

**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
	)	
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 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 FRONTIER COMMUNICATIONS CORPORATION**

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## SUMMARY

The Commission has recognized that the current intercarrier compensation regime enables various opportunities for arbitrage, which lead to exploitation of loopholes for certain providers to avoid paying for services rendered and unscrupulous acts tantamount to theft. As a company that is unable to collect at least tens of millions of dollars annually as a result of such arbitrage—money that could otherwise enable broadband deployment—Frontier supports Commission efforts to correct immediately these intercarrier compensation problems while it contemplates more comprehensive reform of the intercarrier compensation system.

Frontier agrees with the Commission's position that successful reform of intercarrier compensation requires a staged, predictable transition to protect consumers from increased rates, to ensure that adequate support remains available to promote ongoing investment in rural broadband infrastructure deployment and to give service providers time to plan appropriately. To achieve this goal and to further serve the public interest, the Commission should eliminate arbitrage opportunities immediately by taking the following actions:

- Confirm that VoIP traffic has been and will continue to be subject to intercarrier compensation as is any other voice traffic.
- Eliminate phantom traffic by adopting the rules proposed in the NPRM along with a requirement to include the jurisdiction information parameter (JIP) and meaningful enforcement mechanisms.
- Eliminate traffic pumping.

These are all forms of waste, fraud and abuse that the Commission has the clear authority and ability to end, and the Commission should do so immediately.

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**COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION TO  
SECTION XV**

**I. THE FCC MUST TAKE IMMEDIATE ACTION TO CURB FRAUD AND  
ABUSE IN THE INTERCARRIER COMPENSATION SYSTEM**

Frontier Communications Corporation (“Frontier”) hereby submits the following comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) request for comment on its *Notice of Proposed Rulemaking* addressing reforms of the Universal Service Fund (“USF”) and intercarrier compensation.<sup>1</sup> These comments respond to the proposals and

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<sup>1</sup> *In re*: 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 a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up, WC Dkt. Nos. 10-90, 07-135, 05-337, 03-109; GN Dkt. No. 09-51; CC Dkt. Nos. 01-92, 96-45, *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, FCC 11-13 (rel. Feb. 9, 2011) (“*NPRM*”).

questions found in Section XV of the *NPRM* and are not intended to encompass Frontier's comprehensive response to the *NPRM* at large.<sup>2</sup>

Frontier, which operates a telecommunications network across 27 states, is the largest provider of communications services focused on rural America. Accordingly, Frontier is committed to doing its part to deploy broadband in furtherance of the Commission's broadband deployment goals.<sup>3</sup> To this end, Frontier is investing hundreds of millions of dollars to deploy broadband in predominantly rural areas; the areas that the Commission found are most likely to lack service.<sup>4</sup> Frontier is able to make such significant investment in rural broadband thanks to a financial framework that combines sound business decisions, shareholder support, payments from other carriers utilizing our infrastructure (intercarrier compensation), and indirectly, USF support.

The Commission has recognized that the current intercarrier compensation regime enables various opportunities for arbitrage,<sup>5</sup> which lead to exploitation of loopholes for certain providers to avoid paying for services rendered, and unscrupulous acts tantamount to theft. As a company that is unable to collect at least tens of millions of dollars annually from companies exploiting

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<sup>2</sup> The Commission set April 1, 2011 as the deadline for comments specifically related to Section XV of the *NPRM* while comments on the remainder of the *NPRM* are due on April 18, 2011. *See* Comment and Reply Comment Dates Established for Comprehensive Universal Service Fund and Intercarrier Compensation Reform Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, *Public Notice*, DA 11-411 (rel. Mar. 2, 2011).

<sup>3</sup> *In re*: Joint Statement on Broadband, GN Docket No. 10-66, *Joint Statement on Broadband*, 25 FCC Rcd. 3420 (rel. Mar. 16, 2010) ("Every American should have a meaningful opportunity to benefit from the broadband communications era—regardless of geography, race, economic status, disability, residence on tribal land, or degree of digital literacy.") ("*Joint Statement*").

