

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51

**REPLY COMMENTS OF THE BLOOSTON RURAL CARRIERS
ON THE FURTHER INQUIRY ON UNIVERSAL SERVICE
AND INTERCARRIER COMPENSATION**

The law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, on behalf of its rural local exchange carrier (“RLEC”) clients listed in Attachment A (the “Blooston Rural Carriers”), submits the following reply comments with respect to the Commission’s Public Notice (*Further Inquiry into Certain Issues in the Universal Service – Intercarrier Compensation Transformation Proceeding*), DA 11-1348, released August 3, 2011 (“*Public Notice*”). Specifically, the Blooston Rural Carriers support the Joint Rural Associations Plan (“RLEC Plan”) supported by three RLEC trade associations (NTCA, OPASTCO, WTA) as

modified by the Consensus Framework.¹ The Blooston Rural Carriers oppose various commenters who argue in favor of more drastic changes in universal service and intercarrier compensation that would effectively gut the revenues of rural carriers and endanger the ability of rural customers to obtain high quality broadband services. The Blooston Rural Carriers also oppose various commenters who argue against carrier of last resort requirements and who propose satellite service for universal service.

I. Introduction

The Blooston Rural Carriers and other RLECs are the major success stories of the existing High-Cost Support and Intercarrier Compensation mechanisms. These small companies with limited financial resources have utilized their high-cost support and access revenues first to bring quality and affordable voice services, and more recently to bring broadband services, to rugged, sparsely populated and high-cost rural areas that comprise almost 40 percent of the nation's land area. At the present time, RLECs have deployed predominately hybrid fiber-copper digital subscriber line ("DSL") networks to provide approximately 90 percent of their rural customers with access to higher-speed broadband services (generally in the 1.5-to-5.0 Mbps range). However, the job of furnishing their rural customers with broadband facilities and services reasonably comparable to those available in urban areas is far from complete. Universal

¹ Letter from Walter B. McCormick, Jr., United States Telecom Association, Robert W. Quinn, Jr., AT&T, Melissa Newman, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, Michael D. Rhoda, Windstream, Shirley Bloomfield, NTCA, John Rose, OPASTCO, and Kelly Worthington, WTA, to Chairman Julius Genachowski, Commissioner Michael J. Copps, Commissioner Robert M. McDowell, Commissioner Mignon Clyburn, FCC, WC Docket No. 10-90 et al. (filed July 29, 2011) ("*Consensus Framework Letter*").

service support and intercarrier compensation remain important mechanisms for the continuation of the provision of broadband services in RLEC service areas.

II. The Joint Rural Associations Plan, as Modified by the Consensus Framework, Will Help to Preserve Universal Service

The Blooston Rural Carriers agree with NTCA, OPASTCO and WTA that the Consensus Framework constitutes the best available alternative at this time to enable RLECs to continue to make progress toward the completion of the conversion of their networks to broadband. The proposed RLEC budget targets will allow RLECs to repay their existing construction loans, and to otherwise preserve their current progress in deploying broadband networks and services. They may also permit the extension and upgrade of broadband facilities by some RLECs. By preserving a modified rate of return regulatory system for RLECs, as well as cost recovery based upon embedded costs, the Consensus Framework will help preserve the assurances of repayment necessary to induce lenders to continue to fund RLEC broadband investment projects. Finally, the Consensus Framework provides a smooth transition path, based upon broadband adoption rates, from the existing RLEC high-cost support mechanisms to the future RLEC broadband support mechanism. However, the Blooston Rural Carriers would never have agreed to many of the features thereof (*e.g.*, a decreased 10.0% RLEC interstate rate of return, expanded caps on RLEC corporate operations expenses, constraints on future RLEC capital expenditures, and virtual elimination of RLEC terminating switched access rates) if these features were not part of a broad industry compromise and offset by other provisions (*e.g.*, the restructure mechanism).

