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Ex parte Notice

EX PARTE OR LATE FILED

June 17, 1998

Magalie Roman-Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

RECEIVED

JUN 17 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Roman-Salas:

**RE: Clarification of the Commission's Rules on Interconnection Between LECs  
And Paging Carriers, CCB/CPD No. 97-24 ("SWBT clarification request")**

**Implementation of the Local Competition Provisions of the  
Telecommunications Act of 1996, First Report & 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 Complaint of Metrocall against Various LECs, File Nos. E-98-14-18**

**Formal Complaint of Pagenet against BellSouth, File No. E-98-21**

**Formal Complaint of TSR Wireless LLC against U S West, File No. E-98-13**

On June 16, 1998, USTA sponsored a paging interconnection seminar for the Federal Communications Commission. The purpose of the seminar was to discuss USTA's position on paging interconnection. Enclosed is a copy of USTA's presentation materials, and an attachment from U S WEST which were used during the seminar. The undersigned counsel and the attached list of attendees participated in the seminar. The issues discussed during USTA's seminar, and in the attached materials, are consistent with USTA's prior comments and *ex parte* filings.

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List A B C D E

USTA requests that this *ex parte* filing and attachments be included in the record of the above-referenced proceedings.

Respectfully submitted,

A handwritten signature in black ink that reads "Keith Townsend". The signature is written in a cursive style with a large, bold "K" and "T".

Keith Townsend  
Director Legal & Regulatory Affairs  
& Senior Counsel

cc: Ari Fitzgerald & Thomas Power - Office of Chairman William Kennard  
James L. Casserly - Office of Commissioner Susan Ness  
Paul Misener - Office of Commissioner Harold Furchtgott-Roth  
Kathryn Brown - Chief/Common Carrier Bureau  
Dan Phythyon - Chief/Wireless Telecommunications Bureau  
Rosalind Allen - Wireless Telecommunications Bureau  
Jeanine Poltronieri - Wireless Telecommunications Bureau

**USTA Presentation on  
LEC-Paging Interconnection**

**June 16, 1998**

## USTA Presentation on LEC-Paging Interconnection

Legal Issues .....	Tab 1
Network Perspective .....	Tab 2
Whitepaper .....	Tab 3



## 251(b)(5) Does Not Apply to Paging Carriers

Under Section 251(b)(5), all LECs have a “duty to establish reciprocal compensation arrangements for the transport and termination of traffic.”

- Two key prerequisites of obligation:
  - “reciprocal compensation arrangements”
  - “for the transport and termination of traffic”
- Neither prerequisite is met for paging carriers.

## Section 251(b)(5) Does Not Impose One-Way Compensation Obligations

"Reciprocal compensation arrangements" are possible only if both sides of the transaction originate and terminate traffic.

- Section 252(d)(2)(A): "terms and conditions for reciprocal compensation" are not to be considered "just and reasonable unless," inter alia, "such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier."
- 47 C.F.R. § 51.701(e): "a reciprocal compensation arrangement is one between two carriers in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of local telecommunications traffic that originates on the network facilities of the other carrier."

Reciprocal compensation rules govern the exchange of traffic between two comparable networks.

- There is no exchange of traffic with paging carriers. Paging traffic travels one way: from the LEC's network to the paging company's terminal.
- Paging networks are not comparable to LEC networks. Paging networks do not originate traffic.

## Paging Carriers Neither Transport nor Terminate Traffic

### Paging carriers do not transport traffic.

- “Transport is the transmission and any necessary tandem switching of local telecommunications traffic subject to section 251(b)(5) from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC.” 47 C.F.R. § 51.701(c).
- In the case of paging carriers, the point of interconnection (the paging terminal) is also the point of termination.

### Paging carriers do not terminate traffic.

- “Termination is the switching of local telecommunications traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.” 47 C.F.R. § 51.701(d).
- Paging carriers do not “switch” traffic:
  - No two-way communications path with the called party.
  - Paging carrier captures information provided by calling party, disconnects the call, and then forwards the stored information through a separate radio broadcast transmission.

## Obligations of 251 Must be Implemented Pursuant to 252

Even if paging carriers entitled to reciprocal compensation, they still must either continue to accept service under existing state tariffs or request interconnection under section 251 and negotiate new terms.

