

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of:

Missoula Plan Phantom Traffic	)	
Interim Process and Call Detail	)	CC Docket No. 01-92
Records Proposal	)	

**COMMENTS OF  
ALEXICON TELECOMMUNICATIONS CONSULTING**

**I. GENERAL & POSITION SUMMARY**

Alexicon Telecommunications Consulting (“Alexicon”) hereby submits its Comments in the above-captioned matter contained in the Public Notice (“Notice”) released by the Federal Communications Commission (“FCC or Commission”) on November 8, 2006.<sup>1</sup> This Notice contains the written exparte filed November 6, 2006 by supporters of the Missoula Plan<sup>2</sup>. This filing contained an interim proposal “for the filing of an industry proposal for a uniform process for the creation and exchange of call detail records.”<sup>3</sup>

Alexicon provides management, financial and regulatory consulting services to a variety of small, rate-of-return regulated Incumbent Local Exchange Carriers<sup>4</sup> (“ILECs”) that provide telecommunications services in rural, insular and tribal areas in twelve (12) states. Alexicon’s clients range in geographic size from small single wire center companies to medium and larger sized companies serving multiple wire centers. All clients currently provide their customers with an assortment of modern state-of-the-art telecommunications services, including (but not limited to) traditional voice, wireless,

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<sup>1</sup> DA 06-2294.

<sup>2</sup> Notice footnotes 1 & 2

<sup>3</sup> Notice footnote 4

<sup>4</sup> As defined by the 1996 Telecommunications Act, each providing less than fifty thousand (50,000) access lines

Broadband and Internet-access availability. These companies generate a major portion of their revenues from intercarrier charges, mostly in connection with switched access services and special access services, billed to and paid by interconnecting interexchange carriers. These services, classified as either interstate or intrastate, are based either upon individual tariffs (state or federal) or upon rates filed on their behalf by the National Exchange Carrier Association.<sup>5</sup> Alexicon, on their behalf, has been an active participant in this Docket<sup>6</sup> and intends to continue its involvement, as necessary.

These carriers and many similarly situated ILECs have increasingly been plagued by so-called “phantom traffic” that, while passing through or terminating in their Public Switched Telephone Network (“PSTN”) interconnected switch and connecting to their customers, has been considered “unidentifiable” and therefore unbillable to the originating interexchange carrier(s). This phantom traffic refers to access traffic that arrives at the ILEC terminating PSTN switch either without sufficient call detail information or with fraudulent billing data that is attached to its data record and does not allow the ILEC the ability to identify interexchange carrier billing criteria. This lack of call detail may occur for a variety of reasons, ranging from minor data transmission errors to outright fraud utilized to escape the responsibility of interexchange carriers for appropriate access billing. It may also arise due to technical issues related to retransmission of billing data through Tandem Switch offices (an issue to be discussed in greater detail within these Comments).

These ILECs are therefore extremely concerned with potential solutions to this vital issue and these Comments, which generally support the November 6, 2006 *ex parte* filing, are being provided to the FCC including the outlining of several additional areas of concern. Alexicon further believes that any phantom traffic solution proposal - interim or permanent - beyond just technical solutions must contain sufficient enforcement and potential punitive measures to assure that ILECs are going to be able to bill for the

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<sup>5</sup> Based upon compliance with various FCC rules and regulations

<sup>6</sup> Alexicon Comments filed in CC Docket No. 01-92 on May 23, 2005 and on October 25, 2006

recovery and *will actually receive all legally mandated access service revenues* to which they are entitled.

## **II. TECHNICAL PROPOSAL ISSUES**

**A.** Alexicon generally supports the technical proposals of “directing the OBF to add the Uniform Process requirements to the MECAB Standards Document.”<sup>7</sup> We further agree with the exparte request that the Commission to immediately adopt these proposals.

These proposals include implementing both call signaling arrangements and the Interim Process for the Creation and Exchange of Call Detail Records and Call Summary Information. We further support the exparte proposal that CLEC or CMRS carriers, which collaborates with an ILEC in the joint provision of switched access service for the termination or origination of an Interexchange carrier’s traffic, is subject to the requirements prescribed in the MECAB Standards Document. We believe that this provision is vital to the success of the interim proposal.

