

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	

REPLY COMMENTS OF VERIZON¹

Because most transport rates—like originating access rates—are not yet on a trajectory towards bill-and-keep, arbitrageurs continue to exploit those rates and harm consumers. The arbitrage problem is worsening, and arbitrage opportunities will remain until the Commission completes the transition to bill-and-keep it intended in the *Transformation Order*.² It’s time to begin a quick transition for originating access rates and the transport rates the initial transition did not cover. And as that transition takes place, the Commission should immediately take arbitrage opportunities out of the system.

The record includes broad recognition that intercarrier compensation arbitrage remains a pervasive industry problem. T-Mobile notes new arbitrage schemes now “plague[]” the industry because the Commission has not completed the intercarrier compensation reforms it set out in the

¹ The Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² *Connect America Fund; et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17,663, ¶ 34 (2011) (“*Transformation Order*”).

Transformation Order.³ AT&T notes that as other intercarrier compensation rates have transitioned to bill-and-keep, companies have moved their arbitrage activities to terminating tandem and transport charges and originating access charges.⁴ It explains these schemes “involve billions of minutes and massive access charges.”⁵ NCTA⁶ and ITTA⁷ also discuss the persistent arbitrage opportunities in today’s intercarrier compensation system.

The Commission has recognized that intercarrier compensation arbitrage schemes harm consumers and the competitive marketplace.⁸ So without further delay, the Commission should reduce or eliminate the incentives that lead to arbitrage. The Commission should adopt immediate, targeted measures to address arbitrage, including reducing transport rates to bill-and-keep for carriers engaged in access stimulation and capping tandem switching and transport charges on aggregated 8YY calls at a low uniform national rate.

At the same time, AT&T is correct that “the need to complete the transition to bill-and-keep ... has become increasingly urgent.”⁹ The Commission therefore also should immediately begin the transition to bill-and-keep for tandem switching and transport, as well as for originating access charges. As the VON Coalition commented, bill-and-keep is the “best methodology for all intercarrier compensation traffic,” encouraging the transition to IP networks

³ T-Mobile Comments at 1-3.

⁴ See AT&T Comments at 2.

⁵ *Id.*

⁶ NCTA Comments at 5 (“Such arrangements today continue to create incentives to engage in traffic stimulation schemes and other forms of arbitrage....”)

⁷ ITTA Comments at 7 (“...opportunities for arbitrage abound and, in fact, are frequently seized upon.”)

⁸ See, e.g., *Transformation Order*, ¶ 663.

⁹ AT&T Comments at 2.

and technology.¹⁰ The Commission should, as Sprint suggests, “speed the transition to bill-and-keep,” completing the reform the Commission put in place in the *Transformation Order*.¹¹ And a bill-and-keep regime for all intercarrier compensation would eliminate the incentives both for “unscrupulous carriers to inflate tandem and transport charges to unreasonable levels”¹² and for the 8YY aggregation arbitrage that some CLECs are pursuing.¹³

While there is room in the industry for legitimate alternative tandem providers, today these providers’ business models too often depend on arbitrage opportunities involving 8YY aggregation. For example, AT&T describes the practice of “Tandem Rehoming,” where a LEC makes changes to the Local Exchange Routing Guide (LERG) to force the exchange of all traffic between interexchange carriers (IXCs) and that LEC to occur at an alternative tandem switch owned by a third party. This scenario—which Verizon often experiences—usually “arise[s] because the alternative tandem provider and the other carrier have executed a revenue sharing agreement,”¹⁴ under which the third-party tandem provider and the LEC share in the increased tandem and transport charges that result from the new arrangement. This can result in “substantial potential increased costs” for the IXCs sending the traffic.¹⁵

So unsurprisingly the Carrier Coalition opposes a bill-and-keep regime for tandem and transit.¹⁶ In direct in conflict with the Commission’s policy since 2011, it instead asks the

¹⁰ Voice on the Net Coalition Comments at 1 (“VON Coalition”).

¹¹ Sprint Comments at 1.

¹² AT&T Comments at 13.

¹³ *See id.* at 27.

¹⁴ AT&T Comments at 8-9.

¹⁵ *Id.* at 9.

¹⁶ *See, e.g.,* Peerless Network, Inc., *et al.* Comments at 3-6 (“Carrier Coalition”).

Commission to craft new rules that support and benefit their uneconomic traffic routing arrangements.¹⁷ The Commission should not take that bait. The Carrier Coalition also accuses the four major wireless carriers of engaging in arbitrage,¹⁸ but the Carrier Coalition doth project too much. Its accusation is based on an assertion that the wireless carriers have refused direct interconnection.¹⁹ But Verizon does not refuse direct interconnections with these carriers. We have direct interconnection arrangements with Peerless, its co-commenter West Telecom, and the other major alternative tandem providers. Instead of chasing red herrings, the Commission should focus on the real arbitrage problem: the inflated tandem and transport charges arbitraging alternative tandem providers force on IXC's that have no choice but to send them traffic.

