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

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

COMMENTS OF VERIZON WIRELESS ON THE MISSOULA PHANTOM TRAFFIC PROPOSAL

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December 7, 2006

SUMMARY

Verizon Wireless opposes the Missoula phantom traffic proposal for several reasons. First, the phantom traffic proposal would not accomplish its stated objective, which is to decrease the likelihood of phantom traffic. Second, the Missoula phantom traffic proposal is inextricably linked to the Missoula Plan, which the Commission should reject for a number of reasons. Although characterized as a step that the Commission could take before adopting the Missoula Plan or other intercarrier compensation reform, the Missoula supporters' phantom traffic proposal would in fact prejudge such reform. In particular, as with the Missoula Plan, the Missoula phantom traffic proposal ignores the FCC's current rules and would establish a faulty new way to determine jurisdiction for wireless traffic by establishing a records exchange process that uses the calling and called party numbers to determine the category of intercarrier compensation charges that apply to a call. Finally, the Missoula phantom traffic proposal appears to undermine the portion of the *T-Mobile Order* that provides that neither carrier owes compensation to the other carrier for terminating a call until one carrier issues a *bona fide* request under the Act.

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Verizon Wireless respectfully submits these comments in response to the *Public Notice*[1] in this docket addressing the phantom traffic and call detail record proposals submitted by the supporters of the Missoula Plan.[2] Verizon Wireless opposes the phantom traffic proposals filed by the Missoula Plan supporters because they do not prove exactly what the phantom traffic problem is, let alone why their proposals would fix the problem, and they suffer from many of the same deficiencies as the Missoula Plan on which they are based. In addition, the advocates of the new phantom traffic proposal want piecemeal changes to the existing system, which would only exacerbate the flaws in the current system. There is no reason why these proposals should not be considered, if at all, as part of the underlying proceeding.

BACKGROUND

The Missoula Plan sets forth what it calls a "Comprehensive Solution for Phantom Traffic," which includes call signaling rules and exceptions, special

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[1] Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, DA 06-2294, *Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal* (WCB, Nov. 8, 2006).

[2] Letter from Supporters of the Missoula Plan to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed Nov. 6, 2006) ("*New Missoula Phantom Traffic Proposal*"). The Missoula Plan's phantom traffic provisions and the *New Missoula Phantom Traffic Proposal* are collectively referred to herein as the "Missoula phantom traffic proposal".

enforcement rules, an interim process that is to be implemented immediately, and a permanent uniform process for the generation of call detail records.[3] In their most recent filing, the Plan supporters request that the Commission: (1) implement the Plan's call signaling and enforcement proposals; (2) confirm that carriers sending traffic via indirect interconnection arrangements are responsible for paying the terminating carrier's applicable intercarrier compensation charges and transit service providers are not responsible for such charges; and (3) extend the requirements of the *T-Mobile Order* to interconnection arrangements between ILECs and wireline carriers.[4] In addition, the Missoula Plan supporters have supplemented the Missoula Plan's initial proposals related to its interim phantom traffic proposal and uniform process for the creation and exchange of call detail records.

There are several flaws in the Missoula Plan supporters' filings. First, the phantom traffic proposal would not accomplish its stated objective, which is to decrease the likelihood of phantom traffic. Verizon Wireless believes that terminating carriers have access to all of the information they need today to determine which carrier to bill, and the Missoula supporters' phantom traffic proposal would not improve upon existing information. There is no need for a new enforcement process for phantom traffic complaints, and the Commission should reject this portion of the proposal.

Second, the phantom traffic proposal, like the Missoula Plan itself, would undercut the FCC's rule that permits carriers to bill reciprocal compensation for traffic

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[3] Letter from Tony Clark, Commissioner and Chair, National Association of Regulatory Utility Commissioners' Committee on Telecommunications, *et al.,* to the Hon. Kevin Martin, Chairman, Federal Communications Commission, CC Docket No. 01-92 (July 24, 2006) (attaching the Missoula Plan for Intercarrier Compensation Reform ("Missoula Plan") at 56-63 (July 18, 2006)).

[4] *New Missoula Phantom Traffic Proposal* at 2.

exchanged within a Major Trading Area ("MTA"). As with the Missoula Plan, the Missoula phantom traffic proposal ignores the MTA rule and provides no check against carriers seeking to evade their reciprocal compensation obligations pursuant to the MTA rule to benefit from the difference that exists between reciprocal compensation and access rates.

