Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:	)	
	)	
Developing a Unified Intercarrier	)	
Compensation Regime	)	CC Docket No. 01-92

Comments of the ICORE Companies

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The following small, rural incumbent Local Exchange Carriers (ILECs)[1], through the consulting firm of ICORE, Inc. (ICORE), offer these comments in the above-captioned proceeding. ICORE provides a variety of consulting, regulatory, billing and network-related services to a number of the nation's smallest ILECs[1].

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[1] ILECs participating in this filing include: Barry County Telephone Company, Delton, MI; Benton Cooperative Telephone Company, Rice, MN; Cooperative Telephone Company, Victor, IA; Doylestown Telephone Company, Doylestown, OH; Dunbarton Telephone Company, Dunbarton, NH; Harmony Telephone Company, Harmony, MN; Hot Springs Telephone Company, Kalispell, MT; Ironton Telephone Company, Coplay, PA; Killduff Telephone Company, Sully, IA; Lexcom Telephone Company, Lexington, NC; Lynnville Telephone Company, Sully, IA; Middle Point Home Telephone Company, VanWert, OH; Midstate Telephone Company, Stanley, ND; Mutual Telephone Company, Sioux Center, IA; Palmerton Telephone Company, Palmerton, PA; Partner Communications Cooperative, Gilman, IA; Pattersonville Telephone Company, Pattersonville, OH; Prairie Grove Telephone Company, Prairie Grove, AR; Redwood County Telephone Company, Wabasso, MN; Ronan Telephone Company, Ronan, MT; Searsboro Telephone Company, Sully, IA; Sherwood Mutual Telephone Company, Sherwood, OH; State Long Distance Telephone Company, Elkhorn, WI; Summit Telephone Company, Fairbanks, AK; Sycamore Telephone Company, Sycamore, OH; Van Horne Telephone Company, Van Horne, IA; Wikstrom Telephone Company, Karlstad, MN; Yukon-Waltz Telephone Company, Yukon, PA.

I. INTRODUCTION

While the convergence of regulation, competition and technology will require major changes in the telecommunications industry, the Commission must keep one absolute certainty in mind as it addresses the myriad of complex issues in this proceeding.

The traditional wireline network – the Public Switched Telephone Network (PSTN) – is the backbone of telecommunications in this country. It alone allows all other competing technologies, networks and services to be viable.

Small ILECs provide loop, switching and transport facilities to suburban, rural and insular areas in a huge geographic potion of this country. They assure that the PSTN is a joint, thorough, seemless network where every telecommunications user in this nation can reach every other user on a real-time, any-time basis.

The facilities contributed to the PSTN by Rural ILECs guarantee reliable connectivity, quality transmission and secure communications. The most remote areas of our country, for instance, are accorded the very real benefits of Emergency 911 services, and law enforcement agencies are able to implement the provisions of CALEA.

The wireline infrastructure provided by Rural ILECs is absolutely essential to all forms of telecommunications in rural America. All carriers – CLECs, IXCs, wireless companies, VoIP providers and others – use these ILEC facilities for origination, termination, switching and/or transport of their traffic to and from rural ILEC end users.

In fact, the Rural ILEC wireline infrastructure is of almost inestimable value to the PSTN itself, all carriers that use the PSTN, and to the provision of advanced, high quality and affordable telecommunications services in rural America. It is, in short, an invaluable national resource that must continue to be supported by any intercarrier compensation plan.

II. THE COMMISSION, TO MEET ITS STATED GOALS, MUST APPLY CERTAIN PRINCIPLES TO INTERCARRIER COMPENSATION FOR RURAL ILECS

Regardless of how non-rural wireline carriers, and all other carriers, are treated in this docket, the Commission must – in developing any intercarrier compensation regime – consider the unique position of Rural ILECs in serving the telecommunications needs of rural Americans.

The Commission lists three major goals that any new intercarrier compensation regime should accomplish. These include: the promotion of economic efficiency,[2] the preservation of universal service[3] and the assurance of competitive and technological neutrality[4].

In order to guarantee that these goals will be met for Rural ILECs and their customers, the following principles need to be adopted:

- Rural ILECs must be given a fair opportunity to recover their total costs, including joint and common costs, plus a return on their investment.
- Rural ILEC infrastructure is the only totally safe, secure, and reliable telecommunication medium serving all rural Americans.

