OPASTCO

21 Dupont Circle NW
Suite 700
Washington, DC 20036

August 26, 2008

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

***Ex Parte* Notice**

Re: High-Cost Universal Service Support
WC Docket No. 05-337

Federal-State Joint Board on Universal Service
CC Docket No. 96-45

Universal Service Contribution Methodology
WC Docket No. 06-122

Developing a Unified Intercarrier Compensation Regime
CC Docket No. 01-92

IP-Enabled Services
WC Docket No. 04-36

Dear Ms. Dortch,

On August 26, 2008, Mark Gailey of Totah Communications, Inc., Roger Nishi of Waitsfield and Champlain Valley Telecom, and John Rose, Stuart Polikoff and Brian Ford of the Organization for the Promotion and Advancement of Small Telecommunications Companies had three meetings at the FCC to discuss comprehensive reform of Universal Service and intercarrier compensation. The first meeting was with Commissioner Copps and his Competition and Universal Service Legal Advisor, Scott Deutchman. The second meeting was with Nicholas Alexander, Wireline Legal Advisor to Commissioner McDowell. The third meeting was with the following staff from the Wireline Competition Bureau: Donald Stockdale, Al Lewis, Randy Clarke, Alex Minard, Jeremy Marcus, Matt Warner, Katie King, Ted Burmeister, Doug Slotten, Bill Sharkey, Victoria Goldberg, Lynne Engledow, Nicholas Degani, and Tom Buckley.

The attached document was handed out at all of the meetings and details what we discussed. In accordance with FCC rules, this letter and the attached document are being filed electronically in the above-captioned dockets.

Sincerely,

Stuart Polikoff
Director of Government Relations
OPASTCO

Attachment

OPASTCO

Organization for the Promotion and Advancement of Small Telecommunications Companies

***Ex Parte* Presentation**

WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 06-122, CC Docket No. 01-92, WC Docket No. 04-36

OVERVIEW

- OPASTCO's white paper, The Next Three Years: Likely Revenue Scenarios for Rural Incumbent Local Exchange Carriers, demonstrates that if the current regulatory environment remains in *status quo*, rural incumbent local exchange carriers' (ILECs) revenue streams from regulated services will not keep pace with costs over the next three years, with the shortfall estimated to be around 13 percent by 2010.[1]

- Rural ILECs rely upon high-cost universal service support and intercarrier compensation for a substantial portion of their cost recovery. Thus, it is imperative that reform of the rules for these revenue streams take into account the unique characteristics of rural ILECs and their service areas.

- On the other hand, "one size fits all" reform, that fails to address the operating characteristics of rural ILECs, will make it increasingly difficult for these carriers to provide rural consumers with a full array of affordable basic and advanced communications services, comparable in quality and price to those offered in urban areas.

REFORM OF THE HIGH-COST UNIVERSAL SERVICE PROGRAM[2]

- The Commission should not abandon those parts of the existing High-Cost program that are accomplishing the universal service objectives of Congress and the Joint Board, in a rational and accountable manner, in the process of reforming what has failed. Furthermore, if the Commission is committed to fulfilling the universal service goals set forth by Congress and the Joint Board, then it must ensure that there is sufficient funding available to do so.

[1] *See*, OPASTCO *ex parte*, WC Docket No. 05-337, CC Docket No. 96-45, CC Docket No. 01-92 (fil. May 27, 2008).
[2] *See*, OPASTCO Comments and Reply Comments, WC Docket No. 05-337, CC Docket No. 96-45 (fil. Apr. 17, 2008 and Jun. 2, 2008).

- The Commission should continue to use embedded costs as the basis of support for rural ILECs.

- The Commission should update the high-cost support system for rural ILECs to reflect the emerging broadband marketplace by (1) providing support for high transport costs, and (2) removing the cap on high-cost loop support (HCLS) or, at the very least, re-basing it.

- The Commission should eliminate the identical support rule. In its place, at least in rural service areas, competitive eligible telecommunications carriers (CETCs) should be required to demonstrate their own costs in order to potentially qualify for high-cost support.

- Rural ILECs should not be subject to a reverse auction support mechanism.

- The Commission should establish support mechanisms for mobility and broadband services that are separate and distinct from the mechanisms designed for rural ILECs that serve as carriers of last resort (COLRs). However, these new mechanisms should not reduce in any way the funding that rural ILECs presently receive under the existing mechanisms that also support broadband-capable facilities.

- The Commission should not adopt an overall cap on the High-Cost program.

