UTEX Communications Corp. d/b/a FeatureGroup IP

W. Scott McCollough
General Counsel

1250 South Capital of Texas Highway
Building Two, Suite 235
West Lake Hills, Texas 78746

512.888.1112 (V)[1]
512.692.2252 (FAX)
scott@worldcall.net

November 13, 2009

Sharon Gillett
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington DC 20554

Re: *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *Broadband Industry Practices*, 07-52; Google Voice Calling Restrictions (DA 09-2210); AT&T Call Blocking

Dear Ms. Gillett:

UTEX Communications Corporation d/b/a FeatureGroup IP ("FeatureGroup IP") must respond to AT&T's November 6, 2009 letter claiming that "Mr. Feldman's accusation" – that AT&T is blocking calls addressed to FeatureGroup IP's network – is "false." AT&T ***admits*** that it has refused to route calls based on excuses and arguments we will address below. To AT&T, a refusal to route, the very thing AT&T complained of regarding Google Voice, is somehow "not blocking" if AT&T is the blocking party and can figure out a way to call it something else.

Calls can be blocked in two ways: refusal to perform switch translations for specific numbers or blocks or performing a translation that denies routing to a number or block. The result is the same: calls addressed to the numbers in issue will not route. AT&T apparently thinks that refusing to perform a translation is not "blocking" but that performing a selective translation to achieve the same result is "blocking." AT&T is simply prevaricating.

AT&T complained that Google Voice would not allow calls to complete to certain numbers where a call to that number would impose a significant economic burden on Google Voice. But AT&T blocks calls originating on its network even when there would be no charge (or at most a transit fee that mirrors AT&T's TELRIC-based transit fee) to AT&T if the call was completed. AT&T is blocking calls its own users originate because AT&T wants to get paid, and they will not route unless FeatureGroup IP sends them something on the order of $20 million dollars up front and then pays more on a per-minute switched access basis. *This payment is demanded for calls that originate on AT&T's network*.[2] This goes beyond semantics and sophistry; it is flatly illegal and unreasonable.

The facts and the law prove that AT&T's actions are illegal.

---

[1] Feel free to try the undersigned's Google Voice number as well: 210.646.1457.

[2] *But see* 47 C.F.R. § 51.703(b).

1. Google Voice. Google Voice employs a soft switch and uses it (in part) much like an "IP PBX." The Google Voice soft switch is not a class 5 end office or tandem; it does not directly host telephone numbers, does not have a public switch CLLI, and does not serve as a published routing point in the LERG. Google Voice secures service from a carrier partner, which supplies telephone numbers (currently geographic numbers with established rate center associations, but there is no technical reason why this must continue to be the case going forward). Calls addressed to these numbers that originate on the PSTN are routed to the carrier that serves Google Voice through an interconnection arrangement established pursuant to §§ 251 and 252 (or if the carrier is CMRS, then through § 332(c)(1)(B) and Commission rule 20.11, which in turn is probably implemented using § 252 and part 51). The originating carrier routes the call to the point of interconnection indicated by an LRN, POI CLLI or switch CLLI. The carrier serving Google Voice has a class 5 switch that handles the call, converts it to SIP and then hands it off to its *end user customer* (Google Voice) in some fashion. Google Voice's soft switch receives the inbound call and matches the called number to the Google Voice patron. The system then looks up and applies the patron's preferences regarding how many and which of the patron's other phone numbers (which the patron directly secures from a carrier) to call and bridge. The Google Voice platform routes the outbound portion of the bridged call(s) to one or more of Google Voice's carrier partners, which convert from SIP to "TDM" and the call(s) can route back to the PSTN, where the patron's "phone" rings. The patron has several options on how such calls are handled, as Google explained in its October 28 letter. The patron can, of course, select an IP-based end-point as well.

