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ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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July 12, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers, CC Docket No. 97-146; Access Charge Reform, CC Docket 96-262

Dear Ms. Salas:

Please find attached an original and four copies of the Comments of the Association for Local Telecommunications Services with regard to the Commission's Public Notice in the above-referenced proceeding.

Sincerely,

Teresa K. Gaugler

cc: ITS, Inc.
Richard Lerner
Jane Jackson
Tamara Preiss
Larry Strickling
Yog Varma
Dorothy Attwood

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888 17th Street, NW, Suite 900 Washington, D.C. 20006 Telephone: 202 969 ALTS Fax: 202 969 ALT1 www.alts.org

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

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Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers	)	CC Docket No. 97-146
Access Charge Reform	)	CC Docket No. 96-262

COMMENTS OF THE ASSOCIATION FOR
LOCAL TELECOMMUNICATIONS SERVICES

Teresa K. Gaugler
Jonathan Askin
Association for Local
Telecommunications Services
888 17th Street, NW, Suite 900
Washington, DC 20006
(202) 969-2587

July 12, 2000

SUMMARY

ALTS urges the Commission not to adopt any action in this proceeding unless it first determines that there is a widespread problem of unreasonable CLEC interstate access rates. ALTS disputes AT&T's and Sprint's contention that such a widespread problem exists. Moreover, in *Sprint v. MGC*, the Commission recently rejected the argument being put forth by those carriers that any access rate higher than the ILEC's is necessarily unjust and unreasonable. Having rejected the basis for their claim that many CLECs' access rates are unreasonable, the Commission should independently determine that such is the case before addressing any perceived market failure. As ALTS discussed in previously filed comments, CLEC rate structures may differ from those of the ILEC, but nothing on the record supports the claim that those rates are unreasonable.

The Commission should not adopt mandatory detariffing for CLEC access services because such a policy would not be in the public interest, as required by Section 10. Although the Commission's authority to adopt mandatory detariffing was recently upheld, the Commission must still review the impact of such a policy in the access market to determine if it meets the public interest test. For reasons discussed more fully below, the access market is significantly different from the interexchange market where the Commission found mandatory detariffing to be in the public interest. Here, neither the CLECs, nor their customers (the IXCs), nor their competitiors (the ILECs) support such a policy. It is significant that those carriers presumably most aggrieved by tariffing of CLEC access rates do not consider mandatory detariffing as a resolution to their concerns. Filing tariffs is often the most efficient and cost effective manner of providing

services for both the carrier and the customer, and the Commission should not eliminate this option.

A mandatory detariffing policy would dramatically increase CLEC transaction costs because each CLEC would be required to negotiate agreements with several hundred IXCs, many of which have greater bargaining power than those CLECs and incentive to delay interconnection negotiations because they offer competing local services themselves. Because ILECs would still enjoy the ease of filing tariffs rather than undergoing this burdensome negotiation process, CLECs would also be severely disadvantaged compared to those competitors. Clearly, such impediments would hinder new entry into the market, slowing the spread of competitive choice and lower prices to consumers. These dynamics will likely become more pronounced as more IXCs offer local services and as more RBOCs are permitted to offer in-region long distance services. Consumer choice would be severely impacted if the failure of these negotiations leads to call blocking, an outcome undesirable to CLECs and their customers who would be unable to complete calls. The Commission must ensure that IXCs continue to interconnect with CLECs to maintain the interconnectivity of the network on which the public relies.

Finally, mandatory detariffing will not decrease the Commission's administrative costs or involvement with these issues. Disputes over access rates will likely continue, despite the Commission's decision in *Sprint v. MGC*, and CLECs, who have less bargaining power compared to larger IXCs, will need an administrative body to redress their concerns. Additionally, if any carrier undertakes blocking, the Commission must address consumer complaints that will result.

