

October 13, 2008

Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: *In The Matter Of A Unified Intercarrier Compensation Regime, CC
Docket No. 01-92; In The Matter Of Universal Service Contribution
Methodology, WC Docket No. 06-122***

Dear Chairman Martin and Commissioners Copps, Adelstein, Tate, and McDowell:

On October 6, 2008, the National Association of Regulatory Utility Commissioners (NARUC) issued a statement expressing concern that there is a "lack of engagement among critical stakeholders" on the topic of intercarrier compensation reform and observing that it is "increasingly apparent that key parties to the debate are talking past one another."¹ NARUC observed that "there has been little discussion among stakeholders, little movement by stakeholders from entrenched positions, or even indications that these parties are communicating meaningfully." Citing its own past experience in running an Intercarrier Compensation Task Force, NARUC reported that the "most significant lesson distilled from that experience is the importance and value of the time parties take to listen to one another, understand one another's concerns, and consider adjustments to their own positions." However, the organization reported that such dialogue has not been occurring in the recent feverish debate over intercarrier compensation reform, and that this creates a "real risk that any single participant or group seeking to impose its own plan will, even if successful, achieve a pyrrhic and short-lived victory, likely followed by protracted litigation, primarily because they failed to recognize a relatively small but critically important number of issues that are absolute deal breakers for others." NARUC closed by encouraging stakeholders to engage in "constructive and intensive discussions" with "open minds, open discussion and a willingness to make strategic compromises which can only be reached through face-to-face discussions."

¹ "NARUC Calls For Constructive Engagement on ICC Reform," National Association of Regulatory Utility Commissioners, released October 6, 2008 (attached hereto).

October 13, 2008

Page Two

The undersigned 19 organizations believe that NARUC has hit the proverbial nail on the head. What is under consideration is a sweeping set of reforms that could (i) virtually eliminate a critical source of carrier revenues that have existed for many decades, (ii) shift enormous cost recovery from carriers to end users, (iii) create huge new make-whole universal service programs, (iv) rewrite interconnection rules that have formed the basis of network architectures for more than a decade, and (v) shift universal service assessment from interstate revenues to telephone numbers, and consequently from a usage to a flat-rated system. Any one of these actions would constitute an enormous change which could dramatically impact the business model of any individual or class of telecommunications carrier. This is particularly true during a time when the economy already is in unprecedented turmoil. And since these changes would affect how virtually every telecommunications product is structured, and how virtually all networks are interconnected, the resolution of scores of discrete issues will be critical to the success of each component. Truly the "devil will be in the details" of how each issue is resolved. Indeed, the reforms contemplated even could upend the federal-state partnership on intercarrier compensation that has existed for more than 80 years. The undersigned believe that correctly resolving all of these issues simultaneously and in a rush is beyond the capability of even the most able and well-intentioned regulator. The danger is that a small group by necessity will obtain the inside track on working out the details, and that a favorable resolution for them may prove unworkable for everyone else. In that sense, NARUC is clearly correct that the better way to resolve these issues is through carrier-to-carrier dialogue rather than political lobbying and regulatory fiat.

What NARUC did not mention is that there is no crisis here. While there is general consensus that the current system of intercarrier compensation can be improved through reform, there has been no showing of imminent dire harm if no omnibus order is rushed out in the next few weeks. The only real deadline in this area is for resolution of the issue of how ISP-bound traffic should be regulated, which is a relatively minor and easily segregable issue. To use the need to respond to the D.C. Circuit in early November on the discrete issue of the treatment of ISP-bound traffic as a pretext for rushing into transformative intercarrier compensation and universal service reform would be a truly historic instance of the "tail wagging the dog."

Accordingly, the undersigned respectfully urge the Commission to take the following steps in order to accommodate NARUC's admirable call for industry dialogue on these very critical issues:

1. Proceed to decide the future treatment of compensation for termination of ISP-bound traffic before the November 5 court deadline. The Commission could reform rules regarding terminating traffic stimulation and so-called Phantom Traffic at the same time if it believes those issues also require immediate resolution.

October 13, 2008

Page Three

2. With respect to more comprehensive intercarrier compensation and universal service reform issues, the Commission should issue a Further Notice of Proposed Rulemaking (FNPRM) summarizing the many discrete issues raised in the record, and enunciating the Commission's tentative conclusions on each such issue.
3. Interested parties should be given at least 90 days to consider and comment on the issues raised in the FNPRM, and the tentative conclusions and proposed rules contained therein.
4. During the comment period, the Commission should sponsor a series of workshops involving representatives of *each* group of interested parties -- including without limitation RBOCs, RLECs, CLECs, wireless carriers, IXCs, VoIP providers, state commissions and consumer groups -- that can facilitate the type of face-to-face dialogue and negotiation envisioned by NARUC.

Each of the undersigned organizations commits to participate actively in such a comment and workshop process, with the full intention of reaching a negotiated resolution of the critical issues posed in these proceedings. NARUC is right to call for such a discussion. It is the only way these issues can be resolved in a manner that is fair to all interested parties, and that does not run the risk of a massive failure due to ill-informed and hasty regulatory decision-making. The signatories hereto do not agree as to what the ultimate resolution of each issue should be, but we all agree that the correct result is not achievable without dialogue that cannot be completed in the next few weeks. We commend the Commission for committing itself to tackling these very tough issues, but urge you not to act imprudently by making these determinations with undo haste, when there clearly is no emergency requiring the agency to do so.

October 13, 2008
Page Four

Respectfully submitted,

/s/

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Birch Communications
Bluegrass Wireless
Broadview Networks, Inc.
CarolinaWest Wireless
Cavalier Telephone
Cellular South
COMPTEL
DeltaCom, Inc.
Hypercube, LLC
Integra Telecom
NuVox
One Communications Corp.
PAETEC and All of Its Operating Subsidiaries
RCN Telecom Services, Inc.
Southern Communications Services, Inc. d/b/a
SouthernLINC Wireless
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