Google Voice allows patrons to also originate calls in various ways, from a PSTN end-point or an IP-based end point. This is apparently the function[3] that led AT&T to file its original letter. The Google Voice soft switch has been programmed to not allow call sessions to be initiated to a specific set of telephone numbers. Google's October 28 letter explains that this was necessary because Google would otherwise incur a significant per minute cost[4] and this would have rendered its predominately free offering economically infeasible.[5] Google essentially performed "switch translations" to implement this result.

---

[3] Google's October 28 letter goes into considerable detail about the enhanced/information functions that are made available through its technology, in order to demonstrate that Google Voice is not a "telecommunications service." FeatureGroup IP agrees with this analysis, but will not elaborate other than to observe that these enhanced/information features and functions are the very characteristics (among others) that FeatureGroup IP extensively discussed in its petition for forbearance in WC Docket 07-256, which is before the Commission on reconsideration.

[4] In fact, Google's underlying carrier would incur the cost in the form of access charges; the carrier will, of course, pass this cost (likely with a bit of margin added) on to Google Voice.

[5] Google Voice does not at present directly obtain any services from FeatureGroup IP. FeatureGroup IP has, however, recently observed growing amounts of Google Voice related traffic appearing on the FeatureGroup IP Texas network. Some of this traffic is addressed to FeatureGroup IP customers, or their customers, and is therefore "terminated" by FeatureGroup IP. For the record, FeatureGroup IP is not at present attempting to recover any intercarrier compensation (reciprocal compensation or access charges) from any carrier or from Google Voice for this termination function, regardless of how or where it originates. We also believe that from a legal and policy perspective the maximum amount that should be charged by any carrier for termination of any and all Google Voice traffic

2. AT&T and FeatureGroup IP. AT&T **is** a carrier; specifically, in this case it is an ILEC. FeatureGroup IP is also a LEC. The parties are interconnected in Texas, and have an interconnection agreement. FeatureGroup IP is a common carrier and LEC that provides wholesale service to other communications providers. FeatureGroup IP provides service to a few other carriers but the primary focus is enhanced service providers and the great preponderance of our traffic originates from or goes to IP-enabled applications, services and devices like Google Voice and Skype as well as interconnected VoIP.

NANPA assigned certain numbering resources to FeatureGroup IP. Some are "geographic"[6] and others are "nongeographic" "500" numbers.[7] Further, individual numbers previously held by other carriers have been "ported in" to FeatureGroup IP.[8] Finally, FeatureGroup IP made an arrangement with a CMRS provider[9] whereby calls addressed to that CMRS provider's numbers would be routed to FeatureGroup IP's network for transit to the CMRS provider's network.

AT&T **admits** that it refused to route calls addressed to FeatureGroup IP's 500 numbers. AT&T **admits** that it refused to route calls addressed to a CMRS provider's numbers that are supposed to be directed to FeatureGroup IP's network for transit to the CMRS provider. AT&T denies that it is blocking any call to a FeatureGroup IP number, but that is not correct. AT&T does not mention it – likely because it hastily made switch translations and incorrectly thought it fixed the problem right before it replied to FeatureGroup IP's letter – but AT&T is, right now, still blocking calls to numbers that have been ported to FeatureGroup IP. We will address each of these situations in detail.

A. FeatureGroup IP geographic numbers. AT&T claims it is not blocking calls. This presumably includes calls to FeatureGroup IP's directly assigned

---

is $0.0007 per minute of use. Increasing amounts of Google Voice traffic also appears to coming to our network from FeatureGroup IP wholesale customers. FeatureGroup IP processes this traffic and then hands it off to AT&T for termination or transit to the ultimate terminating carrier. AT&T's position is that this Google Voice traffic is "ordinary" "PSTN-PSTN" traffic, that FeatureGroup IP has not "proven" it is "VoIP" and they are attempting to recover access charges from FeatureGroup IP for it. AT&T rates these calls based on the CPN selection made by the Google Voice patron even though that often has no relationship to the patron's actual physical location.

[6] The geographic numbers are either entire 10,000 blocks or individual 1,000 blocks. At present FeatureGroup IP has geographic numbering resources associated with approximately 100 rate centers in Texas.

