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January 18, 2007

By Electronic Filing

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

Re: *Ex Parte*
WC Docket No. 05-68

Dear Ms. Dortch:

On January 18, 2007, Thomas W. Bade, President of Arizona Dialtone, Inc., Paul K. Brooks, its consultant, and the undersigned held meetings with Michelle Carey, Senior Legal Advisor to Chairman Martin; and Marcus Maher of the Wireline Competition Bureau, to discuss Arizona Dialtone's Petition for Reconsideration in the above-referenced proceeding. The attached handout was used during these meetings.

Please direct any correspondence concerning this matter to the undersigned counsel.

Sincerely,

A handwritten signature in black ink that reads "James M. Smith". The signature is written in a cursive style with a long horizontal line extending to the right.

James M. Smith
Counsel to Arizona Dialtone Inc.

cc: Michelle Carey, Esq.
Marcus Maher, Esq.
Albert Lewis, Esq.
Lynne Hewitt Engledow, Esq.
Best Copy and Printing, Inc.

**OUTLINE OF ARIZONA DIALTONE INC.
PRESENTATION TO FCC RE: ITS PETITION FOR
RECONSIDERATION IN WC DOCKET 05-68
(6/30/06 PREPAID CALLING CARD ORDER)**

JANUARY 18, 2007

- Arizona Dialtone is a CLEC providing wireline local exchange service in Arizona, Colorado, and Minnesota. As a CLEC, it depends on fair recovery of originating access charges for interstate services provided by IXCs in its local service areas.
- The Commission was absolutely correct in ruling that Prepaid Calling Card Providers (including those offering “menu-driven” features) are telecommunications carriers subject to USF and access charge payment obligations. *But* this welcome and long-awaited decision will be an unenforceable nullity unless the FCC augments its new “reporting and certification” rules to prevent prepaid card providers from using “DID” numbers and other forms of local routing to disguise long distance calls as “local” ones and thereby avoid originating access charges. The comments show that this practice is widespread and proliferating, and it will become universal unless checked, because it renders access billing impossible. As the Commission’s 6/30/06 *Order* observed:

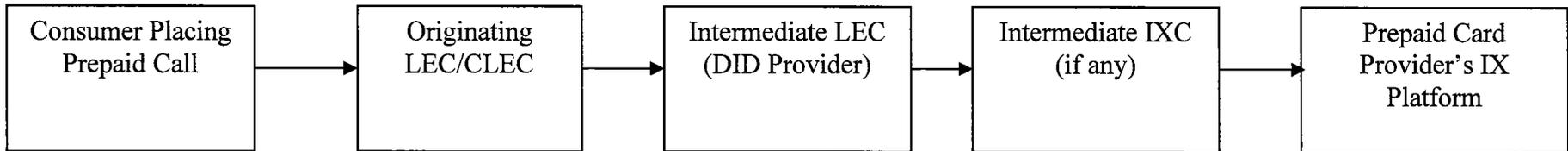
“Any uncertainty regarding the regulatory requirements applicable to prepaid calling cards creates incentives for providers to reduce exposure to charges they may owe or evade them altogether. The actions we take in this Order will provide a level regulatory playing field for calling card providers, thereby reducing the potential for continued ‘gaming’ of the system. In the absence of these actions, uncertainty regarding applicability of our rules could . . . encourage providers to adapt their products solely to evade contribution. . . .”

- That evasion is occurring unabated. The Commission must act.

