

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

In the Matter of)	
)	
Connect America Fund)	WC Dkt. 10-90
)	
A National Broadband Plan for Our Future)	GN Dkt. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Dkt. 07-135
)	
High-Cost Universal Service Support)	WC Dkt. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Dkt. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Dkt. 96-45
)	
Lifeline and Link-Up)	WC Dkt. 03-109

COMMENTS OF GLOBAL CONFERENCE PARTNERS

Mark J. O'Connor
Jennifer P. Bagg
LAMPERT, O'CONNOR & JOHNSTON, P.C.
1776 K Street NW, Suite 700
Washington, DC 20006
(202) 887-6230 tel
(202) 887-6231 fax

Counsel for Global Conference Partners

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COMMENTS OF GLOBAL CONFERENCE PARTNERS

Global Conference Partners (“GCP”), by its attorneys, submits these comments in response to the Federal Communication Commission’s (“FCC” or “Commission”) above-captioned Notice of Proposed Rulemaking considering rules to address inefficiencies in the intercarrier compensation system.¹

INTRODUCTION AND SUMMARY

GCP, a provider of free, premium and 800-number competitive conferencing services, offers American consumers an accessible and innovative alternative to the expensive

¹ *In the Matter of Connect America Fund, et al., Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, WC Dkt. 10-90, *et al.*, FCC 11-13 (rel. Feb. 9, 2011) (“NPRM”).

conferencing service offerings of interexchange carriers (“IXCs”) and others. GCP’s innovative communication technologies have democratized a once polarized industry by connecting over 294 million calls with its competitive conferencing services since its inception. By offering features that simplify the process for conference set-up and that enhance the utility of conferencing services GCP has improved the ability of users to communicate by maximizing productivity and increasing efficiency. As a result, a number of leading public and private institutions regularly rely on GCP’s services. GCP can attest that its services allow consumers to be more productive, communicate with others on a range of business, government and social matters, save money and utilize their long-distance services more effectively. More effective usage of conferencing services has meant that people travel less and, as a result, yield environmental and global competitive gains for our country.

Today, consumer access to these services is threatened due to uncertainty surrounding the regulatory status of traffic to competitive conferencing services. Competitive conferencing providers and local exchange carriers (“LECs”) are embattled by IXCs who engage in “self-help” practices by unilaterally refusing to pay for traffic terminated under lawful tariffs, employing exclusionary tariff treatment and forcing service providers into protracted litigation. Meanwhile, the same IXCs who have benefited from the increased demand of conferencing services brought on by competitive providers and technologies are able to maintain their entrenched position in higher-margin legacy conferencing services while weakening the ability of rural carriers to compete regionally with wireless and video services. These IXC strategies are implemented at the peril of consumers and economic activity in rural areas.

While recognizing that the Commission must take action to resolve these disputes, GCP urges the FCC to adopt policies that allow consumers to benefit fully from competitive

conferencing services, especially as the telecommunications industry experiences even more consolidation and fewer choices for consumers. Thus, GCP supports the Commission's recognition that revenue sharing arrangements are a legitimate business practice and adoption of the proposed trigger as a reasonable way to tackle this complex access issue.

