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ALERT

FCC Adopts Comprehensive Reform of the Universal Service and Intercarrier Compensation Systems

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On November 18, 2011, the Federal Communications Commission (FCC) released a 759-page order that makes sweeping changes to the federal universal service and intercarrier compensation systems.

On the universal service front, the FCC has fundamentally reformed the existing high cost support mechanism that supports wireline and wireless services in high cost, predominantly rural, areas. The highlights of these reforms are as follows:

- The order establishes a $4.5 billion annual budget for high cost support mechanisms for the next six years.
- The order eliminates the "identical support rule" for most competitive eligible telecommunications carriers over a five-year period that begins on July 1, 2012.
- For price cap carriers, the order reforms high cost distribution in two primary phases. In Phase I, price cap carriers may receive an additional $300 million in support under the Connect America Fund (CAF) that will be distributed for broadband deployment in high cost wire centers based on a methodology yet to be finalized. In addition, beginning in 2013, existing high cost support to price cap carriers will be redirected to unserved areas to be used for 4/1 Mbps broadband. In Phase II, price cap carriers will be eligible for $1.8 billion annually to support broadband networks over a five-year period, which will be distributed based on a forward-looking cost model yet to be developed.

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Practice Areas

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- For rate-of-return carriers, the order transitions legacy support mechanisms to an incentive-based regulatory model by adopting a number of reforms.
- The order also establishes the Mobility Fund as part of the CAF to support mobile voice and broadband in two phases. Phase I supports immediate mobile broadband deployment in areas unserved by 3G, and Phase II supports mobile voice and broadband in areas that would have no service without federal support.

A summary of the FCC's order relating to the universal service is available here.

With respect to intercarrier compensation, the FCC adopted bill-and-keep as the ultimate regime for all telecommunications traffic exchanged with a local exchange carrier (LEC). Under bill-and-keep, rather than charging other carriers for the exchange of traffic, LECs must look first to their own customers to cover network costs, then to the CAF where necessary. The FCC adopted a phased transition to bill-and-keep during which LECs will first bring into parity their intrastate and interstate terminating access rates over two years, then will gradually transition to bill-and-keep over six years for price cap carriers and nine years for rate-of-return carriers.

To facilitate the transition to bill-and-keep, the FCC will permit incumbent LECs to charge subscribers a limited monthly Access Recovery Charge (ARC). The FCC also adopted rules to curtail access stimulation and phantom traffic, address the treatment of VoIP traffic, and clarify CMRS-LEC compensation. Finally, the FCC has initiated a proceeding concerning IP-to-IP interconnection.

A summary of the FCC's order relating to intercarrier compensation is available here.

The impacts of the FCC's reforms to the universal service and intercarrier compensation systems are difficult to quantify at this juncture. The FCC did not resolve critical issues relating to its new rules, delegating the authority to do so as well as a number of ongoing administrative tasks to the Wireline Competition Bureau and the Wireless Telecommunications Bureau. A list of specific matters that the FCC delegated to the bureaus is available here.