

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

Connect America Fund	)	WC Docket No. 10-90
	)	
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
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**REPLY COMMENTS OF T-MOBILE USA, INC.**

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## SUMMARY

The initial comments confirm that the broadband deployment envisioned by the National Broadband Plan will require the establishment of a regional Internet Protocol (“IP”) points of interconnection (“POIs”) regime along the lines of the Internet-Modeled Network proposed by T-Mobile USA, Inc. (“T-Mobile”). A wide range of parties acknowledges that Commission oversight is necessary in order to transition the public switched telephone network (“PSTN”) to a competitive all-IP world. Unlike the Internet, the PSTN has tens of thousands of POIs that incumbent local exchange carriers (“ILECs”) can use to impose costs and inefficiencies on competitors. Contrary to the ILECs’ assurances that technology and market pressures will drive all carriers toward IP services without any Commission involvement, IP interconnection rules are absolutely necessary.

The Commission should facilitate the IP transition by imposing the handful of IP interconnection rules suggested by T-Mobile for voice traffic. These rules limit carriers’ ability to obstruct or delay the IP transition by adding unnecessary costs to the exchange or delivery of IP voice calls and ultimately would set a deadline for all carriers to accept all voice traffic at regional IP POIs on a settlement-free basis. As an interim measure, a one POI-per-state limit to be shared by all operating companies under each respective corporate parent would help initiate the IP transition.

Because the oversight of IP interconnections is necessary to ensure reasonable telecommunications service rates for the duration of the IP transition, the Commission has authority under its Title I ancillary jurisdiction to impose these rules on ILECs and other carriers. Moreover, Section 251 of the Communications Act of 1934 (“the Act”) also provides authority for such rules.

All transport and tandem switching rates should be transitioned to “bill-and-keep” (“B&K”) in order to prevent the arbitrage that would result from ILECs shifting costs from end office termination services to tandem switching and transport elements. All functions performed by a carrier to terminate a call to its end user should be covered by the intercarrier compensation (“ICC”) transition.

Transit service also must be regulated during the transition because tandem switching competition is insufficient to ensure reasonable rates. Court and state commission cases over the past several years have held that tandem transit service is governed by the interconnection obligations of Section 251(c)(2) of the Act. Entrance facilities also are subject to Section 251(c)(2) and must be reasonably priced under Section 252(d)(1).

ILEC requests for burdensome POI and network edge rules would prolong the existing interconnection and ICC regime and would frustrate the IP transition. The regressive interim rural transport rule should be eliminated immediately.

Finally, LECs should not be permitted to continue establishing interconnection and traffic exchange rates, terms and conditions through tariffs. All service and facilities rates, terms and conditions should be subject to the Section 251/252 negotiation and arbitration process.

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**REPLY COMMENTS OF T-MOBILE USA, INC.**

T-Mobile replies to the initial comments addressing the ICC issues raised by the Further Notice of Proposed Rulemaking (“FNPRM”) in connection with the *Transformation Order*.<sup>1</sup> T-Mobile and other competitive carriers agree that the Commission must oversee the transition of the PSTN to an all-IP network and that interim interconnection rules and the transition of ICC rates to B&K should be designed to facilitate the IP transition. Failure to follow through on these reforms will leave undone the work begun in the *Transformation Order* and undermine the

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<sup>1</sup> *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011). The Report and Order is cited herein as *Transformation Order*, and the Further Notice of Proposed Rulemaking is cited as FNPRM.

“shift to IP-to-IP interconnection” that the National Broadband Plan identified as key to widespread broadband deployment.<sup>2</sup>

**I. THE COMMISSION SHOULD IMPOSE BASIC IP INTERCONNECTION RULES DURING THE IP TRANSITION PERIOD**

**A. Commission Oversight Is Necessary To Facilitate The Transition To An All-IP World**

T-Mobile agrees with Sprint that IP-to-IP interconnection is the most important issue addressed in the FNPRM.<sup>3</sup> Contrary to ILEC assurances, carriers’ incentives to migrate to next-generation networks will not be sufficient, without regulatory input, to transform PSTN time division multiplexing (“TDM”) voice service “organically” into IP voice service.<sup>4</sup> Even AT&T concedes that interconnection issues “relating to the *transition* to an all-IP world likely will require the Commission’s active involvement on a range of issues involving the PSTN.”<sup>5</sup> Unlike the Internet, the PSTN has tens of thousands of ILEC TDM POIs deployed over the past century, each of which presents an opportunity to impose transport and termination costs, as well as trunking and facility charges, on competitors. ILECs have incentives to maintain these tollgates by forcing competitors to continue delivering traffic exclusively to them in TDM format, thereby delaying the transition to IP.

