BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Investigation into Signaling Protocols, Call Records, Trunking Arrangements, and Traffic Measurement.	)))	Case No. TO-99-593

SOUTHWESTERN BELL TELEPHONE COMPANY'S SUGGESTIONS IN OPPOSITION TO MITG'S AND STCG'S JOINT MOTION TO ADOPT BUSINESS RELATIONSHIP

Southwestern Bell Telephone Company,[1] respectfully submits the following Suggestions in Opposition to the Joint Motion to Adopt Business Relationship filed November 21, 2001 by the Missouri Independent Telephone Group ("MITG") and the Small Telephone Company Group ("STCG").

1. The Joint Motion is Nothing More than Another Application for Rehearing. MITG's and STCG's Joint Motion is nothing more than a belated application for rehearing of the Missouri Public Service Commission's December 13, 2001 Order.[2] Both MITG and STCG previously sought rehearing of the Commission's December 13, 2001 Order,[3] which the Commission denied in Order Denying Rehearing on January 3, 2002. As their Joint Motion makes clear, MITG and STCG simply refuse to accept any determination by the Commission that differs from their own demands. MITG's and STCG's Joint Motion is essentially a rehash of their prior Applications for Rehearing and should be denied out of hand.

2. Failure to Disclose Staff's Extensive Rulemaking Efforts. In asking the Commission for further hearings to change the business relationship between industry

[1] Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company, will be referred to in this pleading as "Southwestern Bell" or "SWBT."

[2] Order Directing Implementation, Denying Motion to Consolidate and Granting Intervention, Case No. TO-99-593, issued December 13, 2001.

[3] MITG filed a Motion for Ruling on Unresolved Issue and/or Motion for Rehearing on December 20, 2001; STCG filed an Application for Rehearing on December 21, 2001.

participants, MITG and STCG represent to the Commission that "implementation of OBF Issue 2056 and the enhanced record exchange it could provide . . . has not resolved the issues."[4] MITG and STCG, however, fail to disclose to the Commission the facts that Staff has expended considerable effort in working with the industry to develop a proposed rule to implement an enhanced record exchange and that, while not complete, their effort is nearing completion.

As the Commission is aware from the periodic status reports that Staff has filed, Staff has hosted three full industry forum/workshops, numerous industry conference calls and individual meetings with each industry participant. These efforts culminated in a proposed enhanced record exchange rule which Staff circulated to the industry on November 14, 2002. Staff has scheduled an industry conference call for this Friday, December 6, 2002, to discuss the draft rule. Staff is also in the process of putting together another industry forum/workshop in Jefferson City to further explore the proposed rule.

While it can be expected that industry participants (including Southwestern Bell) may have issues with portions of any rule proposed by Staff, any disagreement with the substance of Staff's draft rule should be raised within the process that Staff has established to develop the proposed rule, and in any subsequent rulemaking proceeding before the Commission. MITG's and STCG's criticism that the steps taken to date have not "resolved the issues" is premature and unfair. The Commission should not allow MITG and STCG to completely derail Staff's efforts simply because they apparently disagree with the approach of Staff's draft rule.

3. MITG and STCG's Position is Inconsistent with Industry Standards and Has Been Rejected By the FCC. MITG's and STCG's proposed new business relationship, which attempts to impose liability on transit carriers like Southwestern Bell and Sprint, violates accepted industry standards as expressed by the FCC. In its Unified Carrier Compensation docket, the

[4] MITG and STCG Joint Motion, p. 3.

