

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

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

REPLY COMMENTS OF
INDUSTRY TELEPHONE COMPANY

Industry Telephone Company (“Industry” or the “Company”) hereby replies to comments submitted in response to the Federal Communications Commission’s (“FCC’s” or “Commission’s”) Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceeding.¹

The voluminous record that has been developed thus far in response to the FNPRM has one message that comes through loud and clear - rural carriers play a vital role in ensuring that all Americans have access to critical telecommunications infrastructure and services. Accordingly, any changes in intercarrier compensation must ensure that these carriers continue to be compensated by other carriers for use of their networks and that they are made whole financially. In these reply comments, the Company demonstrates that it depends heavily upon the current intercarrier compensation regimes and universal service mechanisms to provide state-of-the-art telecommunications services to rural communities in its service area. Recommendations are then made regarding how the Commission should proceed in its unified intercarrier compensation reform proceeding to make certain that the Company and other

¹ See *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC 05-33, rel. Mar. 3, 2005.

similarly-situated rural carriers are able to continue to provide quality telecommunications services and invest in rural infrastructure.

I. Similar to Other Rural Telco Commenters, the Company Relies Heavily on Existing Mechanisms to Provide Service to its Rural Communities

A. Company's Service Area is Rural in Nature

The Company's service area is extremely rural. The Company provides service to three communities in very sparsely populated sections of Fayette and Austin counties in Texas. These communities are Carmine (population of 530), the unincorporated town of New Ulm (population 300) and Industry (population 331). The average median income for the two counties is approximately \$36,570. Most of the residents are associated with the agriculture industry, telecommuters, retired or come only to vacation on the weekends. There are no doctors' offices, clinics or hospitals and, for a significant number of the Company's customers, calling a hospital is a long distance call.

Taking the total service area into account, the Company serves 10.4 access lines per square mile. This is contrasted with larger non-rural carriers that average 134 lines per square mile.² The calling scope of Carmine is limited to its locale. The calling scope of New Ulm is limited to its locale and to the Industry service area. Industry has one nearby community of interest in which calls to and from that community are treated as local.

B. Because Costs are Higher to Serve Rural Area, the Company Must Rely Heavily on Intercarrier Compensation and Universal Service Support

As the carrier-of-last-resort ("COLR"), the Company is obligated to provide service to all customers in its service area that request service. In furtherance of this obligation, the Company operates a state-of-the-art telecommunications network throughout its service territory. The

² See Comments of the National Exchange Carrier Association ("NECA") at 12.

costs of constructing and maintaining such a network, in addition to the other costs in providing telecommunications services, are quite high. Because of the sparsely populated nature of the service area, these costs cannot be borne solely by the local service subscribers. Accordingly, similar to other commenters in this proceeding that likewise have COLR obligations, the Company derives the majority of its revenues from payments made by other carriers for use of its network, *i.e.*, intercarrier compensation, and from universal service support.³

Using 2003 data, the Company estimates that over fifty percent of its revenues come from access charges paid by other carriers for use of its network. An additional thirty-six percent comes from universal service funds. If these critical sources of revenue were reduced or eliminated as some commenters propose, the Company would be unable to fulfill its COLR obligations and be denied the resources to allow it to continue to invest in infrastructure to serve these rural communities. Such actions are in direct conflict with the goals of Congress and the FCC for rural communities to have access to quality telecommunications services.⁴ Accordingly, it is vital that any changes to intercarrier compensation or universal service mechanisms occur in such a way that COLR carriers, such as the Company, be kept financially viable and that carriers who use other carriers' networks are required to pay for use of the networks.

³ See, *e.g.*, Comments of North Dakota Public Service Commission at 2 (noting that for many of the rural carriers, access charges make up over 50 percent of their revenues); Comments of Minnesota Independent Coalition at 3, n.5 (noting that a sample of 40 Minnesota rate-of-return incumbent local exchange carriers obtained approximately twenty-seven percent of total 2004 revenues from intrastate access services and twenty-one percent from interstate access services).

⁴ See, *e.g.*, 47 U.S.C. § 254(b); *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244 (2001) (“MAG Order”) at paras. 80-81 & 120 (Commission establishing ICLS “to ensure the availability of high quality telecommunications service at affordable and reasonably comparable rates after the CCL charge is phased out, and further our policy of promoting telecommunications investment in rural America” and establishing safety net additive support to provide rural carriers with “appropriate incentives” and “predictability” to invest in the network infrastructure serving their communities).

