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

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

COMMENTS of GREAT LAKES COMNET

Great Lakes Comnet (or "Comnet") hereby submits these Comments in response to the Commission's *Further Notice* in the docket captioned above.[1] The Commission seeks comment on a myriad of issues related to potential changes in the mechanisms and framework for compensation between carriers, the rights and obligations of carriers with respect to network interconnection, and the relationship of those issues to proposals by various industry groups.

I. ANY NEW NETWORK INTERCONNECTION RULES MUST RECOGNIZE THE RIGHT OF ALL LECs TO DESIGN, DEPLOY, AND CONFIGURE THEIR OWN NETWORK HIERARCHY INCLUDING THE USE OF THIRD PARTY CENTRALIZED TANDEM AND TRANSPORT NETWORKS.

Great Lakes Comnet is a Michigan corporation organized originally by several small and rural local exchange carriers ("LECs") for the purpose of providing for the participants: (1) an independently owned and operated centralized tandem switching and transport network to which the participant LECs' end offices connect and subtend the central tandem switch;[2] (2) a statewide broadband network;[3] (3) long distance services through resale of facilities-based interexchange carrier ("IXC") services; and (4) competitive local exchange carrier ("CLEC") services. The participants' business purpose in establishing the commonly-owned broadband

[1] *Further Notice of Proposed Rulemaking*, In the Matter of Developing a Unified Intercarrier Compensation Regime, released March 3, 2005 ("*Further Notice*").

[2] Comnet's tandem is located 18 miles outside of Lansing, Michigan.

[3] The LEC participants also utilize the Comnet operation to deploy other services and alternative network arrangements on a group basis, including broadband and Internet related services.

transport network and tandem switch is to introduce new services and to deploy a network for themselves as a substitute to the arrangement under which they were dependent on dominant large LECs.[4] Currently, there are 18 end offices of 13 incumbent rural LECs and five CLECs participating in the Comnet operation. Over 150 IXCs obtain originating and terminating access to the LEC participants' networks through connection with the Comnet centralized tandem.

In this proceeding, Comnet urges the Commission to acknowledge the existence and value of centralized tandem and transport operations and to incorporate rules that address the functional role of such operations in providing services to carriers. Any new approach must continue to compensate the centralized tandem and transport operators for the network functions they provide.[5]

Any new intercarrier network interconnection framework should also recognize the right of the Comnet LECs to design their network architecture to continue to use their existing centralized tandem and transport operation for interconnection with all other carriers. A dangerous potential outcome exists in the various proposals before the Commission, particularly those supported by the regional Bell operating companies ("RBOCs"), to impose an industry network structure which would competitively favor the RBOCs and essentially force small and rural LECs to acquiesce to an RBOC network design. In any plan adopted by the Commission, these features of the plans should be rejected.

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[4] Centralized tandem switches with transport to end offices of participating LECs were originally established to provide equal access in the late 1980's. There are similar centralized tandem and transport entities that have been formed in many other states. *See, e.g.*, *Ex Parte* Presentation, filed May 10, 2005, by South Dakota Network, LLC; Onvoy; and Iowa Network Services, Inc. in this proceeding.

[5] The comments and conclusions set forth herein regarding centralized tandem operations would also apply to tandem-end office complexes established by individual LECs.

A. BACKGROUND -- INDEPENDENTS' DEPLOYMENT OF THEIR OWN TANDEM SWITCHING ARCHITECTURE.

The Independent LEC industry has spent the last 50 years working to deploy their own networks as the means to improve efficiency and to reduce or eliminate reliance on RBOCs. During the 20th century, the RBOCs attempted to impose network hierarchy configurations on Independents and attempted to limit these LECs' network options.[6] For example, if an RBOC did not agree with an Independent's plans to deploy its own tandem and trunking arrangement, the Bell company might resist merely by refusing to recognize the arrangement for trunking and traffic purposes. Eventually, Independent LECs did deploy their own tandem arrangements despite the resistance of the Bell system companies.[7] With the advent of the access charge rules and equal access in the early 1980's, the Independents' opportunity and right to deploy their own tandems was further recognized. Many Independents have reconfigured their networks to migrate away from dependence on Bell companies.

