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
	)	
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

INTERCARRIER COMPENSATION COMMENTS OF THE ALASKA RURAL COALITION

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Executive Summary

Many of the intercarrier compensation reforms contained in the *Transformation Order* eliminate an important source of funding for rural ILECs across the country. The further reforms proposed in the *Transformation FNPRM* further exacerbate an already difficult situation. The ARC respectfully submits these comments to demonstrate the problems that chronically underfunding wireline network maintenance and investment will pose for all carriers serving rural America, especially Remote Alaska.

Adopting a bill and keep pricing methodology as the default methodology for all telecommunications traffic at the end of the transition period ignores critical recovery of legacy network investment made by rural ILECs. Rural carriers have invested substantial resources into building and maintaining legacy networks. The ARC rejects the Commission's premise that the incremental cost of call termination is zero. The Regulatory Commission of Alaska is the proper regulatory body to facilitate meaningful ICC reform in Alaska. The Commission should defer to states in creating a transition to bill and keep for originating access.

Transitioning to a bill and keep pricing methodology will impose substantial hardship on rural ILECs in Alaska by compounding their financial insecurity. The ARC urges the Commission to fully evaluate the cumulative effect of the USF and ICC reforms on rural carriers before further hampering recovery of network maintenance and investment.

Interconnection relationships in Remote Alaska differ from other rural carriers which will make defining the network edge a difficult proposition. Interconnection agreements remain a critical tool to govern relationships and legal obligations between carriers. All telecommunications carriers should be subject to interconnection obligations, including middle mile providers.

Recovery mechanisms must ensure that rural ILECs recover legacy network investment and ongoing maintenance costs or risk significant degradation of critical network infrastructure. It is unclear whether the Access Recovery Charge will truly make ILECs whole, but the proposed calculation seems punitive for those states like Alaska who have already undergone access reform.

The Commission should adopt a flexible approach to IP-to-IP interconnection. One size will not fit all during this transition and technology challenges to an IP interconnection must be taken into account. Penalizing small rural carriers already suffering from inadequate support for failing to transition quickly enough to an IP network fails to capture the spirit or letter of universal service regulation and creates an additional roadblock to success.

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COMMENTS OF THE ALASKA RURAL COALITION

Adak Eagle Enterprises LLC

Arctic Slope Telephone Association Cooperative, Inc.

Bettles Telephone, Inc.

Bristol Bay Telephone Cooperative, Inc.

Bush-Tell, Inc.

Circle Telephone & Electric, LLC

Cordova Telephone Cooperative, Inc.

Copper Valley Telephone Cooperative, Inc.

City of Ketchikan, Ketchikan Public Utilities

Matanuska Telephone Association, Inc.

OTZ Telephone Cooperative, Inc.

Interior Telephone Company

Mukluk Telephone Company, Inc.

Alaska Telephone Company

North Country Telephone Inc.

Nushagak Electric and Telephone Company, Inc.

The Summit Telephone and Telegraph Company, Inc.

Yukon Telephone Company, Inc.

I. Introduction.

The Alaska Rural Coalition[1] ("ARC") files its Comments in this proceeding pursuant to the *Further Notice of Proposed Rulemaking* issued by the Federal Communications Commission ("Commission") on November 18, 2011.[2] The ARC filed Comments on January 18, 2012 and Reply Comments on February 17, 2012 regarding universal service reforms proposed by the Commission in its November 18, 2011 *USF/ICC Transformation Order* ("*Transformation Order*"). The ARC's comments herein respond to Sections XVII.L-R of the *FNPRM.*

The ARC membership consists of essentially all of the rate of return incumbent rural local exchange carriers ("RLECs") in Alaska,[3] who share unified interests regarding the impacts of further proposed changes in universal service funding and access charge revenues to the state. The ARC urges the Commission to focus on creating stability in the regulatory environment as it implements the details necessary to effectuate the change outlined in the *Transformation Order.*[4]

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1 The ARC is composed of Adak Eagle Enterprises LLC; Arctic Slope Telephone Association Cooperative, Inc.; Bettles Telephone, Inc.; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Circle Telephone & Electric, LLC; Cordova Telephone Cooperative, Inc.; Copper Valley Telephone Cooperative, Inc.; City of Ketchikan, Ketchikan Public Utilities; Matanuska Telephone Association, Inc.; OTZ Telephone Cooperative, Inc.; Interior Telephone Company; Mukluk Telephone Company, Inc.; Alaska Telephone Company; North Country Telephone Inc.; Nushagak Electric and Telephone Company, Inc.; The Summit Telephone and Telegraph Company, Inc. and Yukon Telephone Company, Inc.