[7] FeatureGroup IP has been assigned the 500-888 NPA-NXX, which could function to receive calls in any area where the originating carrier performs the requisite switch translations to route calls to the location specified by FeatureGroup IP in BIRRDS. AT&T will not perform the required switch translations. This is addressed further below.

[8] AT&T does not mention ported numbers in its letter, but it is in fact blocking calls addressed to numbers that were ported in to FeatureGroup IP, even though FeatureGroup IP has pointed them to its LRN. This too is addressed further below.

[9] The CMRS provider is, as AT&T suggests, an affiliate company called Worldcall Interconnect, Inc. ("WCX") WCX has chosen to indirectly interconnect with AT&T by sending and receiving calls through FeatureGroup IP's network. AT&T refuses to route, and insists that there must be a contract amendment between FeatureGroup IP and AT&T or a contract between AT&T and WCX before it will route WCX numbers. Again, this is further explained below.

geographic numbering resources. AT&T should try to call numbers in the 682-888 NPA/NXX. FeatureGroup IP's call attempts through AT&T's network to the test number for that block[10] consistently receive an "all circuits busy" announcement from AT&T's network. FeatureGroup IP has monitored the trunks between its network and AT&T's network to verify there was more than sufficient capacity at the time test calls were made. Calls placed to other FeatureGroup IP numbers over the same trunks complete when these calls will not. Therefore, it is reasonable to suspect the AT&T announcement does not correctly reflect what is actually occurring within the AT&T network.

B. 500 numbers. FeatureGroup IP applied for and received 500 numbers from NANPA – after consultation with the FCC – that were allocated specifically for use by FeatureGroup IP's ESP customers. This was two years ago. FeatureGroup IP made it clear that it requested this allocation as an LEC, in order to provide telephone exchange service to ESPs that the ESPs would then use to offer enhanced services. The allocation was approved and made with that understanding. FeatureGroup IP requested AT&T to perform the necessary switch translations so that calls addressed to these numbers would be routed to FeatureGroup IP's network. AT&T refused. AT&T's position is that FeatureGroup IP must subscribe to AT&T's access tariff, and pay AT&T nonrecurring charges for the translations and then per-minute switched access charges for calls that originate on AT&T's network destined for termination by FeatureGroup IP.

AT&T's November 6, 2009 letter asserts that the parties' ICA does not address or cover 500 numbers. It also states that a Texas Public Utility Commission arbitrator "denied UTEX's claim." They are wrong about the ICA and mischaracterize the holding in the Texas PUC case as well as their own advocacy in that case.

The ICA does require AT&T to perform the translations at its own expense. It specifically addresses "nongeographic" numbers in several places and in other places it imposes obligations that either explicitly or implicitly cover "nongeographic" numbers, including 500. In particular Appendix Numbering § 1.4[11] on its face applies to FeatureGroup IP's 500 numbers because the 500-888 numbers are unquestionably "NXX codes." AT&T simply refuses to honor the contract. In any event, FeatureGroup IP submits that the Act does not allow AT&T to require FeatureGroup IP – a co-carrier and peer LEC that is not an IXC – to become an access customer for telephone exchange service traffic that is specifically bound for or received from Enhanced Service Providers.

AT&T implies this Commission also should not address the matter because it is being handled by the Texas PUC. They conveniently forget to mention that on November 2, only 4 days before AT&T submitted its letter to the Commission, AT&T argued to the Texas PUC in that case that "call blocking is not an issue in this docket."

---

[10] The test number is 682.888.8999.

[11] 1.4 Each Party is responsible to program and update its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party will impose fees or charges on the other Party for such required programming and updating activities.

The Texas PUC does not seem to be very interested in enforcing the ICA or addressing this matter and appears to agree with AT&T's argument that call blocking is not in issue in the pending case. The Texas PUC arbitrator **did not deny** UTEX's claim. She simply refused to rule on the issue, and held that the issue is "not applicable."

