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

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

COMMENTS OF WINDSTREAM CORPORATION

Windstream Corporation, on behalf of its incumbent local exchange carrier ("ILEC"), competitive local exchange carrier ("CLEC") and interexchange carrier subsidiaries (collectively, “Windstream”), submits the following Comments with respect to the Missoula Plan.

Windstream is a diversified communications company whose various subsidiaries provide wireline local exchange services, interexchange services, Internet service, broadband services, and digital video services to customers located primarily in rural areas across the United States. Windstream was formed by the merger of Alltel Corporation’s separated landline business and Valor Communications Group, making Windstream the nation’s largest local telecommunications carrier primarily focused in rural markets. Windstream serves approximately 3.3 million customers in 16 states.

Based on Windstream's experience, we agree with others assertions that the existing intercarrier compensation system and mechanisms are outdated and not sustainable. The current system is a patchwork of inconsistent compensation methods resulting in disparate compensation rules for similar traffic. As a result of such disparity, customers are denied alternative calling options, arbitrage opportunities abound, and Windstream, along with other carriers are spending excessive amounts of time and resources monitoring and verifying traffic flows in an attempt to receive lawful compensation for the services provided. This is an expensive and unnecessary undertaking for the carriers that unfortunately impact the way they price and deliver products to their customers.

For many years Windstream's landline companies have supported reformation of the existing intercarrier compensation mechanisms with one that encourages commercial agreements, seeks to eliminate financial incentive to engage in traffic routing arbitrage and treats all service providers alike regardless of the technology used to deliver the services. These types of changes will bring much needed stability and certainty to the marketplace and, therefore, encourage continued network investment for the benefit of customers and carriers. The Missoula Plan as revised, addresses many, if not all of these issues.

I. Windstream Supports The Missoula Plan

The Commission itself has stated that the current intercarrier compensation system is outdated and unsustainable and distorts the telecommunications markets.[1] The Missoula Plan is a significant step toward reforming this outdated intercarrier compensation mechanism that was designed at a time of limited competition and limited technological diversity. In contrast, the compensation

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[1] *In the Matter of Developing a Unified Intercarrier Compensation Regime,* CC Docket No. 01-92, Further Notice of Proposed Rulemaking, 20 FCC Rcd. 4685, at ¶15 (released March 3, 2005).

mechanism set forth under the Missoula Plan better accommodates today's rapidly changing and technologically diverse telecommunications environment. Accordingly, the Commission should enact rules implementing the Missoula Plan as revised.

A. The Missoula Plan Eliminates Outdated Jurisdictional Classifications.

The existing inter-carrier compensation mechanisms assess different rates for interstate, intrastate, local, intra-MTA, EAS and enhanced services traffic even though the network components utilized and the services provided to originate and terminate such traffic are virtually identical. While these regulatory and jurisdictional classifications may have served a legitimate purpose in the past, they now incent improper traffic routing and network arbitrage that creates competitive imbalances. The current regulatory and jurisdictional classifications are unsustainable in a market where advancements in technology, vibrant competition and the emergence of products and services that bear no relation to historical regulatory classifications have brought dramatic changes to consumer behavior and expectations.

The existing traffic classifications noted above under today's compensation mechanisms are obsolete and increasingly irrelevant, as new technologies not tied to geographic boundaries flourish. Applying different intercarrier compensation rates to traffic based on the jurisdiction of a call creates arbitrage opportunities, distorts network investment incentives and discourages network efficiency. Eliminating the existing patchwork of traffic classifications for rating purposes and assigning a single rate to similar traffic traversing the network will reduce arbitrage incentives, administrative costs, and will promote the efficient use of the network.

The Missoula Plan, after completion of a reasonable transition period, unifies the various intercarrier compensation rates offered today by service providers based on their track classification, determined by certain characteristics, and ultimately results in service providers assessing the same rate to all other service providers for similar types of traffic. This rate unification, in conjunction with all other components of the revised Missoula Plan, will provide service providers with much needed stability and increased predictability in their wholesale revenue streams by eliminating or at least, significantly reducing, network arbitrage. Transitioning to unitary rates will reduce the number of billing disputes among service providers and the related expensive monitoring efforts necessary under the existing mechanisms. The Commission itself has spent valuable resources reviewing several of these disputes, including but not limited to, efforts to reclassify certain Enhanced Prepaid Calling Card calls as interstate for rating purposes. The Commission correctly concluded that these types of traffic routing based on improper regulatory interpretations were without merit and service providers on whose networks these calls traversed were lawfully entitled to intrastate access charges for calls originating and terminating within the state.[2]

[2] *In the Matter of Regulation of Prepaid Calling Cards Services,* WC Docket No. 06-68, Declaratory Ruling and Report and Order, 21 FCC Rcd. 7290 (Released June 30, 2006).

By bringing stability and increased predictability to service provider's wholesale revenue streams and reducing intercarrier rates, they will be better positioned to offer their customers new products and services, more attractive product and service bundles and increased calling scopes. Therefore, the Commission should expeditiously implement the Missoula Plan as revised.

