection arrangements to their competitors in an effort to preserve their own market power. *See* Farrell & Hermalin at 2-3. It follows that, notwithstanding some ILECs' arguments that any default transport rule adopted by the Commission should limit the role of regulation, transport will almost certainly need to be regulated as part of any future intercarrier compensation regime.[37] Given the deficiencies of the COBAK default, the question is what default rule should take its place.

SBC has proposed one viable alternative. SBC's proposal attempts to keep the benefits of bill and keep while improving the default rule to address some of the shortcomings of the COBAK proposal. *See* SBC Comments at 25-30. The SBC rule is similar to the COBAK default, except that (1) it would require that IXCs pay LECs for originating transport (COBAK requires the LEC to recover originating transport directly from end users), and (2) it would essentially require each carrier to establish a POI in any LATA in which it has customers.[38]

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[36] *See* Patrick DeGraba, "Bill and Keep at the Central Office as the Efficient Interconnection Regime," ¶ 73, OPP Working Paper Series 33 (FCC, Dec. 2000) ("DeGraba").

[37] *See, e.g.,* Verizon Comments at 12; Qwest Comments at 28.

[38] SBC proposes that, in this situation, the carrier would be obligated to establish a POI in the "Access Service Area." SBC defines "Access Service Area" ("ASA") as "the geographic area within which traffic is exchanged in the event service providers are unable to reach a negotiated agreement regarding network-to-network transport arrangements." SBC Comments, Attachment 1. SBC recommends that LATAs serve as ASAs *initially*. This seems

Under SBC's rule, the called party's service provider would be obligated to establish a POI within the called party's home LATA. The calling party's retail service provider would then be financially responsible for transport between the end office serving the calling party and the designated POI. The called party's service provider would be financially responsible for transport between the POI and the end office serving the called party. *See* SBC Comments at 27.

This proposal offers some advantages over the COBAK default rule. SBC's rule applies consistently to the service provider that has the retail relationship for transport rather than applying a different rule for long distance. This rule is beneficial to both LECs and IXCs because it does not shift transport costs for long distance to LECs and it allows IXCs to maintain control over their transport arrangements.[39] In addition, SBC's POI rule would at least establish an equitable, national default rule that would represent an improvement over the COBAK proposal. Therefore, SBC's proposal for transport under bill and keep is likely to introduce fewer new costs than the COBAK transport default rule and is otherwise no less efficient than the COBAK rule.

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to leave the door open for revising the definition of ASA in the future in a way that might be preferential to ILECs. Any rule requiring additional POIs in a LATA must be very closely examined to ensure that it does not cause ILECs to raise CLECs' costs in unreasonable and inefficient ways.

[39] *See* TWTC Comments at 15; *see also* DeGraba Decl. at 14-15 ("[T]he incumbent LEC instead likely has an incentive to disadvantage interexchange rivals. Choosing to route traffic over facilities other than those currently used by the IXCs could disadvantage IXCs.").

III. REFORM OF THE CURRENT SYSTEM

A. There Is No Basis In The Record For Adopting The Various Proposals For Changing The Commission's Existing Reciprocal Compensation Rules.

In the NPRM, the Commission proposed a range of possible ways of reforming the existing CPNP regime. TWTC explained in its comments why several of these should be rejected. In almost no case was TWTC's position disputed in the comments.

First, the commenters did not support a change to the symmetry presumption.[40] As explained in TWTC's Comments, the symmetry rule should be retained because symmetrical rates are easy to administer and reduce, to some extent, the ILECs' ability to manipulate the regulatory process to set reciprocal compensation rates in their favor. *See* TWTC Comments at 30-32. Second, the record does not support a change to the Commission's tandem-rate rule, which permits a CLEC to charge the tandem rate for transport and termination where the CLEC's switch serves a geographic area comparable to the ILEC's tandem switch.[41] This rule is a specific application of the symmetry rule, which obviates the need for expensive and inexact classifications of CLEC switch functionalities. *See id.* at 32-33. Third, commenters did not argue that transport and termination should be based on long-run instead of short-run incremental costs. Fourth and finally, there is no basis in the record for relying on peak load pricing as the

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[40] Some rural ILECs expressed concerns about symmetrical rates as they apply to rural ILECs. *See, e.g.,* The Oklahoma Rural Telephone Coalition Comments at 27-28; Ronan Telephone Company and Hot Springs Telephone Company Comments at 3. However, this issue is beyond the scope of TWTC's comments.

[41] The Texas Commission discusses its concerns about this rule. *See* Public Utility Commission of Texas Comments at 9-10. However, as explained in TWTC's comments, the rule offers significant benefits that clearly outweigh the minor inefficiencies that it might introduce. Furthermore, it is important to note that the Texas Commission's adoption of a functional equivalency component to the tandem-rate rule was contrary to federal law requiring only a comparable geographic area test. *See* NPRM ¶ 105. Finally, to the extent that states remain concerned that a few outliers might continue to game this regulation, TWTC would support a decision by the Commission to give states flexibility to address these situations on a case-by-case basis.

basis for reciprocal compensation rates. The practical obstacles to peak load pricing by far outweigh any theoretical benefit it might offer. *See id.* at 33-36.

In light of the absence of any meritorious support in the record for these changes to the current CPNP system, there is no need to further address the matter.

B. The Commission Should Clarify Its Existing Transport Rules To Ensure That ILECs Are Not Able To Leverage Their Market Power To Raise Their Rivals' Costs.

