

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

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

Comments of
Rock Hill Telephone Company d/b/a Comporium Communications,
Lancaster Telephone Company d/b/a Comporium Communications
and Fort Mill Telephone Company d/b/a Comporium
Communications (Comporium)

Comporium

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SUMMARY

Rock Hill Telephone Company d/b/a Comporium Communications, Lancaster Telephone Company d/b/a Comporium Communications and Fort Mill Telephone Company d/b/a Comporium Communications (collectively “Comporium”) submit the following comments for the Federal Communications Commission (Commission or FCC) to consider when developing a new intercarrier compensation regime. Comporium respectfully urges the Commission to adopt rules that embrace the inviolable principles of: a framework of default regulations; the preservation of Universal Service; revenue neutrality; capacity-based network access; a non-portable number-based cost recovery fund; negotiated compensation arrangements; recognition of FCC jurisdiction and a multi-year transition plan. Comporium believes a new regime must include these principles, and also believes they are compatible with the Commission’s own reform goals of economic efficiency; efficient competition; the preservation of universal service; competitive and technological neutrality; and a reliance on negotiated agreements.

Comporium shares the Commission’s and the industry’s concern about the uneconomic incentives and opportunities for arbitrage imbedded within the current matrix of compensation mechanisms. Although the industry appears to be in agreement that the current system is broken, we have different opinions on how to repair it.

If an economically efficient marketplace is desired, then a compensation regime based on bill and keep must be avoided. Bill and keep is only appropriate when the network costs and traffic exchanged between companies are equal. Otherwise, rural carriers with above average costs must recover a disproportionate portion of costs from their end user customers when compared to urban carriers. Comporium believes a capacity-based network access solution

recognizing cost, but not discriminating against any type of traffic, is the solution for economic efficiency.

A capacity-based, cost-driven compensation system of default regulations not only provides economic efficiency, but also creates efficient competition when accompanied by provisions for negotiated agreements. The ability of both rural and non-rural carriers to compete with competitive access providers is essential to an efficient marketplace. The Commission almost surely would agree that shackling regulated companies to a mandatory intercarrier compensation regime stymies the continued evolution of competition. Comporium believes a new regime containing a framework of baseline regulations, but allowing negotiated access agreements, will sustain the competitive environment desired by the Commission.

An intercarrier compensation system based primarily upon competitive and economic efficiencies might prove disastrous to rural areas unless the Commission also adopts appropriate mechanisms to account for universal service impacts. End users living in sparsely populated areas of the country are served primarily by rural ILECs. These customers must not be forced to bear the entire burden of any undue shift in cost recovery that will likely occur with intercarrier compensation reform. Comporium supports the creation of a cost recovery fund similar to USF that will offset any and all access revenue lost by rural carriers when new regulations are adopted. The fund should be non-portable, and should be applied to all working telephone numbers in order to ensure a broad support base.

The Commission also seeks to ensure the new compensation regulations are both competitively and technologically neutral. Comporium believes this balance can best be achieved with a capacity-based compensation regime that includes provisions for multiple users

of dedicated facilities. When access to the public switched network is determined by traffic volume and not by traffic type or jurisdiction, technology becomes irrelevant. When all competing service providers accessing a single carrier's network pay the same capacity-based rate or portion thereof, those companies are competing with each other on equal footing.

Finally, although we do perceive strong value in a state-federal collaborative process, Comporium believes the Commission has the ultimate authority to implement a new compensation system encompassing all jurisdictions. This aspect of reform is very important when considering the complexity of transitioning from the current hodge-podge of regulations to a unified regime. The Commission should consider establishing timeframes for state-federal reconciliation of the new regulations to conclude following their adoption. Absent an acceptable accord within this period, the Commission must not be confined and should be prepared to implement the new regulations quickly and assertively.

