

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

In the Matter of)	
)	
Petition for Declaratory Ruling To Clarify)	
the Applicability of the IntraMTA Rule to)	
LEC-IXC Traffic and Confirm That Related)	WC Docket No. 14-228
IXC Conduct Is Inconsistent with the)	
Communications Act of 1934, as Amended,)	
and the Commission’s Implementing Rules)	
and Policies)	

**REPLY COMMENTS of
RURAL INDEPENDENT COMPETITIVE ALLIANCE**

The Rural Independent Competitive Alliance (“RICA”) files its Reply Comments with respect to the comments of other parties filed February 9, 2015 on the Petition for Declaratory Ruling.¹ RICA is a national organization representing Rural Competitive Local Exchange Carriers affiliated with Rural Telephone Companies. RICA members are harmed by the actions of the IXC’s described in the Petition. RICA urges the Commission to adopt the requested Declaratory Ruling.

This proceeding evokes a strong sense of *déjà vu*. RICA was organized in 2000 by a group of rural CLECs concerned with the then current practice of several IXC’s of refusing to pay

¹ Petition for Declaratory Ruling Regarding Applicability of the Intra MTA Rule to LEC-IXC Traffic filed by Bright House Networks LLC, the CenturyLink LECs, Consolidated Communications, Inc., Cox Communications, Inc., FairPoint Communications, Inc., Frontier Communications Corporation, LICT Corporation, Time Warner Cable Inc., Windstream Corporation, the Iowa RLEC Group, and the Missouri RLEC Group, WC Docket No. 14-228 (Nov. 10, 2014) (the "Petition").

the rural CLECs' tariffed access charges in whole or in part, or even refusing to serve the CLECs' customers. Following extensive proceedings in CC Docket No. 96-262, the Commission adopted rules governing the filing of such tariffs and required IXCs to serve the CLECs' customers and pay the lawful charges so tariffed.² The Commission established a benchmark level (and a separate rural benchmark) at which CLEC access rates are to be conclusively presumed to be just and reasonable.³

Fifteen years later some (but not all) of these IXCs have again manufactured reasons why they should not be liable for tariffed access charges, despite those access charges being at a "deemed lawful" rate. As the Petition for Declaratory Ruling correctly points out, the "intra-MTA rule" specifically applies, and has always applied, only to traffic exchanged between a LEC and a CMRS carrier, either directly or through a transit service provider (which does not mean an IXC) within the same MTA. The comments of the IXCs and CTIA to the contrary are simply incorrect; neither the Commission's decisions nor the cited Court decisions support their position.

The IXCs want to rely on the Commission's statement in the *Transformation Order* clarifying that the intraMTA rule applies whether or not the call is routed through a point outside the MTA or whether the LEC and the CMRS carrier are directly connected or utilize a transit carrier.⁴ As several commenters point out, the first part of the clarification merely restates the longstanding rule that characterization of traffic is controlled by its origin and destination not

² *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report and Order, 16 FCC Rcd 9923 (2001) ("Sprint has unilaterally recalculated and paid CLEC invoices for tariffed access charges based on what it believes constitutes a just and reasonable rate.") para. 23

³ *Id.* at para. 40.

⁴ *Transformation Order* at para 107, p. 380.

intermediate locations.⁵ More on point, the IXCs argue, incorrectly, that by “transit carrier” the Commission did not mean just those situations in which the LEC and CMRS carriers’ interconnection agreements specify that traffic will be routed through an intermediary such as a LEC Tandem Office. Instead, the IXCs would broaden the term far beyond its contextual meaning to include traffic that is routed through access facilities obtained pursuant to access tariffs where there is no LEC-CMRS agreement to do so. Several commenters correctly point out the falsity of this argument.⁶

Verizon claims that several federal appellate decisions support its position that access charges are not applicable to intra-MTA traffic it carries as an IXC.⁷ XO’s comments effectively rebut this claim, noting that:

“The cases did not address the issues raised by the Petition: the compensation an IXC owes a LEC when it delivers intraMTA traffic to a LEC for termination using the LEC’s tariffed switched access services in the absence of an agreement between the LEC and the IXC (or between the LEC and the CMRS provider) that provides for such exchange outside the access charge regime.”⁸

In conclusion, RICA strongly supports grant of the Petition by the Commission. The requested Declaratory Ruling should bring an end to several years of effort and substantial litigation expense and risk imposed on ILECs and CLECs by IXCs made possible solely as a

⁵ Comments of NTCA, WTA, ERTA, NECA at 7; Comments of Minnesota Telecom Alliance at 6-9. *See, AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services*, Order, 20 FCC Rcd 4826, (2005), para. 28 (“[T]he service it offers is a telecommunications service. Consequently, we determine the jurisdiction of calls made with that service based on an end-to-end analysis, without regard to the routing of the call or the geographic characteristics of the underlying telecommunications.”)

⁶ Comments of the Concerned Rural LECs at 5. (“For the intraMTA rule to apply to traffic exchanged via a transit carrier, the CMRS provider and the LEC must enter into a reciprocal compensation arrangement that addresses the specifics of the indirect traffic exchange. The IXCs that have given rise to this proceeding are not providing transit service within the scope of a LEC-CMRS provider interconnection agreement.”) (footnote omitted).

⁷ Verizon comments 5-7.

⁸ XO comments at 18.

result of their ability to misconstrue prior Commission Orders intended to govern LEC-CMRS relationships regarding local traffic.

Respectfully submitted

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