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

In the Matter of	)	
	)	
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 a 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

<u>Comments of the ICORE Companies</u>

The consulting firm of ICORE, Inc. ("ICORE"), on behalf of many small rural local exchange Companies ("RLECs),[1] hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") and Further Notice of Proposed Rulemaking ("FNPRM") in the above-captioned proceedings.[2]

[1] ILECs participating in this filing include: Bloomingdale Home Telephone Company (Bloomingdale, IN), Citizens Telephone Company of Kecksburg (Mammoth, PA), Doylestown Telephone Company (Doylestown, OH), Dunbarton Telephone Company (Dunbarton, NH), Fishers Island Telephone Company (Fishers Island, NY), Fort Jennings Telephone Company (Fort Jennings, OH), Hot Springs Telephone Company (Kalispell, MT), Ironton Telephone Company (Coplay, PA), Killduff Telephone Company (Killduff, IA), Lynnville Telephone Company (Lynnville, IA), Middle Point Home Telephone Company (Middle Point, OH), The Nova Telephone Company (Jusson, TX), The North-Eastern Pennsylvania Telephone Company (Forest City, PA), Reasnor Telephone Company (Reasnor, IA), Richmond Telephone Company (Richmond, MA), Ridgeville Telephone Company (Ridgeville Corners, OH) Ronan Telephone Company (Ronan, MT), Searsboro Telephone Company (Searsboro, IA), Sully Telephone Association (Sully, IA), Sycamore Telephone Company (Sycamore, OH), Venus Telephone Company (Venus, PA), and Wikstrom Telephone Company (Karlstad, MN).
[2] Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (February 9, 2011).

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I. Introduction and Background

The small, rural ILECs represented herein have long provided high quality, affordable Telecommunications services to rural and suburban America. They have diligently operated as Carriers of Last Resort (COLRs) in areas of our country where the provision of such services is often extremely costly and difficult. They have provided both basic and advanced telecommunications to many of the less wealthy and more sparsely populated regions of the United States.

Rural ILECs have depended, in part, on long-standing and effective FCC public policies, including Rate-of-Return (RoR) Regulation, Universal Service Fund (USF) support and Intercarrier Compensation (ICC) arrangements. Such cost recovery mechanisms have been, and continue to be, essential to the deployment of modern, advanced services in places where absent these mechanisms there has been no real business case to invest large amounts of money to earn very little or no return. Rural ILECs have used USF and ICC payments wisely and efficiently to help them offer customers in small, rural towns and vast, sparsely populated country landscapes the benefits of advanced telecommunications services.

In this proceeding, the Commission is proposing profound and fundamental changes to these vital ILEC support and compensation mechanisms, in order to bring broadband service to all parts of America. The ICORE companies applaud the ubiquitous, nationwide deployment of broadband as a very worthwhile goal. In most cases, however, rural ILECs are presently providing reasonably priced, advanced voice and other communications services, including broadband, in their franchised areas. They are, therefore, very concerned over the consequences to their already successful implementation of FCC goals, of many of the proposed reforms. They strongly caution the Commission against unintentionally allowing any of its proposals to seriously harm companies that are already meeting both existing universal service and broadband standards, or to jeopardize either the present or future provision of universal telecommunications services and broadband offerings.

II. The Proposed Near Term Reforms to USF Will Cause Serious Harm

The Commission proposes a number of immediate reforms, starting in 2012, to each of its USF mechanisms, including High Cost Loop Support (HCLS), Local Switching Support (LSS) and Interstate Common Line Support (ICLS).[3] HCLS and LSS have long recognized the proportionately higher loop and switching costs of small ILECs, and have allowed these carriers to allocate a larger portion of these costs to the interstate jurisdiction. ICLS allows RoR carriers to recover that portion of their interstate common line revenue requirement that is not recovered through the Subscriber Line Charge (SLC). These mechanisms have been, and continue to be, vital contributors to high quality, reasonably priced communications services in rural America. Several of the recommended changes contained in the NPRM, however, would significantly reduce, or even eliminate, these much-needed universal service support elements. Such measures, depending on the severity and timing of their impacts, could put the continued provision of universal service in rural areas at risk.