The Internet, by contrast, was built entirely as an IP network, and presented no such conflicting incentives. All traffic must be delivered in IP format, forcing providers to be as efficient as possible. These incentives, in turn, led naturally to a small number of Internet

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<sup>2</sup> Federal Communications Commission Omnibus Broadband Initiative, *Connecting America: The National Broadband Plan* at 49 (“NBP”), available at <http://download.broadband.gov/plan/national-broadband-plan.pdf>.

<sup>3</sup> Sprint Comments at 1. All of the initial comments relating to ICC issues filed in this proceeding on February 24, 2012 will be cited in this abbreviated manner.

<sup>4</sup> CenturyLink Comments at 36-37. *See also, e.g., id.* at 37-47; Verizon Comments at 9-25.

<sup>5</sup> AT&T Comments at 9 (emphasis in original). *See also* Windstream Comments at 14-15.

exchange points (“IXPs”), without the multiple TDM tollgates that characterize the PSTN.

Without Commission action to remove the economic and architectural obstacles to the conversion from PSTN voice service to IP voice service, the ILECs will have little incentive to make the conversion to an Internet-Modeled Network.

The Commission should, therefore, encourage ILECs and other carriers to facilitate the IP transition by imposing a few simple IP interconnection rules that, except as noted, would be effective immediately:

- Any IP network affiliated with an ILEC should be required to accept any request to exchange voice traffic in IP format.
- An IP network affiliated with an ILEC must negotiate IP voice interconnection on behalf of all of the ILEC’s voice service affiliates. As Sprint argued, an “all-affiliate” IP interconnection rule will prevent ILECs from using affiliates to frustrate competitive carriers’ attempts to negotiate efficient interconnections.<sup>6</sup> This rule would ensure that Section 251 obligations may not be avoided by offering IP-based services through affiliates.<sup>7</sup>
- Ultimately, there should be only a handful of regional IP POIs where IP traffic is exchanged. As Verizon notes, “in an IP network, there can be far fewer network interconnection points.”<sup>8</sup> T-Mobile supports Sprint’s proposal that the Commission establish a presumption, to be applied over the duration of the transition, that regional POIs used by any LEC for IP voice interconnection be located at existing IXPs, so that voice traffic can utilize the same IP facilities that all other carriers and other service providers use for Internet traffic.<sup>9</sup>
- As an interim measure, to be implemented during the first one or two years of the transition, a “one POI per state” limit for each telecommunications corporate entity would help begin the transition from thousands of TDM POIs to a few regional IP

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<sup>6</sup> Sprint Comments at 13-15.

<sup>7</sup> See, e.g., *Ass’n of Communs. Enters. v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) (cited in Time Warner Cable Comments at 13).

<sup>8</sup> Verizon Comments at 15. See also *id.* at 23 (“Verizon envisions IP interconnections occurring at a few hubs per VoIP provider – far fewer than are required for TDM.”).

<sup>9</sup> Sprint Comments at 16-19. The Wireline Competition Bureau has noted, and studies cited by Sprint have found, that voice-over-Internet Protocol (“VoIP”) services will add a relatively insignificant amount of traffic to the existing IP networks used for data and video. *Id.* at 3, 16, 20.

POIs.<sup>10</sup> A one POI per state rule would not require that an ILEC deploy new facilities. Rather, it would be required only to choose one POI from all of its existing switches that would serve as the delivery point for all of the incoming traffic from another carrier.

