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

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

Reply Comments of Frontier Communications on Missoula Plan

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SUMMARY OF REPLY COMMENTS OF FRONTIER COMMUNICATIONS

- There is no general consensus in support of the Plan, even among ILECs.
- The Plan would unduly burden residential and rural customers. Large SLC increases and additional USF funding are not appropriate mechanisms to replace access charge revenues. SLC increases are regressive and the USF is already overburdened.
- The Plan would potentially devastate mid-sized ILECs in competitive situations. SLC increases would drive customers to competitors, and the ILECs would lose all of these customers' revenues, not just the SLC increases.
- The Plan would hand $6 Billion to interexchange carriers in the form of lower access expense, with no guarantee that they will flow the benefits through to consumers.
- A prompt resolution of the problems of phantom traffic, arbitrage and cheating would eliminate much of the need to unify intercarrier compensation charges.
- Rural Carriers with similar cost characteristics should not be classified differently on the basis of their interstate regulatory treatment (price cap vs rate of return).
- Access reform does not need to be so complex. The Commission could set targets for intrastate access charge reductions and allow ILECs the flexibility to recover lost revenues as they see fit in a revenue-neutral way.
- The transition period of the Plan is far too rapid. Frontier proposes that any required intrastate access charges reductions should be capped at the lesser of 25% or 2 cents per year.
- The Plan proponents' economic analysis of the Plan's benefits is flawed.
- A major risk of the Plan is the possibility of tandem owners charging undue prices for tandem transit and tandem billing records.

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REPLY COMMENTS OF FRONTIER COMMUNICATIONS ON MISSOULA PLAN

INTRODUCTION AND SUMMARY

Frontier Communications ("Frontier") hereby submits its reply comments in the above captioned matter pursuant to the Commission's Public Notices, DA 06-1510 (July 25, 2006), DA 06-1730 (Aug. 29, 2006) and DA-06-2577 (Dec. 22, 2006). As set forth in its initial comments, Frontier cannot support the Missoula Plan (the "Plan") as it is currently structured. The comments of many other parties establish that there is no general consensus across the industry or among state regulatory agencies in support of the Plan. Verizon, Qwest, most wireless carriers, most medium-sized ILECs, most state regulators and most consumer advocates do not support the Plan.[1] As Surewest notes, the Plan does not even have a consensus of ILECs, let alone the entire telecommunications sector.[2] Some of the comments show that the economic rationale for the vastly complicated details of the Plan breaks down on close analysis, and that the Plan would benefit some segments of the industry at the expense of

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[1] Frontier submits that the consensus in favor of the Plan is not as broad and deep as the comments of some proponents such as TDS suggest. TDS Comments at 1; Supporters of Missoula Plan Comments at 3. There are so many tweaks and special provisions in the Plan that it could more appropriately be viewed as a mechanism designed to benefit, or at least not harm, its proponents without regard to the damage that it would cause to those outside the "consensus."

[2] Surewest Comments at 11.

others. Taken as a whole, the comments establish that now is not the time for the Commission to rush to judgment by implementing a plan that could have devastating impacts on rural customers and some segments of the industry, that would provide windfall benefits to other segments of the industry, and that could create new anti-competitive economic bottlenecks.

I. THE PLAN PLACES A DISPROPORTIONATE BURDEN OF RECOVERY ON THE ILEC'S RESIDENTIAL END-USER

The National Association of State Utility Consumer Advocates comments that the sky is not falling, that the Plan would result in excessive burden on end users, and that the Plan's impact on the Universal Service Fund would be unreasonable and unsustainable.[3] Frontier agrees. The primary revenue source for the Plan's access charge reductions is to increase SLCs, and a secondary source is further to burden the USF. Neither is a sustainable source of a large amount of additional revenue.

