PAPUC Docket No. M-2012-2291824

April 20, 2012 Collaborative

Pennsylvania Telephone Association

"The Communications Leader in Pennsylvania"

Topics To Address

- Elements of FCC Order Have Been Addressed By Others (so we will be brief)
- Timing and Reporting For FCC Ordered Intrastate ICC Changes
- Interaction With State Rate Regulation
  - Exogenous Event
  - Banking
- ICC Dispute Resolution

Elements of FCC Order Have Been Addressed By the Parties Previously, So …Briefly

- Fundamentally, the FCC has now adopted “bill and keep” as the uniform, national methodology for all traffic exchanged with the wireline LEC industry, including for intrastate traffic.
- Abandons “calling party pays” model.
- Revenue recovery from carriers now shifts to end-user plus some continuing, but diminishing, federal USF (i.e., the CAF).

ICC Changes

- Intrastate VoIP-PSTN Traffic (terminating) is set at the interstate rate per terms of newly filed and effective state tariffs.
- Rest of intrastate traffic (terminating end office and transport) is reduced to interstate level in two equal steps (7/1/12 and 7/1/13).
- Thereafter, all ICC transitions to zero:
  - ROR to $.005 by 7/1/16.
  - July 1, 2019, ICC terminating rates are reduced to $0.0007.
  - July 1, 2020, terminating rates achieve zero (bill-and-keep).
- IntraMTA LEC-CMRS (if have an ICA) is zero effective 7/1/12.

Federal USF (CAF) Changes

- Establishes Connect America Fund (CAF) – capped for ROR carriers at $2 billion 2011 level.
- Reduces “Eligible Recovery” each year at a rate of 5% per year for ROR carriers.
- Shifts support from voice to broadband.
- Broadband COLR to be a CAF Recipient

More Changes in Federal USF

- Extends corporate operations expense limits to existing HCLS and ICLS mechanisms.
- Limits reimbursements for capital and operating expenses.
- Phases out the safety net adjustment
- Eliminates local switching support as a separate support component and reduces recovery under the CAF.
- Caps per line support at $250/month with a gradual phase-down over three years beginning 7/1/12.

Local Rate Changes

- Establishes new end user Access Recovery Charge (“ARC”) starting at $0.50 (to a max of $3.00 (RoR) and $2.50 (PC) over the transition period) to be charged residential/single line business customers and $1.00 to MLB customers to mitigate lost access revenues.
- Adopts Residential Rate Ceiling - prevents assessment of ARC on residential consumer whose total monthly rate for local telephone service, inclusive of various rate-related fees, is at or above $30.00.
- Establishes new “urban rate” floor for CAF recovery:
  - July 1, 2012 set at $10.00
  - July 1, 2013 raised to $14.00
  - July 1, 2014 and thereafter annually reset by the Wireline Competition Bureau.

Effects …

- For RLECs, as ICC is phased out, the combination of end-user recovery mechanism (the ARC) and CAF (i.e., “Eligible Recovery”) are not equal. Net revenue loss.
- Financial stress on traditional voice service networks.
- Pressure on local service pricing.
- FCC removes state jurisdiction over ICC rates, but did not preempt state regulation, including COLR, or local rate setting.
- Does not over-ride Chapter 30 or state form of regulation.

FCC Ordered Intrastate ICC Changes - State Role

- The FCC envisions the continuation of state access tariffs during the transition and expressly encourages state commissions: to monitor compliance; to review how carriers reduce rates; and to guard against attempts to raise capped intercarrier compensation rates.
- Carriers may be required to submit the data used in these calculations to the states.
- Certify as part of their tariff filings that not seeking duplicative recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism.

Timing of Intrastate Access Reductions

- Changes to intrastate access rates is PA PUC's primary short term focus.
- Should be coordinated with the CAF and ARC data and calculations.
- Any different format or prior filing date invites potentially inconsistent results and inaccurate state calculations.
- The FCC deadlines for filing interstate tariff rates and the ARC are already set as June 18, 2012.
- On CAF, no date is set, no forms are finalized:
  - Price cap companies have been working on a set of support forms.
  - For ROR (NECA), forms are pending FCC/OMB approval and tentative date is set for "Final View" as May 23, 2012.

