

NEW MEXICO PUBLIC REGULATION COMMISSION

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Office of the Chairman

October 23, 2008

EX PARTE COMMENTS

The Honorable Kevin Martin, Chairman  
The Honorable Deborah Taylor Tate  
The Honorable Michael Copps  
The Honorable Jonathan Adelstein  
The Honorable Robert McDowell  
Commissioners  
Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; In the Matter of Petition of AT&T Inc. for Interim Declaratory Ruling and Limited Waivers Regarding Access Charges and the ESP Exemption, CC Docket No. 08-152; In the Matter of IP-Enabled Services, WC Docket No. 04-36; In the Matter of Universal Service Contribution Methodology, WC Docket No. 06-122; In the Matter of Petition for Declaratory Ruling Filed by CTIA, WT Docket No. 05-194; In the Matter of Jurisdictional Separations & Referral to the Federal-State Joint Board, CC Docket No. 80-286

Letter In Support Of NARUC Motion/Request For Public Comment On Recently Circulated "Report And Order, Order On Remand, And Further Notice Of Proposed Rulemaking" On Universal Service And Inter-Carrier Compensation Reform Filed October 21, 2008.

Dear Commissioners and Secretary Dortch:

The New Mexico Public Regulation Commission, in its open meeting of October 23, 2008, discussed press reports of the October 15, 2008 draft that was circulated by the Hon. Kevin Martin, Chairman of the FCC and has been placed on the FCC's Nov. 4, 2008 Agenda. Most representatives of major carrier groups who were present and the New Mexico Attorney General's office spoke in favor of a more deliberate and open process in this major rulemaking.

The New Mexico Public Regulation Commission strongly agrees with the position of the National Association of Regulatory Utility Commissioners (NARUC) in this matter, as set forth in NARUC's Motion/Request of October 21, 2008. This is a very complex matter involving significant public interest concerns, as well as large private financial interests. For that reason, we urge the Commission not to make a final decision in this matter without providing sufficient due process to all interested parties, including issuing new notice and allowing additional comment on the proposed action.

We respectfully request that the Commission take the following steps in

order to ensure a proper record before final action is taken:

1. Decide the future treatment of compensation for termination of ISP-bound traffic before the November 5 court deadline.
2. Issue a Further Notice of Proposed Rulemaking (FNPRM) summarizing the many discrete issues raised in the record, enunciating the Commission's tentative conclusions, proposed legal theories, and factual determinations on each issue.
3. Given the breadth of the proposed action, provide interested parties at least 90 days to consider and comment.

New Mexico has already reduced access rates to interstate levels and has rebalanced rates. Our Commission is concerned with the possible federal preemption of intrastate rates and resulting undue cost burdens on ratepayers in our geographically large state with many rural areas. These important issues should only be addressed in accord with appropriate due process considerations.

Submission of the comments presented herein were supported by NMPRC Commissioners King, Lujan, Jones, and myself. I am submitting these comments on behalf of myself and my three colleagues. Our fifth commissioner was not present for today's meeting.

Sincerely,

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Jason Marks, Chairman

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