

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Petition for Interconnection of Neutral
Tandem, Inc. Pursuant to 47 U.S.C. §
201(a) and 332(c)(1)(B)

WC Docket No. 06-159

REPLY COMMENTS OF VERIZON WIRELESS

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INTRODUCTION AND SUMMARY

Verizon Wireless demonstrated in its opening comments¹ on Neutral Tandem's request for a new federal entitlement to connection with Verizon Wireless² that Neutral Tandem's sweeping demand is irreconcilable with existing Commission precedent. In particular, granting the request would require a radical departure from the Commission's traditional reliance on the marketplace to govern physical connections with commercial mobile radio service ("CMRS") providers. The fact that Verizon Wireless has declined to extend its private contractual agreement with Neutral Tandem is not evidence of a market failure that would warrant government intervention. Indeed, Neutral Tandem ironically seeks such intervention to compete against incumbent local exchange carrier ("ILEC") rates that, in some cases, the government itself sets.

Nothing in the comments received in this docket rebuts these points or otherwise makes a legitimate case for the radical action sought by Neutral Tandem. Specifically, while various commenters attempt to distinguish the FCC's previous determinations that the public interest is served by private negotiations regarding CMRS network connection, those arguments are unavailing. While some commenters claim that those precedents involve other CMRS carriers or resellers, this does not end the analysis. The point is that if there is no public interest basis for mandatory CMRS-CMRS or CMRS-reseller connection, there can, as a matter of policy and logic, be no such basis for mandatory CMRS connection with third-party transit providers such as Neutral Tandem. The

¹ Comments of Verizon Wireless, WC Dkt. No. 06-159 (Sept. 8, 2006) ("Verizon Wireless Comments").

² Petition for Interconnection of Neutral Tandem, Inc. Pursuant to Sections 201(a) and 332(c)(1)(B) of the Communications Act of 1934, as Amended, WC Dkt. No. 06-159 (Aug. 2, 2006) ("*Petition for Rulemaking*").

rationale underlying those precedents is fully applicable here. Nor has Verizon Wireless ever claimed, as some commenters suggest, that it is somehow exempt from Section 201(a). The public interest simply does not support the application of Section 201(a) here to create the entitlement that Neutral Tandem seeks.

Other commenters mischaracterize the public interest in asserting that Verizon Wireless should be ordered to connect with Neutral Tandem. For instance, some commenters assert that connection with Neutral Tandem does not cost Verizon Wireless anything, and that its refusal to extend its contract with Neutral Tandem must therefore be anti-competitive. But as Verizon Wireless has repeatedly demonstrated, connection with Neutral Tandem *does* cost Verizon Wireless real dollars as well as lost efficiencies and opportunity costs associated with its inability to enter more efficient arrangements.

Moreover, Verizon Wireless's business decisions about the efficiencies and relative merit of direct connections with alternative transit providers such as Neutral Tandem have nothing to do with its affiliation with Verizon Communications. In many markets where Neutral Tandem is pursuing connection, Verizon is not even the relevant ILEC. Even where Verizon is the ILEC, Verizon Wireless has taken actions to establish direct connection with carriers other than Verizon and is seeking to deploy IP-enabled technology that will bypass Verizon's tandems entirely. All carriers, including Verizon Wireless, are driven to reduce costs, and the market allows for this. If Neutral Tandem or its customers are unhappy with the tandem services offered by ILECs generally, that is no basis for imposing a burdensome connection duty on CMRS carriers.

Certain commenters also misstate the nature of the dispute. It is not the case that Verizon Wireless has refused to interconnect with Neutral Tandem's carrier customers.

Verizon Wireless accepts all traffic from such customers, but does so indirectly. There is no question here whether traffic will be delivered to and from end-users: the only issue is whether Neutral Tandem will have a federal right to insert itself into that delivery chain. Relatedly, Verizon Wireless is not a “bottleneck” facility such that the establishment of mandatory connection could be warranted on an antitrust-type theory. This assertion is entirely out of place in the CMRS context. A bottleneck facility is one that cannot be efficiently replicated, but there are numerous CMRS networks in the United States, and the CMRS marketplace is robustly competitive. To the extent that there is a concern about terminating access and the fact that Verizon Wireless’s customers can only be reached through Verizon Wireless’s network, that is true for *all* carriers that have end-user customers, and Verizon Wireless has every business interest in ensuring, as it has done via its existing connection arrangements, that its customers can receive calls.

