

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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|--|---|----------------------|
| In the Matter of |) | |
| |) | |
| Reforming Legacy Rules for an All-IP Future |) | WC Docket No. 25-311 |
| |) | |
| Accelerating Network Modernization |) | WC Docket No. 25-208 |

**REPLY COMMENTS
OF THE DIGITAL PROGRESS INSTITUTE**

I. Introduction

In the *All-IP Intercarrier Compensation Reform Notice*, the Commission proposes to reform legacy intercarrier-compensation rules for an all-IP future and accelerate network modernization.¹ As the Commission recognizes, “regulatory incentives embedded in the intercarrier compensation (ICC) regime”² raise the cost of the IP Transition and all too often have facilitated regulatory arbitrage—where carriers introduce inefficiencies into the network because legacy rules reward them for doing so.³

The Digital Progress Institute welcomes this opportunity to participate in the rulemaking. The record confirms that the remaining pieces of the switched-access regime no longer fit the market consumers use today. The “voice services market has evolved dramatically” from switched access to IP technologies⁴—a change that has delivered consumers more choices, given

¹ *Reforming Legacy Rules for an All-IP Future; Accelerating Network Modernization*, WC Docket Nos. 25-311, 25-208, Notice of Proposed Rulemaking, FCC 26-11 (2026) (“*All-IP Intercarrier Compensation Reform Notice*” or “*Notice*”).

² *Id.*, para. 1.

³ *Id.*, para. 29.

⁴ *Id.*, para. 1.

providers a better path to network investment, and made legacy compensation rules increasingly obsolete. It is time for the Commission's ICC regime to change as well.

The record lays out a path toward incremental reform that will accomplish the Commission's goals, accelerate the IP Transition, and ensure that rural Americans remain connected. *First*, the record reveals the low-hanging fruit: sunseting grandfathered equal access obligations, moving toll-free originating access charges to bill-and-keep, and permissively detariffing interstate end-user access charges. The Commission should move forward with these reforms without delay. *Second*, the record confirms the importance of moving forward with the broader transition to bill-and-keep in a timeframe concordant with the IP Transition. *Third*, the record suggests that the Commission should consider transforming the legacy CAF-ICC Fund into a targeted IP Transition Fund. *Finally*, we note that the record is littered with attempts to justify the preservation of legacy switched-access charges indefinitely—upon review, none of those attempts have merit.

II. The Commission Should Take the Easy Wins First

The Commission should move quickly to adopt reforms that are straightforward, administrable, and unlikely to create serious disruption. Three such reforms stand out: sunseting grandfathered equal access obligations, transitioning toll-free originating access charges to zero, and permissively detariffing interstate end-user charges. These three discrete steps are well-supported in the record, and consideration of more complex issues should not delay the adoption of these common-sense reforms to be effective January 1, 2027. Indeed, adopting these reforms will simply clear away narrow legacy obligations that no longer serve the public interest.

Start with grandfathered equal access obligations. As the *Notice* explains, the Commission forebore from its equal-access obligations for incumbents more than a decade ago⁵; and it has been almost twenty years since the Commission identified the stand-alone long-distance market as a “fringe” service.⁶ Those continuing obligations come with a real cost: requiring incumbent local exchange carriers and interexchange carriers to maintain the time-division multiplexing (“TDM”) equipment and networks that are necessary for compliance for an ever-dwindling number of subscribers.⁷ The Commission should forebear from this legacy obligation, conditioned only on incumbents notifying any grandfathered customers at least 60 days before termination of such service.⁸

Next, turn to toll-free originating access charges. As the Commission has recognized, toll-free traffic pumping remains one of the last profitable ways to easily arbitrage the

⁵ *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations that Inhibit Deployment of Next-Generation Networks et al.*, WC Dockets Nos. 14-192 *et al.*, Memorandum Opinion and Order, 31 FCC Rcd 6157, 6184-85, para. 49 (2015) (*2015 Wireline Forbearance Order*).

⁶ *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, WC Docket No. 02-112, Report and Order and Memorandum Opinion and Order, 22 FCC Rcd 16440, 16452-54, para. 23 & 16499, para. 121 (2007).

⁷ See Lumen Comments at 14 (“The same factors that drove that earlier forbearance now compel the elimination of these lingering, grandfathered obligations. These obligations only force ILECs to maintain outdated, and increasingly costly to maintain, POTS networks functionality for a small minority of customers.”).