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I. INTRODUCTION

Rock Hill Telephone Company d/b/a Comporium Communications, Lancaster Telephone Company d/b/a Comporium Communications, and Fort Mill Telephone Company d/b/a Comporium Communications (collectively “Comporium”) hereby submit these comments to the Federal Communications Commission (“FCC” or “Commission”) in response to the Further Notice of Proposed Rulemaking in the above referenced proceeding.¹

The Comporium companies are rural local exchange carriers (“RLECs”) that provide wireline telephone service to over 100,000 access lines in portions of York, Lancaster, Chester and Kershaw counties in the South Carolina Piedmont region. The Comporium companies are rural telephone companies as defined in 47 U.S.C. § 153(37). Our companies have provided local exchange service for over 100 years, and appreciate the opportunity to comment in this docket on the critical issue of intercarrier compensation reform within the telecommunications

¹ In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92.

industry. In the body of our comments, *infra*, we will delineate the principles we believe should guide intercarrier compensation reform. Comporium will also include examples of where reform plans submitted by the industry and other parties support these principles.

II. DISCUSSION

The Comporium companies applaud the Commission's efforts to attempt to simplify and harmonize a complex mesh of tariffs, agreements and pooling arrangements that spread across local, intrastate and interstate jurisdictions. The current compensation systems of access charges, pooling arrangements and interconnection agreements have evolved over approximately a single generation in human terms, but in fact now span several lifetimes in the evolution of technology. These compensation mechanisms, while appropriate for their time in history, are no longer sustainable in this era of converging technologies. Indeed, who could have envisioned the impact of packetized communications technology and the Internet when access charges were implemented in the circuit switched world of 1984.

Compensation inequities exist within the current patchwork of regulations that value the carriage of certain types of traffic, based on jurisdiction, over others - be they local, intrastate or interstate. The current compensation rate structures provide improper incentives for carriers to misrepresent, mislabel or misdirect their traffic thereby disguising its jurisdiction. Although an argument could be made that a "a minute is a minute" and carriers experience no additional cost to switch a toll access minute-of-use versus a local access minute-of-use, local retail rates have been developed using the existing "value system" for access traffic as an integral revenue component. Opportunistic arbitrageurs continue to threaten this delicate balancing of revenue that allows rural carriers to provide service at affordable rates in high cost areas.

Further, these inequities have evolved to create an environment where companies are forced to commit resources simply to research, identify and attempt to bill other carriers for fraudulent or ‘phantom’ traffic terminating and originating on their networks.² The reward obtainable simply by rerouting traffic or omitting certain identifying information has created opportunities for arbitrage on a grand scale. In fact, it’s within reason that, after the Telecommunications Act of 1996 was signed into law, entire companies formulated business cases based on the compensation that could be obtained from other carriers rather than from their own customers.

The current compensation systems cry out for correction and cohesion. Default compensation rules that provide carriers with just and reasonable compensation for the use of their networks must be established. These default rules must provide safe-harbor compensation for all carriers. However, when deemed appropriate, the carrier must have the freedom and flexibility to respond to technology and competition as those forces evolve in a carrier’s own marketplace. Carriers facing these competitive and technological challenges must have the ability to negotiate their own compensation arrangements in order to ensure their viability in dynamic environments. The value of legacy networks, established by risk-taking industry pioneers who ventured where other telecommunications providers saw too little reward, must be recognized and balanced with the promise offered by new technologies.

In April 2001, the Commission released a Notice of Proposed Rulemaking (NPRM) seeking comment on the development of a unified intercarrier compensation regime. The Commission received extensive response and comment on the NPRM from industry members,

² Expanded Portland Group (EPG) Ex Parte filed November 2, 2004, page 10.

industry associations, Public Service Commissions and other entities.³ In addition, certain industry groups and interested parties submitted comprehensive reform proposals with wide-ranging principles for restructuring compensation.⁴ Those groups include the Intercarrier Compensation Forum (ICF), the Alliance for Rational Intercarrier Compensation (ARIC), the Expanded Portland Group (EPG), the Cost-Based Intercarrier Compensation Coalition (CBICC), Western Wireless, the National Association of State Utility Consumer Advocates (NASUCA), Home Telephone Company and PBT Telecom (Home/PBT), the National Association of Regulatory Utility Commissioners and CTIA – The Wireless Association.⁵ The reform proposals submitted contained various concepts for a new compensation regime including: bill and keep, capacity-based charges, number-based charges, flat-rated charges, jurisdictionally unified per-minute charges, and TELRIC-based per-minute charges.

