



June 24, 2015

Filed Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: WC Docket No. 14-228

Dear Ms. Dortch:

On Monday, June 22, 2015, Colin Sandy, representing the National Exchange Carrier Association, Inc. (NECA), and the undersigned, representing NTCA-The Rural Broadband Association (NTCA) (collectively, the parties), Travis Litman, Legal Advisor to Commissioner Jessica Rosenworcel, to discuss intraMTA wireless traffic disputes.

The parties indicated that many of their member local exchange carriers (LECs) are among the defendants in the numerous intraMTA lawsuits brought by Sprint Communications Company, L.P. (Sprint), and by MCI Communications Services, Inc. and Verizon Select Services Inc. (MCI/Verizon) in various federal district courts around the country. Most of these lawsuits are presently included in Multidistrict Litigation (MDL) before the United States District Court for the Northern District of Texas (Civil Action No. 3:14-MD-2587-D). Initial motions to dismiss were filed with the MDL court on May 1, 2015.

The parties described their support for the Petition for Declaratory Ruling of the LEC Coalition that initiated this proceeding. In addition to the arguments advanced by the LEC Coalition and others, the parties addressed the disputes by explaining that the intraMTA rule was adopted to address traffic exchange arrangements between commercial mobile radio service (CMRS) providers and LECs. The rule, therefore, has focused upon such CMRS-LEC relationships without ever previously being extended or interpreted by the Commission to allow its invocation directly by interexchange carriers (IXCs) and other transiting or intermediary service providers.¹ Accordingly, even if IXCs would be eligible to invoke the rule, Sprint and MCI/Verizon would not be entitled to its benefits because they have wholly failed to meet their obligations to provide the timely notice and information (*e.g.*, cell site, sampling and/or traffic study data) necessary to satisfy the

¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499 (1996) (*Local Competition Order*), at paras. 1034 and 1043; *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*), at paras. 990 and 1006.

implementation requirement of the intraMTA rule that parties cooperate to identify, measure and/or estimate their intraMTA traffic in a manner consistent with that envisioned by the Commission in the *Transformation Order*.² The parties noted the equitable implications of the facts that Sprint and MCI/Verizon appear to have received monthly bills for many years from LECs containing access charges for what these IXCs knew to be comingled intraMTA traffic, and that the IXCs knowingly and repeatedly paid the intraMTA portion of these bills without dispute or complaint.

The parties request the Commission to issue a declaratory ruling to terminate this industry-wide controversy, which is generating litigation cost and producing operational and financial uncertainty regarding potential damages that increasingly discourages broadband investment. The parties further explained (and urged the Commission to declare) that retroactive refunds or damages are neither appropriate nor just given the absence of any prior required cooperation by Sprint or MCI/Verizon to identify, measure or estimate intraMTA traffic, or other indicia that would support their invocation of the rule that facially governs relationships between CMRS and LEC providers. Sprint and MCI/Verizon have yet to provide any reasonable or credible explanation why they both paid access charges without complaint or dispute for many years for alleged intraMTA traffic they were exchanging over access trunks, or why they both failed to “discover” the intraMTA rule until 2014.

Finally, with regard to any action regarding the intraMTA matter, the parties request the Commission to state expressly that the intraMTA rule is a federal regulation, and that the two-year statute of limitations in Section 415 of the Communications Act (rather than state contract statute of limitation periods) applies to any complaints or actions at law regarding it.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceedings.

Respectfully submitted,

/s/ Joshua Seidemann
Joshua Seidemann
Vice President of Policy

cc: Travis Litman

² *Local Competition Order*, at para. 1044; *USF/ICC Transformation Order* at n.2132.