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

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

TO: The Commission

COMMENTS OF
THE WESTERN TELECOMMUNICATIONS ALLIANCE

The Western Telecommunications Alliance ("WTA") submits its comments in response to the Public Notice (*Comment Sought on Missoula Intercarrier Compensation Reform Plan*), CC Docket No. 01-92, DA 06-1510, released July 25, 2006.

WTA supports the basic approach and framework of the Missoula Plan. It applauds the efforts of the National Association of Regulatory Utilities Commissioners ("NARUC") Task Force on Intercarrier Compensation ("NTFIC") to facilitate the negotiation of a broad-based industry proposal for intercarrier compensation reform. It further applauds the work of the representatives of large and small carriers (including Regional Bell Operating Companies, mid-sized local exchange carriers, rural telephone companies, long distance toll service providers, competitive local exchange carriers and wireless carriers) that have developed the current compromise package of proposed reforms.

WTA recognizes that negotiation of the Missoula Plan is continuing, and that there may be additions, deletions and modifications to the existing proposals. Whereas WTA must reserve its final endorsement for the final package, it is pleased with approach and framework of the

Missoula Plan to date. WTA particularly supports: (a) the retention of a substantial, cost-based access revenue stream for Track 3 carriers: (b) the employment of a Restructure Mechanism to achieve revenue neutrality; (c) the harmonization of interstate and intrastate intercarrier compensation rates to minimize arbitrage; (d) the use of a "modified rural transport rule" to protect rural carriers from the adverse impact of high transport costs; and (e) the implementation and enforcement of call signaling and call record requirements to curtail "phantom traffic."

I

The Western Telecommunications Alliance

The Western Telecommunications Alliance is a trade association that represents approximately 250 rural telephone companies operating west of the Mississippi River.

WTA members are generally small independent local 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, and would be classified as Track 3 carriers and "covered rural telephone companies" under the existing Missoula Plan definitions.[1]

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 not only is the carrier of last resort, but also is the sole telecommunications provider ever to show a sustained commitment to invest in and serve the area.

[1] WTA has some members that may be classified as mid-sized carriers or have mid-sized affiliates (i.e., that may not be included within the same regulatory classification as Track 3 carriers) under the ultimate Missoula Plan definitions. WTA's approval of the approach, framework and current progress of the Missoula Plan does not mean that WTA or its individual members will endorse the final version of the Plan.

WTA members have a proven record of reasonable and prudent investment in the essential telecommunications infrastructure necessary to furnish the level and quality of services desired by their rural customers. They have been in the forefront of upgrading their networks to install digital switches and soft switches, to implement Signaling System 7, to install fiber optic cable and digital subscriber line (DSL) capabilities, to bury fiber and cable to limit weather damage and outages, to provide local or centralized equal access, to offer custom calling options, to comply with Emergency 911 (E-911) and Communications Assistance for Law Enforcement (CALEA) responsibilities, and to enable access to the Internet and information services. Most WTA members are presently providing advanced telecommunications and information services to at least significant portions of their rural service areas, and remain the entities most likely to provide, expand and upgrade such advanced services in both the short run and the long run.

WTA members are highly diverse. They did not develop along a common Bell System model, but rather employ a variety of network designs, equipment types and organizational structures. They must construct, operate and maintain their networks under conditions of climate and terrain ranging from the deserts of Arizona to the rain forests of Hawaii to the frozen tundra of Alaska, and from the valleys of Oregon to the plains of Kansas to the mountains of Wyoming.

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 the critical access revenue streams of its members, as well as the economic development of their rural service areas.

II

The Missoula Plan Will Facilitate Rural Infrastructure Investment By Preserving a Substantial, Cost-Based Access Revenue Stream

WTA has repeatedly stated that the key criterion for evaluating intercarrier compensation and universal service mechanisms is the degree to which they encourage and enable investment in essential rural telecommunications infrastructure. Because rural ILECs are small businesses with limited financial resources and limited access to capital markets, they generally need loans to finance significant infrastructure investments. In order to obtain such loans, they must provide both prospective lenders and their own directors and investors with reasonable assurances that they can recover their costs and repay their investment loans.

