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
	)
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

REPLY COMMENTS OF THE MINNESOTA INDEPENDENT COALITION

The Minnesota Independent Coalition ("MIC")[1] submits the following Reply Comments in response to the Commission's November 5, 2008 Order,[2] as further provided in the November

[1] The MIC is an unincorporated association of over seventy-five small, Incumbent Local Exchange Carriers ("ILECs") providing local exchange service to primarily rural areas in Minnesota. MIC members are responsible for telecommunications service to customers throughout 50% of Minnesota's land mass - including service to over 250 small communities and their surrounding rural areas. MIC members average approximately 4,800 access lines, although half of the MIC members have fewer than 1,800 access lines. The average number of access lines per exchange is approximately 1,100 with half serving fewer than 600 access lines.

[2] *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

12, 2008 Public Notice[3] and Commission's extension of the filing date for reply comments.[4] The scope of the comments necessarily requires the MIC to focus these Reply Comments on a limited number of areas that are of particular significance to incumbent local exchange carriers serving rural areas ("Rural ILECs").

The MIC supports the comments of numerous other parties that recognize the need for reform of intercarrier compensation and the Federal universal service fund ("USF"). However, like many other commenters, the MIC believes that the changes proposed in Appendix A are far out of balance and would be extremely harmful to rural consumers and to the ability of Rural ILECs to make infrastructure investments in rural areas. Accordingly, the MIC continues to recommend that Appendix A not be adopted.

The comments of numerous other parties have also highlighted changes needed to Appendix C, before it could provide a reasonable framework for reform of intercarrier compensation and the Federal USF. Modifications such as those proposed in Initial Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") and the Western Telecommunications Alliance ("WTA"), the Coalition of Concerned Wisconsin Companies ("Wisconsin LECs"), the Washington Independent Telecommunications Association ("WITA") and the Oregon Telecommunications

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Docket No. 99-68; *IP-Enabled Services*, WC Docket No. 04-36, Order on Remand and Report and Order, and Further Notice of Proposed Rulemaking ("Further Notice"), (rel. November 5, 2008).

[3] *Comment Dates Established for Comprehensive Intercarrier Compensation and Universal Service Fund Reform Further Notice of Proposed Rulemaking*, Public Notice, DA 08-2486 (rel. Nov. 12, 2008).

[4] *Motion for Extension of Time for Reply Comments by the National Association of State Utility Consumer Advocates* and *Motion of the Rural Cellular Association for Extension of Time*, Order (rel. December 2, 2008).

Association ("OTA"), the Rural Pennsylvania LECs, and other parties (including the MIC) would improve the likelihood that Appendix C could provide an acceptable framework for reform of intercarrier compensation and the Federal USF. Further, the Commission should either: (i) reject Qwest's position that transit rates should not be subject to State commission jurisdiction and instead should be subject to only the "fair and reasonable" standard of Section 201; or (ii) provide a further opportunity for analysis and for affected parties to submit comments on that position, as proposed in Appendix C.[5] In no event should Qwest's position be adopted in this proceeding.

1. The Initial Comments Demonstrate that Appendix A Is Highly Inappropriate for Rural Areas and Rural Consumers.

The MIC agrees with numerous comments which demonstrate that:

(i) The expanded broadband service goals reflected in Appendix A are fundamentally inconsistent with many other provisions of Appendix A;

(ii) Appendix A would seriously undercut cost recovery needed for Rural ILECs to continue to provide service;[6] and

(iii) Uniform statewide rates for intercarrier compensation[7] are: (i) unnecessary and unreasonable in light of substantial cost differences between urban and rural areas within states; and (ii) unachievable without either a predictable and long term support mechanism that allows Rural ILECs a reasonable ability to recover their costs, or unreasonable increases to local

[5] See, Appendix C, ¶ 344 of Further Notice of Proposed Rulemaking.
[6] *See* Initial Comments of WITA and OTA, Summary at i.
[7] *See* Initial Comments of the Iowa Telecommunications Association at 3-4.

service rates in rural areas that would not be reasonably comparable to urban rates.

