

**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 CHARTER COMMUNICATIONS, INC. TO THE COMMISSION'S
FURTHER INQUIRY**

Mark E. Brown
Senior Director and Senior Counsel
Charter Communications, Inc.
11720 Amber Park Drive, Suite 160
Alpharetta, GA 30009
(770) 754-5269

Samuel L. Feder
Luke C. Platzer
JENNER & BLOCK LLP
1099 New York Ave., NW
Suite 900
Washington, D.C. 20001
(202) 639-6000

Michael R. Moore
Director and Senior Counsel
Charter Communications, Inc.
12405 Powerscourt Dr.
St. Louis, MO 63131
(314) 543-2414

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**COMMENTS OF CHARTER COMMUNICATIONS, INC. TO THE COMMISSION’S
FURTHER INQUIRY**

Charter Communications, Inc. (“Charter”) hereby submits these comments in response to the Commission’s Further Inquiry (“Further Inquiry”) in the above-captioned proceedings.¹

Charter supports the Commission’s efforts to move towards a more unified and predictable intercarrier compensation regime. As stated in Charter’s initial comments in response to the Notice of Proposed Rulemaking (“NPRM”) in this docket, the current system distorts investment, discourages network modernization, and invites arbitrage and fraud, in large part because the current intercarrier compensation regime introduces artificial and arbitrary

¹ See *Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding*, WC Docket No. 11-90, *et al.*, Public Notice, DA 11-1348 (Aug. 3, 2011).

pricing differences for what is essentially the same service – access to a carrier’s network.² In addition, the unreasonable positions currently taken by certain carriers in litigation throughout the country, disputing the applicability of tariffed exchange access rates to any calls that use Voice over Internet Protocol (“VoIP”) technology on either end of the call, has created unnecessary uncertainty in the market that calls out for Commission action. Charter supports, therefore, the proposal to simplify and unify intercarrier compensation rates over the long term, as set forth in the “ABC” Framework proposed by the largest incumbent local exchange carriers and on which the Commission has requested comment.³

In the short term, however, Charter believes that one element of the ABC Framework exacerbates arbitrary disparities in the costs of access to carrier’s networks and is likely to prove both unworkable and inequitable in practice: the proposed “Interim Rule[]” to create an 18-month disparity in the treatment of Voice over Internet Protocol (“VoIP”) and circuit-switched traffic.⁴ Although this proposal begins reducing some access charges effective January 1, 2012 for calls that use VoIP at some point in the call path, it does not begin reducing such charges for calls that use circuit-switched technology throughout the call path until July 1, 2012, and does not unify the rates for VoIP and circuit-switched traffic until July 1, 2013.⁵ As a result, the ABC Framework creates an year-and-a-half period during which the cost of intrastate exchange access services will differ based on the technology used by either carrier – even though, from the standpoint of the carriers involved, the services being provided are the same.

² See Comments of Cablevision Systems Corporation and Charter Communications, Inc., at 1 (April 1, 2011).

³ See *America’s Broadband Connectivity (ABC) Plan Framework, Further Inquiry*, Attachment 1 at 10-11.

⁴ See *id.* at 10.

⁵ See *id.* at 10-11.

Charter understands that the Commission may consider this aspect of the proposed ABC Framework a compromise between LECs that have urged the application of full tariffed rates to VoIP traffic and IXCs that have sought to exempt such traffic from access charges entirely. However, such a compromise solution would both introduce inequities and invite unscrupulous carriers to game the system during the 18-month window. In addition, this approach is almost certain to delay network modernization over the next two years while penalizing carriers that have modernized their networks and rewarding those who have delayed such investments. The far more workable and equitable approach would be for the Commission to adopt the glide path as set forth in the ABC Framework,⁶ but to treat circuit-switched and VoIP traffic identically under the proposal.

Charter recommends, therefore, that the Commission amend the ILECs' proposed ABC Framework as follows: instead of causing all intrastate access charges for calls that use VoIP to revert to interstate access rates on January 1, 2012, those charges should remain at current tariffed rates until July 1, 2012. Beginning on July 1, 2012, the intrastate access rates (and, if higher than the interstate rate, reciprocal compensation rates) for calls involving VoIP should be reduced in the same manner as the Framework envisions for circuit-switched traffic. From July 1, 2012 forward, rates for VoIP calls should be the same as circuit-switched traffic and undergo reduction on the same glide path.

