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RECEIVED

MAY - 6 1998

Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY

May 6, 1998

Magalie Roman Salas, Esq., Secretary
Federal Communications Commission
1919 M Street; Room 222
Washington, D.C. 20554

RE: *Clarification of the Commission's Rules on Interconnection Between LECs and Paging Carriers*, CCB-CPD 97-24 ("*SWBT Clarification Request*")

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, CC Docket Nos. 96-98/95-185 ("*Interconnection Reconsideration Order*")

Formal Complaints of AirTouch Paging against GTE, File Nos. E-98-08, E-98-10

Formal Complaints of Metrocall, Inc. against Various LECs, File Nos. E-98-14-18

Dear Ms. Salas:

The attached letter was filed yesterday with the Commission and hand-delivered the persons indicated therein. In recognition of the fact that there are additional persons at the Commission actively involved in the LEC/paging interconnection issues, we are adding additional persons to the circulation list, as indicated below.

Pursuant to section 1.1206(b) of the Commission's rules, two copies of this letter and the attachments are hereby filed with the Secretary's office. Kindly refer questions in connection with this matter to the undersigned at (972) 860-3212.

Respectfully submitted,

Mark A. Stachiw

MARK A. STACHIW

No. of Copies rec'd 0+8
List ABCDE

Enclosure

cc: James L. Casserly
Kyle D. Dixon
Patrick J. Donovan
Ari Fitzgerald
Paul Gallant
Karen Gulick
Jane Jackson
Kevin J. Martin
Paul Misener
John Nakahata
Dan Phythyon
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MAY 5 '98
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

VIA HAND DELIVERY

May 5, 1998

Magalie Roman Salas, Esq., Secretary
Federal Communications Commission
1919 M Street; Room 200
Washington, D.C. 20554

RE: *Clarification of the Commission's Rules on Interconnection Between LECs and Paging Carriers*, CCB-CPD 97-24 ("*SWBT Clarification Request*")

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, CC Docket Nos. 96-98, 95-185 ("*Interconnection Reconsideration Order*")

Formal Complaints of AirTouch Paging against GTE, File Nos. E-98-08, E-98-10

Formal Complaints of Metrocall, Inc. against Various LECs, File Nos. E-98-14-18

Dear Ms. Salas:

The attached letter is being hand-delivered today to the persons indicated herein by AirTouch Paging with respect to the captioned proceedings. Pursuant to section 1.1206(b) of the Commission's rules, two copies of this letter and the attachments are hereby filed with the Secretary's office. Kindly refer questions in connection with this matter to the undersigned at (972) 860-3212.

Respectfully submitted,

Mark A. Stachiw

MARK A. STACHIW

Enclosure

cc: Rosalind K. Allen
Jeanine Poltronieri
Suzanne Tetreault
Ed Krachmer
Tamara Preiss
Dan Grosh
David Krech
Ari Fitzgerald
Tejal Mehta
Robert L. Hoggarth
Angela E. Giancarlo
David Wilson

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MAY - 6 1998

Federal Communications Commission
Office of Secretary

May 5, 1998

A. Richard Metzger, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Re: LEC/Paging Interconnection

Dear Mr. Metzger:

Nearly four months have passed since you released your letter of December 30, 1997[1/] confirming that the relief to paging companies from facility charges associated with the delivery to them of local, LEC-originated traffic extends to both traffic sensitive and non-traffic sensitive charges. Contrary to the views expressed by the SBC LECs,[2/] your letter has had the beneficial effect of providing both the LECs and the paging companies with incentives to work out their remaining differences. LECs are properly incented to negotiate in order to reach agreement with each paging company concerning the portion of the interconnection facility for which the paging company will continue to pay because it is utilized to deliver traffic that does not qualify as "local, LEC-originated" traffic.[3/] The paging companies are similarly incented to negotiate

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1/ See Letter of A. Richard Metzger to Mr. Keith Davis et al., dated December 30, 1997, CCB/CPD Docket No. 97-24, (the "December 30 Letter").