Broadband Services. Appendix A proposes to both severely reduce intercarrier compensation and caps the overall high-cost support fund as of December 2008, and freezes each ILEC's individual annual high-cost support as of that date. Appendix A would also impose new comprehensive broadband build-out requirement that all recipients of high-cost USF support offer broadband access to all customers within five years, as a condition to receiving high-cost USF support.[8] This fundamental inconsistency would halt the progress made by Rural ILECs to provide advanced services and severely harm rural consumers' ability to obtain telephone services at affordable rates and the economic health of rural communities.[9] [10] These fundamental inconsistencies reflect an unrealistic expectation based on the use of funding sources by mid-sized and smaller Rural ILECs that would be simultaneously eliminated.[11]

Recovery of Costs. Appendix A would undercut the funding required for many Rural ILECs to maintain even their current networks, and would significantly delay the expansion of the broadband services that it seeks to promote. Rural ILECs cannot deploy broadband networks if: (i) intercarrier compensation rates and levels are severely reduced without replacement funding sources being made available; and (ii) and USF High Cost funding is capped at 2008 levels. For those Rural ILECs that have made significant progress in providing broadband

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[8] *Further Notice*, Appendix A at para. 4.
[9] *See* Initial Comments of the Independent Telephone & Telecommunications Alliance ("ITTA") at 3.
[10] *Further Notice*, Appendix A, at para. 16.
[11] *See* Initial Comments of the ITTA at 17.

service, Appendix A could remove the USF support and intercarrier compensation critical to continue to expand broadband availability.

Statewide Uniform Rates. The provisions of Appendix A detailing requirement to achieve uniform statewide intercarrier compensation rates are inappropriate because: (i) there is no compelling need for uniform statewide rates, and (ii) the mechanisms proposed to achieve those rates are complex and untested, and unlikely to succeed in providing any benefit to consumers. While the MIC has not calculated any specific overall statewide impact for all of its members of imposing a uniform rate of $0.0007 for intercarrier compensation, it is anticipated that its impact would be comparable to the nearly $28.00 per line and 150 % plus impact on residential rates calculated for Iowa companies.[12] Instead, as stated in its Initial Comments, the MIC recommends that the Commission should proceed on a step-by-step basis in implementing intercarrier compensation reform.

2. The Initial Comments Show That Appendix C Requires Significant Modifications.

The modifications proposed by OPASTCO and WTA, which are reflected in Appendix C, provide substantial improvements, but leave unresolved a number of significant issues for Rural ILECs, which would inhibit Rural ILECs' ability to invest in their networks and serve as carriers-of-last-resort. For example, Appendix C proposes: (i) a freeze on rate of return Rural ILECs' study area high-cost support; (ii) maintaining the status quo on intercarrier compensation payments for Internet Protocol ("IP") traffic using the Public Switched Telecommunications Network ("PSTN") to originate or terminate traffic (IP/PSTN Traffic") during the ten-year

[12] *See Ex Parte* Notice of Presentation to Ms. Amy Bend, legal counsel to Commissioner Kevin J. Martin, Federal Communications Commission, by Mr. Terry Wegener, Winnebago Cooperative Telecom Association, Mr. Doug Boone, Premier Communications, filed December 9, 2008.

transition, rather than affirmatively requiring payment from IP/PSTN Traffic service providers; and (iii) the establishment of a new "additional costs" standard for determining reciprocal compensation rates, which will produce rates of nearly zero.

The MIC supports a more measured approach to intercarrier compensation, but believes that Appendix C could provide a viable basis for reform, if appropriately modified. Specifically, the MIC supports modification of Appendix C: (i) to include the elements identified in the OPASTCO and WTA October 29, 2008 *ex parte* (Appendix D)[13]; and (ii) to address key areas of concern detrimental to the availability of voice and advanced services to rural consumers, as described in the MIC's Initial Comment and in comments of other parties, such as the Wisconsin LECs[14], WITA and OTA[15], the Rural Pennsylvania LECs[16] and Warinner, Gesinger & Associates, LLC ("Warinner")[17]. These modifications to Appendix C are critical to the continued provision and expansion of voice and data service to rural areas by Rural ILECs.

