

Core Communications, Inc.

Ex Parte

CC 99-68 and 01-92



Conclusion

- Commission should resolve 2002 WorldCom Remand with a finding that:

ISP-bound traffic is “telecommunications”
under 251(b)(5)



Overview

- Mandamus proceeding going to merits panel; FCC action needed now
- ISP-bound traffic is “telecommunications” under 251(b)(5); every other classification attempt has failed
- The Act and fairness demands that carriers receive equal pay for equal work



Mandamus Timetable

- Filed with DC Cir. on Oct. 31, 2007
- Directed to merits panel in Feb. 27, 2008
- Oral argument scheduled for May 5, 2008
- Court sending very strong message to FCC to resolve WorldCom remand
- FCC has full record for such resolution



Addressing The WorldCom Mandate

- Must address past and prospective application ISP Remand Order
- Presents an opportunity to further this Commission's 2005 FNPRM principles
 - FNPRM unanimously adopted
 - 3 of 5 current Commissioners voted for it
 - None of the current Commissioners were part of the ISP Remand Order
 - 251(b)(5) applies to all "telecommunications," including ISP-bound traffic
- The Act demands that carriers receive equal pay for equal work



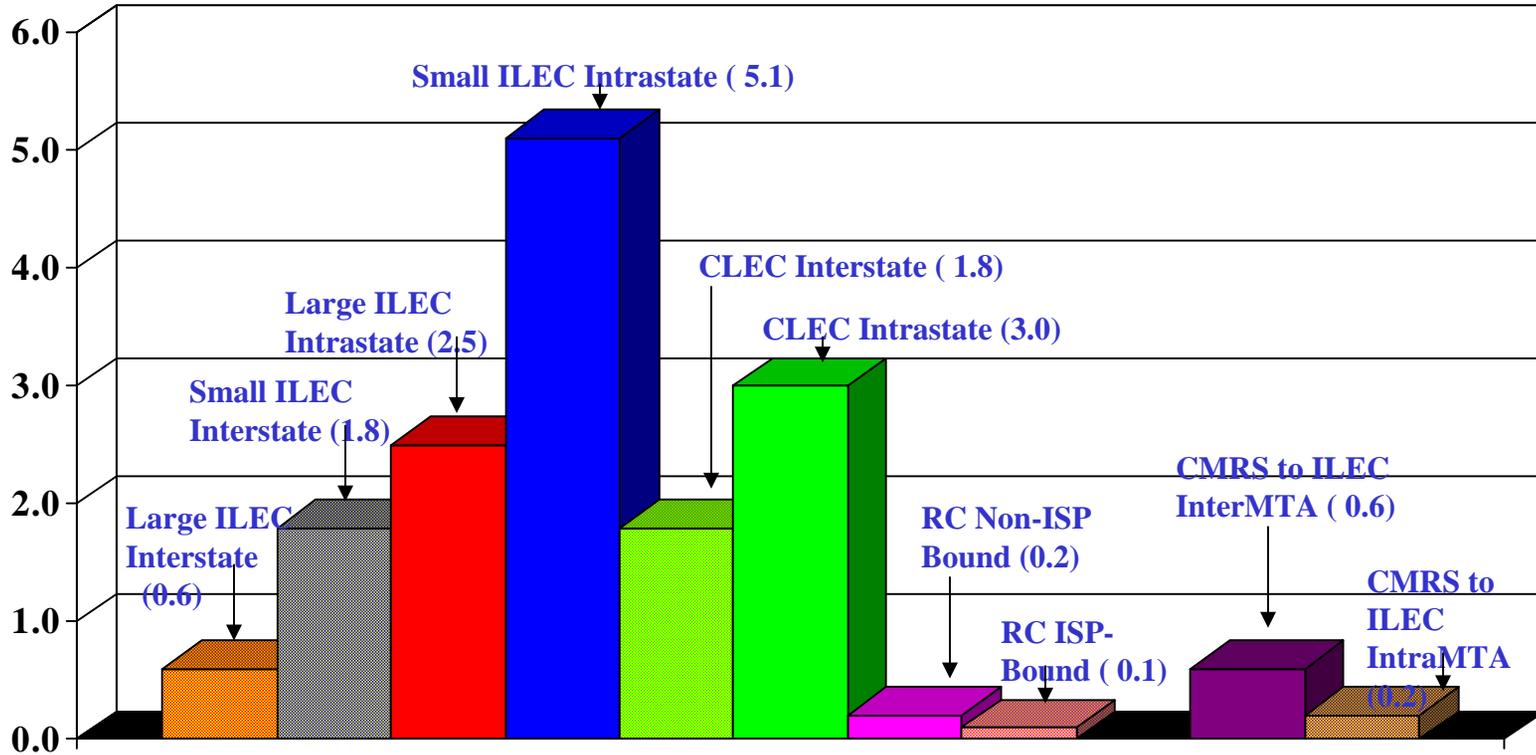
Intercarrier Compensation 101

- Intercarrier compensation refers to payments among carriers for traffic exchange
- FCC consistently has found that termination costs are same for all traffic
 - 1996 Local Competition Order
 - “[T]ransport and termination of traffic ... involves the same network functions [and] the rates ... for transport and termination of local traffic and ... long distance traffic should converge”)
 - 2001 ISP Remand Order
 - A “[local exchange carrier] generally will incur the same costs when delivering a call to a local end user as it does delivering a call to an ISP”
 - The “record developed in response to the Intercarrier Compensation NPRM ... fail[ed] to establish any inherent differences between the costs on any one network of delivering a voice call to a local end-user and a data call to an ISP”
 - 2005 FNPRM -- No “economic or technical” basis for disparate intercarrier compensation rates based on geography, technology, or call type
- Despite these consistent findings ...



Intercarrier Compensation Rates

Average Rates in Cents per Minute



High (¢/min):	1.5	8.9	9.9	34.9	6.8	35.9	0.3	0.1	8.9	0.3
