February 15, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

RE: Written *Ex Parte* Presentation
CC Docket No. 01-92
Developing a Unified Intercarrier Compensation Regime

Dear Ms. Dortch:

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)[1] and the Western Telecommunications Alliance (WTA)[2] are writing to express support for the Petition for Interim Order filed by the National Exchange Carrier Association (NECA) on January 22, 2008.[3] The petition requests that the Commission extend its existing call signaling rules to all interconnected voice service providers and to all types of voice traffic terminating on the public switched telephone network (PSTN), regardless of jurisdiction or the technology used.[4] In addition, the petition requests that the Commission clarify that the accurate calling party number (CPN) of the originating end user must be transmitted with all calls, regardless of jurisdiction, and that all signaling information be transmitted unaltered by all intermediate providers. The petition also recommends that the Commission clarify that the originating and terminating telephone numbers of a call may be used as a default for determining the proper jurisdiction for billing purposes.[5] Adoption of the proposed Interim Order is urgently needed to begin addressing the growing tide of unbillable or

[1] OPASTCO is a national trade association representing over 520 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).
[2] WTA is a trade association that represents approximately 250 rural telephone companies operating west of the Mississippi river. WTA members are generally small ILECs that serve sparsely populated rural areas. Most WTA members serve fewer than 3,000 access lines overall and 500 access lines per exchange.
[3] National Exchange Carrier Association, *Petition for Interim Order*, CC Docket No. 01-92 (fil. Jan. 22, 2008).
[4] *Id.*, pp. 1-2.
[5] *Id.*, pp. 16-19.

"phantom" traffic and other billing problems faced by rural ILECs while the Commission contemplates more comprehensive intercarrier compensation reform.

Over the last several years, OPASTCO and WTA's rural ILEC members have experienced significant growth in telecommunications traffic delivered to their networks that lacks the necessary information to accurately bill for it. In addition, rural ILECs are terminating an increasing amount of traffic on their networks from providers of interconnected voice over Internet protocol (VoIP) service that seek to avoid payment of any intercarrier compensation, despite the fact that their traffic utilizes the PSTN in the same manner as traditional telecommunications carriers. Rural ILECs, however, are not alone in raising these concerns, as both mid-size[6] and large carriers[7] have also indicated a growing problem with phantom traffic and access avoidance.

As the Commission knows, the Missoula Plan for Intercarrier Compensation Reform included a comprehensive phantom traffic solution that would enable the proper labeling and billing of telecommunications traffic carried on the PSTN.[8] Since comments were solicited by the Commission on the Missoula Plan's phantom traffic solution in November 2006,[9] problems with phantom traffic and access avoidance schemes have continued to grow. In particular, the considerable growth in subscriptions to interconnected VoIP service has likely caused the amount of unbillable traffic from these providers to rise to a significant level. This could very well lead to the premature demise of the existing intercarrier compensation regime before the Commission has the opportunity to adopt comprehensive reform. Ultimately, this will threaten the continued availability of affordable, high-quality communications services to rural consumers.

To begin addressing this issue, the Commission should adopt the Interim Call Signaling Order proposed by NECA. Specifically, the Commission should extend existing call signaling requirements to all interconnected voice service providers that utilize the PSTN, regardless of technology or jurisdiction at the point of origination. In addition, intermediate carriers should be required to transmit signaling data without alteration to further ensure that terminating ILECs can identify the carrier responsible for intercarrier charges. The Commission should also clarify that interconnected voice service providers using gateways or platforms to manage calls must populate the charge number (CN) parameter with the true calling party's number, and not the number of the platform or gateway. Despite the Commission's 2006 Pre-Paid Calling Card Order,[10] some interconnected voice service providers utilizing platforms or gateways are able to

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[6] Letter from Karen Brinkman, Latham & Watkins (on behalf of CenturyTel), to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Jun. 27, 2007).
[7] Letter from Donna Epps, Verizon, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Aug. 7. 2007); Letter from Melissa Newman, Qwest, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Sept. 26. 2007).
[8] Letter from the Supporters of the Missoula Plan, CC Docket No. 01-92 (fil. Nov. 6, 2006) (attaching Missoula Plan Compressive Solution for Phantom Traffic).
[9] *Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal*, CC Docket No. 01-92, Public Notice, 21 FCC Rcd 13179 (2006).
[10] *Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Declaratory Ruling and Report and Order, 21 FCC Rcd 7290 (2006).

disguise the true jurisdictional nature of telecommunications traffic delivered to rural ILECs' networks.

Extension of the existing call signaling rules to all interconnected voice service providers regardless of technology or jurisdiction is consistent with the Commission's past application of certain common carrier-type obligations to interconnected VoIP providers. Specifically, requirements and obligations pertaining to the Communications Assistance for Law Enforcement Act, Universal Service Fund contributions, local number portability, enhanced 911, and customer proprietary network information have all been extended to interconnected VoIP providers. Application of these requirements demonstrates that both consumers and the Commission view interconnected VoIP providers as substitutes for traditional local and long distance telecommunications carriers, which are already subject to existing call signaling rules. In addition, extending the call signaling rules to interconnected VoIP providers helps to ensure that emergency service providers and law enforcement officials receive the information they need to carry out their respective missions.

Moreover, as far back as 2004, the Commission stated its belief that "…any service provider that sends traffic to the PSTN should be subject to similar compensation obligations, irrespective of whether the traffic originates on the PSTN, on an IP network, or on a cable network."[11] Application of the call signaling rules to all interconnected voice service providers would help to effectuate this principle.

Finally, the Commission should clarify that, absent data on the actual origination or termination point of a call or a mutually agreed upon traffic factor, the originating and terminating telephone numbers may be used as a default to determine the proper jurisdiction for billing purposes. In particular, this so-called "telephone numbers rule" would be a reasonable proxy for the origination point of a commercial mobile radio service (CMRS) call, thereby helping to avoid many of the billing disputes related to CMRS-to-LEC traffic.

OPASTCO and WTA call upon the Commission to promptly adopt NECA's proposed Interim Call Signaling Order. The proposed clarifications to the existing call signaling rules are an essential first step toward addressing phantom traffic and other access avoidance schemes. This would provide rural carriers with the short term stability necessary to continue providing their customers with quality services at affordable rates while the Commission continues to pursue more comprehensive intercarrier compensation reform.

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[11] *IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd, 4863, 4885, 4904, ¶¶ 33, 61 (2004).

Sincerely,

/s/ Stuart Polikoff
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