

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of	)	
	)	CC Docket Nos. 01-92, 96-45; GN Docket
Comment Sought on Intercarrier	)	No. 09-51; WC Docket Nos. 03-109,
Compensation Reform Compliance and	)	05-337, 07-135, 10-90; WT Docket No. 10-
Monitoring Form	)	208

**COMMENTS OF THE  
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTelecom)<sup>1</sup> files these comments pursuant to the Wireline Competition Bureau's (Bureau) Public Notice (*Notice*)<sup>2</sup> seeking comment on using the proposed ICC Reform Compliance and Monitoring Form and the accompanying instructions as a means to collect the data required to: (1) monitor compliance with the provisions of the USF/ICC Transformation Order<sup>3</sup> (*Order*) and accompanying rules; (2) monitor the impact of the reforms adopted in the *Order*; (3) resolve outstanding issues raised in the Further Notice portion of the *Order*; (4) enable the Commission to evaluate the trend of intercarrier revenues, expenses, and minutes; and (5) compare such data uniformly across all carriers. The Commission

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<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

<sup>2</sup> See Public Notice, Comment Sought on Intercarrier Compensation Reform Compliance and Monitoring, CC Docket Nos. 01-92, 96-45; GN Docket 09-51; WC Docket Nos. 03-109, 05-337, 07-135, 10-90; WT Docket No. 10-208; WC Docket No. 10-90, DA 13-11 (rel. Jan. 4, 2013).

<sup>3</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011), *pets. for review pending*, *Direct Commc'ns Cedar Valley, LLC v. FCC*, No 11-9581 (10<sup>th</sup> Cir. Filed Dec. 18, 2011) (and consolidated cases) ("*USF/ICC Transformation Order*" or "*Order*").

delegated to the Bureau the authority to adopt a template for submitting the data....”<sup>4</sup>The Commission itself, in the *Order*, was cognizant of the potentially burdensome nature of the requirements associated with monitoring compliance.<sup>5</sup> In its attempt to minimize burdens, the Commission directed the Bureau to take several steps to aggregate data, use uniform formats and ensure consistency. The *Order* notes that the explicit purpose of delegating to the Bureau development of the template for submitting the data is “to ensure consistency and further minimize any burdens on carriers.” Any data collection approved in this context will also ultimately be subject to the OMB notice and approval requirements of the Paperwork Reduction Act (PRA), the primary purpose of which is “to reduce, minimize and control burdens and maximize the practical utility and public benefit” of information collected by a federal agency.<sup>6</sup> Among the factors that must be considered there are: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; and whether there are ways to minimize the burden of the collection of information on the respondents.<sup>7</sup>

Some of the information requested is either unavailable at this point, unreasonably burdensome for carriers to collect or serves no clear regulatory purpose. For example, collected demand and revenue at the granular level requested is not tracked by carriers as part of their day-to-day business, and its collection thus extraordinarily burdensome. Moreover, the information requested is not needed for any identifiable or meaningful regulatory purpose. Similarly, carriers

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<sup>4</sup> *Id.* at 17996, para 923.

<sup>5</sup> *Id.*

<sup>6</sup> 5 C.F.R. § 1320.1.

<sup>7</sup> 5 C.F.R. § 1320.9.

do not usually track non-affiliate revenues and expenses and the burdens of initiating such track would be onerous.

The requirement to report VoIP-specific data is unworkable for several reasons. Carriers currently have only very limited information about VoIP-specific demand and revenue and in many cases may not be able to differentiate between VoIP and non-VoIP traffic and report them accordingly. Furthermore, for fiscal year 2011, the mechanisms for identifying VoIP traffic mandated in the *Order* were not in effect. Even in fiscal year 2012 and beyond, carriers' ability to identify VoIP traffic separately will be limited at best, and the reasons for collecting and reporting those demand and revenue data will only be relevant during the small window of time when VoIP-PSTN rates will differ from rates for other traffic under transition.

