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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket # 96-98
~~CCB/CPH 97-50~~

In the Matter of:)
)
Request by ALTS for Clarification of) File No. CPD 97-30
The Commission's Rules Regarding)
Reciprocal Compensation for)
Information Service Provider Traffic)

REPLY COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company (SNET) respectfully submits these Reply Comments responding to the comments filed by various parties in this proceeding on July 17, 1997. These initial comments addressed the request for clarification of the Federal Communications Commission's (Commission) rules regarding reciprocal compensation for information service provider (ISP) traffic filed by the Association for Local Telecommunications Service (ALTS) on June 20, 1997 (Request).

In these Reply Comments, SNET reiterates its argument that the Commission is currently addressing issues regarding the implications of information services and Internet usage and the appropriate regulatory treatment of transport services utilized by ISPs in another docket.¹ Thus, the Commission should dismiss ALTS' Request. However, if the Commission does not dismiss ALTS' Request, the Commission should affirm that ISP traffic is not subject to reciprocal compensation, as such traffic is interstate in nature.

¹ Access Charge Reform, Notice of Proposed Rulemaking Third Report and Order and Notice of Inquiry, CC Docket No. 96-262, FCC 96-488 (released December 24, 1996) (Internet NOI).

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These Reply Comments also address the following issues: i) SNET's policy regarding reciprocal compensation and ISP traffic does not violate the terms of any interconnection agreement; and ii) SNET's reciprocal compensation policy does not discriminate against any particular type of carrier.

I. INTRODUCTION

The Commission is currently addressing issues regarding the implications of information services and Internet usage and the appropriate regulatory treatment of transport services utilized by ISPs in its Internet NOI. Thus, the Commission has reason to dismiss ALTS' Request. However, if the Commission does not dismiss ALTS' Request, it is appropriate for the Commission to affirm that ISP traffic is not subject to reciprocal compensation, as such traffic is interstate in nature.

Section 251(b)(5) of the Telecommunications Act of 1996² requires all local exchange carriers (LECs) to "establish reciprocal compensation arrangements for the transport and termination of telecommunications." Section 51.701(a) of the Commission's rules specifically limits this obligation to local telecommunications traffic. As demonstrated in SNET's Comments, because calls to ISPs do not originate and terminate within the same calling area, ISP traffic is not local traffic but is interstate in nature. Therefore, reciprocal compensation should not apply to ISP traffic.

It is also important to note that SNET's policy that ISP traffic is not subject to reciprocal compensation does not violate any interconnection agreement that SNET has

² Pub. L. No. 104-104, 110 Stat. 56 (1996).

negotiated with any competitive local exchange carrier ("CLEC"). In addition, SNET's reciprocal compensation policy does not discriminate against any particular type of carrier.

II. SNET'S RECIPROCAL COMPENSATION POLICY DOES NOT VIOLATE ANY INTERCONNECTION AGREEMENT.

SNET's policy of excluding ISP traffic from reciprocal compensation does not violate any of SNET's interconnection agreements. SNET has never stated during the course of any interconnection negotiation with any carrier, that ISP traffic would be treated like other types of local traffic. None of SNET's interconnection agreements with other carriers explicitly state that ISP traffic is to be subject to reciprocal compensation. Quite frankly, ISP traffic was not an issue during any of these negotiations.

In its Comments, Brooks Fiber Properties, Inc. ("Brooks") claims that, "[d]uring negotiations with ILECs, Brooks was repeatedly assured that ISP traffic would be treated according to the FCC's then-pending order on local competition."³ With respect to the interconnection negotiations between SNET and Brooks, this allegation is completely false. In fact, ISP traffic was never mentioned or discussed during these negotiations. Indeed, the fact that the interconnection agreement between Brooks and SNET never once mentions ISP traffic speaks volumes. If SNET had actually assured Brooks that ISP traffic would be treated according to the Commission's local competition order (as Brooks falsely claims), certainly Brooks would have protected its interests by insisting that such an assurance be included in the interconnection agreement. The fact of the

³ Brooks Comments at 2.

matter is that neither SNET, nor any other party to these negotiations, ever intended ISP traffic be subject to reciprocal compensation. Brooks and other CLECs cannot now contend otherwise.

III. SNET'S POLICY REGARDING RECIPROCAL COMPENSATION AND ISP TRAFFIC DOES NOT DISCRIMINATE AGAINST ANY PARTICULAR TYPE OF CARRIER.

SNET's policy regarding reciprocal compensation and ISP traffic does not discriminate against any particular type of carrier. It is SNET's policy that ISP traffic is *always* excluded from reciprocal compensation, regardless of the carrier that terminates the traffic. That is, ISP traffic that originates on SNET's network and terminates on the network of a CLEC or an adjacent ILEC is not subject to reciprocal compensation; nor is ISP traffic that originates on the network of a CLEC or an adjacent ILEC and terminates on SNET's network.

Contrary to the allegations of various parties to this proceeding,⁴ SNET does not compensate adjacent ILECs for termination of ISP traffic. The two ILECs which are adjacent to SNET's service territory include Woodbury Telephone Company ("Woodbury") and NYNEX.⁵ ISP traffic has always been excluded, and will continue to be excluded, from reciprocal compensation between SNET and Woodbury and between SNET and NYNEX. Thus, SNET does not discriminate between CLECs and adjacent

⁴ AOL Comments at 3; AT&T Comments at 2; MCI Comments at 4-; Sprint Comments at 4.

⁵ At this time, SNET does not have an interconnection agreement with NYNEX. SNET is currently negotiating an interconnection agreement with Woodbury and expects to sign this agreement within the next few weeks.

ILECs with respect to reciprocal compensation for ISP traffic. SNET's policy regarding reciprocal compensation and ISP traffic is competitively neutral.

IV. CONCLUSION

The Commission is currently reviewing issues regarding the implications of Internet usage and the proper regulatory treatment of transport services used by ISPs in another proceeding. Thus, ALTS' Request should be dismissed. If, however, the Commission does not dismiss ALTS' Request, it should re-affirm its long-standing policy that ISP traffic is interstate in nature and is not, therefore, subject to reciprocal compensation.

Respectfully submitted,

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