

July 2, 2018

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *In re Petition for Declaratory Ruling Regarding Applicability of the IntraMTA Rule to LEC-IXC Traffic*, WC Docket No. 14-228

Dear Ms. Dortch:

On June 28, 2018, I met with General Counsel Tom Johnson, David Gossett and Richard Welch from the Office of General Counsel, Pam Arluk and Victoria Goldberg from the Wireline Competition Bureau, and Peter Trachtenberg from the Wireless Telecommunications Bureau. Curtis Groves from Verizon and Keith Buell from Sprint also participated in the meeting. Janette Luehring from Sprint and Amy Richardson, counsel to Sprint, participated by phone.

Most of the meeting concerned the litigation related to this proceeding. But we also noted that the Commission could address the key legal issues in the litigation by issuing a declaratory ruling resolving this proceeding. The declaratory ruling petition is four years old and ripe for decision.

We distributed the two attachments at the meeting. One attachment was distributed to show that the defendants in the litigation argued, and the district court concluded, that the FCC's rules allowed local exchange carriers to charge *both* reciprocal compensation *and* access charges on the traffic at issue in the litigation and this proceeding—even though both compensation regimes have never been applied to the same calls. The second attachment showed that the FCC has consistently held that all intraMTA traffic exchanged between a CMRS provider and a LEC is local traffic subject to reciprocal compensation, without exception.

Sincerely,

/s/ Christopher J. Wright

Christopher J. Wright
Counsel to Sprint Communications Co., L.P.

cc: Thomas Johnson
David Gossett
Richard Welch
Pam Arluk
Victoria Goldberg
Peter Trachtenberg

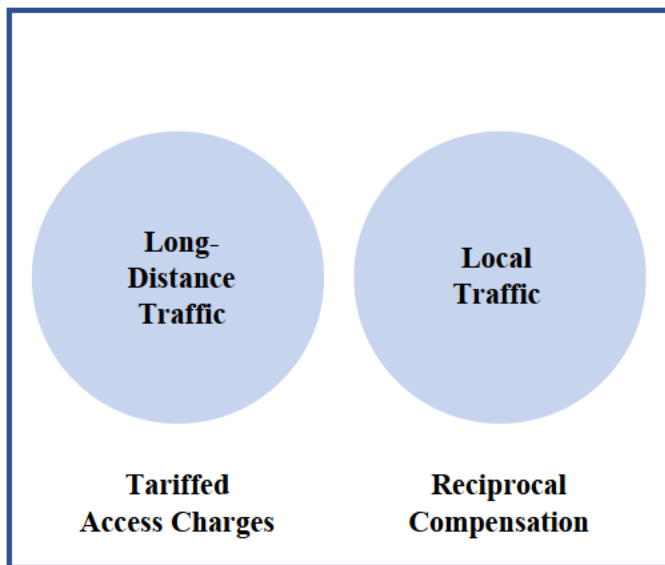
attachments

ATTACHMENT

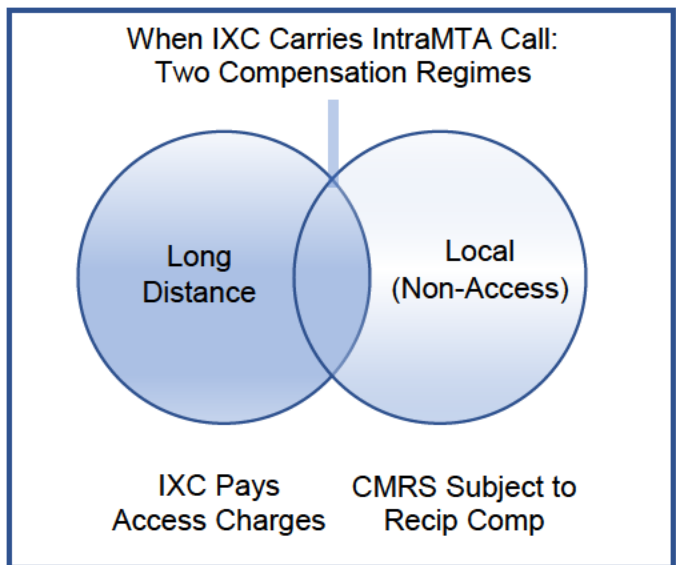
This “demonstrative,” submitted by LECs to the MDL court, shows that they seek to collect both access charges and reciprocal compensation on intraMTA wireless calls.

Two Regimes Not “Mutually Exclusive”

IXC’s (Rejected) View of Compensation Regimes



Actual Compensation Regimes



Source: Level 3 Motion, at 12

Authority: *TSR Wireless* ¶ 31; 2001 *LCO* ¶ 30 (cited at LEC Opp. at 17-18); 2011 *Transformation Order NPRM* ¶ 502 (cited at LEC Opp. at 5)

The district court’s decision:

The district court “decline[d] to accept Level 3’s argument that a single call cannot be subject to reciprocal compensation (e.g., between a LEC and a CMRS carrier) and access charges (between the LEC and an IXC in the middle of the call path).” Mar. 22, 2017 Order at 14.

Background:

- In 1996, the Commission applied the then-new reciprocal compensation regime to all local calls, including intraMTA wireless calls.
- Some LECs subsequently argued for an "IXC exception" under which they would receive access charges *rather than* reciprocal compensation if an IXC was involved in an intraMTA call.
- After multiple appellate courts rejected that argument, some LECs asked the Commission to decide, in the words of the 2011 USF-ICC Order, that a "call is subject to access charges, not reciprocal compensation, even if the call originates and terminates within the same MTA," when an "intermediate carrier" is involved. 26 FCC Red. 17,663 (2011), ¶ 1007.
- In 2011, the Commission rejected that argument, holding that "intraMTA traffic is subject to reciprocal compensation regardless of whether the two end carriers are directly connected or exchange traffic indirectly via a transit carrier." *Id.*
- The FCC twice restated that decision, affirming that "all traffic routed to or from a CMRS provider that, at the beginning of a call, originates and terminates within the same MTA, is subject to reciprocal compensation, without exception." *Id.*, ¶¶ 41, 979.

The FCC's regulations, as amended in 2011:

- define intraMTA wireless-to-wireline traffic as "non-access traffic," 47 C.F.R. § 51.701(b);
- provide, with respect to originating access charges, that "[a] LEC may not assess charges on any other telecommunications carrier for Non-Access Telecommunications Traffic that originates on the LEC's network," 47 C.F.R. § 51.703(b); and
- provide, with respect to terminating access charges, that a LEC may collect reciprocal compensation, but "[i]n no event may the total charges that a LEC may assess for such service to the called location exceed the applicable transport and termination rate." 47 C.F.R. § 51.703(b).