2/ See Letter of Michael Kellogg to Mr. A. Richard Metzger, Jr., dated April 24, 1998 ("Emboldened by the December 30 letter, paging companies throughout the country are looking for a free ride on LEC facilities. The magnitude of the problem is growing daily … ." p. 1. "The situation is deteriorating as more and more … ." p. 3). Properly viewed, the SBC LECs' complaint seems to be that paging carriers are asserting their rights.

3/ Some of the traffic delivered to the paging company over the interconnection facility originates or terminates outside of the MTA. This is not "local" traffic under the Commission's rules. See 47 C.F.R. § 51.701(b)(2). Some of the traffic originates with a carrier other than the LEC who delivers it to the paging company. This is not "LEC-originated" traffic within the meaning of the Commission's rulings. In the Cook Telecom proceeding, the leading case in which a paging interconnection agreement has been subject to a full blown arbitration before a state regulatory agency, the California PUC found that 26% of the traffic delivered to the paging carrier was not "local, LEC-originated" traffic. Of course, the percentage can change from

(continued...)

because the Commission's rulings establish an entitlement to terminating compensation, but the amount of such compensation can only be determined at this time through negotiations.[4/] If AirTouch's experience is an indicator, the net result of these mutual incentives to reach agreements has been an upsurge in the substantive negotiations that are taking place between various LECs and paging companies.[5/]

I. Creative Approaches Are Being Taken

The ongoing discussions that AirTouch has been having with LECs demonstrate that creative approaches can be taken to the issues that separate the two industries. For example:

Network Configuration - Some LECs claim the right to dictate the paging interconnection configuration since they now are obligated to bear a portion of the cost of the interconnection facilities. Paging carriers contend that they are still entitled to a variety of flexible interconnection arrangements that enable them to serve the public efficiently. These positions are being reconciled by agreeing to principles of cooperation and objective grade of service criteria to be used in configuring interconnection facilities. In addition, AirTouch is exploring ways that current interconnection arrangements can be revised to better satisfy the concerns on both sides.

FX Lines - The LECs focus considerable attention on long haul foreign exchange ("FX") lines, contending that requiring them to provide such lines is economically burdensome because they do not feel they are being adequately compensated.[6/] Paging companies are concerned that

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(...continued)
carrier to carrier depending upon its traffic mix, which is why this is a subject of negotiation between the companies.

4/ This is especially true since the Commission's ability to establish default compensation rates was struck down by the Eighth Circuit, though the final outcome is still subject to appeal.

5/ Indeed, AirTouch is currently exploring negotiations with multiple incumbent LECs and is today inviting the SBC LECs to sit down to see if an agreement can be reached between the SBC LECs and AirTouch.

6/ AirTouch truly believes that the long haul FX line concern espoused by the SBC LECs is more theoretical than real. Most major paging carriers serve each major metropolitan area with a dedicated local switch, not a remote switch. For example, in the Los Angeles MTA, AirTouch has separate switches in Los Angeles, Santa Barbara and Palm Springs even though these three
(continued...)

a LEC refusal to provide such lines would force them to install otherwise unnecessary and uneconomic switches in order to enjoy their interconnection rights. These conflicts are being addressed by exploring possible limits on the scope of the area within the MTA where the LEC would be obligated to bear the costs of facilities used to deliver its traffic for local termination (*e.g.* a limit based upon the paging carrier's reliable service area contours, a limit based upon the LATA, a limit based upon mileage perhaps with reference to the area of primary traffic concentration, etc.).

Existing Facilities - Some LECs claim the right to reconfigure existing paging interconnection arrangements because of the new paradigm reflected in the FCC's rulings. Paging carriers contend that their customers should be protected against disruptions of service and changes in telephone numbers. This dispute is being addressed by discussing how carriers can interconnect given all the new options available to both carriers (e.g., changing how numbers are rated and routed) and developing a transition plan for grandfathered facilities.