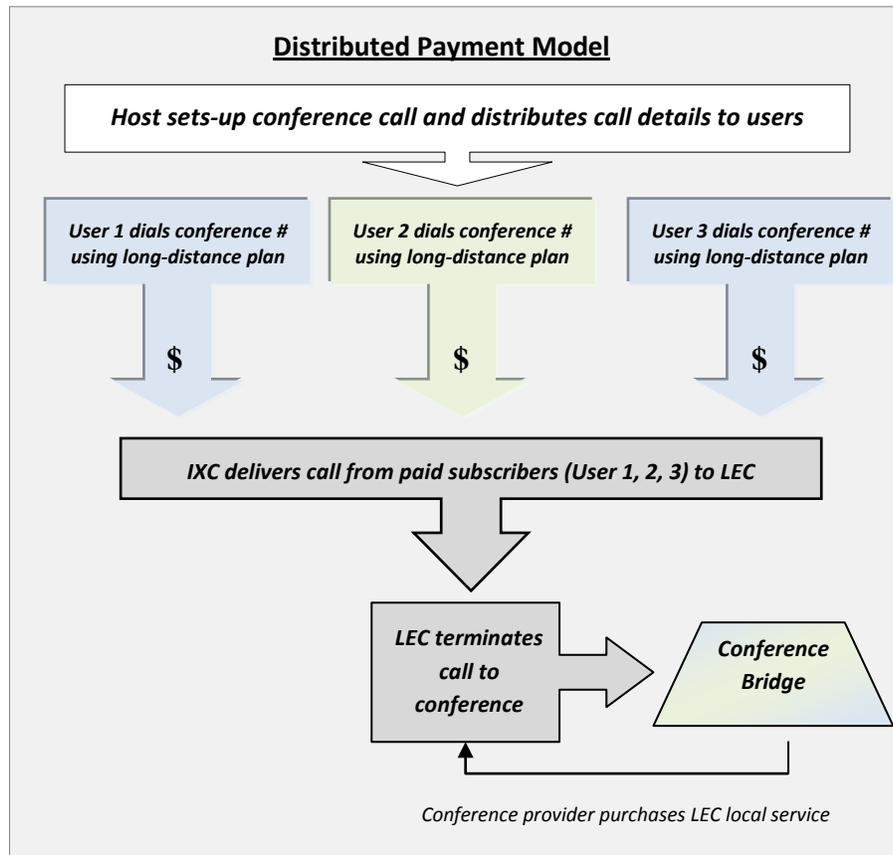
At the same time, the Commission must maintain the integrity of its rules and regulations by addressing explicitly in any implementing order the harmful practices of the IXCs. Without a clear pronouncement that all parties must play by the rules, the Commission's extensive undertaking spanning many years will be squandered as IXCs who may prefer a different regulatory approach continue to engage in self-serving practices at the expense of consumers, innovation and investment.

DISCUSSION

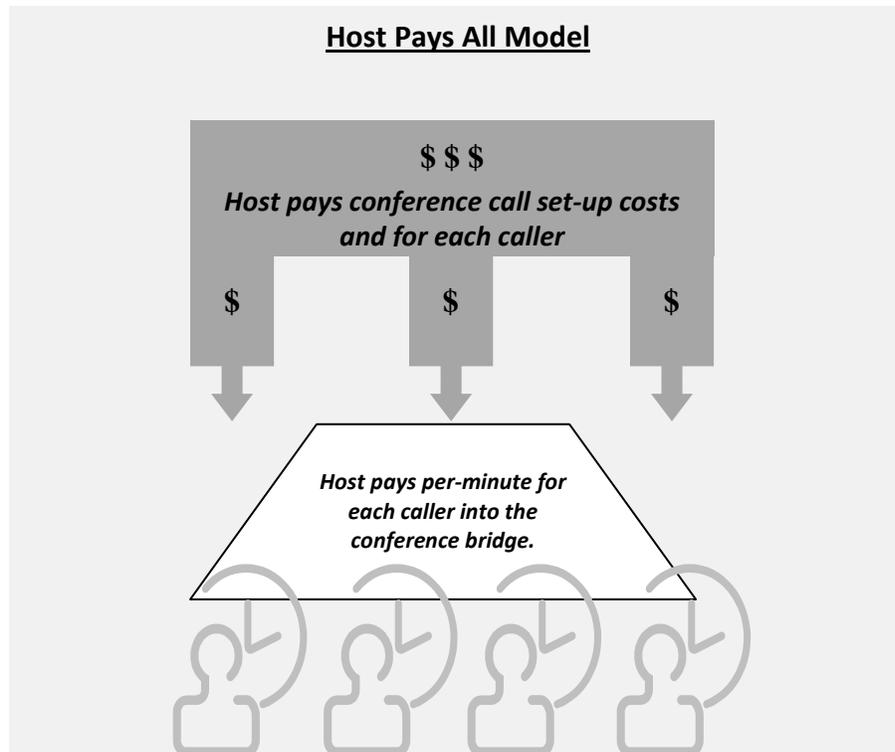
I. Competitive Conferencing Services Drive Consumer Benefits, Innovation and Competition

