McLean & Brown

ISSUE UPDATE

February 27, 2012

FCC Receives Comments on the ICC Reform Components of the FNPRM

On February 24, 2012, the Federal Communications Commission (FCC) received comments in response to the Intercarrier Compensation portion its Further Notice of Proposed Rulemaking (FNPRM). The FNPRM was issued in conjunction with the Report and Order on comprehensive Universal Service Fund (USF) and Intercarrier Compensation (ICC) reform Order released November 18, 2011. Comments on the USF portion of the FNPRM were filed February 24, 2012 (See *M&B Issue Update dated January 22, 2012*[1]). As of Monday February 27, comments from 50 parties were posted on the FCC's web site. The comments came from the following industry segments:

	Number of Filings
RLECs	9
States	5
Consumer	4
Price Cap Carriers	8
Wireless	5
Cable	4
CLEC	15
	50

Following is a high-level summary of some of the major points made in these filings. While every effort has been made to accurately reflect the key points made in each filing, this document is by no means a complete summary of all of the points made in the comments. Interested readers are encouraged to read the full text of the comments, which can be found on the FCC's web site at www.fcc.gov.

RLEC

Alaska Rural Coalition

- Transitioning all rate elements to Bill & Keep (B&K) ignores critical recovery of legacy network investment made by Rural ILECs (RLECs).
- Transition to a B&K pricing methodology will impose substantial hardship on RLECs in Alaska.
- ICC access recovery mechanisms must ensure that rural carriers continue to receive fair compensation for the use of their networks.
- The FCC should adopt a flexible regulatory framework for IP-to-IP interconnection – A requirement to negotiate in good faith continues to serve all carriers.

[1] Copies of this and other McLean & Brown publications can be found on our website at www.mcleanbrown.com.

GVNW

- The FCC's effort to date fails to meet the statutory test of providing sufficient and predictable support as required by the tenets of1996 Act, and this plays prominently in the desire of the FCC to reduce access charges for rural carriers.
- Unrecovered embedded costs of investment in rural carriers' network facilities are real costs that will continue to be borne by the rural carriers.
- Establishing a zero rate for originating access creates several public policy consequences, as neither the IXC nor the customer has a good reason to limit use of the local circuit.
- Rural carriers must receive recovery of the otherwise displaced ICC revenue from a sustainable access element that should be available only to carriers that experience such plan-imposed rate reductions.
- If the FCC stays on its present course, there will be a need to implement some form of port and link pricing in order to maintain the backbone network that the entire system utilizes.

Iowa Network Services and South Dakota Network

- Given the vital and unique function of INS and SDN to bring the benefits of equal access and competition to rural America, sufficient cost-recovery mechanisms must be maintained to preserve these networks.
- INS and SDN currently recover all of their regulated access operations through interstate and intrastate access charges – they have no local retail services that could compensate them under a B&K regime, nor access to federal or state universal service support.
- The FCC should maintain the current tariff compensation mechanisms that have worked well to bring the benefits of competition, equal access and advanced functionalities to Iowa and South Dakota.
- Transit service should remain unregulated, however the FCC should prohibit "traffic dumping."

Minnesota Independent Equal Access Corp.

- The FCC should allow providers of stand-alone tandem access service to continue to charge just and reasonable rates for originating tandem access service.
- Because the FCC lacks authority to regulate intrastate access charges, any changes to originating intrastate access should be left to the state commissions.

Moss Adams Companies

- The FCC should carefully consider the implications that its proposed ICC reforms will have on rural RoR carriers that are responsible for delivering universal voice and broadband services to the most remote, sparsely populated and highest cost to serve areas of the country.
- If certain rates are to be reduced or eliminated, the FCC must consider the fact that the associated costs are not similarly reduced or eliminated, and provide for alternative cost recovery.
- The FCC should take five years to determine if sufficient support is available to offset terminating access revenue losses before addressing reductions in switched access charges.
- If the FCC determines that an immediate transition is necessary, it should develop a transition schedule for originating access that follows the same path and timeframe as terminating access.
- Neither the ARC nor ICC CAF should be set for sunset or phase-out at this point in time.
- The FCC should not eliminate ICLS or SLCs.

Nebraska Rural Independents

- Rational originating access reform, while desirable, must be consistent with applicable legal requirements, including provision for proper cost recovery.
- The FCC does not have the legal authority to mandate universal B&K for originating access.
- End user charges and Connect America Fund ICC support are mechanisms for recovery of incurred costs and must continue to be a component of the rate comparability requirements of Section 254.
- The requirements for interconnection under Section 251 must be followed regardless of the ultimate determination as to whether the FCC may lawfully implement a B&K regime.

