

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matters 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 an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109

**COMMENTS OF THE
INDIANA UTILITY REGULATORY COMMISSION**

The Indiana Utility Regulatory Commission (“Indiana Commission”) respectfully submits these initial comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) August 3, 2011 released *“Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding (“Further Inquiry”)* WC Docket Nos. 10-90, 07-135, 03-109; CC Docket No. 01-92, 96-45; GN Docket No. 09-51 (DA 11-1348). This notice supplements the February 9, 2011 *Notice of Proposed*

*Rulemaking and Further Notice of Proposed Rulemaking (“NPRM”),*¹ which proposes modernizing the federal universal service fund (“USF”) and intercarrier compensation (“ICC”) policies based on four core principles.² The *Further Inquiry* seeks comment on specific elements of three plans filed in response to the NPRM, the State Members of the Federal-State Universal Service Joint Board Plan (“*State Plan*”),³ a joint rural incumbent local exchange associations plan (“*RLEC Industry Plan*”)⁴ and a plan filed by six Price Cap Companies (“*ABC Industry Plan*”)⁵ and supported the United States Telecom Association as well as the three major rural associations that filed the earlier *RLEC Industry Plan*.⁶

¹ See, *In the Matter(s) of the Connect America Fund*, WC Dkt 10-90, *A National Broadband Plan for Our Future*, GN Dkt 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Dkt 07-135, *High-Cost Universal Service Support*, WC Dkt 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Dkt 01-92), *Federal-State Joint Board on Universal Service*, CC Dkt 96-45), *Lifeline and Link-Up*, WC Dkt 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-13A1.doc, published at 76 Fed. Reg. 11632 (Mar. 2, 2011) at: <http://www.gpo.gov/fdsys/pkg/FR-2011-03-02/pdf/2011-4399.pdf>; See also the separate FCC March 2, 2011 DA 11-411 notice at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-11-411A1.doc specifying comment dates. See also, *In the Matter of Universal Service Reform – Mobility Fund*, Notice of Proposed Rulemaking, 25 FCC Rcd 14,716 (rel. October 14, 2010) at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-182A1.pdf

² *NPRM* at ¶ 10, *mimeo* at 7-8. The four principles include modernizing the FCC’s universal service fund and intercarrier compensation system for broadband; exercising fiscal responsibility to control the size of the USF; requiring accountability of companies receiving support, and transitioning to market-driven policies.

³ *Comments by the State Members of the Federal-State Joint Board on Universal Service*, WC Docket No. 10-90 et al. (filed May 2, 2011) (“*State Member Plan*”) at: <http://fjallfoss.fcc.gov/ecfs/document/view.action?id=7021344856> (narrative – 177 pages) and <http://fjallfoss.fcc.gov/ecfs/document/view.action?id=7021344857> (spreadsheet).

⁴ *Comments of the National Exchange Carrier Association, Inc.; National Telecommunications Cooperative Association; Organization for the Promotion and Advancement of Small Telecommunications Companies; Western Telecommunications Alliance; and Concurring Associations*, WC Docket No. 10-90 Et Al. (Filed April 18, 2011) at: <http://fjallfoss.fcc.gov/ecfs/document/view.action?id=7021238841> (133 Pages).

⁵ *Letter from Robert W. Quinn, Jr., AT&T, Steve Davis, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, and Michael D. Rhoda, Windstream, to Marlene H. Dortch*, FCC, WC Docket No. 10-90 et al. (filed July 29, 2011), at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698690> (Transmittal Letter - 2 pages),

The Indiana Commission joins in and adopts the Further Comments of the National Association of Regulatory Utility Commissioners, especially the comments regarding the proposed preemption of the states.

The Indiana Commission appreciates the opportunity to offer additional comments on the issues of Universal Service Funding (USF) and Intercarrier Compensation (ICC) reform. The proposals on which the Federal Communications Commission seeks comment are not only about the future of broadband in the United States but the future of continued cooperative federalism demonstrated by the FCC and the states for many years. Even on policies of national significance, the FCC and states have held a mutual respect for each others' respective jurisdictional authority. While rural customers deserve access to advanced services like broadband, they should not have to sacrifice the involvement of states who have carefully balanced the interests of rural carriers and customers in the delivery of intrastate telecommunications services.