The usage data associated with 8YY service, which isn't an ILEC service, aren't tracked separately for ICC purposes. As a result, USTelecom members have no business reason to track the information requested. Requiring such tracking would be excessively burdensome.

Finally, to the extent that the Commission wants carriers to provide data on flat-rated access elements where originating/terminating breakdown is unavailable, including direct-trunked transport, entrance facilities, and the dedicated components of tandem-switched transport, the Commission should require carriers to provide only total revenue.

**I. Data Relevant to the FNPRM Should be Requested Separately and Collected on a More Aggregated Level**

Certain data items required by the Public Notice will "enable the Commission to resolve the issues teed up in the FNPRM ..." and are solely relevant to that portion of the *Order*. Such items include "originating access and many transport rates." Those items should be requested on a more targeted basis, and that data request should be separate and distinct from the data reporting on the Intercarrier Compensation Reform Compliance and Monitoring Form. Some of

the data requested for purposes of the Further Notice may require special studies as the information is not collected by companies today and is thus not readily available.<sup>8</sup> Separating the data requested for Further Notice purposes would also permit the Commission to schedule submission at a later date, after the annual filing, to allow for such studies or other needed data collection or analysis to be completed. This would provide higher quality and therefore more useful data to the Commission for use in its deliberations on the FNPRM. In addition, the level of granularity requested for such items in the instant Public Notice is not required for policy-making purposes. The Commission could ease burdens on carriers and receive information sufficient for its purposes by collecting such data on a higher aggregated level than proposed in the Public Notice. Finally, the Intercarrier Compensation Reform Compliance and Monitoring Form will be an ongoing requirement, but items desired by the Commission for policy-making purposes may only be relevant for one-time use. Such data should be collected separately. Carriers should not be subject to an ongoing obligation to provide these additional data.

## **II. The Commission Should Not Require Reporting of Collected Demand and Revenue**

The proposed instructions would require carriers to report both “collected” demand and “collected” revenue for all rate categories.<sup>9</sup> This proposal is unworkable because carriers do not track “collected” demand and revenue as a part of their standard business practice. For example, USTelecom members do not record or maintain data on local switching revenue “collected by March 31 of the following year” or the number of local switching minutes “for which revenue was collected.”

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<sup>8</sup> *Supra* at 7.

<sup>9</sup> Pursuant to the proposed instructions, carriers would be expected to report demand “for services provided in the reporting year and for which revenue was collected by March 31 of the following year.” Similarly, carriers would be expected to report revenue “for services provided in the reporting year and collected by March 31 of the following year.”

Nor could carriers readily estimate those quantities from available records. While carriers were able, via a special study requiring significant effort, to determine collected revenue for last year's price cap revenue baseline,<sup>10</sup> the proposed template is asking carriers to collect and report that information at a much more granular level which would be far more complex than the already-challenging baseline calculation. While the price cap baseline revenue calculation required that carriers determine collected revenue for switched access as a whole, the proposed information collection would require carriers to determine collected revenue at the rate element level. And, the proposed information collection would also require carriers to provide collected demand, not just collected revenue. Finally, while the price cap baseline calculation was a one-time analysis, the proposed information collection would impose the significant burdens of developing and reporting collected demand and revenue annually through the entire transition period.

Not only is the requirement to track collected demand and revenue data unworkable, but it serves no real regulatory purpose. "Collected" demand plays no role in the Commission's rules. And the only role for collected revenue is in the price cap baseline revenue calculation, which was a one-time calculation that has already been done and reviewed by the Commission.<sup>11</sup> There is, accordingly, no need for the Commission to gather collected revenue data again for FY 2011; no need for the Commission to gather collected revenue data for future fiscal years; and no need for the Commission to gather collected revenue data at the rate element level. To the extent that the Commission wishes to gather data to "evaluate the trend of intercarrier revenues,

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<sup>10</sup> *ICC Order* at ¶ 880.

<sup>11</sup> *See In the Matter of July 3, 2012 Annual Access Tariff Filings, WCB/Pricing No. 12-09, Order on Reconsideration, Rel. August 1, 2012 (27 FCC Rcd 8948), para. 4.*

expenses, and minutes,” that objective can be met through the reporting of billed demand and billed revenue data.

