

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

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| In the Matter of |) | |
| |) | |
| 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
Communications Workers of America**

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April 1, 2011

The Communications Workers of America (“CWA”) submits these comments in response to Section XV of the Commission’s *USF/ICC Transformation NPRM* (“Reducing Inefficiencies and Waste by Curbing Arbitrage Opportunities.”).¹ CWA represents 700,000 workers in communications, media, airlines, manufacturing, and public service who have an interest in this proceeding as workers and consumers.

The Commission should move forward expeditiously to reduce arbitrage opportunities in the current intercarrier compensation system, even before more comprehensive reform is fully implemented. Such action will curb inefficiencies and waste and promote competitive neutrality, ensuring that all providers of similar services are subject to the same regulatory obligations. The Commission should not allow some companies to gain competitive advantage simply because these companies have figured out a way to game the intercarrier compensation system. Moreover, companies that freeload by not paying their fair share of intercarrier compensation receive benefits from, but do not contribute to, the maintenance and expansion of a universal, high-quality network.

Intercarrier Obligations for VoIP Traffic. The Commission should require all VoIP carriers to compensate other carriers for the origination, termination, and transport of their traffic. The Commission’s failure to address this issue has allowed certain VoIP providers to gain marketplace advantage simply because these carriers have devised schemes to avoid access

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

charge payments. This distorts the marketplace, harms consumers, and violates the principle that providers and consumers of similar services should be subject to the same regulatory requirements.

The U.S. communications market is now in the midst of the transition from a circuit-switched to an all-IP network environment. According to the FCC's most recent *Local Telephone Competition Report*, VoIP traffic represented more than one-quarter (28 percent) of all residential wireline connections – 29 million households -- as of June 2010. VoIP traffic increased nearly 33 percent since December 2008, while retail switched connections declined by 13 percent over the same period.² During this transition from circuit to IP networks, it is imperative that VoIP carriers that exchange traffic with carriers on the public switched network (PSTN) contribute their fair share to the maintenance of those networks. The 122 million customers that continue to subscribe to circuit-switched carriers should not subsidize the cost of transport of IP traffic across the circuit-switched network.

The Commission has proposed a number of mechanisms to assess fair contributions from VoIP providers for exchange of traffic. The best approach to promote competitive neutrality and block freeloading behavior would be immediately to adopt a regime that would subject VoIP traffic to the same intercarrier compensation charges as other voice telephone traffic, and during any intercarrier compensation reform transition. While CWA believes that interconnected VoIP services are and should be classified as telecommunications, it is not necessary for the Commission to undertake this classification in order to assess intercarrier compensation charges on interconnected VoIP. For example, the Commission could hold that the existing “ESP

² FCC, *Local Telephone Competition: Status as of June 30, 2010*, March 2011.

exemption” does not apply to interconnected VoIP traffic.³ The Commission has proposed alternative regimes that may have merit.⁴ The key point is this: VoIP carriers and their customers should be required to pay their fair share.

Phantom Traffic and Access Stimulation. CWA concurs with Commission proposals to move forward expeditiously to amend its rules to reduce opportunities for carriers to game the system through such practices as “phantom traffic” and “access stimulation.” To reduce “phantom traffic,” the Commission should amend its call signaling rules to ensure that all calls include sufficient signaling information so that a terminating provider can identify and bill the originating carrier. These amended rules should apply to all voice traffic, including interconnected VoIP. To address what is called “access stimulation” – arrangements in which carriers, often competitive carriers, profit from revenue-sharing agreements by operating in areas where the incumbent carrier has a relatively high interstate access rate - the Commission should adopt a regime that requires carriers to pay a lower rate consistent with their volume of traffic or benchmarked to a large incumbent local exchange carrier.

These urgently needed reforms will serve the public interest by reducing wasteful arbitrage, ensuring that carriers that play by the rules (and their customers) are not disadvantaged by freeloading carriers, and by providing resources necessary to maintain universal, high quality networks.

³ *USF/ICC Transformation NPRM*, para 618.

⁴ For example, AT&T proposed that the Commission adopt a regime under which terminating LECs charge interstate access and reciprocal compensation for VoIP traffic, as well as intrastate access for such traffic if those charges are at or below the level of the carrier’s interstate access rates. See *USF/ICC Transformation NPRM*, para 619.

Respectfully Submitted,

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