

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

<b>In the Matter of:</b>	)	
	)	
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

**COMMENTS OF THE IOWA UTILITIES BOARD**

On February 9, 2011, the Federal Communications Commission (Commission) released a Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (NPRM) in the above dockets. The Iowa Utilities Board (IUB or Board) notes that the reforms proposed in this NPRM, if implemented, will change the way telephone carriers and broadband providers do business. Reform is necessary if a national plan to deploy high speed broadband services to all Americans is to be realized. The IUB commends the Commission for its extensive work in developing a blueprint for reform that, although complicated, is well reasoned.

At this time, the IUB provides comments on Section XV of the NPRM. Specifically, the IUB's comments address the three categories of proposed reform aimed at curbing arbitrage opportunities: 1) whether interconnected voice over Internet protocol (VoIP) calls should be subject to intercarrier compensation (ICC) rules; 2) whether the Commission's proposal to amend its access charge rules properly address "access stimulation" by insuring that rates remain just and reasonable; and 3) whether the Commission's proposed revisions to its call signaling rules are flexible enough to resolve the "phantom traffic" issue.

With regard to Interconnected VoIP and Intercarrier Compensation, the IUB recommends that VoIP services that exhibit a functional equivalence to services that are classified as telecommunications services should also be classified as telecommunications services. All other types of interconnected VoIP should be classified as information services. The IUB recommends that the Commission avoid classifying interconnected VoIP services based on "net protocol conversion."

With regard to Access Rules and "Access Stimulation", the IUB believes that the Commission's proposal to curb access stimulation is a viable solution to the problem that is consistent with the Commission's established benchmarking process, and that the Commission's proposed changes to that process are consistent with precedent and would involve less time and expense for affected parties than a process intended to determine an access rate based on a local exchange carrier's (LEC's) specific costs.

With regard to Call Signaling and “Phantom Traffic”, the IUB believes that the Commission should make an effort, as soon as possible, to adopt changes to its call signaling rules that would resolve the phantom traffic issue.

## **1. Interconnected VoIP and Intercarrier Compensation**

### **Background**

Determining how interconnected VoIP is to be treated under ICC will resolve a major arbitrage opportunity that has grown with each year. As the Commission notes, carriers have taken “extreme all-or-nothing positions” regarding the compensation obligations associated with VoIP traffic. Some LECs contend that VoIP traffic is subject to the same ICC obligations as any other voice traffic, while other carriers contend no compensation is required for this traffic. The Commission notes there is evidence of asymmetrical revenue flows for the exchange of VoIP traffic where VoIP providers (or their LEC partners) collect access charges while refusing to pay them.<sup>1</sup>

Recently, the Board issued an order to resolve a complaint centering on whether intrastate switched access is payable on interexchange non-nomadic VoIP traffic. The interexchange carrier (IXC) had paid the LEC’s tariffed intrastate switched access billings on the VoIP traffic until mid-2009. At that point, the IXC revisited its own position on VoIP and decided that the VoIP traffic was exempt from access charges. The case was complicated and took a year to resolve. In the end, the IUB determined that the VoIP traffic at issue was not subject to the “information services exception” or the “impossibility exception,”

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<sup>1</sup> NPRM, para. 610.

either of which would have preempted the traffic from state regulation and intrastate access charges. Thus, the Board ordered the IXC to pay the LEC's tariffed intrastate switched access charges for terminating the non-nomadic VoIP traffic.<sup>2</sup>

In recent years, similar disputes relating to the compensation for VoIP traffic have arisen before other state commissions. These disputes have often been costly, and the multiplicity of cases runs the risk that different outcomes will result from different state commissions or different appeals courts. The Commission indicates that the regulatory uncertainty associated with the treatment of VoIP traffic likely affects both IP innovation and investment.<sup>3</sup> The Commission needs to settle the VoIP compensation issue in order to restore regulatory certainty, to promote investment, and to eliminate a major opportunity for arbitrage in the telecommunications arena.

In recent years, various courts have ruled on the treatment of VoIP traffic. The 2003 ruling by the United States District Court, District of Minnesota, addressed whether the Minnesota Public Utilities Commission (MPUC) could regulate Vonage Holdings Corporation's (Vonage) VoIP services. The Court ruled Vonage's offering to be an information service, which preempted the MPUC from regulating it. At that time, the MPUC and other state commissions saw Vonage's service as little different from traditional telecommunications services except for the means of transmission. The Court made clear, however, that Vonage's service was different and deserved different regulatory treatment.

