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November 4, 2011

Mr. Steven C. Reed
Secretary of the Commission
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

RE: In the Matter of a Repository File in which to Gather Information and Assess the Availability of Broadband Services in the State of Missouri Commission Case No. TW-2010-0362

Dear Mr. Reed:

On October 19, the Commission's Staff invited further feedback in this proceeding on the subjects of (1) Recommendations and potential public policy decisions on how to maximize broadband development in Missouri including increasing deployment and availability of broadband services; (2) Identification of barriers to broadband deployment in unserved and underserved areas; and (3) Assessing advertised versus actual broadband speeds. AT&T[1] takes the opportunity here to submit its further recommendations.[2]

AT&T agrees with the State Senate Committee on Commerce, Consumer Protection, Energy and the Environment, which prompted the opening of this proceeding, that there is a "need for a responsible public policy that facilitates accessible and reliable broadband services throughout our state."[3] AT&T believes that broadband is critical to creating and sustaining jobs, enabling economic recovery and prosperity, improving healthcare, education and the environment, and connecting consumers with their world regardless of where they live, work or travel.

In its initial recommendations, AT&T suggested that further guidance from the FCC would be "indispensable to this Commission as it sets out to formulate the pertinent questions and issues to be discussed, analyzed and debated."[4] Recent developments indicate that the FCC's guidance will soon be forthcoming.

Last Thursday, the FCC announced at its Open Meeting that it had adopted a landmark decision fundamentally overhauling its existing high-cost universal service ("USF") program

[1] "AT&T" refers to Southwestern Bell Telephone Company d/b/a AT&T Missouri and its affiliates which provide a variety of broadband services.
[2] AT&T provided the Commission initial comments in this matter on July 22, 2010.
[3] Staff's Motion to Open a Repository Docket, June 11, 2010, Attachment A ("Senate Committee Letter").
[4] AT&T's July 22, 2010 Comments, at 4.

and intercarrier compensation ("ICC") regime.[5] While the full text of the FCC's *Comprehensive Reform Order* has yet to be issued, it is clear that the Order will have a fundamental impact on any state policy determinations on how best to facilitate accessible and reliable broadband services in unserved and underserved areas.

The FCC's *Comprehensive Reform Order* reflects the FCC's decision – by unanimous vote – to comprehensively reform its USF and ICC systems. As a result, "Efforts to expand high-speed Internet to rural America over the next six years will increase economic growth by $50 billion over that period, the FCC estimates. These reforms create a new Connect America Fund with an annual budget of no more than $4.5 billion, which will extend broadband infrastructure to the millions of Americans who currently have no access to broadband." In addition, the FCC expressly "recognizes the growing importance of mobile broadband and makes it an independent universal service objective for the first time in history. Dedicated support to expand mobile broadband nationwide will be provided through a new Mobility Fund."[6]

It is clear that the FCC's *Comprehensive Reform* Order will modernize the USF by shifting support from legacy circuit switched voice service to broadband and wireless services, while simultaneously adopting changes intended to ensure the fund's future viability and limit its size. Nevertheless, any detailed and complete assessment of the FCC's *Comprehensive Reform Order* -- and its impact on potential public policy decisions on how to maximize broadband development in Missouri -- must await release of the text of the Order, which will shed further light on important specifics.

While the details remain unknown pending the release of the FCC's Order, the repurposing of universal service funds to focus on broadband deployment has the potential to significantly impact broadband availability, particularly if the funds are directed to areas that remain unserved. Certainly, the use of universal service funds has the potential to incentivize companies to provide broadband services in areas where companies today see only limited economic potential and thus are less likely to invest in broadband services, particularly wired broadband services where it simply may not make economic sense to invest to serve sparsely populated areas.

To be sure, wise and prudent use of universal service funding is a critical component for increasing deployment of broadband services. Equally important, however, are other policy measures that can help facilitate broadband deployment. Public / private partnerships can prove beneficial in areas like community-based technology planning and in broadband demand aggregation. Ensuring that anchor institutions, such as hospitals and schools, are included in broadband deployment plans may help overcome the economic hurdles of serving

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[5] *Connect America Fund & Intercarrier Compensation Reform Order and Further Notice of Proposed Rulemaking* (FCC 11-161) (approved by FCC vote on October 27, 2011 but not released) ("*Comprehensive Reform Order*").

