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March 20, 2006

Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 050119-TL and 050125-TP

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Late Filed Deposition Exhibit No. 1 for Kathy K. Blake in the captioned dockets.

Sincerely,

Robert A. Culpepper

cc: All Parties of Record
Jerry Hendrix
R. Douglas Lackey
Nancy B. White

624218

CERTIFICATE OF SERVICE
Docket Nos.: 050119-TL and 050125-TP;
Consolidated Pursuant to Order No.: PSC-05-0517-PAA-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and U.S. Mail this 20th day of March, 2006 to the following:

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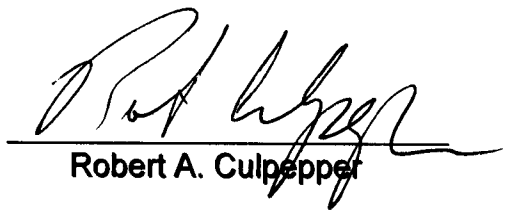

Robert A. Culpepper

FNPRM TRANSIT FUNCTION DISCUSSION

REQUEST: In connection with the FCC's Further Notice of Proposed Rule Making, CC Docket No. 01-92, FCC 05-33 ("FNPRM"), please provide specific cites regarding the pricing standards (if any) applicable to transit service.

RESPONSE: In FNPRM ¶ 120, the FCC states that "it has not had an occasion to determine whether carriers have a duty to provide transit traffic" and notes that the pricing standard for reciprocal compensation does not appear applicable to the pricing of transit service. Further, in FNPRM ¶ 132, the FCC seeks comment "on the appropriate pricing methodology, if any, for transit service." In the same paragraph, the FCC notes that Section 251(a)(1) does not address pricing. Finally, in FNPRM ¶ 129, the FCC seeks comments on, *inter alia,* whether imposing regulated rates for transit service "might discourage the development of this [transit service] market." Attached to this response is a copy of the entire transit service discussion that is contained in the FNPRM (¶¶ 120-133).

RESPONSE PROVIDED BY: Kathy K. Blake
Director – Policy Implementation

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	

FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: February 10, 2005 **Released: March 3, 2005**

Comment Date: 60 days after publication in the Federal Register
Reply Comment Date: 90 days after publication in the Federal Register

By the Commission: Chairman Powell, Commissioners Abernathy, Copps, and Adelstein issuing separate statements.

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I. INTRODUCTION

1. With this Further Notice of Proposed Rulemaking (Further Notice), we begin the process of replacing the myriad existing intercarrier compensation regimes with a unified regime designed for a market characterized by increasing competition and new technologies.[1] In the *Intercarrier Compensation NPRM*, the Commission acknowledged a number of problems with the current intercarrier compensation regimes (access charges and reciprocal compensation) and expressed interest in identifying a unified approach to intercarrier compensation.[2] The Commission solicited comment on a bill-and-keep approach to reciprocal compensation payments governed by section 251(b)(5) of the Act.[3] The Commission also sought comment on alternative reform measures that would build upon the current requirements for cost-based intercarrier payments.[4]

2. In response to the *Intercarrier Compensation NPRM*, the Commission received extensive comment from individual carriers and economists, industry groups and associations, consumer advocates, and state regulatory commissions, among others.[5] The Commission also received numerous *ex parte* filings and considered detailed presentations from interested parties. In addition to the record developed in response to the *Intercarrier Compensation NPRM*, various industry groups and interested parties recently submitted comprehensive reform proposals and principles for consideration by the Commission in this proceeding.[6]

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[1]This examination was initiated in April 2001 by a Notice of Proposed Rulemaking. *See Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001) (*Intercarrier Compensation NPRM*).

[2]*Id.* at 9612, para. 2. As the Commission explained in the *Intercarrier Compensation NPRM*, the existing intercarrier compensation rules may be categorized as follows: access charge rules, which govern the payments that interexchange carriers (IXCs) and Commercial Mobile Radio Service (CMRS) providers make to local exchange carriers (LECs) to originate and terminate long-distance calls; and reciprocal compensation rules, which, generally speaking, govern the compensation between telecommunications carriers for the transport and termination of "local" traffic. *Id.* at 9613, para. 6. Nevertheless, both sets of rules are subject to various exceptions, such as the enhanced service provider (ESP) exemption from the payment of access charges. *Id.*

[3]*Id.* at 9612-13, para. 4.