⁸ To be clear, we do *not* support an incumbent subscribing a carrier to a new interexchange carrier (such as the incumbent’s preferred interexchange carrier) without customer consent, as that would likely violate section 258 of the Communications Act, as previously noted by the Commission. See *2015 Wireline Forbearance Order*, 31 FCC Rcd at 6187, para. 53. That said, the Commission should not prohibit the incumbent from marketing the services of its preferred interexchange carrier or market other alternatives (such as all-distance VoIP) as part of such notifications, just as the Commission should not bar a customer from choosing a new voice service provider entirely after receiving such a notification. The voice services market is fiercely competitive, and micromanaging it further would only hurt the interests of consumers.

Commission’s ICC regime,⁹ and although the Commission’s prior actions have curbed abuse of the system, the Digital Progress Institute is aware that arbitrage remains an ongoing part of the system. That’s because the interexchange carrier responsible for paying any charges has no insight, no privity, and no control over how the toll-free traffic comes to its network—and so an originating voice service provider may route traffic through a long string of tandems, each of which may legally charge “originating” access tandem switching charges and each of which might bill the interexchange carrier for a toll-free query (even though only the first provider capable may conduct the query and charge for it¹⁰). Because the Commission completed much of the transition for toll-free originating access charges to bill and keep from 2020 through 2023, these charges are primed for immediate elimination.¹¹

Finally, consider tariffed end-user access charges. The record is resoundingly clear: The market for voice services is overwhelmingly competitive, justifying forbearance, but mandatory

⁹ *8YY Access Charge Reform*, WC Docket No. 18-156, Report and Order, FCC 20-143, paras. 17 & 19 (2020) (“*Toll-Free Reform Order*”).

¹⁰ *Toll-Free Reform Order*, para. 83. Enforcing the one-toll-free-query-charge-per-call rule poses a practical problem: When a tandem provider invoices an interexchange carrier for a toll-free queries, it simply notes the total number of such queries it is billing. Without further information, the interexchange carrier does not even know what call each query was for (or even if the call was actually completed), let alone whether the charge was appropriate. To audit even a single charge, the interexchange carrier would need to traceback that call to its origin and receive call detail records from every single provider in the call-handoff chain along with information not typically included in such records, such as whether each provider was capable of conducting a query, whether it did one, and whether it passed along the queried information to the next provider in the chain.

¹¹ The *Notice* also asks “how moving the tandem switched transport access service charge to bill-and-keep would impact the toll-free nature of 8YY calling.” *Notice*, para. 43. In short, it would have no impact. Practically all calls today are “toll-free” because consumers no longer pay per-minute “separate charge[s].” *Cf.* 47 U.S.C. § 153(55) (defining “telephone toll service”). Moving these charges to bill and keep would only eliminate incentives to maintain TDM interconnections for toll-free calls and reduce the cost to toll-free subscribers for operating a toll-free number—clear wins for the public interest.

detariffing in the near term could cause needless complications and legal fights that could delay the IP Transition. USTelecom explains that permissive detariffing would let carriers pass through existing interstate recovery charges as lawful non-tariffed charges, letting carriers “manage their detariffing activity while properly balancing state-level constraints.”¹² Or as Lumen puts it, the “Commission should adopt permissive detariffing through forbearance while also explicitly permitting carriers to separately recover interstate revenues on customer bills through a new interstate charge.”¹³ Permissive detariffing is an appropriate middle path, allowing each carrier to tailor its approach to end-user charges to its own approach to revenue recovery and the IP Transition.¹⁴ And in adopting permissive detariffing and forbearing from section 203’s tariffing requirement, the Commission should make clear that states may *not* regulate the associated, detariffed interstate rates¹⁵—doing so would not only intrude on the interstate authority expressly reserved for the Commission,¹⁶ but would also violate the strictures of section 10 of the Communications Act.¹⁷

¹² USTelecom Comments at 7-8; *see also* Verizon Comments at 3 (arguing that mandatory detariffing would “introduce unresolved state ratemaking complexities”).

¹³ Lumen Comments at 15.

¹⁴ *Cf.* NTCA Comments at 21 (arguing that tariffed end-user charges “remain a critical component of cost recovery”); Verizon Comments at 3 (arguing that the juice may not be worth the squeeze given its planned retirement of TDM services).

