

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

In the Matter of)	
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Sprint Petition for Declaratory Ruling regarding Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers)	

**COMMENTS OF AT&T CORP. ON
SPRINT PETITION FOR DECLARATORY RULING**

Pursuant to the Commission’s Public Notice released July 18, 2002 (DA 02-1740), AT&T Corp. (“AT&T”) submits these comments on the petition for declaratory ruling filed by Sprint on May 9, 2002 (“Sprint’s petition” or “petition”).

At the outset, it is helpful to note what is and is not at issue in this proceeding. The right of CLECs to designate different rate and route points – and to have those codes activated in LEC switches – should no longer be at issue here. CLECs routinely designate different rate and route points in order to efficiently interconnect with the incumbent, and even BellSouth now concedes that it will continue to activate such codes.¹ What this petition is really about is the duty of incumbent LECs to provide tandem transit – for which they are compensated at TELRIC rates – to allow new entrants to interconnect indirectly with other carriers. Not only do sections 251(a)(1) and 251(c)(2) of the Act mandate such interconnection, but any denial of such

¹ See BellSouth Opposition (filed May 22, 2002) at 2.

interconnection would force CLECs to mirror the incumbent's network, and would forestall widespread local exchange competition. The Commission therefore should confirm the duty of incumbent LECs to provide tandem transit at TELRIC-based rates.

I. Competitive LECS Must Continue to Be Able to Designate Different Rating and Routing Codes.

Deployment of transport facilities by CLECs requires the expenditure of substantial fixed costs. The deeper into the ILEC network that the CLEC must build, the smaller the volume of traffic carried by each individual facility, and, consequently, the higher the unit costs. Unlike the incumbent LECs, new entrants simply do not have sufficient traffic volumes to justify the building of transport facilities to each and every incumbent central office or local calling area in a LATA. Instead, CLECs generally rely on relatively fewer switches and longer transport links.

The Commission's rules recognize that CLECs have the right to deploy efficient network architectures that reflect the fact that they are introducing competition against an incumbent with a ubiquitous network. The rules therefore permit CLECs to designate a single point of interconnection ("POI") within a LATA, and require the incumbent LEC to deliver its originating traffic to that CLEC-designated POI. The Commission's rules also require that each LEC must bear the cost of delivering its originating traffic to the POI.²

In order to use such a central interconnection point, CLECs, such as AT&T, routinely designate rate and route points that differ from those used by incumbent LECs

² See 47 C.F.R. §§ 51.305(a)(2), 51.703(b); *Petition of WorldCom, et al., Memorandum Opinion and Order*, CC Docket Nos. 00-218, 00-249, 00-251, DA 02-1731 (rel. Jul. 17, 2002) ("*Virginia Arbitration Order*"), ¶¶ 52-53.

so they may aggregate local traffic at their centrally located switch, while still offering customers properly rated local traffic. For example, in the Richmond, Virginia LATA, there are 24 rate centers, and AT&T has two local switches. One switch serves customers with NPA-NXX codes assigned in 11 rate centers, and the other switch serves customers with NPA-NXX codes assigned in 7 rate centers. Each switch has a single routing point, the ILEC tandem that it subtends.³ If BellSouth's prior position that all route points must match rate center codes were adopted, AT&T and other CLECs would be forced to deploy switches in every rate center in order to compete. This clearly would not happen.

BellSouth apparently now acknowledges that existing Commission rules permit the designation of different rate and route points. BellSouth thus makes clear that it will continue to activate such codes in its switches. To the extent therefore that the Commission addresses the rate and route point issue – either in response to Sprint's petition or in this *Intercarrier Compensation* proceeding – the Commission should reaffirm the ability of CLECs to designate different rate and route points.

II. Incumbent LECs Are Required by the Act to Provide Tandem Transit at TELRIC-Based Rates.

BellSouth's real complaint is not with CLEC designation of different rate and route points, but rather with its obligation under the Act to provide tandem transit, thereby permitting CLECs to indirectly interconnect with third-party carriers. Although,

³ Similarly, when an incumbent LEC deploys a remote switching module ("RSM") hosted by a Class 5 switch, the rating and routing points will be different if the RSM and the host switch are in different rate centers, which is often the case. In these instances, CLECs must interconnect at the host switch to gain access to customers served by the RSM, so that the rate codes and route codes will differ.

BellSouth now grudgingly concedes that it will continue to activate rate and route codes – as it is required to do by the Act – it expresses concern that the use of such codes raises issues of “inappropriate” compensation, which BellSouth contends must be resolved before state commissions.⁴ BellSouth’s concerns lack merit. As shown below, BellSouth’s provision of tandem transit is required by the Act, and CLECs today appropriately compensate incumbent LECs for their provision of tandem transit through payment of TELRIC-based tandem switching and transport charges.

