

Federal Communications Commission
Washington, D.C. 20554

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

REPLY COMMENTS
OF THE
PUBLIC SERVICE COMMISSION OF WISCONSIN
ON THE
MISSOULA PLAN PHANTOM TRAFFIC PROPOSAL

The Public Service Commission of Wisconsin (PSCW) respectfully submits these reply comments in response to the Federal Communications Commission's (FCC's) November 8, 2006, public notice requesting comments regarding the Phantom Traffic Proposal submitted to the FCC by supporters of the Missoula Plan on November 6, 2006. That November 6, 2006, *ex parte* submittal suggested an interim process to address phantom traffic issues and a related proposal for the creation and exchange of call detail records. Many parties have filed comments on this issue, in some cases, providing extensive details on this matter. In these Reply Comments, the PSCW addresses a broader perspective.

Early Action on the Phantom Traffic Issues

As noted in the PSCW Initial Comments¹ on the full Missoula Plan issue, the PSCW recognizes the need for intercarrier compensation (ICC) reform. Coordinated federal-state attention to a reform process is important to avoid a situation where

¹ Initial Comments of the Public Service Commission of Wisconsin, CC Docket No. 01-92, October 25, 2006.

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the public switched telephone network (PSTN) will become further underutilized through bypass or used without compensation from unidentified providers (phantom traffic), thereby leading to ever-increasing average costs and the potential for local rate increases that could threaten affordable universal service. The PSCW urged that the FCC continue its investigation and move forward with ICC reforms.

The need for means to stem the growth of phantom traffic and for a system that insures adequate call records is an integral step in the ICC reform process. That need is vital enough that the severance of phantom traffic issues from broader ICC and Missoula Plan consideration is logical and appropriate. In that regard, the PSCW joins many others commenting in this proceeding (including, though not limited to, the Wisconsin State Telecommunications Association, the Rural Independent Competitive Alliance, and the Independent Telephone and Telecommunications Alliance) to urge that this phantom traffic issue be looked at closely and quickly to craft policy and procedures that will yield a more fair and efficient network and compensation system.

Call Details Records

In this age of competition and multiple providers, direct interconnection between providers and the indirect exchange of traffic among providers necessitate the exchange of appropriate, and accurate, information about the traffic that is passed though the network. *Adequate service in this environment necessitates adequate traffic identification.* Sufficient data about calls is a predicate to

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appropriate and effective intercarrier compensation arrangements.

The Phantom Traffic Proposal recommends that transit traffic providers that are currently providing paper summary reports continue to provide them and not be subject to the requirement to provide electronic call detail records. On this issue, the PSCW takes no position as to the media of call detail exchange (e.g., electronic real-time call detail versus summary paper reports); however, under any mechanism, the viability of the reports and call details must be assured.

The PSCW has an open docket addressing, among other issues, the adequacy of the paper reports provided by AT&T Wisconsin to the rural incumbent local exchange carriers (ILECs) subtending its Wisconsin tandems. The rural ILECs have described what they allege to be numerous inaccuracies and omissions in those reports. Several inaccuracies, such as incorrectly identified trunks, have been identified and corrected. However, many rural ILECs (RLECs) continue to assert that there are remaining inaccuracies in the current report process, and further, that they lack a means of verifying or auditing these reports. Other competitors, including CLECs and wireless providers, have also mentioned problems in auditing the traffic that transits AT&T Wisconsin tandems and terminates on the competitors' networks. The PSCW has made no final conclusions on the issue of whether the currently-used reports are sufficiently accurate for billing purposes, or whether changes are necessary.

The FCC should be aware that it may not be sufficient to simply require the delivery of a paper report; there should also be a means to assure the delivered reports are sufficient to meet the intended purposes of the reports. A failure to address this issue or ambiguous FCC rules could interfere with the ability of state commissions to oversee interconnection.

Extending the T-Mobile Negotiation Obligations to Other Providers

In drafting its initial rules, in 1996, the Commission ensured that competitors, including CLECs and wireless providers, could compel interconnection with RLECs and ILECs and established rules implementing §§ 251 and 252. In the *T-Mobile Order*,² the Commission recognized that RLECs might need to be able to compel negotiation, mediation or arbitration with wireless providers.

In Wisconsin, the PSCW has received numerous informal contacts regarding providers that have been unable to conclude terms of interconnection despite repeated requests for negotiations. This has typically occurred between providers not specifically listed in either the FCC's 1996 *Local Competition Order*³ or the *T-Mobile Order*. These have included RLECs seeking to conclude or revise agreements with ILECs and CLECs; CLECs seeking agreements with wireless providers or with other CLECs; and wireless providers seeking agreements with

² Declaratory Ruling and Report and Order, *In the Matter of Developing a Unified Intercarrier Compensation Regime; T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, 20 F.C.C.R. 4855 (2005) (*T-Mobile Order*).

³ First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 F.C.C.R. 15499 (1996) (subsequent history omitted) (*Local Competition Order*).

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CLECs or other providers.

The 1996 Act and Commission policy make it clear that negotiated agreements are the preferred method for providers to set rates, terms and conditions for interconnection. As the market develops, providers of all types will need to establish terms of interconnection with other providers of all types. In many cases, the need for a contractual arrangement between the providers may be a higher priority for one provider than another provider. In those cases, absent rules to compel the establishment of interconnection arrangements, progress is likely to proceed slowly, if at all.

For these reasons, all providers will need the right to compel interconnection arrangements with all other providers for the exchange of local traffic. This right to compel interconnection is recognized in Wisconsin statutes (Wis. Stat. § 196.04). However, the FCC's approach of listing specific types of providers subject to specific types of interconnection is interfering with implementation of effective interconnection and traffic exchange arrangements. The FCC should use this opportunity to clarify that all carriers have the right to compel negotiations with other providers on interconnection arrangements or traffic agreements for the exchange of local traffic.

Conclusion

The PSCW appreciates the opportunity to provide input on this phantom traffic issue. Despite the moniker of "phantom" that is attached to this traffic, the

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problems that relate to it are anything but phantom – they are real problems, representing financial and operation obstacles to many providers in the industry.

The PSCW urges the FCC to:

- Address these phantom traffic and call detail issues now, rather than later;
- Focus on and clarify the need for and requirements of call detail information and reports; and,
- Provide clarity to all in the industry about the obligations of all providers to negotiate, in good faith, arrangements that are needed to assure the interconnection of networks, the flow of traffic and the appropriate compensation that applies to those calls.

Dated at Madison, Wisconsin, December 22, 2006

By the Commission:

Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

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