<sup>4</sup> *In re*: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act; A National Broadband Plan for Our Future, GN Docket Nos. 10-159; 09-51, *Sixth Broadband Deployment Report*, FCC 10-129 at ¶ 28 (rel. July 20, 2010) ("*Sixth Broadband Deployment Report*") ("Based on our analysis, we conclude that broadband is not being deployed to all Americans in a reasonable and timely fashion. Our analysis shows . . . approximately 14 to 24 million Americans do not have access to broadband today. [This] group appears to be disproportionately lower-income Americans and Americans who live in rural areas.").

<sup>5</sup> *NPRM* at ¶ 603 ("The comprehensive intercarrier compensation reforms on which we seek comment in this Notice would, if adopted, significantly reduce and eventually eliminate opportunities and incentives for arbitrage.").

the Commission's rules—money that could otherwise enable broadband deployment—Frontier supports the Commission's efforts to correct immediately these intercarrier compensation problems while it contemplates more comprehensive reform of the intercarrier compensation system.<sup>6</sup>

Addressing these arbitrage issues is a necessary preliminary step to intercarrier compensation reform. In addition, Frontier agrees with the Commission's position that success in reform of the intercarrier compensation regime hinges on a meaningful transition to the new regime. The Commission accurately recognizes that a staged, predictable transition is necessary to protect consumers from increased rates, to ensure that the adequate support remains available to promote ongoing investment in rural broadband infrastructure deployment and to give service providers time to plan appropriately.<sup>7</sup> However, without FCC action now to correct arbitrage, the regulatory uncertainty and revenue losses surrounding intercarrier compensation will continue, potentially leading to a decrease in available investment in broadband deployment. It is critical for the Commission to step in and provide a framework for reform as opposed to allowing ongoing arbitrage that simply creates incentives for carriers to engage in self-help. Through the elimination of arbitrage opportunities the Commission will take control of the situation and move forward with real reform of the intercarrier compensation mechanism while also creating an incentive for companies to participate in the process.

The first step the Commission can take to eliminate or significantly reduce the arbitrage opportunities which are threatening meaningful reform of the intercarrier compensation

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<sup>6</sup> *Id.*

<sup>7</sup> FEDERAL COMMUNICATIONS COMMISSION, OMNIBUS BROADBAND INITIATIVE, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN, GN Docket No. 09-51 at 149 (2010). (“The rate reduction in a staged approach will give carriers adequate time to prepare and make adjustments to offset the lost revenues.”); *NPRM* at ¶ 490 (“[W]e aim to create a framework and transition that is predictable to enable service providers and investors time to react and plan appropriately.”).

mechanism is to confirm that VoIP traffic has been and will continue to be subject to intercarrier compensation as is any other voice traffic. In addition, the FCC should move to quickly adopt its proposed rules to end phantom traffic. Such actions will eliminate the loopholes that have allowed certain companies handing off traffic to ILECs for termination to engage in either theft or regulatory self-help. The Commission has been contemplating action for at least five years without taking action on these discrete matters,<sup>8</sup> enabling the loss of hundreds of millions of dollars from arbitrage.<sup>9</sup> The time for action is now.

## **II. THE FCC MUST CREATE INTERCARRIER COMPENSATION STABILITY BY DETERMINING THAT VOIP-ORIGINATING TRAFFIC PAYS TERMINATING ACCESS CHARGES**

In a January 2011, letter to Chairman Genachowski, the CEOs of CenturyLink, Frontier, Qwest and Windstream emphasized the importance of swift FCC action confirming that interconnected VoIP terminating on the public-switched telephone network (“PSTN”) has been and will continue to be subject to intercarrier compensation rates according to the same rules as other voices providers.<sup>10</sup> The collective CEOs identified this action as crucial to restoring competitive balances and reducing opportunities for arbitrage and self help.<sup>11</sup> Immediate action by the FCC will provide the certainty needed for the carriers to continue to invest in their networks and further the Commission’s goal of deploying broadband to unserved areas.

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<sup>8</sup> See Comment Sought on Missoula Intercarrier Compensation Plan, *Public Notice*, DA 06-1510, 21 FCC Rcd. 8524 (rel. Jul. 25, 2006).

