

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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

Reply Comments of TCA, Inc.

**I. Introduction**

TCA, Inc. - Telcom Consulting Associates (“TCA”) hereby submits these reply comments in response to the Commission’s Further Notice of Proposed Rulemaking<sup>1</sup> (“FNPRM”) regarding reform of the intercarrier compensation regimes. TCA is a consulting firm, performing regulatory, financial and marketing services for over one hundred small, rural LECs throughout the United States. TCA’s clients derive a significant portion of their revenues from intercarrier compensation and will be directly impacted by the FCC’s actions in this proceeding. These comments address the concerns of TCA’s clients.

As the Commission noted when extending the date to reply, the record developed during the initial stage of this comment cycle is “voluminous,” totaling more than 3,000 pages of comments. Considering that the instant proceeding, originally opened in April 2001, has consisted of: 1) a previous comment cycle; 2) three related Petitions for Declaratory Ruling; 3) five Petitions for Reconsideration; and 4) myriad *ex parte* submissions, the Commission now has a thorough and complete record from which to issue a decision. However, unlike the advocates of various bill-and-keep methodology plans in the initial comments,<sup>2</sup> the decision ultimately issued by the Commission need not be “one size fits all.” As with previous rulings, and, indeed, the Telecommunications Act of 1996 (the Act), the Commission’s approach should be tailored

---

<sup>1</sup> See, in general, In the Matter of Developing a Unified Intercarrier Compensation Regime, *Further Notice of Proposed Rulemaking*, FCC 05-33, CC Docket No. 01-92, adopt. Feb. 10, 2005, rel. Mar. 3, 2005.

<sup>2</sup> See, in general, Comments of CTIA (CTIA Comments), Comments of T-Mobile USA, Inc. (T-Mobile Comments) and Comments of Nextel Communications, Inc.

“to the specific challenges faced by small local telephone companies serving rural and high-cost areas.”<sup>3</sup>

The Commission’s decision regarding intercarrier compensation needs to afford flexibility to rural LECs because rural LECs are singular in their service to rural America. Rural LECs, by providing their customers the ease of choice of **any** interexchange carrier, have increased competition, a stated goal of this Commission. Rural LECs, by investing in advanced technology,<sup>4</sup> have increased the overall efficiency of the public network accessed by the entire country. Rural LECs, by serving residents in their local areas as the **sole** Carrier of Last Resort (COLR), have insured that all Americans have access to an ubiquitous and advanced communications network. As stated by Commissioner Copps, if the Commission gets “it wrong on these rural issues, we will consign a lot of Americans to second-class citizenship.”<sup>5</sup>

## **II. Proponents of Bill-and-Keep Methodologies Prove No Universal Service Benefit.**

The Commission detailed specific goals for the instant proceeding in the FNPRM, including that the mandate of universal service, as set out in the Act, “**must** be a consideration in the development of any intercarrier compensation regime.”<sup>6</sup> However, the large majority of plans relying on bill-and-keep methodologies (B&K), including the proposal of the Intercarrier Compensation Forum<sup>7</sup> and the Mutually Efficient Traffic Exchange Proposal (METE) from

---

<sup>3</sup> In the matter of Multi-Association Group (MAG) Plan for the Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Federal-State Joint Board on Universal Service, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, *Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, FCC 01-304* (adopt. Oct. 11, 2001, rel. Nov. 8, 2001) ¶ 12 (MAG Order).

<sup>4</sup> See, for example, Initial Comments of the South Dakota Public Utilities Commission at p. 2, discussing how South Dakota rural LECs have cooperatively formed a centralized equal access network consisting of nine repetitive fiber rings.

<sup>5</sup> Statement of Michael Copps, Commissioner, Federal Communications Commission, Before the Subcommittee on Telecommunications and the Internet of the House Committee on Energy and Commerce, Feb. 26, 2003, p. 4.

