

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544**

In the Matter of

Petition of AT&T
for Interim Declaratory Ruling and Limited
Waivers Regarding Access Charges and
the “ESP Exemption”

WC Docket No. 08-152

Petition for Waiver of Embarq
Local Operating Companies of Sections
61.3 and 61.44-61.48 of the Commission’s
Rules, and any Associated Rules Necessary
to Permit it to Unify Switched Access
Charges Between Interstate and Intrastate
Jurisdictions

WC Docket No. 08-160

**COMMENTS OF VERIZON REGARDING AT&T PETITION FOR INTERIM
DECLARATORY RULING AND LIMITED WAIVERS**

Verizon agrees with AT&T and Embarq, as well as the Commission and providers throughout the industry, that comprehensive reform of the intercarrier compensation system is sorely needed. Verizon recently joined a coalition of providers from all corners of the communications industry to urge the Commission to adopt immediate comprehensive reform.¹ Given the importance of achieving comprehensive intercarrier compensation reform for all traffic and all providers, the Commission should

¹ Letter to Chmn. Martin and Commrs. Copps, McDowell, Adelstein, and Tate from AT&T, CompTIA, CTIA – The Wireless Association, Global Crossing, The Information Technology Industry Council, National Association of Manufacturers, New Global Telecom, PointOne, Sprint, The Telecommunications Industry Association, T-Mobile, Verizon, The VON Coalition, WC Docket No. 04-36 and CC Docket No. 01-92 (Aug. 6, 2008).

not address AT&T's or Embarq's Petition, which focus on a particular type of traffic for only one carrier, at this time. The Commission should instead remain focused on its stated goal of achieving comprehensive intercarrier compensation reform – for *all* traffic and all providers – before the close of 2008.

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The flaws and inefficiencies inherent in the current intercarrier compensation system have been well documented by the Commission and carriers throughout the industry. Under the current regime, carriers impose a wide range of charges to terminate traffic, depending on factors such as which carrier terminates the traffic and whether a call crossed state, MTA, or local calling area boundaries before reaching the terminating carrier. As a result, even though there is little (if any) difference in the work carriers perform to terminate a call, the terminating carrier may charge as little as \$0.0007 per minute for a “local” call rated under the “mirroring rule,” or over *175 times* as much for an intra-state long distance call terminated by a rural carrier. For example, carriers in the South Dakota Local Exchange Carrier Association charge \$0.125 per minute – over 175 times the \$0.0007 rate – to terminate an intrastate access call.² As the Commission has aptly noted, this patchwork regime “require[s] carriers to treat identical uses of the network differently, even though such disparate treatment usually has no economic or technical basis.”³

The system of widely varying rates presents substantial obstacles to progress and innovation. Carriers devote substantial resources to measuring, categorizing, and billing

² South Dakota Local Exchange Carrier Association, Inc. S.D. P.U.C. Tariff No. 1 at 17-1.

³ *Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, 20 FCC Rcd 4685, ¶ 3 (2005).

the traffic they terminate and applying different rates to different types of traffic – resources that would be better spent investing in new technologies and developing new products to benefit consumers. The existence of so many different potential terminating rates under the current regime also breeds uncertainty about how newer technologies will be treated and what rates should apply to that traffic. This uncertainty about what compensation a provider may be required to pay or may be able to collect – either under the law or as a practical matter – is a further disincentive to investment in new technologies and development of new products.

The current patchwork of different rates also serves as an invitation to fraud and arbitrage, as carriers attempt to manipulate and disguise traffic in order to gain illegal profits for themselves or deprive other carriers of lawful revenues. The traffic pumping arbitrage schemes that have proliferated in recent years are just the latest examples of such uneconomic behavior. Traffic pumping and other arbitrage schemes, fraud, and the billing disputes that inevitably result divert carriers' resources from investment in new technologies and development of new products that can better serve consumers. It simply no longer makes sense to maintain a system that requires or permits terminating carriers to apply different rates to different traffic based on arbitrary and anachronistic distinctions.

