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 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 GLOBAL CROSSING NORTH AMERICA, INC.

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Global Crossing North America, Inc. ("Global Crossing") hereby submits these comments in response to the Commission's Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking in the above-captioned proceedings.[1]

INTRODUCTION AND SUMMARY

Global Crossing commends the Commission for its commitment to pursuing—and finally achieving—comprehensive and lasting reform of intercarrier compensation and universal service. For many years, Global Crossing has been a staunch proponent of decisive Commission action to rationalize and modernize these regimes for today's increasingly broadband-oriented marketplace. To that end, Global Crossing has participated actively in prior industry efforts to

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1 *Connect America Fund*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 *et al.* (rel. Feb. 9, 2011) ("NPRM").

develop consensus proposals,[2] and it looks forward to continuing to collaborate with the Commission and other stakeholders to identify and implement practical solutions to the very real problems discussed in the NPRM.

Through its extensive experience with the current intercarrier compensation and universal service regimes, Global Crossing has developed an informed perspective on the issues raised by the NPRM and a keen interest in their prompt resolution. Global Crossing uses its integrated, global Internet Protocol ("IP")-based network to offer a full range of managed data and voice products to more than 40 percent of the Fortune 500, as well as 700 carriers, mobile operators, and Internet service providers. It operates a Tier 1 Internet backbone network throughout North America, Latin America, Europe, the United Kingdom, and Asia, connecting more than 300 cities and 30 countries worldwide and delivering services to more than 500 major cities, 50 countries, and 5 continents around the globe. Global Crossing's services are global in scale, linking the world's enterprises, governments, and carriers with customers, employees, and partners in a secure environment that is ideally suited for IP-based business applications, allowing e-commerce to thrive.

The NPRM gets a good deal right in its assessment of the flaws in the existing intercarrier compensation and universal service framework and in its proposals for what should be done to fix them. The NPRM minces no words in its critique of the intercarrier compensation rules, deeming them "inefficient," "broken," and "antiquated."[3] That verdict, supported by at least a

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[2] *See, e.g.*, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Ex Parte* Letter of the NARUC Task Force on Intercarrier Compensation (filed July 24, 2006) (signatory to the Missoula Plan); *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Intercarrier Compensation and Universal Service Reform Plan of the Intercarrier Compensation Forum (filed Oct. 5, 2004) (signatory to the Intercarrier Compensation Forum ("ICF") proposal).

[3] NPRM ¶¶ 7, 501, 508.

decade's worth of review, is beyond any serious challenge. Indeed, there can be no question that those rules foment myriad disputes, divert resources, skew competition, and undermine investment incentives—which is to say, they are no longer sustainable. Global Crossing thus welcomes the NPRM's proposals to unify and lower intercarrier compensation rates, and it urges the Commission to exercise its authority to do so within a federal framework. As Global Crossing has long argued, a uniform rate structure that avoids artificial distinctions among types of traffic would create a favorable regulatory environment for investing in IP-based, broadband networks, a goal that underlies the NPRM and that guides modern communications policy more generally.

To ensure that the benefits intended to flow from lower, unified rates are in fact realized, Global Crossing urges the Commission to take the additional step of addressing the non-usage-sensitive rates charged for switched access transport facilities. As Global Crossing has explained before and reiterates below, increases in these charges—which can represent a significant portion of overall intercarrier compensation costs—risk negating the mandatory rate reductions contemplated by the NPRM and thus should not be neglected. In addition, the Commission should permit carriers sufficient time to undertake the network reconfigurations (such as eliminating extra trunk groups) that a unified rate structure would permit, without incurring reconfiguration charges or early termination charges in connection with existing transport contracts. Doing so would accelerate the benefits of reform.

The NPRM is no less forthright in its criticisms of the existing universal service framework,[4] which also are supported by an extensive record confirming the deep structural

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[4] *See, e.g.*, NPRM ¶¶ 7, 28, 171.

problems.[5] The current system offers a windfall for incumbents, who have long enjoyed guaranteed revenue streams through universal service disbursements whether or not those funds are needed. Those unjustified (and unjustifiable) subsidies merely serve to prop up legacy technologies and services. Global Crossing thus supports Commission action to adapt its distribution methodology to limit high-cost support and to target such funding to expand broadband service to areas that truly are unserved.