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<sup>2</sup> See [Order](#) in Docket No. FCU-2010-0001 (Ordering Clause No. 1, p. 80).

<sup>3</sup> NPRM, paras, 493, 604, 608, and 611.

“Congress intended to maintain a regime in which information service providers are not subject to regulation as common carriers merely because they provide their services ‘via telecommunications.’” The Court acknowledges the MPUC’s simplistic “**quacks like a duck**” argument, essentially holding that because Vonage’s customers make phone calls, Vonage’s services must be telecommunications services. However, this simplifies the issue to the detriment of an accurate understanding of this complex question.<sup>4</sup>

The Court’s ruling on the preemption of Vonage from state regulation and access charges was later confirmed by the FCC and upheld by the United States Court of Appeals for the Eighth Circuit. However, neither of these rulings upheld the District Court’s view that Vonage was an information service. The Commission indicated that it intended to clarify what constitutes an information service and what constitutes a telecommunications service in the 2004 *IP-Enabled Services* proceeding, but that proceeding has yet to be concluded.<sup>5</sup>

Since that time, a number of carriers have begun to decide the issue for themselves, often concluding that interconnected VoIP services that undergo a “net protocol conversion” are information services.<sup>6</sup> After deciding that such services are information services, carriers have ceased paying switched access charges, which are payable on telecommunications services. In 2010, the U.S. District Court for the District of Columbia District, in the *PAETEC Decision*, found

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<sup>4</sup> 290 F. Supp. 2d 993, 1001 (emphasis added), quoting from the Commission’s Universal Service Report, 13 FCC Rcd. ¶ 21, 11511.

<sup>5</sup> *IP-Enabled Services*, WC Docket No. 04-36, “Notice of Proposed Rulemaking,” 19 FCC Rcd. 4863 (rel. March 10, 2004) (*IP-Enabled Services*).

<sup>6</sup> Generally, “net protocol conversion” occurs with calls that originate in IP. Such calls are converted to TDM for termination on the PSTN.

that the critical feature which characterizes VoIP traffic as an information service is net protocol conversion.<sup>7</sup>

The IUB believes the *PAETEC Decision* oversimplifies the information services vs. telecommunications services issue and recommends that the Commission avoid adopting this approach towards classification. Adopting the net protocol conversion approach to classification would be the opposite extreme of the “quacks like a duck” approach to classifying telephony. Moreover, adopting the net protocol conversion approach to classification could possibly create a new ICC arbitrage opportunity, as it may be technically difficult for terminating carriers to verify whether net protocol conversion has actually occurred.<sup>8</sup>

### **IUB Recommendations**

The IUB recommends that Interconnected VoIP services that exhibit a functional equivalence to services that are classified as telecommunications services should also be classified as telecommunications services. Non-nomadic cable telephony is an example of interconnected VoIP where consumers use traditional telephone instruments and use the service to perform the same functionalities as are provided by traditional telephony. To a major extent, state commissions regulate traditional telephony to assure that consumers are provided with communications services that advance public safety, service quality, and other public interest considerations. The consequence of functionally equivalent VoIP services not being classified as telecommunications

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<sup>7</sup> *PAETEC Communications, Inc. v. CommPartners, LLC*, Civ. No. 98-0397, Mem. Order (D.D.C. February 18, 2010) (*PAETEC Decision*).

<sup>8</sup> NPRM, para. 613.

services is the potential loss to public safety, service quality, and other public interest considerations associated with state commission oversight. Thus, functionally equivalent interconnected VoIP services should be classified as telecommunications services, they should be subject to state commission certification authority, and they should be subject to the same ICC obligations as traditional telecommunications services (unless carriers have entered into private agreements covering the exchange of traffic for these types of interconnected VoIP services).

The Commission's 2004 *IP-Enabled Services Order* provides the basis for the IUB's recommendations for classifying VoIP services. At that time, the Commission noted that some VoIP services exhibit a functional equivalence to traditional telephony and stated the following about such services:

Some IP-enabled services resemble traditional wireline telephony, while others do to a lesser degree. These functional differences likely shape end users' expectations regarding the service. For example, consumers might consider a telephone replacement IP-enabled service to be very much like traditional telephony, but may have none of the same expectations for a voice function on a gaming platform.<sup>9</sup>

The IUB further recommends that other types of interconnected VoIP should be classified as information services. Such services, because of their significantly enhanced functionalities, are not the functional equivalents of traditional telecommunications services. Instead, they should be seen as "enhanced substitutes" for telecommunications services. An example of this type

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<sup>9</sup> *IP-Enabled Services Order*, para. 37.

of interconnected VoIP service is nomadic VoIP, where consumers have differing expectations compared to traditional telephony and where the service itself exhibits enhanced functionalities over traditional telecommunications services.

