

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

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Proper Routing and Compensation for Termination of Telecommunications Traffic	)	

**COMMENTS OF THE  
INDEPENDENT TELEPHONE AND TELECOMMUNICATIONS ALLIANCE  
and BALHOFF AND ROWE, LLC  
CONCERNING THE MISSOULA PLAN PHANTOM TRAFFIC INTERMIM PROCESS  
AND CALL DETAIL RECORDS PROPOSAL**

**I. SUMMARY AND BACKGROUND INFORMATION**

On November 6, 2006, Supporters of the Missoula Plan filed with the Federal Communications Commission (Commission) a “proposed interim process” to help resolve phantom traffic problems, and a related proposal for the creation and exchange of call detail records (hereafter referred to as the “Missoula Plan phantom traffic proposal”).<sup>1</sup>

These Comments encourage the Commission to adopt phantom traffic rules as soon as possible. The Missoula Plan phantom traffic proposal, filed November 6, 2006, provides a solid and important step, and should be adopted with, at most, minimal modifications.<sup>2</sup>

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<sup>1</sup> See “Comment Sought on Missoula Plan Phantom Traffic Interim Process and Call Detail Records Proposal,” Public Notice DA 06-2294 (rel. Nov. 8, 2006).

<sup>2</sup> Commenters express no opinion in these initial comments concerning any technical modifications that may be suggested. Any modifications should be in the direction of making the regime as robust as possible.

The Independent Telephone and Telecommunications Alliance (ITTA) was formed in 1994 to serve as a voice in Washington, DC, for midsize local exchange companies, on both legislative and regulatory issues. ITTA's member companies<sup>3</sup> are providers of a broad range of high-quality wireline and wireless voice, data, Internet and video telecommunications services to over thirteen million customers in forty-three states.

Balhoff & Rowe, LLC (B&R), is a consulting firm with over forty years collective experience in telecommunications finance, policy, and regulation. The firm emphasizes financially-sound solutions to public policy problems, and is especially focused on promoting a regulatory environment conducive to high-quality communications services in rural America.

## **II. DISCUSSION: THE COMMISSION SHOULD PROMPTLY ADOPT EFFECTIVE PHANTOM TRAFFIC RULES**

### **A. Phantom Traffic is Traffic Which Cannot Properly be Identified and is Therefore Unbillable or Underbilled.**

Working with others, the mid-sized carriers have been among the leaders in clarifying the phantom traffic problem, and developing and supporting solutions. Much of the industry has come to recognize that phantom traffic is a serious problem, and has endorsed in whole or significant part a core common solution set. The resolution of the phantom traffic issue must affirm the principle that those who use the network must contribute to pay for the network.

By its nature, the phantom traffic problem is difficult to size accurately. The impact on particular carriers may vary as well, depending on a variety of factors including whether a carrier's network is adjacent to a targeted urban area (for example, subtending an RBOC's

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<sup>3</sup> ITTA member companies are CenturyTel, Commonwealth Communications, Comporium Communications, Consolidated Communications, Embarq Communications, FairPoint Communications, Iowa Telecom, Madison River Communications, Matanuska Telephone Association, and TDS Telecom. Individual companies do not necessarily endorse all aspects of these Comments, and in several cases may file additional comments of their own in this proceeding.

tandem), whether particular states have facilitated aggressively intercarrier agreements or pursued other enforcement efforts, or whether a carrier has itself spent the time and money on extensive detection and compliance efforts.