- Duty to negotiate in 251(c)(1) expressly applies to “the duties described in paragraphs (1) through (5) of subsection (b) and this subsection.” 251(b)(5) is not self-effectuating.
- Paging carriers cannot order facilities out of state tariffs and then simply refuse to pay.

Section 332 provides no escape from the obligation to negotiate.

- If paging carriers wish to avail themselves of rights granted under section 251 of the Act, they must do so pursuant to the negotiation and arbitration process established by section 252.

## Nothing in the Reciprocal Compensation Rules Purports to Provide Paging Carriers with Free Facilities

Metzger Letter wrongly applied section 51.703(b) to charges for facilities, as opposed to charges for traffic.

- “LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC’s network.” 47 CFR § 57.703(b).
  - Facilities ≠ traffic: Charges for facilities recover costs of providing and maintaining facilities themselves. Facilities charges not imposed to recover incremental network costs created by traffic delivered over those facilities.
  - When Commission wants to address facilities, it does so directly. See, e.g., 51.709(b) (dealing with rates for “providing transmission facilities dedicated to the transmission of traffic between two carriers’ networks”).
    - Section 51.709(b) only applies to traffic “between” two carriers’ networks and only applies to negotiated agreements under 252.
- LECs impose no usage-sensitive charges on paging carriers.

## LECs Must Be Able to Configure Their Networks Efficiently and Recover Costs

Paging companies have interpreted Metzger Letter to mean they can order any facilities they want (within an MTA) and refuse to pay for them.

- If Metzger Letter is correct then interconnection facilities are part of LEC's network.
  - LEC can configure them in most efficient way.
  - LEC can charge its own customers for transport; implement rating points to recover interLATA toll charges.
- If paging carriers wish to offer local calling in multiple local exchange areas served by a single terminal, they must compensate the LECs:
  - reverse billing, where the paging carrier pays the intraLATA toll charges incurred by callers to its paging terminal.
  - "FX"-type facilities, dedicated lines used to transport traffic from a distant local exchange area to a paging carrier's distant terminal.
- Paging carriers cannot order FX-type facilities out of existing State tariffs and then refuse to pay for them.
  - Cost should not be folded into general local exchange rates.
    - State Commissions have not provided for recovery.
    - Violates basic principle that costs should be imposed on the cost causer; encourages inefficient calling patterns.

# The New York Times

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THURSDAY, MAY 21, 1998

## Millions Await Beep, but Box Remains Silent

By SETH SCHIESEL

Paging companies and other communications providers scrambled to restore service yesterday to the tens of millions of people nationwide whose electronic devices shut down late Tuesday because a satellite began rotating uncontrollably.

When the satellite, *Galaxy 4*, mysteriously malfunctioned soon after 6 P.M. Tuesday, about 80 percent of the nation's almost 50 million pagers stopped working. National Public Radio's flagship program, "All Things Considered," went dead in much of the country. People who rely on electronic data services for news and information suddenly found themselves without the numbers they needed.

Many were still expressing surprise yesterday over how a \$250 million satellite, owned by the Panamsat Corporation of Greenwich, Conn., had illustrated American dependence on arcane electronic communications. [Page D3.]

The inconvenience caused by the failure, which could last until early next week, was widespread. The sense of inconvenience even extended to people paid to understand the vulnerability of modern communications.

"Last night I paged my husband to say 'What do you want me to pick up for dinner?'" said Suzanne E. Stein, a wireless communications analyst at Goldman, Sachs & Company. "I paged him four times, and I was so angry that he didn't return my call that I was like, 'I'm going to divorce you if you don't page me back right now.'"

Ms. Stein is still married. But the

Continued on Page D3

## Millions Await Familiar Beep From Silent Box

Continued From Page A1

problem, which Panamsat said yesterday could take as long as six days to remedy by moving another satellite into *Galaxy 4*'s orbital slot, led to other sorts of threats.

On Tuesday night, an Alamo rental car branch near Newark received a bomb threat. The Newark Police Department tried to page members of its bomb squad, but "not all of the individuals in the bomb squad that were paged were aware that they were paged," said Sgt. Derek Glenn, a spokesman for the department. Dispatchers eventually were able to track them down, he added.

Also Tuesday night, a man was stuck in an elevator in a Chicago office building. If *Galaxy 4* had been working, he could have been rescued within 15 minutes. Instead, the man had to wait for two hours because the failed satellite disabled the pagers used by a local elevator repair company.

