BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

REPLY COMMENTS

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(MITS)

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April 18, 2011

I. BACKGROUND AND INTRODUCTION

Montana Independent Telecommunications Systems, LLC (MITS) respectfully submits its response to comments filed in FCC Notice of Proposed Rulemaking, FCC 11-13, released February 9, 2011, in which the FCC solicits comments specific to Section XV.

MITS is a statewide association of Montana rural telecommunications providers serving areas that are among the most remote, sparsely populated, and high-cost areas within the continental United States.[1] Their service areas range from approximately 1,000 to 30,000 square miles, with an average population density of 1.6 persons per square mile. MITS members are cooperative or cooperative affiliated companies that provide quality telecommunications and broadband services within these extremely rural areas of Montana.

MITS appreciates the opportunity to respond to comments filed with respect to Section XV: Reducing Inefficiencies and Waste by Curbing Arbitrage Opportunities. We concur with the FCC that action should be taken to eliminate both the opportunities and the incentives for arbitrage within the current intercarrier compensation rules and regulations.

II. COMMENTARY

1. The FCC should immediately determine that interconnected VoIP traffic is subject to the same intercarrier compensation charges as other voice telephone service traffic both today and during any intercarrier compensation reform transition.

[1] MITS members are Nemont Telephone Cooperative, Northern Telephone Cooperative, Project Telephone Company, Triangle Telephone Cooperative Association, Central Montana Communications, InterBel Telephone Cooperative and Mid-Rivers Telephone Cooperative, Inc.

MITS respectfully urges the FCC to promptly confirm that current access charges apply to ALL traffic terminated on the public switched telephone network (PSTN), with no exceptions based on regulatory classification or differences in technology.

MITS agrees with the comments filed by the National Exchange Carrier Assoc. Inc.; National Telecommunications Cooperative Assoc.; Organization for the Promotion and Advancement of Small Telecommunications Companies; Western Telecommunications Alliance; and the Eastern Rural Telecom Assoc. (hereafter referred to as "The Associations"). "It is long past time for the Commission to confirm that under existing law, interconnected VoIP traffic is currently subject to the same intercarrier compensation rules – including the same access charge obligations – as any other voice traffic terminating on the PSTN."[2]

A number of MITS member companies have experienced firsthand the revenue losses and frustration associated with terminating VoIP calls to end subscribers with little or no compensation. They are among the local exchange carriers that have encountered difficulties in not being able to obtain records or data from originating and transiting providers necessary to verify and authenticate call information. They have been involved with ongoing and unresolved billing disputes, complaints, and costly litigation.

Specifically, the MITS companies have lost over a million dollars of uncollected revenues related to terminating VoIP traffic from CommPartners, LLC which, along with

[2] WC Docket 10-90, GN Dkt 09-51, WC Dkt 07-135; WC Dkt 05-337; CC Dkt 01-92; CC Dkt 96-45; WC Dkt 03-109. Comments of the National Exchange Carrier Association, Inc.; National Telecommunications Cooperative Association; Organization for the Promotion and Advancement of Small Telecommunications Companies; Western Telecommunications Alliance; and Eastern Rural Telecom Assoc; (The Associations); p5.

three affiliated companies apparently backed by a Las Vegas investor, filed for Chapter 11 bankruptcy in 2010. [3]

Reviewjournal.com reported on June 16, 2010, that CommPartners, LLC and affiliated companies faced an array of legal and regulatory proceedings with other telecommunications companies in state and federal courts and before state regulatory bodies. Asked about prospects for CommPartners continuing operations after bankruptcy proceedings, it was reported that its attorney Gerald Gordon responded, "That's our intention."[4] There is little economic incentive for companies such as CommPartners to comply with intercarrier compensation rules. Such noncompliance with common rules and regulations has the effect of increasing cost recovery burdens on other providers, increasing costs for consumers, and increasing pressure on the Universal Service fund.

As "The Associations" commented, "Treating a minute of VoIP traffic differently from any other minute of traffic traversing the PSTN will take control of ICC reform entirely out of the Commission's hands and leave it instead at the whim of providers who will self-declare traffic as VoIP and dare others to prove the contrary." [5] That is precisely the experience of the MITS member companies.