The Missoula phantom traffic proposal also seeks to establish a records exchange process that uses the calling and called party numbers to determine the category of intercarrier compensation charges that apply to a call. The Commission should recognize that the Missoula phantom traffic proposal will not dispense with the need for wireless and wireline carriers to use factors to determine the percentage of traffic exchanged that is intraMTA or interMTA.

Finally, the Missoula phantom traffic proposal appears to undermine the portion of the Commission's *T-Mobile Order* that provides that neither carrier owes compensation to the other carrier for terminating a call until one carrier issues a *bona fide* request under the Act. The time for seeking reconsideration of the *T-Mobile Order*, however, has long passed.

I. THE MISSOULA PHANTOM TRAFFIC PROPOSAL WOULD NOT DECREASE THE LIKELIHOOD OF PHANTOM TRAFFIC

Claims suggesting that there is a significant amount of phantom traffic are overstated. In fact, terminating carriers can determine the identity of the carrier originating traffic in most circumstances, either through the calling party number ("CPN"), the trunk group ID associated with the originating carrier, tandem billing records, or, if provided, the Jurisdiction Information Parameter ("JIP"). Tandem operators use data from the Signaling System 7 ("SS7") network or the Operating

Company Number ("OCN") derived from trunk group ID to identify the originating carrier.[5]

In most instances, allegations of phantom traffic involving wireless carriers come from rural incumbent local exchange carriers ("RLECs") that are interconnected indirectly with wireless carriers. RLECs typically receive traffic via a tandem switch operated by a third carrier, such as a Regional Bell Operating Company ("RBOC") or other regional tandem provider. All of the major tandem providers, including all of the RBOCs, provide terminating carriers with traffic reports identifying the carriers that originate traffic. In Verizon Wireless's experience, regional tandem providers' traffic reports accurately and reliably identify originating carriers' usage in most instances. Problems arise, however, when rural ILECs attempt to second-guess tandem traffic reports and generate their own billing statements for carriers with whom they are indirectly interconnected. The two-tandem situation most often arises as a result of network arrangements chosen by RLECs themselves – primarily when they enter into consortia to purchase shared tandems.

RLECs also claim that reports they receive from the regional tandem providers lack jurisdictional information. SS7 data is not useful for the purpose of identifying the jurisdiction of traffic exchanged between LECs and wireless carriers under today's FCC

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[5] Contrary to some claims made in this docket, the Carrier Identification Code ("CIC") does not provide originating carrier identification data to the terminating carrier because it is only populated on the first leg of a Feature Group D call going from an originating switch to a tandem. The tandem uses the CIC to route to the appropriate IXC and passes the call along over the second leg, but does not signal the CIC to the IXC unless the IXC purchases a special feature that permits the CIC to be signaled on the second leg of the call. From that point on, CIC is not part of the signaling process. CIC is also not part of the signaling on a direct trunk group between an originating switch and the IXC.

rules. CPN, for example, which is a parameter in the SS7 stream, does not identify the location of a wireless subscriber that is roaming or the carrier whose network is serving the roamer. In addition, it is standard practice in the wireless industry that the JIP identifies the originating mobile switching center ("MSC"), which can cover a large geographic area and therefore not provide accurate information about jurisdiction.

Rather than signaling information, wireless and wireline carriers base the jurisdiction of traffic exchanged between them on agreed-upon factors contained in interconnection agreements, and, as detailed below, the FCC has provided ILECs with the ability to establish these agreements pursuant to the *T-Mobile Order.* Wireless and wireline carriers do not use actual measurements because, as the Commission has acknowledged, the mobile nature of wireless service makes it difficult if not impossible to determine the jurisdiction of traffic in real time.[6] It is possible to conduct traffic studies after the fact, but such studies are burdensome because wireless carriers do not have automated systems that are able to determine the location of a wireless caller and compare that to the location of the terminating calling party, and for this reason they are not conducted on a frequent basis.

The Missoula Plan would require originating providers to transmit CPN in either the CPN or Charge Number ("CN") SS7 field,[7] but the Commission's rules already require carriers to pass CPN on interstate calls per the FCC's Caller ID rules.[8] The Plan

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[6] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *First Report and Order,* 11 FCC Rcd 15499, 16017-18, ¶ 1044 (1996), subsequent history omitted.

[7] Plan at 56.

[8] 47 C.F.R. § 64.1601. Telcordia GR-317-CORE has a default mechanism in the protocol in which, as long as CPN and CN are the same, CN is not populated. LSSGR: Switching System Generic Requirements for Call Control Using the Integrated Services

would add a requirement for carriers to pass CPN on intrastate calls, but, as demonstrated above, CPN is not a reliable indicator of jurisdiction or, in the case of roaming, the serving carrier, and tandem providers use other methods to determine the originating carrier. The Plan also contains a new requirement for intermediate carriers to pass along signaling information they receive,[9] but Verizon Wireless is not aware of any problems in the industry with intermediate carriers refusing to pass signaling information. The Commission should ensure that any rules it adopts solve verifiable problems.

