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July 27, 2011

**EX PARTE NOTICE**

VIA ECFS

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: 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**

Dear Ms. Dortch:

On July 25, 2011, Jerry James and Karen Reidy of COMPTTEL and Joe Gillan of Gillan and Associates, on behalf of COMPTTEL, met with Angela Kronenberg of Commissioner Clyburn's Office to discuss issues raised in the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking adopted on February 8, 2011 in the above-referenced dockets ("NPRM").

COMPTTEL urged the FCC to explicitly confirm without delay, in its Order on this NPRM, that IP-to-IP interconnection is subject to Sections 251 and 252 of the Communications Act, as amended ("Act"). Interconnection is fundamental to the provision of telecommunications and the Act is technology neutral on this matter. In its NPRM, the Commission asked what specific actions it should take besides reforming intercarrier compensation to encourage the transition to IP technology and how IP-to-IP interconnection arrangements for the exchange of VoIP traffic fit within existing legal and technical frameworks.<sup>1</sup> COMPTTEL responded that one of the *most important actions* the Commission can take to attain its overarching goal of

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<sup>1</sup> NPRM at ¶ 679.

promoting the deployment of broadband and IP technology is to confirm in no uncertain terms that IP-to-IP interconnection is subject to Sections 251 and 252 of the Act.<sup>2</sup> Such a statement is not only in accordance with the Act, but is necessary to ensure carriers enter into good faith carrier-to-carrier negotiations of just and reasonable terms for IP interconnection.<sup>3</sup>

COMPTEL expressed support for establishing the rates for the termination and transport of all traffic pursuant to Section 251(b)(5) of the Act, so long as the rate is cost-based - as required under the statute - and carriers are provided a sufficient time to transition from current rates to the final rate. COMPTEL also argued that Section 251(b)(5) compensation includes all transport and termination functions (e.g., tandem switching, dedicated transport and tandem - switched transport).

Under Section 251(b)(5) the Commission establishes the methodology and the state commissions set the rates. Since this has already been accomplished, the Commission should not (at this time) disrupt the current cost-based reciprocal compensation rates state commissions have set in proceedings implementing the FCC's TELRIC methodology. If the Commission establishes a new methodology, it must have a basis in cost in order to withstand an appeal<sup>4</sup> and the revised methodology should apply to all transport and termination elements as discussed above (e.g., tandem switching, dedicated transport and tandem -switched transport). COMPTEL also argued that originating access should be preserved.

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<sup>2</sup> COMPTEL April 8 Comments at 4.

<sup>3</sup> AT&T, Verizon and CenturyLink/Qwest have resisted allowing their competitors to interconnect on an IP-to-IP basis for the exchange of VoIP traffic pursuant to Section 251. COMPTEL April 8 Comments at 7.

<sup>4</sup> State commissions that have conducted such cost proceedings have argued that the proposed terminating rate of \$0.0007 has no basis in cost and is in fact not a cost-based rate. *See, e.g.*, Letter from James Bradford Ramsey, Counsel to the State Members of the Federal State Joint Board on Universal Service, to Marlene Dortch, Secretary, FCC, Docket Nos. 10-90, 09-51m 07-135, 05-337, 01-92, 96-45 and 03-109, (July 14, 2011) at 2 (“there is NO record evidence - no empirical data - no actual cost studies - to support imposing a single industry-wide \$0.0007 rate as compensatory” and the Michigan approved local termination rate for Verizon is \$0.003461 and for a small LEC is \$0.00703) and 8 (“This [\$0.0007] rate is even below TELRIC-based reciprocal compensation rates”); Reply Comments of the California Public Utilities Commission and the People of the State of California, Docket Nos. 05-337, 96-45, 03-109, 06-122, 99-200, 96-98, 01-92, 99-68 and 04-36, at 14 (Dec. 22, 2008) (“rates in the zero to \$.0007 range, which are lower than rates determined using the TELRIC methodology”); Comments of the Corporation Commission of the State of Kansas on All Sections of the February 9, 2011 NPRM Except Section XV, Docket Nos. 10-90, 09-51, 07-135, 05-337, 01-92, 96-45 and 03-109, at 5 (Apr. 18, 2011) (“FCC should acknowledge that because costs vary by carrier and thus, the ICC rate may vary by carrier”); Letter from Greg Jergeson, Chairman, Montana Public Service Commission, to Marlene Dortch, Secretary, FCC et al., Docket No. 01-92, at 2 (Aug. 18, 2008) (Qwest’s “cost for carrier access... is closer to \$.0404/minute, nowhere near the rumored \$.0007/minute rate”).

VoIP traffic should be treated as any other telecommunications traffic by jurisdiction (intra/inter/local). There is no justification for establishing a different compensation scheme for such traffic. The Commission must also ensure that all traffic categories have an unambiguous compensation scheme that applies in a workable and enforceable manner. As such, the Commission should amend its rules, in particular 47 C.F.R. § 20.11(e), to make clear that all LECs, not just ILECs, have a right to request negotiations with wireless carriers for Section 251(b)(5) compensation.

Finally, while not expressing support for an Access Recovery Mechanism (“ARM”), COMPTTEL urged the Commission to consider the competitive consequences, as well as the implications of access stimulation, if adopting such a mechanism. To the extent ILECs are able to lengthen the transition to recovering costs from end users by receiving an access recovery subsidy that continues beyond the date the uniform rate is reached, CLECs should be given the same transition period. For example, if ILECs get six years to transition to a uniform rate and get access recovery subsidies, which are not available to CLECs, for an additional three years, CLECs should be provided a nine year transition period to move to the uniformed rate. COMPTTEL also explained that the Commission's revenue replacement fund calculations must also reflect any reduce revenue associated with revised rules related to access stimulation.

Please do not hesitate to contact me if you have any questions regarding this submission.

Respectfully submitted,

/s/ Karen Reidy

Karen Reidy

cc (via email): Angela Kronenberg