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

In the Matter of:	)	
	)	
High-Cost Universal Service Support	)	**WC Docket No. 05-337**
	)	
Federal-State Joint Board on Universal Service	)	**CC Docket No. 96-45**
	)	
Lifeline and Link Up	)	**WC Docket No. 03-109**
	)	
Universal Service Contribution Methodology	)	**WC Docket No. 06-122**
	)	
Numbering Resource Optimization	)	**CC Docket No. 99-200**
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	**CC Docket No. 96-98**
	)	
Developing a Unified Intercarrier Compensation regime	)	**CC Docket No. 01-92**
	)	
Intercarrier Compensation for ISP-Bound Traffic	)	**CC Docket No. 99-68**
	)	
IP-Enabled Services	)	**WC Docket No. 04-36**

COMMENTS BY THE IDAHO PUBLIC UTILITIES COMMISSION

The Idaho Public Utilities Commission ("IPUC") supports the comments filed by the National Association of Regulatory Utility Commissioners ("NARUC") in this proceeding. The IPUC strongly agrees with NARUC that the proposed plans, in particular, Appendices A and C would unlawfully constrain state rate design by preempting intrastate access charges. We further endorse NARUC's concerns about the Commission's treatment of VoIP as an information service although it clearly fits Congress's functional definition of telecommunications service. Indeed, the Commission recognizes that "interconnected" VoIP service "supplies PSTN transmission <u>itself</u> to end users." *In the Matter of Universal Service Contribution Methodology*, 21 F.C.C.R. 7518, ¶ 41 (June 26, 2006) (emphasis original).

A. Intercarrier Compensation and USF Reforms

Before undertaking further intercarrier compensation/universal service reform, the Commission should take into account the affordability of rates and the sufficiency of universal service funds and ensure that rates and service quality among states, as well as in rural and urban areas, are reasonably comparable, and that the surcharge burdens are also reasonably comparable.[1] Furthermore, any reform should be fair to "first adopter" states that have already reduced intrastate access charges and rebalanced rates. The IPUC opposes reform that ignores or penalizes consumers in states where access charge reductions have been already offset by state universal service contributions and/or local rate increases.[2] "First adopter" states will be unduly harmed if sufficient federal universal service funding is not established as part of any intercarrier compensation reform.

Rural areas in Idaho are costly to serve with plain old telephone service, let alone venturing into broadband investment and deployment in these areas. Given the national economic situation today, we urge the Commission to carefully consider the effects of its reform proposals on consumers located in very high cost, rural, insular, and low-revenue areas. Many states, including Idaho, can demonstrate clearly that the cost of providing an evolving level of universal service throughout rural areas is high and is likely to stay high for a number of demographic, geographic, and economic reasons which are unlikely to change.

The Chairman's draft order includes a brief discussion that certain actions taken to reform intercarrier compensation will result in reduced revenues for many carriers, particularly midsize price cap carriers that pay dividends to their shareholders. The draft notes that these carriers are using a common network, supported by federal universal service funding, to provide both regulated and non-regulated services. Significant portions of the rural areas in Idaho are served by these midsize telecommunications carriers that are the focus of the Commission's deliberations concerning replacement of lost revenues arising from comprehensive universal service and intercarrier compensation reform. These midsize carriers have played a crucial role in extending telecommunications services to Idaho's rural service areas. Sufficient universal

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[1] *See Qwest Communications International v. FCC*, 398 F.3d 1222, 1234 (10th Cir. 2005).

[2] *See Reply Comments* of *the Early Adopter State Commissions, Maine Public Utilities Commission; Nebraska Public Service Commission; Vermont Department* of *Public Service; and Vermont Public Service Board,* CC Docket No. 01-92 (February 1, 2007).

service funding and adequate intercarrier compensation revenues are critical for mid-sized carriers to be able to provide broadband access in rural areas.

B. Dividend Paying Companies Should Have Access to Support

The proposed orders note that, over the course of the Commission's comprehensive reform proceedings, certain commenters have identified several "concerns" to be weighed carefully when evaluating the need for access to continued universal service support. These carrier "concerns" include: the returns, operating margins, dividends, and other measures of financial performance. The IPUC believes that these alleged "concerns" are based on a faulty and misguided premise that simply because a company pays dividends to its shareholders, it does not need access to continued or sufficient universal service support for the rural areas it serves. For many publicly traded companies, a central component of the cost of doing business is the cost associated with providing a reasonable return to investors to attract and retain the capital investment necessary to operate, support, and expand a company's operation. Dividends are what shareholders demand to be willing to provide equity funds to a company, and dividend payouts are important to attracting investment in telecommunications companies.

Regardless of the size of a carrier or its federal regulatory status (rate of return or price cap), the IPUC believes that the presence of dividends paid by a telecommunications carrier does not negate the need for continued universal service support or the need for some form of revenue replacement mechanism for those carriers whose present operating condition includes extensive service to rural and high-cost areas.

Reducing access to universal service support to certain "dividend-paying" companies would be unreasonable and highly counterproductive. It would only serve to reduce investment and discourage broadband deployment, especially in rural areas. It is not grounded in economic reality and ultimately serves only to penalize those who, by accident or by design, chose to live in higher cost areas. The Telecommunications Act of 1996 takes a national view of the public switched telecommunications network, its quality, and the mechanisms needed to support it. It does not create artificial distinctions which serve only to reduce the amount of federal support available. It tells us clearly to exercise care that no part of the nation and no group of customers is isolated or penalized because of their location.

C. Assessable Numbers

In addition to the above issues, the IPUC shares many of the concerns of the Pennsylvania PUC concerning the potential treatment and definition of Assessable Numbers for use in federal USF assessments. While not commenting for or against the use of a numbers-based contribution methodology, the IPUC is concerned about the large amount of numbers that are, or may soon be, used to provide creative and innovative services. The IPUC also asks the Commission to address the possible discrepancy between paragraphs 123 and 144 in Appendix A. If a numbers-based methodology is ultimately used, the IPUC strongly encourages the Commission to craft a broad definition of "Functional Equivalency" to encompass emerging technologies and ensure that state USFs such as Idaho's have access to the database used to collect federal USF contributions from Assessable Numbers.

Respectfully submitted this 22 day of December 2008.

For the IDAHO PUBLIC UTILITIES COMMISSION

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