Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	**CC Docket No. 01-92**
	)	
	)	

To: The Commission

REPLY COMMENTS

Midwest Wireless Communications LLC, Midwest Wireless Iowa LLC and Midwest Wireless Wisconsin LLC (collectively, "Midwest" or the "Midwest Companies"), by their attorneys and pursuant to FCC Rule Section 1.415, respectfully submit these Reply Comments in response to the *Notice of Proposed Rulemaking In the Matter of Developing a Unified Intercarrier Compensation Regime*, released for comment on April 27, 2001 (CC Docket 01-92) (hereinafter "NPRM").[1] Through these comments, Midwest indicates its support of positions set forth by commenters that urge the Commission to adopt a bill and keep approach to reciprocal compensation payments governed by Section 251 of the Telecommunications Act of 1996 in the context of Local Exchange Carrier ("LEC") - Commercial Mobile Radio Service ("CMRS") interconnection.

1/ By Order released September 19, 2001, the Common Carrier Bureau extended the time for filing of reply comments in this proceeding until November 5, 2001.

Introduction

1. The Midwest Companies are three companies under common control that own and operate, pursuant to licenses issued by the Commission, facilities by which they provide Cellular Radiotelephone Service and Personal Communications Service in predominantly rural areas of Minnesota, Iowa and Wisconsin.

2. As wireless services providers, the Midwest Companies provide a range of services which, to some extent, compete with the service offerings of incumbent LECs and competitive LECs. Midwest's interest in this matter derives from its concern that a failure of the telecommunications industry to adopt a bill and keep approach to reciprocal compensation will impede competition among carriers, and waste the limited resources of wireless carriers that could be directed to other, more productive ends.

Bill and Keep is the Most Efficient Choice For LEC - CMRS Interconnection

3. In its Comments the Cellular Telecommunications and Internet Association ("CTIA") notes that an optimal model for compensation would account for the asymmetrical bargaining power that prompts the need for regulatory intervention, would approximate the actual underlying costs of the interconnection services, and would impose minimal administrative costs.[2] Midwest agrees with this premise as well as CTIA's assertion that bill and keep reasonably addresses these concerns.

[2/] *See Comments of the Cellular Telecommunications and Internet Association* ("CTIA") at page 16 (August 21, 2001).

4. With regard to unequal bargaining power, Midwest has experienced substantial delays in reaching interconnection agreements with LECs. Midwest agrees with CTIA that the determination of interconnection rates is an area where LECs hold considerable bargaining power due to the nature of their networks. Allowing such a disparity in negotiating power to continue without correction effectively defeats the intention of Congress, and the plan of the Commission, to promote increased competition in the offering of telecommunications services. Midwest agrees with Verizon Wireless, Sprint and Qwest when they note that a bill and keep regime is in the public interest because adoption of a bill and keep regime would remove considerable inefficiencies in the interconnection process, ultimately increasing competition between LECs and their competitors for the benefit of consumers and thereby serving the public interest.[3]

3/ *See Comments of Verizon Wireless* ("Verizon") at pages 17-18 (August 21, 2001; *See Comments of Sprint Corporation* at pages 6-8 (August 21, 2001); *See Comments of Qwest Communications International, Inc.* ("Qwest") at page 8 (August 21, 2001).

5. Midwest agrees with CTIA's assessment that the current scheme for LEC-CMRS interconnection compensation results in interconnection prices that are both above and below cost, and do not adequately reflect actual underlying costs of interconnection.[4] Wireless carriers typically are undercompensated for their terminating costs. This problem is not limited to small companies such as the Midwest Companies. Commenters such as VoiceStream and Qwest acknowledge the current regime guarantees carriers don't recover all of their costs.[5] Allowing all carriers to bill and keep the revenues received for use of their own systems is an equitable solution which balances the interests of LECs and wireless carriers, and one that allows wireless carriers for the first time to be fairly compensated.