Avoiding Unreasonable Transitional Impacts. Many Rural ILECs have planned or committed to significant expenditures in 2009 and 2010 (or beyond) for network upgrades that would enhance their ability to provide broadband services. As a result, a transitional adjustment of capped 2010 USF levels is needed to reflect these planned or committed expenditures. This transitional adjustment should have minimal impact on the level of USF support in total, but will be of critical significance to affected Rural ILECs. An option to update high-cost loop support in

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[13] *See Ex Parte* Revised Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Mr. John N. Rose, OPASTCO, and Ms. Kelly Worthington, WTA, filed October 29, 2008.
[14] *See* Initial Comments of the Wisconsin LECs at 2-4.
[15] *See* Initial Comments of WITA and OTA at 2.
[16] See Initial Comments of the Rural Pennsylvania LECs at 1.
[17] *See* Initial Comments of Warinner at 1.

conjunction with the supplemental ICLS revenue pool may be a viable alternative.[18] There may be other approaches that also achieve this necessary accommodation for plans and commitments previously made by Rural ILECs.

Alternative Rules to Reduce Detrimental Economic Impacts on Small Rural ILECs. Rural ILECs may encounter extremely high costs to provide landline broadband service to their most remotely located customers. For example, many of the Rural ILECs in western states serve very sparsely populated areas with harsh terrain and other challenging conditions. In these areas, it may not be economically feasible to provide broadband services to ninety eight percent (98%) of the customer base without using satellite-based technology, particularly if additional investment is required to meet the increased speed threshold.

The benefits of provisioning broadband services through traditional wireline (or even wireless facilities if technologically feasible) can be also grossly disproportionate to the cost.[19] For example, in a recent *Ex Parte* filing, the NTCA estimated that engineering costs can exceed $100,000 per residential location to provide universal broadband service to the final ten percent (10%) of the population in very rural high-cost areas.[20] Rural ILECs simply cannot bear this burden.

Further, there may be little actual demand for the broadband services, making the economics of the highest cost/least dense areas even more severe. To lessen the detrimental impact of such situations, the Commission should not impose an arbitrary cap on satellite

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[18] *See* Initial Comments of Warinner at 2.
[19] *See* Initial Comments of the Texas Statewide Telephone Cooperative, Inc. at 6.
[20] *See Ex Parte* Notice of Meeting by Mr. Scott Bergmann, Legal Advisor to Commissioner Jonathan S. Adelstein, Federal Communications Commission, with Mr. Daniel Mitchell, National Telecommunications Cooperative Association ("NTCA"), filed November 18, 2008.

deployment, such as the proposed two percent (2%) cap.[21] Rather, as recommended in the MIC's Initial Comments, a viable alternative would be to allow Rural ILECs with less than 50,000 lines to meet up to 10% of their broadband availability certification using satellite service, without application for a waiver. Such an approach would provide a reasonable balance between the Rural ILECs' expenditures (and USF support required) and the levels of actual broadband service provided and would recognize that smaller Rural ILECs have substantially less ability to spread higher costs for these most expensive lines.

Since even a ten percent (10%) cap may not be achievable for some Rural ILECS, it would also be appropriate to establish a simplified review process to allow individual Rural ILECs to serve more than 10% of their service areas through satellite service. Some very small Rural ILECs (generally with 500-1000 access lines) have been unable to offer broadband internet service with existing USF funds, access revenues and local rates. Their ability to even continue providing voice service at affordable rates is at risk if they were to lose existing USF support.