The Commission has a vital opportunity to implement reforms that will eliminate massive inefficiencies and set the stage for substantial new investment and consumer benefits. The Commission should not be swayed by current beneficiaries' calls to drag out the implementation of much-needed rule changes. Rather, it should proceed immediately to implement rate reductions with the goal of completing them over a three-to-four year timeframe. Such a timeline would give carriers and customers adequate opportunity to adapt to any reforms.

DISCUSSION

While parties representing different industry segments have offered up competing visions of how to modify the intercarrier compensation and universal service regimes in recent years, there is no longer any disagreement about the dire need for reform. In fact, in the decade since the Commission first launched its "fundamental re-examination of all currently regulated forms of intercarrier compensation" (at which time it also sought comment on the impact of any such changes on universal service),[6] a broad cross-section of parties generally have coalesced around

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5 *See, e.g.*, U.S. Government Accountability Office, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP, at 194-96 (Mar. 1, 2011) (describing the "need for a broader rethinking of the vision, size, structure, and goals of the Universal Service Fund, coupled with management improvement" such as the establishment of clear performance goals).

6 *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 ¶¶ 1, 123-24 (2001).

a set of principles that now forms the foundation of the NPRM.[7] Global Crossing urges the Commission to take advantage of the momentum in favor of change by pursuing the reforms discussed below.

I. THE COMMISSION SHOULD MOVE DECISIVELY TO RATIONALIZE AND SIMPLIFY THE INTERCARRIER COMPENSATION FRAMEWORK

A. The Commission Should Unify and Reduce Overall Intercarrier Compensation Rates Across All Types of Traffic.

The adoption of a unified rate structure with reduced per-minute charges is the most important element of intercarrier compensation reform. Global Crossing has long urged the Commission to unify and lower rates, and it has supported an eventual transition to bill-and-keep principles.[8] In fact, Global Crossing continues to believe that a bill-and-keep framework should be the ultimate goal of reform in this context. It has become clear that Global Crossing's view is hardly a minority opinion, as many others have come out in support of actions that would reduce and simplify inter-carrier rates.

Global Crossing thus is encouraged by the NPRM's proposals to gradually phase out the per-minute rates on which current intercarrier compensation schemes are based.[9] Such charges are widely recognized as being far above cost, which contributes to the massive amounts of inter-carrier payments that are transferred each year—$8 billion according to one estimate noted in the NPRM, and perhaps as much as $10 billion according to others.[10] As a result, a significant portion of Global Crossing's retail voice revenue goes toward payments to other carriers, rather

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7 NPRM ¶ 10 (noting the need to modernize universal service and intercarrier compensation for broadband, enforce fiscal responsibility, require accountability, and transition to market-driven and incentive-based policies that encourage investment).

8 *See, e.g.*, Comments of Global Crossing North America, Inc., WC Docket No. 05-337 *et al.*, at 4 (filed Nov. 26, 2008) ("Global Crossing 2008 ICC Comments").

9 *See, e.g.*, NPRM ¶ 40.

10 *Id.* ¶ 494.

than to investments in its network that would benefits its own customers.[11] Whatever the historical or policy reasons for permitting the assessment of above-cost charges,[12] the deleterious financial impact on the industry has been tremendous, and the Commission should act promptly to lower these rates. One specific step the Commission can readily take to control access charge levels is to clarify the application of the benchmark rate in the manner proposed by Level 3.[13] Doing so, as Level 3 has explained, would eliminate the potential for abuse, minimizing disputes relating to access stimulation but also signaling the Commission's general commitment to controlling access charges overall.[14]

The problem is not simply that per-minute charges currently are too high, but also that the imposition of such rates does not match up with current technological realities. First, as the NPRM explains (and as Global Crossing has noted as well), there are no usage-sensitive costs associated with today's IP networks.[15] Thus, were the Commission writing on a clean slate, per-minute charges would be wholly inapplicable. Further, the jurisdictionalization of traffic on

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11 Comments of Global Crossing North America, Inc., NBP Public Notice #19, GN Docket Nos. 09-47, 09-51, 09-137, at 9 (filed Dec. 7, 2009) ("Global Crossing NBP USF/ICC Comments").

12 *See, e.g.*, NPRM ¶ 40 (noting that rates are "well above carriers' incremental costs of terminating a call"); *id.* ¶ 497 (noting use of above-cost rates to ensure lower local rates); *id.* ¶ 7 (noting existence of regulations that permit some carriers to assess above-cost rates).

