BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FCC Intercarrier Compensation - Workshop and Solicitation of Comments On the Missoula Plan	:	Docket No. M-00061972

COMMENTS OF THE
RURAL TELEPHONE COMPANY COALITION

I. INTRODUCTION

On August 23, 2006, the Pennsylvania Public Utility Commission ("Commission") entered an Order on the Missoula Plan (also referred to as "the Plan") recently submitted to the Federal Communications Commission. The Commission requested interested parties to submit their respective presentations and/or materials to the Commission no later than close of business on Tuesday, September 5, 2006. Once comments are received, the Office of Administrative Law Judge will conduct a public workshop and facilitated discussion on Monday, September 11, 2006.

The Pennsylvania Rural Telephone Company Coalition ("RTCC")[1] hereby files these comments before the Commission in response to that Order.[2] The RTCC supports the principles of the Missoula Plan. While the individual rural companies that make up the RTCC may not agree with all of the piece-parts included in the Plan, they do agree that access charge reform must be carefully undertaken to ensure that universal service to rural areas is not threatened. As such, access reform remains a process which requires integration of a multitude of components.

There are three fundamental RLEC sources of revenue -- access charges, toll charges and local service. Revenue allocations for telephone companies in Pennsylvania have been guided by the concept of "residual pricing," whereby, in the instance of a proposed rate increase, revenue increases from all other sources are maximized and only the remaining

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[1] For purposes of providing comments to the Commission in this state proceeding, the RTCC comprises the following rural incumbent local exchange carriers: Armstrong Telephone Company - PA, Armstrong Telephone Company-North, Buffalo Valley Telephone Company, Citizens Telephone Company of Kecksburg, Commonwealth Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company d/b/a D&E Telephone Company, Deposit Telephone Company, Hickory Telephone Company, Ironton Telephone Company, Lackawaxen Telecommunications Services, Inc., Laurel Highland Telephone Company, Mahanoy & Mahantango Telephone Co., The North-Eastern Pennsylvania Telephone Company, North Penn Telephone Company, North Pittsburgh Telephone Company, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, Sugar Valley Telephone Company, Venus Telephone Corporation, and Yukon-Waltz Telephone Company. RLECs not participating herein as part of the RTCC are Windstream Pennsylvania, Inc., the Frontier Companies Frontier Communications of Breezewood, Inc., Frontier Communications of Canton, Inc., Frontier Communications of Lakewood, Inc., Frontier Communications of Oswayo River, Inc., Frontier Communications of Pennsylvania, Inc., and the FairPoint Companies Marianna & Scenery Hill and Bentleyville Communications Corporation, d/b/a The Bentleyville Telephone Company, which companies have been and will continue to be involved directly at the federal level. Also not participating on the Pennsylvania state level are The Hancock Telephone Company and West Side Telephone Company. The Hancock Telephone Company and West Side Telephone Company have no stake in Pennsylvania access reform, as they do not have Pennsylvania access tariffs. Hancock is a company primarily located in the state of New York, with only 138 Pennsylvania access lines that are included in the Binghamton, NY LATA, and will be filing state comments on the Missoula Plan in New York as part of the Small Company Coalition. West Side has only 38 access lines in Pennsylvania, which are under West Side's West Virginia access tariff.

[2] The RTCC appreciates the Commission's solicitation of comments on this most important issue which is of profound significance to Rural ILECs ("RLECs"). In light of the abbreviated time frame for the preparation and submission of comments, however, the RTCC respectfully reserves the opportunity to supplement this submission with additional information, as necessary, prior to the Commission's September 11, 2006 workshop.

rate increase which could not be absorbed elsewhere (i.e., the residual) is allocated to local dial tone service. In this way, the affordability of local service has been maintained. Toll and access services have historically been priced above cost to support below cost local service rates.[3]

This Commission took significant steps in this process in its 1999 *Global Order* and subsequent access reform. The Missoula Plan provides the framework for continuation of this critical process. The Missoula Plan, while not perfect is comprehensive and is the best compromise that could be negotiated across a broad spectrum of the industry participants to deal with the very real and critical intercarrier compensation problems that plague all LECs including the rural Pennsylvania LECs.

