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

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
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REPLY COMMENTS OF THE MICHIGAN PUBLIC SERVICE COMMISSION

The Michigan Public Service Commission (MPSC) commends the efforts of the members of the National Association of Regulatory Utility Commissioners (NARUC) Intercarrier Compensation Task Force who participated in the unenviable task of crafting a comprehensive intercarrier compensation reform plan that addresses many of the problems that have plagued the industry, including arbitrage opportunities and phantom traffic. The staff of the MPSC's Telecommunications Division have participated in several informal industry meetings and discussions, as well as several industry webinars coordinated by NARUC in order to gain perspective on all the aspects of the Missoula Plan (the Plan).

Although the Plan is a constructive attempt at resolving the current intercarrier compensation issues, the MPSC recognizes that this is not a consensus plan and there are many uncertainties and questions that the Plan raises. Concerns have been expressed by its opponents, which includes a large cross section of providers and consumer advocates, as well as state commissions. The MPSC urges the Federal Communications Commission (FCC) to continue to explore the issues surrounding the Plan and to allow ample opportunity for issues to be resolved within the industry.

The MPSC is particularly concerned about the impact on consumers. The Plan allows for potential Subscriber Line Charge (SLC) (also known as the End User Common Line Charge, or EUCL) increases for Track 1 carriers which, in the 5^{th} step, increase to as much as $10.00, and higher if adjusted for inflation. The Plan also calls for a 32% increase in the Universal Service Fund (USF), which also may be passed on to customers. This increase is even prior to any review or amendments to USF. We cannot support continued increases on our state's consumers without subsequent benefits. Although the plan proposes a reduction in access charge rates for carriers, there is no requirement in the Plan that these reductions be passed through to consumers.

The Restructure Mechanism (RM) is another provision of the Plan that currently contains many unknowns. Competitive Local Exchange Carriers (CLECs) in Michigan have expressed concern that under the Plan, only the Incumbent Local Exchange Carriers (ILECs) would be allowed to draw from the RM, even though competitors would likely still be required to implement access revenue reductions without the benefit of a recovery mechanism. It is also unclear how this fund will be administered, the contribution method, and who will administer the fund.

The Early Adopter Fund would be created as a means to compensate states that have already rebalanced access rates with some type of funding mechanism such as a state USF. Although Michigan has, over the years, implemented progressive initiatives and policies to keep its intrastate access rates in check, Michigan does not currently have a state USF. Under the Plan, even with these initiatives, it appears that Michigan would not qualify for the Early Adopter Fund simply because it does not have a state USF.

On January 30, 2007, The Missoula Plan Supporters and several state utility commissions filed a Missoula Plan Amendment that crafts a Federal Benchmark Mechanism (Mechanism) into the plan to address concerns raised regarding the Early Adopter Fund and Restructure Mechanism established by the Missoula Plan. The MPSC has not had the opportunity to thoroughly analyze the proposed Mechanism and verify its impact. Based on an initial review, it appears that there would be a net benefit to residential customers based on the data provided in the proposal. Further review is necessary before the MPSC can take a position on the Mechanism.

The Plan also proposes significant changes to network interconnection arrangements. The Plan's Edge proposal would require more points of interconnection between providers for the exchange of traffic. Although some opponents of the plan in Michigan, namely the rural ILECs (RLECs), are supportive of the Edge concept because it would require CLECs to pick up traffic at the RLEC exchange boundaries, CLECs assert that it will be an unnecessary financial burden and deter network investment. CLECs also argue that the concept is a violation of Sec. 251(c) of the Federal Telecommunications Act of 1996 (FTA) that allows CLECs to connect at any technically feasible point. The MPSC is concerned that this financial disincentive could lead to an even greater lack of competition in rural areas of Michigan. Additional Edges may also exacerbate requests from CLECs for additional Central Office codes (10,000 telephone numbers) for Local Routing Numbers (LRNs) in rural areas where there is no mandatory thousand block number pooling, which will create a premature need for area code relief.

There are also issues raised regarding transiting service and deregulation of transiting rates. Currently with few, if any exceptions, the Regional Bell Operating Companies (RBOCs) are the carriers that provide transiting service. Although speculation abounds that this could create an incentive for other carriers to provide transiting, the MPSC observes that this is merely speculation and a competitive transiting market may never materialize to produce incentives to keep transiting rates low.

State preemption and the Plan's conflict with the Michigan Telecommunications Act and the FTA are also of great concern to the MPSC. It is unclear how the issue of reconciling state and federal authorities will be accomplished. While the telecommunications industry is part of the global economy, preservation of state's rights, and the ability of states to prescribe policies appropriate for their unique situations is critical. The Plan appears to override many provisions in carrier to carrier negotiated interconnection agreements and the negotiating process found in the FTA as well. These negotiation processes have proven beneficial to providers in our state.

The MPSC also notes that there are currently no CLECs offering residential service that are publicly supportive of the Plan and no Michigan Track 2 carrier that lends its support. CenturyTel, Inc., a Track 2 carrier serving primarily rural Michigan exchanges, has not been able to affirmatively support the Plan as a whole, but recognizes it as a good starting point that needs improvement in some of its key concepts. One of CenturyTel's issues is the Plan's ultimate termination rate of $0.0005 per minute. CenturyTel asserts that this rate "would not adequately compensate all Track 2 carriers for their switching and termination costs, and the 24-month period for achieving it would most probably throw small and medium-sized carriers into turmoil." [1]

Finally, considering the complexity, the Plan provides a relatively short period for transition. Reform of this magnitude and potential impact on consumers may need a longer phase-in scheme.

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[1] Comments of CenturyTel, Inc., In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, (October 25, 2006), pp.5-6

The MPSC acknowledges that there are several positive aspects of the Plan. It attempts to address arbitrage opportunities by unifying intercarrier compensation rates. It contains a process for the creation and exchange of call detail records to alleviate phantom traffic. The Plan is transparent as to which services are provided and is competitively and technologically neutral. Lastly, the Plan maintains Universal Service and attempts to shield Lifeline customers from rate increases.

The Missoula Plan is an extremely complex proposal that raises too many questions and uncertainties to draw definitive conclusions of its merits at this time. It is unknown whether all the Plan's goals and objectives can be readily accomplished. While the Plan's goals are to establish unified compensation rates and to minimize the opportunity for arbitrage, rates still vary and loopholes to exploit remain. The ultimate impact on competition and consumers is also in question. For example, how will CLECs and wireless companies who are automatically designated as Track 1 carriers under the Plan compete in rural areas with Track 2 and 3 companies? Michigan also has several ILECs licensed to provide competitive services in other ILEC territories that would be in different tracks. How would those ILECs be classified under the Plan and would having competitive operations change their track classification?

Ultimately, the MPSC asks, how much will Michigan consumers see their rates go up as a result of increases in the SLC and USF if the Plan is enacted? Michigan is already a net payer into the USF. It is inherently unfair to ask customers to pay more into a fund from which they will receive little or no net gain.

It is clear that carriers need more time to try to resolve these issues among themselves and that the FCC should give everyone ample opportunity to participate in the intercarrier compensation overhaul debate. The MPSC urges the FCC to respond accordingly. In this way, perhaps the industry can come to a comprehensive solution more workable for all parties involved.

Comprehensive intercarrier compensation reform is long overdue and the Missoula Plan offers many positive reform aspects. Questions need to be answered and industry and consumer needs balanced, prior to moving forward with implementing the Plan or something similar. The MPSC thanks the FCC for this opportunity to weigh in on the debate.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

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