

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

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

**Reply Comments of the Iowa Communications Alliance**

The Iowa Communications Alliance (the “Iowa Alliance”)<sup>1</sup> submits these reply comments in the above-referenced proceeding, in which various local exchange carriers (“LEC Petitioners”) have asked the Commission (a) to confirm that the so-called “intraMTA rule” does not apply to charges billed to an interexchange carrier (“IXC”) when an IXC terminates traffic to or receives traffic from a LEC via tariffed switched access services<sup>2</sup> and (b) to declare that IXCs are not entitled to avoid payment of tariffed access charges or to engage in retroactive, self-help refunding of access payments on the basis of unverified call data or unilaterally developed traffic factors.<sup>3</sup> The Iowa Alliance supports the relief requested in the Petition and Petitioners, including as a means to quickly resolve the legal, economic and operational disruption generated by the conduct of Sprint, Verizon and Level 3. If the Commission fails to act on the LEC

---

<sup>1</sup> The Iowa Communications Alliance is the nation’s largest state telecom association with 125 local exchange carrier members. It represents the unification of the former associations known as the Iowa Telecommunications Association and the Rural Iowa Independent Telephone Association. The Iowa Alliance represents nearly all incumbent local exchange carriers (“ILECs”) in Iowa except for CenturyLink and Windstream. Together these rural providers serve approximately 225,000 rural Iowans.

<sup>2</sup> LEC Petition pp. 22-31.

<sup>3</sup> Id., pp. 35-38.

Petition, the industry will continue to be engaged in significant access charge disputes, fueling widespread uncertainty and costly litigation.

The record developed in this proceeding is clear and provides compelling support for the positions advanced by the LEC Petitioners. On its face (and under longstanding industry interpretation and implementation), the intraMTA rule applies only to traffic exchanged between LECs and *CMRS carriers*. When and where it does apply, the rule prohibits LECs from using tariffs (rather than negotiated agreements) to impose reciprocal compensation or other charges on *CMRS carriers*. As originally contemplated by the Commission and implemented across the telecommunications industry, the rule does not apply to traffic exchanged between LECs and *IXCs*, nor does it preclude LECs from imposing access charges on *IXCs*, to the extent they transmit intraMTA traffic via tariffed access facilities.<sup>4</sup>

On its face, the intraMTA rule does not confer independent rights or benefits upon *IXCs*, nor does it preempt the use of tariffed access charges as a compensation mechanism for the exchange of traffic between LECs and *IXCs*.<sup>5</sup> As the Federal District Court for the Northern District of Iowa has determined, neither the 1996 *Local Competition Order* nor the 2011 *Connect America Fund Order*<sup>6</sup> expressly applies to compensation between a LEC and an *IXC* exchanging intraMTA traffic.<sup>7</sup> The court didn't "simply [get] it wrong," as Verizon suggests.<sup>8</sup> In fact, the court correctly identified the narrow scope of the rule as first adopted and subsequently clarified by the Commission.

---

<sup>4</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd. 15499 (1996) ("*Local Competition Order*").

<sup>5</sup> Rural Association Comments, pp. 5-8.

<sup>6</sup> *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) ("*Connect America Fund Order*").

<sup>7</sup> *Sprint Commc'ns Co. v. Butler-Bremer Mut. Tel. Co.*, 2014 WL 4980539, \*\* 3-5 (N.D. Iowa, Oct. 6, 2014).

<sup>8</sup> Verizon Comments, p. 14.

While Verizon may simply disagree with the District Court’s decision, there is significant evidence in the record to demonstrate that industry understanding has long reflected the same narrow interpretation of the intraMTA rule. Consistent with the scope of the rule as set forth in the *Local Competition Order*, telecommunications carriers have nearly universally understood the intraMTA rule as being inapplicable to CMRS traffic—including allegedly intraMTA traffic—delivered by IXC’s over Feature Group D trunks or other access facilities. Virtually all LECs (including the LEC affiliates of Sprint and Verizon) have consistently imposed tariffed access charges on IXC traffic (including any intraMTA wireless traffic of Sprint and Verizon’s CMRS affiliates) routed via access facilities. Likewise, virtually all IXC’s (including, Sprint, Verizon and Level 3, at least prior to the filing of their federal lawsuits) consistently paid those tariffed access charges (including charges on allegedly intraMTA wireless traffic) without dispute.<sup>9</sup>

