Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
The Missoula Intercarrier	)	CC Docket No. 01-92
Compensation Reform Plan	)	

COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. ("JSI") hereby responds to a Public Notice released by the Federal Communications Commission ("FCC" or "Commission") in which the Commission seeks comment on the Missoula intercarrier compensation reform plan (the "Missoula Plan" or "Plan").[1]

JSI is a consulting firm offering regulatory, financial and business development services to more than two hundred independent rate-of-return regulated incumbent local exchange carriers ("LECs") throughout the United States. In comments filed in response to the Commission's FNPRM in this proceeding,[2] JSI demonstrated that any intercarrier compensation plan adopted by the Commission must ensure that rate-of-return LECs are allowed to offset any lost access charges and thus remain "revenue neutral," that an

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1 *See Comment Sought on Missoula Intercarrier Compensation Reform Plan*, CC Docket No. 01-92, Public Notice, DA 06-1510 (rel. July 25, 2006) ("Public Notice"). The Missoula Plan was filed by the National Association of Regulatory Utility Commissioners' Task Force on Intercarrier Compensation ("NARUC Task Force") on July 24, 2006. *See* Public Notice at 1, n.1.

2 *See Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC 05-33 (rel. Mar. 3, 2005) ("FNPRM").

embedded cost pricing methodology must be continued and that critical interconnection issues are resolved.[3] JSI believes that the Missoula Plan accomplishes these goals.

I. The Missoula Plan Maintains "Revenue Neutrality"

As explained in JSI's comments, rate-of-return LECs generally serve high-cost regions and are "more dependent on their interstate access charge revenue streams and universal service support than price cap carriers and, therefore, more sensitive to disruption of those streams."[4] Accordingly, any intercarrier compensation plan adopted by the Commission must ensure that this important cost recovery stream is not adversely impacted.

One way that the Missoula Plan meets this important goal is by ensuring that rate-of-return LECs are compensated for use of their networks by maintaining charges for access traffic. According to the NARUC Task Force, the Plan

> moves the industry away from its historical reliance on intercarrier revenues by reducing the highest intercarrier compensation rates, yet recognizes the differences among carriers by ensuring that certain rural carriers will not be required to reduce their intrastate access charges below their current rate levels for interstate access charges, which those carriers view as cost-based.[5]

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[3] *See* Comments of JSI filed in CC Docket No. 01-92 (May 23, 2005) ("JSI's Comments") at iii-iv.

[4] JSI's Comments at 5 citing *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244 (2001) at para. 131.

[5] Missoula Plan, Executive Summary at 1.

The Missoula Plan also seeks to ensure “revenue neutrality” by recovering any lost revenues that cannot be recovered through restructured intercarrier charges or increased federal subscriber line charges (“SLCs”) through the “Restructure Mechanism” (“RM”).[6] According to the NARUC Task Force, the RM “is designed specifically to replace switched carrier-to-carrier revenues lost by carriers participating in the Plan and not otherwise compensated for that loss through end-user charges.”[7] Although the Missoula Plan makes no indication as to whether the RM would be classified as an access recovery mechanism or a component of federal universal service support, JSI believes that the RM is an access-based recovery mechanism in accordance with Section 201 of the Telecommunications Act and is not portable since the amount represents the recovery of rate-of-return carriers’ embedded costs.

II. The Missoula Plan Maintains Embedded Cost Pricing Methodology for Rate-of-Return Carriers

As demonstrated in JSI’s Comments, any intercarrier compensation plan adopted by the Commission must not use a forward-looking cost methodology for determination of interstate access charges which are currently calculated using an embedded cost methodology. Currently, interstate access charges established for LECs subject to rate-of-return regulation reflect a carrier’s embedded costs based on the Commission’s Part 32 accounting rules, Part 36 separations rules and Part 69 access rules.[8] After accounting for any non-regulated activities in accordance with Part 64 of the Commission’s rules,

6 Missoula Plan, Executive Summary at 12.

7 Missoula Plan, Executive Summary at 1.

8 JSI’s Comments at 8.

carriers subject to rate-of-return regulation are left with the actual costs associated with maintaining their operations. However, there are no specific rules or procedures (similar to Parts 32, 36 and 69) in order to determine the level of additional costs required to meet the definition of forward-looking costs. Additionally, utilizing a forward-looking methodology would create a significant shift in existing regulated revenues for rate-of-return carriers from switched access to universal service funding.[9] It is vital, therefore, that any intercarrier compensation plan ensures that the embedded cost methodology continues for the determination of charges assessed to carriers for exchange access traffic.

