

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

In the Matter 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 a 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  
Michigan Public Service Commission**

Introduction

On February 8, 2011, the Federal Communications Commission (FCC) adopted a Notice of Proposed Rulemaking (NPRM) in the above noted dockets requesting comments on numerous issues related to universal service fund and intercarrier compensation reform. The FCC specifically requested in Part XV of the NPRM, comments on certain specific issues related to intercarrier compensation obligations for VoIP traffic, rules to address phantom traffic, and rules to reduce access stimulation. The Michigan Public Service Commission (MPSC) appreciates the opportunity to provide comments on these topics. The MPSC agrees with the FCC's decision to take initial comment on these issues, while allowing additional time to review the NPRM before the

due date for comments on the more comprehensive reform proposals. The MPSC plans to submit comments on the larger reform proposals at a later date, but herein submits comments on the specific issues of VoIP intercarrier compensation obligations, phantom traffic, and access stimulation as addressed in Section XV of the NPRM.

#### Inter-carrier Compensation Obligations for VoIP Traffic

The MPSC recommends that the FCC issue clear guidance on the obligations of VoIP traffic under the intercarrier compensation system. Providers continue to have disputes over how to bill for and collect money related to terminating VoIP traffic. The MPSC has received numerous questions and complaints regarding VoIP traffic and its relation to the intercarrier compensation system, but without clear direction from the FCC, can offer little to help resolve such issues with confidence. While the FCC has tentatively set a goal involving a transition away from minute-of-use (MOU) based rates, MOU based rates will likely continue to be in place during the transition period. During the transition period, the FCC should ensure that any provider that is terminating traffic on its network be compensated appropriately for such traffic. Clear direction will provide certainty for both traditional local exchange carriers who today must deal with potential non-payment for use of their networks to terminate VoIP calls, as well as VoIP providers that cannot make effective a business decisions due to the lack of information about the charges they will incur.

Because the FCC has expressed a goal of eliminating minute of use charges, the MPSC recommends that the FCC find that VoIP traffic is subject to existing intercarrier compensation rates, both inter- and intrastate access and reciprocal compensation charges, today and during any transition period adopted. The FCC has found that the

multitude of rates within the framework of intercarrier compensation is problematic and presents the opportunity for arbitrage; therefore, the MPSC respectfully suggests that adding another layer of rates specific for VoIP is not the preferred course of action. The FCC itself is aware of the fact that providers could misidentify a greater percentage of traffic as VoIP in order to avoid other access and reciprocal compensation charges.<sup>1</sup>

While there will remain some issues with identifying traffic appropriately as interstate toll, intrastate toll, or local, the MPSC believes these issues will be addressed as part of the larger intercarrier compensation reform the FCC has sought comment on in the other portions of the NPRM. As the transition away from the current intercarrier compensation scheme occurs, issues regarding the jurisdiction of traffic should diminish. For example, states such as Michigan have begun the process of reforming intrastate access, thereby reducing some of the need to separate traffic into interstate and intrastate labels. Michigan's intrastate access rate reform, which the MPSC will discuss in detail in its comments due April 18, requires that carriers reduce intrastate rates to levels no higher than interstate rates. For certain providers this rate reduction has already occurred, while for others there is a step-down process wherein intrastate rates must be no higher than interstate rates as of January 1, 2015.<sup>2</sup> For VoIP traffic in Michigan therefore, the main distinction necessary will be non-local versus local, as (notwithstanding any changes that result from this proceeding) local traffic will remain subject to reciprocal compensation

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<sup>1</sup> See ¶ 616 of the NPRM.

<sup>2</sup> As will be discussed in the MPSC's comments on the remaining sections of the NPRM due April 18, Michigan's access reform law divided providers into eligible providers (small ILECs that are eligible to receive money from a transition mechanism) and non-eligible providers (large ILECs that were already at parity with interstate rates, and CLECs which use a step-down process to reduce intrastate rates in five steps).

and all non-local traffic will be subject to access rates no higher than interstate access rates at the conclusion of the transition period.