- Once the IP transition is complete, all IP voice traffic exchanges involving at least one LEC at regional IP POIs should be settlement-free.
- The Commission should, by the end of this year, set a deadline for all carriers to accept voice traffic at the regional IP POIs, preferably by the end of the price cap ICC transition, July 2018.<sup>11</sup> Even AT&T agrees that there should be a PSTN sunset date.<sup>12</sup> The ICC transition and IP transition will be mutually reinforcing, by eliminating incentives to delay the other transition.
- Pending the IP transition deadline, the burden should be on ILECs to demonstrate their good faith in IP interconnection negotiations.

These rules will lessen ILECs' incentives to delay the IP transition and will result in an efficient, technologically and geographically neutral network design, similar to the Internet. During the IP transition, however, while voice traffic is still being exchanged in TDM, ILECs will retain their existing TDM PSTN dominance, which these interconnection rules will help mitigate.<sup>13</sup>

T-Mobile recognizes that there will be additional costs for it and other carriers associated with deploying additional transport capacity to connect with IXPs, but those costs will be outweighed by the savings and efficiencies resulting from all-IP interconnected traffic.

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<sup>10</sup> AT&T's argument that the Commission does not have jurisdiction to impose such a limit because carriers have no right under Section 251 to interconnect with an "unbuilt" IP network (*see* AT&T Comments at 50-51), is irrelevant because this interim one POI per state proposal pertains only to pre-existing TDM POIs used during the transition.

<sup>11</sup> *See id.* at 23-24 (Technology Advisory Council working group recommended initiation of a process for sunseting the PSTN, finding that market forces will lead to a significant loss of PSTN utilization by 2018).

<sup>12</sup> AT&T Comments at 48-51.

<sup>13</sup> AT&T's argument that the IP packets that carry voice communications cannot be distinguished from all other IP packets is incorrect. Packets carrying a VoIP call are identified via Session Initiated Protocol ("SIP") functionality. IP voice call routing and transmission also use procedures that other Internet traffic does not use, such as queries to local number portability and routing databases. *See* Time Warner Cable Comments at 12.

Transport costs to carry traffic to the nearest IXP could be an issue for small rural ILECs (“RLECs”), but they already carry Internet traffic that is largely exchanged at IXPs, either by the RLECs themselves or interconnecting transport providers. The additional VoIP traffic will add a relatively insignificant cost. In fact, “VoIP-related packets constitute a tiny and diminishing percentage of” “the stream of IP packets crossing the Internet today.”<sup>14</sup> Nevertheless, to facilitate the IP transition, the Commission might consider temporary Connect America Fund support for RLEC interconnection with IXPs.

**B. The Commission Has Authority To Implement IP Interconnection Rules To Encourage ILECs To Transition Their Networks**

The Commission has authority under its Title I ancillary jurisdiction to impose IP interconnection rules during the transition period.<sup>15</sup> The IP interconnection rules proposed by T-Mobile would apply only to ILECs and other carriers involved in exchanges of VoIP and other voice traffic over PSTN facilities during the transition.<sup>16</sup> Because IP interconnection rules are primarily necessary to control ILEC TDM *telecommunications service* rates and practices during the transition to an all-IP world, these rules promote the statutory goals of Sections 201(b), 202(a), 251, 252 and 332 of the Act. The limited oversight of ILECs’ and other carriers’ provision of IP and other voice services proposed by T-Mobile is necessary to guard against potential abuses that could result in increased telecommunications service rates during the

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<sup>14</sup> AT&T Comments at 21 n.32.

<sup>15</sup> Sprint Comments at 7.

<sup>16</sup> The settlement-free rule would apply to both a carrier and a non-carrier exchanging traffic at an IP POI, but Section 201(b) of the Act has been held to apply to the prices paid by carriers, as well as to the rates they charge. *See Cable & Wireless P.L.C. v. FCC*, 166 F.3d 1224, 1231-32 (D.C. Cir. 1999) (rates that carriers pay to unregulated providers are governed by Section 201(b)).

transition and thus is well within the Commission’s ancillary jurisdiction under long-standing precedent.<sup>17</sup>