- IP-to-IP interconnection requires establishment of general federal directives and implementation by the states, except in a limited number of circumstances.

New Mexico Exchange Carrier Group and Mescalero Apache Telecom

- Absent a fully compensatory and explicit cost recovery mechanism, the FCC's USF and ICC reforms are likely to severely restrict or even effectively bar New Mexico RLECs from achieving the broadband expansion goals articulated by the FCC.
- The FCC should stay and defer implementation of all aspects of the Order and FNPRM, including ICC reforms, until the significant legal challenges pending before the 10th Circuit have been fully and finally resolved.
- The FCC should reconsider and refrain from implementing the "bill and keep to zero" approach to ICC because the proposed recovery mechanism fails to provide assurance that all the costs associated with the use by a carrier of another carrier's networks will be recovered from customers of the host network or the USF.
- The FCC should reconsider and adopt the previously proposed RLEC recovery mechanism rather than the version adopted in the Order and FNPRM. The RLEC proposal is better designed to avoid significant rate increases for consumers or unwanted service disruptions.

Rural Associations (NECA, NTCA, OPASTCO and WTA)

- Law and good policy demand a careful evaluation of end-user impacts and the cost recovery implications of ICC reform, together with a well-defined, sufficient, and predictable transition, before moving originating access or remaining transport and termination elements toward a B&K rate.
- The complexities of implementing interconnection in a B&K world demonstrate the many dangers of prematurely mandating B&K.
- It is premature for the FCC to consider phase-outs or accelerated reductions of end-user ARCs and Connect America Fund ICC support for RLECs.
- IP-based interconnection between carrier networks should be governed by the same statutory and regulatory regime as all other network interconnection.
- The FCC's Phantom Traffic rules will become increasingly inadequate unless call signaling rules are extended to one-way VoIP providers and sufficient data is required.

TCA

- RoR LECs must receive adequate compensation for the use of their networks.
- Adopting a B&K regime for ICC absent a sufficient restructure mechanism will harm broadband deployment by RoR LECs.
- The FCC should adopt policies that will achieve universal voice and broadband service and abandon those that will undermine broadband deployment.

States

Regulatory Commission of Alaska

- For Alaska, the solution is the design of an ICC plan that broadly recognizes the unique challenges Alaska carriers face in providing service. The FCC should:
    - Use the knowledge and experience of the RCA and Alaska providers to develop an ICC plan tailored for Alaska and other noncontiguous states;
    - Clarify both how B&K rules are intended to apply to Alaska and also whether negotiated interconnection agreements will be permitted; especially for transport of traffic between exchanges in a study area; and
    - Establish pause points in the ICC reform schedule for assessment of impacts and clarification of future transition steps to allow carriers and the RCA an opportunity to make informed investment and regulatory decisions.

California PUC

- If the FCC intends states to have a role in enforcing good faith negotiation rights and arbitrating and adjudicating IP-to-IP interconnection arrangements, the FCC must provide very clear rules regarding the source of this state authority in the case of IP-to-IP connections.
- The FCC should move as quickly as possible to reform transit, transport and tandem switching rates to eliminate further opportunities for arbitrage.
- Clear guidelines on how to delineate the "network edge" are needed so that opportunities for regulatory arbitrage and revenue recovery are not merely pushed further upstream.
- The FCC needs to clarify rules regarding interconnection rights and obligation of telecommunications carriers, including the adoption of procedural and substantive rules governing compensation arrangements between CLECs and CMRS providers.
- Carriers should be required to include SLCs or ARCs in their advertised prices for SLC or ARC if the carrier seeks recovery of such.

Indiana URC

- The IURC supports the encouragement of competition, however the FCC should reconsider its reform decisions and work to assure that the implementation of USF and ICC reforms do not result in the unintended consequence of eliminating all communications services in portions of rural America.
- Policies that are segment or sector preferential, whether manifest or latent in the FCC's findings and rules, do not belong in public policy.
- In instances where competition may exist in only a portion of an RLEC's service territory, the FCC has determined that support should still be available in the remaining portions, yet if the RLEC is forced to go out of business by the elimination of the majority of its revenue streams, it will likely do so throughout its *entire* service territory, not just the portions of its territory with an unsubsidized competitor.
- In addition, it must be remembered that most, if not all, of the newer services, such as wireless and some IP-based services, still rely on the underlying physical facilities of the ILEC to complete the connections necessary for the provision of those services.
- The IURC does not concede either the FCC's legal authority to preempt state authority over interstate access charges or the technical and factual assertions underlying this preemption. It is highly unlikely that a rate of zero would meet the "additional cost" standard in Section 252 whenever the traffic between two carriers is significantly out of balance.
- Reducing and ultimately removing the RLEC's ICC revenue stream through mandatory B&K, and other ordered reductions in universal service support, could have severe implications on the ability of some RLECs to repay loans or to remain viable.