Classifying VoIP services based on their functional equivalence to traditional telecommunications services would not disrupt previous decisions the Commission has made regarding VoIP services. As explained below, the Commission's *Vonage* and its AT&T calling card decisions would be consistent with a "functional equivalency" method of classification.

In the *Vonage Declaratory Order*, the Commission ruled that state regulation of Vonage's Digital Voice service was preempted by nature of its nomadic VoIP features that set it apart from traditional telephony.

DigitalVoice is a service that enables subscribers to originate and receive voice communications and provides a host of other features and capabilities that allow subscribers to manage their personal communications over the Internet. By enabling the sending and receiving of voice communications and providing certain familiar enhancements like voicemail, DigitalVoice resembles the telephone service provided by the circuit-switched network. But as described in detail here, there are fundamental differences between the two types of service.<sup>10</sup>

Although the *Vonage Declaratory Order* stopped short of classifying Digital Voice as either a telecommunications service or an information service, the Commission did uphold preemption of the service from state regulation and access charges based on the impossibility exception. Nevertheless, the Commission stated that it planned to address these questions in the *IP-Enabled*

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<sup>10</sup> *In the Matter of Vonage Holdings Corp., Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket 03-211, 199 FCC Rcd. 22404, rel. Nov. 12, 2004 (*Vonage Declaratory Order*) para. 4, footnotes omitted.

Services proceeding in a manner that fulfills Congress's directions to promote the continued development of the Internet and to encourage the deployment of "advanced telecommunications capabilities."<sup>11</sup> The Commission's thoughts from 2004 are consistent with the IUB's view today that interconnected VoIP services that are functional equivalents to traditional telecommunications services should be distinguished from interconnected VoIP services that are truly enhanced substitutes for traditional telephony because they employ advanced telecommunications capabilities.

Conversely, in the *AT&T Declaratory Order* the Commission ruled that AT&T's calling card service, despite employing VoIP technology was a telecommunications service instead of an information service.<sup>12</sup> In making its determination that access charges were applicable to the service, the Commission noted that end-user customers "do not order a different service, pay different rates, or place and receive calls any differently than they do through AT&T's traditional circuit-switched long distance service." The Commission also stated that it was not persuaded that AT&T's service is an information service due to its "future potential to provide enhanced functionality."<sup>13</sup> Again, the Commission's thoughts from 2004 are consistent with the IUB's view today that VoIP services that are functional equivalents of traditional telecommunications services should be classified as telecommunications services while other VoIP

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<sup>11</sup> *Vonage Declaratory Order*, para. 2.

<sup>12</sup> *Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361, Order, 19 FCC Rcd 7457 (2004) (*AT&T Declaratory Order*).

<sup>13</sup> *AT&T Declaratory Order*, para. 12 and 13.

services that provide enhanced functionality are actually enhanced substitutes for traditional telephony and should be classified as information services.

Deciding the issue along the lines of functional equivalency should resolve concerns that IP innovation and investment is being impacted by regulatory uncertainty over the classification of VoIP services. Additionally, deciding the issue along the lines of functional equivalency would be consistent with the language of section 706 of the 1996 Act, which directs the Commission and each state commission to encourage the deployment of advanced telecommunications capability to all Americans. Carriers seeking to offer innovative VoIP products and services would be encouraged by the regulatory certainty that such products and services would be classified as information services and not subject to the same ICC regime as traditional telecommunications services.<sup>14</sup> Moreover, interconnected VoIP services that are functional equivalents to telecommunications services should be placed on the same glide path for ICC rate declines as proposed for traditional telecommunications services. Over time, the proposed glide path would act to diminish the disparity between the current compensation regime applicable to telecommunications services and that which is applicable to information services.<sup>15</sup>

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<sup>14</sup> The IUB recommends that interconnected VoIP services that are classified as information services should continue to be subject to the obligations the Commission has previously extended to providers of such services, including: local number portability, 911 emergency calling capability, universal service contribution, CPNI protection, disability access and TRS contribution requirements, and section 214 discontinuance obligations. See NPRM, para. 73.