"We had someone two blocks away, but we couldn't get hold of him," said Ron Lamb, a supervisor for Montgomery Kone Inc., the repair company. "It's a good thing no one got sick or had a heart attack or was injured, or we really would've had a major, major problem."

There have, however, been enough problems to go around since Tuesday night for many people and businesses that communicate electronically. Among the hardest hit have been some smaller companies that depend on the transmission and receipt of up-to-the-second financial data. Without the deep pockets and extensive plans necessary to move quickly to other modes of communication, they spent yesterday and some of Tuesday practically out of business.

"Basically, our data were undeliverable," said Craig McIntosh, director of market data services for the Data Transmission Network Corporation, a company based in Omaha that provides financial and agricultural news and information to 180,000 subscribers, most of whom use *Gal-*

### ONE PAGING COMPANY'S WOES

*Paging Network, the leader in paging, has had troubles beyond the satellite failure. Market Place, page D9.*

*axy 4.* "We've received thousands of phone calls today to our customer service department. It hasn't been fun."

James M. Tanner, president of Wall Street on Demand Inc., a company based in Boulder, Colo., that provides financial research on line, said that having spent large amounts on "redundant" communications systems that have built-in backups, he was more embarrassed than angry. In his shock he echoed Panamsat officials, paging executives and everyday consumers.

"We go up to the roof of our building and see four satellite dishes and think, 'Hey, we're redundant,'" he said. "But we never thought that they were all pointed at the same satellite and that it might fail. We all have power backups, server backups, computer room backups, even vendor backups, and this is just one thing that no one ever thought about."

Panamsat executives said last night that they still were not sure what caused *Galaxy 4* to malfunction. The nation's large paging companies began shifting their operations to other satellites — a tedious process that involves manually redirecting thousands of satellite dish antennas nationwide.

"We believe we put into place an effective contingency plan that will meet our customer service requirements," said Daniel Marcus, a spokesman for Panamsat, which is owned by the Hughes Electronics unit of General Motors. John P. Frazee Jr., the chairman of Paging Network Inc., the nation's largest paging company with about 18.4 million customers, said that 50 to 60 percent of the company's customers, mostly in big cities, would have service by this morning and that 90 percent of the users would have service by this

weekend.

"I don't know if it's been traumatic," Mr. Frazee said. "But it has been sobering."

Francis P. Fisher, director of engineering at WVPN, a public radio station in Charleston, W. Va., used stronger language.

"It's devastating to us," he said. "We not only obtain our programming from N.P.R. via this satellite, we also distribute our signal throughout West Virginia via the same satellite. So we we're dead in the water."

Siriol Evans, a spokeswoman for National Public Radio, said that most of the network's 600 affiliates subscribed to "All Things Considered" and that all the subscribers were cut off when *Galaxy 4* malfunctioned.

Mr. Fisher said, "It's been very annoying because we didn't have any advance warning." Panamsat did, however, say in a filing with Federal regulators last week that it had detected problems with *Galaxy 4*.

Among the other companies that have detected problems in *Galaxy 4* are United Press International, Reuters America and the Chevron Corporation, which lost the use of "swipe at the pump" credit card payment operations at 5,400 gas stations.

But some people still saw a silver lining in the digital darkness.

Outside an office building in Chicago yesterday, Joe Knebl was thankful for his pager's silence.

"I think it's a blessing," he said. "I hate the things. Plus, this way my girlfriend can't find me if I don't want her to."



