

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

In the Matter of)	
)	WC Docket No. 14-228
Petition for Declaratory Ruling Regarding)	
Applicability of the IntraMTA Rule to LEC-IXC)	
Traffic)	

Reply Comments of the Blooston Rural Carriers

The Blooston Rural Carriers,¹ by their attorneys, hereby submit reply comments in the above-referenced proceeding, in which a number of local exchange carrier ("LEC") Petitioners asked the Commission to confirm that the intraMTA rule "does not apply to LEC charges billed to an *interexchange carrier* ("IXC") when the IXC terminates traffic to or receives traffic from a LEC via tariffed switched access services."² The Petitioners also asked the Commission to declare that IXC attempts to avoid paying access charges and to claim retroactive refunds are inconsistent with the Communications Act of 1934, as amended ("the Act") and the Commission's rules and policies. As discussed herein, the Blooston Rural Carriers support the Petitioners' request and urge the Commission to grant the relief requested.

¹ 3 Rivers Communications, Butler-Bremer Communications, Choctaw Telephone Company, Communications 1 Network, Inc., Dakota Central Telecommunications Cooperative, Electra Telephone Company, Golden West Telecommunications Cooperative, Inc., Harrisonville Telephone Company, Haxtun Telephone Company, ITS Telecommunications Systems, Inc., The Lincoln County Telephone System, Inc., Midvale Telephone Exchange, Inc., MoKan Dial, Inc., Penasco Valley Telephone Cooperative, Inc., The Ponderosa Telephone Co., Pymatuning Independent Telephone Company, Smithville Communications, Inc., Spencer Municipal Communications Utility, Spring Grove Communications, SRT Communications, Inc., Table Top Telephone Company, Inc., Tatum Telephone Company, Valley Telecommunications Cooperative Association, Inc., Van Buren Telephone Company, Inc., Venture Communications Cooperative, Walnut Hill Telephone Company, Inc., Walnut Telephone Company, Inc. d/b/a Walnut Communications, West Texas Rural Telephone Cooperative, Inc.

² Petition for Declaratory Ruling of the LEC Petitioners (Petition) at 2.

The Blooston Rural Carriers support the arguments made by the Petitioners and many other LECs concerning the proper interpretation of the Commission's intraMTA rule and claims for retroactive refunds. In addition, the Blooston Rural Carriers contend that two additional arguments support the Petitioners' request for Declaratory Ruling. First, grant of the Petition is consistent with and necessary to promote the Act's and the Commission's preference for negotiated compensation between carriers. Second, grant of the Petition is consistent with and necessary to promote the rule established by the Commission in the *Transformation Order*³ to limit the liability of rural, rate-of-return carriers for transport costs in connection with LEC-CMRS traffic.

The Commission has stated that the Act establishes a preference for carriers to negotiate contracts to determine compensation for services. Sections 251 and 252 of the Act establish a process for the negotiation of contracts and, where necessary, arbitration before the state commission. The Commission's rule section 20.11 applies that process to wireless carriers. However, fundamentally, you cannot have a fair process for contracted compensation when one party is allowed to hide the nature of traffic and their identity. As the comments show, there is no dispute that LECs did not know and could not know on a real time basis that wireless traffic was being transported via the LECs' Feature Group D access facilities. The LECs did not dictate the routing of wireless traffic over Feature Group D facilities. The LECs were provided no information from wireless carriers or the IXC's about the nature of alleged intraMTA traffic. The IXC's, by paying billed access charges for years, further hid the nature of the alleged intraMTA traffic. Even as of today and after requesting the information, the IXC's have not provided to the LECs information about specific intraMTA calls or the identity of the wireless carriers

³ *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*Transformation Order*).

associated with the alleged intraMTA calls.

It might be that the alleged intraMTA traffic at issue in this proceeding and the complaints filed by the IXCs "fell through the cracks" and neither the wireless carriers nor the IXCs were aware of the issue until recently. It certainly is the case that the Blooston Rural Carriers were not aware of the issue until the complaints were filed by the IXCs. However, if that is the case, then it would seem that IXCs and wireless carriers interested in fair dealing would come forward and identify themselves and the traffic to the LECs and negotiate the routing and payment of transport for the traffic at issue. The Blooston Rural Carriers would welcome this result. The fact that the IXCs and wireless carriers have not done so is another reason why the Commission should find that the imposition of access charges for all traffic routed over Feature Group D access trunks is appropriate, unless the carriers negotiate a separate arrangement for intraMTA traffic.

In addition, the Petitioners' request for Declaratory Ruling is consistent with and promotes the Commission's rule that limits the responsibility of rate-of-return carriers for the costs of transport involving non-access traffic exchanged with CMRS providers, and it should be granted on this basis, as well. Specifically, in the *Transformation Order*, although the Commission concluded that bill-and-keep should be the default compensation applicable to LEC-CMRS intraMTA traffic, the Commission established an interim default rule whereby the rural, rate-of-return LEC is "responsible for transport to the CMRS provider's chosen interconnection point when it is located within the LEC's service area" and when the CMRS provider's chosen interconnection point is located outside the LEC's service area, "the LEC's

transport and provisioning obligation stops at its meet point and the CMRS provider is responsible for the remaining transport to its interconnection point.”⁴

Under the factual circumstances in the matter before the Commission and if the IXCs’ arguments are adopted, this protection for rural LECs will be gutted. In short, under the IXCs’ argument, rural LECs will be left holding the bag for transport costs far outside their service area.

It is ironic that the Commission implemented a default bill-and-keep mechanism for LEC-CMRS traffic based on allegations from wireless carriers of traffic stimulation and regulatory arbitrage in LEC-CMRS non-access traffic. The Commission specifically notes comments filed by Sprint and Verizon alleging an increase in intraMTA traffic pumping and intraMTA arbitrage.⁵ The Commission also notes comments filed by CTIA asserting that the Commission’s *North County Order* “has “reduced the LECs’ incentives to negotiate reasonable agreements ... leading to an upsurge in costly litigation.”⁶ Now, it seems, it is the CMRS providers that have a reduced incentive to negotiate reasonable agreements and it is the CMRS providers and their affiliated IXCs that have found a mechanism to thwart the Commission’s protection for rural LECs from excessive transport costs.

⁴ *Transformation Order* at ¶999.

⁵ *Transformation Order* at ¶995.

⁶ *Transformation Order* at ¶991, n. 2085, citing CTIA Section XV Comments at 4.

Based on the foregoing, the Blooston Rural Carriers urge the Commission to grant the
Petitioners' Petition for Declaratory Ruling.

Respectfully submitted,

BLOOSTON RURAL CARRIERS

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