Accordingly, the Commission should seek comment on alternatives that address the particular needs of consumers in these areas. For example, a simplified review process could be developed to allow very small Rural ILECs to meet their broadband requirements through an unlimited proportion of satellite service, or to waive the requirement to provide broadband service. Once alternatives are identified, the particular mechanism(s) proposed for adoption should be subject to further comment.

Reverse Auctions In Rural ILEC Service Areas. The MIC agrees with other parties who oppose reliance on a reverse auction mechanism to determine high-cost USF support recipients

[21] *See* Initial Comments of the Texas Statewide Telephone Cooperative, Inc., at 10.

and USF support amounts.[22] Reverse auctions would create powerful incentives to degrade service, which are inconsistent with the primary universal service goal of quality service. While the reduction of costs is also important, it is less important than the primary goal of maintaining and enhancing high quality service in high cost areas. Reverse auctions would also undercut the predictability needed to support long term capital investment and would severely reduce the availability of private capital for investment in rural infrastructure by creating uncertainty and increasing risk.

In any event, if a Rural ILEC is unable to commit to providing broadband services throughout its study area (based on existing USF support levels), it is highly doubtful that an auction will produce a credible service provider that will commit to do so with the same (or less) USF support. It is also probable that some areas will not receive any proposal to provide broadband service to all customers. It would not serve the public interest and would further delay the provision of broadband services to rural customers (if the Commission were to conduct a second reverse auction for rural areas that produced no winner)[23] without first giving the rural ILEC another opportunity to provide broadband services to all potential customers with a higher level of support.[24] Rather, any reverse auction proposal should provide that the Rural ILEC serving that area should be given another opportunity to provide broadband services throughout its study area, with a higher level of support, if no credible service provider will make such a commitment.

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[22] *See* Initial Comments of WITA and OTA at pp. 5-6; and *see Ex Parte* Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Mr. Stuart Polikoff, OPASTCO, and Mr. Derrick B. Owens, WTA, filed December 18, 2008.
[23] *Further Notice*, Appendix C, para. 47.
[24] *See* Initial Comments of OPASTCO and WTA at 24.

Elimination of Originating Access Charges. While Appendix C focused on terminating compensation rates, the elimination of originating access is an equally critical revenue loss for Rural ILECs. Appendix C provides that originating access charges are to be eliminated by the conclusion of the transition to the new intercarrier compensation regime.[25] To the contrary, there should be no provision to automatically eliminate originating access charges at the conclusion of the transition period.[26] Rather, as OPASTCO and WTA proposed, originating rates should be capped at existing levels for the duration of the transition, with a future proceeding to determine how to address those rates after terminating rates had been reduced to their final level.[27]

It is unclear whether the revenues lost through the reduction or elimination of originating access charges would be recoverable for rate of return Rural ILECs through the Supplemental ICLS.[28] The intent of Appendix C is that rate-of-return Rural ILECs are to be compensated for all of revenues lost as a result of the mandated reductions in intercarrier compensation rates that are not otherwise recoverable through increases in Subscriber Line Charges ("SLCs").[29] Accordingly, the Commission should explicitly confirm that this loss is also recoverable through the ICLS, at least through the transition period, so long as: (i) the Rural ILEC is under rate of return regulation in the interstate jurisdiction; and (ii) the lost revenue is not completely recoverable through increases in SLCs.

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[25] *Further Notice*, Appendix C, para. 224.
[26] *See* Initial Comments of the Rural Pennsylvania LECs at 1.
[27] *See* Initial Comments of OPASTCO and WTA at 20.
[28] *See* Initial Comments of the Rural Pennsylvania LECs at 1.
[29] *Further Notice*, Appendix C, para. 321.

