

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Global NAPS Petition for	)	
Declaratory Ruling and	)	
Alternative Petition for	)	WC Docket No. 10-60
Preemption of the	)	
Pennsylvania, New	)	
Hampshire, and Maryland	)	
State Commissions	)	

**COMMENTS OF  
THE UNITED STATES TELECOM ASSOCIATION**

USTelecom<sup>1</sup> is pleased to submit the following in response to the request for comments by the Federal Communications Commission (“Commission”) on the Global NAPS Petition for Declaratory Ruling and Alternative Petition for Preemption of the Pennsylvania, New Hampshire and Maryland State Commissions (“Petition”) filed March 5, 2010.<sup>2</sup> USTelecom will not address the particular circumstances cited by Global NAPS in its Petition. Instead, USTelecom files these comments solely to highlight that – like so many one-off disputes before it – the Global NAPS Petition is in no small part the result of disputes that will be vastly reduced when the Commission completes broad reform of the intercarrier compensation regime, as contemplated in the National Broadband Plan (“the Plan”).

The Commission has had these issues presented to it before, and it should not decide such issues of broad import and application based on the unique circumstances presented by one

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<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks.

<sup>2</sup> Public Notice, *Pleading Cycle Established for Comments on Global NAPS Petition for Declaratory Ruling and for Preemption of the Pennsylvania, New Hampshire and Maryland State Commission*, WC Docket No. 10-60, DA 10-461 (rel. Mar. 18, 2010).

petitioner. Instead, USTelecom urges the Commission to reaffirm, in response to this Petition, that access charges apply to VoIP traffic and to address in the near term access pumping, phantom traffic, and the proper compensation for VoIP traffic terminating on the Public Switched Telephone Network (PSTN).

The Plan explicitly recognizes the need to address these arbitrage opportunities, provide greater clarity, and promote revenue stability during the transition to a new intercarrier compensation and universal service regime. It states:

As part of comprehensive ICC reform, the FCC should adopt interim rules to reduce ICC arbitrage. The FCC should, for example, prohibit carriers from eliminating information necessary for a terminating carrier to bill an originating carrier for a call. Similarly, the FCC should adopt rules to reduce access stimulation and to curtail business models that make a profit by artificially inflating the number of terminating minutes. *The FCC should also address the treatment of VoIP traffic for purposes of ICC.*<sup>3</sup>

It is our understanding that the Plan intends interim fixes to intercarrier compensation to be adopted in Stage One of its proposed three-stage transition for comprehensive reform of intercarrier compensation. Stage One is contemplated to take place during 2010 and 2011. Given the substantial record before the Commission on the proper treatment of VoIP service for purposes of intercarrier compensation, addressing this issue in the very near term is not overly ambitious.<sup>4</sup> And in the context of the instant Petition, the Commission should make it clear that the position advocated by Global NAPS is inconsistent with the current regulatory regime.

Inter-carrier compensation arbitrage is increasing<sup>5</sup> and undermines an important revenue stream that many carriers use to promote network stability to advance and maintain broadband networks. It also diminishes the credibility of the current rules and regulatory structure by encouraging an even greater search for loopholes and arbitrage opportunities. The Commission

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<sup>3</sup> See National Broadband Plan at 148 (emphasis added).

<sup>4</sup> See *In the Matter of IP Enabled Services*, WC Docket No. 04-36.

<sup>5</sup> See letter from Donna Epps to Marlene H. Dortch, FCC, March 26, 2010, (*Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135), concerning the increase in access pumping by CLECs.

should eliminate these loopholes and arbitrage opportunities by quickly establishing and implementing rules in the following areas:

1. Applying intercarrier compensation to VoIP traffic has generated a host of disputes among carriers, leading to litigation costs and investment risks. USTelecom endorses the classification of VoIP as a federally regulated non-common carrier information service, which properly recognizes the highly competitive nature of VoIP service and places all providers on an equal competitive footing. However, when the services of an interconnected VoIP provider require the PSTN for a call to be originated or completed, for intercarrier compensation purposes the interconnected VoIP provider should be responsible for the payment of reciprocal compensation on local calls and the appropriate access charges on the remaining calls. The Commission should confirm that all traffic that terminates on the PSTN – including, in particular, IP originated traffic – is subject to existing intercarrier compensation mechanisms. Indeed, VoIP providers in conjunction with their wholesale telecommunications carriers, including Global NAPS' customers, universally assess access charges on originating 8YY calls and inbound interexchange calls.<sup>6</sup> It makes no sense whatsoever to allow VoIP providers and their wholesale telecommunications carriers to benefit from access charges on the revenue side of their income statements, while escaping them on the expense side.

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<sup>6</sup> See, e.g., [http://tariffs.net/select\\_client\\_docs.asp?comp=152](http://tariffs.net/select_client_docs.asp?comp=152) for documentation of intrastate and interstate switched access tariffs of YMax/MagicJack.

2. Eliminating “access pumping,” which obscenely overcompensates arbitrageurs that attempt to manipulate the rate regime established to fairly compensate ILECs and CLECs serving low volumes of traffic in rural high-cost areas.
3. Adopting USTelecom’s proposal for the elimination of “phantom traffic” – *i.e.*, traffic sent without signaling information, with improper signaling information, or with incomplete information.<sup>7</sup>

The Global NAPS Petition should be denied, and the Commission should affirm that the interconnected VoIP provider should be responsible for the payment of reciprocal compensation on local calls and the appropriate access charges on the remaining calls. The Commission should also promptly and comprehensively reform the intercarrier compensation regime, building on the industry consensus developed at the end of 2008. Near-term reform should include addressing the issues of access pumping, phantom traffic, and the proper compensation for VoIP traffic terminating on the PSTN.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

Its Attorneys

By: /s/ Jonathan Banks

Jonathan Banks  
David Cohen

607 14<sup>th</sup> Street, NW, Suite 400  
Washington, D.C. 20005

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<sup>7</sup> See letter and attachment from Glenn Reynolds, USTelecom, to Marlene H. Dortch, FCC, (*Developing a Unified Inter-carrier Compensation Regime*, WC Docket 01-92) dated February 12, 2008.