

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

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

**COMMENTS of the
NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc.
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION,
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL
TELECOMMUNICATIONS COMPANIES,
WESTERN TELECOMMUNICATIONS ALLIANCE,
USTELECOM, and the
INDEPENDENT TELEPHONE AND TELECOMMUNICATIONS ALLIANCE**

February 4, 2013

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I. INTRODUCTION AND SUMMARY

By Public Notice,¹ the Commission’s Wireline Competition Bureau (“Bureau”) requests comment on a proposed ICC Reform Compliance and Monitoring Form (the “Form”) and its accompanying instructions. The *Notice* indicates the Bureau intends to use the Form as a means to collect data that incumbent local exchange carriers (“ILECs”) who participate in the Connect America Fund (“CAF”) intercarrier compensation (“ICC”) recovery mechanism are required to file, on an annual basis, regarding their ICC rates, revenues, expenses, and demand.²

¹ *Comment Sought on Intercarrier Compensation Reform Compliance and Monitoring Form*, Public Notice, DA 13-11 (rel. Jan. 4, 2013) (*Public Notice*).

² *Id.* at 1.

NECA, NTCA, OPASTCO, WTA, USTelecom, and ITTA (“the Associations”)³ support the Commission’s efforts to monitor compliance with rules governing the CAF ICC recovery mechanism but suggest the Bureau review the data it already receives from industry in the annual ILEC tariff filings and accompanying Tariff Review Plans (“TRPs”), and consider carefully whether the additional type of data and level of detail requested in the Form are needed to fulfill the Commission’s purposes. As discussed herein, the proposed data request would impose significant burdens on reporting carriers and would require submission of data that appears unnecessary to meet the Commission’s goals, particularly insofar as the form seeks ongoing submission of data on a fiscal year (“FY”) basis as opposed to a tariff year (“TY”) basis. Moreover, the level of detail required by the Form also goes far beyond what is needed for the Commission to evaluate the ICC reform issues raised in the *Further Notice*.

The proposed data request thus raises significant questions under the Commission’s rules as well as under the Paperwork Reduction Act (“PRA”) and should therefore not be issued in its

³ NECA is responsible for preparation of interstate access tariffs and administration of related revenue pools, and collection of certain high-cost loop data. *See generally*, 47 C.F.R. §§ 69.600 *et seq.*; *MTS and WATS Market Structure*, CC Docket No.78-72, Phase I, Third Report and Order, 93 FCC 2d 241 (1983). NTCA represents more than 570 rate-of-return-regulated local exchange carriers (“RLECs”), many of whom provide voice, video, and broadband Internet services to their communities; each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended. OPASTCO is a national trade association representing approximately 400 RLECs which, in turn, serve approximately three million rural customers throughout the U.S. WTA is a trade association that represents over 250 small rural telecommunications companies operating in the 24 states west of the Mississippi River. USTelecom is a national 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. The Independent Telephone and Telecommunications Alliance (ITTA) is a trade association representing mid-size local exchange companies that provide a broad range of high quality wireline and wireless voice, broadband, Internet, and video services to more than 20 million access lines 44 states.

present form.⁴ If, however, the Bureau decides to proceed with the data request as currently structured, the Associations herein provide suggestions for revisions to mitigate burdens on filers and assure required information is reported accurately and consistently by all companies.

II. DISCUSSION

In the *USF/ICC Transformation Order*, the Commission required all ILECs that participate in the CAF ICC recovery mechanism, including those that charge end users an Access Recovery Charge (“ARC”), to file data on an annual basis regarding their ICC rates, revenues, expenses, and demand for the preceding fiscal year.⁵ The Commission stated that such data would be collected to monitor compliance with the *Order* and accompanying rules, to monitor the impact of reforms adopted in the *Order*, and to enable the Commission to resolve issues teed up in its *Further Notice of Proposed Rulemaking* (“FNPRM”) regarding the appropriate transition to bill-and-keep and, if necessary, the appropriate recovery mechanism for rate elements not reduced in the *Order*, including originating access and many transport rates.⁶ The *Order* also indicated that data would allow the Commission to determine the impact that any

⁴ See Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13, 109 Stat. 163 (May 22, 1995), *codified at* 44 U.S.C. §3501, *et seq.*

⁵ See *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 – Mobility Fund*, WT Docket No. 10-208, Report and Order and FNPRM, 26 FCC Rcd. 17663 (2011) ¶ 921, *pets. for review pending*, *Direct Commc'ns Cedar Valley, LLC v. FCC*, No. 11-9581 (10th Cir. filed Dec. 18, 2011) (*USF/ICC Transformation Order/FNPRM*).