[3] NPRM, at Para 158

Proposed changes, which have major implications for rural carriers, include:

1. Modifying high cost loop reimbursement percentages and eliminating loop support known as "safety net."
2. Eliminating local switching support as a separate funding mechanism.
3. Eliminating reimbursement of corporate operations expenses.
4. Imposing reasonable caps on reimbursable capital and operating costs.
5. Capping total high cost support at $3,000 per line per year.

While the NPRM states that these proposals "could be phased in over a period of time," they are nonetheless scheduled to begin in 2012.[4] The ICORE companies see no reason to implement these drastic changes to USF. The NPRM is riddled with references to waste and inefficiency caused by existing high cost support mechanisms[5], but the companies represented herein have consistently used USF monies as intended, to provide universal service at reasonable rates in their high cost areas. With regard to local switching costs and LSS, many rural RoR carriers have already made significant investments in modern, high speed, reliable – but not scalable – digital switching equipment. They have found it unnecessary to replace their relatively new, highly functional switches with scalable "soft switches" that are now available. Many have invested heavily in fiber in the local network, replacing antiquated copper lines, to bring advanced services to their customers. The deployment of fiber in the local loop has in no way been wasteful or inefficient, or intended to "game the system," or the result of a disincentive to control costs. It is simply a prudent investment in the future of advanced, high speed broadband service.

[4] NPRM, at Para 158
[5] See, for example, NPRM at Para 10

Yet despite such forward looking investment, the aggregate cost per loop of rural RoR carriers has grown more slowly than for larger price cap carriers. FCC data for 2005-2009 show loop cost growth of 7.95% for Frontier, 8.60% for Qwest, and 11.35% for Verizon, while rural RoR carriers' cost per loop grew only 4.90%.[6] These data would argue strongly against the contention that RoR regulation and USF support promote waste and inefficiency, or provide perverse incentives.

The "safety net additive" does not lead to these undesirable consequences, either. In most cases, it simply helps rural carriers recover the costs of necessary plant additions, whether such additions are made for the purpose of providing better service, or in response to damage caused by natural or man-made disasters.

The Commission points out that since the safety net additive is based on cost per line, support may be triggered by a loss in lines, rather than an increase in investment.[7]. Losses in lines precipitous enough to cause Total Plant in Service to increase at least 14% would be crippling to small rural ILECs, causing severe losses in revenue and resulting in significant stranded investment. Any such drastic line losses would in all probability be due to the presence of a competitive carrier receiving non-cost based funding under the Identical Support Rule.

[6] See Universal Service Monitoring Report CC Docket 98-202, Tables 3-33 and 3-34
[7] NPRM, Para. 184

But the Commission openly recognizes the problems with this rule in the NPRM and proposes its elimination.[8] It finds that the rule "fails to efficiently promote deployment of mobile voice services, much less fixed or mobile broadband."[9] It also states that this rule "threatened the sustainability of the universal service fund" and encouraged "wireless competitive ETCs to supplement or duplicate existing services while offering little incentive to maintain, or expand, investment in unserved or underserved areas."[10] The FCC must not punish small, rural ILECs, or find them wasteful or inefficient, when the abuse of its rules by larger carriers is at the root of the problem. It should not eliminate the safety net additive for necessary investments, or for lost lines due to a faulty rule.

In fact, loop and switching costs on a per line basis remain higher for RoR carriers compared to price cap and other carriers, not because of a flawed RoR system or USF mechanisms, but because it is far more costly to serve rural America, particularly when rural RoR ILECs serve no low cost areas over which to spread their costs. RoR and USF provide the proper incentives to invest in costly, hard-to-serve areas. Drastic changes in HCLS and LSS will make it much more difficult for small carriers to continue adding fiber in the loop, upgrading existing switching equipment, or investing in other advanced technologies to deploy broadband.

If changes are to be made to any of the USF elements, they must be done in a careful and gradual manner so as not to threaten universal communications services, including broadband, in rural America. The USF mechanisms under attack here have been at the very heart of extending

[8] NPRM, Para. 242
[9] id
[10] NPRM, Para. 243

a variety of advanced services to many of our nation's most isolated, rural areas. Just as importantly, they continue to be a key source of cost recovery for small ILECs operating in places that are very expensive to serve.