The commenters also offered overarching goals for consideration in their reform proposals. In the FNPRM, the Commission offered its agreement on several of the specific goals and themes offered by the proposals including: (1) the promotion of economic efficiency; (2) the promotion of efficient competition; (3) the preservation of universal service; (4) competitive and technological neutrality; (5) a reliance on negotiated agreements rather than rules and regulations; (6) an assessment of impacted interconnection rules; (7) the legal authority of the Commission to adopt a proposed regime; and (8) a detailed transition plan where significant

³ FNPRM at ¶2.

⁴ *Id.*

⁵ *Id.* at § II.C.1

changes in carrier compensation levels are proposed.⁶ Comporium will address the Commission's reform goals individually and, where applicable, comment on the proposals that we believe best provide solutions to the problems inherent in the present compensation regime.

III. COMPENSATION REFORM PRINCIPLES

A. Economic Efficiency

Comporium believes the elimination of opportunistic arbitrage and normalization of compensation rates should be two of the primary goals of reform. The new compensation regime must not provide incentives for carriers to 'disguise' traffic simply to avoid paying higher intercarrier charges, or to receive unjust compensation.

A 'bill and keep' arrangement, whereby each carrier involved in the origination and termination of traffic bills its own customers and keeps all revenue without compensating the other carrier for terminating traffic, would seem to accomplish this. Bill and keep initially appears to declare that all traffic is truly created equal, and eliminates opportunities for carriers to enriched themselves unjustly or avoid due compensation to other carriers. However, unless the traffic exchanged between carriers is equal in volume, and the carriers exchanging traffic have comparable network costs, Comporium believes a bill and keep regime would create other types of arbitrage opportunities with unintended consequences. When a carrier originates traffic for ultimate termination on other networks, Comporium believes that the originating carrier must compensate the other carriers for the termination of the originating carrier's traffic. Otherwise, to place a zero cost on the use of a carrier's network creates spurious economic incentives for carriers originating high volumes of traffic to overuse the networks of other carriers, and also

⁶ *Id.* at § II.B.

fails to recognize the value of terminating a call. Comporium strongly agrees with the Expanded Portland Group that bill and keep is not an economically efficient solution and urges the Commission to not adopt a new compensation regime where bill and keep is the central tenet.⁷

Comporium also agrees with Home/PBT regarding the damage to rural networks that could occur with bill and keep.⁸ Rural networks have typically been costlier to deploy per subscriber than urban and suburban networks, and in rural areas the many fixed costs inherent to any telecommunications network must be recovered from a less dense subscriber base. Given the comparatively higher network costs rural carriers must face, and considering that under a bill and keep arrangement each carrier must recover its costs from its own end users, rural customers would experience higher costs than their distant urban neighbors for essentially the same telecommunications benefit.⁹ Comporium believes this arrangement would penalize rural customers and would provide them with economic incentive to abandon the network rather than pay these higher costs. The Comporium companies believe a compensation regime must be structured so that carriers are compensated in some manner for terminating traffic originating on other networks without placing an extraordinary burden on end users, and again urges the Commission to conclude bill and keep is an admirably simple goal, but not an economically efficient one.

As the industry continues to evolve from circuit switched to packet transmission technology, the Comporium companies agree with several reform proposals regarding the merit

⁷ EPG Ex Parte page 12.

⁸ Home Telephone Company (Home/PBT) Ex Parte filed November 2, 2004, pp. 11-12.

⁹ *Id.*

of capacity-based or flat-rated mechanisms as the primary form of intercarrier compensation. However, a “flash cut” to a regime based entirely on capacity charges may prove too costly for small interexchange carriers and disruptive to competition unless those carriers have an opportunity to share flat-rated connection charges. For example, in a purely capacity-based world, interexchange carriers with relatively small volumes of traffic would no longer have per-minute common transport available to them, and could potentially be forced to pay for DS1 or higher bandwidth capacity-based access charges for the termination and origination of their traffic.

