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
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
	)	
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
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

Comments of TCA

I. Introduction

On November 18, 2011 the Federal Communications Commission (FCC) released a Further Notice of Proposed Rulemaking (FNPRM) inquiring into certain issues in the dockets referenced above.[1] Specifically, the FCC seeks comment on Intercarrier Compensation (ICC) rates, the ICC Recovery Mechanism, and the transition to Bill and Keep.

[1] 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, Universal Service Reform – Mobility Fund, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov.18, 2011) (*USF/ICC Transformation Order*).

TCA strongly supports policies that will achieve universal voice and broadband service, but this can only be achieved by the FCC ensuring that joint and common costs of the RoR LEC networks have sufficient funding. Finally, eliminating all ICC - which is the premise of a bill-and-keep regime - would only discourage broadband deployment by RoR LECs.

TCA is a national consulting firm that performs financial, regulatory and marketing services for over one-hundred rural LECs and their affiliates. The vast majority of TCA clients are RoR regulated in the interstate jurisdiction and offer traditional voice and broadband services to their customers. Because of their sparsely-populated, high-cost service areas, they are heavily dependent upon federal and state high-cost support and ICC revenues.

II. RoR LECs must receive adequate compensation for the use of their networks.

All carriers using RoR LECs networks should pay their fair share of joint and common costs. However, a bill-and-keep regime establishes ICC rates at zero - and allows carriers free access to RoR LEC networks. This lack of compensation deprives RoR LECs of a critical revenue stream to pay for the construction and maintenance of these networks in high cost areas. The FCC has already begun the process of reducing all terminating access rates (as well as intrastate originating access rates) to bill and keep.[2] By establishing a transitional recovery mechanism, the FCC acknowledges the importance of these ICC revenues for RoR LECs.[3]

[2] *USF/ICC Transformation Order* at para. 847

[3] However, TCA contends that the transitional recovery mechanism created by the FCC fails to provide sufficient explicit support to offset lost ICC revenues.

Bill-and-keep regimes only work in situations where carriers exchanging traffic have relatively equal amounts of traffic and relatively equal costs of providing service. However, if one of the carriers is larger and produces more traffic or one carrier incurs much greater costs to provide the same service, then bill-and-keep is not appropriate - as it provides the carrier serving the lower cost area an enormous financial benefit. The smaller carrier - who typically serves the higher cost areas - is left shouldering the burden of providing the more costly service while receiving far less costly service in return. Reducing ICC rates to zero allows larger carriers to take advantage of RoR LECs and places rural economies in economic danger.

RoR LECs earn ICC revenues by providing a service to other carriers - termination of their customers' calls. RoR LECs incur cost in order to provide this service. Any reduction of the revenues that recover these costs needs to be replaced by an equivalent recovery mechanism. RoR LECs require sufficient and stable sources of revenue in order to make the ongoing network investments necessary to keep pace with the bandwidth needs of their communities, and to offer their broadband services at affordable rates.

TCA has consistently supported reducing and unifying terminating ICC rates to eliminate arbitrage opportunities. [4] However, TCA has never advocated that the appropriate ICC termination rate is zero. Instead, the FCC should take into account the cost characteristics of individual carriers

[4] See Comments of TCA, *Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, GN Docket Nos. 09-47, 09-51, 09-137, NBP Public Notice #19, DA 09-2419 (rel. Nov. 13, 2009), filed December 7, 2009, at pp. 9.
Comments of TCA, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, *Universal Service Contribution Methodology*, WC Docket No. 06-122, *Numbering Resource Optimization*, CC Docket No. 99-200, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, *IP-Enabled Services*, WC Docket No. 04-36, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking., filed November 28, 2008, at pp.9.

(or groups of similar carriers) and derive cost-based ICC termination rates as required by 1996 Act.[5] There is no question that there is a significant difference in the cost of termination for a large carrier like Verizon and small RoR LEC, who may serve less than one customer per square mile. [6] Accordingly, the FCC should include higher termination rates for carriers serving more sparsely-populated areas. Therefore, the FCC needs to end the pursuit of a bill-and-keep regime as the "end state" for all telecommunications traffic exchanged for RoR LECs.[7]

III. Adopting Bill and Keep Regime for ICC absent a sufficient restructure mechanism will harm broadband deployment by RoR LECs.