SLC increases are regressive and particularly damage rural subscribers where the SLC increases must be faster and larger to counterbalance the faster and larger decreases that the Plan would require for rural intrastate access charges, which are generally among the highest access charges. The overly large SLC increases would either damage universal service by driving low-income rural customers off the network or devastate rural carriers by driving their customers onto the networks of the unregulated CATV and wireless competitors whose pricing structures would not be burdened by these increases. The likelihood of increased competitive access line losses is especially high for mid-sized ILECs such as Frontier that would be placed on Track II. In both cases the SLC increases would fail to serve their purpose. The ILEC cannot receive SLC revenue increases if its subscribers leave. In fact, the ILEC would also lose all the rest of the revenues currently generated by the subscribers who would leave.

[3] NASUCA Comments at 7, 18 and 59.

The Universal Service Fund, as currently configured, is not an appropriate source of further funding for access charge reductions. The USF, as it currently exists, is not sustainable in the long run, and must be reformed at the same time as or before the reform of access charges. Increasing draws on the Fund by wireless carriers based on ILEC costs that do not apply to them are likely either to bankrupt the Fund or to require surcharges far in excess of the approximately 10% level that applies today. It is unreasonable to expect the significant help from the USF that the Plan calls for to reduce access charges. Such a mechanism, as noted by some commenters, would burden the USF contribution base with support unrelated to universal service.[4] Moreover, the Track II rural ILEC beneficiaries of any such additional support are unlikely actually to receive that support if the Plan is adopted. Track II ILECs draw the additional USF based on their access line count after step 3 of the Plan. With the reduction in the number of access lines that the SLC increases would cause, the total dollar amount of support received for fewer access lines would decline.

Although a number of rural ILECs, such as OPASTCO and the Rural Alliance, support the Plan, their statements that the Plan will benefit their rural customers[5] do not stand up to analysis. Rural and particularly rural residential customers would pay higher monthly prices under the Plan and would not be guaranteed any offsetting benefits. At most, they might experience lower long distance charges to the extent that the Plan's windfall to interexchange carriers is lost to competition over time, but there is no guarantee when this might occur or whether the amount of the long distance price decreases for a typical rural residential customer would ever approximate the size of the SLC increases mandated by the Plan. The Public Utility Commission of Texas is correct that the Plan has the potential to harm customers with no

[4] Cavalier Telephone, McLeod USA Telecommunications Services, Norlight Communications, Pac-West Telecomm and RCN Comments at 35.

[5] OPASTCO Comments at 3 and 6; Rural Alliance Comments at 3; Supporters of Missoula Plan Comments at 13.

guarantee of offsetting benefits.[6] It is the customers with low usage who would be burdened the most.

It is not surprising that a major long distance carrier like AT&T supports the plan and claims that it will produce substantial public benefits.[7] The Commission, however, should keep in mind the fact that the Plan flows $6 Billion in access expense savings to interexchange carriers, with no commitment for the carriers to pass these savings on to the primarily residential and rural end users who would fund the Plan.

II. THE PLAN'S SLC INCREASES ARE POTENTIALLY DEVASTATING TO MID-SIZED CARRIERS.

Frontier's comments explain how the proposed SLC increases could do severe damage to its competitive situation. Other mid-sized ILECs face the same risk of competitive devastation. Verizon's comments are particularly chilling in this respect. Verizon argues that the Plan would actually insulate mid-sized ILECs from competition by maintaining overly high access rates and implicit subsidies.[8] Perhaps this is MCI (now a part of Verizon) talking, hoping for an even larger windfall than it would receive under the Plan. In any event this position is completely erroneous. To the extent that ILECs must increase their prices to fund the access charge reductions mandated by the Plan, their rates accordingly become less competitive. Thus the Plan would force mid-sized ILECs to become less competitive, to the joy of their less regulated competitors and to the great benefit of interexchange carriers. It appears that Verizon would propose to make this already tenuous competitive position even worse.

[6] Public Utility Commission of Texas Comments at 2.

[7] AT&T Comments at 5 and 10.

[8] Verizon Comments at 7.