Transiting Traffic - The LECs claim that they are entitled to be compensated by paging carriers for the portion of interconnecting facilities used to carry traffic handed off to the LEC by other telecommunications carriers for delivery to paging companies (i.e. non LEC-originated traffic). Conceptually, the paging carriers agree that LECs should be compensated for any service for which they are not otherwise compensated by the originator, but believe that in some circumstances the LEC also is charging the originating carrier a transiting fee comprised of a transport and switching component which would result in double recovery for the same facilities and functions. The parties are approaching this issue by reviewing existing agreements, and,

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(...continued)
population centers are in the same MTA and the same LATA. Since AirTouch and other paging carriers will remain responsible for the costs of long haul FX facilities to the extent that they are used to deliver non-local, non LEC-originated traffic, there will be a continuing incentive to install local switches to meet local service requirements. Even if a paging carrier were responsible for as little as 6% of the costs of the interconnection facility, it would still locate a terminal in that outlying market to reduce its costs even further. In addition, as the Allied Personal Communications Industry Association of California ("Allied") points out in its April 13, 1998 letter to you, the costs for transport are minimal — as little as $.000015 to $.000024/mile/minute for shared transport. See also, Report of the Ad Hoc Telecommunications User Committee and the International Communications Association on Long-Term Area Code Relief Policies and the Need for Short Term Relief entitled "Where Have All the Numbers Gone," released March, 1998, at p.12 ("The distance sensitive costs of network transport varies by well under a penny as between the shortest distance calls . . . and coast-to-coast connections.").

where appropriate, agreeing upon a methodology to be used to determine the percentage of traffic between them that is originated by a telecommunications carrier other than the LEC. Further, the parties are exploring how the paging carrier could determine who is originating the traffic so the paging carrier can directly charge the originator for all functions performed by the paging carrier.

Non-Local Traffic - The LECs claim they are entitled to be compensated by paging carriers for the portion of interconnecting facilities used to carry traffic that either originates or terminates outside of the MTA. The paging carriers agree in principle, but often consider more of their traffic to be "local" than the LECs appear willing to recognize.[7/] This conflict is being addressed by the parties agreeing upon a methodology to be used to determine the percentage of the LEC's traffic delivered to the paging company that is originated or terminated outside of the MTA. In addition, the parties are considering whether paging carriers can and should recover for such traffic from access charges to the originating carrier.

Separation of Rating and Routing - All telecommunications carriers, including paging companies, have a need to have telephone numbers rated out of multiple rate centers so that customers who are located in and receive the bulk of their calls from one area can have a local telephone number.[8/] LECs complain that some of the network configurations that are used to accomplish this result, particularly the use of dedicated FX lines, are too costly to the LECs. These conflicts are being addressed by arrangements which allow the paging company to establish a tandem level interconnection with separate blocks of numbers being rated at distinct V&H coordinates throughout the LATA. This separation of rating and routing, which has been implemented for other telecommunications carriers,[9/] allows traffic to be hauled throughout the LATA using the LEC's common facilities rather than dedicated facilities to the extent

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7/ Industry data indicates that 90+% of all paging customers opt for local coverage, 5% to 7% opt for wide-area coverage, and less than 5% opt for nationwide coverage. Of those subscribing to wide-area or nationwide service, the vast majority of their calls continue to originate and terminate within the same MTA — meaning that they are continuing to receive predominantly local service.

8/ The vast majority of messages sent to AirTouch subscribers are delivered to the subscriber within an area encompassed within the rate center of the telephone number used to reach the paging customer. Thus, it is not the case that paging carriers are trying to avoid toll charges for calls that would ordinarily be toll calls (*e.g.*, calls placed to customers located outside the rate center's calling area). The SBC LECs' claim that significant toll revenue is being lost by them is wrong.

9/ It is AirTouch's understanding that many CLEC and CMRS agreements already embody this principle.

practicable.[10/] The parties are approaching these arrangements by having network experts on both sides establish standards for such arrangements.

Terminating Compensation - Paging carriers have taken the position that they should not be singled out from other wireless carriers and obligated to conduct TELRIC cost studies as a pre-condition to receiving terminating compensation.[11/] The LECs contend that the termination costs of paging carriers are different from those of other telecommunications carriers. This dispute is being addressed through negotiations in which the architecture of the paging network and other interconnected networks is compared.

