

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

In the Matter of )  
 )  
Missoula Plan Phantom Traffic ) CC Docket No. 01-92  
Interim Process and Call Detail )  
Records Proposal )

COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. (JSI) files these comments in response to the Federal Communications Commission (FCC or Commission) Public Notice released November 8, 2006 seeking comment on a proposal to address phantom traffic issues and a related proposal for the creation and exchange of call detail records.<sup>1</sup> These proposals were contained in a written *ex parte* filed November 6, 2006 by the Supporters of the Missoula Plan.<sup>2</sup>

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 addition to providing local exchange service, many of these LECs also provide other services, including long distance,

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<sup>1</sup> See *Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal*, CC Docket No. 01-92, Public Notice, DA 06-2294 (rel. Nov. 8, 2006).

<sup>2</sup> See Letter from Supporters of the Missoula Plan to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed November 6, 2006) (Missoula Plan Nov. 6 *Ex Parte*).

broadband, wireless and video services, through separate divisions or affiliated companies. Among its consulting services, JSI assists these LECs with matters related to intercarrier compensation, including preparing and submitting jurisdictional cost studies and universal service fund data to the National Exchange Carrier Association (“NECA”), negotiating interconnection and traffic exchange arrangements and preparing and filing tariffs with the FCC and state commissions. Accordingly, JSI is an interested party in this matter and offers the following comments.

JSI has experience with the identification of switched telecommunications traffic its clients receive from other carriers, notably CMRS providers and CLECs. In certain situations, there is a lack of accurate call detail records necessary required to correctly identify the traffic origin and bill the originating party for terminating services. In these situations, rural local exchange carriers are unable to accurately charge carriers for their use of rural exchange networks. The inability to accurately charge these carriers creates a “free rider problem” – where certain carriers are not paying their share of their use of networks. The magnitude of the problem associated with inaccurate or incorrect call detail information is sizeable. On its website, NECA Services reported in March that the percentage of inaccurate or incomplete call detail information can exceed 30 percent of all traffic terminated by a rural carrier (See Attachment 1). JSI’s experience in other situations confirms this estimate. In one state, the rural local exchange carriers have worked with the tandem provider over a number of years and reduced the size of the problem to less than 20 percent. Based on this and other data, there is a significant

problem in the industry associated with inaccurate or incorrect call detail records even when attempts have been made to address inaccurate or incorrect call detail records.

The key to eliminate this problem requires that terminating carriers receive accurate and complete call detail records exchanged among carriers. JSI supports efforts to improve the accuracy and completeness of this information. “Phantom traffic” is a significant problem for rural local exchange carriers. Phantom traffic is received by rural carriers without accurate or complete information required in the processing of bills for termination services provided by rural carriers. JSI welcomes efforts to improve the information associated with telecommunications traffic. The Missoula Plan *ex parte* proposal is an effort intended to reduce the impact of phantom traffic for carriers providing terminating services. In reviewing the *ex parte* proposal, JSI recommends a few changes intended to improve the policies regulating call detail information.

**I. It is Necessary for the Commission to Craft Rational Enforcement Policies Associated with Phantom Traffic**

Aside from the various details explained in the Missoula Plan *ex parte*, there is little discussion concerning an ever present problem with traffic exchange standards. This problem has to do with the enforcement of any standards. JSI recommends that the FCC examine the various methods it may use to enforce the standards proposed by the Supporters of the Missoula Plan. JSI urges the Commission apply economic incentives on the originating and transiting carrier that will motivate complete and accurate information necessary for billing purposes. Leaving enforcement to the expensive and

time consuming complaint process is not feasible for small rural carriers: The expense of prosecuting an enforcement action can well exceed the claim for smaller carriers whose traffic volumes are obviously smaller than those of larger carriers. Instead, by placing proper economic incentives on the originating and transiting carriers, the FCC will motivate carriers to correctly apply the proposed Missoula Plan standards.