The elimination of corporate operations expenses from reimbursement through HCLS, LSS, and ICLS will cause substantial damage to rural ROR carriers. These "overheads" are absolutely necessary to the successful operation of their businesses, and represent a significant portion of their total expenses. It is difficult to understand why these costs, which are integral to running any successful enterprise, would be considered ineligible for USF reimbursement. They are already arbitrarily capped in HCLS, to the detriment of high cost support recipients. Their total removal from USF reimbursement would completely ignore the fact that these expenses represent a real and substantial cost of doing business in rural America.

Expenses for accounting, finance, vendor management and regulatory compliance are necessary to support every building, switch, loop, and cable that a rural ILEC uses to provide universal communications services. These expenses should be allocated over all of the physical plant and direct operating expenses for which they are appropriately incurred, and therefore continue to be included in high cost support calculations. The effects of capping operating expenses (opex) and capital expenses (capex) in HCLS and ICLS reimbursements are impossible to quantify, without knowing exactly what the caps will be, or exactly how the process will work. Similar to the proposed elimination of corporate overhead expenses described above, however, any caps on the reimbursement of these direct, actual costs will have a negative impact on the ICORE companies and other small ILECs receiving high cost support. The result will have a detrimental effect on the current and future of universal telecommunications and broadband services, since such direct costs make these services possible.

The proposed $3000 per line, per year cap on total USF support affects relatively few carriers. The Commission notes that "some companies with fewer than 500 lines have received USF support. . . ranging between $8000 to over $23000 per year per line…"[11] For these tiny carriers, this support is most likely vital to their universal service efforts. Certainly, the receipt of support above $3000 does not prove waste or inefficiency, but very well may be the result of extremes in density, terrain, soil, weather, or other conditions beyond the control of the small ILEC. Any immediate reductions in support for these very small carriers would result in revenue losses so severe that their ability to provide universal service would in all probability be put at risk. Thus, any cap would need to be phased in gradually. It should also be soft, i.e., subject to increase or removal, if the affected ILEC can demonstrate that its costs are the necessary result of density combined with geographical, topographical, climatic, or other factors beyond its control.

The Commission's universal service policies, including USF support mechanisms, have provided important incentives for rural ILECs to spend and invest in universal service. High cost support has helped them keep rates affordable in areas where the extremely costly provision of advanced, ubiquitous service would have, of necessity, been priced well above what the average customer could pay. The proposed reductions to HCLS, LSS and ICLS will severely weaken these incentives, and endanger the goals of universal service, including broadband.

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[11] NPRM, Para. 210

If implemented too suddenly, without allowing sufficient time for small ILECs to plan for major reductions in USF support, these precipitous changes will cause significant economic harm. Since rural ILECs have reasonably relied on those high cost mechanisms targeted for reform in the NPRM, the Commission should take no action that would significantly reduce funding on an immediate basis. The resultant sudden, drastic revenue shortfalls could not reasonably be recovered from other sources, including end users.

III. USF, ICC, and RoR Regulation Must Be Maintained For Both the Near and Long Terms

Rural RoR carriers, using reliable and stable USF support and Intercarrier Compensation mechanisms, have brought the benefits of both universal telecommunications services and broadband services to their communities. Commission policies, carried out in an efficient and cost effective manner, have worked very well in those parts of rural America served by smaller, RoR ILECs.

It has been widely reported that as of 2009, RoR carriers had deployed DSL to over 92% of their customers. It is probably even higher than that in 2011. This is a real success story in high cost, difficult-to-serve rural America. RoR regulation, coupled with USF and ICC, has not promoted waste and inefficiency, but affordable and high quality voice and broadband services in areas that might have been left behind if not for these FCC policies.

The Commission has rightfully addressed the problems associated with Traffic Stimulation, Phantom Traffic and VoIP in this proceeding, and has asked for comments in advance of those for USF, ICC and all other matters. A variety of factors are responsible for the perverse incentives that have engendered the phenomena of Traffic Stimulation and Phantom Traffic, and the failure of interconnected VoIP to pay access charges. These factors are only peripherally related to current RoR regulation, USF, or ICC policies, and certainly not the result of fatal flaws in the principles that guide them. The Commission, then, must not attribute the problems caused by Traffic Stimulation, Phantom Traffic or interconnected VoIP, to RoR regulation, USF, or Intercarrier Compensation. It must not eliminate RoR regulation or the principles behind USF or ICC, in an attempt to remedy these issues. The Commission has proposed solutions which, if modified by the recommendations contained in our April 1 Comments, will fairly and effectively solve these problems.