[2] *Developing a Unified Intercarrier Compensation Regime,* CC Docket No. 01-92, Notice of Proposed Rulemaking 16 FCC Rcd 9610 (2001) *(Intercarrier Compensation NPRM*); Further Notice of Proposed Rulemaking, FCC 05-33 (rel. Mar. 3, 2005) *(Further Notice)*, at 31.
[3] id, at 32.
[4] Id, at 33.

- A substantial portion of Rural ILEC costs have been incurred to provide network functions and advanced services to IXCs and other carriers, and/or to comply with industry, regulatory or legislative requirements.
- Those entities that directly cause or impose the costs, as well as those that benefit therefrom, should pay for those costs.
- Since regulators and legislators have systematically eliminated historic industry "implicit subsidies" and "cross subsidies," they should not now create new ones. Specifically, Rural ILEC end users should not, under any intercarrier compensation plan, subsidize IXCs, CLECs, ISPs, CMRS providers or other carriers.
- No intercarrier compensation plan should unfairly reduce Rural ILEC revenues to the point of threatening universal service, or place Rural ILECs at a competitive disadvantage versus other carriers.
- Any such plan should provide incentives for Rural ILECs to continue investing in infrastructure.

III. EMBEDDED COSTS MUST FORM THE BASIS OF INTERCARRIER COMPENSATION FOR RURAL ILECS

Discussions of Bill and Keep, forward looking costs such as TELRIC, additional costs, or incremental costs, all become rather academic when it comes to Rural ILECs.

The costs of Rural ILECs are not market specific, service specific or technology specific; they have not been incurred over a short span of time; and scale and scope have little relevance.

Rather, their costs have been incurred to serve the totality of telecommunications needs of their customers. Rural ILECs have met their universal service obligations over a long period of time, and have complied with all industry, regulatory and legislative rules, regulations, standards and requirements.

A relatively small portion of Rural ILEC costs allow their customers to originate and terminate local, or intraexchange calls, to each other. But a much larger share of their costs have been incurred to provide a complete array of network functions and services which allow the origination, termination, switching and transport of all other carriers' traffic.

Over the years, Rural ILECs have provided such traditional functions as ticketing, timing and translation, as well as Equal Access, Emergency 911 services, Local Number Portability, and CALEA compliance. They have met each and every one of their obligations, often at substantial cost, to provide both their end user and carrier customers with advanced and high quality telecommunications services.

The very substantial costs of providing both complete local and network functions – origination, termination, switching and transport – have been, and continue to be, incurred by Rural ILECs.

A Bill and Keep regime would deprive Rural ILECs of virtually all compensation for these costs. Other measures of cost, including TELRIC, "additional" or incremental, would totally ignore the fact that these costs have already been incurred on behalf of other carriers.

Bill and Keep provides no compensation from other carriers that use Rural ILEC infrastructure extensively to reach rural customers. It is a totally confiscatory approach which fails to provide, in any way, the opportunity for Rural ILECs to recover the very costs which they have incurred to provide access to other carriers.

Other forms of cost recover bases, including forward looking and incremental approaches, are only slightly less confiscatory. Any measure other than embedded costs creates implicit subsidies for other carriers, in that revenue shortfalls must be made up by Rural ILEC end users in the form of local rate or SLC increases. This puts Rural ILECs at a tremendous competitive disadvantage.

It is not as if the Rural ILECs have heretofor only built infrastructure to allow their customers to call each other on a very limited intraexchange basis. If this were the case, and they were now being asked to build additional infrastructure to serve the needs of IXCs, ISPs, CMRS providers and others, compensation based on some form of forward looking, additional, or incremental costs might be appropriate.

But Rural ILECs have already built the infrastructure used by other carriers to originate, terminate, switch and transport their traffic to and from rural end users.

In this case, at least for Rural ILECS, the use of embedded costs is the only valid method of calculating intercarrier compensation. The use of embedded costs properly recognizes that Rural ILECs have, through industry agreement, regulatory rulings and incentives, or legislative requirements, already taken on the cost burden of providing the kind of infrastructure which allows the services of all competing carriers to reach rural America.