¹⁵ *Cf.* USTelecom Comments at 6-7 (raising the concern that some state laws purport to set retail rate caps and may not distinguish between intrastate and interstate charges).

¹⁶ 47 U.S.C. § 201.

¹⁷ 47 U.S.C. § 160(e) (“A State commission may not continue to apply or enforce any provision of this chapter that the Commission has determined to forbear from applying under subsection (a).”).

III. The Commission Should Transition All Other Access Charges to Bill and Keep

After taking the easiest wins, the Commission should finish the broader job. All remaining access charges should move to bill-and-keep by June 30, 2029—six months after the Commission’s proposed sunset of TDM interconnection obligations.

Bill-and-keep fits the modern IP voice market. The *Notice* explains that the 2011 reforms used bill-and-keep to reduce “arbitrage and competitive distortions” and to give carriers more certainty for investment in modern IP networks.¹⁸ Those goals remain valid today. Indeed, they are more important now because a shrinking legacy switched-access regime is harder to justify and easier to exploit.¹⁹ As USTelecom explains, the current tariffed switched-access regime can “perpetuate access arbitrage opportunities” and “discourage other carriers from moving to all-IP networks.”²⁰ NCTA agrees that it is “past time to finally transition the remaining access charge elements that are not currently at bill-and-keep.”²¹ And Voice on the Net Coalition points out that the “the transition to bill-and-keep will encourage carriers to fully replace legacy TDM equipment with more efficient IP technology, ultimately benefitting consumers.”²²

Given the state of the record, and agreement therein that the transition to bill and keep should be concordant with the Commission’s proceeding regarding IP interconnection and the sunset of TDM interconnection obligations, the Digital Progress Institute believes the Commission should target a full transition to bill and keep by June 30, 2029, six months after the proposed sunset of TDM interconnection obligations. Setting a definite end date will allow

¹⁸ *Notice*, para. 7.

¹⁹ *See* ICLE Comments at 3.

²⁰ USTelecom Comments at 3.

²¹ NCTA Comments at 4.

²² VON Comments at 2.

carriers to plan and encourage the speedy transition to all-IP networks, which have never been subject to the Commission’s ICC regime.

Given our recommendation for the Commission to move swiftly on toll-free originating access charges (which have transitioned to near bill and keep levels previously), the Digital Progress Institute sees two feasible paths forward. First, the Commission could transition all other access charges in three steps, reducing such charges by one third after June 30, 2027, another third after June 30, 2028, and set such charges to zero after June 30, 2029.²³

Alternatively, the Commission could require that toll-free originating access charges alone transition to bill and keep after June 30, 2027, all other charges be reduced by half after June 30, 2028, and all other charges be set to zero after June 30, 2029. Although this alternative path would delay the transition for several charges, this process may be more administratively feasible while arriving ultimately at the same destination.

IV. The Commission Should Consider Transforming the CAF-ICC Fund into an IP Transition Fund

The record confirms that some rural carriers may need continued support throughout the IP Transition. As several commenters point out,²⁴ the CAF-ICC Fund represents a significant portion of revenues for many rural local exchange carriers—far more than remaining ICC revenues. And that comes at a time when rural carriers are facing a “significant number of costs attributable to network modernization and associated regulatory developments.”²⁵ To resolve

²³ We propose setting the deadlines for these transitions in June, rather than December, to match the annual tariff filing process of most (if not all) carriers.

²⁴ *See, e.g.*, Alaska Remote Carrier Coalition Comments at 5-6; Concerned Rural LECs Comments at 15-16; Nebraska Rural Independent LECs at 3-4; Pinion Comments at 3-6; Small Company Coalition Comments at 3-4; NTCA Comments at 13.

²⁵ NTCA Comments at 14.

this dilemma, NTCA proposes that the Commission “rechristen” the CAF-ICC Fund as the IP Transition Fund, a fund to “help ensure that the higher costs associated with network transitions in rural areas do not disproportionately affect rural consumer rates.”²⁶

The Digital Progress Institute believes this suggestion merits serious consideration. And we are encouraged that the *Notice* has already asked questions along these lines.²⁷ As this concept is as-yet underdeveloped, we offer only a few guidelines for the Commission’s consideration.

