Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	))	WC Docket No. 07-135
	)	
Developing a Unified Intercarrier Compensation Regime	))	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

Comments of TCA

I. Introduction

On February 9, 2011 the Federal Communications Commission (Commission) released a Notice of Proposed Rulemaking (NPRM) and Further Notice of Proposed Rulemaking (FNPRM) addressing the issues in the dockets referenced above.[1] The Commission is seeking comments on proposed rules intended to reduce inefficiencies and wasteful use of resources in the provision of access service by curbing the opportunities for arbitrage. While the current intercarrier compensation (ICC) regime is broken and in need of a long-term restructuring, the time is now for

[1] Connect America Fund, WC Docket No. 10-90, A National Broadband Plan for Our Future, GN Docket No. 09-51, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) (*NPRM*).

the Commission to act to address some of the long standing problems plaguing the industry; and in particular small rural telephone companies. Rural local exchange carriers (LECs) are significantly – and increasingly - impacted by the loss of billable revenues due to the inability to charge interconnected Voice over Internet Protocol (VoIP) carriers tariffed access charges and to bill all carriers for terminating traffic. TCA's comments address the Commission's concerns raised in section XV of the NPRM.

TCA is a national consulting firm that performs financial, regulatory, management, and marketing services for over one-hundred rural LECs and their affiliates. TCA clients are all rate-of-return regulated in the interstate jurisdiction and offer traditional voice and broadband services to their customers. They are dependent upon access revenues, primarily because the Commission's rules assign a substantial portion of the rural LEC company costs to access services.

II. VoIP Traffic Should Be Subject to Access Charges.

TCA submits that most rural LECs do not originate VoIP traffic for delivery outside of their serving areas. While many rural LECs are acquiring soft switches to replace their aging traditional switches, the interface to the outside world beyond the local exchange remains with the traditional Time Division Multiplexed (TDM) voice network. This network structure will likely remain in place throughout the phase down of switched access services. Long distance traffic destined for distant exchanges is delivered to presubscribed interexchange carriers (IXCs), either at the end office or at the access tandem. Those carriers, not the rural LECs, are responsible for terminating toll calls to VoIP carriers. Even when a rural LEC has a toll service subsidiary with presubscribed customers, it virtually always serves as a reseller of other national toll carriers. Again, the rural LEC's toll subsidiary is not the entity terminating toll calls to a VoIP provider. In order to terminate VoIP originated local or toll calls, rural LECs receive traffic most often through common trunks from the access tandem or via Extend Area Service (EAS) local trunks. In either case, the rural LEC does not know which calls originated from a VoIP service provider.

Rural LECs cannot determine with certainty which calls are VoIP generated. It is our experience that VoIP providers do not populate the appropriate SS7 data elements which feed information to rural LEC billing systems in order to identify the original carrier generating the terminating toll record. Rural LECs would need to know which telephone numbers were assigned to VoIP carriers, and where those numbers were assigned to customers, and then would be required to design a separate billing functionality to bill VoIP carrier specifically for their calls. Even this is an imperfect solution, as number portability could result in a change in the originating carrier to a non-VoIP carrier. Currently, a billing module for VoIP does not exist, nor does it make sense to expend the cost to develop one at this stage in the evolution of access services. The only way for rural LECs to bill VoIP traffic is to have VoIP carriers convert IP signaling information to the SS7 format at some point during call transport. Given the network arrangements and billing capabilities the only equitable solution is for VoIP service providers to conform to the existing access service rates, rules and regulations and compensate rural LECs for the use of their network in like fashion with all other access customers.

There is no rationale for distinguishing between fixed and nomadic VoIP traffic. The method for originating a VoIP call, whether on a telephone using a fixed line or from a nomadic device, does not affect how the call terminates to an rural LEC exchange. The initial and primary rural LEC interface for a VoIP transporter is usually the regional access tandem, regardless of whether a fixed-line telephone or nomadic device is used. Also, the VoIP call traverses the same rural LEC transport facilities and end office distribution plant, whether a fixed-line telephone or nomadic device originates the call. From the rural LEC's perspective, nothing about a terminating

VoIP call to a rural LEC exchange differs from traditional toll traffic. The Commission's policy of technological neutrality dictates that it treat VoIP traffic originated from fixed wire or nomadic connections, the same as traditional access service.

Another proposal by the FCC is to allow VoIP providers to terminate traffic under Bill and Keep Arrangements. Bill and Keep schemes are a misnomer. In reality, this is simply access avoidance. Rural LECs do not originate VoIP calls and as a result have no offsetting terminating minutes. Bill and Keep will fail unequivocally because the traffic is one sided. Moreover, as pointed out above, rural LECs cannot distinguish VoIP traffic without directly connected circuits, which do not generally exist. There is no practical way for a rural LEC to identify a VoIP call and to not bill for it.

