

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Intercarrier Compensation Reform) CC Docket No. 01-92

REPLY COMMENTS OF EMBARQ
ON THE
PUBLIC NOTICE REGARDING THE
MISSOULA INTERCARRIER COMPENSATION REFORM PLAN

David Bartlett
Jeff Lanning
Embarq
401 9th Street, NW, Suite 400
Washington, DC 20004

Linda K. Gardner
Embarq
Senior Counsel
5454 W. 110th Street
Overland Park, KS 66211

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2 and Track 3 carriers than for Track 1 carriers. These radically different economics do not suddenly disappear when it comes to transit services, so it stands to reason that there should be different default transit service rates for Track 2 carriers than for Track 1 carriers. Consequently, Embarq supports a higher rate of \$0.005 per minute of use (MOU) for the tandem transit services provided by Track 2 carriers, consistent with the Plan's recognition that the Tracks are designed to reflect the differences in the serving areas and economics of the companies.³

It has long been recognized that urban and rural market areas display different cost characteristics due to scale and the density of customers. Costs to serve increase dramatically as the population density thins and the covered area widens. Track 2 carriers generally enjoy much lower population densities per square mile than those of Track 1 RBOCs. This cost disparity among Track 1 and Track 2 carriers is also evident in the cost of providing tandem transit services.

The primary determinants of transit costs are scale—that is, the costs of equipment (hardware and software) and the number of minutes that transit the switch. Consequently, the average cost to serve is higher where there are fewer minutes flowing through tandem switches. In practice, Track 2 carriers generally realize much fewer minutes of use through a tandem switch than do Track 1 RBOCs. Therefore, Track 2 carriers experience higher costs of providing transit service. Track 2 carriers also tend to receive fewer vendor discounts and at much lower percentages

³ The Missoula Plan specifically recognizes that Track 2 carriers may seek a Tandem Transit Service rate that is greater than the \$0.0025 per MOU set out in the Plan. See Attachment A, Clarifications and Revisions to the Missoula Plan, item number 10, Comments of the Supporters of the Missoula Plan, CC Docket No. 01-92, DA 06-1510, filed October 25, 2006.

than Track 1 RBOCs, so the cost of the equipment—hardware and software—is higher for Track 2 carriers than Track 1 RBOCs. The combined effect is no surprise: Track 2 carriers have significantly higher tandem transit costs than do Track 1 RBOCs, even at comparable levels of operational efficiency. Therefore, Track 2 carriers should receive a commensurately higher default tandem transit rate than the \$0.0025 stated in the Plan, which was developed for Track 1 carriers. Embarq supports a tandem transit rate of \$0.005 per MOU for Track 2 carriers.

Because the Plan currently proposes a single tandem transit rate, some filers lapse into sweeping statements that may sound appealing to some readers, but have little to no relevance to Embarq. For example, CTIA confidently asserts that “[u]nder the Plan, tandem transit rates would be higher than many carriers pay today.”⁴ The statement might be true overall, but it is not true for Embarq in all but one of its states. The rate of \$0.0025 is significantly below the rates that carriers currently pay Embarq for transit services in all states except Nevada.⁵ In the bulk of cases, the rate of \$0.0025 is one-half (or even much less) than Embarq currently receives from transit services in these states. Moreover, even if true and the rate under the Plan or proposed by Embarq is higher than a carrier pays today, if the rate today is insufficient to recover costs, it should increase.

Sprint Nextel purports to derive a nationwide average economic cost-based rate for tandem transit functionality by using the UNE prices for the largest LECs in

⁴ Comments of CTIA, pg. 14.

⁵ Embarq is a Track 1 carrier in Nevada and a Track 2 carrier in the remaining 17 states in which it operates.

each state, weighted by access lines.⁶ First of all, tandem transit services provided under the Plan should not be priced based on TELRIC but should be set at rates that are “just and reasonable” under 47 U.S.C. §201.⁷ However, even assuming one accepts the flawed notion that the tandem transit services provided under the Plan should be priced based on TELRIC, it should be utterly obvious that the *nationwide weighted average rate for the largest LEC in the states* as used by Sprint Nextel, is not appropriate for Embarq or other Track 2 carriers and will severely understate its costs and under-compensate Track 2 carriers for providing a service that will be mandated by regulation.