⁶ *Id.* ¶ 922.

transition would have on a particular carrier or group of carriers, to evaluate the trend of ICC revenues, expenses, and minutes, and compare such data uniformly across all carriers.⁷

To “minimize any burdens,” the Commission directed that filings should be aggregated at the holding company level, limited to the preceding fiscal year, and include data carriers must monitor to comply with the Commission’s recovery mechanism rules.⁸ The Commission further stated it would ensure that required data would be consistent with information filed with the Universal Service Administrative Company (“USAC”) for receipt of CAF ICC support, so carriers could use the same format for both filings.⁹

The Commission delegated to the Bureau authority to adopt a template for submitting both sets of data. The Commission noted it had previously requested “such data” be submitted on a voluntary basis in the *USF/ICC Transformation NPRM*,¹⁰ but submissions were often incomplete and not filed in the same format by all carriers.¹¹ Recognizing that carriers “must be monitoring these data to comply with our revised tariff rules,” the Commission stated it would be requiring ILECs to file data electronically annually at the same time as their annual interstate access tariff filings.¹²

By *Public Notice*,¹³ the Bureau now seeks comment on a proposed template to accomplish the required data collection. The *Notice* asks whether the Form is sufficient to

⁷ *Id.*

⁸ *Id.* ¶ 923.

⁹ *Id.*

¹⁰ *Id.* See *Connect America Fund*, WC Docket No. 10-90, *et al.* Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 4554 (2011) (*USF/ICC Transformation NPRM*).

¹¹ *USF/ICC Transformation Order*, n.1831.

¹² *Id.* ¶ 923.

¹³ *Public Notice* at 1.

collect the data required to meet the intended purposes as stated in the *USF/ICC Transformation Order*; whether the protections afforded in the Commission's *Third Protective Order*¹⁴ are sufficient to cover any confidential data that may be provided; whether the proposed instructions are sufficiently clear and will ensure that filers report data in a uniform manner; and whether use of a Microsoft Excel 2010 spreadsheet with multiple tabs provides a workable filing format.¹⁵

A. The Bureau's Proposed Data Collection Goes Beyond the Scope of its Delegated Authority and Seeks Information That is Unnecessary, Unavailable, and/or Unduly Burdensome to Collect.

As the Commission correctly noted in the *Order*, carriers are currently required to submit TRPs with their annual access tariffs, containing much of the same ICC data as is requested in the Form.¹⁶ Specifically, the TRPs already include all the ARC elements, as well as terminating Intrastate Common Line ("CL") elements, Interstate Local Switching rate elements and terminating Intrastate Local Switching data, terminating Intrastate Tandem Switched Transport and Tandem Signaling data, Direct Trunked Transport for intrastate and Entrance Facilities rate elements for intrastate,¹⁷ and ILEC-CMRS reciprocal compensation – by study area. NECA also

¹⁴ *Id.* at 2. See *Connect America Fund*, WC Docket No. 10-90, *et al.* Protective Order, 26 FCC Rcd. 10276 (2012) (*Third Protective Order*).

¹⁵ *Public Notice* at 2-3.

¹⁶ The Bureau notes that the information required for the Form is separate from materials required to support proposed tariff revisions, and carriers filing tariff revisions as part of any annual access charge tariff filing must still provide all information necessary to support proposed tariff revisions. *Id.*, n.7. Further, any forecasted data used in the ILEC tariff filings is trued-up with actual data submitted pursuant to sections 51.917 and 51.915 of the Commission's rules.

¹⁷ NECA submitted intrastate terminating rate element detail for the 2011 Base Period Revenue in the TRPs it filed in 2012 for member companies. For the 2012 TY projected intrastate revenues, RLEC companies elected to use either a rate element or a composite approach to deriving intrastate terminating access revenues.

files RLEC CL data by study area with USAC for Interstate Common Line Support (“ICLS”).¹⁸ TRP data are filed using the TY calendar (*i.e.*, for rate-of-return (“RoR”) carriers, July through June, matching the test period for annual access filings specified in the Commission’s Part 61 rules).

