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

In the Matter of:	)	
	)	
High – Cost Universal Service Support	)	WC Docket 05-337
	)	
Federal – State Joint Board on Universal Service	)	CC Docket 96-45
	)	
Lifeline and Link Up	)	WC Docket 03-109
	)	
Universal Service Contribution Methodology	)	WC Docket 06-122
	)	
Numbering Resource Optimization	)	CC Docket 99-200
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket 96-98
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket 01-92
	)	
Intercarrier Compensation for ISP-Bound Traffic	)	CC Docket 99-68
	)	
IP-Enabled Services	)	WC Docket 04-36

Comments by a Coalition of States

The following comments are respectfully submitted in the above referenced dockets by a coalition of states with similar concerns (the Joint Commenters), which are served by similarly-situated telephone carriers serving our high cost areas, including some mid-size carriers that receive no universal service funding despite the rural nature of many of their exchanges.

First, the Joint Commenters express their strong support for the comments filed by NARUC in this proceeding. The Joint Commenters strongly agree with

NARUC that the proposed plans, in particular, Appendices A and C, would unlawfully constrain state rate design by preempting intrastate access charges and further supports NARUC opposition to the Commission's treatment of VoIP as an information service although it clearly fits Congress's functional definition of telecommunications service. Before undertaking further intercarrier compensation or universal service reform, the FCC must take into account the affordability of rates and the sufficiency of universal service funds to ensure that rates and service quality among states, as well as in rural and urban areas, are reasonably comparable. [1] The Joint Commenters oppose 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] For example, Wyoming, New Mexico, Maine and Nebraska have already undertaken significant access reform and local rate rebalancing, and implemented state universal service funds.

Rural areas in our states are often very costly to serve with plain old telephone service, let alone venturing into broadband investment and deployment. Given the national economic situation today, we urge the FCC to carefully consider the effects of its reform proposals on consumers located in very high cost, rural, insular, and low-revenue areas. It can be demonstrated clearly that the cost of providing universal service throughout the rural areas of many states is high and is likely to stay high for a number of demographic, geographic, and economic reasons which are unlikely to change. Larger ILECs serve

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

[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).

high-cost areas and have the added pressure of competition in the urban markets. In many instances, these carriers are the furthest behind in broadband deployment. Under current policies, the competitive pressures faced by larger ILECs will continue to result in delaying broadband deployment to rural customers. Universal service reform measures adopted by the FCC must recognize the cost of providing service in the rural areas, regardless of the size of the carrier.

The Chairman's Draft order includes a brief discussion regarding the fact that certain actions taken to reform intercarrier compensation will result in reduced revenues for many carriers, particularly mid-size price cap carriers that pay dividends to their shareholders. The Draft also 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 common to the Joint Commenter states are served by mid-size 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. Consistent with the positions taken by many of the Joint Commenter states, mid-size carriers have played a crucial role in extending telecommunications services to rural areas. Sufficient universal service funding and adequate intercarrier compensation revenues are critical for mid-size carriers to be able to provide broadband access in high cost areas.

The proposed orders assert that, over the course of the Commission's comprehensive reform proceedings, certain commenters have identified the returns, operating margins, dividends, and other measures of financial performance of such carriers as a "concern" to be weighed carefully when evaluating the need for access to continued universal service support.

The Joint Commenters believe that these alleged “concerns” are based on the faulty and misguided premise that simply because a company pays dividends to its shareholders, somehow it does not need access to continued or new universal service support for the rural areas that 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 in order to attract and retain the capital investment necessary to operate, support, and expand operations. Dividends are what shareholders demand in order 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 Joint Commenters strongly believe 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 territory includes extensive service to rural and high-cost areas. On the contrary, it is more likely that the reality and continuation of federal universal service support is a major factor in enabling such companies to serve areas of the country that would otherwise be uneconomic to serve.

Carriers, particularly ILECs facing increasing access line losses and access charge revenue reductions, must be able to rely on dividends to secure capital necessary to invest in their networks and provide service in these areas. Reducing access to universal service support for certain “dividend-paying” companies would be unreasonable and highly counterproductive. It would serve only to reduce investment and discourage broadband deployment, especially in rural areas.

The Joint Commenters agree that any reform should take into account, the importance of wireless networks. Support under the existing system, based on ILEC costs, is problematic and should be phased out. However, it is also important that some type of support mechanism be developed for the wireless industry, similar to those being proposed for incumbent carriers and broadband services, so that wireless services will be more ubiquitously available in rural and high-cost areas.

Dated this 22nd Day of December, 2008.

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