Finally, the homeland security issues raised by commenters are unfounded. No commenter provides any facts or estimates about any alleged benefits Neutral Tandem’s presence in specific markets might have related to disaster readiness or preparedness. Indeed, to the extent that Neutral Tandem is collocated at ILEC facilities and uses ILEC transport, the addition of Neutral Tandem’s switching facilities will add network complexity and reduce efficiency with very little or no gain in terms of survivability. The same catastrophic events, whether natural or man-made, that might affect an ILEC tandem or the transport leading to that tandem would equally affect Neutral Tandem’s collocated facilities. But if the Commission nonetheless believes these are issues worthy of further consideration, they ought to be addressed in the pending proceeding on the Katrina Report.

For all these reasons, it is clear that Neutral Tandem's request for mandatory connection with Verizon Wireless cannot be squared with the Commission's past – and *correct* – views on CMRS connection. What the comments do show, however, is that the questions presented by Neutral Tandem cannot fairly be limited to one CMRS carrier because they have a broad impact on interconnection policy in general. An FCC order requiring Verizon Wireless to connect with Neutral Tandem would be a dramatic step backwards with respect to interconnection policy, even as the Commission is attempting to step away from regulation of intercarrier compensation. The Commission should not address indirectly in this proceeding the issue of transit competition that is directly at issue in the broader intercarrier compensation reform docket, where the FCC can address the issues raised by Neutral Tandem's *Petition for Rulemaking*.

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I. COMMENTERS PROVIDE NO BASIS ON WHICH TO ORDER VERIZON WIRELESS TO CONNECT WITH NEUTRAL TANDEM

In its opening comments, Verizon Wireless set forth the prior Commission decisions that requiring CMRS carriers to permit direct connections to their networks is not in the public interest. Verizon Wireless explained in detail why the same policy considerations that led the FCC to reject prior attempts to require direct CMRS connection must also lead the agency to deny the instant *Petition for Rulemaking*.³ Several commenters attempt to distinguish these cases or offer alternative legal theories to support Neutral Tandem’s request. The Commission should reject these arguments.

McLeodUSA makes the unsupported allegation that the precedent cited by Verizon Wireless is irrelevant because it deals with resellers.⁴ However, McLeodUSA makes no attempt to explain why this is a distinction with a difference. As Verizon Wireless explained in its comments, the public policy reasons for denying Neutral Tandem’s *Petition for Rulemaking* are even stronger than the reasons for not mandating direct connection for resellers and other end-user providers.⁵ Because Neutral Tandem does not provide service to any end users, a direct path to Neutral Tandem’s facilities does not create a direct connection between carriers and would not enhance overall network efficiency.

McLeodUSA also argues that the Commission’s changes to the unbundled network element (“UNE”) structure in the *Triennial Review Remand Order* somehow make it more

³ Verizon Wireless Comments at 11-14.

⁴ Comments of McLeodUSA Telecommunications Services, Inc., WC Dkt. No. 06-159, at 4 (Sept. 8, 2006) (“McLeodUSA Comments”).

⁵ Verizon Wireless Comments at 12.

difficult for competitive carriers to find tandem service.⁶ This argument is completely irrelevant to the question posed by Neutral Tandem’s *Petition for Rulemaking*. The UNEs that may or may not be available from ILECs have nothing to do with the CMRS market, which is robustly competitive.⁷ Moreover, the Commission’s determination in the *Triennial Review Remand Order* that certain UNEs were no longer necessary was an acknowledgment of the growth of competition,⁸ and cannot be parlayed into a need for greater regulation in an unrelated, competitive context. Indeed, the Commission has recognized that the UNE framework should not be distorted to compensate for alleged concerns in other areas.⁹

Contrary to the claims of some commenters, Section 332 also cannot be used to justify mandating direct connection between Verizon Wireless and Neutral Tandem.¹⁰ Section 332(c)(1)(b) states “[u]pon reasonable request of any person providing commercial mobile radio service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of Section 201 of this title.”¹¹ By its plain terms, however, Section 332(c)(1)(B) is designed to prevent common carriers from refusing to connect to CMRS carriers, not to mandate CMRS direct connection with carriers such as Neutral

⁶ McLeodUSA Comments at 4-5 (citing *Unbundled Access to Network Elements*, Order on Remand, 20 FCC Rcd 2533 (2004) (“*Triennial Review Remand Order*”).