Embarq’s equipment costs are higher than those obtained by Track 1 RBOCs and Embarq does not enjoy the same economies of scale as do Track 1 RBOCs. For example, comparing 2005 ARMIS data of local switches and access lines per switch confirms that, on average, Embarq serves one-half the number of access lines per switch than the Track 1 RBOCs.⁸ A comparison of Embarq to an individual RBOC in a

⁶ Comments of Sprint Nextel Corporation, pg. 15 and Attachment. The transit rate is derived by adding the UNE rates of tandem switching and common transport. There is no additional cost recognized associated with creating and transmitting call detail records under the Plan. Nor is there any analysis showing why the rate for the largest LEC in the state is appropriate for Track 2 carriers that do not enjoy the scale of the Track 1 RBOC.

⁷ There is no legal basis for setting transit rates at TELRIC. Transit has not been found to be an obligation under 47 U.S.C. §251(c)(2). Memorandum Opinion and Order, *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communication Act for Preemption of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, 17 FCC Rcd 27039, 27101, para. 117 (2002).

⁸The comparison includes both local switches and tandem switches and is instructive of the differences in economies of scale and scope in switch deployment between

given state will show much more dramatic differences. For example, in Washington, Qwest's access lines per switch is nearly seven-times the number of access lines per switch served by Embarq. Given the vastly different economics between Track 1 RBOCs and Track 2 carriers, clearly the derived weighted average of \$0.00115 produced by Sprint Nextel has no relevance to Embarq. In fact, rather than serving as an argument against Embarq's proposal for a Track 2 transit rate of \$0.005 per MOU, the Attachment actually supports Embarq's proposal. Notwithstanding the fact the Attachment is based on an inappropriate use of TELRIC and TELRIC-derived rates for the largest LEC in the states only, it serves to confirm the reasonableness of Embarq's proposed \$0.005 per MOU tandem transit rate proposal for Track 2 carriers when the \$0.005 per MOU is compared to the highest rates of the largest LECs in the nation.⁹

In conclusion, it is clear that the Missoula Plan is designed to recognize and accommodate the fundamental differences between carriers and the economics of serving those carriers face. Based on the foregoing, it is clearly inappropriate to set the same default transit rate for Track 1 and Track 2 carriers. Doing so requires Embarq to provide service at a price that reflects the economics of a Track 1 RBOC

Embarq and the much larger RBOCs. Additionally these differences are directionally indicative that RBOCs enjoy much greater unit cost efficiencies in the transport networks connecting local switches to tandem switches.

⁹ Averaging the 5 highest rates listed for the largest LECs results in a simple average rate of \$0.005068 per MOU or weighted average by access lines of \$0.004988 per MOU, not including the costs of call detail records which are assumed to be included in the Missoula Plan's transit service rate development. It is far more reasonable to assume that the highest rates for the largest LECs are more comparable to the costs of Track 2 carriers to serve its more rural serving area than it is to assume that a nationwide average rate computed for the largest LECs in all states is appropriate for Track 2 carriers.

and not the economics of its serving area. A rate of \$0.005 per MOU for transit service for Embarq and other Track 2 carriers is much more appropriate and consistent with the Plan's overall recognition that a single rate for all carriers is not appropriate.

Respectfully submitted,

EMBARQ

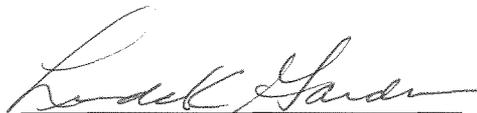
David Bartlett
Jeffrey S. Lanning
401 9th Street, NW, Suite 400
Washington DC 20004

By 
Linda K. Gardner
Senior Counsel
5454 W. 110th Street
Overland Park, KS 66211
(913) 345-6193
Linda.Gardner@Embarq.com

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Embarq Corporation's Comments in CC Docket 01-92 was delivered by electronic mail on this 1st day of February 2007 to the parties listed below.



Linda K. Gardner

ECFS

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

VIA E-MAIL

Victoria Goldberg
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
Room 5-A266
Victoria.Goldberg@fcc.gov

VIA E-MAIL

Best Copy and Printing, Inc.
Portals II
445 12th Street S.W., Room CY-B402
Washington D.C. 200554
fcc@bcpiweb.com