AirTouch is setting forth the constructive approaches that are being taken to the LEC/paging interconnection discussions not to involve the Commission in the details of the process, but rather to point out that these are complicated issues that will require considerable give and take on both sides for mutually acceptable solutions to be reached. The Commission's earlier approach for setting ground rules and then leaving it to the companies themselves to hammer out the details is the correct approach because complex issues of this nature are not well-suited to resolution by regulatory fiat.

While progress is being made through negotiations, there are a couple of factors which have prevented more breakthroughs. As you are aware, certain LECs have launched a series of attacks

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10/ Again, as Allied points out in its April 13th ex parte, n.3, the costs for shared transport are *de minimis* — $.000015 to $.000024/mile/minute.

11/ Indeed, the Eighth Circuit's opinion vacated those portions of the Commission's Rules that would have required paging carriers to conduct cost studies. AirTouch continues to be concerned that paging-only carriers will be at a severe competitive disadvantage if they receive less compensation than other CMRS carriers against which they compete. As the Commission pointed out to Congress in its State of Competition Report, all CMRS services are in competition with one another. Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, 12 FCC Rcd. 11266 (1997). Therefore, to the extent that a LEC decides to pay another CMRS carrier $0.01 per minute for a completed call (including a paging call delivered over the two-way CMRS network) while refusing to pay paging carriers a comparable amount, paging carriers will be at a significant cost disadvantage as a result of the Commission's regulatory policies. Since this Commission has taken the view that it should not be in the business of picking winners and losers, the Commission must continue to ensure that all CMRS carriers receive the same regulatory treatment (espcially where costs are concerned) and should receive the same compensation. Speech by FCC Chairman William E. Kennard, Legg Mason Investor Workshop, Washington, D.C. March 12, 1998 ("I don't pick winners. I don't pick losers. I make sure that the field is level and the goalposts are the same height . . .").

against the Local Competition First Report[12/] and the December 30 Letter interpreting it. For example, Southwestern Bell Telephone Company, Nevada Bell and Pacific Bell (collectively, the "SBC LECs") have filed a petition for stay,[13/] an application for review,[14/] and most recently a further request for clarification. See Letter to A. Richard Metzger from Michael K. Kellogg dated March 19, 1998 (the "Kellogg Letter") and Letter to A. Richard Metzger, Jr. from Michael Kellogg dated April 24, 1998 (the "Kellogg Response"). For a variety of reasons which are set forth in detail below, the relief being sought in these LEC requests should not be forthcoming.[15/] However, as long as the LECs believe that the Commission is actively considering rulings that would radically alter the paging companies' basic entitlements to relief from facility charges and terminating compensation, the LECs are disincented to reach voluntary agreements which resolve the aforementioned issues. What the Commission needs to do is to send a clear message to all concerned that the agency intends to stay the course. At that point, the mutual incentives of the parties to reach agreement on the open issues will drive the parties to resolve their issues without further Commission involvement, and the number of voluntary agreements will increase exponentially.

II. The Entitlement Of Paging Carriers to Compensation

One primary source of mischief in this debate is the recurring assertion by some LECs that the basic entitlement of paging carriers to terminating compensation is still an open issue. For example, the SBC LECs continue to argue that "[t]he court never ruled on the propriety of Section 51.703(b) as applied to paging carriers"[16/] which is completely incorrect. As AirTouch and others have demonstrated, a group of carriers calling themselves the "Mid-Sized Incumbent Local Exchange Carriers" specifically appealed to the Eighth Circuit the issue of whether paging

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12/ Implementation of the Local Competition Provisions in the Telecommunications Act, First Report and Order, 11 FCC Rcd. 15499 (1996), appeal pending.

13/ Petition for Stay Pending Commission Review filed January 30, 1998 in CCB/CPD Docket No. 97-24 with reference to your letter to Mr. Keith Davis, et al. dated December 30, 1997 pertaining to LEC/Paging Interconnection (the "Bureau Letter").

14/ Application for Review, filed January 29, 1998 in CCB/CPD 97-24.

15/ The Commission either could decline to rule or affirmatively reject these requests.