⁷ *Triennial Review Remand Order* at 2536 ¶ 3 (noting that “the long distance and wireless markets are sufficiently competitive for the Commission to decline to unbundle network elements to serve those markets.”)

⁸ *Id.* at 2546-47 ¶¶ 22-23 (discussing unbundling standard).

⁹ *Id.* at 2546, ¶ 23 (“[w]e also take this opportunity to emphasize that neither the impairment inquiry nor the other aspects of the unbundling framework should be distorted to compensate for alleged failings in related but distinct areas of the Commission’s regulatory regime.”) The reverse must also be true—the unrelated *and already robustly competitive* CMRS market should not be distorted by regulation aimed at fixing alleged deficiencies in the UNE framework.

¹⁰ McLeodUSA Comments at 4; Comments of Comptel, WC Dkt. No. 06-159, at 6 (Sept. 8, 2006) (“Comptel Comments”).

¹¹ 47 U.S.C. § 332(c)(1)(B).

Tandem.¹² The statute allows the Commission to order physical connections upon the request of “any person providing commercial mobile [radio] service,”¹³ and because Neutral Tandem is not providing commercial mobile radio service, this statutory provision simply does not apply.

Further, in arguing that Verizon Wireless is not exempt from Section 201(a), Comptel is battering down a straw man.¹⁴ Verizon Wireless has never claimed to be *exempt* from Section 201(a), and thus the fact that Section 332 prohibits the Commission from exempting CMRS carriers from Section 201(a) is irrelevant to this matter. It has been Verizon Wireless’s consistent position that Neutral Tandem is free to petition the Commission for direct connections with Verizon Wireless under Section 201(a). However, Verizon Wireless has demonstrated that a grant of the petition would not be in the public interest, and the Commission cannot order direct connection under Section 201(a) in such circumstances. In this case, as in the other circumstances where the FCC has considered direct CMRS connection, there are strong public policy reasons for allowing the competitive market to operate without interference, and there is no justification for contravening this long-standing Commission policy.

II. THE COMMISSION SHOULD IGNORE COMMENTS THAT MISSTATE THE PUBLIC INTEREST BENEFITS OF THE PETITION

A. Neutral Tandem’s Demand Would Impose Costs on Verizon Wireless

Certain parties assert that connection with Neutral Tandem costs Verizon Wireless nothing,¹⁵ and that Verizon Wireless’s refusal to continue its arrangement with Neutral Tandem

¹² See Comments of Rural Cellular Association, WC Dkt. No. 06-159, at 2-3 (Sept. 8, 2006).

¹³ 47 U.S.C. § 332(c)(1)(B) (emphasis added).

¹⁴ Comptel Comments at 7.

¹⁵ *Id.* at 2.

must therefore be anti-competitive.¹⁶ None of these commenters has any factual basis for making these assertions, and each appears to be simply repeating the arguments made by Neutral Tandem. As Verizon Wireless has already explained, these arguments are not correct.¹⁷ There are real monetary costs, as well as opportunity costs, associated with direct connections to Neutral Tandem, such as the costs of equipment necessary to handle the connections and the loss of the use of the ports that Verizon Wireless could otherwise use for more efficient direct connections.¹⁸

Verizon Wireless has repeatedly demonstrated that there are other tangible costs that connection with Neutral Tandem imposes on Verizon Wireless that were not compensated via the Master Service Agreement (“MSA”) that governed the parties’ connection in New York, Michigan and Illinois, including the costs associated with switch ports, digital cross-connect ports, and echo cancellers. A mandate to connect with Neutral Tandem in all of the markets it serves could, depending on the volume of traffic that Neutral Tandem sent to Verizon Wireless, cost Verizon Wireless millions of dollars.¹⁹ Wireless carriers use switch ports to connect their switches to cell sites and for call hand-off purposes. Landline carriers do not have similar considerations because they do not offer mobile service. Wireless carriers must therefore be even more judicious than landline carriers in allocating switch ports to inefficient uses.