Of even greater importance, the Commission must not attribute waste and inefficiency to rural RoR carriers in their use of FCC policies. Larger carriers have not always used price cap regulation successfully to deploy broadband to their rural properties, and competitive carriers have not generally invested monies from the identical support rule to offer broadband effectively in unserved and underserved areas. But rural ILECs have wisely and efficiently used RoR regulation, USF and ICC to build broadband almost universally.

Major reforms are certainly necessary to change or eliminate price cap regulation, which provides incentives to invest where risk is lower and recovery faster. Conversely, such regulation provides little incentive to invest in rural America, where costs are high and customers few.

But massive reform, or outright elimination, of RoR regulation, USF, and ICC are not needed for rural ILECs. RoR regulation provides these high cost carriers with stable and predictable cost recovery, allowing them the certainty they need to invest in hard-to-serve areas. It keeps their rates affordable through returns on investment that are established by regulators, while providing adequate revenues to meet quality-of-service standards that guarantee proper treatment of customers.

There are many safeguards with RoR regulation which prevent waste and inefficiency, including federal and state regulation. Carriers are not guaranteed a certain level of return, but those exceeding their authorized rate of return may be required to provide refunds or reduce rates. Other regulatory constraints include quality-of-service obligations and extensive reporting requirements. The National Exchange Carrier Association (NECA) and the Universal Service Administrative Company (USAC) provide assistance and detailed oversight in ICC and USF matters. Audits and reviews are also performed by lenders (including RUS), vendors, and others.

RoR regulation, in conjunction with USF and ICC cost recovery mechanisms, has worked very well to assist rural carriers in bringing universal telecommunications services, and now broadband services, to rural America. These most important goals have been accomplished in a cost effective and efficient manner. These facts are indisputable. The Commission must not forget these facts as it embarks on its path toward universal broadband. Much of the broadband deployment that it has desired in recent years has happened, at least in those parts of America served by rural RoR carriers. Its goals for the future will be similarly met in these areas, if RoR regulation, reasonable USF support, and a fair system of ICC are maintained for rural carriers.

IV. Reverse Auctions Will Be Costly, Cumbersome and Inefficient For Areas Served By Rural ILECs

The Commission proposes reverse auctions for both near term and long term broadband deployment and support. For the near term, it proposes their use for "a one-time infusion of support to build out and operate broadband networks in unserved areas across the country…"[12] For the long term, under one option, the Commission "would award all ongoing support through a competitive, technology-neutral bidding mechanism…"[13] Presumably, that mechanism would be a reverse auction.

But a second option – one which makes far more sense in areas served by rural ILECs – is offered. That is, "in each part of the country requiring ongoing universal service support, the Commission would offer the current voice carrier of last resort (likely an incumbent telephone company) a right of first refusal to serve the area as the broadband provider of last resort for an ongoing amount of annual support based on a cost model."[14]

The ICORE Companies believe very strongly that reverse auctions are totally unnecessary in those rural areas of the country served by RoR ILECs. These carriers are already providing universal telecommunications services throughout their areas, and broadband to all but a small fraction of their customers. They do not see the purpose, where infrastructure, systems,

[12] NPRM at Para. 24
[13] NPRM at Para 31
[14] Id.

services, customer relationships, and all other components of broadband have been built, of bringing in bidders to try to replace what is already in place.

There are many potential problems with the virtually unknown world of reverse auctions. The "winners," i.e. the lowest bidders, will very likely try to keep their investments and service quality at bare minimums, which will put rural customers at a disadvantage. The threat to the Rural ILECs of these low cost providers will cause a slowing, or even a discontinuing, of investment by the long-standing rural carriers. Competing broadband networks in areas where just one has been so costly to deploy, and where customers are in such short supply, will bring the viability of the incumbent carrier into question. Rural consumers may very well be left with inferior service. Or, in the worst case scenario, rural customers may be left with no service at all. A "winning" bidder may be unable or unwilling to build a network throughout the entire area that it has "won." These bidders may not thoroughly understand the very real problems inherent in serving the high cost, large geographic and sparsely populated areas of rural America. They may attempt to serve only lower cost consumers within an area, by seeking waivers or exemptions, or simply slowing the deployment of broadband in high cost areas to a crawl.