The current standards for access traffic exchange are found in the Multiple Exchange Carrier Access Billing (MECAB) Standards Document managed by the Ordering and Billing Forum (OBF). The Supporters of the Missoula Plan request the Commission adopt immediately a “Uniform Process” and thereafter incorporate this process into the MECAB Standards Document. The Supporters also recommend adoption of an interim Phantom Traffic proposal. The extension of these standards and the interim proposal are expected to be enforced using the formal FCC enforcement process.<sup>3</sup> JSI believes this process is too cumbersome and will be little used by small rural carriers who will have to justify a significant prosecution cost in order to receive complete and accurate call detail records.

Instead of pursuing this strategy, JSI recommends the Commission adopt a mechanism that properly places incentives on those carriers who have control of the traffic flow. This can be done by establishing a simple mechanism which requires that a carrier delivering traffic to a terminating carrier be responsible for the completeness and accuracy of call detail information it creates and/or transmits. In a direct interconnection arrangement, this responsibility rests with the originating carrier delivering traffic

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<sup>3</sup> This process is referenced in the original Missoula Plan documentation.

directly to the terminating carrier. In an indirect interconnection arrangement, the transiting carrier would be responsible for the delivery of complete and accurate call detail. Any cost in creating these call detail records would be the responsibility of the originating carrier, not the terminating carrier.<sup>4</sup> In the event the transit carrier, typically a tandem operator, does not provide complete and accurate call detail records, the transit carrier would be financially responsible for this traffic and would be required to pay the highest intercarrier compensation rate (either interstate, intrastate or reciprocal compensation rate) currently used by the terminating carrier for the unidentified traffic it terminates.

In addition to properly placing the incentives on those carriers who have control of the traffic flow, this approach will greatly reduce the docket at the FCC's Enforcement Bureau inasmuch as the originating carriers and transit carriers will self-police their actions to ensure the creation and delivery of proper call detail records. JSI anticipates the only time the FCC's Enforcement Bureau would need to get involved in this rather mundane subject would be if there were allegations of fraud, the creation of false call detail records, when in order to reduce the compensation owed the terminating carrier the transit carrier or originating carrier falsified call information. This approach is a vast improvement over the current proposal because it places the economic incentive to provide complete and accurate call detail records on the parties who create these records.

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<sup>4</sup> The original Missoula plan interim arrangement required these costs be borne by the originating carrier. In the *ex parte* plan, this cost has been shifted to the terminating carrier. JSI believes the originating carrier is the carrier who chooses how to deliver traffic to a terminating carrier and should therefore bear the additional transit call detail record cost that presumably would not be necessary if the carrier elected to interconnect directly with the terminating carrier. This process places the cost of the decision on the originating carrier who makes the decision on the interconnection method and not on the terminating carrier who only receives the traffic.

JSI is aware of the RBOC refrain that it can only deliver the information it receives from the originating carrier and it shouldn't be penalized by having to pay premium termination rates for minutes that do not have corresponding complete or accurate call detail records. This claim fails on three important points. First, the RBOC tandem, or other transit carrier, has direct interconnection with these originating carriers and therefore can require complete and accurate information on traffic it receives. If the RBOC tandem does not receive this information, it can charge premium transit rates to compensate it for the premium termination rates that it will have to pay the terminating carrier. This process again places the incentive to provide the information on the parties who have the ability to provide this information. Second, the RBOC tandem is providing a technical function connecting two unconnected networks. In addition to this technical function, the RBOC tandem cannot, in JSI's estimation, shirk its complementary fiduciary function for this transiting traffic. The rates and charges RBOC tandem operators charge for transit service should incorporate the fiduciary function as well as the technical function. And third, by placing the financial responsibility on the tandem provider transiting this traffic will incent the transit carrier to properly identify traffic it may be identifying as it processes traffic. Without these incentives to motivate the originating and transit carriers, the industry goal to eliminate phantom traffic will remain elusive.

