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
	)	

SUPPLEMENTAL COMMENTS OF GRANITE TELECOMMUNCIATIONS, LLC

– PUBLIC VERSION –
In CC Docket No. 01-92, WC Docket Nos. 05-337, 07-135, 10-90,
and Gen. Docket No. 09-51, before the Federal Communications Commission

Introduction

Granite Telecommunications, LLC ("Granite") respectfully submits these comments in response to the Public Notice released on August 3, 2011, in the above-referenced dockets ("Public Notice"). These comments supplement and amplify Granite's Reply Comments filed in the above dockets on May 23, 2011, and present Granite's deep concerns with the intercarrier compensation provisions of the America's Broadband Connectivity Plan ("ABC Plan" or "Plan") addressed in the Public Notice, which threaten to undermine Granite's ability to compete on a level playing field with the incumbent local exchange carriers ("ILECs") promoting the plans, to the detriment of Granite's large, nationwide customer base.

The fundamental flaw in the ABC Plan is that the ILECs promoting it disingenuously ignore the fact that their own long term commercial agreements with competitive local exchange carriers ("CLECs") such as Granite – which rely on underlying LEC facilities for access lines, switching, transport, and termination – set per minute rates for voice traffic that are well in excess of what these same CLECs would be able to recover under the Plan. Accordingly, the proponents of the ABC Plan are well aware that implementation of their proposed glidepath and their proposed intercarrier compensation ("ICC") rates necessarily would result in CLECs like Granite losing money on every single minute of call traffic, at least until such time as existing commercial agreements expire and can be renegotiated, and customers become willing and able to pay significantly higher end user rates.

Accordingly, Granite respectfully urges the Commission to resist the siren song of this so-called "consensus" plan, and exercise its authority to reform intercarrier compensation in a manner that preserves competition and protects the interests of telecommunications consumers.

Granite Provides Customer-Centric Service to the Nation's Largest Companies

Through commercial agreements with local exchange carriers ("LECs") nationwide, Granite provides over a million access lines to 68 of America's top 100 companies. From its headquarters in Quincy, Massachusetts, and offices in New York City, Atlanta, Providence and Miami, Granite has built its business on superlative customer service tailored to the unique needs of the multi-location, nationwide companies it serves. If you have called a Domino's pizza store, swiped your credit card at a Sunoco station, or phoned in a prescription to Walgreens, your call

likely went over a Granite-managed communications line. Altogether, Granite's 800+ employees serve 14,000 business clients at 240,000 locations nationwide.

Moreover, Granite earns its customers' business every day, because it never requires a long-term contract. Unhappy customers can simply leave; yet, Granite has a churn rate of less than one percent. Indeed, Granite adds about 1,000 new analog POTS lines every business day.

Granite's Competitive Business Model Will Be Undercut By The Precipitous Reduction in ICC Rates Proposed In The ABC Plan

As AT&T, CenturyLink, FairPoint, Frontier, Verizon and Windstream are well aware, the relevant terms of their commercial agreements are wholly at odds with the provisions of the ABC Plan. The typical duration of the commercial agreements through which Granite provisions access lines to its business customers is five years, with no reopener for a reduction in ICC rates. For the approximately 350,000,000 minutes of use subject to ICC that Granite processes monthly, Granite's commercial agreements impose a fixed per minute cost. This cost, consequently, will stay constant for the duration of Granite's existing agreements. Yet, the proponents of the ABC Plan would have Granite reduce the intrastate rates it can collect from them to interstate rates within the first two years, and then force terminating access charges down to the artificially low rate of $.0007 within three years later. (It is telling, perhaps, that the proponents of the ABC Plan have not volunteered, as a component of the plan, to revise their long-term commercial agreements to reflect this precipitous decline in ICC rates.)

The arithmetic is straightforward, and untenable. At a $.0007 ICC rate, every minute of use would result in a loss to Granite. Multiplied times Granite's roughly 350,000,000 typical monthly minutes of use, this equation would result in a negative ICC cash flow for Granite of about [Confidential Information: $] per month, or [Confidential Information: $] per year. While Granite's annual losses would not immediately escalate to that level during the five-year transition period proposed in the ABC Plan, it is obvious that the cumulative impact while Granite awaited the expiration of its current commercial agreements could easily exceed [Confidential Information: $] – a significant loss for a company of its size. Moreover, for providers such as Granite that aggregate at wholesale the services of multiple LECs in order to provide competitive retail services on a nationwide basis, a loss of this magnitude cuts deeply into the already thin margin between wholesale and retail rates. A regulatory model that threatens competition and undermines consumer choice simply cannot be condoned by the Commission.