Section 251(c)(2)(a) requires incumbent LECs – among other things – to interconnect with requesting carriers for “the transmission and routing of telephone exchange service and exchange access.” Nothing in the statute limits this duty solely to traffic between the incumbent LEC and the requesting carrier. Moreover, § 251(a)(1) provides CLECs the right to interconnect indirectly with the facilities and equipment of other carriers. Properly read together, §§ 251(c)(2)(a) and 251(a)(1) make clear that incumbent LECs must provide tandem transit to CLECs.⁵

Moreover, there are sound policy and public interest reasons justifying such transit tandem interconnection. Use of the incumbent LEC’s local tandem is essential to CLECs’ ability to exchange traffic with smaller LECs (*e.g.*, small independent companies, rural companies, wireless companies, and other CLECs) where direct interconnection of facilities is impractical. If CLECs could not use the incumbent LECs’

⁴ BellSouth Opposition at 2.

⁵ In the Virginia arbitration, the Wireline Competition Bureau declined to determine whether § 251(c)(2) mandates incumbent LEC provision of tandem transit, because “the Commission has not had occasion to determine whether incumbent LECs have a duty to provide transit service under this provision of the statute.” *Virginia Arbitration Order*, ¶ 117. The Commission should confirm this obligation in this proceeding.

existing local tandems to transmit calls to and from carriers already receiving ILEC traffic through those tandems, they would be unable to deliver calls to or receive calls from customers served by those small carriers. This inability to provide a complete calling package would place CLECs at an additional competitive disadvantage to the incumbents and would further delay the deployment of facilities-based local competition. Such a result clearly was not intended by Congress when it passed the 1996 Act in order to bring the benefits of local exchange competition to all Americans.

The Act's mandate for tandem transit is evidenced by the fact that CLECs may accomplish the same result – and incumbent LECs would be held to the same obligation – by ordering a tandem switching/transport UNE combination to deliver traffic via the incumbent LEC's tandem to the third party. As the Bureau noted in the *Virginia Arbitration Order*, CLECs have the right to access UNEs – including tandem switching and interoffice transport UNEs – to provide telecommunications services, “including local exchange service involving the exchange of traffic with third-party carriers.”⁶

BellSouth, however, contends that the provision of tandem transit raises “inappropriate compensation” issues that must be addressed in state commission proceedings. In fact, CLECs currently compensate BellSouth – and other incumbent LECs – for their provision of tandem transit through the payment of TELRIC-based charges for tandem switching and transport. BellSouth's real complaint is with the level of the compensation it receives, *i.e.*, the difference between the far above cost access charges it contends should apply to this traffic and the TELRIC-based rates that would apply in a competitive market and that are mandated by the Act.

⁶ *Id.*, ¶ 121.

Incumbent LECs are required “to provide interconnection at forward-looking cost under the Commission’s rules implementing section 251(c)(2).”⁷ Because provision of tandem transit is required by § 251(c)(2), the Act requires that it be priced at TELRIC rates.⁸ This conclusion is buttressed by the fact – as shown above – that CLECs could order a UNE combination of tandem switching and transport at TELRIC-based rates to achieve the same result. It would serve little purpose – other than to frustrate competitive facilities-based local competition – to permit incumbent LECs to force competitors to order such UNE combinations to replace existing arrangements that provide the same capabilities and functions. Especially because BellSouth has announced that it intends to raise its compensation concerns before various state commissions, the Commission should provide guidance to the states and confirm that the receipt of TELRIC-based tandem switching and transport charges fully compensates incumbent LECs for the provision of tandem transit.

⁷ *Id.*, ¶ 117.

⁸ As noted above, the Bureau declined in the *Virginia Arbitration Order* to determine whether such an obligation existed under § 251(c)(2) because the Commission had not yet ruled on this issue. The Bureau therefore permitted Verizon to impose additional port charges and billing fees on CLECs where transit traffic exceeds a DS-1 level. The Commission should hold here that a tandem transit obligation exists under the Act and that such additional charges are not permitted.

CONCLUSION

For all of the reasons set forth herein, and in AT&T's previous comments in this proceeding, the Commission should reaffirm the ability of CLECs to designate different rate and route points and should confirm the duty of incumbent LECs to provide tandem transit at TELRIC-based rates.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Theresa Donatiello Neidich, hereby certify that on the 8th day of August, 2002, I caused a copy of the foregoing Comments of AT&T Corp. on Sprint Petition for Declaratory Ruling to be served by placement in the United States mail, postage prepaid, on the following:

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