13 Comments of Level 3 Communications LLC, Docket No. 10-90 *et al.*, at 6 (filed Apr. 1, 2011) (citing *Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers; Petition of Z-Tel Communications, Inc. For Temporary Waiver of Commission Rule 61.26(d) To Facilitate Deployment of Competitive Service In Certain Metropolitan Statistical Areas*, Eighth Report and Order and Fifth Order on Reconsideration, 19 FCC Rcd 9108 ¶ 17 (2004)).

14 *Id.* at 5-10.

15 NPRM ¶ 505 (citation omitted); *see also* Letter to Marlene H. Dortch, Secretary, FCC, from Paul Kouroupas, Vice President-Regulatory Affairs, Global Crossing North America, Inc., CC Docket No. 01-92, at 1 (filed Sept. 30, 2010) ("Global Crossing Sept. 30, 2010 Ex Parte").

which intercarrier compensation now turns—by which a call can be subject to different rates depending on where it begins, where it ends, what technology is used to deliver it, and other variables—is fundamentally at odds with broadband technology. As the NPRM notes, the converged nature of broadband communications renders arbitrary the current taxonomy of traffic as local or long-distance, or as intrastate or interstate, since communications involve bits traveling seamlessly across broadband networks in a manner that renders location largely meaningless.[16] Yet carriers are still able to invoke such artificial distinctions to generate substantial inter-carrier payments regardless of the actual costs they incur, giving rise to the contentious disputes that continue to proliferate and sap industry resources. Moreover, the very process of jurisdictionalizing traffic imposes burdens on carriers. Global Crossing has previously noted that it spends approximately 2,290 man-hours per month managing the intercarrier compensation regime, which accounts for time required to address disputes, bill reconciliation, contract negotiation, routing, and other tasks.[17] In addition, Global Crossing has described the costs it has incurred to convert traffic between IP and TDM formats and to maintain dual protocols in order to accommodate carriers that have not upgraded their facilities.[18]

Lowering and simplifying rates would ensure that resources can be dedicated to the deployment of advanced, IP-based facilities and services—a core goal underlying the NPRM.[19] Net recipients who have come to rely on intercarrier compensation for a substantial portion of their revenues would be incented to enhance service in pursuit of additional revenue

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16 *See, e.g.*, NPRM ¶ 505.

17 Letter to Marlene H. Dortch, Secretary, FCC, from Paul Kouroupas, Vice President-Regulatory Affairs, Global Crossing North America, Inc., CC Docket No. 01-92, at 2 (filed Dec. 17, 2010).

18 *Id.* at 3.

19 *See, e.g.*, NPRM ¶¶ 14, 496, 502.

opportunities, while net payors would be spared the need to divert resources to those payments and could invest in their networks to support their customers rather than prop up access providers. Global Crossing, for example, estimates that intercarrier compensation reform could reduce its inter-carrier payments by about 50 percent, freeing up funds for a transition to a more efficient, lower-cost, IP-based infrastructure to replace the legacy network infrastructure used to support access arrangements.

Finally, and for these same reasons, Global Crossing is skeptical about the wisdom of and need for an access recovery mechanism.[20] While Global Crossing does not propose a flash cut to a new regime, as discussed below,[21] the creation of an alternative revenue stream designed to replace or make up for inter-carrier payments is likely to delay carrier investment in lower-cost IP technologies while imposing a continuing funding burden on contributors, all of which would preserve existing inefficiencies and hold back the pace of reform. Rather than presume the need for such recovery at the outset, the Commission should assess the impact of its rate reductions and then, at most, authorize a temporary and narrowly tailored mechanism to assist those carriers that face demonstrated challenges in adjusting to the new rate structure. In this regard, the Commission can draw a useful lesson from the Iowa Utilities Board, which, as the NPRM notes, reduced intrastate access rates but declined to introduce a recovery mechanism on the ground that the affected carriers had failed to show a need for one.[22]

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[20] *See, e.g.*, *id.* ¶ 559.

[21] *See infra* at 14-15.

[22] NPRM ¶ 534 & n.818.