[6] FCC October 27, 2011 Press Release (Attachment 1) and Executive Summary (Attachment 2)

small rural communities. Furthermore, programs to stimulate demand for broadband services can help overcome the economic challenges of serving sparsely populated areas.

Minimizing regulatory burdens is also critical to ensuring maximum broadband investment. For example, legacy carrier of last resort obligations require companies to invest in outdated legacy circuit-switched voice technology at the expense of investing in modern broadband-based networks. Likewise, local ordinances that impose burdensome costs and permitting processes can drain investment resources and slow deployment plans.

Tax policies can also impact broadband investment. Imposing excessive taxes for right of way use and wireless antenna placements, for example, can discourage broadband investment. Likewise, other imposed costs, such as pole attachment rates, can impact broadband investment.

Generally speaking, there is a significant economic challenge faced by policy makers and service providers for ensuring broadband availability to the remaining 5-10% of the population that does not already have a broadband solution capable of supporting basic broadband applications. Therefore, policies that streamline burdensome processes (e.g., local permitting requirements), minimize costs imposed on service providers (e.g., taxes, pole attachment prices), reduce investment barriers (e.g., legacy regulations like carrier of last resort obligations) and increase incentives (e.g., direct funding, demand stimulation) will help overcome the economic challenges of bringing broadband to the last of the unserved.

Sincerely,

Craig Unruh

Attachments

NEWS

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FCC CREATES 'CONNECT AMERICA FUND' TO HELP EXTEND HIGH-SPEED INTERNET TO 18 MILLION UNSERVED AMERICANS; CREATING JOBS & INCREASED CONSUMER BENEFITS

Agency delivers bipartisan vote to modernize America's communications infrastructure and expand broadband throughout the nation

Washington, D.C. – In the most significant policy step ever taken to connect all Americans to high-speed Internet, wherever they live, the FCC voted unanimously to comprehensively reform its Universal Service Fund and intercarrier compensation systems. Those systems have been widely viewed as broken, and long overdue for reform. Efforts to expand high-speed Internet to rural America over the next six years will increase economic growth by $50 billion over that period, the FCC estimates.

These reforms create a new Connect America Fund with an annual budget of no more than $4.5 billion, which will extend broadband infrastructure to the millions of Americans who currently have no access to broadband. As a result, today's action has the potential to be one of the biggest job creators in rural America in decades. The FCC estimates that approximately 500,000 jobs will be created over the next six years by expanding high-speed Internet access to over 7 million Americans living in rural areas. And by increasing the overall size of the U.S. marketplace, small Main Street businesses across the country will benefit from the opportunity to sell to new customers.

As part of this reform, the FCC recognizes the growing importance of mobile broadband and makes it an independent universal service objective for the first time in history. Dedicated support to expand mobile broadband nationwide will be provided through a new Mobility Fund.

The Connect America Fund will put America on the path to universal broadband and advanced mobile coverage without increasing costs to consumers. By eliminating waste and targeting support where it is most needed, these reforms put universal service funding on a firm budget, and they will impose strict new accountability on fund recipients.

The Order and Further Notice of Proposed Rulemaking reflect broad input received by the FCC in over 2,700 comments from a diverse array of stakeholders. Further details are provided in the attached Executive Summary. The outlines of this comprehensive reform are as follows:

- **<u>INCREASED CONSUMER BENEFITS</u>**: The FCC estimates that, over the next six years, the Connect America Fund will expand broadband access to over 7 million residents of rural areas who are currently unserved, and will put the country on the path to universal broadband within a decade. The Mobility Fund will expand advanced mobile broadband access to tens of thousands of road miles, where millions of people work, live, and travel, and will include dedicated support for Tribal areas. Intercarrier compensation reform will eliminate hidden costs in consumer bills, providing economic benefits to long distance and wireless consumers across the nation of $2.2 billion annually in the form of lower prices, better value for the money, or both. Expanded broadband access will generate approximately 500,000 jobs over the next six years. As part of this reform, some consumers may pay, on average, an additional 10 to 15 cents a month on their bills; but for every dollar in cost, reform will provide $3 in benefits for consumers. And no additional charges can be imposed on consumer phone bills that are at or above $30 a month (inclusive of most fees consumers pay on their bills), nor can such charges be imposed on low-income consumers served by the FCC's Lifeline program. Any new charges will begin to decline after six years.