II. OVERVIEW OF THE MISSOULA PLAN

The Missoula Plan provides a comprehensive compromise solution to many interrelated issues currently under consideration at the FCC. The result is significant, but not total, unification of intercarrier compensation rates and rate structures. It is not an "end-all" solution, but rather represents meaningful reform which remains subject to further review by the FCC during the term of the Plan.

The Plan acknowledges that there is not a "one-size-fits-all" solution to this very complicated issue, which often has a much more disparate impact on RLECs serving high cost, low density service territories than the rest of the telecommunications industry. Telecommunications carriers are slotted into one of three Tracks which determine a company's rights and obligations under the Plan such as intercarrier rate levels, rate

[3]For a more indepth discussion of residual pricing, see the Commission's Opinion and Order entered in *Joint Petition of Nextlink Pennsylvania, Inc. et al.*, and *Joint Petition of Bell Atlantic-Pennsylvania, Inc., et al.*, Docket Nos. P-00991648 and P-00991649, Order entered September 30, 1999 ("*Global Order*"), at pp. 11-16.

structure, and subscriber line charge levels. It is the belief of each of the RTCC companies participating in this filing that they are Track 3 companies. These companies default to Track 3 because they do not qualify under the criteria set forth in either Track 1 or 2. Track 1 consists primarily of the RBOCs and non-ILECs (i.e. CLECs and CMRS providers). Track 2 consists of rural carriers which have elected interstate price cap or incentive regulation, non-rural study areas, and rural rate-of-return carriers which serve more than 10,000 loops and are part of a holding company which also holds price cap or non-rural study areas. All other LECs are classified as Track 3.

The Plan also properly recognizes that an overnight solution is not practical. It calls for changes in intercarrier compensation at pre-determined "Steps," each of which is a period of one year. The date upon which the Plan is implemented is Step 1 – the day before this is Step 0, or the last date upon which the old intercarrier compensation rates and rules would apply. Rates are modified at each of the four steps (a period covering three years). Over three years, carriers in Tracks 1 and 2 will steadily decrease their *terminating* access charges and unify them with reciprocal compensation charges. At the end of year 2 of the Plan's effective date, each Track 1 and 2 carrier will charge a single unified termination rate for ***all*** calls. For *Track 1* carriers, that rate will be \$0.0007 and will be further lowered to \$0.0005 at the start of the fourth year following the Plan's effective date. *Track 2* carriers will charge a unified rate of \$0.0005 for terminating end-office switching and up to \$0.0075 to \$0.0105 for tandem switching and common transport, depending on (among other variables) whether the carrier is subject to price cap, incentive, or rate-of-return regulation.

The Plan also caps the *originating* access charges of Track 1 and 2 carriers. By the fourth year after the Plan's effective date, all Track 1 and 2 carriers will be limited to charging $0.0020 for originating end office switching; for originating tandem switching and common transport, Track 1 carriers may charge up to $0.0025, and Track 2 carriers may charge up to $0.0075 or $0.0105 for tandem switching and common transport, again depending on whether the Track 2 carrier is subject to price cap, incentive, or rate-of-return regulation. In defined circumstances, carriers will also have the opportunity to eliminate or adopt lower originating access charges and make up the difference through the alternative revenue mechanisms discussed below.

Track 3 carriers will unify their intercarrier rates to the extent possible, consistent with the competing goal of minimizing the size of the Restructure Mechanism. To that end, Track 3 carriers will reduce intrastate switched access charges (both originating and terminating) over four years to the extent necessary to unify them with the level of their corresponding interstate access charges. In general, reciprocal compensation rates that exceed interstate access charges are reduced in the first year of the Plan to the level of those interstate access charges.

