

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

In the Matter of)	
)	
)	
Interior Telephone Co., 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)	

REPLY COMMENTS OF VERIZON¹

The Commission should deny Interior’s petition for a broad declaratory ruling, because the issues giving rise to that petition are already being addressed in negotiation and arbitration proceedings in Alaska and in a complaint proceeding at the Commission.² The majority of commenters recognize that 47 C.F.R. § 51.715 does not require incumbent local exchange companies (“ILECs”) to construct or modify facilities in order to provide interim interconnection while negotiations are still proceeding. However, the Commission need not — and should not — issue a broad declaratory ruling on the scope of § 51.715, as requested by Interior, because there is no widespread confusion or disagreement warranting a declaratory ruling from the Commission. Rather, Interior’s petition arises out of a particular dispute between Interior and

¹ The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² See Interior Telephone Company, Inc., Petition for Declaratory Ruling on the Scope of the Duty of a Rural Local Exchange Carrier to Provide Interim Interconnection, http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519411366 (May 3, 2007) (“Interior Petition”).

GCI regarding interconnection in a specific geographic area. The negotiation and arbitration procedures apparently already underway in Alaska and GCI's complaint at the Commission³ provide more appropriate opportunities for the fact-specific inquiries required to resolve disputes regarding possible interim interconnection of Interior's and GCI's networks. The Commission should therefore deny Interior's petition in favor of addressing the disputed issues through the complaint process. *See* 47 C.F.R. § 1.2; Letter to W.C. Havens addressing Petitions for Declaratory Ruling, 17 FCC Rcd 15,903 (2002) (declining to issue broad declaratory ruling when the specific dispute was already being litigated).

First, Interior's petition arises out of a dispute that is best resolved through means other than a declaratory ruling. The Commission has frequently recognized that declaratory rulings on questions of law are appropriate only where such a ruling is needed to remove uncertainty or terminate a controversy. *See* 47 C.F.R. § 1.2.⁴ Here, the comments filed in response to Interior's petition do not suggest that there is widespread uncertainty over the scope of § 51.715 requiring a broad legal ruling from the Commission. The comments filed were few, and those filed overwhelmingly supported Interior's interpretation of the rule.⁵

³ *See* Opposition of General Communication, Inc. at 4-5, http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519508107 (discussing negotiation and arbitration schedule); *id.* at 2 & n. 3 (discussing complaint proceedings at Commission) ("GCI Opposition").

⁴ *See also, e.g.*, Microscope Assoc., Inc.; Petition for Declaratory Ruling Concerning Resale of Internet Access Services, 19 FCC Rcd 10,451 ¶ 9 (2004) ("Microscope Petition").

⁵ *See* Comments of the Alaska Telephone Association in Support of the Petition for a Declaratory Ruling Filed by Interior Telephone Company at 1, http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519508097 ("ATA Comments"); Comments of Qwest Corporation at 3, http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519508058 ("Qwest Comments"); Comments of the Western Telecommunications Alliance and the Organization for the Promotion and Advancement of Small Telephone Companies at 3, http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519507971

A declaratory ruling also is not needed to terminate the particular controversy between Interior and GCI, because that dispute is already being addressed, and will likely soon be resolved, through § 252 proceedings in Alaska and in a complaint proceeding at the FCC.⁶ The underlying dispute between Interior and GCI concerns the possibility and appropriateness of modifying existing access facilities connecting the two carriers in a specific geographic area — Seward, Alaska — in order to establish interconnection in Seward quickly, before completing negotiations regarding longer-term interconnection arrangements for Seward and other service areas. Interior argues that interconnection is still unworkable because the parties have failed to reach agreement on many of the operational details underlying interconnection, such as points of interconnection, demand forecasts, and order processes. *See* Interior Petition at 15. GCI alleges that Interior’s concerns are not raised in good faith, but are merely means to delay competitive entry into the marketplace. *See* GCI Opposition at 1, 6-8. Although Verizon offers no opinion on the merits of either party’s arguments, one thing is clear from the parties’ submissions: theirs is a fact-specific dispute, requiring an individualized inquiry into the particular facilities at issue, the points of interconnection being discussed, and the intentions of the parties.

As such, the Interior/GCI dispute is precisely the kind of fact-dependent dispute that is best handled through § 252 proceedings and complaint actions, rather than through a broad declaratory ruling. In § 252 of the Telecommunications Act of 1996 (“the Act”), Congress set forth procedures and timelines for carriers to conduct good faith negotiations and, if necessary,

(“WTA Comments”); Comments of Cordova Telephone Cooperative, Inc. in Support of Petition for Declaratory Ruling at 4, http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519507901 (“CTC Comments”).

⁶ *See* GCI Opposition at 4-5 (discussing negotiation and arbitration schedule); *id.* at 2 & n. 3 (discussing complaint proceedings at Commission).

arbitrate interconnection agreements. Congress established those procedures specifically to address the factual issues that arise in interconnection negotiations, as state commissions arbitrating interconnection agreements are able to delve into the particular facts at issue in each case. In § 252, Congress also set forth specific timelines for negotiations and arbitrations to be completed, to ensure that new entrants are able to interconnect and compete without undue delay. Section 252's procedures and timelines provide the remedy for interconnection disputes such as the one between Interior and GCI, and state commissions should enforce those deadlines in order to ensure that competition is not delayed.