Although the Commission should accomplish that by lowering rates and removing financial incentives, some commenters would have the Commission create a new direct interconnection right under Section 251(a).²⁰ But the Commission already has correctly concluded carriers can satisfy the Section 251(a) interconnection duty either through direct or indirect interconnection. The plain statutory language makes this clear: “each telecommunications carrier has the duty to interconnect directly or indirectly”²¹ with other carriers. Section 251(a) confers a “duty” on the carrier receiving the interconnection request. It does not grant a right to the requesting carrier. And the carrier can discharge that duty directly or

¹⁷ *See id.* at 6-12.

¹⁸ *See, e.g., id.* at 13-15 (“Upon information and belief, Wireless Carriers are engaging in this relatively new practice in order to perpetuate revenue-generating arbitrage schemes that force carriers to send terminating traffic destined to a Wireless Carrier’s end-users through the Wireless Carrier’s intermediate carrier partner.”)

¹⁹ *See id.* at 14.

²⁰ *See CenturyLink Comments* at 8-9.

²¹ 47 USC § 251(a)(1).

indirectly. In the 1996 *Local Competition Order*, the Commission concluded “telecommunications carriers should be permitted to provide interconnection pursuant to Section 251(a) either directly or indirectly, based upon their most efficient technical and economic choices.”²² And following “the clear language of the statute, we find that indirect interconnection ... satisfies a telecommunications carrier’s duty to interconnect pursuant to Section 251(a).”²³ The Commission has never wavered from this policy and should not now. More than 20 years after Section 251 became law, the competitive markets Congress envisioned have developed. The Commission should reject requests to create new rules and obligations under Section 251.

Other companies used their comments to propose new interconnection frameworks. Sprint, for example, proposed a new network edge proposal that blurs the lines between the PSTN and IP networks.²⁴ HD Tandem also described what it termed a “holistic and comprehensive fresh IP approach.”²⁵ But the Commission should take care to limit this proceeding to intercarrier compensation treatment of legacy TDM-switched traffic on the PSTN and should not continue to apply a hands-off approach to interconnection for voice traffic. And while NTCA and WTA ask the Commission to regulate IP interconnection arrangements the same way it has regulated legacy TDM interconnection arrangements under Sections 251 and

²² *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, ¶ 997 (1996) (“*Local Competition Order*”) (subsequent history omitted).

²³ *Id.*

²⁴ See Sprint Comments at 2-4.

²⁵ HD Tandem Comments at 4.

252,²⁶ as AT&T explained, and as we have explained in earlier comments, the Commission “has no statutory authority to regulate IP-to-IP interconnection.”²⁷

The interconnection and network edge questions the Commission considers in this proceeding “apply only to PSTN traffic.”²⁸ And while the Commission should address the network edge for intercarrier compensation purposes, it should do so only after it adopts a plan to transition originating access and transport to bill and keep. It then can seek additional comment on the network edge. And while the Commission should not adopt new direct-interconnection obligations, it should eventually design edge rules so that terminating carriers that insist on indirect interconnection are financially responsible for the cost of transit service.

Finally, the Commission should not carve out an exception for Centralized Equalized Access providers. South Dakota Network asserts Centralized Equalized Access Providers are not ILECs or CLECs and therefore the Commission should treat its tandem and transit services differently.²⁹ But Centralized Equal Access Providers like South Dakota Network are a big part of the arbitrage problem. In general, not only do these providers operate in states with disproportionately high tandem and transit rates, but the LECs in those states refuse direct interconnection and force other carriers to deliver traffic through the Centralized Equal Access Providers. Ideally, the Commission would do away with the mandatory requirement to terminate traffic to Centralized Equal Access Providers, as the Commission has forborne from the equal access requirements that gave rise to Centralized Equal Access Providers in the first place, and as

²⁶ See NTCA & WTA Comments at 22-24.

²⁷ AT&T Comments at 4. See also Verizon Comments, WC Docket No. 10-90, *et al.*, at 16-18 (Apr. 18, 2011).

²⁸ AT&T Comments at 4.

²⁹ See South Dakota Network Comments at 5.

the marketplace has evolved to a place where they are unnecessary. At a minimum the Commission should clarify that its traffic pumping rules apply to Centralized Equal Access Providers. But it should not, as South Dakota Network requests, allow its transit service to “remain unregulated.”³⁰ South Dakota Network in effect asks the Commission to set up mandatory toll booths and not to regulate the tolls.

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As we discussed in our Comments, the Commission should rapidly transition originating access rates and all remaining transport rates to bill-and-keep, and it should immediately address the most prevalent forms of transport arbitrage.

Respectfully submitted,

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³⁰ South Dakota Network Comments at 9.