



## Consumer Federation of America

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**on**

### **FCC REFORM OF THE INTERCARRIER COMPENSATION AND HIGH COST FUNDS**

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The Federal Communications Commission deserves kudos for keeping the public interest in mind in tackling the complex problem of intercarrier compensation and the high cost fund. It rejected the totally self-service industry proposal (the ABC Plan) and handled four of the five major challenges it confronted well. It took the public interest into account in the fifth issue. Given the horrendously anti-consumer history of intercarrier compensation and interstate cost recovery, four-and-a half out of five is way above the curve.

#### **Four clear wins for consumers and the public interest**

Those who take public funds in pursuit of the goal of universal service must meet clear public interest obligations that promote the original goal of the Communications Act, which is to provide “adequate facilities at reasonable charges” for all people of the United States. They must comply with the 1996 enhancements to the universal service goals that require “reasonably comparable services at reasonably comparable rates,” including “advanced telecommunications and information services.”

The use of public funds to move toward the goal of universal service should be efficient and effective. The old system of high cost funding is bloated and mis-targeted. The FCC has proposed a reasonably short (five year) period to transition away from the current system to a system that will ensure that subsidies reflect the least cost technologies deployed by the most efficient service providers. Communications infrastructure cannot be deployed overnight. Pre-existing business models and sunk investment cannot be transformed instantaneously. A five year period for the incumbent wireline providers to get their operations in order, while alternatives are allowed to grow, is a demanding, but fair period for adjustment.

For the first time, public funds are being used to ensure that broadband is available at affordable rates. This change is long overdue. In our comments in this proceeding and others going back almost a decade, we have argued that broadband meets the criteria in the Communications Act to be covered by universal service fund.

Interstate access charges have been a bone of contention since the earliest days of the industry and they have become bloated with implicit subsidies. The decision to take them to zero is correct and bold. A “bill-and-keep” approach is consistent with the fundamental approach to cost recovery that has worked well in the U.S. telecommunications sector – calling party pays. Shifting to a “bill-and-keep” regime to eliminate access charges makes it even more critical that the Commission reform universal service subsidies to ensure that service is “adequate,” “reasonable,” “affordable” and comparable in high cost areas and for low income populations. The Commission has declared its intention to reform the people part of universal service (Lifeline and Link Up) in the near future. It would have been better to deal with the people-oriented programs at the same time as the company-oriented programs. We urge the Commission to deal with the people programs as soon as possible so that both sets of reforms can be implemented simultaneously.

#### **A draw**

The current flows of resources in the intercarrier compensation system and interstate cost recovery mechanism are inefficient and result in consumer bills that are too high. We urged the Commission to

execute reform without raising the fixed line charges on consumer bills because, while there are cost reductions for some services that **may be** passed through to consumers, the fixed line items are unavoidable.

The Commission has designed a mechanism for recovering access revenues (the access recovery charge, or ARC) that attempts to keep the new line item on the bill low and promises to take it to zero. This mechanism is mandatory. The Commission has exempted households that are in the lifeline program from paying the ARC. The new ARC charge will be controlled by limiting the lost access revenues that can be replaced and by requiring that the lost revenues are recovered from business customers first and in larger amounts than are recovered from residential customers. This is consistent with the cost recovery approach that has typified the telecommunications network for a century. The net effect of these cost recovery principles will vary from company to company, but the mandatory nature of the rules means that the limitations of the ARC increases are enforceable. The ARC will rise slowly over a number of years and then decline to zero. It must go to zero as quickly as possible.

### **A Failure**

We believe that the FCC could have accomplished the reform of intercarrier compensation and interstate cost recovery without any increase in the fixed charges on the consumer bill, if it had tackled reform of Subscriber Line Charges (SLC). These are massive charges imposed on consumers in the name of interstate cost recovery that have not been cost justified for decades.

- The last time the SLC was examined on a cost basis (2002), the cost model showed that there was an over recovery of costs on more than four-fifths of the subscriber lines in the country,
- The last time the rate of profit in the interstate jurisdiction was examined (2008) for the largest beneficiaries of subscriber line charges, it was found to be almost three times the national average
- The last time that intercarrier compensation was reformed, the FCC included a temporary charge of \$650 million per year to make the local exchange carriers “whole” that was supposed to terminate in 2005. The FCC failed to eliminate the charge and the companies have collected almost \$4 billion since it was supposed to be terminated.

Moreover, since intercarrier compensation was last reformed, the local exchange carriers have created a \$50 billion per year broadband internet access service that uses many of the same facilities as the plain old telephone service. The FCC placed broadband internet access service in the federal jurisdiction, but has not considered if any additional costs should be moved to the federal jurisdiction nor has it considered whether the service should make a contribution to universal service. The failure to consider these revenues in determining cost recovery constitutes an illegal subsidy to a competitive service.

While the Commission has tried to keep the increase in consumer bills small, it has not fully embraced the principle that subscriber line charges must be reduced to cost. The promise of a future proceeding to consider the subscriber line charge is not enough. Justice delay is justice denied.

### **The Bottom Line**

We believe the Commission should move ahead with the order, but must be vigilant to ensure that consumers receive the benefits that have been promised to offset the costs. While we acknowledge that transition periods are necessary, we also remind the Commission that past promises have been broken. If the promises are broken again, the increase in consumer bills, however small or transitional, will be money for nothing.

Moreover, we will seek to ensure that the commission tackles the SLC issue as quickly as possible, pursuing either a motion for reconsideration or a court challenge. Until the excessive recovery of interstate costs is removed from consumer bills, the Commission cannot close the book on rate reform and the best way to protect consumers is to eliminate the excessive costs recovered through the SLC.

*The Consumer Federation of America is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. [www.consumerfed.org](http://www.consumerfed.org)*