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 THE EARLY ADOPTER STATE COMMISSIONS:

Maine Public Utilities Commission;

Nebraska Public Service Commission;

Vermont Department of Public Service; and

Vermont Public Service Board

February 1, 2006

I. INTRODUCTION

The Federal Communications Commission (Commission) released a Public Notice on July 25, 2006 in the above-captioned matter.[1] The Maine Public Utilities Commission; Nebraska Public Service Commission; Vermont Department of Public Service; and Vermont Public Service Board (Early Adopter State Commissions) previously filed comments on October 25, 2006. The same parties hereby submit the following Joint Reply Comments.

Our earlier comments reported that representatives of several states had been meeting with the Missoula Plan proponents to discuss "early adopter" issues[2] and rural area issues.[3] Since our October filing, these discussions have continued on a regular basis, with our work focusing predominantly on the early adopter issue.

We believe that the group effort has been successful. In our process we not only discussed the issues, but we developed a solution, quantified its impacts and

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[1] *Comment Sought on Missoula Intercarrier Compensation Reform Plan,* Public Notice, CC Docket No. 01-92, DA 06-1510 (WCB July 25, 2006). *See* Fed. Reg. 45510. The Commission thereafter extended the public comment period to October 25, 2006. *In the Matter of Developing a Unified Intercarrier Compensation Regime,* CC Docket No. 01-92 (WCB August 29, 2006)

[2] An "early adopter" carrier or state is a carrier or state that has taken substantial action to reduce intrastate access charges. We believe that the original Missoula Plan has a first adopter problem because it would provide little or no benefits to early adopter carriers and states, but provides generous access replacement funds for other carriers and states that historically avoided such early adopter action.

[3] We noted that the Missoula Plan provided for smaller access reductions and smaller SLC increases for areas served by small "rural" telephone companies. We were concerned that the plan would harm other rural customers who happen to be served by larger carriers. In particular, we considered methods by which Plan mechanisms could encourage carriers to invest in rural areas after sales and acquisitions.

then held dialogues with a number of other state commissioners and their staff members.

We settled on a proposal that relies primarily on measuring local rates against a nationwide or federal "benchmark." This Federal Benchmark Mechanism Amendment, filed on January 30 by the undersigned state commissions and others, targets support to states that have the highest end-user rates.

With the assistance of AT&T and other Missoula Plan proponents, we also have conducted a much more thorough financial analysis of the Missoula Plan and of the Federal Benchmark Mechanism Amendment. We sought data from every state, and the responses received from 31 states were factored into the financial analysis that was also filed on January 30.

The Federal Benchmark Mechanism amendments are a reasonable solution to resolve the early adopter issues. We have made little progress with regard to the rural/non-rural company issues, but we always understood that consideration of these issues would follow our study of the early adopter issues. If we reach resolution on the rural area issues, we will file documents in this docket summarizing that progress.

II. COMMENTS

The Missoula Plan was developed by the industry in a forum facilitated by the NARUC Task Force on Intercarrier Compensation (NARUC Task Force). While we may not concur with all of the components of the Missoula Plan, the overall

process was productive, and with the addition of the Federal Benchmark Mechanism amendments filed on January 30, 2007, the amended Missoula Plan represents a significant improvement over the current system of intercarrier compensation.

A. Intercarrier Compensation and the Missoula Plan

As they did in their earlier comments, the Early Adopter State Commissions acknowledge that the current intercarrier compensation system has serious problems, and reform is needed. In some areas of the country local exchange carriers continue to charge for access at historical per-minute rates that were established over twenty years ago. These local exchange carriers, some of whom have unregulated rates, are effectively exporting much of their cost for local telephone service to network users in other areas. At the same time, these access revenues are eroding as inter-modal competitors find new ways to deliver traffic using lower-priced alternative services.

This system cannot survive much longer without creating significant harm to customers and carriers, and it is unlikely to improve without intervention. As the network topology moves from a narrow band circuit switched network to a broadband network, minutes-of-use based intercarrier regimes are not sustainable at historical rates. Access minutes are likely to continue to erode as customers increasingly bypass landline toll services in favor of wireless and VoIP calling. Moreover, traditional intercarrier compensation systems are being undercut by newer regulatory decisions that allow wireline competitors to offer larger calling

areas and lower rates. As a result, not only is the system needlessly complex, but carriers experience uneconomic incentives to shunt services from one service category to another.

