Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Comment Sought on Missoula Intercarrier Compensation Reform Plan	)	
	)	

COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

I. INTRODUCTION AND SUMMARY

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the FCC's Public Notice[1] seeking comment on the Missoula Plan for Intercarrier Compensation Reform.[2] OPASTCO is a national trade association representing over 550 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37). OPASTCO is a

[1] *Comment Sought on Missoula Intercarrier Compensation Reform Plan*, CC Docket No. 01-92, Public Notice, 21 FCC Rcd 8524 (2006).
[2] Letter from Tony Clark, Commissioner and Chair, NARUC Committee on Telecommunications, Ray Baum, Commissioner and Chair, NARUC Task Force, and Larry Landis, Commissioner and Vice-Chair, NARUC Task Force, CC Docket No. 01-92 (fil. July 24, 2006) (attaching Missoula Plan) (Missoula Plan).

supporting member of the Rural Alliance[3] and holds an advisory seat on the Alliance's Steering Committee.

The FCC should adopt the Missoula Plan. The Plan effectively and comprehensively reforms the existing intercarrier compensation rules by providing carriers with a more rational and stable means of recovering network costs. At the same time, the Plan appropriately recognizes the differences between carriers of different size and regulatory classification.

More importantly, the Plan would be beneficial to consumers nationwide – both urban and rural – including the customers of rural ILECs. In the short term, many consumers would experience an overall decrease in their communications service bills for a given level of usage. In the longer term, the Plan would provide positive incentives for carriers to invest in their networks, enabling them to offer new and advanced services at affordable rates to greater numbers of consumers.

Of utmost importance to the customers of rural rate-of-return (RoR) regulated ILECs are the inclusion of certain "rural" distinctions and other provisions in the Plan that recognize the unique needs and circumstances of rural RoR carriers. These provisions include: (1) a Restructure Mechanism that allows rural RoR ILECs to fully recover the revenues that are lost from the reduction of intercarrier rates that are not otherwise recovered through increased end-user charges; (2) the unification of rural RoR ILECs' inter- and intrastate access charges at interstate cost-based rates; (3) a limitation on the obligations of rural ILECs to undertake financial responsibility for the transport of traffic beyond their networks; (4) a broadened contribution base for the Universal Service

[3] The Rural Alliance is a group of telephone companies, trade associations and consultants that advocate for effective intercarrier compensation reform solutions that meet the needs of rural ILECs and their customers. The Rural Alliance is a supporter of the Missoula Plan.

Fund (USF) and the Restructure Mechanism; and (5) providing rural RoR ILECs in Track 3 with the option to elect Track 2 or Track 1, and to elect incentive regulation. In order for the Missoula Plan to remain beneficial to the customers of rural RoR ILECs, it is essential that the FCC adopt all of these provisions without modification.

II. THE COMMISSION SHOULD ADOPT THE MISSOULA PLAN AS IT COMPREHENSIVELY REFORMS INTERCARRIER COMPENSATION IN A MANNER THAT WOULD BE BENEFICIAL FOR CONSUMERS NATIONWIDE, INLCUDING THE CUSTOMERS OF RURAL ILECS

The FCC should adopt the Missoula Plan for Intercarrier Compensation Reform. The Missoula Plan represents an extraordinary effort by a diverse group of industry stakeholders with divergent interests to reach a consensus on how to address the numerous problems with the existing intercarrier compensation rules. The existing intercarrier compensation system is under significant stress and needs to be reformed to address the multitude of issues that have arisen, in large part, as a result of competitive carriers entering the market and utilizing the public switched telephone network (PSTN) to originate and complete their calls.

As the product of intense negotiations, the Missoula Plan contains concessions made by all of the industry participants, including rural ILECs. Nevertheless, the Plan effectively resolves the many intercarrier compensation issues that have been vexing the industry and the Commission for some time now, and does so in a comprehensive fashion. Notably, the Plan would replace the existing patchwork of intercarrier compensation rules with a more rational and stable means of recovering network costs, while recognizing the differences between carriers of different size and regulatory classification. Most importantly, the Plan would be beneficial to consumers nationwide, both urban and rural, including the customers of rural ILECs.

Examining the Missoula Plan from a broad perspective, the most significant and beneficial aspects include:

- The Plan unifies intercarrier charges for the majority of the nation's lines, substantially reduces the highest intercarrier compensation rates, and moves intercarrier rates for all traffic closer together.[4] This will effectively minimize regulatory arbitrage opportunities and help to mitigate the incentives for phantom traffic.

