Transtel/Tel America Presentation to the Pricing Policy Division (May 1, 2003)

CC Docket 01-92

Adding an additional transiting carrier (US TelePacific or US LEC) between a CMRS provider and the Incumbent LEC tandem adds no functionality justifying additional charges.

- Prior to the invention of the US TelePacific/US LEC (USTP/US LEC) call routing scheme, CMRS carriers routed 1-8YY calls to ILEC tandems, which routed them to the toll carrier. (See "Before" Diagram)

- Under the call routing scheme, CMRS carriers divert selected wireless-originated calls (1-8YY) from their normal route to the ILEC tandem and put them on dedicated trunk to a USTP/US LEC switch, which redirects the calls back to the ILEC tandem, which then routes the calls to the toll carrier. (See "After" Diagram).

- The toll carrier asked to pay the access bill gains nothing from this circuitous routing. It appears that the ILEC must still do its own "database dip" to route the call to the toll carrier.

- Adding unneeded switches complicates the calling path and increases costs that Tel-America would have to pass through to end users, contrary to the Commission's policy that CMRS calls be routed so as to "*minimize unnecessary duplication of switching facilities and associated costs to the ultimate consumer.*" *

* FCC Policy Statement on Interconnection of Cellular Systems, 59 R.R.2d (Pike & Fischer) 1283, para. 2 (1986)

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USTP/US LEC cannot force toll carriers to involuntarily purchase their "services."

- In their call routing scheme, USTP/US LEC have no end user customers. The end users placing the calls are customers of CMRS carriers.

- The CLEC Access Charges Order protects end users' ability to choose a CLEC as their local carrier while still making long distance calls. The Order does not give any rights to a CLEC that is not serving end users, such as USTP/US LEC:

  > "We therefore conclude that an IXC that refuses to provide service to an *end user* of a CLEC charging rates within the safe harbor, while serving the customers of other LECs within the same geographic area, would violate Section 201(a)"*

- Thus the normal rules of a deregulated industry apply. Purchasing services is a matter of business choice, not involuntarily compulsion. Services are purchased only when they provide value.

- The call routing scheme (inserting a CLEC into a CMRS-originated call) also attempts to end run the Commission's Declaratory Ruling that CMRS carriers cannot unilaterally impose access charges. **

* Access Charge Reform, Seventh Report & Order, 16 FCC.Rcd. 9923, para. 94 (2001) (emphasis added).
** Petitions of Sprint PCS and AT&T Corp. for Declaratory Ruling, FCC 02-203, para. 1 (2002).

Even if their Call Routing Scheme were legitimate rather than a sham designed to inflate access charges, USTP/US LEC could still only charge for services they actually provide.

- USTP/US LEC provide at most a sliver of the full package of services that constitute "interstate access service" as defined by the Commission. They cannot demand the full capped rate.

- Per Rule 61.26(a)(3), the interstate access services that a CLEC provides for the capped rate "shall include the functional equivalent" of the following:

  Carrier common line
  Local end office switching
  Interconnection charge and Information surcharge
  Tandem switched transport termination (fixed)
  Tandem switched transport facility (per mile)
  Tandem switching

- Because the CMRS carrier owns the "end office" switch that directly serves the end users, and so provides the carrier common line and local switching elements, USTP/US LEC at most provide a second tandem switching function duplicating the tandem switching provided by the ILEC.*

- In fact, the insertion of an additional entity in the calling path to generate additional access charges is virtually the same sham condemned in *Total Telecommunications*, 16 FCC.Rcd. 5726 (2001).

* All local switching takes places at the wireless switch (in which the wireless handset numbers reside), before selected categories of wireless-originated calls (1-8YY but apparently not 1+) are dumped onto a dedicated trunk to USTP. See Transtel Reply Comments, pp. 6-7.

USTP's bills mix a very small amount of traffic that USTP claims originates from its own wireline end users with a vast amount of wireless traffic that is part of the call routing scheme.

- Tel-America cannot tell from USTP's bills whether calls originate from wireless carriers or from wireline customers of USTP.

- USTP admits that at least 82% of the traffic is part of the wireless call routing scheme, rather than calls from wireline customers of USTP. (USTP ex parte, April 2, 2003).

- Tel-America believes the 82% figure admitted to by USTP is low – the real figure likely is 95% or more (based on sampling of call detail records provided by USTP for selected days).

- Some of the call detail records provided after the fact by USTP show false Calling Party Number fields – the numbers from which the calls were allegedly placed were not in service.

- USTP cannot intentionally combine potentially legitimate charges with illegitimate charges on one unseparated bill, and then blame Tel-America for not paying any part of the bill.

The USTP/US LEC call routing scheme is hardly the "competition" that Congress sought to foster in enacting the 1996 Act.

- The point of competition is to motivate carriers to compete for a customer's business by offering to provide better pricing/service.

