Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Eliminating *Ex Ante* Pricing Regulation and	)	WC Docket No. 20-71
Tariffing of Telephone Access Charges	)	

COMMENTS OF INCOMPAS

INCOMPAS respectfully submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") *Public Notice* ("*Notice*") seeking to update the record on issues raised by the Commission in its 2020 *Notice of Proposed Rulemaking* ("*NPRM*") on eliminating *ex ante* pricing regulation and tariffing of Telephone Access Charges ("TACs").[1]

I. INTRODUCTION AND SUMMARY

INCOMPAS is the leading national industry association for providers of Internet and competitive communications networks, including competitive local exchange carriers ("CLECs"), wireline and wireless providers in the broadband marketplace, and edge service companies. The Commission's stated aim in this proceeding is to help consumers understand their telephone bills and reasonably compare offerings from competitors in the marketplace and INCOMPAS appreciates the opportunity to update the record in this important proceeding. Despite the proceeding's laudable goals, INCOMPAS maintains that, given the operational

[1] Public Notice, *Parties Asked to Refresh the Record on Telephone Access Charges Notice of Proposed Rulemaking*, WC Docket No. 20-71, DA 25-508 (June 11, 2025) ("TAC Public Notice").

burdens associated with eliminating *ex ante* pricing regulation and detariffing end-user charges associated with interstate access services, the Commission's proposals could result in consumer confusion, higher fees for customers, and considerable loss of revenue by communications providers. As such, INCOMPAS urges the Commission to abandon its efforts to eliminate *ex ante* pricing regulation and mandatory tariffing of Telephone Access Charges.

As INCOMPAS noted in its initial 2020 filing in this proceeding, the Commission's proposed deregulation of TACs would fundamentally destabilize long-standing pricing structures, erode competitive safeguards, and place a disproportionate burden on smaller, competitive carriers that, compared to incumbent local exchange carriers ("ILECs"), lack the necessary resources to make wide-scale changes to its billing practices.[2] These concerns are amplified, not diminished, by recent marketplace developments. ILECs continue to wield significant market power and competitive providers continue to set prices for services after reviewing incumbents' rate structures. If competitive providers are asked to transition at the same time, or if CLECs are required to transition first, it will be very harmful to CLEC business models, pricing strategies, and ultimately consumers. These providers would face increased costs, reduced predictability, and greater exposure to discriminatory pricing without the protections of tariffing and Commission oversight.

Moreover, the shift away from federal regulation would likely push oversight responsibilities onto state public utility commissions, many of which lack explicit authority over interstate billing practices. As a result, PUCs may be left to field consumer complaints and intervene in disputes involving newly defined, carrier-created line items without a federal

[2] *See* Comments of INCOMPAS, WC Docket No. 20-71 (filed July 6, 2020); *see also* Reply Comments of INCOMPAS, WC Docket No. 20-71 (filed Aug. 4, 2020).

framework to rely on. This would create jurisdictional confusion and increase the administrative burden on both state regulators and providers operating across multiple regions.

INCOMPAS is also deeply concerned by the alternative proposal submitted by Frontier, Windstream, and Consolidated, which would replace regulated TACs with unregulated line-item charges under the guise of truth-in-billing compliance.[3] This proposal compounds the harms of the *NPRM* by enabling ILECs to continue revenue recovery under a different label while removing regulatory protections for competitive carriers and end users. It would permit hidden or arbitrary charges, introduce new billing confusion, and create an uneven playing field between incumbents and competitors. The suggested transition mechanism for existing contracts fails to provide meaningful protection and would disrupt established commercial relationships across the industry.

While INCOMPAS supports efforts to modernize regulations, this must be done through targeted reform, not broad deregulation that weakens competition and harms end users by increasing billing confusion and the unwelcomed perception and/or reality of price hikes for consumers. The current proposals threaten to entrench incumbent advantage, distort retail pricing, and discourage investment by smaller, innovative carriers who are vital to expanding connectivity, especially in unserved and underserved areas. The Commission should preserve tariffing and pricing oversight where competitive conditions warrant it, particularly in markets where ILECs retain market dominance.