- The Plan permits carriers to recover revenues that are lost as intercarrier compensation rates are reduced. This is accomplished through a reasonable balance of increased subscriber line charges (SLCs)[5] and a new "Restructure Mechanism" designed specifically for the replacement of lost intercarrier compensation revenues not otherwise recovered through end-user charges.[6] Continued recovery of these revenues will ensure that rural LECs are able to maintain and upgrade their networks in order to provide basic and advanced services at affordable rates, comparable to the services and rates offered in urban areas.

- The Plan provides additional Lifeline funding to protect low-income customers from SLC increases.[7]

- The Plan creates clear rules that differentiate between "switched access" and "reciprocal compensation" traffic.[8] This will resolve ongoing disputes regarding the

[4] Missoula Plan, Attach. (The Missoula Plan for Intercarrier Compensation Reform), pp. 7-19.
[5] *Id.*, pp. 19-25.
[6] *Id.*, pp. 63-76.
[7] *Id.*, p. 64.
[8] *Id.*, pp. 25-30.

appropriate compensation for traffic between wireline and wireless carriers as well as voice over Internet protocol (VoIP)-to-PSTN traffic.

- The Plan establishes a default interconnection framework for non-access traffic.[9]

- The Plan establishes a comprehensive solution for addressing phantom traffic, including call signaling rules, a process for the generation and exchange of call-detail records, and an enforcement framework.[10]

- The Plan establishes an "Early Adopter Fund" to provide support to states that have already undertaken intercarrier compensation reform.[11]

The primary components of the Missoula Plan are beneficial not only to communications carriers but will also bring substantial benefits to consumers. In the short term, many customers of wireline and wireless carriers, both in urban and rural areas, would experience a decrease in their total communications service bills for the same level of usage, as would customers of VoIP providers.[12] Furthermore, all low-income Lifeline subscribers would enjoy substantial rate reductions.[13] In the longer-term, consumers would benefit even more significantly from the Plan as it reduces arbitrage opportunities, alleviates regulatory uncertainty, and reduces administrative and litigation costs. This will result in carriers focusing more attention and resources on investing in their networks and offering new and advanced services at affordable rates to greater numbers of consumers.

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[9] *Id.*, pp. 41-48.
[10] *Id.*, pp. 56-63.
[11] *Id.*, pp. 76-77.
[12] *Id.*, Attach. (The Missoula Plan: Policy and Legal Overview), Exhibit 1.
[13] *Id.*

III. THE PROVISIONS OF THE MISSOULA PLAN THAT RECOGNIZE THE UNIQUE NEEDS AND CIRCUMSTANCES OF RURAL RATE-OF-RETURN ILECS ARE ESSENTIAL TO THE PLAN REMAINING BENEFICIAL TO THE CUSTOMERS OF THESE CARRIERS

The main reason why the Missoula Plan would be beneficial to consumers nationwide, both urban and rural, is that it wisely avoids a "one-size-fits-all" approach to intercarrier compensation reform. Instead, the Plan takes a "multi-track" approach which recognizes the differences between carriers of different size and regulatory classification.[14] In particular, the Plan includes provisions which recognize the unique distinctions, needs and circumstances of rural ILECs subject to RoR regulation. The following "rural" distinctions and other provisions of the Missoula Plan are essential to the Plan remaining beneficial to the customers of rural RoR ILECs:

1. *The Plan establishes a Restructure Mechanism that enables rural RoR ILECs to fully recover lost intercarrier revenues.* The Missoula Plan calls for the establishment of a Restructure Mechanism that enables rural RoR ILECs to fully recover the revenues that are lost from the lowering of intercarrier rates that are not otherwise recovered through increased SLCs.[15] The Restructure Mechanism is the most critical feature of the Plan for rural RoR ILECs and their customers.