FCC has stated that the originating carrier - - the one who has the relationship with the calling party - - is responsible for compensating all downstream carriers involved in completing the call:

> Existing access charge rules and the majority of existing reciprocal compensation agreements require the calling party's carrier, whether LEC, IXC or CMRS, to compensate the called party's carrier for terminating the call. Hence, these interconnection regimes may be referred to as "calling-party's-network-pays" (or "CPNP"). Such CPNP arrangements, where the calling party's network pays to terminate a call, are clearly the dominant form of interconnection regulation in the United States and abroad.[5]

The FCC's Common Carrier Bureau reaffirmed the continued appropriateness of the calling party's network pays standard in a decision released only three months ago: In the Verizon-Virginia Arbitration with AT&T, Cox and WorldCom, the FCC Common Carrier Bureau specifically rejected imposing financial liability on the transit carrier for expenses associated with traffic originated by other carriers.[6]

4. MITG's and STCG's Position is Contrary to Representations Made to the FCC. In seeking to change the business relationship here to impose liability on transit carriers, MITG and STCG are taking a position that is directly contrary to the position STCG is maintaining at the FCC. In an effort to dissuade the FCC from implementing a "bill and keep" intercarrier compensation regime for all types of traffic, the small companies have taken the position that the existing intercompany compensation arrangements under which the originating party's network pays, has worked well and can continue to work well into the future:

> While the MO STCG does not necessarily oppose the concept of a unified approach to intercarrier compensation, the Commission's proposal to implement a "bill and keep" intercarrier compensation regime is ill advised. The existing intercompany compensation regime known as Calling Party's Network Pays (CPNP) has worked well for a number of years and, with recent rulings by the

[5] In the Matter of Developing a Unified Carrier Compensation Regime, CC Docket No. 01-92, Notice of Proposed Rulemaking, released April 27, 2001, para. 9 ("Unified Carrier Compensation NPRM")(emphasis added).
[6] In the Matter of the Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon-Virginia Inc., and for Expedited Arbitration, et al., CC Docket No. 00-218, et al., Memorandum, Opinion and Order, released July 17, 2002 ("FCC Verizon-Virginia Arbitration Order").

Commission to address particular problems such as intercarrier compensation for ISP bound traffic, CPNP can continue to work well into the future. There is no need or reason for the Commission to "throw the baby out with the bath water" for a purely hypothetical regime which has not withstood any empirical analysis.[7]

5. MITG's and STCG's Proposal Inappropriately Puts All Burdens of Interconnection on Transit Companies. In proposing to change the business relationship among industry participants, MITG and STCG attempt to make transit carriers financially responsible for nearly all traffic that flows to the small LECs through a large company tandem, even if it is another carrier's traffic. And for small LECs with their own tandems, the proposal would make transit carriers responsible for terminating charges on such traffic even if the responsible carrier has been identified and an appropriate record is available for the terminating carrier to bill from.[8]

As the Commission is aware, transiting companies receive only a small fee for providing network facilities to interconnect the originating and terminating carriers' networks. The fees are typically contained in interconnection agreements which have been approved by this Commission. These interconnection agreements have terms of varying length, but many of them will remain in effect for years. The MITG and STCG proposal would leave transit companies in the untenable position of paying substantial fees to terminating companies with no revenue source to cover these substantial charges.

In an effort to advance their new business relationship, which would totally revamp the longstanding intercompany compensation mechanism,[9] MITG and STCG make unsubstantiated

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[7] See, Initial Comments of Missouri Independent Telephone Group, CC Docket No. 01-92, filed with the FCC on August 21, 2001 at p. 3 (emphasis added, internal citations omitted), a copy of this filing is appended as Attachment 1.

[8] While small LECs without tandems appear to be willing to bill the originating carrier if they receive a Category 11 01 billing record from the transit carrier's access tandem, the MITG and STCG proposal would still require the transit carrier to be responsible for any difference in the total amount of traffic reported by the transiting company's tandem and the total amount of traffic as measured by the terminating LEC. See, MITG's and STCG's Terminating Traffic Business Relationship to Replace Relationship Utilized Pursuant to PTC Plan, pp. 1-2.

[9] These arrangements are reflected not only in all LEC access tariff, but also in Commission-approved CLEC interconnection agreements, which were patterned on this industry standard arrangement

claims that they are terminating a significant amount of unidentified and uncompensated traffic and that a failure to make the transit carriers responsible for this traffic would discriminate against IXCs. But as the Commission is aware, the whole point of Staff's effort in developing a rule to implement an enhance record exchange system was to address the issue of unidentified traffic.