2 See Connect America Fund, WC Docket No. 10-90, A National Broadband Plan for our Future, 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, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("Transformation Order" and "Transformation FNPRM").

3 The other ILECs in the state are the ACS companies, which are all price cap, and United Utilities, Inc., a rural ILEC that is wholly owned and controlled by GCI.

4 Shawn Buckley, *FCC Goes Public with Its Ambitious Connect America Fund,* Fierce Telecom (Nov. 21, 2011), http://www.fiercetelecom.com/story/fcc-goes-public-its-ambitious-connect-america-fund/2011-11-21 ("It is essential that the order and the final outcome of the

II. Transitioning All Rate Elements to Bill and Keep Ignores Critical Recovery of Legacy Network Investment Made by Rural ILECs.

Adopting a bill and keep pricing methodology as the "default methodology that will apply to all telecommunications traffic at the end of the complete transition period"[5] ignores the reality of network maintenance and investment in Rural America and Remote Alaska. Rural carriers, including all of the ARC companies, have invested substantial resources, both public and private, into building and maintaining their legacy networks.[6] The regulatory ICC reform introduced by the Commission in the *Transformation Order* and the implementation issues currently under consideration fail to provide any certainty about whether adequate support will

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further notice of proposed rulemaking eliminate lingering regulatory uncertainty so that small rural carriers can attract capital and operate high-quality rural broadband networks[.] . . . That uncertainty has a near and long-term effect on how rural service providers can expand broadband to more of their users."); *see also* Ross Boettcher, *Shift for Rural Telecoms*, OMAHA WORLD-HERALD, Nov. 22, 2011, *available at* http://www.omaha.com/article/20111102/MONEY/711029925 ("U.S. Rep. Lee Terry, vice chairman of the Energy and Commerce Committee's subcommittee on Communications, Technology and the Internet, said he realizes the lack of predictability is an issue.").

[5] *Transformation FNPRM* at para. 1297.

[6] Legacy, wireline networks in rural areas provide the backbone of the larger network. Other providers depend on the legacy network for call completion and transport services. Underfunding these networks will undermine the Commission's larger goal of deploying broadband in rural areas. *See* Shirley Bloomfield, Chief Executive, Nat'l Telecomm. Coop. Ass'n, Letter to the Editor, *Rural Broadband*, N.Y. TIMES, Feb. 28, 2011, *available at* http://www.nytimes.com/2011/03/01/opinion/l01broadband/html ("We must remember that it is because of the current system that 95 percent of consumers have access to some form of broadband. Under the existing subsidy system, small, independent companies serving rural communities are the innovators that have made it possible for the global economy to reach remote areas, creating jobs, investment and opportunity."); *see also* Edwin B. Parker, *Closing the Digital Divide in Rural America*, 24 TELECOMM. POL'Y 281, 284 (2000) ("In general, the best rural service is provided by rural telephone cooperatives and small independent telephone companies that are eligible for construction loans from the Rural Utilities Service and cost reimbursement from the Federal Communications Commission's (FCC) high-cost fund.").

be available to maintain those networks, let alone to create the additional investment necessary to connect those broadband-capable legacy networks to the internet backbone.[7]

The Commission's approach places a substantially larger responsibility for funding network investment on end users.[8] End users in Alaska can bear no additional costs without significant hardship. Alaska has already undergone sweeping access reform and the Commission's approach penalizes the carriers in the state for their past compromise.[9]

A. The Incremental Cost of Call Termination is Not Zero for Alaska Rural Carriers.

The Commission's transition to a bill and keep pricing methodology depends on a premise that the incremental cost of call termination is zero.[10] The ARC rejects that premise for Remote Alaska.[11] Network construction and maintenance requires a continuing investment.

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[7] *See also* Open Letter from David J. Villano, Assistant Administrator, Telecommunications Program, Rural Utilities Service, USDA (Feb. 3, 2012), *available at* http://www.rurdev.usda.gov/supportdocuments/LetterReInfrastructureLoanApps.pdf.

[8] *See Transformation Order* at para. 746. "But bill-and-keep merely shifts the responsibility for recovery from other carrier's customers to the customers that chose to purchase service from that network plus explicit universal service support where necessary."