There is no where FeatureGroup IP can go to complain as far as AT&T is concerned. They convince the state regulator the matter is "federal" and then tell the FCC that the state commission has denied the claim. FeatureGroup IP has been asking state regulators, state courts, federal courts and this Commission to make AT&T follow the law for over 7 years. Yet AT&T can write one letter complaining about Google and regulators snap to attention and begin an inquiry. There is something very wrong with this imbalance.

AT&T asserts that its tariff[12] is the exclusive means by which these codes can be activated. This is incorrect. When the Common Carrier Bureau granted a waiver and allowed SWBT's "500" tariff to go into effect well over a decade ago and prior to the very existence of CLECs, it specifically reserved the issue of "whether enhanced service providers or cellular companies should pay interstate access charges in conjunction with 500 access service."[13] This happened in 1994, before the 1996 amendments created "CLECs" but during that period CMRS providers occupied an analogous position to CLECs today. For example, in 1983, the FCC required telcos to treat CMRS providers as co-carriers and peers.[14] Ten years before the 1996 amendments the Commission reaffirmed that CMRS carriers are not access customers, but are co-carriers with LECs because they provide exchange service.[15] FeatureGroup IP contends that it is not subject to, and cannot be required to subscribe to, AT&T's access tariff, since FeatureGroup IP's is engaged in the provision of telephone exchange

---

[12] AT&T is quite enamored with its access tariff. But it holds other carrier tariffs in much less regard. FeatureGroup IP has a tariff of its own, which covers 500 service as well as certain services that have been provided to AT&T that AT&T has refused to pay for. AT&T believes that AT&T can unilaterally overrule express ICA provisions and bind other LECs through an AT&T tariff, but it can never be subject to other LEC tariffs.

[13] Order, *In the Matter of The Ameritech Operating Companies, Bell Atlantic Telephone Companies, BellSouth Telecommunications, Inc., Cincinnati Bell Telephone Company, GTE Services Corporation, The NYNEX Telephone Companies, Pacific Bell, Rochester Telephone Corp., Southern New England Telephone Company, Southwestern Bell Telephone Company, The United Telephone and Central Telephone Companies, and U S West Communications Petitions for Waiver of Sections 69.4(b) and 69.106 of Part 69 of the Commission's Rule*s, DA-94-1350, ¶ 32, 9 FCC Rcd 7873 (rel. Nov., 1994).

[14] Memorandum Opinion and Order, *MTS and WATS Market Structure*, 97 FCC 2d 834, 882 (1984) ("*Access Charge Second Reconsideration Order*") ["RCCs are not and should not be treated as interexchange carriers under Part 69."]

[15] 12. We believe that the Commission's interconnection requirements respecting paging, conventional mobile service, and cellular are well established. Part 22 licensees are common carriers generally engaged in the provision of local exchange telecommunications in conjunction with the local telephone companies and are therefore "co-carriers" with the telephone companies. They are entitled to reasonable interconnection for the services they provide.

In the Matter of The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, FCC 86-85, 59 Rad. Reg. 2d (P&F) 1275 (rel. Mar. 5, 1986)("*FCC Policy Statement*") (Emphasis added, internal citations omitted).

service in conjunction with the other local telephone companies. FeatureGroup IP is a co-carrier and a peer to AT&T; it is not and cannot be forced to become a "customer" of AT&T.

AT&T does not assert that it is technically infeasible to perform the required translations or route 500 calls to FeatureGroup IP. They just insist that they can block unless and until FeatureGroup IP waives its LEC and ICA rights, subscribes to AT&T's interstate access tariff and agrees to pay ruinous and inapplicable non-recurring and recurring charges in order to provide a service to ESPs.

The issue that was reserved in the original Common Carrier Bureau order regarding AT&T's "500" tariff is now ripe. These numbers were expressly assigned to FeatureGroup IP so it could serve ESPs, but AT&T is refusing to route calls to them unless and until it recovers interstate access charges. The Commission has a duty to sort this out, since the Texas PUC apparently will not.