As Time Warner Cable and other providers point out, Section 251 of the Act also provides authority for IP interconnection rules governing LECs.<sup>18</sup> A requesting carrier may provide telephone exchange service and/or exchange access on a wholesale basis to an interconnected VoIP provider, and that carrier may obtain interconnection from a LEC under Section 251(c)(2) for the purpose of routing IP-originated and/or IP-terminated traffic.<sup>19</sup> The *Transformation Order* noted that “VoIP-PSTN intercarrier compensation typically involves the exchange of traffic between two carriers, one (or both) of which are providing wholesale inputs to a retail VoIP service—not the retail VoIP service itself.”<sup>20</sup> Until the transition to an all-IP network is complete, LECs will be exchanging voice traffic over the PSTN with other carriers, and such exchanges will be subject to LECs’ “duty to provide” interconnection “for the transmission and routing of telephone exchange service and exchange access” under Section 251(c)(2).<sup>21</sup> Time Warner Cable notes that the Commission repeatedly has rejected RLECs’

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<sup>17</sup> See *Computer and Communications Industry Ass’n v. FCC*, 693 F.2d 198, 213 (D.C. Cir. 1982), *cert denied sub nom. Louisiana Pub. Serv. Comm’n v. FCC*, 461 U.S. 938 (1983) (upholding Commission’s “exercise of ancillary jurisdiction over both enhanced services and CPE” as “necessary to assure [common carrier] wire communications services at reasonable rates”).

<sup>18</sup> See Time Warner Cable Comments at 5-10.

<sup>19</sup> See cases discussed in Time Warner Cable Comments at 8.

<sup>20</sup> *Transformation Order*, 26 FCC Rcd at 18018 ¶ 959.

<sup>21</sup> 47 U.S.C. § 251(c)(2)(A). See *Transformation Order*, 26 FCC Rcd at 18141 ¶ 1387 (irrespective of whether a retail service is a telecommunications service, LEC providing access for the retail service can be offering “exchange access”).

efforts to avoid their obligations to interconnect and exchange traffic that originates or terminates in IP format.<sup>22</sup>

AT&T and other ILECs argue that only carriers may invoke rights and incur obligations under Section 251.<sup>23</sup> During the transition to an all-IP network, however, ILECs will still be providing telecommunications services, subjecting them to Section 251. AT&T implicitly acknowledges this when arguing that “once an *existing* ‘ILEC’ . . . stops offering ‘LEC’ services . . . it will no longer be an ‘ILEC’ subject to Section 251(c)(2).”<sup>24</sup> In other words, while it is still providing “LEC” services during the transition, it *will* be subject to Section 251(c)(2).

If the Commission adopts the Sprint proposal to establish a presumption that existing IXPs will be used to exchange VoIP traffic with a LEC, the ILEC argument that Section 251(c) provides no right to interconnect at an “unbuilt” IP gateway or other point on a LEC network becomes irrelevant.<sup>25</sup> By definition, IXPs are already being used by ILECs for the exchange of Internet traffic. Similarly, ILEC arguments that Section 251 does not require interconnection in any particular format<sup>26</sup> carry no weight in the case of a LEC that has deployed an IP network. That LEC must comply with another carrier’s request for IP interconnection because IP interconnection is “at least equal in quality to that provided by the [LEC] to itself.”<sup>27</sup>

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<sup>22</sup> See Time Warner Cable Comments at 14.

<sup>23</sup> See AT&T Comments at 35-41.

<sup>24</sup> *Id.* at 39 (emphasis in original).

<sup>25</sup> See *id.* at 50-51; Verizon Comments at 32-33; NECA *et al.* Comments at 39-40.

<sup>26</sup> See Verizon Comments at 25-27.

<sup>27</sup> 47 U.S.C. § 251(c)(2)(C). See *Transformation Order*, 26 FCC Rcd at 18145 ¶ 1392.

## **II. THE COMMISSION SHOULD NOT ALLOW THE ILECS TO UNDERMINE THE ICC TRANSITION**

### **A. ILEC Requests To Delay Or Prevent Reduction Of Transport And Tandem Switching Rates To B&K Should Be Rejected**

The Commission should reject ILEC arguments that transport and tandem switching rates should not be further reduced or that such reductions should be postponed until the Commission has reviewed the effects of the ICC transition set forth in the *Transformation Order*.<sup>28</sup> As T-Mobile and other parties have explained, failure to include all ILEC transport and tandem switching rates in the transition to B&K will result in arbitrage, as ILECs shift costs from end office termination services to transport and tandem switching elements and engage in other inefficient behavior.<sup>29</sup> Sprint also points out that transport rate elements constitute a significant portion of total access charges and sometimes exceed end office switching rates.<sup>30</sup> Even AT&T concedes that a terminating carrier should not be able to charge “for any type of transport or switching inside its own network Edge.”<sup>31</sup>

