

**MONTANA INDEPENDENT TELECOMMUNICATIONS  
SYSTEMS, INC.**

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**Michael C. Strand**  
Executive Vice-President  
and General Counsel

April 11, 1996

APR 12 1996

Office of the Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: Comments of Montana Independent Telecommunications  
Systems, Inc./Docket #C96-45

Dear Sir/Madam:

Enclosed for filing, please find an original and four copies of Comments from Montana Independent Telecommunications Systems, Inc.

If you have any questions, please contact my administrative assistant, Tammy at 406-449-6007 or 406-443-1940.

Thank you for your assistance in this matter.

Sincerely,



Michael C. Strand  
Executive Vice-President  
and General Counsel

MCS:tss

cc: ITS

Enc: Comments (original plus four copies)

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APR 12 1996

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Federal-State Joint Board on ) CC Docket 96-45  
Universal Service )

**COMMENTS OF MONTANA INDEPENDENT TELECOMMUNICATIONS SYSTEMS**

Montana Independent Telecommunications Systems (MITS) is a statewide association of small local exchange carriers. Our current members include the following companies:

- Nemont Telephone Cooperative, Inc.
- Triangle Telephone Cooperative Association, Inc.
- Project Telephone Company
- Valley Telecommunications, Inc.
- Central Montana Communications, Inc.

On behalf of these members, MITS hereby respectfully submits its comments in the above referenced proceeding.

The Telecommunications Act of 1996 directs that universal service shall be provided at just, reasonable, and affordable rates to consumers in all regions. MITS believes this congressional mandate can be accomplished with minimal changes to the current jurisdictional separations rules. We believe that minor changes to the Part 36 Separations Rules and to the Part 69 access charge rules would allow the FCC to continue to encourage companies to deploy the infrastructure necessary to facilitate universal service and provide assistance to low income subscribers.

## **UNIVERSAL SERVICE PRINCIPLES**

### **I. Quality and Rates**

Quality service is a principle that small telephone companies in rural America have strived for and achieved. This is particularly true in the case of telephone cooperatives, hardly surprising considering that the companies are owned and directed by their customers. Their standard of quality and reliability should be the benchmark for all providers of service in rural areas. If competition is to come to rural areas, the Commission should institute sufficient safeguards to assure that the quality of service offered by competitors is equivalent to the standards attained by the current provider.

The ability to provide the current high quality of service at "reasonable and affordable" rates has been facilitated in large part by the current Universal Service mechanisms. Any contemplated change to the current support mechanisms should carefully consider the effect on the provision of this level of service at reasonable and affordable rates, as well as incentives for infrastructure development. For example, the use of a proxy in lieu of actual cost would likely result in an incentive to meet the proxy criteria rather than to invest in the infrastructure actually needed by rural customers.

### **II. Access to Advanced Services**

Access to advanced telecommunications and information services should be strongly encouraged in all regions of the Nation. As these services are subscribed to by the majority of subscribers,

they should be considered for inclusion in the list of services in the core definition of Universal Service.

### **III. Access in Rural and High Cost Areas**

MITS agrees that consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services. These should include interexchange services and advanced telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. The Commission should consider whether the current practice of offering long-distance calling plans only in urban areas comports with this aspect of the Act.

### **IV. Equitable and Nondiscriminatory Contributions**

Contributions to a universal service funding mechanism should be done on an equitable and nondiscriminatory basis. Consideration by the Commission of burdens associated with long-distance carrier of last resort responsibilities would be appropriate in making such determinations.

### **V. Specific and Predictable Support Mechanisms**

Specific and predictable support mechanisms are vital to any plan that would stimulate infrastructure development. The need for predictability is underscored by the Commission's Report and Order released March 22, 1996 in AAD 95-77 (Ref. DA 96-405). In this Report and Order, the Commission indicated that the procedures in

Part 36.154 (f) of the Commission's Rules do not apply to certain companies. These procedures have been consistently applied by exchange carriers for over ten years. The procedures have been confirmed by the Commission's designated administrator (NECA) as a requirement for all cost studies submitted to them by the exchange carriers as part of the pooling process. The Commission's interpretation which would limit the reduction in the assignment of loop cost to interstate to a maximum of 5% per year would have a devastating effect on certain small exchange carriers. Actions such as those taken by the commission in the above referenced Report and Order would further have a chilling effect on rural companies' efforts to invest in the facilities needed to provide the services Congress has mandated or encouraged in the Telecommunications Act of 1996.

**VI. Access to Advanced Telecommunications Services for Schools, Health Care, and Libraries**

MITTS agrees that elementary and secondary schools and classrooms, health care providers and libraries should have access to advanced telecommunications services.