Consistent with the Commission's goal of reducing billing discrepancies, Southwestern Bell would note that it has been working diligently to provide additional information to downstream carriers on traffic that transits its network. For example, Southwestern Bell has recently offered all terminating LECs individual billing records on certain CLEC-originated calls that transit its network. These records were developed and made available because CLECs, who have an obligation under their respective interconnection agreements, failed to provide required records to terminating companies. While MITG and STCG complain about the format of this new record and express a preference for Category 11 Records,[10] Southwestern Bell at no time required them to accept these records and only offered them to MITG and STCG companies in an effort to help these companies identify and bill for the traffic being terminated. Although Southwestern Bell does not have the current ability to produce these records in a Category 11 format, it believes that many of the small companies' billing vendors have the capability of handling this type of record as they routinely process them for small companies in other states.

MITG and STCG disingenuously attempt to confuse the Commission by comparing the provision of long distance service by IXCs with the provision of access services by LECs, even though these are two entirely different things. When the former PTCs provide interexchange toll

[10] MITG and STCG Joint Motion, p. 4.

services to their end-users, they pay terminating access charges to the small LECs that terminate those calls, just like IXCs do. Therefore, no discrimination occurs. Although the small companies claim that the existing intercompany compensation arrangement somehow gives the former PTCs an advantage over traditional IXCs (although they do not identify what that advantage is), the Commission should be aware that no IXC has ever advanced such a claim. If such a claim were true, AT&T, the largest interexchange carrier in the country, would have advanced it in this case. Instead, it withdrew from the proceeding. Similarly, Sprint, which is affiliated with the third largest interexchange carrier in the country, also would have raised it if it were a true concern. It too did not. In fact, Sprint supports the continuation of the longstanding intercompany arrangement under which the originating carrier is responsible for paying the terminating carrier.

Southwestern Bell and the other former PTCs have indicated on numerous occasions that they oppose the small LECs' attempt to radically restructure the industry. The former PTCs, however, consistent with the Commission's objective of reducing billing discrepancies among carriers, have continually indicated that they were willing to work cooperatively with the small LECs to help them obtain the records they need to bill and receive compensation from the appropriate originating carrier for the traffic they terminate. By offering all terminating LECs individual billing records on certain CLEC-originated calls that transit its network, Southwestern Bell is doing just that. The Commission should not permit MITG and STCG to derail Staff's efforts to achieve the Commission's objective.

WHEREFORE, for all the foregoing reasons, the Commission should deny STCG's and MITG's Joint Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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Attachment 1

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

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

INITIAL COMMENTS
OF THE MISSOURI SMALL TELEPHONE COMPANY GROUP

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I. INTRODUCTION

In its Notice of Proposed Rulemaking (NPRM) adopted April 19, 2001, and released April 27, 2001, the Federal Communications Commission (the Commission) sought comments on its proposal to adopt a unified intercarrier compensation regime based on a "bill and keep" arrangement. Initially, the proposed bill and keep arrangement would apply to all local reciprocal compensation (i.e. traffic between local exchange carriers (LECs) including competitive local exchange carriers (CLECs) as well as incumbent local exchange carriers (ILECs)). The Commission also proposes to extend its intercarrier compensation arrangement to Commercial Mobile Radio Service (CMRS) compensation arrangements as well as to access charge compensation. The Missouri Small Telephone Company Group (MoSTCG)[1] offers these initial comments in opposition to the Commission's NRPM. For purposes of its comments, the MoSTCG is assuming that the proposed bill and keep intercompany compensation arrangement will be applied to all forms of intercarrier compensation (i.e., local reciprocal compensation arrangements, traffic to and from CMRS providers, and interexchange carrier compensation arrangements).