However, with the appropriate conditions available for the sharing of dedicated network access costs, which we will later discuss in more detail, Comporium believes a revenue-neutral proposal with capacity-based charges as the touchstone is ultimately the most appropriate way to reform intercarrier compensation and could be done quickly. The Home/PBT reform proposal perhaps provides the most direct and sensible approach to that goal. The Home/PBT proposal envisions an environment where all carriers must connect to the public circuit-switched network through a capacity-based, flat-rated charge with a required minimum of one point of interconnection within each LATA for non-rural carriers, and a minimum of one required point of interconnection within each local calling area for rural carriers.¹⁰

A capacity-based compensation regime, where the volume of traffic one carrier sends to another, and not the jurisdiction of that traffic, determines the originating carrier’s cost, is an extremely effective way to practically eliminate arbitrage associated with circuit-switched traffic. A capacity-based structure also ensures that carriers who generate an ever-increasing volume of

¹⁰ *Id.*

traffic that ultimately terminates on other networks will pay an appropriate cost for their access into and consumption of other network resources. Comporium urges the Commission to recognize the simplicity, comprehensiveness and economic efficiency of a capacity-based plan such as the Home/PBT proposal, and the neutralizing effect on uneconomic arbitrage it can provide.

B. Efficient Competition

Comporium believes the most effective way to foster efficient competition is to enact intercarrier compensation regulations that provide a clear, baseline framework of interconnection and compensation rules, prescribing capacity-based rates to eliminate opportunities for jurisdictional and technological arbitrage. Competition cannot sustain itself much less flourish in the current chaotic compensation environment facing the industry today. If new services are to be developed and brought to market by those willing to assume the necessary risks, the Commission must provide certainty regarding compensation between long-established and new entrant service providers. Predictability regarding revenue streams or network costs, depending on the carrier's perspective, will create a more efficient marketplace and provide the investment community with better insight into our industry.

When developing business strategies or new products, service providers must have clear expectations regarding the compensation they should expect to receive when other service providers use their network. Conversely, industry players must also understand and be prepared to pay the appropriate price when using the network facilities of other companies. This understanding of intercarrier rights and responsibilities is imperative if companies are to establish effective retail rates for their lines of business. With this clarity, which can only be

provided by a uniform compensation regime ordered and administered by the Commission, telecommunications service providers will be armed with the knowledge needed to develop competitive end user rates.

At the same time, the default rules must allow for the negotiation of alternative compensation arrangements between carriers. This flexibility is necessary to allow both non-rural and rural carriers to respond to competitive capacity providers in dynamic environments. Throughout our country, many rural carriers are perched precariously alongside large metropolitan areas. Rural carriers in these areas find themselves competing against cable operators and utility services who have “edged-out” from their nearby metropolitan networks and now offer high capacity and other network access services within the rural carrier’s network.

An intercarrier compensation system that utilizes a cost-averaged, capacity-based rate that would be applied uniformly by all carriers would without question move the industry toward the Commission’s goal of a unified regime, and create an efficiently competitive model where interconnecting carriers would pay the same rate regardless of the type of traffic they transmit. However, this brave new world could be detrimental to the competitive position of certain uniquely positioned carriers in the aforementioned marketplaces, unless conditioned appropriately, which Comporium believes can be accomplished. The mandatory pooling of costs and resulting average rates would force some carriers to price their services at what would almost certainly be uncompetitive rates. Notwithstanding national cost pooling, mandatory nationally-averaged rates could handcuff certain carriers and prevent them from efficiently competing for access services. Without the ability to respond to competitive pressures and price their access services appropriately, many carriers could find their nationally averaged access

revenues shrinking. These access revenues have historically been an important revenue stream and have assisted rural carriers in meeting their universal service obligations. Comporium urges the Commission to acknowledge the importance of negotiated agreements in a competitive environment, and to include provisions for them as a necessary companion to default intercarrier compensation rules.