Massachusetts Dept. of Telecom. and Cable

- The FCC's Access Recovery Mechanisms (ARCs) unfairly burden consumers in Massachusetts and other states that have reformed their interstate access rates.
- The FCC should not permit recovery allocation among jurisdictions, or in the alternative, the FCC should grant waivers to all states that have implemented access reform.
- Consumers should not have to pay the ARC unless the FCC defines a sunset date and requires carriers to include the ARC in its marketed price.

Wisconsin PSC

- Proper implementation of the FCC's proposed USF and ICC reforms is dependent on a strong state role in monitoring and evaluating the results.
- As implementation of the B&K pricing and POI aspects of the Order and FNPRM move forward, the FCC should be mindful of and should avoid possible detrimental effects on numbering resources.
- The final rules should encourage cost cooperative relationships that impose the least cost on the entire system for the delivery of traffic, and given the history of state commission participation in the resolution of interconnection disputes, this issue is a strong candidate for the identification of a state role for resolving disputes, should they arise.

- Eventually the SLC should be phased out since it is a poorly understood pricing mechanism that does not appear to serve a purpose in an increasingly competitive marketplace. A phased out SLC would be consistent with the fate that has been appropriately established for the newly created ARC

Consumer

Ad Hoc Telecommunications Users Committee

- The natural evolution of the PSTN to a packet-switched network is not, by itself, a valid reason to abandon legacy regulatory protections for end users and competitors.
- Absent robust competition, the FCC's proposal to rely on good faith negotiation as an intercarrier compensation mechanism is patently insufficient because it does not prevent providers of "last mile" service from exploiting their market power in these negotiations.
- The FCC's rules should continue to treat 8YY originating minutes as terminating minutes.
- The FCC must implement a sunset provision for the ARC and the ICC-replacement CAF support mechanism. Funding for price cap carriers should end after three years, and funding for RLECs should end after five years.
- Pending complete elimination, SLCs should be reduced, particularly the SLCs of price cap carriers, because of the differences between SLCs and other access elements falling under the FCC's price caps plan.
- The FCC should use existing sources of forward-looking cost data to reset SLCs to lower rates, with a rebuttable presumption for carriers who believe they can demonstrate a basis for higher levels.

Free Conferencing Corporation

- The FCC must provide a stable market for telecommunications consumers and the companies that serve them. At its core, this stability comes down to connectivity, just and reasonable rates, and payment for services rendered.
- A consistent rule on payment for deemed lawful tariffs with corresponding enforcement would not only strengthen the market, it would limit the number of federal court cases that are wasting taxpayer money on unnecessary regulatory matters.
- Unfortunately, many competitive carriers, and smaller RLECs, have been significantly damaged due to nonpayment. The FCC has spoken on rate structures through the Order; it is now time to ensure that proper payment is made for access.

Google

- Google applauds the FCC's actions adopting B&K as the end-state pricing methodology for all telecommunications traffic and affirming the duty of LECs to negotiate in good faith to ensure robust IP-to-IP interconnection.
- The FCC should expedite the adoption of B&K for traffic throughout the network.
- The obligation for carriers to offer IP-to-IP interconnection should be sufficiently robust to promote the development of IP networks and services.
- The FCC should weigh the regulatory costs of expanding call signaling rules and increased regulation to one-way VoIP services.

NASUCA, Maine Office of Public Advocate, New Jersey Division of Rate Counsel, and TURN

- Consumer Advocates have grave doubts as to the legality and reasonableness of many aspects of the FCC's *Order.*
- The FCC lacks the authority to impose its wrong-headed B&K version of ICC on all forms of traffic exchange. Among other things, a B&K regime like that proposed by the FCC unfairly disadvantages basic service customers and other end-users, who would be asked to pay for such reforms through increased rates.
- IXCs that have no end-user facilities get a terrific deal as they are freed from contributing to last mile facilities on either end of their customers' calls. Similarly, wireless carriers also benefit, as they can avoid any contribution to the costs of terminating traffic on wireline networks. Mandated B&K will only cement these cost-avoidance strategies into law.

- Consumer advocates question the need for any ARC in the first instance, and submit that completion of separations reform and special access reform are the first steps before any recovery should be considered. Cost-based access rates will obviate the need for access recovery mechanisms.
- The FCC began looking at IP issues in 2004, but has failed to decide that IP-enabled service should be declared a Title II service subject to the obligation to pay access charges, reciprocal compensation, and interconnection under Sections 251 and 252. Carriers should be directed to negotiate and as necessary invoke arbitration.