NECA asserts that B&K rates for transport and tandem switching rates will cause large carriers to compel small carriers to deliver traffic to a few central locations,<sup>32</sup> but that will happen as a result of the IP transition, rather than as a result of carrier demands. Eventually, as voice traffic exchange points transition to a few IXPs, tandem switching and other access rate elements will become less relevant. In the meantime, however, failure to reduce current

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<sup>28</sup> See, e.g., NECA *et al.* Comments at 9-10, 14-15; CenturyLink Comments at 11-15.

<sup>29</sup> Sprint Comments at 53-54; Comptel Comments at 5-7 (reduction in tandem switching rates while dedicated transport rates remain high will generate avoidance behavior by carriers paying access charges); CTIA Comments at 4.

<sup>30</sup> Sprint Comments at 55.

<sup>31</sup> AT&T Comments at 55. Thus, charges for call signaling functions also should be reduced to B&K, along with their associated access elements.

<sup>32</sup> NECA *et al.* Comments at 20-21.

excessive transport rates will encourage mileage “pumping” schemes and discourage efficient IP interconnection.<sup>33</sup>

CenturyLink argues that reducing these tandem and transport rates will stifle competitive alternatives and that they should be deregulated.<sup>34</sup> Large ILECs like CenturyLink, however, are the only source of those “alternatives” – *i.e.*, transit services – in many areas, and those services therefore must be regulated, as discussed below. Failure to reduce rates for the same ILEC noncompetitive functions as access elements would accomplish nothing.<sup>35</sup>

#### **B. ILEC Opposition To Effective Regulation Of Transit Rates Or Interconnection Facilities Misreads Settled Law**

AT&T incorrectly argues that Section 251(c)(2) does not apply to transit service because that provision is inapplicable to intermediate routing by a LEC between two other carriers.<sup>36</sup> A request for transit service, however, constitutes a request for “interconnection with the [LEC’s] network . . . for the transmission and routing of telephone exchange service” to the terminating carrier, as Section 251(c)(2)(A) provides.<sup>37</sup> Transit service also is necessary to enable other carriers to interconnect indirectly under Section 251(a). As T-Mobile and other commenters pointed out, a number of courts and state commissions have found that Section 251(c)(2) interconnection obligations include the provision of transit service at total element long run

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<sup>33</sup> See Sprint Comments at 55-56; CTIA Comments at 4.

<sup>34</sup> CenturyLink Comments at 12, 14-15.

<sup>35</sup> The Commission also should reject NECA’s renewed plea for “fully compensatory” (NECA *et al.* Comments at 8) “make whole” CAF recovery for reduced ICC revenues (*see id.* at 4-9), with no further reductions (*id.* at 31-37). As Time Warner Cable stated, “[t]he Commission should be looking for ways to reduce such support, rather than increase it.” Time Warner Cable Comments at 20.

<sup>36</sup> AT&T Comments at 59-60.

<sup>37</sup> Transit service generally refers to “non-access traffic” (*Transformation Order*, 26 FCC Rcd at 18114 ¶ 1311), or “telephone exchange service.”

incremental cost (“TELRIC”) rates.<sup>38</sup> Even CenturyLink, one of the primary providers of transit services, acknowledges that Section 252(d)(2) of the Act, which requires TELRIC pricing,<sup>39</sup> provides one of the pricing standards that may be applied to transit service.<sup>40</sup>

Contrary to large ILEC and tandem switching service provider arguments that the transit service market is highly competitive,<sup>41</sup> in T-Mobile’s experience, the only possible link to an RLEC or other rural carrier network in rural service areas is often through an ILEC tandem. A broad range of parties agree that such situations require that ILEC transit services be provisioned at TELRIC pricing in order to ensure reasonable rates.<sup>42</sup> Transit rates are much higher in states that have not taken action to enforce transit obligations.<sup>43</sup> Moreover, if the interim rural transport rule requires CMRS carriers to incur the transit costs generated by intraMTA RLEC-to-CMRS calls delivered through a transit provider,<sup>44</sup> the potential burden of high transit rates will increase dramatically. Finally, ILECs also may seek to make up reduced terminating access revenue by increasing transit service rates unless they are controlled.<sup>45</sup>

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<sup>38</sup> See, e.g., Sprint Comments at 59-62; Windstream Comments at 9-11.

