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VIA E-MAIL

October 14, 2005

Re: WC Docket No. 05-65
WC Docket No. 05-75

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

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, this will provide notice that Ronald Gavillet, Executive Vice President, Neutral Tandem, Inc., ("Neutral Tandem") and the undersigned on October 13, 2005 met with: Russell Hanser, Office of Commissioner Kathleen Q. Abernathy; Scott Bergmann, Office of Commissioner Jonathan S. Adelstein; and Donald Stockdale, Terri Natoli, Bill Dever, and Marcus Maher, Wireline Competition Bureau; and on October 14, 2005 met with Jessica Rosenworcel, Office of Commissioner Michael J. Copps, concerning issues in the above-captioned proceedings. A summary of the presentation follows.

Neutral Tandem provides competitive tandem switching and transit services in 12 markets nationwide. Among other services, Neutral Tandem permits CLECs, wireless carriers, and cable companies to interconnect and exchange traffic without using RBOC transit services. Its services promote a diverse, reliable, redundant, disaster-resistant, and more efficient public switched telephone network. Apart from benefits to the public, Neutral Tandem's service provides significant benefits to customers, including lower per minute transit charges, reduced port charges and nonrecurring fees; simpler network configurations, increased network reliability, improved quality of service and traffic transparency, which helps prevent the types of "phantom traffic" issues that often plague rural ILECs when interconnected with RBOC tandems. The availability of Neutral Tandem's services also helps to level the playing field by increasing competitive carriers' leverage with RBOCs.

Neutral Tandem provides service to, and/or has direct connections with, nearly every major CLEC, CMRS, and Cable provider, including AT&T and MCI. However, two carriers--

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one an affiliate of Verizon and one an affiliate of SBC--have refused to establish direct connections with Neutral Tandem for the termination of transit traffic from competitive carriers even though traffic volumes justify a direct connection. In the *Virginia Arbitration Proceeding*, Verizon persuaded the Commission that carriers should be required to establish direct connections when traffic volumes reach the level of 1 T-1.¹ In addition, most RBOC interconnection agreements provide that the competitive carrier will establish direct connections with other carriers when transit traffic volumes reach the level of 1 T-1.² Thus this refusal to direct connect by the Verizon and SBC affiliates is contrary to the RBOC's stated positions on direct connections. Moreover, the refusal to direct connect is especially egregious in light of the fact that Neutral Tandem has offered to pay 100% of the transport costs when it establishes the direct connection, thus reducing these RBOC affiliates' transport costs. Direct connection is consistent with Section 201(a) of the Act and state policies and rules, and the discriminatory refusal to interconnect by these RBOC affiliates violates Sections 201(b) and 202 of the Act, as well as years of FCC policies. But pursuing a complaint under Section 208 to enforce those requirements can be burdensome and time-consuming, especially for competitive carriers challenging RBOC affiliates.

The harm caused by the policies of Verizon and SBC not to permit their affiliates to establish direct connection with competitive transit service providers will be exacerbated by the proposed mergers of Verizon with MCI and of SBC with AT&T because those policies will be extended to the MCI and AT&T switches, thus depriving competitive carriers of the ability to use a competitive transit provider to terminate traffic to these switches. AT&T and MCI could, over a relatively brief period of time, terminate their current direct connections with Neutral Tandem. AT&T and MCI could also refuse to establish direct connections with Neutral Tandem in new markets. The extension of Verizon's and SBC's policies to MCI and AT&T,

¹ Perhaps the most definitive recent statement by the Commission on this topic is in the *Verizon – Worldcom Virginia Arbitration Order* – the only instance in which the Commission conducted a full interconnection agreement arbitration pursuant to §§ 251 and 252 of the Act. *Petition of Worldcom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for the Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, Memorandum Opinion and Order, 17 FCC Rcd 27039, 27079 -27084 (2002) (“*Verizon – Worldcom Virginia Arbitration Order*”). In its recent reply in the Commission's Intercarrier Compensation proceeding, Verizon reiterated the position that direct connection is necessary for carriers that handle large volumes of traffic. Specifically, Verizon repeated the position it took before the Commission in the Virginia Arbitration proceeding: “Verizon, for example, finds that it is inefficient to use its tandem switches for transiting when the volume of traffic exchanged between two indirectly interconnected carriers is consistently at a level sufficient to fill at DS1.” Reply Comments of Verizon In Response to Further Notice of Proposed Rulemaking, filed in CC Docket No. 01-92 on July 20, 2005, at 8-9, citing *Verizon – Worldcom Virginia Arbitration Order*.

² For example, page 12 of the Intercarrier Compensation Appendix of Neutral Tandem's SBC interconnection agreement provides:

- 10.5 CLEC will establish sufficient direct trunk groups between CLEC and a Third Party's network when CLEC's traffic volumes to said Third Party require twenty-four (24) or more trunks.

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respectively, is a merger-specific harm that should be addressed through appropriate conditions on any approval of the proposed mergers.

In order to prevent the extension of these RBOC polices against direct connection to AT&T and MCI, Neutral Tandem requests that the Commission impose the conditions set forth in the attached document . These conditions would not be burdensome for RBOCs because, as stated, (i) it is more efficient to establish direct connect when traffic volumes warrant, (ii) Neutral Tandem pays 100% of the cost of the transport, and (iii) the conditions are consistent with RBOC interconnection requirements. Nor would these conditions be difficult for the Commission to administer. AT&T and MCI would merely continue their practice of direct connection pursuant to the objective industry standard that direct interconnection is warranted when traffic volumes reach a level of 1 T-1 .

Sincerely,

A handwritten signature in black ink, appearing to read 'Pat', with a long horizontal flourish extending to the right.

Patrick J. Donovan

CC:

Michelle Carey
Russell Hanser
Jessica Rosenworcel
Scott Bergmann
Tom Navin
Donald Stockdale
Terri Natoli
Bill Dever
Marcus Maher



Proposed Conditions

- **To Prevent the Extension of the RBOC Policies Against Direct Interconnection to AT&T and MCI, the Merged Companies Must:**
 - ***Maintain direct connections utilized by third party carriers for the termination of transit traffic (exceeding a T-1 in volume per terminating switch)***
 - ***Accept direct interconnection upon request for the termination of third party transit traffic (exceeding a T-1 in volume per terminating switch)***