The FCC's initial steps in the reform of ICC - ending phantom traffic and arbitrage[8] and confirming that Voice over Internet Protocol (VoIP) traffic over the Public Switched Telephone Network (PSTN) is subject to payment of access charges[9] - have been favorable. However, reductions in the ICC rates of RoR LECs cannot occur absent a sufficient recovery mechanism to offset these lost revenue streams. Unfortunately, the transitional recovery mechanism created by the FCC fails to meet this test – and does not provide sufficient explicit support to offset lost ICC revenues. RoR LECs currently have three primary sources of revenues – ICC, end users and high

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[5] 47 U.S.C. §252(d).

[6] See *Access Charge Reform, Price Cap Performance for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service*, CC Docket No. 96-262 et al., Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, FCC00-193, ¶176 (rel. May 31, 2000) The FCC recognized the differential in cost of termination among price cap carriers and established higher access rates for carriers with lower-density service areas.

[7] *USF/ICC Transformation Order* at para. 34.

[8] *USF/ICC Transformation Order* at para. 33.

[9] *USF/ICC Transformation Order* at para. 40.

cost funds. Should the FCC eliminate ICC revenues and fail to provide a sufficient recovery mechanism, RoR LECs will be unable to recoup these lost revenues, as the 1996 Act correctly limits end users' contributions in high cost areas to those "reasonably comparable to the end user contributions in urban areas."[10] Migrating all ICC to a bill and keep regime without a sufficient recovery mechanism will eliminate critical revenues that are essential for RoR LECs to further deploy and maintain broadband-capable networks.

By adopting a bill-and-keep regime for ICC, the FCC is effectively abandoning its stated goal to "ensure that robust, affordable voice and broadband service, both fixed and mobile are available to Americans throughout the nation."[11] The construction of many RoR LEC networks has been funded by the Rural Utilities Service (RUS), CoBank and Rural Telephone Finance Cooperative (RTFC). These traditional industry lenders place heavy reliance on the projected revenues of their borrowers. By eliminating ICC revenues under a bill and keep regime, these lenders need to evidence that these lost revenues will be offset by a sufficient and predictable restructure mechanism. This is even more critical after the considerable caps and cuts – both adopted and proposed – by the FCC.[12] Failing to offset revenues lost under a bill and keep regime, will further increase the reluctance of these lenders to provide critical funding to RoR LECs - which will prevent advancing the deployment of broadband in high cost areas of the country.

While the FCC acknowledges the very real costs of creating and maintaining rural networks by creating the recovery mechanism, it is imperative that it not be phased out over a

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[10] 47 U.S.C. §254(b)(3).

[11] *USF/ICC Transformation Order* at para. 1.

[12] *USF/ICC Transformation Order* at para. 40 The FCC notes that its reforms will result in approximately two-thirds of RoR LECs incurring revenue reductions.

relatively short term. Instead, the recovery mechanism must continue on a long-term basis to allow RoR LECs to perform network upgrades and maintenance necessary for universal broadband. Furthermore, in order to comply with the 1996 Act's mandate that "there should be…**sufficient** Federal and State mechanisms to preserve and advance universal service" [13] the recovery mechanism should be in addition to the FCC's proposed Connect America Fund (CAF) budget for RoR LEC's of $2 billion. [14]

IV. Conclusion

TCA urges the FCC to adopt policies that will achieve universal voice and broadband service and abandon those that will undermine broadband deployment. Successful policies will recognize the importance of RoR LECs in deploying broadband in rural areas and will seek to ensure that consumers in these areas are not treated as second class citizens but are provided with the opportunity to enjoy broadband service at the same level as consumers in other parts of the country.

[electronically filed]

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[13] 47 U.S.C. §254(b)(5).

[14] *USF/ICC Transformation Order* at para. 126.