Price Cap Carriers

ACS

- Many of the matters raised in the FNPRM are best left to the marketplace, unless and until the FCC detects evidence of some market failure. Moreover, the FCC should take additional concrete steps toward a market-based ICC regime by granting forbearance from outmoded interconnection and unbundling requirements under Section 251. Specifically, the FCC should:
    - Refrain from ordering changes in originating access, transit or other charges, and allow contractual arrangements to govern;
    - Adopt simple network edge rules for IP-to-IP networks that place the burden on the originating carrier to deliver traffic to the terminating carrier's network edge;
    - Ensure nationwide consistency in the ICC rules that do apply, preempting state requirements that exceed or are inconsistent with FCC requirements;
    - Allow carriers to put in place the ARC and gain experience with this rate element before ordaining its phase-out, or that of the Subscriber Line Charge ("SLC"); and
    - Phase out ILEC requirements under the Act and state law, so that ILECs no longer must maintain two networks, deploy facilities where it is not economical to do so, or provide below-cost facilities to would-be competitors where no business case exists for market entry.

AT&T

- The FCC should follow one overriding objective in this proceeding – to confine the uncertainties and inefficiencies of ICC regulation to the PSTN and keep them from infecting the Internet.
- In the long run, there will be little or no "interconnection for the exchange of voice traffic," but rather there will be interconnection for the exchange of IP packets, of which voice bearing packets will be but a small subset.
- Regulation of IP-to-IP interconnection arrangements would not only be needless, but affirmatively harmful. Just as troubling, any U.S. regulation of IP-to-IP interconnection would encourage foreign authorities, acting through the ITU, to begin regulating Internet peering and transit, in opposition to U.S. interests.
- FCC regulation of IP-to-IP interconnection would be not only unwise as a policy matter, but also unlawful.
- The FCC should also take a number of PSTN-specific measures to ensure efficient use of the PSTN before its ultimate sunset:
    - Under B&K, the sending carrier is responsible for the costs of whatever intermediate service it buys from its designated subcontractor to reach the terminating carrier's Edge. AT&T believes that the marketplace for such intermediate services is competitive and that regulation of those services is unnecessary.
    - The FCC should give carriers an adequate opportunity to recover their network costs from end users as it reduces ICC revenues.
    - The FCC should reject calls by some parties to eliminate SLCs or to accelerate the phasedown of the ARC and CAF ICC support established in the Order.

CenturyLink

- In some respects, when it comes to ICC reform, the *USF/ICC Transformation Order* went too far and is counterproductive to the task of maximizing the continued build-out of next generation broadband networks.
- Regarding originating access, the FCC should recognize its limited legal authority, should delay any regulatory reform until the *Transformation Order* transition has been accomplished, and should recognize the distinct attributes of originating access that dictate against B&K.
- The FCC lacks authority to mandate B&K for the common and dedicated transport elements of terminating carriers not yet subject to the *Order's* transition to a B&K end state.
- The FCC also lacks authority to mandate B&K for local and intraLATA transit services and for the access tandem switching and transport services of intermediate carriers.
- The FCC should establish a default network edge for COLRs, particularly where accompanied by end-user rate regulation, that establishes the edge for traffic terminating to the ILEC's end users at the ILEC's first point of switching in the call path to the ILEC called party.
- The FCC should not impose further constraints on ARC charges, should not modify the phase-out for ICC-replacement CAF funding, and should retain existing SLC mechanisms.
- The FCC should allow IP-to-IP interconnection arrangements to develop organically, through good faith negotiations, as local TDM networks are migrated to IP.

Frontier

- The FCC should pause for at least 12 months and take the time to carefully study and evaluate the effects that the *Report and Order's* reforms have upon the industry and consumers before taking further action.
- The FCC should not adopt a defined sunset date for the ARC, eliminate SLCs, nor should it impose additional regulations on the manner in which they are advertised.
- The FCC should consider further methods of deregulation for ILECs as they are no longer the majority voice provider for American homes.
- While the FCC should continue to pursue a goal of the conversion to all IP networks, it should not take actions that would effectively mandate such networks, nor should it single out ILECs for increased regulatory obligations.

ITTA

- The FCC should defer originating access reform for a sufficient period of time to take into account the lessons learned from its implementation of terminating access reform.
- Once the ARC has been phased down and ICC-replacement CAF support has been phased out, the FCC should refrain from any further regulation of end-user pricing, including SLCs, by price cap or RoR carriers.
- Any steps the FCC may take to address IP interconnection in this or any other proceeding would be premature in light of independent industry efforts to develop comprehensive guidelines to govern IP-to-IP interconnection for all providers.

