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

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

COMMENTS OF GENERAL COMMUNICATION, INC.

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1. SUMMARY AND INTRODUCTION

General Communication, Inc. ("GCI") offers these comments in response to the Further Notice of Proposed Rulemaking released March 3, 2005. GCI is a member of the Intercarrier Compensation Forum ("ICF"), and endorses the comments filed by that group without reservation. These comments explain why from GCI's perspective as a competitive provider of local, interexchange, internet and cable entertainment services in urban and rural areas of Alaska reform of the current systems of intercarrier compensation is essential to ensure development of a modern telecommunications infrastructure across Alaska.

Unraveling the labyrinth created by the current mechanisms carriers use to compensate each other for terminating, and in many cases originating, calls presents an opportunity for the FCC to reconcile the fundamental goals of the Telecommunications Act of 1996; competition and universal service. In the years since the Act's passage, GCI has entered local markets as a competitive provider and now provides a significant number of wholesale and retail customers with local, long distance, internet, backbone transport, entertainment and wireless services. Where possible, GCI is transitioning its local telephony customers in competitive markets from loops leased from the LEC to its cable plant for voice, data and entertainment services.[1] GCI owns cable plant that passes over 90% of the homes statewide, although only about 70% of those homes are in areas where GCI is currently authorized to provide local telephone service. If the regulatory framework is rationalized to clarify the rules under which carriers compensate each other for interconnection and transport and to assure the continuing availability of universal service support to competitors such as GCI and incumbents that serve high cost, remote customers, GCI will be able to deliver the same array of telecommunications services to consumers throughout the state.

Uncertainty undermines investments. Unclear rules create risks that increase costs. If the FCC wants to help the telecommunications industry in rural, high cost areas flourish and make new technologies, including broadband, available to consumers nationwide it must clearly define carriers' obligations to each other. By establishing basic default rules for network interconnections and intercarrier compensation obligations that protect the interests of rural providers, the FCC would create incentives for rural investment.

This docket presents an opportunity for the FCC to adjust its role as a regulator to the new markets created by technological innovation in the wake of the Act. The Act states the goal of moving the telecommunications industry from a regulated monopoly to a competitive market.[2] This docket presents the opportunity for the FCC to transition out of its oversight role where

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[1] GCI is authorized to provide local service only in Anchorage, Juneau and Fairbanks. Anchorage is the only community in the state not subject to the rural exemption found in 47 USC Section 153(a)(47). After a protracted legal battle, ACS agreed to termination of its Section 251(f)(1) rural exemption in Fairbanks and Juneau, the state's next two largest communities. It is only in those areas that ILECs are required to negotiate and arbitrate interconnection agreements under Section 252, provide interconnection at just, reasonable and non-discriminatory rates, provide access to network elements, local service resale, disclosure of network changes and collocation. GCI now has an application pending before the Regulatory Commission of Alaska to provide local service in several smaller communities using its own facilities and some limited resale of the incumbent's services. RCA Docket U-05-04.

[2] The Preamble of the Telecommunications Act of 1996 states the act's purpose as "To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."

competitive markets exist, and adopt specific protections where monopoly conditions persist and exceptions are necessary to protect universal service. The FCC should seize this opportunity and adopt the ICF plan, which rationalizes and unifies the system that carriers use to interconnect and deliver traffic. Through its clear default rules, the ICF plan would provide the certainty necessary to encourage infrastructure development and innovative product offerings to customers.

2. THE ICF PLAN WILL ENCOURAGE INVESTMENT IN RURAL INFRASTRUCTURE

The ICF plan will encourage investment in rural infrastructure by stabilizing the legal and regulatory environment and by making it easier for rural wireline service providers to offer local and long distance service plans that incorporate broader calling scopes than are currently available. The current uncertainties and regulation-induced market distortions inhibit rural infrastructure development particularly by entrepreneurs that seek to provide competitive services or innovative services that the ILEC does not offer.