- **COMMIT TO FISCAL RESPONSIBILITY**: A firm annual budget set at current levels—$4.5 billion—will prevent growth in the Fund and help protect consumers from increased contribution fees. Programs that provide subsidies where they are not needed are eliminated, and compensation for corporate overhead expenses is reduced. Market-based mechanisms, including competitive bidding, will be used to distribute money more efficiently.

- **DEMAND ACCOUNTABILITY**: In order to receive Connect America Fund support, carriers must demonstrate they are deploying broadband to their customers. These networks must meet performance criteria that enable the use of common applications such as distance learning, remote health monitoring, VoIP, two-way high quality video conferencing, Web browsing, and email.

- **ENCOURAGE DEPLOYMENT OF MODERN NETWORKS**: Intercarrier compensation distorts investment in technology and discourages investment in modern Internet Protocol networks. It is also unfair to consumers, forcing wireless and long distance customers to provide billions of dollars per year in hidden subsidies to phone companies. Reform will ensure fairness to consumers, promote competition, and foster innovation in communications services. In addition, the Order takes immediate action to end wasteful and costly gaming of the intercarrier system, including schemes such as phantom traffic and traffic pumping.

Action by the Commission, October 27, 2011by Report and Order and Further Notice of Proposed Rulemaking.

Docket Nos.: 10-90, 09-51, 07-135, 05-337, 01-92, 96-45, 03-109, 10-208

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Connect America Fund & Intercarrier Compensation Reform Order and FNPRM

Executive Summary

Universal Service Reform

1. *Principles and Goals.* We begin by adopting support for broadband-capable networks as an express universal service principle under section 254(b) of the Communications Act, and, for the first time, we set specific performance goals for the high-cost component of the Universal Service Fund (USF) that we are reforming today, to ensure these reforms are achieving their intended purposes. The goals are: (1) preserve and advance universal availability of voice service; (2) ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions; (3) ensure universal availability of modern networks capable of providing advanced mobile voice and broadband service; (4) ensure that rates for broadband services and rates for voice services are reasonably comparable in all regions of the nation; and (5) minimize the universal service contribution burden on consumers and businesses.

2. *Budget*. We establish, also for the first time, a firm and comprehensive budget for the high-cost programs within USF.[1] The annual funding target is set at no more than $4.5 billion over the next six years, the same level as the high-cost program for Fiscal Year 2011, with an automatic review trigger if the budget is threatened to be exceeded. This will provide for more predictable funding for carriers and will protect consumers and businesses that ultimately pay for the fund through fees on their communications bills. We are today taking important steps to control costs and improve accountability in USF, and our estimates of the funding necessary for components of the Connect America Fund (CAF) and legacy high-cost mechanisms represent our predictive judgment as to how best to allocate limited resources at this time. We anticipate that we may revisit and adjust accordingly the appropriate size of each of these programs by the end of the six-year period, based on market developments, efficiencies realized, and further evaluation of the effect of these programs in achieving our goals.

3. *Public Interest Obligations.* While continuing to require that all eligible telecommunications carriers (ETCs) offer voice services, we now require that they also offer broadband services. We update the definition of voice services for universal service purposes, and decline to disrupt any state carrier of last resort (COLR) obligations that may exist. We also establish specific and robust broadband performance requirements for funding recipients.

4. *Connect America Fund*. We create the Connect America Fund, which will ultimately replace all existing high-cost support mechanisms. The CAF will help make broadband available to homes, businesses, and community anchor institutions in areas that do not, or would not otherwise, have broadband, including mobile voice and broadband networks in areas that do not, or would not otherwise, have mobile service, and broadband in the most remote areas of the nation. The CAF will also help facilitate our intercarrier compensation (ICC) reforms. The CAF will rely on incentive-based, market-driven policies, including competitive bidding, to distribute universal service funds as efficiently and effectively as possible.

