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October 9, 2008

EX PARTE PRESENTATION

The Honorable Kevin Martin, Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

ORIGINAL

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Universal Service Contribution Methodology, WC Docket No. 06-122; In the Matter of High Cost Universal Service Support, WC Docket No. 05-337; In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45.

Dear Chairman Martin:

For many years the Federal Communications Commission (Commission) has been evaluating proposals to reform intercarrier compensation and the universal service fund; however, with impending November 2008 deadlines, the Commission has received a significant number of filings addressing such reforms.[1] Some of these filings recommend specific proposals to comprehensively reform intercarrier compensation and the universal service fund.[2] The proposals appear to have been submitted to urge the Commission to use its upcoming deadlines as the vehicle to comprehensively reform intercarrier compensation and the universal service fund[3].

In general, the Missouri Public Service Commission (MoPSC) is supportive of efforts to comprehensively reform intercarrier compensation and the universal service fund. For example, the MoPSC has previously expressed support for a unified rate for all traffic if the overall plan is consistent with NARUC's principles for intercarrier compensation.[4]

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[1] The MoPSC notes the September 30, 2008 ex parte communication submitted by the National Association of State Utility Consumer Advocates where NASUCA claims 123 filings were made in 05-132 and 132 filings were made in 01-92 between July 7, 2008 and September 24, 2008.

[2] See proposals submitted by Verizon (September 12, 2008), OPASTCO (September 16, 2008), and the Independent Telephone & Telecommunications Alliance (September 19, 2008), as a few examples.

[3] Such filings are presumably made in anticipation of the November 2008 deadlines placed on the Commission by the D.C. Circuit Court of Appeals to either justify the Commission's rules regarding reciprocal compensation for Internet service provider (ISP)-bound traffic or alternatively have such rules reversed and by the filing of the Joint Board's Recommended Decisions on universal service.

[4] Comments of the Public Service Commission of the State of Missouri filed on May 23, 2005 and October 24, 2006 in CC Docket No. 01-92, *In the Matter of Developing a Unified Intercarrier Compensation Regime.*

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Likewise, the MoPSC is supportive of reforming the universal service fund and has previously identified six principles for reforming the fund.[5] Nevertheless, recent proposals submitted to the Commission provide little opportunity for scrutiny. The timing of these proposals and the limited amount of supporting information makes proper evaluation difficult. The Commission should ensure intercarrier compensation and universal service fund reform comply with the principles previously recommended by NARUC and the MoPSC.

One basic principle or prerequisite for serious consideration of any plan is to estimate the impact on a carrier-by-carrier basis and by state.[6] This type of detailed analysis appears to be missing in proposals submitted to the Commission. In fact, some reform proposals fail to quantify the overall dollar amount associated with the proposal.[7] Properly evaluating any comprehensive reform proposals must include a reasonable opportunity to analyze the proposal's projected impacts on companies, consumers and the universal service fund.

The Commission must carefully scrutinize the basic issue contained in most, if not all, intercarrier compensation reform proposals: namely whether or not carriers should be ensured revenue neutrality. The MoPSC maintains carriers should not automatically be entitled to revenue neutrality if a carrier's access rates and revenues are reduced.[8] Contrary to the concept of ensuring revenue neutrality, the Commission should ensure its decision is consistent with the Act – that quality service remains available at just, reasonable and affordable rates and that access to advanced telecommunications and information services will be available in all regions of the Nation. Each carrier should be required to recover a reasonable portion of its costs explicitly from its customers before receiving any kind of external revenue support. In contrast, most proposals recommend a standardized increase to the subscriber line charge or use universal service funding for revenue neutrality.

Various parties are urging the Commission to preempt state commissions on intercarrier compensation issues.[9] Complicated technical and legal issues need to be addressed to justify such preemption. State commissions should continue to have the authority to

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[5] Comments of the Public Service Commission of the State of Missouri filed on May 31, 2007 and April 2008 in CC Docket No. 96-45, *In the Matter of High-Cost Universal Support Federal-State Joint Board on Universal Service*. (1. High-cost support should be provided to only those areas necessary to achieve universal service; 2. support should not be provided if universal service can be achieved without support; 3. support should be based on forward looking costs; 4. carriers should be required to meet a "benchmark" rate before receiving universal service funding; 5. reform all aspects of USF and should not attempt to preserve existing revenue levels; 6. reform should include greater oversight and accountability.)

[6] This expectation is one of several principles described by the National Association of Regulatory Utility Commissioners Study Committee on Intercarrier Compensation Goals for a New Intercarrier Compensation System, May 5, 2004. The MoPSC supports these NARUC principles for reforming intercarrier compensation. This expectation is also consistent with the MoPSC's recommended principles for comprehensive universal service reform as summarized in fn 5.

[7] The MoPSC notes the Nebraska Public Service Commission (NEPSC) ex parte September 30, 2008 presentation concurs whereby in discussing the AT&T and Verizon proposals, the NEPSC states, "...the proposal does not quantify the amount of support that would be needed nor does it discuss the funding source for the new support mechanism...."

[8] Other parties also question if carriers should be guaranteed revenue neutrality. For example, see CTIA – The Wireless Association's September 29, 2008 ex parte presentation whereby CTIA cautions the Commission from creating access replacement universal service. See also NASUCA's September 30, 2008 ex parte communication.

[9] For example on September 19, 2008 Verizon submitted a detailed white paper to the Commission explaining how the Commission has the legal authority to adopt a single default rate for all traffic carried on the PSTN.

enforce and apply regulations consistent with the Commission's decisions on intercarrier compensation and universal service reform.

The MoPSC has consistently urged the Commission to reform intercarrier compensation and the universal service fund; however, the Commission should employ a better process than eleventh hour ex parte presentations and filings by which to base its decision. Parties are raising concerns regarding these proposals and the Commission must adequately address these concerns if it intends to comprehensively reform intercarrier compensation and the universal service fund. The Commission should issue a Further Notice of Proposed Rulemaking with tentative conclusions and draft proposed rules on all issues except those specifically mandated by the D.C. Court of Appeals remand.

Sincerely,

Chairman Jeff Davis

Commissioner Connie Murray

Commissioner Robert Clayton III

Commissioner Terry Jarrett

Commissioner Kevin Gunn

cc: Commissioner Copps,
Commissioner Adelstein,
Commissioner Tate,
Commissioner McDowell