¹⁶ McLeodUSA Comments at 5; Comptel Comments at 3; Comments of Integra Telecom Holdings, Inc., WC Dkt. No. 06-159, at 4 (Sept. 8, 2006) (“Integra Comments”).

¹⁷ Verizon Wireless Comments at 24-26.

¹⁸ *Id.* at 25-26.

¹⁹ The precise amount is difficult to determine because there can be significant variability in the cost of these inputs depending on the geography, the brand of switch, and whether existing hardware is in place to accommodate an additional connection.

Two additional cost components are efficiency losses and opportunity costs associated with establishing inefficient connections. Given that switch ports are a finite resource, Verizon Wireless enters into direct interconnection arrangements only when there is sufficient traffic between two switch points to justify a dedicated facility. Connection to Neutral Tandem would not provide the same efficiencies as direct interconnection between two switch points. This is the case because Verizon Wireless must maintain its connections to the public switched telephone network (“PSTN”), and the routing points for the PSTN are contained in the Local Exchange Routing Guide (“LERG”). Neutral Tandem is *not* in the LERG, and Verizon Wireless already has large, efficient routes with the ILEC to receive indirect traffic. Establishing additional connections with Neutral Tandem therefore would only increase the number of connections necessary for indirect traffic, and decrease the availability of ports that could be used for more efficient direct connection, which would be a wasteful and duplicative use of network resources.

McLeodUSA claims that purchasing service from Neutral Tandem permits carriers to circumvent existing ILEC transit, translating into customer savings.²⁰ Even if CLECs passed through to their customers the savings that they claim result when they use Neutral Tandem’s service, however, this ignores the additional costs to wireless carriers identified above. In addition, contrary to McLeodUSA’s claim, Neutral Tandem has not “offered to limit its direct connections to those locations where it is most efficient,”²¹ whatever the commenter means by this. The *Petition for Rulemaking* seeks much broader relief.²²

²⁰ McLeodUSA Comments at 2.

²¹ *Id.* at 5.

²² See *Petition for Rulemaking* at i (asking FCC to “require Verizon Wireless to establish a connection, adequate for the relevant level of traffic, in all markets served by both Verizon Wireless and Neutral Tandem”).

Cbeyond also claims that the thresholds that ILECs often impose for direct connections are too low, and that if Neutral Tandem does not connect with Verizon Wireless, it would be forced to deploy inefficient network architectures.²³ Verizon Wireless disagrees with Cbeyond on its point that direct connection is inefficient if there is at least one DS-1 of traffic between two switch points. But even if Cbeyond were right, the solution is not to impose inefficiencies on Verizon Wireless. If regulation is appropriate at all (and it is not), the Commission should consider it in the context of broader intercarrier compensation reform.²⁴

Although Comptel says Verizon Wireless should not “dictate” how a third-party carrier delivers its traffic to Verizon Wireless,²⁵ the company has a strong interest in maintaining the integrity of its network, which the company believes is the best, most reliable CMRS network in the industry. Moreover, as Verizon Wireless has explained, Neutral Tandem breached its contract and tariffs by transmitting traffic to Verizon Wireless from carriers with which Verizon Wireless did not have interconnection agreements and without providing proper call detail records.²⁶ In light of the inefficiencies, both business and technical, posed by Verizon Wireless’s relationship with Neutral Tandem, and Neutral Tandem’s actions during the period when Verizon Wireless and Neutral Tandem operated under a voluntary agreement, it is hardly

²³ Comments of Cbeyond, Inc., WC Dkt. No. 06-159, at 2 (Sept. 8, 2006).

