

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

In the Matter of)	
)	
Interior Telephone Company, Inc.)	WC Docket No. 07-102
Petition for Declaratory Ruling on the Scope)	
of the Duty of a Rural Local Exchange Carrier)	
to Provide Interim Interconnection)	

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
REPLY COMMENTS

The National Telecommunications Cooperative Association¹ files these reply comments in support of Interior Telephone Company, Inc.’s (Interior’s) Petition for Declaratory Ruling regarding a rural incumbent local exchange carrier’s (ILEC’s) scope of duty to provide interim interconnection under Sections 251(a) and (b) of the Communications Act of 1934, as amended (Act).² Interior requests clarification on whether the Federal Communications Commission’s (Commission’s or FCC’s) rule 47 C.F.R. § 51.715 requires an ILEC to offer immediate interim interconnection of exchange local traffic during the period before a final interconnection agreement is reached through the negotiation and arbitration process pursuant to Section 252 of the Act. NTCA agrees with Interior’s interpretation that 47 C.F.R. § 51.715 does not require an ILEC participating in a section 252 negotiation/arbitration proceeding to provide interim

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 575 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² Public Notice, Commission Seeks Comment on Interior Telephone Company, Inc.’s Petition for Declaratory Ruling on the scope of the of the duty of a rural incumbent local exchange carrier to provide interim interconnection under Sections 251(a) and (b) of the Communications Act of 1934, as amended (Act), WC Docket No. 07-102, DA 07-2067 (rel. May 16, 2007) (Public Notice).

interconnection when the type of arrangement for the physical linking of the two competing networks for the transport and termination of local traffic is in dispute.

The Commission should reject General Communications, Inc.'s (GCI's) claim that 47 C.F.R. § 51.715 requires Interior to provide transport and termination under an interim interconnection arrangement until a final interconnection agreement is reached pursuant to Section 252 of the Act.³ 47 C.F.R. § 51.715 explicitly provides for interim pricing for the transport and termination of local traffic pursuant 47 U.S.C. § 215(b)(5). The rule does not, however, require immediate interim physical linking of two competing networks when the terms and conditions of the specific type of interconnection between a competitive local exchange carrier (CLEC) and ILEC are not in agreement. Interior's interpretation of 47 C.F.R. § 51.715 is supported by the Commission's definition of the term "interconnection" which is defined as the "linking of the two networks for *mutual* exchange of traffic" and "*does not include the transport and termination of traffic.*"⁴ The rule specifically does not direct the ILEC to implement a certain type of interim physical interconnection when parties are unable to reach a mutual agreement on the terms and conditions of physical interconnection during the negotiation/arbitration process under Section 252. The lack of explicit interim physical interconnection language in the statute and rule supports Interior's interpretation that 47 C.F.R. § 51.715 does not apply when the type of physical interconnection has not been established through good faith negotiations.

³ GCI Initial Comments, pp. 1, 3, and 8-15.

⁴ 47 C.F.R. § 51.5 (emphasis added).

Moreover, 47 C.F.R. § 51.715 is based on the portion of the FCC's 1996 local competition order that pertains to reciprocal compensation under Section 251(b)(5) of the Act.⁵ The Commission developed 47 C.F.R. § 51.715 to address the potential delays in new entrants initiating service due to the need to negotiate local reciprocal compensation rates with ILECs. The basis for 47 C.F.R. § 51.715 in the *Local Competition Order* is found in the "Pricing of Interconnection and Unbundled Elements" section of the order.⁶ In the *Local Competition Order*, paragraph 1067, page 16030, it states:

We conclude that section 251, in conjunction with our broad rulemaking authority under section 4(i), provides us with authority to create *interim pricing rules* to facilitate market entry. Because section 251(d)(1) gives the FCC authority "to establish regulations to implement the requirements of this section," we find that section 251(d)(1) gives the Commission *authority to establish interim regulations that address the "just and reasonable" rates for the "reciprocal compensation" requirement of section 251(b)(5)*, subject to the preservation requirements of section 251(d)(3) (emphasis added).

The *Local Competition Order* and Section 251(b) of the Act do not establish rules requiring the immediate interim physical interconnection of two competing networks pending negotiation/arbitration. The Commission was sensitive to the negotiation/arbitration timeframes established by Congress and thus did not require interim interconnection. Instead, the Commission's interim reciprocal compensation rules allow for interim interconnection only when both negotiating parties mutually agree to the terms and conditions of interim interconnection pending final negotiation/arbitration pursuant to Section 252. The Commission did not mandate interim interconnection because it would clearly conflict with the intent of Congress.

⁵ *In the Matter of the Local Competition Provisions in the Telecommunications Act of 1996, Interconnection between Local Exchange Carriers and Commercial Mobile Radio Providers*, First Report and Order, 11 FCC Rcd 15499 (1996)(*Local Competition Order*).

⁶ *Local Competition Order*, pp. 16018 - 16058.

Congress established explicit timeframes for competing carriers to negotiate and/or arbitrate interconnection agreements in Section 252. These are the timeframes that Congress determined reasonable for competitors to enter a local exchange market through interconnection agreements negotiated and arbitrated under Section 252. If 47 C.F.R. § 51.715 required ILECs to provide immediate interim interconnection pending the negotiation/arbitration of the terms and conditions of the physical interconnection as claimed by GCI, the timeframes in Section 252 would be rendered meaningless. Such a result would be contrary to the Act, unfairly favor CLECs, and unjustly prejudice ILECs in any Section 252 negotiation/arbitration proceeding.

Based on these reasons, NTCA urges the Commission to grant Interior's Petition for Declaratory Ruling regarding an ILEC's scope of duty to provide interim interconnection under sections 251(a) and (b) of the Act. Specifically, the Commission should issue a declaratory ruling which states that rule 47 C.F.R. § 51.715 does not require an ILEC to provide immediate interim interconnection before a final interconnection agreement is reached through the negotiation/arbitration process contained in Section 252 of the Act.

Respectfully submitted,

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June 15, 2007

CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in WC Docket No. 07-102, DA-07-2067, was served on this 15th day of June 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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