It is important to emphasize that the negative cash flow that Granite would experience as a result of the ABC Plan's five-year glidepath and $.0007 terminal rate is not lost ICC revenue. Rather, it is money that would have to be paid out of Granite's (and its customers') pocket each month, since Granite must continue to pay the cost dictated by its commercial agreements, while being precluded from recouping all but a far lower amount if the ABC Plan were effectuated.

The FCC Must Implement ICC Reforms That Are Fair To All Providers

The rate-of-return carriers have endorsed the ABC Plan in exchange for concessions that would protect their unique interests, and it is the Commission's duty to ensure that CLECs also receive fair treatment. Like RLECs, CLECs must have a longer glidepath in order that the LECs and their customers may absorb the ICC rate reductions without suffering a competitive disadvantage. This is especially true for providers like Granite that are locked into long-term commercial agreements with the ILECs that mandate payments well in excess of what they ultimately will be able to collect.

Granite supports a nine-year glidepath that will align intrastate and interstate rates within the first five years, preferably under the oversight of state regulators who know their respective markets. By that time, Granite's existing commercial agreements will have expired and the agreements can – the company hopes – be renegotiated to reflect per minute usage charges better aligned with the new ICC regime. Thereafter, Granite supports reducing ICC rates to a cost-based resting point that accurately reflects carriers' costs to handle and bill for one another's voice traffic. This transition period also will afford Granite's business customers adequate time to adjust to the end-user rate increases that inevitably will be required in order for competitive carriers to recoup the full cost of providing service.

It is also essential that the Commission factor into the glidepath and terminal rate the inability of providers like Granite to benefit from the access replacement mechanism that is a crucial component of the RLEC Plan. Granite is not a recipient of Universal Service Fund subsidies, and most certainly is not guaranteed a rate of return. Rather, Granite and providers

like it ultimately are constrained by three immutable numbers: the amount each line and minute of service costs them; the amount they can collect per minute in ICC; and, the amount they can charge their end user customers. These numbers must be kept in a viable balance, or the competitive services Granite provides will rapidly be extinguished.

Consumer Protection Also Is An Important Part of the FCC's Mandate

The proponents of the ABC Plan have placed in the record a "Consumer Benefits Paper" prepared by Professor Jerry Hausman, purporting to identify consumer benefits associated with lower ICC rates. In his paper, Professor Hausman cites to the consumer benefits realized from the historical reduction in wireless ICC rates as a basis for his assertion that a lower ICC rate for other emerging technologies, such as VoIP, will be beneficial to consumers.[1] He also asserts that many consumers are switching from circuit-based technology to wireless and VoIP services, and asserts that lower ICC rates will result in a consumer welfare gain of $9 billion per year, as well as lead to innovative new products and services.[2] However, for the business customers that Granite serves, POTS is far from dead, as evidenced by the fact that Granite adds some 1,000 analog POTS lines per business day. The same is true for other competitive carriers.

Professor Hausman premises his contention that lower ICC rates will translate to lower rates for end-user customers on the assertion that, historically, a near 100% pass-through occurred for long distance rates when regulators reduced the ICC charges to long distance

[1] Hausman Paper at 5-8.

[2] Id. at 7, 13.

carriers.[3] That said, Professor Hausman concedes that the benefit of ICC reform to wireline consumers may be reduced if wireline providers increase end user prices to recover lost ICC revenue.[4] Again, Granite's cost structure and revenue base are straightforward: lower ICC rates (particularly without corresponding adjustments to the rates Granite pays pursuant to its underlying commercial agreements) will necessarily require Granite to recoup its costs from end users.

Professor Hausman also notes, however, that competitive pressures most likely would prevent companies from increasing end user rates by amounts equal to the lost ICC revenue.[5] On this point, he cites the consumer benefit from such lower rates. He does not, however, acknowledge that this is a short-term and unsustainable benefit. While consumers may enjoy lower rates in the short run, if market constraints prevent competitive carriers, such as Granite, from recovering their costs, those competitors will be forced out of the market. Accordingly, in the long run, the ABC Plan is likely to leave consumers with fewer competitive options, enabling incumbent carriers to increase end user rates in the long run.

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[3] Id. at 9.

[4] Id. at 13, fn. 25.

[5] Id.

Conclusion

Granite respectfully submits that ICC reform must be undertaken in an incremental, measured way that affords the market, and – most importantly – telecommunications consumers, the opportunity to adapt to new pricing models, and enables providers to recoup their actual costs.

Respectfully submitted,

L. Elise Dieterich
Kathy L. Cooper
Counsel for Granite Telecommunications, LLC

Sullivan & Worcester LLP
1666 K Street N.W., Suite 700
Washington, DC 20006
(202) 775-1200

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