The current patchwork of intercarrier compensation regimes disserves entities such as GCI that are seeking to expand their markets and bring innovative new offerings to Alaskan consumers. As noted above, where possible, GCI is migrating its customers to use of its cable plant for telephony services. GCI connects these cable loops to a traditional circuit switch now, but it may eventually transition to an IP-based softswitch to provide the additional capabilities and product flexibility that IP allows. However, current disputes make it unclear whether and how making that change will alter the intercarrier compensation that GCI now both receives and pays. GCI has sought approval from the Regulatory Commission of Alaska to offer services in

11 more rural communities. If GCI does so using IP, rather than circuit, switching, it is unclear what intercarrier compensation rules will apply.

Alaska has some of the highest intrastate access rates in the nation; seven cents per minute for origination and termination for a total of 14 cents per minute per conversation minute. This means that the access charges GCI pays to the local company equals the in-state long distance rate under GCI's lowest priced plan.[3] This economically skewed market structure substantially limits incentives to invest in service to remote areas. High intrastate access charges also create incentives for carriers like AT&T to seek to pay interstate access rates for intrastate calling card calls.[4]

The current regime not only harms entrants such as GCI, but also threatens the incumbent wireline network operators. In Alaska, as in many other states, a significant portion of LEC revenues come from intrastate access charges.[5] Under FCC rules, however, because all of Alaska is within the same MTA, LECs can only charge a wireless carrier reciprocal compensation rates rather than intrastate access rates when the wireless carrier teminates intra-Alaska traffic to a wireline end user.[6] Wireless carriers offer service plans that extend across several ILEC service territories, and have been expanding the reach of their networks.[7] Carriers and customers alike are encouraged to use wireless buckets of minutes[8] or IP telephony to avoid paying intrastate

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[3] Under GCI's 6 Cent Plan, customers pay 6 cents per minute for interstate toll calls and 14 cents per minute for intratstate toll calls, with a $2.99 additional monthly recurring charge.

[4] Order and Notice of Proposed Rulemaking in WC Docket 05-68, released February 23, 2005.

[5] See GCI testimony in January 20, 2005 hearing on Intercarrier Compensation Reform before Regulatory Commission of Alaska.

[6] 47 C.F.R. 51.701(b)(2)

[7] For example, Alaska Digitel and ACS Wireless both advertise statewide service. See www.alaskadigitel.com/coverage.htm and www.acsalaska.com/consumer/c-wireless/calling-areas.stm . Their coverage areas include communities served by different rural LECs. For example, Seward and Wasilla are served by Interior Telephone Company and Matanuska Telephone Association respectively.

[8] Courts have held that wireless calls are subject to reciprocal compensation rather than access charges when the call is intra MTA. Atlas Telephone Co. v. Oklahoma Corp. Comm'n, 400 F3d. 1256, (10th Cir., 2005). All intra Alaska calls are intra MTA because all of Alaska is within one MTA.

access charges.[9] Not surprisingly, between 2001 and 2003 intrastate wireless revenues in Alaska grew from $103 million to $150 million. That growth has had a direct impact on intrastate IXC switched revenues (and thus ILEC intrastate access) which dropped 37%, from $73 million to $46 million. [10] And when calling migrates from being an intrastate wireline toll call to being a wireless call, the originating ILEC loses the originating access revenue entirely, and the terminating ILEC loses the difference between its terminating access charge and the applicable reciprocal compensation charge, if any.

