

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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

**REPLY COMMENTS OF THE SOUTH DAKOTA RURAL CLEC COALITION,  
WHOSE MEMBERS ARE NORTHERN VALLEY COMMUNICATIONS, LLC,  
SANCOM, INC., AND SSTELECOM, INC.  
ON THE MISSOULA PLAN**

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February 1, 2007

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## **SUMMARY**

The South Dakota Rural CLEC Coalition (hereafter “SD CLECs”) supports the Missoula Plan with the following essential modifications. Without these changes the SD CLEC’s would not support the Missoula Plan because the Plan would result in devastating access revenue reductions that would jeopardize the continued existence of these companies. The modifications to the proposed rules include:

1. The continued allowance of a rural exemption for rural CLECs, as currently provided in 47 CFR 61.26;
2. The eligibility of rural CLECs’ to participate in the Restructure Mechanism where they have incurred lost access revenues under a reform plan;
3. The treatment of Restructure Mechanism revenue as a non-portable access cost recovery mechanism under Section 201 of the Communications Act; and
4. The treatment of rural CLECs like Covered Rural Telephone Companies (CRTCs), as referenced in the Missoula Plan, for purposes of the Rural Transport Rule.

Without the above modifications, rural CLECs would incur such great economic loss that it would hinder their facilities-based overbuilds in rural exchanges and severely cripple current operations. The SD CLEC’s would be unable to recover their higher costs of serving these smaller rural exchanges with new facilities based networks. Consumers of the SD CLECs agree that any changes to the current intercarrier compensation rules made by the Commission should consider the continued viability of the rural CLECs, which play such an important part of the economic vitality of the rural communities that depend on the rural CLECs for state-of-the-art advanced telecommunications services and facilitate economic development.

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**I. Introduction**

These comments are submitted on behalf of the “South Dakota Rural CLEC Coalition” (hereafter “SD CLECs”) in response to the Federal Communications Commission’s (Commission) July 25, 2006, Public Notice seeking comments on the Missoula Intercarrier Compensation Reform Plan. The SD CLECs herein are also members of the Rural Independent Competitive Alliance (RICA) and also support the comments of RICA that have been separately filed with the Commission. The SD CLECs also filed initial comments in this proceeding.

**II. SD CLECs Support Missoula Plan, But Only with Key Modifications**

As the SD CLECs described in their initial comments, rural CLECs agree that the proposed Missoula Plan (Plan) is a step in the right direction regarding necessary intercarrier compensation (ICC) reform with several key modifications. The SD CLECs support the Plan’s commendable goals of unifying intercarrier compensation charges, eliminating arbitrage of networks, eliminating the uncertainty and disputes over intercarrier compensation and resolving the growing problem of Phantom Traffic. However, the current

proposal fails to recognize the harmful and possibly unintended impact it would have on small rural Competitive Local Exchange Carriers (CLECs).

The SD CLECs would again like to stress that in the past the Commission has recognized the unique cost issues of rural CLECs with the adoption of the rural CLEC exemption in 47 CFR 61.26. This provision should not be stripped away from rural CLECs as proposed in the current Missoula Plan, which would classify rural CLECs as Track 1 carriers and mirror Track 1 capped access rates. The FCC's adoption of a rural exemption for rural CLECs should continue. This exemption recognized the higher cost structures to build and serve smaller rural exchanges. To force rural CLEC's to mirror the rate structure of the large RBOCs in Track 1 would be a devastating blow to the SD CLECs.

Also, rural CLECs should be treated like Covered Rural Telephone Companies (CRTCs), as referenced in the Missoula Plan, for purposes of the Rural Transport Rule since their rural transport obligations are far more similar to other Track 3 rural carriers versus large Track 1 carriers. Without such transport treatment the economic loss will stop facilities based overbuilds in rural exchanges and could severely cripple current operations by greatly increasing rural CLEC's transport costs. Again rural CLEC transport cost structures are far different than the large RBOCs in Track 1

We urge the Commission to adopt the key modifications to the proposed Plan that were included in the initial comments filed by the SD CLECs to avoid the devastating economic impacts these changes would have on rural CLECs.