[4]*Id.*

[5]A complete list of comments and reply comments filed in response to the *Intercarrier Compensation NPRM* can be found in Appendix A. The Commission received 75 comments and 62 reply comments. *See* Appendix A.

[6]*See infra* Section II.C.

access charges, or would it be better to give states more flexibility in light of the role they historically have played in addressing these issues?

118. Parties also should address whether there are any adverse consequences associated with transitioning rate-of-return LECs toward a new unified regime at a slower pace than price cap LECs. For example, are there arbitrage issues associated with maintaining a rate differential between rural and non-rural LECs? Does such an approach place nationwide long distance carriers at a competitive disadvantage relative to IXCs that focus on lower cost areas (*e.g.*, the BOCs)?

119. Some rate-of-return LECs state that they are not authorized to provide interexchange services.[339] If the Commission moves to reduce, and possibly eliminate, the imposition of access charges by rate-of-return LECs, is there any reason for states to prohibit them from providing toll services? Would preemption of any such prohibitions be appropriate under section 253 of the Act, which generally prohibits state and local governments from preventing any carrier from providing any intrastate or interstate telecommunications service?[340] Parties should discuss the benefits that might accrue to rural customers if all rate-of-return LECs were permitted to provide interexchange services.

H. Additional Issues

1. Transit Service Issues

a. Background

120. Transiting occurs when two carriers that are not directly interconnected exchange non-access traffic by routing the traffic through an intermediary carrier's network.[341] Typically, the intermediary carrier is an incumbent LEC and the transited traffic is routed from the originating carrier through the incumbent LEC's tandem switch to the terminating carrier. The intermediary (transiting) carrier then charges a fee for use of its facilities. Although many incumbent LECs, mostly BOCs, currently provide transit service pursuant to interconnection agreements,[342] the Commission has not had occasion to determine whether carriers have a duty to provide transit service. The reciprocal compensation provisions of the Act address the exchange of traffic between an originating carrier and a terminating carrier, but the Commission's reciprocal compensation rules do not directly address the intercarrier

[339] *See, e.g.*, Letter from Sylvia Lesse, Counsel to the Missouri Companies, to William F. Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 01-92, at 6 (filed Mar. 22, 2003); Letter from Glenn H. Brown, Great Plains Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, at 8 (filed Sept. 23, 2003); Letter from W.R. England, III, Counsel to the Missouri Small Rural Incumbent Local Exchange Companies, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, at 3 (filed Oct. 31, 2003).

[340] 47 U.S.C. § 253.

[341] The exchange of access traffic, including the joint provision of access by two or more carriers, is governed by federal and state access charge rules.

[342] Indeed, the record suggests that most BOCs currently offer transit service to competitive LECs and CMRS providers pursuant to agreements. *See, e.g.*, Verizon Reply at 26-27.

compensation to be paid to the transit service provider.[343]

121. In the *Intercarrier Compensation NPRM*, the Commission sought comment on issues that arise under the current intercarrier compensation rules when calls involve a transit service provider, and how a bill-and-keep regime might affect such calls.[344] Specifically, the Commission sought comment on the transport obligations of interconnected LECs and whether it should allow LECs to charge each other for delivering transit traffic that originates on the networks of other carriers.[345] The Commission recognized that CMRS carriers also originate and terminate section 251(b)(5) traffic that transits incumbent LEC networks, and requested comment on the issues or problems that the current rules present for these calls.[346] In this section, we solicit further comment on whether there is a statutory obligation to provide transit services under the Act, and, if so, what rules the Commission should adopt to advance the goals of the Act.

122. Incumbent LECs argue that they are not required to provide transit service under the Act and that transit service offerings should remain voluntary.[347] They explain that they limit the availability of such services in order to prevent traffic congestion and tandem exhaust, and to encourage carriers to establish direct interconnection when traffic volumes warrant it.[348] According to these commenters,

[343] *See* 47 U.S.C. § 252(d)(2)(A)(i) (requiring that the terms and conditions for reciprocal compensation provide for the "recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier").

