

**Before the
Federal Communication Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of US LEC Corp.)	
For Declaratory Ruling)	CC Docket No. 01-92
Regarding LEC Access Charges)	
For CMRS Traffic)	

**Comments Of:
Fred Williamson and Associates, Inc. (“FW&A”)
On behalf of:**

**Chouteau Telephone Company, an Oklahoma ILEC
H&B Telephone Communications, Inc., a Kansas ILEC
Moundridge Telephone Company, Inc., a Kansas ILEC
Pine Telephone Company, Inc., an Oklahoma ILEC
Pioneer Telephone Association, Inc., a Kansas ILEC
Totah Telephone Company, Inc., a Kansas and Oklahoma ILEC
Twin Valley Telephone, Inc., a Kansas ILEC
(Collectively, “ILECs”)**

SUMMARY OF US LEC PETITION

With regard to the delivery of Commercial Mobile Radio Service (CMRS) traffic, US LEC presents the following information in its Petition:

- US LEC provides access service to various customers, including CMRS carriers.
- US LEC is a wireline Competitive Local Exchange Carrier (CLEC) that, like other Local Exchange Carriers (LECs) provides access facilities that are used by Interexchange Carriers (IXCs) to originate long distance calls destined for a wireless customer and terminate long distance calls from wireless customers.
- US LEC charges the appropriate benchmark access charge rates to the IXCs for the use of its facilities to originate and terminate the IXC's traffic.
- LECs have tariffed, regulated, access charges. Under Part 69 of the Commission's rules, LECs are entitled to recover these tariffed access charges from IXCs for the facilities used by the IXCs to originate and terminate the IXCs' long distance service.
- This access charge rate recovery is supported by Comments and Commission action/Comments in various proceedings including the First Report and Order in CC Docket No. 96-98 and 95-185, paragraph 1043; CC Docket No. 95-185; WT Docket No. 01-316; Memorandum Opinion and Order, FCC 01-347.
- Even though US LEC is providing access facilities that are used by IXCs to originate and terminate their long distance service, one IXC has ceased making access charge payments to US LEC for the access facilities used and is continuing to do so.

US LEC requests that the Commission issue an expedited declaratory ruling reaffirming that LECs, whether incumbent local exchange carriers (ILECs) or CLECs are entitled to recover access charges for interexchange traffic that passes from CMRS providers to IXCs (or vice versa) via the network of the LEC.

COMMENTS

FW&A agrees with the comments made by US LEC in its Petition. Whenever an IXC utilizes a LEC's (ILECs or CLECs) facilities to originate and/or transport and/or terminate the IXC's calls, the IXC is obligated to pay the applicable tariffed access charges to the LEC. IXCs cannot be allowed to ignore this obligation that it has under both FCC and state rules and tariffs to compensate the LEC for the use of its facilities. As the following discussion demonstrates and as US LEC notes in its Petition, if an IXC uses LEC facilities to originate traffic to or terminates traffic from a wireless subscriber (or a wireline subscriber), the IXC owes applicable access charge compensation to the LEC.

Wireline To Wireless Traffic – Attachment 1

LECs, either ILEC or CLEC such as US LEC, in conformance with Commission rules, do not originate or exchange telecommunications traffic that is terminated beyond the LEC's local exchange boundary (interexchange calls). Instead, that traffic is originated by an IXC using the LEC's facilities. In the Commission's First Report and Order (CC Docket Nos. 96-98 and 95-185, paragraphs 1034 and 1043), the Commission recognized that, even though local traffic originating and terminating within an MTA is subject to reciprocal compensation, IXCs may originate and carry calls between a LEC network and

a CMRS provider's network within the MTA (paragraph 1043). In paragraph 1034, the Commission explained that the originating carrier (in this case the IXC) is responsible for terminating payments for this traffic when the customer pays the originating carrier, the IXC, for its services. As a result of the Commission's and State Commission's equal access rules and requirements and in conformance with the Commission's First Report and Order, as shown in Attachment 1, interexchange calls originated by customers connected to the LEC's network (interMTA or intraMTA), must be handed off to an IXC. Consequently, IXCs originate, using LEC facilities, all interexchange traffic for their customers that is destined for the CMRS providers using LEC facilities. In other words, it is the IXC that is the provider of the customer's retail service for interexchange calls originated using LEC facilities. Without the IXC, it is not possible for the customer to place interexchange calls that ultimately terminate to CMRS providers. As US LEC states in its Petition, the IXC owes access charge compensation to the originating LEC for the use of that LEC's facilities to originate the IXC's long distance call. As Attachment 1 shows, the IXC also owes (a) Transport compensation to any intermediate carrier (ILEC B on Attachment 1) whose facilities are used by the IXC to transport the call and (b) Terminating compensation to the CMRS providers for the use of its facilities to terminate the IXC's call.¹ This is only logical, because it is the IXC, not the LEC that collects the retail revenue from the customer placing the call and thus has the revenue to pay compensation to the originating and transiting LECs, and the CMRS provider for the use of their facilities to originate, transport and terminate the IXC's calls. This is the current industry practice followed by all LECs, CLECs (like US LEC), large ILECs

¹ In fact, Sprint PCS has filed a Petition at the Commission seeking to be compensated by AT&T for termination of AT&T customer interexchange calls.

(RBOCs and Sprint's LEC) and small ILECs (including the rural ILECs) and it is in conformance with FCC and Commission rules and regulations. This is the industry practice that was in place prior to the date of enactment of the Telecommunications Act of 1996 (Act) as specifically referenced in Section 251(g) of the Act.

Wireless To Wireline Traffic – Attachment 2

Rather than delivering its originating traffic to the called end user indirectly via the jointly provided LEC network, CMRS providers may choose, as US LEC points out in its Petition, to deliver its originating traffic via an IXC. Attachment 2 shows the typical call processing for this method of traffic delivery. Typically, the wireless provider will hand the call off to an intermediate transport provider (ILEC B in Attachment 2) that transports the call to the IXC. The IXC uses its own facilities to deliver the call to the terminating exchange and then uses the facilities of the LEC (ILEC A or US LEC in Attachment 2) to terminate the IXC's call to the called end user. If the wireless provider utilizes this method of call processing, the IXC, as US LEC discusses in its Petition, owes terminating access charges to the LEC whose facilities are used to terminate the IXC's call.

CONCLUSION

FW&A believes that the Commission should, as requested by US LEC, grant US LEC's Petition on an expedited basis. The issue presented in the Petition is straightforward – if an IXC uses LEC (either ILEC or CLEC) facilities to originate, transport or terminate the IXC's calls, then the IXC is required, based on FCC and State rules and based on applicable access charge tariffs, to pay the LEC for the use of those facilities. The

Commission should not delay its answer to this Petition. Any delay will introduce further financial uncertainty into an already uncertain telecommunications market.

Respectfully submitted on behalf of the ILECs by,

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