Local subscribers increasingly contact MITS companies to relate their experiences with dropped calls and with reduced levels of service quality. They tell of instances when they answer calls only to find nobody on the line. They answer calls and

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[3] *"Las Vegas Telecommunications Companies Seek Bankruptcy"*, Las Vegas Sun, June 14, 2010.
[4] *"Telecom groups run out of cash"*, Las Vegas Review-Journal, June 16, 2010.
[5] WC Docket 10-90, GN Dkt 09-51, WC Dkt 07-135; WC Dkt 05-337; CC Dkt 01-92; CC Dkt 96-45; WC Dkt 03-109. Comments of the National Exchange Carrier Association, Inc.; National Telecommunications Cooperative Association; Organization for the Promotion and Advancement of Small Telecommunications Companies; Western Telecommunications Alliance; and Eastern Rural Telecom Assoc; p 14.

discover that they can’t effectively communicate with the caller. They are perplexed and frustrated. MITS members join in their frustration.

As VoIP markets expand and consumers explore new technologies and devices such as Magic Jack and Skype, it is essential that subscribers be able to make and receive quality communications utilizing these technologies and devices as expected.

Local subscribers relate other problems to MITS member companies. At times, they are not able to receive documents faxed to them. Local businesses complain of difficulties with debit and credit transactions at the point of sale. Often in these cases, it is natural for local subscribers to turn to their local telecommunications company for problem resolution. They are hopeful that their local company will be able to “fix” the problem. The problem, however, cannot be “fixed” by the local exchange carrier, because the root of the problem lies outside of the local carrier’s network. VoIP calls transported via low quality and/or least cost technologies or network routing are often incapable of being successfully delivered end-to-end.

Consumers expect good service, and they should. They expect that communications will be delivered successfully and transparently from the point of origination to the point of termination, and they should. Too often, however, their experience falls short of their expectations.

Calls will continue to be dropped. Calls will continue to be lost. Calls will continue to be undeliverable until VoIP providers accept intercarrier responsibilities rather than avoiding compliance and side-stepping intercarrier obligations.

MITS respectfully urges the FCC to promptly confirm that current access charges apply to ALL traffic terminated on the PSTN, with no exceptions based on regulatory classification or differences in technology.

2. The Commission should immediately adopt call signaling rules and enforcement mechanisms to mitigate phantom traffic.

In 2003, the Montana State Legislature tackled the contentious issue of phantom traffic. It enacted legislation establishing statutory provisions requiring nondiscriminatory treatment of intercarrier compensation, billing records, processes for complaints and enforcement. Montana law currently requires both originating carriers and transiting carriers to transmit with telecommunications traffic sufficient information to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the traffic.[6] In January of 2004, the Montana Public Service Commission adopted administrative rules detailing provider responsibilities related to the records and data that must accompany traffic and be made available to terminating providers.[7]

Since that time, MITS member companies have experienced a significant reduction in phantom traffic terminating on their networks. Most certainly, this reduction is directly related to the 2003 Montana state legislation and the Montana Public Service Commission's endorsement of nondiscriminatory treatment of intercarrier compensation.

MITS respectfully urges the Commission to adopt rules immediately to curtail phantom traffic. Terminating providers must receive detailed information sufficient for them to identify the entities financially responsible for intercarrier compensation. If the

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[6] See 69-3-815 through 69-3-822, Montana Code Annotated.
[7] See 38.5.3101 through 38.5.3105, Administrative Rules of Montana.

traffic fails to contain the required information, the terminating carrier must be allowed to charge its highest terminating rate to the service provider that delivers the traffic.

3. **The Commission should adopt rules to prevent uneconomic traffic stimulation.**

MITS urges the FCC to adopt rules preventing uneconomic traffic stimulation using a clear volume-based threshold to discourage traffic pumping. Upon meeting such thresholds, local exchange carriers should be required to re-file tariffs.

III. CONCLUSION

MITS encourages the Commission to take prompt action to eliminate the opportunities and incentives for arbitrage within the current intercarrier compensation rules and regulations.

RESPECTFULLY SUBMITTED

April 18, 2011 //

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