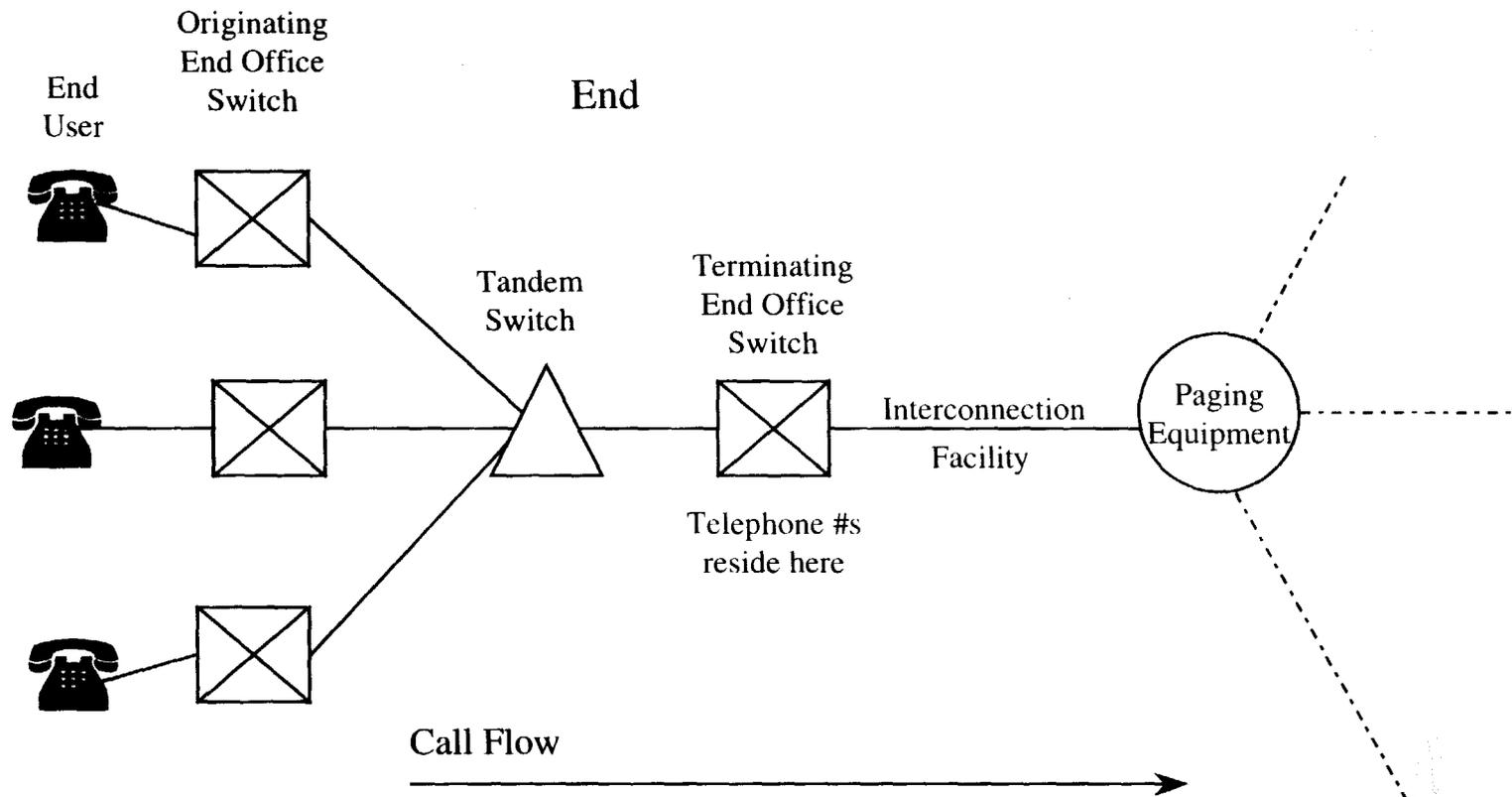
# Paging Interconnection Network Perspective

- LECs offer paging providers the same interconnection opportunities as other CMRS carriers
- Paging providers can negotiate interconnection agreements as described in the Telecommunications Act or purchase services from state tariffs
- Most paging providers have chosen to continue to order from state tariffs rather than negotiate interconnection agreements

# Paging Interconnection Network Perspective (Continued)

- The two most common types of CMRS interconnection arrangements offered through tariffs are Type 1 and Type 2
- Paging carriers predominantly order Type 1 (often provided as DID)

# Type 1 Interconnection



## Legend

LEC Facility



Paging Provider Facility



# Type 1 Interconnection

(Continued)