III. THE COMMISSION SHOULD MORE AGGRESSIVELY ADDRESS PHANTOM TRAFFIC.

A separate comment cycle has addressed a proposal by the Plan proponents to address phantom traffic. Frontier will not repeat here its comments in that cycle. However, it is necessary to relate the Commission's actions on phantom traffic back into this phase of the proceeding. The Commission should act on phantom traffic without any further delay. The results of that action could have a very large impact on the need for the Plan. If the Commission ameliorates the problems of phantom traffic, arbitrage and cheating, then a large portion of the intercarrier compensation problem would go away. If this portion of the problem can be addressed successfully, the question must be asked whether it is actually necessary to unify intercarrier compensation charges. Any reform that the Commission did deem as necessary would certainly not be needed in the transition timeframes set forth in the Plan.

IV. THE COMMISSION SHOULD ELIMINATE TRACK II.

Frontier's comments showed how the Plan would be exceedingly hard on mid-sized ILECs, who are relegated to a Track II without the protections of Track III and without the access charge reduction windfall enjoyed by the interexchange affiliates of the Track I carriers. The Rural Alliance claims that rate-of-return carriers in high cost areas face unique challenges, and that it follows that they deserve unique treatment.[9] This position fails to recognize that rural price cap carriers in high cost areas face exactly the same costs and challenges of being the carrier of last resort. Track II carriers have costs equal to or even greater than those of many Track III carriers. It does not make sense to put Track II carriers out into the cold because they serve more rural areas than do Track III carriers, nor does it make sense to rebalance intrastate

[9] Rural Alliance Comments at 4.

rates differently for carriers depending on whether they are price cap or rate-of-return regulated for interstate purposes.

Frontier concurs with Surewest's analysis that the proposed track classifications are irrational, arbitrary and unrelated to the stated objectives of the Plan and this proceeding.[10] Frontier therefore continues to propose that if the Commission adopts the Plan or some variant of it, Track II should be eliminated, and Track II ILECs should be moved into Track III. This does not mean that rural CLECs without the high costs of rural ILECs, and without the carrier-of-last resort responsibility for large rural areas, should be given a windfall.[11] The primary goal of this proceeding should be to find a fair way to reduce intrastate access charges without undue disruptions, not to find a way to allow even more carriers to draw subsidies that they do not need at the expense of all other carriers and consumers.

V. ILECS SHOULD BE GIVEN MORE FLEXIBILITY TO RECOVER LOST ACCESS REVENUES.

CTIA comments that the Plan creates asymmetric and discriminatory transport and interconnection rules.[12] Frontier agrees, and suggests that some of this complexity is unnecessary and, by virtue of being very hard to understand and even harder to predict and quantify, potentially dangerous. As Surewest states, the proposed pricing mechanisms are risky, unbalanced and involve dangerously large rate shifts.[13]

A primary goal of this proceeding is to unify intercarrier rates with the bulk of the rebalancing coming from reductions to intrastate access rates. A primary problem of this proceeding is that reducing intrastate access rates to interstate access rates without any

[10] Surewest Comments at 16.

[11] The Rural Independent Competitive Alliance on the Missoula Plan makes this proposal in its Comments by arguing that rural CLECs should obtain all the benefits provided to Track III ILECs.

[12] CTIA Comments at 14 and 19.

[13] Surewest Comments at 14.

replacement of the lost revenue would bankrupt many ILECs. In this respect CTIA is wrong in stating that a replacement mechanism encourages inefficiency.[14] In reality, a company should have an opportunity to recover its lost revenue, and such an opportunity does not encourage inefficiency. Absent a replacement mechanism the stark alternatives are bankruptcy of the ILECs or crushing rate increases for rural consumers. And unless the Commission plans to mandate a myriad of rate cases, the replacement mechanism must be to some extent automatic. It is not, nor should it be, a goal of this proceeding to examine each and every rural ILEC's cost structure to determine whether it can get along without the revenues generated by current levels of access charges. There must, therefore, be a replacement mechanism.

