Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket 01-92
Compensation Regime	)	DA 06-1510

REPLY COMMENTS OF THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

The Washington Utilities and Transportation Commission (WUTC)[1] submits these comments in response to those filed in the above-referenced proceeding addressing the Missoula Intercarrier Compensation Reform Plan ("Missoula Plan" or "Plan"). At the outset, we commend the efforts of industry stakeholders, and the NARUC Intercarrier Compensation Task Force working as a facilitator, to reach an agreement on a comprehensive plan to address intercarrier compensation issues. However, as discussed below, the WUTC continues to have concerns with the Plan and urges the Federal Communications Commission ("FCC" or "Commission") to continue to work with state commissions and others to resolve them.

Indeed, no solution can be perfect and final for such a complex and difficult subject -- one that has been the focus of extensive controversy and litigation since the passage of the 1996 Telecommunications Act. Moreover, the rapid movement toward an internet protocol (IP)-enabled telecommunications network, in which switched access charges are absent, is widening the fissures in the currently broken system of intercarrier payments based on the traditional regulatory construct of "calling party pays" (instead of a bill-and-keep construct). The current system is not functioning properly, and encourages arbitrage and gaming against the interests of carriers or consumers. *See* Comments of the Supporters of the Missoula Plan, CC Docket 01-92 (October 25, 2006), at 4.

We agree with the Missoula Plan supporters that reform has to be comprehensive, meaning that the issues of intercarrier payments must be linked to issues of network interconnection, phantom traffic, and the size and scope of federal and state universal service mechanisms. A piecemeal

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[1] The WUTC regulates the rates, practices, and facilities of telecommunications companies providing intrastate services within the State of Washington. Wash. Rev. Code ch. 80.36.

approach is neither economically efficient nor in the public interest, since it encourages further gaming and plays to the parochial interests of individual carriers.

For this reason, we join the California Public Utilities Commission (CPUC) and others in support of a comprehensive solution to phantom traffic, the establishment of an interim interconnection agreement, and the method of Edge interconnection. *See* Comments of the State of California and California Public Utilities Commission ("CPUC Comments"), CC Docket 01-92 (October 25, 2006), at 4-7. In particular, we recognize the urgency of an overall solution to phantom traffic, including new call signaling rules and expedited review procedures. Based on WUTC staff analysis, the impact of phantom traffic on the rural independent local exchange carriers (ILECs) in Washington is substantial. We urge the Commission to assign a high priority to consideration of the proposal contained in Attachment 10 of the Missoula Plan.

However, we continue to have serious concerns about other aspects of the Plan, including its proposed preemption of state authority over intrastate access charges, the impact of federal subscriber line charge (SLC) increases on consumers, and the ability of carriers to target such increases to particular customer classes. The Plan lacks a clear, mandatory flow-through mechanism for the revenue access reductions to all consumers. This is especially important in light of the continuing reduction in declining minutes of use for intrastate toll traffic. The Plan also lacks a cost-based rationale for the specific rates (for origination, termination, and tandem transit) identified in the Plan for Tracks 1, 2, and 3. The new rules associated with the interconnection architecture, centered in ILEC tandem switches, could work to the distinct disadvantage of the competitive local exchange carriers (CLECs). We also share the CPUC's concern regarding the use of cost-based rates as the default unified rates, and its concerns regarding the re-indexing of the High-Cost Loop (HCL) support. CPUC Comments, at 11-13, 16-19.

The WUTC estimates the loss of access revenues in Washington State to be in the range of $150 million per year. This consists of approximately $140 million from the ILECs, and at least $10 million from the CLECs. However, this analysis does not incorporate specific data from carriers that are not jurisdictional to the WUTC, such as wireless carriers and cable/VOIP carriers. Therefore, the WUTC regards its estimate of access reduction to be a conservative number.[2] Moreover, it is very difficult to estimate the specific

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[2] Because such state-specific information is essential for the FCC to make a fully-informed decision that appropriately balances the interests of states, consumers, and carriers, we respectfully urge the Commission to require such data from all affected carriers, and provide

impacts on capital investment by the wireless carriers and the cable/VOIP carriers in Washington State that would be caused by the new interconnection rules based on the Edge concept since the ILECs have substantial discretion in identifying the relevant tandem switches and point of interconnection. These carriers would likely face significant investment costs as a result of the Plan's interconnection rules.[3]

Many states have commented on the Plan's impacts on consumers, especially low-income consumers and others who do not purchase bundled packages, and we share those concerns. *See, e.g.,* Comments of the Iowa Utilities Board, Docket 01-92 (October 25, 2006); Comments of the Pennsylvania Public Utility Commission, Docket 01-92 (October 25, 2006), at 10-14; Comments of the Public Service Commission of the State of Missouri, Docket 01-92 (October 25, 2006), at 46-47. Although the supporters of the Plan have provided economic analysis to demonstrate its purported benefits to consumers, we believe that such benefits may not be realized because they are discretionary to the carrier, and because minutes of use for toll traffic (both interstate and instrastate) have been steadily declining due to the popularity of flat rates and bundled packages by VOIP and wireless carriers. As noted above, we agree with the Wisconsin Public Service Commission that the Plan needs to provide a mandatory flow-through mechanism for cost savings in the Plan. *See* Initial Comments of the Public Service Commission of Wisconsin on the Missoula Intercarrier Compensation Reform Plan, CC Docket 01-92 (October 25, 2006) at 10-13.

While the Missoula Plan represents a good-faith attempt by many parties to resolve longstanding issues, we believe the proposal has not yet succeeded in doing so. Moreover, the WUTC has not been able to obtain the state-specific information from the affected carriers outside its jurisdiction necessary to assess the specific impacts on consumers and carriers in our state. We urge the Commission to continue to work with state commissions and others on a comprehensive approach to intercarrier compensation reform that addresses these concerns.

Respectfully submitted,

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a process through which state commissions can then evaluate and comment on -- and the FCC can review -- such information.

[3] We note that the current Early Adopter Fund (EAF)/Federal Benchmarking proposal does not set forth either sufficient EAF support ($200 million) or fair eligibility criteria. We are aware of a revised EAF plan that could provide Washington carriers with an additional $25 million. However, we have not yet verified those numbers or undertaken a more granular analysis at the local exchange level that takes into account EAS and other additives that vary substantially by carrier.

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