A. Competitive Conferencing Services Yield Numerous Public Interest Benefits

At its core, free conferencing service is simply conference functionality unbundled from transport service allowing each caller to pay his or her own way into the conference session. Enabling each caller to utilize their pre-subscribed service – whether they use wireline local or long distance, wireless or VoIP service – unburdens the conference host from the cost associated with paying for the long distance service for each participant of a conference call. There is no “free ride” in free conferencing service. Callers to GCP's free conferencing services pay their respective IXC (or other carrier) their standard rates for the transport service they use.



This model differs significantly from the traditional conferencing service which bundles the transport and the conference functionalities into one package, forcing the conference organizer to bear significant expenses in order to host the conference call (the “host pays all” model). Under the host pays model, hosts often must pay deposits to the conference provider, set-up/initiation fees, the transport cost for each caller into the conference bridge, and per-minute costs for each user. The cumbersome and often sluggish process that must be undertaken to schedule and implement a conference call can also be a gating factor for the conference host.



The distributed payment model of competitive conferencing services puts conferencing within reach of many more users and helps consumers and businesses eliminate costly, high-priced conferencing fees associated with bundled conferencing services making affordable group calling and communications widely available to a wide range of individuals, organizations and businesses users. Businesses – from start-ups to large enterprise companies – use the services for meetings, product marketing, training, web-collaboration, seminars, distance learning, coaching and more. Nontraditional users – including community organizations, government agencies, educational institutions, grassroots organizations, churches, home-based businesses, friends and families – use competitive conferencing services for meetings, reunions, family matters, collaboration and many other group conversations.

Sample of GCP's Competitive Conferencing Service Users			
Government	Educational Institutes	Non-profit/Charity	Corporate
Dept. of Agriculture	Brown University	AARP	Arbonne International
Dept. of Homeland Security	Columbia University	American Red Cross	Frost & Sullivan
Dept. of Justice	Cornell University	Barak Obama Presidential Campaign	General Electric Company
Dept. of State	Dartmouth College	City Year	Georgia-Pacific
Environmental Protection Agency	Duke University	Hillary Clinton Presidential Campaign	inCode Wireless
Federal Aviation Association	Harvard University	John McCain Presidential Campaign	INS Consultants, Inc.
NASA	Princeton University	Make-a-Wish Foundation	Mary Kay
U.S. Congress	The Wharton School of the University of Pennsylvania	Public Broadcasting Service	Monitor Consulting
U.S. Postal Service	UCLA Anderson School of Management	Teach for America	Pre-Paid Legal Services, Inc.
U.S. Treasury	University of Chicago	The Nature Conservancy	
	University of Michigan		
	Yale University		

With over 60 million calls conferenced by GCP's competitive conferencing services in 2010, GCP has brought people together who would otherwise be priced out of the more expensive conferencing models. For example, a church group with more than one hundred members is able to bring together its worshipers for prayer and Bible study using GCP's competitive conferencing service model. Forcing the church to use a "host pays all model" would be prohibitively expensive and would result in the elimination of this meaningful service for the church members. As the Commission is certainly aware, numerous consumers have filed letters indicating the importance of free conferencing services and asking the Commission to ensure that these users are not left behind.²

² See, e.g., Letter from Richard Grunburg, Dakota Partners, to Marlene Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Jan. 24, 2011) (company that purchases and manages Section 8 housing utilizes free conferencing services to cut costs, increasing the number of needy families that are able to live in affordable housing; predicts that elimination of free conferencing will cost the company thousands of dollars a month); Letter from Cynthia Pearson to Marlene Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Dec. 14, 2010) (founding member of non-profit supporting people dealing with end-of-life issues utilizes free conferencing services to coordinate with siblings for the care of own sick mother and recommends

B. Competitive Conferencing Services Afford Innovative Technology and Features

The introduction of competitive conferencing services is a win to consumers not only as a result of lower-costs, but also because these services provide consumers with an innovative product and increased service options. Continually investing in technological improvements, GCP's services offer collaborative desktop sharing options, Outlook integration that allows the host to use calendar software to set up conferences, real-time conference management controls and post-conference reports, among numerous other innovative features. GCP also offers applications on social media networks that enable users to schedule calls and invite participants to conference calls right from their social media account. GCP strives to be at the forefront of conferencing innovation, continuously developing and implementing new conferencing technologies – such as mobile applications, HD audio, new web-based technologies and VoIP – with the goal of maximizing consumer efficiency through telephony.