REFORM OF THE UNIVERSAL SERVICE CONTRIBUTION METHODOLOGY

- Assessing contributions to the Universal Service Fund (USF) based, in part, on network connections and/or working telephone numbers is a reasonable approach. However, that change, by itself, will not be sustainable for the long term.

- It is critical that any reform of the contribution methodology include a requirement that all facilities-based providers of broadband Internet access services, over all platforms, contribute equitably to the federal USF. Assessing these service providers would establish a much larger contribution base than exists today and one that would be sustainable for the foreseeable future.

REFORM OF INTERCARRIER COMPENSATION[3]

What follows are three alternatives for intercarrier compensation reform which would address the needs of rural rate-of-return (RoR) regulated ILECs and enable them to continue providing quality, modern communications services at affordable rates throughout their service areas.

A. The Missoula Plan: The Missoula Plan remains the only truly comprehensive reform proposal on the record developed by a diverse group of industry stakeholders. From the perspective of rural RoR ILECs and their customers, the most important feature of the Plan is the Restructure Mechanism, which provides for the full recovery of revenues that are lost from the lowering of intercarrier rates that are not otherwise recovered through increased end-user charges. Recovery of these revenues is essential in order for rural ILECs to be able to meet the ongoing demand for broadband services at increasingly faster speeds and to make these services available to greater numbers of rural consumers.

B. Simplified, but comprehensive reform: If the FCC believes that the Missoula Plan cannot be adopted at this time, then it should consider simplified, yet still comprehensive intercarrier compensation reform.

1. Intrastate access rate levels and structure should mirror interstate access rate levels and structure. States would be allowed to opt in. Rural RoR ILECs should continue to be able to establish intercarrier rates that are cost based.

2. Establish a Restructure Mechanism for rural RoR ILECs that allows for full recovery of the revenues lost as a result of the change in intrastate access rates and structure, on a revenue neutral basis. The Restructure Mechanism should not be available to carriers that do not experience an access rate reduction.

3. Implement a Federal Benchmark Mechanism to establish equity between states that have already undertaken intercarrier compensation reform and those that have not.

4. Cap interstate switched access rate levels for rural RoR ILECs, but only if the ongoing revenue shortfall can be assigned to and recovered from a universal service element.

5. Implement the Comprehensive Solution for Phantom Traffic proposed by the supporters of the Missoula Plan. Also, immediately adopt the National Exchange Carrier Association's (NECA) January 22, 2008 Petition for Interim Order[4] which, among other things, would extend the existing call signaling rules to all interconnected voice service providers and to all types of voice

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[3] *See*, Rural Alliance Comments, CC Docket No. 01-92 (fil. Jun. 27, 2008).
[4] National Exchange Carrier Association, Petition for Interim Order, CC Docket No. 01-92 (fil. Jan. 22, 2008).

traffic terminating on the public switched telephone network (PSTN), regardless of the jurisdiction of the call or the technology used.

6. Adopt Embarq's January 11, 2008 Petition[5] seeking forbearance from any application of the enhanced service provider (ESP) exemption to Internet protocol (IP) voice calls that terminate on the PSTN. Similarly, confirm that **all** interconnected interexchange voice service calls terminating on the PSTN are subject to existing access charge compensation regardless of the technology employed to originate the call. This includes calls originated by providers of voice over IP (VoIP) services.

7. Adopt changes that will resolve interconnection disputes and ease implementation of interconnection agreements. This includes: (a) clarifying that rural ILECs do not have an obligation to provide interconnection and pay for transport at a point beyond their network facilities; (b) utilizing originating and terminating telephone numbers as a default method to jurisdictionalize a call and to determine the appropriate intercarrier compensation for calls; and (c) modifying the intraMTA rule so that all calls originating from a rural ILEC's network are governed by the rural ILEC's local exchange calling area, and not the MTA.

C. <u>Interim intercarrier compensation reform</u>: If the Commission is currently unable to adopt either "A" or "B" above, then at the very least it should adopt B4 through B7 above, which are all squarely within its jurisdiction.

- B4 – Cap the interstate switched access rate level and recover the revenue requirement shortfall from a universal service element.
- B5 – Adopt phantom traffic rule changes.
- B6 – Adopt Embarq's Petition and confirm that providers of interconnected VoIP services are required to pay access charges.
- B7 – Adopt specific interconnection clarifications and rule changes.

[5] Embarq Petition for Forbearance, WC Docket No. 08-8 (fil. Jan. 11, 2008).