At the fourth step, the FCC shall initiate a proceeding to review the results of the Plan. At Step 5, any changes the FCC identified in Step 4 shall be implemented. In Step 6 the FCC shall conduct a proceeding to determine if the Restructure Mechanism, a form of revenue recovery, should fold into USF and whether it should be portable. Lastly, the Plan is due to expire six years from the start date, but the Plan rules in place at that time would remain in place until or unless modified by the FCC.

The Plan also provides guidance and rules as to the proper classification of calls as either local or toll for intercarrier compensation purposes. These rules will determine the applicable jurisdiction of the call based on the type of call and the carriers involved in the call. While intra-MTA CMRS traffic would still be treated as local under the Missoula Plan, CMRS providers are ultimately afforded the opportunity to bill access charges for the termination of inter-MTA traffic. Call rating for wireline to wireline calls is based on the rate centers associated with the calling and called NPA-NXXs. When these rate centers are in the same local calling area as established by a State commission for the purposes of identifying traffic which is properly categorized as 251(b)(5) traffic, reciprocal compensation rates would apply. In the absence of a specific ruling on 251(b)(5) traffic, the Plan states that the incumbent's retail local calling area will apply in order to determine the jurisdiction for intercarrier compensation purposes. In no event, however, will an incumbent be required to incur costs to transit traffic outside its boundaries and off its network when traffic is exchanged indirectly with a third party.

The Plan includes specific language requiring each interconnecting company to select a location on its network where it receives traffic for routing within its network and where it performs the termination function for traffic received by other carriers. This location is defined as an "Edge," and for most RLECs will be an End Office or an Access Tandem. For Track 3 companies, the Plan includes some very important language clarifying the responsibility for the provision of transport outside of the Track 3 study area. This is known as the Rural Transport Rule and includes details on identifying the party that is financially responsible for network facilities used in both indirect and direct interconnection.

Of particular importance are the rules for exchange of traffic between Track 3 RLECs and Track 1 CLECs and CMRS providers. Currently, this type of traffic is usually exchanged indirectly, through a third-party (usually Verizon) access tandem. The Missoula

Plan makes it clear that the RLEC is not financially responsible for any transport outside of the RLEC boundary. The Track 1 provider is responsible for transporting their traffic to the Track 3 Carrier's Edge. The Track 1 Carrier also will bear the financial obligation for provisioning the interconnection transport to carry traffic (***in both directions, therefore including both originating and terminating traffic***) between its Edge and the meet point with the Track 3 RLEC on the RLEC's network.[4] If that Track 1 Carrier were to exercise its option to interconnect directly with the Track 3 Carrier, the Track 3 Carrier would be responsible for 50% of the cost of the capacity required to transport its traffic from the meet point to the terminating Track 1 Carrier's Edge. Recognizing that these Edges can sometimes be hundreds of miles away, the Missoula Plan only requires the Track 3 Carrier to pay for the first 10 miles of transport capacity. In sum, unless and until a Track 1 Carrier requests direct interconnection with a Track 3 Carrier, the Track 3 Carrier bears no financial obligation for transporting traffic outside of its boundary.

The Plan also takes on the industry-wide problem of phantom traffic. Phantom traffic is defined as telecommunications traffic that cannot properly be billed because it is mislabeled, unlabeled or improperly routed with the result that the originating or transiting carrier is unknown or the proper jurisdictional nature of the traffic (i.e. interstate access, intrastate access, or local traffic) cannot be identified.[5] The traffic may be purposefully mislabeled, insufficiently labeled because of imprecise rules or inadvertently mislabeled. The intentional creation of phantom traffic is a form of fraud which enables some carriers to gain the use of other carriers' networks free of charge. The Missoula Plan authors believe that adoption of the Plan's intercarrier compensation reforms should help to mitigate the

[4]Missoula Plan at II.E,3,e(i)(2) (emphasis added).