C. Preservation of Universal Service

Perhaps no other issue is of greater import in compensation reform than the preservation of an effective and sustainable universal service fund (USF), especially for rural service providers. The Commission must ensure that any adopted reform continues to allow companies to provide telephone service in high cost areas at affordable rates. Within the FNPRM, the Commission has explicitly made known its commitment to universal service and its sensitivities to those rural carriers who shoulder much of this burden.¹¹ Rural carriers are more sensitive to intercarrier access revenue losses than larger carriers, and these revenues represent a significant portion of their total revenue.¹² Comporium does not oppose a modest increase in end user rates in order to recover lost intercarrier revenue. For example, allowing carriers to raise End User Common Line charges to the current caps will shift some cost recovery to the network users generating access costs. However, the use of end user charges as the primary vehicle to achieve revenue neutrality would, without question, impact the affordability of service in rural areas.

All reform proposals address the issue of access revenue reductions and universal service in some way, either through a change in the manner in which the current USF is administered,

¹¹ FNPRM at ¶ 32.

¹² EPG Ex Parte p. 1.

new cost recovery mechanisms or funds, or a combination of both methods. Comporium supports the implementation of a discrete non-portable access revenue substitution fund very much like the Access Restructure Charge (ARC)¹³ proposed by the EPG, or the High Cost Connection Fund (HCCF)¹⁴ proposed by Home/PBT. The cost recovery mechanisms in these two proposals seek to capture the specific costs associated with compensation reform sought by the Commission, but not recovered explicitly from end users or carriers, and to broaden the fund support base by assessing contributions based on all working telephone numbers.¹⁵ The Home/PBT proposal also proposes to extract Local Switching Support and Interstate Common Line Support from the current universal service fund and roll them into the HCCF¹⁶, while the EPG claims the ARC will not impact the high cost aspect of the current USF¹⁷. Comporium believes a cost recovery fund structured like either of these two funds would provide an adequate means to allow carriers to follow a Commission prescribed reform plan in a revenue-neutral manner, without impacting the economy of service to rural customers.

Given that the overwhelming majority of costs affected by reform are access-related, Comporium cannot support any reform proposal that would require the porting of access cost recovery away from eligible carriers to carriers with no equivalent network cost. Comporium believes the only instance when portable fund support would be appropriate is when a company receiving support acquires a customer from a company also receiving support. The acquiring

¹³ *Id.* p. 22.

¹⁴ Home/PBT Ex Parte p.15.

¹⁵ *Id.* p. 22.

¹⁶ *Id.* p. 15.

¹⁷ EPG Ex Parte p. 7.

company would then be eligible for the support previously given to the customer's former provider. Comporium supports the EPG plan approach regarding this issue, and believes carriers who do not currently charge for either switched or special access should not be allowed to receive a windfall of cost recovery revenue when no costs follow the customer to the 'winning' carrier's network.¹⁸

Comporium supports a discrete, non-portable funding mechanism that should be maintained separately from the current USF with provisions to allow carriers to pass through assessments to end user customers, like the current USF assessment. Comporium also supports proposals to fund the cost recovery mechanisms with an assessment on assigned or working telephone numbers. Telephone numbers enable access to the public switched telephone network and represent an equitable way for costs to be recovered from those who cause them. Reporting carriers currently file Numbering Resource Utilization Forecast/Report (NRUF) Form 502 semi-annually with the North American Numbering Plan Administrator (NANPA). The NRUF reports could become the basis for determining company specific liability to the cost recovery fund. In a number-based assessment environment, carriers would be also encouraged to make judicious and efficient use of a most valuable resource.

D. Technologically and Competitively Neutral Reform

Comporium endorses the Commission's belief in compensation reform that will establish an environment where one type of technology or one class of competitor will not be favored over another. The current mechanisms of compensation must be reformed so they will not only eliminate imbedded opportunities for regulatory arbitrage, but also withstand creating new ones.

¹⁸ *Id.* p. 23.

New default regulations providing a baseline framework must address the transition of our industry's networks from circuit-switched to packet-switched technologies without harming rural carriers who are sensitive to access revenue disruptions. However, in accomplishing its reform goals, the Commission must acknowledge that the nation's telecommunications providers are at different stages of evolution within their networks. Technology is certainly driving change, but the speed limits vary across the country.