<sup>9</sup> *NPRM* at ¶ 35.

<sup>10</sup> Letter from Glen F. Post, III, CenturyLink, Inc., Maggie Wilderotter, Frontier Communications, Ed Mueller, Qwest Communications, and Jeff Gardner, Windstream Communications, to Julius Genachowski, Chairman, FCC, CC Dkt. Nos. 99-68, 01-92, GN Dkt. Nos. 09-51, WC Dkt. Nos. 04-36, 05-337, 07-135 (Jan. 18, 2011) (“CEO Letter”).

<sup>11</sup> *Id.* at 1.

**A. Declaring VoIP-Originating Traffic as Subject to Anything Other than Traditional Intercarrier Compensation Rates Would Negate Any Meaningful Attempts at Intercarrier Compensation Reform**

It is critical that the Commission declare that VoIP traffic is subject to traditional access termination charges in order to achieve the comprehensive reform contemplated in the *NPRM*. A recent Commission report found that interconnected VoIP grew by 21 percent between 2009 and 2010 while traditional switched access lines fell by eight percent.<sup>12</sup> Indeed this trend is a major impetus for complete reform of the intercarrier compensation system.<sup>13</sup> In the *NPRM*, the Commission asks whether “terminating carriers [could] identify interconnected VoIP traffic—as distinct from other traffic—for purposes of intercarrier compensation,”<sup>14</sup> a question aimed at finding solutions for ending arbitrage. *Frontier cannot identify whether the traffic it receives originates as either VoIP traffic or traditional switched access traffic nor is there a simple technical solution that would enable it to do so.* Accordingly, the potential for arbitrage abounds should the Commission find that VoIP-originating traffic is not subject to traditional terminating access charges.

But, we note that this question fails to recognize the heart of this arbitrage opportunity, which is that the technology of a voice call prior to it reaching the terminating provider’s network is irrelevant – all traffic is treated the same when it is being terminated over the PSTN. Thus, in order to compensate a carrier appropriately for the service of terminating traffic over its network, all forms of voice traffic must be subject to similar intercarrier compensation rates. Should the

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<sup>12</sup> FED. COMM’NS COMM’N, LOCAL TELEPHONE COMPETITION: STATUS AS OF JUNE 30, 2010 at 2 (2011) (“LOCAL TELEPHONE COMPETITION REPORT”).

<sup>13</sup> See *NPRM* at ¶¶ 503-504 (explaining the strain that declining minutes of traditional switched access has placed on the intercarrier compensation system).

<sup>14</sup> *Id.* at ¶ 613.

Commission find otherwise or fail to act, the FCC is simply assuring arbitrage. History shows that companies are more than willing to exploit such opportunities when possible.<sup>15</sup>

If the Commission chooses to adopt any rate for VoIP traffic other than the intercarrier compensation rates that apply to other voice services, it will create a new arbitrage opportunity as carriers will undoubtedly begin claiming that significant portions of their traffic terminating on Frontier's network are VoIP-originated. As stated above, Frontier will not be able to disprove these assertions. Therefore, if the Commission chooses to adopt either a bill-and-keep<sup>16</sup> or some arbitrarily nominal rate,<sup>17</sup> Frontier will be unable to recoup any meaningful intercarrier compensation for a large and growing number of minutes. Such a change would also fail to include a planned and predictable timetable for a transition which would undermine the ability of companies to continue to aggressively invest in broadband deployment.

The Commission seems to understand that this form of arbitrage is a possibility but does not fully contemplate its scope. The *NPRM* asks, “[i]f rates equal to interstate access charges are applied to VoIP traffic, would that create an incentive to originate all voice traffic as VoIP—or simply declare it to be originated as VoIP—such that little traffic ultimately would be billed at the higher rates?”<sup>18</sup> The payment of interstate rates when an intrastate rate should be applicable would result in the loss of a significant amount of money by terminating carriers. The loss would be even more significant if the FCC finds that VoIP traffic should pay nothing, or close to nothing under a bill-and-keep or \$0.0007 rate methodology. Access revenues are used to ensure that carriers terminating traffic to rural markets help pay for the costs associated with investment

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<sup>15</sup> See *infra* Section III; see also *NPRM* at ¶ 623 (describing the contexts in which traffic has been intentionally altered or stripped of its identifying information in order to avoid proper billing).