16/ See Kellogg Response at p. 2.

carriers were entitled to "reciprocal" compensation given the one-way flow of traffic.[17/] The issue was joined in the Court through the opposing brief filed jointly by CMRS Intervenors which demonstrated that the mutual compensation statutory scheme fully encompassed one-way service providers.[18/] Ultimately, the Eighth Circuit upheld the CMRS interconnection rules, including Section 51.703(b), without singling out paging carriers for lesser treatment, and no party has sought review of this ruling in the Supreme Court.

Thus, the entitlement of paging carriers to terminating compensation has been ruled upon by the Commission, upheld on appeal and should be considered final. However, unless and until the LECs are convinced that the Commission is not inclined to revisit this basic entitlement issue, the LECs will continue to cling to the hope that they will be able to avoid their obligation and drag their feet on voluntary interconnection agreements.

III. The Kellogg Proposal

The Commission also must advise the LECs that the "clarification" requested in the latest letter from counsel to the SBC LECs will not be forthcoming, and if the Commission acts it will not do so in the manner proposed by the SBC LECs. As AirTouch understands it, the Kellogg Letter offers to have the SBC LECs dismiss their Stay Request with prejudice if the Commission "clarifies" the December 30, 1997 letter to mean that the SBC LECs are only required to bear the costs of delivering paging traffic to a single point of interface ("POI") in the Major Trading Area ("MTA") within one "exchange area" where numbers are rated. As to any additional FX facilities (*i.e.* those within the MTA requested by the paging carrier to enable the use of numbers rated out of other exchange areas without the installation of another switch), the LECs would charge either their LEC customer who initiates a page, or the paging carrier who terminates a page, to recoup the costs. The Kellogg Letter suggests, without explanation, that a "clarification" along these

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17/ There still seems to be some confusion on the part of some LECs about the nature of paging communications. During a call to a paging customer, a portion of the exchange is two-way (*e.g.*, the paging switch notifies the calling party about the status of the paging customer (*e.g.*, the number is valid), and that a message has been received for delivery to the paging subscriber). The only one-way aspect of the paging traffic is that the paging carriers do not originate traffic; thus, all traffic to paging carriers is sent from the LEC to the paging carrier.

18/ The CMRS Intervenors' brief demonstrated that a terminating compensation scheme in which obligations flow the same direction as traffic is fully consistent with the statutory scheme.

lines would be consistent with the Local Competition First Report and the related rulings of Bureau.[19/] As AirTouch demonstrates below, this is not correct.

Before responding in detail to the Kellogg Letter, AirTouch notes that the SBC LECs' latest proposal is indefinite in several key respects. First, while the SBC LECs claim to have the right to recapture from their own landline customers the costs of FX facilities used to deliver traffic to paging carriers, the Kellogg Letter does not make clear the basis on which the SBC LECs propose to assess these charges. If the SBC LECs intend to discriminate by imposing a surcharge on calls to telephone numbers associated with pagers that would not apply to calls going to other telecommunications carriers for local termination, AirTouch must object strenuously.[20/] It has been a fundamental tenet of the Commission's policies that LECs are not permitted to impose additional requirements on calls terminated by one category of telecommunications carriers which are not imposed on calls to other competing carriers.[21/]

Second, the Kellogg Letter refers to calls traveling from "a distant local exchange area to a paging carrier's distant terminal" and avers that the LEC is free to impose intraLATA toll charges on any such calls. This assertion appears to equate exchange areas with rate centers,

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19/ See Letter of Regina Keeney to Cathy Massey et al. dated March 3, 1997 (the"Keeney Letter"); see also the December 30 Letter.

20/ If, on the other hand, the SBC LECs were simply proposing to add the cost of these facilities to their rate base in setting local exchange rates, the discrimination concern would not be as great. This does not appear to the point of the SBC LECs' arguments, however. The SBC LECs continue with their mistaken belief that the paging customers are the cost causers, not their own subscribers. See Kellogg Response at p. 2. This is flat wrong. Like all calls, the calling party is the one making the decision to place the call, and thus incur the costs of making that call. The SBC LECs would have the Commission view the paging carriers like an attractive nuisance which causes their customers to make calls that they ordinarily would not otherwise make. This obviously makes no sense. This is the same argument that has been advanced by the LECs for decades to explain why all CMRS carriers should be required to pay the LEC for all costs associated with calls from their customers to a CMRS subscriber. Congress and the Commission have rightfully rejected that argument in the Telecommunications Act of 1996 and the Local Competition First Report and the Commission should continue to reject that outdated view of the world.

