

LAWLER, METZGER & MILKMAN, LLC

2001 K STREET, NW  
SUITE 802  
WASHINGTON, D.C. 20006

A. RICHARD METZGER, JR.  
PHONE (202) 777-7729

PHONE (202) 777-7700  
FACSIMILE (202) 777-7763

February 4, 2004

*Via Electronic Filing*

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: Oral Ex Parte Notice  
*Access Charge Reform*, CC Docket No. 96-262; *Developing a Unified*  
*Intercarrier Compensation Regime*, US LEC Petition for Declaratory Ruling, CC  
Docket No. 01-92; *Petition for Declaratory Ruling that AT&T's Phone-to-Phone*  
*IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361;  
*Vonage Holdings Corp. Petition for Declaratory Ruling*, WC Docket No. 03-211

Dear Ms. Dortch:

On February 3, 2004, Donna Sorgi and Hank Hultquist of MCI and the undersigned of Lawler, Metzger, and Milkman, LLC, counsel to MCI, met with Lisa Zaina, Senior Legal Advisor to Commissioner Adelstein, to discuss certain matters pending before the Commission in the above-referenced proceedings.

With respect to the petitions for reconsideration and other requests pending in CC Docket No. 96-262, MCI urged the Commission to conclude that the provisions of its April 2001 Order in that proceeding authorized competitive local exchange carriers (LECs) to tariff and assess the benchmark rate for switched access services only if their access service satisfied the requirements of that Order. *See Access Charge Reform*, Seventh Report and Order, 16 FCC Rcd 9923 (2001) (Order). Otherwise, the Order required competitive LECs to negotiate the terms of their access service with interexchange carriers. MCI also pointed out that both the express text of the FCC's Order (for example, paragraph 58 and 47 C.F.R. § 61.26(a)(3)) as well as the Commission's overall objectives in the proceeding (as noted, for example, in paragraphs 2, 3, 44 and 54) clearly support the conclusion that the Order only authorized competitive LECs to tariff and assess the benchmark rate for traffic originated by or terminated to their end users.

Consistent with this finding and MCI's prior submissions in CC Docket No. 01-92, MCI also urged the Commission to deny US LEC's Petition for Declaratory Ruling. Moreover, MCI noted that US LEC's tariff did not contain a description of either the jointly provided access service that it claims to offer or the terms and conditions under which such service would be billed to interexchange carriers.

MCI also urged that the Commission act promptly to deny the US LEC petition. MCI noted that it has disputed approximately \$25 million in US LEC charges that do not appear to be generated by end users on US LEC's network and that that amount would continue to grow by about \$1 million per month until the FCC resolved the issues pending before it.

With respect to the pending petitions for declaratory ruling filed by AT&T and Vonage, consistent with its prior written submissions in those proceedings, MCI recommended that the Commission grant both petitions. MCI also stressed that much of the concern generated by the emergence of broadband technology that can offer voice services reflects the fundamental flaws in the existing system of intercarrier compensation.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being provided to you for inclusion in the public record of the above-referenced proceedings.

Sincerely,

/s/ A. Richard Metzger, Jr.

A. Richard Metzger, Jr.

cc: Lisa Zaina