<sup>15</sup> NPRM, para. 617.

## **2. Interstate Access Rules and “Access Stimulation”**

### **Background**

The Commission notes that access stimulation is an arbitrage scheme employed to take advantage of intercarrier compensation rates by generating elevated traffic volumes to maximize revenues without adjusting rates to reflect the new cost of providing service. The Commission also states that access stimulation imposes undue costs on consumers, inefficiently diverting the flow of capital away from more productive uses such as broadband deployment, and that access stimulation harms competition. The industry impact of access stimulation may be as much as \$440 million per year.<sup>16</sup> The NPRM has proposed rules that would address access stimulation associated with interstate traffic.<sup>17</sup> The NPRM notes that the IUB has adopted rules to address access stimulation associated with intrastate traffic and that Qwest filed a proposal to address interstate access stimulation based on Iowa’s intrastate method. The NPRM seeks comment on whether aspects of Iowa’s intrastate method of addressing access stimulation could be used by the Commission to address interstate access stimulation.<sup>18</sup>

On June 7, 2010, the IUB issued an order adopting High Volume Access Service (HVAS) rules.<sup>19</sup> The IUB’s intent to propose rules addressing access stimulation was announced in the IUB’s Final Order in Docket No. FCU-07-2 issued September 21, 2009. That proceeding was a formal complaint filed by

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<sup>16</sup> NPRM, para. 636 and 637.

<sup>17</sup> NPRM, Appendix C.

<sup>18</sup> NPRM, para. 669.

<sup>19</sup> See [Order Adopting Rules](#), Docket No. RMU-2009-0009, issued June 7, 2010.

Qwest Communications Corporation (QCC), with Sprint and AT&T intervening. QCC, Sprint, and AT&T alleged that eight Iowa LECs engaged in a deliberate plan to dramatically increase the amount of terminating access traffic delivered to their exchanges via agreements with conference calling companies. In the Final Order, the Board found that the traffic associated with the conference calling companies was not subject to the LECs' switched access tariffs. Although the Board analyzed the complaint from the aspect of tariff compliance, some of the LECs had argued that complaint was "about rates, that is, how much the IXC has to pay for terminating toll traffic as the volumes of that traffic increase."<sup>20</sup> Based in part on the arguments put forth by the LECs implicated in the complaint, the Board initiated the HVAS rule making to address the intrastate access rates associated with high volume traffic in exchanges where access rates have been set high to reflect low traffic volumes.

The order also addressed the issue of access revenue sharing between a LEC and a third party.<sup>21</sup> Although the Board did not make a finding that access revenue sharing arrangements are inherently unreasonable, it noted.

If the access rates are set at a level intended to recover the costs of providing access services, then a carrier's willingness to share a substantial portion of its access revenue with a FCSC is evidence that the carrier's rates are too high for the volume of traffic being terminated.<sup>22</sup>

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<sup>20</sup> Docket No. FCU-07-2, "ILEC Group" Post Hearing Brief, p. 7, filed April 1, 2009.

<sup>21</sup> See [Final Order](#), Docket No. FCU-07-2, (Public Interest Issue No. 1, pp. 54-59).

<sup>22</sup> Id, p. 57, ("FCSC" means free calling service company).

### The Iowa HVAS Trigger

In the HVAS rule making proceeding, the Board asked the parties to comment whether the rules should specifically preclude access revenue sharing arrangements. Although some commenters believed that an access revenue sharing prohibition was appropriate, the Board was persuaded by other comments that a complete prohibition on revenue sharing could be overly broad. Thus, instead of a trigger or threshold tied to access revenue sharing, the Board adopted a trigger tied to a sudden major increase in intrastate access billings.

"High Volume Access Services" (HVAS) is any service that results in an increase in total billings for intrastate exchange access for a local exchange utility in excess of 100 percent in less than six months. By way of illustration and not limitation, HVAS typically results in significant increases in interexchange call volumes and can include chat lines, conference bridges, call center operations, help desk provisioning, or similar operations. These services may be advertised to consumers as being free or for the cost of a long distance call. The call service operators often provide marketing activities for HVAS in exchange for direct payments, revenue sharing, concessions, or commissions from local service providers.<sup>23</sup>

In theory, the "100 percent in six months" increase in access billings threshold could permit a limited amount of access revenue sharing between an Iowa LEC and a third party without triggering an HVAS proceeding to reset access rates. In Docket No. FCU-07-2, the access revenue sharing was identified to be occurring at far higher levels. One of the LECs implicated in the complaint had been billing QCC fewer than 600,000 access minutes per year prior to becoming involved in access revenue sharing arrangements. In the first year of access revenue