The FCC also suggests adopting a VoIP-Specific termination rate. It certainly makes no sense for the Commission to adopt a new access charge applicable only to VoIP traffic, as this will only create more opportunities for the arbitrage the Commission is attempting to eliminate in this docket. Therefore the primary question is: What existing rate should apply to VoIP traffic? Under current network arrangements, as mentioned above, rural LECs do not have the ability to decipher VoIP traffic from any other access traffic. They cannot apply a VoIP specific rate.

The Commission also asks whether adopting a separate rate, and likely a lower rate, for VoIP traffic will result in terminating access traffic migrating over to VoIP terminating services. The answer is obviously yes. The IXC business is highly competitive. Any opportunity to save terminating costs will lure interexchange carriers away from traditional access termination. Today's switches are capable of selecting terminating routes based on the access costs associated with individual local exchanges. It will not be difficult, time consuming or costly to shift toll traffic to the lower cost VoIP routes. If the Commission pursues this policy, it will drive rural LEC access minutes down even further, increasing access rates and placing even greater burden on federal and state high cost funds. Applying existing access charges to VoIP traffic is the only non-discriminatory policy that the Commission can adopt. All access traffic utilizing rural LEC networks impose similar costs based on the method of interconnection, i.e. directly connected or switched over common trunks. This approach is also the only workable approach as rural LECs have the networks and billing systems in place to accurately bill the rates the Commission has authorized. Applying existing access rates is appropriate because it will substantially reduce the ability of carriers to arbitrage rates and, in some cases, unilaterally declare that they do not have to pay access altogether. All access traffic should be treated equally and without discrimination. Ultimately, VoIP providers will benefit from the Commission's long term strategy of reforming intercarrier compensation. However, until that occurs, VoIP providers should be treated the same as all other IXCs.

III. The Commission should Adopt Rules to Eliminate Phantom Traffic.

TCA strongly supports the Commission's proposed rules to improve billing practices so that terminating calls can be accurately billed. The Commission reliably documents comments and concerns from terminating access providers about the various ways toll providers evade paying access charges by altering call signaling data or billing records to hide the carrier identification, calling number and other relevant billing data.[2] Such practices must be stopped. TCA concurs in various estimates indicating that phantom traffic comprises up to 20% of all terminating traffic for many rural LECs.

TCA strongly urges the Commission to adopt the proposals enumerated in the NPRM, which include: (a) "amend[ing] the Commission's rules…to facilitate the transfer of information

[2] NPRM, at para. 623.

to terminating providers, particularly in cases where traffic is delivered through indirect interconnection arrangements:"[3] (b) "modifying the Commission's rules to require that the calling party's telephone number be provided by the originating service provider and prohibit the stripping or altering of call signaling information;"[4] (c) ensuring that "providers transmitting traffic using Internet protocols [are] subject to the rule amendments [the Commission] proposes;"[5] (d) requiring "service providers using SS7 to pass information about traffic [and specifically] populat[ing] the SS7 calling party number (CPN) field[6] and the CN field[7];" and (e) in order to address unidentified traffic, "extending these requirements to all traffic originating and terminating on the PSTN, including but not limited to jurisdictionally intrastate traffic and traffic transmitted using Internet protocols.[8] In addition, TCA agrees with the rural LEC trade associations that the Commission should also: (1) include a requirement that providers transmit Carrier Identification Codes ("CIC") or Operating Company Number ("OCN") codes in addition to the CPN and CN in signaling information and/or billing records, as applicable; (2) clarify that providers may not substitute a number of a calling "platform" or "gateway" for the CPN or CN associated with the originating caller; (3) confirm that, in the absence of more accurate information or a governing agreement, terminating carriers may rely on the originating and terminating numbers of a call to determine jurisdiction for billing purposes; and (4) allow terminating carriers to charge their

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[3] NPRM at para. 625.

[4] NPRM at para. 626.

[5] NPRM at para. 627.

[6] NPRM at para. 628

[7] NPRM at para. 630-631.

[8] NPRM at para. 629.

highest terminating rate to the service provider delivering unidentified traffic onto their networks.[9] Under the rule changes proposed by the Commission, TCA is confident that the incidents of phantom traffic will drop precipitously.

IV. Conclusion

TCA overwhelmingly supports the Commission proposal to require VoIP service providers to pay access charge in similar fashion to all other terminating service providers. In addition, TCA supports the proposed rules to eliminate phantom traffic. Under the proposed rules rural LECs should experience an increase in access revenues, which should ease the burdens on state and federal high cost funds. Most importantly, the Commission's proposed rule changes will apply equitable treatment across customers using rural LEC access services.

[electronically filed]

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[9] TCA Comments, 2008 Order and FNPRM, 24 FCC Rcd, filed November 26, 2008 at p. 11.