USTelecom

- Due to a diversity of opinion on originating access charges, developing industry consensus should be an important ingredient to any proposal for action concerning originating access charges.
- In the absence of a specific showing that purchasers of transiting service lack alternatives for obtaining transit, the FCC should not regulate terms and conditions of this service.
- The ARC should not be phased out since loop costs are not going away and the ARC will be a critical component of funding well beyond the completion of the ICC transition.
- Similarly, SLC charges and current SLC levels are appropriate and should be maintained as they too recover loop costs.
- As VoIP grows more popular, the existing business incentives to interconnect IP networks to provide voice service will only grow stronger and negotiated commercial agreements best serve the development of IP interconnection.

Windstream

- In considering additional ICC reforms, the FCC should continue to focus on the need for measured transitions and opportunities for revenue recovery, and provide ample time for carriers and consumers to adjust to the reforms recently enacted.
- The FCC should not adopt a specific framework for originating access until the transition for terminating access is complete.
- The FCC should not adopt a defined sunset date for the ARC, and should not eliminate the SLC since both charges permit price cap carriers to recover some costs from their end-users and place them on an even footing with their competitors.
- In order to promote effective competition the FCC should:
    - Ameliorate competitive issues in the market for transit service by clarifying that such service is subject to 251 and must be made available at rates no higher than $0.0007;
    - Retain existing tariffing requirements to provide carriers an expedited path to interconnection where an agreement is impractical;
    - Maintain the existing POI rules and apply them equally to all LECs until TDM has been retired; and
    - In developing a framework for IP-to-IP interconnection, the FCC should continue to maintain oversight of the process to minimize barriers to entry, carefully consider which POI framework would be most efficient for all carriers, and avoid setting an arbitrary deadline for the transition to all-IP networks that could force carriers to abandon service in many high-cost areas.

Verizon

- The new ICC framework calls for rates to transition to zero. That scenario can be an efficient regime when carriers are sending each other a relatively equal amount of traffic, but can create distortions and arbitrage opportunities if the traffic is out of balance. As the FCC plans the eventual transition to B&K, it should carefully consider how to prevent that abuse.
- The Internet's tremendously successful experience demonstrates that negotiated commercial agreements are the most effective way to ensure efficient interconnection arrangements and efficient network deployment. By contrast, government-imposed rules regarding IP interconnection would lead to economic and technological inefficiencies.
- Importantly, any decision to regulate IP interconnection for voice would send exactly the wrong signals to the ITU just as many countries are attempting to impose international regulation that could be devastating to the Internet.

Wireless Carriers

CTIA

- The FCC should adopt a transition path for remaining ICC rate elements, such as tandem transport and termination, to B&K as expeditiously as possible.
- The FCC should adopt simple and competitively neutral transport rules that provide for the identification of network "edges," with originating carriers responsible for delivering traffic to the terminating carrier's edge or POI, and carriers should be allowed to elect direct or indirect interconnection.
- Any mechanism for providing recovery for ILECs should be no larger than necessary to permit a reasonable transition to a regime under which carriers recover their costs from their own end users. Revenue neutrality is not the goal.
- In order to strengthen the Order's safeguards against traffic stimulation, the FCC should apply a B&K regime or at minimum a $0.0007 rate.

Leap Wireless and Cricket Communications

- The FCC should:
  - Transition remaining switched access rates to B&K as expeditiously as possible;
  - Transition originating and terminating switched access charges to B&K on all CMRS-LEC traffic as of July 2012;
  - Clarify that transit is a 251(c)(2) obligation that ILECs must provide at cost-based (TELRIC) rates;
  - Implement network edge rules that promote the more efficient exchange of traffic by reducing the number of POIs that terminating carriers must connect to and eliminating the interim rule limiting rural RoR LECs responsibility for transport costs;
  - Adopt default IP-to-IP interconnection rules that provide all carriers with the right to request and receive IP interconnection, establish a series of regional POIs for the exchange of IP-voice traffic, and require originating carriers to bear the costs to deliver IP-voice traffic to these regional POIs.

MetroPCS

- The FCC should implement a prompt transition to B&K for all remaining inter- and intrastate rate elements such as intraMTA originating access, and for transport and termination rates.
- The FCC should not modify the rule allowing a carrier to establish a single POI in each LATA.
- The FCC should reject proposals suggesting that the right granted to ILECs under the *T-Mobile Order* to force a CMRS carrier into state arbitration be extended to CLECs.
- The FCC should find that it has the authority to regulate IP-to-IP interconnection and should use its broad statutory authority to clarify that carriers that are obligated to provide reasonable interconnection must continue to do so for IP traffic to the extent it is technically feasible.