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[1] While we recognize that over time several of our existing support mechanisms will be phased down and eliminated, for purposes of this budget, the term "high-cost" includes all support mechanisms in place as of the date of this Order, specifically, high-cost loop support, safety net support, safety valve support, local switching support, interstate common line support, high cost model support, and interstate access support, as well as the new Connect America Fund, which includes funding to support and advance networks that provide voice and broadband services, both fixed and mobile, and funding provided in conjunction with the recovery mechanism adopted as part of intercarrier compensation reform.

5. *Price Cap Territories.* More than 83 percent of the approximately 18 million Americans that lack access to residential fixed broadband at or above the Commission's broadband speed benchmark live in areas served by price cap carriers—Bell Operating Companies and other large and mid-sized carriers. In these areas, the CAF will introduce targeted, efficient support for broadband in two phases.

6. *Phase I.* To spur immediate broadband buildout, we will provide additional funding for price cap carriers to extend robust, scalable broadband to hundreds of thousands of unserved Americans beginning in early 2012. To enable this deployment, all existing legacy high-cost support to price cap carriers will be frozen, and an additional $300 million in CAF funding will be made available. Frozen support will be immediately subject to the goal of achieving universal availability of voice and broadband, and subject to obligations to build and operate broadband-capable networks in areas unserved by an unsubsidized competitor over time. Any carrier electing to receive the additional support will be required to deploy broadband and offer service that satisfies our new public interest obligations to an unserved location for every $775 in incremental support. Specifically, carriers that elect to receive this additional support must provide broadband with actual speeds of at least 4 Mbps downstream and 1 Mbps upstream,[2] with latency suitable for real-time applications and services such as VoIP, and with monthly usage capacity reasonably comparable to that of residential terrestrial fixed broadband offerings in urban areas. In addition, to ensure fairness for consumers across the country who pay into USF, we reduce existing support levels in any areas where a price cap company charges artificially low end-user voice rates.

7. *Phase II.* The next phase of the CAF will use a combination of a forward-looking broadband cost model and competitive bidding to efficiently support deployment of networks providing both voice and broadband service for five years. We expect that the CAF will expand broadband availability to millions more unserved Americans.

8. We direct the Wireline Competition Bureau to undertake a public process to determine the specific design and operation of the cost model to be used for this purpose, with stakeholders encouraged to participate in that process. The model will be used to establish the efficient amount of support required to extend and sustain robust, scalable broadband in high-cost areas. In each state, each incumbent price cap carrier will be asked to undertake a "state-level commitment" to provide affordable broadband to all high-cost locations in its service territory in that state, excluding extremely high cost areas as determined by the model. Importantly, the CAF will only provide support in those areas where a federal subsidy is necessary to ensure the buildout and operation of broadband networks. The CAF will not provide support in areas where unsubsidized competitors are providing broadband that meets our definition. Carriers accepting the state-level commitment will be obligated to meet rigorous broadband service requirements—with interim buildout requirements in three years and final requirements in five years—and will receive CAF funding, in an amount calculated by the model, over a five-year period, with significant financial consequences in the event of non- or under-performance. We anticipate that CAF obligations will keep pace as services in urban areas evolve, and we will ensure that CAF-funded services remain reasonably comparable to urban broadband services over time. After the five-year period, the Commission will use competitive bidding to distribute any universal service support needed in those areas.

9. In areas where the incumbent declines the state-level commitment, we will use competitive bidding to distribute support in a way that maximizes the extent of robust, scalable

[2] Upon a showing that the specified support amount is inadequate to enable build out of broadband with actual upstream speeds of at least 1 Mbps to the required number of locations, a carrier may request a waiver.

broadband service subject to an overall budget. In the Further Notice of Proposed Rulemaking (FNPRM) that accompanies today's Order, we propose a structure and operational details for the competitive bidding mechanism, in which any broadband provider that has been designated as an ETC for the relevant area may participate. The second phase of the CAF will distribute a total of up to $1.8 billion annually in support for areas with no unsubsidized broadband competitor. We expect that the model and competitive bidding mechanism will be adopted by December 2012, and disbursements will ramp up in 2013 and continue through 2017.

