

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

In the Matter of)	
)	
Petition for Declaratory Ruling Regarding)	CC Docket No. 01-92
Applicability of the IntraMTA Rule to)	WC Docket No. 10-90
LEC-IXC Traffic)	WC Docket No. 14-228

**REPLY COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (NCTA) supports the petition for declaratory ruling filed by Bright House Networks LLC *et al.*¹ The Commission should make clear that carriers routing calls by using a local exchange carrier's (LEC's) tariffed switched access services are subject to access charges.

The petition was filed in response to recent actions by three interexchange carriers (IXCs), Level 3, Sprint, and Verizon, seeking retroactive refunds of access charges that they previously paid over the last 10 years on traffic that they now allege consisted of wireless traffic with end points within the same Major Trading Area (intraMTA traffic).² These IXCs assert that this traffic was local traffic under the wireless intraMTA rule, because it was exchanged between a commercial mobile radio service (CMRS) provider and a LEC, and therefore reciprocal compensation, rather than access charges, should have applied to this traffic.³

As the petition explains, the wireless intraMTA reciprocal compensation regime does not apply when traffic is carried by an IXC.⁴ The traffic at issue was routed by IXCs over the LECs'

¹ Petition for Declaratory Ruling of the LEC Petitioners, CC Docket No. 01-92, WC Docket Nos. 10-90 and 14-228, (Nov. 10, 2014) (Petition).

² *Id.* at 18-19.

³ *Id.* at 2-3.

⁴ *Id.* at 3 (citing *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection Between Local Exchange Carriers and Commercial Radio Service Providers*, CC Docket Nos. 96-98 and 95-185, First Report and Order, 11 FCC Rcd 15499, 16016-17, ¶1043 (1996)).

long distance switched access trunks, which are subject to tariffed access charges. The IXCs did not identify this traffic as wireless intraMTA traffic at the time it was delivered to the LECs, or at the time they were billed for the traffic, and in fact paid tariffed access charges assessed on this traffic for many years.⁵ Now these IXCs are alleging that some unverifiable number of calls routed over LEC access trunks in the last decade should have been classified as wireless intraMTA traffic and they seek refunds of the access charges that they have paid.

Having bought and received those tariffed services, the IXCs were, and are, required to pay for them at the tariffed rate. The Commission's current rules governing compensation for local traffic, including intraMTA traffic, state that a LEC "shall establish Non-Access Reciprocal Compensation arrangements [i.e., local charges as opposed to long distance access charges] for transport and termination of Non-Access Telecommunications Traffic *with any requesting telecommunications carrier.*"⁶ The IXCs' actions are inconsistent with the rule's requirement that a carrier must first request and establish such an arrangement before reciprocal compensation rates apply. Instead, by continuing to route traffic using LECs' tariffed access services, regardless of whether the traffic is local or long distance, the carrier is obligated to pay the tariffed rate for the services it purchases from the LECs' access tariffs.

⁵ Petition at 18-19.

⁶ 47 C.F.R. § 51.703(a) (emphasis added). Prior to the revisions made in the Commission's 2011 *Connect America Fund Order*, section 51.703(a) provided that a LEC "shall establish reciprocal compensation arrangements [i.e., local charges as opposed to long distance access charges] for transport and termination of local telecommunications traffic *with any requesting carrier.*" 47 C.F.R. § 51.703(a) (2010) (emphasis added).

The Commission should therefore grant the petitioners' request and issue a declaratory ruling confirming that the wireless intraMTA reciprocal compensation rule does not apply to LEC charges billed to an IXC that terminates traffic to or receives traffic from a LEC via tariffed switched access services.

Respectfully submitted,

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March 11, 2015