[344] *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9634, para. 71. In a related proceeding, Qwest had argued that a bill-and-keep arrangement does not work when three carriers are involved in the transport and termination of traffic because the carrier providing the transit service does not have a customer involved in the call from which it can recover costs. *Id.* (citing Letter from Lynn R. Charytan, Counsel for Qwest Communications International, Inc. to Magalie R. Salas, Secretary, Federal Communications Commission, CC Docket Nos. 96-98 and 99-68, App. B, at ii (filed Nov. 22, 2000)). *See also* Qwest Reply at 25 n.14 (clarifying that its concern applied only to the situation where the intermediary carrier has no relationship with the end-user, and, therefore, cannot recover its costs from the end-user).

[345] *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9634, para. 71.

[346] *See id.*

[347] *See* MITG Reply at 9-10; SBC Reply at 19; Verizon Reply at 25-26. *See also* Letter from Glenn Reynolds, Vice President, Federal Regulatory, BellSouth Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 at 6 (filed Aug. 29, 2003) (BellSouth Aug. 29 *Ex Parte* Letter); Letter from Glenn Reynolds, Vice President, Federal Regulatory, BellSouth Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed May 16, 2003) (attaching Letter from Glenn Reynolds, Vice President, Federal Regulatory, BellSouth Corporation, to William Maher, Chief, Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 01-92 at 3 (filed May 15, 2003) (BellSouth May 16 *Ex Parte* Letter); Letter from Joseph Mulieri, Executive Director – Federal Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 at 2-6 (filed June 13, 2003) (Verizon June 13 *Ex Parte* Letter); Letter from Joseph Mulieri, Assistant Vice President, Federal Regulatory Advocacy, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, at 2-4 (filed Sept. 4, 2003) (Verizon Sept. 4 *Ex Parte* Letter).

[348] Verizon Reply at 26-27. *See also* Verizon June 13 *Ex Parte* Letter at 6; Verizon Sept. 4 *Ex Parte* Letter at 6. Moreover, the smaller incumbent LECs complain that the larger incumbent LECs, *i.e.*, the BOCs, have entered into transiting arrangements with other carriers, whereby the BOC delivers traffic destined for a rural LEC to that LEC for termination without authorization or any agreement among all the carriers involved. *See* Alliance of Incumbent Rural Telephone Companies and Independent Alliance Reply at 6-7. They further argue that such (continued....)

transiting should be treated as an unregulated service offered at market-based prices, or, alternatively, as special access.[349]

123. Competitive LECs and CMRS providers argue that incumbent LECs are required to provide transit service under the Act,[350] and they urge the Commission to ensure continued access to transit service.[351] These carriers explain that indirect interconnection via a transit service provider is the most efficient means of interconnection and that the availability of transiting is critical to the development of competition.[352] CMRS providers in particular argue that the low volume of traffic exchanged with smaller LECs does not warrant direct interconnection and that transit service is necessary for indirect interconnection.[353] These commenters urge the Commission to set cost-based compensation for transit service using the Commission's forward-looking TELRIC cost methodology.[354]

124. In addition to these comments, several of the reform proposals include new rules addressing the regulation of transit services. For instance, the ICF proposal includes, as part of its network interconnection rules, a finding that tandem transit service is an interstate common carrier offering subject to regulation by the Commission.[355] Under this proposal, incumbent LECs already providing transit service

(Continued from previous page)

transiting arrangements preempt any opportunity for the small incumbent LEC to establish an agreement with the originating carrier and provide interconnection services. *See id.* at 7; MITG Reply at 9.

[349]*See* SBC Reply at 19 (advocating market-based rates); USTA Reply at 22 (arguing that transit service should be treated as an unregulated service or, in the alternative, treated as special access); Verizon Reply at 27 (advocating market-based rates); BellSouth Aug. 29 *Ex Parte* Letter at 11 (supporting market-based rates); Verizon Sept. 4 *Ex Parte* Letter at 2 (supporting market-based rates). *Cf.* MITG Reply at 11-15 (arguing that access charges must apply to transit service because three carriers are involved in the call rather than two).

[350]*See* Sprint Comments at 34 (relying on sections 251(a) and 251(c)(2)(B) of the Act); AT&T Reply at 48 (discussing sections 251(a) and 251(c)(2)(B) of the Act); VoiceStream Reply at 22 (citing section 251(a) of the Act). *See also* Letter from Laura H. Phillips, Counsel to Nextel Communications, Inc. and T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 at Attach. (filed May 16, 2003) (stating that sections 251(a)(1), 251(b)(5), 251(c) and 332(c) of the Act require incumbent LECs to provide transit service at cost-based rates) (Nextel/T-Mobile May 16 *Ex Parte* Letter).