21/ This is particularly true since the LECs' own affiliates often provide competing services.

which is not always the case,[22/] and also assumes that telephone numbers must be routed and rated in the same fashion, which again is incorrect.[23/]

Third, it is unclear whether the SBC LECs are offering to bear 100% of the facility charges associated with the delivery of traffic to a single point of interface ("POI") within a local exchange area, or some lesser percentage. To the extent that the SBC LECs are agreeing to bear all of the costs of facilities used to deliver their traffic to a single POI, this may be a step in the right direction. As has been mentioned above, paging carriers and LECs may be able to agree to have all calls to paging customers routed through a single POI in the LATA as long as the arrangement allows different blocks of numbers to be rated at different V&H coordinates. This is technically feasible as demonstrated by the fact that LECs are interconnecting with other telecommunications carriers in this fashion.[24/]

22/ Often calls from one exchange to another do not give rise to toll charges. And, state commissions are increasingly requiring LECs to collapse the number of different rate centers they maintain in order to reduce the demand for telephone numbers. Indeed, it seems in many ways that the LECs are complaining about their own past "bad" behavior. Since the LECs for many years rejected or refused to allow paging carriers to interconnect in a truly co-carrier fashion (*e.g.*, with tandem level interconnection and numbers residing in the CMRS switch), they cannot now use their own past behavior to argue that paging carriers should not now get the benefits of the Telecommunications Act of 1996. Since the LECs in fact made paging carriers take numbers rated and routed at LEC offices, they should not be able to argue that such paging carriers' arrangements should somehow be disallowed.

23/ Attached is a copy of Page 7 from Pacific Bell's Statement of Generally Available Terms for Interconnection Access, filed with the California PUC pursuant to section 252(f) of the Telecommunications Act of 1996. The definitions on Page 7 of "Rate Center" and "Routing Point" explicitly distinguish between rating and routing and provide, among other things that "The Routing Point need not be the same as the Rating Point, nor must it be located within the same Rate Center area, but must be in the same LATA as the NPA-NXX. This means, using the LECs' favorite example, that a carrier could **under the existing tariff** have a block of numbers routed to a switch in San Jose via a tandem level interconnection, but have the numbers rated out of the Eureka End Office (which is in the same LATA).

24/ AirTouch understands that many LECs have established arrangements with CLECs and other CMRS carriers that allow them to have numbers rated at points in the LATA outside the exchange area where the switch is located. As an example, a CMRS carrier could interconnect with the LEC at a single point in the LATA – at the tandem – or at multiple points. Since the CMRS carrier would have all numbers routed directly to its switch, the CMRS carriers would be

(continued...)

Finally, the SBC LECs fail to indicate whether the "clarification" the SBC LECs are seeking would be prospective only, or rather date back to September of 1996.[25/]

A. The Proposal in the Kellogg Letter Must Be Rejected

The uncertainties in the proposal in the Kellogg Letter demonstrate that this complex subject matter does not lend itself well to such an over-simplified approach. Interconnection arrangements vary from state to state and from carrier to carrier. Generally, these arrangements are driven by (a) the interconnecting carrier's business plan, and (b) the rates being charged by the LECs for the various elements used in interconnection.[26/] Because of these variations,

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(...continued)
permitted to rate its numbers at any geographic point in the LATA. In most cases, the POIs would be closest to the largest concentration of traffic in the LATA – *e.g.*, the area with the largest concentration of population. In many cases, the numbers rated outside the POI exchange area would be charged toll by the LEC when the calls were placed from numbers in the POI's exchange area. The LEC would, however, not be required to actually transport the traffic to the far exchange, but would rather hand the traffic off to the CMRS carrier at the POI – thus saving the transport but still collecting the toll amount. The paging network should be treated the same – however in many cases paging carriers have been forced to take less efficient interconnection arrangements. Instead of having the ability to have calls routed to them directly and to rate calls at any point in the LATA, the LECs forced the paging carriers to route all calls through LEC facilities and to rate those calls only where the LECs permitted the paging carriers to rate those calls. This led in many instances to paging carriers having to procure dedicated facilities to transport the traffic from the area where the LEC mandated that the numbers be rated. AirTouch believes that allowing paging carriers (on a going forward basis) to interconnect in the same manner as other telecommunications carriers would eliminate many of the problems alleged by the LECs. And, AirTouch believes that there may be several solutions which would allow historical arrangements to be transitioned to arrangements more similar to those used by other CMRS carriers.