Sprint

- The subject of interconnection between two IP networks for the exchange of voice traffic is the most important matter addressed in the FNPRM;
  - The WCB has estimated that the incremental cost of providing voice over IP networks would be $0.000256 per month, or less than one penny per year;
  - The FCC has ample authority to adopt and enforce default IP voice interconnection rules;
  - The FCC should adopt default IP POI rules that take advantage of the enormous efficiencies of the existing IP network by having IP voice traffic use the same IP network infrastructure used today to transport and interconnect IP data and video.
  - The FCC should begin a public discussion (via an NPRM) regarding when TDM interconnection should be discontinued.
- Today, the single POI-per-LATA obligation currently applies only to large ILECs. To improve network efficiency, the FCC should extend this obligation to all TDM operators.
- The FCC should clarify that rural ILECs affiliated with LATA tandem owners are not eligible to invoke the Rural Transport Rule.
- The FCC should establish a deadline of July 1, 2013 by which LECs may no longer rely on access tariffs.
- The transit market is not competitive. This is confirmed by the fact that ILEC transit providers charge much higher prices in those states that have not yet addressed that statutory obligation to provide transit, as compared to the TELRIC-based prices in other states.

T-Mobile

- The FCC should set a timetable for a structural transition from the existing legacy PSTN to an efficient IP interconnection regime to be completed no later than the end of the transition to B&K for price cap carriers in mid-2018.
- Since T-Mobile and other competitive carriers have faced significant intransigence in interconnection negotiations, the FCC should declare that it will entertain interconnection disputes through the Enforcement Bureau's accelerated docket process, and ILECs should have the burden to demonstrate their good faith in interconnection negotiations.

- All tandem switching and transport rates should be transitioned to B&K by the dates set in the *Transformation Order* for the transition to B&K for end office rates, to avoid new incentives for arbitrage.
- Pending the deployment of a regional IP POI infrastructure, the FCC should act to ensure the availability of both ILEC transit services and interconnection facilities at cost-based rates, and to ensure that ILECs do not insist on an unreasonable number of POIs or network edges in the interim. One POI per state could be a reasonable interim rule, or at least a limit of one POI per LATA.

Cable

Charter

- The FCC can further deployment and expansion of all-IP networks simply by making clear that Section 252(c)(2) permits competitors to establish IP interconnection arrangements with ILECs for the exchange of voice traffic.
- The FCC should reconsider the continued utility of LATA-based boundaries in defining POI obligations, and affirm that competitive providers are entitled to establish a single POI per state on the ILEC's network.
- The FCC should define network edge principles in a manner that does not undermine Congress' determination that ILECs must accommodate competitors' request for interconnection at "any technically feasible point" on the ILEC network.
- The FCC should decide that transit traffic (and associated services) is subject to Section 251(c), just like other interconnection and traffic exchange arrangements, and requires that such services be provided at TELRIC rates.

Comcast

- The FCC should not burden consumers by permitting ILECs to recover revenues from the CAF or the ARC based on originating access minutes destined for an affiliated entity.
- The FCC should ensure that ILECs are required to provide at just and reasonable rates vitally important tandem transit services that Comcast and other voice competitors need to exchange traffic with rural carriers as well as each other.
- The FCC should permit carriers to rely on both tariffs and interconnection agreements during and after the transition.
- Regulation of IP-to-IP voice interconnection is premature and is likely to be counterproductive with far-reaching consequences. Moreover, as the questions in the FNPRM itself illustrate, regulation of IP-to-IP voice traffic, unhelpful in itself, could easily slip into broader regulation of the Internet backbone.

NCTA

- The FCC should make clear that ILECs must continue to provide transit services at cost-based rates, and that ILEC interconnection obligations in 251(c) apply to telephone exchange services and exchange of access traffic in IP format.
- The FCC should also make clear that IP-to-IP interconnection requirements do not extend to non-voice traffic and are limited to rights and obligations set forth for telecommunications carriers, LECs, and ILECs pursuant to Section 251.
- The FCC's decision that ICC ultimately should be governed by a B&K regime will require decisions regarding matters such as where the "edge" of each network should be located and how many POIs should be required. These are important questions, but it is premature for the FCC to resolve them now.
- As providers grapple with the transitions from circuit-switched equipment to IP networks and from legacy ICC to B&K, the FCC should give the marketplace time to adapt and potentially develop solutions to some of these questions before establishing mandatory requirements.