<sup>16</sup> *NPRM* at ¶ 615.

<sup>17</sup> *Id.* at ¶ 616.

<sup>18</sup> *Id.*

in the network, including broadband investment. The unfortunate result would be that any and all access revenues, revenues that in Frontier's case have been largely committed to broadband deployment,<sup>19</sup> would become non-existent within a rapid timeframe without transition. In essence, the Commission would have reached the National Broadband Plan's final goal of eliminating per-minute rates for the origination and termination of traffic, but, instead of allowing for a transition – a *ten year* period as contemplated by the National Broadband Plan<sup>20</sup> – all payments for terminating traffic would be eliminated overnight and a real transition and meaningful reform would be out of the Commission's control. No doubt, such a drastic loss of revenue would severely strain many companies' ability to meet the Commission's goal of furthering broadband deployment.

If the Commission chooses not to act at all to address the treatment of VoIP-originated traffic terminating to the PSTN, it would have the continued effect of encouraging arbitrage and self-help, thereby disrupting any meaningful transition. As the Commission is well aware,<sup>21</sup> Frontier and other carriers have seen VoIP providers, including some of the nation's largest companies, simply declare that they will no longer pay access charges for VoIP traffic.<sup>22</sup> Frontier estimates that it has in excess of \$15 million of VoIP-originating access charges in dispute and believes that this figure will continue to grow exponentially without proper Commission action. The only recourse for terminating carriers would be to seek individual relief on a state-by-state basis for VoIP compensation. While carriers have successfully challenged those who have stopped

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<sup>19</sup> *See in re: Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket No. 09-95, *Memorandum Opinion and Order*, 25 FCC Rcd. 5972 (rel. May 21, 2010). Frontier completed its merger with Verizon on July 1, 2010.

<sup>20</sup> NATIONAL BROADBAND PLAN at 150.

<sup>21</sup> *NPRM* at ¶ 614 (“We recognize the need for the Commission to move forward expeditiously with reform and understand that disputes regarding compensation for interconnected VoIP traffic have increased during the time these issues have been pending.”).

<sup>22</sup> *See* CEO Letter at 1.

payment for IP-originating traffic,<sup>23</sup> these costly and time-consuming efforts have the potential to create a patchwork regulatory effect causing inefficiencies while maintaining the underlying confusion over interstate VoIP access. The Commission's role is to create stability out of this chaos by providing the regulatory certainty necessary for Frontier to continue to develop plans for investment in broadband deployment.

**B. VoIP-Originating Traffic Must Pay Full Access Charges as it is Indistinguishable from Other Traffic Subject to the Same Rates**

The Commission must act to clarify treatment of VoIP-originating traffic terminating on the PSTN in order to provide for meaningful overall intercarrier compensation reform. Therefore, it should declare that VoIP traffic is subject to the same switched access termination rates as traditional carriers. As noted above, Frontier cannot determine what traffic is VoIP-originated and what traffic originates on the PSTN. Regardless of whether the VoIP traffic is fixed or nomadic,<sup>24</sup> Frontier has the obligation to terminate the traffic<sup>25</sup> and compensation from terminating the traffic is needed to offset the costs of Frontier's network. The Commission and the various states have acted to determine the appropriate compensation rates for terminating both interstate and intrastate traffic. It would render these rate-setting actions meaningless to arbitrarily exclude an entire class of terminating voice traffic from these rules simply because

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<sup>23</sup> See, e.g., *In re: Sprint Comm'ns Co. v. Iowa Telecomm'ns Svs.*, 2011 Iowa PUC LEXIS 44 (rel. Feb. 4, 2011), (holding that Sprint must pay Iowa Telecom access charges for intrastate VoIP calls that it unilaterally decided no longer required payment. The decision also noted the uncertainty that the lack of FCC regulation on this subject has caused).

