

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Establishing Just and Reasonable Rates for
Local Exchange Carriers

Developing a Unified Inter-carrier
Compensation Regime

WC Docket No. 07-135

CC Docket No. 01-92

**VERIZON'S OPPOSITION TO MOTION OF FREECONFERENCECALL.COM TO
CONSOLIDATE DOCKETS CC DOCKET NO. 01-92 AND WC DOCKET NO. 07-135**

FreeConferenceCall.com's consolidation motion is a transparent attempt to extend the life of the illegitimate traffic pumping scams from which it is currently benefitting. The Commission should deny that motion and, instead, move quickly to issue an order in WC Docket No. 07-135, where the comment cycle is complete and the matter is ripe for decision. Contrary to FreeConferenceCall.com's assertions, the traffic pumping issues presented in Docket No. 07-135 are discrete ones that can and should be decided promptly without addressing broader and unrelated issues of inter-carrier compensation reform. Indeed, the recent explosion in traffic pumping makes expeditious action by the Commission particularly necessary to protect the public interest.

DISCUSSION

The Commission tentatively concluded in its Notice of Proposed Rulemaking in Docket No. 07-135 that the actions of some traffic pumping carriers in increasing terminating access traffic without lowering their rates have made "certain rule modifications" both "necessary" and "increasingly important" to protect the public interest by putting an end to unjust and

unreasonable rates.¹ As Verizon and other parties have demonstrated during the now-completed comment cycle, the Commission's analysis on those points is correct. The Commission should promptly adopt new protections so that small rate-of-return ILECs and purported rural CLECs cannot abuse the existing rules by generating enormous volumes of traffic, yet still charging rates suitable, if at all, only for the smallest carriers with the lowest traffic volumes.

First, the need for prompt regulatory action is even more urgent today than when the Commission issued its *NPRM* last fall. Simply put, traffic pumping scams – particularly by purported CLECs – continue to increase. Between December 2007 and February 2008 alone, the number of monthly traffic pumping minutes billed to Verizon increased by roughly 75%, from approximately 80 million to nearly 140 million.

Given these figures, it is no surprise that beneficiaries of these illegitimate traffic pumping scams, like FreeConferenceCall.com, want to delay the necessary corrective action by this Commission for as long as possible. But delay would simply extend the regime that the Commission properly concluded in the *NPRM* should be altered to prevent unjust and unreasonable rates and the accompanying harm to the public and to carriers such as Verizon. Simply put, contrary to FreeConferenceCall.com's assertion, consolidation and the accompanying delay will in fact prejudice many parties' rights. *Compare* Mot. 1.

Second, far from implicating broad questions of intercarrier compensation reform, *see id.* (suggesting incorrectly that these dockets involve “substantially the same issues”), traffic pumping is a discrete issue involving improper abuse of a few Commission tariffing rules that apply only to the smallest rate-of-return ILECs and to CLECs – particularly, but not exclusively, the CLECs that claim the rural CLEC exception. *See NPRM* ¶ 1 (noting that the Commission

¹ Notice of Proposed Rulemaking, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, 22 FCC Rcd 17989, ¶ 1 (2007) (“*NPRM*”).

opened Docket No. 07-135 to “consider whether the current rules governing the *tariffing* of traffic-sensitive switched access services by [LECs] are ensuring that rates remain just and reasonable, as required by section 201(b) of the Communications Act”) (emphasis added); *see also* Verizon Reply Comments at 5-7. In its comments (at 13-21, 23-28), Verizon has proposed specific changes to the few tariffing rules that are being abused by a handful of unscrupulous carriers. These changes necessary to end the specific problem of traffic pumping can be readily implemented right now, and they do not require any broad rethinking of intercarrier compensation policy. Notably, FreeConferenceCall.com’s motion does not even discuss the specific changes being considered by the Commission, much less does it attempt to explain why those changes could be properly adopted only in the context of broad changes to intercarrier compensation policy.

Third, and contrary to FreeConferenceCall.com’s wholly unsupported assertion, the changes proposed by the Commission and by Verizon do not “effectively regulate carriers based on the business of their end user customers.” Mot. at 2. Instead, those changes require a few carriers to refile their tariffs at lower rates if their demand, from *any* customers, exceeds certain thresholds and, in some instances, to certify that they are not engaging in any practices with *any* customers that will lead to unreasonable rates. Accordingly, the proposals being considered by the Commission do not create any “new classification[s]” of traffic, *id.*, but rather, just as the Commission contemplated in the *NPRM*, simply amend existing rules to prevent unjust and unreasonable rates.

Finally, through the extensive comments and reply comments that have been filed, all interested parties, including FreeConferenceCall.com, have already had a full and fair opportunity to be heard on the Commission’s proposed solutions to ending these illicit schemes.

Thus, the Commission already has a “complete record” necessary to address traffic pumping. *Compare id.* at 4. And, because the Commission has already issued an *NPRM* on this specific issue and has reviewed extensive submissions on it, FreeConferenceCall.com is simply wrong that “[c]onsolidation will promote the efficient administration of these proceedings.” *Id.* at 2. On the contrary, if the Commission were to defer resolution of this discrete issue pending broader reform as to unrelated issues, a great deal of time and effort on the part of the Commission and the parties as to the specific issues involving traffic pumping that are presented in Docket No. 07-135 will have been wasted.

For all these reasons, the Commission should deny this motion and act now to put an end to the public-interest harms caused by traffic pumping.

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