**VII. Other Principles**

While each of these principles is important, the Commission should also give recognition to those principles which guided the original establishment of the Universal Service Fund. Those principles were 1) to promote universal telephone service by enabling telephone companies and regulators to establish local exchange rates that do not greatly exceed the national average and,

2) to prevent uneconomic bypass of the local exchange.<sup>1</sup>

**DEFINITION OF SERVICES SUPPORTED BY UNIVERSAL SERVICE MECHANISMS**

MITTS believes the core set of services which should be supported by universal service should include: voice grade access to the public switched network; touch-tone; white page directory listings; access to operator services and directory assistance; and access to emergency services such as 911. We believe that all of these services meet the four criteria laid out in Section 254(c)(1) of the Communications Act of 1996.

Any additional services that may be added to the list of Universal Services should be carefully reviewed using the four criteria contained in the Act.

If equal access is included in the initial list of core services, or later added to the list of services, we ask that the cost allocation and recovery of the costs to upgrade facilities to accommodate the equal access conversion be addressed. One way of addressing this issue would be to consider the requirement of a "bona fide request" which under the current rules would allow the company to assign cost using the equal access treatment discussed in Part 36.191 of the Commission's rules.

The services provided in the core of "universal services" should be provided to all customers, and support for high-cost areas should not be limited to a certain class of customers, such as residential customers over business customers. Support for

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**<sup>1</sup>Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board. 96 F.C.C.2d 781 (1984).**

high-cost areas should continue to be provided to the company putting in the infrastructure, support to individual classes of customers should be handled through the Lifeline and Link-up programs.

As networks develop and services become available to the majority of subscribers, those services should be evaluated for inclusion in the core list of services to be supported by the universal service support mechanisms.

**SHOULD HIGH-COST SUPPORT FOR UNIVERSAL SERVICE CONTINUE TO BE INCORPORATED IN THE JURISDICTIONAL SEPARATIONS RULES?**

MITTS believes the separations rules should continue to be used as the method for assigning high-cost that is to be supported by the Federal support mechanism. We believe that significant portions of the Telecommunications Act of 1996 can be implemented with minimal changes to the Part 36 separations rules.

**CURRENT UNIVERSAL SERVICE FUND AND DEM WEIGHTING**

The current procedures for making an expense adjustment to assign high loop cost to the interstate jurisdiction and the Dial Equipment weighting procedures which assigns additional switching cost to the interstate Jurisdiction should continue for rural companies. The problems that led to the creation of these mechanisms continue to exist, these mechanisms have been of significant importance in addressing those problems, and therefore they should be retained.

With regard to the calculation of the interstate expense adjustment, we recommend the lag be removed from the rules by

changing the appropriate dates. The cost associated with the interstate expense adjustment should be for the same period as those costs included in subparts B, D and E of the Part 36 rules.

#### **TRANSITION OF CARRIER COMMON LINE CHARGES**

MITTS supports the further transition of common line costs away from the interexchange carrier by way of the Carrier Common Line Charge (CCL) to the end user through the End User Common Line (EUCL) charge. However, this transition should be approached with a careful consideration of the principles laid out in the Telecommunications Act and the principles proposed by the Commission and referenced earlier in these comments. Specifically there needs to be an affordability benchmark i.e. a cap on the maximum level to which the EUCL can be raised. Current industry numbers would support that the average base allocation of common line cost to the interstate jurisdiction is approximately \$5.50 per line per month. This could be established as the transitional goal for the maximum EUCL charge. To the extent a companies allocation of loop cost to the interstate jurisdiction is not recovered through the EUCL charge, it should be recovered through the support mechanism. We recommend an adequate transition period to move to this increased EUCL and the elimination of the CCL. We believe a four-year period would be adequate to accomplish this transition.

The Commission's concerns about the continuation of the Long Term Support program would also be addressed in the above plan, as by the end of the transition plan all interstate common line cost in excess of the amount collected through the EUCL will be

recovered from the support mechanism and there will be no need for the Long Term Support payments.

### **GEOGRAPHIC AREAS**

MITTS recognizes that the current study areas may not be appropriate for determining support as we move into a more competitive environment. The use of a smaller area becomes a necessity when competition serves only a portion of the incumbent's study area. We believe, however, the move to the census block group as the primary geographic area is ill advised, primarily because of the administrative cost associated with such a move. We support the initial movement toward an exchange or a wire center as a more appropriate first step toward targeting high cost support. Adoption of support areas below the wire center level should be made only as a result of a showing that competition exists in only portions of the wire center for non-rural companies, and should be part of the public interest determination involved in competitors seeking to gain eligibility to serve in rural telephone companies' areas.

