

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

In the Matter of)	
)	
Sprint Petition for Declaratory Ruling)	
)	CC Docket No. 01-92
Obligation of Incumbent LECs to Load)	
Numbering Resources Lawfully Acquired)	
And to Honor Routing and Rating Points)	
Designated by Interconnecting Carriers)	
_____)	

**AT&T WIRELESS SERVICES, INC. REPLY COMMENTS
IN SUPPORT OF SPRINT PETITION**

Pursuant to Public Notice DA 01-1740, AT&T Wireless Services, Inc. (“AWS”) respectfully submits these reply comments in support of Sprint’s Petition for Declaratory Ruling (“Sprint Petition”).¹

I. INTRODUCTION AND SUMMARY

The comments filed in this proceeding fully demonstrate that not only does the Commission have plenary authority to decide the issues raised by the Sprint Petition, but the Commission *must* exercise its authority expeditiously to prevent inconsistent and costly state resolutions of these matters and inefficient interconnection arrangements that will harm the development of competition and ultimately consumers.

The Sprint Petition was filed because BellSouth has threatened to discontinue programming its local access and transport area (“LATA”) tandem switches with Sprint’s NPA-NXXs that have routing points within the BellSouth network, but rating points in non-BellSouth

¹ Public Notice, *Comment Sought on Sprint Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, DA 02-1740 (rel. July 18, 2002) (comments due August 8, 2002; replies due August 19, 2002).

ILEC rate centers (in this case, rural ILECs' rate centers). Sprint's practice is consistent with long standing industry practice, and is clearly permissible. Because the actions of BellSouth and the rural carriers in Florida threaten to prevent Sprint from providing service in rural territories, AWS urges the Commission first to grant quickly the Sprint Petition and rule on the narrow issue presented by the Petition. Specifically, the Commission should affirm that an ILEC has the obligation to load numbering resources in its network for an interconnecting carrier even where the NXX code has disparate rating and routing points, because to do otherwise would contravene the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act"), basic CMRS-ILEC interconnection principles, and numbering rules and guidelines.

As the Public Notice recognized and extensive comments on the Sprint Petition confirmed, however, the NXX rate center assignment issue is only the proverbial tip of the iceberg. There are a number of broader issues concerning the basic interconnection rights and obligations of commercial mobile radio ("CMRS") carriers and incumbent local exchange carriers ("ILECs") that have been raised in this proceeding that require resolution. Given the importance and breadth of these matters, AWS emphasizes that the Commission must assert its authority to resolve these issues uniformly and swiftly.

In addition to affirming carriers' rights to establish different rating and routing points, AWS urges the Commission to affirm that, among other things: (1) the ILEC must allow a CMRS carrier to interconnect directly or indirectly and at a single point of interconnection ("POI") within a LATA and must route traffic to the designated POI; (2) that ILECs have an obligation to provide transit services at TELRIC rates; and (3) the transport of calls between ILECs and CMRS carriers within a major trading area ("MTA") is local traffic subject to reciprocal compensation. AWS also supports the comments of Nextel that, ultimately, bill and

keep is the most appropriate and efficient form of inter-carrier compensation for the routing and termination of this traffic.

Thus, as soon as it addresses the narrow issue raised by the Sprint Petition, AWS urges the Commission to address these other CMRS-ILEC interconnection issues immediately and separately before resolution of the general inter-carrier compensation issues in the NPRM. AWS last year urged the Commission to address expeditiously these related CMRS-interconnection issues in this NPRM proceeding.² Subsequently, the Sprint Petition, comments on the Sprint Petition in this docket, and other petitions that have been filed before the Commission and state commissions have raised these same and related CMRS-rural ILEC issues. Until the Commission decides these issues, ILECs will continue to obstruct the development of CMRS competition and choices, particularly in rural areas.

II. THE COMMISSION HAS PLENARY JURISDICTION OVER THE ISSUES IN THE SPRINT PETITION

BellSouth contends that the use of disparate rating and routing points effectively constitutes a “virtual NXX” arrangement that is governed by its intrastate tariffs and that the instant dispute should be resolved by the nine state commissions in its service territory.³ However, nearly all other commenters emphasize that the issues raised in the Sprint Petition reach beyond BellSouth’s refusal to activate certain NPA-NXXs in its switch, and touch on

² See *Developing a Unified Intercarrier Compensation Regime*, FCC 01-132, CC Docket No.01-92, Notice of Proposed Rulemaking (“NPRM”) (2001); see generally AWS NPRM comments.