<sup>24</sup> The Commission also seeks "comment on whether [it] should distinguish between facilities-based 'fixed' and 'nomadic' interconnected VoIP. *NPRM* at ¶ 612. The Commission's most recent Local Telephone Competition Report shows that nomadic VoIP operations continue to grow to over 3 million customers (*see* LOCAL TELEPHONE COMPETITION REPORT at Table 5). In the 2010 Qwest Order that the Commission cites to explain fixed or nomadic VoIP, it noted that the record was insufficient to fully consider nomadic VoIP's place in the market. 25 FCC Rcd. 8622, 8650 ¶ 54. Given that we now have data of the prominent position of nomadic VoIP, it is no longer reasonable to exclude it from the Commission's analysis on providers that should be subject to terminating access charges.

<sup>25</sup> See 47 U.S.C. § 251(a) (2011).

they originate in a certain way; traffic origination has no bearing upon traffic termination costs or obligations incurred by Frontier.

Frontier supports comprehensive intercarrier compensation reform and believes that applying the current intercarrier compensation regime, including intrastate and interstate access rates (as applicable) will lead to the smoothest overall transition. In addressing phantom traffic, the Commission notes that “[a]lthough this Notice seeks comment on the elimination of per-minute intercarrier compensation charges, it anticipates a multi-year transition, during which these issues remain relevant.”<sup>26</sup> This statement is as true in the context of phantom traffic as it is with respect to VoIP traffic. The rates of terminating traffic can then decline over a managed transition period the same as the Commission contemplates with all other intercarrier compensation—there should be no fundamental difference between VoIP access and traditional switched access as there is no difference when it appears on Frontier’s network.

The Commission has noted that “[a]s competition has increased, the ability to shift the recovery of costs to competitors through intercarrier compensation charges increasingly distorts the competitive process.”<sup>27</sup> Inevitably, this has left terminating LECs such as Frontier subsidizing its competitors. There are numerous VoIP products on the market that offer dramatically lower rates for voice services than traditional carriers because they do not have the same regulatory obligations as traditional carriers, and they have furthered their competitive advantage by refusing to pay access charges.<sup>28</sup> Frontier understands the Commission’s desire to promote innovation in voice services, but these companies are subsidizing their innovations on

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<sup>26</sup> *NPRM* at ¶ 620 n.945.

<sup>27</sup> *Id.* at ¶ 524.

<sup>28</sup> *See, e.g.*, Letter from Colin Sandy, NECA, to Marlene H. Dortch, Secretary, FCC, CC Dkt. No. 01-92, WC Dkt. No. 04-36 (filed May 14, 2009).

the backs of their competitors, the traditional carriers.<sup>29</sup> The ongoing increase in access line loss, which was eight percent from 2009-2010,<sup>30</sup> demonstrates that competitors to traditional phone services are slowly usurping the traditional carriers' customers. And, perversely, it is the traditional carriers that the Commission calls upon to expend capital in continued support of its voice network and in expanding broadband deployment.<sup>31</sup> The economics of the situation simply do not add up—a company cannot be called on to invest more of its own resources to implicitly and explicitly support its competition.

As the CEO Letter stated, VoIP-originating traffic is an issue of “immediate and grave” concern to the mid-size ILECs.<sup>32</sup> Accordingly Frontier requests the Commission to subject VoIP-originating calls to traditional intercarrier compensation rates as a method to both end arbitrage and to ensure a viable transition to a new system of intercarrier compensation.

### **III. PHANTOM TRAFFIC REFORM IS LONG OVERDUE AND IS NECESSARY TO CURB RAMPANT FRAUD AND ABUSE**

#### **A. Frontier Has Lost Millions of Dollars Annually to Abuse in the System**

Frontier has long supported the Commission's efforts to end “phantom traffic” abuses and urges the Commission to move forward expeditiously on a matter that it believes could have been resolved years ago.<sup>33</sup> Frontier recently estimated that between five and eight percent of the

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<sup>29</sup> See, e.g., Jim O'Neil, VoIP Cited as One Factor in Staggering Decline of Wireline Industry, FIERCE VOIP, Mar. 28, 2011, available at [http://www.fiercevoip.com/story/voip-cited-one-factor-staggering-decline-wired-telecom-industry/2011-03-28?utm\\_medium=nl&utm\\_source=internal](http://www.fiercevoip.com/story/voip-cited-one-factor-staggering-decline-wired-telecom-industry/2011-03-28?utm_medium=nl&utm_source=internal).