<sup>6</sup> FNPRM, ¶ 32 (emphasis added), (footnote omitted).

<sup>7</sup> See, in general, Comments of the Intercarrier Compensation Forum (ICF Comments). See, also, In the Matter of Developing a Unified Intercarrier Compensation Regime, *Ex Parte Brief of the Intercarrier Compensation Forum In Support of the Intercarrier Compensation and Universal Service Reform Plan Legal Brief*, CC Docket 01-92, filed Oct. 5, 2004 (ICF Plan).

CTIA,<sup>8</sup> cause so much harm to universal service that their proponents must include Universal Service Fund (USF) reform to mitigate the effects of B&K.

Both the ICF plan and METE have separate USF reform proposals, each purporting that USF reform is “necessary to encourage and reward efficiency...”<sup>9</sup> However, when the financial impact of B&K is examined, it becomes obvious that the USF reform proposals are included to **alleviate** the resulting effect on consumers. The Commission has proof within the current record of the incredible harm to the USF that would be caused by B&K plans.

The National Exchange Carrier Association, Inc. (NECA) calculated the amounts required from the USF resulting from the major plans before the Commission.<sup>10</sup> Showing the actual harm, NECA determined that if all lost amounts were to be recovered entirely from the USF, “under the Bill & Keep approach, the Fund size in 2003 would have had to increase by 43 percent...”<sup>11</sup> The ICF plan would not fare much better, as USF “would have had to increase by \$1.9 billion or 35%...”<sup>12</sup> With that magnitude of damage caused by the very plans they advocate, both ICF and CTIA must “reform” USF; otherwise, they destroy the USF mandate that the Commission has set as a goal in this proceeding.

Like the USF, end users will be heavily impacted by both the ICF plan and METE. If the lost revenue caused by B&K were to be recovered solely from a LEC’s customers, as implied by CTIA, average monthly rates would radically increase. NECA calculated, under the ICF plan, end users could see an increase of approximately 104%.<sup>13</sup> Under a B&K proposal, such as METE, end users should expect monthly rates to increase by 127%.<sup>14</sup>

---

<sup>8</sup> See, in general, Comments of CTIA – The Wireless Association (CTIA Comments).

<sup>9</sup> CTIA Comments, p. 31.

<sup>10</sup> See Comments of The National Exchange Carrier Association, Inc., pp. 5-11 (NECA Comments). As CTIA did not propose METE until the initial comment cycle, its specific impact was not calculated. However, as METE is based on B&K, NECA’s calculations B&K will suffice.

<sup>11</sup> NECA Comments, p. 11.

<sup>12</sup> *Ibid.*

<sup>13</sup> NECA Comments, p. 10.

<sup>14</sup> NECA Comments, pp. 10-11.7

TCA has also analyzed the impact of two industry proposals – the ICF and NARUC<sup>15</sup> proposals – on a sample group of its rural LEC clients. The results are, predictably, similar to NECA’s analysis. For the sample group of 29 companies TCA utilized, the ICF plan would be more adverse in terms of cost recovery transfers from current intercarrier compensation mechanisms (interstate and intrastate access and reciprocal compensation) to universal service mechanisms and/or end users as compared to the NARUC plan. However, neither plan presents a viable alternative - either end user rates will have to increase dramatically, or universal service support requirements will have to increase substantially. In either case, in TCA’s view, the intercarrier compensation “proposal” simply cures one illness by creating another. The following table summarizes the data TCA compiled in relation to its 29 company sample.

Plan	Access Lines	Total Impact <sup>16</sup>	Monthly/Line	USF Increase
NARUC	180,276	\$30,914,776	\$14.29	54%
ICF	180,276	\$32,461,045	\$15.01	56%

As can be clearly seen, both plans would transfer substantial amounts of cost recovery to either end user rates, universal service funds, or both. The Commission must now decide whether results such as advocated by NARUC, the ICF, and any pure bill and keep regime supporter is in the best interests of rural Americans.