25/ Section 51.703(b) the rules came into effect on September 30, 1996.

26/ AirTouch understands that there have been several presentations to the Commission stating how other CMRS and CLEC carriers interconnect with the ILECs and claiming to show a "stereotypical" way these carriers interconnect with the ILECs. It is AirTouch's understanding based upon discussions with other CMRS carriers and counsel representing CLECs that no two companies necessary interconnect in the same fashion or interconnect the same way with different ILECs. For instance, where the cost to receive traffic at the tandem is lower than the
(continued...)

adopting the approach proposed by the SBC LECs would not resolve disputes as represented, but rather would generate continuing uncertainty and litigation.

Even if the uncertainties in the Kellogg Letter were to be cleared up, there remain multiple reasons for the approach proposed in the Kellogg Letter to be rejected by the Commission. First and foremost, the Kellogg Letter is premised on the false contention that there is some infirmity in the Bureau's interpretation of Section 51.703(b) of the rules. AirTouch previously has demonstrated that the policies embodied in this rule, as interpreted by the Bureau, are sound and serve the public interest.[27/] The Kellogg Letter fails to offer any theory on which the language of Section 51.703(b) of the rules, the accompanying text of the Local Competition First Report or the Bureau Letter, can be read as now proposed by the SBC LECs. There simply is no basis in the record to "clarify" the rule as having been intended to apply only to a single POI in one exchange area in each MTA. Thus, a "clarification" along these lines would be entirely inappropriate.[28/]

(...continued)
cost of interconnecting at every end office, a CLEC might interconnect solely at the tandem. Where the costs for trunks to connect at the end offices is less (or the CLEC has sufficient traffic to warrant dedicated facilities) than the costs for connecting at the tandem, the CLEC may interconnect at both the end office and the tandem. The same is true for other CMRS interconnection. AirTouch understands that other CMRS carriers use both end office and tandem interconnection and may have traffic delivered to their cell sites, or directly to their switch. Thus, the Commission should not pigeonhole any carrier into a particular interconnection arrangement. Indeed, the beauty of the Commission's Local Competition First Report is that each telecommunications carrier is able to choose in each instance the method of interconnection that best suits its business plan and network needs. If the Commission wades into the fray now on paging interconnection, it will be dictating interconnection arrangements which take away the ability of carriers to devise interconnection arrangements that meet their respective business plans and network needs.

27/ See generally, Joint Opposition of AirTouch Paging and Arch Communications Group to the Applications for Review filed February 23, 1998 in CCB/CPD Docket No. 97-24; Joint Opposition of AirTouch Paging and Arch Communications to the Petition for Stay filed February 10, 1998 in CCB/CPD Docket No. 97-24.

28/ The paging carriers objected to the earlier "clarification" sought by the SBC LECs in part on the basis that it was a request for reconsideration. The same objection pertains to the latest "clarification" request.

There also are serious procedural problems with the manner in which the SBC LECs wish to proceed. Apparently, the SBC LECs will continue to seek review of the Bureau Letter by the Commission at the same time that they are pursuing this further clarification at the Bureau level.[29/] This proceeding will never end if there continue to be multiple agency proceedings in which related issues are being separately but simultaneously considered by different agency personnel. The goal of the Commission must be to establish the ground rules for the negotiation and to encourage the parties to resolve their differences through negotiation.