## **II. JSI Recommends the Commission Not Adopt the VoIP Traffic Declarations Proposed by Appendix B in the *ex parte* Missoula Plan**

JSI raises another issue related to the development of VoIP traffic. Appendix B of the *ex parte* plan recommends that VoIP traffic be treated differently than other traffic. Treating the VoIP traffic differently undermines the whole intention of the phantom traffic procedures which are driving to implement a “Uniform Process”. Appendix B states “Current technology does not allow all carriers to identify VoIP-originated traffic in the call signaling or call detail information they exchange.” If one type of traffic, that can’t even be identified, is exempt from the rules, the entire intent of the document is undermined.

Not only does Appendix B suggest different technical standards be applied to VoIP traffic but suggests that the entire intercarrier compensation arrangement for VoIP be separate and distinct from that of voice traffic. Specifically, Appendix B states that VoIP Traffic should be rated for purposes of intercarrier compensation only as either interstate or reciprocal compensation traffic. This proposal eliminates the distinction that VoIP traffic can be intrastate in nature and subject to intrastate access rates. This is a fundamental declaration stating that known intrastate VoIP traffic should be classified and billed as interstate traffic. JSI respectfully submits this action is not appropriate in this proceeding inasmuch as it will have ramifications in other VoIP proceedings and will prejudice the treatment of intrastate VoIP traffic. Instead, JSI recommends the Commission remove the unique treatment VoIP traffic is given in the proposal and require that VoIP traffic be rated and billed based upon the location of the originating and

terminating end-users. Absent knowing the physical location of the end-user customers, the Commission can devise a method for rating VoIP traffic that would serve as a proxy for the exact physical location of the end-user customers.

### **III. Summary**

JSI welcomes the effort to improve the problems associated with phantom traffic now facing rural local exchange carriers. JSI hopes the Commission expeditiously addresses this issue and in so doing, considers the enforcement challenge it faces. JSI recommends the Commission adopt mechanisms so that the standards it adopts are self-enforcing – providing economic incentives to originating and transit carriers to provide complete and accurate call detail information. JSI also recommends the Commission not take declaratory action on the treatment of intrastate VoIP traffic. Rather, the Commission should leave VoIP originated telecommunications traffic to be rated according to the proper rules and regulations that pertain to the type of call in question.

Respectfully submitted,

**John Staurulakis, Inc.**

By: /s/ Douglas Meredith

Douglas Meredith  
Director-Economics and Policy  
John Staurulakis, Inc.  
7852 Walker Drive, Suite 200  
Greenbelt, Maryland 20770

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# ATTACHMENT 1



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## Revenue Assurance

Telephone companies are signing up for our Revenue Assurance Subscription Plan for some very good reasons.

- We find unbilled minutes of use, which lead to increase in revenue.
- We supply our customers with the break down of unbilled minutes of use by jurisdiction.
- Even companies with direct trunks have minutes of use that are going unbilled.
- The greater a company's dependency on other telcos, the greater the mismatch.

This composite information about various sized companies shows you **the essential first step** to help your company earn the revenue it should. We can help you identify lost or previously undocumented revenue.

**We compare your company's AMA data with EMI records supplied by the tandem owner. When EMI records match the AMA data, a call and the associated MOUs are considered to be matched. If there is no EMI record to match the AMA data from your switch, then those MOUs are considered to be unmatched and most, without this additional documentation, will be unbillable.**

With nine months of data on companies between **10,000 and 20,000 access lines**, we show:

Calls Matched	1,589,163
MOU Matched	4,315,253
Calls Unmatched	390,155
MOU Unmatched	1,773,393
MOU % Unmatched	29.13%

With four months of data on companies between **5,000 and 7,500 access lines**, we show:

Calls Matched	250,499
MOU Matched	972,473
Calls Unmatched	178,469
MOU Unmatched	626,851
MOU % Unmatched	39.19%

With twelve months of data on companies with **less than 4,000 access lines**,

we show:

Calls Matched	470,557
MOU Matched	1,321,149
Calls Unmatched	375,689
MOU Unmatched	1,598,963
MOU % Unmatched	54.76%