It seems grossly unfair to force rural ILECs, which have used RoR regulation, USF support and ICC mechanisms in a responsible and efficient manner to build broadband in rural America, to have to bid for future support from the new CAF. Networks are in place. Millions and millions of dollars have already been spent to serve entire geographical areas, where a real business case would only support broadband in a much smaller area. Reverse auctions for unsuccessful rural ILEC bidders could lead to staggering levels of stranded investment, threatening not only rural broadband, but universal telecommunications services as well.

The fact is that broadband service already exists in almost all of the areas served by rural, RoR ILECs. In those very few cases where broadband has not as yet been deployed, or where it needs to be improved, the rural carriers already have most of the infrastructure, systems and relationships in place to implement it in an efficient manner. These small carriers should not be saddled with costly and cumbersome auction requirements to try to win support for what they have already done, or to compete with outside bidders who have never shown any interest in their high risk/low reward areas, or to face a duplicative, low cost bidder's competing network where the rural ILEC's existing network is providing quality service.

Reverse auctions will damage the cause of broadband in those areas served by rural ILECs, as will any support based on cost modeling. Rural carriers have spent real dollars to provide universal voice and broadband services, and have been compensated through established industry mechanisms that recognize their actual costs. They will, in order to continue to serve their high cost areas, have to spend real dollars and incur actual costs in the future.

Rural carriers serve a diversity of unique areas, in terms of density, terrain, weather, soil conditions, and other factors, and cannot be easily fit into any cookie cutter approach to cost modeling. Cost based RoR regulation, USF and ICC have been the drivers of advanced, universal services in those parts of rural America served by rural ILECs.

On the other hand, those rural areas served by carriers using “incentive based” price caps have not fared nearly as well, as there are really no incentives to serve rural high cost, low revenue situations. Similarly, carriers receiving non-cost based “identical support rule” compensation have not generally used this largesse to further the cause of advanced services in hard-to-serve, costly, rural America.

The unique characteristics of rural America require that the actual costs of rural ILECs be recognized as an integral part of any proposed reforms in RoR regulation, or USF or ICC mechanisms.

V. Intercarrier Compensation

There is widespread agreement that the current intercarrier compensation system is not perfect and is in need of reform. The current system has evolved over a long period of time in an environment of multi-jurisdictional regulation. The FCC has in the past aggressively reduced interstate access charges over time coupled with increases to Subscriber Line Charges and offsetting federal USF to provide an opportunity for revenue neutrality. Meanwhile state access charges vary widely from state to state due to varying degrees of action taken by state commissions. Finally reciprocal compensation rates are generally set much lower by state commissions primarily as a result of different pricing rules. The result is a patchwork of rates and processes being applied to traffic based on jurisdiction even though the functionality being provided to terminate traffic is basically the same regardless of jurisdiction. The rate disparity that currently exists between jurisdictional rates is the primary cause for the most serious problems inherent with the current system; phantom traffic and VoIP compensation disputes.

ICORE strongly believes, however, that the current system, with all of its flaws, has produced many favorable results for the nation's subscribers served by rural telephone companies. The current intercarrier compensation and USF processes coupled with RoR regulation have allowed rural ILECs to provide voice and broadband service to a high percentage of the country's rural subscribers. Drastic changes to the current processes would have a negative effect on the continued growth and sustainability of voice and broadband to rural America.

Generally, rural ILECs rely heavily on the revenues received via intercarrier compensation and USF on both the state and federal level. These revenues have allowed the rural ILECs to build and expand their networks to provide high quality voice and broadband services. It is imperative that in the future any reformed intercarrier compensation and USF regimes continue to provide a level of support that is sufficient and predictable in order to insure that rural ILECs can continue to provide the highest quality voice and broadband services to their subscribers.