B. The Commission Should Address Rates Charged for Transport Facilities as an Essential Element of Reform.

While lowering and unifying per-minute rates is a critical element of reform, that step alone would be insufficient to ensure that the anticipated benefits of intercarrier compensation reform are realized. As Global Crossing has explained on several prior occasions, in addition to the usage-sensitive charges on which the NPRM primarily focuses, purchasers of access also must pay significant, non-usage-sensitive charges for transport facilities used for interconnection and access.[23] The cost of such facilities—which include entrance facilities,[24] the flat-rated portions of tandem-switched transport services,[25] and direct end office trunking services[26]—is substantial. Global Crossing has noted that transport can in some cases account for one-half or more of the costs imposed by the Bell Operating Companies for delivering a call to the called party.[27]

If the Commission focuses only on reducing per-minute rates, Global Crossing is concerned that carriers might seek to make up the difference by simply increasing these transport facilities charges—as has occurred in other contexts.[28] The result would be to perpetuate today's

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23 *See* Letter to Marlene H. Dortch, Secretary, FCC, from Teresa D. Baer, Counsel to Global Crossing North America, Inc., WC Docket No. 08-152 *et al.*, at 2 (filed Oct. 23, 2008) ("Global Crossing Oct. 23, 2008 Ex Parte") (citation omitted); Letter to Marlene H. Dortch, Secretary, FCC, from Teresa D. Baer, Counsel to Global Crossing North America, Inc., WC Docket No. 08-152 *et al.*, at 3 (filed Sept. 18, 2008) ("Global Crossing Sept. 18, 2008 Ex Parte") (same); Global Crossing Sept. 30, 2010 Ex Parte at 2.

24 47 C.F.R. § 69.110.

25 These services include dedicated transport from the serving wire center to the tandem switching office, *see id.* § 69.111(a)(2)(iii), as well as the associated multiplexing services, *see id.* § 69.111(*l*)(2).

26 *Id.* § 69.112.

27 Global Crossing Oct. 23, 2008 Ex Parte at 2.

28 Global Crossing has described in its comments in the special access context that over 60 percent of the special access revenue reductions committed to by AT&T in the BellSouth

problems and permit an end-run around the Commission's reform efforts. Because such transport is an essential component of the switched access services Global Crossing purchases, it is critically important that the Commission's reforms account for these costs.[29]

At a minimum, Global Crossing reiterates its prior recommendation that the Commission freeze transport rates of all types, including special access, as it pursues other reforms.[30] By doing so, the Commission would ensure that its efforts to rationalize intercarrier compensation are not immediately undone through rate increases that could be used to offset mandatory rate reductions in other areas.[31]

C. The Commission Should Assert Its Jurisdiction and Reform Intercarrier Compensation With Minimal State Involvement.

The NPRM sets forth two alternative paths for achieving comprehensive intercarrier compensation reform—one in which the Commission sets forth a mandatory framework to be implemented by the states, and another in which the states play a more independent role.[32]

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merger subsequently were offset by rate increases for DS1 transport services under AT&T's switched access tariffs. Comments of Global Crossing North America, Inc., WC Docket No. 05-25, RM-10593, at 11 (filed Aug. 7, 2007); *id.*, Declaration of Janet Fischer at 10-11 (¶ 7); *see also* Comments of Global Crossing North America, Inc., WC Docket No. 08-152, at 4 (filed Aug. 21, 2008) (citing 47 C.F.R. § 69.727(b)(1-3); *Access Charge Reform*, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 9043 ¶ 155 (1999)).

[29] In addition, Global Crossing notes the possibility that carriers could seek to increase other types of rates charged to carriers, such as those assessed in connection with number ports, database dips, and similar charges. Such increases could negatively impact competition and similarly preserve harms that exist in the current regime.

[30] Global Crossing Oct. 23, 2008 Ex Parte at 2.

[31] Tier 1 local exchange carriers continue to operate under pricing flexibility rules for their special access services and therefore have the ability to raise rates to offset revenue reductions associated with switched access services. While rate rebalancing of some sort is necessary in conjunction with intercarrier compensation reform, special access rates should not be part of the rebalancing effort until the Commission has concluded its investigation into special access pricing.

[32] NPRM ¶ 534.

Global Crossing agrees that the Commission has the legal authority to pursue either path, but it believes the former presents a much more workable option.

