The Missoula Plan

The Cable Industry's Objections

Washington Utilities and Transportation Commission

October 3, 2006

- Intercarrier Compensation Reform Should Promote Facilities-Based Competition.
  - Cable operators have invested over $100 billion since 1996, to provide a full suite of digital video, broadband, and phone services.
  - By the end of the year, telecommunications service provided by cable operators will be available to over 85 million households nationwide.
  - Cable's entry into the telecom market has produced tangible savings for consumers. According to a recent J.D. Power report, cable phone customers save an average more than $10 per month on their wireline phone bills.

- Cable Operators Support Rational Intercarrier Compensation Reforms.
  - Equalize charges for call termination to minimize arbitrage.
  - Adopt rules for passing accurate signaling information and, where appropriate, billing information to reduce so-called phantom traffic.
  - Provide transitional support for rural companies where regulators maintain control of overall company earnings, but *not* for companies that are spending billions to build video infrastructures to increase their revenue streams.
  - Ensure that ILEC transit services continue to be provided pursuant to section 251 interconnection agreements.

- The Missoula Plan Does Not Promote Facilities-Based Competition and Should Not Be Adopted.
  - The Missoula plan would make it more difficult and more expensive for cable operators to continue providing benefits to consumers.
    - By increasing the costs of interconnection and transit significantly over existing arrangements.
    - By increasing the USF surcharges to consumers in order to shield ILECs from the effects of competition.
    - Through the potential for imposition of call termination charges in the absence of an interconnection agreement.

- The Missoula Plan is Extremely Complex and Administratively Burdensome for Competitors.
  - The current intercarrier compensation regime relies on a series of arbitrary regulatory distinctions that have no economic or technical basis.
  - Despite claims to the contrary, the Missoula Plan does not improve on this situation.
  - The plan continues to distinguish between local and long distance calls; it maintains different local calling areas for different technologies; and it includes numerous unwarranted distinctions between incumbents and competitors.
  - This sort of complexity imposes real costs on new entrants (such as billing systems and trunking arrangements) and thereby discourages competitive entry.

- The Missoula Plan Fails to Provide Needed Clarity Regarding the Rights and Obligations of IP-Based Communications Providers.
  - **Cable operators, like all other telecommunications providers, increasingly are using IP technologies in their networks.**
  - **The Missoula Plan is completely silent on the treatment of calls that begin and end on IP networks.**
  - **It is equally silent on the consequence, if any, when a LEC transitions from circuit-switched technology to IP technology.**
  - **There is no clear statement that VoIP providers are entitled to receive compensation when they terminate calls.**
  - **In an IP world, the lack of clarity on the treatment of IP services and networks provides a disincentive for additional investment.**

- The Missoula Plan Inappropriately Deregulates Incumbent LEC Provision of Transit Service.
  - **Transit service is absolutely essential for cable operators and other facilities-based competitors.**
  - **Given the absence of competition, transit services should be regulated under section 251 and provided at cost-based rates pursuant to interconnection agreements.**
  - **Rather than imposing the necessary regulation, the Missoula proposal would establish an unreasonably high rate cap for transit services, which would disappear after a limited period of time, without any showing that competition exists.**
  - **The lack of any meaningful constraint on transit rates will result in cost increases for cable operators and other facilities-based competitors, and thereby reduces the benefits to consumers from competitive entry.**

- The Interconnection Rules Contained in the Missoula Plan are Unreasonably Discriminatory.
  - **One of the biggest challenges that cable operators have faced is establishing appropriate interconnection arrangements with incumbent LECs.**
  - **Although the *Intercarrier Compensation* proceeding provides an opportunity to bring much needed clarity to this area, the Missoula Plan does not capitalize on this opportunity.**
  - **Allowing incumbent LECs to designate the "edge" of their networks creates the potential for them to significantly increase the cost to competitors of existing interconnection arrangements at other points in the network.**
  - **The rules governing interconnection between Track 3 carriers and competitors are blatantly discriminatory because they place all of the responsibility for the cost of these arrangements on competitors.**

- The Proposed Restructure Mechanism is Inherently Unfair to Competitors and Should be Scaled Back Significantly.
  - The Restructure Mechanism is exactly like a universal service fund, except that it is not open to competitive providers and therefore violates federal law.
  - The proposed Restructure Mechanism is inherently anticompetitive because competitors must match the access charge reductions of incumbents (and in some cases charge even less), without the benefit of the offsetting funds.

- The Proposed Restructure Mechanism is Inherently Unfair to Competitors and Should be Scaled Back Significantly.
  - Moreover, the entire premise that incumbent LECs must be compensated dollar-for-dollar for any access charge reductions is flawed because it ignores the numerous alternative revenue streams (such as long distance service, DSL service, and video services) that incumbent LECs have developed to recover the costs of their networks.
  - In a marketplace where companies compete for packages of multiple services, providing the incumbent with revenue streams that are not available to competitors unfairly tips the scales and unquestionably discourages competitive entry.