Low (¢/min):	0.5	0.3	0.4	0.7	0.2	0.4	0.0	0.0	0.2	0.0



coretel

Core Communications

- Founded in 1997; based in Annapolis, Maryland
- Provides facilities-based service primarily to ISPs
- Service area runs throughout the mid-Atlantic and New York
- Greatest success in underserved and rural areas:
 - Eastern Shore of Maryland (e.g., Easton and Salisbury)
 - Central Pennsylvania (e.g., Altoona, Harrisburg, Wilkes-Barre)
- Active participant in federal and state regulatory proceedings on intercarrier compensation
 - Fully supports unifying intercarrier compensation rates
 - All carriers deserve equal pay for equal work







Intercarrier Compensation Timeline

- 1996
 - Congress passes 1996 Telecommunications Act
 - 251(b)(5) established – applies to all “telecommunications”
 - **First Report and Order – 251(b)(5) applies to ISP-bound traffic**
 - FCC adopts “symmetrical rate structure” and finds that 251(b)(5) rates and access rates “should converge” as they “involve the same network functions”
 - **No court challenge**
- 1999
 - ISP Declaratory Ruling – FCC segregates ISP-bound traffic under an “end-to-end” analysis (*i.e.*, calls to ISPs do not terminate at ISP, but rather at destination website)
- 2000
 - Bell Atlantic Tel. v. FCC – DC Cir. **vacates** ISP Declaratory Ruling
 - **FCC did not explain why ISPs are different than other end users**
 - Congress rejects legislation to exclude ISP-bound traffic from 251(b)(5)
- 2001
 - ISP Remand Order – Under new “251(g) carve out” analysis, FCC finds ISP-bound traffic “information access” (abandons previous analysis)
 - **FCC finds cost of terminating call to ISP same as any other call**
 - FCC adopts NPRM on “bill and keep” for all intercarrier comp.
- 2002
 - WorldCom v. FCC – DC Cir. **remands** ISP Remand Order (**251(g) “does not provide a basis for the Commission’s action”**)
 - All telecommunications traffic must be treated equally under 251(b)(5)
- 2004
 - FCC forbears from ISP Remand Order’s “growth cap” and “new market” rules; leaves “rate cap” and “mirroring rule” in place (Core’s petition)
- 2005
 - FCC adopts FNPRM on intercarrier comp unification; **rejects bill and keep**; affirms that cost of terminating traffic does not vary based on jurisdiction or type
- 2007
 - Core files second mandamus petition on FCC’s response to WorldCom v. FCC
- 2008
 - DC Cir. schedules **oral argument May 5, 2008**