[9] *See In re Consideration of Modifying Alaska Access Charge Policies and the Use of the Alaska Universal Service Fund to Promote Universal Service in Alaska*, Order Adopting Regulations and Requiring Report, Docket No. R-08-003 (Aug. 18, 2010) ("*Alaska Access Order*"). Alaska carriers participated in an involved and grueling process to reform access charges. The RCA's resulting Order substantially lowered access charges and allocated a portion of the network costs to the end users in the form of a Network Access Fee. Any additional increase in cost to end users will further exacerbate the migration of customers to a wireless platform, further imperiling the wireline system.

[10] *See Transformation Order* at para. 746 n.1309 ("The Commission has cited evidence suggesting that the forward-looking incremental cost of terminating traffic was extremely low, and very near $0—certainly much lower than current switched access charges, and even many reciprocal compensation rates."). *See, e.g.*, *In re High-Cost Universal Service Support*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd. 6475, 6610–11 at paras. 254–57, 6613–14 at paras. 260–61, 6808–10 at paras. 249–52, 6811–12 at paras. 255–56 (2008).

[11] The Regulatory Commission of Alaska ("RCA") created a useful pie chart that articulates the breakdown of revenue for Alaskan ILECs. *See Reply Comments of the Regulatory Commission*

Support for critical network functions comes from revenue generated from intercarrier compensation.

B. The Regulatory Commission of Alaska is the Proper Regulatory Body to Determine the Steps and Details of ICC Reform.

The Commission's reform of the intercarrier compensation system applies a blanket solution to a fragmented problem. The ARC does not deny that the access system needs reform in some parts of the country.[12] Some State Commissions have tackled the issue and produced meaningful reform while others have allowed the system to deviate from meaningful cost recovery. Alaska counts itself among states that have undergone meaningful reform.[13]

The Commission seeks comment on whether it should defer to the states to create a transition to bill and keep for originating access.[14] The ARC strongly supports a strong role for State Commissions to regulate intrastate access pricing. Flexibility in tailoring a federally-mandated methodology to a state represents a particularly important element of a successful transition in a state like Alaska. The unique circumstances affecting the provision of telecommunications and related network challenges suggest that the application of a general pricing rule could produce draconian results.

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of Alaska, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Sept. 6, 2011) ("*RCA USF Reply Comments*") at 8.

[12] *See generally Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al. (rel. Feb. 9, 2011) at paras. 494–96 (discussing general abuses and arbitrage in the access system).

[13] *See Alaska Access Order* at 4. ("We further note that the regulations we adopt are the product of over two years of extensive collaborative study and effort by the industry, the Attorney General and [the Regulatory Commission of Alaska].").

[14] *Transformation FNPRM* at para. 1302.

Intrastate originating access charges have historically been the responsibility of State Commissions.[15] The reforms proposed in the *Transformation FNPRM* would strip authority away from the State Commission and apply a general pricing methodology that does not benefit rural areas of the country. The ARC is troubled by the Commission's suggestion that Suspension and Modification relief would no longer be an available tool for State Commissions.[16] The Commission asserted, "we urge states not to grant any petitions seeking to modify or suspend the bill-and-keep provisions we adopt herein. We will monitor state action regarding the reforms we adopt today, and may provide specific guidance for states' review of section 251(f)(2) petitions in the future."[17] In Alaska, Suspension and Modification has been used very sparingly, but it has proven an important safety net for rural companies.[18] The Commission's edict to State Commissions appears on its face to overstep its authority and jurisdiction.

III. Transition to a Bill and Keep Pricing Methodology Will Impose Substantial Hardship on Rural ILECs in Alaska.

The Commission seeks comment on the transition to a bill and keep pricing methodology for the remaining rate elements, not covered by the *Transformation Order* with the intention of

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[15] The Commission originally concluded that reciprocal compensation applies "only to traffic that originates and terminates within a local area." *In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd. 15499, 16013 para. 1034 (1996).

[16] In Alaska, Suspension and Modification has been successfully used to transition to the use of Unbundled Network Elements ("UNEs"). *See In re Petition for Suspension and Modification of Certain Section 251(c) Obligations Pursuant to Section 251(f)(2) of the Telecommunications Act of 1996 Filed by Matanuska Telephone Association Inc.*, Order Granting in Part, Petition for Suspension and Modification and Affirming Electronic Rulings, Docket No. U-05-046 (Dec. 20, 2005) ("*Alaska Suspension and Modification Order*"). In this Order, the RCA granted a limited suspension and modification of section 251 to allow the Matanuska Telephone Association to transition more slowly to the provision of UNEs. The process worked well for all parties and represents a valuable tool for State Commissions when blanket application federal competition rules would demonstrably harm a rural company.