For all of these reasons, the Commission should act swiftly to adopt comprehensive intercarrier compensation reform that applies to all traffic and all providers. In so doing, the Commission should take care that the new intercarrier compensation regime that is put into place eliminates the rate disparities and arbitrary distinctions that characterize today's intercarrier compensation system, and does not

maintain existing – or create new – opportunities for arbitrage and fraud. The Commission should therefore establish a single federal rate, no higher than \$0.0007 per minute of use, for the termination of *all* traffic that touches the public switched telephone network (PSTN), regardless of jurisdiction, technology, or service provider. The Commission should also require all carriers to simultaneously make a reasonably prompt transition to these unified terminating rates. Finally, this transition should allow for appropriate alternative recovery mechanisms.⁴

Comprehensive reform along these lines would eliminate the need for carrier-specific determinations, such as the rulings requested by AT&T and Embarq in their Petitions. To be sure, both carriers correctly note that the disparity between each carrier's interstate and intrastate access rates is one of the major flaws in the current intercarrier compensation regime. And, AT&T is certainly correct that the uncertainty regarding the proper compensation due for terminating inherently interstate IP traffic is a substantial obstacle to progress and innovation. The separate petitions filed by AT&T and Embarq, however, purport to solve only small pieces of the intercarrier compensation puzzle, addressing only one type of traffic, and for only one carrier at a time. Under their proposals, AT&T and Embarq would continue to charge vastly different rates from one another, and each one would still charge different rates for different types of traffic on its own network. Moreover, the petitions would have no effect on the myriad of different rates charged by other carriers throughout the industry. The petitions would therefore still leave in place a complicated patchwork of different rates for different types of traffic and different providers. By contrast, any comprehensive intercarrier compensation

⁴ Verizon intends to outline its complete proposal for comprehensive intercarrier compensation reform in a separate document to be filed in the coming weeks.

reform must necessarily address – and unify – the compensation regime for *all* traffic and *all* carriers.

Moreover, even if the Commission were inclined to take a piecemeal approach to intercarrier compensation reform – and it should not – it still should not grant either the AT&T Petition or the Embarq Petition. Indeed, the Commission should be wary of *any* proposal – whether carrier-specific or not – that would *increase* rates for one service to compensate for claimed deficiencies in rates for a different service. Yet, that is what Embarq’s Petition – and to a lesser extent, AT&T’s – would have the Commission do. In the name of “unifying” its access rates, Embarq seeks permission to raise its interstate access rates throughout its service area. Although Embarq asserts that the increases to its *interstate* access rates would merely offset decreases in its *intrastate* access rates, Embarq’s Petition does not provide sufficient detail even to assess, let alone to justify, its proposal to increase interstate access rates to replace forgone intrastate access revenues. Embarq’s claimed “need” to increase its interstate switched access rates is particularly suspect given that Embarq’s disproportionately high intrastate switched access rates are currently the subject of complaint proceedings in at least three states (Minnesota, Virginia, and Washington). Indeed, Embarq’s proposal is fundamentally flawed to the extent it assumes that the full amount of the current subsidy it receives from other carriers (and ultimately the customers of those other carriers) can or should continue to be paid by those carriers, rather than its own customers. But the simple fact is that, in today’s competitive marketplace, the current subsidy system is not sustainable. Similarly, AT&T’s Petition does not provide adequate detail to support its conditional request to increase its interstate access rates on the originating end of a call if its other proposed rate

adjustments are insufficient to offset proposed reductions in its intrastate access rates on the terminating end of a call. The Commission, however, need not address AT&T's or Embarq's Petition in isolation at this time. The Commission should instead continue to focus its efforts on the intercarrier compensation regime as a whole.

CONCLUSION

For the foregoing reasons, the Commission should set aside AT&T's and Embarq's Petitions and should continue working toward its stated goal of adopting comprehensive intercarrier compensation reform by the end of 2008.

Respectfully submitted,

Michael E. Glover
Of Counsel



Amy P. Rosenthal
Karen Zacharia
VERIZON
1515 North Courthouse Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3175

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