As the Commission acknowledged in the NPRM, there is considerable ambiguity in the existing rules governing interconnecting LECs' obligations to pay for the transport used to exchange local and information access traffic. This ambiguity creates substantial opportunities for ILECs to attempt to raise their rival interconnectors' costs by trying to force CLECs to pay as much of the cost of transport as possible. In some cases the ILECs have prevailed in this regard and in some cases they have not.[42] But even where they have lost the argument in arbitration proceedings, ILECs have succeeded in raising their rivals' costs by forcing them to incur the cost (in terms of money, use of employees' time, and delay in executing a business plan) of participating in what should be unnecessary negotiations, arbitration proceedings, and litigation. Moreover, by establishing a reputation as a tough dealer on these issues, ILECs can delay or deter CLEC entry in new states in which the issue has not been resolved. The Big Footprint

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[42] While ILECs have not always been successful in achieving the outcome on this issue that they prefer, they have nonetheless been successful in imposing costs and delay on competitors in the process. *See Massachusetts D.T.E. 98-57, Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17* (rel. Mar. 24, 2000) <http://www.state.ma.us /dpu/telecom/98-57/FinalOrder.htm>; *Proceeding on Motion of the Commission to Reexamine Reciprocal Compensation*, Opinion and Order, Case 99-C-0529, Opinion No. 99-10 (rel. Aug. 26, 1999) <http://www.dps.state.ny.us/fileroom/doc6353.pdf>.

theory, described above, teaches that very large ILECs such as SBC and Verizon have an especially strong incentive to engage in this kind of behavior.

It is for all of these reasons that, regardless of whether it adopts bill and keep or some other unified intercarrier compensation regime, the Commission should establish rules that clearly and fairly define interconnecting carriers' obligations to pay for transport. Such rules admittedly might not be able to replicate the optimal efficiency that could be produced in a functioning market. But the market for interconnection transport cannot work efficiently on its own, given the ILECs' unwholesome incentives. Indeed, the critical point is that this is a situation where the absence of regulation creates inefficiencies by giving the ILECs the opportunity to act on their incentives.

As explained in the NPRM, the Commission's existing rules require that a CLEC be given the right to a single POI in a LATA. *See* NPRM ¶¶ 72, 112. But it is not clear under the current rules how carriers should allocate the costs of transport where a CLEC's single POI is located outside of the local calling area where a call originates. This issue did not receive significant treatment in the comments, but it is an important outstanding issue that the Commission should clarify. It should do so by allocating responsibility for transport costs associated with a single POI in a LATA (but outside a local calling area of the calling and called parties) just as it does with POIs within the same calling area as the calling and called parties.[43]

First, transport to and from a POI not located in the calling party's local calling area should not create inefficient incentives for CLECs to free ride on ILEC transport networks where

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[43] This discussion does *not* address an issue that was covered in the comments, namely where remote NXXs allow local calls between two parties not located within the same local calling area.

the traffic originates on the CLEC network and terminates on an ILEC network. In this case, the ILEC recovers the cost of transport (as well as tandem switching, if needed) between the POI and the end office serving the called party from the originating CLEC. *See* 47 C.F.R. § 51.701(c). Transport rates set by the states should recover the cost of transport from a POI outside the calling area of the called party to the end office. To the extent that rates do not recover these costs, they should be adjusted accordingly.

Where traffic originates on an ILEC network and terminates on a CLEC network, transport to and from a POI not located in the calling party's local calling area is not adequately addressed under the existing rules. The Commission's rules should be clarified to ensure that CLECs are able to take advantage of the efficiencies of establishing a single POI in a LATA without at the same time free riding on the ILEC transport network. Free riding could occur where a CLEC terminates much more traffic than it originates and where the recipient of the traffic is located near the CLEC's switch. In this case, the CLEC could force the ILEC to bear a disproportionate amount of transport costs.

On the other hand, in the case where the called party is located in the same local calling area as the calling party, there should be little concern that the CLEC would have the opportunity to free ride on the ILEC transport network, even in the presence of significant traffic imbalances. In most cases, where a CLEC establishes a single POI in a LATA, it does so in order to aggregate traffic for switching purposes in a central location in the LATA. In this manner, the CLEC can efficiently allocate transport and switching functions in its network, the key benefit of the single POI per LATA rule. Importantly, to the extent that the CLEC must deliver traffic to a customer in the same calling area as the originating caller, it may not recover the costs of transport from its switch to the called party from the originating LEC. Of course, even where the called party is in the same local calling area as the calling party, there may be some called customers that are near the CLEC's switch, and for whom the ILEC will be forced to incur larger transport costs than the CLEC. But this is not likely to be the norm. The CLEC must transport the traffic from its switch back to the called party and, since this transport does not constitute transport recoverable from the originating carrier, the CLEC must recover the cost of that transport from its own end-user customer. For traffic from an ILEC customer to a CLEC customer in the same local calling area, the CLEC is likely to be responsible, under the current rules, for as much transport as the ILEC, even where the carriers are interconnected at a single POI in a LATA.

Of course, it is always possible that an enterprising CLEC could design its network in a way that somehow allows it to inefficiently free ride on the ILEC's transport, even where the CLEC's customer is in the same local calling area as the ILEC's customer. The Commission could address any concerns regarding inefficient use of transport associated with single POIs in a LATA by establishing a presumption that, where the traffic originates and terminates in the same local calling area, the current rules for allocating transport costs continue to apply. Thus, for calls between two end users physically located in the same local calling area, the originating carrier would be required to bear the costs of transport to the POI, even if not located in the local calling area. The terminating carrier would then recover the transport costs from the POI to the switch serving the called party from the originating carrier, and recover the transport from the switch to the called party from its end users. The rule would be crafted as a presumption to allow the states the flexibility to address outlier situations, to the extent they exist, in which for some reason one LEC is able to design its network in a way that allows it to inefficiently free ride on the transport network of the other LEC.

IV. CONCLUSION

The Commission should consider the theoretical and practical implementation issues described herein before adopting any reform proposal for intercarrier compensation.

Respectfully submitted,

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