<sup>30</sup> LOCAL TELEPHONE COMPETITION REPORT at 2.

<sup>31</sup> See *Joint Statement* at 1. Continuous private sector investment in wired and wireless networks and technologies, and competition among providers, are critical to ensure vitality and innovation in the broadband ecosystem and to encourage new products and services that benefit American consumers and businesses of every size.

<sup>32</sup> CEO Letter at 1.

<sup>33</sup> See Frontier Comments on 2008 ICC/USF NPRM, CC Docket No. 01-92, *Developing a Unified Intercarrier Compensation Regime* (filed Nov. 26, 2008) at 6-7 (“There are multiple other alternatives that have been put on the record, including by Frontier, that may provide better solutions but Frontier believes the Commission must take a step, and the proposed action is better than no action.”); Comments of Frontier Communications on Phantom Traffic

traffic it receives is either phantom or disguised traffic,<sup>34</sup> although the precise number is difficult to quantify without investigating all traffic to determine if it has been disguised or misrouted. What is certain, however, is that the unjust practice of disguising a call's origins to avoid paying just and fair rates has been occurring for far too long.

What some call "gaming the system," Frontier calls "theft." It has cost Frontier tens of millions of dollars over the years; money that rightfully belonged to Frontier's shareholders and that could have been used for further investments in broadband and network innovation. As an example, Frontier discovered in 2010 that over a two and a half month period Frontier received an incredible amount of traffic from one telephone number to terminate over the Frontier network. After further investigation, this number was delivering an average of 43,378 minutes of interstate traffic to Frontier's network per day. As a frame of reference, there are 1,440 minutes in a single day. The day with the least traffic had 1800 minutes (30 hours) to the network; but on 17 separate occasions the telephone number delivered *more than 70,000 minutes (over 1,100 hours or 48 days worth)* of interstate traffic to Frontier's network in a single day. Further investigation revealed that the number was being used to aggregate calls in an effort to avoid paying lawful intrastate access charges.

While this type of behavior should be considered illegal and deterred through appropriate punishment, the Commission has not adopted rules to prevent such action nor has it taken any kind of enforcement action against those who engage in these unscrupulous practices. To discourage this type of behavior the Commission should explore the scope of all of its

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Proposal, CC Docket No. 01-92, *Developing a Unified Intercarrier Compensation Regime* (filed Dec. 7, 2006); Frontier Comments on Missoula Plan, CC Docket No. 01-92, *Developing a Unified Intercarrier Compensation Regime* (filed Oct. 25, 2006).

enforcement powers, as contemplated in the *NPRM*<sup>35</sup> in an effort to dissuade would-be defrauders from engaging in this activity. Under current Commission rules, if the bad actor is caught, the company simply has pay the amount properly owed had the company not disguised the traffic in the first place. The current system actually *encourages* companies to disguise their traffic because the potential reward is so great and there is literally no risk. The Commission should consider making violators of the rules pay damages in an amount that is a multiple of what the company owed initially. It is only through meaningful penalties and enforcement of the rules that the Commission will truly put a stop to the theft that has occurred for too long and has resulted in the loss of revenue that could otherwise be used for infrastructure investment and broadband deployment.

**B. The Commission’s Rules Can Serve to Help End Phantom Traffic with a Minor Adjustment to Account for Wireless Traffic Inaccuracies**

Frontier supports the Commission’s proposed rules as a step forward to end phantom and disguised traffic. In particular, Frontier supports the Commission’s application of these rules to VoIP traffic. As the Commission itself notes, VoIP traffic is increasing annually as traditional switched access calls decline.<sup>36</sup> Further, as noted above, Frontier cannot identify which calls are VoIP-originating. Failure to apply these rules equally to VoIP traffic would leave a gaping hole in the Commission’s rules for the fastest-growing segment of traffic. While it is understandable that the Commission does not want to inhibit innovation, it similarly must not sanction business behavior that is tantamount to theft.