A. Short Term Reform

As discussed above, the most serious and pressing intercarrier compensation issues facing the Commission and the industry today are those related to arbitrage, phantom traffic and VoIP. The problems and inefficiencies related to these issues are significant for RLECs and are directly related to the disparity in intercarrier compensation rates that exists today. The disparity in rates provides certain carriers with the opportunity to engage in disingenuous “self help” activity that deprives rural ILECs of revenues needed to support and expand their networks. In addition, addressing and pursuing the resolution of these so called disputes represents a significant cost to rural ILECs and places a major strain on their often times limited resources.

ICORE has previously filed comments in this proceeding addressing these issues. Swift and definitive action by the Commission to address these issues consistent with ICORE’s recommendations will provide a logical and fair resolution to these issues as well as creates a foundation for future reform. Once these issues have been addressed, the Commission can then address the rate disparity issue via a measured approach consistent with the development of a long term plan for the future USF.

B. Comprehensive Reform – The Next Step

ICORE believes that comprehensive intercarrier compensation reform should only occur in conjunction with a fully developed long term plan for the USF. In order to insure that rural networks will continue to be viable and will continue to evolve technologically, rural ILECs must be assured an opportunity to recover revenue losses resulting from reductions to intercarrier rates in a manner that is predictable and is consistent with RoR principles.

In this proceeding, the Commission is seeking comment on a myriad of issues related to the future of the USF and the future of the intercarrier compensation process. The reforms being considered are far reaching and it is clear that the basic tenets of reform expressed above may not be served. An opportunity for sufficient and predictable recovery of revenue losses resulting from intercarrier compensation reform is clearly at risk in this proceeding. ICORE believes that the drastic reforms being considered are unnecessary, premature, often times are not rooted in fact, and are inconsistent with RoR regulation.

The Commission appears to believe that the current intercarrier compensation process is delaying the evolution to IP networks and that the elimination of per minute of use charges will accelerate that evolution. ICORE disagrees with both of these premises. Our experience with the rural ILEC industry indicates that investment decisions are based on sound business practices and the desire to provide subscribers with the services that they demand. Often times more pragmatic reasons influence rural ILEC investment decisions as well. In some states, state commission and/or legislatures require the deployment of broadband to all consumers in the state by a certain date. In addition, competition from a Cable Company providing high-speed internet services, create additional incentives to expand and enhance broadband networks. These regulatory and market driven forces will continue to influence the evolution of rural networks without the need for drastic changes to the current intercarrier compensation process.

In order to maintain their existing networks and to continue to expand and modernize those networks, rural ILECs will continue to need the support presently, provided by intercarrier compensation revenue and the USF. Without continued and predictable revenues and USF support, the ability of rural ILECs to provide and expand their broadband networks will be impaired. This will not only result in the curtailment of broadband expansion but the sustainability of existing networks may be threatened.

For the above reasons, drastic changes to the current ICC process are not recommended at this time. It is clear that the long term vision of the federal USF is not yet fully developed. Until that occurs, a more measured approach to intercarrier compensation reform should be pursued.

If the Commission wishes to begin to address intercarrier compensation reform at this time, ICORE believes that a logical first step in the process would be to address the disparity that exists today between state access charges and interstate access charges. Although some states have aggressively pursued intrastate access reform, intrastate access rates are higher than interstate access rates in most states. This is the result of dual regulation and the fact that most states have not addressed reform as aggressively as the FCC. This rate disparity between state and interstate rates is the leading cause of arbitrage today as well as the prime motivator behind many VoIP disputes. Although the reforms that ICORE has recommended to address Arbitrage and VoIP will largely mitigate the rate disparity problem, logic dictates that the same rates for the same functionality should apply.

As an initial step toward intercarrier compensation reform ICORE suggests that intrastate access rates should be gradually reduced to interstate access rate levels and further recommends that no changes to the interstate access rate process should occur at this time. The Commission has asked for comment regarding the capping of interstate access rates which for many RLECs are increasing due to declining minutes. We believe that capping of interstate rates should not occur as this would be contrary to RoR rules and regulation. The timely implementation of

ICORE's recommendations regarding phantom traffic and VoIP will help to address the issue of increasing interstate rates by increasing the pool of minutes subject to billing. We realize that mirroring a rate that continues to be subject to change is somewhat cumbersome but we also believe it is manageable.