²⁴ As NCTA points out, “the [FCC] specifically sought comment” in the intercarrier compensation reform docket “on the scope of Sections 201(a), 251(b), and 251(c) as they relate to transit.” Comments of National Cable & Telecommunications Association, WC Dkt. No. 06-159, at 6 (Sept. 8, 2006). The Missoula Plan, for example, provides a detailed rule related to tandem exhaust, and although Verizon Wireless does not support the Missoula Plan, the Missoula Plan demonstrates that tandem exhaust implicates broader interconnection policies that the Commission should consider in its intercarrier compensation reform docket.

²⁵ Comptel Comments at 3.

²⁶ Verizon Wireless Comments at 10-11.

“unreasonable” or “anti-competitive”²⁷ for Verizon Wireless to decline further direct connections with Neutral Tandem. To the extent that Neutral Tandem refuses to comply with the contract, its tariff, and standard industry practices in sending traffic to Verizon Wireless, Verizon Wireless clearly has a more than legitimate interest in declining to accept direct connection with Neutral Tandem.

B. Verizon Wireless Has Not Refused Connection with Neutral Tandem Because It Is Affiliated with Verizon

McLeodUSA’s suggestion, by defining “Verizon Wireless, Inc.” as “Verizon Wireless” or “Verizon,” that Verizon Wireless and Verizon are the same entity is simply false.²⁸ In fact, there is no entity called “Verizon Wireless, Inc.,” and as Verizon Wireless set forth in its opening comments, Verizon Wireless is a joint venture between Verizon and Vodafone plc.²⁹ To the extent that McLeodUSA is using this rhetorical device to imply that Verizon Wireless is biased in favor of Verizon ILEC tandem arrangements, there is utterly no merit to this suggestion. Verizon Wireless has already stated that in two of the three markets where Neutral Tandem and Verizon Wireless used to have a business relationship, Verizon is not the serving ILEC.³⁰ In the third market, New York, Verizon Wireless is moving the majority of traffic that previously transited Neutral Tandem’s network onto more efficient direct connections with the originating carrier, and this traffic will thus not be moved onto Verizon’s tandems.³¹

²⁷ Comptel Comments at 4.

²⁸ McLeodUSA Comments at 1.

²⁹ Verizon Wireless Comments at 22.

³⁰ *Id.*

³¹ *Id.*

In addition, Verizon is not the ILEC in the majority of the markets that are the subject of Neutral Tandem's Petition. Even in those markets where Verizon is the ILEC, however, if Verizon Wireless declines to connect directly with Neutral Tandem, it does not necessarily benefit Verizon. For example, Cablevision Lightpath and Verizon Wireless have recently reached terms of a contract that covers New York, New Jersey, and Connecticut, and that will provide Cablevision Lightpath with direct interconnection. This will enable Cablevision Lightpath to deliver directly to Verizon Wireless traffic that, in New York, Neutral Tandem currently carries. As a result of this arrangement, Cablevision Lightpath's traffic will soon be removed from Neutral Tandem's network, but that traffic will not be routed onto the Verizon ILEC's tandem in any of the areas it serves. Indeed, this arrangement and others like it, such as the shift to IP-enabled services, will do much more to facilitate bypass of Verizon's tandem than any agreement with Neutral Tandem would.

As much as the commenters would like the Commission to believe that they are focused on promoting transit competition with ILECs and the efficiencies associated with having alternative tandem service, the fact is that Neutral Tandem's business only makes sense when it can undercut the ILECs' tandem rates, which in some cases are established by government mandate. In that context, the ILEC cannot change its rate and Neutral Tandem can successfully undercut it. Verizon Wireless has seen this first-hand in Detroit, where Neutral Tandem scaled back its expectations for traffic dramatically when the state commission lowered AT&T Michigan's transit rate. Many of the purported advantages of Neutral Tandem's service to its customers boil down to the rate Neutral Tandem charges, not whether its service is truly efficient or promotes competition.

In any event, concerns about the level of competition in ILEC tandem services should be dealt with directly in the intercarrier compensation docket and not indirectly (and inefficiently) by imposing an unprecedented connection obligation on Verizon Wireless.³² Even if these concerns were relevant in this proceeding, Neutral Tandem has not alleged that the end of its contractual relationship with Verizon Wireless will jeopardize its business, and Verizon Wireless makes up a relatively small overall percentage of transit traffic. To the extent that Neutral Tandem is able to negotiate arrangements with *other* carriers (as it claims to have done), it has not shown any need for government intervention. Neutral Tandem's presence in the market will provide competition with ILEC tandems with or without direct connections to Verizon Wireless.