B. Under the Missoula Plan, All Providers are Treated Alike.

The existing intercarrier compensation regime applies different rules to similar services based on the underlying technology delivering the service. As a result, service providers using newer technologies have a distinct competitive advantage compared to service providers using legacy technologies heavily burdened by long standing regulations. For example, several carriers have asked the Commission to declare that interexchange traffic transported using IP-technology should be exempted from access charges. More importantly, while the Commission reviews the merits of these petitions, certain carriers refuse to pay any portion of these lawful charges, while others refuse only to pay lawful intrastate rates, even though they are using the terminating network in the same manner as any other interexchange carrier.[3]

The Missoula Plan does not favor a particular technology or class of service provider at the expense of others and treats all service providers similarly,

[3] See *Petition for Declaratory Ruling that Var Tec Telecom, Inc. Is Not Required to Pay Access Charges to Southwestern Bell Telephone Company or Other Terminating Local Exchange Carriers When Enhanced Service Providers or Other Carriers Deliver the Calls to Southwestern Bell or Other*

regardless of the technology used to deliver the services. ILEC, CLEC, wireless, VoIP, and IP-enabled services are all treated similarly under the Missoula Plan, and providers of these services can compete without any economic preferences resulting from regulatory advantages and/or disadvantages. Under the Missoula Plan all service providers will be charged identical rates across all states for terminating traffic to another provider's network, providing market participants an equal opportunity to compete.

C. The Missoula Plan Addresses Phantom Traffic.

Arbitrage also occurs under the existing compensation scheme when service providers intentionally route traffic over other carriers' networks in a way that prohibits the terminating service provider from identifying the financially responsible party. The Missoula Plan seeks to resolve most of the existing phantom traffic issues by establishing clear rules that require carriers to provide accurate call detail record information and compensate network owners at the appropriate rates. This aspect of the plan is particularly critical during the transition period called for under the Missoula Plan to properly identify all traffic traversing the network.

D. The Missoula Plan Provides Mid-Sized Carriers an Opportunity to Elect Incentive Regulation.

Local Exchange Carriers for Termination (filed August 20, 2004); see also *Petition for Declaratory Ruling Regarding Self Certification of IP-Originated VoIP Traffic (filed by Grande October 3, 2005).*

Currently, mid-sized carriers are the only class of providers that do not have a clear path to elect incentive regulation for interstate services. Yet, competition continues to thrive in the markets served by mid-sized carriers, making reduced regulation and pricing flexibility a necessity for mid-sized carriers to effectively compete. The Missoula Plan provides a viable incentive regulation plan for mid-sized carriers, such as Windstream. The Commission should support the incentive plan included in the Missoula Plan which will encourage companies to operate more efficiently, develop and offer new services and rate plans and maintain existing customer service levels. Customer retention and growth become key drivers in order to succeed in a competitive market and the ability to achieve them is enhanced under incentive regulation.

II. Early Adopter Fund Needs Further Development

Windstream recognizes that the Missoula Plan is a compromise among a wide spectrum of industry participants. As already discussed in these Comments, Windstream supports the Missoula Plan because it resolves many of the outstanding issues affecting intercarrier compensation today and provides a reasonable transition to minimize impacts on customers and service providers. However, Windstream believes further details are required with respect to the early adopter fund.

The Plan correctly recognizes that some states have made significant efforts to reform intrastate intercarrier compensation and have established their own state universal service funds in that process.[4] The Early Adopter Fund provision of the Missoula Plan is designed to protect the reform efforts in these states and provides them with additional support if necessary. Windstream supports the goals of the Early Adopter Fund. Unfortunately, it is not clear how the Early Adopter Fund will work or the impact it could have on existing state universal service funds. Windstream believes that implementation of the Missoula Plan should not negatively affect any state universal service funding and reserves its right to further comment on this particular issue when the details of the Early Adopter Fund are finalized.

III. Conclusion

The existing intercarrier compensation mechanism is outdated, provides for a multitude of arbitrage opportunities that result in costly billing disputes and inhibits the offering of new service offerings to the detriment of customers. Comprehensive reform is the only viable solution to these intercarrier compensation problems.

The Missoula Plan addresses and resolves the most significant issues affecting intercarrier compensation such as outdated jurisdictional classifications of traffic, treating all service providers alike regardless of the technology they use to provide their services and phantom traffic. Resolving these contentious issues will

[4] Among the states that have established state universal service funds include Arkansas, Georgia, Nebraska, New Mexico, Oklahoma, Pennsylvania, South Carolina and Texas.

provide regulatory certainty and reduce administrative costs related to billing disputes.

Furthermore, the Missoula Plan provides mid-sized carriers an opportunity to elect to be regulated under an incentive plan. This will result in reduced regulation and improved pricing flexibility needed for mid-sized carriers to successfully compete. Accordingly, Windstream urges the Commission to expeditiously implement the Missoula Plan as revised.

Respectfully submitted,

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October 25, 2006