### **III. Other Rural CLECs Agree on Key Issues**

As the Midwest Rural CLEC Coalition points out, the Plan's primary weakness is that it fails to account for the unique characteristics, contributions and vulnerabilities of rural CLECs<sup>1</sup>. The Coalition states,

"Having tailored its intercarrier compensation proposals specifically to distinguish RBOCs from their much smaller, more rural ILEC brethren, the Missoula Plan then mistakenly fails to recognize the same material distinction between RBOCs and Rural CLECs."

The Rural Independent Competitive Alliance (RICA) adds,

"The Missoula Plan treats all CLECs, urban and rural alike, as if they were Bell Companies and eliminates even the modest recognition of the differences in rural areas recognized by the Commission in 2001. The primary revision to the Missoula Plan needed to preserve the ability of rural CLECs to continue and to expand their operations is to bring rural CLECs under essentially similar rules to those applicable to Track 3 CRTCs."<sup>2</sup>

Most recently, Mid-Rivers Telephone Cooperative, Inc., filed Reply Comments voicing its concern regarding the lack of rules and procedures for the calculation and distribution of the RM amounts for rural facility-based CLECs.<sup>3</sup> In its comments, Mid Rivers stressed:

"It is essential that the Commission establish the necessary policy and rules that will govern the distribution of RM amounts to rural facility-based CLECs before the Plan is adopted. The Plan is unacceptable to MRC without these needed rules and procedures."

The SD CLEC's agree and concur in all of the above important positions.

#### **IV. Consumers Request Commission to Approve Rules that will Help Maintain the Viability of Rural CLECs**

The current intercarrier compensation rules, which allow for the rural CLEC exemption in 47 CFR 61.26, have supported investment in advanced technologies for rural communities and have helped rural CLECs build out networks to offer services that were previously unavailable. The importance of the advanced services brought to the communities served

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<sup>1</sup> See Initial Comments of the Midwest Rural CLEC Coalition at Page 2, CC Docket No. 01-92 (October 25, 2006).

<sup>2</sup> See Comments of the Rural Independent Competitive Alliance on the Missoula Plan at Page 6, CC Docket No. 01-92 (October 25, 2006).

<sup>3</sup> See Reply Comments of Mid-Rivers Telephone Cooperative, Inc., Regarding the Missoula Plan for Intercarrier Compensation Reform at Page 2, CC Docket No. 01-92 (October 25, 2006).

by rural CLECs, and therefore the viability of the rural CLECs, cannot be underestimated, as shown in the letters attached as Appendix A. A sampling of their comments follows:

“On behalf of the Grant County Development Corporation, and community of Milbank, I am urging the FCC, through the Missoula Plan, to recognize the great benefit rural CLEC’s bring to the communities they serve.”

-George L. Smith  
Executive Director  
Grant County Development Corporation

“A lack of advanced communications and new technologies for our company would make our business climate more difficult. Partnering with Mitchell Telecom is the solution for both areas and provides a prime example of the impact CLEC’s have on a business community. Please do not underestimate this impact. Our experience proves it is a precious asset.”

-Roger Musick  
CEO  
Innovative Systems, LLC

“Along with advanced technologies comes the economic development created by having a CLEC in your community. Jobs, construction investment and tax dollars are all byproducts of this type of project, and provide economic impact within the community. Moreover, the sheer magnitude of the dollars invested forces the company to commit to the community on a long-term basis, and lays the foundation for future growth

Without advanced technologies, the Mitchell community would not have growth potential. Additional jobs, investments, and tax dollars can all be linked to having a CLEC, and it is important to not underestimate the importance of the future impact of their investment.”

-Bryan Hisel  
Executive Director  
Mitchell Area Development Corporation

“Our company has 17 offices around the country where we deliver packages door to door for a few large clients. I am Manager of Information Systems and oversee everything technical for Wessin Transport. I have dealt with numerous LECs and CLECs over the years and nothing compares to the service and quality we receive from NVC! Our needs are met in every way.”