[3] *See* Letter of Rebekah P. Goodheart, Counsel for Windstream Services, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-71 (filed Oct. 22, 2020) ("Windstream-Frontier-Consolidated Proposal") (suggesting ways in which the Commission could adopt mandatory detariffing).

For the reasons set forth in these comments, INCOMPAS respectfully urges the Commission to reject the proposals set forth in the 2020 *NPRM* and the subsequent industry alternative. The Commission should instead reaffirm its commitment to advancing policies that ensure a competitive marketplace for all providers and their customers.

II. THE COMMISSION'S PROPOSAL WOULD CREATE UNNECESSARY ADMINISTRATIVE AND OPERATIONAL BURDENS

INCOMPAS urges the Commission to abandon the proposals in the 2020 *NPRM* to detariff and eliminate *ex ante* regulation of TACs, including the Subscriber Line Charge, Access Recovery Charge, Presubscribed Interexchange Carrier Charge, Line Port Charge, and Special Access Surcharge. These reforms are not only unnecessary but would impose significant operational burdens on competitive providers without delivering clear public interest benefits. TACs are currently well-understood, stable, and effectively administered through existing tariff and billing systems, particularly by business and enterprise customers. Replacing these mechanisms would require costly system overhauls, internal retraining, customer education efforts, and updated compliance procedures across multiple jurisdictions all for charges that are declining in relevance but remain important to the competitive framework of the market.

Importantly, competitive carriers, particularly small and mid-sized providers, would bear a disproportionate burden in transitioning away from the current, tariffed TAC regime. These providers lack the scale and staffing resources to absorb complex, multi-layered compliance tasks or to build new customer-facing billing systems to reflect unregulated, carrier-defined charges. The potential for billing disputes, customer confusion, and downstream compliance

issues with state regulators is high, especially as carriers are left to define and justify their own line items in the absence of Commission-set guidelines.[4]

Destabilizing this environment through sudden deregulation would create significant headwinds for competitive providers. These companies often operate on tight margins and rely on multi-year contractual agreements with enterprise and residential customers. Allowing incumbents to impose new or rebranded fees outside of a tariffed framework would jeopardize these agreements and shift costs onto competitive providers and their customers. The likely result is a reduction in service affordability, a slowdown in competitive expansion, and fewer options for end users particularly in rural, high-cost, and underserved areas.

In addition, the potential for increased use of opaque and misleading billing line items, as suggested by the alternative industry proposal, raises serious consumer protection concerns. The Truth-in-Billing rules were never designed to legitimize the proliferation of unregulated carrier-imposed charges. Without clear Commission oversight, consumers and business customers will be left to navigate an increasingly fragmented and confusing billing landscape, eroding trust in communications services and providers.

Importantly, the record does not reflect any widespread stakeholder demand for reform of TACs. These charges are not a source of ongoing dispute or market distortion. Rather, they are functioning as intended under existing rules and have diminished in overall impact as newer services replace legacy offerings. Reforming them now, particularly through deregulation,

[4] *See* Reply Comments of the National Association of Regulatory Utility Commissioners, WC Docket No. 20-71, 4 (filed Aug. 4, 2020) (indicating that the *NPRM* proposals and other proposals for separate federal surcharges are "far more likely to increase confusion over customer bills than reduce it").

would cause disruption for providers and confusion for consumers without improving pricing, transparency, or competition.

Additionally, detariffing and deregulation of TACs would shift a significant compliance burden to state public utility commissions (PUCs), which may lack jurisdiction or clarity over these newly unregulated charges.[5] In the absence of federal tariffs, state commissions would likely receive increased complaints and inquiries related to billing practices, charge justifications, and pricing transparency, especially where line items appear unfamiliar or ambiguous to customers. This could force PUCs to develop ad hoc review processes or billing oversight mechanisms that vary by jurisdiction, increasing regulatory fragmentation and raising the risk of conflicting obligations for providers operating in multiple states.[6]