[351]*See* Triton Comments at 13; Verizon Wireless Comments at 42-44; AT&T Reply at 48; Nextel Reply at 10; Sprint Reply at 16-18; Triton Reply at 8-9; Verizon Wireless Reply at 16; VoiceStream Reply at 22.

[352]*See* Sprint Comments at 33; Triton Comments at 13-14; AT&T Reply at 48; Nextel Reply at 10; Sprint Reply at 16-17; Triton Reply at 9; VoiceStream Reply at 22. In response to claims that transiting hinders the development of facilities-based competition, Sprint responds that duplicating incumbent LEC facilities would only impose unnecessary costs on new entrant carriers. *See* Sprint Reply at 17.

[353]*See* Triton Comments at 13-14 (arguing that transiting traffic is the only economically justifiable way for a CMRS provider to exchange traffic in rural areas); Verizon Wireless Comments at 43 (stating that transiting is the best way to ensure cost-effective service availability to rural customers); Nextel Reply at 10 (asking the Commission to ensure that indirect transit traffic arrangements remain a viable option because indirect interconnection is far more efficient in circumstances where a relatively small volume of traffic is exchanged); Triton Reply at 8-9 (urging the Commission to facilitate indirect interconnection through transiting arrangements); VoiceStream Reply at 22 (stating that CMRS carriers do not have the traffic volumes to justify direct connections).

[354]Sprint Comments at 35; Sprint Reply at 18; VoiceStream Reply at 25.

[355]*See* ICF Proposal at 25.

would continue to offer the service for the entire term of the ICF plan.[356] The ICF plan also includes a clarification of carrier responsibilities in a transit service arrangement and specified rate caps for transit services, which vary depending on the stage of the ICF plan.[357] In contrast, under the CBICC proposal, transit service providers would charge TELRIC-based rates for the functions provided.[358] Under the Western Wireless proposal, incumbent LECs would be required to offer transit service at capped rates.[359]

b. Discussion

125. The record suggests that the availability of transit service is increasingly critical to establishing indirect interconnection – a form of interconnection explicitly recognized and supported by the Act.[360] It is evident that competitive LECs, CMRS carriers, and rural LECs often rely upon transit service from the incumbent LECs to facilitate indirect interconnection with each other. Without the continued availability of transit service, carriers that are indirectly interconnected may have no efficient means by which to route traffic between their respective networks.

126. Moreover, it appears that indirect interconnection via a transit service provider is an efficient way to interconnect when carriers do not exchange significant amounts of traffic.[361] Competitive LECs and CMRS carriers claim that indirect interconnection via the incumbent LEC is an efficient form of interconnection where traffic levels do not justify establishing costly direct connections. As AT&T explains, "transiting lowers barriers to entry because two carriers avoid having to incur the costs of constructing the dedicated facilities necessary to link their networks directly."[362] This conclusion appears to be supported by the widespread use of transiting arrangements.

127. We seek comment on the Commission's legal authority to impose transiting obligations. For example, competitive LECs and CMRS carriers point to sections 251(a)(1) and 251(c)(2)(B) of the Act in support of transiting obligations.[363] AT&T and Sprint contend that the language in section 251(a) regarding indirect interconnection requires carriers to provide transiting arrangements.[364] In addition, these

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[356]*See id.* Further, a carrier seeking to discontinue offering tandem transit service would need to obtain section 214 authorization under the ICF plan. *Id.*

[357]*Id.* at 25-29. Moreover, the ICF proposal includes certain traffic volume limitations and other restrictions in situations of tandem congestion or exhaust. *Id.* at 30-31.

[358]*See* CBICC Proposal at 2.

[359]Western Wireless Proposal at 12.

[360]*See* 47 U.S.C § 251(a)(1).

[361]*See* Triton Comments at 13-14; AT&T Reply at 48; Nextel Reply at 10; Sprint Reply at 17; Triton Reply at 8-9; VoiceStream Reply at 22.

[362]AT&T Reply at 48.

[363]47 U.S.C. § 251(a)(1) (requiring telecommunications carriers to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers"); 47 U.S.C. § 251(c)(2)(B) (requiring incumbent LECs to provide interconnection "at any technically feasible point within the carrier's network").