The Indiana Commission believes that, even in this post-monopoly era,

<http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698691> (Company Advocacy Cover Letter - 5 Pages),
<http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698692> (Attachment 1 - Framework of Proposal -14 Pages),
<http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698693> (Attachment 2 - Summary of Model Results - 04 Pages),
<http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698694> (Attachment 3 - Model Description - 28 Pages),
<http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698695> (Attachment 4 – Purported Consumer Benefits - 34 Pages),
<http://fjallfoss.fcc.gov/ecfs/document/view?id=7021698696> (Attachment 5 – “Legal” analysis - 69 Pages).

⁶ Letter from Walter B. McCormick, Jr., United States Telecom Association, Robert W. Quinn, Jr., AT&T, Melissa Newman, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, Michael D. Rhoda, Windstream, Shirley Bloomfield, NTCA, John Rose, OPASTCO, and Kelly Worthington, WTA, to Chairman Genachowski, Commissioner Copps, Commissioner McDowell, and Commissioner Clyburn, FCC, WC Docket No. 10-90 et al. (filed July 29, 2011) at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021699004>.

states have an important statutory role to play in telecommunications policy, particularly regarding intrastate telecommunications. That role is clearly defined in the plain language of Congressional intent reflected in the Telecommunications Act of 1996.⁷ Due to their proximity to customers, states have a unique vantage point on vital telecommunications policy and its effect on rate-paying customers, small businesses and economic development. Any attempt to reform federal USF or Intercarrier Compensation (ICC) policy without the active engagement and involvement of the states would be, at best, a missed opportunity to benefit from their considerable expertise, lessons learned from proximity to customers, or at worst, a severe disenfranchisement of local ratepayers and businesses that depend on deployment of advanced broadband telecommunications service and ultimately pay the bills for such service.

Simply put, jurisdiction for intrastate telecommunications should remain with the states. States should have the right of first refusal to play a role in ensuring that rural customers have access to the same service and comparable rates as their urban neighbors. As stated in 47 U.S.C. 254(b)(3):

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably

⁷ 47 U.S.C. § 1302.

comparable to rates charged for similar services in urban areas.

Comparable rate and access are statutory imperatives, which the ABC Plan jeopardizes.

How each state exercises its jurisdiction over its intrastate jurisdiction should remain the exclusive purview of that state. Indeed, not all states will actively regulate intrastate telecommunications. For example, in 2006, Indiana's legislature chose to adopt a light regulatory touch in oversight of much of the intrastate telecommunication industry in Indiana. Additionally, Indiana has a streamlined method for carriers to surrender Carrier-of-Last-Resort obligations. However, under Indiana law as well as federal law, the Indiana Commission still has authority over intrastate access charges. For many years, the Indiana Commission has had a policy of mirroring interstate access charges. In the wake of access reform, the Indiana Commission established a state universal service fund to ensure that all Hoosiers continue to have access to affordable telephone service in the wake of access charge reform. All of the above policies were choices made by the State of Indiana, its legislature and its agencies. The right to continue to make such choices belongs with the states, not the FCC and not with the parties filing the ABC Plan.

While these policies were right for Indiana, the Indiana Commission believes that one size does not fit all and supports the notion that individual states should remain free to exercise self-determination and decide for themselves what is

best with regards to regulation of intrastate telecommunications within their borders. Accordingly, the Indiana Commission vigorously opposes any effort to weaken inherent state jurisdiction in the area of intrastate telecommunications policy.

The America's Broadband Connectivity (ABC) Plan and the modified Rural Association's Plan advocate the preemption of state jurisdiction under the guise of promoting broadband deployment. History clearly indicates that states have played an integral role in the formation of policy that resulted in the nearly ubiquitous Public Switched Telephone Network (PSTN) throughout the United States, including insular and rural areas. Equally, states have a continuing contribution to make in the formation and implementation of policies to bring about broadband access across the entire country as well. In fact, Section 706 of the Telecommunications Act of 1996 states:

The Commission **and each State commission** with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.⁸ (emphasis added)

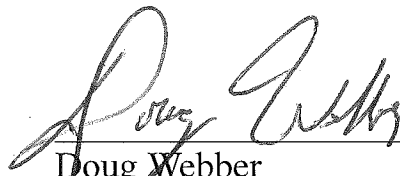
Indeed, over the last several years, much of the initiative and many of the

⁸ 47 U.S.C. §1302.

programs that have furthered the build out and adoption of broadband have come from the states. To sacrifice the diversity and creativity of these programs and destroy the cooperative federalism that has fostered the continuous evolution of the communications marketplace will not maximize the benefit to consumers.

WHEREFORE, the Indiana Commission respectfully recommends that the FCC adopt the State Plan as the framework for compromise among the three plans.

Respectfully Submitted,



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