As set forth in the Petition and widely echoed in the comments, there is no industry standard or widely accepted method for distinguishing intraMTA wireless traffic from other access traffic. Neither IXC’s nor their CMRS affiliates provide, nor does it appear they are technically capable of providing, timely, accurate and verifiable data that would allow LECs to determine (or apply reasonable estimates or factors in lieu of determining) the level of intraMTA traffic being delivered over access facilities at any given time.<sup>10</sup>

In the absence of any accepted industry standards or methods, LECs have no ability to bill reciprocal compensation rather than access charges on intraMTA traffic commingled with other IXC traffic routed over tariffed access facilities. In part due to these technical and operational realities, industry-standard practice has always been for LECs to bill tariffed access

---

<sup>9</sup> AT&T Comments, p. 3.

<sup>10</sup> Concerned Rural LECs Comments, pp. 8-10.

charges, and for IXC's to pay tariffed access charges, on any intraMTA traffic routed through switched access facilities.<sup>11</sup> Even where, for network efficiency or other reasons, an interconnection agreement between a LEC and a CMRS carrier may include the option to route intraMTA traffic via an IXC using access facilities, such traffic is presumably delivered under the terms of the LEC's switched access tariff(s), unless all parties (including the LEC, the CMRS carrier and the IXC) have expressly agreed on an alternative arrangement, including the parameters for identifying such traffic and for implementing any rating or billing distinctions.<sup>12</sup>

These industry-wide interpretations of the intraMTA rule, together with the standards and practices built around them, have been in place for nearly two decades and were developed in full view and with the full involvement of Sprint, Verizon and Level 3. Accordingly, the Commission should decline to apply the intraMTA rule in any manner inconsistent with its plain meaning and contrary to long-settled standards and practices on which all carriers have reasonably relied. If, for any reason, the Commission does apply the intraMTA rule to IXC's, the Iowa Alliance agrees that such interpretation should be applied on a prospective basis only.<sup>13</sup> As noted by the LEC Petitioners and various commenters, LECs—especially small, rural LECs—would be severely burdened and would face significant risk and disruption if the Commission were order refunds of intercarrier compensation billed and paid in long-past billing periods.<sup>14</sup>

The LEC Petitioners assert that certain IXC's are engaging in self help, *de facto* refunds by withholding payment for unrelated and undisputed tariffed access services purchased from

---

<sup>11</sup> Illinois RLECs Comments, p. 8.

<sup>12</sup> See Rural Association Comments, pp. 8-13.

<sup>13</sup> AT&T Comments, p. 13

<sup>14</sup> See, e.g., Michigan LECs Comments, p. 4; Concerned Rural LECs Comments, pp. 10-14; TCA Comments, pp. 2-4; Texas Telephone Association Comments, p. 8.

various LECs.<sup>15</sup> In the absence of any industry standard for identifying intraMTA traffic, it appears that this withholding is based on unilaterally developed traffic factors which LECs are expected to blindly accept and implement. As the Petition notes, IXC withholding, especially the practice of “claw-back” withholding, will create significant disruptions in the telecommunications industry and will jeopardize LEC investment in facilities necessary to provide high quality connectivity to end-user customers.<sup>16</sup> As requested by the LEC Petitioners, the Commission should act without delay to confirm that those tactics are undertaken in bad faith and violate the clear requirements of the Act and the Commission’s implementing rules and policies.

Dated: March 11, 2015

IOWA COMMUNICATIONS ALLIANCE

*/s/ David Duncan*

David C. Duncan, CEO  
2987 100th Street  
Urbandale, IA 50322  
Telephone: 515-867-2091  
Facsimile: 515-867-9767  
Email: [dduncan@iacommunicationsall.com](mailto:dduncan@iacommunicationsall.com)

---

<sup>15</sup> LEC Petition, p. 21.

<sup>16</sup> Id., p.6.