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

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

Reply Comments of TCA

I. Introduction

TCA, Inc. - Telcom Consulting Associates ("TCA") hereby submits these comments in reply to initial comments filed responding to the FCC's notice of proposed rulemaking ("NPRM") on intercarrier compensation. The FCC initiated this NPRM to reexamine all currently regulated forms of intercarrier compensation. The FCC proposes to move forward from the transitional intercarrier compensation regimes to a more permanent regime that consummates the pro-competitive vision of the Telecommunications Act of 1996 ("1996 Act").[1] Finally, the FCC proposes a bill-and-keep regime as the appropriate vehicle with which to achieve an equitable unified regime.

TCA is a consulting firm, which performs financial, regulatory and marketing services for over fifty small, rural LECs throughout the United States. TCA's clients derive a significant portion of their revenues from intercarrier compensation and therefore will be directly impacted by the FCC's actions in this proceeding.

[1] NPRM ¶ 1

II. The Initial Comments Support A Separate Proceeding for Carriers Serving Rural and High-Cost Areas.

Both the Initial comments in this proceeding and other proceedings before the Commission support a separate proceeding for carriers serving rural and high-cost areas. As the Commission has endorsed in the Rural Task Force (RTF) proceeding, rural LECs incur much higher costs than non-rural LECs to connect their customers to the ubiquitous, national network.[2] Indeed, in determining that the RTF should be established, the Commission recognized that "one size does not fit all…"[3] As the Initial comments demonstrate, what held for consideration of universal service, also holds for consideration of intercarrier compensation.

The Initial comments cite the significant impact that a mandatory bill and keep regime, shifting costs from interexchange and CMRS carriers to end users, would have on rural households.[4] The facts offered by NECA are most telling. For companies in the NECA Common Line Pool, NECA estimated that a bill and keep regime for interstate access would shift more than $1.5 billion from interstate carriers to end-users.[5] NECA further reports that over 800 Rate of Return LECs would need to increase end user rates "by $10 or more per month."[6] NECA's comments were supported by other individual rural LECs estimating the rise in end user rates in high cost

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[2] *The Rural Difference*, Rural Task Force White Paper 2, Jan. 2000.
[3] In the Matter of Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, *Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256*, (adopt. May 10, 2001, rel. May 23, 2001), ¶4 (RTF Order).
[4] See National Exchange Carrier Association at 3 (NECA), National Association of Regulatory Utility Commissioners at 4, Oklahoma Rural Telephone Coalition at 7-8, Public Service Commission of Wisconsin at 5, Regulatory Commission of Alaska at 2, United State Telephone Association at 22-23.
[5] NECA at 5. See also Appendix I at 2.
[6] *Id*.

areas: Home Telephone Company would increase rates by an estimated $27.50 per month[7]; The Regulatory Commission of Alaska expects over one-third of rural customers in Alaska would see between a $35-$100 per month increase[8]; and the Western Alliance, having a membership of 250 rural LECs, finds that carriers providing service in rural study areas having 501-1000 lines may expect to raise local service rates as high as $135 per month per line.[9] The drastic impact that mandatory bill and keep regime would have on rural LECs and the citizens they serve mandates that the Commission, as it has before, separate rural LECs from this "one size fits all" proceeding.

III. Before Imposing Mandatory Bill and Keep Regime, the FCC must consider the Impact on Federal Universal Service Support.

As the comments above amply demonstrate, any mandatory bill and keep regime would have an equally dramatic impact on federal universal service support. As the Commission is well aware, the Telecommunications Act of 1996 (the Act) mandates that rates in high cost areas are both affordable and comparable to those in low cost areas.[10] The Initial comments note that a mandatory bill and keep regime may only be considered *subsequent* to an examination of whether current universal service mechanisms could provide needed support in a lawful manner.[11] Even if current universal service support could offset the striking increases in local service rates, especially among rural consumers, as NECA notes, end user rates would still increase. As recovery of universal service contributions may only be had from end users, any increase in universal service funding would most likely be passed on to the consumers, resulting

[7] Home Telephone Company at 1.
[8] Regulatory Commission of Alaska at 2.
[9] Western Alliance at 9.
[10] 47 U.S.C. § 254(b)(1) and § 254(b)(3).

in increased end user rates.[12] Either way, the past gains in providing universal telecommunications service in this country, and the future promise of such, are eliminated under mandatory bill and keep.

