BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
The Missoula Plan Intercarrier	)	CC Docket No. 01-92
Compensation Reform Plan	)	

COMMENTS
OF THE
COLORADO TELECOMMUNICATIONS ASSOCIATION
MONTANA TELECOMMUNICATIONS ASSOCIATION
AND
WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION

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INTRODUCTION

These Comments are being filed by the Colorado Telecommunications Association, Montana Telecommunications Association and Washington Independent Telephone Association (collectively the "Associations"). The members of the three associations will all qualify as Track 2 or Track 3 carriers under the provisions of the Missoula Plan. The analysis that has been undertaken in these Comments focuses primarily on Track 3 provisions of the Missoula Plan and some of the other general detail to address traffic and transport issues on the public switched telecommunications network (PSTN).[1]

THE NEED FOR INTERCARRIER COMPENSATION REFORM

Almost everyone in the telecommunications industry concludes that there is substantial need to address existing problems related to intercarrier compensation. Efforts to bypass intrastate access charges are multiplying. Phantom traffic on the PSTN is a mounting concern. There is incentive for interexchange carriers to maximize their percent interstate usage (PIU) under existing tariff provisions to minimize the extent to which they pay intrastate access. Carriers have devised means such as "IP-in-the-middle" routing of traffic as an effort to avoid classification as access traffic.[2] Prepaid calling card providers have tried various ways to

[1] The Associations acknowledge that Track 2 carriers such as CenturyTel and Frontier are members of one or more of the three Associations. These carriers to various degrees have concerns about the Missoula Plan and whether there are sufficient benefits for customers in rural company service areas under Track 2. The three Associations understand that these Track 2 carriers will offer their own comments providing greater detail regarding their specific concerns with the Missoula Plan, including for example issues regarding the effect of the Missoula Plan on rural price cap carriers, among other things. These Comments will summarize some of Track 2 carrier concerns.

[2] Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges, WC Docket No. 02-361, Order, FCC 04-97 (Released April 21, 2004).

describe their mechanisms as being exempt from intrastate access charges.[3] Wireless carriers have been able to convert intra-MTA calling into marketing advantage. In short, disparities in intercarrier compensation among jurisdiction and technology platforms have made fertile ground for regulatory arbitrage schemes. All of this points to a need to address intercarrier compensation reform as well as more effective regulatory enforcement.

However, the bill-and-keep types of proposals, such as those initially advanced by the Intercarrier Compensation Forum ("ICF") and advocated by Qwest Communications International, Inc., would spell potential disaster for rural carriers. A bill-and-keep mechanism may be workable for the largest carriers. In general, however, it is not a solution for small or medium size carriers.

Nor is Verizon, Inc.'s advocacy that the solution to intercarrier compensation reform is to adopt a business solution model where carriers negotiate agreements with one another appropriate for intercarrier compensation reform. That solution may work for Verizon. It will not work for small or medium size carriers. The rural companies in Washington and Montana have been very aggressive in the past two years in seeking to negotiate traffic exchange agreements with wireless carriers. Those efforts met with limited success until this Commission issued its T-Mobile decision.[4] Even after the T-Mobile decision, a high level of success has remained elusive.

What this effort has taught the rural companies is that the concept of negotiating "business" arrangements with all of the competitive local exchange carriers (CLECs) and the

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[3] See, e.g., In the Matter of AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services; Regulation of Prepaid Calling Card Services, WC Docket Nos. 03-113, 05-68; Order and Notice of Proposed Rulemaking, FCC 05-41 (Released Feb. 23, 2005).

[4] In the Matter of Developing a Unified Intercarrier Compensation Regime T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, CC Docket No. 01-92, Declaratory Ruling and Report and Order, FCC 05-42 (Released Feb. 24, 2005).

remainder of the wireless companies, would be extraordinarily expensive and time consuming. The rural companies do not have markets that are attractive to these carriers and have no leverage to get these carriers to negotiate a "business" solution as envisioned by Verizon. The Verizon approach will not work for most rural carriers.

What this leaves is the Missoula Plan's approach to intercarrier compensation reform. In particular, the Missoula Plan provisions for Track 3 carriers recognize the needs of small, rural telecommunications carriers in providing advanced, quality telecommunications service in remote, high-cost areas of the Nation.