**B.** Alexicon notes its concern with Section II of the “Uniform Process”<sup>8</sup> related to item “C - Additional Obligations.” Specifically, we believe that additional procedures need to be added to outline arbitration or other dispute resolution procedures and timeframes. History has proven that phrases such as “ensure timely implementation”, etc. require more defined general procedures, compliance procedures, and penalties to ensure that all parties will in good faith actually resolve issues. Too often, these processes bog-down in various minutiae and no party is satisfactorily assured of dispute resolution or satisfactory interconnection arrangements, including appropriate time and cost considerations.

**C.** With respect to Section III of the exparte, Alexicon generally concurs with the proposal. We do, however, note that there appears to be some disparity of specified time

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<sup>7</sup> Exparte document pg. 2

<sup>8</sup> Exparte pgs 5-6

periods between the “270 days obligation” requirements in most of this Section and the “180 days” contained in the “C - Additional Obligations”<sup>9</sup> portion of this Section.

We further are concerned regarding obligations calling for requiring separate trunk groups that may not be necessary when certain other alternatives to providing call records are elected. We remain concerned as previously noted about the imposition of new and/or additional provision of service costs into the existing access service regime.

We further request that any arbitration process (both state and federal), including appropriate resolution timeframes and resolution authority delineation, be included to resolve any/all dispute(s) arising from implementation of these requirements.<sup>10</sup>

**D.** With respect to Section IV of the exparte, Alexicon supports the requirement for the CLEC and CMRS providers to comply with the MECABS Standards Document whenever they collaborate with an ILEC in originating or terminating an IXC’s traffic.<sup>11</sup> We believe that current non-compliance in this area has been a major contributor to the unfettered growth of phantom traffic. Again, we continue to support the proposition that enforcement and penalty proposals must be added to any “Interim Proposal” to assure compliance with this or other portions of the proposal.

**E.** Alexicon supports the Appendix A “Carrier Notification Process” of the exparte.<sup>12</sup> We do suggest one addition to this Section: that the “Notification Information Content” should also be expanded to include the specific regulatory body authority under which the entrant operates. We believe that this addition will enhance ILECs’ ability to enforce collection of legally billed access revenues and allow for notification to regulatory agencies if/when appropriate collection actions are required.

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<sup>9</sup> Exparte pg. 8

<sup>10</sup> Exparte Section III, pgs 7-11

<sup>11</sup> Exparte pg. 12

<sup>12</sup> Exparte pg. 13-14

**F.** With respect to Appendix B of the exparte, Alexicon generally supports the proposal. Because of a variety of possible loopholes, such as assignment of virtual NNX numbering,<sup>13</sup> we do not necessarily support the proposed calculation for allocating interstate and intrastate calling factors. We would support further exploration of additional alternatives to developing factors for interstate/intrastate access charge allocations such as: “safe harbor” calculations, default factor development, or specific VoIP provider factors based upon some type of auditable traffic study.<sup>14</sup>

### **III. OTHER ISSUES**

As pointed out in its October 25, 2006 Comments,<sup>15</sup> Alexicon notes that there are several areas that affect or enhance the current proliferation of phantom traffic:

**A.** A major concern is the current situation in Tandem Switch Network configurations (usually with RBOC Tandem Switches and ILEC sub-tending PSTN Switches) when there are historic common terminating trunk groups arranged for Feature Group C (FGC) traffic as opposed to arrangements with either Feature Group D trunking or separate per-carrier trunking arrangements. In many of these FGC arrangements it has often been claimed that the tandem switch is often “technically incapable” of regenerating, or passing through, the required billing identification data. While there have been many ongoing industry discussions and many subject-specific negotiating meetings designed to resolve this issue, it largely remains unresolved - especially between RBOC and ILEC companies.

This issue must be resolved if the MECAB Standards Document data requirements can be fully implemented and its effect can not be underestimated. The existing resolution procedures of often requiring the subtending carriers to add trunk groups, utilize some form of terminating/originating ratios, etc. are not adequate solutions that should be

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<sup>13</sup> Whereby the “normal” geographical NNX of the VoIP customers location is NOT the actual NNX assigned to the service.