III. Drastic Reductions in Universal Service Support and Intercarrier Compensation Will Harm Universal Access to Broadband

Some commenters argue against the Joint Rural Associations Plan, as modified by the Consensus Framework and, in the alternative, propose more drastic reductions in universal service and intercarrier compensation. For example, some commenters urge the Commission to eliminate corporate operations expense and other costs from universal service support calculations,² apparently for no reason other than to drastically reduce the amount of support available to carriers. The Commission should reject this approach, however, because corporate operations expense results from costs inherent in providing telecommunications services, such as the numerous reports required by the Commission to be filed by ILECs and additional tasks ILECs must perform as a result of federal regulations (including the filing of federal tariffs, preparing cost studies to support the NECA tariffs or their own tariffs and reciprocal compensation rates, maintaining records, responding to requests for information by the Commission, filing network outage reports, preparing and maintaining the CPNI manual, responding to formal and informal complaints and negotiating interconnection agreements). To comply with all of these requirements, ILECs must engage employees, managerial staff, accountants, engineers and attorneys, and the associated expense is included in corporate operating expense. Accordingly, there is no basis to support an elimination of corporate operations expense.

The proposals to eliminate all intercarrier compensation, and instead impose bill and keep,³ also are without merit. The argument advanced by some commenters, that such reform is needed to force carriers to transition to all-IP networks, has been soundly refuted by the

² *Comments of the Ad Hoc Telecommunications Users Committee* at pp 18-20.

³ *See, e.g., Comments of Google Inc.* at p 16-17; *Comments of Vonage, Inc.* at p 2-4.

evidence. Rather, this argument is nothing more than a red herring advanced by entities that would like to improve their bottom lines by not paying to use the expensive last-mile networks of other carriers. While the elimination of all intercarrier compensation would help certain entities increase profits, it would do damage to the ability of carriers to ensure the continued availability and expansion of broadband networks and to ensure that rural consumers have access to services at reasonably comparable rates. In short, it is hard to understand how this proposal is in the public interest and the Commission's goal of expanding access to broadband networks.

As indicated, the universal service and intercarrier compensation proposals in the Joint Rural Associations Plan, as modified by the Consensus Framework, will result in a reduction of revenues for many of the Blooston Rural Carriers, which will put pressure on the ability of carriers to continue to advance broadband service. Elimination of even more revenues, as proposed by some commenters, will damage the ability of carriers to ensure the continued availability and expansion of broadband networks. Further, additional cost shifts to end users would run afoul of the requirement in the Act that rural consumers have access to services at reasonably comparable rates. Accordingly, the Commission should reject proposals that call for more significant universal service and intercarrier compensation reductions for rural rate of return carriers.

IV. All ETCs Should Meet Carrier of Last Resort Obligations

The Blooston Rural Carriers agree with and support the Rural Associations' comments with respect to carrier of last resort (COLR) obligations and urge the Commission to impose a COLR obligation on all recipients of federal universal service support. Section 214(e) of the Act establishes comprehensive COLR status and responsibilities for federal universal service recipients. Moreover, the success of rural ILECs in extending voice and broadband services to

all parts of their service area is in large part, a consequence of the serious commitment to meet COLR obligations. If broadband deployment is to be expanded to unserved and underserved areas, especially those served by larger carriers, well defined COLR obligations should be applied to and enforced on all universal service recipients.

V. Current Satellite Service is Not Reasonably Comparable to Service in Urban Areas

The Blooston Rural Carriers oppose the comments of a number of parties concerning the use of satellite services to meet the requirements to provide universal service. It is well documented that current satellite service is not of sufficient quality and reliability to satisfy a carrier's requirement to provide reasonably comparable services to rural consumers.⁴ This distinction is all the more important if the Commission adopts a proposal to reduce the amount of support received by a rural ILEC if a competitive carrier does not receive support. A rural carrier's support should not be reduced if the competitive carrier is a satellite service provider. To do so would endanger the ability of rural consumers to obtain reasonably comparable services, as required by the Act.