Independents have been and continue to be concerned with their experience with RBOCs with respect to unauthorized and unidentified traffic, missing settlements, inaccurate measurement, and other less than acceptable practices that are the direct result of the performance of these functions at a tandem office operated by an RBOC. These concerns are critical in the decisions by small and rural LECs either to establish their own tandem

[6] Network hierarchy architecture includes trunk routing choices, the option for a LEC to deploy its own tandem(s) to serve its own subtending end offices and trunking needs (and potentially other carriers' end offices), and the choice of end office-tandem office arrangements.

[7] In the first half of the 1900's, AT&T built a nationwide network and attempted to advantage its competitive position by refusing to interconnect with small independent carriers unless the smaller company capitulated and "sold out" to AT&T. This practice was halted by what came to be known as the "Kingsbury Commitment." AT&T agreed that it would connect its long haul network and stop imposing unfair conditions on the Independents, and the Federal government permitted AT&T to continue as a regulated monopoly, albeit in areas mutually exclusive from those served by the Independents. In more recent decades, AT&T and its Bell affiliates attempted to impose rigid network configuration conditions to limit the Independents' network configuration opportunities.

arrangements or to participate in commonly owned tandem operations such as that provided by Comnet.[8] Independent LECs have configured their networks (*i.e.*, established tandems) with the intent that they could establish trunk groups and identify and measure traffic for themselves, thereby freeing themselves from reliance on RBOCs.[9]

B. THE SMALL AND RURAL LEC TANDEM OPERATORS MUST CONTINUE TO BE COMPENSATED FOR THEIR OPERATIONS.

Independent LECs have deployed and will continue to deploy their own tandem switching hierarchy either on an individual company basis or through participation in centralized commonly-owned networks such as that of Comnet. Accordingly, the owners of the transport and tandem switching networks should rightfully continue to be compensated for the functions they provide to other carriers. Unfortunately, some of the proposals before the Commission do not clearly address tandem and transport facility operators which provide a choice for Independents and other carriers as an alternative to the interconnection services of the large Bell companies. Comnet respectfully submits that any intercarrier framework must recognize the

[8] In recent years, with the advent of local competitive interconnection, the RBOCs have entered into agreements with CLECs and wireless carriers and utilized legacy intrastate IXC access arrangements that the RBOCs have with the Independents to combine and deliver third party traffic to the Independents' networks. In many instances, the RBOC has done so without agreement or authorization from the Independent LECs. The RBOCs have attempted incorrectly to portray themselves as "victims" as a result of this course of action. To the contrary, the RBOCs are now more dominant in these central roles than prior to the 1996 amendments to the Act. In reality, the rights of the Independent LECs have been ignored and effectively denied, and where the Independent LECs now find themselves forced to accept the RBOC network and business arrangements, it is the smaller carriers and their customers that are the victims.

[9] For example, in a proceeding involving BellSouth, the Commission agreed that a small, rural LEC should be allowed to reconfigure its network: "Further, PSTC is upgrading its permanent network not only to provide equal access and 800 number portability, but to decrease its reliance on the facilities of a potential competitor with which PSTC has already allegedly encountered measurement and reliability problems." *Memorandum Opinion and Order*, In the Matter of Allnet Communications Services, Inc. v. Public Service Telephone Company, File No, E-93-099, released October 8, 1996 at para. 17. PSTC observed "that when it noticed measurement and reliability problems with BellSouth's network, it decided to reconfigure its own network to reduce reliance on BellSouth . . . ." *Id*. at para. 9.

existence of centralized tandem operations and provide for a conceptually sound method for compensation to the network operators.

Currently, centralized tandem operators recover the costs of their operations from the carriers that use these traffic aggregation functions as the means to transport traffic to and from the networks of the LEC participants. Carriers have the right to interconnection with LECs either by connection to end offices or through the tandem office serving those end offices. By connecting to a tandem office centrally located in a state, the carrier is able to originate and terminate traffic, from and to, the LEC participants' end offices without deploying network facilities to each network or to each end office. The carriers that utilize these functions should continue to provide compensation to the network provider for such use.

The various proposals before the Commission generally include provisions that would lower, even potentially to zero, the recovery by individual LECs of compensation obtained from other carriers for network functions and services. Furthermore, for individual LECs, the compensation lost as a result of lower rates would generally be replaced with new revenues including, for example, increases in subscriber line charges, higher local service rates, and new sources of Universal Service Funding. However, these alternative revenue sources do not apply to centralized tandem operators because their services and network functions are provided to carriers, not to end users.