Time Warner Cable

- The FCC should enforce IP-to-IP interconnection rights pursuant to Section 251, and should establish clear duties relating to IP traffic exchange to prevent further gamesmanship by rural LECs.
- Mandating IP-to-IP interconnection not only is compelled by Section 251, but will promote competition, improve service quality, and avoid inefficiencies that impose needless costs on competing carriers and, ultimately, on consumers.
- There is no legal or policy basis to extend interconnection regulations beyond the exchange of telecommunications traffic between Local Exchange Carriers.
- The FCC should transition originating access rates to B&K concurrently with terminating access rates.
- The FCC should prevent an end-run around pro-competitive reforms by exercising oversight over transit rates and other transport charges.

CLEC

Bandwidth.com

- Imposing additional outdated PSTN concepts on IP networks and services would be a mistake, rather the FCC must provide incentives for carriers to invest in change instead of re-trenching and aggressively clinging to the PSTN.
- In order to have a competitive communications market, there must be threshold-level requirements that carriers interconnect on fair and non-discriminatory terms and in a manner that promotes IP networks rather than perpetuating legacy TDM infrastructures.
- The FCC cannot simply allow the biggest players to carve up the marketplace and control the pace of change as they see fit.
- The FCC should move ahead aggressively with mandates and incentives that support competition, investment, and innovation in the marketplace by reducing all switched access rate elements uniformly and by adopting threshold requirements that will provide the proper economic incentives for legacy carriers to move forward to IP interconnection in a non-discriminatory manner.

Cbeyond, Earthlink, Integra Telecom, and TW Telecom

- The Order results in a new regime that favors the interests of ILECs at the expense of CLECs. For example, the transition to B&K grants ILECs a more gradual and longer transition by creating a CAF subsidy for which CLECs are ineligible but to which CLECs must contribute.
- Given the skewed and anticompetitive effects created by the Order, in this FNPRM the FSS should:
    - Not reduce originating access rates to B&K;
    - Reduce transport rates to B&K and address rates for local transmission services not covered by the transition;
    - Clarify that ILECs must provide transit service as cost-based rates
    - Reaffirm CLECs' right to interconnect at a single POI per LATA and not modify current interconnection architecture rules;
    - Permit CLECs to tariff access charges; and
    - Clarify that ILECs have an enforceable statutory duty to provide IP-to-IP interconnection.

Coalition for Rational USF and ICC Reform

- Originating Access should be removed as expeditiously as possible since it is billed inconsistently with Reciprocal Compensation.
- It is necessary to preserve the CLEC's right to choose "any point" in the ILEC's network for interconnection. The single POI per LATA rule should be maintained.
- The unification of switched access and reciprocal compensation charges also requires that access transport rates be brought into line with reciprocal compensation rates. To the extent that carriers deserve compensation for transport, this should be provided at cost-based rates.

COMPTEL

- In order to effectively guide the nation to a competitive future, the FCC must rapidly address two major gaps in its policies – reforming transport pricing and a legal framework to guide IP interconnection negotiations.
- The FCC should affirm that existing interconnection rights and obligations apply to IP technology and that 251(b)(5) applies equally to transport and termination.
- The FCC should reaffirm that the Act's call for negotiation within the framework of Section 252 applies equally to IP networks as it has applied to TDM in the past, and allow the market an opportunity to evolve within that framework of nondiscrimination, public disclosure and opt-in.
- The FCC should take no further action regarding originating access rates, and provide no further guidance to state commissions regarding the TDM "network edge" beyond reminding state commissions that entrants should not be required to establish more than a single network presence per LATA.

iBasis and Cinco Telecom

- The FCC should eliminate originating access charges, including for 8YY traffic, immediately.
- At a minimum, the FCC should not adopt a glide path for originating access services longer than that established for terminating access charges.

GCI

- Because the network architecture in Alaska differs from that of the lower 48, network edge rules adopted for the Lower 48 will likely not fit Alaska.
- A rational B&K regime in Alaska must take account of all of these differences, and the FCC also needs to clarify how the Transitional Intrastate Access Service revenue calculations should be applied in the case of disparate trunking rate structures when determining whether intrastate access rate levels exceed interstate levels.

HyperCube Telecom

- The FCC should exercise its authority to adopt rules that would require all ILECs to enter into good faith negotiations for direct interconnection of their networks with the networks of carriers making a *bona fide* request for such interconnection.
- The FCC should require all carriers to provide indirect IP interconnection immediately, and direct interconnection should be required at the earlier of:
    1. The ICC transition deadline (six or nine years); or
    2. The date the ILEC or an affiliate offered IP-formatted services to its own end-users.
- During the transition to all-IP networks, there should be no mandated elimination of originating access charges.
- It is premature to adopt call signaling rules for one-way VoIP services.

InCharge Systems

- Agrees with Verizon and others who suggest it makes little sense for providers to make extensive new investments in old signaling technology and facilities given the transition away from these technologies.
- ICS believes resolving standards issues needs to be done first to avoid problems associated with altered or manipulated or missing signaling data.