[17] *See Transformation Order* at para. 824.

[18] *See Alaska Suspension and Modification Order*.

completing the transition as soon as possible.[19] The ARC remains concerned that the transition of the remaining rate elements may further compound the financial insecurity of rural carriers.[20] The ARC urges the Commission to fully evaluate the cumulative effect of the USF and ICC reforms on rural carriers before further hampering recovery of network maintenance and investment.

A. Further Reform of Transport and Termination Charges Highlight Key Differences Between Alaska and Continental United States.

The Commission seeks comment on the transition for tandem switching and transport charges.[21] The Commission's diagram describes how tandem routed access elements exist for most of the nation.[22] For many reasons, access tandem architecture never developed in Alaska. Rather than an ILEC tandem switch, carriers must connect to ILECs at their individual End Office Switches.[23] This fundamental difference in network architecture highlights a key difference that Alaska's recent access reform took into account.[24] To apply broad access reform on a state where the fundamental assumptions are false does not serve the public interest.

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[19] *See Transformation FNPRM* at para. 1297.

[20] *See, e.g.,* BUREAU OF ECON. RES., MO. STATE UNIV., ECONOMIC IMPACT OF REMOVAL OF THE UNIVERSAL SERVICE FUND IN MISSOURI 1–17 (2011) ("MSU STUDY"), *available at* http://saveruralbroadband.org/facts/News/Missouri%20Economic%20Impact%20Study.pdf?_c=10dcuvrzjh7t8ep&sr_t=p&done=.10dcuwfzob758ji (studying the effects of the FCC's proposed USF reforms on 35 mostly rural ILECs and concluding that a significant number of ILEC will not be able to make up for the lost revenue elsewhere in order to sustain revenues necessary to remain in operation).

[21] *Transformation FNPRM* at para. 1306.

[22] *Transformation FNPRM* at figure 13.

[23] Alaska ILECs are investigating mechanisms to implement more efficient network architecture akin to access tandems, but a shift to more efficient networks will take time, investment and a flexible regulatory environment.

[24] *See generally Alaska Access Order* (weighing the effects of access reform on maintaining critical network infrastructure).

The ARC does not have a specific position on tandem switching and transport since our companies do not participate in this regime, but the ARC believes the Commission should take action that will preserve cost recovery for rural ILECs. As intercarrier compensation causes additional upheaval for rural carriers struggling to digest and cope with an entirely new system of high cost support, conventional wisdom would suggest that the Commission should take action to maintain sources of network recovery.

B. Interconnection Relationships in Remote Alaska Differ From Rural America.

The Commission seeks comment on the "nature of interconnection arrangements with rural carriers today."[25] As background, the Commission points out that the Commission interprets section 251(c)(2)(B) to allow a competitive LEC to connect at a single point of interconnection ("POI") per LATA.[26]

In Alaska, there are no LATAs as commonly understood by carriers in the lower 48.[27] The ARC does not believe the POI issue will directly impact its members currently, but as network architecture evolves in the state and as the traffic that transits those networks becomes more packet based, the issue may have implications for Alaska. As discussed in previous comments to the Commission, the ARC is very concerned about access and pricing of middle mile transport.[28] As the Commission considers how to regulate transport and POI, it should keep

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[25] *Transformation FNPRM* at para.1316.

[26] *Transformation FNPRM* at para. 1316.

[27] *See* Latamaps.com, US LATA Areas (Map), http://www.latamaps.com/Telecom_Maps/Regional_LATA_maps/Westcoast_LATA_Map_-_Maponics.pdf (last visited Feb. 22, 2012) (showing that all of Alaska is one big LATA).

[28] *See Alaska Rural Coalition Petition for Reconsideration*, WC Docket No. 10-90 et al. (Dec. 28, 2011) at 10–16; *Comments of the Alaska Rural Coalition*, WC Docket No. 10-90 et al. (Jan. 18, 2012) ("*ARC USF Comments*") at 4-8; *Reply Comments of the Alaska Rural Coalition*, WC Docket No. 10-90 et al. (Feb. 17, 2012) ("*ARC USF Reply Comments*") at 13–16.

the regulation of middle mile facilities in mind and realize that reasonably priced, competitive middle mile transport is very lacking in Alaska.