³ See Sprint Petition at 19; BellSouth Opposition at 3. BellSouth is alone in asserting that the issues in the Sprint Petition are solely limited to those pertaining to its intrastate tariffs and that such issues can be decided on a state-by-state basis. However, BellSouth has essentially conceded that the Commission has the authority to decide the issues raised here, because it notes that Sprint’s practice raises questions about appropriate forms of compensation for its provision of transit service – issues that the Commission is uniquely and fully authorized to resolve. See BellSouth Opposition at 4.

essential CMRS-ILEC interconnection and compensation issues that are within the Commission's authority to decide.⁴ Even the rural ILECs and SBC request that the FCC resolve the CMRS interconnection issues raised in the Sprint Petition.⁵

The record plainly supports the Commission's authority to review these issues. First, as a general matter, the Commission unquestionably has the authority to interpret the Act and its rules.⁶ Moreover, as CTIA points out in its comments, Section 332 of the Act grants the Commission an independent jurisdictional basis on which to regulate LEC-CMRS interconnection rates and to order LEC-CMRS interconnection.⁷ As Triton PCS notes, the Eighth Circuit in *Iowa Utilities Board* recognized that the Commission has the authority to issue rules of special concern to CMRS carriers, including those policies pertaining to CMRS interconnection.⁸ Further, compensation issues are squarely within the Commission's authority to decide. As AWS stated in its NPRM comments "the *Iowa Board* decision unequivocally establishes that the Commission has the right to establish rates for CMRS-ILEC interconnection

⁴ See, e.g. Voicestream comments at 3; Allied National Paging comments at 3; CTIA comments at 4, Appendix A at 2.

⁵ SBC comments at 1. SBC notes that the Sprint Petition and BellSouth Opposition raise issues "concerning the rights of carriers under current Commission rules" and in particular, regarding indirect interconnection and transit traffic. See generally also Oklahoma RTC comments; Fred Williamson and Associates, Inc. (FW&A) comments; Alliance of Incumbent Rural Independent Telephone Companies comments.

⁶ 47 U.S.C. § 154. The Supreme Court has further held that Section 201(b) of the Act gives the Commission explicit jurisdiction over issues arising pertaining to the Act, including interconnection policies. See *AT&T Corp. et al. v. Iowa Utilities Bd.*, 525 U.S. 366, 384-385 (1999).

⁷ CTIA comments at 4.

⁸ See Triton July 19, 2002 Reply at 2, citing *Iowa Utilities Bd. v. FCC*, 120 F.3d 753, 800, n.21 (8th Cir. 1997).

and to preempt any rates the state might establish.”⁹ Finally, the Act expressly grants the Commission exclusive jurisdiction over numbering matters.¹⁰

The record demonstrates, furthermore, as a policy matter, that the Commission must retain jurisdiction over these issues and affirm uniform policies on these matters to provide certainty and guidance to carriers and prevent anticompetitive conduct. Nextel correctly urges the Commission to “assert its full jurisdiction over CMRS-ILEC interconnection,” because the issues at stake “involve[] federal issues and will affect carriers operating throughout the U.S.”¹¹ As a number of parties compellingly argue in their comments, in the absence of the Commission’s guidance on these matters, carriers would be forced to attempt to litigate these issues at the state level, with considerable cost and with the very real risk of a wide variety of conflicting state decisions.¹² This is particularly a problem for CMRS carriers, given that CMRS carriers’ service areas often cover multiple states. Perhaps more importantly, if the Commission does not step in and clarify its rules, carriers will be forced to enter into inefficient interconnection arrangements that will be extremely costly¹³ and injure competition. For these

⁹ See AWS NPRM comments at 17-18 (noting that *Iowa Utilities Board* confirmed that section 332 preempted state regulations not only of end-user rates, but also of carrier-to-carrier rates.). See also CTIA comments at 6-7, citing *Qwest Corp v. FCC*, 252 F.3d 462 (D.C.Cir. 2001); Nextel comments at 1.

¹⁰ 47 USC § 251(e).

