January 27, 2002

Before the
Federal Communications Commission

In the Matter of	)	
	)	
Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993	)	WT Docket No. 02-379
	)	
Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services	)	

Notice of Inquiry

Comments of the Montana Telecommunications Association

Introduction

The Montana Telecommunications Association (MTA) represents independent local exchange carriers in Montana. MTA's members include both small and "large" carriers, which serve as few as 1,000 access lines or as many as 65,000 access lines. These companies are both shareholder-owned commercial entities and subscriber-owned cooperatives. All of MTA's members are local exchange carriers (LECs) and are designated eligible telecommunications carriers (ETCs). And they all share a common commitment to providing high quality service to rural Montana communities.

In a state where the largest city has a population of 100,000, the communities served by Montana's independent LECs are rural by any standard. MTA's members provide service to an *average* of less than 3 access lines per mile. Yet, MTA members provide dial-up Internet service to 100% of their service territories. Montana's independent telcos also serve over 150 Montana communities with access to broadband cable modem or DSL service. They have deployed nearly

6,000 miles of fiber optics, and several of them have formed a consortium which provides an ATM-based videoconference network serving all of Montana's Tribal Colleges and nearly 90 other distance learning and telemedicine sites throughout rural Montana. Some of MTA's members also provide wireless mobile service, as well as other services such as cable, long distance, and direct broadcast satellite (DBS).

MTA appreciates the Commission's interest in seeking comments in preparing its Report to Congress. Given the limited resources available to MTA, we will focus on two aspects of the Commission's Inquiry: rural competition, and wireless-wireline competition.

<u>Competition in the Mobile Telephone Sector: Geographic Comparisons</u>

The Commission questions at *paragraph 37* "whether an urban/rural distinction is meaningful in the context of mobile telephone service…"[1] MTA draws more significant distinctions between wireless mobile services provided by national/regional carriers versus rural carriers. In this context, MTA refers to "rural carriers" as wireless mobile services provided by independent LECs of Montana.

In Montana, competition *between* wireless carriers needs to be put in some historical context. Because of their commitment to serving customers in their rural service areas, some of Montana's rural LECs invested in providing wireless services to areas not otherwise being served by national carriers. In Western Montana, Blackfoot Telephone Cooperative (Missoula, MT) and 3 Rivers Telephone Cooperative (Fairfield, MT) invested in an A Block PSC license in 1995. Rural carriers in Eastern Montana similarly had invested in cellular

[1] *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993. Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*. WT Docket No. 02-379. FCC 02-327. NOTICE OF INQUIRY. Adopted December 11, 2002. Paragraph 37, p. 14.

licenses. Thus, some of the first wireless mobile service in Montana was initially provided by Blackfoot, 3 Rivers, Mid-Rivers Telephone Cooperative (Circle, MT), and Sagebrush Cellular, a subsidiary of Nemont Telephone Cooperative (Scobey, MT). As noted above, with an *average* of three access lines per mile of wire plant served by Montana's independent rural LECs, providing wireless service for these rural LECs was, and remains, a risky proposition.

National/regional carriers (Western Wireless and Verizon) entered the market with substantially more resources at their disposal, enabling rapid and widespread build-out of their networks, once they decided to enter the market. MTA does not have Montana-specific capital expenditure data for the various carriers in Montana, but it is fair to say that the national/regional carriers outspend Montana's "home-grown" wireless mobile carriers by several times. The distinction between these national/regional carriers' expenditures and Montana's rural carriers' is illustrated in deployment of towers and related facilities, advertising and product development (e.g., "national calling plans" that cannot easily be replicated—if at all—by the rural carriers.)

Advertising by the national/regional carriers seems nearly ubiquitous in Montana's broadcast and print media. However, Montana's rural carriers can spend only a fraction of the advertising dollar that the larger carriers spend, rarely appearing for example in television ads.

Significantly, rural carriers find it extremely difficult to compete with the larger carriers' "nationwide" calling plans. First, by definition, the rural carriers are rural. Their footprints are restricted by limited resources and smaller calling scope. Second, the national/regional carriers have no incentive to provide favorable wholesale roaming arrangements that would enable the rural carriers to provide competitive nationwide calling plans to their customers. And it is these nationwide calling plans that appear to be so influential, either in fact or perception, for the average consumer. A carrier nowadays that doesn't offer such a plan might as well pack up and go home.