6. Furthermore, Midwest asserts that a bill and keep mechanism is administratively efficient, eliminating the additional costs of engaging in costly proceedings to derive prices. As CTIA notes the Commission has previously acknowledged that traffic between LECs and CMRS carriers is substantially imbalanced and that bill and keep may be particularly well suited to resolve this problem.[6] Even larger CMRS providers such as VoiceStream agree that bill and keep would considerably reduce billing administrative costs.[7] Midwest agrees with VoiceStream's assertion that a reduction in administrative costs would provide a consumer benefit because service providers could reduce operating costs and ultimately pass this savings on to customers.[8] Midwest also urges

---

4/ *See Comments of CTIA* at page19.

5/ *See Comments of VoiceStream Wireless Corporation* ("VoiceStream") at pages 12-13 (August 21, 2001); *See Comments of Qwest* at pages 12-14.

6/ *See Comments of CTIA* at pages 21-22.

7/ *See Comments of VoiceStream* at page 10.

8/ *Id.*

the Commission to adopt this view and determine that bill and keep is the most appropriate and administratively efficient methodology for use in LEC-CMRS interconnection arrangements. No exceptions should be made to the bill and keep regime according to size of the LEC or the wireless carrier, or whether the LEC is an incumbent or a competitive carrier. Uniformity in application of the bill and keep plan promotes efficiency in the operations of all carriers.

CMRS Carriers Should Have the Right to Interconnect at a Single Point

7. As CTIA points out, the Commission's *Local Competition Order* simply requires LECs to interconnect at any technically feasible point within a LATA, and each carrier must bear its own transport costs on its side of the Point of Interconnection ("POI").[9] Midwest agrees with CTIA that these requirements should be retained in a bill and keep regime. The provisions of the *Local Competition Order* were intended to limit the ability of incumbents to unfairly exercise their market power. A single POI furthers this goal by limiting an incumbent LEC's ability to assert its market power and require multiple POIs, thereby raising its competitors' costs.

8. Midwest agrees with the analysis of AT&T Wireless ("AT&T"), that the Commission's current requirement that carriers split the cost of transport to a POI should minimize the incentives of any carrier for establishing a POI at an inefficient location since a carrier will have to pay half the cost to transport calls to that POI.[10] Since this incentive would not change in a bill and keep environment, Midwest agrees with AT&T that multiple POIs may be beneficial in some situations, where mutually agreeable between the LEC and wireless carriers, if justified by engineering-based determinations which consider the volume of traffic to be exchanged.[11]

9/ *See Comments of CTIA* at page 31.

10/ *See Comments of AT&T Wireless Services, Inc.* at page 40 (August 21, 2001).

11/ *Id.* at page 41.

9. The implementation of a bill and keep mechanism alone will not remove all of the cost inequities that currently exist in the LEC-CMRS interconnection process. Even with a bill and keep mechanism in place LECs, by the nature of their networks, would continue to have a competitive advantage if CMRS carriers do not have the right to a single POI. Midwest agrees with CTIA that retention of the right to a single POI must be implemented hand-in-hand with a bill and keep mechanism in order to create the most cost efficient and competitively neutral interconnection process available.

Accordingly, Midwest agrees with specific aspects of CTIA's comments on implementing a bill and keep mechanism for LEC-CMRS interconnection arrangements in order to create a more competitive environment for CMRS carriers. Midwest requests that the FCC make modifications necessary to its proposals such that a bill and keep mechanism is adopted across the board for all LEC-CMRS interconnection relationships.

Respectfully submitted,

MIDWEST WIRELESS COMMUNICATIONS LLC
MIDWEST WIRELESS IOWA LLC
MIDWEST WIRELESS WISCONSIN LLC

By:_________________

David L. Nace
B. Lynn F. Ratnavale
Their Attorneys

Lukas, Nace, Gutierrez & Sachs, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 857-3500

November 5, 2001