

specific trunk groups different from the ILEC's routing for transport and termination. NXX routing is thus a type of customized routing function, which the FCC has expressly concluded is part of the switching network elements that ILECs must provide. See 47 C.F.R.

§ 51.319(c)(1)(i)(C)(2). Therefore, the Act requires ILECs to provide both code conversion and NXX routing, as well as all other functions of the switch, pursuant to Section 251(c)(3).

Although it has been suggested that MCI's desire to use NXX routing in order to offer its customers extended toll-free calling areas would conflict with all LECs' obligation to provide local dialing parity pursuant to Section 251(b)(3), that suggestion is unwarranted. The FCC addressed this specific issue in its Second Report and Order, as follows:

By requiring that all customers "within a defined local calling area" be able to dial the same number of digits to make a local telephone call, we do not intend to require a competing provider of local exchange service to define its local calling area to match the local calling area of an incumbent LEC. We further do not intend to require a competing provider of telephone exchange service that voluntarily chooses to provide ten-digit as opposed to seven-digit dialing in a local calling area to modify its dialing plan in this instance in order to conform to the dialing plan of another LEC.

Second Report and Order ¶ 75. Thus, the FCC has made clear that the local dialing parity obligation imposed by Section 251(b)(3) should not stifle innovative efforts of CLECs to offer extended toll-free calling areas that differ from the local calling areas defined by ILECs.

#### **FCC's Authority to Require ILEC Provision of Traffic Data Reports**

As discussed above, ILECs are required to provide all features, functions, and capabilities of the switch as part of the switching network element. For this reason, ILECs must provide requesting CLECs with traffic data reports showing blocking percentages on trunks used for local interconnection. The recording of this data and generation of reports is a function of the switch, subject to the unbundling requirement in Section 251(c)(3). Moreover, because traffic data reports are needed in order for CLECs to augment existing trunk groups in a timely and

efficient manner, and because such traffic reports are available to the ILEC for engineering its own network, the duty under Section 251(c)(2) to provide interconnection on terms and conditions that are just, reasonable, and nondiscriminatory requires the ILEC to make traffic data reports available to interconnecting CLECs. Otherwise, CLECs will experience risks of blockage that are not faced by the ILEC.

**FCC's Authority to Require ILEC Routing of IntraLATA Toll Calls to the CLEC**

The ILECs' duty to provide all features, functions, and capabilities of the switch, including customized routing capabilities, also dictates that ILECs must route the intraLATA toll calls of CLEC customers served via unbundled network elements ("UNEs") to the CLEC for completion if requested by the CLEC. Such routing requires nothing more than the loading of translations into the switch's routing table. This would permit CLECs to carry their local customers' intraLATA toll traffic rather than having that traffic default to the ILEC.

All LECs must provide full intraLATA toll dialing parity via the "2-PIC" presubscription method by February 8, 1999, at the latest, see Local Competition Order ¶ 59, and CLECs have the ability to carry their customers' intraLATA toll calls in states that have already implemented 2-PIC. Until intraLATA toll presubscription is implemented everywhere, however, a CLEC should be able to avail itself of the switching capability that would allow it to route its customers' intraLATA toll calls to the CLEC's network. This routing function in no way impairs any carrier's responsibility to provide 2-PIC toll dialing parity: it would only be necessary in states where the ILEC's switches are not yet capable of supporting 2-PIC because full intraLATA toll dialing parity has not yet been implemented there. Because the CLEC would be utilizing the ILEC's switching capability, it would be no more able to support 2-PIC than the ILEC itself. Thus, the use of customized routing to allow CLECs to carry intraLATA toll traffic

would involve no loss of customer choice, merely a change in the default from the ILEC to the CLEC.