-Alan Schostag  
Manager of Information Systems  
Wessin Transport, Inc.

The continued viability of rural CLECs and the services they provide in rural communities depends greatly on revenue currently received through switched access charges. Switched access revenue as a percentage of total revenues is in the range of

40%-45% for the SD CLECs. If switched access charges are reduced through the implementation of the provisions in the current Missoula Plan, or any similar intercarrier compensation plan, it is essential that rural CLECs receive Restructure Mechanism (RM) or similar program revenue to offset mandated access charge reductions. Otherwise, without the availability of some type of access revenue replacement rural CLEC's would be severely jeopardized in their existing and future operations such that some of them could no longer economically provide service. Their demise would have a devastating impact on the economic vitality of rural communities that depend on rural CLECs for state-of-the-art advanced telecommunications services and the role they play in facilitating economic development.

## **V. Conclusion**

In conclusion, the Commission should continue to recognize that rural CLECs have a higher cost structure much like rural ILECs and that any significant reduction of access revenue will stop future expansion and jeopardize existing operations. Therefore, the SD CLECs urge the Commission to adopt the Missoula Plan with the key modifications stated herein that will allow the SD CLECs to continue their path of improved service to South Dakota's rural communities.

Respectfully Submitted

### **SD Rural CLEC Coalition**

By/ Doug Eidahl  
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Their Consultants

# **APPENDIX A**

GRANT COUNTY ECONOMIC DEVELOPMENT CORPORATION

December 05, 2006

Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

RE: Missoula Plan – FCC

To Whom It May Concern:

The city of Milbank is fortunate to have ITC as a rural CLEC (Competitive Local Exchange Carrier) in our community. Although we do have other carriers available, the addition of ITC has made for a situation whereby our businesses and residents will be able to benefit from competitive pricing. Additionally, the ITC system consists of a “pure” fiber optics installation that will provide the users with high quality services. The underground installation should eliminate the periodic outages experienced by other communications providers caused by ice storms, high winds and similar weather conditions prevalent in the Great Plains.

Milbank has recently shown significant growth from both the relocation of new and the expansion of existing business. During the period 2004-2006, a minimum of ten such developments have taken place, providing a variety of additional employment opportunities to continuing and new residents, and millions of dollars of additional taxable value.

Additional economic activity that has been announced includes a major expansion of the State’s largest cheese manufacturing business and construction of a coal-fired power plant costing \$1.8 Billion dollars. These activities, both during construction and upon completion, will bring significant numbers of new residents to Milbank, thus expanding the need for and use of the ITC state-of-the-art communications capabilities.

The expansion of ITC enables Milbank businesses the ability to connect to most other communities in the Midwest through a state-of-the-art fiber network provided by SDN Communications, a partner to ITC. The capability provided by this firm will make our community and region ever more desirable for the relocation or expansion of new businesses, many requiring the latest in communications technology.

On behalf of the Grant County Development Corporation, and community of Milbank, I am urging the FCC, through the Missoula Plan, to recognize the great benefit rural CLEC’s bring to the communities they serve.

“USDA is an equal opportunity employer and lender”. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S. W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice), or (202) 720-6382 (TDD).

George Smith, Executive Director  
7 07 South 5<sup>th</sup> St. Milbank, SD 57252  
Phone (605) 432-6851  
email: glsmith@tnics.com

**GRANT COUNTY ECONOMIC DEVELOPMENT CORPORATION**

We in Milbank are fortunate to have been selected by ITC and SDN communications as a service area. Their ability to provide a broad range of communications services to both existing and new businesses, and residents, will insure the continued growth and development of our community and region.