VI. The Commission Should Address Virtual NXX Practice and the Role of Voluntary Industry Standards

The practice of Virtual NXX has produced a myriad of Court and regulatory proceedings across the country, with attendant consequences in litigation expense, loss of toll support and an

⁴ See, e.g., *Comments of Native Public Media and the National Congress of American Indians*, Docket 11-41, filed June 20 at p 13, citing a recent study from the Rural Mobile and Broadband Alliance (RuMBA) (“When measured against the prevailing definition of broadband, satellite technology falls far short of conventional wired and wireless alternatives, mainly due to latency, bandwidth, price, performance and service shortcomings.”).

increase in expense for rural ILECs.⁵ Through the geographic separation of telephone numbers from the rate center, with which the NPA-NXX number block is associated in the Local Exchange Routing Guide (“LERG”), a call that is normally long distance (or “interexchange”) in nature is made to appear as a local call. This is because the call appears to be local in the ILEC rate center in which the call originates, but in fact the locally rate centered number has been assigned by the interconnected carrier (a wireless or wireline CLEC) to persons resident outside the ILEC’s local calling area.⁶

The Commission, which specifically sought comment on this subject in the *NPRM*, should rule that the practice of Virtual NXX – that is the geographic removal of a telephone number from outside the rate center (or local calling area) where the number block is rate centered in the LERG – results in non-local calling. This holding should specifically apply to wireless carriers, as in the *Sprint VNXX Petition Public Notice*.

The geographic separation of these numbers, as described, deprives rural ILECs of toll support, where VNXX is used to defeat interexchange calling routes. Such toll support could better be invested in maintaining and advancing local exchange and broadband platforms. The Blooston Rural Carriers accordingly urge the Commission to rule on this issue, and put an end to the wasteful patchwork of litigation that results from this unprincipled practice.

⁵ See *Qwest Corp. v. Wash. State Utils. & Transp. Comm’n*, 484 F. Supp. 2d 1160 (W.D. Wash. 2007); *Global NAPS v. Alltel Georgia, Inc.*, Order on Disputed Issues, Ga. Pub. Serv. Comm’n Docket No. 14529-U.

⁶ See, e.g. *Comment Sought On Sprint Petition For Declaratory Ruling Regarding The Rating And Routing Of Traffic By ILECs*, CC Docket No. 01-92, Public Notice, 17 FCC Rcd 13859 (2002) (Sprint VNXX Petition Public Notice); *NPRM* at ¶¶678 and n. 1076.

VII. Conclusion

Therefore, the Blooston Rural Carriers respectfully request the Commission to approve the Consensus Framework for the RLEC Plan, as proposed.

Respectfully submitted,
THE BLOOSTON RURAL CARRIERS

By: /s/ Mary J. Sisak

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Dated: September 6, 2011

Attachment A – The Blooston Rural Carriers

BEK Communications Cooperative
Bergen Telephone Company
Bloomer Telephone Company
Bruce Telephone Company, Inc.
Cameron Communications, LLC
Farmers Independent Telephone Company
Granite State Telephone, Inc.
Harrisonville Telephone Company
Hector Communications Corporation
La Motte Telephone Company, Inc.
La Ward Telephone Exchange, Inc.
Lincoln County Telephone Sys, Inc.
Manawa Telephone Company, Inc.
Manti Telephone Company
Nucla-Naturita Telephone Company
Penasco Valley Telephone Cooperative, Inc.
Pinnacles Telephone Company
Public Service Telephone Company
South Dakota Telecommunications Association
Sharon Telephone Company
Spring Grove Communications
Upper Peninsula Telephone Company
Walnut Telephone Company, Inc.

Service List

On September 6, 2011, a copy of the forgoing **Comments of the Blooston Rural Carriers on the Further Inquiry on Universal Service and Intercarrier Compensation** was served on each of the following via U.S. Mail, postage prepaid, or electronic mail, as indicated:

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