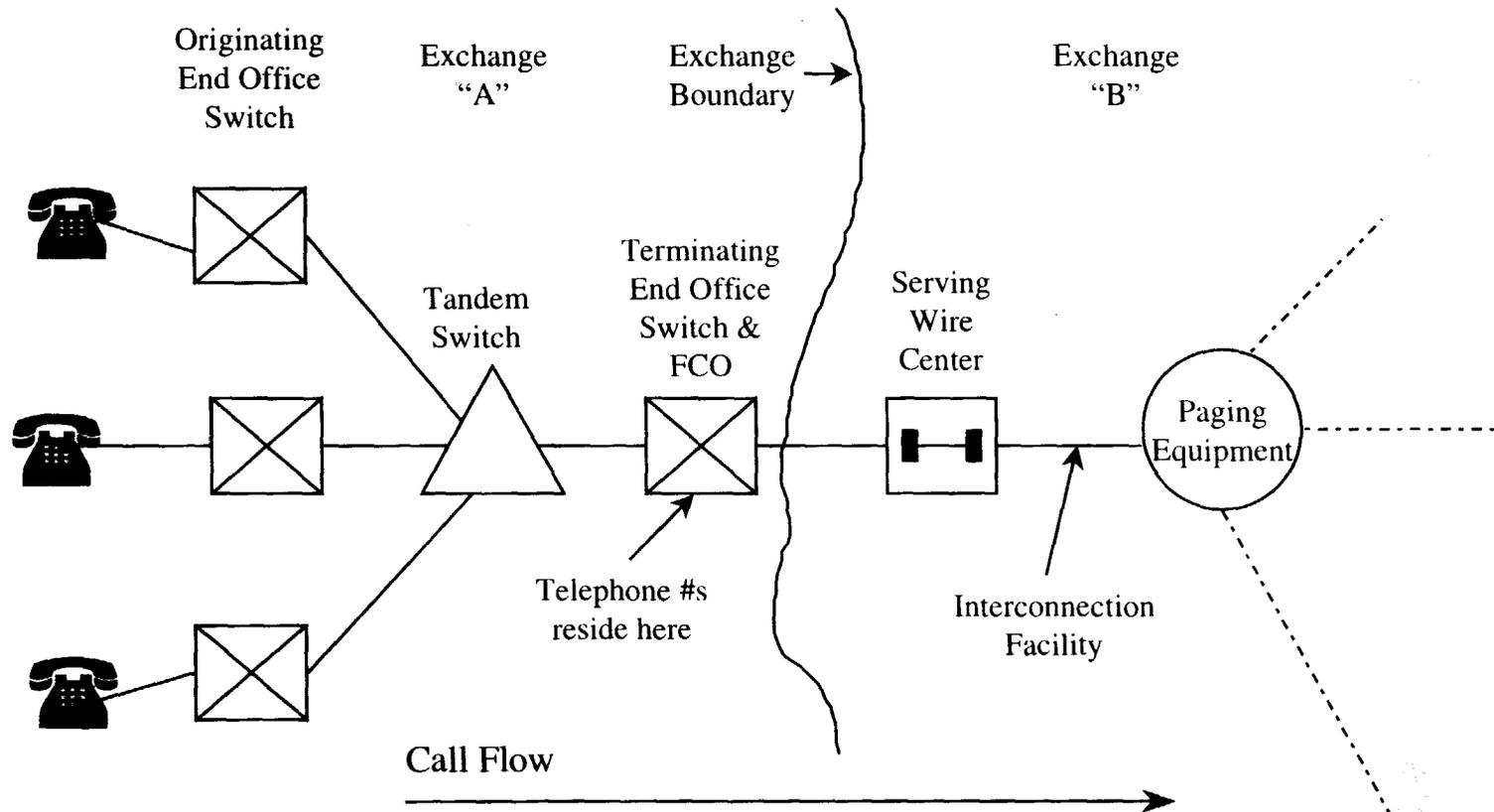
- To the LEC network, Type 1 looks like a local call
- Switch functions are performed exclusively in LEC terminating switch
- At no time does the paging equipment hold an open circuit between the LEC end user and the paging subscriber
- Paging provider's telephone numbers reside in LEC terminating end office switch, not in paging equipment
- LEC engineers perform all numbering and routing functions associated with terminating end office switch

# Type 1 Interconnection

(Continued)

- Theoretically, local rates paid by end user compensate LEC for network facilities from end user's premises through terminating end office
- LEC end user does not compensate LEC for facilities beyond terminating end office

# Type 1 Interconnection Using Foreign Exchange (FX) Numbers



## Legend

LEC Facility



Paging Provider Facility



FCO

Foreign Central Office

# Type 1 Interconnection

## Using Foreign Exchange (FX) Numbers

(Continued)

- Paging providers often order FX numbers and dedicated transport along with Type 1 service to extend their local presence beyond a given LEC local calling area
- Paging providers enhance the marketability of their service by offering callers in a “foreign” calling area toll-free access to their paging customers
- No switching occurs at the LEC serving wire center, it is merely a cross-connect point