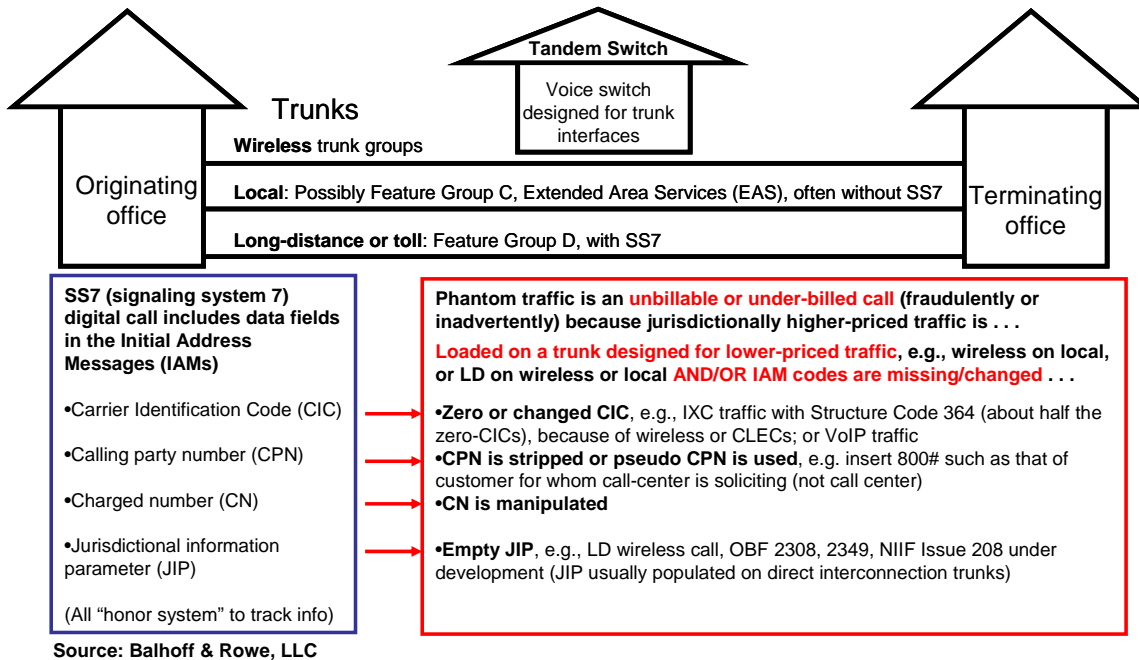
The costs of phantom traffic are significant, harming many carriers and their customers. Phantom traffic appears to account for as much as twenty percent of some terminating carriers' minutes, and this percentage appears to be growing.<sup>4</sup> Generally, phantom traffic results in direct economic impact in the form of lost revenue, which is lawfully owed, and indirect costs in the form of forensic and enforcement costs.

Phantom traffic cannot be billed correctly because it is unlabeled or mislabeled, as reflected in Figure 1, below. The diagram highlights the call detail records that can be altered and the trunks on which calls can be loaded to avoid detecting the billable source. As a result, the terminating carrier or intermediate carrier cannot jurisdictionalize the traffic and cannot properly bill for the traffic. The simple answer is that a clear set of rules will establish standards for all carriers.

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<sup>4</sup> See Letter from Balhoff & Rowe, LLC, to Marlene H. Dortch, Secretary, FCC, Network Investment and Policy for Rural America, 4 (dated Oct. 18, 2005); Letter from Donna Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, "Phantom Traffic" Solutions, 15 (dated Nov. 10, 2005) ("Approximately 20 percent of all traffic that's delivered to Verizon's network lacks a valid CPN/CN").

**Figure 1: Simple Phantom Traffic Diagram**



**B. Addressing Phantom Traffic is an Appropriate First Step in Comprehensive Inter-carrier Compensation Reform.**

Industry and individual state efforts have both been helpful in clarifying causes and proposing strategies to mitigate the phantom traffic problem. These efforts provide important inputs to a comprehensive solution that may be adopted by the Commission, but are not by themselves sufficient. Generally, industry generated approaches are “best efforts,” are not mandatory, and are therefore not realistically enforceable. State efforts have been valuable in clarifying the problem, encouraging use of inter-carrier agreements, and in some cases adopting intrastate rules that are useful examples for national action. However, phantom traffic is by its nature interstate traffic, and must be addressed nationally in order to jurisdictionalize the traffic.

Many or most participants in the effort to reform inter-carrier compensation have recognized that addressing phantom traffic is a key component in the process. Indeed, the

National Association of Regulatory Utility Commissioners (NARUC), which sponsored the process that resulted in the Missoula Plan, acknowledged the importance of phantom traffic in the development of its own intercarrier compensation “straw man.”<sup>5</sup>

The key insights include the recognition that reducing intercarrier access rate differentials will moderate, but not resolve, arbitrage or attempts to avoid payments. Any system requiring volume-based payments between carriers will require at least some mechanism for identifying and charging for the traffic. Prompt action on the Missoula Plan phantom traffic proposal will also help size correctly the level of revenues owed among carriers under the current system, which is then potentially subject to being established as the target level for an access replacement mechanism. Thus, resolution of phantom traffic will provide a focused next step in reform and is a necessary prerequisite to accurately addressing broader intercarrier compensation issues. It will affirm the reform principle that those who use the network should help pay for the network.