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

Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers	)	CC Docket No. 97-146
Access Charge Reform	)	CC Docket No. 96-262

COMMENTS OF THE ASSOCIATION FOR
LOCAL TELECOMMUNICATIONS SERVICES

The Association for Local Telecommunications Services ("ALTS"), pursuant to the Public Notice ("Notice") in the above captioned proceedings, released June 16, 2000, hereby files its initial comments on the detariffing of competitive local exchange carrier ("CLEC") interstate access services.

INTRODUCTION

ALTS wants to make clear at the outset that it disputes Sprint's and AT&T's contention that there is a widespread problem of unreasonable CLEC access charges. In its comments and reply comments filed in Docket No. 96-262, ALTS explained how CLEC rate *structures* might differ from ILECs', but their per-minute access rates are not excessive or unreasonable compared to the ILEC combined access rates (adjusted to include other flat rate charges).[1] Notably, MCI agreed in its comments that the so-called problem of excessive CLEC access rates was unfounded, by stating "there is no evidence in the record to demonstrate that unreasonably high CLEC access charges are ubiquitous

or even widespread."[2] MCI also agreed that ILEC rates are not an appropriate benchmark for CLEC access rates because there are numerous reasons for CLECs to legitimately charge more for access services than a large ILEC, including different rate structures, economies of scale, and the presence of high start-up costs.[3] Moreover, the Commission recently refused to adopt a *per se* rule that any access rate higher than the ILEC's is necessarily unjust and unreasonable under section 201(b).[4] Having rejected AT&T's and Sprint's underlying basis for describing CLEC rates as unreasonable, the Commission should not assume any regulatory action is necessary to control CLEC access rates without itself first finding that such access rates are unreasonable.

Adoption of a mandatory detariffing policy for CLEC access charges would not meet the public interest test required by Section 10 of the Telecommunications Act of 1996. Section 10 requires the Commission to forbear from applying any regulation if it determines that (1) enforcement is not necessary to ensure rates and conditions are just and reasonable and are not unjustly and unreasonably discriminatory; (2) enforcement is not necessary to protect consumers; and (3) forbearance is in the public interest.[5] Several carriers appealed the Commission's decision to order mandatory detariffing of interstate, domestic, interexchange services of nondominant carriers under Section 10, arguing that this forbearance authority did not allow the Commission to mandate detariffing. The Court of Appeals for the District of Columbia Circuit upheld the Commission's

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[1] ALTS Comments, filed October 29, 1999 in CC Docket No. 96-262, at 3-8, and Reply Comments, filed November 29, 1999 in CC Docket No. 96-26,2 at 6-12.
[2] MCI WorldCom Comments, filed October 29, 1999 in CC Docket No. 96-262, at 18.
[3] MCI WorldCom Reply Comments, filed November 29, 1999 in CC Docket No. 96-262, at 20-21. MCI suggests that "NECA rates might provide a useful benchmark for this purpose."
[4] *Sprint Communications Company v. MGC Communications, Inc.*, File No. EB-00-MD-002 (rel. June 9, 2000), at 6.
[5] 47 U.S.C. § 10.

authority,[6] and the Commission cites that ruling as its reason for seeking to update and refresh the record regarding mandatory detariffing of CLEC interstate access services.[7]

ALTS stresses that even though the court found that the Commission has statutory authority to mandate detariffing, the Commission must still determine that mandatory detariffing of CLEC access services is in the public interest before it may apply that forbearance authority. Just because the court upheld the Commission's public interest analysis of detariffing interexchange services, it does not necessarily follow that mandatory detariffing of CLEC interstate access services is in the public interest. The Commission may not ignore the statutory requirement to evaluate the policy and address the nuances present in this market. The record already developed in Docket Nos. 96-262 and 97-146 clearly shows that mandatory detariffing is not supported by the industry and is not in the public interest.