II. EXECUTIVE SUMMARY

[1] See Attachment A

While the MoSTCG does not necessarily oppose the concept of a unified approach to intercarrier compensation, the Commission's proposal to implement a "bill and keep" intercarrier compensation regime is ill advised. The existing intercompany compensation regime known as calling party's network pays (CPNP) has worked well for a number of years and, with recent rulings by the Commission to address particular problems such as Intercarrier Compensation for ISP-bound traffic,[2] CPNP can continue to work well into the future. There is no need or reason for the Commission to "throw the baby out with the bath water" for a purely hypothetical regime which has not withstood any empirical analysis.

While a "bill and keep" arrangement may be appropriate in limited circumstances where the traffic between two networks is relatively balanced and the costs of terminating traffic are relatively similar, it will simply not work in a situation where traffic is out of balance and costs are dissimilar, which is the situation that currently exists in the vast majority of cases. The Commission's apparent belief that bill and keep is economically efficient and administratively simple is based upon faulty assumptions and does not withstand close scrutiny. Furthermore, the Commission appears to be overlooking the end-user impact and universal service concerns as references to those concepts are few and far between in the NPRM.

An intercompany compensation regime that is based upon a bill and keep arrangement

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[2] *In the Matter of Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, *Order on Remand and Report and Order*, FCC 01-131 (rel. April 27, 2001)

will have significant and adverse impact upon the end-users of the MoSTCG and threaten the universal availability of telecommunications services at affordable rates. Before the Commission embarks on any change in existing intercarrier compensation regimes, it must, at the very least, determine the impact the proposal will have upon end-users rates and/or universal service fund requirements. In that regard, the MoSTCG fully supports the recent resolution adopted by the National Association of Regulatory Utility Commissions (NARUC) at its annual meeting in Seattle, Washington, on July 18, 2001. Until such time as the Commission has sufficient information regarding the effect of its proposed rulemaking on end-user customers and universal service, the Commission should refrain from adopting a unified bill and keep arrangement.

III. THE MISSOURI SMALL TELEPHONE COMPANY GROUP

The MoSTCG is made up of twenty (20) small telephone companies serving predominately rural areas within the state of Missouri. The members of the MoSTCG range in size from 240 access lines to 17,040 access lines, and they primarily provide local exchange service to their end-user customers. The members of the MoSTCG are rural telephone companies as defined by the Telecommunications Act of 1996[3] and are "small entities" as defined by the Commission in its NPRM.[4]

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[3] 47 U.S.C. § 153(37)

[4] *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket

No. 01-92, *Notice of Proposed Rulemaking*, FCC 01-132 (rel. April 27, 2001), ¶ 141, 144.

Of significant importance to this inquiry is the fact that the members of the MoSTCG are heavily reliant on intercompany compensation, primarily access charge revenue received from interexchange carriers who originate and terminate both intrastate and interstate interexchange telecommunications services. Indeed, members of the MoSTCG, on average, receive over 50% of their total regulated revenues from intercarrier compensation. Consequently, if the members of the MoSTCG are required to recover all existing intercarrier compensation from their end-user subscribers or universal service funds (which appears to be the case under the Commission's proposal), the impact on end-users and/or the universal service fund will be substantial.[5]

IV. THE APPROPRIATE GOALS OF INTERCOMPANY COMPENSATION

The MoSTCG agrees that the appropriate goals of any intercompany compensation regime should include the efficient use of the network and the efficient investment in, and deployment of, network infrastructure. In addition, an intercompany compensation regime should fairly apportion the costs of the network among the various groups of customers who use it, such as end-user and carrier customers. In other words, an intercompany compensation regime should be equitable to all customers. Intercarrier compensation should also promote universal service, or, at the very least, do no harm to the universal availability of telecommunications services at affordable prices. Finally, any intercompany compensation

[5]The MoSTCG believes its situation is not unique and that the vast majority of small, rural ILECs will experience similar results.

regime should be relatively easy to administer.