With regards to the Benchmark Costing Model (BCM) we believe it totally inappropriate as a substitute for actual cost. The BCM could be evaluated and modified to be used as a tool in disaggregating actual cost to a smaller geographic area for determining support. Using the BCM as a surrogate for actual cost will provide financial incentives that work contrary to the deployment of infrastructure in rural high-cost areas. The incentive is to meet the proxy criteria in order to get the

support, not to invest the money in infrastructure and maintenance of the facilities.

**LOW INCOME SUBSCRIBERS**

A particular problem faced by MITS members involves service to economically-challenged areas such as Native American reservations. In discussing ways to increase penetration and bring needed services to these areas we have developed a possible program.

Where facilities currently exist, many subscribers have been disconnected for a variety of reasons. We would like the Commission to consider Universal Service support for a program that would allow us to provide such subscribers to make two types of calls. By picking up the telephone a call would automatically be placed to the telephone company's central office. This would facilitate discussions aimed at reconnection. Alternatively, the subscriber could dial 911 to access emergency services.

We would greatly appreciate serious consideration by the Commission of Universal Service support for such a program.

**COMPETITIVE BIDDING PROCESS**

MITS believes it is premature for the Commission to seriously consider the competitive bidding of support levels as a means of meeting universal service obligations. The Commission needs to be aware that the bidding process would likely result in a death spiral for the incumbent LEC that has deployed significant infrastructure and relies on the current level of support to maintain its financial viability. In small rural companies the loss of customers would result in a loss of revenues without the

corresponding reduction in costs. Unless it is the Commission's desire to put the incumbent out of business in favor of the new entrant, the Commission should strongly consider measures that would assure the new entrant's ability to meet the universal service requirements for all customers affected. The Commission should also address the social compact which has resulted in the incumbent investing in the infrastructure and operations of the telephone company under the existing and prior rules.

We also do not believe the competitive bidding process meets the principles outlined in the Telecommunications Act of 1996. This approach will likely not meet the requirement for specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

#### **TRANSITIONING CONCERNS AND CONTINUATION OF THE INTERIM CAP**

In light of the Act's requirement that all support be explicit, we do not believe it is appropriate to continue the interim cap on the universal service fund. Based on various studies, and Commissioner Barret's concern that going-forward contributions needed to support new universal service policies could be formidable, any move to restrict the fund size now will just increase the gap that must be addressed in the transition to the new mechanisms.

#### **MEASURES TO ASSURE SUPPORT IS USED FOR ITS INTENDED PURPOSE**

Under the current rules, a company only gets support after it has expended the cost in providing loop service to subscribers. The company gets reimbursed for a portion of those costs according

to the formula specified in the Part 36 rules. We believe that this reimbursement of actual cost is an absolute way to assure that companies have used support for the intended purpose.

We believe it would be very difficult for the Commission to develop measures which would adequately assure that a company uses support payments for the intended purpose if the method for determining the support is a proxy, rather than actual cost. As mentioned earlier in these comments, a proxy provides the wrong incentive and we believe it would place an extreme administrative burden on the Commission to develop and enforce measures which would provide the assurance that companies receiving the support are using that support for the intended purpose.

**SUPPORT OBLIGATIONS (CONTRIBUTING TO THE FUND)**

The Commission requests comments on several issues related to the funding of the support mechanism. One of the questions relates to the practicality of the approach used for the TRS model. The TRS model is not a good model for purposes of funding the support mechanism. In fact the TRS model does not even live up to the Commission's Orders which indicated that contributions to the TRS fund would be recoverable from interstate services. The application of the current separations and access charge rules as they pertain to the TRS fund contributions results in a significant portion of the contribution being assigned to the interstate billing and collection category for which there is no additional recovery. Another problem with the TRS model as it is currently being administered is that the support payment received from the

Universal Service Fund administrator is used in the basis for determining the contribution level. With regards to using this approach for funding the universal service fund, the circularity is undesirable and may create significant recovery problems. For example if the recovery is going to be handled by way of a surcharge on the customers bill, who is the customer from whom we receive our universal service support payment? The Fund Administrator?

**CONCLUSION**

MITIS and its members are disheartened that the FCC has chosen to incorporate so many of the aspects of its previous docket into the current NPRM. Our understanding was that Congress intended otherwise. However, we believe that the FCC shares our fundamental belief in the value of universal service. We can only hope that the Commission will come to understand that the "models" and "proxies" and "census block groups" proposed by other commentators are, at the end of the day, merely slight-of-hand substitutes for existing mechanisms when analyzed in the context of rural America.

Respectfully submitted this 11th day of April, 1996.

  
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Michael C. Strand