10. *Rate-of-Return Reforms.* Although they serve less than five percent of access lines in the U.S., smaller rate-of-return carriers operate in many of the country's most difficult and expensive areas to serve. Rate-of-return carriers' total support from the high-cost fund is approaching $2 billion annually. We reform our rules for rate-of-return companies in order to support continued broadband investment while increasing accountability and incentives for efficient use of public resources. Rate-of-return carriers receiving legacy universal service support, or CAF support to offset lost ICC revenues, must offer broadband service meeting initial CAF requirements, with actual speeds of at least 4 Mbps downstream and 1 Mbps upstream, upon their customers' reasonable request. Recognizing the economic challenges of extending service in the high-cost areas of the country served by rate-of-return carriers, this flexible approach does not require rate-of-return companies to extend service to customers absent such a request.

11. Alongside these broadband service rules, we adopt reforms to: (1) establish a framework to limit reimbursements for excessive capital and operating expenses, which will be implemented no later than July 1, 2012, after an additional opportunity for public comment; (2) encourage efficiencies by extending existing corporate operations expense limits to the existing high-cost loop support and interstate common line support mechanisms, effective January 1, 2012; (3) ensure fairness by reducing high-cost loop support for carriers that maintain artificially low end-user voice rates, with a three-step phase-in beginning July 1, 2012; (4) phase out the Safety Net Additive component of high-cost loop support over time; (5) address Local Switching Support as part of comprehensive ICC reform; (6) phase out over three years support in study areas that overlap completely with an unsubsidized facilities-based terrestrial competitor that provides voice and fixed broadband service, beginning July 1, 2012; and (7) cap per-line support at $250 per month, with a gradual phasedown to that cap over a three-year period commencing July 1, 2012. In the FNPRM, we seek comment on establishing a long-term broadband-focused CAF mechanism for rate-of-return carriers, and relatedly seek comment on reducing the interstate rate-of-return from its current level of 11.25 percent. We expect rate-of-return carriers will receive approximately $2 billion per year in total high-cost universal service support under our budget through 2017.

12. *CAF Mobility Fund*. Concluding that mobile voice and broadband services provide unique consumer benefits, and that promoting the universal availability of such services is a vital component of the Commission's universal service mission, we create the Mobility Fund, the first universal service mechanism dedicated to ensuring availability of mobile broadband networks in areas where a private-sector business case is lacking. Mobile broadband carriers will receive significant legacy support during the transition to the Mobility Fund, and will have opportunities for new Mobility Fund dollars. The providers receiving support through the CAF Phase II competitive bidding process will also be eligible for the Mobility Fund, but carriers will not be allowed to receive redundant support for the same service in the same areas. Mobility Fund recipients will be subject to public interest obligations, including data roaming and collocation requirements.

- *Phase I*. We provide up to $300 million in one-time support to immediately accelerate deployment of networks for mobile voice and broadband services in unserved areas. Mobility Fund Phase I support will be awarded through a nationwide reverse auction, which we expect to occur in third quarter 2012. Eligible areas will include census blocks unserved today by mobile broadband services, and carriers may not receive support for areas they have previously stated they plan to cover. The auction will maximize coverage of unserved road miles within the budget, and winners will be required to deploy 4G service within three years, or 3G service within two years, accelerating the migration to 4G. We also establish a separate and complementary one-time Tribal Mobility Fund Phase I to award up to $50 million in additional universal service funding to Tribal lands to accelerate mobile voice and broadband availability in these remote and underserved areas.

- *Phase II.* To ensure universal availability of mobile broadband services, the Mobility Fund will provide up to $500 million per year in ongoing support. The Fund will expand and sustain mobile voice and broadband services in communities in which service would be unavailable absent federal support. The Mobility Fund will include ongoing support for Tribal areas of up to $100 million per year as part of the $500 million total budget. In the FNPRM we propose a structure and operational details for the ongoing Mobility Fund, including the proper distribution methodology, eligible geographic areas and providers, and public interest obligations. We expect to adopt the distribution mechanism for Phase II in 2012 with implementation in 2013.