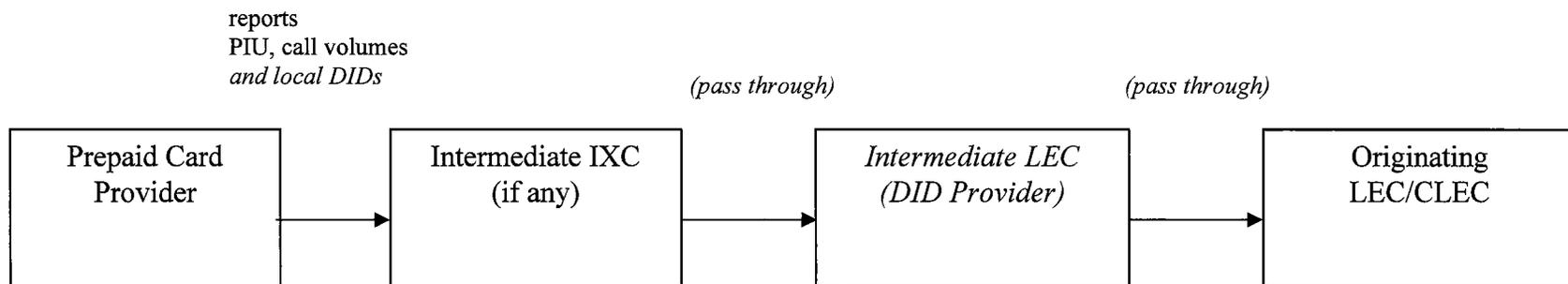
- The critical centerpiece of ADI’s proposal is that an “intermediate” exchange carrier that furnishes local access numbers used by prepaid call platform providers for long-distance prepaid calling access must disclose the identity of its customers who purchase the local numbers to an originating LEC entitled to recover access charges. Upstream and downstream intermediate carriers must have accountability for passing along that information. Otherwise, an originating LEC will be clueless as to whom to bill for access and the long-distance prepaid card provider will successfully avoid its access obligation.
- The FCC has imposed very similar tracking and reporting requirements on carriers in its *Payphone Compensation* docket, for a similar purpose: to enable PSPs to recover compensation for completed payphone calls.
- All Commenters agreed that the problem identified by Arizona Dialtone is real and widespread. Verizon, AT&T and Embarq all substantially supported the Petition, while suggesting different regulatory solutions; Level 3 partially supported the Petition, but would have the Commission “punt” the issue to the pending Intercarrier Compensation docket. Sprint Nextel opposed the Petition on purely procedural grounds (claiming that Arizona Dialtone’s proposals are “outside the scope of the proceeding;” yet Arizona Dialtone’s Petition is entirely in keeping with the *Order*’s stated objective to “set forth some additional requirements that will apply . . . to all prepaid calling card providers. . . necessary to provide regulatory certainty and ensure compliance with our existing access charge and USF contribution requirements. . . .”)
- Per ¶ 43 of the *Order*, the rule revisions sought by Arizona Dialtone should be given retroactive effect with respect to non-“menu-driven” prepaid card calls.

- Verizon’s proposal to compel prepaid card providers to subscribe to large ILECs’ tariffed Feature Group A products, supported by AT&T and Embarq (large ILECs all) should not be adopted. While large ILECs would benefit under a “compelled FGA” rule, many prepaid card providers and intermediate carriers cannot afford to establish the direct LEC access (*i.e.*, separate dedicated trunk connections at every central office) needed for Feature Group A; and many smaller CLECs cannot offer FGA access. Thus, a “compelled FGA” regime would replace one evil with another, by grievously harming competition in both prepaid calling and competitive carrier services. Moreover, a pronouncement that FGA must be used by prepaid providers wishing to offer local number routing will be unenforceable as long as DID local routing is available in the marketplace.
- Verizon’s claim that LECs who do not create call records (“CDRs”) for local traffic would not be helped under Arizona Dialtone’s proposals is unavailing, inasmuch as any LEC or CLEC *can* easily and inexpensively create them with a simple software conversion of data already in its database, as Arizona Dialtone (a small CLEC) has.
- Level 3 is incorrect in claiming that SMS/800 blocking is a solution, because only the carrier controlling the local number can initiate such blocking.