WTA members and other rural ILECs presently rely upon three primary revenue streams for recovery of their operating and investment costs – namely, retail customer revenues, carrier revenues and USF revenues. The typical WTA member derives on average: (1) approximately 27 percent of its revenues from its local residential and business customers (including federal subscriber line charges (SLCs)); (2) approximately 26 percent of its revenues from interstate and intrastate access charges and other intercarrier compensation; and (3) approximately 30 percent of its revenues from federal (and sometimes state) USF mechanisms.[2]

The Missoula Plan will preserve the important intercarrier compensation revenue stream in significant part, and will do so in the form of cost-based rates. This will help WTA members and other rural ILECs to obtain infrastructure investment loans at more affordable interest rates, for most prospective lenders will prefer the greater diversity and lower risk of a financial plan

[2] The remaining revenues of the typical WTA member come from miscellaneous sources (such as directory advertising). In contrast, the Regional Bell Operating Companies derive approximately 61percent of their revenues from their customers (including SLCs), approximately 10 percent of their revenues from access charges and other intercarrier compensation, less than 1 percent of their revenues from universal service mechanisms, and approximately 29 percent of their revenues from miscellaneous sources.

based upon three significant revenue streams rather than one comprised solely or predominately of a retail customer revenue stream (that cannot be increased indefinitely) and a universal service revenue stream (that can be changed significantly and suddenly by one or more adverse regulatory decisions).

In addition, the incentives to invest in expensive "last mile" facilities (or, in the case of many ILECs in the rural West, "last 10-to-50 mile" facilities) will be much greater if all carriers enjoying the benefit of such facilities to terminate their traffic are required to pay their fair share of the costs thereof. If the intercarrier compensation revenue stream were eliminated in favor of a "bill and keep" regime, there would be little or no incentive for anyone to invest substantial dollars in rural customer loop facilities if all other carriers could use such rural networks for free while conserving their resources for more profitable endeavors.

III

The Restructure Mechanism Must Be a Section 201 Access Mechanism

The Missoula Plan proposes to make substantial reductions in the existing intrastate access charges of many Track 3 carriers, and to offset such decreases by a series of residential SLC increases (from $6.50 to $8.75 per month) and a residual Restructure Mechanism. While not enamored with the residential SLC increases, WTA recognizes that they constitute a reasonable compromise as long as the Restructure Mechanism is sufficient to make the overall impact of the changes revenue neutral and to preclude the shifting of much more substantial portions of current access cost recovery into monthly retail customer service rates.[3]

[3] In August 2001, WTA's predecessor filed comments in this docket using 2000 data to show that rural ILECs in five Western states (Alaska, California, Missouri, New Mexico and Oklahoma) would need to increase their local service rates by more than $30 per month to replace their intrastate access revenues, and that rural ILECs in another nine Western states (Arkansas, Iowa, Idaho, Kansas, Minnesota, Montana, North Dakota, Oregon and Texas) would have to increase their local service rates by $20 or more per month to replace their intrastate access revenues. Rate increases of these magnitudes would be likely to violate Section 254(b)(1) [by rendering local service rates

The proposed Restructure Mechanism should be classified as a Section 201 access mechanism, and not a Section 254 universal service mechanism. First, its purpose is to offset and replace intrastate access revenues that currently help rural telephone companies and other incumbent local exchange carriers (ILECs) recover the costs imposed upon their "last mile" facilities by the other service providers whose traffic they originate or terminate. Section 201(b) of the Communications Act allows the Commission to regulate the "charges, practices, classifications, and regulations" for and in connection with exchange access and other communications services. This jurisdiction encompasses the collection and distribution of dollars for access cost recovery via the proposed Restructure Mechanism as well as via individually billed and collected access charges and those contained in the existing National Exchange Carrier Association pool.