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<sup>35</sup> *NPRM* at ¶ 632 (“[W]e seek comment on whether we should consider adopting any specific enforcement mechanism to ensure compliance with our proposed rules.”).

<sup>36</sup> *Id.* at ¶ 627.

The Commission's proposed rules would require carriers that use Signaling System 7 (SS7) to transmit the calling party number (CPN) to interconnecting providers and the charge number (CN) where the CN differs from the CPN.<sup>37</sup> Frontier believes that these requirements, along with the additional prohibition on altering these numbers by intermediate providers, are essential to eliminating the fraud and abuse that has plagued the system. Frontier has frequently experienced carriers sending the real CPN but then changing the CN, causing the traffic to be mislabeled. Accordingly, the Commission's proposed rules are a positive development.

While the proposed rules would greatly curtail phantom traffic, one further addition – requiring the inclusion of the jurisdiction information parameter (JIP) – would further aid in eliminating abuse from wireless calls, an essential segment of the total traffic. The number of wireless minutes of use is estimated at over 2.2 trillion per year.<sup>38</sup> While not all of these calls terminate on the PSTN, a large percentage do, making it important that the wireless calls contain sufficient and accurate, identifying information. Requiring inclusion of the JIP, which is the NPA-NXX that identifies the originating caller's geographic location and the originating caller's service provider, would help to end the practice of disguising a call's true origins to avoid paying the proper rates for access to another company's infrastructure. Frontier's experience shows that wireless carriers frequently include either JIPs that are not accurate or they do not include them at all on their terminating traffic. The reason for the inaccurate or missing JIP is to facilitate mislabeling the intrastate traffic as interstate (and thus generally subject to lower access rates) or to enable the wireless carrier to avoid terminating local traffic if interstate access charges are cheaper than the negotiated reciprocal compensation rates.

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<sup>37</sup> *Id.* at Appendix B.

<sup>38</sup> CTIA, U.S. Wireless Quick Facts, available at <http://www.ctia.org/advocacy/research/index.cfm/AID/10323>.

The combination of the Commission’s proposed rules (in addition to requiring complete and accurate JIP) and meaningful enforcement mechanisms would help end a practice that has for too long facilitated fraud and abuse. Frontier supports immediate adoption of these regulations.

#### **IV. ACCESS STIMULATION REFORM IS NECESSARY TO END ANOTHER ARBITRAGE OPPORTUNITY**

Frontier has demonstrated in these comments a longstanding commitment to ending abuse of the intercarrier compensation system. Access stimulation (also known as traffic pumping) is a prime example of such an abuse. Though Frontier has limited exposure from this type of abuse, it generally supports reforms that would end this inefficient practice.<sup>39</sup> Because of this limited exposure, Frontier takes no position on the specific proposals on how to best curb the practice, beyond supporting reform generally.

#### **V. CONCLUSION**

The Commission proposes to reform access stimulation because it “imposes undue costs on consumers, inefficiently diverting the flow of capital away from more productive uses such as broadband deployment, and harms competition.”<sup>40</sup> Yet the same can be said for reforming the intercarrier compensation obligations of VoIP-originating calls or ending theft under the name of phantom traffic. These are all forms of waste, fraud and abuse that the Commission has the clear authority and ability to end. For the foregoing reasons, Frontier requests that the Commission take action to do so immediately.

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<sup>39</sup> See, e.g., Letter from Michael D. Saperstein, Jr., Frontier Communications, to Marlene H. Dortch, Secretary, FCC, CC Dkt. Nos. 99-68, 01-92, GN Dkt. Nos. 09-51, WC Dkt. Nos. 04-36, 05-337, 07-135 (filed Sept. 2, 2010).

<sup>40</sup> *NPRM* at ¶ 636.

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