

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

REPLY COMMENTS OF COMPTTEL

COMPTTEL respectfully submits these reply comments, pursuant to the FCC Public Notice (“*Notice*”) released on May 16, 2007 (DA 07-2067) in the above-referenced docket. This *Notice* invites comment on the Petition for Declaratory Ruling filed by Interior Telephone Company, Inc. (“ITC”) requesting a declaratory ruling with respect to section 51.715 of the Commission Rules, 47 C.F.R. § 51.715. COMPTTEL opposes ITC’s petition because it suggests an inaccurate reading of the Rule at issue. The Commission should instead declare that ILECs must comply with the unequivocal directive of the Rule, namely, that an ILEC must provide interim interconnection, pending final interconnection agreement, not merely interim rates.

ITC argues that Rule 51.715 requires only that an ILEC provide interim pricing for transport and termination of traffic, not interim interconnection, when the carriers are in the midst of negotiations regarding non-price terms.¹ The plain

¹ Petition at 4.

language of the Rule, however, makes it clear that the Commission's Rule is not limited to the establishment of interim rates.

Rule 51.715 states:

- (a) Upon request from a telecommunications carrier without an existing interconnection arrangement with an incumbent LEC, *the incumbent LEC shall provide transport and termination of telecommunications traffic immediately under an interim arrangement*, pending resolution of negotiation or arbitration regarding transport and termination rates and approval of such rates by a state commission under sections 251 and 252 of the Act...
- (b) Upon receipt of a request as described in paragraph (a) of this section, an incumbent LEC must, without unreasonable delay, *establish an interim arrangement for transport and termination of telecommunications traffic at symmetrical rates... (emphasis added)*.

The Commission could easily have stated that the rule is solely applicable for the establishment of interim rates when all other terms were decided, if that is what it meant. But it did not. Rather, it clearly provides for the ILEC's obligation to provide transport and termination of traffic. Indeed, the Rule refers to the ILEC's obligation to establish "an interim *arrangement*" in five separate places, at least once in each section of the Rule.² The only time the Rule refers to "*interim rates*" – demonstrating that "rates" and "arrangements" are distinguishable in the Commission's mind - is in a subsection of the rule explaining how the symmetrical rates for the "interim arrangement" should be determined.³ The fact that the Commission discusses how to establish the rates for such an arrangement does not limit the Rule to the establishment of such rates.

² See 47 C.F.R. § 51.715 (a), (b), (c), and (d).

³ See *id.* (b)(1)-(3).

ITC also argues that the phrase in the rule “pending resolution of negotiations or arbitration regarding transport and termination rates and approval of such rates...” somehow limits the scope of Rule 51.715.⁴ But the opening “pending” makes clear that this phrase merely provides the time period for the obligation. It does not negate the obligation of the ILEC to provide termination and transport of traffic immediately on an interim basis.

ITC bases its argument on its belief that the Commission’s only concern was “that negotiated interconnection agreements which lacked agreement on a rate for reciprocal compensation” would be unduly delayed by the length of time it takes for state commissions to complete cost studies.⁵ First, the Rule specifically addresses the situation where there is no negotiated interconnection agreement. The Rule only requires that a request for negotiation be made. ITC’s theory – that negotiations be completed with regard to all non-price terms – is inconsistent with the immediacy of the rules directive that “upon receipt of a request [for negotiation pursuant to § 51.301]” the ILEC must act “without unreasonable delay.”⁶ The language of the Order likewise does not require an agreement on non-price terms. The Order states that a “carrier may take advantage of this interim arrangement only after it has requested negotiation with the incumbent LEC.”⁷

⁴ Petition at 11.

⁵ *Id* at 5 and 7.

⁶ 47 C.F.R. §51.715(b).

Second, while the length of time state commissions take to complete cost studies may have been one of the Commission's concern in adopting its rule, it was not its only one. And, the Commission certainly did not limit the applicability of the Rule as ITC describes. Indeed, the Rule addresses how to establish the rates for the interim arrangement in situations where the state commission has established transport and termination rates based on forward-looking economic cost studies,⁸ so clearly the Rule was not limited only to those situations in which those costs studies are pending. If the Commission meant to limit the interim arrangement to instances where only pricing was at issue, it certainly would have clarified that somewhere in the *Local Competition Order* or the Rule itself.

The Commission should put a halt to ILEC delay tactics – whether through rates or non-price terms – by declaring that ILECs must comply with the unambiguous language of Rule 51.715 and, accordingly, provide termination and traffic immediately pursuant to an interim arrangement.

⁷ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, ¶ 1065 (rel. Aug. 8, 1996) (“*Local Competition Order*”).

⁸ 47 C.F.R. § 51.715(b)(1).

Respectfully submitted,

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