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Senior Vice President

December 29, 2008

Chairman Kevin J. Martin
Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Debra Taylor Tate

Federal Communications Commission
445 12th Street, SW
Washington, DC20554

Via: First Class Mail and Electronic Filing

Dear Chairman and Commissioners,

Please accept this letter on behalf of the companies listed in Attachment One to this letter (“the Companies”). These small rural companies support, with certain modifications as specified herein, the Alternative Proposal in Appendix C of the Order and Further Notice of Proposed Rulemaking.

The Companies recognize that the proposals set forth in the November 5th Order/FNPRM were the result of negotiations amongst many parties. Having had an opportunity to review the various alternatives, the Companies can easily conclude that none of the plans set forth are ideal for rural companies. The challenges these companies face are no different than those faced by other rural LECs. These include tariff arbitrage, competitive LECs claiming exemptions for VoIP originated traffic terminating on the PSTN, interexchange carriers withholding payments as self-help measures, and out of control universal service support growth driven primarily by competitive ETCs. Because of these issues, it is clear that the status quo is not a viable option.

When evaluating the individual items included in the Appendix C, there are a certain number of limited issues which the Companies believe warrant further consideration by the Commission. These items are outlined below.

Elimination of Originating Access Charges. It is unclear whether the revenues which are lost through the elimination of originating access charges would be recoverable for rural rate of return LECs through the Supplemental ICLS support. As set forth in Appendix C, rural rate-of-return incumbent LECs will be compensated for all of the revenues lost as a result of the mandated reductions in intercarrier compensation rates that are not otherwise recoverable through increases in SLCs¹. While the focus of the

¹ See Appendix C, ¶ 321.

Order/FNPRM was on terminating compensation rates, the elimination of originating access is an equally critical revenue loss. The Commission should confirm that this loss is also recoverable through the ICLS provided that (1) the LEC is under rate of return regulation in the interstate jurisdiction, and (2) the lost revenue is not completely recoverable through increases in SLCs.

Declaration of IP/PSTN traffic as an Information Service. A conclusion that IP/PSTN traffic is an information service runs afoul of the other steps the Commission has taken to unify intercarrier compensation. This conclusion expressly ignores the fact that IP/PSTN service and PSTN/PSTN service are functionally identical on the terminating end. In many cases the terminating company receives the inbound call from a CLEC over the same trunks used for PSTN/PSTN traffic. This situation is particularly problematic because the terminating company has no method to identify whether the traffic delivered is in fact IP-originated.

The steps taken in this Order/FNPRM would unify rates billed for terminating all traffic – except for IP-originated calls. The treatment of IP/PSTN traffic as an information service will create an incentive for CLECs, CMRS providers, IXCs, ILECs, and RBOCs to claim the IP exception. This will create the same arbitrage the Commission seeks to eliminate in this proceeding. Instead, the FCC should treat the use of any telephone company’s network to terminate traffic as a “compensable event”. Today’s IP services are hardly a nascent technology; it is hard to believe they will be a nascent technology ten years from now.

It has been argued by some that the assessment of terminating charges on IP traffic is tantamount to taxing the internet. Terminating charges, whether in the form of access charges or reciprocal compensation, represent a charge for services rendered. Webster’s defines a tax as a charge “usually of money imposed by authority on persons or property for public purposes”.² A charge, payable to a private entity like a LEC or a CLEC, is for the private use of the entity providing the service. In the case where IP providers actually build and maintain their own networks, they too should be allowed to charge a symmetrical termination rate. This end result would ensure regulatory parity and a unification of intercarrier compensation rates.

Frozen Study Area High Cost Support. The FCC properly uses transition mechanisms in many portions of Appendix C. The FCC offers a small transition by using December 2010 as the support figure to be frozen and then annualized for calculating ongoing support. Because of the 2-year delay in High Cost Support calculation, the December 2010 payments would be based on investment and expenses in place in December 2008. Those companies fortunate enough to have completed recent major upgrades will receive more support than those who have held off on these investments pending regulatory certainty. A more appropriate action would be to extend the date for freezing high Cost support to December 2013. This would allow companies to evaluate the appropriateness of network upgrades which may have been deferred pending this FCC ruling, secure funding, and build out their networks. December 2013 is particularly appropriate as it would represent the midpoint of the 10 year transition included in Appendix C.

² See www.merriam-webster.com

Without the additional transition, companies that waited for FCC action will now be placed in a regulatory Catch-22. These companies rely on their High Cost Support to satisfy the requirements of § 254 of TA-96. If they have postponed investments, they will now have to upgrade their networks to continue to provide customers with basic telecommunications services. This may harm the rural LECs even before considering the proposed new requirement of 100% broadband internet availability within 5 years. Without an additional two year transition, this essentially becomes an unfunded government mandate. Given two years of regulatory certainty, all companies have the opportunity to plan and build their networks for the next decade.

Rural Transport (Network Edge) Rules. At the end of a 10 year transition period, the FCC will adopt a network edge rule establishing financial responsibility for the costs associated with delivering calls between two or more networks. The Companies ask the Commission to immediately implement the network edge rules outlined in paragraph 270 of Appendix C. For local or extended area service calls from rural rate of return ILECs to non-rural LECs, the rural LEC's financial obligation should not extend beyond its study area boundaries. The non-rural LEC would bear the financial obligation to deliver traffic from their Point of Presence at the rural LEC's network edge to the called party. By definition, this would include any transiting charges assessed by third party tandem providers.

The Commission should also confirm that the rural ILEC has no financial obligations outside its exchange boundaries when it is not the calling party service provider³ as that term is defined in the Order/FNPRM. In this case the rural ILEC would not have the retail relationship with the customer. As such, it should not incur the costs associated with delivering this call to a distant location.

Conclusion. The Rural LECs support the plan outlined in Appendix C with the modifications outlined in this letter. We respectfully ask for the Commission's consideration of the points we've outlined herein as the agency tackles the complex reform sought through this Order/FNPRM.

Thank you for your attention on this very important matter.



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³ "Calling Party Service Provider" is defined as the calling party's LEC for a local call or the calling party's IXC for a long distance call. See Appendix C @ ¶ 270.

ATTACHMENT ONE – SUPPORTING CARRIERS

<u>Company Name</u>	<u>Study Area #</u>
Ayersville Telephone Company	300588
Bascom Mutual Telephone Company	300589
Doylestown Telephone Company	300609
Kalida Telephone Company	300625
McClure Telephone Company	300598
Sherwood Mutual Telephone Association	300656
Sycamore Telephone Company	300658
Vaughnsville Telephone Company	300663