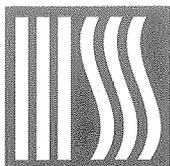
Respectfully submitted,



George L. Smith

Executive Director

Grant County Development Corporation



# Innovative Systems

December 2006

**Subject: The importance of rural Competitive Local Exchange Companies (CLEC)**

To Whom It May Concern:

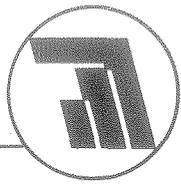
I am the CEO of Innovative Systems, the developer of the Application Peripheral (AP) system used by Independent Telecommunications Companies across the United States and in Canada. As you weigh issues that may harm the viability of Competitive Local Exchange Companies in the future I would like to express the significance of our CLEC, Mitchell Telecom, to our company.

As a Mitchell Telecom customer, Innovative Systems has a multitude of advanced communications services to make our company more efficient and cost effective. Broadband access provides a robust and scalable link to our end users for software releases and loads. This replaces a process that would have seen a constant stream of compact disks shipped to end user sites. Mitchell Telecom also provides a platform to develop, test and perfect new applications, which allows us to have a real world test case as we grow our company's service portfolio. Finally, partnering with our local CLEC has brought a heightened level of customer service and support. Technicians appear onsite with limited response time and give our company the level of service we deserve.

A lack of advanced communications and new technologies for our company would make our business climate more difficult. Partnering with Mitchell Telecom is the solution for both areas and provides a prime example of the impact CLEC's have on a business community. Please do not underestimate this impact. Our experience proves it is a precious asset.

Sincerely,

Roger Musick  
CEO  
Innovative Systems, LLC



# Mitchell Area Development Inc.

P.O. BOX 1087 • MITCHELL, SOUTH DAKOTA 57301 • PHONE (605) 996-1140

December, 2006

**Subject: The importance of rural Competitive Local Exchange Companies (CLEC)**

To Whom It May Concern:

As you weigh issues that may affect the future viability of Competitive Local Exchange Companies, it is important to express the impact of the CLEC to the Mitchell community. We have seen firsthand the economic impact that CLECs can bring in the way of advanced technologies.

Broadband access and competitive telecommunications service options in many ways shrink the distance between rural and urban America. Having these services available in the Mitchell community makes a wider range of future business development viable.

The CLEC, serving our community, Mitchell Telecom, has constructed a fiber-to-the-home network that provides broadband services throughout the community giving existing and prospective entrepreneurs and businesses the ability to be in the market place with customers across the globe. From a development point-of-view, without access to these advanced services it would make it difficult for many businesses to consider expanding into a rural community like Mitchell, South Dakota.

Along with advanced technologies comes the economic development created by having a CLEC in your community. Jobs, construction investment and tax dollars are all byproducts of this type of project, and provide economic impact within the community. Moreover, the sheer magnitude of the dollars invested forces the company to commit to the community on a long-term basis, and lays the foundation for future growth.

Without advanced technologies, the Mitchell community would not have growth potential. Additional jobs, investments, and tax dollars can all be linked to having a CLEC, and it is important to not underestimate this the importance of the future and current impact.

Sincerely,

Bryan Hisel  
Executive Director  
Mitchell Area Development Corporation

November 17, 2006

Northern Valley Communications  
Attn: Jeff Evenson  
2211 8<sup>th</sup> Avenue NE Suite 1101  
Aberdeen, SD 57401

Jeff:

I want to thank you for the incredible service you gave us during our move to another building last month. You and NVC delivered every request without delays. The move involved keeping our same phone numbers and we did not suffer from any service failure when the cutover took place. I really appreciate the fact that you kept in contact with me, updating me with any changes or schedules.

Our company has 17 offices around the country where we deliver packages door to door for a few large clients. I am Manager of Information Systems and oversee everything technical for Wessin Transport. I have dealt with numerous LECs and CLECs over the years and nothing compares to the service and quality we receive from NVC! Our needs are met in every way.

If a potential customer needs voice or data service in your area, give them my information. I would be glad to tell them my experiences.

Sincerely,



Alan Schostag  
Manager of Information Systems  
Wessin Transport, Inc.