C. Defining the Network Edge Will Have Serious Implications for Compensation in Remote Alaska.

The Commission seeks comment on how to properly define the network edge for intercarrier compensation purposes.[29] The Commission considers the network edge to be "the point where bill and keep applies, a carrier is responsible for carrying, directly or indirectly by paying another provider, its traffic to that edge."[30] In Alaska, the network edge will be particularly difficult to identify and regulate.[31] As Alaskan carriers, legislators and regulators have commented to the Commission, the lack of adequate terrestrial middle mile, no LATA network configuration, and dependence on satellite and microwave facilities will make a universal definition of the network edge difficult to apply to Alaska.[32]

The ARC strongly supports a robust role for State Commissions in defining the network edge. The Commission's discussions and considerations include "competitive alternatives" for transport, but in Remote Alaska there is inconsistent competition, and transport is often provided via satellite facilities.[33] The ARC believes that negotiated and occasionally arbitrated disputes

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[29] *See Transformation FNPRM* at para. 1320.

[30] *Id.*

[31] The widespread use of satellite transport and non-contiguous service areas are just two factors that will make network edges in Alaska less predictable than other rural areas.

[32] *See ARC USF Comments* at 5; *Comments of Alaska Communications System Group, Inc.*, WC Docket No. 10-90 et al. (Jan. 18, 2012) ("*ACS USF Comments*") at 21; *Comments of General Communication Inc.*, WC Docket No. 10-90 et al. (Jan. 18, 2012) ("*GCI USF Comments*") at 22–23; *RCA USF Reply Comments* at 6–7.

[33] *Transformation FNPRM* at para. 1321. *See also Comments of Microcom*, WC Docket No. 10-90 et. al (Jan. 5, 2011) at 2 (commenting on the importance of satellite transport service capability in Alaska).

about the network edge and cost obligations are best handled by the State Commission best positioned to understand the nuances of the network architecture in a state.

D. Interconnection Agreements Remain a Valuable Tool To Govern Relationships and Obligations Between Carriers.

The Commission seeks comment on the role of tariffs and interconnection agreements during the transition process to a bill and keep pricing methodology.[34] The ARC believes that the methodology as proposed will cause significant disruption in a previously reliable mechanism to recover the cost of network maintenance and investment. As discussed previously, the ARC does not support imposing bill and keep in Alaska. To the extent the Commission requires all carriers to transition to a bill and keep pricing methodology, the greater flexibility provided to carriers the more manageable the inevitable chaos. Given the unique network structure in Alaska, a tariffed offering is unlikely to capture all of the needed information regarding billing relationships. The ARC supports the ability of companies to negotiate interconnection agreements to memorialize their common understanding.

The ARC supports an extension of the *T-Mobile Order* requirements to all telecommunication carriers, including competitive LECs or other interconnecting service providers.[35] To the extent a carrier passes traffic to an ILEC network, that traffic should be captured and the relationship between the parties documented in an interconnection agreement. The ability to require an interconnection agreement for all commercial users of the network may develop as an important tool for defining a network edge and limiting the potential liability of rural ILECs.

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[34] *See Transformation FNPRM* at para. 1322.

[35] *See id.* at para. 1324.

IV. ICC Access Recovery Mechanisms Must Ensure that Rural Carriers Continue to Receive Fair Compensation for the Use of Their Networks.

The Commission seeks comment on the reform of end user charges and CAF ICC support.[36] As a general matter, the ARC remains deeply concerned that the reform measures already implemented and under consideration will leave rural ILECs with insufficient support for the maintenance of existing networks and the deployment of advanced technology necessary to meet the Commission's broadband goals. Although the Commission provided a small recovery mechanism in the Access Recovery Charge, it cannot adequately replace the substantial access revenue sacrificed in the reform process.

A. Access Revenue Recovery Issues.

The Commission created the Access Recovery Charge in the *Transformation Order* as a replacement for access revenue lost in the transition to a bill and keep pricing methodology.[37] The Commission intended "to mitigate the effect of reduced intercarrier revenues on carriers and facilitate continued investment in broadband infrastructure, while providing greater certainty and predictability going forward than the *status quo*."[38] Unfortunately, the mitigation appears to be minimal and the burden falls directly on end users who can ill afford to bear any additional cost.