These and other existing and future innovative features have and will successfully improve individual and business productivity. With easy access to group conferencing services, businesses are able to increase work efficiency by allowing group collaboration and reducing need for numerous face-to-face meetings. Many companies also take advantage of conferencing

service for others in needed); Letter from Dr. Ulysses Ruff, Sr. Pastor and Founder, Agape Family Life Center, to Marlene Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Dec. 16, 2010) (free conferencing plays a crucial role in ministry by allowing communication with parishioners in a cost effective way); Letter from Nicki Keohohou, CEO, Direct Selling Women's Alliance, to Marlene Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Nov. 9, 2010) (association for women entrepreneurs represents 70,000 sellers who rely on free conferencing services to operate and grow their business); Letter from Clarence White, Chief Information Officer, Western Territory, Salvation Army, to Marlene Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Nov. 9, 2010) (free conferencing services save The Salvation Army approximately \$10,000 per month); Letter from David Butts, Founder, Harvest Prayer Ministry to Marlene Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Oct. 18, 2010) (non-profit organization uses free conferencing to empower churches, ministries and other non-profit organizations to meet together for prayer).

services to reduce their carbon footprint, allowing them to conduct business effectively and efficiently, while keeping aware of their environmental impact. This, in turn, means savings in time and avoids travel expense, burdens on the environment, and the strain on public safety and infrastructure, while it makes businesses and government more productive.

With its broad base of users, GCP brings cutting-edge conferencing technologies to the masses, benefiting consumers who may not otherwise have the opportunity to utilize such services. Rural America especially benefits from competitive conferencing services. Not only do competitive conferencing services allow consumers outside urban areas to conduct business in a time and cost efficient manner, but revenues from competitive conferencing services help further investments in rural networks.³ The usage of excess network capacity and the accompanying incremental revenues resulting from competitive conferencing services help spur investment and development in rural America, improving the general economic condition, assisting in job loss prevention and increasing worker competitiveness in the national and global marketplace.

The merging of the Internet and telephony technologies will ultimately accrue financial benefits to all GCP users. Specifically, technological advancements benefit everyone from average consumers and small businesses to middle markets and large corporations. From Main Street to Wall Street, GCP technologies and a competitive conferencing marketplace will continue to improve the efficiency and productivity of Americans.

³ *See, e.g.*, Letter from Dr. Alan Pearce, President, Information Age Economics, Inc., to Marlene H. Dortch, Secretary FCC, WC Docket No. 07-135, Attach. 5–6 (“Fact Report: The Economic Impact of Free Conference Calling Services”) (filed Mar. 1, 2010).

C. Long-Needed Competition Is Now Available in the Conferencing Market

Once faced with only one model for conference services that forced the high up-front and usage costs on the host, consumers now enjoy long-needed competition in the conferencing service market introduced by competitive conferencing services.⁴ Conferencing rates have consistently dropped and the availability of competitive conferencing options and service functionalities has consistently improved over time, bringing the benefit of such services within the reach of the many. As a result of the democratization of conferencing, the general public is now able to enjoy services that were once reserved for a more segmented population. In adopting any proposed rules, the FCC must ensure that the general public continues to receive the benefits of technological innovation and reasonably priced services remains available.

Concerns that free conferencing is anti-competitive ring hollow.⁵ In today's conferencing services market all are free to innovate. Providers of conferencing service can utilize existing business models, but nothing prevents providers from adopting novel models that operate within confines of the law and the Commission's rules and regulations. If anything, "host-pays-all" conferencing service providers are often LEC-affiliated (*e.g.*, Verizon Conferencing) and have the market advantages vis-à-vis any "host pays all" conferencing services of non-LEC affiliated providers. In these scenarios, the LEC-affiliated conferencing service provider does not actually pay the prices for affiliated originating or terminating access

⁴ *See, e.g.*, "Teleconferencing Growing, Evolving," Colorado Springs Business Journal (Nov. 23, 2007) ("the growth for collaboration services has been driven mainly by demand for group meetings without the cost and loss of productivity associated with travel. The average per minute prices for operator-unattended services have dropped 42 percent during the last four years.").