First, the Commission should limit the size of the IP Transition Fund so that it does not exceed (a) the revenues that rural local exchange carriers could expect from the current CAF-ICC Fund plus (b) the revenues that rural local exchange carriers currently collect in ICC revenues. In other words, if the IP Transition Fund is truly going to be a rechristening of the CAF-ICC Fund, it should fall within its current framework.²⁸ *Second*, the Commission should not tie IP Transition Fund support to historical ICC revenues as the cost structure of a modern, all-IP network may bear little resemblance to the legacy costs that informed the CAF-ICC Fund or even current ICC revenues. To manage the transition to the IP Transition Fund, the Commission should consider transitioning allocations away from the old support to the new over the course of two or three years. *Third*, the new model should come with concrete deadlines for participating carriers to complete the IP Transition, with incentives for timely progress. For example, the Commission could borrow from its successful C-band transition framework, which offered accelerated relocation payments to satellite operators that speedily completed that

²⁶ *Id.*

²⁷ *Notice*, paras. 156-57.

²⁸ According to NTCA, the CAF-ICC Fund is currently \$323 million and rural carriers collected about \$67 million. NTCA Comments at 10, 25.

transition, with the value of those payments going down as time went on.²⁹ In this context, perhaps carriers that become “TDM-Free” by December 31, 2028 could receive a bump in payments for the life of the Fund, with those completing the transition by December 31, 2029 or 2030 receiving correspondingly smaller bumps. Doing so would recognize the time value of money—and that a carrier moving quickly to complete the transition (such as by paying overtime and sourcing equipment early) may itself incur higher costs.³⁰

Regardless of whether the Commission adopts these guidelines or not, any movement forward with an IP Transition Fund should keep one principle in mind: support should accelerate the IP Transition, not delay it.

V. Claims of Revenue Losses Do Not Justify Preserving ICC Charges

In an attempt to forestall any reform of the legacy ICC system, numerous commenters claim significant revenue losses if the Commission were to move forward in this proceeding. The Concerned Rural LECs propose the most comprehensive analysis of the issue, attaching a study examining 120 different study areas to measure the impacts of this rulemaking proceeding. As they summarize the study, proceeding with the rulemaking would result in “increases in end user rates that average \$13.50 per month.”³¹

That’s not quite right. *For one*, the comparison assumes a steady baseline, with CAF-ICC funding and ICC revenues held constant one year to the next. That’s not reality. Eligible revenues to be recovered through the CAF-ICC Fund are designed to decline by 5% each year.³²

²⁹ *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, FCC 20-22 (2020).

³⁰ *Cf.* NTCA Comments at 14 n. 33.

³¹ Concerned Rural LECs Comments at 17.

³² *See* 47 C.F.R. § 51.917(b)(3).

Using an elevated baseline artificially inflates the “costs” of action here. *For another*, that analysis conflates the impact of eliminating legacy ICC revenues over the course of three years with the impact of phasing down the CAF-ICC Fund over three years with no replacement. Per their own numbers, changes to the CAF-ICC Fund dominate over any ICC revenue losses. *For yet another*, it only divides the lost revenues among end-user switched access lines, excluding consumer broadband-only lines—even though the Commission has long required carriers to impute access recovery charges not only to telephone subscribers but also consumer broadband-only line customers given the use of shared infrastructure and ability of the carrier to offer VoIP to such a customer.³³

To put these issues into perspective, we present here a revised version of those numbers. We start with the proper baseline, taking into account the 5% decrease each year of revenues eligible for recovery. Assuming that all other revenues hold constant (as the Concerned Rural LECs appear to do), that translates into significant losses in CAF-ICC Fund support even without action by the Commission here.

