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

In the Matter of )  
 )  
Expanded Interconnection with Local ) CC Docket No. 91-141,  
Telephone Company Facilities ) Transport Phase II  
 )

ORDER ON RECONSIDERATION

Adopted: August 12, 1998

Released: August 18, 1998

By the Commission:

I. INTRODUCTION

1. In its Third Report and Order in the expanded interconnection proceeding, the Commission directed all Tier 1 local exchange carriers (LECs), except National Exchange Carrier Association, Inc. (NECA) pool members, to provide third parties with the signalling information necessary for these parties to supply tandem switching.<sup>1</sup> Three parties filed for reconsideration of the *Tandem Switching Order*, but one of the three parties has sought to withdraw its petition. For the reasons discussed below, we deny the two remaining petitions.

II. BACKGROUND

2. The *Tandem Switching Order* required Tier 1 incumbent LECs other than NECA pool members to provide all interested third parties, such as competitive local exchange carriers, interexchange carriers (IXCs), and end users, with the signalling information necessary for those parties to install their own tandems to provide tandem switching services. These third parties, called tandem switch providers (TSPs), would then be able to compete with the incumbent LECs in providing tandem switched transport.<sup>2</sup> The Commission found that availability to third parties of signalling information needed for tandem switching could provide significant public benefits, such as facilitating broader access competition by enabling interconnectors to offer competitive interstate tandem switching and transport services.<sup>3</sup> In the Commission's view, small IXCs, which rely heavily

<sup>1</sup> *Expanded Interconnection with Local Telephone Company Facilities*, CC Docket No. 91-141, Third Report and Order, Transport Phase II, 9 FCC Rcd 2718 (1994) (*Tandem Switching Order*).

<sup>2</sup> *Id.* at 2724. Tandem switched transport refers to traffic transported by means of a tandem switch, which is an intermediate switch between an originating telephone call location and the final destination of the call. TSPs carry traffic of multiple interexchange carriers from LEC end offices to their own tandems, and then deliver the traffic to the appropriate IXC. *Id.* at 2719, n.5.

<sup>3</sup> *Id.*

on tandem-switched transport, would particularly benefit.<sup>4</sup> The Commission also found that competitive tandem switching would yield other benefits, such as putting downward pressure on access charges and long-distance rates, increasing technological innovation, and making more efficient use of the country's telecommunications networks.<sup>5</sup> The Commission determined that the benefits of allowing this competition outweigh the *de minimis* potential costs incurred by the incumbent LECs in providing the necessary signalling.<sup>6</sup> Finally, the *Tandem Switching Order* explicitly did not require incumbent LECs to provide signalling information from their tandem offices.<sup>7</sup> The Commission found that the record did not reveal how tandem-to-tandem interconnection could be competitively viable, either from a service quality or pricing perspective.<sup>8</sup>

3. WilTel, Inc. (WilTel)<sup>9</sup> and the Association for Local Telecommunications Services (ALTS)<sup>10</sup> filed petitions for reconsideration of the *Tandem Switching Order* urging the Commission to reconsider its decision not to require tandem-to-tandem interconnection. Southwestern Bell Telephone Company (SWBT) also filed a petition for clarification and reconsideration of the *Tandem Switching Order*, claiming technical difficulties in implementing that order.<sup>11</sup> SWBT subsequently filed a motion to withdraw its petition.<sup>12</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 2724-25.

<sup>7</sup> *Id.* at 2725.

<sup>8</sup> *Id.*

<sup>9</sup> WilTel, Inc., Petition for Reconsideration, CC Docket No. 91-141, filed July 27, 1994 (WilTel Petition). The following parties filed oppositions to or comments on the WilTel Petition: Ameritech; AT&T Corporation (AT&T); Bell Atlantic Telephone Companies (Bell Atlantic); BellSouth Telecommunications, Inc. (BellSouth); Competitive Telecommunications Association (CompTel); GTE Service Corporation (GTE); MCI Telecommunications Corporation (MCI); Pacific Bell and Nevada Bell (Pacific); Rochester Telephone Corporation (Rochester); Southern New England Telephone Company (SNET); SWBT; and the United States Telephone Association (USTA). NYNEX, GTE, and WilTel filed replies to the oppositions to and comments on the WilTel Petition.

<sup>10</sup> Association for Local Telecommunications Services, Petition for Reconsideration, CC Docket No. 91-141, filed July 27, 1994 (ALTS Petition). The following parties filed oppositions to or comments on the ALTS Petition: AT&T; Bell Atlantic; BellSouth; CompTel; GTE; MCI; Pacific; Rochester; SNET; SWBT; and USTA. NYNEX and GTE filed replies to the oppositions to, and comments on, the ALTS Petition.