[364]Sprint Comments at 34; AT&T Reply at 48. *See also* VoiceStream Reply at 22. For instance, Sprint states that 251(a)(1) becomes "meaningless" if the BOCs can ignore their transiting obligations. *See* Letter from Luisa L. (continued....)

carriers rely on the "at any technically feasible point" language in section 251(c)(2)(B) in support of transiting obligations.[365] They explain that interconnection at the tandem switch provides access to the full tandem switching functionality, including access to subtending end offices owned by carriers other than the tandem provider.[366] Furthermore, Sprint points to the language of section 251(c)(2)(a), requiring incumbent LECs to interconnect with requesting carriers for the "transmission and routing of telephone exchange service and exchange access," to support transiting obligations.[367]

128. Under section 251(a) of the Act, telecommunications carriers "should be permitted to provide interconnection pursuant to section 251(a) either directly or indirectly, based upon their most efficient technical and economic choices."[368] The Commission's rules define the term "interconnection" to mean "the linking of two networks for the mutual exchange of traffic" and not "the transport and termination of traffic."[369] We seek comment on whether that definition applies, or should apply, in the context of section 251(a).[370] In particular, we ask parties to comment on whether the statutory language regarding the duty to interconnect directly or indirectly under section 251(a) should be read to encompass an obligation to provide transit service. To whom would that implied obligation run?[371] Parties commenting on this issue should address the positions raised in the record and any other arguments concerning the Commission's legal authority to impose transiting obligations. For instance, we seek comment on whether a transiting obligation could also arise under section 251(b)(5)[372] or other sections of the Act, including section 201(a).[373] Parties should also identify and address other regulatory implications of the Commission's conclusions on this issue.[374]

(Continued from previous page) ———————————
Lancetti, Vice President, Regulatory Affairs, Sprint, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 at 6 (filed Aug. 6, 2003) (Sprint Aug. 6 *Ex Parte* Letter). *But see* Verizon June 13 *Ex Parte* Letter at 2 (arguing that nothing in the Act requires Verizon to accept and transport traffic destined for a third party carrier).

[365]Sprint Comments at 34; AT&T Reply at 48.

[366]Sprint Comments at 34; AT&T Reply at 48.

[367]Sprint Aug. 6 *Ex Parte* Letter at 6 (citing 47 U.S.C. § 251(c)(2)(A)).

[368]*Local Competition First Report and Order*, 11 FCC Rcd at 15991, para. 997 (defining interconnection obligations under section 251(a)).

[369]47 C.F.R. § 51.5. *See also Local Competition First Report and Order*, 11FCC Rcd at 15590, para. 176 (interpreting section 251(c)(2) of the Act).

[370]47 U.S.C. § 251(a).

[371]For example, if two carriers choose to meet their obligation under section 251(a) by interconnecting directly, should each be obligated to pass traffic to other carriers through the direct connection?

[372]*See* 47 U.S.C. § 251(b)(5) (requiring that LECs establish reciprocal compensation arrangements for the transport and termination of telecommunications).

[373]*See* 47 U.S.C. § 201(a) (giving the Commission the authority to establish physical connections and through routes if it, after opportunity for hearing, finds such action necessary or desirable in the public interest).

[374]For example, a determination that incumbent LECs have a transiting obligation pursuant to section 251(c)(2) would also trigger an obligation to provide such a service under section 271(c)(2)(B)(i).

129. Assuming that the Commission has the necessary legal authority, we solicit comment on whether we should exercise that authority to require the provision of transit service. We recognize that many incumbent LECs, mostly BOCs, voluntarily provide transit service pursuant to interconnection agreements. These carriers argue that there is no need to adopt rules for transit service.[375] The record suggests, however, that some carriers may experience difficulty in obtaining transit service,[376] and the record is silent on whether transit service is currently available at reasonable rates, terms, and conditions. We acknowledge the concerns of competitors that the unavailability of transit service at reasonable rates, terms, and conditions could pose a barrier to entry, and we also recognize the importance of identifying and implementing appropriate interconnection incentives for the future. Thus, we seek additional comment on the extent to which providers (including non-incumbent LECs) make transit service available in the marketplace at reasonable rates, terms, and conditions, and the extent to which rules implementing transit service obligations are warranted at this time. In this regard, we seek comment on the possibility that mandated transiting or regulated rates for such service might discourage the development of this market. Conversely, we seek comment on whether any rules adopted should encourage the provision of transit service by carriers other than incumbent LECs and, if so, how.