A single, federal system would offer the most effective means of harmonizing intercarrier compensation rates, as opposed to having every state apply its own approach. Trying to unify and simplify rates while states pursue different agendas and visions of reform simply would not be practical, and while the NPRM signals an interest in facilitating such an approach in order to move reform a step forward, its proposals for achieving it inevitably would result in several steps back. For instance, the NPRM appears to contemplate that a joint federal-state approach would preserve the current arbitrary categories of traffic, perpetuating the problems with the current regime described above.[33] Further, notwithstanding some admirable exceptions, many state commissions have exhibited little interest in reducing intrastate access rates on their own, since they rely on artificially high charges to subsidize local service rates. Thus, the NPRM candidly notes that enlisting the states to assist in this endeavor could require the Commission to put in place certain financial incentives to persuade them to undertake reforms they would otherwise lack the motivation to pursue.[34] But the types of rewards the NPRM contemplates—such as awarding preferences in the receipt of funding from the Connect America Fund[35]—would result in the disbursement of support not to those areas where it is actually needed but to those areas in states that have proven to be the most intransigent.

Thus, the Commission should invoke its authority to create a unified rate system that encompasses both interstate and intrastate access pursuant to section 251(b)(5), as the NPRM

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[33] *Id.*

[34] *Id.* ¶ 544.

[35] *Id.*

suggests.[36] The NPRM describes a cogent and sustainable interpretation of sections 251(b)(5) and 251(g) that would allow the Commission to develop a unified rate for telecommunications traffic without regard to whether it may be interstate or intrastate.[37] Moreover, the Commission would be able to justify extending any new compensation rules developed for interstate traffic to intrastate traffic given the practical impossibility of separating such services in today's converged environment, as several parties explained in the first, limited round of comments filed in this proceeding.[38] The Commission should actively explore the jurisdictional bases for strong federal action.

In addition, as the NPRM suggests, the Commission could address originating access pursuant to section 251(g).[39] Global Crossing encourages the Commission to do so expeditiously. While the NPRM suggests that rate reductions could be staggered in a way that would defer any action on originating access,[40] Global Crossing believes that originating access reform should be completed contemporaneously with terminating access reform. Even if the Commission creates lower and more uniform termination rates, access customers will see only limited benefits of those reforms if the Commission retains the existing outdated and artificial classifications of originating traffic. Moreover, by preserving existing origination rules in which not only the amount but also the direction of compensation depends on the regulatory classification of the call in question, the Commission could force access customers to maintain dual originating and terminating access networks and continue segregating originating traffic for

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36 *Id.* ¶ 512 (citing 47 U.S.C. § 251(b)).

37 *Id.* ¶¶ 513-15.

38 *See, e.g.*, Comments of AT&T Inc., WC Docket No. 10-90 *et al.*, at 22-23 (filed Apr. 1, 2011).

39 NPRM ¶ 517 (citing 47 U.S.C. § 251(g)).

40 *Id.* ¶ 553 & n.832.

routing and billing purposes, thereby engendering continued disputes over traffic classification and compensation.

D. The Commission Should Avoid Piecemeal Reform and Adopt a Transitional Timeframe That Is Reasonable Yet Aggressive.

In addition to its more comprehensive proposals, the NPRM describes a separate set of near-term steps intended to reduce arbitrage opportunities in connection with voice-over Internet Protocol ("VoIP") services, phantom traffic, and access stimulation while the Commission's broader reforms are being implemented.[41] The Commission has received extensive comments in this proceeding reinforcing an already robust record demonstrating that these issues have generated endless disputes and consumed enormous industry resources in the process. Global Crossing supports strong action to curb continued abuse of the existing intercarrier compensation rules. Even interim solutions to these well-documented problems would provide much-needed stability that would enable the industry to resume its primary mission of investing in advanced networks rather than in litigation.

The NPRM's interest in achieving some measure of reform sooner rather than later is commendable, but Global Crossing urges the Commission to resist any temptation to hold back the pace of broader reform in light of some short-term band-aids. The Commission should instead use the opportunity provided by any near-term reforms as a path toward facilitating broader change. Indeed, disputes involving traffic technologies and call detail information are simply symptoms of the broader problems that the Commission can and should address immediately, such as the antiquated jurisdictionalization of traffic that characterizes today's rate regime. Other proposed short-term solutions may actually exacerbate the problem by creating additional enforcement challenges, unfairly impacting intermediate interexchange providers such

[41] *Id.* ¶¶ 603-07.

as Global Crossing, and diverting limited resources from the broader task of comprehensive reform. Promptly implementing jurisdictional rate parity would go a long way toward eradicating industry conflict. Reducing the remaining jurisdictionally unified rates over time would then eliminate any lingering incentives for arbitrage.