13. *Identical Support Rule.* In light of the new support mechanisms we adopt for mobile broadband service and our commitment to fiscal responsibility, we eliminate the identical support rule that determines the amount of support for mobile, as well as wireline, competitive ETCs today. We freeze identical support per study area as of year end 2011, and phase down existing support over a five-year period beginning on July 1, 2012. The gradual phase down we adopt, in conjunction with the new funding provided by Mobility Fund Phase I and II, will ensure that an average of over $900 million is provided to mobile carriers for each of the first four years of reform (through 2015). The phase down of CETC support will stop if Mobility Fund Phase II is not operational by June 30, 2014, ensuring approximately $600 million per year in legacy support will continue to flow until the new mechanism is operational.

14. *Remote Areas Fund.* We allocate at least $100 million per year to ensure that Americans living in the most remote areas in the nation, where the cost of deploying traditional terrestrial broadband networks is extremely high, can obtain affordable access through alternative technology platforms, including satellite and unlicensed wireless services.[3] We propose in the FNPRM a structure and operational details for that mechanism, including the form of support, eligible geographic areas and providers, and public interest obligations. We expect to finalize the Remote Areas Fund in 2012 with implementation in 2013.

15. *Reporting and Enforcement.* We establish a national framework for certification and reporting requirements for all universal service recipients to ensure that their public interest obligations are satisfied, that state and federal regulators have the tools needed to conduct meaningful oversight, and that public funds are expended in an efficient and effective manner. We do not disturb the existing role of states in designating ETCs and in monitoring that ETCs within their jurisdiction are using universal service support for its intended purpose. We seek comment on whether and how we should adjust federal obligations on ETCs in areas where legacy funding is phased down. We also adopt rules to reduce or eliminate support if public interest obligations or other requirements are not satisfied, and seek comment on the appropriateness of additional enforcement mechanisms.

[3] We note that satellite broadband providers and wireless Internet service providers (WISPs) are not confined to participating only in this component of the CAF; they are eligible to participate in any CAF program for which they can meet the specified performance requirements.

16. *Waiver.* As a safeguard to protect consumers, we provide for an explicit waiver mechanism under which a carrier can seek relief from some or all of our reforms if the carrier can demonstrate that the reduction in existing high-cost support would put consumers at risk of losing voice service, with no alternative terrestrial providers available to provide voice telephony.

Intercarrier Compensation Reform

17. *Immediate ICC Reforms*. We take immediate action to curtail wasteful arbitrage practices, which cost carriers and ultimately consumers hundreds of millions of dollars annually:

- *Access Stimulation.* We adopt rules to address the practice of access stimulation, in which carriers artificially inflate their traffic volumes to increase ICC payments. Our revised interstate access rules generally require competitive carriers and rate-of-return incumbent local exchange carriers (LECs) to refile their interstate switched access tariffs at lower rates if the following two conditions are met: (1) a LEC has a revenue sharing agreement and (2) the LEC either has (a) a three-to-one ratio of terminating-to-originating traffic in any month or (b) experiences more than a 100 percent increase in traffic volume in any month measured against the same month during the previous year. These new rules are narrowly tailored to address harmful practices while avoiding burdens on entities not engaging in access stimulation.
- *Phantom Traffic*. We adopt rules to address "phantom traffic," *i.e*., calls for which identifying information is missing or masked in ways that frustrate intercarrier billing. Specifically, we require telecommunications carriers and providers of interconnected VoIP service to include the calling party's telephone number in all call signaling, and we require intermediate carriers to pass this signaling information, unaltered, to the next provider in a call path.