**III. The Commission Should Not Require Exclusion of Affiliate-Related Revenues or Expenses from the Reported Data**

The proposed spreadsheet would require carriers to report, in columns N, P, R, Z, and AC, certain categories of revenue or expense “excluding revenue [or expense] from affiliates.” The Commission should not require carriers to exclude affiliate-related revenue or expenses from the reported data. US Telecom members’ existing systems do not separately track non-affiliate revenue and expense. It would be extremely burdensome for carriers to review billing records to exclude affiliate-related data from the reported revenue and expense data, especially since the Commission’s proposal would require carriers to perform that analysis at the rate element level.

**IV. The Requirement to Report VoIP-specific Demand and Revenue Data is Unworkable**

The proposed spreadsheet would require carriers to report, in columns H, I and J, VoIP-specific demand for flat-rated, originating usage-based, and terminating usage-based elements and, in columns T, U, and V, VoIP-specific revenue data for flat-rated, originating usage-based, and terminating usage-based elements. The proposal to require carriers to report VoIP-specific data is unworkable. Most importantly, carriers currently have very limited information about VoIP-specific demand and revenue most of which are either factor driven or as claimed by others. As a result, in most cases, carriers will not be able to identify with certainty how much of their demand or revenue is associated with VoIP or non-VoIP traffic.

As an initial matter, US Telecom members cannot provide VoIP-specific demand and revenue data for Fiscal Year 2011. Because Fiscal Year 2011 predates the *ICC Reform Order*,

that order's mechanisms for identifying VoIP traffic were not in effect.<sup>12</sup> Even in Fiscal Year 2012 and beyond, carriers' ability to identify VoIP traffic and thus report VoIP-specific demand and revenue data will be very limited. LECs will have a business reason to collect VoIP-specific traffic and demand data only during those periods in which the default rates for VoIP-PSTN traffic differ from rates for other traffic, which the Commission recognized would be the case "only for a limited time."<sup>13</sup>

- Between December 29<sup>th</sup>, 2011, and June 30, 2013, US Telecom members will have a business reason to track VoIP-specific data only for traffic billed as *terminating intrastate* VoIP traffic. This is the only set of VoIP-PSTN traffic during this time that will have default rates that differ from comparable tariffed rates for non-VoIP traffic. US Telecom members will have no business reason to track or maintain demand or revenue data for originating VoIP-PSTN traffic or for terminating interstate VoIP-PSTN traffic.
- Between July 1, 2013, and June 30, 2014, US Telecom members will have no business reason to track VoIP-specific data. During this time period, both originating and terminating VoIP-PSTN traffic will be subject to the same default rates as other traffic. Consequently, LECs will have no business reason to separately track demand or revenue associated with VoIP traffic.
- After July 1, 2014, US Telecom members will have VoIP-specific data only for traffic billed as *originating intrastate* VoIP-PSTN traffic. Other PSTN-VoIP traffic will be subject to the same transitional default rates as non-VoIP traffic. US Telecom members

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<sup>12</sup> *ICC Reform Order* at ¶¶ 961-963.

<sup>13</sup> *ICC Reform Order* at ¶ 963.

therefore will not have demand or revenue data for terminating VoIP-PSTN traffic or for originating interstate VoIP-PSTN traffic.

- Even during the time periods in which US Telecom members may have a business reason for tracking VoIP traffic, that tracking may be limited to those rate elements for which the intrastate rate differs from the interstate rate or it may be billed using negotiated traffic factors. If, for example, a LEC's intrastate local switching rate is the same as its interstate local switching rate, the LEC will have no reason to track VoIP traffic.

#### **V. Carriers Do Not Track 8YY-Specific Data**

The proposed spreadsheet would require carriers to report, in columns V and W, 8YY-specific revenue data for flat-rated and originating usage-based elements. US Telecom members could not provide such 8YY-specific data. Because there is no unique rate treatment for 8YY-related switched access demand under current rules, carriers have no business reason to track 8YY-specific switched access revenue.

