

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

In the Matter of)
)
Jurisdictional Separations and Referral to the) CC Docket No. 80-286
Federal-State Joint Board)

**COMMENTS OF
THE WESTERN TELECOMMUNICATIONS ALLIANCE**

The Western Telecommunications Alliance (“WTA”), by its attorney, hereby comments upon the Commission’s Order and Further Notice of Proposed Rulemaking (Jurisdictional Separations and Referral to the Federal-State Joint Board), FCC 06-70, released May 16, 2006. WTA vigorously supports the Commission’s extension of the freeze of Part 36 category relationships and jurisdictional cost allocation factors that was initially adopted in the Commission’s *2001 Separations Freeze Order*.¹ However, in order that separations reform issues may be addressed more effectively and efficiently, WTA believes that the Commission should not undertake either comprehensive or piecemeal reform of jurisdictional separations: (a) until it has resolved pending proceedings relating to intercarrier compensation and universal service support; and (b) until it has allowed more time for certain critical technological and industry trends to become more clear.

The Western Telecommunications Alliance

WTA is a trade association that represents approximately 250 rural telephone companies operating west of the Mississippi River. WTA members are generally small independent local

¹ *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382 (May 22, 2001).

exchange carriers (“ILECs”) serving sparsely populated rural areas. Most members serve less than 3,000 access lines overall, and less than 500 access lines per exchange.

WTA members serve remote and rugged areas where loop, transport and switching costs per customer are much higher than in urban and suburban America. Their primary service areas are comprised of sparsely populated farming and ranching regions, isolated mountain and desert communities, and Native American reservations. In many of these areas, the WTA member is the carrier of last resort, and the sole telecommunications provider ever to show a sustained commitment to invest in and serve the area.

Stable, predictable and sufficient cost recovery is essential to WTA members if they are to continue investing in and operating telecommunications facilities in high-cost rural areas, while providing their rural communities and customers with quality and affordable services reasonably comparable to those available in urban areas. Therefore, WTA has found it necessary to participate in this and other proceedings that may affect critical revenue streams.

**Continuation of the Freeze Is The
Most Effective and Efficient Present Approach**

Intercarrier compensation reform and universal service distribution reform are very closely intertwined and interrelated with separations reform. For example, the Missoula Plan pending in CC Docket No. 01-92 contains proposals that could result in the reduction or elimination of differences between interstate and intrastate access charges, as well as proposals that could impact the relative portions of customer revenues derived from interstate subscriber line charges (“SLCs”) and intrastate local service rates.² Likewise, there are a number of proposals pending in CC Docket No. 96-45 that could affect the costs and other factors used to calculate the amounts of federal high-cost support distributed to rural telephone companies and

² Public Notice (Comment Sought on Missoula Intercarrier Compensation Reform Plan), CC Docket No. 01-92, DA 06-1510, released July 25, 2006.

other eligible telecommunications carriers (“ETCs”). Finally, Congress has been considering telecommunications legislation, and may enact legislation affecting intercarrier compensation and/or universal service this year, or at some later date during the next two years.

No one can be certain at this time how intercarrier compensation and universal service mechanisms and revenue streams will be changed by the pending Commission rulemakings and/or potential legislation. The only thing clear at this time is that there will be some intercarrier compensation and/or universal service changes, and that such changes will impact jurisdictional separations mechanisms and reform options in some manner.

In addition, telecommunications technologies and markets continue to change rapidly. Whereas the speed of change may not slow for some time, the next two or three years should bring more clarity to significant questions such as: (1) the degree to which Voice over Internet Protocol (“VoIP”) and other packet technologies will supplement or supplant the traditional circuit-switched network; (2) the degree to which the telecommunications and cable television industries will converge into a single digital voice, video and data market; and (3) the degree to which the wireless network will be a supplement or substitute for the wireline network. The answers to these questions may impact significantly jurisdictional separations mechanisms and the options for reform thereof.

Under these uncertain and changing circumstances, the most efficient and effective approach is for the Commission to continue the existing separations freeze and to postpone separations reform until at least some of the interrelated issues become more clear. The Commission can and should proceed with its pending intercarrier compensation (CC Docket No. 01-92) and universal service distribution (CC Docket No. 96-45) rulemakings, while monitoring whether the current or next Congress will enact significant changes in the statutory framework

for intercarrier compensation and/or universal service. While the regulatory and legislative changes are worked out during the next one-to-three years, the direction of some of the critical technological and industry trends may also become more clear. Then, and only then, the Commission will be in a much better position to determine the continuing nature, scope and needs of the jurisdictional separations process, and to develop effective reforms in an efficient manner.

At the time that it initially adopted the existing Part 36 freeze in its *2001 Separations Freeze Order*, the Commission stated that it would achieve stability and provide regulatory certainty for carriers by minimizing any cost shift impacts that might occur as a result of circumstances (such growth in local competition and new technologies) that were not contemplated by the current Part 36 rules. *Id.* at par. 12. The Commission also found that the freeze would reduce regulatory burdens on carriers during the transition from a regulated monopoly to a deregulated, competitive environment. *Id.* at par. 13. In its May 16, 2006 Order and Further Notice of Proposed Rulemaking extending the freeze for up to three more years, the Commission noted that more time is needed to study comprehensive separations reform and reiterated the stability, regulatory certainty and reduced regulatory burden benefits of a continued freeze. *Id.* at par. 16, 22-23.

WTA fully supports the Commission's rationale and actions extending the Part 36 freeze. WTA agrees that more time is needed to study comprehensive separations reform, and believes that neither comprehensive nor piecemeal reform should be initiated until more is known about the impact upon jurisdictional separations of pending regulatory and statutory proposals for intercarrier compensation and universal service reform, as well as the impact of significant developing technological and industry trends.

Conclusion

The Commission reasonably and correctly extended the current freeze of Part 36 category relationships and jurisdictional cost allocation factors. At this time, the Commission need not and should not take any further action with respect to separations reform. Rather, in order to provide stability and predictability for small carriers and to address separations reform issues more effectively and efficiently, the Commission should postpone both comprehensive and piecemeal separations reform until the pending regulatory and legislative proceedings regarding intercarrier compensation and universal service support are resolved, and until the direction and extent of certain critical technological and industry trends become more clear.

Respectfully submitted,

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**THE WESTERN TELECOMMUNICATIONS
ALLIANCE**

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