Maintaining existing tariffing and pricing rules for TACs ensures a consistent, transparent, and efficient framework for all providers to follow. It minimizes administrative burden, supports uniform billing practices, and protects consumers from confusing or unexpected charges. It also gives carriers clear expectations when entering business agreements or structuring wholesale relationships, something that deregulation would disrupt. Rather than pursuing a solution in search of a problem, the Commission should preserve the regulatory tools

[5] As INCOMPAS has previously noted, the *NPRM's* presumption that carriers will be able to move or transfer their TACs into local intrastate rates is an oversimplification of the process. In fact, various state regulatory requirements will impact the ability of carriers to recover their costs, and the Commission provides no analysis in the *NPRM* or *Notice* of exactly how many and which states have pricing flexibility that would allow TACs to be included in the local rate base. *See Ex Parte* Letter of Angie Kronenberg, Chief Advocate and General Counsel, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-71, 2 (filed Sep. 24, 2020).

[6] *See Ex Parte* Letter of James Bradford Ramsay, General Counsel, Nat'l Assoc. of Regulatory Utility Commissioners, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-71 *et al.*, 2 (Oct. 20, 2020) ("NARUC Ex Parte Letter") (highlighting statutory prohibitions to the Commission's ability to require interstate costs in intrastate rates and noting that some states may not permit carriers to recover costs if federal TACs are eliminated).

that are currently working and avoid the unnecessary costs and confusion that would result from the proposed reforms.

III. MARKETPLACE CONDITIONS DO NOT SUPPORT INTERVENTION

While the Commission's 2020 *NPRM* appears premised on the need to modernize outdated billing charges, market developments over the last several years confirm that further regulatory intervention is not warranted. The telecommunications marketplace, especially in the business and broadband access sectors, has evolved significantly. Providers increasingly offer flat-rated and broadband-based services where the legacy TACs are no longer core revenue or cost components. Moreover, competitive pressure from cable operators, fiber entrants, fixed wireless providers, and others has reduced the role that regulated access charges play in price formation.

However, the fact that TACs are rarely the subject of disputes or competitive complaints and are instead used to drive price-based competition between providers further supports the conclusion that existing rules are functioning adequately. Where charges remain in use, particularly in multi-location business or TDM-based service contracts, they are stable, predictable, and clearly understood by both providers and customers. Arrangements built around these charges often span multiple years and rely on the transparency and consistency that tariffing and Commission regulation provide.

Further, state-level regulatory activity has not filled the gap left by federal oversight of these charges. In fact, state regulatory approaches to TACs are inconsistent and often non-existent in areas where these services are classified as interstate in nature. As noted above, in many jurisdictions, state commissions have limited authority over the specific end-user charges at issue or defer entirely to federal rules. As such, state regulatory developments provide no

meaningful substitute for the protections currently afforded by the FCC's tariffing and pricing rules.

Eliminating *ex ante* regulation of these charges would inject unnecessary variability and increase the risk of inconsistent treatment across providers and jurisdictions. The result would not be a more efficient market, but a fragmented one where carriers must navigate diverse billing, pricing, and regulatory expectations with no central guidance. Given the stability of TACs today and the high operational cost of implementing reforms, the Commission should recognize that no further action is needed.

IV. THE ALTERNATIVE PROPOSAL RAISES CONSUMER AND REGULATORY CONCERNS

The alternative proposal offered by Frontier, Windstream, and Consolidated compounds the concerns raised by the *NPRM*. These companies' suggestion to detariff TACs while permitting unregulated, carrier-identified line-item charges would create significant billing uncertainty for consumers and introduce confusion into an already complex regulatory environment.[7] Under this framework, each provider could create its own terminology and format for recovering TAC-equivalent costs, making it harder for customers to compare bills, detect changes, or understand what they are being charged for. Truth-in-Billing rules were not designed to authorize arbitrary charges disguised as "recovery" line items, especially in the absence of FCC-set definitions. Allowing carriers to implement new line items on customer bills labeled as "carrier-identified charges" under the Truth-in-Billing rules raises significant transparency and fairness concerns. These charges would likely be poorly understood by customers, creating confusion about what services are being paid for and by whom. Moreover,

[7] *See* Windstream-Frontier-Consolidated Proposal at 3.

because the proposal allows for ILEC-defined recovery of costs previously regulated through tariffs, it would authorize ILECs to impose arbitrary fees—effectively restoring the same revenue under a different name, but without the consumer protections or predictability of tariffs.