<sup>11</sup> Southwestern Bell Telephone Company, Petition for Clarification and Reconsideration, CC Docket No. 91-141, filed July 27, 1994 (SWBT Petition).

<sup>12</sup> Southwestern Bell Telephone Company, Motion to Withdraw Southwestern Bell Telephone's Petition for Clarification and Reconsideration, CC Docket No. 91-141, filed Oct. 30, 1997.

### III. DISCUSSION

4. We deny the WilTel and ALTS petitions to reconsider the Commission's decision not to require incumbent LECs to provide signalling from their tandems in its *Tandem Switching Order*.<sup>13</sup> The Commission explicitly considered and decided against requiring LECs to provide tandem-to-tandem interconnection,<sup>14</sup> finding that the costs of tandem-to-tandem signalling were not shown to be justified by either the benefits of, or demand for, such signalling.<sup>15</sup> Nothing in the record on reconsideration persuades us to alter this finding. First, the petitioners have not presented sufficient evidence to demonstrate that demand for this service exists or that this is a viable service.<sup>16</sup> Even WilTel admits that the demand for this service is speculative.<sup>17</sup> In addition, while some commenters claim that tandem-to-tandem switching is necessary to provide ubiquitous service,<sup>18</sup> they do not dispute that such a goal may be achieved by collocating at LEC tandems and routing traffic from those tandems to their own tandems, using separate trunk groups for each IXC.<sup>19</sup> Instead, these commenters argue only in general terms that this option is not cost-efficient.<sup>20</sup> Second, petitioners have failed to support their claim that the costs associated with tandem-to-tandem interconnection would be minimal. The LECs claim that they would incur significant costs to develop standards and upgrade software to provide tandem-to-tandem signalling.<sup>21</sup> While the parties seeking tandem-to-tandem interconnection urge that the costs associated with such

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<sup>13</sup> ALTS Petition at 6; WilTel Petition at 3. ALTS and MCI claim that the LEC cost estimates in the record on which the *Tandem Switching Order* are based ranged too widely and were inadequately supported. ALTS Petition at 3-4; MCI Comments at 3-4.

<sup>14</sup> *Tandem Switching Order*, 9 FCC Rcd at 2722-23, 2725.

<sup>15</sup> *See id.* at 2725.

<sup>16</sup> The LECs generally claim that there is no demonstrated demand for tandem-to-tandem signalling that would justify the costs of its implementation. *See* NYNEX Reply at 6; SNET Opposition at 3; Rochester Opposition at 2; Bell Atlantic Opposition at 4; Pacific Opposition at 5; USTA Opposition at 2-3; SWBT Opposition at 4-7; GTE Opposition at 9-12; GTE Reply at 5. AT&T claims that such a service would likely be unattractive due to increased post-dial delay. AT&T Opposition at 7-8; *see also* Pacific Opposition at 4-5.

<sup>17</sup> WilTel Reply at 4.

<sup>18</sup> WilTel Petition at 4-6; CompTel Comments at 3-4; MCI Comments at 3; *but see* Pacific Opposition at 4-5.

<sup>19</sup> *See* Pacific Opposition at 3.

<sup>20</sup> *See* WilTel Petition at 4-5; WilTel Reply at 3-4; CompTel Comments at 3-4; ALTS Petition at 5.

<sup>21</sup> *See, e.g.*, Ameritech Comments at 2; SWBT Opposition at 4-5. The LECs first argue that the necessary standards for tandem-to-tandem interconnection are not yet developed. GTE Opposition at 3-4; SNET Response at 2; SWBT Opposition at 4; *see also* AT&T Opposition at 8; Bell Atlantic Opposition at 2-3; BellSouth Opposition at 2; USTA Opposition at 6; *but see* CompTel Comments at 2-3. The LECs, as well as AT&T, also argue that the necessary software upgrades to enable tandem-to-tandem interconnection are expensive, technically difficult, and time-consuming to implement. Ameritech Comments at 2 (estimating the cost of the necessary modifications to its switches at upwards of \$6 million); SWBT Opposition at 4-5 (estimating the cost of its necessary switch modifications at \$5 to 18 million); Pacific Opposition at 2, 4-5; *see also* AT&T Opposition at 7-8; SNET Opposition at 3.

interconnection are minimal, they have not provided any precise information to support those assertions.<sup>22</sup> On this record, we thus conclude that WilTel and ALTS have not met their burden of persuading us to reconsider the Commission's earlier decision in the *Tandem Switching Order*.