Rather than adopting the arcane rate design of the Plan, the Commission should consider a much simpler, and much slower, transition of intrastate access charges to lower rates. Rather than mandating a recovery mechanism that would unduly impact mid-sized ILECs and residential customers, the Commission should consider allowing the ILECs to recover the lost revenues in any revenue-neutral way. Access reform does not need to be as complicated as the Plan proponents propose.

VI. THE TRANSITION PERIOD SHOULD BE LENGTHENED.

Frontier agrees with Surewest that the proposed speed of the transition is too rapid.[15] As stated in its comments, Frontier continues to propose a cap on the annual amount by which intrastate access rates must be reduced. Frontier suggests a cap of the smaller of 25 % or 2 cents per year, which would produce a minimum transition period of 3 years (25% at the initiation of the plan and 25% each year thereafter) and a maximum period varying by the size of the current rates.

[14] CTIA Comments at 26.

[15] Surewest Comments at 24.

VII. THE ECONOMIC ASSUMPTIONS OF THE PLAN DO NOT BEAR CLOSE SCRUTINY.

Alltel Communications and other parties filed a critique of the Plan proponents' economic assumptions[16] that warrants detailed Commission scrutiny. The ETI Critique notes, among many other points, that the Plan proponents' estimate of benefits assumes that all access charge reductions will flow through immediately to consumers, that price elasticities of demand have not changed since the distant past despite vast changes in the competitive market, that cross-price elasticities across alternative telecommunications technologies are zero and can be ignored, and that all wireless and toll minutes are sold per-minute rather than in block-of-time plans. According to the ETI Critique, with appropriate assumptions the Plan produces net negative rather than positive impacts to the nation's economy.

One of the risks of the Plan raised by several other commenters is the ability of ILECs to charge excessive tandem transit rates.[17] Tandem transit service is far from fully competitive, with only a few players in the market in a few locations competing directly with tandem owners. To the extent that the Plan allows RBOCs to increase their charges for tandem transit and for tandem billing records, the Track II and Track III ILECs and the CLECs whose central office switches subtend RBOC tandems could be severely disadvantaged, further reducing the economic benefits of the Plan.

CONCLUSION

The proponents of the Missoula Plan have not established that the Plan is the appropriate way to address the problems of intercarrier compensation. Many parties agree with

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[16] *The Real Economic Impact of the "Missoula Plan" for Intercarrier Compensation: An Assessment Based on Reality*, Lee L. Selwyn, Economics and Technology, Inc. ("ETI Critique"), attached to the Comments of Alltel Communications, Inc. *et al*.

[17] Cavalier, McLeodUSA, Norlight, Pac-West and RCN Comments at 14; CTIA Comments at 14.

Frontier's position that the Plan is flawed in the details. It would produce massive windfalls for the largest interexchange carriers while severely damaging the ability of most of the Nation's mid-sized carriers to compete with the increasingly aggressive unregulated intermodal competitors in the marketplace. The regulatory playing field is already severely tilted against the ILECs in this situation, and the Plan would make it much worse.

Frontier continues to urge the Commission to take a number of alternative steps:

(1) Take steps to eliminate phantom traffic as soon as possible;

(2) Reduce the unfairness of the Plan for mid-sized carriers by eliminating Track II and treating rural carriers with similar cost characteristics the same;

(3) Limit end-user increases under this plan but to the extent it is necessary give the ILECs pricing flexibility to recover lost access revenues not recoverable from the access replacement fund through any revenue-neutral end –user rate restructure; and

(4) Lengthen the proposed transition period, particularly in areas where intrastate access charges are starting from a very high level.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Gregg C. Sayre, do certify that on February 1, 2007, the aforementioned ***Reply Comments of Frontier Communications on Missoula Plan*** were electronically filed with the Federal Communications Commission through its Electronic Comment Filing System and were electronically mailed to the following:

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