TCA supports the Initial comments that would have the Commission refer this proceeding to the Federal-State Board on Universal Service.[13] As NRTA and OPASTCO note in their joint comments, federal law mandates the referral of this matter to a joint board proceeding.[14]

IV. Prior to reforming the inter-carrier compensation system, the FCC should fully enforce the current system as drafted within the Act.

The Act provides specific procedures for interconnection agreements and local reciprocal compensation arrangements among all industry players, including CMRS carriers. However, in the current proceeding, CMRS carriers argue that the system implemented by the Act is being manipulated by IXCs and LECs. The CMRS carriers request the Commission to preempt state commissions in their regulation of CMRS interconnection. Specifically, much of the debate surrounds a current proceeding before the Missouri PSC.

It has been the experience of many of TCA's clients, an experience that is echoed by many small LECs, that CMRS carriers simply do not wish to have interconnection arrangements with small LECs. As the proceeding before the Missouri PSC demonstrates, CMRS carriers commonly do

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[11] NECA at 9, Western Alliance at 24, NRTA/OPASTCO at 17-18.
[12] NECA at 11.
[13] See NECA at 14, NARUC at 3, NRTA/OPASTCO at 7-8, NTCA at 7-8, Regulatory Commission of Alaska at 3-4, Public Service Commission of Missouri at 4, Public Service Commission of Wisconsin at 5 and Florida Public Service Commission at 4.
[14] NRTA/OPASTCO at 8.

not follow the interconnection procedures as outlined in the Act. In general, a CMRS carrier will not request or pursue interconnection agreements with small LECs, choosing instead (as in the proceeding before the Missouri PSC) to indirectly interconnect through a large LEC, with which it has an interconnection agreement. TCA's clients have attempted to communicate with CMRS carriers regarding traffic terminated on their networks. These attempts have largely been in vain. TCA's clients have prepared and presented bills for the use of their networks to CMRS carriers. Again, the majority of these legitimate bills are ignored and not paid.

This attitude toward interconnection is found in a filing in the instant proceeding. Mid Missouri Cellular apparently filed a draft version of its Initial comments. In these comments, the Commission may see the true position toward payment of intercarrier compensation of at least this one CMRS carrier. With regards to whether access charges should apply to CMRS carriers, Mid Missouri makes the following parenthetical statements:

> "I assume I should argue *against* paying access and in favor of receiving access for IXC traffic terminated on our network…"[15]
>
> "On the bright side though, at the FCC's normal pace of rule promulgation, *it may give us a source of cost recovery for a decade or so*."[16]

While TCA does not credit the entire CMRS industry with these statements, we would submit that the statements represent a current belief that, with regards to intercarrier compensation, CMRS carriers do not see themselves in the same light as the rest of the telecommunications industry.

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[15] Mid Missouri Cellular at 27(emphasis added).
[16] *Id.* (emphasis added).

V. Conclusion

The Commission must approach any reform to the existing intercarrier compensation mechanisms with extreme caution, and only after focused consideration. Implementation of a "one size fits all" reform will only lead to ill effects, certainly for rural consumers and the carriers that serve them. Prior to any further proceedings, the Commission should refer this NPRM to the Federal-State Joint Board on Universal Service, as mandated by the Act. Further, the Commission should carefully examine the current interconnection procedures and their implementation over *all* intercarrier relationships. Only after the current playing field is leveled, should reforms be considered.

Respectfully submitted,

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