The Missoula Plan ensures that an embedded cost methodology will continue to be used for rate-of-return carriers by dividing carriers into three categories or "Tracks" based on the size and regulatory classification.[10] Track 3 is specifically for rate-of-return-regulated rural carriers. According to the NARUC Task Force, the Plan's rules for Track 3 carriers recognizes "distinctions applicable to companies that are subject to rate-of-return regulation" and that "[u]nless and until the Commission decides otherwise, rural rate-of-return companies should be entitled to establish cost-based intercarrier compensation rates that recognize the value that other carriers receive when they utilize rural networks to originate and terminate traffic."

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[9] *See* JSI's Comments at 9-10 citing statistics based on default rates established by NARUC showing that JSI clients would experience a decline in switched revenues of approximately $21 per line, per month or a decline of approximately 87 percent.

[10] One such classification is a "Covered Rural Telephone Company" ("CRTC"). Missoula Plan, Executive Summary at 5. LECs that are CRTCs will be further designated as either Track 2 or Track 3. *Id.* at 5, n.3.

III. The Missoula Plan Addresses Critical Network Interconnection Issues

In its comments, JSI demonstrated that rural LECs should not have an obligation to route calls to other telecommunications carriers' numbers to an out-of-service area point of interconnection ("POI") and that even if the Commission determined that rural LECs have such an obligation, rural LECs should not be required to bear the cost associated with an out-of-service area POI.[11] JSI also demonstrated that the FCC's reciprocal compensation rules do not apply to all traffic between LECs and CMRS providers that originate and terminate within the same Major Trading Area ("MTA"). Both Congress and the FCC preserved the pre-Act access charge regime and concluded that traffic between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same MTA, is subject to reciprocal compensation unless it is carried by an IXC.[12]

The Missoula Plan tackles the contentious issue of the out-of-service area POI in a balanced way by "creating a specific transport framework" for exchange of traffic between a Track 1 carrier and a CRTC called the "Rural Transport Rule."[13] According to the Missoula Plan, this rule requires the Track 1 carrier to "bear all of . . . the financial obligation for provisioning the interconnection transport for the capacity to carry traffic in both directions between the Track 1 carrier's network and the CRTC's meet point."[14]

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[11] JSI's Comments at 16-18.

[12] JSI's Comments at 18-25.

[13] Missoula Plan, Executive Summary at 8.

[14] Missoula Plan, Executive Summary at 8 (parenthetical omitted).

In addressing the intra-MTA reciprocal compensation issue, the Missoula Plan sets forth "clear concrete rules concerning how to classify traffic" in order to determine whether the traffic should be categorized as reciprocal compensation or switched access.[15] As part of these rules, the Plan specifies that how traffic from a wireline provider to a CMRS provider and how traffic from a CMRS provider to a wireline provider will be designated as access traffic in ways that are consistent with Congressional and FCC rulings.[16]

Further, the Missoula Plan sets forth necessary rules designed to "facilitate" intercarrier compensation which address such other issues that are of concern to JSI and the companies that it serves such as "phantom traffic."[17] These rules include "default rules" governing how carriers may obtain both interim and formal interconnection arrangements and "compromise rules" to ensure that traffic can be properly identified and classified to alleviate the problem of phantom traffic.[18] JSI commends the Missoula Plan for addressing these complex and controversial issues in a way that would ensure that all carriers play by the same rules regarding interconnection and intercarrier compensation.

IV. Conclusion

Any intercarrier compensation plan adopted by the Commission must ensure that rate-of-return LECs are allowed to remain "revenue neutral." The Missoula Plan accomplishes

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15 Missoula Plan at 25.

16 Missoula Plan at 26-29.

17 Missoula Plan, Executive Summary at 9-10.

18 Missoula Plan, Executive Summary at 9.

this goal by ensuring that rate-of-return carriers are compensated for use of their networks and by recovering any lost revenues that cannot be recovered through restructured intercarrier charges or increased SLCs through the RM. Additionally, the Missoula Plan accomplishes other important goals by ensuring that an embedded cost pricing methodology is continued and that critical interconnection issues are resolved. Accordingly, JSI supports the Plan.

Respectfully submitted,

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