I. THE INDUSTRY PARTIES INVOLVED IN THESE TRANSACTIONS AGREE THAT THERE IS NO COMPELLING NEED FOR MANDATORY DETARIFFING.

As discussed above, there is no evidence of widespread unreasonable rates for CLEC access services. In fact, MCI, who is subject to those rates, agrees there is no prevalent problem. The complaint process is the proper venue for addressing IXC concerns because the Commission, not carriers, is charged with determining whether access rates are reasonable. The Commission has already determined several complaint cases and should continue to address IXC concerns with individual CLEC access rates on a case-by-case basis through the complaint process. Mandatory detariffing is a far broader and more burdensome policy than is necessary to ensure reasonable CLEC access

[6] *MCI WorldCom, Inc. v. FCC*, No. 96-1459, slip opinion (D.C. Cir Mar. 14, 2000).

rates because the policy would apply to all CLECs and their IXC customers, even when the CLEC may charge rates agreeable to the IXC.[8]

ALTS emphasizes that the record addressing mandatory detariffing of CLEC access charges is significantly different from that addressing mandatory detariffing of IXC services and is weighted heavily in opposition of such a policy. In Docket No. 96-61, there was wide support from consumer groups who believed they would benefit from such a policy in the interexchange market. In contrast, as the comments and reply comments in Docket Nos. 96-262 and 97-146 show, the primary customers of switched access – the IXCs – strongly oppose mandatory detariffing.[9] AT&T and MCI are "the largest purchasers of interstate exchange access and presumably, the carriers who would be most disadvantaged by any putative anticompetitive conduct associated with tariffing services by their CLEC and CAP access suppliers."[10] Yet both carriers oppose mandatory detariffing. As AT&T aptly stressed, "the opponents of mandatory detariffing include parties that will operate both as CLECs and as IXCs purchasing access from other CLECs," thus "the comments confirm that mandatory detariffing of CLECs' switched access services is not consistent with the public interest, as Section 10 requires."[11]

Most notable is AT&T's strong opposition considering its large stake and vehement protest of CLEC access rates as excessive and unreasonable. AT&T does not view mandatory detariffing as the proper "solution" and emphasizes that "the customers of switched access services – the IXCs – have substantial experience operating in a

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[7] *Public Notice*, DA 00-1268, "Commission Asks Parties to Update and Refresh Record on Mandatory Detariffing of CLEC Interstate Access Services" (rel. June 16, 2000).
[8] AT&T Comments, filed October 29, 1999 in CC Docket No. 96-262, at 30.
[9] *See* Comments filed October 29, 1999, by MCI WorldCom, AT&T, and CompTel, in CC Docket No. 96-262.
[10] Hyperion Reply Comments, filed September 17, 1997 in CC Docket No. 97-146, at 2.
[11] AT&T Reply Comments, filed September 17, 1997 in CC Docket No. 97-146, at 2.

tariffed environment, and have both the knowledge and means necessary to protect their interests when operating under either contracts or tariffs in a permissive regime."[12] The Commission must give great weight to these comments and not supplant its own views in place of those of the industry parties themselves. Without support from the IXC customers of CLEC switched access indicating that they will benefit from mandatory detariffing, the Commission should not institute such a policy.

II. MANDATORY DETARIFFING WILL INCREASE, NOT DECREASE, CLEC COSTS BY REQUIRING BURDENSOME CONTRACT NEGOTIATION WITH SEVERAL HUNDRED IXCs.

Contrary to the Commission's claim that mandatory detariffing would decrease CLEC costs, mandatory detariffing would dramatically increase CLEC transaction costs by requiring individual contract negotiation rather than a simple tariff filing. Without the option of tariffing their access services, each CLEC will be required to negotiate individual contracts with every IXC that is certified to provide service throughout the country. Because the CLEC cannot anticipate which of the hundreds of IXC will be used to call its own local customers, the CLEC has no way to narrow that list to determine which IXCs may potentially receive its terminating access services in the future. Furthermore, even if the CLEC may narrow that list on the originating end by identifying its local customer's presubscribed IXC, it must still be prepared for that local customer to utilize the dial-around or calling card services of another IXC, who would then receive the CLEC's originating access services. The time and expense to undertake such an effort to negotiate agreements with all existing IXCs would be monumental, particularly for new entrants, yet each CLEC would need to attempt to do so or risk not receiving payment for their services rendered.