The first purpose for the data collection, as stated in the *Order*, is to monitor compliance with the provisions of the *Order* and its accompanying rules, “including to ensure that carriers are not charging ARCs that exceed their Eligible Recovery and that ARCs are reduced as Eligible Recovery decreases.”¹⁹ This purpose can clearly be met by using the extensive amount of data already being filed with the Commission in the annual access tariff filings and particularly in the accompanying TRPs. These data, which are also filed with USAC, currently provide, and will continue to provide, more than sufficient detail to justify CAF ICC support for each carrier. Carriers are also required to justify their ARCs at a high level of granularity, and will be required to justify any changes to their ARCs going forward.

Moreover, the Form requires submission of FY data for ILECs on an ongoing basis. This appears unnecessary. The Commission’s rules required the use of 2011 intrastate and reciprocal compensation FY revenue data, combined with the TY 2011 interstate revenue requirement filed with 2011 tariffs for RoR carriers (or FY 2011 terminating interstate access revenues for price cap carriers) to establish ILEC Base Period Revenue Requirements.²⁰ Ongoing CAF ICC

¹⁸ For ICLS, NECA sends USAC: CL Revenue requirement; SLC, ISDN Port, and Special Access Surcharge revenues; Long Term support (may not be applicable anymore); and estimated ICLS amounts. For the 507 ICLS line count form, NECA reports: Residential/Single line business lines; Multiline business lines; Acquired Residential/Single line business lines; and acquired Multiline business lines.

¹⁹ *USF/ICC Transformation Order* ¶ 922

²⁰ 47 C.F.R. § 51.917(b)(7).

support, however, is calculated based on projected TY ICC data for both intrastate and interstate demand, which is later trued-up by ILECs using TY actual data.²¹

The only possible justification for collecting such data in a monitoring report would be to determine whether forecasted revenues used to determine Eligible Recovery were reasonably estimated. This would be better achieved, however, by collecting historical data that is consistent with filed forecasts. As section 51.917 specifies, RLECs must use “Expected Revenues” from Transitional Intrastate Access Service, interstate switched access, and Net Reciprocal Compensation “for the year beginning July 1, 2012, reflecting forecasted demand multiplied by the rates in the rate transition contained in § 51.909.” Two years later, in 2014, these forecasts are then “adjusted to reflect the True-Up Adjustment . . . for the year beginning July 1, 2012.” Fiscal year data thus will not test the accuracy of filed forecasts. By requiring ongoing submission of FY data, the Form would force carriers to collect extra data each year and reformat it, imposing substantial and unnecessary burdens. The FCC’s data collection period in this Form should match the reporting period for the data used in the annual ILEC TRP filings of RLECs and price cap carriers respectively. The Bureau should accordingly allow ILECs to file data on a TY basis, rather than FY, consistent with what is already done for annual tariff and USAC filings.²²

Several other data collection requirements within the Form would be extremely burdensome. For example, the Form requires carriers to report demand for services for which revenue was collected, not just billed, at the rate element level and to distinguish demand units

²¹ For example, under section 51.917(d) of the Commission’s rules, carriers will report July 1 – June 30 TY data in order to true-up 2012 forecasted tariff data.

²² The FCC indicates it will request FY 2011 data, as well as 2012. FY data for the most current period, however, would provide only three months of Terminating ICC-ARC data for Aug-Sept 2012.

and revenue from affiliates versus non-affiliates. Companies do not typically track collections or uncollectibles for specific rate elements, and this data is not needed to monitor Eligible Recovery in any event. The FCC should eliminate this requirement and simply monitor total billed demand and not collected revenues, as collected demand will not be used for any ratemaking or ICC support true-ups. Likewise, companies do not track demand units and revenue from affiliates separately from non-affiliates (*e.g.*, CABS billing systems do not generally distinguish between minutes and revenues attributable to affiliates versus non-affiliates). Obtaining data at the level of granularity demanded by the Form would require companies to break CABS data down to the CIC level for every billed element, a process that would entail retrieving millions of pieces of data that have no impact on access recovery.²³

The Commission also sought to obtain data needed to resolve outstanding issues in the *FNPRM* regarding the appropriate transition to bill-and-keep and, if necessary, the appropriate recovery mechanism for rate elements not reduced in the *Order*, including originating access and many transport rates.²⁴ The Associations support the Commission's apparent acknowledgment of the need to establish a recovery mechanism for these additional ICC rate elements should the Commission move forward with additional ICC reforms, and do not object to requirements to submit data necessary to develop such a mechanism.²⁵ However, the level of detail requested in the Form goes far beyond what is required to accomplish this goal. It is also unclear why this originating data need be filed on an ongoing annual basis, when the Commission has not yet

²³ As discussed below, carriers also are also unable to identify data specific to VoIP services.