Comporium believes a seamless transition to a capacity-based regime of network access and intercarrier compensation is both desirable and possible. The Home/PBT proposal, if adopted with our understanding of its flexibility, offers the Commission an opportunity to create a simple, non-discriminatory system that resolves most, if not all of the arbitrage opportunities imbedded within current regulations. Competitively neutral intercarrier compensation must contain provisions for some type of common transport. Without some form of common transport, or some way to leverage dedicated network facility costs, small IXCs may be forced to limit their coverage areas and withdraw from certain markets. Small IXCs with modest levels of traffic have historically utilized per-minute, common transport because of the high cost of dedicated facilities. With urban markets providing greater opportunity for customer density and toll traffic aggregation, rural customers may find their choices limited to only a few IXCs with traffic volumes that will justify service deployment in those sparsely populated areas.

However, if the Commission's reform regulations contained provisions requiring the dominant LEC in a market to serve as a common network access provider into the adjoining local calling areas of rural and, where necessary, mid-size LECs, a true capacity-based reform proposal could be implemented without the negative impacts mentioned above. The dominant

LEC could purchase flat-rated capacity-based DS1 access services from subtending LECs as proposed, and act as a “common” transport provider for carriers utilizing the dominant LEC’s tandem. The dominant LEC would receive compensation via the access tandem connection (ATC) charge, a cost-based rate that includes only the tandem service cost, and is applied to all carriers equally based on their utilization of the tandem.¹⁹ This would allow small carriers to share in the cost of flat-rated DS1 network access services by purchasing DS0 level connections through an arrangement with the dominant LEC accessing the local calling area. The flat-rated nature of the local exchange interconnection creates the technological neutrality the Commission seeks, and the common nature of the access tandem connection creates competitive neutrality by allowing carriers to size their interconnection trunks according to their individual needs.

E. Reliance on Negotiated Agreements

As network technology and the products derived from it continue to evolve, all carriers, even rural, will face competitive entry in some form or another. It is imperative that carriers have the flexibility and ability to respond to dynamically changing environments. Comporium supports intercarrier compensation reform that establishes a baseline of unified regulations, and also provides carriers with the ability to negotiate separate compensation arrangements.

Regardless of whether the Commission ultimately adopts a proposal in its entirety or selected aspects of several plans, the final regulations must serve as a default and not as a fiat. Comporium believes intercarrier compensation regulations should prescribe the parameters in which carriers will interconnect with and compensate one another, including the specific rate, absent a negotiated agreement. Carriers subject to both price cap and rate-of-return regulation

¹⁹ Home/PBT Ex Parte at p. 14.

must have the ability to reach privately negotiated agreements when competing with nonregulated access providers. Consumers ultimately benefit from this arrangement since healthy competition between access providers translates into lower network costs and lower retail rates. Without the key component of negotiation within the new regulations, nonregulated or competitive access providers (CAPs) could simply price their services at levels slightly under the regulated local carrier's tariffed capacity charge, regardless of the CAP's actual cost to provide service. Regulated carriers would always find themselves at a competitive disadvantage, and access customers, and indirectly consumers, could possibly be forced to pay inflated retail rates. Comporium urges the Commission to craft their ultimate intercarrier compensation rules with provisions for negotiated commercial access arrangements, which will ensure effective and efficient competition in the marketplace.

F. Impact on Network Interconnection

The issue of where carriers will interconnect with one another is certainly a critical aspect of any compensation reform. In providing interconnection regulations within a comprehensive regime, the Commission is essentially answering the question of "Where does one carrier's compensation responsibility begin, and the other carrier's compensation responsibility end when traffic is exchanged"? Comporium supports reform providing that carriers must have the freedom to negotiate their own interconnection or access arrangements when appropriate, and when determined by the carriers to be mutually beneficial to both parties.

Absent a negotiated agreement, however, the Commission should establish default rules regarding interconnection that recognize the size of the carrier, and the carrier's available interconnection resources. Comporium supports the Home/PBT proposal in its requirement that,

when one of the interconnecting parties involved is an RLEC as determined by the Commission, the Point of Interconnection (POI) established must be within the RLEC's local calling area.²⁰ When affiliated RLECs with adjoining service areas are interconnecting with unaffiliated carriers, the interconnection regulations should also clearly provide that each RLEC's local serving area constitutes a separate, discrete network and that a POI must be established within each company's applicable local calling area.