**C. The Commission Has Before it a Comprehensive Record Upon Which to Act.**

Over the course of this proceeding, numerous parties have filed comments describing the size and nature of the phantom traffic problem, identifying its sources, describing its costs, and identifying potential solutions. The Missoula Plan phantom traffic proposal is largely based on and consistent with this effort.<sup>6</sup> The Commission itself previously, in March 2005, sought comment on intercarrier compensation proposals that addressed phantom traffic.<sup>7</sup> In response to

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<sup>5</sup> See Letter of Robert B. Nelson, Commissioner, Michigan Public Service Commission, Elliott G. Smith, Board Member, Iowa Public Util. Bd., and Ray Baum, Commissioner, Oregon Public Utility Commission, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, Appendix C at 6 (filed May 18, 2005) proposing that intercarrier compensation rules include truth-in-labeling traffic and permitting terminating carriers to block traffic that is not properly labeled.

<sup>6</sup> At least two of the predecessor industry-led efforts to develop intercarrier compensation reform proposals specifically addressed phantom traffic, the Alliance for Rational Intercarrier Compensation (ARIC) and the Expanded Portland Group (EPG).

<sup>7</sup> See *Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, FCC 05-33, ¶ 45 (rel. Mar. 3, 2005).

the Commission's prior notice, numerous parties filed additional comments concerning phantom traffic.<sup>8</sup>

In December, 2005, a group of mid-sized carriers filed a comprehensive proposal to address phantom traffic.<sup>9</sup> The filing included both specific rules and an explanation of the Commission's jurisdiction to take action. Subsequently, the carriers engaged in extensive discussions with other industry stakeholders, additional subject matter experts, and trade associations, which resulted in several further modifications. A final modified proposal was filed in March 2006.<sup>10</sup> On March 9, 2006, ITTA filed an *ex parte* in support of the approach.<sup>11</sup> The Western Telecommunications Alliance<sup>12</sup> and others also made significant filings or conducted *ex parte* presentations.

As a result of the specific filings and numerous memorialized *ex parte* meetings, the Commission developed an extensive record concerning phantom traffic, a robust understanding of the problem's nature, and a set of specific and actionable proposals. With the filing of the Missoula Plan phantom traffic proposal, the Commission is now in a position to act.

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<sup>8</sup> Among numerous filings, *see, e.g.*, Comments filed May 23, 2005 CenturyTel, Inc. at 5-7; GVNW Consulting Inc. at 27; Interstate Telcom Consulting, Inc. at 15, 18; Mid America Computer Corporation at 2; National Telecommunications Cooperative Association at 51-54; North Dakota Public Service Commission at 3; TDS at 10-12. *See also* Reply Comments filed July 20, 2005, by Balhoff & Rowe, LLC; CenturyTel, Inc.

<sup>9</sup> Proposed Rules for Proper Identification and Routing of Telecommunications Traffic, filed in CC Docket 01-92 (filed December 5, 2005). The filing was made on behalf of CenturyTel, Inc., Consolidated Communications Holdings, Inc., FairPoint Communications, Inc., Iowa Telecommunications Services, Inc., TDS Telecommunications Corp., and Valor Telecommunications of Texas, L.P.

<sup>10</sup> Letter of Karen Brinkmann to Marlene Dortch (filed March 31, 2006).

<sup>11</sup> Letter of David Zesiger to Marlene Dortch (filed March 9, 2006).

<sup>12</sup> Letter of Gerald J. Duffy to Marlene H. Dortch (filed April 5, 2006).

### III. CONCLUSION

To its credit, the Commission promptly noticed for comment the Missoula Plan interim phantom traffic proposal. That proposal reflects a broad industry consensus and significant insight by subject matter experts. Over a period of years, stakeholders have consistently urged the Commission to act, and the Commission has methodically developed a knowledge base concerning the problem and candidate solutions.

Phantom traffic is fundamentally a “truth-in-labeling” problem. Addressing phantom traffic will affirm that carriers which use the network must help pay for the network. Reducing phantom traffic is an important action in its own right, and will be a valuable next step in intercarrier compensation reform.

Respectfully submitted,

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