[12] *Id.* at 9.

In these circumstances, "[t]ariffs provide an efficient and cost-effective means of documenting the general terms and conditions pursuant to which telecommunications services are provided."[13] The development and maintenance of individual contracts would require significant administrative resources, especially as a carrier's customer base or footprint increases.[14] CLECs must already endure negotiating interconnection agreements with the ILECs in areas they serve. Increasing that burden to include negotiations of interconnection agreements with hundreds of IXCs would seriously impair the ability of new carriers to enter a market. Finally, if all CLECs were required to cancel their access tariffs, individual customer service contracts that rely upon tariff language would be eviscerated, requiring CLECs to renegotiate many existing contracts.[15] Increasing CLECs transaction costs in this way would inevitably slow competition and ultimately lead to upward pressure on consumer rates.

In the interexchange services market, the Commission determined that mandatory detariffing would benefit consumers and was in the public interest.[16] However, on reconsideration, the Commission adopted permissive detariffing for dial-around 1+ services,[17] which are those "that do not require the calling party to establish an account with an interexchange carrier or otherwise presubscribe to a service."[18] The Commission also allowed IXCs to file tariffs to be effective for the initial 45 days after a consumer presubscribes to an IXC's services at the LEC, reasoning that the IXC does not have

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[13] TRA Comments, filed August 18, 1997 in CC Docket No. 97-146, at 7.
[14] GST Comments, filed August 18, 1997 in CC Docket No. 97-146, at 2.
[15] RCN Comments, filed August 18, 1997 in CC Docket No. 97-146, at 5
[16] *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended*, CC Docket 96-61, Second Report and Order (1996).
[17] *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended*, CC Docket 96-61, Order on Reconsideration (1997), ¶ 26 ("Order on Reconsideration").

direct contact before service begins with the customer in order to establish a legal relationship.[19] Similarly, CLEC switched access services do not require the calling party or the IXC customer to establish an account or have direct contact with the CLEC or to presubscribe to a service before service is rendered. This holds true for both originating and terminating access, regardless of whether the calling party uses its presubscribed IXC or uses the dial-around services of another IXC.

AT&T has perfectly described the situation: "CLECs do not select their access customers; rather, the access customer (i.e., the IXC) is typically selected by the party who pays for the call. This raises serious issues and risks for the CLEC with regard to establishing enforceable arrangements with IXCs."[20] The Commission itself has acknowledged that where a carrier has no direct contact with the customer, the carrier may not be able to ensure that a legal relationship is established without the benefit of a filed tariff.[21] As described above, the CLEC will be forced to attempt to contract with every existing IXC, even though much of that work may be for naught if many of those IXCs never use the CLEC's access services. This is much different from contracting in the interexchange market where IXCs contract with individual customers knowing they will be providing services to those customers, thus while the individual negotiations may be burdensome, they would not be considered fruitless. Here, the CLECs must negotiate with all potential customers, expending time and money to do so, knowing for some there will likely be no pay-off in the end. Unfortunately, the CLEC must do this for its protection because it cannot determine which IXCs will or will not use its access

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[18] *Id.* ¶ 18.
[19] *Id.* ¶ 40.
[20] AT&T Reply Comments, filed September 17, 1997 in CC Docket No. 97-146, at 4.
[21] Order on Reconsideration ¶¶ 39-40.

services. Furthermore, a CLEC will need to monitor whether new IXCs begin providing service and thus need to establish contracts with the CLEC for access services.

