Intercarrier Compensation Reforms—ILEC Recovery Mechanisms

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ILEC Recovery Mechanisms. To partially compensate ILECs for the reduced revenues they will collect under the new system, the Order permits ILECs to impose a monthly "Access Recovery Charge" (ARC) on wireline telephone service end users. If the ARC does not recover all eligible revenues, the ILEC may also seek support from the CAF. This mechanism permits ILECs to recover much, but not all, of their lost intercarrier compensation revenues. It justifies the partial recovery on the ground that ILECs might be subject to significant revenue shortfalls as demand for traditional landline telephone service declines, which could interfere with their efforts to modernize their networks. The Order refers to the recovery mechanism as "transitional," but—while it will decline—it will not be phased out entirely unless the FCC takes additional action in response to the Further Notice.

The Order does not establish any recovery method for CLECs, because CLECs are already free to raise end user rates without restriction. This does not appear entirely logical, in that CLECs will be competing against ILECs with ongoing subsidies for their end user rates. Since CLECs will not normally be able to increase rates above ILEC levels, the availability of CAF funding for ILECs but not CLECs appears to continue the tilt of the competitive playing field in ILECs' favor with respect to subsidized local services.

ILEC Recovery Phase Down: The Order establishes a complicated formula for determining how much of lost intercarrier compensation revenues ILECs may recover. The amount a price cap ILEC can recover is referred to as its "Eligible Recovery" (ER). The first year's ER is 90 percent of the ILEC's Fiscal Year 2011 (Oct. 1, 2010—Sept. 30, 2011) interstate and intrastate access revenues that are being decreased through the Order, plus net reciprocal compensation revenues. This will be reduced 10 percent each year starting in 2012. For price cap ILECs that have participated in the FCC's "CALLS Plan" (which has allowed them to essentially maintain frozen interstate rates for a decade), the 2012 ER will be further reduced by 10 percent. ILECs that have converted to price cap treatment in the past five years, and did not participate in the CALLS Plan, will not be subjected to this initial 10 percent reduction and will be allowed to recover their full ER for five years, with annual 10 percent reductions thereafter.

For rate-of-return (RoR) ILECs, the ER will be based on their FY 2011 interstate switched access revenue requirement, plus intrastate terminating switched access revenues and net reciprocal compensation revenues. This ER will decline at 5 percent annually, while providing for true-ups to enable recovery via the CAF in the event of faster-than-expected declines in demand.

Recovery Mechanisms: An ILEC's ER will be recovered through two mechanisms: the ARC, and, where warranted, supplemental CAF recovery.

The Access Recovery Charge (ARC): The monthly ARC for residential and single-line business customers of price cap ILECs may increase each year, but the increase is capped at 50 cents ($0.50) annually, for a maximum of five years starting in 2012 (six years for RoR ILECs). So, the maximum residential/single-line business ARC will be $2.50 in year 5 and beyond (or, for RoR ILECs, $3 in year 6 and beyond). However, an ARC may not be charged to any residential customer who is already paying a monthly basic phone bill, inclusive of monthly state and federal fees, of $30 or more. Consistent with the FCC's universal service goals, ARCs may not be charged to any Lifeline customers (that is, customers receiving subsidized basic service based on low income levels).

For multi-line business customers of price cap ILECs, the maximum monthly ARC increase is $1.00 per line annually, for up to five years (again, six years for RoR ILECs). So, the maximum ARC for multi-line business customers will be $5.00 per line in year 5 (or $6 in year 6 for RoR ILECs). There is no ceiling on the ARC for these customers, but there is a $12.20 ceiling on the combined monthly total of the ARC plus the subscriber line charge (currently capped at $9.20) for these customers. As a result, ILECs that are already charging the maximum subscriber line charge to these customers will only be able to impose ARCs that amount to roughly half the theoretical total available ARC.

Supplemental CAF Support: An ILEC may receive transitional support from the CAF for any part of its ER that is not recovered through its ARC. For price cap carriers, CAF support will begin to phase out over three years beginning in 2017. (For RoR carriers, CAF support will decrease as ER is reduced over time, but will not phase out entirely). Any ILEC that elects to receive CAF support as part of this recovery mechanism will be subject to the accountability and oversight requirements described above in connection with the CAF, in order to further the CAF's goal of extending advanced broadband to unserved areas.

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If an ILEC chooses not to receive CAF support to mitigate the revenue declines arising from the new intercarrier compensation rules, it must allocate the recovery it will receive from the ARC proportionally as between residential and business lines by a proportion of its mix of residential versus business lines, but using a double-weighting of business lines to account for the higher allowed annual increase in the business ARC. The purpose of this requirement is to prevent the ILEC from recovering all of its lost ICC revenues through its ARC on residential consumers.

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