C. Contrary to the Suggestions of Certain Commenters, Verizon Wireless Has Not Refused to Interconnect with Neutral Tandem's Carrier Customers

A number of commenters attempt to make much of their suggestion that Verizon Wireless has refused to connect at all with Neutral Tandem.³³ In fact, while Verizon Wireless has decided to terminate the contract with Neutral Tandem that provided for *direct* connection, this is not the same as "refus[ing] to interconnect," as Comptel claims.³⁴ Verizon Wireless will still accept all traffic from Neutral Tandem's carrier customers that is routed indirectly to Verizon Wireless's network. This arrangement will not impact end-user customers because, as explained above, Neutral Tandem does not provide service to end users and therefore it is not necessary for Verizon Wireless to connect with Neutral Tandem in order to terminate customer traffic.

³² See *supra* note 9.

³³ McLeodUSA Comments at 4; Integra Comments at 1-2; Comptel Comments at 2.

³⁴ Comptel Comments at 2.

Mandating direct connections with Neutral Tandem would not “increase [] network connectivity.”³⁵ Even without a direct connection, Verizon Wireless and Neutral Tandem’s carrier customers can still exchange traffic indirectly, and there will be little, if any, impact on overall network connectivity. Carriers that serve end-users can still send traffic to Verizon Wireless’s network using other means.

For similar reasons, McLeodUSA’s suggestion that Verizon Wireless “has refused to even consider connecting with Neutral Tandem,” is also incorrect.³⁶ Verizon Wireless and Neutral Tandem had a contractual relationship and did business, and while Verizon Wireless considered either expanding or extending this relationship, experience showed that it was not in the company’s business interest.

D. Verizon Wireless Is Not a Bottleneck

Contrary to the suggestion of some commenters,³⁷ Verizon Wireless’s network does not constitute a bottleneck. A bottleneck facility is one that cannot be efficiently replicated. As the FCC has recognized again and again, the CMRS marketplace is robustly competitive,³⁸ and there are numerous CMRS networks in the United States. Customers who are dissatisfied with Verizon Wireless’s service can select from several other facilities-based CMRS carriers and MVNOs with national footprints, as well as regional carriers in many markets. Because the CMRS marketplace is competitive, if Verizon Wireless attempted to take anti-competitive

³⁵ McLeodUSA Comments at 2.

³⁶ *Id.* at 5.

³⁷ *Id.*; Integra Comments at 1.

³⁸ *See, e.g., Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Tenth Report, 20 FCC Rcd 15908, 15911 ¶ 2 (2005) (noting that “97 percent of the total U.S. population lives in counties with access to three or more different operators offering mobile telephone service.”).

actions its customers could (and would) quickly move to other carriers. To the extent there is a concern about terminating access and the fact that Verizon Wireless's customers can only be reached through Verizon Wireless's network, that is true for *all* carriers that have end-user customers, and Verizon Wireless has every business interest in ensuring, as it has done via its existing connection arrangements, that its customers can receive calls.

III. THE COMMISSION CANNOT JUSTIFY REVERSING ITS LONGSTANDING POLICIES PROMOTING CMRS COMPETITION BASED ON HOMELAND SECURITY CONCERNS

A. No Commenter Provides Specific Information About Any Alleged Benefit to Network Survivability

While a number of commenters claim generally that mandating direct connections with Neutral Tandem will “improve[] disaster recovery and result[] in enhanced homeland security,”³⁹ just as with Neutral Tandem, commenters are unable to provide anything beyond general blandishments that network survivability or recovery will improve. No commenter provides any facts or estimates about any alleged benefits Neutral Tandem's presence in specific markets might have on disaster readiness or preparedness.