²⁴ *USF/ICC Transformation FNPRM* ¶ 1296.

²⁵ In prior comments, the Associations generally opposed moving forward with further access rate reductions at this time. *See, e.g.*, Initial Comments of NECA, NTCA, *et al.*, WC Docket No. 10-90, at 4 (filed Feb. 24, 2012); Joint Reply Comments of NECA, NTCA, *et al.*, at 3 (filed Mar. 30, 2012); Comments of ITTA, WC Docket No. 10-90, at 2 (filed Feb. 24, 2012).

even issued an order mandating a schedule of reductions or established a recovery mechanism for these additional rate elements. It would be more appropriate for the purpose of analyzing additional ICC reforms to have a separate one-time data collection at a later time that would be far less detailed, similar to data requested in 2011.

It bears noting that, when the Commission imposed the overall requirement to submit data, it specifically referenced an Excel spreadsheet it had issued in 2011 for ILECs to submit on a voluntary basis.²⁶ This request, however, was far simpler and sought far less detailed data than what would be required by the Form. For example, while the Commission did request data by state, it only requested interstate, intrastate, and reciprocal compensation revenue, Minutes of Use (“MOU”), composite rates, and expenses, broken out by terminating vs. originating. It did not request the enormous amount of rate element detail the current Form is requesting, or that usage be broken out by traffic type (e.g. Voice over Internet Protocol (“VoIP”). The Bureau thus appears to have exceeded the authority delegated to it by the Commission in the *Order* by expanding far beyond the contemplated model of data collection.²⁷

Moreover, by requiring data that is unnecessary to meet stated objectives, the Form is likely to raise serious questions of lawfulness under the PRA. The PRA’s primary purpose is “to reduce, minimize and control burdens and maximize the practical utility and public benefit” of information collected by a federal agency. Because much of the stated purpose for this data collection can be met with currently submitted data, or a much simpler new data collection, this proposed collection of additional data does not have practical utility, as required by the PRA, and is unnecessarily duplicative of information otherwise accessible to the agency.

²⁶ Available on the Commission’s website at <http://www.fcc.gov/wcb/ppd/iccdatatemplate.xls>.

²⁷ See 47 C.F.R. §§ 0.91, 0.291.

The PRA also requires, to the maximum extent practicable, for information collections to be implemented in ways consistent and compatible with existing reporting and recordkeeping practices of those who are to respond. The *Order* makes plain the Commission’s intent that this data collection would comply with such requirements. Yet as noted above and further below, the Form requires inconsistent data be submitted. In this regard, the Bureau seems to assume ILECs either already have the level of detailed ICC data available or can readily create it “at minimal additional cost.” In fact, data submissions required by the Form will entail significant additional expense for ILECs.

Finally, while the Associations recognize that acceptance of CAF ICC Support entails data submission and reporting obligations, the Bureau should endeavor to minimize the administrative and reporting costs of support recipients as much as practicable to ensure such support goes directly to the improvement of facilities and services rather than administrative expenses.

For these and other reasons, the Bureau should reconsider its proposed information collection and utilize existing tariff and USAC forms so as to make the reporting obligations consistent with what is already being reported and to minimize additional reporting burdens on ILECs. Specifically, the Bureau should change the requested reporting period from FY to TY to align with data collections already required from ILECs, and simplify the detail requested in the data for all tabs if it requires a separate form.

B. Reporting Instructions Accompanying the Form Are Unclear And Should Be Revised.

Assuming the Bureau decides to continue with some form of data collection as contemplated, several sections of the instructions accompanying the Form would require modification to ensure accurate and consistent reporting of data by companies.

1. Holding company aggregation

In its *Order*, the Commission reasonably sought to limit burdens on companies by requiring that data be aggregated at the holding company level.²⁸ In a few cases, however, this may increase rather than reduce burdens on companies. Specifically, in 2011 and 2012 several holding companies had both price cap regulated and rate-of-return regulated subsidiary companies. It will be difficult and confusing for these holding companies to aggregate data for such entities. The Bureau should provide specific instructions as to how these data should be treated when aggregated at the holding company level and also permit the option for holding company data to be submitted by study area.²⁹

2. Data Months Definitions

ILEC billing records are kept in different formats, which creates potential confusion regarding the types of “month” to be used for reporting data. For example, usage can be reported as a “billed month” or as “usage period(s)” (*i.e.*, usage billed within 30 days or “calendarized”). The Commission should clarify which method is required.