Additionally, the proposal to apply a 25% interstate safe harbor or permit use of traffic studies to calculate revenue impacts adds unnecessary regulatory complexity and compliance risk. These tools are outdated, burdensome, and prone to disputes. They may also unfairly benefit incumbents that have greater capacity to conduct and audit traffic studies, disadvantaging smaller competitive carriers. Implementing these studies would require detailed tracking systems, legal and accounting reviews, and increased risk of audit disputes. These methods do not offer an effective or fair substitute for the current regulatory framework, nor do they address the underlying concern of cost justification.

The proposed "transition" period for existing business contracts does not meaningfully protect competitive carriers or their enterprise customers.[8] Many current agreements were negotiated based on tariffed TACs, which provide a level of pricing stability and known cost structures over multi-year terms—something business customers value. Permitting cost recovery through new mechanisms during contract renewals or extensions would inject uncertainty and bargaining imbalance, giving ILECs leverage to increase rates on renewal. This undermines the enforceability and commercial reasonableness of existing contracts and would discourage long-term investment and planning by competitive providers. Competitive providers would be forced to renegotiate contracts on uncertain regulatory footing, undermining confidence in multi-year service planning and harming the very customers that reforms are meant to protect.

[8] *See id*.

In sum, the Frontier-Windstream-Consolidated Proposal seeks to preserve ILEC cost recovery while eliminating the regulatory structures that protect consumers and competitive providers. It would enshrine deregulated revenue streams for incumbents without achieving any meaningful policy advancement in competition, affordability, or broadband deployment. INCOMPAS urges the Commission to reject this proposal and maintain the integrity of its regulatory oversight.

V. CONCLUSION

For the reasons stated above, INCOMPAS respectfully urges the Commission to maintain the current regulatory framework governing Telephone Access Charges. The proposed detariffing and elimination of *ex ante* pricing rules would create unnecessary operational and compliance burdens, inject uncertainty into provider billing systems, and increase the likelihood of consumer confusion. These outcomes are not justified by current market conditions or public interest considerations. Instead, the Commission should preserve tariffing requirements for TACs that remain in effect. Tariffs continue to provide essential transparency and predictability, especially for business customers and smaller competitive carriers that may lack the bargaining power to negotiate bespoke interconnection or access agreements. Tariffs help ensure uniform treatment, non-discriminatory pricing, and stability in contractual relationships. Removing them without a clear replacement regime introduces uncertainty and opens the door to arbitrary, non-cost-based pricing.

Deregulating these charges would also increase the regulatory burden on state agencies, forcing them to fill the gap left by the Commission's withdrawal. Inconsistent treatment of billing issues across state lines could result in a patchwork of compliance obligations,

undermining national consistency and increasing legal risk for providers, especially smaller carriers that lack the resources to navigate differing state regimes.

INCOMPAS further urges the Commission to reject the alternative industry proposal to implement deregulated line items for TAC recovery. Such a framework would obscure pricing transparency, reduce billing consistency, and impose disproportionate burdens on competitive providers who must retool their systems to accommodate new, unregulated recovery formats. These costs would ultimately be borne by end users and would erode trust in the communications billing system.[9]

The current system for administering TACs is functioning as intended. Charges are stable, predictable, and subject to clear Commission rules that support fair and efficient markets. Reforming this framework now, when its relevance is already in decline, would be a step backward. The Commission should conclude that no further action is warranted and close this proceeding without adopting the proposals in the *NPRM* or the alternative framework.

[9] *See* NARUC *Ex Parte* Letter at 2 ("The one thing that is clear is that any version of the NRPM proposals will necessary [sic] impose additional significant costs on carriers and ultimately consumers."

Respectfully submitted,

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