

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

In the Matter of	)	
	)	
Developing an Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	

**AT&T INC. OPPOSITION TO MOTION**

AT&T Inc. (“AT&T”) hereby opposes the motion filed March 10, 2008 by Freeconferencecall.com (“Freeconferencecall”) requesting that the Commission consolidate its pending *Intercarrier Compensation Rulemaking* and *Traffic Pumping Rulemaking* proceedings.<sup>1</sup> The motion is a transparently frivolous attempt to stave off for as long as possible the Commission’s adoption of measures to control the pernicious practice of “traffic pumping” by Freeconferencecall and similar entities, acting in concert with small, typically rural independent local exchange carrier (“ILECs”) and purportedly “competitive” local exchange carriers (“CLECs”) operating in many of those same territories. In the interim, these abusive LECs and their cohorts clearly hope to reap exorbitant returns from their ongoing gaming of the Commission’s access charge regime. Far from allowing the Freeconferencecall and its allies to continue these dilatory tactics, the Commission should move forward expeditiously to adopt its tentative conclusions in the *Traffic Pumping Rulemaking* in accordance with the recommendations of AT&T and numerous other commenters.

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<sup>1</sup> *Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610 (2001), (“*Intercarrier Compensation Rulemaking*”); *Establishing Just and Reasonable Rates for Local Exchange Carriers*, 22 FCC Rcd 17,989 (2007) (“*Traffic Pumping Rulemaking*”).

Freeconferencecall claims (Motion at 1) that consolidation of these rulemakings is desirable because the two proceedings “are of the same nature, involve substantially the same issues, depend largely on the same evidence, and . . . will not prejudice any party’s rights in any of the proceedings.” However, just as in Freeconferencecall’s cursory treatment in its Reply Comments in the *Traffic Pumping Rulemaking*,<sup>2</sup> the Motion makes no attempt to support any of these claims, and it is clear that they are misplaced. Access arbitrage through traffic pumping is only one facet of the much broader set of issues encompassed in the Commission’s long pending *Intercarrier Compensation Rulemaking*. Indeed, the fact that it initiated a separate rulemaking to address the distortion in its access regime caused by traffic pumping demonstrates that the Commission implicitly recognized that this problem may be addressed without awaiting the establishment of a unified approach to intercarrier compensation.

The Motion’s claim that consolidating these proceedings will not result in prejudice to any party is particularly egregious. As AT&T showed in its recent submissions to the Commission,<sup>3</sup> the volume of traffic pumping is rapidly returning to the level that prevailed prior to the Commission’s action last year on the proposed annual access tariffs of ILECs that were engaging in that practice.<sup>4</sup> The pumping has merely

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<sup>2</sup> See Reply Comments of Chase.com, Fonepods, Inc., Freeconferencecall.com and HFT Corp. filed January 16, 2008 in WC Docket No. 07-135, at 2. Freeconferencecall there devoted less than one full page to its conclusory argument that the Commission “should address the issues raised in th[e traffic pumping] proceeding when addressing access charge reform as a whole.” *Id.* (footnote omitted).

<sup>3</sup> See Letters dated February 21 and March 11, 2008 from Brian Benison, Director-Federal Regulatory, AT&T to Marlene H. Dortch, Secretary, FCC, with Attachment (“AT&T *Ex Parte* Letters”).

<sup>4</sup> See *id.*, Attachment p. 4; *July 1, 2007 Annual Access Charge Tariff Filings*, 22 FCC Rcd 11,619 (2007).

migrated from ILECs to CLECs – and even, in some cases, between an ILEC and an affiliated CLEC.<sup>5</sup>

Absent prompt action by the Commission to complete the *Traffic Pumping Rulemaking*, interexchange carriers such as AT&T will therefore continue to be mulcted for large sums through exorbitant access charges; only the identities of the local carriers engaging in traffic pumping will have changed. The Commission has developed a full record for decision on this matter, including voluminous sets of comments, reply comments, and ex parte submissions by numerous parties. It should not allow itself to be deflected from a resolution of this rulemaking through maneuvers such as the Freeconferencecall consolidation motion.

AT&T fully recognizes the need for fundamental, comprehensive reform of intercarrier compensation, and strongly supports the Commission's expeditious completion of the *Intercarrier Compensation Rulemaking*. However, it is abundantly clear that traffic pumping is rapidly threatening to spiral out of control and poses serious harm to the public interest. Where, as here, the Commission is confronted with a serious and discrete industry problem, it has a regulatory obligation to act in advance of general intercarrier compensation reform.<sup>6</sup> The Commission's adoption of the measures proposed in the *Traffic Pumping Rulemaking*, and supported by AT&T and a broad

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<sup>5</sup> See AT&T *Ex Parte* Letters, Attachment, p. 9 (showing transition of traffic from Farmers of Riceville, an ILEC, to Omnitel, a CLEC; both carriers' CEO is same individual).

<sup>6</sup> See, e.g., *Implementation of Local Competition Provisions of Telecomms. Act of 1996, Intercarrier Compensation for ISP-Bound Traffic*, 6 FCC Rcd. 9151, ¶ 2 (2001); *CLEC Access Charge Order*, 16 FCC Rcd. 9923, ¶¶ 1, 8; *Petition for Declaratory Ruling That AT&T's Phone-to-Phone IP Telephony Services Are Exempt From Access Charges*, 19 FCC Rcd. 7457, ¶ 2 (2004).

spectrum of other commenters, will in no way undermine the Commission's ability to address the wider range of issues in its intercarrier compensation proceeding.

Respectfully submitted,

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