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September 23, 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 September 22, 2011, Joe Gillan of Gillan Associates, on behalf of COMPTEL, and the undersigned met with Rebekah Goodheart, Marcus Maher, and Albert Lewis of the Wireline Competition Bureau to discuss the *Competitive Amendment* COMPTEL submitted in the above-referenced dockets. Attached is the presentation, provided during the meeting, of the issues COMPTEL discussed.

In addition, COMPTEL emphasized that the Commission's Order needs to confirm that IP interconnection is subject to 251(c)(2) of the Act so that carrier negotiations may begin. Any uncertainty in this area will further delay negotiations and have the effect of frustrating additional broadband deployment, in direct contravention of the Commission's goals. If the Commission were to adopt a further NPRM on this issue, it should only be to determine if rule changes are useful at this time, or if the statute provides sufficient guidance.

We also emphasized that, as a legal and policy matter, the Commission cannot adopt the ABC Plan as it relates to transport. As stated in our comments, the statute does not offer the Commission a choice as to whether 251(b)(5) – and, as a consequence, the pricing requirements of §252(d)(2) – apply to only termination but not transport, or only some forms of transport, but not to others. The statute unambiguously applies to both the transport *and* termination of traffic. Consequently, once the Commission brings all interstate and intrastate traffic under section 251(b)(5), the dedicated transport (as well as transport switched through a tandem) associated with such traffic is subject to the Commission's reciprocal compensation methodology and state arbitration where applicable.

We also stressed that even if the Commission didn't use 251(b)(5) to reform ICC, but relied on its goal to eliminate arbitrage to justify reform, such reform would not be legally sustainable without reforming transport (as well as termination) since significant arbitrage opportunities would remain. Specifically, the ABC Plan proposes to continue the differential pricing of access minutes and local minutes (or, in the case of dedicated transport, access capacity or local capacity), which is the root cause of arbitrage. Only by completely eliminating any distinction between access traffic and local traffic can the Commission eliminate arbitrage and adopt a competitively neutral intercarrier compensation regime.

Respectfully submitted,

/s/ Karen Reidy

Karen Reidy
VP –Regulatory Affairs

cc (via email): Rebekah Goodheart
Marcus Maher
Albert Lewis