The current intercarrier compensation regime (i.e., CPNP) meets and achieves all of these goals. While the Commission asserts various deficiencies in the current intercompany compensation regime, its proposed bill and keep arrangement is less likely to meet these enumerated goals. For example, economic efficiency is not promoted by a bill and keep regime. Bill and keep simply transfers the costs of terminating a call to the called party (with no guarantee that the calling party will see a commensurate decrease in its costs of making the call). A bill and keep arrangement is also likely to provide an incentive for inefficient behavior on the part of originating carriers who would seek to attract the business of customers who generate significant amounts of originating calling.

Bill and keep is clearly not equitable to all groups of customers, as called parties will now be required to pay the entire costs of the terminating network. A bill and keep arrangement also ignores concerns for universal service and end-user impacts as discussed later in these comments. Finally, contrary to the Commission's belief, a bill and keep arrangement will not necessarily promote administrative efficiency because transport costs still need to be apportioned between the originating and terminating networks. In addition, new billing arrangements will, in all likelihood, need to be established in order to bill and collect terminating costs from the terminating end-user.

The *NPRM* greatly overstates the alleged virtues of a bill and keep intercompany compensation regime. While bill and keep may appear to be appropriate in those circumstances where the traffic between two networks is relatively balanced and the costs of the two networks are relatively similar, there is absolutely no evidence that such an arrangement will work in a situation where traffic is imbalanced and costs are dissimilar. In fact, common sense leads to the inescapable conclusion that bill and keep will neither be economically efficient nor equitable in a situation where traffic between two networks is imbalanced and the costs of the network are dissimilar.

Maintaining universal service is one of the most important goals of any intercompany compensation arrangement, but universal service will not be furthered by the adoption of a bill and keep intercompany compensation regime, as the Commission itself recognizes. In fact, bill and keep would shift the costs from carriers to end-users. The obvious impact is that end-user rates will increase, in some cases dramatically, while carrier rates will decrease. Although the general theory is that a carrier's rates (such as interexchange or toll rates) will likewise fall, the experience of the MoSTCG and their end-user customers has been that interexchange rates in rural areas have not decreased to match the shift in costs to the end-user subscribers.

The current regime of CPNP has achieved the competing goals of economic efficiency and equity, on the one hand, with universally available service at affordable rates, on the other hand. The wholesale abandonment of this regime is unnecessary and unwarranted, particularly where the Commission has failed to provide any empirical analysis that the new, proposed regime will achieve these goals and still do no harm to the equally important goal of universal service.

V. THE COMMISSION'S *NPRM* IS BASED ON FALSE ASSUMPTIONS.

The Commission's proposal to scrap the current intercompany compensation regime and replace it with a bill and keep arrangement is premised upon faulty assumptions, both regarding the inadequacy of the current system as well as the virtues of the proposed system.

Under the existing intercompany compensation arrangement where the calling party's network pays, the Commission states that the calling party is the sole causer and sole beneficiary of a call. This also implies that the calling party bears the entire cost of terminating the call, but this is simply not the case. The rationale for the CPNP is that the originating carrier, who has a customer relationship with the calling party, has the wherewithal to recover its costs to originate, transport, and terminate the call. While the calling party obviously derives benefit from the ability to call other end-users, it is neither fair nor appropriate to assume that the calling party is the sole beneficiary of the call. Called parties also derive benefit from the receipt of calls and the ability to be called, and their local rates are designed to recover some of the terminating company's costs of its network. So, neither the calling party nor its originating carrier pay for 100% of the terminating company's costs. The terminating company's end-user customer through local rates also makes a contribution to the LEC's network (which both originates and terminates the call). Thus, there is a sharing not only of benefits but of costs under the existing CPNP regime, and neither the calling party or the called party is unfairly burdened in the sharing of those costs.

Similarly, it is incorrect to assume that the called party is the sole beneficiary of a call, although this is clearly the underlying assumption in a bill and keep arrangement. Many times the called party receives no benefit from a call, particularly if it is an unwanted sales call.