AT&T's refusal to route calls to these numbers violates § 251(b)(3). Regardless of whether "500" is a "local" or a "toll" service, AT&T is not allowing FeatureGroup IP to "provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to [FeatureGroup IP, which would be the provider of the 500 customer's designation] "from among 2 or more telecommunications services providers …" See 47 U.S.C. § 153(15). Section 251(b)(3) directs each local exchange carrier (LEC) to provide dialing parity to competing providers of telephone exchange and telephone toll service. Although the 1996 Act requires a LEC to provide dialing parity only to providers of telephone exchange and toll services, it does not limit the type of traffic or service for which dialing parity must be afforded to those providers. Section 251(b)(3) requires LECs to provide dialing parity to providers of telephone exchange or toll service with respect to all telecommunications services that require dialing to route a call. 500 service falls squarely within § 251(b)(3). The practice also violates §§ 201, 202 and 251(c)(2). AT&T's blocking – or whatever it is they choose to call it – is simply not allowed by the Act.

C. CMRS numbers using indirect interconnection. Worldcall Interconnect, Inc. ("WCX") is a CMRS provider that has been assigned numbering resources associated with approximately 73 rate centers in Texas. WCX chose to interconnect with AT&T Texas on an indirect basis through FeatureGroup IP's network.[16] AT&T admits that it has refused to honor WCX's designation in the LERG that calls addressed to WCX numbers should be routed to FeatureGroup IP's interconnection POI. AT&T says in cursory and opaque fashion that it is due to "differences of opinion over the parties' respective obligations for performing switch translations." We will "translate" the issue for the Commission. AT&T has refused to route calls to WCX via FeatureGroup IP unless and until (1) there is an amendment to

[16] As AT&T pointedly observes, WCX is a FeatureGroup IP affiliate company, in the same way that AT&T Mobility is an affiliate of AT&T's LEC companies. AT&T Mobility indirectly interconnects with many other LECs – without bothering to secure an ICA in many cases – by going through an AT&T ILEC. Yet when another affiliated group of companies does exactly the same thing it sets AT&T's hair on fire and the ILEC refuses to route unless there is direct interconnection and/or an express agreement.

the ICA between FeatureGroup IP and AT&T more to AT&T's liking, even though the current terms expressly contemplate and authorize either LEC to provide transit service to other carriers, and provide pricing for it; or (2) WCX enters an ICA with AT&T.

The Commission, however, expressly outlawed ILEC practices of this sort, even when AT&T's own characterization is used. First, rule 51.703(b) prohibits AT&T from demanding compensation before it performs switch translations to route calls originating on its network. Switch translations are how an ILEC performs "code opening" now that they no longer directly administer numbering resources. ILECs cannot impose code opening or other fees related to CMRS providers' or CLECs' use of numbers, and that is essentially what AT&T is attempting to do here. The *Second Local Competition Order* forbids incumbent LECs from assessing unjust, discriminatory, or unreasonable charges for activating central office codes and it prohibits charges for the mere use of numbers: "[c]harging different 'code opening' fees for different providers or categories of providers of telephone exchange service constitutes discriminatory access to telephone numbers and therefore violates section 251(b)(3)'s requirement of nondiscrimination. Charging different 'code opening' fees for different providers or categories of providers of any telecommunications service (not just telephone exchange service) also violates section 202(a)'s prohibition of unreasonable discrimination and also constitutes an 'unjust practice; and 'unjust charge' under section 201(b). Further, it is inconsistent with the principle stated in section 251(e)(1), which states that numbers are to be available on an equitable basis."[17]

WCX has chosen, for the moment, indirect interconnection. AT&T has to honor that choice, and it cannot block calls pending execution of an interconnection agreement. If AT&T wants to obtain an interconnection agreement with WCX, it can – pursuant to the *T-Mobile*[18] decision and rule 20.11 – send a request for negotiation to WCX, at which point WCX will have the duty to negotiate in good faith and, if AT&T requests, will have to agree to submit to arbitration by the state commission.[19] But unless and until that occurs, AT&T must route calls addressed to WCX using the routing instructions in the LERG.