¹¹ Nextel comments at 5. In its reply to the BellSouth Opposition filed before the Public Notice in this proceeding, Nextel also notes that the Commission has previously recognized that its CMRS interconnection rule “regulates the conduct of LECs with market power in their interconnection relationships with CMRS providers,” and that “[h]istorically, some LECs denied or restricted interconnection options available to CMRS providers.” Nextel Reply to BellSouth Opp. at 5, n.12, citing Federal Communications Commission Issues Biennial Regulatory Review Report for the Year 2000, FCC 00-346, CC Docket No.00-75 (2001).

¹² Triton July 19, 2002 Reply at 3; Nextel comments at 1; Arch Wireless comments at 17.

¹³ Alltel comments at 4; Dobson Cellular comments at 2; Nextel comments at 5. As Nextel

reasons, the Commission should exercise its explicit authority to address these issues raised by the Sprint Petition.

III. THE RECORD DEMONSTRATES THAT THE COMMISSION MUST GRANT THE SPRINT PETITION AND AFFIRM ILECS' EXISTING INTERCONNECTION OBLIGATIONS

AWS agrees with Triton PCS and other carriers that existing law already requires that BellSouth and other ILECs honor a requesting carrier's designated rating and routing points.¹⁴ Intertwined with the issue of whether BellSouth must honor a carrier's disparate rating and routing points of NXX codes, are broader issues of whether and in what manner carriers are entitled to interconnect with the ILECs; how such traffic is to be routed and by whom; and the appropriate compensation for the routing and termination of such traffic. As discussed below, the Commission must reaffirm existing ILEC obligations on these matters to eliminate any current ILEC attempts to obstruct competition.

A. CMRS Carriers Are Entitled to Use Disparate Rating and Routing Points

BellSouth's and other ILECs' contention that disparate rating and routing points are impermissible or that the ILECs have a right to dictate other carriers' rating and routing points is contrary to the law and industry guidelines. As an initial matter, no carrier other than the code holder has the right to dictate the rating and routing of its numbers.¹⁵ Further, as Sprint and

notes, BellSouth's attempt to threaten CMRS providers with various state proceedings would "greatly increase CMRS interconnection costs with no offsetting public benefit."

¹⁴ See Triton July 19, 2002 Reply at 2; Arch Wireless comments at 14; Voicestream comments at 7-8; Allied National Paging comments at 4, 8- 13; Dobson Cellular comments at 2-8.

¹⁵ Indeed, the Commission expressly divested the ILECs of numbering administration authority and delegated this authority to the North American Numbering Plan Administrator pursuant to Section 251(e). See *Implementation of Local Competition, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas, Administration of the North American Numbering Plan, Proposed 708 Relief Plan and 630 Numbering Plan Area*

Voicestream note, all other carriers are obligated to comply with the North American Numbering Plan Administrator (“NANPA”)’s NPA-NXX code assignments.¹⁶ A carrier may not simply refuse to comply with the activation of NXX codes in its switch because it does not wish to honor the rating and routing points of the NXX codes selected by the code holder and confirmed by NANPA.

Under the INC Guidelines and consistent with long standing industry practice, code holders working with NANPA can obtain numbers in any rate center they wish, provided that they can meet certain minimum prerequisites.¹⁷ To obtain initial numbers in a rate center, a carrier must only be “authorized to provide service in the area for which the numbering resources are being requested” and be capable of providing service within 60 days of the numbering resources activation date.¹⁸ For CMRS carriers, NANPA accepts as evidence of a carrier’s service authorization a copy of their FCC license.¹⁹ Appropriate evidence of a carrier’s ability to provide service includes, among other things, an interconnection agreement or other business

Code by Ameritech-Illinois, FCC 96-333, CC Docket Nos.96-98, 95-185, 92-237, NSD File 96-8, Second Report and Order and Memorandum Opinion and Order (1996) at paras. 18-19 (establishing that a neutral number administrator shall be selected), *Administration of the North American Numbering Plan, Toll Free Service Access Codes*, FCC 97-372, CC Docket No. 92-237, 95-155, Third Report and Order (1997) (selecting administrator).

¹⁶ See, e.g., Voicestream comments at 2-3; Sprint Petition at 3-4.

¹⁷ See Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, § 4.2 (August 16, 2002).