Interaction With State Rate Regulation … Exogenous Event

- The *Connect America Fund Order* targets “Eligible Recovery” based on a combination of revenues from intrastate/interstate access rates, intrastate/interstate reciprocal compensation, federal universal service support and the ARC end-user charge.
- Having preempted state ICC rate setting authority, the FCC has not attempted to reconcile the intrastate revenue shifts against the state form of regulation.
- An exogenous event in state Chapter 30 Plans triggers state revenue recovery mechanisms
- The difference between the “Eligible Recovery” revenue allowed under the FCC rules and current revenues for these intrastate services is the revenue that is lost.

PA Price Cap Mechanisms

- Chapter 30 Plans universally recognize the right to recover lost revenues associated with “jurisdictional shift(s) in cost recovery where interstate revenues actually change" under the “exogenous event” provisions.
- Under Pennsylvania RLEC price caps, the revenue opportunity is referred to as the price stability index (“PSI”).
- Where intrastate service rates are actually changed, the effect is reflected in the service price index (“SPI”).

Calculation of the Intrastate Revenues Lost As An Exogenous Event

- Tracking the PSI revenue effect of the FCC's state rate setting is not difficult or burdensome.
- The amount of revenue loss due to the FCC-mandated reductions in the rates for intrastate services is predictable under the formula established by the FCC.
- Revenue data collected as part of the initial (Step 1) access tariff filings described previously will become the base line for this and subsequent years' tariff changes.
- An example of how this would operate is included in the Joint Statement of Gary Zingaretti and Jeffrey Lindsey filed April 9, 2012 at Docket No. I-00040105.

Banking of Exogenous Event

- If the rates for intrastate services are not taken as an immediate price change (i.e., the SPI is not affected), then the amount not used is “banked” (i.e. deferred).
- Banks are tracked and phased out (expire) as outlined in each RLEC's Chapter 30 Plan (4 years).
- As we reported in the *Rural Access Investigation,* the RLECs have left unused 3/5 of their allowed PSI rate increases and, instead, have accepted the permanent expiration of those banked revenues.

Impact on Local Rates

- The *Connect America Fund Order* does not preempt the Commission's historical duty to regulate rates for basic local exchange service under Chapter 30 and the “just and reasonable” standard.
- The *Connect America Fund Order*, however, exerts considerable influence upon the RLECs’ end user bills to increase.
- Bill and keep intentionally focuses cost recovery on the end user.
- For this reason, the PTA and CenturyLink, in their Joint Petition for Reconsideration and Stay have asked the Commission to affirm the removal of the local rate cap as approved in its *Rural Access Investigation Order.*

Exogenous Event Treatment Preserves the Opportunity

- The RLECs, as a group have resisted raising rates due to competitive pressures (e.g., the foregone banks).
- The competition dynamics that have created this phenomenon are only accelerating. Competition is the real cap on prices.
- However, the RLEC should have the opportunity to re-price local rates, as allowed under (existing and PUC approved) regulatory mechanisms should they decide to do so.
- The RLECs would, of course, still be required to file and seek Commission approval for any local rate changes under the terms of their Chapter 30 Plans, which includes just and reasonable standard of state law.

Final Topic -- ICC Dispute Resolution

- The PTA would welcome a process for more quickly resolving intercarrier compensation disputes.
- The current (and only) alternative is a formal complaint and full litigation, which process is expensive, time consuming and slow.
- “Bad actor” carriers frequently take advantage of this “regulatory lag” to file non-meritorious “disputes” in response to legitimate bills and then drag out the collection process.
- Senate Bill 1164 (introduced during the 2009-2010 Session of the Pennsylvania General Assembly) already lays out a process that the Commission could adopt under its current statutory powers.

Thank You

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