[5]*See* Midsize Carrier Coalition Proposed Rules for Proper Identification and Routing of Telecommunications Traffic, CC Docket No. 01-92, Filed December 5, 2005, at Page 1 (footnote omitted).

problem of phantom traffic by reducing the economic significance of traditional regulatory distinctions among types of terminating traffic. Stated another way, if the rate differential is limited, so, too, is the incentive to cheat by mislabeling or not identifying traffic. Nonetheless, phantom traffic will remain a concern in the immediate future, especially in those cases where termination rates are not fully unified. The Plan thus establishes call signaling rules designed to ensure that, with defined exceptions, all calls are properly identified and that such information is communicated to all providers carrying the call. The Plan also establishes a uniform process for the creation and exchange of call records when traffic is exchanged through a transiting carrier.

III. RESPONSE TO SPECIFIC COMMISSION QUESTIONS

A. Commission Questions

1. What is the impact of the Missoula Plan on Interstate Carrier Access Charges?

RTCC Comment:

For Track 3 companies, there are no changes to existing interstate carrier access charges. These companies may continue to participate in the National Exchange Carrier Pool (and as such concur in the NECA tariff) or file their own access tariffs as they do today. There is no current carrier common line charge for interstate access billed to interexchange carriers. Traffic sensitive access tariffs would still be required, and would be developed according to current FCC rules. The NECA traffic sensitive access tariffs would continue to include rate banding as they do today. Settlements for rate of return RLECs would still be administered by NECA, with the pool participants continuing to have the option of electing either Average Schedule or Cost-based settlements.

Track 3 companies would have the option to elect incentive regulation for their interstate settlements. A Track 3 company wishing to participate in incentive regulation must relinquish its Track 3 status and accept reclassification as a Track 2 company. In doing so, the carrier elects to accept the Track 2 rate levels and transitions in order to be eligible for incentive regulation.

For Track 1 and 2 companies that operate under either a price cap regime or rate of return in the interstate jurisdiction, their access rates for terminating interstate traffic would move to rates targeted in the Missoula Plan. These companies would also have the option to reduce or even eliminate originating access charges for interexchange traffic.

2. What is the impact of the Missoula Plan on Intrastate Carrier Access Charges?

RTCC Comment:

Track 3 companies will reduce their intrastate carrier access charges to the level of their interstate rates. This includes the elimination of the Carrier Charge rate element and the reduction of intrastate traffic sensitive (per minute) access rates. It should be noted that if an RLEC's intrastate access rates are already below the interstate rates, the intrastate rates **are not** increased to the interstate rate level. Thus, an RLEC that has already aggressively rebalanced intrastate rates below the interstate level will not be allowed as part of the Missoula process to mirror its interstate rates, and will still face issues of access rate arbitrage.

To illustrate the impact of the rate change, the following information is provided using data from an actual RTCC company whose identity is withheld in order to provide this factual illustration on a public record. The first step was to re-price the intrastate access, federal subscriber line charge, and Restructure Mechanism as they would be calculated under the Missoula Plan. This Company's interstate traffic sensitive access rates are actually quite close to their intrastate access rates.[6]

In total, the current intrastate traffic sensitive rate per minute is $0.0216, while the interstate rate is $0.0204. In addition, this Company has a monthly Carrier Charge which is in excess of $10.00 per line per month.[7] The Missoula Plan would eliminate that rate disparity by reducing the intrastate rate traffic sensitive and carrier charge rates in four equal installments during the first four steps of the Plan. The Company also has an interconnection agreement under which it bills a rate that is higher than the interstate TS composite rate. Under the terms of the Missoula Plan, this reciprocal compensation rate is immediately reduced to the interstate TS rate. To offset these intrastate access and reciprocal compensation rate reductions, $0.75 per line is added to the Subscriber Line Charge rate element for residential and single-line business accounts. Each of the RTCC members currently charges $6.50 per line for residential and single-line business accounts as required by NECA FCC Tariff No. 5. This rate is equal to the current cap for SLC rates. Since the Missoula Plan allows the Track 3 SLC cap to increase by only $0.75 per line, this is the most that any of the RTCC members will obtain in rate increases.

