

November 25, 2008
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135

Dear Ms. Dortch:

On behalf of AT&T Services, Inc. and the Rural Independent Competitive Alliance (RICA) we submit the attached joint proposal to address traffic pumping. We believe this limited set of rules and proposed declaratory ruling are a good compromise that addresses the problems created by the few carriers gaming the system but does not unduly impact those carriers competing in good faith.

This letter is being filed pursuant to Section 1.1206 of the Commission's rules. If you have any questions, please contact Brian Benison at (202)-457-3065 or Steve Kraskin at (202) 333-1770.

Sincerely,

/s/ Brian Benison

Director – Federal Regulatory
AT&T Services, Inc.

/s/ Steve Kraskin

Legal Counsel
Rural Independent Competitive Alliance

cc: Don Stockdale
Marcus Maher
Randy Clarke
Al Lewis
Victoria Goldberg

Revised Rule: 47 CFR 61.26

§ 61.26 Tariffing of competitive interstate switched exchange access services.

(a) Definitions. For purposes of this section 61.26, the following definitions shall apply:

(1) CLEC shall mean a local exchange carrier that provides some or all of the interstate exchange access services used to send traffic to or from an end user and does not fall within the definition of "incumbent local exchange carrier" in 47 U.S.C. 251(h).

(2) Competing ILEC shall mean the incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide interstate exchange access services, in whole or in part, to the extent those services were not provided by the CLEC.

(3) Interstate switched exchange access services shall include the functional equivalent of the ILEC interstate exchange access services typically associated with following rate elements: local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching.

(4) Non-rural ILEC shall mean an incumbent local exchange carrier that is not a rural telephone company under 47 U.S.C. 153(37).

(5) The rate for interstate switched exchange access services shall mean the composite, per-minute rate for these services, including all applicable fixed and traffic-sensitive charges.

(6) Rural CLEC shall mean a CLEC that:

(i) does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:

(a) Any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or

(b) An urbanized area, as defined by the Census Bureau;

and (ii) terminates no more than 1500 minutes of use of interstate switched exchange access traffic per working loop per month.

(7) Rural ILEC shall mean an incumbent local exchange carrier that is a rural telephone company under 47 U.S.C. 153(37).

(8) Working loop shall have the same definition as in 47 C.F.R. § 54.307(b).

(b) Except as provided in paragraphs (c) and (d) of this section, a CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the benchmark rate. The benchmark rate for a CLEC's interstate switched exchange access services will be the rate charged for similar services by the competing ILEC.

(c) Rural exemption. Notwithstanding paragraph (b) of this section, a rural CLEC competing with a non-rural ILEC shall not file a tariff for its interstate exchange

access services that prices those services above the rate prescribed in the NECA access tariff, assuming the highest rate band for local switching. In addition to that NECA rate, the rural CLEC may assess a presubscribed interexchange carrier charge if, and only to the extent that, the competing ILEC assesses this charge. Any rural CLEC that files a tariff pursuant to this exemption shall, no later than the 30th day after the end of each quarter for which it ceases to meet the requirements of the exemption, submit to the Commission a revised tariff based upon the competing ILEC's rates.

(d) **Limitation on Use of Rural ILEC as a Benchmark.** Notwithstanding paragraph (b) of this section, if a CLEC's competing ILEC is a rural ILEC, the CLEC may benchmark to the competing rural ILEC only if the CLEC terminates 1500 or fewer minutes of use of interstate switched exchange access traffic per working loop per month. Any CLEC benchmarking to a competing rural ILEC shall, no later than the 15th day after the end of each quarter, certify to the Commission either:

(i) that the CLEC continues to qualify as a CLEC entitled to benchmark to the competing rural ILEC pursuant to this paragraph based on the CLEC's average switched exchange access minutes of use per working loop per month for the preceding quarter and that the CLEC will retain the documentation necessary to support its certification for at least three (3) years and will provide that documentation to the Commission on demand; or

(ii) that the CLEC is no longer eligible to benchmark to the competing rural ILEC pursuant to this paragraph based on the CLEC's average switched access minutes of use per working loop per month for the preceding quarter and that the CLEC will file a revised tariff within 30 days that prices its interstate switched exchange access services no higher than the rate charged by [a]the Bell Operating Company as defined in 47 U.S.C. 153(4) serving the CLEC's state, or the largest ILEC in the state, possession or territory if there is no Bell Operating Company

(e) If a CLEC provides some portion of the interstate switched exchange access services used to send traffic to or from an end user not served by that CLEC, the rate for the access services provided may not exceed the rate charged by the competing ILEC for the same access services.

Separate Revenue Sharing Provision

To be stated in an FCC order:

It shall be an unjust and unreasonable practice for any LEC to assess terminating interstate switched access charges on traffic that is subject to a revenue sharing arrangement. A "revenue sharing arrangement" is any arrangement between a LEC and a calling provider whereby (i) the LEC compensates a calling provider to direct calls to or through a LEC's local exchange and (ii) the arrangement can be expected over its term to produce net payments from the LEC to the calling provider. "Calling provider" means any entity, including any affiliate of a LEC, that promotes or advertises to end users telecommunications services or information services and that provides or uses a LEC's telephone numbers for such services to be routed to or through a LEC's local exchange.