¹⁸ 47 CFR § 52.15(g)(2). In order to obtain growth codes, the carrier must meet additional utilization and months-to-exhaust requirements. 47 C.F.R. § 52.15(g)(3).

¹⁹ See Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008 § 4.2.1 (August 16, 2002).

plans. The Commission's rules do not, however, require that carriers must obtain direct interconnection in rate centers in which they seek to obtain NXXs.²⁰

Moreover, industry guidelines expressly permit the establishment of disparate points for rating and routing.²¹ Such practice is widely followed in the industry and serves the public interest. In addition, contrary to claims by BellSouth, CMRS and paging carriers' use of disparate rating and routing points does not effectively constitute virtual NXXs.²² The Commission has defined "virtual" codes as those that correspond to a particular geographic area that are assigned to a customer located in a different geographic area.²³ Both Sprint and CTIA note accurately, however, that CMRS carriers obtain NXX codes to provide service to customers that are effectively located in these geographic areas and thus, there is nothing "virtual" about these codes.²⁴ In this regard, CMRS carrier practices are distinguishable from the practices of CLECs. CMRS carriers have facilities and customers in proximity to the location of the rate center in which the NXX code is rated.²⁵ The alternative to disparate rating and routing points

²⁰ See 47 U.S.C. §§ 251(a) and (c); Sprint Petition at 19, n.47, citing *Second Radio Common Carrier Order*, 2 FCC Rcd 2910, 2912 (1987). In this regard, contrary to the Oklahoma carriers' assertions, assignment of NXXs does not require "either ownership of facilities or access to unbundled network elements" in a particular rate carrier. Oklahoma RTC comments at 5.

²¹ Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, at § 6.2.2 (August 16, 2002).

²² To the extent that the Commission seeks comment on the use of "virtual NXXs," AWS has noted in its NPRM comments that the Commission should affirm this longstanding practice of competitive carriers. AWS NPRM comments at 57.

²³ See NPRM at para. 115, n.188; see also CTIA comments at 3.

²⁴ CTIA comments at 4; Sprint Petition at 13.

²⁵ CTIA comments at 4. AWS also disputes the contentions of some ILECs that CMRS carriers' use of disparate rating and routing points for NXX codes constitute "wide area calling" arrangements that require additional compensation. See Oklahoma RTC comments at 4-5. Wide area calling arrangements provide a way for carriers to offer subscribers a number that would be "local" within an area that is larger than the typical ILEC local calling area. See Arch Wireless

would be that CMRS carriers would need to install switches in every single rate center in which it offers service.²⁶ This would not only be inefficient, but would be contrary to the Commission's established "one POI per LATA rule" which, as Allied National Paging and Voicestream correctly emphasize, the Commission's Wireline Competition Bureau ("WCB") recently affirmed in an arbitration between Verizon and WorldCom.²⁷ As explained further below, a competitive carrier's ability to establish one POI per LATA is critical for competition to flourish.

B. ILECs Must Provide Carriers the Right to Interconnect Directly or Indirectly at a Single Technically Feasible POI Within a LATA and to Route Transit Traffic to Designated POIs

The record demonstrates fully that BellSouth and all ILECs must provide interconnection either directly or indirectly to requesting carriers and that ILECs must permit carriers to interconnect at a single technically feasible POI within the LATA. Further, ILECs are required by the Act to route traffic, whether transit or direct, to the called party's designated point.

comments at 7. In this case, the calling scope for land to mobile calling is exactly the same as the typical ILEC calling area. In fact, one rationale for assigning the rating point to the rural ILEC's rate center is to duplicate the local calling scope.

²⁶ CTIA comments at 4, n.14.

²⁷ Voicestream comments at 5-6; Allied National Paging comments at 6-8; *see also* *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, Petition of Cox Virginia Telecom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Arbitration; and Petition of AT&T Communications of Virginia, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc.*, DA 02-1731, CC Docket Nos. 00-218, 00-249, 00-251, Memorandum Opinion and Order (2002) ("Verizon Arbitration Order") at para. 302 (noting that approximating compensation based on *rating points* of "virtual NXXs" was permissible, and that even "Verizon concedes that currently there is no way to determine the physical end points of a communication, and offers no specific contract proposal to make that determination").