Thus, with respect to Rural ILECs, we are not dealing in hypothetical costs, but in real costs that need to be recovered from all customers – end users and carriers – that use the infrastructure underlying these costs. In all fairness, the Commission cannot now ignore a cost structure which it encouraged – and in some cases imposed – on Rural ILECs, in favor of any cost recovery mechanism that completely fails to fit their situation.

IV. MINUTES ARE STILL THE LOGICAL AND APPROPRIATE BILLING MEDIUM FOR MOST INTERCARRIER COMPENSATION

Just as embedded costs are the only appropriate determinant of cost recovery levels for Rural ILECs, minutes are still best used to allocate and bill the majority of intercarrier costs. With the exception of originating costs, which have been dealt with in previous proceedings, and direct or dedicated costs, minutes are a logical measure on which to base intercarrier compensation.

Rural ILEC facilities are used by other carriers, to varying degrees, for common transport, switching and termination of their traffic to rural customers. Because different carriers originate and terminate different amounts of traffic, cost allocation and billing should recognize the differing amounts of usage that each carrier imposes on Rural ILEC infrastructure.

It can be argued whether or not all of the interoffice facilities used by other carriers, and currently billed on a per minute basis, are traffic sensitive. But the facilities exist. Their costs must be recovered. The cost causers must pay. Minutes are the best measure of how much each carrier uses the Rural ILECs' facilities.

Further, if a unified per minute rate is developed and used in billing all carriers for all services that use Rural ILEC infrastructure in an identical manner, many of the Commission's concerns regarding current compensation arrangements will be relieved[5].

[5] Id, at 3.

The methodology recommended in the FACTS plan, which is "calculated by dividing the appropriate interoffice, traffic sensitive, unseparated, embedded costs by minutes (both access and reciprocal compensation) that utilize a company's interoffice facilities[6], is a fair and equitable way to allocate and bill for these facilities.

This "a minute is a minute approach" will assure that the Rural ILECs properly recover their costs, and that all carriers and services are billed in a rational and nondiscriminatory manner.

V. UNIVERSAL SERVICE FUNDING MUST BE MAINTAINED FOR RURAL ILECS

Over the past several years, a relatively large portion of Rural ILEC costs have been moved – for interstate cost recovery purposes – from access to Universal Service. While this cost migration may have accomplished a variety of regulatory and legislative goals, it has put Rural ILEC cost recovery at risk.

The Universal Service Funding program has been an invaluable mechanism in helping Rural ILECs provide modern, reliable and affordable telecommunications service to rural America, but the program is not universally popular. In fact, USF has been – and continues to be – debated, discussed and often derided by politicians, the media, the academic community, large segments of the telecommunications industry itself, and others.

Despite all of the criticism, however, the existing USF elements must be maintained for Rural ILECs. USF is an integral part of their revenue requirement,

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[6] Id, at 48.

particularly when such a large portion of their real, embedded costs have been reassigned from access to USF.

But because of the negative attitude held by many against USF, no additional Rural ILEC costs should be moved to this fund. The ICORE companies suspect that USF – already perceived as "corporate welfare" by some – will become increasingly controversial in the future. A cynic might even suggest that moving costs from access to USF is just the first step in a process designed to eliminate those costs from payment by other carriers. That is, once the costs have been transferred to USF, a concerted campaign will be undertaken by those carriers that want to avoid payment for use of ILEC facilities, to weaken and eventually destroy the USF system.

Rural ILECs have incurred substantial costs to provide other carriers with access to their end users. These costs are real – and necessary – to provide originating, terminating, switching and transport facilities in order that VoIP, IXC, CLEC, CMRS and other traffic can touch rural America. Those embedded costs that have not already been assigned to USF should form the basis of the new, unified per minute rate described above.

Of course, if the new unified intercarrier regime in its entirety causes decreased revenue for Rural ILECs, USF should be used to make up any shortfalls. But the ICORE companies would urge the Commission not to impose the kind of shortfalls that would necessitate additional USF payments.