<sup>39</sup> See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15844-56, 16023 ¶¶ 672-703, 1054 (1996) (“*Local Competition Order*”) (subsequent history omitted). See also *Review of the Commission’s Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers*, Notice of Proposed Rulemaking, 18 FCC Rcd 18945, 18952-53 ¶ 16 & n.29 (2003) (“UNE NPRM”). These orders were cited with full subsequent history in T-Mobile’s initial comments at 15-16.

<sup>40</sup> CenturyLink Comments at 16. CenturyLink states, in the alternative, that transit service is subject to the “just and reasonable” standard of Section 201(b). *Id.*

<sup>41</sup> See AT&T Comments at 60-61; Neutral Tandem Comments at 3-4.

<sup>42</sup> See, e.g., Cbeyond *et al.* Comments at 11-14; Windstream Comments at 8-12 (proposing transit rate of \$0.0007 per MOU); Sprint Comments at 58-71; Comcast Comments at 7-10.

<sup>43</sup> Sprint Comments at 68-69.

<sup>44</sup> See *Transformation Order* at ¶ 999.

<sup>45</sup> Time Warner Cable Comments at 20-21.

In addressing ILECs' obligation to provide entrance facilities, AT&T attempts to brush aside the Supreme Court's *Talk America* opinion reaffirming that ILEC entrance facilities are governed by Section 251(c)(2) by asserting that *Talk America* was based solely on a Commission amicus brief.<sup>46</sup> AT&T overlooks the findings on this issue in the *Triennial Review Orders*, however, which held, several years before *Talk America*, that entrance facilities are subject to Section 251(c)(2) interconnection requirements.<sup>47</sup> The pricing standard applied to interconnection facilities under Section 252(d)(1) of the Act requires a TELRIC methodology.<sup>48</sup> The Commission should reaffirm that ILEC entrance facilities must be offered to requesting carriers at TELRIC rates.

### **C. Onerous Interim POI And Edge Rules Would Undermine The IP Transition**

The ILECs' efforts to freeze the current PSTN structure in place for as long as possible would take the PSTN in exactly the wrong direction for a successful IP transition. Some ILECs argue for Missoula Plan-type<sup>49</sup> "ILEC-centric" POI and edge rules,<sup>50</sup> under which competitive carriers would be required to haul traffic all the way to ILEC tandems or even end offices for

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<sup>46</sup> *Talk America, Inc. v. Michigan Bell Tel. Co.*, 131 S. Ct. 2254 (2011) ("*Talk America*"), *on remand, Michigan Bell Tel. Co. v. Covad Communications Co.*, Nos. 07-2469/2473 (6<sup>th</sup> Cir. Mar. 26, 2012) (Michigan Bell "must lease its existing entrance facilities for interconnection at cost-based rates."). See AT&T Comments at 65.

<sup>47</sup> See *Unbundled Access to Network Elements*, Order on Remand, 20 FCC Rcd 2533, 2611 ¶ 140 (2005) ("*Triennial Review Remand Order*"); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, 17203-04 ¶ 366 (2003) ("*Triennial Review Order*") (collectively "*Triennial Review Orders*") (cited in T-Mobile Comments at 15).

<sup>48</sup> See *Local Competition Order*, 11 FCC Rcd at 15844-56, 16023 ¶¶ 672-703, 1054. See also UNE NPRM, 18 FCC Rcd at 18952-53 ¶ 16 & n.29.

<sup>49</sup> See Letter from Tony Clark, Commissioner and Chair, NARUC Committee on Telecommunications, *et al.*, to the Hon. Kevin Martin, Chairman, Federal Communications Commission, CC Docket No. 01-92 (July 24, 2006) (attaching the Missoula Plan for Inter-carrier Compensation Reform (July 18, 2006) ("*Missoula Plan*")).

