BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

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
	)	
Federal-State Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Linkup	)	WC Docket No. 03-109

MISSOURI SMALL TELEPHONE COMPANY GROUP REPLY COMMENTS

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May 23, 2011

I. INTRODUCTION

The Missouri Small Telephone Company Group (MoSTCG)[1] is made up of thirty (30) small telephone companies, each serving between approximately 200 and 15,000 access lines in predominantly rural, high-cost areas within the state of Missouri. The members of the MoSTCG are Eligible Telecommunications Carriers ("ETCs") as defined by the Telecommunications Act ("the Act"),[2] and are "small entities" and "small businesses" as defined by the Federal Communications Commission ("Commission" or "FCC").

II. MOSTCG COMPANIES SERVE RURAL MISSOURI

The MoSTCG companies have invested millions of dollars in their rural Missouri networks in order to provide broadband service to their customers, as well as high quality local voice service. The MoSTCG companies have made investments in plant of approximately $600,000,000 and, adjusting for accumulated depreciation, currently have approximately $265,000,000 in net plant in service, including over 28,000 miles of cable. The 166 exchanges served by the MoSTCG companies cover over 12,530 square miles in the state of Missouri. The MoSTCG companies play an essential role in rural Missouri economies by employing approximately 630 people and serving nearly 91,000 access lines.

The MoSTCG companies provide excellent service. In 2010, the Missouri Public Service Commission (MoPSC) opened a docket to examine the quality of wireline service. A review of MoPSC records determined that over the last three (3) years, there were only five (5) customer

[1] *See* Attachment A.

[2] 47 U.S.C. §153(37).

complaints to the MoPSC regarding the MoSTCG companies' quality of service.[3] In other words, the vast majority of the MoSTCG companies had no customer complaints over the last three years. Those few complaints that were lodged were addressed and resolved quickly.

II. REPLY COMMENTS ON THE FCC'S *NPRM*

A. MANY *NPRM* PROPOSALS WOULD HAVE HARMFUL IMPACTS.

The proposals in the FCC's February 9, 2011 Notice of Proposed Rulemaking ("NPRM") to reduce Universal Service Fund (USF) support and eliminate or drastically reduce intercarrier compensation (ICC) would have substantial adverse consequences on small rural rate-of-return companies. In fact, USF high cost support represents 26% of the MoSTCG companies' total revenues, and intrastate switched access revenue represents 19% of the MoSTCG companies' total revenues. Together, USF high cost support and switched access revenue represent nearly half (i.e. 45%) of the MoSTCG companies' total revenue. By comparison, local/retail revenue represents 21% of the MoSTCG companies' total revenue. Thus, raising local rates to replace all or a substantial portion of USF and access revenue is simply not a realistic or reasonable alternative.

Many commenters have expressed serious concerns about the consequences of the NPRM's proposals. For example, the Indiana Utility Regulatory Commission states that the NPRM's reform proposals would "at best, threaten the realization of urban/rural parity required by Section 254(b)(3) and, at worst, result in an outright violation of this legal mandate."[4]

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[3] *See Investigation into the Quality of Service of Wireline Telecommunications in the State of Missouri*, Case No. TO-2011-0047, *Missouri Small Telephone Company Group Amended Summary Report*, filed Dec. 1, 2010.
[4] Indiana Utility Regulatory Commission, Initial Comments, p. 2.

B. UNIVERSAL SERVICE FUND

Numerous initial comments recognize that the USF has been successful in bringing high-quality broadband and telecommunications service to rural America.[5] Moreover, many of the MoSTCG companies have undergone extensive USAC audits over the past few years to ensure that USF support is being used as intended. However, some commenters argue that support should be shifted away from the small, rural independent carriers to the benefit of the large, national carriers. For example, AT&T suggests that the FCC "should eliminate all legacy support over the course of five years and transition support to the Connect America Fund ("CAF") for fixed broadband service and an Advanced Mobility Fund for mobile broadband service."[6] The MoSTCG believes the Commission should use a more careful and measured approach to USF reform that maintains rate-of-return regulation for rural carriers and recognizes the important public policy aspects of universal service.

