

# Inter-Carrier Compensation

Time Warner Telecom  
Presentation Regarding Pending  
Inter-Carrier Compensation Issues  
January 7, 2004

# Overview

- **TWTC'S GOAL IS TO STABILIZE CURRENT INTER-CARRIER COMPENSATION RULES IN ORDER TO ENCOURAGE EFFICIENT INVESTMENT AND LIMIT THE COSTS AND UNCERTAINTY OF LITIGATION AND RETROACTIVE CHANGES UNTIL COMPREHENSIVE REFORM CAN BE COMPLETED.**
  - The FCC has 4 pending and soon-to-be decided inter-carrier compensation proceedings that directly affect TWTC's business.
    - AT&T Petition (WC Docket No. 02-361)
    - Qwest petition for clarification of CLEC Access Charge order (CC Docket No. 96-262)
    - US LEC petition for declaratory ruling on charges to access CMRS carriers (CC Docket No. 01-92)
    - Remand of ISP-Bound Traffic Order (CC Docket 99-68)
  - It has announced its intentions to begin a rulemaking proceeding on the regulatory status of VoIP traffic.
    - VoIP NPRM
  - The FCC is already working to develop a unified (minute is a minute) inter-carrier compensation regime to replace today's regime which "treats different types of carriers and different types of services disparately, even though there may be no significant differences in the costs among carriers or services." In addition, the carrier industry is in private negotiations designed to develop a proposal for developing a unified inter-carrier compensation regime.
    - Developing a Unified Inter-carrier Compensation Regime

# AT&T Petition

- **THE FCC SHOULD APPLY ACCESS CHARGES PROSPECTIVELY BUT NOT RETROACTIVELY TO TRAFFIC SUBJECT TO THE AT&T PETITION.**
  - The current disputes regarding the application of access charges to VoIP are imposing significant costs on the industry, with CLECs getting caught in the middle.
  - The FCC should make a decision regarding the application of access charges to VoIP as soon as possible; the longer the agency waits to make a decision, the more intractable and costly the disputes will become.
  - To prevent the collapse of the access charge regime, the FCC should apply access charges prospectively to VoIP that is subject to the AT&T petition for declaratory ruling. VoIP traffic that originates in IP format need not be subject to access charges as part of this decision.
  - If the FCC decides to distinguish traffic that originates in IP format from the type of traffic in the AT&T petitions, the FCC should require VoIP providers to certify that the traffic they are sending did originate in IP format.
  - All of these issues should be revisited when the FCC comprehensively reviews inter-carrier compensation and/or VoIP regulation in general.
  - The FCC should *not* apply access charges retroactively to VoIP. Such an approach would impose huge costs on the industry in terms of litigation, audits and uncertainty. If the FCC determines that access charges should apply retroactively it must be made clear that, where a CLEC and an ILEC jointly provide access service to a provider of inter-exchange VoIP service (i.e. jointly provide a connection between the IP gateway and the called party) the CLEC is clearly excluded from any form of liability for interstate charges.

# Qwest and US LEC Petitions Regarding CLEC Access Charges

- **THE BENCHMARK RATES SHOULD CONTINUE TO APPLY, AT A MINIMUM, TO ALL INTERSTATE MINUTES CARRIED ON CLEC CIRCUIT SWITCHES TO AND FROM CLEC END USER CUSTOMERS.**
  - TWTC has been charging the benchmark rate for its tariffed service and all IXCs have paid the rate without protest.
  - The CLEC Access Charge order is clear that CLECS will begin charging the ILEC equivalent rate, based on ILEC rate elements provided by CLECs, only after June 2004.
  - Retroactive adjustment of benchmark rates has no basis in law, it cuts against industry understanding of the order, and undermines the certainty and stability the order was intended to create.
- **ANY CHANGES MADE REGARDING CMRS TRAFFIC SHOULD BE MADE ON A PROSPECTIVE BASIS ONLY.**

# ISP-Bound Traffic Remand

- **ADOPT LEGALLY SUSTAINABLE RULES FOR THE EXCHANGE OF ISP-BOUND TRAFFIC. ISP-BOUND TRAFFIC IS SECTION 251(b)(5) TRAFFIC.**
  - Prior FCC orders relied on legally unsound theories to limit ILEC exposure to reciprocal compensation.
  - The FCC must now adopt a legally sustainable approach that will grant the industry some stability.
  - ISP bound traffic is section 251(b)(5) traffic must be treated as such even if that means increasing the rate for exchange of ISP-bound traffic.

# VoIP NPRM

- Addressing the AT&T petition does not prejudice the VoIP NPRM nor does it regulate the internet.
- Issues in the Vonage Petition and the Pulver.com Petition can be addressed in the VoIP NPRM. FCC Policy position that access does not apply to traffic that originates in IP format will avoid bringing this type of traffic under the current inter-carrier compensation regime.
- In order to distinguish traffic that originates in IP format from the type of traffic in the AT&T petition, the FCC should require VoIP providers to certify that the traffic they are sending originated in IP format.
- Rule-making proceeding is the correct venue for determining regulatory status of VoIP traffic
  - Social Policy
  - Technology Neutral
  - Level 3 Petition for Forbearance

# Comprehensive Inter-Carrier Compensation Reform

- FCC must focus on comprehensive reform of inter-carrier compensation and the related universal service issues.
- The “band aids” applied in the pending cases will not provide long term clarity nor will they prevent new methods of regulatory arbitrage.
- A technologically and competitively neutral inter-carrier compensation scheme will provide a fair playing field for inter and intra modal communications competition.

# Summary of Recommended FCC Action

- THE FCC SHOULD APPLY ACCESS CHARGES PROSPECTIVELY BUT NOT RETROACTIVELY TO TRAFFIC SUBJECT TO THE AT&T PETITION.
- THE BENCHMARK RATES SHOULD CONTINUE TO APPLY , AT A MINIMUM, TO ALL INTERSTATE MINUTES CARRIED ON CLEC CIRCUIT SWITCHES TO AND FROM CLEC END USER CUSTOMERS.
- ADOPT LEGALLY SUSTAINABLE RULES FOR THE EXCHANGE OF ISP-BOUND TRAFFIC. ISP-BOUND TRAFFIC IS SECTION 251(b)(5) TRAFFIC.
- PROCEED WITH VoIP NPRM
- PROCEED WITH INTERCARRIER COMPENSATION REFORM