

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

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

COMMENTS OF GENERAL COMMUNICATION, INC.

General Communication, Inc. hereby submits its comments on the supplemental “phantom traffic” proposal submitted by the Missoula Plan proponents.¹ GCI opposes the supplemental “phantom traffic” proposal because it is overly complex and burdensome. Having not quantified the problem, the proponents have not shown that the problem is more onerous than their proposed solution.

The Missoula Plan, as originally filed, included a “Comprehensive Solution for Phantom Traffic,”² in response to the complaints of many local

¹ *Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal*, Public Notice, CC Docket No. 01-92, DA 06-2294 (rel. Nov. 8, 2006); Industry Standard for the Creation and Exchange of Call Information (“Missoula Phantom Traffic Proposal”), attached to Ex Parte Letter from the Supporters of the Missoula Plan to Marlene H. Dortch, Federal Communications Commission, CC Docket No. 01-92 (filed Nov. 6, 2006).

² *See* Letter from Tony Clark, Commissioner and Chair, NARUC Committee on Telecommunications, Ray Baum, Commissioner and Chair, NARUC Task Force on Intercarrier Compensation, and Larry Landis, Commissioner and Vice-Chair, NARUC Task Force on Intercarrier Compensation, CC Docket No. 01-92 (filed July 24, 2006) (attaching the Missoula Plan) (“Missoula Plan”) at 56-63.

exchange carriers (“LECs”) – and in particular, rural incumbent local exchange carriers (“ILECs”) – which alleged that they were receiving significant quantities of traffic that did not include enough information to bill other carriers properly.³ This phenomena – known as “phantom traffic” – encompasses the following: (1) traffic that a terminating carrier receives but cannot bill because the terminating carrier is unable to identify the carrier responsible for payment; and (2) traffic that the terminating carrier cannot bill because it is unsure of the call’s jurisdiction. The Missoula Plan attempts to resolve the problem of phantom traffic by enforcing detailed new rules, on an interim basis, that would: (1) require carriers to deliver accurate signaling information to intermediate and terminating carriers; (2) create a uniform framework for the generation and exchange of call-detail records; and (3) develop an enforcement framework with “serious consequences for carriers that fail to comply with the phantom traffic rules.”⁴ On November 6, the Missoula Plan proponents supplemented the record with an interim process for the second component of their “solution” – the creation and

³ *See, e.g.*, Proposed Rules for Proper Identification and Routing of Telecommunications Traffic, attached to Ex Parte Letter from Karen Brinkmann, Latham & Watkins, Counsel for Midsize Carrier Coalition, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed Dec. 5, 2005)

⁴ Missoula Plan at 56. The Missoula Plan also asks for the implementation of permanent rules to be effective upon the Commission’s adoption of the Missoula Plan. At this time, GCI focuses its comments on the “interim” rules contained in the Missoula Plan because these potentially have the most significant impact on GCI.

exchange of call detail records – as well as a new process for the identification of VoIP-originated traffic.

As a LEC, GCI is negatively impacted when it receives traffic that lacks sufficient information to allow GCI to bill other carriers properly. Hence, GCI could benefit from rules that would promote the identification of telecommunications traffic. That being said, GCI believes the interim rules proposed by the Missoula Plan proponents are more burdensome than is warranted. Notably lacking from the Missoula Plan is any quantification of the phantom traffic problem, or any technical or operational analysis of how the interim rules would actually solve the problem. The Missoula Plan proponents have an obligation to establish, on the record, the size of the phantom traffic problem, the cost of the proposed solution, and whether the benefits of implementing the proposed solution would outweigh the substantial costs. The Missoula Plan proponents have not satisfied this burden.

The irony, of course, is that rather than resolving the phantom traffic issues, the Missoula Plan actually perpetuates the problem of phantom traffic because it never imposes a uniform, terminating rate for all telecommunications traffic in Track 3 markets. As GCI explained in its comments, the easiest solution to the problem of phantom traffic is to immediately eliminate the distinction between reciprocal compensation rates

and access charges for all traffic.⁵ After all, if there is no difference between the rates for access and non-access traffic (or, for that matter, intrastate access versus interstate access), a carrier will have little incentive to strip signaling information from a call in an attempt to reduce its intercarrier compensation costs. Preservation of rural ILEC revenues through the retention of the outdated access charge regime is not a sound public policy basis for imposing onerous and expensive new reporting and enforcement measures on *all* carriers. Instead, the Commission should eliminate arbitrage opportunities that are embedded in the existing intercarrier compensation regime and perpetuated by the Missoula Plan – including, most notably, the phantom traffic problem – by implementing true intercarrier compensation reform.