If the ICF Plan were adopted, the market would be much more stable for both the incumbent and GCI. For the incumbent LEC, instead of receiving a substantial amount of revenue from originating and terminating intrastate access, which can be bypassed by a wireless call, the ILEC would receive that revenue from either the higher SLC charge or from enhanced universal service support. [11] Within three years, originating access charges would be eliminated and termination charges for all traffic, whether from intrastate long distance, interstate long distance, local or VOIP, would be set at a uniform rates of $0.000175; thus eliminating the disparity between intrastate access and reciprocal compensation rates. The remaining termination rate, which would eventually transition out of existence, would be applied in a uniform manner to all traffic, eliminating the need for carriers to try to police the distinction between calls that are interstate, intrastate or local on an end to end basis. Moreover, as Covered Rural Telephone Companies, ("CRTCs") the Alaska ILECs may elect to have a SLC cap of $9.00, as compared to $10.00 in other area of the country. The ICF plan thus stabilizes the ILEC's competitive

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[9] The national calling cards offered at 5 cents a minute or less and nationwide wireless plans have become increasingly popular because customers are willing to suffer the inconvenience of dialing extra numbers or risking a lower quality connection to save money.

[10] Regulatory Commission of Alaska order dated September 28, 2004 in R-01-01 (13), page 7.

[11] TNRM, Transitional Network Recovery Mechanism, is available under the ICF plan to rural carriers to replace lost access revenues. Because wireless carriers do not receive access revenues under tariffs today, TNRM is not distributed to wireless ETCs.

environment, minimizing the ILEC's exposure to access charge bypass, while at the same time limiting the extent to which the ILEC will have to depend on increased end user rates to recover its costs. The ILEC will also be able to use the tools already available under the FCC's rules to disaggregate the universal service support it receives, so as to ensure that support is distributed for service to the highest cost parts of each ILEC's service territory, rather than the low cost areas.

As CRTCs under the ICF plan, Alaskan rural carriers would also be able to offer to terminating carriers the option of transporting traffic from the local calling area boundary to the edge and charging a terminating transport rate of up to an average, within a holding company, of $.0095 per terminating access minute.[12] Rural carriers could collect these charges for transport they provide to reach their edge for all traffic terminating on their network; including wireless, IP and traditional voice telephony, whether local, interstate long distance, or intrastate long distance. These provisions of the ICF plan create a more stable investment climate for companies serving rural areas.

Alaskan rural companies would benefit from an assured revenue stream from the universal service fund rather than a declining revenue stream from intrastate access (with interstate switched access revenues also declining for some companies).[13] They would be able to focus on improving their networks to compete effectively rather than spending declining resources on legal battles to prevent rural customers from having choices.[14]

[12] In a multi-study area holding company, the average terminating transport rates in any single area may not exceed an average of 1.3 cents per minute.

[13] The RCA has begun access charge reform by authorizing carrier to charge their customers a $1.50 Network Access Fee beginning April 1, 2005. An additional $1.50 may be added in two years. RCA Docket R-01-01.

[14] Ten rural carriers filed more than 200 pages of comments opposing GCI's application to the RCA to provide local service using its own facilities in many rural communities across the state. They argued, despite the language of 47 U.S.C. Section 253 and the FCC's guidance in *In the Matter of Silver Star Telephone Company, Inc., Petition for Preemption and Declaratory Ruling,* FCC 97-336 , 12 FCC Rcd. 15639, 15659 (September 24, 1997), that the RCA should apply a public interest test, even though GCI is NOT requesting certification as an ETC.

Adoption of the ICF Plan will also provide stability for competitive service providers, such as GCI, that seek to expand their service footprint and to bring innovative new services to Alaskan in areas in addition to, and smaller than, Anchorage, Fairbanks and Juneau. The ICF Plan confirms that, when a CLEC is designated as an ETC, the CLEC is entitled to receive the same amount of universal service support per line as the ILEC, although the CLEC will not see its support per line grow as the number of ILEC lines shrinks. By eliminating interstate and intrastate access charges for origination and termination, the ICF Plan puts all carriers transporting calls between local exchange areas on the same footing, regardless of whether those calls are wireless, circuit-switched, IP or incorporates functionalities that the provider characterizes as "enhanced." At the same time, by restructuring revenue recovery into per line charges and universal service support, the ICF Plan ensures that providers serving the residential and business marketplace, whether incumbent or competitive, can continue to have the opportunity to earn (but not a guarantee of) the revenue necessary to support continued investment.[15] Finally, by allowing ILECs to disaggregate their USF support, the ICF Plan directly addresses fears of "cream-skimming" that ILECs have raised to object to competitive entry and competitive ETC designation.