⁵ *See, e.g.*, NPRM at ¶¶ 637-38; Letter from Donna Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Dec. 6, 2010); Letter from David Frankel, ZipDX LLC, to Zac Katz, FCC, WC Dkt. 07-135 (filed Nov. 26, 2010).

charges and, instead, effectively pays only one-half (at most) of the access charge costs than all other participants in the same market.⁶

Elimination of the shared cost, distributed payment model that competitive conferencing providers offer would be detrimental to certain groups of users, such as church groups utilizing GCP's services for prayer and Bible study, small businesses utilizing conferencing services to service or gain customers while keeping expenses low in a tumultuous economy, and university groups facing budget cuts due to exacting tuition pressures. These users, unable to bear the substantial increase in conferencing costs, would be forced to suspend its telephonic meetings all together, negatively impacting the lives of these users who clearly benefit from conferencing. Moreover, reduction of competitive conferencing services would harm the conferencing market generally, as the additional demand for services brought on by competitive offerings has accrued to providers throughout the industry.

II. The FCC's Proposed Rules Correctly Recognize Revenue Sharing as a Legitimate Business Arrangement

The proposed revenue sharing trigger approach to access stimulation is an appropriately tailored step that strikes a proper balance between the Commission's policy concerns and the legitimate business practices of carriers. As GCP and others have stressed, revenue sharing is a common practice in the telecommunications industry and any prohibition on revenue sharing would be overbroad and harm carriers and consumers, while at the same time failing to prevent traffic stimulation.⁷ Indeed, the FCC has noted that AT&T and a host of other

⁶ For example, the conference service provider affiliated with the originating LEC would effectively pay no originating access charges to its LEC affiliate, and thus pay only one-half of the terminating and originating access charges paid by the unaffiliated conference service provider.

⁷ *See, e.g.*, Letter from Harold Furchtgott-Roth, President, Furchtgott-Roth Economic Enterprises, to Marlene Dortch, Secretary, FCC, WC Docket No. 07-135, Attach. 29-32 (filed Nov. 30, 2010); Letter

telecommunications carriers have “brought to our attention legal and beneficial revenue sharing arrangements that exist in the telecommunications industry today.”⁸

Importantly, revenue sharing arrangements are but one example of the American free enterprise system by which businesses develop, innovate and compete, and exemplifies a market system that embodies personal freedom. The opportunity for providers to compete for business with superior products and services would be hampered by limitations on acceptable revenue sharing arrangements. As a result, entrepreneurship would suffer, as would the consumers who benefit there from.

A prohibition on revenue sharing would also have the unintended consequence of placing LECs at a distinct disadvantage in the marketplace relative to IXC or enhanced service providers, unless the LEC is affiliated with these other providers as is the case today with the largest IXCs.⁹ In fact, while IXCs have urged the Commission to take a categorical approach to some or all revenue sharing arrangements,¹⁰ the fact is that IXCs themselves commonly use revenue sharing arrangements to promote their own products and services and commonly use revenues earned above incremental costs internally for investment in new products, increased

from Robert McCausland, Hypercube, to Marlene H. Dortch, Secretary, FCC, WC Dkt. 07-135 (filed Oct. 20, 2010) (“*Hypercube Ex Parte*”); Letter from Tamar Finn, Counsel to PAETEC, to Marlene H. Dortch, Secretary, FCC, WC Dkts. 07-135, 01-92 (filed Sep. 24, 2010); Letter from Tamar Finn, Counsel to PAETEC, to Marlene H. Dortch, Secretary, FCC, WC Dkts. 07-135, 01-92, Attach. (filed Mar. 26, 2010).

