OPASTCO

WESTERN TELECOMMUNICATIONS ALLIANCE

Action Item: Intercarrier Compensation

Intercarrier compensation refers to the payments among communications carriers that result from the interconnection of telecommunications networks. For rural incumbent local exchange carriers (ILECs), intercarrier compensation comprises, on average, approximately 30 percent of their operating revenues. Together with universal service support, intercarrier compensation enables rural carriers to provide high-quality service to rural consumers at affordable rates. Moreover, it provides them with the ability to invest in the network facilities that are needed to deliver broadband.

The existing intercarrier compensation system needs to be reformed expeditiously because the rules currently in place treat different types of carriers and services disparately. The intercarrier compensation regime that applies in a particular case depends on such factors as: whether the interconnecting party is a LEC, a long-distance carrier, a wireless carrier, or an Internet service provider (ISP); and whether the service is classified as local or long distance, interstate or intrastate, basic voice or data. This patchwork of rules creates opportunities for regulatory arbitrage. Even worse, rural ILECs are forced to process a significant amount of "phantom" network traffic for which they cannot properly bill because the traffic cannot be identified by originating carrier, jurisdiction (interstate or intrastate), or technology.

The FCC has had an open proceeding on comprehensive intercarrier compensation reform since 2001. Over the past few years, there has been significant industry and FCC activity that made it appear likely that reform of the rules would occur. For example, in 2006, representatives from multiple segments of the telecommunications industry negotiated and filed with the FCC a proposal for intercarrier compensation reform that became known as the Missoula Plan. More recently, in 2008, the FCC sought comment on several proposals for comprehensive intercarrier compensation and universal service reform, one of which reflected significant input from OPASTCO and WTA. However, despite these efforts, comprehensive reform has failed to materialize.

Concurrent with these efforts, industry parties have also called upon the FCC to address discrete intercarrier compensation issues while more comprehensive reform is being considered. Two such issues are: (1) the need for more concrete rules governing the creation and exchange of call identification or "signaling" information in order to address the growing problem of phantom traffic; and (2) the need for a definitive determination regarding the obligations of providers of voice over Internet protocol (VoIP) services that interconnect with the public switched network to pay access charges for their use of the network.

Congress should urge the FCC to quickly adopt rules to mitigate phantom traffic pending more comprehensive intercarrier compensation reform.

Over the past several years, rural ILECs have been hampered by significant growth in unidentifiable and unbillable "phantom traffic" from other service providers. These calls, which impose costs on rural ILECs' networks, are delivered with either incomplete or inaccurate call detail information, which is necessary for billing purposes. As a result, rural ILECs are losing substantial amounts of intercarrier compensation revenues, which is placing at risk their ability to continue providing quality services at affordable rates to their customers and communities. Furthermore, the transmission of misleading or inaccurate caller identification information raises serious concerns for public safety and jeopardizes the work of emergency service providers and law enforcement officials. Therefore, Congress should urge the FCC to quickly strengthen its requirements for the provision of accurate and complete call signaling information, pending completion of more comprehensive intercarrier compensation reform.

Congress should urge the FCC to quickly determine that providers of VoIP services that interconnect with the public switched network are required to pay access charges.

Congress should urge the FCC to quickly confirm that all providers of VoIP services that interconnect with the public switched network are subject to access charges. Rural ILECs are processing an increasing number of calls on their networks from interconnected VoIP service providers that seek to avoid payment of any intercarrier compensation, despite the fact that their traffic utilizes the network in the same manner as calls received from any other carrier. This issue has led to numerous disputes before state commissions and district courts. The FCC has already recognized that, from the customer's perspective, interconnected VoIP services are indistinguishable from traditional voice services. Consequently, it has required interconnected VoIP service providers to offer E911 service, contribute to the Universal Service Fund, comply with customer privacy rules, and comply with rules on electronic surveillance, just like traditional carriers. Thus, the FCC should require providers of interconnected VoIP services to fairly compensate rural ILECs for their use of the network as well.

Congress should encourage the FCC to expeditiously adopt comprehensive intercarrier compensation reform that addresses the unique needs of rural ILECs and their customers.

Rural ILECs are committed to offering high-quality, affordable voice-grade and broadband services throughout their service areas. However, the existing intercarrier compensation system has led to significant instability and uncertainty regarding this critical revenue stream, which threatens rural carriers' ability to continue upgrading their networks to bring an evolving level of service to their customers. Therefore, expeditious reform of the intercarrier compensation rules is needed to provide rural ILECs with sufficient, predictable recovery of network costs. This, in turn, will help enable the availability of services and rates for rural residents that are reasonably comparable to those available in urban areas.

Any comprehensive intercarrier compensation reform will necessitate the unification of each rural ILEC's interstate and intrastate access rates in order to eliminate the existing disparity between these rates, as well as uniform rules for interconnection. These reforms would minimize arbitrage opportunities, alleviate regulatory uncertainty, and help mitigate the incentives for phantom traffic. As a result, carriers would be able to focus greater resources on serving consumers.

However, to ensure that intercarrier compensation reform is beneficial to the customers of small, rural ILECs, it is essential that these carriers be able to fully recover the revenues that are lost as a result of mandated reductions in access rates. This can be accomplished, in significant part, by the establishment of a "Restructure Mechanism" designed specifically for the replacement of reduced intercarrier compensation revenues not otherwise recovered through reasonable end-user charges.

The high-cost characteristics of the areas served by rural ILECs cause them to have per-subscriber costs that are significantly greater than the costs of urban-based carriers. A larger percentage of those costs are presently recovered through intercarrier compensation. Therefore, a Restructure Mechanism is critical to providing rural ILECs with the revenue stability necessary to continue investing in their networks, without having to seek substantial and unaffordable increases in end-user rates to offset access revenue reductions. With the proper provisions to address the needs of rural ILECs and their customers, prompt intercarrier compensation reform will enable rural consumers to continue to have access to affordable, high-quality basic services and the ability to gain access to future generations of broadband services.

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