Moreover, if the proposed Restructure Mechanism is classified as a Section 254 universal service mechanism, it will be subject to arguments that the per-line dollars received by various ILECs should be "portable" to wireless and other competitive eligible telecommunications carriers ("CETCs") serving overlapping areas. Such "portable" payments to CETCs would have the perverse multiplier effect of increasing the size of the Restructure Mechanism to an amount significantly larger than that necessary to preserve revenue neutrality.

Finally, "portable" Restructure Mechanism dollars would constitute an unwarranted double windfall for CETCs. They would be paying reduced intrastate access charges for their origination and termination of traffic on ILEC networks, while receiving "portable" Restructure Mechanism dollars for exchange access services they do not provide and for exchange access costs they do not incur. It has never been explained satisfactorily why "competitive neutrality"

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unaffordable for significant numbers of rural customers] and Section 254(b)(3) [by preventing local service rates in significant numbers of rural areas from being "reasonably comparable" with those of their urban counterparts].

requires a CETC to receive "portable" access or universal service dollars that are based on ILEC costs that bear no relationship whatsoever to the CETC's own investments, costs, facilities or services in an area.

IV

The Missoula Plan Will Improve The Present Intercarrier Compensation System

The Missoula Plan will minimize the arbitrage that plagues the existing intercarrier compensation mechanisms by reducing the rate differences between interstate and intrastate access charges, and between access charges and reciprocal compensation. This will benefit consumers by decreasing toll rates. It will also improve telecommunications competition by taking significant strides toward the placement of traditional interexchange carriers, wireless carriers, Voice over Internet Protocol ("VoIP") service providers and others on a much more level playing field where they can focus upon service and quality improvements rather than ways to minimize, evade or avoid access charges.

The Missoula Plan also includes a "Modified Rural Transport Rule" intended to eliminate disputes over the application of "transit" costs to the termination of local traffic through an intermediate carrier. This rule is a compromise that should avoid most such "transit" disputes and the costs associated with them.

V

The Missoula Plan Includes Important Measures To Reduce the "Phantom Traffic" Problem

The Missoula Plan includes important call signaling and call record requirements intended to reduce substantially or eliminate the "phantom traffic" problem that has afflicted both rural telephone companies and honest service providers.

As the Commission is aware, originating carrier and location information is intentionally or inadvertently stripped from significant and increasing numbers of call records, such that terminating access charges cannot be billed for a growing proportion of traffic received by rural ILECs over common trunks from access tandems. WTA understands that the "phantom traffic" problem may exceed 20 percent of the traffic terminated by some rural ILECs.

When all terminating access traffic can be properly identified and billed, existing exchange access costs can be recovered via lower intercarrier compensation rates. This will reduce intercarrier compensation costs for all service providers terminating traffic on rural ILEC networks, and eliminate the existing competitive disadvantages suffered by honest service providers vis-a-vis those whose "phantom traffic" is evading or avoiding intercarrier compensation charges.

VI

Conclusion

WTA re-emphasizes its support for the approach and framework of the Missoula Plan. In particular, the Plan's Track 3 provisions encourage and enable continued investment in essential rural telecommunications infrastructure by retaining a substantial, cost-based intercarrier compensation revenue stream for rural ILECs and by enforcing the right of those that invest in expensive rural "last mile" facilities to be compensated for the use of their networks by other service providers. WTA also supports the establishment of a residual Restructure Mechanism to achieve revenue neutrality, and urges that it be classified as a Section 201 access mechanism rather than a Section 254 universal service mechanism. WTA further supports the harmonization of interstate and intrastate intercarrier compensation rates to minimize arbitrage, the use of a "modified rural transport rule" to protect rural carriers from the adverse impact of high transport

costs, and the implementation and enforcement of call signaling and call record requirements to curtail "phantom traffic." WTA looks forward to the opportunity to review the final Missoula Plan after ongoing negotiations are completed.

Respectfully submitted,
WESTERN TELECOMMUNICATIONS ALLIANCE

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Dated: October 25, 2006