As several parties point out, Section 251(a) of the Act specifically provides that each telecommunications carrier has the duty to “interconnect directly or *indirectly* with the facilities and equipment of other telecommunications carriers.”²⁸ Thus, there is no obligation for a competitive carrier to directly interconnect with other carriers.²⁹ Specifically, the Commission has held that Section 251(a) enables non-ILECs to interconnect with each other *through* an ILEC’s network, which the Commission expressly noted was contemplated because in certain instances direct interconnection would not be the most economic and efficient technical route.³⁰ Significantly, even SBC admits that Sprint has no legal obligation to directly interconnect with a rural carrier.³¹

As further established by the Act and the Commission’s orders, Section 251(c) specifically imposes requirements upon ILECs, to provide direct interconnection upon request at “any technically feasible point[s].”³² The Commission has interpreted this provision to mean that competitive and CMRS carriers are not required to designate more than a single POI per LATA for interconnection (even if it wishes to provide service in multiple rate centers in the LATA).³³ Indeed, the Commission has expressly noted that a competitive carrier should be able

²⁸ 47 U.S.C. § 251(a)(1). The Commission further has expressly held that CMRS carriers are telecommunications carriers entitled to interconnect with ILECs under Sections 251 and 252 of the Act. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC 96-9325, CC Docket No. 96-98, First Report and Order, (1996) (“*Local Competition First Report and Order*”) at paras. 33, 1004, and 1012; AWS NPRM comments at 18.

²⁹ *Local Competition First Report and Order*, at para. 997.

³⁰ *Local Competition First Report and Order* at para. 997.

³¹ SBC comments at 4.

³² 47 U.S.C. § 251(c)(2)(b).

³³ See NPRM at para. 72; 47 C.F.R. § 51.321; see *Matter of Application by SBC Communications Inc. et al. to Provide In-Region, InterLATA Services in Texas*, FCC 00-238 ,CC Docket No. 00-65, Memorandum Opinion and Order(rel. June 30, 2000) at para. 78, n.174.

to interconnect at one technically feasible point within a LATA in order to lower competitive carriers' costs of for example, transport and termination.³⁴ Thus, Sprint is not obligated to establish a POI within a rural rate center to provide service there or to have calls rated there.

The record moreover provides considerable policy reasons for why carriers should be allowed to interconnect at a single POI within a LATA and the ILECs do not provide compelling support to dispute this requirement. For example, Voicestream's comments illustrate how inefficient and costly it would be for CMRS carriers to have to interconnect with each carrier's end offices in each rate center.³⁵ AT&T also notes correctly that unlike ILECs, 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."³⁶ As Allied National Paging points out, there is "no obligation for a CMRS provider to duplicate the physical facilities of the ILEC," and an ILEC tandem is a "technically feasible interconnection point."³⁷ An ILEC's refusal to activate NXX codes with disparate rating and routing points would effectively compel competitive carriers to construct dedicated facilities to *all* carriers and their individual rate centers at multiple points within a LATA, which would be tremendously inefficient and lead to redundant overbuilding of the public switched telephone network.³⁸

In addition, contrary to SBC's claims, ILECs do in fact have the obligation to facilitate a carrier's indirect interconnection with other carriers, by providing *transit* services.³⁹ Section

³⁴ See *NPRM* at para. 72.

³⁵ Voicestream comments at 9-12.

³⁶ AT&T comments at 2.

³⁷ Allied National Paging comments at 3-4. 47 U.S.C. § 251(c)(2)(B); 47 C.F.R. § 51.305.

³⁸ Dobson Cellular comments at 4.

³⁹ See SBC comments at 5-6.

251(c)(2) requires that ILECs have a duty to interconnect directly with any requesting telecommunications carrier “for the *transmission and routing* of telephone exchange service and exchange access.”⁴⁰ AT&T accurately observes that because Section 251(a)(1) provides CLECs the right to interconnect indirectly with the facilities and equipment of other carriers, and Section 251(c)(2)(a) requires ILECs to interconnect with requesting carriers for the transmission and routing of telephone exchange services and exchange access, ILECs must provide tandem transit service to competitive carriers.⁴¹ Moreover, if, as SBC claims, ILECs were not required to provide transit services, it would effectively prevent competitive carriers from availing themselves of the ability to interconnect indirectly with ILECs or limit POIs to one per LATA and render meaningless the Commission’s rules establishing these rights. As a consequence, competitive carriers would need to establish direct interconnection, even where the costs of establishing direct interconnection would be prohibitive or would far outweigh the de minimus amounts of traffic exchanged or would need to limit their service areas. Such a result is anticompetitive and would contravene the fundamental purpose of Section 251, to “promote the interconnection of all telecommunications networks by ensuring that incumbent LECs are not the only carriers that are able to interconnect efficiently with other carriers.”⁴²