In the *Reconsideration Order*, the Commission discussed various alternatives that may become available for IXCs to form binding contracts with customers and therefore eliminate the need for tariffing of these services. For example, the Commission suggested that carriers could provide rate disclosure to customers before call completion, such that the customer's completion of the call with knowledge of the rates would constitute agreement to pay those rates.[22] It is important to note that no such alternative exists for CLEC providers of access services because the CLEC's access customer – the IXC – is not the party placing the call and accepting the rates. The alternative to CLECs negotiating agreements with every existing IXC is for CLECs to develop call-blocking capability in order to block calls from IXCs without agreements. AT&T describes the difficult position of the CLEC: "The CLEC must choose between expensive and problematic litigation with the IXC to prove that a binding arrangement exists, and to enforce its terms under an implied contract theory (and thus accumulate higher uncollectibles), or attempt to suspend the delivery of interstate, interexchange calls placed by the IXC's end users."[23] Call blocking "is not currently possible for terminating access unless the CLEC operates its own switch and does not receive traffic through the ILEC tandem."[24] And "where the CLEC operates its own switch, it would have to incur the costs needed to (a) determine whether that carrier is bound to pay the CLEC's charge for access; and (b) interrupt the call flow to block the completion of the call if the IXC

[22] Order on Reconsideration ¶ 28.
[23] AT&T Reply Comments, filed September 17, 1997 in CC Docket No. 97-146, at 4.
[24] *Id.* "When a CLEC provides terminating access through use of an ILEC's tandem switch, CLECs cannot block calls on a carrier-specific basis, because carrier codes are not passed beyond the ILEC tandem. Thus,

has not become bound to the CLEC's terms."[25] Obviously this is not a solution that is favorable for the CLEC or the industry as a whole; however, the CLEC may have no choice if they are faced with the alternative of providing service and receiving no payment.

III. MANDATORY DETARIFFING WOULD UNFAIRLY DISADVANTAGE CLECS COMPARED TO THEIR ILEC COMPETITORS.

CLECs are already disadvantaged in the marketplace compared to the ILECs. CLECs run into roadblocks in provisioning services at every turn, and now is an inappropriate time to further unfairly disadvantage these carriers as they struggle to compete head-to-head with the ILECs. The Commission has presumed that mandatory detariffing would lower costs of CLECs and lessen their regulatory burden compared to the ILECs. Ironically, however, by deregulating the CLECs further, the Commission would actually burden them with more legal requirements in the form of contract negotiations. mandatory detariffing will likely slow the development of competition and the benefits to end users.

Because ILECs would continue to file tariffs for their access services, they would escape the time-consuming and costly process of negotiating with several hundred IXCs and/or instituting litigation with IXCs to obtain payment. The ILECs would enjoy the benefit of legal protection that their tariffs afford in blessing their rates, while the CLECs would endure accusations of unreasonable rates and would be forced to succumb to large IXCs in negotiating "reasonable" rates. With the recent adoption of the CALLS proposal, the ILECs will be reducing their per-minute rates for switched access with the

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CLECs do not have access to any codes or other signaling information which are necessary to enable them to block calls in real time." *Id.* n.3.

[25] AT&T Reply Comments, filed September 17, 1997 in CC Docket No. 97-146, at 5.

ability to recoup those charges through the high universal service fund and increases in the Subscriber Line Charge. According to AT&T's and Sprint's position, CLECs will be expected to reduce their per-minute access charge rates accordingly, regardless of their costs and without the ease of filing tariffs.