In Alaska, access reform has already shifted substantial costs to the end user.[39] An additional financial burden on the end user is unlikely to be welcome and risks further loss of customers to wireless migration. Although well intended, the capped Access Recovery Charge will provide only a modest recovery mechanism and is unlikely to facilitate continued

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36 *See id.* at para. 1326.

37 *See Transformation Order* at para. 36; *Transformation FNPRM* at para. 1327.

38 *Transformation Order* at para. 36.

39 *See, e.g.*, *Alaskan Access Order* at 43 (imposing, after extensive work by industry and regulators, a Network Access Fee to mitigate the costs of access reform).

investment in broadband infrastructure.[40] The ARC believes the Access Recovery Charge should not be scheduled to sunset until more is known about how ILECs have implemented it and its role in the deployment of broadband. Allowing the Access Recovery Charge to continue may provide some rural carriers with a measure of stability and for that reason alone should be allowed to continue until the Commission determines that it is no longer useful.

Included in the Commission's discussion of the Access Recovery Charge, its intended use and proposed sunset, is the expectation that carriers will be "relying more heavily on revenues from broadband services."[41] The reality of increased revenue from increased broadband deployment will take years to realize in rural America. The ARC is deeply concerned that the Commission's decisions regarding intercarrier compensation and reform of access charges are based on an assumption that broadband services will generate sufficient additional revenue to offset the substantial losses imposed by the current reform measures. There is no evidence in the record that broadband services, where adequate middle mile facilities exist, will be adequate to fund the investment needed to bring the service to the highest cost areas, let alone generate positive cash flow for a carrier to offset losses under consideration.[42] Logic would indicate that the additional revenue from providing broadband will be minimal, given the limited number of potential customers in rural areas.

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[40] Rate of return companies can only include at most a $.50 charge per residential customer. ***See*** ***Transformation Order*** at para. 36. Some recovery is better than none, but this mechanism is unlikely to provide a meaningful alternative to the existing access revenue rural ILECs depend upon to maintain legacy networks.

[41] *Transformation FNPRM* at para. 1327.

[42] *See* MSU STUDY at 6–7 (finding that for every 10 percent increase in the price the rural ILECs use to offset the decrease in USF funds, they will lose 7.6 percent of their customers, preventing some ILECs from sustaining revenues to continue operations, and reductions in ICC will magnify this result).

B. CAF ICC Revenue Recovery Issues.

The Commission seeks comment on ICC revenue recovery mechanisms.[43] In addition to the ARC, discussed above, the Commission implemented a specific ICC revenue recovery mechanism to benefit carriers serving high cost areas. "Both recovery mechanisms provide carriers with significantly more revenue certainty than the *status quo*, enabling carriers to reap the benefits of efficiencies and reduced switching costs, while giving providers stable support for investment as they adjust to an IP world."[44] The Alaska Rural Coalition hopes that the ICC recovery mechanism provides stable support capable of maintaining existing network obligations while encouraging additional investment, but until more is known about the calculation of the support, it is difficult to speak with certainty.

The ICC recovery mechanism fails to take into account reform efforts already undertaken by some states. Alaska regulators and carriers spent two years reforming the intrastate access rates, but the calculation of ICC recovery does not capture that effort. As a result, carriers in Alaska will recover less than states where the access rates were artificially high. Furthermore, it is unclear how the capped size of the future high cost support fund, from which ICC recovery will take place, will be adequate given the increased requirements placed on high cost support for broadband deployment.

C. Subscriber Line Charges Plan an Important Role in Network Cost Recovery.

The Commission seeks comment on the magnitude and long-term role of Subscriber Line Charges ("SLCs") in high cost areas.[45] The Commission cites its view that telecommunications carriers will transition to business plans relying more heavily on broadband services making

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[43] *See Transformation FNPRM* at para. 1328.

[44] *Transformation Order* at para. 39.

[45] *See Transformation FNPRM* at para. 1330.

recovery mechanisms like SLCs less necessary.[46] The ARC remains skeptical that broadband services will provide adequate revenue in Remote Alaska to justify the Commission's reliance on it as a funding mechanism. The lack of terrestrial middle mile in Alaska has been discussed at length by all interested parties, as well as the substantially increased costs rural carriers will have to incur purchasing this middle mile capacity to provide broadband. Any additional revenue generated by selling broadband to customers will be completely consumed by the additional middle mile costs.[47] The record contains no evidence that broadband services will generate adequate revenue to offset a loss of SLC in high cost areas.