Finally, SBC mischaracterizes the findings of this Commission in the *Verizon Arbitration Order* by stating that the Commission has not determined whether ILECs have the duty to provide “transit service” under Section 251(c)(2).⁴³ In that case, which was decided on delegated authority, the WCB simply noted that because the Commission had not determined whether

⁴⁰ 47 U.S.C. § 251(c)(2). *See, e.g. Local Competition First Report and Order* at para. 181.

⁴¹ AT&T comments at 4.

⁴² *See Verizon Arbitration Order* at para. 118, n.389.

ILECs have the duty to provide transit service *at TELRIC rates* under Section 251(c)(2), the WCB would not make such a finding for the first time in the context of the particular arbitration. The WCB in fact *required Verizon to provide transit services* to the extent that the transit traffic was less than the DS-1 threshold.⁴⁴ Further, the WCB in this decision noted expressly that it would not allow Verizon to simply stop providing transit service, “with no transition period or consideration of whether WorldCom has an available alternative,” because that “would undermine WorldCom’s ability to interconnect indirectly with other carriers in a manner that is inconsistent with the ‘fundamental purpose’ [of the Act].”⁴⁵

C. Local Intra-MTA Traffic Is Subject to Reciprocal Compensation and Transit Traffic Should be Provided at TELRIC Rates

Some ILECs also incorrectly assert that the arrangement that Sprint seeks results in inappropriate compensation but fail to articulate what specific level of compensation is appropriate. BellSouth contends that various forms of compensation for its transport of this traffic could apply, including reciprocal compensation, access charges, or some other form of carrier-negotiated payments, while SBC argues that it should at a minimum be paid more than TELRIC for the provision of transit services.⁴⁶ Contrary to these ILECs’ suggestions, existing law already establishes what the appropriate intercarrier compensation should be for carriers exchanging intra-MTA traffic and for the ILECs’ provision of transit service. Specifically traffic that originates and terminates within an MTA is local traffic currently subject to reciprocal compensation, and transit services should be provided at TELRIC rates.

⁴³ SBC comments at 6.

⁴⁴ *See Verizon Arbitration Order* at para. 117. The WCB permitted Verizon to charge non-TELRIC rates only for traffic exchanged at levels higher than DS-1.

⁴⁵ *Id.* at para. 118.

It is long-established that traffic originating and terminating within the same MTA shall be treated as “local” calls subject to reciprocal compensation (and not access charges).⁴⁷ This rule applies regardless of how the traffic is transmitted. The Commission should reaffirm this basic principle that all CMRS-LEC calls originating and terminating within an MTA are “local” calls. Allied National Paging correctly outlines further that when calls are “local,” the originating carrier must pay termination compensation to the terminating carrier and that the originating carrier must pay for facilities used to transport its own calls to the terminating carrier’s network.⁴⁸ Similarly, Sprint and Nextel observe that BellSouth must seek compensation from the originating carrier under the current compensation system when BellSouth transports calls from the rural ILEC to the CMRS customer associated with the rural ILEC’s NPA-NXX.⁴⁹

Finally, although BellSouth and other ILECs appear to believe that they should be compensated at higher than cost-based rates for performing *transit* services, such a result would be directly at odds with the Commission’s orders.⁵⁰ As AT&T noted per these orders, CLECs currently pay ILECs for the provision of tandem transit traffic through TELRIC-based tandem switching and transport charges.⁵¹ AWS agrees with AT&T that given that CLECs have the right to obtain unbundled network elements (“UNEs”) for tandem switching and interoffice

⁴⁶ BellSouth Opposition at 2; SBC comments at 8.

⁴⁷ 47 C.F.R. § 51.701(b)(2). See Triton Reply comments at 2; AWS NPRM comments at 45, n.79, citing *Local Competition First Report and Order* at para. 1036.