18. *Comprehensive ICC Reform*. We adopt a uniform national bill-and-keep framework as the ultimate end state for all telecommunications traffic exchanged with a LEC. Under bill-and-keep, carriers look first to their subscribers to cover the costs of the network, then to explicit universal service support where necessary. Bill-and-keep has worked well as a model for the wireless industry; is consistent with and promotes deployment of IP networks; will eliminate competitive distortions between wireline and wireless services; and best promotes our overall goals of modernizing our rules and facilitating the transition to IP. Moreover, we reject the notion that only the calling party benefits from a call and therefore should bear the entire cost of originating, transporting, and terminating a call. As a result, we now abandon the calling-party-network-pays model that dominated ICC regimes of the last century. Although we adopt bill-and-keep as a national framework, governing both inter- and intrastate traffic, states will have a key role in determining the scope of each carrier's financial responsibility for purposes of bill-and-keep, and in evaluating interconnection agreements negotiated or arbitrated under the framework in sections 251 and 252 of the Communications Act. We also address concerns expressed by some commenters about potential fears of traffic "dumping" and seek comment in the FNPRM on whether any additional measures are necessary in this regard.

19. *Multi-Year Transition*. We focus initial reforms on reducing terminating switched access rates, which are the principal source of arbitrage problems today. This approach will promote migration to all-IP networks while minimizing the burden on consumers and staying within our universal service budget. For these rates, as well as certain transport rates, we adopt a gradual, measured transition that will facilitate predictability and stability. First, we require carriers to cap most ICC rates as of the effective date of this Order. To reduce the disparity between intrastate and interstate terminating end office rates, we next require carriers to bring these rates to parity within two steps, by July 2013. Thereafter, we require carriers to reduce their termination (and for some carriers also transport) rates to bill-and-keep, within six years for price

cap carriers and nine for rate-of-return carriers. The framework and transition are default rules and carriers are free to negotiate alternatives that better address their individual needs. Although the Order begins the process of reforming all ICC charges by capping all interstate rate elements and most intrastate rate elements, the FNPRM seeks comment on the appropriate transition and recovery for the remaining originating and transport rate elements. States will play a key role in overseeing modifications to rates in intrastate tariffs to ensure carriers are complying with the framework adopted in this Order and not shifting costs or otherwise seeking to gain excess recovery. The FNPRM also seeks comment on interconnection issues likely to arise in the process of implementing a bill-and-keep methodology for ICC.

20. *New Recovery Mechanism.* We adopt a transitional recovery mechanism to mitigate the effect of reduced intercarrier revenues on carriers and facilitate continued investment in broadband infrastructure, while providing greater certainty and predictability going forward than the *status quo*. Although carriers will first look to limited increases from their end users for recovery, we reject notions that all recovery should be borne by consumers. Rather, we believe, consistent with past reforms, that carriers should have the opportunity to seek partial recovery from all of their end user customers. We permit incumbent telephone companies to charge a limited monthly Access Recovery Charge (ARC) on wireline telephone service, with a maximum annual increase of $0.50 for consumers and small businesses, and $1.00 per line for multi-line businesses, to partially offset ICC revenue declines. To protect consumers, we adopt a strict ceiling that prevents carriers from assessing any ARC for any consumer whose total monthly rate for local telephone service, inclusive of various rate-related fees, is at or above $30. Although the maximum ARC is $0.50 per month, we expect the actual average increase across all wireline consumers to be no more than $0.10-$0.15 a month, which translates into an expected maximum of $1.20-$1.80 per year that the average consumer will pay.[4] We anticipate that consumers will receive more than three times that amount in benefits in the form of lower calling prices, more value for their wireless or wireline bill, or both, as well as greater broadband availability. Furthermore, the ARC will phase down over time as carriers' eligible revenue decreases, and we prevent carriers from charging any ARC on Lifeline customers or further drawing on the Lifeline program, so that ICC reform will not raise rates at all for these low-income consumers. We also seek comment in the FNPRM about reassessing existing subscriber line charges (SLCs), which are not otherwise implicated by this Order, to determine whether those charges are set at appropriate levels.