These are the specific WCX numbers (or blocks) that AT&T is blocking and those they are routing:

---

[17] Second Report and Order, *In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas; Administration of the North American Numbering Plan; Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, CC Docket Nos. 92-237, 95-185, 96-98, NSD File No. 96-8, IAD File No. 94-102, FCC 96-333, 11 FCC Rcd 19392, 19538 (rel. Aug., 1996) ("*Second Local Competition Order*").

[18] Declaratory Ruling and Report and Order, *In the Matter of Developing a Unified Intercarrier Compensation Regime, T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, CC Docket 01-92, FCC 05-42, 20 FCC Rcd 4855 (rel. Feb. 2005) ("*T-Mobile*").

[19] WCX observes that any such agreement cannot lawfully require direct interconnection. It can only establish the terms, conditions and prices for indirect traffic exchange. WCX, not AT&T, is the carrier with the right to choose between direct and indirect interconnection.

Blocked:

830.201.9xxx	830.225.9xx	830.392.9xxx	830.494.9xxx	830.582.5xxx
830.587.8xxx	830.596.4xxx	830.825.9xxx	830.888.8xxx	830.967.5xxx
936.777.7xxx	979.217.9xxx	979.227.9xxx	979.232.9xxx	979.283.5xxx
979.289.8xxx	979.330.9xxx	979.335.0xxx	979.353.9xxx	979.426.9xxx
979.428.9xxx	979.488.0xxx	979.493.9xxx	979.635.9xxx	979.987.8xxx
979.989.9xxx	979.998.9xxx	979.999.9xxx	281.533.1xxx	281.710.1xxx
281.725.9xxx	281.969.0xxx	361.217.9xxx	361.235.8xxx	361.284.0xxx
361.298.9xxx	361.403.9xxx	361.433.9xxx	361.554.0xxx	361.588.9xxx
361.596.9xxx	361.865.8xxx	361.987.9xxx	361.988.8xxx	361.989.9xxx
361.990.9xxx	682.777.7xxx			

Routed:

512.212.2xxx	512.234.9xxx	512.253.5xxx	512.262.5xxx	512.273.8xxx
512.277.1xxx	512.285.1xxx	512.309.9xxx	512.430.9xxx	512.489.5xxx
512.523.7xxx	512.540.9xxx	512.546.9xxx	512.668.0xxx	512.686.9xxx
512.722.9xxx	512.746.9xxx	512.764.8xxx	512.777.7xxx	512.793.0xxx
512.798.9xxx	512.859.0xxx	512.862.8xxx	512.894.1xxx	512.898.8xxx
512.938.0xxx	512.999.9xxx			

D. Ported numbers.

As noted above, WCX directly received numbering resources from NANPA. And, WCX has or had several "assigned numbers" as that phrase is defined in rule 52.15(f)(iii). WCX signed service orders with customers and allocated individual numbers from WCX's numbering resources for these customers' use. The numbers were "working in the public switched telephone network" because the customers could make calls to all of the PSTN. The customers could also receive calls from the PSTN, but not all of it. WCX can receive some traffic originating with other providers if the call is not routed through AT&T. AT&T has refused to route calls originating on its network to WCX via FeatureGroup IP. Further, if another carrier uses AT&T for transit purposes and directs calls on its network to an AT&T tandem, the call will fail because of AT&T's blocking.[20] WCX has lost potential customers because AT&T's blocking unquestionably makes the service much less useable, valuable or marketable. WCX has also lost actual customers that had signed contracts, and these customers moved to other providers. Some of them tried to port out the WCX number, as they are allowed to do. WCX freely allowed them to do so, and did not even attempt to recover any termination charges it might otherwise be entitled to demand. AT&T, however, was not so cooperative.