Finally, the Commission must recognize that the offer by the SBC LECs to dismiss their Stay Request is an empty one. As AirTouch and the rest of the paging industry previously demonstrated,[30/] the Stay Request is fatally flawed on both procedural and substantive grounds. In essence, all the SBC LECs are offering to do is to relinquish a losing position in exchange for concessions from the Commission. No serious consideration should be given to this hollow offer. Limiting the paging carriers' relief from improperly assessed LEC facility charges to a single POI within the MTA would completely eviscerate the prior rulings in an unprincipled manner, and generate extensive litigation. The Commission should not pursue the course suggested by the Kellogg Letter.

B. The Kellogg Letter May Provide A Basis for Dialogue

While the "clarification" requested in the Kellogg Letter should not be issued, AirTouch does see a positive side of the proposal. The latest proposal of the SBC LECs does appear to reflect an inclination on their part to pursue an alternative that is less polarizing than the positions they set forth in previous filings. If this is the case, progress may be able to be made. To this end, AirTouch is today sending a letter to the SBC LECs inviting them to negotiate concerning a variety of alternative interconnection arrangements that might reasonably address the concerns of

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29/ This again should show the Commission why they need to merely confirm the ground rules upon which the parties will negotiate and let the parties move towards negotiation. AirTouch believes that if the SBC LECs' multiple requests are denied, and the Commission changes certain other of its rules regarding terminating compensation, the paging carriers and the LECs could quickly reach resolution of the issues.

30/ See Opposition of the Personal Communications Industry Association to the Petition for Stay filed February 10, 1998 in CCB/CPD Docket No. 97-24. Indeed, the Kellogg Letter has exactly that effect. The Commission has now had, in reality, yet another pleading cycle established on this matter – and the LECs continue to have nothing new to say except to continue to complain about the Commission's Local Competition First Report.

both the SBC LECs and AirTouch. If both sides approach such discussions with a bona fide desire to reach agreement, AirTouch sees no reason that they cannot succeed.

Kindly refer any questions in connection with this matter to the undersigned.

Sincerely,

Mark A. Stachiw

MARK A. STACHIW

Attachment

87. "Port" means a termination point in the end office switch. For purposes of general illustration, a Port includes a line card and associated peripheral equipment on an End Office Switch which serves as the hardware termination for line or trunk side facilities connected to the End Office switch. Each line side Port is typically associated with one or more telephone numbers that serve as the customer's network address.

88. "Public Safety Answering Point (PSAP)" means the designated agency to which calls to E911/911 services are routed.

89. "Rate Center" identifies the specific geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to a LEC (or CLC) for its provision of Exchange Services. The rate point is a geographic location identified by specific V&H (vertical and horizontal coordinates), which are used to measure distance sensitive end user traffic to/from the particular NPA-NXX designations with the specific Rate Center.

90. "Rating Point" means the Vertical and Horizontal ("V&H") coordinates associated with a particular telephone number for rating purposes.

91. "Real Time" means the actual time in which an event takes place, with the reporting on or the recording of the event practically simultaneous with its occurrence.

92. "Recipient" means that party to this Agreement to which Confidential Information has been disclosed by the other party.

93. "Recorded Usage Data" has the meaning set forth in Attachment 14.

94. "Release" means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching, or migration, including without limitation, the movement of Environmental Hazards through or in the air, soil, surface water or groundwater, or any action or omission that causes Environmental Hazards to spread or become more toxic or more expensive to investigate or remediate.

95. "Right of Way (ROW)" means the right to use the land or other property of a third party or governmental authority to place poles, conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property) and may include the right to use discrete space in buildings, building complexes or other locations.

96. "Routing Point" means a location which a LEC has designated on its own network as the homing or routing point for traffic inbound to Exchange Service provided by the LEC which bears a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access services. The Routing Point need not be the same as the Rating Point, nor must it be located within the Rate Center area, but must be in the same LATA as the NPA-NXX.

97. "Served Premises" means collectively, the CLC designated locations to which CLC orders Network Elements, Ancillary Functions or Combinations.

98. "Service Control Point" or "SCP" means a node in the CCS network to which information requests for service handling, such as routing, are directed and processed. The SCP is a real time database system that, based on a query from a Service Switching Point ("SSP"), performs subscriber or application-specific service logic and then sends instructions back to the SSP on how to continue