1. Rate-of-Return Regulation Works.

Many commenters recognize the continued viability of rate-of-return regulation.[7] These commenters recognize that rate-of-return regulation is still an effective and efficient method of distributing universal service support. Indeed, rate-of-return regulation has allowed the MoSTCG companies to provide broadband service to their rural service territories. Specifically, the MoSTCG companies have broadband facilities available to customers to provide approximately 99% of them

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[5] Indiana Utility Regulatory Commission, Initial Comments, p. 24 ("[T]he FCC needs to acknowledge and continue to support the broadband deployment that has already taken place in rural areas through assistance of the USF."); Utah Public Service Commission, pp. 1-2 ("In short, rural telecommunications companies and the regulatory community have been generally successful.").
[6] AT&T, Initial Comments, p. 6.
[7] *See e.g.* CoBank, ACB, Initial Comments, p. 6; Telecommunications Association of Maine, Initial Comments, p. 3.

with download speeds up to 1.5 mbps, approximately 89% of them with download speeds up to 3.0 mbps, approximately 78% with download speeds up to 6.0 mbps, and 53% with download speeds over 6.0 mbps. Thus, rate-of-return regulation has worked in rural Missouri, and the MoSTCG companies support its continued use.

Against all empirical evidence to the contrary, however, the largest incumbent carriers urge the Commission to eliminate "legacy" rate-of-return regulation in favor of "a new regulatory compact."[8] For example, Verizon argues that "fundamental changes" are necessary because rate-of-return regulation was not designed to promote efficiency or innovation.[9]

It is clear both in Missouri and nationwide that while the small rate-of-return carriers were making the necessary investments to provide broadband in their rural service territories, the larger carriers such as AT&T and Verizon (as well as Sprint and ALLTEL when they owned landline networks) failed to upgrade (or simply sold off) their rural service areas. Instead, the large price cap companies have focused their investment on mergers and wireless ventures. It would be poor public policy to reward those companies that have failed to meet their universal service obligations at the expense of the rate-of-return companies that fulfilled their obligations. The model advocated by the large carriers is the same model that has been available to the large carriers for over a decade. These carriers promised innovation and investment when they were granted price cap status (or other forms of relaxed regulation), yet their rural service areas are the ones lacking broadband, not those of the rural companies. This rural-rural divide highlights the fact that rate-of-return regulation has been far more successful in bringing broadband to rural areas.

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[8] AT&T, Initial Comments, p. 3.

Essentially, the RBOCs propose eliminating the rate-of-return system that is working and keeping the "incentive" mechanism that failed. Clear conclusions should be drawn from the history of these two systems and their results. No rational reform would replace a clearly successful program with a failed program.

2. Universal Service and Public Policy

Universal Service is more than just a communications issue. It is also an economic development issue. If the statutory requirements for universal service (advanced services, comparable rates) are not met, then rural America will fall behind urban America in technological capabilities and fall behind in the ability to attract commerce. Universal Service also presents socioeconomic issues. For example, MoSTCG companies provide distance learning opportunities in their rural exchanges, enhancing the class choices of rural students. As rural school districts face continued economic challenges, distance learning is likely to take an even larger educational role in our future. Likewise, some MoSTCG companies offer telemedicine opportunities to rural health care providers and clinics, increasing access to physicians and specialists.

Universal Service presents a successful economic stimulus model. As the federal government continues to examine methods to stimulate the economy, the MoSTCG's use of USF support provides an excellent example of an audited and effective government program. USF support currently provides moneys for jobs and the building and maintenance of a viable broadband network. This is money well spent.

Finally, many recipients of Universal Service have financed their telecommunications

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[9] Verizon and Verizon Wireless, Initial Comments, p. 53.

operations through loans from government or cooperative entities such as the Rural Utilities Service (RUS) or CoBank. The proposed modifications to eliminate or reduce USF support will negatively impact their ability to meet these financing obligations or obtain access to debt capital.[10]

C. INTERCARRIER COMPENSATION

1. Per-Minute Compensation

The Joint Board and many other commenters support the continued use of per-minute compensation. The Joint Board explains that "functionally equivalent intercarrier compensation services should be offered at a single rate to all purchasers of network access at a single location[,][11] and the Joint Board cautions that "prescribing zero rates for intercarrier compensation would greatly increase the burden on federal and state USFs."[12] However, a few commenters propose the elimination of per-minute compensation. For example, AT&T suggests that the FCC should "completely eradicate the antiquated ICC system" and "unify, reduce, and ultimately eliminate ICC charges while providing opportunities for carriers to recover their lost revenues through gradual increases to artificially low end-user charges and through targeted USF support."[13]

The MoSTCG continues to believe that per-minute intercarrier compensation, at a reformed or unified rate between jurisdictions, is an appropriate mechanism for recovering the costs incurred by rural carriers to provide a network that is used by other carriers. Per-minute compensation sends an appropriate price signal to recognize that there is a cost to provide rural networks. Those providers that use more of the service (and impose more costs) should pay more, just as with other

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[10] *See e.g*. CoBank, ACB, Initial Comments, p. 6.
[11] Joint Board, Initial Comments, p. 147.
[12] *Id*. at p. 149.
[13] AT&T, Initial Comments, pp. 5-6.

utility services such as electricity, natural gas, and water. The costs to build and maintain rural networks are the same no matter what type of "minutes" are being delivered to those rural networks, and per-minute compensation is an appropriate, logical, and lawful means to recover those costs.

2. Reducing IntraLATA Access Rates to InterLATA Access Rate Levels

Many commenters agree that the Commission should reduce intrastate rates to interstate levels. The MoSTCG supports the voluntarily reduction of intrastate access rates to interstate levels. However, this transition must occur over a reasonable period of time and be accompanied by a revenue recovery mechanism to avoid excessive and unsustainable rate increases incurred by the subscribers served by Missouri's small rural telephone companies. The MoSTCG concurs with the MoPSC's recommendation for gradual reductions to intrastate access rates over a minimum of five years in order to prevent sudden increases in local rates.[14]

In 2010, an analysis was performed by all of Missouri's small rural companies to provide the Missouri Legislature with information about the impacts of reducing intrastate access rates to interstate levels.[15] This study demonstrated that the revenue impact of decreasing originating and terminating intrastate access rates to interstate rate levels would result in an annual reduction of $22,890,660 to Missouri's small companies. If this revenue loss were to be recovered solely from residential users, the average rate increase for small Missouri telephone companies would be 93.5% and result in a $15.22 rate increase.[16]

Intercarrier compensation is a vital component of the rate-of-return carriers' revenue recovery. If the Commission takes unilateral action to reduce intercarrier compensation without an

[14] Missouri Public Service Commission, Initial Comments, p. 20.

overall examination of the RoR carriers' earnings, then the FCC must ensure revenue neutrality. Thus, it is essential to include an appropriate revenue recovery mechanism to allow a deliberate and measured transition.

3. Bill-and-Keep or $0.0007 Compensation Rates

AT&T proposes that interstate and intrastate access charges be "eliminated altogether" in favor a "bill-and-keep" scheme.[17] Verizon suggests that the FCC should "immediately establish a single low rate of $0.0007 for all VoIP traffic that connects with the PSTN."[18] Verizon also proposes that the FCC should begin rapidly transitioning all intercarrier compensation rates down to the VoIP rate – a default rate of $0.0007 per minute for all carriers and all traffic that terminates to the PSTN regardless of the terminating carrier's legacy regulatory status or the jurisdictional end points of the call."[19]

AT&T and Verizon's proposals are unreasonable and confiscatory. AT&T's bill-and-keep would eliminate a substantial part of rural carriers' revenue recovery mechanism by allowing other carriers to use rural networks for free. Likewise, an arbitrary $0.0007 rate would not cover the MoSTCG companies' costs of billing for the traffic, much less any costs for the use of their networks. In an arbitration proceeding held before the Missouri PSC in 2005 and 2006, using TELRIC cost studies, the Missouri Commission determined individual reciprocal compensation rates for many of the MoSTCG companies with rates based on forward-looking costs varying between

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[15] This analysis includes other Missouri small companies in addition to the MoSTCG companies.
[16] *See* Attachment B.
[17] AT&T, Initial Comments, pp. 30-31.
[18] Verizon, Initial Comments, p. 3.
[19] *Id*.

$0.0054 and $0.041 per minute.[20] Thus, imposing bill-and-keep or a $0.0007 rate would be confiscatory and discourage network investment. Furthermore, a bill-and-keep system would be unlawful as it assumes traffic between carriers is balanced, and there is no evidence of such a balance of traffic for the MoSTCG companies. Accordingly, a per-minute intercarrier compensation rate should be maintained in order to ensure competitive neutrality and provide cost recovery for rural networks.

4. Revenue Recovery Mechanism

Intercarrier compensation revenues represent a significant portion of rural carriers' regulated revenue stream.[21] Therefore, it is necessary to design an appropriate revenue recovery mechanism for any revenues lost as a result of ICC reform. Under the existing regulatory process, revenue recovery mechanism must allow small, rural rate-or-return carriers to remain revenue neutral. Otherwise, the changes could result in a regulatory taking and threaten the viability of the small carriers.

Both the Missouri and federal Constitutions prohibit the confiscation of a public utility company's property by depriving the utility from receiving reasonable compensation for the use of its facilities and services, particularly where that company is still subject to federal and state mandates to be the carrier of last resort (COLR), comply with CALEA and CPNI requirements, and meet numerous other regulatory requirements. The Supreme Court has explained, "If the rate does not afford sufficient compensation, the State has taken the use of utility property without paying just

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[20] *In the Matter of the Petition for Arbitration of Unresolved Issues in a Section 251(b)(5) Agreement with T-Mobile USA, Inc.*, Case No. TO-2006-0047, *Arbitration Order*, issued March 23, 2006.
[21] *NPRM* ¶567.

compensation and so violated the Fifth and Fourteenth Amendments."[22] Thus, the MoSTCG member companies have a constitutional right to a fair and reasonable return upon their investment in rural telecommunications networks. The Commission and the MoPSC have a legal responsibility to ensure that the small rural ILEC's network facilities are not utilized in a manner that is confiscatory.[23] Therefore, any changes to small rate-of-return ILEC's revenue streams must be accompanied by a predictable and sufficient replacement mechanism.

5. Rating and Routing of Traffic

CTIA urges the FCC to grant Sprint's petition seeking a finding that rural LECs have the obligation to treat Sprint's numbers as "local" in the absence of a direct interconnection and that "ILECs may not refuse to load numbering resources of an interconnecting carrier [or] refuse to honor the routing and rating points designated by such a carrier."[24]

Sprint's proposal would force small rural ILECs and their limited customer base to bear Sprint's costs of doing business in rural Missouri. Sprint should invest its own money in rural areas or establish agreements for the transport of its traffic rather than try and shift its costs to rural companies. Wireless carriers that choose to interconnect indirectly with rural ILEC networks should bear the costs of transport beyond the rural ILEC's service area.[25]

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[22] *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 308, 109 S.Ct. 609, 102 L.Ed.2d 646 (1989).
[23] *Smith v. Illinois Bell*, 270 U.S. 587, 591-92, 46 S.Ct. 408, 70 L.Ed 747 (1926).
[24] CTIA, Initial Comments, p. 44.
[25] *See* MoSTCG Reply Comments in CC Docket No. 01-92, July 20, 2005, pp. 10-14.

III. CONCLUSION

The MoSTCG continues to support common sense reform of the USF and intercarrier compensation. Such reform should maintain per-minute intercarrier compensation and allow small rural carriers to continue operating under rate-of-return regulation. Reductions in access rates must be accompanied by a predictable and sufficient revenue recovery mechanism.

Respectfully submitted,

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ATTACHMENT A

Alma Communications Company
BPS Telephone Company
Chariton Valley Telephone Corporation
Choctaw Telephone Company
Citizens Telephone Company of Higginsville, Mo.
Craw-Kan Telephone Cooperative, Inc.
Ellington Telephone Company
Farber Telephone Company
Fidelity Telephone Company
Goodman Telephone Company
Granby Telephone Company
Grand River Mutual Telephone Corp.
Green Hills Telephone Corp.
Iamo Telephone Company
Kingdom Telephone Company
Lathrop Telephone Company
Le-Ru Telephone Company
Mark Twain Rural Telephone Company
McDonald County Telephone Company
Miller Telephone Company
MoKan Dial, Inc.
New Florence Telephone Company
Northeast Missouri Rural Telephone Company
Oregon Farmers Mutual Telephone Company
Otelco, Inc. Mid Missouri Division
Ozark Telephone Company
Peace Valley Telephone Co., Inc.
Rock Port Telephone Company
Seneca Telephone Company
Steelville Telephone Exchange, Inc.

ATTACHMENT B

Missouri Small Telephone Companies & Rural CLECs
Relevant Information Regarding the Impact of Access Reform
Decreasing Originating and Terminating Intrastate Access to Interstate Rates
Based on 2008 Data and Rates

1/28/2010

Company Name	Total Current Charge for Residence Local Service[1]	Additional Monthly Revenue Per line Impact-Decreasing Originating and Terminating State Access Rates to Interstate Levels	Total Potential Charge for Residence Local Service	% Increase to Current Residence Local Service to Recover Lost Access	Annual Revenue Impact of Decrease of State Access to Interstate Levels
Company 6	$ 13.00	$ 6.58	$ 19.58	50.6%	$ (26,227)
Company 7	$ 13.44	$ 15.87	$ 29.31	118.1%	$ (640,588)
Company 8	$ 18.50	$ 14.10	$ 32.60	76.2%	$ (1,179,419)
Company 9	$ 16.40	$ 7.41	$ 23.81	45.2%	$ (44,094)
Company 10	$ 14.75	$ 16.62	$ 31.37	112.7%	$ (710,622)
Company 11	$ 12.50	$ 10.39	$ 22.89	83.1%	$ (281,337)
Company 12	$ 13.20	$ 23.85	$ 37.05	180.7%	$ (569,298)
Company 13	$ 13.34	$ 6.56	$ 19.89	49.2%	$ (518,431)
Company 14	$ 16.25	$ 22.50	$ 38.75	138.4%	$ (49,133)
Company 15	$ 16.75	$ 13.07	$ 29.82	78.0%	$ (2,305,985)
Company 16	$ 14.10	$ 8.04	$ 22.14	57.0%	$ (159,020)
Company 17	$ 15.10	$ 9.01	$ 24.11	59.7%	$ (233,302)
Company 18	$ 15.74	$ 16.29	$ 32.03	103.5%	$ (2,470,956)
Company 19	$ 19.50	$ 21.97	$ 41.47	112.7%	$ (852,409)
Company 20	$ 19.50	$ 20.34	$ 39.84	104.3%	$ (113,735)
Company 21	$ 21.00	$ 11.01	$ 32.01	52.4%	$ (124,633)
Company 22	$ 23.45	$ 15.61	$ 39.06	66.6%	$ (907,408)
Company 23	$ 13.75	$ 16.62	$ 30.37	120.8%	$ (270,182)
Company 24	$ 13.65	$ 1.52	$ 15.17	11.1%	$ (24,843)
Company 25	$ 17.00	$ 15.41	$ 32.41	90.7%	$ (291,842)
Company 26	$ 15.50	$ 21.11	$ 36.61	136.2%	$ (1,010,225)
Company 27	$ 12.25	$ 12.66	$ 24.91	103.3%	$ (558,634)
Company 28	$ 15.50	$ 14.83	$ 30.33	95.7%	$ (162,864)
Company 29	$ 12.40	$ 2.23	$ 14.63	18.0%	$ (20,344)
Company 30	$ 12.25	$ 13.96	$ 26.21	114.0%	$ (65,841)
Company 31	$ 18.80	$ 10.87	$ 29.67	57.8%	$ (110,302)
Company 32	$ 16.50	$ 17.14	$ 33.64	103.9%	$ (1,494,923)
Company 33	$ 19.75	$ 3.94	$ 23.69	19.9%	$ (34,333)
Company 34	$ 14.50	$ 17.88	$ 32.38	123.3%	$ (225,774)
Company 35	$ 14.50	$ 42.17	$ 56.67	290.8%	$ (1,837,876)
Company 36	$ 13.00	$ 1.61	$ 14.61	12.4%	$ (42,367)
Company 37	$ 13.00	$ 44.85	$ 57.85	345.0%	$ (268,034)
Company 38	$ 11.90	$ 1.79	$ 13.69	15.1%	$ (35,940)
Company 39	$ 14.60	$ 8.37	$ 22.97	57.3%	$ (301,698)
Company 40	$ 15.45	$ 31.70	$ 47.15	205.2%	$ (1,671,255)
Company 41	$ 15.25	$ 32.24	$ 47.49	211.4%	$ (540,061)
Company 42	$ 14.00	$ 8.98	$ 22.98	64.2%	$ (257,037)
Company 43	$ 23.83	$ 5.20	$ 29.02	21.8%	$ (213,554)
Company 44	$ 16.50	$ 14.36	$ 30.86	87.0%	$ (1,862,623)
Company 45	$ 14.00	$ 30.83	$ 44.83	220.2%	$ (146,874)
Company 46	$ 13.00	$ 33.17	$ 46.17	255.1%	$ (117,419)
Company 47	$ 15.55	$ 12.46	$ 28.01	80.1%	$ (139,216)
Average Small Telco and Rural CLEC	$ 16.27	$ 15.22	$ 31.49	93.5%	$ (22,890,660)

[1] Includes Basic Service Charge, Touch Calling, Mandatory EAS and Mileage Charges and Federal Subscriber Line Charge