Level 3

- The Commission should not embark on strict regulation of transit prices. Although the market is "thin" in some areas due to the limited amount of traffic to those areas, the market is and can be competitive in most areas, and it is difficult to draw a line between those that are and can be competitive and those that cannot be competitive without freezing competition where it exists.
- Further reform of transport and termination needs to be coordinated with originating access changes, especially with respect to fixed facilities, such as dedicated transport and entrance facilities, that are used for both originating and terminating access.

- Reducing terminating rates without changes in originating rates for these elements will create an unworkable situation for billing for two-way fixed facilities.
- The FCC should refrain from imposing TELRIC rates on ILEC-provided transit, and to synchronize further changes in dedicated transport rates with changes in originating access.

Neutral Tandem

- To the extent the FCC adopts any further regulations or reforms related to intercarrier compensation, it should avoid regulating competitive services which promote efficient indirect interconnection between carriers.
- Similarly, to the extent the FCC adopts any IP interconnection requirements, it should give carriers flexibility to meet those requirements through indirect interconnection.
- The FCC should permit carriers to meet any new IP interconnection mandates by using the services of third party carriers.

RCN Telecom

- In order to enable competition to continue to develop, the FCC should ensure that transit rates continue to be regulated.
- The FCC should confirm the conclusion reached by several states and federal courts that transit rates are subject to Section 251(c)(2), and must be cost-based.
- Moreover, if the FCC is permitted to move cost-based rates below cost to B&K, the FCC should ensure that ILEC tandem transit rates are likewise transitioned to bill and keep on the same schedule as the tandem interconnection rate, moving to bill and keep by July 1, 2017 for price cap carriers.

US Telepacific and Mpower Communications

- Any reductions in originating access rates should take place over a period at least as long as for terminating access (6-8 years), and reductions should not begin until after the terminating rate transition is completed.
- The FCC should not allow ILECs to deny CLECs their fundamental rights to interconnection while it determines whether such rights should be extended to non-LEC telecommunications carriers or to IP providers that are not telecommunications carriers.
- ILECs have an obligation to offer requesting carriers any technically feasible form of interconnection for the exchange of telephone exchange and exchange access services, including IP interconnection.
- The FCC should promptly affirm that ILECs have a duty to offer IP-to-IP interconnection and provide a regulatory backstop (i.e., arbitration) when negotiations for IP interconnection fail to produce terms and conditions acceptable to both the ILEC and CLEC.

VON Coalition

- The FCC should immediately implement a B&K framework for originating access. In the alternative, the FCC should mirror the six year transition established for terminating access rates.
- The transition to IP networks and services is moving apace, and all traffic eventually will be packet-switched, originating and terminating on broadband networks.
- The FCC should implement provisions that will encourage the deployment of IP networks and interconnection between those networks.

XO Communications

- The remaining rate elements, including originating access, switched access, dedicated transport, tandem switching and tandem transport, should be incorporated into the transition timeline adopted in the *Order*.
- The FCC need not be concerned about the impact of policies developed here on IP peering arrangements for exchanging Internet traffic. Current IP interconnection arrangements for voice traffic typically have no connection or impact on IP peering arrangements and do not co-mingle voice traffic with Internet traffic currently exchanged via IP peering facilities.

- The FCC should adopt policies for good faith negotiations, at a minimum, under Sections 251(a) and 251(c)(2). The framework and enforcement of these sections already exists and should be relied upon to quickly compel widespread IP interconnection. If carriers cannot agree on particular terms and conditions, the arbitration process provides an appropriate means for addressing these disputes.
- Any carrier that needs to convert traffic to TDM should incur those costs directly, rather than the reverse, as has become the standard today in the absence of FCC direction regarding IP interconnection.
- After a five year transition period, all carriers should be required to exchange traffic in IP format where requested.

YMax Communications

- Mandatory IP interconnection for all IP-based voice services is in the public interest. IP-based voice service already had become the preferred substitute for traditional analog voice services by both consumers and businesses.
- Nevertheless, because AT&T, Verizon and other BOCs control a large share of the market, the can (and do) force smaller companies to maintain a large number of obsolete and inefficient TDM facilities. This allows AT&T and other large carriers to gouge new entrants and competitors with significant monthly charges for trunking, switch ports, and other interconnection facilities to obtain monopoly profits.
- The FCC should require that the carrier requiring TDM interconnection should pay all of the interconnecting carrier's costs associated with the TDM interconnection.
- Because of the universal nature of the Internet, multiple POIs are not necessary for IP-based interconnection. The FCC's IP-based interconnection rules should establish a default rule that limits the ILEC to requiring IP-based interconnection at no more than two POIs in the United States.