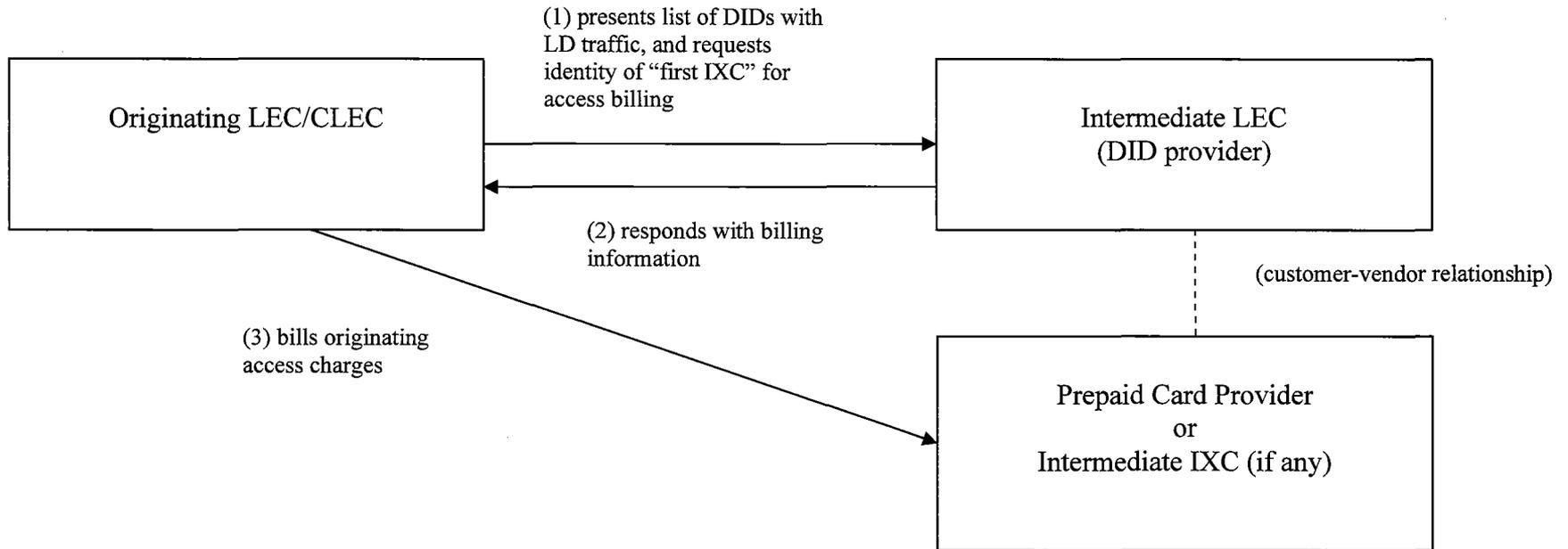
CALL FLOW OF “LOCALLY” ROUTED PREPAID CALLS



**FCC RULE 64.5001 (PER 6/30/06 ORDER)
[with Arizona Dialtone proposed revisions in *italics*]**



**HOW ARIZONA DIALTONE'S PROPOSAL WOULD ENABLE
ORIGINATING LECs TO BILL ACCESS CHARGES FOR LONG
DISTANCE CALLS ROUTED THROUGH "LOCAL" NUMBERS**



PROPOSED AMENDMENTS TO FCC RULE 64.5001
(proposed revisions in bold italics)

§ 64.5001 Reporting and Certification Requirements

(a) All prepaid calling card providers must report prepaid calling card percentage of interstate use (PIU) factors, and call volumes from which these factors were calculated, based on not less than a one-day representative sample, **and lists of direct-inward-dial (DID) or similar local access numbers utilized for routing calls to their long distance platforms**, to those carriers from which they purchase transport services. Such reports **must include the billing name, address, telephone number, point of contact, and e-mail address of the reporting entity**, and must be provided no later than the 45th day of each calendar quarter for the previous quarter.

(b) **Transport carriers that receive reports from their customers pursuant to paragraph (a) or (b) of this section must promptly forward these reports to those carriers with whom they exchange traffic, upon request from such carriers.**

(1) A transport carrier that forwards reports under this paragraph must supplement those reports with a listing of any DID or similar local access numbers that it utilizes for the transport of the underlying traffic to its reporting customer, if such local access numbers are not already listed in the reports being forwarded. For every listed local access number that is under the control of the transport carrier as an exchange carrier, the transport carrier shall provide access billing information that includes, for each local access number, the billing name, address, telephone number, point of contact, and e-mail address for the prepaid calling card provider or transport carrier responsible for paying originating access charges.

(2) Any failure by a prepaid calling card provider or transport carrier to provide reports pursuant to either paragraph (a) or this paragraph shall not relieve an exchange carrier that controls local access numbers utilized for routing long distance calls of the duty under this section to furnish to a requesting originating local exchange carrier the access billing information associated with each such local access number.

(~~b~~c) If a prepaid calling card provider fails to provide the appropriate PIU information to a transport provider in the time allowed, the transport provider may apply a 50 percent default PIU factor to the prepaid calling card provider's traffic.

(ed) On a quarterly basis, every prepaid calling card provider must submit to the Commission a certification, signed by an officer of the company under penalty of perjury, providing the following information with respect to the prior quarter:

(1) The percentage of intrastate, interstate, and international calling card minutes for that reporting period;

(2) The percentage of total prepaid calling card service revenue (excluding revenue from prepaid calling cards sold by, to, or pursuant to contract with the Department of Defense (DoD) or a DoD entity) attributable to interstate and international calls for that reporting period;

(3) A statement that it is making the required Universal Service Fund contribution based on the reported information; and

(4) A statement that it has complied with the reporting requirements described in paragraph (a) of this section.