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<sup>23</sup> See the IUB's rules at [199 IAC 22.1\(3\)](#) *Definitions*.

sharing, however, the LEC billed QCC for nearly 60 million access minutes.<sup>24</sup> Yet, the IUB's proposed "100 percent in six months" access billings threshold was a concern to Iowa's small phone companies. In the HVAS rule making, they argued it could trigger an HVAS proceeding over a temporary one-time spike in toll traffic. However, the larger carriers argued that the threshold was too high and that a "25 percent in six months" increase in access billings should trigger an HVAS proceeding. In adopting the "100 percent in six months" trigger, the Board stated that if it becomes clear that this threshold should be changed, it will be adjusted in a future rule making.<sup>25</sup> Although the HVAS rules have been effective for less than one year, there have been no requests filed with the IUB to revisit the "100 percent in six months" access billings threshold.

#### The Commission's Proposed Trigger

The Commission has proposed a trigger tied to the sharing of access revenues.

*Access revenue sharing.* Access revenue sharing occurs when a rate-of-return ILEC or a CLEC enters into an access revenue sharing agreement that will result in a net payment to the other party (including affiliates) to the access revenue sharing agreement, over the course of the agreement. A rate-of-return ILEC or a CLEC meeting this trigger is subject to revised interstate switched access charge rules.<sup>26</sup>

The Commission's proposed trigger is stricter than the Iowa trigger because it would appear to tolerate no access sharing at existing access rates once a LEC enters into an access revenue sharing agreement. After the LEC's interstate

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<sup>24</sup> See [Final Order](#), Docket No. FCU-07-2, issued September 21, 2009, p. 58.

<sup>25</sup> See [Order Adopting Rules](#), Docket No. RMU-2009-0009, issued June 7, 2010, p. 10.

<sup>26</sup> NPRM, Appendix C, § 61.3 Definitions.

access rates have been revised, then it would appear that the LEC would be permitted to share access revenues. Based on Iowa's experience in adopting its HVAS rules, the IUB believes the Commission's proposed revenue sharing trigger will be endorsed by some carriers who must pay access charges and will be opposed by some carriers that bill for access charges.

However, the Commission appears to have a strong record to support its contention that "the sharing of significant amounts of interstate access revenues with another entity (whether a third party or an entity affiliated with the LEC), raises questions about whether the underlying access rates remain just and reasonable."<sup>27</sup> As noted above, the IUB expressed similar concerns about access revenue sharing in Docket No. FCU-07-2. Ultimately, if the Commission concludes that its proposed access revenue sharing trigger may be overly broad, a limited waiver provision could be adopted to allow exceptions for LECs that can demonstrate their access revenue sharing arrangements are not generating traffic volumes that raise concerns about whether their underlying access rates remain just and reasonable.

#### The Iowa HVAS Process

In general, a LEC that meets the HVAS threshold in the Iowa rules must provide notice to the IXCs that paid for intrastate access within the preceding 12 months. The IXCs may then request negotiations with the LEC to determine an appropriate HVAS rate for the traffic at issue. No access charges can be applied to the HVAS traffic until an access tariff for the HVAS traffic has been filed with the IUB and has become effective. If negotiations between the LEC and IXCs

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<sup>27</sup> NPRM, para. 659.

break down, a formal complaint may be filed for Board resolution. Under a formal complaint, the Board would consider setting the HVAS access rate at incremental costs.<sup>28</sup>

The IUB's experience in implementing its rules so far is limited to one case involving a CLEC (competitive local exchange carrier). The case is ongoing, and it appears the Board will conduct a hearing to receive testimony from the CLEC and from the intervening IXCs. At the conclusion of the proceeding the Board will likely issue an order setting an HVAS rate that the CLEC will be allowed to charge IXCs for terminating high volume access traffic. Iowa's process may be a suitable model for state commissions required to determine access rates based on a particular LEC's costs.

