

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Comment Sought on Amendments to the Missoula Plan Intercarrier Compensation Proposal to Incorporate a Federal Benchmark Mechanism)	DA 07-738
)	

**COMMENTS
OF THE
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION AND SUMMARY

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the FCC's Public Notice in the above-captioned proceeding.¹ The Public Notice seeks comment on a proposal to incorporate a Federal Benchmark Mechanism (FBM) as an amendment to the Missoula Plan for Intercarrier Compensation Reform (Missoula Plan).² OPASTCO is a national trade association representing over 550 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve

¹ *Comment Sought on Amendments to the Missoula Plan Intercarrier Compensation Proposal to Incorporate a Federal Benchmark Mechanism*, CC Docket No. 01-92, Public Notice, DA 07-738 (rel. Feb. 16, 2007) (Public Notice).

² *Letter from Peter Bluhm, Esq., Vermont Public Service Board; Christopher Campbell, Telecommunications Director, Vermont Department of Public Service; Steve Furtney, Chairman, Wyoming Public Service Commission; Angela DuVall Melton, Esq., Nebraska Public Service Commission; Joel Shifman, Esq., Maine Public Utilities Commission; Joseph Sutherland, Executive Director, Indiana State Regulatory Commission; and the Supporters of the Missoula Plan to Marlene H. Dortch, Secretary, Federal Communications Commission*, CC Docket No. 01-92 (fil. Jan. 30, 2007) (FBM).

over 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

The original Missoula Plan filing recognized the need for an “Early Adopter Fund” to provide funding to states that have already reduced their intrastate access rates. The Plan’s supporters worked with state commissions to develop the FBM, which would target additional funding to states with very high end-user rates and/or state universal service funds that are presumably the result of intrastate access charge reform. The FBM would also reduce the funding obligation of the Restructure Mechanism (RM) by shifting more of an ILEC’s cost recovery to consumers in states that have retained low end-user rates. Thus, the FBM would not only promote equity for “early adopter” states but would also improve end-user rate comparability for customers across all states.

Now that work on the Early Adopter Fund has been completed, the Commission should proceed expeditiously with adoption of the Missoula Plan. Swift adoption of the Missoula Plan is necessary because it provides carriers with a more rational and stable means of recovering network costs in an emerging broadband environment. However, the Plan contains certain “rural” distinctions and other provisions that are essential to it remaining beneficial to the customers of rural rate-of-return (RoR) ILECs. Most important among these provisions is the establishment of the RM, which is critical to rural carriers’ continued deployment of advanced services. The Commission should therefore adopt the RM, along with the rest of the Plan, without modification.

II. THE FEDERAL BENCHMARK MECHANISM WOULD IMPROVE RATE COMPARABILITY FOR CONSUMERS ACROSS ALL STATES WHILE PROMOTING EQUITY FOR EARLY ADOPTER STATES

Within the original Missoula Plan filing, there was recognition of the need for an Early Adopter Fund to provide funding to states that have already reduced their intrastate access rates.³ The Missoula Plan supporters committed resources to work with state commissions to help size the Early Adopter Fund and determine how the fund should work when states have rebalanced access rates through state funds, local rate increases, and/or new line items.⁴ This collaborative effort resulted in the filing of the FBM, which focuses on consumers and the rates they pay today. The FBM would target additional funding to consumers in those states with very high end-user rates and/or state universal service funds that are presumably the result of intrastate access charge reform. In addition, the FBM would reduce the funding obligation of the RM by shifting more of an ILEC's cost recovery to consumers in states that have retained low end-user rates. Thus, the FBM would improve end-user rate comparability for consumers across all states while promoting equity for early adopter states.

Specifically, the FBM would direct funding to consumers in states with end-user rates that come close to or exceed a High Benchmark Target on a carrier by carrier basis.⁵ The FBM funding would be used to replace some or all of the subscriber line charge (SLC) increase that would otherwise occur under the Missoula Plan.⁶ Absent this funding, consumers in these states would face unfairly high end-user rates that are not at

³ *Letter from Tony Clark, Commissioner and Chair, NARUC Committee on Telecommunications, Ray Baum, Commissioner and Chair, NARUC Task Force, and Larry Landis, Commissioner and Vice-Chair, NARUC Task Force, CC Docket No. 01-92 (fil. Jul. 24, 2006) (attaching Missoula Plan), pp. 76-77 (Missoula Plan).*

⁴ *Id.*, p. 76, n. 27.

⁵ FBM, pp. 4-5.

⁶ With respect to Category B funding, it may also be used to help lower end-user contributions to a state universal service fund. *Id.*

all comparable to rates in states that have not taken action to reduce intrastate access charges. In addition, for those early adopter states that did not increase end-user rates, but instead used a state universal service fund to offset the reduction in access rates, limited FBM funding would be available to reduce end-user contributions to those state funds.⁷ In both cases, the FBM would produce a more equitable result by mitigating the impact of the Missoula Plan on consumers that already pay higher rates and fees as a result of their states' access charge reform efforts.