Intrastate access rates should not be reduced to the interstate level on a flash-cut basis but rather over a transition period of not less than four years in conjunction with a recovery mechanism to be discussed below. We don't believe it is necessary to address local reciprocal compensation rates at this time. During this transition period existing rates and interconnection agreements should be allowed to continue. We understand that by not addressing reciprocal compensation rates, a significant rate disparity will continue to exist between those rates and access rates, however, we believe that if the immediate reforms proposed by ICORE to address Arbitrage and VoIP are implemented on a timely basis, problems associated with this rate disparity will be reduced to a manageable level. Reciprocal compensation rates can then be addressed in the next phase of ICC reform.

The FCC has asked for comment regarding many legal questions relative to the best approach to addressing access reform. Many different scenarios are presented involving varying levels of authority and jurisdiction residing with state commissions and the FCC. While declining at this time to offer a legal opinion, ICORE urges the FCC and the various state commissions to work cooperatively to address intercarrier compensation reform in order to avoid prolonged and unproductive litigation. Much is at stake here for rural ILECs and their subscribers. The continued provision of affordable high quality services to rural America will best be served if all parties work together at this time to implement a measured approach to intercarrier compensation reform.

C. Reform and Recovery

ICORE recommends that intrastate access should be reduced to interstate levels over no less than a four year transition period. Interstate rates should be allowed to change each year according to existing rules. This will require the amount of each year's intrastate rate reduction to be calculated annually relative to the then effective interstate rate. The magnitude of the adjustment in the final year of the transition will be determined by the then effective interstate rate versus the then effective intrastate rate. In subsequent years intrastate rates could be adjusted annually to mirror the current interstate rate pending further reforms if necessary.

Under the ICORE approach, RLECS would be provided an opportunity to recover revenues lost through intrastate rate reductions through increases to end user rates and the federal USF. End user rates would be increased via increases to the current interstate SLCs coupled with the development of a federal local rate benchmark. If increases to end user rates are insufficient to cover the revenue decrease resulting from intrastate access rate reductions the short fall would be made up by offsetting funding from the federal USF. ICORE realizes that funding the recovery of revenues related to intrastate rate reductions via the interstate SLC and the federal USF may require rule changes and recommends that if required the appropriate cost allocation and pricing rules should be modified accordingly.

In regard to the proposed SLC increases, ICORE proposes that over the transition period the current residential and single line business SLC be increased by an amount not to exceed

$1.50 and the multi-line business SLC be increased by an amount not to exceed $2.30. In order not to penalize subscribers in states that have already addressed intrastate access charges (and presumably have already increased end user rates) the Commission should develop a federal benchmark rate. The benchmark should include the basic local service rate, the federal SLC and state SLC where appropriate, and any additive for mandatory extended local area calling. In developing the benchmark rate the Commission should be guided by the principles of affordability and comparability consistent with Section 254 of the Telecommunications Act. In qualifying for offsetting funding, rural ILECS would not be required to implement the full SLC increases if doing so would produce a composite rate for the elements listed above that would exceed the federal benchmark rate. Conversely, if after implementing the SLC increases a rural ILEC's composite rate was less than the federal benchmark, that rural ILEC would be required to increase the SLC by a greater amount in order to qualify for offsetting funding. Rural ILECs would have the option to not increase SLCs by the full amount required or at all, however, the required SLC increases would be imputed when determining if a rural ILEC qualifies for offsetting funds from the federal USF.

Since the interstate access rate setting process is not changed by this proposal, no changes are required to current rules related to the development, billing, and recovery of interstate access rates and revenues. For RLECs no changes are required to their NECA pooling and revenue administration processes. On the intrastate side many different intrastate access regimes are in effect across the country. Some states utilize a bill and keep process while other states have a pooling process where RLECs are compensated for their costs of providing intrastate access. In order to administer this proposal, ICORE recommends that for each rural ILEC, a base year amount of intrastate access revenue be calculated and this base year amount would be utilized each year to determine the amount of offsetting funding required. In each year of the transition the actual state access revenues received as a result of access billings at the reduced intrastate rates plus the amount resulting from the required SLC increases would be compared to the base year revenue amount and any shortfall would qualify for offsetting funding.