The net of all these rate changes is a shortfall of $2.65 per line per month at Step 1 (implementation of the Plan). This shortfall is offset by the Restructure Mechanism proposed in the Missoula Plan. As further changes are made to the Carrier Charge, the traffic sensitive rate elements, and the SLC, the amount required from the Restructure Mechanism increases as shown below:

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[6]See Table 3, below, for a reflection of the range of the differences between interstate and intrastate TS rates among RTCC companies.

[7]The exact Carrier Charge is not noted in order to ensure this company cannot be identified by a review of the intrastate switched access tariffs on file at the PA PUC.

TABLE 1. Sample Company Restructure Mechanism	
Step #	Restructure Mechanism Per Line Per Month
Step 1	$2.65
Step 2	$5.03
Step 3	$7.37
Step 4	$10.34

This illustration, using actual RLEC data, provides an order of magnitude calculation based on the RTCC's interpretation of the Missoula Plan as filed. To provide further guidance on the order of magnitude of the potential rate changes, the access charges of each RLEC participating in this filing were reviewed. While one Pennsylvania RLEC has been able to reduce its Carrier Charge to zero, most other RLECs still assess this fee to the interexchange carriers and other LECs. A total of 21 Pennsylvania RLEC intrastate access tariffs were reviewed to identify the financial implication of mirroring interstate access rates in the intrastate jurisdiction. The monthly Carrier Charge for this group ranged from just below $4.45 per line to as high as $17.99 per line. The simple average of this group was $7.86 per line, with the following dispersion:

TABLE 2. RTCC Carrier Charges	
Rate Range	Total Companies
$4.00 to $7.00	8
$7.01 to $10.00	7
$10.01 to $17.99	6

At this time there is no Carrier Charge or other Carrier Common Line rate element in the interstate jurisdiction. The interstate portion of the local loop (non-Traffic Sensitive costs) is recovered from the Subscriber Line Charge ("SLC") and the federal USF. The Missoula Plan offers a four year transition period to take the Intrastate Carrier

Charge rates identified above to zero and fund these reductions through increased SLCs and the Restructure Mechanism.

In addition to the Intrastate Carrier Charge elimination, Intrastate Traffic Sensitive access rates would also be reduced for the majority of the RLECs. Again using a simple average of the rate elements included in the intrastate and interstate tariffs of the RTCC group,[8] the mirroring of interstate access rates would create an average rate reduction in intrastate traffic sensitive access charges in excess of 10%.

TABLE 3. RTCC Traffic Sensitive Rate Disparity	
Intrastate TS Rates Compared to Interstate TS Rates	Total Companies
Intrastate rates exceed Interstate Rates by >10%	7
Intrastate rates exceed Interstate Rates by 1% to 5%	8
Intrastate rates are lower than Interstate Rates	7

This reduction would be in addition to the Carrier Charge elimination and would be recovered through a combination of increased Subscriber Line Charges and additional federal support, including the Restructure Mechanism.[9]

3. What is the impact of the Missoula Plan on Federal universal service fund (USF) contributions and support payments?

RTCC Comment:

The Missoula Plan proposes several changes to federal USF support. It makes available additional Lifeline support and implements certain changes in high-cost loop support. Additional Safety Valve funding is available to companies which buy additional exchanges. If adopted, these changes could increase the size of the federal USF by as much

[8] It should be noted that there are 22 RTCC companies included in Table 3, but only 21 in Table 2. This is intentional as Table 2 excludes the PA RLEC that previously reduced its Carrier Charge to zero.

[9] The Missoula Plan authors were not able to reach a consensus on whether the Restructure Mechanism is an access element or a component of a universal service fund. It is only available to carriers that actually suffer a reduction in revenues through the Missoula Plan implementation. The Plan contemplates a future FCC proceeding to determine the portability of the Restructure Mechanism.

as $2.25 billion.[10] This includes an estimated $1.5 billion for the Restructure Mechanism; however it is unclear at this time whether the Restructure Mechanism will be treated as USF support or an access element. Although not specifically detailed in the Plan, it seems that the contributions for this support would be derived from a monthly per connection unit charge which has been calculated as $0.30 per unit.[11]

The Missoula Plan contemplates reform in the manner in which Universal Service and Restructure Mechanism monies are collected. They call for a broadening of the contribution base, movement away from assessments based on a particular class or revenue, and the deployment of a mechanism which is technologically and competitively neutral. Adoption of this type of reform would ensure that all carriers contribute to the funding of Universal Service and the Restructure Mechanism.