5. We note here that the record suggests no reason why carriers desiring signalling from LEC tandems cannot obtain that signalling through the separate, yet to some extent parallel, interconnection requirements mandated by the Telecommunications Act of 1996 and the Commission's subsequent order establishing rules implementing those requirements.<sup>23</sup> Sections 251(c)(2) and 251(c)(3) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, obligate incumbent LECs to provide interconnection and access to unbundled elements, upon request, at any "technically feasible point."<sup>24</sup> As explained in the *Local Competition Order*, the term "technically feasible" refers solely to technical or operational concerns, rather than economic, space, or site considerations.<sup>25</sup>

6. Finally, we agree with many of the LEC commenters that consideration of modification of the Commission's new services test for LECs subject to price cap regulation is beyond the scope of this proceeding.<sup>26</sup> Such arguments are more properly raised in petitions filed regarding individual tariffs, and we therefore decline to consider them here. For the reasons discussed above, we affirm our decision not to require LECs to provide tandem-to-tandem signalling.

#### IV. CONCLUSION

7. For the reasons discussed above, we deny the petitions for reconsideration of our *Tandem Switching Order*. We also grant the motion filed by SWBT to withdraw its petition for reconsideration.

#### V. FINAL REGULATORY FLEXIBILITY CERTIFICATION

8. In the *Tandem Switching Order*, the Commission noted that it certified in the *Second Notice of Proposed Rulemaking* that the conclusions it proposed to adopt would not have a significant economic impact on

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<sup>22</sup> See, e.g., WilTel Petition at 8 ("based on our understanding of LEC network planning and development, we believe that the cost of implementing the required changes can be held to a reasonable level").

<sup>23</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act); *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499 (1996) (*Local Competition Order*), *aff'd in part and vacated in part sub nom. Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068 (8th Cir. 1997), *vacated in part on reh'g, Iowa Utils. Bd. v. FCC*, 120 F.3d 753, *further vacated in part sub nom. California Public Utilities Comm'n v. FCC*, 124 F.3d 734 (8th Cir. 1997), *writ of mandamus issued sub nom. Iowa Utilities Bd. v. FCC*, No. 96-3321 (8th Cir. Jan. 22, 1998), *petition for cert. granted* (collectively, *Iowa Util. Bd.*), Order on Recon., 11 FCC Rcd 13042 (1996), Second Order on Recon., 11 FCC Rcd 19738 (1996), Third Order on Recon. and Further Notice of Proposed Rulemaking, 12 FCC Rcd 12460 (1997), further recon. pending.

<sup>24</sup> 47 U.S.C. § 251(c)(2), (3); *Local Competition Order*, 11 FCC Rcd at 15606.

<sup>25</sup> *Local Competition Order*, 11 FCC Rcd at 15602.

<sup>26</sup> BellSouth Opposition/Comments at 6; Ameritech Comments at 3-4; Bell Atlantic Opposition at 5; Rochester Opposition at 2-3; GTE Opposition at 15-16. WilTel had argued that price cap LECs that file tariffs to provide tandem signalling information under the new services test can discriminate against TSPs by maximizing direct and overhead costs. WilTel Petition at 10-11.

a substantial number of small business entities.<sup>27</sup> No comments were submitted in response to the Commission's request for comment on its certification.<sup>28</sup> In this present *Order on Reconsideration*, the Commission promulgates no additional final rules, and our action does not affect the previous analysis.

#### VI. ORDERING CLAUSES

9. Accordingly, pursuant to the authority contained in sections 1, 4, and 201-205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, and 201-205, IT IS ORDERED that the petition for reconsideration of the Association for Local Telecommunications Services and the petition for reconsideration of WilTel, Inc. ARE DENIED to the extent described herein.

10. IT IS FURTHER ORDERED that the Motion to Withdraw Southwestern Bell Telephone's Petition for Clarification and Reconsideration IS GRANTED.

11. IT IS FURTHER ORDERED that the Motion for Leave to File Late Reply of WilTel, Inc. IS GRANTED.

12. IT IS FURTHER ORDERED that a summary of this *Order on Reconsideration* shall be published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas  
Secretary

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<sup>27</sup> *Tandem Switching Order*, 9 FCC Rcd at 2734 (citing *Expanded Interconnection with Local Telephone Company Facilities*, Second Notice of Proposed Rulemaking, 7 FCC Rcd 7740, 7749 (1992)).

<sup>28</sup> *Tandem Switching Order*, 9 FCC Rcd at 2734.