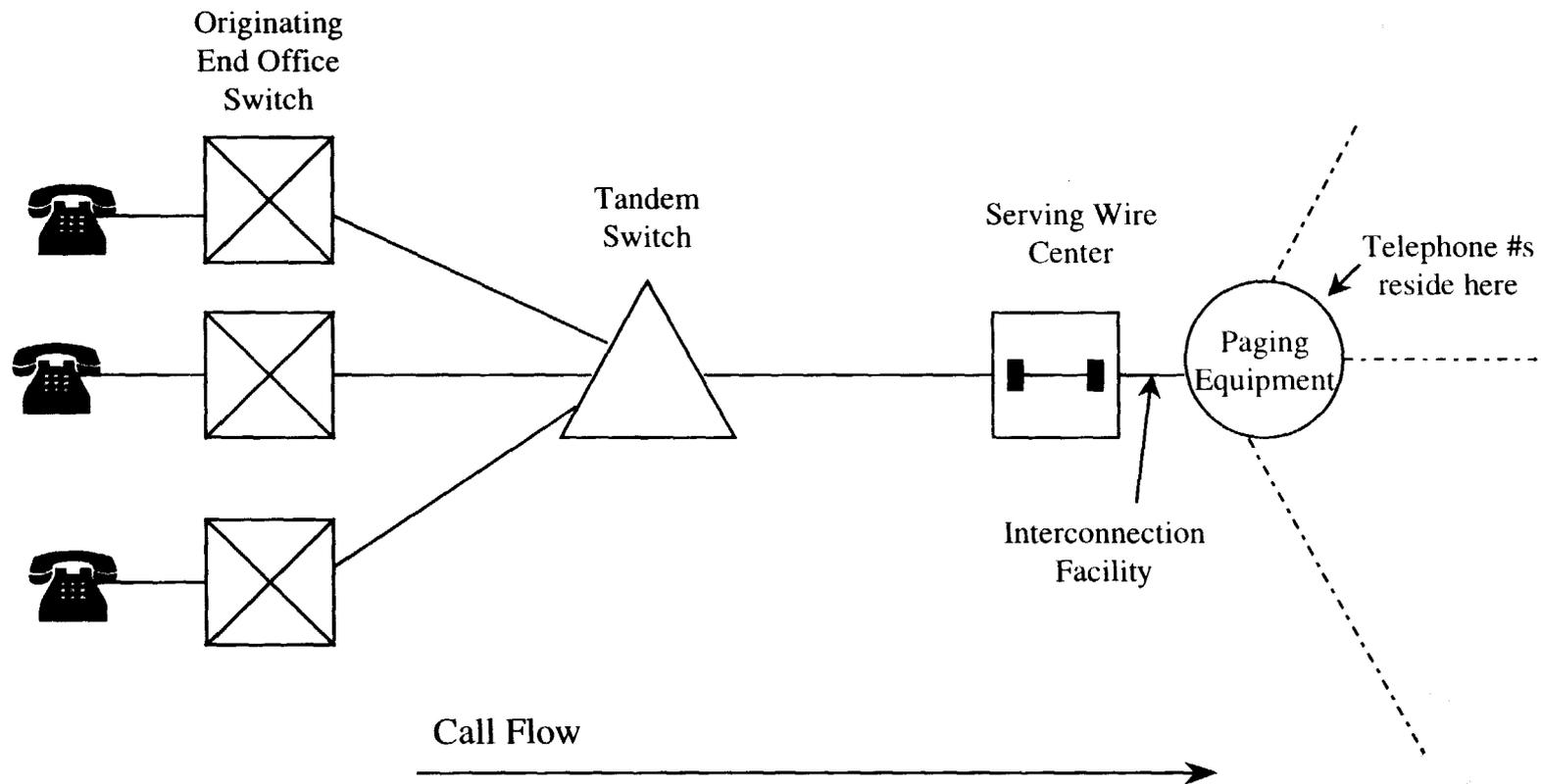
# Type 1 Interconnection

## Using Foreign Exchange (FX) Numbers

(Continued)

- Dedicated transport, which paging providers order from LECs to relay paging calls from the foreign central office (FCO) to the LEC serving wire center, often spans dozens of miles, and sometimes more than a hundred
- In neither local calling area involved are basic exchange rates designed to recover costs of whatever dedicated transport a paging provider may order