The rural High Cost Loop Fund ("HCLF") will be re-indexed based on the current nationwide average cost per loop for rural telephone companies. The indexed cap on HCLF was first implemented by the FCC in 1993 based on concerns about wide fluctuations in the rate of annual growth of the HCLF. The FCC determined that the cap would limit fund growth and moderate annual fluctuations in the size of the fund. The re-indexing of the cap will increase the amount of HCLF available to rural telephone companies. Rather than implementing a flash cut to this new support level, the Missoula Plan contemplates the fund size shall be increased in three equal installments over a 24 month period. After this period,

[10]This figure was reported in a Rural Alliance presentation and would include the Restructure Mechanism, the Early Adopter Fund, Additional Lifeline Support, and Additional High-Cost Loop Support. The RTCC companies have no independent support for this figure.

[11]August 17, 2006 FCC ex-parte presentation made by The Missoula Plan Supporters in FCC Docket No. 01-92.

the amount of the HCLF shall be recapped, and the size of the fund shall be subject to annual adjustments based on the rural growth factor.[12]

Additionally, the Missoula Plan removes rules that base a carrier's high-cost loop support on the size of the carrier's study areas. Currently, LECs receive high-cost loop support based on their measure of cost per loop as compared to the national average. The following table illustrates the high-cost loop payment as a percentage of unseparated cost per loop for all LECs in the US with fewer than 200,000 working loops.[13]

TABLE 4. Small RLEC High Cost Loop Factors	
Loop Cost	< 200,000 Working Loops
< 115% of National Average	0%
115% to 150%	65%
> 150%	75%

In contrast to this, RLECs with more than 200,000 working loops receive less support than the smaller RLECs.

TABLE 5. Large RLEC High Cost Loop Factors	
Loop Cost	200,000+ Working Loops
< 115% of National Average	0%
115% to 160%	10%
160% to 200%	30%
200% to 250%	60%
> 250%	75%

The Missoula Plan would treat all study areas with more than 200,000 working loops the same as the smaller LECs. This would simplify high-cost loop calculations, but

[12]Per 47 C.F.R. §36.604, the Rural Growth Factor is equal to the sum of the annual percentage change in the US Department of Commerce's Gross Domestic Product – Chained Price Index plus the percentage change in the total number of rural incumbent LEC working loops.

[13]The term "working loops" is nearly identical to "access lines." The most material difference is that, for federal reporting, the term "working loops" includes company official lines while a company's federal reporting of access lines generally excludes these lines.

more importantly would provide consistent federal support for all RLECs with high-loop costs, regardless of the RLEC's size.

4. What is the impact of the Missoula Plan on Pennsylvania USF contributions and support payments?

RTCC Comment:

Stated another way, this question becomes even more critical – "What is the impact of ***not implementing*** the Missoula Plan on Pennsylvania USF contributions and support payments?"

The Pennsylvania USF ("PA USF") was put in place by regulations enacted following the Commission's adoption of the *Global Order*. The PA USF was this Commission's first, and so far only, formal external support mechanism for access charge reform.[14] Prior to the introduction of competition in the local telecommunications market, ubiquitous and affordable local phone service was supported through the concept of residual ratemaking. In sum, through residual ratemaking, RLEC local rates, which are more negatively affected by high costs and low customer densities in rural service company areas than in urban areas, were supported by higher access and toll rates, implicitly promoting universal service.