The Commission should introduce such reforms over a reasonable—though not unnecessarily prolonged—transition period. Unlike in prior proposals, the NPRM does not specify a particular timeframe for reform, although it clearly is sensitive to the importance of affording all parties sufficient time to implement and adjust to changes in the rules and seeks comment on how the Commission may do so.[42] Clearly, a flash cut to a new regime would be unworkable, leaving the main issue as what the outer range of an appropriate timeframe would be. In this regard, the Commission should not consider an unduly prolonged transition. For instance, a ten-year timeframe, such as the Commission has considered in the past, is much longer than necessary, particularly given the well-documented urgency of reform.[43] Global Crossing submits that the Commission can unify intercarrier compensation rates over a period of three to four years, and then reduce them towards bill and keep shortly after that. Such a timeframe is comparable to that contemplated in prior reform proposals,[44] and Global Crossing continues to believe that it would permit the implementation of intercarrier compensation reform in a manner that would give carriers and customers adequate opportunity to adjust.

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42 *See, e.g.*, *id.* ¶¶ 491, 533, 540, 556.

43 *See, e.g.*, *High-Cost Universal Service Support*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475 ¶ 194 (2008).

44 Global Crossing Sept. 18, 2008 Ex Parte at 1 (supporting Verizon's proposal to unify all intercarrier compensation rates at current reciprocal compensation levels over three years); *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Letter from Gary M. Epstein and Richard R. Cameron to Marlene H. Dortch, Appendix B at 5-6 (filed Oct. 5, 2004) (describing ICF proposal of a four-year transition to a uniform per-minute rate, with a further three-year transition to bill and keep).

Such a timeframe also would permit carriers simultaneously to complete efforts to reconfigure their networks to take advantage of a unified rate system. As Global Crossing has explained, rate uniformity would permit carriers to work toward various network efficiencies, such as eliminating redundant trunk groups and concentrating traffic at more efficient interconnection points.[45] Global Crossing thus has urged the Commission to provide a window during which carriers may reconfigure their transport networks without incurring early termination liabilities, reconfiguration charges, or similar expenses under existing transport tariffs or contracts.[46] Doing so would allow the Commission to realize the benefits of reform more quickly. The Commission has previously granted such relief—for instance, with the fresh look approach it applied in the special access context to allow companies paying switched access charges to terminate service contracts without penalty in order to switch their business to a competitive access provider.[47] The Commission also allowed CMRS providers to renegotiate interconnection contracts that did not provide for mutual and reciprocal compensation.[48] Absent such action, carriers would be penalized for seeking to optimize their networks in response to changes in intercarrier compensation rates, and the ultimate benefits of reform would have to wait until carriers were no longer subject to early termination and reconfiguration fees.

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45 Global Crossing Oct. 23, 2008 Ex Parte at 2.

46 *Id.* at 2-3 (noting that any given carrier may have hundreds of contracts covering thousands of transport circuits (or more), all of which may be affected by the Commission's reforms, and that reconfiguration of just one circuit can cost up to $20,000 or more plus any early termination penalties that may apply for the remaining term of the underlying contract).

47 *Expanded Interconnection with Local Telephone Company Facilities; Amendment of the Part 69 Allocation of General Support Facility Cost*, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369 ¶ 202 (1992).

48 47 C.F.R. § 51.717(a) (permitting renegotiation with no termination liability or other contract penalties for certain agreements); *see also Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499 ¶ 1413 (1996).

Finally, to assist with the prompt implementation of reform, the Commission should consider establishing a working group made up of subject matter experts from throughout the industry to assist with implementation issues (anticipated and unforeseen) that will likely arise. As Global Crossing has proposed previously,[49] a working group would allow a forum for discussing and, hopefully, resolving such questions, thereby minimizing disputes.

II. THE COMMISSION SHOULD ADOPT REFORMS THAT PERMIT THE TARGETED DISTRIBUTION OF FUNDING TO PROMOTE BROADBAND DEPLOYMENT IN UNSERVED AREAS

The reforms of intercarrier compensation contemplated by the NPRM and described above will necessitate certain corresponding changes in universal service. But even apart from the intertwined nature of these two regimes, reform of universal service is essential in and of itself. Again, the reasons why are a matter of largely undisputed record. In short, universal service currently is funded by a shrinking, interstate revenue base that requires an increased percentage of fees to be collected from consumers.[50] In fact, Global Crossing has noted that the United States imposes the highest universal service fees of any country.[51] Meanwhile, the resulting high-cost support is doled out with barely any consideration of actual need. Rather, subsidy amounts are based on historical presumptions of need and fail even to consider retail rate levels or the additional revenue streams now available to carriers through their provision of other services such as broadband Internet access and multichannel video programming services.