II. The Commission Should Consider Only ICC Reform Proposals that Would be the Least Disruptive to Existing Mechanisms

A. Outstanding USF Reform Proposals Must be Resolved Before Conducting ICC Reform

The Company agrees with John Staurulakis, Inc. (“JSI”) and other commenters that emphasize that the status of existing universal service mechanisms must be known before implementing intercarrier compensation reform.⁵ As noted above, the Company depends heavily on access charges and universal service support in order to fulfill its COLR obligations and invest in rural infrastructure. Most of the intercarrier compensation plans propose offsetting reduced access charges that are not recoverable otherwise through utilizing some form of additional universal service support, a bulk access charge, or a combination of the two.⁶ Accordingly, in order to ensure that any intercarrier compensation plan under consideration will indeed maintain revenue neutrality for rural carriers, the future stability of universal service support must first be determined.

This determination, however, is not likely to happen anytime soon. Absent action by the Commission, the current embedded cost support universal service support mechanism will expire on June 30, 2006.⁷ Prior to this date, the Federal-State Joint Board on Universal Service must make recommendations on which comments must be sought and Commission action taken. At this point in time, these recommendations have yet to be made. Accordingly, until these matters are settled, the Company believes that it would be futile for the Commission to seriously consider any proposed intercarrier compensation plan.

⁵ See, e.g., Comments of JSI at 2-4; Comments of The Coalition for Capacity-Based Access Pricing at 4.

⁶ See Comments of JSI at 2 citing plans as they are explained in the FNPRM.

⁷ See MAG Order at para. 168.

B. Some ICC Proposals are Less Disruptive to Existing Mechanisms as Others

In addition to recommending that the Commission first resolve issues surrounding the future of universal service mechanisms, the Company urges that the Commission evaluate the various intercarrier compensation proposals according to which is least disruptive to the existing mechanisms. As demonstrated above, the Company depends heavily on the existing mechanisms and must be made whole financially in order to continue to provide quality telecommunications services to rural communities, fulfill its COLR obligations and continue to invest in rural infrastructure. Accordingly, only proposals that are least disruptive to these mechanisms should be considered for adoption by the Commission to ensure that vital telecommunications services are continued to be provided to rural communities.⁸

As demonstrated by NECA, some proposals are more disruptive than others.⁹ According to Table 2 in NECA's comments, under the Rural Alliance proposal, the Company would need to recover an additional \$6.47 per line per month from universal service and/or end users to remain whole; under NARUC, it would need to recover an additional \$21.23; under ICF, an additional \$23.31; and under bill-and-keep, an additional \$26.60.¹⁰ In addition to these criteria, plans that maintain pooling and unitary rate-of-return should be seriously considered while plans that propose significant increases in subscriber line charges ("SLCs") should be rejected.¹¹

⁸ See North Dakota PSC Comments at 1-2 ("Barring [universal service] support, rural consumers would be faced with limited telecommunications deployment at extraordinary expense. But, because of universal service, rural Americans have enjoyed relatively similar access as their urban peers to the infrastructure that is critical to health, public safety, economic survival and quality of life").

⁹ See Comments of NECA at 3-11.

¹⁰ *Id.* at 9.

¹¹ See, e.g., Comments of NECA at 21-22 ("Existing pooling mechanisms provide financial stability and administrative efficiencies for pool members and should be allowed to continue"); Comments of JSI at 5 ("In order to maintain revenue neutrality for rate-of-return carriers, any revised intercarrier compensation regime ultimately adopted by the Commission must not disturb the embedded cost methodology currently utilized to calculate per minute of use switched and special access charge rates as well as interstate cost recovery amounts, including the

Additionally, plans that propose a reasonable transition period would be less disruptive and thus should also take precedence in consideration.

III. Conclusion

To ensure that the Company will be able to continue providing quality telecommunications services to the extremely rural communities that it serves, the Commission should consider only intercarrier compensation plans that are the least disruptive to existing mechanisms and which propose a reasonable transition period.

Respectfully Submitted,

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federal high-cost universal service fund mechanisms – LSS, HCLS and ICLS for rate-of-return LECs”); Comments of the National Telecommunications Cooperative Association at 24-26 (“Any new increases in end-user rates must consider the impact on high-cost customers and their ability to afford comparable telecommunications and information services”).