The Commission asked for comments relative to the inclusion of non-regulated revenues in the determination of recovery and the related need for funding from the federal USF. ICORE recommends that the Commission not attempt to include non-regulated revenues at this time. Although it may be logical to assert that non-regulated services should contribute to support the networks that the services utilize, the development of a fair and equitable determination of what that contribution should be is a complex undertaking. Among the rural ILECs the level and scope of non-regulated activity varies widely. In addition the determination of what investments are utilized and to what extent would be a complicated task. It would be unfair to the rural ILECs if an arbitrary one size fits all amount was estimated and then used to determine if an rural ILEC needs funding to offset rate reductions. Until such time as an accurate methodology and the associated rule changes are developed, non-regulated revenues should not be considered relative to recovery.

This proposal is not intended as a long term solution for intercarrier compensation reform. It is intended as a transitional mechanism to begin to address the issue of rate disparity while the Commission works to develop a long term solution to reform of the federal USF. This proposal begins the reform process while continuing to provide the benefit of predictable and sufficient revenues needed to insure that rural ILECs can continue to expand their broadband networks as well as maintain existing networks and services. ICORE believes that this proposal is consistent with the Commission's goals of insuring the availability of broadband services at affordable prices to Rural America.

VI. Rate of Return Versus Incentive Regulation

The Commission is also seeking comment on the appropriateness of creating an incentive based regulatory plan for RoR carriers relative to future recovery from the long term USF. ICORE strongly urges the Commission to maintain the option of RoR regulation for the nation's rural ILECs. In regard to this issue the Commission appears to be guided by the belief that RoR regulation leads to waste, inefficiencies, and is a roadblock to the evolution to IP networks. Nothing could be further from the truth. Granted there may be examples where rural ILECs have made imprudent investment decisions possibly influenced by RoR regulation. It is our opinion, however, that these cases are the exception and not the rule. Far and away rural ILECS operate efficiently and make investment decisions based on sound business practices. RoR regulation provides a level of predictability and stability that is needed by rural ILECs in order to provide carrier of last resort services to the most rural parts of the country, both voice and broadband. The high levels of penetration that currently exist in rural America for both voice and broadband are testament to the fact that RoR regulation is producing results that are consistent with the Commission's goals. There is no reason to believe that that will change.

The Commission has concluded on many occasions in the past that rural ILECs are different than their larger urban counterparts and should be afforded different treatment. For example the Commission declined to require rural ILECS to adopt price cap regulation in the past thereby preserving the option of RoR regulation. In addition, the Commission concluded that due to the unique operating characteristics of rural ILECS, cost proxy models should not be used to determine USF support. Those were the right decisions then and the right decision now is to continue to provide the option to rural ILECs to be regulated on a RoR basis. When considering the future of the USF and intercarrier compensation reform for rural ILECs the overarching principle must be that rural ILECS be given the opportunity to recover the actual costs associated with the services provided. Absent a reasonable opportunity to recover invested dollars, rural ILECs may be unable to continue to grow and expand their networks and this result would be contrary to the Commissions stated goals for broadband availability in rural America.

VII. Conclusion

As the Commission implements new procedures to establish the Connect America Fund (CAF), rules will change, nomenclature will change, and forms of compensation will change. Certain mechanisms will be eliminated, and new ones introduced. But RoR regulation using actual costs, must be retained for rural ILECs. It has worked successfully to bring universal telecommunications and broadband services to rural America, and it will continue to do so for future services. A change to any other regulatory regime will put universal services in rural area served by RoR carriers at risk.

Likewise, any new cost recovery vehicles must include sufficient support for rural carriers in high cost, hard-to-serve areas. Whether called USF or something else, it is absolutely essential that these carriers receive assistance for serving places where other companies would find no business case. The elimination or drastic reduction of such assistance will jeopardize present and future services.

A fair and reasonable mechanism for ICC will also be necessary to preserve universal service in rural America. Regardless of their form or technology, carriers that use the facilities of rural ILECs for the origination, transmission or termination of their traffic, must compensate the rural ILEC for such use.

Respectfully Submitted,
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