With these minor revisions, the proposed ABC Framework would be truly technology and competitively neutral. This amendment to the ABC Framework would also bring with it multiple advantages.

⁶ *See id.* at 11.

First, it would be far easier to administer and enforce. As previously explained in Charter's comments earlier in this docket, because exchange access services are almost always provided in TDM, there is no reliable mechanism for carriers to verify whether any given call has used VoIP technology at any point in the call path, particularly where multiple carriers are involved.⁷ A pricing disparity between exchange access services that depends upon the technology used by other carriers, and not readily subject to meaningful verification, is a guarantee for countless intercarrier disputes during the transition period. It is also an invitation for unscrupulous carriers to engage in outright fraud to game the system.⁸ Moreover, because the rate disparity under the current proposal would be a temporary one, lasting only eighteen months, there would be no meaningful time to create new signaling systems or technological solutions to categorize traffic as circuit-switched or VoIP – thereby ensuring that carriers will be forced to waste resources policing one another's categorization and engaging in disputes with other carriers during the transition period.

Second, Charter's proposed revision to the ABC Framework will encourage network modernization during the period between January 2012 and July 2013, which the current proposed framework would actively penalize. An interim solution under which carriers lose intrastate exchange access revenues if they invest in upgrades to their networks virtually guarantees that carriers that currently use circuit-switched technology will have no incentive to modernize their networks to IP until after the rate disparity is eliminated in July of 2013 – nearly

⁷ See Comments of Cablevision Systems Corporation and Charter Communications, Inc., at 4-5; Reply Comments of Cablevision Systems Corporation and Charter Communications, Inc., at 5-6 (April 18, 2011).

⁸ See Comments of Cablevision Systems Corporation and Charter Communications, Inc., at 4-5.

two years from now.⁹ This perverse incentive would undoubtedly delay the Commission's stated goals in encouraging network modernization and IP interconnection. Conversely, an interim intercarrier compensation regime under which carriers benefit from the cost savings of moving to IP-based networks without facing the loss of access revenues from such modernization will continue to encourage carriers to make such investments over the course of the next two years.

Third, equalizing the rates between VoIP and circuit-switched traffic would be by far the more equitable and competitively neutral solution. As Charter has previously explained, there is no *legal* basis to distinguish between exchange access services provided to complete circuit-switched calls and exchange access services provided to complete calls that use VoIP at some point in the call path.¹⁰ Indeed, from the standpoint of the carrier that orders and receives exchange access service in TDM, such service is functionally identical. Moreover, creating a rate disparity during the first eighteen months of the glide path would effectively reward carriers that have delayed or refused upgrades to their network. These are often ILECs that have refused to interconnect in IP, thereby forcing their competitors to incur the unnecessary costs of downconverting their traffic from IP to TDM solely to interconnect with the ILEC. At the same time, the current proposed ABC Framework would penalize carriers that have made investments to modernize their networks to IP by depriving them of revenues available to their circuit-switched competitors. Treating all carriers equally, irrespective of the technology either uses to complete any given phone call, is by far the more fair and competitively neutral solution.

⁹ See Comments of Cablevision Systems Corporation and Charter Communications, Inc. at 5-7; Reply Comments of Cablevision Systems Corporation and Charter Communications, Inc., at 8-9.

¹⁰ See Comments of Cablevision Systems Corporation and Charter Communications, Inc. at 7-10; Reply Comments of Cablevision Systems Corporation and Charter Communications, Inc. at 11-14.

CONCLUSION

The Commission should adopt the proposed ABC Framework, but modify the proposal to eliminate any disparity between the access charges to be assessed on circuit-switched calls and the access charges to be assessed on calls that use IP format at any point in the call process. Rates for VoIP traffic should be kept at tariffed levels through July 1, 2012, and then reduced concurrently with those for circuit-switched traffic beginning in July of 2013.

Respectfully Submitted,

Mark E. Brown
Senior Director and Senior Counsel
Charter Communications, Inc.
11720 Amber Park Drive, Suite 160
Alpharetta, GA 30009
(770) 754-5269

Michael R. Moore
Director and Senior Counsel
Charter Communications, Inc.
12405 Powerscourt Dr.
St. Louis, MO 63131
(314) 543-2414

/s/ Samuel L. Feder
Samuel L. Feder
Luke C. Platzer
JENNER & BLOCK LLP
1099 New York Ave., NW
Suite 900
Washington, D.C. 20001
(202) 639-6000

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