⁸ *In the Matter of Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996*, Notice of Proposed Rulemaking and Memorandum Opinion and Order, 19 FCC Rcd. 13461, n. 83 (2001); *see also AT&T Corp. v. Jefferson Tel. Co.*, Memorandum Opinion and Order, 16 FCC Rcd. 16130 (2001) (holding that the existence of a revenue-sharing arrangement between a common carrier and a chat-line service failed to demonstrate that the carrier’s conduct was unjust or unreasonable under Section 201(b) of the Act, 47 U.S.C. § 201(b)).

⁹ *Hypercube Ex Parte* at 2.

¹⁰ NPRM at ¶ 670 (citing AT&T, Qwest, CTIA).

employee benefits, dividend payments, or likewise.¹¹ Despite efforts to portray this arrangement as unusual or reprehensible, the fees under the revenue sharing arrangements of LECs are, for example, similar to fees paid by AT&T to Apple for wireless traffic generated by iPhone usage that increases the call terminations on the AT&T.¹²

Further, a prohibition on revenue sharing would not address the root of the concern – the tariffed rate. Once the trigger is met and LECs re-file tariffs, rates will be presumed reasonable and any further limitation on revenue sharing would be unnecessary. Instead of evidencing any failure in the system, a revenue sharing arrangement continuing after revised tariffs are filed will demonstrate only that competitive providers have been able to further invest and innovate to ensure consumers have continued access to sought-after services. Moreover, once new rates are established, there will be no apparent reason to discriminate in favor of one-on-one calls versus multiple-party calls and no party could legitimately argue such calls amount to arbitrage. Indeed, the only “arbitrage” going on today or that would occur under the proposed rules is the short-pay moneys that the IXCs keep from LECs even though consumer rates (whether flat rate or metered) were predicated on payment of terminating access costs. Such ill-gotten windfalls do not go back to consumers in the form of rebates or reduced rates, but rather are kept in the IXCs’ pockets, to the detriment of the public interest.

¹¹ Notably, IXCs continue to be compensated by consumers for payment of terminating access, and yet for years have failed to remit those terminating access fees, which likely has increased the revenues of IXCs. Thus, IXCs also benefit from the same arrangements they decry, but have vocalized no concern regarding their own reaped rewards.

¹² *See, e.g.*, Saul Hansell, “The \$831 iPhone,” *The New York Times* (Oct. 25, 2007), *available at* <http://bits.blogs.nytimes.com/2007/10/25/the-831-iphone/> (“AT&T appears to be paying \$18 a month, on average, to Apple for each iPhone activated on its network. That adds up to \$432 over a two year contract. In other words, Apple will receive \$831 for each iPhone it sells. (It’s a little less for iPhones sold in AT&T stores.)”); *see also* Steven Withers, “Why Apple will resist attempts to unlock the iPhone,” *iTWire* (July 12, 2007), *available at* <http://www.itwire.com/content/view/13481/53/1/1/> (“It has been reported that Apple receives from AT&T a percentage of the service revenue associated with iPhones.”).

Finally, there is no basis to conclude that the sharing of funds derived from interstate access charges with a conference service provider would constitute a prohibited “refund” under Section 203(c) of the Communications Act.¹³ To the contrary, providers of competitive conferencing services market and supply their services separate from the tariffed access services of the LEC, and it is the conference service, not the tariffed access service, for which it is compensated. Under this scenario, it is the IXC who pays the tariffed access service charge to the LEC, and the LEC does not “refund,” reduce or compensate the IXC’s tariffed rate in any way. Moreover, Section 203(c) typically would not apply to the jurisdictionally intrastate local access services that connect the LEC and the conferencing services and, in any event, GCP compensates the LEC for the full tariff rate (if tariffed) of such local access service.

III. The FCC Must Ensure Rules are Adhered to by All Participants in the Access Charge Regime

The Commission must ensure that any changes implemented to reduce inefficiencies in the current access charge regulatory structure are not immediately thwarted by parties who desire alternative outcomes than those adopted by the Commission or who believe the rules are not in their pecuniary interest. Once new Part 61 rules are established, the Commission must ensure that all parties adhere to the modified rate structure and should be greatly concerned if any party flaunts those rules by refusing to pay appropriately tariffed access charges. Just as the FCC proposes penalty and increased liability exposure for LECs that fail to follow the proscribed rules,¹⁴ GCP proposes the FCC adopt a rule that would prohibit other participants, namely IXCs, that deliberately undermine the rules by, for example, engaging in unlawful “self-help” actions.