Rural RoR ILECs presently recover a significant portion of their network costs from intercarrier compensation. It follows then, that if these carriers were not permitted to recover all of the lost revenue from the lowering of intercarrier rates, investment in infrastructure and, in particular, the continued deployment of advanced services, would slow considerably. In some instances, advanced services deployment may need to be halted entirely. In addition, if rural RoR ILECs did not have the ability to achieve full

[14] *Id.*, Attach. (The Missoula Plan for Intercarrier Compensation Reform), pp. 4-7.
[15] *Id.*, pp. 73-74.

cost recovery, it would make the capital markets far more wary about making financing available to rural carriers. These outcomes are entirely at odds with the Telecommunications Act of 1996 (1996 Act, the Act), which calls for access to "reasonably comparable" services, including advanced services, for consumers in rural, insular, and high-cost areas, as well as the deployment of advanced telecommunications capability to all Americans.[16]

While it is reasonable for the replacement of some of the lost intercarrier revenue to come directly from rural subscribers in the form of increased SLCs, the Plan correctly caps these charges[17] so that end-user rates in rural service areas remain affordable and reasonably comparable to those in urban areas, as called for by section 254(b)(3) of the Act. Thus, the remainder of the displaced revenue must come from the Restructure Mechanism, "…which is designed specifically to replace switched carrier-to-carrier revenues lost by carriers participating in the Plan and not otherwise compensated for that loss through end-user charges."[18]

Given that the Restructure Mechanism is intended specifically for enabling carriers to recover lost intercarrier revenue, OPASTCO strongly supports the position advanced by the Rural Alliance that the Restructure Mechanism is an access charge element under Section 201 of the Communications Act of 1934, as amended. This means that funds from the Restructure Mechanism should *only* be available to carriers that experience mandated intercarrier rate reductions as a result of the Plan. Thus, in addition to rural RoR ILECs, funding from the Restructure Mechanism should also be available to

[16] 47 U.S.C. §§254(b)(3), 706.
[17] Missoula Plan, Attach. (The Missoula Plan for Intercarrier Compensation Reform) pp. 20-21.
[18] *Id.*, Attach. (Executive Summary), p. 1.

rural competitive local exchange carriers (CLECs) to enable them to fully recover their revenue loss as a result of the rate reductions in their intercarrier charges.

For rural RoR carriers, the Restructure Mechanism is the most essential component of the Missoula Plan. Without the adoption of a sufficient and sustainable Restructure Mechanism, along with its prescribed calculation for RoR ILECs, the Missoula Plan would be highly detrimental to the customers of these carriers.

2. *The Plan unifies rural RoR ILECs' inter- and intrastate access charges at interstate cost-based rates*. Track 3 of the Missoula Plan requires each rural RoR ILEC (in states that implement the Plan) to reduce their intrastate access charges to the level of their interstate access charges,[19] which remain *cost-based*. The Plan continues to give rural RoR ILECs the option of filing their own tariffs or participating in the National Exchange Carrier Association (NECA) tariff with rate banding.[20] Reciprocal compensation rates would remain separate and distinct from cost-based access charges, subject to negotiated interconnection agreements, but capped at interstate access rate levels.[21] Track 3 also maintains existing reciprocal compensation arrangements for extended area service (EAS) traffic exchanged between rural RoR carriers and other ILECs.[22]

Allowing each rural RoR ILEC to continue setting their originating and terminating access rates at cost-based levels recognizes the value other carriers receive when they utilize high-cost rural networks to originate and terminate traffic. While these

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[19] *Id.*, Attach. (The Missoula Plan for Intercarrier Compensation Reform), p. 18.
[20] *Id.*, *See also, Id.*, Attach. (Executive Summary), p. 6, fn. 4.
[21] *Id.*, Attach. (The Missoula Plan for Intercarrier Compensation Reform), pp. 18-19. *See also*, *Id.*, Attach. (Executive Summary), p. 3.
[22] *Id.*, Attach. (The Missoula Plan for Intercarrier Compensation Reform), pp. 37-38. *See also, Id.*, Attach. (Executive Summary), p. 6.

cost-based rates may be higher than the predetermined rates that will be charged by the larger carriers in Tracks 1 and 2, it should be noted that "[i]n some instances, Track 3 rate level reductions will be the most significant in the Plan…"[23]

3. *The Plan limits the obligations of rural ILECs to undertake financial responsibility for the transport of traffic beyond their networks*. The Missoula Plan includes a "Rural Transport Rule" which would properly limit rural ILECs' financial obligation for the transport of non-access traffic beyond their meet-point with non-rural carriers.[24] The imposition of excessive transport costs on rural ILECs could place upward pressure on rural end-user rates, potentially causing them to be unaffordable or no longer reasonably comparable with rates available to urban customers. Therefore, a rule which allows rural ILECs to avoid having to absorb these excessive costs is consistent with the universal service principles of the 1996 Act.

