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Federal Communications Commission

DA 98-556

DISPATCH

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

In the Matter of)	
)	
Regulatory Treatment of LEC Provision)	CC Docket No. 96-149
of Interexchange Services Originating in the)	
LEC's Local Exchange Area)	
)	
and)	
)	
Policy and Rules Concerning the)	CC Docket No. 96-61 ✓
Interstate, Interexchange Marketplace)	

ORDER

Adopted: March 24, 1998

Released: March 24, 1998

By the Chief, Common Carrier Bureau:

1. In the *LEC Classification Order*, which was released on April 18, 1997, the Commission revised its regulatory treatment of Bell Operating Companies (BOCs) and independent local exchange carriers (LECs) that provide domestic, interstate, interexchange, and international services.¹ The Common Carrier Bureau issues this order to stay the April 18, 1998 deadline by which independent LECs currently providing in-region, interstate, interexchange services on an integrated basis must comply with the Commission's requirement that they provide these services through a separate affiliate.²

2. In the *LEC Classification Order*, the Commission concluded that independent LECs must provide in-region, interstate, interexchange services through a separate affiliate

¹ *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket Nos. 96-149 and 96-61, Second Report and Order in CC Docket No. 96-149 and Third Report and Order in CC Docket No. 96-61, 12 FCC Rcd 15756 (1997) (*LEC Classification Order*), Order on Reconsideration, 12 FCC Rcd 8730 (1997) (*LEC Classification Order on Reconsideration*), further recon. pending.

² See 47 C.F.R. § 64.1903(c).

that satisfies the *Fifth Report and Order* separation requirements.³ The Commission recognized that independent LECs providing these services on an integrated basis face greater costs of complying with the *Fifth Report and Order* separation requirements than those already providing such services on a separated basis.⁴ Accordingly, the Commission allowed independent LECs providing in-region, interstate, interexchange services on an integrated basis one year from the date of release of the *LEC Classification Order* (i.e., until April 18, 1998) to comply with the *Fifth Report and Order* separation requirements.⁵

3. Following the release of the *LEC Classification Order*, a number of petitioners sought reconsideration of a variety of issues, including the decision to apply the *Fifth Report and Order* separation requirements to independent LECs providing in-region, interstate, interexchange services.⁶ These petitions currently are under consideration by the Commission and may not be decided by April 18, 1998, the deadline for compliance with the separate affiliate requirement.⁷ We find that it is in the public interest for the Commission to address and resolve, prior to the deadline for compliance, petitioners' claim that this requirement should not be applied to independent LECs, so such LECs need not incur compliance costs while the possibility of changes to this requirement still exists. Accordingly, we find good

³ *LEC Classification Order*, 12 FCC Rcd at 15856, ¶ 173. See *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorization Therefor*, CC Docket No. 79-252, *Fifth Report and Order*, 98 FCC 2d 1191 (1984) (*Fifth Report and Order*). The Commission classified independent LECs as non-dominant in the provision of in-region, interstate, interexchange services and required them to provide such services through separate affiliates that satisfy the separation requirements adopted in the *Fifth Report and Order*. The *Fifth Report and Order* requires an independent LEC's separate affiliate to: (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with its affiliated exchange telephone company; and (3) acquire any services from its affiliated exchange telephone company at tariffed rates, terms and conditions. *Fifth Report and Order*, 98 FCC 2d at 1198, ¶ 9. See also *LEC Classification Order*, 12 FCC Rcd at 15840-15841, ¶ 143.

⁴ At the time of the release of the *LEC Classification Order*, the Commission was aware of only three independent LECs providing in-region, interstate, interexchange services on an integrated basis. See *LEC Classification Order*, 12 FCC Rcd at 15856, ¶ 173. We noted that carriers providing interexchange services on an integrated basis would continue to be subject to dominant carrier regulation. *Id.* In a subsequent order on reconsideration, the Commission recognized that there may be other independent LECs providing such services on an integrated basis. *LEC Classification Order on Reconsideration*, 12 FCC Rcd at 8730, ¶ 2.

⁵ *LEC Classification Order*, 12 FCC Rcd at 15856, ¶ 173. See also 47 C.F.R. § 64.1903(c).

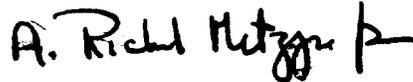
⁶ ALLTEL Communications Inc., the Anchorage Telephone Utility, GTE, the Independent Telephone and Telecommunications Alliance, the National Telephone Cooperative Association, and the United States Telephone Association filed petitions for reconsideration of the Commission's decision to apply the *Fifth Report and Order* separation requirements to independent LECs that provide in-region, interstate, interexchange services.

⁷ See 47 C.F.R. § 64.1903(c).

cause to stay the date by which independent LECs providing in-region, interstate, interexchange services must comply with the *Fifth Report and Order* separation requirements until 60 days after release of a Commission reconsideration order addressing this issue.⁸

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), and 303(r), and section 1.429(k) of the Commission's rules, 47 C.F.R. § 1.429(k), that the date by which independent LECs providing in-region, interstate, interexchange services must comply with subsection (c) of section 64.1903 of the Commission's rules, 47 C.F.R. § 64.1903 (c), IS STAYED until 60 days after the release date of the Commission's order on reconsideration in CC Docket Nos. 96-149 and 96-61.

FEDERAL COMMUNICATIONS COMMISSION



A. Richard Metzger, Jr.
Chief
Common Carrier Bureau

⁸ See 47 C.F.R. § 1.429(k)