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July 7, 2003

### EX PARTE NOTICE

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: *Inter-carrier Compensation; CC Docket No. 01-92*

Dear Ms. Dortch:

Pursuant to 47 C.F.R. Sections 1.1206(b)(1) and (b)(2), we file this notice and the attached *ex parte* materials electronically in the dockets referenced above today. On June 27, 2003, Suzanne Toller of Davis Wright Tremaine and Doug Brandon of AT&T Wireless Services met with Jared Carlson, Patrick Forster, David Furth, Stacy Jordan, Joe Levin, Jennifer Salhus, Jennifer Tomchin, and Peter Trachtenberg of the Wireless Telecommunications Bureau and Cheryl Callahan, Paul Garnett, and Steve Morris of the Wireline Competition Bureau. The purpose of the meeting was to discuss issues related to CMRS/rural local exchange carrier interconnection.

Specifically, AT&T Wireless provided an update on ongoing rural interconnection negotiations and proceedings at state public utility commissions. AT&T Wireless stated that it had entered into interconnection agreements with a number of rural local exchange carriers and was currently in negotiations with several other rural local exchange carriers. However, AT&T Wireless noted that such negotiations did not make sense in many instances given the low volume of traffic exchanged between the parties. In this regard, AT&T Wireless reported that it had recently received bills from rural local exchange carriers for as little as 55 cents.<sup>1</sup>

AT&T Wireless reported that the state public utility commission activity regarding rural interconnection issues was on the rise. Specifically, there are formal proceedings (petitions, arbitrations, and tariff investigations) in more than thirteen states and wireless termination tariffs

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<sup>1</sup> See attached bill from Piedmont Telephone Membership Corporation in North Carolina.

have been filed in at least twenty states.<sup>2</sup> State-by-state resolution of CMRS/rural local exchange carrier interconnection issues poses a number of challenges including the cost and burden of resolving issues in multiple states and the risk of inconsistent results with multiple proceedings and arbitrations.

In order to address these challenges, AT&T Wireless urged the Commission to provide guidance in several key areas. First, the Commission should grant the T-Mobile petition and rule that wireless termination tariffs are illegal. Wireless termination tariffs are inconsistent with the process established by Congress in section 252 of the Act for the negotiation (and, if needed, arbitration) of interconnection agreements and violate the Act and FCC rules which reference compensation between LECs and CMRS providers to be reasonable and reciprocal.<sup>3</sup> In this regard the rates included in the tariffs are generally significantly higher than the negotiated rates and never contain provisions for reciprocal compensation.<sup>4</sup> This is problematic not only because it increases CMRS providers' costs but also because it potentially establishes precedent as to the reasonableness of these non-cost-based rates.

There are also a number of practical problems with wireless termination tariffs including the facts that no notice of the filings is provided, they are extremely difficult to challenge, and they provide a disincentive for rural local exchange carriers to negotiate with CMRS providers. As an example, AT&T Wireless discussed the challenges it has faced in attempting to negotiate the extension of its current interconnection agreement with CenturyTel. AT&T Wireless related that it has been trying for more than two-years to add additional states to its interconnection agreement with CenturyTel. However, CenturyTel has been dragging its feet in the negotiation process, apparently stalling until it could get its non-cost-based, one-sided rates tariffs on file in the various states.

Second, in the context of the Sprint petition, the Commission should affirm that a carrier can have disparate rating and routing points. Further, consistent with the Commission's current rules, the Commission should also affirm that carriers only need to have one point of interconnection per LATA and the originating carrier bears the cost of transporting intraMTA calls to the point of interconnection.<sup>5</sup>

Finally, the Commission should affirm that all intraMTA calls between a CMRS provider and a local exchange carrier are subject to transport and termination at TELRIC rates to the

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<sup>2</sup> AT&T Wireless has attached a summary chart of both ongoing state rural interconnection proceedings and CenturyTel wireless termination tariff filings.

<sup>3</sup> See 47 U.S.C. § 251(b)(5); 47 CFR § 20.11(b).

<sup>4</sup> For example, AT&T Wireless's negotiated rate with CenturyTel is varies by state (between 0.6 cents/minute to 2.7 cents/minute) and is reciprocal. CenturyTel's proposed tariff rates are 2.4 to 3.2 cents/minute and are only for mobile to land traffic.

<sup>5</sup> 47 C.F.R. § 51.321.

extent carriers are not receiving other inter-carrier compensation – regardless of what entity carries the calls. This solution allows rural local exchange carriers to continue to use interexchange carriers for land-to-mobile traffic if they choose, which avoids any theoretical state commission issue regarding a rural local exchange carrier providing service outside of its local territory. Further, it would in large part preserve the existing access charge revenue flow to the rural local exchange carriers and would help them avoid transport costs. At the same time, this solution would also allow CMRS providers to receive compensation for the termination function that they provide for land to mobile calls. In addition, this solution is consistent with the Local Competition Order because it would recognize that intraMTA calls are local calls while still subjecting traffic carried by interexchange carriers to access charges.<sup>6</sup> AT&T Wireless agrees with Verizon Wireless that this issue could be addressed in the context of the T-Mobile petition.

By taking these actions, the Commission can address the immediate difficulties regarding CMRS/rural local exchange carrier interconnection and inter-carrier compensation. However, consistent with its comments in the Inter-Carrier Compensation docket, AT&T Wireless supports a bill and keep inter-carrier compensation to regime as the best long-term inter-carrier compensation system.

In addition to accurately reflecting the fact that both parties to a call benefit, a bill and keep inter-carrier compensation regime would eliminate the opportunity for carriers, like the rural local exchange carriers, to impose non-cost based inter-carrier compensation charges for local calls. A bill and keep inter-carrier compensation regime would also be easier to administer because the Commission, state public utility commissions, and carriers would spend less time and expend fewer resources pursuing endless disputes over inter-carrier compensation payments. Further, carriers would save the costs related to measuring and billing for inter-carrier compensation charges.

Please direct any questions regarding this matter to the undersigned.

Very truly yours,

/S/  
Suzanne K. Toller

Encls.

cc (via email): Jared Carlson  
Patrick Forster  
David Furth

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<sup>6</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 16016, ¶ 1043 (1996)

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Stacy Jordan  
Joe Levin  
Jennifer Salhus  
Jennifer Tomchin  
Peter Trachtenberg  
Cheryl Callahan  
Paul Garnett  
Steve Morris