These baseline regulations must be established in order to ensure the stability and integrity of rural networks. Not establishing regulations such as these will create an undue and substantial shift in network costs to rural carriers simply for the origination and termination of another carrier's traffic.

G. FCC Authority

Any all-encompassing compensation reform proposal adopted by the FCC, which establishes a new regime of uniform intercarrier rates, must address both the state and federal jurisdictions. Intrastate access charges must be accounted for in the new plan, and this not insignificant component of intercarrier compensation has historically been under the oversight of our nation's Public Service Commissions and Public Utility Commissions (PSCs and PUCs) in the form of access tariffs. These state Commissions have also conducted proceedings that determined and ordered the appropriate reciprocal compensation rates incumbent and competitive LECs would pay each other under the governance of their interconnection agreements.

²⁰ *Id.* p. 13.

Comporium supports the EPG plan and the Cost-Based Intercarrier Compensation Coalition (CBICC) plan in the aspect that they both recommend a cooperative effort between both Federal and State Commissions, similar to the relationship of the current Joint Board on Universal Service to resolve jurisdictional issues.²¹ Comporium sees tremendous value in the input the state commission can provide, and believes this type of teamwork is the most desirable in order to ensure a smooth transition from the current structure of jurisdictional tariffs and interconnection agreements to a unified compensation regime.

Should it choose to do so, Comporium also believes the Commission has the authority to adopt and enforce new compensation regulations on its own accord. Likewise, should the Commission choose first to attempt joint federal-state cooperation, and should these efforts fail to reach consensus in a timely manner as determined by the Commission, Comporium believes the Commission may find it necessary to act independently and believes the Commission has the authority to do so. Comporium narrowly supports the Intercarrier Compensation Forum (ICF) proposal in its interpretation of the relevant aspects of the Telecommunications Act of 1996 (“the Act”) regarding federal preemption, and our support for the plan is confined only to this context.²² Sections 251(b)(5) and 251(g) of the Act provide the FCC with the authority necessary to implement intercarrier compensation reform for telecommunications service regardless of jurisdictions, should the Commission deem it appropriate.

H. Transition Plan

²¹ EPG Ex Parte p.28. CBICC Ex Parte filed September 2, 2004, p. 2.

²² Intercarrier Compensation Forum Ex Parte filed October 2, 2004, Section III.A.

Meaningful intercarrier compensation reform will require companies to implement change on a grand scale. This type of change management hasn't been seen since 1996 and the passage of the Act for some carriers, and since 1984 and the implementation of access charges for others. We must be careful in our approach so as not to upset and eliminate what is at least a generally functional, and more importantly, an understood patchwork of compensation systems. The carriers most vulnerable to access revenue disruption, particularly rural carriers, must be assured of current access revenue streams while transitioning to a new regime so their universal service obligations may be maintained.

However, just as we must approach reform implementation carefully, we must also understand time is of the essence. Technology is evolving at breakneck speed and the Commission must act swiftly. Establishing a deadline for absolute conversion to a mandatory capacity-based compensation system may make some carriers uncomfortable, but if the Commission's goals detailed in our discussion above are to be realized, all carriers must implement the new regulations completely and quickly. In order to ensure the new compensation regime is effectuated in a timely manner, Comporium supports a three-year transition period to begin immediately on the effective date of the Commission's new regulations. Carriers, in particular rural carriers most vulnerable to access revenue stream disruptions, must be afforded the immediate opportunity to eliminate the opportunistic arbitrage currently pervading their valuable networks.

Concurrent with the effective date of the new compensation regime, the Commission must also establish the appropriate cost recovery mechanism, be it the ARM or HCCF, that any revenue-neutral reform must provide. Carriers must have this safeguard available so they may

proceed with adopting reform as quickly as practicable, and be assured of revenue neutrality and stability as they develop and implement their capacity-based access rates.