The Commission must appreciate that the market dynamics of the local exchange and exchange access market are very dissimilar from those in the interexchange services market. All interexchange carriers have been declared non-dominant, thus the mandatory detariffing policy there will impact all carriers alike and not have anti-competitive effects among those carriers. This is not the case for mandatory detariffing in the access market because the ILECs are dominant carriers that would not be subject to the mandatory detariffing policy. Thus, the monumental costs incurred by CLECs are all the more detrimental when compared to the liberty enjoyed by the ILECs of tariffing their services without the cost and burden of negotiating separately with each IXC. The mandatory detariffing policy would favor the dominant ILECs and place yet another roadblock in the way of CLECs entering the market and providing new services.[26] The ILECs would have lower administrative costs and more flexibility in offering new services by simply filing a new tariff whereas CLECs would be forced to expend resources to negotiate or renegotiate with every IXC. Clearly, such disparity in favor of the dominant ILECs is unfair and would have anticompetitive effects in the market.

[26] *Id.* at 7 ("far from benefiting competition, the Commission's mandatory detariffing proposal would harm CLECs' customers and CLECs' ability to compete").

IV. MANDATORY DETARIFFING WILL NOT DECREASE THE COMMISSION'S ADMINISTRATIVE COSTS AND INVOLVEMENT IN DISPUTES.

While ALTS acknowledges that detariffing would reduce the Commission's administrative costs of maintaining tariffs, ALTS submits that the Commission will be faced with the far greater administrative burden of resolving disputes between negotiating IXCs and CLECs and possibly addressing consumer complaints. AT&T and Sprint have already stressed their position that CLEC access rates should not be higher than the ILEC with whom they compete in that area. Because the Commission has already determined that definition of "unreasonable" is itself unreasonable, it would be detrimental for the Commission to leave CLECs at the mercy of those IXCs at this time. The Commission should not turn a blind eye to the fact that those carriers have disproportionate bargaining power compared to CLECs and may forge ahead with their position despite the Commission's decision in *Sprint v. MGC*, thereby forcing CLECs to accept their proposed rate (that of the ILEC or below) regardless of the CLECs' underlying costs. Therefore, requiring mandatory detariffing clearly will not provide an even-handed market solution but will require more Commission intervention to resolve disputes between CLECs and IXCs.

Even though the Commission has found that no carrier is dominant in the interexchange market, the larger IXC still maintain superior bargaining power over CLECs because of their market share. Unlike in the interexchange market where there may have been unequal bargaining power in favor of the carrier providing service and filing tariffs, in the access market there is unequal bargaining power in favor of the IXC customers receiving service. As Sprint aptly notes, "no CLEC could afford to let AT&T

walk away"[27] so that AT&T would clearly possess superior bargaining power to any CLEC. Smaller CLECs would especially be hindered in negotiations with AT&T and other large IXCs and would be forced to accept their definition of "reasonable" rates, regardless of the CLEC's actual costs in providing service. Furthermore, many IXCs are already offering competing local service and thus would have further incentive to delay interconnection agreements with CLECs. And as the Regional Bell Operating Companies ("RBOCs") join the ranks of IXCs, they will be able to assert their market power in such negotiations with CLECs.

Negotiations between CLECs and ILECs are governed by Section 252 of the Act, and state arbitration decisions can or have resolved many of the issues involved in those interconnection agreements. Furthermore, CLECs have the option in Section 252(i) to opt in to an interconnection agreement already negotiated between the ILEC and another CLEC. These are not the ground rules present in the access market. Thus, CLECs would be thrown into a negotiating environment where many of them are severely out-matched in terms of negotiating resources, where they will have inferior bargaining power, and where neither the procedural or substantive ground rules have been established. This is an environment ripe for abuse and which will, in and of itself, create a new entry barrier that CLECs will have to surmount.