B. The Missoula Plan and the Federal Benchmark Mechanism Amendments

The amended Missoula Plan represents a reasonable transition step towards lessening the continued dependence of carriers on minute-of-use based compensation. It also is likely to promote broadband deployment because it allows carriers to be less dependent on legacy compensation systems, like access, that are increasingly at risk.

As originally filed, the Missoula Plan could have seriously harmed rural areas with high rates, because it would have encouraged substantial SLC increases in those areas. Moreover, it appeared to be unfair to "early adopter" states that had substantially reduced access rates because it provided funding to replace revenues lost through mandated access reductions.

Our work group soon realized that although the early adopter problem is significant financially, it is also complex. We discovered that state-specific circumstances make it difficult to evaluate and compare the historical early adopter actions in different states. Also, some of the early adopter actions took place years ago, and it proved difficult to properly quantify the effect on the claim, if any, of subsequent traffic and pricing events. In short, data necessary to evaluate the issue was not easily obtainable, and we were unable to define any "bright line" that could

be used to separate meritorious early adopter claims from those that might be too old or of dubious quality.

Accordingly, we settled on a "benchmark" mechanism that relies primarily on comparing local rates against a national standard, a "federal benchmark." This "Federal Benchmark Mechanism" approach has several benefits.

First, the "High Rate Benchmark" feature successfully addresses the early adopter problem in the many states where substantial access reductions were followed by subscriber rate increases. Financial estimates confirm that the proposal meets the intended objective of providing financial relief to those early adopters whose lost access revenues were replaced by state universal service funds or local rate increases. As a general rule, high-cost states with large per line access Restructure Mechanism amounts ("RM") are the states that have not substantially reduced their access charges, and they generally do not receive large per-line support under the Federal Benchmark Mechanism proposal.[4] On the other hand, the states that took early adopter action would receive relatively small "RM" amounts under the Missoula Plan, but they receive large per-line amounts under the Federal Benchmark Mechanism proposal.[5]

Second, the Federal Benchmark Mechanism also strengthens universal service in areas that actually have high local rates because Category B support would allow carriers to reduce existing SLC charges or required customer

[4] These include Alaska, Iowa, Kentucky, Minnesota, Missouri, Mississippi, North Dakota and South Dakota.
[5] These include California, Kansas, Massachusetts, Maine, Michigan, Nebraska, New York, Vermont, Wyoming and West Virginia.

contributions to state universal service funds. The Commission can also improve its compliance with universal service principles, found in Section 254, that rates for local services should be "affordable" and "reasonably comparable" to rates in urban areas.

Third, the "Low Rate Benchmark" feature conserves resources by reducing support payments to areas that currently have local rates below $20. This further reduces the burden on high-rate and "early adopter" states because it limits federal funding of cost recovery in states with low end-user rates. In areas with low local rates, lost access revenues are better replaced by authorizing a somewhat larger SLC increase than by increasing federal support that is financed by nationwide surcharges.

Finally, the Federal Benchmark Mechanism amendments include a supplemental program for the remaining cases where other mechanisms do not fully address the early adopter problem. This mechanism depends upon the existence of a high-cost state universal service fund, which, in this limited context, we found to be a reasonably accurate proxy for states with substantial early adopter activity. We concluded that it would be unfair to entirely deny federal benefits to such states, even if their rates do not reach the High Rate Benchmark of $25. The recommended support for such claims is far less than full replacement of either the amount of early adopter claims or the amount of existing state funds. Nevertheless, the Federal Benchmark Mechanism amendment makes a reasonable allowance for these claims, which should not be disregarded entirely.

The Early Adopter State Commissions endorse approval of the Missoula intercarrier compensation plan as amended on January 30, 2007 by the Federal Benchmark Mechanism proposal.

Respectfully Submitted, February 1, 2007.

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