MINUTES OF DECEMBER 5, 2001
SPECIAL COMMISSION CONFERENCE
COMMENCED: 9:35 a.m.
ADJOURNED: 12:55 p.m.

COMMISSIONERS PARTICIPATING: Chairman Jacobs
Commissioner Deason
Commissioner Jaber
Commissioner Baez
Commissioner Palecki

Parties were allowed to address the Commission on items designated by double asterisks (**).

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1 Docket No. 000075-TP - Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehearing Officer: Jaber

Staff: CMP: Hinton, Bloom
LEG: Banks, B. Keating

ISSUE 10: Pursuant to the Telecommunications Act of 1996 (Act), the FCC's rules and orders, and Florida Statutes, what is the Commission's jurisdiction to specify the rates, terms, and conditions governing compensation for transport and delivery or termination of traffic subject to Section 251 of the Act?
RECOMMENDATION: Staff believes that the Commission has jurisdiction to specify rates, terms and conditions governing compensation for transport and delivery or termination of traffic pursuant to Section 251 of the Act, the FCC's rules and orders, and Sections 364.161 and 364.162, Florida Statutes, so long as not otherwise inconsistent with the FCC's rules and orders, and the Act. Further, staff believes that Section 120.80(d), Florida Statutes, authorizes the Commission to employ procedures necessary to implement the Act.

DECISION: The recommendation was approved.

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ISSUE 12(a): Pursuant to the Act and the FCC's rules and orders, under what condition(s), if any, is an ALEC entitled to be compensated at the ILEC's tandem interconnection rate?
RECOMMENDATION: Staff recommends that an ALEC is entitled to be compensated at the ILEC's tandem interconnection rate when its switch either serves a comparable geographic area to that served by an ILEC tandem switch, or performs functions similar to those performed by an ILEC tandem switch.

DECISION: The recommendation was approved.

ISSUE 12(b): Pursuant to the Act and the FCC's rules and orders, under either a one-prong or two-prong test, what is "similar functionality"?
RECOMMENDATION: Staff recommends that "similar functionality" should be defined as trunk-to-trunk switching when determining if an ALEC is entitled to the tandem interconnection rate pursuant to FCC 96-325, ¶1090.

DECISION: The recommendation was denied. The Commissioners determinec that no vote is necessary.

ISSUE 12(c): Pursuant to the Act and the FCC's rules and orders, under either a one-prong or two-prong test, what is "comparable geographic area"?
RECOMMENDATION: Staff believes that a "comparable geographic area," pursuant to FCC Rule 51.711, is a geographic area that is roughly the same size as that served by an ILEC tandem switch. Staff recommends that an ALEC "serves" a comparable geographic area when it has deployed a switch and has opened NPA/NXXs to serve the exchanges within this area. In addition, staff recommends that the ALEC must show that it is serving this area either through its own facilities, or a combination of its own facilities and

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leased facilities connected to its collocation arrangements in ILEC central offices.

DECISION: The recommendation was approved.

ISSUE 13: How should a "local calling area" be defined, for purposes of determining the applicability of reciprocal compensation?
RECOMMENDATION: Staff recommends that parties be permitted to negotiate the definition of local calling area for the purposes of reciprocal compensation to be contained in their interconnection agreements. However, if negotiations fail, staff recommends that "local calling area" for the purposes of reciprocal compensation be defined as "all calls that originate and terminate in the same LATA."

DECISION: The recommendation was deferred. A one-day limited scope hearing is to be held.

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ISSUE 14: (a) What are the responsibilities of an originating local carrier to transport its traffic to another local carrier?

(b) For each responsibility identified in part (a), what form of compensation, if any, should apply?

RECOMMENDATION: (a) An originating carrier has the responsibility for delivering its traffic to the point(s) of interconnection designated by the alternative local exchange company (ALEC) in each LATA for the mutual exchange of traffic.

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(b) An originating carrier is precluded by FCC rules from charging a terminating carrier for the cost of transport, or for the facilities used to transport the originating carrier's traffic, from its source to the point(s) of interconnection in a LATA. These rules require an originating carrier to compensate the terminating carrier for transport and termination of traffic through intercarrier compensation.

DECISION: The recommendation was approved.

ISSUE 15: (a) Under what conditions, if any, may carriers assign telephone numbers to end users physically located outside the rate center in which the telephone number is homed?

(b) Should the intercarrier compensation mechanism for calls to these telephone numbers be based upon the physical location of the customer, the rate center to which the telephone number is homed, or some other criterion?

RECOMMENDATION: (a) Staff recommends that carriers be permitted to assign telephone numbers to end users physically located outside the rate center to which the telephone number is homed, within the same LATA.

(b) Staff recommends that intercarrier compensation for calls to these numbers be based upon the end points of the particular calls. However, staff does not recommend that the Commission mandate a particular intercarrier compensation mechanism for virtual NXX/FX traffic. Since non-ISP virtual NXX/FX traffic volume may be relatively small, and the costs of modifying the switching and billing systems may be great, staff believes it is best left to the parties to negotiate the best intercarrier compensation mechanism to apply to virtual NXX/FX traffic in their individual interconnection agreements. While not recommending a particular compensation mechanism, staff does

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recommend that virtual NXX traffic and FX traffic be treated the same for intercarrier compensation purposes.

DECISION: The recommendation was approved.

ISSUE 16: (a) What is the definition of Internet Protocol (IP) telephony?
(b) What carrier-to-carrier compensation mechanism, if any, should apply to IP telephony?
RECOMMENDATION: Staff recommends the Commission find that this issue is not ripe for consideration at this time. Staff believes this is a relatively nascent technology, with limited application in the present marketplace. As such, staff recommends that the Commission reserve any generic judgement on this issue until the market for IP telephony develops further.

DECISION: The recommendation was approved.

ISSUE 17: Should the Commission establish compensation mechanisms governing the transport and delivery or termination of traffic subject to Section 251 of the Act to be used in the absence of the parties reaching an agreement or negotiating a compensation mechanism? If so, what should be the mechanism?

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RECOMMENDATION: Yes. The Commission should determine that the default rate structure for compensation shall be the mechanisms established in 47 C.F.R., Part 51 Subpart H, Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic. The rate levels shall be those established in Docket No. 990649-TP. Nothing in this recommendation is intended to preclude parties in a negotiation from adopting other, mutually agreed-upon, compensation rates and structures.

DECISION: The recommendation was deferred to allow an evidentiary proceeding as outlined in Commissioner Palecki's motion.

ISSUE 18: How should the policies established in this docket be implemented?
RECOMMENDATION: Staff recommends the Commission adopt the policies and procedures established in this docket on a going forward basis, allowing carriers, at their discretion, to incorporate provisions into new and existing agreements. Nothing in this recommendation is intended to discourage parties from negotiating other, mutually agreed-on terms or conditions.

DECISION: The recommendation was approved.

ISSUE 19: Should this docket be closed?
RECOMMENDATION: No. This docket should remain open pending the outcome of the ~~Phase 1~~ proceedings ~~of~~ in this docket.

DECISION: The recommendation was approved with the noted modification.

Commissioners participating: Jacobs, Deason, Jaber, Baez, Palecki