Moreover, the FBM includes a Low Rate Adjustment mechanism that would shift additional cost recovery to consumers in states that have lower end-user rates. Specifically, the Low Rate Adjustment would apply to states where end-user rates are below a Low Benchmark Target.⁸ Carriers in these states would be required to rely on a higher SLC increase to replace some or all of the RM dollars that they would otherwise receive under the Plan.⁹ Thus, the Low Rate Adjustment would further minimize the end-user rate impact on consumers nationwide by reducing the total requirement for RM dollars. This, in turn, would promote greater equity and improve rate comparability among states.

III. THE FCC SHOULD PROCEED EXPEDITIOUSLY WITH ADOPTION OF THE MISSOULA PLAN

Now that the FBM has been filed with the FCC, the Commission should proceed expeditiously with adoption of the Missoula Plan. The original Missoula Plan filing committed the supporters of the Plan to further work on a solution for addressing

⁷ *Id.*, pp. 5-6.

⁸ *Id.*, pp. 6-7.

⁹ *Id.*

phantom traffic¹⁰ as well as an Early Adopter Fund. The phantom traffic solution was submitted in November, 2006¹¹ and the Commission sought comment on the proposal.¹² With the filing of the FBM amendment, the Missoula Plan supporters have now also met their commitment to work with state commissions to size the Early Adopter Fund and to determine how the Fund should operate. Now that those two amendments have been submitted to the Commission, and comment on both have been sought, the Commission can and should move forward with adoption of the Missoula Plan in its entirety.

Swift adoption of the Missoula Plan is necessary because it provides carriers with a more rational and stable means of recovering network costs in an emerging broadband environment. The Missoula Plan is the only intercarrier compensation proposal that is truly comprehensive and that is the product of a diverse group of industry stakeholders with divergent interests. As OPASTCO discussed in its comments on the Missoula Plan, there are certain “rural” distinctions and other provisions of the Plan that are essential to the Plan remaining beneficial to the customers of rural RoR ILECs.¹³ Most important among these is the establishment of the RM, which allows rural RoR ILECs to fully recover lost intercarrier revenues that are not otherwise recovered through increased SLCs. If rural RoR carriers were not permitted to recover all of the lost revenue from the lowering of intercarrier rates, investment in infrastructure and, in particular, the continued

¹⁰ Missoula Plan, p. 60.

¹¹ *Letter from Supporters of the Missoula Plan to Marlene H. Dortch, Secretary, Federal Communications Commission*, CC Docket No. 01-92 (fil. Nov. 6, 2006).

¹² *Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Details Records Proposal*, CC Docket No. 01-92, Public Notice, 21 FCC Rcd 13179 (2006).

¹³ These provisions are: (1) a Restructure Mechanism that enables rural RoR ILECs to fully recover lost intercarrier revenues; (2) the unification of rural RoR ILECs’ inter- and intrastate access charges at interstate cost-based rates; (3) a limit on the obligations of rural ILECs to undertake financial responsibility for the transport of traffic beyond their networks; (4) a broadening of the contribution base for the USF; and (5) an option for rural RoR ILECs in Track 3 to elect Track 2 or Track 1, and to elect incentive regulation. *See*, OPASTCO Comments in CC Docket No. 01-92 (fil. Oct. 25, 2006), pp. 6-11.

deployment of advanced services, would slow considerably. Thus, the RM, and its prescribed calculation, is essential for rural RoR ILECs to meet the FCC's and Congress's goal of ubiquitous broadband availability.¹⁴ The Commission should therefore adopt it, along with the rest of the Plan, without modification.

IV. CONCLUSION

The FBM amendment to the Missoula Plan would improve rate comparability for consumers nationwide and promote equity for early adopter states. Now that work on the FBM has been completed, the Commission should move forward without delay and adopt the Missoula Plan in its entirety, including the RM. The RM, and its prescribed calculation, is essential for rural RoR carriers to continue to deploy infrastructure and meet policymakers' goal of ubiquitous broadband availability.

¹⁴ As Chairman Martin recently stated, “[a] modern and high quality telecommunications network infrastructure is essential to ensure that all Americans, including those living in rural communities, have access to the economic, educational, and healthcare opportunities available on a broadband network.” Remarks of Chairman Kevin Martin at the *en banc* hearing of the Federal-State Joint Board on Universal Service, Washington, DC, p. 2 (Feb. 20, 2007).

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
SMALL TELECOMMUNICATIONS COMPANIES**

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March 19, 2007

CERTIFICATE OF SERVICE

I, Brian Ford, hereby certify that a copy of the comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent on this, the 19th day of March, 2007 by first class United States mail, postage prepaid, or via electronic mail, to those listed on the attached sheet.

By: /s/ Brian J. Ford
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SERVICE LIST
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DA 07-738

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