The Commission's complaint processes also provide appropriate means to address individualized allegations, like GCI's, that a particular ILEC may be misusing the negotiation and arbitration process in order to delay competition. Much like arbitration proceedings, the Commission's complaint process allows for the examination of individualized facts particular to each dispute. Complaint procedures also allow the Commission to issue rulings and craft remedies tailored to the specific circumstances, rather than issuing broad abstract rulings.

Notably, both § 252 proceedings and Commission complaint proceedings to address the Interior/GCI dispute are already underway. As GCI reports, GCI invoked the § 252 procedures in October 2006, and the negotiations phase has already completed. According to the schedule established under § 252, a final interconnection agreement should be completed by November 2007 — only five months away. *See* GCI Opposition at 4-5. GCI also filed a complaint at the Commission, seeking accelerated treatment, in May 2007. *See id.* at 2 & n. 3. The completion of either of these proceedings, or both, will likely render Interior's petition moot in just a matter

of months. Because there will be no controversy to resolve, the Commission should deny Interior's petition for declaratory ruling.⁷

Second, if the Commission were to proceed with a declaratory ruling, it should reject the expansive interpretation of § 51.715 that is urged by GCI and Sprint Nextel because it is inconsistent with the negotiation and arbitration process established by Congress. As discussed above, in § 252 of the Act, Congress set forth procedures and timelines for carriers to negotiate and, if necessary, arbitrate interconnection agreements. Those procedures and timelines were established to ensure an orderly negotiations process, aided by arbitration if necessary, so that new entrants will be able to obtain interconnection by the end of the arbitration window provided in the Act.

Verizon agrees with Interior and the majority of commenters that § 51.715 is designed to provide for interim pricing for the transport and termination of local traffic.⁸ Verizon also recognizes that the rule is intended to protect the flow of traffic already being exchanged pursuant to existing interconnection arrangements,⁹ whether it is being exchanged pursuant to prior § 252 negotiations and/or arbitrations or pursuant to indirect interconnection arrangements provided for by § 251(a)(1) of the Act.¹⁰ As other commenters have explained, such a reading is

⁷ See, e.g., Microscope Petition ¶ 9 n. 30 (denying petition for declaratory ruling because “we note that the controversy . . . that prompted the filing of the petition no longer exists”); Petition of Home Owners Long Distance, Inc. for a Declaratory Ruling, 14 FCC Rcd 17,139, ¶ 1 (1999).

⁸ See, e.g., ATA Comments at 1; Qwest Comments at 2; WTA Comments at 2; CTC Comments at 3.

⁹ See 47 C.F.R. § 51.715(a).

¹⁰ See 47 U.S.C. § 251(a). Pursuant to § 251(a), all telecommunications carriers are required to provide interconnection directly or indirectly. Where traffic is already being exchanged through indirect interconnection arrangements, a telecommunications carrier cannot disrupt the flow of that traffic pending resolution of an interconnection dispute.

consistent with Congress' statutory scheme, because it requires interconnection only after the parties have completed the § 252 negotiation and arbitration process, while providing a temporary solution to ensure that interconnection is not delayed further by lingering pricing issues.

GCI and Sprint Nextel, however, would read § 51.715 to require ILECs to provide “interim” interconnection while § 252 negotiations are still ongoing — even if facilities must be constructed or physically modified to do so, and even where the parties have not reached agreement as to the technological specifications of interconnection. Such an interpretation would turn § 252 on its head by requiring parties to interconnect *before* completing the negotiation and arbitration procedures provided for by Congress. As Interior notes, if the parties have not yet been able to agree on the technical specifications for long-term interconnection, including basic information such as where points of interconnection should be located, then the parties cannot interconnect on an “interim” basis without first having a separate agreement as to the technical specifications for interim interconnection – requiring two separate tracks of negotiations, wasting the time and resources of all involved. *See* Interior Petition at 14-15.

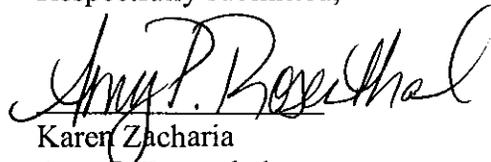
Moreover, even if the parties could reach a separate, interim agreement as to where and how to interconnect, that “interim” agreement would inevitably influence – if not dictate – the results of any negotiation or arbitration regarding a long-term interconnection. Having already invested substantial funds in constructing or modifying facilities in order to provide “interim” interconnection, the parties would likely to be unable or unwilling to remove those facilities and construct new ones to provide a different, permanent interconnection arrangement. Thus, the “interim” interconnection arrangement that would be required under GCI and Sprint Nextel’s interpretation would, as a practical matter, become the permanent arrangement. Little of

substance would be left to the § 252 process, which would frustrate Congress' statutory scheme. For all of these reasons, the Commission should reject the interpretation put forth by GCI and Sprint Nextel.

CONCLUSION

For the foregoing reasons, the Commission should deny Interior's petition for declaratory ruling and in favor of allowing the underlying dispute to be resolved through the § 252 process and the Commission's complaint procedures. In the alternative, if the Commission proceeds with a declaratory ruling, it should reject any interpretation of § 51.715 that would require ILECs to construct or modify facilities in order to provide interim interconnection while negotiations are still proceeding.

Respectfully submitted,



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