

May 9, 2016

Ex Parte

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

Re: *In re Petition for Declaratory Ruling Regarding Applicability of the IntraMTA Rule to LEC-IXC Traffic*, WC Docket No. 14-228

Dear Ms. Dortch:

On May 5, 2016, on behalf of Sprint, I met with Matt DelNero, Deena Shetler, Pam Arluk, Victoria Goldberg, and Doug Sloten of the Wireline Competition Bureau. Keith Buell from Sprint and Joe Cavender from Level 3 also attended the meeting. Jeff Pfaff and Janette Luehring from Sprint participated in the meeting by phone, as did Amy Richardson, counsel to Sprint.

We showed that the Commission has repeatedly made clear that the “intraMTA rule” superseded the access charge regime. Additionally, we demonstrated that the imposition of access charges on intraMTA traffic cannot be reconciled with the Commission’s regulations, which classify intraMTA traffic as “Non-Access Telecommunication Traffic.” Accordingly, LECs are only entitled to reciprocal compensation in connection with intraMTA calls and may not impose access charges on other carriers, including IXCs, carrying such calls. We urged the Commission to again reiterate its rule in answering the petition for declaratory ruling filed in this docket by the LEC Coalition.

We emphasized that it would serve the interests of all parties for the Commission to reiterate its position soon because hundreds of telecommunications carriers are about to embark on costly discovery in connection with the related district court proceeding. That discovery is likely to be largely unnecessary once it is established that LECs are not entitled to impose access charges on intraMTA calls. Thus, it is now clear that, if the Commission waits to provide its guidance until the appeal of the recent district court decision, millions of dollars will be wasted.

We also noted that the one point on which the parties agree is that prompt action by the Commission is needed. The LEC Coalition recently “reiterated its continuing support for its pending Petition for Declaratory Ruling.” LEC Coalition ex parte, Feb. 25, 2016, WC Docket 14-228, at 1. Similarly, in October the LEC Coalition “stressed the need for the Commission to act expeditiously to resolve the matters addressed in its Petition, regardless of the outcome of the pending litigation.” LEC Coalition ex parte, Oct. 15, 2015, WC Docket 14-228, at 1-2. We agree.

Marlene H. Dortch
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Sincerely,

/s/ Christopher J. Wright

Christopher J. Wright
Counsel to Sprint Communications Co., L.P.

cc: Matt DelNero
Deena Shetler
Pam Arluk
Victoria Goldberg
Doug Slotten

attachment

FCC ORDERS

1996 LCO, ¶ 1036: “traffic to or from a CMRS network that originates and terminates within the same MTA is subject to transport and termination rates under section 251(b)(5), rather than interstate and intrastate access charges.”

2011 CAF Order, ¶ 1007. “intraMTA traffic is subject to reciprocal compensation regardless of whether the two end carriers are directly connected or exchange traffic indirectly via a transit carrier.”

FCC REGULATIONS

47 C.F.R. § 69.1 Application of access charges.

“(d) To the extent any provision contained in 47 CFR part 51 subparts H and J conflict with any provision of this part, the 47 CFR part 51 provision supersedes the provision of this part.”

47 C.F.R. part 51 subpart H (Reciprocal Compensation)

47 C.F.R. § 51.701(b) Non-Access Telecommunications Traffic. For purposes of this subpart, Non-Access Telecommunications Traffic means:

... (2) Telecommunications traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter.

47 C.F.R. § 51.703 “(b) A LEC may not assess charges on any other telecommunications carrier for Non-Access Telecommunications Traffic that originates on the LEC's network.”

“(c) Notwithstanding any other provision of the Commission's rules, a LEC shall be entitled to assess and collect the full charges for the transport and termination of Non-Access Telecommunications Traffic In no event may the total charges that a LEC may assess for such service to the called location exceed the applicable transport and termination rate.”