#### **VI. LECs Are Unable to Report Element-Specific Usage**

The Direct-Trunked Transport, Entrance Facility, and Tandem tabs fail to recognize that LECs bill for direct-trunked transport and certain other elements solely via flat monthly recurring charges, and thus cannot report usage-based data.

- On the Direct-Trunked Transport tab, in column C, the requested unit of demand is "MOU" (minutes of use). Furthermore, the Bureau proposes to request "usage-based" originating and terminating demand in columns F and G; VoIP-specific usage-based originating and terminating demand in columns I and J; and 8YY-specific usage-based originating demand in column L. Similarly, the Commission proposes to require carriers to report revenue from usage-based elements in columns O, P, Q,

- R, T, U and W. Because LECs bill for direct-trunked transport using flat monthly recurring charges, (1) LECs do not measure the number of minutes traversing such facilities and thus cannot report MOU demand in column C or usage-based demand in columns F, G, I, J, or L; and (2) LECs will have no usage-related direct trunked transport revenue to report in columns O, P, Q, R, T, U, and W.
- Similarly, on the Entrance Facility tab, the Commission proposes to require carriers to report revenue from usage-based elements in columns O, P, Q, R, T, U, and W, and to report “recip comp revenue-related MOU” in column X. Because LECs bill for entrance facilities using flat monthly recurring charges, (1) LECs will have no usage-related entrance facility revenue to report in columns O, P, Q, R, T, U, and W; and (2) LECs have no reason to track, and thus cannot report, “recip comp revenue-related MOU” in column X.
  - On the tandem transport tab, the Commission proposes to require carriers to report, in row 5, columns F, G, I, J, L, O, P, Q, R, T, U, W, usage-based demand and revenue data for “tandem-switched transport-dedicated”. As with direct-trunked transport and entrance facilities, carriers bill for the dedicated component of tandem-switched transport using flat monthly charges. Accordingly, LECs have no reason to track usage over such facilities and have no usage-based revenue to report. Similar inconsistencies between the billing structure and the proposed reporting requirement exist for row 7, “dedicated trunk ports.”
  - Finally, for direct-trunked transport, entrance facility, and the dedicated component of tandem switched transport, the Commission proposes to require carriers to report demand and revenue differentiated between “originating” and “terminating;” “VoIP”

and non-VoIP; and 8YY and other originating traffic. Because LECs bill for direct-trunked transport, entrance facilities, and the dedicated component of tandem switched transport using flat monthly charges, carriers do not track – and thus cannot report -- whether the minutes traversing such facilities are “originating” or “terminating,” or whether the minutes traversing such facilities are associated with 8YY or VoIP traffic, or differentiate between “originating”, “terminating”, “VoIP,” “8YY” or other revenues.

To the extent that the Commission gathers information about flat-rated elements, including direct-trunked transport, entrance facilities, and the dedicated components of tandem-switched transport, the Commission should require carriers to provide only total revenue, i.e., column M.

#### **VII. Carriers Do Not Have Complete Information to Enable Reporting of Reciprocal Compensation Usage**

In columns X and AA, the proposed template would require carriers to report minutes of use related to reciprocal compensation revenue and expense. US Telecom members do not have complete information for reciprocal compensation minutes. For example, carriers have no reason to track usage associated with traffic exchanged pursuant to bill and keep arrangements.

#### **VIII. Conclusion**

USTelecom and its members recognize and acknowledge the Commission’s need to monitor compliance with the provisions of the *Order* and accompanying rules. However, that need should be balanced with the need to “minimize any burden on carriers.” Some of the information requested is not being tracked by the carriers for business purposes, unreasonably burdensome for carriers to collect or serves no clear regulatory purpose. In addition, some of the information requested has nothing to do with the compliance with the provision of this order, but

for enabling the commission to resolve the issues teed up in the FNPRM. The modifications in the template suggested above will address these concerns for price cap carriers and others to which these requirements are applicable.

Respectfully submitted,

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