#### The Commission's Proposed Process

The IUB notes that the Commission has taken previous actions that have curbed access stimulation involving rate-of-return incumbent LECs (ILEC). Under the Commission's *2007 Designation Order*, small rate-of-return ILECs involved in access stimulation were allowed two safe harbor provisions to avoid the investigation.<sup>29</sup> The ILECs could either return to the NECA pool (where access stimulation revenues would be shared with other carriers in the pool) or add language to their tariffs that would commit them to the filing of revised tariffs once they experienced a 100 percent increase in monthly demand over the same month in the prior year. The Commission terminated the tariff investigation because all ILECs whose tariffs were subject to investigation elected to modify

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<sup>28</sup> See the IUB's rules at [199 IAC 22.14\(2\)"e."](#)

<sup>29</sup> *July 1, 2007 Annual Access Tariff Filings*, WCB/Pricing No. 07-10, Order, 22 FCC Rcd 11619 (2007) (*2007 Designation Order*).

their tariffs consistent with one of the safe harbors. The NPRM contends, and the IUB agrees, that CLECs now conduct a significant amount of access stimulation.<sup>30</sup>

CLEC interstate access rates do not reflect the CLEC's own costs of providing service. Instead, CLECs are allowed to benchmark to the interstate access rates of another ILEC serving in the same geographic area.<sup>31</sup> The Commission's proposal would require a CLEC meeting the trigger to re-benchmark its interstate access rates to the interstate access rates of the state's RBOC (if there is no RBOC in the state, the competitive LEC would benchmark to the largest ILEC in the state.)<sup>32</sup>

CLECs in Iowa meeting the Commission's interstate trigger would have 45 days to file with the Commission revised interstate access tariffs benchmarked to Qwest Corporation. The IUB understands that Qwest Corporation's 14-state interstate switched access rate is currently in the range of \$0.0055 cents per minute.

### **IUB Recommendation**

The IUB believes the Commission's proposal to curb access stimulation provides a viable solution to that problem consistent with the Commission's established benchmarking process. The IUB further believes that the proposed changes to Commission's benchmarking rules would involve less time and expense for affected parties than a process intended to determine an access rate based on a LEC's specific costs, and that those proposed changes are just and

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<sup>30</sup> NPRM, para. 657.

<sup>31</sup> NPRM, para. 649.

<sup>32</sup> NPRM, Appendix C, Proposed Access Stimulation Rules.

reasonable because they remain true to the Commission's established precedent that a competitive LEC's interstate access rates need not reflect the competitive LEC's own costs. Instead, a competitive LEC's interstate access rates are benchmarked to an ILEC that serves in the same geographic area.<sup>33</sup> The Commission's proposed process may be a suitable model for state commissions that use a benchmarking method to set access rates.

Finally, it is the IUB's experience that the vast majority of traffic associated with access stimulation and access revenue sharing is interstate. By adopting strict rules to address the interstate abuses, the Commission will be assisting the state commissions who are struggling to curb the intrastate situations associated with access stimulation and access revenue sharing.

### **3. Call Signaling Rules and "Phantom Traffic"**

The IUB believes that the Commission should make an effort, as soon as possible, to adopt changes to its call signaling rules that would resolve the phantom traffic issue. Although the IUB has no formal record from an Iowa proceeding to use as a basis to provide specific comments on the proposed call signaling rules, the IUB nevertheless is aware from informal sources that phantom traffic represents an arbitrage opportunity which is impacting traffic terminating in Iowa. To the extent it occurs, phantom traffic means a revenue loss for Iowa's LECs. Carriers must be fairly compensated for terminating traffic on their networks. This is especially relevant for Iowa, which has more rural incumbent telephone companies than any other state.

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<sup>33</sup> See 47 CFR § 61.26.

The reforms outlined in other sections of the NPRM, pertaining to the federal Universal Service Fund (USF) and ICC, will be particularly challenging for rural telephone companies. Data available to the IUB suggests that, as of 2009, rural telephone companies in Iowa typically received less than fifty percent of their operating revenues from their end user customers. Thus, most of the operating revenues relied upon by Iowa's rural telephone companies is derived from high cost USF and ICC. Transitioning through the reforms proposed in the NPRM will be eased if the phantom traffic issue can be resolved soon. This would allow all carriers, but especially rural carriers, to be fairly compensated for terminating traffic at proper ICC rates. This includes both the current ICC rates and the future ICC rates under the proposed glide path rate reductions.<sup>34</sup>

The IUB commends the Commission on its efforts to implement reforms that will make high-speed broadband deployment a reality for all of America at just and reasonable rates. The IUB looks forward to providing additional comments in other proceedings related to the deployment of the National Broadband Plan.

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Respectfully submitted,

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<sup>34</sup> NPRM, para. 542.