

May 15, 2006

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Bingham McCutchen LLP
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Re: Notification of *Ex Parte* Meeting of Neutral Tandem, Inc.
WC Docket No. 06-55

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Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("Commission") Rules, 47 C.R.F. § 1.1206, this letter serves to provide notice in the above-captioned proceeding of an *ex parte* meeting on May 12, 2006. The undersigned accompanied Rian Wren and Ronald Gavillet of Neutral Tandem, Inc. ("Neutral Tandem") in a meeting with Jeremy Miller, Renee Crittendon, and Jennifer Schneider of the Wireline Competition Bureau, Competition Policy Division.

The purpose of the meeting was to provide an overview of Neutral Tandem's business, and to update the Commission on Neutral Tandem's views on the Petition for Declaratory Ruling filed by Time Warner Cable, which were consistent with the company's comments and reply comments filed in the above-captioned docket. Further, Neutral Tandem informed the Commission that the issues involved in this proceeding, particularly with respect to the ability of wholesale service providers to obtain direct interconnection to provide transit and other interconnection services, are identical to those faced by Neutral Tandem with respect to its ongoing issues with the ILECs, as explained in Neutral Tandem's comments and reply comments. Neutral Tandem also provided Commission staff with a presentation addressing these issues, attached hereto, and discussed the same.

Neutral Tandem emphasized that the Commission's declaratory ruling in this case should expressly state that telecommunications carriers' rights and duties under *all* provisions of Section 251, including the obligation of non-discrimination, are not affected by whether the requesting carrier directly serves end-users or serves other carriers or service providers.

Neutral Tandem

Time Warner Cable Petition for Declaratory Ruling

WC Docket No. 06-55

May 12, 2006

Overview

- **Critical Issue: Neutral Tandem and other providers must be allowed to resell interconnection services, including transit, without discrimination.**
- **The TWC Petition included prohibitions on the resale of transit:**

South Carolina Facts

TWC ↔ MCI ↔ Horry ↔ ILEC

Resale of Verizon Transit

CLEC 1 ↔ Neutral Tandem ↔ Verizon ↔ CLEC 2

Issue 1: Right to Resell ICA Services, Including Transit

- South Carolina proceeding addressed the resale of interconnection services, including transit.
- Communications Act and FCC precedent allow wholesale providers to interconnect as telecom carriers.
 - Even Verizon and AT&T (and most other non-RLEC commenters) support this position in their filings.
- Public policy benefits:
 - Promotes (**intermodal**) competition.
 - Limits ILECs' seeking to "throttle" competition by limiting capacity.
 - Improved efficiency.
 - Reduced costs.
 - More robust **Homeland Security**.
 - Provides redundancy.
 - Faster disaster recovery.

Issue 2: Interconnection Includes **Subtending Switches**

- In the South Carolina decision, the PSC allowed the ICA to address ILECs subtending (*i.e.*, homing) off of Horry Telephone but refused MCI similar rights with respect to the Time Warner switch.
- Similarly, competitive carriers seek to designate Neutral Tandem as their homing tandem in order for Neutral Tandem to serve as an overflow route for the termination of traffic, both local and long distance, in the event that other direct connections are over-capacity or out of service.
- ILECs **discriminate** in favor of their tandems by refusing to recognize these requests.
- Such refusals negate the selection of the competitive carriers' homing tandem selection and prevent the creation of a redundant call termination path for network diversity purposes, thus compromising the network survivability of the PSTN.

Issue 3: Right of Transit Carriers to Direct Interconnect

- Addressed in AT&T's comments:
 - *Neither Section 251(a) nor Section 251(c)(2) contains any provisions relieving terminating carriers of their obligation to interconnect with another telecommunications carrier simply because that telecommunications carrier does not directly serve end user customers.*
- AT&T and Verizon affiliates, however, have **discriminated** in favor of their tandem services by repeatedly refusing Neutral Tandem's requests for direct connecting.
- Direct connection provides tandem competition while strengthening the reliability of the PSTN by creating multiple call termination paths, thus benefiting homeland security.

Conclusion

The Commission should take this opportunity to make clear that wholesale providers must be allowed to resell interconnection services, including transit, without any form of discrimination (e.g., against homing arrangements and direct connections).

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