<sup>50</sup> CenturyLink Comments at 24.

delivery.<sup>51</sup> As T-Mobile, Sprint and other commenters have explained, an efficient IP network would rely on fewer, not more, required POIs.<sup>52</sup> Rather than allowing RLECs to use burdensome, duplicative POI and edge rules that require other carriers to take all of their traffic almost to the called party's doorstep, interim rules should move the PSTN in the direction of fewer POIs.<sup>53</sup>

Moreover, the regressive interim rural transport rule violates the principle of symmetrical intercarrier obligations and should be eliminated immediately.<sup>54</sup> It certainly should not be broadened, as NECA requests.<sup>55</sup> At the very least, the rule should not cover RLECs affiliated with LATA tandem owners, because, in the absence of the rule, those RLECs would bear only *de minimis* costs in delivering their calls to terminating wireless carriers via the RLECs' transit carrier affiliates.<sup>56</sup>

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<sup>51</sup> See, e.g., *id.* at 21-24; AT&T Comments at 67-71.

<sup>52</sup> See, e.g., Verizon Comments at 15, 23; Sprint Comments at 16-19 (recommending use of roughly 35 existing IXPs in the United States for the exchange of all IP voice traffic); Windstream Comments at 16.

<sup>53</sup> In fact, Windstream proposes a one POI per network rule. Windstream Comments at 13.

<sup>54</sup> See CTIA Comments at 7-9.

<sup>55</sup> NECA goes so far as to argue that the rule should apply to all traffic, not just CMRS/RLEC non-access traffic. See NECA *et al.* Comments at 25-27.

<sup>56</sup> See Sprint Comments at 45-46. NECA *et al.* also propose to give the states more leeway, pursuant to Section 251(f) of the Act, to excuse RLECs from their Section 251 interconnection obligations. See NECA *et al.* Comments at 24-25. As T-Mobile argued, the Commission should take the opposite course by ensuring that RLECs are not exempted under Section 251(f) from limiting the number of POIs they are permitted to designate. See T-Mobile Comments at 13. More generally, T-Mobile agrees with Time Warner Cable that the Commission should find that a state may not authorize an ILEC to refuse to exchange local voice traffic with a competing carrier without contravening the public interest prong of Section 251(f)(2) of the Act. See Time Warner Cable Comments at 16.

#### **D. ILECs Should Not Be Allowed To Impose Tariffs**

Consistent with the policy underlying the *T-Mobile Order*, ILECs should not be permitted to continue establishing interconnection and traffic exchange rates, terms and conditions via the tariffing process. As T-Mobile and others argued,<sup>57</sup> ILECs should be required, for the reasons stated in the *T-Mobile Order*, to negotiate under the Section 251/252 process all rates, terms and conditions for all services and facilities, irrespective of their administrative resource arguments to the contrary.<sup>58</sup> Otherwise, ILECs will use the unilateral tariffing process to set rates, terms and conditions, disfavoring competitors and adversely affecting competition.<sup>59</sup> ILECs ought to be expected to draft reasonable standard interconnection and traffic exchange agreements that are acceptable to most carriers and can be tailored to individual circumstances.

#### **III. CONCLUSION**

The ICC-related reforms addressed in the FNPRM should be implemented in the manner outlined in T-Mobile's initial comments and above to facilitate the deployment of an IP

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<sup>57</sup> See, e.g., Sprint Comments at 49-50 (Commission should set a deadline of July 1, 2013 for ILECs to transition entirely from tariffs to negotiated interconnection agreements); CTIA Comments at 9-10.

<sup>58</sup> See, e.g., NECA *et al.* Comments at 27-31; Windstream Comments at 12.

<sup>59</sup> Sprint Comments at 49-50. Even AT&T agrees that the Commission has the authority to require carriers to transition from tariffing to negotiating interconnection agreements for all traffic governed by Section 251(b)(5) of the Act. AT&T Comments at 74.

infrastructure more suited for broadband services than today's inefficient PSTN and to ensure the success of the ICC rate-reduction transition to B&K for the benefit of all consumers.

Respectfully submitted,

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