VI. LOCAL RATES AND SLCS MUST NOT BE SET AT A LEVEL WHICH CAUSES RURAL ILEC CUSTOMERS TO DISCONTINUE SERVICE

The combination of local service rates and SLCs (plus any additional flat rate charges that states may impose) produce the minimum dollar level that Rural ILEC customers must pay, before they ever pick up their phone. Many of these customers neither make, nor receive, a substantial number of calls that involve other carriers.

While the ICORE companies do not oppose the imposition of Benchmark Local Rates[7], or slightly higher SLCs, any such increase must be balanced against the long standing principles of universal service at affordable rates. If the total threshold cost of local rates and SLCs becomes too high, rural customers may very well discontinue service in favor of carriers with lower threshold costs.

And if too many customers abandon Rural ILEC service, the costs to the remaining customers will eventually become too high, and Rural ILECs' facilities will not be sustainable.

In a totally competitive world, such an outcome might be acceptable. But in the real world, the elimination of Rural ILEC infrastructure will leave large portions of rural America with fewer telecommunications options, inferior service, or no service at all.

As stated earlier, Rural ILEC infrastructure allows all other carriers to originate and terminate their traffic from and to rural America. Rural ILEC facilities are a very important part of the PSTN – the telecommunications backbone of this country – which makes the services of most other carriers viable.

Without Rural ILEC infrastructure, much of rural America will not have acceptable telecommunications service. Wireless service is unreliable – and in some places, nonexistent – in rural America. VoIP is a nice service for those with computers

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[7] Id, at 49.

who are willing to accept transmission and security problems, and who do not need 911 and other services, but it simply cannot replace wireline infrastructure.

In fact, there is no substitute for the wireline network, and no way for rural Americans to retain advanced, affordable telecommunications services without it.

If Benchmark Local Rates are adopted, they should be "banded" to recognize different levels of lines to which local customers have access. Certainly, local rates should not be the same for customers who have access only to the 500 other lines in their exchange, as for customers with access to thousands, or even millions, of other local (or EAS) lines.

Local rates and SLCs must be set as low as possible – within the confines of any intercarrier compensation plan – so that rural customers are not driven off the local network. The maintenance of rural infrastructure is of benefit to everyone: to those rural customers that use primarily local services; to those that want a variety of services from other carriers; and to those other carriers themselves, which cannot reach rural America without Rural ILEC infrastructure.

VII. ALL USERS OF RURAL ILEC INFRASTRUCTURE MUST PAY INTERCARRIER COMPENSATION

Rural ILEC local customers, through local rates and SLCs, pay their fair share of Rural ILEC infrastructure costs. So, too, should Rural ILEC carrier customers – all of them.

If we are to develop a unified intercarrier compensation regime, it should apply uniformly to any carrier that uses Rural ILEC facilities. Anything else would be discriminatory and in violation of the Commission's goal of competitive and technological neutrality.

If it is not competitively and technologically neutral, for instance, to charge access rates to IXCs, but reciprocal compensation to CLECs or wireless carriers, then neither can completely exempting ISPs or VoIP providers from intercarrier compensation meet neutrality goals.

Every carrier that uses Rural ILEC infrastructure for the origination, termination, switching or transport of its traffic must pay the very same unified rates as every other carrier. Any other result means that Rural ILEC customers subsidize other carriers and their customers, and that one class of carrier subsidizes another.

Not only should every carrier pay unified rates for their use of Rural ILEC infrastructure, every carrier should contribute in exactly the same manner to the Universal Service Fund. Again, this would promote the goals of competitive and technological neutrality, as well as the preservation of universal service.

VIII. CONCLUSION

There is simply no substitute for the facilities provided by Rural ILECs. They provide the only pathway for most other carriers to reach rural America. They ensure universal service at affordable rates to rural Americans. In fact, they provide the only secure, reliable, and comprehensive telecommunications services in most of the rural areas of our country.

Any unified intercarrier compensation plan must recognize the almost inestimable value of Rural ILEC infrastructure. It must support and sustain this infrastructure to the benefit of Rural ILEC customers, other carrier customers, and other carriers themselves.

The ICORE companies ask the Commission to carefully consider the recommendations contained herein in adopting any fair and equitable intercarrier compensation regime.

Respectfully submitted,
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