When IXCs (through access) or local interconnection carriers (through transit services) use the centralized tandem switching and transport, these carriers must continue to compensate the network provider as they do today. Moreover, the existing rate framework which depends generally on distance and/or minutes of use (including both switched transport and special access options) should continue to apply to the networks of centralized tandem and transport services

provided by Comnet and similar entities.

The operators of centralized tandem and transport networks must continue to be compensated by the carriers that use these networks. Network operators will cease to build and maintain networks if compensation is curtailed or threatened with conceptually unsound alternatives. Accordingly, to ensure that centralized tandems and transport arrangements continue to be available, carriers interconnecting to small and rural LECs via these operations must continue to pay a fair share for such use.

C. INTEREXCHANGE CARRIERS ARE RESPONSIBLE FOR PROVIDING COMPENSATION FOR THE USE OF NETWORKS IN THE ORIGINATION AND TERMINATION OF THEIR RETAIL LONG DISTANCE SERVICES.

Some of the proposals before the Commission in this proceeding apparently would relieve an IXC from the obligation to pay for tandem switching and transport to and from end offices.[10] Under what is a flawed conceptual approach, LECs would be responsible, free of charge to the IXC, for the switching and transport of an IXC's retail service originating traffic to a point apparently of the IXC's choosing. These proposals lack a common sense understanding of the service relationship that the IXC has with other network providers. An IXC could not provide long distance services to end users without the use of LEC's and the centralized tandem operator's network to originate and terminate these calls unless the IXC built and operated its own network to each end user. Moreover, it is the IXC that has the retail service relationship with the end user, obtains the revenue from the service offering, and therefore should pay those network providers that make the service possible. LECs and centralized tandem and transport providers cannot be expected to provide a service to IXCs, at significant network cost to these network providers, without compensation for those functions and services. For these reasons,

[10] *See, e.g.*, the Intercarrier Compensation Forum ("ICF") Plan at p. 19.

the current framework under which IXCs compensate network providers for the use of such networks for both the origination and termination of their retail services must continue.

D. SMALL AND RURAL LECs, IN A COMPETITIVE WORLD, MUST CONTINUE TO HAVE THE RIGHT TO DESIGN THEIR OWN SWITCHING AND TRANSPORT ARCHITECTURE WITHOUT INTERFERENCE FROM THEIR COMPETITORS.

The rules which establish the rights and responsibilities that govern the interconnection of carriers' networks with each other will remain a fundamental component of any intercarrier framework. These rules could affect the rights of carriers to design their own network architecture and switching hierarchy. Some of the network interconnection "rules" under review in this proceeding; *i.e.*, the Intercarrier Compensation Forum's ("ICF") so-called "edge" concept and network rules, present competitive concerns because RBOCs could be allowed effectively to limit other carriers' network options. For these reasons, these proposals should be rejected.[11] The "edge" concept and default network interconnection rules drafted by the ICF provide a relevant example. These proposed "rules" create an arbitrary set of definitions, categories of carriers, network configurations, network options, and various obligations on carriers within the proposed framework. Adoption of these proposed rules would harm Comnet (and its LEC participants) if RBOCs and other competitive carriers were allowed to require other carriers to accommodate the network design of RBOCs and/or deny smaller carriers of their competitive right to design their own network configuration and service offerings. A new intercarrier framework should not effectively limit Independents' or any other carriers' ability to deploy and use a centralized tandem as an alternative to the RBOC tandem. Commission rules should not be used to perpetuate the Bell company role of "gatekeeper" through which all traffic must flow.

[11] As explained in these Comments, small and rural LECs have endeavored of a long time to halt Bell companies from their attempts to dictate network design and network options to other carriers. This proceeding should not allow the RBOCs or other larger carriers to turn the clock backwards.

In a competitive world, every carrier must have the right to design its own network architecture, switching hierarchy, and service offerings without interference from its competitors. Each RBOC determines for itself the tandem office to which each of its end offices will subtend and have required all other carriers to comply with its choice. Non-RBOC incumbent LECs have the same right to determine their own subtending end office-tandem design.[12]

However, RBOCs refuse to recognize Independents' established tandem architecture. RBOCs interconnect with other local competitors, utilize access facilities and arrangements with the Independents without agreement, and switch commingled multiple carriers' traffic over the RBOC's tandem switched trunking facilities. The result is that the RBOC has effective competitive control over the Independent's network design. RBOCs should not be allowed to stand in the way of an Independent's or any other carrier's design of its own network, including the decision to subtend another tandem office instead of the RBOC tandem. No carrier can force an RBOC to configure its network so that an RBOC's end office subtends a particular tandem office. But RBOCs apparently believe that they have the right to do so for other carriers.[13]