Unless the Commission determines that public policy should promote or preserve the viability of small rural carriers, rural wireless mobile networks will be relegated to the margins of the market where their long term survival will be problematic at best. Rural competition among wireless carriers will be played out by the same carriers competing in America's urban areas because rural carriers will be insignificant, or non-existent.

<u>Wireless-Wireline Competition: Similar Service, Different Treatment</u>

In *paragraphs 53 through 55*, the Commission asks about wireless-wireline competition.[2]

The competitive marketplace is bringing new services and technologies to American consumers. Consumers in turn are benefiting from a widening choice of telecommunications products, prices and services—precisely what Congress had in mind when it passed the Telecommunications Act of 1996.

Yet the public policy and regulatory environment in which these new services and technologies are being offered is fractured. Services that the consumer sees as similar or interchangeable are treated differently in a regulatory parallel universe. For example, local number portability, equal access and E-911 are given separate treatment depending on whether the carrier provides wireline or wireless service.

Moreover, and perhaps most significantly from a rural wireline-wireless competition perspective, wireless carrier networks are configured differently, and in a manner that leads to non-market based competitive pressures. Specifically,

[2] *Id*., at paragraphs 53-55. p. 18.

wireless "local" traffic is defined by calls originating and terminating within a major trading area (MTA) while local wireline traffic is defined by calls originating and terminating within a local exchange area. As far as the consumer is concerned, this is a distinction without a difference. However, for rural LECs, these different "local" calling areas have significant, long term effects on LEC revenues and investment.

Wireless carriers can offer "toll free" local calling plans on a regional (MTA) basis, but wireline local calls are limited to exchange areas. In Montana, a local exchange area may include only a few hundred (or fewer) subscribers. From a consumer's perspective, this is a significant factor in choosing carriers, because wireless carriers can offer a much larger local calling scope.[3]

From a rural LEC perspective, the ramifications are far greater, because, as the Commission's Inquiry points out, "many consumers now use their mobile phones instead of their wireline phones to make 'long distance' calls."[4] MTA's member LECs depend on access charges for as much as 50% of their revenues. These companies, as illustrated above, are exemplary in their commitment to investment network infrastructure and the provision of high quality services to rural consumers. Moreover, MTA's LEC members are ETCs, which exposes them to additional responsibilities and costs. Thus, while different calling areas can be attributed at least in part to competitive innovation, the contradictory regulatory treatment of "local" calls causes significant revenue/recovery consequences.

The effect of disparate treatment of "local" calls appears to be having an effect on both calling patterns and revenues. As "joint commenters" pointed out in the Commission's recent request for comments on AT&T's petition to exempt voice

---

[3] MTA notes that local service rates in remote areas often are priced lower than local rates in urban areas, primarily because rural subscribers' telephone bills include proportionally more long distance toll calls. Thus the total rural residential telephone rate is comparable to urban rates, particularly when the subscriber's calling scope is considered.

over Internet (VOIP) calls from access charges, access revenues are declining as a result of more traffic avoiding the traditional “toll” network.[5] (See Appendix A, attached.)

The growth in intrastate/intra-LATA and intrastate/inter-LATA traffic also appears to be affected in Montana. Terminating traffic in these categories grew for one of MTA’s member companies by over 15% in each category between 2000 and 2001. Preliminary data indicate that intrastate/intra-LATA terminating traffic declined in 2002 and intrastate/inter-LATA traffic grew by only 5 percent in the same period. Overall traffic grew by slightly more than 8 percent in 2001, while 2002 growth was less than 2 percent. It is difficult to state affirmatively whether these patters are a result of wireless competition, or other factor(s), or some combination. However, this anecdotal evidence corroborates the Commission’s findings that both minutes of use and access revenues are falling off LECs’ books.

<u>Conclusion:</u>

What does this mean? To MTA, the trend is clear: non-traditional carriers are developing ways to avoid paying access charges to LECs. This is only natural. Any company seeks to minimize expenses; and where access charges comprise sometimes significant expenses, companies will seek to avoid or minimize such charges. However the problem is that access charge avoidance is purely a regulatory phenomenon. Access charges exist as a means of recovering certain common-use investment in the public switched telephone network. New technologies and services threaten effectively to change the rules in the middle

---

[4] *Id*., at paragraph 53. p. 18.