In addition, the "Rural Transport Rule"[30] should be modified to reflect elimination of originating access compensation from toll providers. Rural ILECs should not be financially responsible for transporting a toll call (or any call) for which they are not the end user's retail service provider. Accordingly, the MIC concurs with the proposal by OPASTCO and WTA[31] that recommends the following additions (shown in bold type) be made to last bullet of Paragraph 270 of Appendix C:

> *Notwithstanding the forgoing, for local and extended area service (EAS) calls* ***(based on the rural rate-of-return incumbent LECs local calling area)*** *made by a rural rate-of-return incumbent LEC's customer to a non-rural carrier's customer, the rural rate-of-return incumbent LEC will be responsible for transport to a non-rural terminating carrier's point of presence (POP) when it is located within the rural rate-of-return incumbent LEC's service area.* ***For all calls****, when the non-rural terminating carrier's POP is located outside the rural rate-of-return incumbent LEC's service area, the rural rate-of-return incumbent LEC's transport and provisioning obligation stops at its meet point and the non-rural terminating carrier* ***or another service provider*** *is responsible for the remaining transport to its POP.*

Application of Caps. As the Iowa Telecommunications Association noted, caps may cause the proposed mechanism to be inadequate to provide opportunities to earn a reasonable rate of return.[32] Accordingly, the MIC recommends that the caps on the second component of ICLS support for rate of return Rural ILECs should not be adopted without comment and analysis of the impact of such caps on those carriers' ability to recover shortfalls, and without more detail on how the caps would be applied.

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[30] *Id.*, para. 270.
[31] *See* Initial Comments of OPASTCO and WTA at 21.
[32] *See* Initial Comments of the Iowa Telecommunications Association at 21.

Effective Date of the Rural Transport Rule. Other parties (and the MIC) assumed that the Rural Transport Rule would become effective at the start of the transition period.[33] However, it appears that the network edge default rules, including the Rural Transport Rule, are intended to become effective at the end of the transition.[34] If the Commission adopts the Appendix C, it should make the Rural Transport Rule effective at *the start* of the transition, rather than *at the end.* [35] During the transition, Rural ILECs should not be held financially responsible for transporting "local" and Extended Area Service ("EAS") calls beyond their network boundaries to carriers that chose not to have a point-of-presence within the Rural ILECs' service territories.[36]

Internet Protocol ("IP") Traffic. The MIC joins with the substantial number of commenters[37] in recommending that the Commission reconsider and reverse its orders ruling that access rates do not apply to IP/PSTN Traffic. However, if the Commission does not take this action, it should at a minimum clarify that any plan continuing to exempt IP/PSTN Traffic from access charges will not be extended to include traffic that simply uses IP technology *at some point* "in the middle" of transmission during any transition period.

Availability and pricing of Third Party Transit service. Appendix C does not address the rules governing transit service; instead, it raises the issue for further consideration in a

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[33] *See* Initial Comments of OPASTCO and WTA at 21.
[34] *See* Appendix C, ¶ 270, Footnote 751.
[35] *See* Initial Comments of the Rural Pennsylvania LECs at 3.
[36] *See* Initial Comments of OPASTCO and WTA at 22.
[37] *See* Initial Comments of the Rural Pennsylvania LECs at 2; Initial Comments of WITA and OTA at ii; Initial Comments of the ITTA at 15; Initial Comments of Warinner at 4; Initial Comments of the NTCA at 12; and Initial Comments of the National Association of Regulatory Utility Commissioners ("NARUC") at 11.

Further Notice Proposed Rulemaking.[38] Qwest has asserted that that third party transit services should be subject only to the "just and reasonable" standards of Section 201.[39] Rather, the Commission should make it clear that State commissions retain jurisdiction over such services.

The FCC should specifically reject Qwest's proposal that rates for transiting services should be governed only by a section 201 "just and reasonable" mandate.

In many, if not most, instances Rural ILECs have virtually no bargaining power or negotiating position with ILECs that serve as transiting providers.[40] As is readily apparent in Qwest's recent efforts in Minnesota,[41] Qwest's seeks to have virtually unchecked ability to unilaterally impose rates on Rural ILECs that: (i) are multiples of the Qwest rates determined fair and reasonable by the State commissions which are contained in many interconnect agreements; and (ii) are, in many instances, higher than Qwest's existing access rates. Qwest's proposals would both enable Qwest to unilaterally impose such rates and completely remove such rates from the jurisdiction of State commissions.