The Form instructions should also clarify how the column “Total Units for Flat Rated Elements” is to be reported (for ARCs, Subscriber Line Charges (“SLCs”), and Entrance Facilities). It appears the instructions require that the reported number of units be based on the last month of the reporting period, but reported revenues are to be for the entire billing period. To avoid mismatches the Bureau should clarify reporting periods to be used.

²⁸ *USF/ICC Transformation Order* ¶ 923.

²⁹ Again, this approach would be consistent with tariff filings. By permitting the option of reporting by study area/legal entity, with a column for state, it would allow the FCC to query the data in the most useful manner based on its intended purposes.

3. ARC Elements and ARC Revenues

The instructions state that carriers should report for the various rows (Residential ARC, Single-Line Business ARC, Multi-Line Business ARC) "[t]he interstate element for which a rate is assessed upon" the type of end user for the line. The instructions should clarify if carriers should exclude lines that are not charged an ARC (e.g., Lifelines and residential lines in exchanges where the \$30 cap was exceeded). Where a company elects not to assess the ARC, the instructions should make clear whether carriers should impute the charge in this reporting form.

ILEC ARC rate elements can vary by exchange and by rate zone. The instructions should clarify how these variations should be treated in the reporting form. For example, should companies report a weighted average of ARC rates by study area?

4. Common Line Rate Elements

RoR ILECs typically do not have separate rates for primary residential lines and non-primary lines. Accordingly, their records do not account for this distinction. Since there does not appear to be any reason to collect this data, it should not be requested. In addition, it is unclear that data relating to Pre-subscribed Interexchange Carrier Charges ("PICCs") warrants a line item in the data collection. While price cap carriers report such information in their TRPs, this data does not affect the calculation of ARC limits and is not part of the ICC compensation that is being phased down under the ICC rules.

The required interstate rate elements are the same as those reported in the Common Line basket of price caps. The various types of End User Common Line and Port charges are not ICC rates, revenue, or demand. These rate elements are billed to end users, not to carriers, and are not a part of the Commission's ICC reform transition, thus have nothing to do with eligible recovery, other than the use of residential EUCL to calculate the Residential rate Ceiling above

which an ARC is not allowed. Since EUCLs and Ports are not required by the FCC's *Order* and are already reported on a calendar year basis in the TRPs associated with tariff filings, they should be eliminated from the Form.³⁰

5. Tandem-Switched Transport and Tandem Rate Elements.

The Tandem Switched Transport and Tandem Tab contains separate rows for reporting common multiplexers and dedicated multiplexers. Some carriers, however, do not tariff or track dedicated multiplexers separately from direct-trunked transport. It would be more appropriate to include the multiplexers within the Direct-Trunked Transport Rate Elements tab.

The rows requesting data by state ask for Tandem Switching MOU and total Tandem Transport revenue. Some carriers have Tandem Switched Transport in every jurisdiction, but do not have Tandem Switching in every state. It appears carriers in this situation would report zero Tandem Switching MOU for a state in which they have no Tandem Switching while reporting non-zero Tandem Transport revenue for that state. The instructions for the Form should confirm this is acceptable.

6. Direct Trunk Transport, Dedicated Signaling and Entrance Facilities Rate Elements.

The Form requests originating and terminating data for flat-rated services.³¹ Companies do not typically track these amounts separately, however. Moreover, MOU are not tracked for flat-rated service. Total Revenue from Flat Rates is marked as N/A, probably in error, as this is the only meaningful number to report on this tab.

³⁰ Intrastate common line varies by state. Some states have per-line CCL that is billed to carriers, some have per-minute CCL, and many have no CCL at all. Lines are not a relevant demand quantity for states where CCL is not tariffed per line, and minutes will not be measured where CCL is not billed per minute.

³¹ See *Public Notice*, Attach. A, at 10-12.

The instructions ask for the number of 8YY units sold on a flat-rated basis.³² Few, if any, companies offer 8YY service as a local service. In addition, PICC and entrance facility rate elements are not associated with 8YY service, and minutes and revenues for local switching rate elements, tandem-switched transport and tandem rate elements are not tracked by 8YY services. In fact, 8YY usage is typically only tracked for Common Carrier Lines and only when the rate element is non-zero. Given that CCL is zero in many jurisdictions, the value of data for non-zero rate elements is negligible. Therefore, 8YY columns should be eliminated or marked as N/A on all tabs.