| | Today's Baseline | | | | |
|--|----------------------|----------------------|----------------------|----------------------|----------------------|
| | TY26/27 | TY27/28 | TY28/29 | TY29/30 | TY30/31 |
| Interstate Switched Access Revenue | \$ 2,237,975 | \$ 2,237,975 | \$ 2,237,975 | \$ 2,237,975 | \$ 2,237,975 |
| NECA Allocated Switched Access Revenue | \$ 2,850,852 | \$ 2,850,852 | \$ 2,850,852 | \$ 2,850,852 | \$ 2,850,852 |
| Intrastate Terminating Switched Access Revenue | \$ 2,343,047 | \$ 2,343,047 | \$ 2,343,047 | \$ 2,343,047 | \$ 2,343,047 |
| Intrastate Originating Switched Access Revenue | \$ 2,651,737 | \$ 2,651,737 | \$ 2,651,737 | \$ 2,651,737 | \$ 2,651,737 |
| Total ICC Revenue | \$ 10,083,611 | \$ 10,083,611 | \$ 10,083,611 | \$ 10,083,611 | \$ 10,083,611 |
| CAF-ICC Support | \$ 34,292,120 | \$ 31,828,027 | \$ 29,487,139 | \$ 27,263,295 | \$ 25,150,644 |
| Total Revenues | \$ 44,375,731 | \$ 41,911,638 | \$ 39,570,750 | \$ 37,346,906 | \$ 35,234,255 |
| Switched Access Lines | 273,924 | 273,924 | 273,924 | 273,924 | 273,924 |
| CBOL Lines | 242,560 | 242,560 | 242,560 | 242,560 | 242,560 |
| Monthly Revenue Per Switched Line | \$ 13.50 | \$ 12.75 | \$ 12.04 | \$ 11.36 | \$ 10.72 |
| Monthly Revenue Per Switched/CBOL Line | \$ 7.16 | \$ 6.76 | \$ 6.38 | \$ 6.03 | \$ 5.68 |

³³ 47 C.F.R. § 51.917(f)(4).

From this revised baseline, we now examine ICC reform, reducing ICC charges by one third in Tariff Year 27/28, another third in TY28/29, and eliminating them starting in TY29/30:

| | ICC-Reform Only | | | | |
|--|----------------------|----------------------|----------------------|----------------------|----------------------|
| | TY26/27 | TY27/28 | TY28/29 | TY29/30 | TY30/31 |
| Interstate Switched Access Revenue | \$ 2,237,975 | \$1,491,983 | \$745,992 | \$- | \$- |
| NECA Allocated Switched Access Revenue | \$ 2,850,852 | \$1,900,568 | \$950,284 | \$- | \$- |
| Intrastate Terminating Switched Access Revenue | \$ 2,343,047 | \$1,562,031 | \$781,016 | \$- | \$- |
| Intrastate Originating Switched Access Revenue | \$ 2,651,737 | \$1,767,825 | \$883,912 | \$- | \$- |
| Total ICC Revenue | \$ 10,083,611 | \$6,722,407 | \$3,361,204 | \$- | \$- |
| CAF-ICC Support | \$ 34,292,120 | \$ 31,828,027 | \$ 29,487,139 | \$ 27,263,295 | \$ 25,150,644 |
| Total Revenues | \$44,375,731 | \$38,550,434 | \$32,848,343 | \$27,263,295 | \$25,150,644 |
| Switched Access Lines | 273,924 | 273,924 | 273,924 | 273,924 | 273,924 |
| CBOL Lines | 242,560 | 242,560 | 242,560 | 242,560 | 242,560 |
| Monthly Revenue Per Switched Line | \$13.50 | \$11.73 | \$9.99 | \$8.29 | \$7.65 |
| Monthly Revenue Per Switched/CBOL Line | \$7.16 | \$6.22 | \$5.30 | \$4.40 | \$4.06 |

Finally, we compare the two, looking at the change in monthly revenue including not only switched access lines but also consumer broadband-only lines. The loss in revenue per line is approximately \$1.62 per month, about one eighth the Concerned Rural LECs estimate, or about a 5% increase in end-user charges on a \$30 plan—phased in over four years. Phasing out the CAF-ICC Fund as well would result in an additional \$4.06 (\$5.68 total) loss of revenue per line.

In other words, the Digital Progress Institute reads these numbers very differently from the Concerned Rural LECs. Yes, revenue loss is a concern, especially with the ongoing IP Transition. And that is why the Commission should consider reorienting the CAF-ICC Fund as an IP Transition Fund. But the Commission should not refrain from moving forward with its reform of the ICC regime—that will have only a fraction of the impact on rural carriers while eliminating an ongoing incentive to delay the IP Transition.

* * *

DPI appreciates the Commission's consideration of these reply comments and the opportunity to participate in this proceeding. We look forward to working with the Commission to accelerate the IP Transition and the consumer benefits that will come with it.

Respectfully submitted,

/s/ Joel Thayer

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