⁴⁸ See Allied National Paging comments at 4; and 47 CFR 51.703(b), 51.709(b).

⁴⁹ See Sprint Petition at 15; Nextel comments at 7.

⁵⁰ *Local Competition First Report and Order* at para. 672; *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC 99-238, CC Docket No. 96-98, Third Report and Order and Further Notice of Proposed Rulemaking (1999) (“*UNE Remand Order*”) at para. 321 (finding dedicated and shared transport or interoffice transmission facilities to be UNEs).

⁵¹ AT&T comments at 5.

transport at TELRIC rates, there is absolutely no basis for allowing ILECs to charge greater than TELRIC rates for transit services.⁵² Allowing otherwise would be inconsistent with the pro-competitive purposes of the Act.

D. The Record Demonstrates Why Bill and Keep Should be Adopted Immediately at a Minimum, for CMRS-LEC Traffic

In addition to the issues addressed in these reply comments, carriers have raised a number of other problems regarding rural carrier and ILEC interconnection – many of which were raised in this *NPRM* proceeding, or in other petitions.⁵³ As noted above, there are disputes with ILECs and rural carriers concerning the appropriate compensation for intra-MTA traffic especially when an interexchange carrier (“IXC”) is involved in the transmission of such calls. Rural carriers receive access charges from the IXC for that call and toll revenues from their end users, and pay no compensation to the CMRS carriers.⁵⁴ This is just one of the many issues that would be resolved if the Commission were to adopt bill and keep for all local calls between CMRS carriers and LECs.

AWS reiterates that bill and keep would be the appropriate solution for all local calls between CMRS carriers and LECs because this form of compensation recognizes that both calling and called parties benefit from the call, is the most efficient, and prevents arbitrage and

⁵² AT&T comments at 5; *see also* Letter from Douglas Brandon, Vice President, Legal and External Affairs, AT&T Wireless Services, Inc., to Michelle Carey, Chief, Common Carrier Bureau, Federal Communications Commission, dated April 6, 2001 (detailing efforts of AWS to convert special access facilities to UNEs); and Ex Parte Letter from AT&T Wireless Corporation, VoiceStream Wireless Corporation and United States Cellular Corporation, dated April 12, 2000, in CC Docket No. 96-98.

⁵³ *See generally, e.g.* AWS *NPRM* comments, *Matter of Sprint Spectrum, LP, d/b/a Sprint PCS Request for an Order Directing Brandenburg Telephone Company to Provide Interconnection on Reasonable and Nondiscriminatory Terms* (filed September 18, 2001)

⁵⁴ Significantly, it is the rural ILECs who are complaining that they receive no compensation from the CMRS carrier for mobile to land calls.

gaming of the network and traffic.⁵⁵ Nextel reminds the Commission of its own concerns that the current inter-carrier compensation scheme results in certain payments to terminating carriers that create the “opportunity to exploit undesirable pricing power for the terminating carrier.”⁵⁶ AWS notes that the current issues raised by the Sprint Petition highlight even more the importance of moving to a bill and keep system.

Specifically, under a bill and keep system, carriers will no longer have the incentive to send traffic inefficiently to IXC switches where it is not required, nor will carriers have the incentive to impose unreasonably high and excessive rates for traffic that transits their network.⁵⁷ Moreover, as Nextel points out, a “federal bill and keep mechanism will avoid the possibility of various and inconsistent state intercarrier compensation regimes for CMRS-ILEC interconnection, thereby reducing the costs associated with implementation and compliance.”⁵⁸

IV. CONCLUSION

As exemplified by the Sprint Petition, CMRS carriers continue to face anticompetitive ILEC practices and conflicting policies. It is critical to the development of CMRS competition that the Commission establish uniform policies on CMRS interconnection. This is particularly crucial in rural territories, where the frequency of disputes regarding the appropriate interpretation of the Act and the Commission’s rules is increasing in volume and intensity. Until the Commission addresses and resolves these issues in a clear and uniform manner, CMRS carriers will continue to face obstacles in the development of full CMRS competition. These

⁵⁵ See AWS NPRM comments at 61.

⁵⁶ Nextel comments, citing *NPRM* at para. 38; Voicestream comments at 13.

⁵⁷ See Nextel comments at 9.

⁵⁸ Nextel comments at 9.