# Type 2A Interconnection



## Legend

LEC Facility



Paging Provider Facility

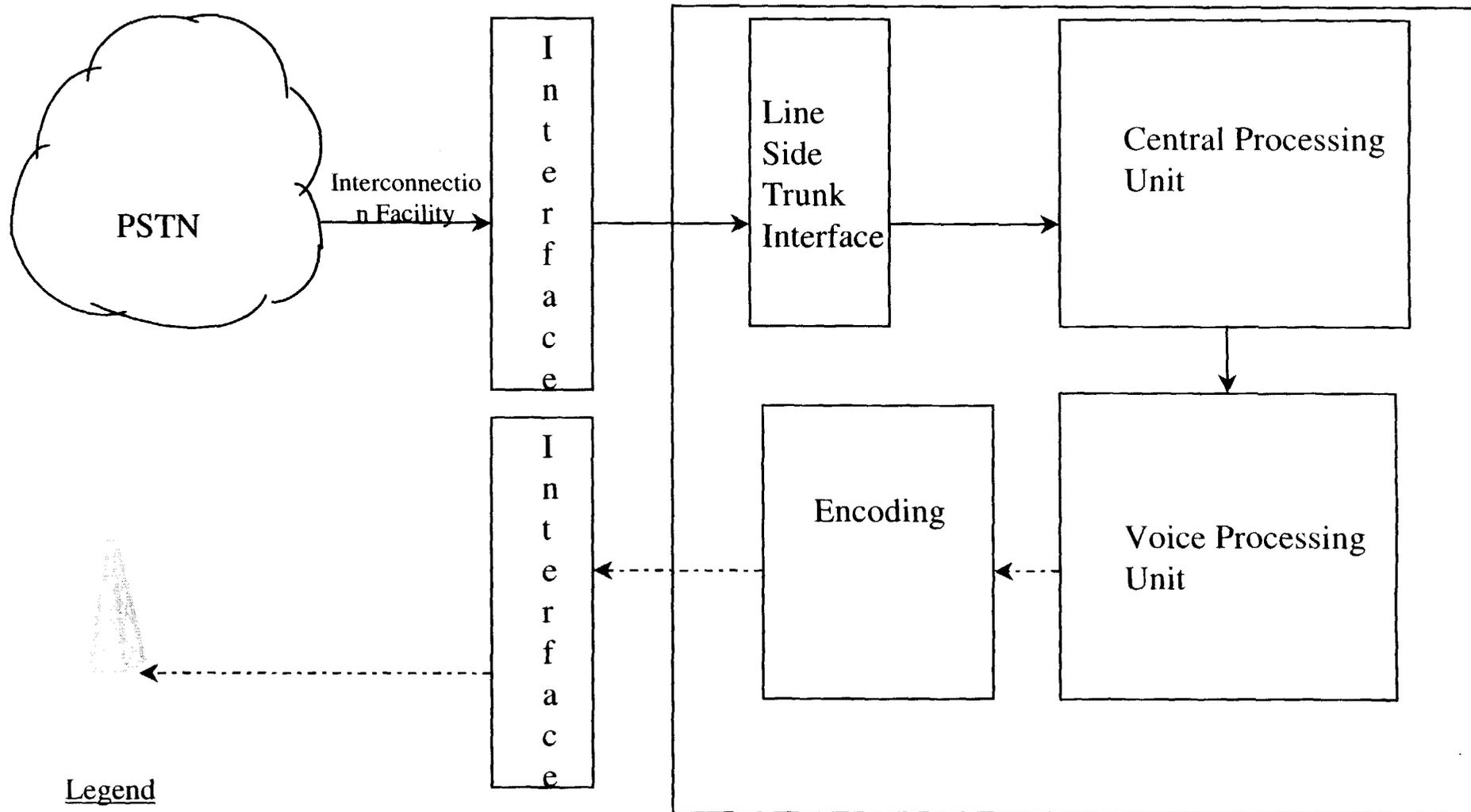


# Type 2A Interconnection

(Continued)

- Type 2A interconnection is common for cellular and PCS providers, but not for paging providers
- At no time does the paging equipment hold an open circuit between the LEC end user and the paging subscriber
- CMRS carriers with Type 2A use entire NXXs (instead of number blocks from NXXs in LEC end offices)

# Paging Equipment Call Processing



## Legend

LEC End User Call Path 

Page Message Path 

PSTN

Public Switched Telecommunications Network

# Out of Serving Area Requirements