In Alaska, the SLC represents less than 5% of carrier revenue, but it is an important, stable funding source. The SLC applied by rural ILECs in Alaska is appropriate for the services provided and should not be eliminated.[48] At a time where reliable funding mechanisms are diminishing and service obligations are growing, the Commission should resist the temptation to further erode the support that allows rural carriers to maintain critical legacy network infrastructure. The ARC believes that eliminating yet another source of funding may serve as the knock out punch for rural telecommunications.

The Commission seeks comment on whether or not the "costs of the local loop have been allocated between its use for regulated voice telephone service and its use for other services, such as broadband Internet services, video, or other nonregulated services."[49] Voice remains the foundational service that legacy networks were designed to provide. The Commission's shift in priority to broadband does not alter the central premise that rural ILECs must still recover their

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[46] *See id.*

[47] *See ARC USF Comments* at 4–8; *ARC USF Reply Comments* at 13–16.

[48] *See Transformation FNPRM* at para. 1331.

[49] *Id.* at para. 1331.

legacy network investment, even if it was initially intended for voice. In Alaska, voice is likely to remain the primary service provided on ILEC networks until terrestrial middle mile becomes more affordable and available or satellite technology and capacity improves.[50] The ARC encourages the Commission to at least wait to assess the allocation of local loop costs until the new broadband obligations have been in place for a statistically significant amount of time.

V. The Commission Should Adopt a Flexible Regulatory Framework for IP-to-IP Interconnection.

The Commission seeks extensive comments regarding the transition to an IP-to-IP network described in the *Transformation Order*. The ARC remains unconvinced that an IP-to-IP solution will become viable in all rural markets. The lack of adequate middle mile facilities coupled with limited resources for investment make an expedited transition to IP-to-IP connections less likely. The ARC urges the Commission to leave all regulatory options open while the telecommunications market undergoes rapid and somewhat traumatic transition as a result of the *Transformation Order's* reallocation of high cost support.

A. Interconnection Plays a Vital Role to Building a Successful Statewide and Nationwide Network.

The Commission seeks comment on the role and legal authority for interconnection connection agreements in an IP world.[51] The ARC concurs with the Commission's conclusion: "Interconnection among communications networks is critical given the role of network effects."[52] Navigating interconnection relationships can be a challenge in Alaska where network

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[50] *See ARC USF Comments* at 4–8; *ARC USF Reply Comments* at 13–16.

[51] *See Transformation FNPRM* at paras. 1336–43.

[52] *Id.* at para. 1336.

architecture has been slower to evolve than elsewhere in the nation.[53] Without the benefit of a LATA system, competitors and ILECs must interconnect at every End Office in Alaska, which can create additional expense and complicate interconnection relationships.

The ARC applauds the Commission's long-standing commitment and application of section 251(a)(1) to enforcing interconnection obligations to all carriers.[54] The transition of rural telecommunications carriers to a broadband-oriented service offering will likely impact traditional interconnection relationships. The Commission may have adequate legal authority to assert its jurisdiction and authority over all carriers providing telecommunications services, but the ARC respectfully suggests that the Commission continue to take a broad view of requiring fair interconnection to all facilities required to provide the broadband services required by the Commission. The ARC believes as the Commission's directive to make "a rapid, efficient Nation-wide, and world-wide wire and radio communications service" continues its transition to a digital age, the role of middle mile facilities in accomplishing this essential mission will need to be closely evaluated.[55]

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[53] As noted earlier in these comments, Alaska did not have a Regional Bell Operating Company and did not develop the LATA infrastructure that dominates the lower 48. *See* Latamaps.com, US LATA Areas (Map), http://www.latamaps.com/Telecom_Maps/Regional_LATA_maps/Westcoast_LATA_Map_-_Maponics.pdf (last visited Feb. 22, 2012).

[54] *See Transformation FNPRM* at para. 1337-38.

[55] *Transformation FNPRM* at para. 1336 (quoting 47 U.S.C. § 151). The ARC believes this position is further supported by the Commission's view that the interconnection obligations contained in section 251 are technology neutral. *See id.* at para. 1342.

B. A Narrowly Tailored Approach to IP-to-IP Interconnection May Leave Rural Carriers Vulnerable to Nonregulated Entities.

The Commission seeks comment about the scope of interconnection regulations in "an increasingly IP-centric voice communications market.[56] There appears to be some concern that large ILECs could somehow disadvantage smaller players in the market.[57] The ARC believes that the Commission's regulation of IP-to-IP networks should remain consistent with its regulation of traditional interconnection. All carriers should remain obligated to interconnect their networks in the most efficient configuration possible and negotiate those contractual relationships in good faith, consistent with the Telecommunication Act obligations outlined in section 251.