[5] *In the Matter of Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are Exempt from Access Charges.* WC Docket No. 02-361. Comments of the Washington Independent Telephone Association, Washington Exchange Carrier Association, Oregon Telecommunications Association, Oregon Exchange Carrier Association, Colorado Telecommunications Association and Montana Telecommunications Association. December 16, 2002.

of the game, particularly in regards to what is considered interexchange traffic, and revenues derived from such traffic.

Public policy dictates that we can't have it both ways. Local and non-local "toll" traffic should be treated to regulatory uniformly, regardless of the medium used to transport such communications. To treat similar services differently only causes uneconomic competition.

Respectfully Submitted

Geoffrey A. Feiss, General Manager
Montana Telecommunications Association
208 North Montana Avenue, Suite 207
Helena, Montana 59601
406.442.4316
gfeiss@telecomassn.org

January 27, 2003

Appendix A:

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
Petition for Declaratory	)	
Ruling that AT&T's Phone-	)	
to-Phone IP Telephony	)	WC Docket No. 02-361
Services Are Exempt from	)	
Access Charges	)	

COMMENTS OF THE
WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION,
WASHINGTON EXCHANGE CARRIER ASSOCIATION,
OREGON TELECOMMUNICATIONS ASSOCIATION,
OREGON EXCHANGE CARRIER ASSOCIATION,
COLORADO TELECOMMUNICATIONS ASSOCIATION
AND MONTANA TELECOMMUNICATIONS ASSOCIATION

December 16, 2002

(excerpt)

In reviewing access traffic volumes over the last several years, OECA and WECA have observed a gradual decrease in the total number of access minutes beginning in 1998 and extending through 2001. However, in 2002 there has been a very substantial drop in access minutes. See Figures 1 and 2.[6]

[6] The estimated numbers for 2002 are based on nine months of actual data annualized for the year.

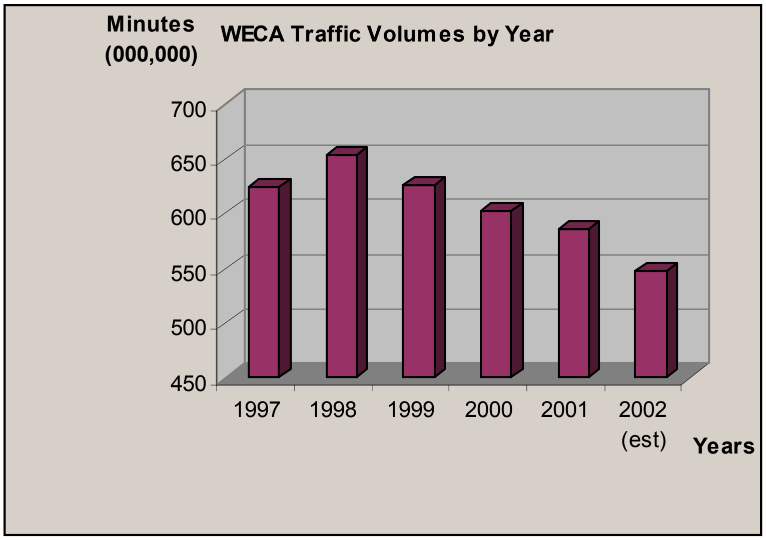

Figure 1

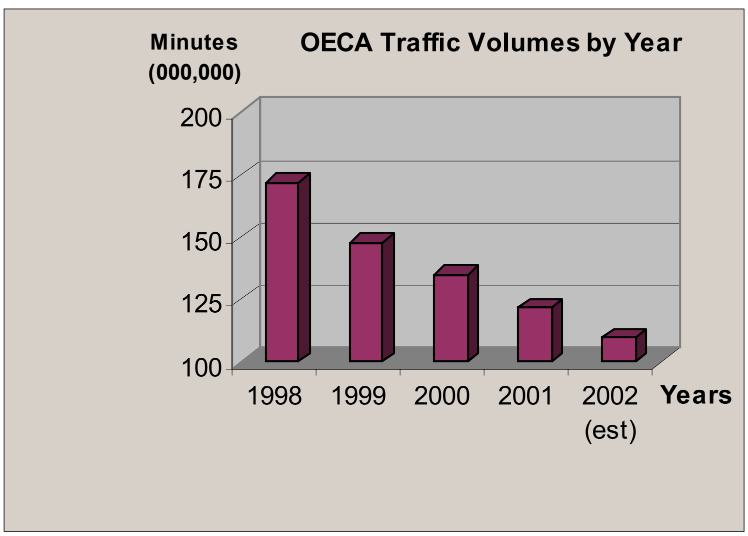

Figure 2

This translates into a drop in access revenue to rural carriers. See Figures 3 and 4.[7]

[7] As with Traffic Volumes, the estimated revenue figures for 2002 are based on nine months of actual data.

