

December 20, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-A325
445 12th Street, SW
Washington, DC 20554

Re: *Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; High-Cost Universal Service Support, WC Docket No. 05-337; A National Broadband Plan for Our Future, GN Docket No. 09-51*

Dear Ms. Dortch:

As a supplement to our joint filing on December 14, 2011,¹ CenturyLink, FairPoint, Frontier, and Windstream (hereinafter “the mid-sized price cap carriers”) submit the following additional information in support of our request that the Commission revisit its decision to adopt bill-and-keep as the immediately applicable default compensation methodology for non-access traffic between CMRS providers and local exchange carriers (“CMRS-LEC traffic”):

- In a significant portion of each of the mid-sized price cap carriers’ interconnection agreements, the interconnection agreements specify that (1) amendments that are executed pursuant to a change of law provision will become effective on the effective date of the relevant change in law or (2) a party may withhold payment if there is a bona fide dispute, which may be based upon a relevant change in law. As a result, the effective date of the amendments implementing the new default compensation methodology for CMRS-LEC traffic will be the effective date of the Commission’s comprehensive reform Order, and in instances where payment initially is based upon prior intercarrier compensation rules, parties will have to provide appropriate billing credits to the each other to reflect the bill-and-keep compensation methodology implemented as of the effective date of the Order. The amount of time required to negotiate and execute amendments reflecting the change in law is largely irrelevant under these conditions.
- Based upon the experience of some of the mid-sized price cap carriers, some CMRS providers are contending that the Commission’s decision to adopt bill-and-keep as the immediately applicable default compensation methodology for CMRS-LEC traffic is a self-effectuating decision, regardless of provisions in interconnection agreements that address a change in law. This interpretation of the Order appears to be contrary to paragraph 1000 of the Commission’s Order (discussing expected lag-time prior to actual implementation and assumed ameliorative effect thereof). Nevertheless, some CMRS providers have announced

¹ Letter from Karen Brinkman, Karen Brinkman PLLC, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92, WC Docket Nos. 10-90, 07-135, 05-337, GN Docket No. 09-51 (Dec. 14, 2011).

their intention to withhold payment immediately on this basis, and the mid-sized price cap carriers will suffer immediate cash flow reductions if disputes are allowed to continue.

Please contact the undersigned if you have any questions.

Sincerely,

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