GCI recognizes that the creation of a uniform, terminating rate would not solely resolve phantom traffic concerns, because it would not help a terminating carrier identify the carrier that originated the call and from which intercarrier compensation is owed. GCI therefore supports the better targeted approach advocated by NCTA, CTIA, and Verizon,⁶ pursuant to

⁵ GCI Comments in CC Docket No. 01-92 (filed October 25, 2006) at 21; NCTA Comments CC Docket No. 01-92 (filed October 25, 2006) at 27; Time Warner, Inc. Comments CC Docket No. 01-92 (filed October 25, 2006) at 11; CTIA Comments CC Docket No. 01-92 (filed October 25, 2006) at 38.

⁶ NCTA Comments at 27; *see also* Ex Parte Letter from Donna Epps, Vice President-Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Apr. 4, 2006); Ex Parte Letter from Paul Garnett, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (Apr. 19, 2006).

which the Commission would expand its existing signaling rules⁷ to require that originating providers populate the Calling Party Number (“CPN”) parameter in the SS7 signaling stream for all calls and require intermediate providers to pass all signaling information they receive to interconnecting carriers. GCI previously urged the Commission to enforce the requirement that accurate CPN be passed with each call in other proceedings and GCI complies with this obligation today.⁸ In the absence of any evidence that a more complicated and expensive solution is warranted, the Commission should adopt this narrow expansion of its existing rules to resolve the problems associated with phantom traffic.

Finally, the Missoula Plan proponents have included provisions that apply factors to VoIP-originated traffic, which would allow a terminating carrier to assess intercarrier compensation charges – either reciprocal compensation or interstate access – on the provider that originated the call. Whether reciprocal compensation or interstate access is assessed is left to the discretion of the terminating carrier. The net effect of this component of the phantom traffic proposal is that it both presumes that access charges apply to VoIP-originated traffic and it allows terminating carriers to unilaterally assign jurisdiction to VoIP-originated traffic for the purposes of intercarrier compensation. However, the regulatory classification of IP-based traffic and

⁷ 47 C.F.R. §64. 1601(a).

⁸ *See, e.g.*, Letter from Tina M. Pidgeon, Vice President – Federal Regulatory Affairs, GCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-68 (June 29, 2005), Attachment at 3.

the corresponding intercarrier compensation charges that are due are unresolved issues pending in another docket.⁹

GCI urges the Commission to determine what intercarrier compensation charges apply to VoIP-originated traffic in the IP-enabled services docket, not through a backhand approach via phantom traffic in the context of the Missoula Plan. In addition to the fact that there already is an open rulemaking on this issue, the Missoula Plan proponents' attempt to define the intercarrier compensation that applies to VoIP-originated traffic suffers from the same shortcoming that NCTA pointed out in its initial comments on the Missoula Plan: it is incomplete, as the proponents do not address IP-to-IP traffic, nor do they address circuit-switched to IP traffic.¹⁰ If an IP-based provider is required to pay terminating compensation on traffic that it originates, surely it should have the right to charge terminating compensation when it receives traffic from a LEC or a wireless carrier using circuit-switched technology. Yet this corresponding obligation is not addressed in the Missoula Plan, reinforcing the fact that it is solely geared at protecting the interests of one group – the ILECs – which largely terminate, rather than originate, VoIP traffic.

But even if the Missoula Plan did address IP-based traffic broadly, it would still be inappropriate to decide the intercarrier compensation that

⁹ *IP-Enabled Services*, Notice of Proposed Rulemaking, 19 FCC Rcd. 4863 (2004).

¹⁰ NCTA Comments at 21-22.

applies to IP-based traffic in the limited context of phantom traffic. Phantom traffic, by definition, encompasses traffic that lacks signaling information, making it impossible to determine the jurisdiction of a call or to identify the originating carrier. The problem with IP traffic, by contrast, is that the regulatory classification of this traffic – and the intercarrier compensation that should apply – has not been firmly established by the Commission. It therefore should not be resolved in the context of phantom traffic, as it is not, by definition, phantom traffic.

For the reasons discussed herein, the Commission should reject the phantom traffic “solution” submitted by the Missoula Plan proponents, and should instead adopt limited revisions to its existing signaling rules.

Respectfully submitted,

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