If the Commission adopted Qwest's position, Rural ILECs and their customers would be made even more vulnerable, being: (i) subject to unilateral implementation of such rates without any prior review; and (ii) left without the timely and effective mechanism for review that is provided by State commission jurisdiction. To ensure that Rural LECs and their customers are charged no more than reasonable rates for essential transit service, any Commission order should

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[38] *Further Notice*, Appendix C, para. 344.
[39] *See* Initial Comments of Qwest Communications International at 27.
[40] *See* Initial Comments of OPASTCO and WTA at 23.
[41] *See In the Matter of the Petition of Frontier Communications of Minnesota, Inc. and Citizens Telecommunications Company of Minnesota, LLC for Immediate Relief Against Qwest Corporation*, Docket No. P407,405,421/C-08-1056 (Minn. P.U.C. 2008).

provide that transit rates remain subject to existing State jurisdiction and requirements and subject to dispute, unless and until any revisions are adopted by the Commission as a result of a proceeding in following a separate Further Notice of Proposed Rulemaking issued by the Commission. In no instance should the rates charged by transiting providers to rural ILECs be left solely to negotiation.[42]

3. Certain Essential Principles Should Be Reflected In Any Plan For Reform of Intercarrier Compensation and USF For Rural ILECs.

The MIC continues to believe that Appendix C, with the modifications as noted, could provide a workable framework for reform, if the Commission determines that it is necessary to select between these alternatives of Appendix A and Appendix C. However, the MIC also joins with other commenters[43] to recommend that the following key elements be addressed in any plan reforming intercarrier compensation:

(i) Providing some balance between revenues lost to Rural ILECs as a result of reductions in access and other revenues under the plan, with a long term replacement identified (both source and scope) for those lost revenues.[44]

(ii) Addressing both terminating and originating access rates, with originating access rates not be set at zero or any TELRIC or Incrementally based rate, as long as ILECs have an obligation to provide 1+ presubscription. Since both terminating and originating access are subject to avoidance and arbitrage, the plan should be designed to minimize arbitrage opportunities and ensure that Rural ILEC end users (as opposed to interexchange carriers) experience some benefit from reduced access rates. Any reductions in access charges should be reflected in interexchange carrier end user rates and in wholesale product offerings.

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[42] *See* Initial Comments of OPASTCO and WTA at 24.
[43] *Id.* at 16-19.
[44] *See Ex Parte* Notice of Presentation to Commissioner Robert M. McDowell and Mr. Nicholas Alexander, Legal Advisor, Wireline Issues, by Mr. Paul Cooper, Ms. Cheryl Parrino and Mr. Ken Pfister, Rural Alliance; Mr. Derrick Owens, WTA; and Mr. James Frame, National Exchange Carrier Association, CC Docket No. 01-92, filed September 26, 2008.

(iii) Ensuring that permitted access charges are applied to *all* forms of interexchange traffic terminating on the PSTN (including IP/PSTN Traffic).

(iv) Requiring the use of processes and mechanisms (such as detailing call signaling and call record requirements), for *all* traffic terminating on the PSTN, in order to reduce "phantom" or unbillable traffic.[45]

(v) Requiring that ISP bound traffic be exchanged on a bill-and-keep basis.[46] Terminating LECs serving ISP companies can be fully compensated for the use of their networks when the ISP companies purchase end-user business lines, through application of appropriate business rates for the service.

(vi) Phasing-in the plan with periodic scheduled reviews to determine its effectiveness during the phase-in periods. There should be flexibility within the plan, as implemented, to permit a balancing between the decreased level of access rates, increased end user rates, and access to support, if needed. Flexibility should also exist, in recognition of the substantial differences between Rural ILECs, to permit carriers to accelerate access reductions, if they chose to do so.