21. Likewise, although we do not adopt a rate ceiling for multi-line businesses customers, we do adopt a cap on the combination of the ARC and the existing SLC to ensure that multi-line businesses do not bear a disproportionate share of recovery and that their rates remain just and reasonable. Specifically, carriers cannot charge a multi-line business customer an ARC when doing so would result in the ARC plus the existing SLC exceeding $12.20 per line. Moreover, to further protect consumers, we adopt measures to ensure that carriers must apportion lost revenues eligible for ICC recovery between residential and business lines, appropriately weighting the business lines (*i.e.*, according to the higher maximum annual increase in the business ARC) to prevent carriers that elect not to receive ICC CAF from recovering their entire ICC revenue loss from consumers. Carriers may receive CAF support for any otherwise-eligible revenue not recovered by the ARC. In addition, carriers receiving CAF support to offset lost ICC revenues will be required to use the money to advance our goals for universal voice and broadband.

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[4] The maximum theoretical ARC for customers of price cap carriers would be $2.50 after 5 years and for customers of rate-of-return carriers would be $3 after 6 years, although we expect the average actual ARC to be less than half of those totals.

22. In defining how much of their lost revenues carriers will have the opportunity to recover, we reject the notion that ICC reform should be revenue neutral. We limit carriers' total eligible recovery to reflect the existing downward trends on ICC revenues with declining switching costs and minutes of use. For price cap carriers, baseline recovery amounts available to each price cap carrier will decline at 10 percent annually. Price cap carriers whose interstate rates have largely been unchanged for a decade because they participated in the Commission's 2000 CALLS plan will be eligible to receive 90 percent of this baseline every year from ARCs and the CAF. In those study areas that have recently converted from rate-of-return to price cap regulation, carriers will initially be permitted to recover the full baseline amount to permit a more gradual transition, but we will decline to 90 percent recovery for these areas as well after 5 years. All price cap CAF support for ICC recovery will phase out over a three-year period beginning in the sixth year of the reform.

23. For rate-of-return carriers, recovery will be calculated initially based on rate-of-return carriers' fiscal year 2011 interstate switched access revenue requirement, intrastate access revenues that are being reformed as part of this Order, and net reciprocal compensation revenues. This baseline will decline at five percent annually to reflect combined historical trends of an annual three percent interstate cost and associated revenue decline, and ten percent intrastate revenue decline, while providing for true ups to ensure CAF recovery in the event of faster-than-expected declines in demand. Both recovery mechanisms provide carriers with significantly more revenue certainty than the *status quo*, enabling carriers to reap the benefits of efficiencies and reduced switching costs, while giving providers stable support for investment as they adjust to an IP world.

24. *Treatment of VoIP Traffic.* We make clear the prospective payment obligations for VoIP traffic exchanged in TDM between a LEC and another carrier, and adopt a transitional framework for VoIP intercarrier compensation. We establish that default charges for "toll" VoIP-PSTN traffic will be equal to interstate rates applicable to non-VoIP traffic, and default charges for other VoIP-PSTN traffic will be the applicable reciprocal compensation rates. Under this framework, all carriers originating and terminating VoIP calls will be on equal footing in their ability to obtain compensation for this traffic.

25. *CMRS-Local Exchange Carrier (LEC) Compensation.* We clarify certain aspects of CMRS-LEC compensation to reduce disputes and address existing ambiguity. We adopt bill-and-keep as the default methodology for all non-access CMRS-LEC traffic. To provide rate-of-return LECs time to adjust to bill-and-keep, we adopt an interim transport rule for rate-of-return carriers to specify LEC transport obligations under the default bill-and-keep framework for non-access traffic exchanged between these carriers. We also clarify the relationship between the compensation obligations in section 20.11 of the Commission's rules and the reciprocal compensation framework, thus addressing growing concerns about arbitrage related to rates set without federal guidance. Further, in response to disputes, we make clear that a call is considered to be originated by a CMRS provider for purposes of the intraMTA rule only if the calling party initiating the call has done so through a CMRS provider. Finally, we affirm that all traffic routed to or from a CMRS provider that, at the beginning of a call, originates and terminates within the same MTA, is subject to reciprocal compensation, without exception.

26. *IP-to-IP Interconnection.* We recognize the importance of interconnection to competition and the associated consumer benefits. We anticipate that the reforms we adopt will further promote the deployment and use of IP networks, and seek comment in the accompanying FNPRM regarding the policy framework for IP-to-IP interconnection. We also make clear that even while our FNPRM is pending, we expect all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic.