ANALYSIS OF DEFICIENCIES OF MISSOULA PLAN

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1. Advocates of the Missoula Plan claim that intercarrier compensation (ICC) rates need to be unified to reduce arbitrage opportunities. At the end of the day, the Missoula Plan doesn't result in unified rates. The greatest disparity in ICC rates today exists within Track 3 (rural carriers). This is not solved by the Plan. Under the Missoula Plan there still exists a great disparity in rates between tracks and within Track 3.[1] Track 3 ICC rates are only unified at the company level; there is no national target rate. In fact, the Missoula Plan allows some interstate Track 3 rates to rise. As a result, opportunities for arbitrage of ICC rates will continue to abound.

2. The Missoula Plan favors legacy landline companies at the expense of other telecommunications providers and consumers. ICC revenues of legacy landline companies have been declining at 5% per year. However, Missoula Plan freezes ICC revenues at past year level and ensures recovery of these revenues from other telecom providers (through increased USF contributions) and consumers (through higher SLCs and USF contributions). In essence, the Missoula Plan becomes a revenue preservation mechanism for the legacy landline companies, insulating ICC revenues from competition.

3. There is no sharing of the burden of reducing ICC rates between carriers and consumers. Legacy landline carriers ensure that they are made whole and the entire burden ultimately falls on end users. Under Missoula Plan ICC rates are reduced $6 billion, while end user rates go up $6.9 billion: $4.7 billion increase in the subscriber line charge (SLC); $1.5 billion increase in USF (Restructure Mechanism); $0.225 billion increase in Low Income Fund; $0.3 billion increase in High Cost Loop Fund; and $0.2 billion for Early Adopter Fund.

4. The Missoula Plan does not require any pass through of reductions in ICC rates to end users. Although the Plan calls for reduction in ICC rates of $6 billion over four years - principally to long distance carriers - there is no guarantee that these reductions will find their way to customers. This is especially true since the long distance industry has virtually ceased to exist as an independent, highly competitive market, and major long distance providers have been acquired by legacy landline companies SBC and Verizon.

5. The Missoula Plan improperly preempts the authority of the states over intrastate ICC rates. Although the Plan is cast as having "optional elements," the basis of the plan is complete FCC preemption of authority over ICC rates, both interstate and intrastate. There is no basis in law for such an abrogation of power. Sections 152(b) and 251(d)(3) of the Telecom Act specifically reserve to the States authority over in-state rates.

[1] The average Track 2 target rate of $0.01 per minute of use (MOU) is twenty (20) times higher than the Track 1 target rate of $0.0005 per MOU. The Track 3 average rate of $0.018 per MOU is thirty-six (36) times higher than Track 1 and is made up of a different target rate for each rural company. The individual company rates range from $0.003 per MOU to $0.089 per MOU.

6. The basis of the Restructure Mechanism contained in Missoula Plan is opaque, and the supporters of the Plan cannot even agree on its foundation. If the basis is Sections 201 and 251 of the Telecom Act (interconnection), then there is no authority to assess other carriers to pay for lost revenue. If the basis is Section 254 of the Telecom Act (USF), then equal support must be provided to CETCs, ballooning the estimates of the cost of the Plan.

7. Increases in the USF under the Missoula Plan are improper. Rebasing of the cap on the High Cost Loop Fund has nothing to do with ICC reform except as a bribe to get rural carrier support. Moreover, the estimated $0.3 billion increase in the High Cost Loop Fund is understated since it does not include equal payments to CETCs. The addition of $0.225 billion to the USF for increased Low Income Support is improper since it amounts to a double count. Even assuming that $6 billion is the correct ICC replacement target, it should not require recovery of $6.225 billion to account for Low Income Support.

8. The $0.2 billion estimate for the Early Adopter Fund is laughably inadequate. If the Missoula Plan truly intends to recompense states for past actions to reduce access, the Early Adopter Fund is likely to increase tenfold.

9. The increase in the USF required by the Missoula Plan is unsustainable. The current USF amounts to $7 billion a year and the USF assessment factor is over 10%. Adoption of the Missoula Plan would result in a 32% increase in the entire USF, from $7 billion to $9.225 billion, with a concomitant increase in the assessment factor. A more realistic view of the increases required by the Plan would result in an even higher USF.

10. Consumer savings claimed by the proponents of the Missoula Plan are spurious. Exhibit 1 to the Executive Summary of the Plan, which shows savings to most consumers, is totally deceptive and misleading. All savings are based on 100% flow through of access reductions to end user long distance rates, and adoption of a radically different USF assessment system, the basis of which is not revealed. Taking the Missoula Plan exactly as written (no flow through of savings, 32% increase in USF), and applying it to the current system of USF, results in increases in bills for all customers.

11. Under the Missoula Plan, all SLCs for Track 1 companies (88% of all lines in the United States) may increase to $10 in the fifth step of the Plan, and rise by the rate of inflation thereafter, regardless of the revenue loss caused by reductions in ICC rates. This amounts to backdoor deregulation of local rates and unjust enrichment of legacy landline companies. The increase in the SLC to $10 and above will most impact rural customers in states with low SLCs currently, such as California and Iowa. The SLC will rise from $3.84 to $10.00 in the District of Columbia.