(vii) Requiring existing third party ILEC transit providers to continue to provide transport to Rural ILECs at non-discriminatory rates and recognize the historical and future role of State commissions related to the appropriate cost recovery of such cost in Extended Area Service arrangements and in intercarrier pricing.

4. The Following Components Should Be Included In Any Reform Plan For Reform of Intercarrier Compensation and USF For Rural ILECs.

The compromise plan proposed by OPASTCO and WTA[47] identifies significant concerns for Rural ILECs. The MIC recommends that any plan include the following components:

(i) Interstate and intrastate access rates for end-office switching and transport for originating and terminating traffic would be unified by reducing intrastate rates to existing interstate levels over a three-year transition period, with the possibility that the Rural ILECs could choose to further reduce unified end-office switching rates during the transition period.

(ii) At the end of year three, each Rural ILEC would select one of these options:

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[45] *See* Initial Comments of OPASTCO and WTA at 27.
[46] *See Ex Parte* Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Mr. Gregory J. Vogt, Counsel for CenturyTel, Inc., filed October 6, 2008.
[47] *See* Initial Comments of OPASTCO and WTA, Appendix.

- First Option: originating and terminating access rates for end-office switching remains at the unified interstate level.
- Second Option: over the next two years, originating and terminating access rates for end-office switching are further reduced to a lower unified rate.

(iii) A Restructure Mechanism ("RM") is needed to stable cost recovery required to maintain service quality and enable investment while end-office switching rates are unified and reduced without causing unreasonable end-user rate increases. The RM would be part of a two part support mechanism that would include an end-user benchmark mechanism and maximum subscriber line charge ("SLC") increase of $1.50 for residential lines and $2.30 for Multiple Business Lines.[48]

(iv) Rural ILECs should not have financial responsibility for the transport of non-access traffic beyond their meet-points with non-rural carriers to eliminate the potential for excessive transport costs for Rural ILEC customers.

(v) Separate regimes should be maintained for access and reciprocal compensation and traffic could be identified based on Missoula Plan number rules.

a. The terminating unified access rate should be a fixed default rate, for all terminating traffic, subject to voluntary negotiation of a different rate.

b. For existing agreements under Section 251(b)(5): (i) if the existing rate is higher than the default rate, the rate under the agreement would be reduced to the default rate; and (ii) when the agreement expires, the rate would become the lower of the prior rate or the default rate.

(vi) During the first three years of transition, interstate originating and terminating rates would be capped and the resulting shortfall (if any) would be recovered from either the LSS or interstate common line support ("ICLS") universal service mechanisms.

(vii) Beginning in the fourth year, originating and terminating rates for Rural ILECs that choose the First Option would be capped and the resulting shortfall (if any) would be recovered from either the LSS or the ICLS universal service mechanisms.

(viii) Call signaling and call record arrangements are needed to ensure that all service providers whose traffic terminates on Rural ILEC networks (including wireless carriers and VoIP providers) pay for their use of the networks.

(ix) NECA pools should be coordinated with the RM for recovery of network costs while keeping Rural ILEC access rates at the lowest practicable levels.

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[48] *See* Initial Comments of the ITTA at 9; and Initial Comments of the United States Telecom Association at 7.

(x) The High-Cost Loop Support USF mechanism should be uncapped or rebased to enable upgrades of the rural loop facilities needed for advanced services.

(xi) Third party ILEC transit providers should continue to provide transit transport at rates, terms and conditions that are subject to State commission jurisdiction, and not subject only to the Section 201 "just and reasonable" standard.

(xii) A proceeding should be initiated in the second transition year for evaluation and modification as needed.

For the reasons described above, the MIC recommends that the Commission include these elements in any plan for reform of intercarrier compensation and USF for Rural ILECs.

Date December 22, 2008

Respectfully submitted,

/s/ Richard J. Johnson

and

/s/ M. Cecilia Ray

Attorneys on Behalf of the Minnesota Independent Coalition