¹³ 47 U.S.C. § 203(c); NPRM at ¶ 677 (seeking comment “on whether the refund prohibition in section 203(c) of the Act has a prohibitive effect on revenue sharing arrangements.”).

¹⁴ NPRM at ¶¶ 661, 666.

Indeed, as a matter of the FCC's regulatory authority, IXCs operating under the "public convenience and necessity" standard and on a "just and reasonable" basis as required by the Communications Act¹⁵ should not be permitted to effectively undo the difficult regulatory work that the Commission has undertaken in this proceeding. While recognizing the Commission's long standing position that it will not act as a collection agency for carriers, there is no question that the IXCs' "self-help" measures that refuse to pay legitimate access charges harm consumers and competitive providers, and should be addressed in the FCC's regulations. These IXC maneuvers cost millions in legal fees, saddle courts with unnecessary and protracted litigation wasteful of both private and public resources, and break down the system of intercarrier compensation that all carriers currently rely upon, which in turn diverts funding and planning away from carrier innovation, investment and expansion of services to the detriment of consumers.¹⁶ During this period of industry consolidation, it is especially important that alternative technologies, such as competitive conferencing, can offer consumers a diversity of choice of provider.

GCP respectfully submits that a rule against carrier "self-help" for deliberate failure to pay legitimate tariffed access charges would supply badly needed reinforcement in the current intercarrier compensation system. While an IXC's good faith objections and protests against billed access charges maybe acceptable under the rule, acting in bad faith and refusing to pay for tariffed access charges for no legitimate reason should be prohibited. Indeed, such conduct is flatly contrary to the IXCs' duty as a common carrier to engage in "just and reasonable" acts and

¹⁵ 47 U.S.C. §§ 201(b), 214.

¹⁶ *See* NPRM, Statement of Commissioner Copps, at p. 280 ("We all see the symptoms of decision-making deferred: too much litigation, self-help, and market power as a substitute for the honest rules needed to minimize arbitrage, promote investment and deployment, and maximize the opportunity for new technology to flourish.").

practices. At the same time, such a rule would not turn the Commission into a “collection agent” for every access charge dispute, as carriers would still utilize the federal court system to assert claims for compensation owed under tariff.¹⁷

Thus, GCP urges the Commission to require IXCs to pay the modified access fees and adopt a rule herein to bar IXC non-pay “self-help.” Otherwise, the FCC rulemaking authority will be undermined and valuable resources of both FCC and participating parties expending valuable time and effort to assist with this rulemaking will have been wasted.

CONCLUSION

For the foregoing reasons, GCP urges the Commission to ensure the competitive conferencing services available today continue to afford consumers with innovative and costs effective solutions. GCP supports the Commission’s proposed trigger approach to revenue sharing arrangements and urges the Commission to address the self-help practices of IXCs to ensure the integrity of the Commission’s regulations is maintained.

¹⁷ Similarly, such a rule would not be inconsistent with the FCC’s recent *All American* decision in which the Commission found no *per se* violation of the Act for failure to pay access charges that were billed to the IXC. *All American Telephone, et al. v. AT&T Corp.*, Memorandum Opinion and Order, 26 FCC Rcd. 723 (2011), *reconsideration pending*. By contrast, GCP proposes the Commission promulgate a rule that explicitly bars IXCs from engaging in bad faith refusals to pay access charges.

Comments of Global Conference Partners
WC Dkt. 10-90, *et al.*

Respectfully submitted,



Mark J. O'Connor
Jennifer P. Bagg

LAMPERT, O'CONNOR & JOHNSTON, P.C.
1776 K Street NW, Suite 700
Washington, DC 20006
(202) 887-6230 tel
(202) 887-6231 fax

Counsel for Global Conference Partners

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