<sup>14</sup> Similar to alternatives discussed in the FCC WC Docket No. 06-122, see Comments filed by Alexicon August 19, 2006

<sup>15</sup> FCC CC Docket No. 01-92 Missoula Plan, pgs. 8-10

continued under the exparte proposals or in the long term. We suggest that a separate working group be specifically tasked with the exploration and resolution of this situation. We further suggest that this effort requires timely solution at least within the recommended 270 day timeframe suggested in the exparte for various implementation items.

**B.** Alexicon reiterates its filed Comment concerns<sup>16</sup> that Tandem Transit Service and its enhanced usage, which would result from the exparte proposals, may inadvertently increase access billing costs, especially for ILECs sub-tending RBOC tandem PSTN switches. These transiting charges have been an ongoing discussion and negotiation item that have not necessarily been mutually resolved. We remain concerned that any implementation of Missoula Plan proposals related to transiting issues must not be allowed to be arbitrarily imposed upon ILECs. Existing arbitration procedures, both state and interstate, should not be ignored or overridden, but instead enhanced, in pursuit of implementation of solutions/proposals contained in the overall Missoula Plan proposal.

**C.** Alexicon remains committed to its Comments filed May 23, 2005<sup>17</sup> that “today’s telecommunications marketplace’s complexity of rules and regulations creates incentives for providers to utilize facilities without compensating the owners of those facilities.”<sup>18</sup> While the exparte Interim Proposal provides some potential valuable solutions to the phantom traffic issue, by itself it will not provide sufficient or long-term relief from this issue. Technology has historically always seemed to be one step ahead of regulatory solutions. Numerous articles<sup>19</sup> and other documents continue to point out methods and arrangements designed to avoid lawfully imposed access charge revenues to the providing service company by originating service providers.

Alexicon continues to support its assertion that provisions contained in Section 251 of the 1996 Telecommunications Act support enforcement of the correct and sufficient

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<sup>16</sup> FCC Docket No. 01-122 October 25, 2006 Alexicon Comments

<sup>17</sup> FCC CC Docket No. 01-92, Alexicon Comments

<sup>18</sup> Id. Pg.1

<sup>19</sup> Including “Carriers Cheating Other Carriers, Billing World & OSS Today, August 2003 and the FCC’s own “ No Consumer Per-Minute Charges to Access ISPs Fact Sheet”

access service(s) compensation due carriers. We will continue to support any and all efforts designed to assure ILECs that commensurate compensation is received for use of their network(s). To this end, we believe that the development of further enforcement procedures are required to assure that any access revenue is required and collectible.

We further contend that in spite of assertions by CLEC, VoIP, IXC, and other service providers, sufficient traffic measurement technology and measurement data collection capabilities currently exists throughout a wide spectrum of manufacturers of various switching and recording equipment. This applies equally to traditional telecommunications providers utilizing both analog and digital PSTN call generating capability as well as to various data-centric (VoIP) service providers. For any service provider(s) to assert their inability to identify or provide traffic measurement to ILEC PSTN service providers is both disingenuous and not a technically correct or adequate response. How else could carriers bill for any traffic or service such as this unless they had the capability to record it and identify it? Federal and state regulators must make the resolution of this phantom traffic and any other related access revenue avoidance scheme(s) a top priority and then must continue their ongoing monitoring of this situation..

#### **IV. SUMMARY**

Alexicon appreciates the opportunity to provide its Comments relative to the subject exparte proposal. We are somewhat concerned that there appears to be somewhat of a seemingly “rush to judgment” regarding potential implementation of components of the Missoula Plan prior to receipt and analysis of Reply Comments in the proceeding.<sup>20</sup> The entire Missoula Plan was presented as a comprehensive potential proposal affecting a wide spectrum of industry participants and we believe that it may be premature to so quickly propose piece-part implementation of some of its components.

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<sup>20</sup> Now due January 11, 2007, based upon DA 06-2339, adopted and released November 20, 2006

Without a doubt, Alexicon continues to be greatly concerned about the proliferating growth of phantom unbillable traffic experienced by both its clients and many (if not all) other ILECs. We do, however, respectfully request that the Commission exercise its continued due diligence and exploration of reviewing all aspects that affect the pursuit of solutions that will provide sustainable resolution to this vital issue. Therefore, while we generally support the phantom traffic solution proposals contained within the exparte, we believe that additional input needs to be reviewed and other proposals may need Comment and discussion prior to implementation.

Respectfully submitted,

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