7. Dedicated Signaling Transport

Dedicated Signaling was excluded from the TRPs as not being part of the direct-trunked rate elements required to be reduced to interstate levels. This tab should accordingly be eliminated as not required by, or relevant to, access recovery monitoring or compliance.

8. Originating VoIP and Non-VoIP

Almost every tab contains columns requesting data for VoIP be reported separately from non-VoIP. Companies may not be able to determine the number of VoIP units for most of these tabs, nor the VoIP demand and revenue, as these may be counted as (and indistinguishable from) DSL or ISDN units. VoIP data may not exist in CABS for most, if not all, rate elements (e.g., flat rates, VoIP usage, VoIP-related reciprocal compensation, direct-trunked transport, End User Common Line and port rates, intrastate Common Carrier Line revenues and minutes, local switching revenues and minutes, PICC and entrance facility rate elements, tandem-switched transport and tandem rate elements, etc.). Moreover, as the ICC rates for VoIP will differ from other rates for less than 2 years, the amount of work required to extract this information from

³² *Id.*

billing data does not justify the need for having this data reported separately. Therefore, the VoIP columns should be eliminated or marked as N/A on all tabs.

Originating state VoIP usage will not be billed at originating interstate rates until July 2014. Since carriers will not know this data until 3rd Qtr 2014, it would be unduly burdensome for carriers provide such data at this time.

9. Reporting Units for Bill-and-Keep

Units are requested as they relate to revenue and expense.³³ The instructions do not make clear if the MOU for bill-and-keep arrangements should be reported as zero. This would reduce the burden of finding MOU that are not related to any revenue or expense on the books.

10. State Access Support Rebalancing Funds and Settlement Pools

For NECA's 2012 tariff and TRP filings, RLECs were diligent in ensuring state access support rebalancing funds were accounted for, in both the baseline as well as current year revenues. As many of these rebalancing funds could be based on Originating Access as well as terminating, the data request should make a distinction between these types of revenue streams.

As with the terminating intrastate ICC data, state settlement pools may exist for originating access and the instructions should address the treatment of the originating side of such settlement pools so the revenues are properly accounted for.

11. Format and Filing Procedures

The FCC proposes to require carriers to file the ICC Compliance and Monitoring Form using a Microsoft Excel 2010 spreadsheet with multiple tabs as the filing format. Many ILECs do not have Microsoft 2010; thus it is recommended the FCC publish the Form using an earlier version of Excel.

³³ *Id.*, Attach., at 12.

12. Data Confidentiality

The Bureau asks whether the protections afforded in the Commission's *Third Protective Order*³⁴ adopted in these proceedings are sufficient to protect any confidential data that may be provided, and if not, what other measures are needed to satisfy this purpose. Carriers should be allowed to designate information as confidential at their discretion when they determine that public disclosure could result in substantial competitive harm. The Associations acknowledge the detailed data filed in this year's annual access tariff proceeding, including the TRPs, and the ensuing Direct Case were covered by this *Third Protective Order*. However, the Associations also believe that, because of the sensitive nature of the data and the level of granularity sought in the Form, the level of confidentiality protection provided in the *Third Protective Order* would not be adequate for the Form as presently formatted.

III. CONCLUSION

The Associations support the Commission's efforts to monitor compliance with rules governing the CAF ICC recovery mechanism and its apparent acknowledgment of the need to establish a recovery mechanism for those additional ICC rate elements discussed in the FNPRM, and do not object to requirements to submit necessary data. However, the Associations suggest much of the information requested on the proposed ICC Compliance and Monitoring Form goes significantly beyond the scope of the Commission's direction to the Bureau as set forth in the *USF/ICC Transformation Order*. Of particular note, the data request is unduly burdensome and redundant insofar as the form unnecessarily seeks ongoing submission of data on a FY basis that ILECs already submit annually on a TY basis. Finally, the level of detail required by the Form goes far beyond what is needed for the Commission to evaluate the ICC reform issues raised in

³⁴ *Id.* at 2.

the *Further Notice*. The proposed data request thus raises significant questions under the Commission's rules as well as under the PRA and should therefore not be issued in its present form.

Respectfully submitted,

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February 4, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Associations' Comments was served this 4th day of February, 2013 by electronic filing and e-mail to the persons listed below.

By: /s/ Elizabeth R. Newson
Elizabeth R. Newson

The following parties were served:

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