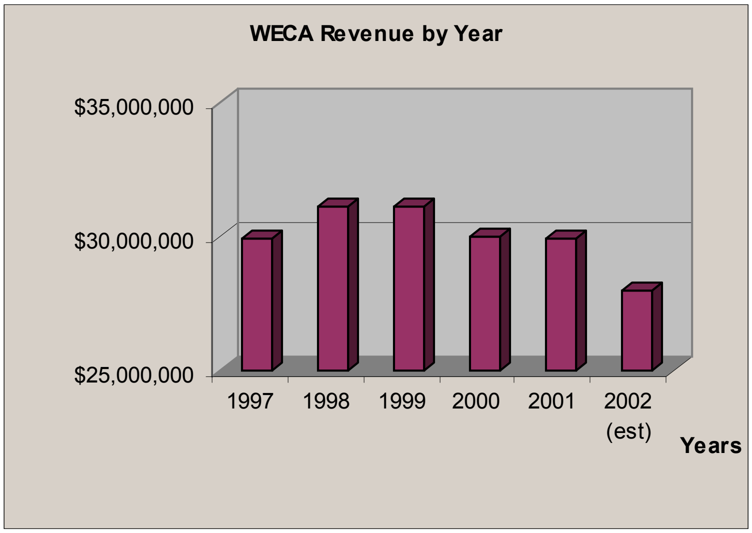

Figure 3

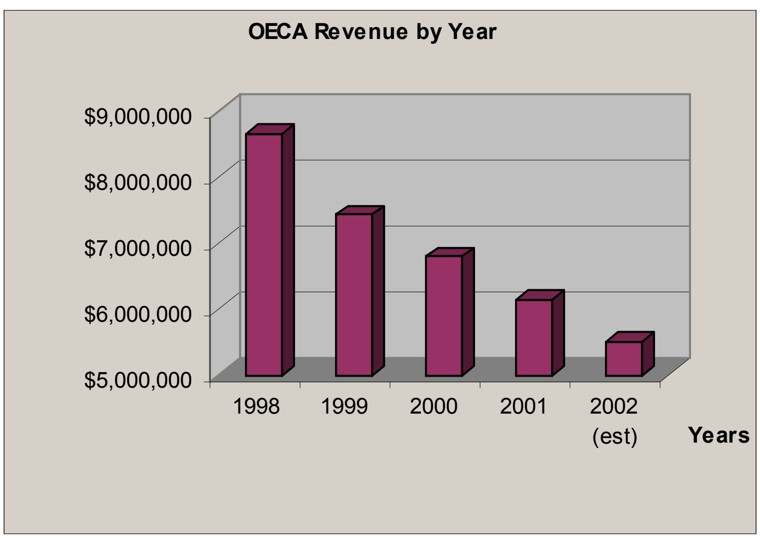

Figure 4

At the same time, OECA and WECA have observed the increasing availability of interexchange calling from carriers using voice over IP as a means of transmission. For example, a firm called LocalDial has done substantial advertising in at least the Seattle and Portland markets and appears to have a rapid growth in its market share.[8] LocalDial is bypassing access charges.[9] While some of the drop in access minutes observed by OECA and WECA can be attributed to increased wireless traffic, the growth in wireless traffic cannot account for the very sudden drop in access minutes experienced in 2002. Given the substantial increase in IP telephony activity, it must be inferred that at least a portion of the decline in minutes and revenues experienced by OECA and WECA's rural company members is attributable to IP telephony.

[8] Copies of LocalDial's advertising is attached as Attachment 1. Information concerning LocalDial can be found at www.888localdial.com.

[9] It appears that LocalDial expands its market presence through virtual NXX services offered by a competitive local exchange carrier.