130. If rules regarding transit service are warranted, we seek comment on the scope of such regulation. Specifically, we seek comment on whether transit service obligations under the Act should extend solely to incumbent LECs or to all transit service providers, including competitive LECs.[377] Parties advocating that any rules should apply exclusively to incumbent LEC transit service should address whether the regulation of some transit service providers but not others would create arbitrage risks or result in an unfair competitive advantage.

131. We also seek comment on the need for rules governing the terms and conditions for transit service offerings. In particular, we seek comment on whether limitations on transit service obligations should be considered and the legal authority for imposing such limitations if transit service rules are adopted. For instance, if a transit service obligation is imposed, indirectly interconnected carriers may lack the incentive to establish direct connections even if traffic levels warrant it.[378] As mentioned above, some incumbent LECs currently limit the availability of transit services in order to prevent traffic congestion and tandem exhaust, and to encourage carriers to establish direct interconnection when traffic volumes warrant it.[379] We ask parties to comment on whether similar limitations should apply to any transit service obligations, and under what conditions.

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[375] *See* Verizon Reply at 26 (stating that carriers will offer transit service where it is economical for them to do so). *See also* USTA Reply at 22 (stating that the better policy option is to permit all carriers the ability to offer transit service as an unregulated service).

[376] Sprint Comments at 33 (stating that some BOCs have refused, or announced their intention to refuse, to provide indirect interconnection or transiting). *See also* Triton Comments at 13 (describing difficulties experienced in trying to obtain transit arrangements).

[377] The source of legal authority affects the scope of the obligation. *See supra* para. 128 (seeking comment on which section of the Act provides legal authority for the imposition of transiting service obligations).

[378] *See* Verizon Reply at 27 (arguing that limitations are necessary to provide the incentive for direct connections between carriers).

[379] *See, e.g.*, Verizon Reply at 26-27. Verizon, for instance, offers transit service and tandem switching of transit traffic up to a DS-1 capacity level and offers special access arrangements for traffic above a DS-1 level. *Id.* at 27.

132. Further, if the Commission determines that rules governing transit service are warranted, we seek additional comment on the appropriate pricing methodology, if any, for transit service. The reciprocal compensation provisions of the Act address the exchange of traffic between two carriers, but do not explicitly address the intercarrier compensation to be paid to the transit service provider for carrying section 251(b)(5) traffic.[380] Similarly, section 251(a)(1) does not address pricing. Most commenters agree that incumbent LECs should be compensated for transit service, but they disagree as to the appropriate pricing methodology for this service.[381] Thus, we seek further comment on the appropriate pricing methodology, including the possibility of requiring that transit service be offered at the same rates, terms, and conditions as the incumbent LEC offers for equivalent exchange access services (*e.g.*, tandem switching and tandem switched transport) and how this option would be affected by our proposals to alter the current switched access regime.[382] Moreover, if transit service is treated as an access service, we seek comment on whether pricing flexibility could be obtained based on our existing rules, and seek input on the appropriate test to determine when pricing flexibility would be appropriate. Parties should provide evidence of the degree to which there is, or could be, competition for transit services and how the level of competition should be reflected in our choice of a pricing methodology. Further, we ask parties to comment on whether the efficient pricing of transit service would eliminate the need for any explicit limitations on transit obligations, *i.e.*, whether the correct price signals would encourage direct connections when necessary.

133. Finally, we recognize that the ability of the originating and terminating carriers to determine the appropriate amount and direction of payments depends, in part, on the billing records generated by the transit service provider. Thus, we ask carriers to comment on whether the current rules and industry standards create billing records sufficiently detailed to permit the originating and terminating carriers to determine the appropriate compensation due.[383] For instance, although current billing records include call detail information, it is unclear whether and to what extent these billing records include carrier identification information. We seek further comment on the extent to which billing information in a transiting situation may be inadequate to determine the appropriate intercarrier compensation due, and we ask carriers to identify possible solutions to the extent that billing problems exist today.[384] Specifically, we

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[380] *See* 47 U.S.C. § 251(b)(5); 47 U.S.C. § 252(d)(2)(A)(i) (requiring that the terms and conditions for reciprocal compensation provide for the "recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier").