A few of the dissatisfied WCX customers were willing to try a VoIP-based offering offered by an affiliated company (Worldcall Internet, Inc., or WCI).[21] The numbers used

[20] The vast majority of all tandem/transit traffic uses AT&T, which gives AT&T monopoly power with respect to tandem services.

[21] WCI is not a carrier. It is an enhanced/information service provider that offers a wide range of voice enabled IP-based services, including but not limited to "Interconnected VoIP" as that term is defined in rule 9.3. As such WCI obtains its telecommunications service inputs (including numbering resources) from a carrier pursuant to tariff, in this case FeatureGroup IP's FCC tariffed "IGI-POP" service. FeatureGroup IP is WCI's "numbering partner."

by the former WCX customers that chose to receive service from WCI were ported to FeatureGroup IP, as contemplated by the *VoIP LNP Order*.[22]

AT&T initially refused to honor or recognize some of the ports. FeatureGroup IP contacted AT&T and was told in July and early August that the WCX numbers were on a "held code list" due to "litigation issues." In particular, one customer wanted AT&T to port in his former WCX number[23] to the AT&T network. This was something of an embarrassment to AT&T, since it meant that the former WCX customer that chose them could not maintain the former number and receive calls. AT&T requested WCX to "take back" the number and WCX refused, since the customer wanted to maintain that number. Interestingly, but unsurprisingly, AT&T fixed the problem for the former WCX and now AT&T customer and in mid-August that customer was able to both send and receive calls. The rest of the WCX numbers in the same thousands block (512.777.7xxx) that were ported to FeatureGroup IP, however, still did not work. FeatureGroup IP submitted a trouble ticket to AT&T for this issue, and AT&T unilaterally closed the ticket without resolving the issue.

FeatureGroup IP performed a test on November 5 (one day before AT&T's letter) and discovered that some of the ported numbers had mysteriously begun to route. AT&T never bothered to give any notice of this development. Specifically, the numbers ported from WCX to FeatureGroup IP in the 512.777.7xxx block now work in the Austin LATA. Sadly, however, AT&T is still blocking call attempts to numbers ported from WCX to FeatureGroup IP in other Texas LATAs. For example, FeatureGroup IP ported in 100 WCX numbers associated with the Dallas LATA (682.777.7100 to 682.777.7199). As of the date of this letter, AT&T is blocking call attempts to all of them.

AT&T is routing calls addressed to the following numbers (designated by block) that were ported from WCX to FeatureGroup IP:

512.777.7xxx 512.999.9xxx 830.888.8xxx

3. Conclusion and request.

AT&T believes it is above the law, or that it can self-define exceptions to the law on a self-serving *ad hoc* basis. Today, still, in the very proceeding that was initiated by a strongly worded Declaratory Ruling that directly covers and prohibits exactly what AT&T is doing, despite all their protestations, prevarications and semantic-based denials. "The Commission has been, and remains, concerned that call blocking may degrade the reliability of the nation's telecommunications network. …[T]he Commission previously has found that call blocking is an unjust and unreasonable practice under section 201(b)

---

[22] *See* Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, *Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements; IP-Enabled Services; Telephone Number Portability; Numbering Resource Optimization*, WC Docket Nos. 07-243, 07-244, 04-36, CC Docket Nos. 95-116, 99-200, 22 FCC Rcd 19531 (2007) ("*VoIP LNP Order*"), *aff'd sub nom. National Telecomms. Cooperative Ass'n v. FCC* 563 F.3d 536 (D.C. Cir. 2009).

[23] The specific telephone number for this customer is 512.777.7777.

of the Act. …[N]o carriers … may block, choke, reduce or restrict traffic in any way."[24] The Declaratory Ruling cited in notes 15,[25] 17 and 19 to express precedent to the same effect.

AT&T has admitted on the record that it has refused to route calls, based on various purported excuses. As a matter of law and policy none of their excuses actually exempt them from the prohibition on blocking. AT&T is at it again. They must be made to answer for their transgressions.