Instead of integrating USF into their plans as directed by the Commission, both the ICF and CTIA treat it as an afterthought at best. ICF would rely on a drastically increasing USF to provide administrative simplicity.<sup>17</sup> CTIA would presumably increase the end user rates of rural LECs, the main competitors of the wireless industry, in flagrant disregard to the statutory mandate that all Americans have access to communications network at affordable and comparable rates.

<sup>15</sup> NARUC Intercarrier Compensation Proposal, Version 7

<sup>16</sup> Measures the before and after cost recovery from interstate access, state access, and reciprocal compensation – comparing current regimes with the proposed regimes. This does not factor in the allocation of cost recovery between USF and end user rates.

<sup>17</sup> ICF Plan, Appendix B, p. 1.

The Commission cannot allow the policy goal of universal service to be treated as an afterthought by adopting either the ICF plan or METE. Rather, the Commission should see the USF “reform” portions of these plans for what they truly are – self-serving attempts to resolve harm caused by the very plans advocated by the ICF and CTIA.

### **III. The Commission Must Consider Intercarrier Compensation within a Total View of the Industry.**

As the Rural Alliance notes, the “Commission’s FNPRM focuses solely on intercarrier compensation issues and possible reforms in the circuit-switched world.”<sup>18</sup> However, most telecommunications providers interact with many companies offering services based on differing technology, including Internet Protocol (IP). While the Commission has opened a proceeding to address questions concerning IP regulation,<sup>19</sup> none of the issues currently affecting interconnection within the whole of the industry are addressed by the Commission. TCA supports RA’s call for the Commission to incorporate the IP regulation proceeding into the instant proceeding.<sup>20</sup>

TCA also supports the Coalition for Capacity-Based Access Pricing (CCAP) position that an intercarrier compensation regime based solely on minutes of use is not sustainable.<sup>21</sup> As TCA opined in its initial comments, the Commission must look to the future while solving today’s problems.<sup>22</sup> In large part, the plans being advocated by various interested parties suffer from two shortfalls: 1) bill and keep, and/or 2) insufficient focus on moving from today’s MOU-based regime. The record is clear – some form of intercarrier compensation must continue to supplement the two other main cost recovery sources for rural LECs: universal service and local rates. However, to rely on some altered form of MOU-based compensation, while a necessary bridge to the future, is short sighted. Therefore, the Commission must address the future form of intercarrier compensation, if not immediately, then through a further rulemaking. This will be vital, especially to those rural LECs with continually declining billable minutes, as the current

---

<sup>18</sup> RA Comments, p. 160.

<sup>19</sup> See In the Matter of IP-Enabled Service, CC Docket No. 04-36.

<sup>20</sup> RA Comments, Footnote 335.

<sup>21</sup> CCAP Comments, p. 5

<sup>22</sup> TCA Comments, p. 11

MOU-based regime will provide an ever-decreasing amount of resources with which to continue universal service in rural America.

#### **IV. Conclusion**

The Commission is faced with serious challenges in the near future. For rural LECs, the continuation of intercarrier compensation is a vital piece of that future – elimination of intercarrier compensation, such as is advocated by the supporters of bill and keep plans, will adversely impact rural LEC efforts to maintain, let alone advance, universal service in rural areas of this country. Thus, the Commission must be cautious in this proceeding, and not cause more problems by short term fixes for intercarrier compensation. To do this, the Commission must carefully consider the impact on universal service of the myriad of plans presented – some would have intercarrier compensation disappear, and some would predictably shift the “problem” to universal service. A balanced approach is a must – any other approach could result in the end of universal service in rural America as we know it.

Respectfully submitted,

[electronically filed]  
TCA, Inc.-Telcom Consulting Associates  
1465 Kelly Johnson Blvd., Suite 200  
Colorado Springs, CO 80920  
(719) 266-4334

July 20, 2005