IV. ADDITIONAL ISSUES

A. Transit Service

Transit service is an arrangement where multiple carriers connect to a single carrier for the transport of traffic that neither originates nor terminates on the transiting carrier's network. Transit service provides for an efficient use of network resources, and eliminates the need for multiple carriers to establish their own duplicative direct network interconnections. Transit service is usually provided by an access tandem provider, typically the dominant LEC in a LATA, and is billed to originating and terminating carriers on a minute-of-use basis.

As contemplated by our understanding of its flexibility, the Home/PBT Telecom proposal could require a dominant LEC with market power to act as a 'transit-like' service provider for network access services in the new capacity-based environment. The tandem provider would receive compensation for providing this service via the access tandem connection (ATC).²³ In a capacity-based compensation regime, the dominant LEC will provide transit service to multiple interconnecting carriers via individual DS0 trunks on DS1 level facilities. This will allow even small interexchange carriers to connect indirectly to the networks of rural carriers, originate and terminate their customer toll traffic and continue providing service in insular areas of the country. Comporium urges the Commission to recognize the importance of the ATC in a flat-rated compensation solution and to ensure this charge is developed solely based on and

²³ Home/PBT Ex Parte p. 14.

supported by cost. Tandem providers with market power must not be given free reign to self-determine through commercially negotiated agreements this critical aspect of interconnection.

A. CMRS Issues

Comporium does not see any reason to apply separate standards of interconnection and compensation obligations to Cellular Mobile Radio Service (CMRS) than to other telecommunications service providers. A wireline local exchange carrier experiences virtually the same costs in terminating or originating CMRS traffic as it does in originating or terminating wireline traffic, assuming in both cases the traffic in question is either coming from or going to another network.²⁴ Therefore, the compensation should be commensurate with the network costs. Access to the ubiquitous public-switched network affords CMRS providers the same valuable services as it does other carriers. Therefore, CMRS carriers should be expected to pay for non-jurisdictional, capacity-based, flat-rated network access to utilize the origination and termination services provided by other carriers.

The codification of a capacity-based compensation regime where network access costs are determined by bandwidth and not location will eliminate the significance of all jurisdictions, including the Major Trading Area (MTA). The MTA has historically been the Commission's barometer for determining whether or not CMRS traffic is subject to reciprocal compensation (IntraMTA), or access charges (InterMTA).²⁵ In a flat-rated, compensation world, CMRS carriers will pay the same rate, as will all other carriers, for the origination and termination of their traffic on the networks of other carriers regardless of the jurisdiction. Thus, the intraMTA

²⁴ EPG Ex Parte p. 9-10.

²⁵ FNPRM ¶ 134.

rule will be rendered moot and will no longer be a necessary “carve out” for CMRS traffic. Comporium has also experienced the same network subterfuge as described by EPG regarding CMRS traffic deposited in neighboring RBOC tandems for ultimate termination on the Comporium network.²⁶ These arrangements leave Comporium with an obligation to terminate the traffic, but no means to receive compensation for the CMRS carriers’ use of the Comporium network. Requiring all carriers, including CMRS carriers, to connect to the public network either directly or indirectly through fixed, flat-rated access points will establish a fair and equitable system where all carriers will pay equally based on the utilization of other network resources.

V. CONCLUSION

Comporium urges the Commission to seize this opportunity to enact capacity-based compensation regulations with the provisions for revenue neutrality, flexibility, and broad-based cost recovery we’ve described above. The simplest plans are often the easiest to implement and maintain, and we believe strong merit exists for this type of reform.

There is arguably no more critical issue before the Commission than intercarrier compensation reform. By these comments, Comporium adds its voice to the chorus of companies and policymakers who are urging the Commission to oversee a comprehensive rewrite of its intercarrier compensation rules. Comporium faces many of the threats detailed by others: we operate a high-value network in a region with higher-than-average network costs, but the revenue streams we receive from other carriers who rely on us to originate and terminate traffic is under constant threat from technology and regulation-based arbitrage opportunities.

²⁶ EPG Ex Parte p. 10.

Therefore, we encourage the Commission to act expeditiously and in accordance with the principles we discussed, above, in order to provide us some regulatory certainty so that we can concentrate on bringing new products and services to our customers at affordable rates.

Respectfully submitted,

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