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

In the Matter of : CC Docket No. 01-92
:
Developing a Unified Intercarrier :
Compensation Regime :

COMMENTS OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

BACKGROUND AND INTRODUCTION

Phantom traffic, that is, those telephone calls lacking sufficient signaling information to allow for proper intercarrier compensation, is an issue widely recognized by both the telecommunications industry and regulators. On July 24, 2006, the National Association of Regulatory Utility Commissioners ("NARUC") filed a plan for intercarrier compensation reform ("Missoula Plan" or "Plan") in this docket, which, among other things, provides for what is purported to be a comprehensive solution to the problem of phantom traffic. On November 6, 2006, the Plan's supporters filed with the Federal Communications Commission ("FCC"), as a written *ex parte*, a proposed interim process to address phantom traffic issues as well as a related proposal for the creation and exchange of call detail records. The FCC issued a notice on November 8, 2006, seeking input on the proposals submitted by the Plan's supporters and established a comment cycle for the filing of such comments. The deadline for initial comments is December 7, 2006. The Public Utilities Commission of Ohio ("Ohio Commission") hereby submits its responses, comments and recommendations concerning these proposals.

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DISCUSSION

Solving the problem of phantom traffic requires that a process be implemented for the transfer of call signaling information among and between carriers. In its comments to the FCC on the Missoula Plan, the Ohio Commission commended the Plan for taking steps toward this objective. *See Developing a Unified Compensation Regime*, CC Docket No. 01-92, Comments of the Public Utilities Commission of Ohio (filed October 25, 2006) at 46. Specifically, the Ohio Commission stated that if transit traffic carriers are required, as set forth in the Plan, to pass on without alteration, the telephone number contained in the billing information received from either the originating carrier or another transit carrier, the problem of phantom traffic would largely be eliminated. *See id.* Since filing its comments, the Ohio Commission's belief has not changed.

The Ohio Commission's favorable opinion of the Plan's phantom traffic solution should not be construed as the Ohio Commission's endorsement of the Missoula Plan itself. To the contrary, the Ohio Commission remains opposed to the FCC's approval of the Plan and continues to believe that, as stated in its prior comments, the phantom traffic solution proposed in the Missoula Plan can, and should, be implemented independent of the Plan as a whole, as a modification of the existing interconnection rules. *See id.* Consequently, the Ohio Commission does not believe that the Plan's proposal for dealing with phantom traffic should be contingent upon the FCC's approval of the Plan in its entirety, but instead, should be adopted by the FCC as a stand-alone measure. The Ohio Commission notes that it is not alone in advocating for reforms that address phantom traffic separate from the Missoula Plan; other commenters have also taken similar positions. *See, e.g., Developing a Unified Compensation Regime*, CC Docket 01-92, Comments of the National Association of State Utility Consumer Advocates on the Missoula

Plan (filed October 25, 2006) at 92-93 (“NASUCA Comments”); Comments of the Florida Public Service Commission in Response to the Federal Communication Commission’s Public Notice Seeking Comment on the Missoula Intercarrier Compensation Reform Plan (filed October 25, 2006) at 2, 8 (“Florida PSC Comments”); The Comment of the Pennsylvania Public Utility Commission (filed October 25, 2006) at 4, 19, 23-24.

In reviewing the comments filed concerning the Missoula Plan, the Ohio Commission found that there are numerous positions on the Plan with no real consensus. *See, e.g., Developing a Unified Compensation Regime*, CC Docket 01-92, Comments of the Supporters of the Missoula Plan (filed October 25, 2006); Comments of the National Exchange Carrier Association, Inc. (filed October 25, 2006); Comments of Verizon on the Missoula Plan (filed October 25, 2006); NASUCA Comments; Florida PSC Comments. As such, it is quite possible that the Missoula Plan, as originally proposed, will never be implemented. For this reason, it is important that the issue of phantom traffic be addressed separate and apart from the Missoula Plan itself. By linking the phantom traffic solution to the full adoption of the Plan, there is the distinct possibility that a workable solution may be left on the table. If this were to occur, the industry, at best, would be left operating under an interim process that, by its definition, is intended only as a short-term, stop-gap measure. While some may argue that this would be preferable to the status quo, the Ohio Commission encourages the FCC to avoid even the possibility of this outcome by adopting the Plan’s permanent phantom traffic solution as a stand alone measure. Such action by the FCC would render the need for an interim process moot.

Although the Ohio Commission does not disagree with the processes detailed in the recent proposals from the Plan’s supporters, the Ohio Commission is of the opinion that it is best left to those in the telecommunications industry to comment on the mechanics of any such

proposal. So long as the necessary information is adequately and reliably transferred among and between carriers, the industry should decide how this is best accomplished. The process agreed upon by the entire industry, however, should not be held hostage to the passage of a larger Plan that only enjoys the support of a fraction of the industry.

While the Ohio Commission in general supports the proposed solution to phantom traffic as outlined in the Missoula Plan, the FCC is cautioned to avoid implementations that could have unintended consequences. Specifically, those who are using innovative business models to deploy new "disruptive" communications technologies, such as Internet telephony and other ISP and ESP services, should also be heard in this process so that the FCC's decisions about phantom traffic and other rules encourage technological innovation at all levels and do not inadvertently create either inappropriate barriers to entry or opportunities for avoiding legitimate costs.

CONCLUSION

In conclusion, the Ohio Commission appreciates the work that has been done in seeking a solution to the problem of phantom traffic. The Ohio Commission encourages the FCC to take immediate action to require carriers to pass on call signaling information as set forth in the Missoula Plan. The FCC should also ensure that the plan for phantom traffic that it adopts is hospitable to the development of innovative communications technologies and business models. The FCC should not, however, tie any measure addressing the issue of phantom traffic to the adoption of the Missoula Plan in its entirety. The Ohio Commission wishes to thank the FCC for the opportunity to provide comments in this proceeding.

Respectfully submitted,

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