#### Rules to Address Phantom Traffic

The MPSC remains supportive of the FCC's proposals to ensure that traffic is identifiable for proper billing. The MPSC concurs with the FCC that, as noted in the draft rules, the use of the calling parties telephone number (CPN) or charge numbers (CN) would assist the terminating carrier in determining the originating carrier and costs associated with terminating each call. As the MPSC described in comments submitted on the 2008 FCC proposal, unlabeled or misidentified traffic often results in compensation disputes.<sup>3</sup> The MPSC spent the greater part of a year working on a collaborative solution to this problem as it was experienced by several smaller ILECs. However, unidentified traffic continues to present a problem for companies, who receive no compensation for terminating this traffic. Terminating companies have no way to identify the originating carrier if the traffic is routed through a tandem without identifying information. The FCC's proposal to require the originating carrier to provide the calling parties' telephone number and for all subsequent carriers involved in the transmission of the call to then pass that information on without alteration is an important step in reducing unidentified traffic. However, the MPSC urges the FCC to consider how such a rule would be enforced. For example, if a terminating carrier were receiving unidentified traffic, how would such a carrier identify the originating caller for purposes of an FCC complaint? A terminating provider may only know the provider from which it immediately receives the traffic. Changes in FCC rules, or industry standards, may only be effective if non-

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<sup>3</sup> Federal Communications Commission, WC Docket No. 05-337, Comments of the Michigan Public Service Commission, pg. 8, November 26, 2008.

compliance is linked to a sanction, such as higher terminating rates or the inability to use telephone numbering resources for their customers. In addition, those certificated carriers that enable violators to access the PSTN, either through interconnection agreements or numbering resources, must be held responsible for their part in the scheme. The MPSC is hopeful that other commenters address ways in which such a rule could be enforced given current industry operating protocols, and hopes to provide additional comments on this issue in reply comments.

#### Rules to Reduce Access Stimulation

The MPSC first noted a situation, now defined as access stimulation or traffic pumping, when reviewing telephone numbering request records in other states.<sup>4</sup> Iowa's rural area codes were undergoing extreme growth in the form of CO Code requests, in geographic areas where Thousands Block Number Pooling (number pooling) was not mandated. The Industry Numbering Committee (INC) guidelines provided no protection then, and provide no protect now, from the large allocation of CO Codes in these areas and give state commissions very little time (7 days) to question carriers on their actual needs for telephone numbering resources.

To try to circumvent a possible situation in Michigan, the MPSC informally contacts carriers that request a CO Code, or more than two thousands blocks of telephone numbers at one time. This informal review, and personal contact with the requesting carrier, provides the MPSC an opportunity to inquire about large allocations prior to their release. Several large requests have been withdrawn simply due to this extra effort at the state commission level. The INC guidelines that the North American Numbering Plan Administrator (NANPA) and the Numbering Pooling Administrator (PA) work under

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<sup>4</sup> [http://www.nanpa.com/reports/reports\\_cocodes\\_act2011.html](http://www.nanpa.com/reports/reports_cocodes_act2011.html) (last accessed March 29, 2011).

allow for self-certification of utilization and need by carriers. There is no requirement for additional information for large requests and many times the Numbering Resource Utilization and Forecast (NRUF) information does not reflect that the carrier will use its inventory in a short time. Currently, the forecasting of numbering resource needs can be done without any additional information and forecasting of large requests, as used in access stimulator or traffic pumping, also triggers the replenishment of the rate center pool and area code relief.

While the MPSC is not aware of any access stimulation issues in Michigan, the MPSC is supportive of other states' and FCC action to discourage and/or prevent the practice. In addition to the extra step of contacting providers during the process of reviewing numbering requests, with Michigan's recent intrastate access reform legislation, there is much less incentive for providers to enter into an access stimulation arrangement concerning intrastate access, as intrastate access rates are or will soon be at rates no higher than corresponding interstate rates. Similarly, as the FCC enacts the longer-term reform discussed in the remainder of the NPRM and the rates providers are allowed to charge for access are either reduced and/or based on something other than MOU, the incentive to engage in access stimulation will be lessened. In the interim, the MPSC is generally supportive of the proposal expressed in Section XV of the NPRM to use a trigger mechanism to identify cases of concern that may merit additional steps in the process of filing access tariffs. In addition, the MPSC would urge the North American Numbering Council (NANC), as the reviewing authority of the NANPA and PA contracts, to be hesitant in using INC guidelines that provide little protection from

carrier self-certification of large requests for numbering resources which can result in access stimulation.

Conclusion

The MPSC acknowledges the large task before the FCC in terms of reforming the universal service and intercarrier compensation systems. Addressing the issues address in Section XV of the NPRM as a first step in this process is important. The MPSC encourages the FCC to adopt rules to address these issues with one eye on the greater context of reform. As such, the MPSC urges the FCC to find that current intercarrier compensation obligations are applicable to VoIP traffic and is generally supportive of the FCC's proposed rules to address phantom traffic and access stimulation. The MPSC looks forward to being a contributing voice in the continued discussion around these issues in the reply comment phase, and also in comments on the remaining sections of the NPRM.

Respectfully submitted,

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