[381] The Illinois Commission supports cost-based rates for transit service, but it does not advocate a specific pricing methodology. Illinois Commission Comments at 10. It supports market-based rates once "sufficient competition develops." *Id.* at 9.

[382] *See* MITG Reply at 11 (concluding that, if reciprocal compensation rates do not apply to this traffic, then access rates must apply).

[383] For example, VoiceStream complains that it does not always receive the information it needs to bill the originating carrier for traffic it terminates, and asks us to direct tandem switch owners to provide the identity of the carrier to be billed with each call. VoiceStream Reply at 26. VoiceStream claims that the SS7 signaling in use has never been modified to identify and convey in the trunk signaling messages the carrier to be billed. *Id.*

[384] In the VoIP context, for instance, Level 3 suggests using the Originating Line Information (OLI), also known as ANI II, SS7 call set-up parameter to identify IP-enabled services traffic. *See* Letter from John T. Nakahata, Counsel for Level 3, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 03-266 and 04-36, at 2-3 (filed Sept. 24, 2004). Moreover, the EPG proposal in this proceeding includes support for a "Truth-in-Labeling" policy. *See* EPG Proposal at 16-17.

request comment about whether to impose an obligation on the transiting carrier to provide information necessary to bill, including both the identity of the originating carrier, and the nature of the traffic.[385] Parties should explain whether this obligation to exchange information is necessary if we move to a bill-and-keep regime. In the absence of such information, it may be difficult for carriers exchanging traffic indirectly to identify each other and to determine the type and quantity of traffic that they exchange with each other. This may affect not only the exchange of compensation between the parties, but also may hinder the ability to establish direct connections. Parties should address whether such solutions are best implemented by this Commission, industry organizations, or some combination of the two.

2. CMRS Issues

a. The IntraMTA Rule

134. In the *Local Competition First Report and Order*, the Commission stated that traffic to or from a CMRS network that originates and terminates within the same Major Trading Area (MTA)[386] is subject to reciprocal compensation obligations under section 251(b)(5), rather than interstate or intrastate access charges.[387] The Commission reasoned that, because wireless license territories are federally authorized and vary in size, the largest FCC-authorized wireless license territory, *i.e.*, the MTA, would be the most appropriate local service area for CMRS traffic for purposes of reciprocal compensation under section 251(b)(5).[388] Thus, section 51.701(b)(2) of the Commission's rules defines telecommunications traffic exchanged between a LEC and a CMRS provider that is subject to reciprocal compensation as traffic "that, at the beginning of the call, originates and terminates within the same Major Trading Area."[389]

135. The purpose of the intraMTA rule is thus to distinguish access traffic from section 251(b)(5) CMRS traffic. Given our goal of moving toward a more unified regime, we seek comment on whether the Commission should eliminate the intraMTA rule. We note that many of the proposals would eventually eliminate the intraMTA rule and treat CMRS traffic the same as all other wireline traffic for compensation purposes.[390] Parties that support maintaining the intraMTA rule or some modification of

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[385]In certain situations, obligating the transiting carrier to pass on the billing information in its records may not be sufficient. For example, the transiting carrier may be aware of the identity of the originating carrier, based on the facilities over which it receives the traffic, and of the trunk group (local exchange service or exchange access) that carries the traffic, even though that information is not formally recorded in the billing record. Under the ARIC reform proposal, the tandem owner would be responsible for compensation payments in the case of unidentified traffic. *See* ARIC Proposal at 55.

[386]The definition of an MTA can be found in section 24.202(a) of the Commission's rules. 47 C.F.R. § 24.202(a).

[387]*Local Competition First Report and Order*, 11 FCC Rcd at 16014, para. 1036.

[388]*Id.*

[389]47 C.F.R. § 51.701(b)(2).

[390]*See, e.g.*, ARIC Proposal at 35, 37 (describing a mechanism that would apply to all traffic traversing the network); CBICC Proposal at 3 (proposing a plan that eliminates concerns with respect to the intercarrier compensation for CMRS traffic); EPG Proposal at 21-22 (advocating a convergence of the disparate intercarrier rates); Home/PBT Proposal at 13 (supporting unified connection-based rates); ICF Proposal at 46-47 (proposing a default termination rate for CMRS traffic that eventually becomes the uniform rate on July 1, 2008); Western Wireless Proposal at 13 (supporting a four-year transition to bill-and-keep for all traffic).