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[49] Global Crossing 2008 ICC Comments at 13-14.

[50] The contribution factor has steadily risen over time, and currently tends to hover around a record level of 15 percent. *See, e.g.*, Public Notice, *Proposed Second Quarter 2011 Universal Service Contribution Factor*, CC Docket No. 96-45, DA 11-473 (rel. Mar. 10, 2011) (proposing contribution factor of 14.9 percent); Public Notice, *Proposed First Quarter 2011 Universal Service Contribution Factor*, CC Docket No. 96-45, DA 10-2344 (rel. Dec. 13, 2010) (proposing contribution factor of 15.5 percent).

[51] Global Crossing NBP USF/ICC Comments at 3 & tbl.A.

The NPRM ably makes the case for universal service reform, although it focuses on the distribution of support while deferring any further examination of contribution issues to a later date (aside from noting an awareness of the growing contribution burdens on consumers).[52] Global Crossing appreciates the potential challenges associated with revising the applicable contribution methodology, but it notes that the Commission cannot afford to delay indefinitely its consideration of that important component of reform. Indeed, some of the NPRM's specific proposals regarding distribution turn to some extent on how that funding will be collected, underscoring how these two halves of universal service reform inter-relate.[53] Global Crossing thus urges the Commission to take action on its contribution methodology as soon as practicable. In particular, Global Crossing reiterates its support for a numbers-based contribution mechanism, which it believes would fairly capture users of networks with the benefit of being administratively simple.[54]

Regarding the distribution of support, Global Crossing agrees with the general direction of reform charted by the NPRM. Most importantly, Global Crossing continues to support re-purposing universal service to promote the deployment of broadband where it is needed most—that is, in areas that are truly unserved—rather than using such support to provide a permanent subsidy flow to carriers that have not demonstrated a legitimate need for it.[55] Indeed, the underlying objective of universal service should be to provide advanced communications

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52 *See, e.g.*, NPRM ¶ 80 (seeking to limit the universal service contribution burden on households).

53 *See, e.g.*, *id.* ¶¶ 275, 278 (noting the prospect of setting a smaller budget for the first phase of the Connect America Fund in order to reduce contribution obligations on consumers).

54 *See, e.g.*, Global Crossing NBP USF/ICC Comments at 7; Global Crossing 2008 ICC Comments at 12-13.

55 *See, e.g.*, Global Crossing NBP USF/ICC Comments at 8.

capability to the rural and high-cost areas that are costly and uneconomic to serve and to low-income consumers who cannot afford to pay unsubsidized rates. The Commission therefore should adopt a highly disaggregated distribution model that targets the relatively few areas that truly require support, relying on competitively neutral funding areas (such as census blocks).

As Global Crossing has observed in prior comments, incumbents that currently receive substantial subsidies based on their use of circuit-switched technology have little reason to transition to more efficient technology.[56] Indeed, as the NPRM acknowledges, the current rules have the effect of "rewarding carriers for maintaining outdated infrastructure rather than migrating to Internet protocol (IP)-based networks" and thereby undermine this country's global competitiveness.[57] For instance, carriers currently can use universal service subsidies to purchase TDM switches that support traditional circuit-switched lines—thereby further generating significant intercarrier compensation fees.[58] Rationalizing support would correct these incentives and facilitate the expansion of broadband networks. Promoting such deployment, in turn, would ensure the availability of not just voice-based services but other services as well, all of which would simply be applications provided over a broadband connection.

While reform of universal service distribution for the purpose of promoting deployment is obviously important, the Commission should continue in its efforts to promote adoption and utilization of existing broadband services. It is broadly acknowledged that widespread access to advanced broadband networks is only meaningful if consumers have the ability and the reason to

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56 *Id.* at 5.

57 NPRM ¶ 6.

58 Global Crossing NBP USF/ICC Comments at 6.

utilize them, and Global Crossing thus encourages the Commission to maintain its attention on those issues.

CONCLUSION

Global Crossing has consistently been a staunch proponent of intercarrier compensation and universal service reform and an active participant in industry efforts to achieve it. Global Crossing looks forward to maintaining that partnership as the Commission moves toward re-working both regimes in a manner that comports with the emerging broadband marketplace.

Respectfully submitted,

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