

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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

**FURTHER NOTICE OF PROPOSED RULEMAKING**

**Comments  
Of  
PrairieWave Telecommunications, Inc.**

William P. Heaston  
General Counsel  
PrairieWave Telecommunications, Inc.  
(FRN 0003-7723-40)  
5100 South Broadband Lane  
Sioux Falls, SD 57108  
(605) 96509894

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## **I. Introduction.**

PrairieWave is the competitive local exchange carrier (“CLEC”) subsidiary of PrairieWave Communications, Inc. serving 24 rural markets in Iowa, Minnesota and South Dakota. PrairieWave serves very rural communities ranging in population from a few hundred to just over 20,000 inhabitants.

PrairieWave Communications, Inc. also operates a rural incumbent local exchange company subsidiary, PrairieWave Community Telephone Inc. (“ILEC”), serving 14 communities in South Dakota. The ILEC’s Class 4/5 switch is located in Viborg, South Dakota and acts as the interstate tandem for both the ILEC and the CLEC. The Viborg switch is owned and operated by the ILEC. The Viborg switch connects to a Qwest Corporation (“Qwest”) tandem switch located in Sioux Falls, South Dakota. PrairieWave owns and operates a Lucent 5E Class 4/5 switch in Marshall, Minnesota, which connects to the Qwest tandem in Windom, Minnesota, and a Lucent DRM in Storm Lake Iowa with Class 4/5 capability.

PrairieWave is a fully facility-based CLEC. It has not and currently does not buy unbundled network elements from Qwest or other LECs<sup>1</sup> with which it competes, nor does it resell any of Qwest’s or other LEC’s local exchange services.<sup>2</sup>

This Further Notice of Proposed Rulemaking<sup>3</sup> (“FNPRM”) solicits comments on proposals from numerous interested parties regarding the Commission’s conclusion that

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<sup>1</sup> PrairieWave also competes with Ft. Randall Telephone in the Centerville and Viborg exchanges in SD, and with Frontier Communications of Minnesota in the Adrian, Currie, Edgerton, Lake Wilson, Slayton and Worthington exchanges in Minnesota.

<sup>2</sup> PrairieWave does have state commission approved interconnection agreements with Qwest (Iowa, Minnesota and South Dakota) and with Frontier (Minnesota) that do include provisions for the purchase of unbundled network elements and resale of incumbent LEC services at a wholesale discount, but PrairieWave has never activated such services using those agreements. The agreement with Ft. Randall (South Dakota) does not have similar wholesale/resale provisions; it is essentially a reciprocal compensation agreement for local service traffic.

the current system of intercarrier compensation needs to be replaced with a unified regime. Paragraph 4 of the FNPRM details the issues and concerns the Commission would like to see addressed including the legal and economic bases, end-user effects, universal service issues, network interconnection, implementation issues, alternative reform measures, cost standards, the regulation of transit services, and additional CMRS compensation issues.<sup>4</sup>

## **II. Previous PrairieWave Filing.**

On November 12, 2004, PrairieWave filed for a waiver of the Commission's CLEC access charge rules to allow PrairieWave to bring its interstate access prices more in line with its cost of providing that service.<sup>5</sup> The issues discussed in that filing and the attached market and economic analyses stated in detail PrairieWave's concerns and legal position with regard to intercarrier compensation. That Petition is incorporated by reference into these comments.

## **III. Basic Principles.**

PrairieWave is confident that the comments filed in this matter will continue to be varied and voluminous. PrairieWave does not want to unnecessarily add to the volume. However, as a fully facilities-based, rural CLEC, PrairieWave believes the following principles apply and need to be considered by the Commission in this proceeding:

A. Cost Recovery. PrairieWave must be compensated for the use of its network by anyone who uses that network to provide services that can be carried on the

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<sup>3</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, (rel. March 3, 2005).

<sup>4</sup> *Id.* at ¶ 4.

<sup>5</sup> *In the Matter of Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, CC Docket No.96-262, PrairieWave Telecommunications, Inc., Petition for Waiver (filed Nov. 12, 2004) ("Petition").

network. Certainly the end-user customer pays for access to the network through a flat monthly fee and other charges (e.g. the Subscriber Line Charge (“SLC”)). But the end-user is not the only party that benefits from access to and use of the PrairieWave network. There is a long list of retail service providers, not the least of which are interexchange carriers (“IXC”), who access and use the PrairieWave network to provide service and who profit through that use of the network. Any government-mandated regime that does not allow PrairieWave to adequately recover the cost of building, maintaining, and provisioning its network is confiscatory and an unconstitutional taking of PrairieWave property.

PrairieWave is opposed to any mandated bill and keep regime. The adoption of such a requirement inherently ignores PrairieWave’s situation providing service using its own facilities in sparsely populated rural areas. Bill and keep denies PrairieWave legitimate cost recovery.

B. Ability to Bill the Retail User. PrairieWave has no problem billing its end-user customer. PrairieWave should not have a problem billing providers of other retail services using its network to provide those services to the same end-user customer.

When the other retail provider connects with PrairieWave directly, either at an end office or one of PrairieWave’s tandems, PrairieWave does not have problems billing that other retail provider. However, when the other retail provider elects to connect to PrairieWave through the incumbent’s tandem, PrairieWave is forced to rely on the records of that tandem operator, and there are significant problems with the quality of the call records provided by the incumbent that make it difficult and sometimes impossible to

appropriately bill the network usage. To eliminate these problems the Commission needs to provide rules governing the provisioning of intermediate or transiting services that:

1. Require the tandem operator (transiting carrier) to use Feature Group D trunking and protocols in the tandem so that PrairieWave receives all of the billing information with the call and can determine at its tandem switch whether the call is billable before it decides to terminate that call. PrairieWave should not be required to terminate traffic it cannot bill.

2. Require tandem providers to supplement the billing records with information missing from a call detail, which information is known only to the tandem operator by virtue of its trunking and feature group arrangements.

3. Failing to accomplish either of the above, require the tandem operator to compensate PrairieWave for the access revenue it could not collect.<sup>6</sup>

PrairieWave prefers to have the ability to operate its own network without having to depend on the incumbent for any call records. Control of the call records allows the incumbent and its tandem customers to abuse and game the network to PrairieWave's disadvantage. The incumbent tandem operator charges for the call records, which is an unnecessary expense to PrairieWave. Processing those additional records is also an unnecessary burden and cost to PrairieWave.

#### **IV. Conclusion.**

PrairieWave appreciates the difficulty of this undertaking and welcomes the opportunity to express its concerns. The bottom line is that PrairieWave cannot continue to provide very high quality telecommunications services in its rural service areas if it

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<sup>6</sup> The South Dakota Legislature has already moved in this direction with the enactment of SDCL §§ 49-31-109 through 49-31-115.

cannot earn the necessary return on its investment. The limited comments provided above address PrairieWave's most immediate concerns – the ability to charge fair, reasonable, nondiscriminatory, and compensatory prices for its access services, and the ability to have the information necessary to bill the users of its network. As this comment process continues, PrairieWave will endeavor to provide cogent and succinct advocacy on behalf of its rural constituency.

Respectfully submitted,

PrairieWave Telecommunications, Inc.

By: /s/ William P. Heaston  
William P. Heaston  
General Counsel  
5100 South Broadband Lane  
Sioux Falls , South Dakota 57108  
(605) 965-9894

Its Counsel

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