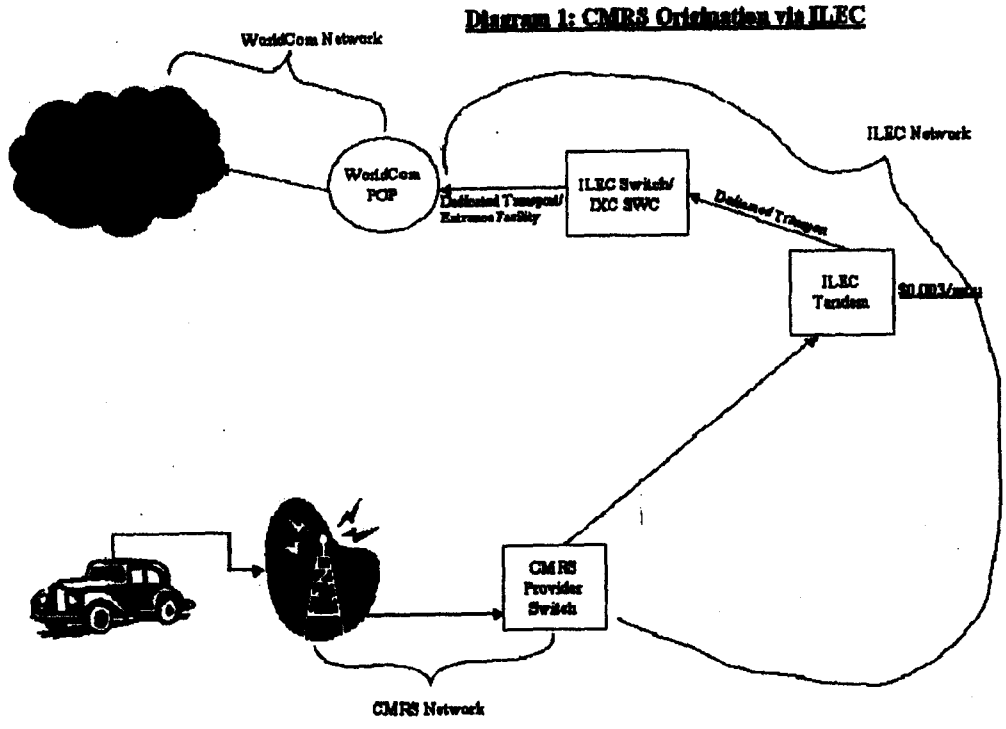
- USTP / US LEC assert that the toll carriers are their "customers" for access service.

- Yet USTP/US LECs' actions demonstrate their real "customers" are the CMRS carriers with whom they split revenues. USTP/US LEC do nothing to give the toll carrier a better deal than that provided by the ILEC access tandem service.

- To the contrary, USTP/US LEC magnify their toll carrier "customers" costs many times over, attempting to impose the full cap rate for interstate calls (now 1.8 cents) and uncapped rates for intrastate calls (as much as 7 cents). By contrast the ILEC charges a fraction of a penny.

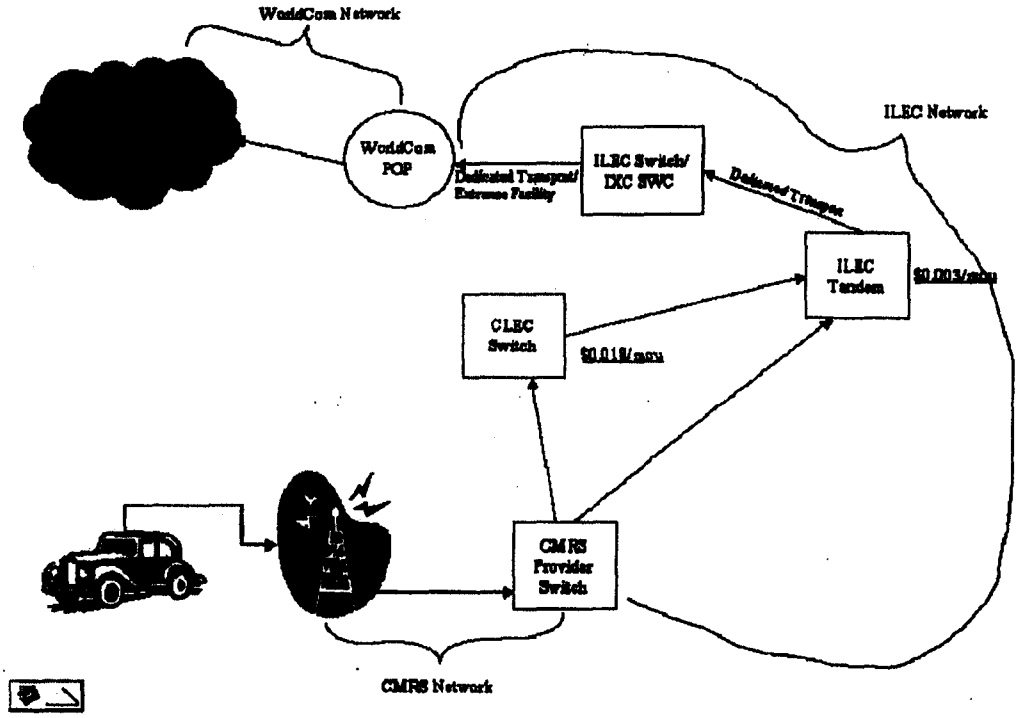
- No rationale toll carrier would ever want to become a "customer" under these circumstances. Tel-America has made it clear many times over that it does not want USTP's service and refuses to be a USTP customer.

- In conclusion, Tel-America respectfully requests that the Commission reject any efforts by USTP/US LEC to force toll carriers to accept their unwanted "services."



Before Diagram From WorldCom Comments 10/18/02

Diagram 2: CMRS Origination with CLEC Inserted



After Diagram From WorldCom Comments 10/18/02