As Verizon Wireless showed in its opening comments, to the extent that Neutral Tandem is collocated at ILEC facilities and uses ILEC transport, the addition of Neutral Tandem's switching facilities will add network complexity and reduce efficiency with very little or no gain in terms of survivability. The same catastrophic events, whether natural or man-made, that might affect an ILEC tandem or the transport leading to that tandem would have the same effect

³⁹ Comptel Comments at 3; *see also* Integra Comments at 3; McLeodUSA Comments at 3.

on Neutral Tandem's collocated facilities.⁴⁰ Direct connections are greatly superior in this regard, because they reduce the number of central points of vulnerability.⁴¹

The details of Verizon Wireless's network operations bear this out. In some markets, Verizon Wireless leases or purchases a fiber ring that connects all of its switches. The ILEC tandem is connected to a Verizon Wireless node on that ring, and this node serves as an entry and exit point to and from the Verizon Wireless ring. Neutral Tandem connects to Verizon Wireless either by collocating with the ILEC and delivering traffic in the wire center to the Verizon Wireless node *or* by leasing its own ring and cross-connecting its node to the Verizon Wireless node. Where Neutral Tandem is so connected, its presence does not necessarily enhance survivability. For example, if Neutral Tandem leases a collocation cage from AT&T at a tandem location in Houston where Verizon Wireless is also connected via a node, if Houston floods, AT&T's tandem will be under water, but Neutral Tandem's tandem, even if it does not flood, will not increase survivability of the network. This is the case because traffic will *not* flow between Neutral Tandem's customers and Verizon Wireless customers if the Verizon Wireless node is located in the AT&T wire center that was flooded in Houston. The important factual issue for purposes of survivability, then, is that the wire center is the common point of interface, which is where connectivity takes place, and the location of the switches themselves is irrelevant.

For these reasons, Neutral Tandem's transparent attempt to wrap its *Petition for Rulemaking* in the mantle of "homeland security" should be rejected. The Commission cannot ignore the obvious public policy harms of mandating direct connection in favor of generalized

⁴⁰ Verizon Wireless Comments at 21.

⁴¹ *Id.*

allegations regarding disaster preparedness. In the absence of specific, sufficient information quantifying the alleged benefit that mandating direct connections with CMRS carriers would have on network survivability, the Commission should not consider this factor in the public interest analysis.

B. To the Extent the FCC Wishes to Address Network Survivability, It Should Do So in the Katrina Proceeding

Citations to the Katrina panel report are not apposite to this proceeding.⁴² There is no evidence that ordering direct connection with CMRS carriers generally will have any salutary effect on resolving any of the problems noted in the report, let alone that imposing a direct connection requirement on Verizon Wireless with respect to Neutral Tandem will do so.

Even if there were specific benefits that might flow from granting Neutral Tandem's *Petition for Rulemaking*, it is both inefficient and inappropriate to place the burden of these alleged "homeland security" improvements on Verizon Wireless (and other CMRS carriers) through this proceeding. If there are systematic steps that should be taken to improve the disaster-preparedness of CMRS networks, these issues should be considered in a broader proceeding where the Commission can fully evaluate their costs and benefits, and consider the degree to which private entities should shoulder the burden of safeguarding the Nation's critical infrastructure.

Indeed, the Commission has already initiated a proceeding to consider the recommendations of the Katrina panel.⁴³ That proceeding is the appropriate venue for building record evidence and studying potential solutions to the various issues put forth by the Katrina

⁴² McLeodUSA Comments at 3.

⁴³ *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, Notice of Proposed Rulemaking*, 21 FCC Rcd 7320 (2006).

panel, including tandem vulnerability and increased diversity of traffic routing.⁴⁴ Just as with the intercarrier compensation issues raised by the Neutral Tandem *Petition for Rulemaking*, the FCC should avoid taking action in this docket that might pre-judge or jeopardize the agency's flexibility in the larger, more comprehensive ongoing proceeding covering the same concerns.

IV. CONCLUSION

For the foregoing reasons, and those set forth in the Comments of Verizon Wireless, Neutral Tandem's *Petition for Rulemaking* should be rejected.

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⁴⁴ It is telling that McLeodUSA only advocates Neutral Tandem's alleged disaster recovery benefits in this proceeding, and did not find that they merited comment where they would be most relevant, in the Katrina docket.