The Commission proposes that "if a carrier that has deployed an IP network receives a request to interconnect in IP, but instead requires TDM interconnection, the costs of the IP-to-TDM interconnection would be borne by the carrier that elected TDM interconnection."[58] The ARC strongly opposes this proposed cost allocation between carriers. In many rural areas, IP interconnection is just beginning to become a reality. As rural ILECs retire TDM switches, they are likely to be replaced with IP switches, but rural carriers cannot afford to implement a network-wide upgrade absent high cost support to fund the transition. It will likely take many years for the transition to reach all parts of Remote Alaska. To allow an interconnecting carrier to dictate the technology used for interconnection or the allocation of costs places an unacceptable burden on rural ILECs at the time that capital for network investment is

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[56] *See id.* at para. 1339.

[57] *See id.*

[58] *See id.* at para. 1341.

uncertain.[59] The ARC strongly urges the Commission to resist implementing an unnecessary and potentially damaging rule allocating the cost of switching.

The Commission seeks comment on whether IP-to-IP interconnection should be left to unregulated commercial agreements.[60] The ARC does not believe abandoning interconnection regulation is consistent with Commission precedent or sound public policy. Telecommunications has historically been a highly regulated industry. While some of that regulation was onerous and contributed to higher compliance costs than necessary, the alternative of no regulation of interconnection would produce further chaos in the industry. The relationships between regulated and nonregulated entities and services can create needless complication and unintended results. The ARC believes that all entities should be subject to rational regulation designed to encourage the deployment of advanced services.

The Commission's view of interconnection appears based on an assumption that most areas experience robust competition which drives the market and will generate operational efficiencies.[61] It is unrealistic to expect the Alaska market to live up to this expectation. As the ARC described in earlier comments, the transition to a broadband service offering will depend largely on the availability and terms of access to terrestrial middle mile facilities. If the Commission limits itself to regulating only the voice component of an IP network, the ARC worries that it may leave rural carriers without an appropriate remedy when disputes arise. As high cost support transitions from voice to broadband, so must the Commission's regulatory approach.

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[59] Access to capital is becoming more difficult to obtain for rural ILECs as a result of the diminishing high cost support detailed in the *Transformation Order*. *See supra* Buckley, note 4.

[60] *See Transformation FNPRM* at para. 1343.

[61] *See id.* at para. 1344.

C. A Requirement to Negotiate in Good Faith Continues To Serve All Carriers.

The Commission seeks comment regarding "the appropriate scope and nature of requirement for good faith negotiations."[62] The ARC believes that the existing parameters to negotiate in good faith should be applied generally to all carriers, regardless of the type of service it provides or the technology platform used to provide that service.[63] Attempting to establish different obligations to negotiate in good faith depending on the service subset of a carrier would create needless confusion.[64]

The Commission seeks comment regarding the legal authority it should utilize to impose interconnection obligation on all carriers.[65] Rather than engage in a lengthy discussion of the relative legal authority available to the Commission, the ARC encourages the Commission to rely upon a legal authority, or combination of authority, that allows it to regulate all carriers in a consistent and predictable manner. The ARC is concerned that a limited view of the legal authority available to the Commission may constrain its options as the market develops.

VI. Conclusion.

Intercarrier compensation was designed to compensate carriers for the use of their network. For small, rural carriers there is precious little margin for error to recover the cost of maintaining network infrastructure. To eliminate essential recovery at the same time the telecommunications industry is reeling from the drastic changes in the allocation of high cost

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[62] *Id.* at para. 1348.

[63] *See id.* The Commission suggests that some subsets of carriers should be subject to different obligations.

[64] Although the Commission seeks comment regarding whether or not it would need to establish benchmarks by which to judge whether a carrier negotiated in good faith, the ARC declines to guess what issues may arise. Rather, the ARC respectfully suggests that the Commission should begin with the general premise that all carriers must behave as similarly situated carriers acting in a reasonable manner would behave.

[65] *See Transformation FNPRM* at paras. 1351–58.

support creates a financial sinkhole from which many rural carriers will not emerge. The ARC respectfully beseeches the Commission to implement change in a cautious, measured fashion based upon an adequate record of how the existing changes will affect the marketplace.

Respectfully submitted on this 24th day, February, 2012.

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