4. *The Plan would broaden the contribution base for the USF and the Restructure Mechanism*. The supporters of the Missoula Plan recommend that the contribution base for the USF and the Restructure Mechanism be broadened.[25] The proponents of the Plan recognize that as intercarrier compensation rates are reformed, the revenues carriers receive from the Restructure Mechanism and the USF will become more important than ever before.[26] This is particularly true for rural RoR ILECs, who have historically relied on intercarrier compensation and the USF for a significant percentage of their revenues. Therefore, the base of contributors to the USF and the Restructure Mechanism need to be

[23] *Id.*, Attach. (Executive Summary), p. 6.
[24] *Id.*, Attach. (The Missoula Plan for Intercarrier Compensation Reform), pp. 33-35.
[25] *Id.*, Attach. (Appendix B: Statement of Working Group on Reform of the Universal Service Contribution Methodology), pp. 88-89.
[26] *Id.*, p. 88.

broadened in order to ensure that these mechanisms are stable and sustainable for the long term.

The supporters of the Missoula Plan understand that it is impossible to sustain a robust USF and Restructure Mechanism on contributions from only a narrow class of carriers and services, and that to ensure that these mechanisms are sufficiently funded, the responsibility for funding them must be shared across the industry.[27] The Plan's supporters also correctly call for a uniform contribution rule for all providers of facilities-based broadband information services.[28]

Requiring all broadband Internet access providers over all platforms to contribute to the USF and the Restructure Mechanism is necessary for the long-term stability and sustainability of these mechanisms and for establishing competitive neutrality among competing providers of broadband Internet access services.[29] Without a sufficiently funded, sustainable USF and Restructure Mechanism, the continued availability of high-quality, modern services at affordable rates in rural service areas will be seriously jeopardized.

5. *The Plan provides rural RoR ILECs in Track 3 with the option to elect Track 2 or Track 1, and to elect incentive regulation.* The Plan enables rural RoR ILECs in Track 3 to elect, on a study area basis, to be treated as a Track 2 or Track 1 carrier.[30] In addition, those carriers electing to be treated as a Track 2 carrier may also elect an incentive

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[27] *Id.*, pp. 88-89.
[28] *Id.*, p. 89.
[29] *See*, ITTA, OPASTCO, and WTA, Written *Ex Parte* Presentation, WC Docket No. 06-122, CC Docket No. 02-33 (filed Aug. 4, 2006). The *ex parte* urges the FCC to quickly move to require all broadband Internet access providers over all platforms to contribute to the USF. Requiring all broadband Internet access providers to contribute to the Fund is essential to the short-term stability of the USF, ensuring the Fund's long-term sustainability, and establishing competitive neutrality among competing providers of broadband Internet access services.
[30] Missoula Plan, Attach. (The Missoula Plan for Intercarrier Compensation Reform), p. 7

regulation plan.[31] There is great diversity among rural RoR carriers. For certain rural RoR carriers, these options will better enable them to compete effectively and improve their service offerings to their customers.

While OPASTCO supports the adoption of the Missoula Plan, it is particularly critical that the five provisions of the Plan listed above be adopted without modification. All of these provisions are necessary for preserving and enhancing rural RoR carriers' ability to continue investing in their networks and providing their rural customers with high-quality services – including advanced services – at affordable and "reasonably comparable" rates. The absence of any of these provisions would likely cause many in the rural ILEC industry, including OPASTCO, to seriously reconsider their support of the Plan.

IV. CONCLUSION

The FCC should adopt the Missoula Plan for Intercarrier Compensation Reform. The Plan would be beneficial to urban and rural consumers nationwide, as it would lower many consumers' overall communications service bills for a given level of usage. In addition, adoption of the Plan would improve carriers' ability to maintain and upgrade their networks, thereby enabling them to offer new and advanced services at affordable rates to greater numbers of consumers.

However, in order for the Plan to remain beneficial for the customers served by rural RoR ILECs, it is critical that the Commission adopt, without modification, the provisions of the Plan that recognize the unique needs and circumstances of these carriers. Most importantly, the Plan must include a sufficient and sustainable Restructure

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[31] *Id.*, pp. 80-82.

Mechanism that enables rural RoR carriers to fully recover the revenues lost from reductions in intercarrier rates.

Respectfully submitted,

ORGANIZATION FOR THE
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October 25, 2006

CERTIFICATE OF SERVICE

I, Brian J. Ford, hereby certify that a copy of the comments of the Organization of the Promotion and Advancement of Small Telecommunications Companies was sent by electronic mail on this, the 25th day of October, 2006, to those listed on the attached list.

By: /s/ Brian J. Ford
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