The rate reform accomplished in the *Global* Order addressed several areas. First, the intrastate traffic sensitive access rates of all RLECs were revised to mirror the interstate access rates. Second, RLEC intraLATA toll rates were reduced to a target rate of $0.09 per minute. Third, the RLECs converted any remaining per-minute Carrier Common Line Charge into the flat-rated Carrier Charge which was capped at $7.00 per line. In exchange, RLECs were required to increase their basic local average weighted R-1 rate to the then

[14]While the Commission continued access reform through additional rate rebalancings, the general scope and size of the PA USF has not changed as a result of that additional access reform.

effective Bell (now Verizon-Pennsylvania) state-wide average R-1 rate (with the average weighted B-1 rate given a proportionate increase). Any revenue losses incurred as a result of the decreases to these implicit support mechanisms of access and toll rates, which were not recovered via the local rate increases, were then recovered under the newly-established PA USF. The relative size of the PA USF today has not materially changed since its initial implementation, with the revenues designed there to recover only those access and toll rate reforms identified above.[15] The access reform achieved by creation of the PA USF is separate and apart from that addressed in the Missoula Plan, which appears to build further federal counterparts to the PA USF.

In adopting the intrastate access reform included for the rural LECs in the *Global Order*, the Commission concluded "in order to avoid tariff arbitrage, it is extremely important that intrastate access charges mirror their federal counterpart."[16] Without the Missoula Plan, Pennsylvania's RLECs would need to look either to Pennsylvania ratepayers or additional external funding to accomplish intercarrier compensation reform. To recover the loss of the average Carrier Charge from RLEC end users would itself result in an average rate increase of $7.86 per line per month. Other companies would have to increase rates to end users by as much as $17.99 per line per month if Pennsylvania attempts continued and significant access reform on its own. Clearly this could result in a burden on the ratepayer, and may yield a local service rate far in excess of the Commission's current

[15] Further, pursuant to the terms of the USF adopted in the *Global Order*, the RLECs retained the right to raise their access and toll rates to preexisting levels in the event the PA USF was terminated or the funding removed.

[16] *Global Order* at Page 52 (footnote omitted).

$18.00 rate cap.[17] The PA USF would have to increase to accommodate the scope of intercarrier compensation reform contemplated either under the Missoula Plan, or as is advocated before this Commission.[18] Under this approach, Pennsylvania would be acting to solve the problems of intercarrier compensation rates in a vacuum, rather than working cooperatively on a national scale. A significant downside to Pennsylvania attempting access reform on its own is that the PA USF would, under current regulations, be funded by a smaller group of carriers than if this support were obtained from the federal USF. CMRS providers contribute to the federal USF but are not required to support the PA USF. In June of this year the FCC ruled that interconnected VoIP providers must contribute to the federal USF; these carriers do not contribute to the PA USF. If Pennsylvania acts in a vacuum, these providers will continue to get a free pass when it comes to supporting access reform in the Commonwealth.

It is critical that this Commission take every step possible not just to ensure continuation of the existing PA USF support provided to RLECs, but also to enhance that support by all available means. Toward that goal, the Missoula Plan creates a new federal Early Adopter Fund of at least $200 million. This fund will enable States to recover <u>some</u> of the funding States are providing to carriers that have already reduced their intrastate access rates. This funding is only available to <u>States</u> that have established explicit State funding mechanisms. To obtain funding, a state must certify that the State-fund dollars that it seeks to recover were used solely to defray the costs of compensating carriers for access rate reductions made prior to the Plan's adoption. The state must also implement the Missoula

[17] This cap was originally set at $16.00 in the Global Order, and was subsequently increased to $18.00 in the Rural USF/Access II Investigation. See Order entered July 15, 2003, at Docket Nos. M-00021596, P-00991648 and P-00991649, at 10.

[18] *See e.g.* the Status Reports of Verizon, Sprint/Nextel and Qwest filed on or around August 30, 2006, at the Rural USF/Access III Investigation at Docket No. I-00040105.

Plan, and agree to use the Early Adopter Fund dollars to lower the State line item for its explicit State funding mechanism.