In Missouri, a substantial amount of the traffic originating from or terminating to the networks of the members of the MoSTCG is carried by an intermediate or "transiting" carrier. The transiting carrier is most often the regional bell operating company (RBOC). In Missouri, the RBOC is Southwestern Bell Telephone Company (SWBT). Under a bill and keep arrangement, a transiting carrier, such as SWBT, has no end-user customer (i.e., either originating or terminating) who will benefit from the call. Nevertheless, the intermediary carrier incurs costs in transiting the call that need to be recovered. The current CPNP regime has a well established system for seeing that the transiting carrier gets paid. Under either proposed bill and keep arrangement (i.e., COBAK or BASICS), there appears to be a recognition that the owner of the transport facilities should be compensated. Accordingly, both bill and keep plans require that compensation be paid for the transport facilities. The way in which the intermediary carrier will be paid for its transport facilities is far from resolved and will, in all likelihood, involve much contention and debate. Ultimately, the proposed bill and keep arrangement will not be as simple to administer as the Commission may initially believe.

The Commission also seems to take for granted that the existing arrangement is broken and must be scrapped. This is simply not the case. Many of the intercompany compensation problems have recently been addressed by the Commission. For example, in its recent order regarding Intercarrier Compensation for ISP-Bound traffic,[6] the Commission addressed one of

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[6] *In the Matter of Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-

the major shortcomings of the CPNP regime (a shortcoming which came to light because of the abuses being perpetuated by competitive carriers). In addition, the Commission has recently embarked upon implementation of significant access reform for price cap LECs in the form of the CALLS Plan[7] and further reform is under consideration for non-price cap companies in the form of the MAG Plan.[8] Both of these plans, if given a reasonable opportunity, will work toward removing significant implicit subsidies from access charges while still maintaining universal service. The Commission should give these plans a chance to work before embarking on an entirely new intercompany compensation scheme.

The existing intercarrier compensation regime is not broken, and it does not need to be replaced. The other modifications that are already being considered and implemented will address many of the concerns raised by the Commission regarding the current regime. These modifications ought to be given a reasonable opportunity to succeed.

VI. "BILL AND KEEP" INVOLVES MANY PROBLEMS AND UNCERTAINTIES.

68, *Order on Remand and Report and Order*, FCC 01-131 (rel. April 27, 2001)

[7] *In the Matter of Access Charge Reform*, CC Docket No. 96-262, *Sixth Report and Order*, FCC 00-193 (rel. May 31, 2000)

[8] *In the Matter of the Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, *Report and Order*, FCC 01-157 (rel. May 23, 2001)

The Commission cites as one of its main goals the elimination of regulatory arbitrage which it claims arises from the existing CPNP regime. Regulatory arbitrage, however, was not created by CPNP. Rather, it is due to the presence of dual regulatory bodies (i.e., federal and state) having concurrent jurisdiction over the telecommunications industry. Implementation of a bill and keep regime will not necessarily eliminate regulatory arbitrage, as there will continue to be dual jurisdiction by the states and the federal agencies. In addition, depending upon how transport costs are recovered under a bill and keep regime, there may be as much opportunity for arbitrage as there is under the existing regime. Finally, the concern for regulatory arbitrage may be overstated because recent action by the Commission in addressing ISP-bound traffic and access reform will lessen the opportunity for such arbitrage.

The Commission also seems to be concerned with a "terminating monopoly" situation. However, the terminating monopoly issue was not created by the ILECs, whose access rates are closely regulated, but by CLECs who initially were permitted to establish their own rates without any regulatory supervision. Again, recent action by this Commission[9] and state Commissions[10]

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[9] See e.g. *In the Matter of Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, CC Docket 96-262, *Seventh Report and Order*, FCC 01-146 (rel. April 27, 2001)

[10] See e.g. *In the Matter of the Access Rates to be Charged by Competitive Local Exchange Telecommunications Companies in the State of Missouri*, Case No. TO-99-596, *Report and Order*, 2000 Mo. PSC LEXIS 803, issued June 1, 2000

to control abuses by CLECs in the establishment of terminating access rates has greatly diminished the issue of terminating monopoly.

