

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

In the Matter of)	
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
)	

FURTHER NOTICE OF PROPOSED RULEMAKING

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By the Commission: Chairman Powell, Commissioners Abernathy, Copps, and Adelstein issuing separate statements.

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3. As a general matter, the record confirms the need to replace the existing patchwork of intercarrier compensation rules with a unified approach. Many commenters observe that the current rules make distinctions based on artificial regulatory classifications that cannot be sustained in today's telecommunications marketplace.⁷ Under the current rules, the rate for intercarrier compensation depends on three factors: (1) the type of traffic at issue; (2) the types of carriers involved; and (3) the end points of the communication.⁸ These distinctions create both opportunities for regulatory arbitrage and incentives for inefficient investment and deployment decisions. The record in this proceeding makes clear that a regulatory scheme based on these distinctions is increasingly unworkable in the current environment and creates distortions in the marketplace at the expense of healthy competition. Additional problems with the existing intercarrier compensation regimes result from changes in the way network costs are incurred today and how market developments affect carrier incentives. These developments and others discussed herein confirm the urgent need to reform the current intercarrier compensation rules.

4. Since the Commission adopted the *Inter-carrier Compensation NPRM* acknowledging the need for reform, several industry groups have developed proposals for comprehensive reform of existing intercarrier compensation regimes and submitted those proposals to the Commission. In this *Further Notice*, we solicit comment on these proposals, including the legal and economic bases for these proposals, as well as the end-user effects and universal service issues implicated by them. We also ask parties to comment on whether and how these reform proposals would affect network interconnection and seek comment on the implementation issues associated with any reform measures. In addition to the comprehensive reform proposals submitted in the record, we seek comment on alternative reform measures, including changes to the existing intercarrier compensation regimes and cost standards. Finally, we seek comment on issues relating to the regulation of transit services and additional CMRS compensation issues.

II. FURTHER NOTICE OF PROPOSED RULEMAKING

A. The Need For Reform

1. Introduction

5. As the Commission explained in the *Inter-carrier Compensation NPRM*, interconnection arrangements between carriers are currently governed by a complex system of intercarrier compensation mechanisms that distinguish among different types of carriers and different types of services based on regulatory classifications.⁹ Federal and state access charge rules govern the payments that interexchange carriers (IXCs) and commercial mobile radio service (CMRS) providers make to local exchange carriers (LECs) that originate and terminate long-distance calls, while the reciprocal compensation rules established under section 251(b)(5) of the Act generally govern the compensation between

⁷See, e.g., Allegiance Comments at 7, 11-12; ALLTEL Comments at 6-7; Cable & Wireless Comments at 8; CompTel Comments at 8; Global NAPs Comments at 7; AT&T Reply at 1, 5-6.

⁸For instance, a long-distance call carried by an IXC is subject to a different regime than a local call carried by two LECs. Moreover, CMRS providers and LECs are subject to different intercarrier compensation rules, and ISP-bound calls are subject to yet another regime.

⁹*Inter-carrier Compensation NPRM*, 16 FCC Rcd at 9613, para. 5.

2. Discussion

91. The comments confirm that issues related to the location of the POI and the allocation of transport costs are some of the most contentious issues in interconnection proceedings.²⁹⁶ In particular, the record suggests that there are a substantial number of disputes related to how carriers should allocate interconnection costs, particularly when the physical POI is located outside the local calling area where the call originates or when carriers are indirectly interconnected. These disputes arise in part because of a lack of clarity among the various rules governing the costs of interconnection facilities and the relationship of those rules to the single POI rule.²⁹⁷ In addition, our current rules may encourage traffic imbalances because terminating networks not only collect reciprocal compensation, they also avoid financial responsibility for transport facilities. When traffic is out of balance, the cost of interconnection is borne primarily by the originating carrier, and the terminating carrier may lack the incentive to minimize the transport costs associated with connecting the two networks.²⁹⁸ For instance, competitive LECs appear to have targeted customers that primarily or solely receive traffic, such as ISPs, in order to become net recipients of traffic.²⁹⁹

92. In this Further Notice, we solicit additional comment on changes to our network interconnection rules to accompany proposed changes to the intercarrier compensation regimes. The record contains a number of different proposals concerning the responsibility for network interconnection costs. For example, BellSouth asks that we establish a default POI at the incumbent LEC's tandem office and hold each carrier responsible for transport costs on its side of the POI.³⁰⁰ Qwest proposes a POI at the "edge" of the network, with each carrier responsible for costs on its side of the POI.³⁰¹ Qwest identifies

²⁹⁶See, e.g., Sprint Comments at 29 (urging the Commission to provide more definitive default rules concerning the obligations of carriers to establish POIs and the responsibility for transport costs); Level 3 Reply at 22-23 (asking the Commission to clarify its POI rules); PCIA Reply at 11 (stating that clarification of the interconnection rules is "long overdue"); Time Warner Reply at 28 (requesting that the Commission ensure that competitors are able to take advantage of the efficiencies of a single POI in a LATA without "free riding" on the incumbent LEC network).

²⁹⁷We note that there are petitions for declaratory ruling pending before the Commission that raise issues related to the responsibility for interconnection costs under our existing rules. See *Comment Sought on Sprint Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC Docket No. 01-92, Public Notice, 17 FCC Rcd 13859 (2002); *Pleading Cycle Established for Comments on @ Communications Petition for Declaratory Ruling*, CC Docket No. 02-4, Public Notice, 17 FCC Rcd 1010 (2002). We will clarify the application of our current rules when we address these petitions.

²⁹⁸See Sprint Comments at 29.

²⁹⁹*Intercarrier Compensation NPRM*, 16 FCC Rcd at 9616, para. 11. In such situations, the originating carrier bears the cost of interconnection to the single POI selected by the competitive LEC in addition to paying reciprocal compensation for the termination of traffic. Because ISP customers rarely, if ever, originate traffic, there is little traffic flow in the opposite direction, and the originating carrier bears the majority of the interconnection costs between the two carriers.

³⁰⁰See Letter from W.W. Jordan, Vice President – Federal Regulatory, BellSouth, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, at Attach. (filed June 14, 2002). Similarly, Verizon proposes default interconnection points at incumbent LEC tandem wire centers. See Verizon Reply at 13-18.

³⁰¹See Letter from John W. Kure, Executive Director – Federal Policy and Law, Qwest Communications International, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, at Attach. (filed Aug. 2, 2002).