It is unclear at this point what is intended in the Missoula Plan by this last requirement. It may imply that the State must actually certify that it will remove a line item from its budget when it receives the Early Adopter Fund support. Since the PA USF is funded by the industry, it may be interpreted that Pennsylvania is not eligible for the Early Adopter Fund. However, the Missoula Plan supporters have committed resources to work with State Commissioners to help size the fund and determine how that fund should work when States have rebalanced access rates through State funds, local rate increases, and/or new line items.[19]

While the PA USF should not be ignored in the process of Intercarrier Compensation Reform, it is and should remain a discrete external Pennsylvania support mechanism that is preserved and not negatively impacted by the *additional* reform being considered at the federal level (even if encompassing intrastate access rates). Whether or not the Missoula Plan supporters and the State Commissioners agree on the mechanics of accounting for access reform through a further explicit, industry financed fund, the PA USF must continue as a stand-alone fund. One need only to look at how the FCC has moved forward to modify existing explicit support when different funding was introduced. When the Interstate Common Line Support ("ICLS") Fund was established within the federal high cost fund, there already existed a different form of Common Line Support – the Long Term Support ("LTS") Fund. The FCC rolled these two funds together, creating the new ICLS fund. It did not eliminate the important LTS funding. In the same way, Pennsylvania must

[19] Missoula Plan at Page 76, footnote 27.

continue to recognize the importance of the PA USF, especially as it relates to rural ratepayers, and continue this support, regardless of whether the support mechanism qualifies under the Early Adopter Fund program.

5. What is the impact of the Missoula Plan on the setting of rates for intrastate regulated telecommunications services under the Chapter 30 law, 66 Pa.C.S. §§3011-3019?

RTCC Comment:

The RTCC companies see no direct impact of the Missoula Plan on the setting of rates for intrastate regulated telecommunications services under the Chapter 30 law, 66 Pa.C.S §§3011-3019. As proposed, the Missoula Plan would result in RLECs implementing reductions in intrastate access charges offset in part by other aspects of the Plan. Act 183 requires that "[t]he Commission may not require a local exchange telecommunications company to reduce access rates except on a revenue-neutral basis."[20] The corresponding rate increases under the Missoula Plan, which are designed to ensure revenue neutrality and the continuation of affordable universal service, are through federal, rather than state-regulated mechanisms. The calculation of revenue neutrality as per §3017(a) must consider all sources of additional revenues obtained through the implementation of the Missoula Plan. This could include the Subscriber Line Charge, the Restructure Mechanism, and any changes in state or federal USF support. It should be clear that §3017(a) applies in both directions to assure revenue neutrality – a company cannot receive more or less revenue than it did prior to implementing any access charge reform.

In addition to current year revenue neutrality, the implementation of the Missoula Plan will result in reductions to intrastate non-competitive revenues for the RTCC member

[20]Section 3017 of Act 183, 66 Pa.C.S. §3017.

companies. This will have a going-forward impact on revenue neutrality, as inflationary rate changes will be based on a smaller revenue base. Whether these revenues which have shifted from intrastate to interstate should somehow be recaptured, or imputed for future PSI/SPI filings would be the subject of future PA PUC proceedings.

IV. CONCLUSION

Like the other States, Pennsylvania now sits at the crossroads of intercarrier compensation reform. It can follow the path of the Missoula Plan or turn away and seek an alternative solution. Even if Pennsylvania adopts the Missoula Plan, the state will have the flexibility to determine whether it wishes to implement certain voluntary aspects of the Plan. For Track 1 and 2 companies, the state must determine whether it will require the implementation of the provisions of intrastate originating access reform. For Track 3 companies, the adoption of the Plan's originating and terminating intrastate access rates will be voluntary. Adoption of the Plan is critical, as carriers operating in States that adopt the Plan will be eligible for Restructure Mechanism dollars.

The RTCC recommends that the Commission support the Missoula Plan, as it provides meaningful intercarrier compensation reform without shifting the full burden to the local ratepayer. It provides a transition period over which rates are refined, and includes steps along the way where further FCC action can be initiated.

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