The proposed bill and keep arrangement will not lessen regulatory oversight. The Commission recognizes that under either of the proposed bill and keep arrangements there must be an allocation or assignment of transport costs. It is unlikely that all carriers will mutually agree to this allocation or assignment, so regulatory intervention will, in all likelihood, be required. In addition, if carriers are required to recover all of their terminating costs from the end-user, this may require new billing arrangements with those end-user customers who receive substantial volumes of calls and from whom, it may be argued, a substantial portion of the terminating costs should be recovered. While the Commission is appropriately concerned with hidden subsidies, an intercompany compensation regime that places all of the terminating costs upon all of the terminating end-users will not remove those hidden subsidies, but merely shift them among customers, unless new ways are found to measure and bill end-user customers for the terminating costs they create on the network.

The proposed bill and keep intercompany compensation arrangement is far from a panacea. As noted previously, it is premised on faulty assumptions, it does not necessarily promote efficient use of the network, and it will result in significant cost shifts to the end-user (or universal service funding). Replacing the existing compensation regime with a bill and keep regime would simply create a new set of problems. It is troubling to see the Commission considering an entirely new intercompany compensation regime without any actual experience or empirical analysis.

VII. THE PROPOSED BILL AND KEEP ARRANGEMENT WILL HAVE A SUBSTANTIAL AND ADVERSE IMPACT UPON END-USER SUBSCRIBERS AND CREATE A VERY REAL THREAT TO UNIVERSAL SERVICE.

It has not gone unnoticed to the MoSTCG that in the entire 70 pages of the Commission's NPRM, the concepts of universal service and impact on end-user customers are discussed in cryptic fashion in only one (or possibly two) places. It is clear that end-user impacts and universal service have taken a distant back seat to economic theory in this proposed rulemaking. A bill and keep intercompany compensation arrangement will have the effect of shifting substantial amounts of costs from carriers to end-user customers. This is particularly true for the members of the MoSTCG who derive more than half of their total regulated revenues from intercarrier compensation. If these small companies are required to recover those substantial amounts of revenues from their end-user customers (or from universal service funds) the impact will be substantial.

It is absolutely critical, in order for the Commission to make a meaningful determination of the impact upon end-user customers and universal service, that it conduct an empirical analysis which will quantify the cost shift being contemplated. In this regard, the MoSTCG fully supports the recent resolution of the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC) adopted July 18, 2001 at their annual meeting in Seattle, Washington. Specifically, the MoSTCG agrees "that prior to adoption, the effect of any unified or bill-and-keep regime on market issues be fully investigated by both the federal and state regulators" and that "prior to further consideration of a unified or bill-and-keep system, . . . the FCC refer the proposals and cost application issues to the Separations Joint Board for purposes of determining the effect upon intrastate and interstate ratepayers and refer universal service issues to the Universal Service Joint Board."

VIII. CONCLUSION

The Commission's proposal to eliminate the current intercarrier compensation regime and replace it with a bill and keep arrangement should be abandoned. It is not more economically efficient, and certainly no more equitable, than the current regime. More importantly, adoption of the proposed bill and keep arrangement will have substantial and adverse consequences upon end-user rates and/or universal service fund requirements. The Commission should allow recent actions regarding intercarrier compensation for ISP-bound traffic and access reform to be fully implemented before dismantling the existing intercarrier compensation regime. At the very least, before the Commission begins serious consideration of any new intercarrier compensation regime, it should perform empirical analyses to determine whether or not such a regime will achieve the various goals of an appropriate intercompany compensation regime, including maintaining universal service.

Respectfully submitted,

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ATTACHMENT A

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Cass County Telephone Company
Citizens Telephone Company
Craw-Kan Telephone Cooperative, Inc.
Farber Telephone Company
Fidelity Telephone Company
Granby Telephone Company
Grand River Mutual Telephone Corp.
Green Hills Telephone Corp.
Holway Telephone Company
Iamo Telephone Company
Kingdom Telephone Company
KLM Telephone Company
Lathrop Telephone Company
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Mark Twain Rural Telephone Company
Miller Telephone Company
New Florence Telephone Company
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