[15] The ICF Plan does not resolve whether a provider that uses an IP-based network and routing to provide voice service can qualify as an eligible telecommunications carrier. Allowing carriers such as GCI to operate IP-based networks while continuing to be classified as telecommunications carriers is critical to ensuring that new investment can continue when a substantial portion of the potential revenues flow from the federal universal service fund.

3. INTERCARRIER COMPENSATION REFORM WILL LAY THE NECESSARY GROUNDWORK FOR UNIVERSAL SERVICE REFORM

The ICF plan includes broadening the base for universal service contributions to assess all connections to the network that use NANP[16] numbers, with increasing charges to higher volume connections. Before the commission re-examines how universal service funding is distributed, the fund must first be stabilized.

There is no question but that universal service support is critical to Alaska, as well as to other high cost states. In 2004, Alaska received $ 107.5 million per year in universal service support: $95.5 million to support service to high cost areas; $0.7 million to support Alaska's innovative and critical telemedicine services; $7.4 million to support telecommunications and internet service to Alaska's classrooms and libraries; and $3.9 million in support for low-income Alaskans.[17] Without the support provided through universal service, Alaskans would be isolated, and lack the connections to the world that advanced telecommunications and Internet networks provide.

But it is also clear that without changes to the contribution system, universal service support is at risk. In recent years the trends in the telecommunications industry are clear, and have worked to destabilize the fund. Non-wireline voice traffic has increased and interexchange traffic has declined. As customers move to bundled packages that include long distance calling, shifted from wireline to wireless communications, and moved at least some communications to e-mail and instant messaging, the revenue base upon which universal service contributions are assessed, interstate telecommunications traffic has declined. At the same time, universal service

[16] North American Numbering Plan
[17] USAC 2004 Annual Report.

needs have expanded, pushing the current interstate assessment rate to its highest levels ever, now over 11%.

In order to effectively reform intercarrier compensation, the FCC will need to collect universal service contributions from all telecommunications providers on a more stable basis. Universal service is still an important policy goal; it has made ubiquitous telecommunications services available nationwide, but it needs to be revised to operate in competitive markets. In order to implement intercarrier compensation reform while still achieving the Act's goals of affordable and reasonably comparable services nationwide, end user customers in high cost rural areas cannot be expected to bear the entire costs of their network connections. As is the case today, some of that cost must be borne by consumers throughout the country as a whole. To do so consistent with an evolving and dynamic competitive marketplace, new explicit universal service support mechanisms must replace the implicit support that had previously been provided through the access charge system.

Furthermore, Alaskans will continue to need the assurance of comparable toll rates that the Act's rate averaging and rate integration mandates provide. For almost three decades, the FCC's toll rate averaging and rate integration requirements have allowed Alaskan consumers to benefit from the same rate bands and rate schedules as all other Americans, rather than being treated as if Alaska was a foreign country. In section 254(g), Congress codified these policies, thereby requiring the FCC to ensure the availability of reasonably comparable rates nationwide. Moreover, because rural areas such as Alaska have had higher interstate access charges than more densely populated areas in the lower 48, toll rate averaging and rate integration ensured that high rural access charges would not result in high rural toll rates, but rather would spread the burden of those high access charges to toll consumers across the country.