To make matters worse, Sprint and AT&T have also stressed that they have the legal right to refuse interconnection with CLECs if they unilaterally determine that the CLEC rates are unreasonable. ALTS strongly disagrees with this position as discussed at

[27] Sprint Comments, filed October 29, 1999 in CC Docket No. 96-262, at 25.

length in our comments and reply comments in Docket No. 96-262.[28] The Commission recently ruled against Sprint, refusing to adopt a *per se* rule that any access rate higher than the ILEC's is necessarily unjust and unreasonable under section 201(b).[29] As the Commission unequivocally points out, "[n]othing in the Commission's existing rules or orders supports Sprint's legal position."[30] Thus, it is anti-competitive and unfair for those IXCs to unilaterally determine whether CLEC rates are reasonable. That is the role of the Commission, and it would set a bad precedent to begin allowing the IXCs to be the arbiters of Section 201(b). Call blocking or refusal to interconnect would threaten the interconnectivity of the network and impact consumers who rely on the public network to complete calls

As ALTS discussed in its comments in 96-262, the Commission should clarify that IXCs have the duty to interconnect with CLECs, regardless of whether CLEC services are tariffed or not. In the absence of such a policy, consumer choice would be limited and competition would be hampered. An IXC that refuses to provide service to a particular CLEC customer directly constrains the customer's access to available exchange and interexchange service in contravention of Section 254, which requires that consumers have access to telecommunications services, "including interexchange services."[31] Sections 201(a) and 251(a)(1) require carriers to interconnect, a duty the Commission has deemed central to the Communications Act; thus, an IXC's refusal to interconnect with a CLEC would violate both of those statutory provisions.[32] Additionally, Section 251(b)(3)

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[28] ALTS Comments filed October 29, 1999 in CC Docket No. 96-262, at 16-30, and Reply Comments filed November 29, 1999 in CC Docket No. 96-262 at 3-6.
[29] *Sprint Communications Company v. MGC Communications, Inc.*, File No. EB-00-MD-002, (rel. June 9, 2000) at 6.
[30] *Id.* at 6.
[31] ALTS Comments, filed October 29, 1999 in CC Docket No. 96-262, at 22-23.
[32] *Id.* at 24.

obligates CLECs to allow their customers "1+" access to the interexchange carrier of their choice, requiring the originating CLEC to interconnect with the local customer's chosen IXC.[33] CLECs would unable to meet this obligation if IXCs were permitted to simply refuse interconnection with a CLEC.[34] "This is especially problematic when the local service customer has entered into a long-term contract with a particular IXC and is not able to switch its long distance carrier should that long distance carrier refuse to interconnect with the potential local customer's chosen CLEC."[35] In that case, the CLEC would be locked out of providing service to that customer even if its local services were superior to the ILEC and it was the customer's preferred local provider.

Until the Commission resolves these issues, there will continue to be uncertainty and disputes in the marketplace. In a mandatory detariffed world, the Commission will continue to deal with these disputes as CLECs struggle to negotiate with IXCs that have greater bargaining power. Furthermore, if call blocking is instituted by any carrier, the Commission must address the complaints that would result from consumers who cannot complete their calls as expected. Thus, adopting mandatory detariffing will not alleviate the Commission's role or responsibilities in this area and would likely lead to even more complaint proceedings in the future.

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[33] 47 U.S.C. § 251(b)(3); 47 CFR §§ 51.209-213.
[34] Teligent Comments in filed October 29, 1999 in CC Docket No. 96-262, at 5.
[35] *Id.*

CONCLUSION

For the foregoing reasons, the Commission should not adopt mandatory detariffing of CLEC interstate access services because it does not meet the requirement of Section 10 that it be in the public interest. The primary parties involved in these transactions do not support such a policy as a way of controlling CLEC access rates. Mandatory detariffing would allow an unfair advantage to the ILECs by increasing the transaction costs of CLECs who must individually contract with hundreds of existing IXCs while ILECs merely file a single tariff. Moreover, mandatory detariffing will not solve the underlying dispute over CLEC access rates, and the Commission will likely incur considerable costs to resolve these disputes.

Respectfully Submitted,

Teresa K. Gaugler
Jonathan Askin
Association for Local
Telecommunications Services
888 17th Street, NW, Suite 900
Washington, DC 20006
(202) 969-2587

July 12, 2000