TRACK 3 PROVISIONS OF THE MISSOULA PLAN

The provisions that are contained in the Missoula Plan for Track 3 carriers include concepts that are essential for rural telecommunications carriers. These Track 3 provisions recognize the following principles:

1. Revisions to the existing intercarrier compensation framework must recognize distinctions applicable to ILECs subject to rate-of-return regulation;
2. Rural rate-of-return ILECs are entitled to establish cost-based intercarrier compensation rates that recognize the higher cost of providing service in rural areas and the value other carriers receive when they utilize the rural networks to originate and terminate traffic;
3. To the extent that changes in the existing intercarrier compensation rates are imposed on rural rate-of-return ILECs, these rural carriers must receive recovery of the otherwise displaced interconnection revenue from a new sustainable access element that is only available to carriers that experience such imposed intercarrier rate reductions;

4. To the extent that changes in the existing interconnection rules are undertaken, those rule changes must reflect the operational and legal realities which limit the obligations of rural ILECs to undertake financial responsibility for the transport of traffic beyond their networks.

By adhering to these principles, the Missoula Plan provides the proper incentives for rural companies to continue to invest in their networks. The Missoula Plan will further the ability of rural carriers to expand broadband offerings in rural areas.

In addition, the Missoula Plan does a good job of reaching out and finding ways to address other problems that exist in the market today. For example, the Missoula Plan has the following beneficial aspects:

- The Plan clearly defines whether calls are local calls or access calls.
- The Plan resolves the intra-MTA calling issues.
- The Plan addresses virtual NXX issues.
- The Plan provides rules to resolve phantom traffic conflicts.

OPEN ISSUE

The Missoula Plan leaves as an open issue the appropriate treatment of the Restructure Mechanism. The Restructure Mechanism is a key element of the Missoula Plan.

The Associations recommend that the Commission consider the Restructure Mechanism as an access mechanism (under §201) and not a universal service mechanism. The displaced intercarrier revenue that becomes part of a new Restructure Mechanism is access revenue, and should only be available to carriers that experience the imposed intercarrier compensation rate reduction. To consider such revenue as universal service would mean that access replacement

revenue would become portable to wireless ETCs, for example, that experience no access revenue reduction. Since wireless ETCs' rates are not regulated, and they do not charge access charges, a portable Restructure Mechanism would constitute (further) windfall to certain wireless ETCs, and place undue additional strain on the Universal Service Fund.

IMPROVEMENTS TO THE PLAN CAN BE CONSIDERED

The Associations support the Missoula Plan framework.[5] At the same time, the Associations recognize that there are areas of concern for some of the members of the Associations. Three areas of concern are outlined in this section.

1. Specifically, the Track 2 carriers believe it may be more appropriate for them to be treated as Track 3 carriers in those areas where they are rate-of-return regulated. Some Track 2 carriers also question the Missoula Plan's transition rules; for example, recommending consideration of a longer transition period of five years, beginning with an initial step of aligning interstate and intrastate access rates.

2. Further, some of the Associations' members are concerned with the extent of the Missoula Plan's cost shifts onto consumers. The size of the Restructure Mechanism and the subscriber line charge (SLC) increases substantially affect all customers. In rural America, where average income lags appreciably behind average income in our nation's more urban areas, the impact may be especially acute even when partially blunted by the limitation on the level of increases to the SLC for rural companies.

3. Some of the Associations' members have already undertaken individual company rate rebalancing, including substantial access reductions and substantial increases in end user rates.

[5] TDS Telecom and FairPoint Communications are supporters of the Missoula Plan.

While the Missoula Plan's Early Adopter Fund ("EAF") accounts for some aspect of state rebalancing initiatives, the EAF does not consider individual company initiatives taken in states that may not have rebalanced rates on a statewide basis. In this respect, some members are concerned that the lack of a national benchmark rate in the Missoula Plan may put unwarranted stress on end user rates and does not take into account individual company rate rebalancing efforts that may have taken place to date.

CONCLUDING COMMENTS

The members of the Colorado Telecommunications Association, Montana Telecommunications Association and Washington Independent Telephone Association primarily are rural carriers that fall under the Track 3 provisions. The Track 3 provisions reflect an extraordinary effort to reach compromise in the industry as to what intercarrier compensation reform should look like for the smaller, rate-of-return carriers.

While some members of the Associations maintain concerns with some specific provisions of the Missoula Plan as noted above, the Associations encourage the FCC to use the Missoula Plan as the foundation for its consideration of intercarrier compensation reform. The Missoula Plan's provisions will not please everyone. However, they do reflect an actual, healthy compromise of various parties' positions and reflect the means by which rural telecommunications carriers can continue to provide investment to serve the rural customers throughout the nation.

The Associations encourage the Commission to address the concerns that have been outlined in these Comments as a constructive contribution to the Plan's goal of attaining needed

intercarrier compensation reform. We respectfully urge the Commission to resist efforts by some parties to oppose or reject the Missoula Plan outright.

Respectfully submitted this 25th day of October, 2006.

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