The Missoula phantom traffic supporters fail to justify a new enforcement process. They do not explain why the Commission's current enforcement procedures are insufficient to address claims that carriers that do not pass signaling information or deny access to call detail records are engaging in unjust and unreasonable practices in violation of 47 U.S.C. § 201(b). Verizon Wireless is especially concerned about the Plan's special rule that would punish "chronic violators" by forcing them to connect directly with terminating providers.[10] The Plan does not define what it means to be a "chronic violator" except to state that the Commission should determine what this means.[11] Terminating providers that seek direct connection for reasons completely unrelated to phantom traffic would have the incentive to claim that carriers are not passing signaling information simply to force direct connection. The Plan also does not specify whether the Commission would be involved in designating carriers as chronic violators or whether carriers could engage in self-help. The Commission should not adopt this punitive and

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Digital Network User Part (ISDNUP), Telcordia Technologies Generic Requirements GR-317-CORE, Issue 5 (Dec. 2001). Because in the vast majority of instances they are the same, CN will most often not be populated.

[9] Plan at 56.

[10] *Id.* at 59.

[11] *Id.*

potentially inefficient direct interconnection obligation, and at a minimum it should not leave the decision whether to impose direct interconnection obligations to terminating carriers.

II. THE MISSOULA PHANTOM TRAFFIC PROPOSAL WOULD UNDERMINE THE MTA RULE

As Verizon Wireless demonstrated in its comments on the Missoula Plan,[12] the Plan would erode the FCC rule that requires wireline carriers, including rural and small independent LECs, to compensate CMRS providers for traffic that these carriers exchange within a single MTA at symmetrical reciprocal compensation rates.[13] It would do so by permitting LECs to use an IXC to exchange traffic in a number of instances,[14] thereby creating artificial distinctions between situations when LECs can use an IXC for some intraMTA traffic and not for other intraMTA traffic, and by creating arbitrage opportunities through the use of a telephone-number based methodology "that will rely on the calling and called telephone numbers to determine" whether a call is access or non-access traffic.[15] The Missoula phantom traffic proposal does not fix these problems with the Plan but instead seeks to incorporate them into an industry process for identifying originating carriers and establishing the jurisdiction of traffic.

As an initial matter, despite seeking to develop a process that will determine the correct category of intercarrier compensation that will apply to a call, *e.g.,* reciprocal

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[12] Comments of Verizon Wireless, CC Docket No. 01-92 at 15-18 (filed Oct. 25, 2006).

[13] *See Atlas Tel. Co. v. Corp. Comm'n of Okla.*, 400 F.3d 1256, 1264 (10th Cir. 2005); WWC License, LLC v. Boyle, 459 F. 3d 880, 891 (8th Cir. 2006). The 8th and 10th Circuits have upheld the FCC's application of symmetrical reciprocal compensation to all traffic exchanged indirectly between CMRS and LECs within a single MTA.

[14] Plan at 29.

[15] *Id.* at 25.

compensation or access charges,[16] the Missoula phantom traffic proposal does not even mention the MTA. Instead, it repeatedly refers to LATAs. For example, the proposal defines "Transit Service" as "switched transport service provided by a third-party carrier (*i.e.,* a Transit Provider) to effectuate indirect interconnection between two carriers within a LATA."[17] The proposal would also require call summary information to include the LATA in which traffic was exchanged,[18] and the carrier notification process would apply to all carriers interconnected within each LATA.[19] While Verizon Wireless understands that LEC end offices subtend tandems within the same LATA, the proposal's lack of any reference to MTAs raises concerns that its supporters want the MTA rule nullified.

While purporting to diminish the amount of incorrectly billed traffic, the Missoula phantom traffic proposal selectively excludes certain types of traffic, particularly the traffic that LECs send to IXCs to bypass the MTA rule. Although the Missoula phantom traffic proposal would establish a mechanism by which CMRS providers would be subject to the *MECAB Standards Document*, and therefore CMRS providers would be permitted to bill access charges,[20] it fails to deal with the larger issue that a significant amount of traffic sent by the LECs to wireless carriers should not be access traffic in the first place because LECs can choose whether to route such traffic over local or access trunks. The Plan makes this worse, prohibiting LECs using an IXC to exchange traffic with a CMRS provider in only a few cases,[21] where the call is intraMTA *and* one of the following applies: (1) the calling and called numbers are associated with the same rate