RBOCs have no right under the Act to negotiate with other carriers on behalf of small and

[12] The so-called single point of interconnection ("POI") concept has been distorted to suggest improperly that a POI that a requesting carrier establishes with an RBOC should somehow be the required POI for other small and rural incumbent LECs. No such rule or requirement exists, and such requirement would be inconsistent with the Act. This concept as applied to an RBOC only determines the POI with respect to that particular RBOC. Commenting parties have distorted the application of this apparent requirement to extend the concept to limit the options of non-RBOC companies. As such, these parties have failed to recognize the separate existence and rights of the non-RBOC incumbents and competitive carriers.

[13] This pattern of conduct means that centralized tandem operators (and individual LECs deploying their own tandems) have been effectively confined to access traffic of IXCs. With respect to local interconnection traffic, the RBOCs have arranged interconnection with CLECs and wireless carriers in a manner that utilizes the RBOC's tandem, and the RBOC uses its access or other existing arrangements with the Independents, without authorization and agreement, to force a business and network arrangement on the Independents under which the Independents must continue to be dependent on the RBOC tandem for local interconnection traffic. Again, the RBOC would not accept this result if the roles were reversed with the Independents.

rural incumbent LECs, and the agreements that RBOCs establish with other carriers do not and cannot bind any other carrier.[14] Through the design of a potentially new network interconnection framework in this proceeding, the RBOCs are apparently attempting to perpetuate their central interconnection point for all carriers.[15] Moreover, and without directly addressing the issues related to forced interconnection arrangements that the RBOCs have imposed on rural Independents (and other carriers), it appears that the RBOCs are utilizing this proceeding to ask the Commission to condone their past practices. Interconnection policy must prohibit improper and anti-competitive behavior.

The Commission correctly recognizes that there are no rules governing the so-called "transit" arrangements.[16] However, the RBOCs have established these arrangements in a manner that limits the network design choices of potential competitors. There has been no proceeding, policy analysis, or public interest examination to conclude that RBOCs have been "crowned" as the intermediary situated between all other competing carriers, nor should there be. A chilling effect will overhang the industry if a framework is condoned or promoted whereby RBOCs are granted the status to be situated at the center, literally directing (and receiving compensation for) all traffic between and among all other competitors. Smaller LECs should not be forced to accept involuntarily an RBOC as an intermediary upon which the small LEC must depend. Nor

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[14] The Act includes as grounds for rejection of an interconnection agreement with a requesting carrier any agreement that "discriminates against a telecommunications carrier not a party to the agreement . . . ." 47 U.S.C. § 252(e)(2)(A)(i). The effect of the RBOCs' agreements with CLECs and wireless carriers is to discriminate against other incumbent LECs' rights to design their own switching hierarchy, interconnection terms, and business arrangements with other carriers.

[15] Under the ICF plan, it appears that the options afforded small incumbent LECs would be improperly limited. *See Further Notice* at para. 40 and notes 119, 120, 121 and 122. In many ways, the proposals drafted by the RBOCs presume their tandem dominance and a requirement for all other carriers to acquiesce to this dominance without recognizing the right of other carriers to discontinue these arrangements with RBOCs and establish their own.

[16] *Further Notice* at para. 120.

should any carrier be forced into a subtending tandem arrangement with the RBOC for that carrier's end offices. A true competitive market cannot exist if a large RBOC can simply impose its will on a small company. For these reasons, while the option to use an RBOC tandem voluntarily should remain, RBOCs should not be allowed to require other carriers to do so. The Commission should use this proceeding to limit the ability of the RBOCs (and any other carrier) to force network arrangements on other carriers.

II. CONCLUSION

In proceeding to address a new intercarrier framework for the industry, the Commission should recognize the existence of centralized tandem and transport networks and the rights of smaller LECs to utilize such arrangements. Under any new plan, the interexchange carriers and local interconnection carriers that utilize these network functions should continue to provide compensation to the centralized tandem and transport operators as they do today. In reviewing the issues, the Commission should be careful not to deny small and rural LECs of their right, in a competitive world, to design their own switching and transport architecture without interference from larger incumbent LECs.

Respectfully submitted,
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