While the policy goals underlying the toll rate averaging and rate integration requirements (i.e., keeping Alaska and Hawaii integrated into the lower 48 communications network and spreading the recovery of high rural service costs to all consumers) remain important, these policy goals no longer can be met with the current intercarrier compensation regimes. AT&T has stopped marketing its traditional consumer services, including long distance, nationwide.[18] According to their merger filings, MCI is likewise reducing its marketing of nationwide consumer services.[19] With the toll market in the lower 48 shifting largely to the RBOCs and smaller carriers that originate traffic only in the RBOC service territories (which, on average, have much lower access charges than the areas served by independent ILECs), there may soon be no significant carriers that offer services that average and integrate rates between high cost and lower cost geographies, and thereby no carrier to provide the nationwide market offerings that ensure that toll rates in Alaska are reasonably comparable to toll rates in the rest of the country.

The universal service provisions of the 1996 Act provide the answer to this predicament: make all implicit support explicit. With long haul bandwidth commoditized and extremely cheap, the cost of providing toll service that varies the most from geography to geography is access charges. If the high costs of access in rural areas is supported explicitly by universal service (which then spreads the costs to consumers in all regions of the country through the universal service fund's equitable and nondiscriminatory contribution mechanism) rather than through the averaging of the rates of a soon-to-be non-existent nationwide carrier, the goals of Section 254(g) can continue to be achieved, even in a changing marketplace.

The ICF Plan would accomplish this transformation. Instead of recovering high loop and switching costs in access charges, Alaska's LECs (including GCI) would recover those costs

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[18] *Merger of SBC Communications, Inc. and AT&T Corp., Description of the Transaction, Public Interest Showing and Related Demonstrations, WC Docket No. 05-65, page v.*
[19] *Merger of Verizon Communications, Inc., and MCI, Inc., PublicInterest Statement, WC Docket No. 05-75, page 4.*

from their Alaska customers until the cap on the subscriber line charge (which would rise to $9.00 from $6.50 per line per month) is reached. Thereafter, Alaska's high loop and switching costs would be borne by consumers across the country through the universal service fund, allowing Alaskan rates to remain affordable and reasonably comparable with those in the rest of the country.[20]

4. RURAL AREAS WILL BE HARMED IF THE FCC DOES NOT ADOPT A COMPREHENSIVE, UNIFIED SOLUTION

If the FCC fails to act to reform intercarrier compensation, the markets in rural areas will be hurt first. The incentives for by-pass are more dramatic in areas with high access charges, like Alaska, and the failure to allow for an orderly transition to replacement revenue streams will destabilize rural carriers. If the FCC fails to act, providers in high cost areas will see an increasing amount of their traffic diverted to other networks that are not required to pay access charges. Carriers will seek to recover the remaining costs from customers or the universal service fund. With fewer customers to share the burden, the consequences will be more dramatic for rural customers. If the FCC does not act timely to reform intercarrier compensation and bring to an end high access charges that are driving traffic off the PSTN, rural customers will suffer first.

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[20] Assuming the RCA fully implements its current access reform plan and that Alaska LECs elect to maintain the $9.00 CRTC SLC cap, the highest residential end user rates in Alaska, those charged by Summit Telephone company would not exceed $32.50 (rate + NAF+$9.00). This is well within the range amounts spent by urban consumers for telephone service, as documented by the FCC. See *Reference Book of Rates, Price Indices and Household Expenditures for Telephone Service* released July 1, 2004.

5. CONCLUSION

The FCC stands at an important crossroads in the transition to competitive markets. The choice is fundamental; between a process based on the legacy systems that require regulators to determine and assess costs and a new process that allows market to determine costs. Rather than holding cost proceedings, the regulator's role in the IP telecommunications market is to enforce uniform rules and apply exceptions where competitive markets are not functioning. Technological advances have brought a panoply of services to consumers nationwide. The intercarrier compensation system needs to be unified based on the common denominator of IP technology so that the providers of all of those services will continue to have an incentive to remain interconnected and serve all Americans. A new system of intercarrier compensation should allow carriers to compete for customers and collect the costs of service directly, not search for and litigate opportunities to pass those costs onto other providers.

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