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16 *New Missoula Phantom Traffic Proposal* at 6.
17 *Id.* at 4.
18 *Id.* at 10.
19 *Id.* at 11.
20 *Id.* at 12.
21 Plan at 29.

center; (2) the calling and called numbers are in different rate centers that are covered by an ILEC EAS arrangement; or (3) the LEC has the retail toll relationship with the calling party.[22] LECs could thus continue to force their customers to incur toll calls and collect access charges despite the fact that their customers consider these wireless numbers to be "local" to their area because wireless carriers today serve customers in these same areas.[23]

The Missoula phantom traffic proposal also ignores the mobile nature of wireless and the MTA rule by using calling and called party telephone number to determine the "correct" category of intercarrier charges that should apply.[24] Telephone numbers do not determine geographic location for wireless traffic. As an example, when a wireless customer roams into a neighboring MTA and initiates a call to a landline customer in that same neighboring MTA, the wireless CPN will always appear to be interMTA, even when the calling and called parties are within the same block at the time the call is initiated.

To account for the fact that telephone numbers do not reliably indicate jurisdiction in the wireless context, the industry has used billing factors. The Missoula phantom traffic proposal fails to support the use of such factors, except in the context of VoIP-originated traffic.[25] The Missoula Plan and phantom traffic proposal would not dispense

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22 *Id.*

23 The proposal also does not address the situation in the Sprint Petition where a LEC refuses to load codes and treat them as local. *See, e.g.,* Sprint Petition for Declaratory Ruling, Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers, CC Docket No. 01-92 (filed July 18, 2002) ("Sprint Petition").

24 *New Missoula Phantom Traffic Proposal* at 6.

25 *Id.* at 15. Because the Plan maintains distinctions between inter- and intrastate access charges, and between access charges and reciprocal compensation, particularly for

with the need for carriers to use factors because many carriers do not have systems to process Category 11-01-XX call detail records, and no such systems exist that can distinguish between interMTA and intraMTA traffic. The cost of developing a system to process the 11-01-XX records would be enormous and would be in addition to the cost of purchasing the call detail records and costs associated with administering the billing process. And such a system would be ineffective because it would not determine whether particular calls were intraMTA or interMTA. Although the Missoula phantom traffic proposal would make call detail records available, it would impose significant costs on the industry and not be beneficial in assisting carriers to determine the correct category of intercarrier compensation charges that should apply.

III. THE COMMISSION SHOULD NOT ADOPT PHANTOM TRAFFIC RULES THAT CONTRAVENE THE *T-MOBILE ORDER*

The Commission clarified in the *T-Mobile Order* that ILECs can force wireless carriers to negotiate and, if necessary, arbitrate interconnection agreements.[26] Any RLEC that wishes to exchange traffic with a CMRS carrier pursuant to an agreement unequivocally can do so. RLECs can rely upon the factors included in their interconnection agreements with wireless carriers to determine the jurisdiction of traffic. In the absence of an agreement, however, "no compensation is owed for termination."[27]

The Missoula phantom traffic proposal asks the FCC to "confirm that carriers sending traffic via indirect interconnection arrangements, i.e., using tandem transit

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Track 3 carriers, a switch to a pure telephone-number based system will encourage manipulation of telephone numbers to obtain more favorable rate treatment.

[26] Developing a Unified Intercarrier Compensation Regime; T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, *Declaratory Ruling and Report and Order*, 20 FCC Rcd 4855 (2005) *("T-Mobile Order"), reconsideration and appeal pending.*

[27] *Id.* at 4867, n.57.

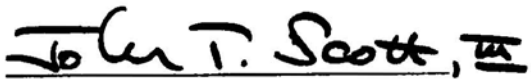
services, are responsible for paying terminating carriers applicable intercarrier compensation charges."[28] Although this is true under the *T-Mobile Order,* and the Missoula phantom traffic proposal asks the FCC to extend the *T-Mobile Order* to arrangements between ILECs and other wireline carriers, the proposal does not make clear as it should that compensation obligations only apply after a carrier has issued a *bona fide* request under the Act or carriers enter into an agreement. This is of particular concern given that the Plan provides a mechanism for carriers to establish interim compensation obligations absent a *bona fide* request for negotiation.[29]

CONCLUSION

For the foregoing reasons, Verizon Wireless urges the FCC to reject the Missoula supporters' phantom traffic proposal.

Respectfully submitted,

VERIZON WIRELESS



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28 *New Missoula Phantom Traffic Proposal* at 2.

29 Plan at 54-5.