AT&T's November 6 letter offered to answer any questions the FCC has on this matter. FeatureGroup IP suggests that the following questions would be appropriate:

- Why is it not a violation under § 201(a), an unjust/unreasonable practice under § 201(b) or unreasonably discriminatory under § 202(a) for an incumbent LEC to refuse to take the steps necessary to allow the ILEC's users to make calls to geographic numbers assigned to other LECs, particularly when the call would not result in any intercarrier compensation charge to the ILEC or toll charge to the ILEC user?
- Why is it not a violation under § 201(a), an unjust/unreasonable practice under § 201(b) or unreasonably discriminatory under § 202(a) for an incumbent LEC to refuse to take the steps necessary to allow the ILEC's users to make calls to nongeographic 500 numbers assigned to another LEC by NANPA for the purpose of affording access by PSTN users to enhanced/information service, particularly when the call would not result in any intercarrier compensation charge to the ILEC or toll charge to the ILEC user?
- What statutory provision or Commission rule allows an ILEC to require another LEC to pay code-opening fees or charges as a precondition to making switch translations necessary to route calls originating on the ILEC's network and addressed to users on the other LEC's network?
- What statutory provision or Commission rule allows an ILEC to require another LEC to pay originating access charges for calls originating on the ILEC's network and addressed to the other LEC's network if the other LEC is providing only telephone exchange service or exchange access service and is not providing telephone toll service? If the other LEC asserts access is not due, can the ILEC

---

[24] Declaratory Ruling and Order, *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers, Call Blocking by Carriers*, WC Docket No. 07-135, DA 07-2863, ¶¶ 6, 22 FCC Rcd 11629, 11631 (rel. Jun. 2007).

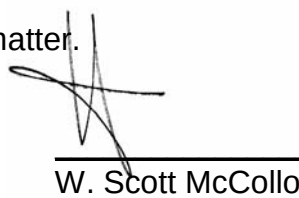
[25] Note 15 said:

> See *Access Charge Reform*, CC Docket No. 96-262, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923, 9932-33, ¶ 24 (2001) ("If such refusals to exchange traffic were to become a routine bargaining tool, callers might never be assured that their calls would go through. We are particularly concerned with preventing such a degradation of the country's telecommunications network. It is not difficult to foresee instances in which the failure of a call to go through would represent a serious problem, and, in certain circumstances, it could be life-threatening. Accordingly, the public interest demands a resolution to this set of problems").

refuse to route calls to the other LEC unless and until the other LEC "agrees" to pay originating access to the ILEC?

- Can an ILEC tariff provision that was allowed to go into effect in 1994 overrule or void §§ 251 and 252 (passed in 1996) or § 252 ICA terms that address the same subject with terms that are different than the tariff?
- Why is it not a violation under § 201(a), an unjust/unreasonable practice under § 201(b) or unreasonably discriminatory under § 202(a) for an incumbent LEC to refuse to honor a CMRS provider's decision to use indirect interconnection and refuse to route calls addressed to the CMRS provider's numbers to a CLEC's competitive tandem service?
- Why is it not a violation of § 332(c)(1)(B) and/or rule 20.11 for an incumbent LEC to refuse to honor a CMRS provider's decision to use indirect interconnection and refuse to route calls addressed to the CMRS provider's numbers to a CLEC's competitive tandem service?
- What statutory provision or Commission rule allows an ILEC to refuse to route calls addressed to a CMRS provider's network unless and until the CMRS provider or its competitive tandem provider "negotiate" interconnection agreement terms, particularly when the competitive tandem provider already has a ICA that contemplates this function?
- What statutory provision or Commission rule allows an ILEC to refuse to honor a number port from a CMRS provider's network to a CLEC's network merely because the ILEC refused to route the call before the port, if the number was active, in use by a customer, was able to send calls to the PSTN and was accessible to at least a portion of callers from the PSTN?

Thank you for your attention to this matter.



W. Scott McCollough, General Counsel
UTEX Communications Corp. d/b/a
FeatureGroup IP

Copies to:
Chairman Julius Genachowski
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker