BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of WWC Holding Co., Inc. for Arbitration of an Interconnection Agreement	)	DOCKET NO. 03-2403-02

DIRECT TESTIMONY OF

RON WILLIAMS

I. QUALIFICATIONS AND PURPOSE OF TESTIMONY

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Ron Williams. My business address is 3650 131st Ave., SE, Bellevue, Washington 98006.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed as Director - InterCarrier Relations by Western Wireless Corporation. My duties and responsibilities include developing effective and economic interconnection and operational relationships with other telecommunications carriers. I work with other departments within Western Wireless to develop plans to deal with company needs and interface with carriers to ensure arrangements are in place to meet the operational objectives of the company.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.

A. I have a BA in Accounting and a BA in Economics from the University of Washington. I also have a MBA from Seattle University.

Q. FOR WHOM ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am testifying on behalf of WWC Holding Co., Inc. ("Western Wireless"), which provides commercial mobile radio services ("CMRS") in the State of Utah.

Q. WHAT IS YOUR PROFESSIONAL EXPERIENCE IN THE FIELD OF TELECOMMUNICATIONS?

A. I have ten years experience working for GTE, including six years in Telephone Operations and business development, and four years in cellular operations. I also have two years experience in start-up CLEC operations with FairPoint Communications. Since August 1999,

I have worked for Western Wireless, first as the Director of CLEC operations and, more recently, in my current position in InterCarrier Relations.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I am familiar with all of the issues raised in the Petition for Arbitration filed by Western Wireless on April 25, 2003, and the Response of Certain Utah ILECs to the Petition for Arbitration ("Response") filed by certain Utah independent local exchange companies ("Utah ILECs") on May 20, 2003. The Utah ILECs consist of Carbon/Emery Telcom, Inc., Emery Telephone and Hanksville Telcom, Inc. (collectively "Emery"), Gunnison Telephone Company ("Gunnison"), Manti Telephone Company ("Manti"), South Central Utah Telecommunications Association, Inc. ("South Central"), Uintah Basin Telecommunications Associations, Inc. and UBET Telecom, Inc. (collectively "UBTA"). My testimony is limited to the following unresolved issues:

Unresolved Issue 1 (Effective Date): What is the appropriate effective date of an arbitrated Interconnection Agreement?

Unresolved Issue 2 (Scope of Reciprocal Compensation Obligations): What traffic is subject to reciprocal compensation in accordance with the FCC rules?

Unresolved Issue 3 (Delivery of Land to Mobile Traffic): What obligations do the Utah ILECs have to deliver traffic subject to reciprocal compensation to Western Wireless' network?

Unresolved Issue 4 (Rates for Reciprocal Compensation): What rates should be adopted for the transport and termination of interMTA traffic consistent with 47 U.S.C. § 252(d)(2) and FCC Rule 51.705?

Unresolved Issue 5 (Symmetrical Compensation at a Tandem Rate): Is Western Wireless entitled to be compensated at the tandem interconnection rate as required by 47 C.F.R. § 51.711(a) if its switch serves an area greater than the geographical area served by the Utah ILEC's tandem switch?

Unresolved Issue 6 (Rates for Interconnection Facilities): What rates and cost sharing should apply to Utah ILEC interconnection facilities used for the transport and termination of local traffic in Type 1, Type 2B and Type 2A interconnection arrangements between a Utah ILEC and Western Wireless.

Unresolved Issue 7 (Tandem Routed Local Calling): Whether Utah ILECs should recognize Western Wireless NPA-NXXs with separate rating and routing points.

Unresolved Issue 8 (Dialing Parity): Whether Western Wireless' numbers rated out of a Utah ILEC end office receive the same dialing treatment as other numbers within that local calling area or extended area service area?

Unresolved Issue 9 (Procedure for Renegotiation): What procedure should apply if a Party seeks to renegotiate the Agreement at the end of a term?

Unresolved Issue 10 (Other Terms and Conditions): Whether the terms and conditions of an interconnection agreement proposed by Western Wireless are fair, reasonable, and consistent with the interconnection requirements of the Act and the FCC rules?

Unresolved Issue 11 (Assumption of Qwest Contracts): Did certain Utah ILECs assume Qwest contract for termination of traffic and should Western Wireless be required to compensate these ILECs accordingly? Did Western Wireless agree to

pay these ILECs for the termination of this traffic from the date of acquisition of the Qwest exchanges?

Unresolved Issue 12 (Payment for back traffic): Should Western Wireless be required to pay for the termination of past traffic?

Unresolved Issue 13 (InterMTA factor): Should an interMTA traffic factor be included in the Agreement?

Unresolved Issue 14 (Billing Costs): Can the Utah ILECs charge Western Wireless for billing costs they incur?

My testimony describes Western Wireless' understanding of the legal requirements that apply to arbitrated interconnection disputes between a CMRS provider such as Western Wireless and incumbent local exchange carriers ("ILECs") such as the Utah ILECs, and my testimony presents the positions of Western Wireless on the unresolved issues identified above. For each of the unresolved issues, I will identify the applicable legal standard, establish the facts relevant to a determination, and recommend to the Public Service Commission of Utah ("Commission") the appropriate resolution of each dispute.

Q. WHAT OTHER EVIDENCE IS WESTERN WIRELESS SUBMITTING IN THIS PROCEEDING?

A. In addition to my testimony, Western Wireless will sponsor expert testimony on Issue 4 involving rates consistent with the standard of 47 U.S.C. § 252(d)(2) and FCC Rule 51.705. This testimony will be provided in reply to the anticipated offering of rates and a cost study in the Utah ILEC direct testimony.

Q. IS WESTERN WIRELESS SEEKING RESOLUTION OF THESE ISSUES FOR ALL OF THE UTAH ILECS IDENTIFIED IN THE PETITION?

A. Yes. Western Wireless seeks an interconnection agreement with all of the identified Utah ILECs and desires that the final resolution of the unresolved issues apply to the Utah ILECs. The negotiations were conducted with the understanding that a standard interconnection agreement would result for use by Western Wireless and the Utah ILECs. However, an individual agreement could contain different or additional provisions as necessary to address unique issues. Nevertheless, the Commission's resolution of the generic issues negotiated with the Utah ILECs should apply equally to all Utah ILECs in this proceeding.

II. INTERCONNECTION OBLIGATIONS OF AN ILEC IN ACCORDANCE WITH THE 1996 ACT

Q. DESCRIBE THE INTERCONNECTION OBLIGATIONS IMPOSED ON ILECS PURSUANT TO THE 1996 ACT.

A. The Telecommunications Act of 1996 ("1996 Act" or "the Act") fundamentally restructured local telephone markets, and imposed numerous requirements on ILECs intended to facilitate market entry and allow competitive carriers to utilize ILEC networks and network functions. *See AT&T Corp. v. Iowa Utils. Bd.*, 119 S. Ct. 721, 726 (1999) ("*Iowa Utilities*"). Pursuant to the 1996 Act and the FCC's rules, these requirements include the obligation to interconnect directly or indirectly with other telecommunications carriers, the obligation to enter into arrangements for cost-based, reciprocal compensation for local telecommunications traffic, and a prohibition on discriminatory treatment. The United States Supreme Court has mandated that these federal obligations imposed by law must be applied by this Commission in considering an interconnection arbitration like this one. *See Iowa Utilities*, 119 S. Ct. at 733 (FCC has authority to issue interconnection rules that must guide state commission judgments).

Q. ARE CMRS PROVIDERS ENTITLED TO OBTAIN RECIPROCAL, COST-BASED INTERCONNECTION PURSUANT TO THE 1996 ACT?

A. Yes. The 1996 Act treats all competitive carriers, including both competitive local exchange carriers ("CLECs") and CMRS providers, alike with respect to interconnection rights. The Act speaks in terms of the rights and obligations of "telecommunications carriers." The 1996 Act defines a "telecommunications carrier" to mean any provider of telecommunications services, which includes CMRS services. 47 U.S.C. § 3(49). The FCC has explicitly addressed the applicability of the interconnection rules to CMRS providers, and determined that CMRS providers are telecommunications carriers, and therefore are entitled to interconnection with ILECs pursuant to Sections 251 and 252. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *First Report and Order*, 11 FCC 15499, ¶¶ 1012-1015 (1996) ("*First Report and Order"*). Thus, under the 1996 Act, ILECs must interconnect with any telecommunications carrier, and must agree to exchange telecommunications traffic at transport and termination rates that are reciprocal and cost-based consistent with the pricing provisions of the 1996 Act and the FCC's regulations.

Q. HAVE THE UTAH ILECS COMPLIED WITH THE OBLIGATIONS IMPOSED UPON ILECS BY THE 1996 ACT?

A. No. The Utah ILECs have proposed an interconnection agreement that is not reciprocal, does not provide for cost-based rates, applies access charges (rather than reciprocal compensation) to traffic subject to reciprocal compensation obligations, and otherwise fails in many respects to meet the requirements of the 1996 Act and the FCC's rules.

Q. ARE THERE ANY SPECIAL RULES THE COMMISSION MUST CONSIDER IN RESOLVING ANY OF THE OUTSTANDING INTERCONNECTION ISSUES BETWEEN THE UTAH ILECS, AND WESTERN WIRELESS, A CMRS PROVIDER?

A. Yes there are, and those special rules are important in this arbitration. CMRS providers are licensed by the FCC in accordance with federal law. As a result, the FCC has jurisdiction over CMRS-LEC traffic, and has established certain standards that apply to interconnection and traffic exchanged between CMRS providers and landline carriers. Reciprocal compensation applies to "telecommunications traffic" as defined in the FCC's rules. For only landline traffic exchanged between local exchange carriers, "telecommunications traffic" includes calls that originate and terminate within the state-approved local calling area. However, for traffic originated or terminated by a CMRS provider, FCC Rule 51.701(b)(2) provides that the term "telecommunications traffic" includes all traffic between a CMRS provider and a LEC that originates and terminates in the Major Trading Area ("MTA").

Q. DOES THE FCC USE THE TERM "LOCAL TRAFFIC"?

A. Not anymore. In 2001, the FCC decided that the terms "Local Traffic" and "Non-Local Traffic" were confusing as applied to calls bound for the Internet. *See In the Matter of Implementation of the Local Competition Provisions in the Telecomms. Act of 1996*, Order on Remand and Report and Order, 66 Fed. Reg. 26,800, ¶ 46 (rel. Apr. 27, 2001) ("*ISP Remand Order*"). The FCC therefore amended its regulations relating to reciprocal compensation to use the term "telecommunications traffic" to encompass 1) landline calls within a state local calling area, and 2) LEC/CMRS calls that originate and terminate within the same MTA. 47 C.F.R. § 51.701(b)(2). This change did not affect the MTA rule or the substantive treatment

of CMRS/LEC calls. Instead of referring to "local traffic," in this testimony, I will refer to "telecommunications traffic" or "intra-MTA traffic."

Q. DO THE UTAH ILECS RECOGNIZE THAT INTRA-MTA CALLS TO AND FROM WESTERN WIRELESS ARE SUBJECT TO RECIPROCAL COMPENSATION UNDER THE FCC'S RULES?

A. No. The Utah ILECs seek to avoid the application of the MTA rule on calls originated by their own customers. This impacts reciprocal compensation obligations, and the obligations to route traffic in a way that is efficient and non-discriminatory. Second, as explained in greater detail herein, the FCC has established straightforward reciprocal compensation rules that require the Utah ILECs to compensate Western Wireless at the tandem interconnection rate for all land-to-mobile traffic routed to Western Wireless' switch known as a mobile switching center ("MSC").

III. EXISTING INTERCONNECTION ARRANGEMENTS BETWEEN WESTERN WIRELESS AND THE UTAH ILECS

Q. ARE THERE ANY EXISTING INTERCONNECTION AGREEMENTS BETWEEN WESTERN WIRELESS AND THE UTAH ILECS?

A. Yes. Western Wireless currently has an interconnection agreement with South Central that has been in place several years. Western Wireless now seeks to establish a new interconnection agreement with South Central to replace the old one. Western Wireless has also recently reached an agreement in principle with Emery on the terms of a new interconnection agreement for the transport, termination and exchange of traffic between their networks. A conformed interconnection agreement is still being prepared for the signatures of both parties.

Q. BESIDES SOUTH CENTRAL AND EMERY ARE THERE ANY OTHER EXISTING INTERCONNECTION AGREEMENTS BETWEEN WESTERN WIRELESS AND THE UTAH ILECS?

A. No. There are no other formal interconnection agreements between Western Wireless and the other identified Utah ILECs for the exchange of telecommunications traffic. Western Wireless desires to obtain an interconnection agreement with these other remaining Utah ILECs.

Q. DOES WESTERN WIRELESS HAVE ANY OTHER EXISTING INTERCONNECTION AGREEMENTS WITH OTHER LOCAL EXCHANGE CARRIERS?

A. Yes. Western Wireless and Citizens Telecommunications have an interconnection agreement which was recently approved by the Utah PSC in Docket 03-2403-01. Western Wireless (WWC Holding Co., Inc.) also has a July 1, 2000 agreement with Qwest (Docket 00-049-66).

Q. WHAT IS THE APPROPRIATE PROCEDURE FOR THE OTHER UTAH ILECS WHO WISH TO CHANGE THE CURRENT "BILL-AND-KEEP ARRANGEMENT WITH WESTERN WIRELESS?

A. The Utah ILECs can request pursuant to Section 251 and 252 of the Act to begin negotiations with Western Wireless for the establishment of an interconnection agreement.

Q. IS WESTERN WIRELESS SEEKING TO ESTABLISH AN INTERCONNECTION AGREEMENT CONSISTENT WITH THE REQUIREMENTS OF THE ACT AND FCC IMPLEMENTING REGULATIONS?

A. Yes. Western Wireless seeks to establish interconnection agreements with the Utah ILECs that would allow for direct and indirect interconnection, and would govern the exchange of all telecommunications traffic between Western Wireless and the Utah ILECs. Western Wireless is entitled to interconnect with the Utah ILECs either directly or indirectly, and any

interconnection agreement should provide rates, terms and conditions for the direct and indirect exchange of and compensation for intra-MTA traffic.

IV. NEGOTIATIONS BETWEEN WESTERN WIRELESS AND THE UTAH ILECS

Q. HAS WESTERN WIRELESS REQUESTED INTERCONNECTION WITH THE UTAH ILECS UNDER SECTION 252(a) OF THE ACT?

A. Yes. On November 28, 2001, Western Wireless sent to the Utah ILECs a bona fide request to begin negotiations for an interconnection agreement. The parties agreed on numerous occasions to continue negotiations by extending the deadline for either party to file for arbitration of the unresolved issues. The Parties agreed that April 25, 2003 would be the last day for either party to file for arbitration.

Q. ARE YOU FAMILIAR WITH THE NEGOTIATIONS BETWEEN WESTERN WIRELESS AND THE UTAH ILECS?

A. Yes. As Director-InterCarrier Relations, I work closely with Nathan Glazier, the Western Wireless representative who participated in the negotiations with the Utah ILECs. I participated personally in some of these negotiations and I am familiar with the positions taken by Western Wireless during the negotiations and in its Petition for Arbitration. On April 3, 2003, myself and Mr. Glazier traveled to Salt Lake City to conduct negotiations with the Utah ILECs in person.

IV. EFFECTIVE DATE OF A NEW INTERCONNECTION AGREEMENT (ISSUE 1 AND ISSUE 12)

Q. WHAT IS THE APPROPRIATE EFFECTIVE DATE OF AN ARBITRATTED INTERCONNECTION AGREEMENT?

A. The agreement should be effective upon approval by the State Commission. Prior to the formal establishment and Commission approval of any agreement, the Parties exchanged federally regulated traffic to one another under the mutual benefit of an informal bill-and-keep arrangement. The Commission does not have authority to create a retroactive effective date for this agreement; doing so would essentially amount to the unauthorized creation of an agreement governing federally regulated traffic during a period of time in which the Parties chose to exchange traffic without a written agreement. The Commission has no more authority to create a retroactive effective date than it has authority to retroactively terminate the current agreement Western Wireless has with South Central and retroactively replace it with the final Commission approved agreement now being arbitrated.

Q. WHAT DO THE UTAH ILECS BELIEVE THE EFFECTIVE DATE SHOULD BE?

A. It appears the Utah ILECs believe the Commission should establish three different effective dates for the interconnection agreement. Their three suggested effective dates are April 6, 2001, November 28, 2001, and finally the date on which the Commission approves an arbitrated agreement. The Utah ILECs claim that the effective dates for the interconnection agreements should be different for different parties based upon their unique circumstances. Rather than establishing a uniform effective date for all parties participating in these negotiations, the Utah ILECs seek to craft custom effective dates that are most favorable to the Utah ILECs.

Q. WHAT IS WESTERN WIRELESS' POSITION ON THE APPROPRIATENESS OF ESTABLISHING AN INTERCONNECTION AGREEMENT WITH A RETROACTIVE EFFECTIVE DATE?

A. The Utah ILECs have no reasonable rationale as to why the effective date for one ILEC should be at the time of Commission approval and the effective date for another ILEC should be nearly three years earlier. FCC Rule 47 C.F.R. § 51.715(d) allows carriers to reach an interim arrangement whereby final rates would be trued up or down to the final arbitrated rates. That rule simply does not apply because the parties never agreed to an interim arrangement.

Q. DOES THE COMMISSION HAVE AUTHORITY TO ESTABLISH AN INTERCONNECTION AGREEMENT WITH A RETROACTIVE EFFECTIVE DATE?

A. No. Without a valid interim arrangement under FCC Rule 51.715(d), there is no authority under which the Commission can establish retroactive compensation obligations for this federally regulated traffic. To retroactively establish the rates for the termination of traffic going back nearly three years would adversely impact the rates charged by either the originating carrier or the terminating carrier. Such a decision by the State Commission would amount to an unauthorized rate regulation of a federally regulated wireless carrier. Section 251(d)(2)(B)(ii) of the Act expressly prohibits State Commissions from engaging in rate regulations to establish the additional costs of transporting or terminating calls.

Q. WHY IS USING THE DATE THE COMMISSION APPROVES THE AGREEMENT THE BETTER CHOICE FOR THE EFFECTIVE DATE OF THE AGREEMENT?

A. Each of the parties was aware that it was exchanging traffic with the other party under a "Bill-and-Keep" arrangement. Neither side was submitting invoices for the termination of traffic to the other side, and furthermore neither party acted in the slightest way as if it was in a contractual arrangement with the other. Lastly, both parties had available to them a

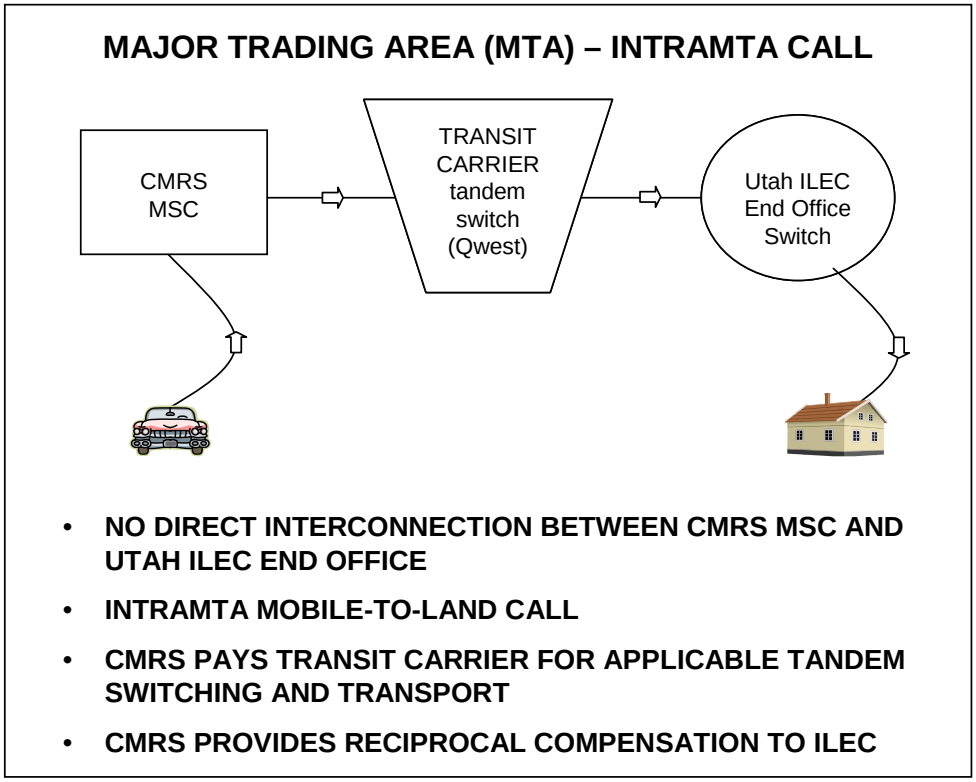
mechanism pursuant to Section 251 and 252 to change this arrangement at any time. Establishing the effective date as the date of Commission approval of the interconnection agreement allows both parties to make any necessary network and business adjustments to compensate for the exchange of traffic under a formal agreement including compensation between the parties. Lastly, to retroactively establish an effective date nearly three years old is beyond the scope of fairness and equity.

V. RECIPROCAL COMPENSATION FOR CALLS ROUTED THROUGH A THIRD-PARTY CARRIER (ISSUES 2, 3 AND 5)

Q. IN WHAT CIRCUMSTANCE MIGHT A MOBILE-TO-LAND CALL BE ROUTED THROUGH A THIRD-PARTY CARRIER?

A. Given the number of small independent telephone companies throughout the country, it is virtually impossible for a CMRS carrier to have direct interconnection with all landline carriers. Utah is no different. To accomplish an indirect interconnection with one of the Utah ILECs, Western Wireless routes intra-MTA calls to Qwest's tandem switch, which then routes or sends those calls to the applicable Utah ILEC for termination. Western Wireless pays Qwest a transit fee for this service. The transit fee is comprised of compensation for the tandem switching and tandem transport costs incurred by Qwest. The transit fee does not include any end-office switching costs because the call does not terminate on the Qwest network. Diagram A demonstrates how this indirect interconnection is accomplished.

DIAGRAM A



Q. DO RECIPROCAL COMPENSATION OBLIGATIONS APPLY TO INTRA-MTA CALLS THAT ARE ROUTED THROUGH A THIRD-PARTY CARRIER?

A. Yes. FCC Rule 51.703(a) requires that "Each LEC shall establish reciprocal compensation arrangements for transport and termination of telecommunications traffic with any requesting telecommunications carrier." FCC Rule 51.701(b)(2) further provides that "telecommunications traffic" includes all traffic "exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter." Calls that do not originate and terminate in the same MTA are subject to interstate access charges. FCC Rules 51.701 and

51.703 by their terms apply to land-to-mobile calls and mobile-to-land calls, and there is no exception for calls that may be exchanged or routed through a third-party carrier.

Q. HAS THE FCC RECOGNIZED THAT CMRS PROVIDERS ARE ENTITLED TO UTILIZE TRANSIT CARRIERS TO ACCOMPLISH INDIRECT INTERCONNECTION?

A. Yes. The FCC's rules define "interconnection" between a LEC and CMRS provider as:

> Direct or indirect connection through automatic or manual means (by wire, microwave, or other technologies such as store and forward) to permit the transmission or reception of messages or signals to or from points in the public switched network.

47 C.F.R. § 20.3(3)(b) (2001) (emphasis added). In the *First Report and Order*, the FCC concluded "that 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." *First Report and Order*, ¶ 997 (emphasis added). The FCC recognized that CMRS carriers use transiting carriers to transport calls to a terminating LEC, especially in rural areas:

> Where CMRS-LEC traffic volumes are small, as in rural areas, the CMRS carrier can connect to other LEC end offices and other carriers via a LEC end office switch.
>
> . . .
>
> Alternatively, in rural settings, wireless carriers can elect to deliver CMRS-originated calls to a large ILEC . . . for routing to the rural LEC carrier.

Developing a Unified Intercarrier Compensation Regime, Notice of Proposed Rulemaking, 66 Fed. Reg. 28,410, ¶ 91 and n.148 (rel. Apr. 27, 2001) (emphasis added). The FCC then noted that terminating compensation for this service must be cost-based and reciprocal:

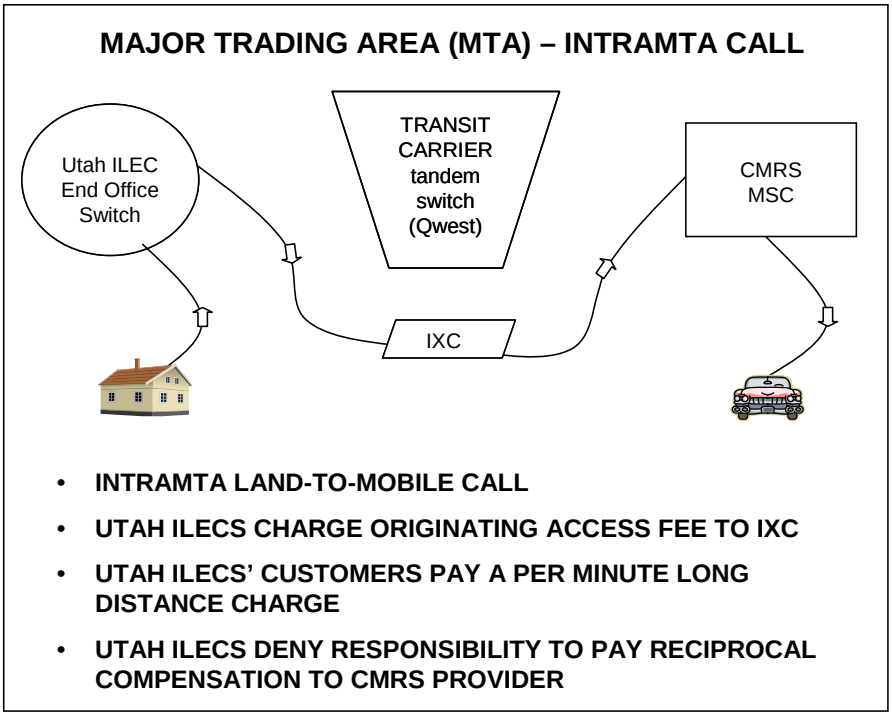
> Under both types of LEC-CMRS interconnection, the LEC received forward-looking economic cost- (FLEC-) based reciprocal compensation for the LEC's additional costs of terminating CMRS-originated calls.

Id. ¶ 92 (emphasis added). These FCC determinations confirm that indirect interconnection is "LEC-CMRS interconnection," and that it is subject to reciprocal compensation, not access charges. The claim by the Utah ILECs that there can be no indirect interconnection for the exchange of telecommunications traffic is plainly contrary to the FCC's rules and orders.

Q. LET'S TURN TO LAND-TO-MOBILE CALLS. IN WHAT CIRCUMSTANCE MIGHT AN INTRA-MTA LAND-TO-MOBILE CALL BE ROUTED THROUGH A THIRD-PARTY CARRIER?

A. A Utah ILEC could route land-to-mobile traffic to Western Wireless through an intermediate transiting carrier in the same manner that Western Wireless indirectly routes the mobile-to-land traffic. However, the Utah ILECs today send all intra-MTA land-to-mobile calls to Western Wireless through an interexchange carrier ("IXC"). Diagram B demonstrates how this indirect traffic exchange occurs.

DIAGRAM B



Q. DO RECIPROCAL COMPENSATION OBLIGATIONS APPLY TO INTRA-MTA LAND-TO-MOBILE CALLS THAT ARE SENT TO AN IXC?

A. Absolutely. FCC Rules 51.701 and 51.703 require the originating carrier to pay reciprocal compensation on all intra-MTA calls, without exception. The Utah ILECs cannot avoid this obligation to pay Western Wireless reciprocal compensation for terminating this traffic by simply routing the call through an IXC.

Q. BUT THE UTAH ILECS CONTEND THAT THEY ARE NOT REQUIRED TO PAY RECIPROCAL COMPENSATION FOR INTRA-MTA TRAFFIC CARRIED BY AN IXC. ARE THEY CORRECT?

A. No. In addition to the FCC's Rules 51.701 and 51.703, the FCC similarly made this clear in its *First Report and Order* that the originating carrier must pay reciprocal compensation on all intra-MTA calls. The FCC has stated: "We reiterate that traffic between an incumbent LEC and a CMRS network that originates and terminates within the same MTA (defined based on the parties' locations at the beginning of the call) is subject to transport and termination rates under section 251(b)(5), rather than interstate or intrastate access charges." *First Report and Order*, ¶ 1043, 11 FCC Rcd 15499. The fact that an IXC – or other third-party carrier – handles that call, does not impact the Utah ILECs' reciprocal compensation obligations. This issue was determined in Western Wireless' favor in a recent Oklahoma arbitration where the State Commission ruled:

> [A]ll traffic exchanged between the parties, which originates and terminates in the same Major Trading Area as determined at the beginning of the call, is subject to reciprocal compensation.
>
> . . .
>
> [E]ach carrier must pay each other's reciprocal compensation for all intraMTA traffic whether the carriers are directly or indirectly connected, regardless of an intermediary carrier.
>
> . . .

> [C]alls made to and from CMRS Providers within the Major Traffic [sic] Area are subject to transport and termination charges rather than interstate or intrastate access charges.

Oklahoma Decision, p. 4 (Ex. 201).

Q. WHAT IS THE PRACTICAL AFFECT OF THE UTAH ILECS SENDING THE LAND-TO-MOBILE CALLS TO AN IXC?

A. First, the Utah ILECs seek to avoid paying any reciprocal compensation to Western Wireless for terminating the call. Because access charges do not apply to the Utah ILECs' originated intra-MTA traffic, reciprocal compensation is the mechanism by which Western Wireless must be compensated for this transport and termination service. Second, the Utah ILECs would actually collect compensation (from the IXC) in the form of their originating access charges. The obvious motivation underlying the Utah ILECs' position is an attempt to obtain a duplicate financial benefit. Not only are the Utah ILECs seeking to avoid payment of compensation to Western Wireless, but also they seek to receive access charge revenue from the IXC for the land-to-mobile traffic. This collection of compensation plainly violates FCC Rule 51.703(b), which provides that:

> A LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network.

47 C.F.R. § 51.703(b). To make matters worse, the Utah ILECs' customers are penalized by having to pay a per-minute long distance charge to the IXC.

Q. CAN YOU EXPLAIN THE RATIONALE BEHIND THE FCC'S INTRA-MTA RULE?

A. Yes. The intra-MTA rule was adopted by the FCC based upon the unique attributes of wireless carriers. The geographical areas for wireless carriers' license areas are established by

the FCC, and are larger than landline companies' service areas. The FCC determined in Rule 51.701(b)(2) and in the *First Report and Order* that the MTA should be used to designate the area for purposes of determining reciprocal compensation between all CMRS providers and LECs. The FCC decided on the MTA as the scope primarily because it is the largest licensing area used by the FCC for CMRS services and, therefore, most closely matches the wide-area local calling systems developed by CMRS providers and expected by wireless customers. By adopting a single MTA-based definition, the FCC intended to insure fairness among wireless providers in terms of interconnection with the LECs and reflect the wide-area local calling patterns of wireless customers. The intra-MTA rule recognizes the mobile nature of cellular customers, who are expected to cover significant distances in connection with their communications. The intra-MTA rule is also an essential part of facilitating competitive entry by wireless carriers in areas historically dominated by monopoly landline companies.

Q. IN SUMMARY, WHAT TRAFFIC SHOULD BE SUBJECT TO RECIPROCAL COMPENSATION OBLIGATIONS IN THE PARTIES' FINAL AGREEMENT?

A. Reciprocal compensation obligations should apply to all traffic exchanged between Western Wireless and the Utah ILECs that originates and terminates within the same MTA, regardless of whether the call is routed through a third-party carrier. The Commission should order the parties to submit a final interconnection agreement that complies with this requirement.

VI. DELIVERY OF TRAFFIC SUBJECT TO RECIPROCAL COMPENSATION (ISSUE 3)

Q. **What is the parties' dispute regarding the delivery of traffic subject to reciprocal compensation?**

A. As discussed above, the FCC established the MTA as the local calling area for traffic to or from a CMRS network. The Utah ILECs want to avoid delivering land-to-mobile traffic subject to reciprocal compensation on a local basis – they contend that nearly all land-to-mobile intraMTA traffic should be routed on interexchange carrier ("IXC") toll networks. While this is bad for consumers, it is good for LECs (who collect access charges) and IXCs (who collect toll revenue).

Q. Do the FCC's Rules prevent the Utah ILECs from collecting access charges on intraMTA calls?

A. Yes. The FCC's rule 54.703(b) provides:

> A LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network.

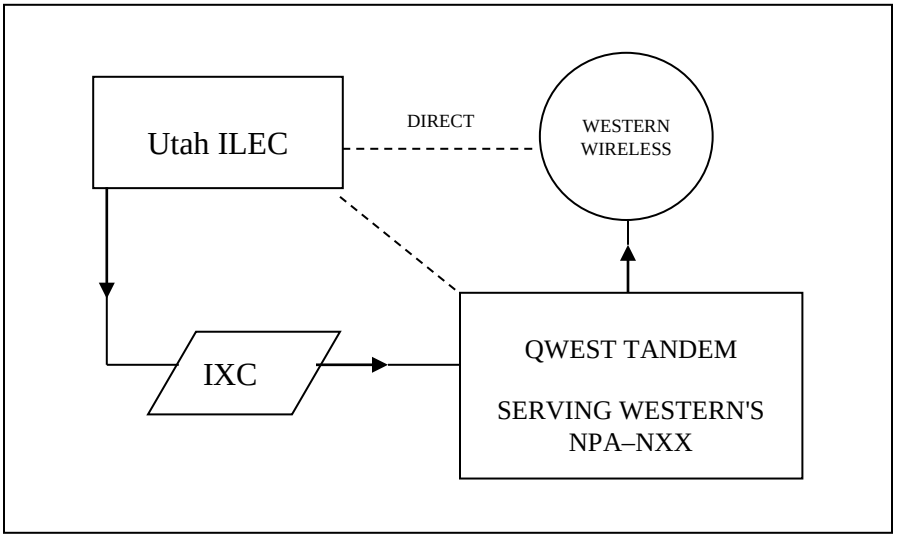
"Telecommunications traffic" is defined as intraMTA traffic to or from a CMRS network. 47 C.F.R. § 51.701(b)(2). Western Wireless believes this rule applies and should be enforced by specific provision in the parties' interconnection agreements.

Q. **How should intraMTA traffic be delivered?**

A. Western Wireless has proposed that a Utah ILEC deliver intraMTA traffic at either a point of direct interconnection established between the parties or at the Qwest LATA tandem serving the LATA in which the call originates. The following two diagrams show how the parties propose to route land-to-mobile intraMTA traffic. Diagram C represents the Utah ILEC's

proposal to treat intraMTA traffic as toll traffic, and Diagram D represents Western Wireless' proposal to treat intraMTA traffic as local traffic.

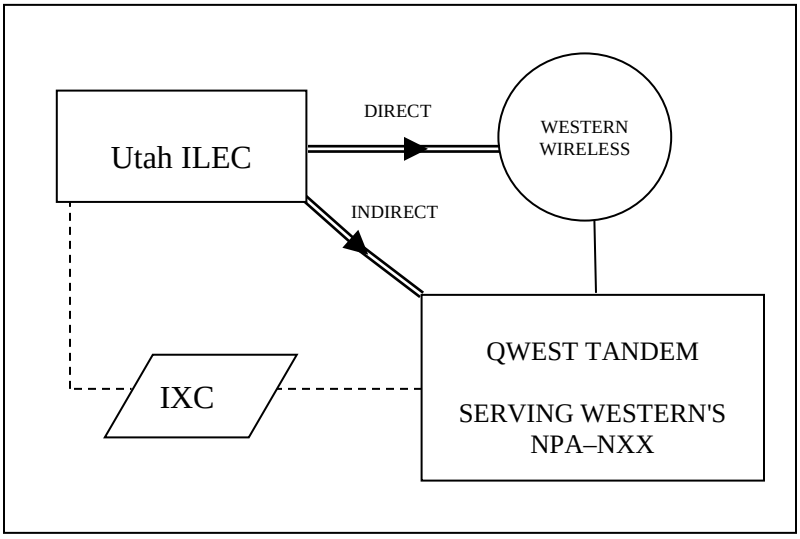
DIAGRAM C – ILEC POSITION



ILEC Proposal: In Diagram C, the ILEC routes land-to-mobile traffic to an IXC, even though the call is intraMTA and can easily and efficiently be handed off directly to Western Wireless over the direct facilities, or at the Qwest tandem.

Western Wireless Proposal: In Diagram D, the ILEC switches the call either directly over existing facilities or to the Qwest tandem where Western Wireless has a point of connection. This avoids the extra cost of transport, and eliminates the IXC's involvement. The ILECs have the obligation to exchange local telecommunications traffic with Western Wireless, and cannot collect access charges on that traffic. They should not be able to avoid exchanging intraMTA traffic when local direct or common indirect facilities are available as the most efficient method of interconnection.

DIAGRAM D – WESTERN WIRELESS' POSITION



The Utilities Board of the State of Iowa has determined that rural LECs should recognize intraMTA calls as local:

> The Board will not change its finding that intraMTA calls from wireline customers of the independent LECs to the customers of the wireless service providers are local calls and should be dialed, and billed, as such. The FCC has clearly stated that those are local calls. Ultimately, the independent LECs must treat these calls as what they are, and the Board expects that they will do so within a reasonable time frame.

Citation Iowa Utilities Board, In Re: Exchange of Transit Traffic, Docket Nos. SPU-00-7, TF-00-275, (DRU-00-2), Order Denying Application for Rehearing (May 3, 2002).

Q. What should the Commission order with regard to the delivery of land-to-mobile intraMTA traffic?

A. The Commission should order that traffic be delivered on a local basis over existing direct facilities or at the Qwest LATA tandem.

VII. INDIRECT TRAFFIC EXCHANGE (ISSUE 2 AND 7)

Q. IS WESTERN WIRELESS SEEKING TO MAINTAIN INDIRECT INTERCONNECTION ARRANGEMENTS WITH THE UTAH ILECS WHEREBY WESTERN WIRELESS DELIVERS CALLS TO A THIRD-PARTY TRANSITING CARRIER FOR TERMINATION TO THE INDEPENDENTS?

A. Yes. Section 251(a)(1) of the 1996 Act requires all telecommunications carriers, including both CMRS carriers and local exchange companies, "to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers."

Q. IS WESTERN WIRELESS CURRENTLY EXCHANGING TRAFFIC WITH THE UTAH ILECS THROUGH INDIRECT INTERCONNECTION ARRANGEMENTS?

A. Yes. While Western Wireless has the right to directly interconnect with the Utah ILECs at selected end-offices and tandem offices, indirect interconnection arrangements are necessary to exchange traffic with the ILECs operating within the state of Utah. In most cases it would be inefficient for both parties to establish direct interconnection arrangements at today's traffic volumes. Indirect interconnection arrangements are an efficient use of network resources and are used by all telecommunications carriers, including the Utah ILECs, to exchange traffic with other carriers.

Q. WHAT METHOD OF COMPENSATION SHOULD APPLY TO INDIRECT INTERCONNECTION ARRANGEMENTS?

A. Many carriers exchange indirect traffic through mutual traffic exchange or bill-and-keep arrangements. Absent the establishment of cost-based interconnection rates for transport and termination pursuant to Section 252(d)(2) of the 1996 Act and consistent with the FCC's regulations, Western Wireless believes that such traffic should be on a bill-and-keep basis.

VIII. RATES FOR TRANSPORT AND TERMINATION OF TRAFFIC (ISSUE 4)

Q. **What rates will the Commission be setting in this proceeding?**

A. An originating carrier must pay the terminating carrier the additional costs incurred in receiving that call at the point of interconnection and terminating the call to the end user. This is referred to as "transport and termination." "Termination" is defined as the switching function at an end office. 47 C.F.R. § 51.701(d). "Transport" is defined as any tandem switching and transmission necessary to get a call to the end office serving the customer. 47 C.F.R. § 51.701(c). In this docket the Commission will set transport and termination rates paid by Western Wireless on mobile-to-land calls, and paid by the Utah ILECs on land-to-mobile calls.

Q. What evidence is Western Wireless offering related to the appropriate pricing of transport and termination pursuant to the Act?

A. The ILECs have the burden of establishing appropriate rates for transport and termination of telecommunications traffic pursuant to the Act. 47 C.F.R. § 51.705. In addition, the rates set for each ILEC will be reciprocal – the rate paid by Western Wireless to the ILEC will also be the rate paid by the ILEC to Western Wireless. 47 C.F.R. § 51.711. For these reasons, Western Wireless will review the ILECs cost studies and respond with its own cost testimony on rebuttal. In this direct testimony, I will discuss the pricing standards that apply to transport and termination, and provide the Commission with an outline of how these pricing issues should be analyzed.

Q. How does the Act require a state commission to set prices for the transport and termination of telecommunications traffic subject to reciprocal compensation?

A. In Section 252(d)(2) of the Act, Congress mandated that transport and termination be priced as follows:

> (A) IN GENERAL. For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless:
>
> (i) such terms and conditions provide for the mutual and reciprocal 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; and
>
> (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.
>
> 47 U.S.C. § 252(d)(2)(A) (emphasis added).

Q. Is this the same standard that applies to the pricing of unbundled network elements ("UNEs") purchased by a competitive local exchange carrier?

A. No. The pricing methodology for UNEs is set forth in 47 U.S.C. § 252(d)(1).

Q. **How do these two pricing standards compare?**

A. They are somewhat different. The goal of traditional interconnection arbitrations has been to set UNE prices that will allow competitive local exchange carriers ("CLECs") to provide local service in competition with a regional Bell Operating Company ("RBOC"). In purchasing a loop, end office switching, and other network elements needed to provide local voice service to the RBOC's customer, the CLEC is essentially taking over a portion of the RBOC network, and obtaining payment from that landline end user. It makes sense, then, that the CLEC pay for that portion of forward-looking network costs attributable to that customer's local service. The dynamics of setting transport and termination rates for purposes of reciprocal

compensation are different. As it terminates another carrier's local traffic, the landline service provider is still using its network to provide local service, and still retains the customer. The other carrier seeks only to terminate its traffic to the ILEC's customer and so is not leasing that network. Instead, the other carrier must only be charged "additional costs of terminating such calls." 47 U.S.C. § 252(d)(2)(a)(ii). Because the ILECs do not offer access to UNEs, pricing of UNEs is not at issue here. The Commission will price only transport and termination for purposes of reciprocal compensation, and must do so at the "additional costs" of providing transport and termination.

Q. What is the ILECs' "additional cost" of termination, i.e. the switching of a call at a ILEC end office?

A. Given today's switch technology, once a forward-looking network is in place to provide local service in a ILEC exchange, the additional switch cost of terminating another carriers' local traffic is $0. In simple terms, a network capable of providing local wireline calling, EAS, dial-up internet access, and toll calling would require, at most, 5% additional capacity to support CMRS terminating traffic. Based on existing switch technology, any switch in the ILECs' inventory would handle the additional traffic at no additional cost. In other words, the ILECs would have to build the same exact forward-looking switching network whether or not it was terminating local traffic originated by any other CMRS provider. The "additional costs" of terminating local traffic originated by CMRS providers are $0.

Q. What are appropriate considerations for calculation of an ILEC's transport cost?

A. Reciprocal compensation rates are set at the additional costs of transporting and terminating a mobile-land call. To the extent that the ILEC provides interoffice transport of CMRS

terminating traffic, there may be additional transport costs. Stated simply, if Western Wireless delivers traffic at an ILEC end office switch, via a direct connection or indirectly via a transit provider, it should pay only a termination rate. If, on the other hand, Western Wireless delivers traffic at a tandem (or some other intermediary) switch – it should pay a rate that includes termination plus transport. At this point in time it is unclear whether any of Western Wireless mobile-to-land traffic terminating on the ILEC's networks should be assessed any additional transport costs. Western Wireless will offer further analysis in its rebuttal testimony.

IX. WESTERN WIRELESS IS ENTITLED TO THE TANDEM INTERCONNECTION RATE (ISSUE 5)

Q. WHAT IS WESTERN WIRELESS' POSITION REGARDING THE COMPENSATION THE UTAH ILECS SHOULD PAY TO WESTERN WIRELESS FOR INTRA-MTA LAND-TO-MOBILE CALLS THAT ORIGINATE ON THE UTAH ILECS' NETWORKS AND TERMINATE ON WESTERN WIRELESS' NETWORK?

A. For every intra-MTA call originated on the Utah ILECs' network and terminated on Western Wireless' network, the Utah ILECs should pay Western Wireless for tandem switching, tandem switched transport, and end-office termination at the same rates charged by the Utah ILECs for these services.

Q. WHAT IS THE BASIS FOR WESTERN WIRELESS' POSITION REGARDING COMPENSATION PAID BY THE UTAH ILECS ON INTRA-MTA CALLS?

A. The FCC's Rules require the Utah ILECs to pay Western Wireless symmetrical, reciprocal compensation for the transport and termination of intra-MTA land-to-mobile traffic originated

on the Utah ILECs' networks and terminated on Western Wireless' network. FCC Rule 51.711(a) states in pertinent part as follows:

> Rates for transport and termination of telecommunications traffic shall be symmetrical, except as provided in paragraphs (b) and (c) of this section.
>
> (1) For purposes of this subpart, symmetrical rates are rates that a carrier other than a incumbent LEC assesses upon an incumbent LEC for transport and termination of telecommunications traffic equal to those that the incumbent LEC assesses upon the other carrier for the same services.

The requirement for "symmetrical" compensation means that the rates charged by Western Wireless for tandem switching, tandem switched transport, and end-office termination must be the same rates as those charged by the Utah ILEC, unless, pursuant to Section 51.711(b) of the FCC Rules, Western Wireless proves to a state commission that its costs justify asymmetrical rates.

Q. IS WESTERN WIRELESS SEEKING TO ESTABLISH ASYMMETRICAL RATES WITH THE UTAH ILECS?

A. No, not at this time.

Q. WHY IS WESTERN WIRELESS ENTITLED TO THE TANDEM SWITCHING INTERCONNECTION RATE ON ALL CALLS ORIGINATED BY THE UTAH ILECS?

A. All calls originated by the Utah ILECs are switched by Western Wireless' MSC. Under the FCC's Rules, the Utah ILECs must compensate Western Wireless at the tandem interconnection rate if Western Wireless' MSC serves a geographic area comparable to the Utah ILECs' tandem switch. FCC Rule 51.711(a)(3) states as follows:

> Where the switch of a carrier other than the incumbent LEC serves a geographical area comparable to the area served by the incumbent LEC's

> tandem switch, the appropriate rate for the carrier other than the incumbent LEC is the incumbent LEC's tandem interconnection rate.

The FCC has also confirmed in its *First Report and Order*, that this "geographic area" test is used to determine appropriate reciprocal compensation rates to be paid by the incumbent LEC:

> We, therefore, conclude that states may establish transport and termination rates in the arbitration process that vary according to whether the traffic is routed through a tandem switch or directly to the end-office switch . . . Where the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate.

First Report and Order, ¶ 1090 (emphasis added).

For purposes of applying this rule, the "switch of a carrier other than the incumbent LEC" is a reference to Western Wireless' MSC. The "incumbent LEC" is a reference to each of the Utah ILECs. And, the "appropriate rate" is a reference to the Utah ILECs' tandem interconnection rate, which includes the tandem switching, tandem switched transport, and end-office termination rate elements.

Q. HOW MANY MSCS ARE USED BY WESTERN WIRELESS TO TERMINATE INTRA-MTA CALLS ORIGINATED ON THE UTAH ILECS' NETWORKS IN UTAH?

A. Western Wireless has one (1) MSC that is used to terminate calls within the Utah ILECs' service areas in Utah. It is located in Cedar City, Utah.

Q. HOW MANY TANDEM SWITCHES DO THE UTAH ILECS OPERATE IN UTAH?

A. I do not know at this time. Western Wireless is seeking this information in the discovery process.

Q. HOW LARGE IS THE GEOGRAPHIC AREA SERVED BY THE UTAH ILECS' TANDEM SWITCHES?

A. Western Wireless will determine this information in discovery. In my experience, however, it is extremely unlikely that any Utah ILEC tandem switch serves an area as extensive as any of our MSCs. If I am correct, Western Wireless' MSC will serve a geographic area at least comparable to, if not substantially larger than, the area served by any of the Utah ILECs' tandem switches, and Western Wireless will be entitled to the reciprocal tandem rate.

Q. IS IT NECESSARY TO EXAMINE WHETHER THE WESTERN WIRELESS MSC PERFORMS FUNCTIONS SIMILAR TO THE UTAH ILECS' TANDEM SWITCHES IN ORDER TO MEET THE STANDARD ESTABLISHED BY THE FCC IN RULE 51.711(a)(3)?

A. No. If Western Wireless' MSC serves a comparable geographic area than any tandem switch of an Utah ILEC, then the law is clear that it should be compensated at the tandem interconnection rate. This meets the standard for a comparable geographic area in FCC Rule 51.711(a)(3). Moreover, a recent FCC letter confirms this analysis is appropriate. In a letter dated May 9, 2001, the Chief of the FCC's Wireless Telecommunications Bureau stated:

> With respect to when a carrier is entitled to the tandem interconnection rate, the Commission stated that Section 51.711(a)(3) of its rules requires only that the comparable geographic area test be met before a carrier is entitled to the tandem interconnection rate for local call termination. It noted that although there has been some confusion stemming from additional language in the text of the Local Competition Order regarding functional equivalency, Section 51.771(a)(3) requires only a geographic area test. Therefore, a carrier demonstrating that its switch serves 'a geographic area comparable to that served by the incumbent LEC's tandem switch' is entitled to the tandem interconnection rate to terminate local telecommunications traffic on its network.

Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau of the FCC, and Dorothy T. Attwood, Chief, Common Carrier Bureau of the FCC, to Charles McKee, Senior Attorney, Sprint PCS (May 9, 2001) (emphasis added). Just this week, on September 3, 2003,

the FCC released an order on FCC 03-215 (RW Exhibit A) that reiterates and reinforces Section 51.711(a)(3) of the FCC's rules regarding the geographic test as the basis for a non-ILEC establishing a tandem interconnection rate. The Ninth Circuit Court of Appeals has also recently held that the FCC's geographic area standard is a separate and stand-alone consideration for determining whether a wireless carrier is entitled to a tandem interconnection rate. *See U.S. West Communications v. Washington Utils. Co. & Transp. Comm'n*, 255 F.3d 990, 996-97 (9th Cir. 2001).

Q. IS WESTERN WIRELESS COMPENSATED AT THE TANDEM INTERCONNECTION RATE FOR CALLS TERMINATED ON ITS NETWORK IN ANY OTHER STATES?

A. Yes, Western Wireless is being compensated at the tandem interconnection rate in all states in which it operates.

Q. WHAT COST COMPONENTS MAKE UP THE "TANDEM INTERCONNECTION RATE?"

A. For mobile-to-land calls routed to an ILEC company's tandem switch, Western Wireless will pay the ILEC tandem switching, tandem switched transport, and end-office termination. The Utah ILECs should therefore be required to reciprocally compensate Western Wireless at the tandem interconnection rate (tandem switching + tandem switched transport + end office termination) on all intra-MTA land-to-mobile calls terminated by Western Wireless.

X. TANDEM ROUTED LOCAL CALLING (ISSUE 7)

Q. WHAT IS THE DISPUTE BETWEEN THE PARTIES WITH RESPECT TO TANDEM ROUTED LOCAL CALLING?

A. Western Wireless has licensed service areas that overlap most of the Utah ILEC serving areas. Under numbering regulations, Western Wireless has the right to obtain numbers and rate the

numbers as local to an ILEC service area. Western Wireless is entitled to do this whether or not it has a direct connection with an ILEC in the service area. Once such numbers are established as local, the ILEC has an obligation under local dialing parity rules to allow its customers to dial those numbers as local. The Utah ILECs currently take the position that it will respect this local rating only if Western Wireless establishes direct facilities to the specific end office. It is neither efficient nor realistic to establish direct facilities in all of these areas. Moreover, ILECs cannot condition compliance with dialing parity requirements on the existence of direct facilities. The ILECs should instead use more efficient common transport to deliver calls appropriately. This is good for consumers, efficient, and consistent with the FCC's Rules and Orders.

Q. Why is it important for Western Wireless to rate numbers in ILEC end offices without establishing direct connections?

A. Western Wireless' presence in these markets provide Utah consumers with competitive wireless service offerings, including service offerings competitive with those offered by the Utah ILECs. If Western Wireless' customers lack the ability to receive local calls from many of the Utah ILEC landline subscribers, Western Wireless is placed at a competitive disadvantage, because it discourages calls from landline subscribers to Western Wireless' mobile subscribers. By comparison, Western Wireless' mobile subscribers in the state originating calls on Western Wireless' network may place calls to any of the Utah ILEC landline subscribers without toll.

Q. **Please explain what Western Wireless proposes.**

A. Western Wireless proposes to implement tandem-routed local calling arrangements. To do so, Western Wireless would obtain a number block and assign that number block as local to an ILEC rate center. The ILEC would program its switch to recognize the numbers as local, and would deliver the calls to either a direct connection within the ILEC service territory or over common transport facilities to the Qwest LATA tandem. This tandem routing is similar to the way in which toll calls are delivered by the ILECs to IXCs – the ILECs deliver access calls to IXCs at the LATA tandem using common, 2 way trunks.

Q. What should the Commission order regarding tandem-routed local calling?

A. The Commission should adopt the following contract language in the final approved Agreement:

> Land-to-Mobile Traffic – Western Wireless may obtain and the ILEC will recognize as local all numbers assigned to ILEC's rate center; including those which may have a designated LERG routing point that is outside ILEC's rate center but within the same LATA as the rate center. This subparagraph applies whether ILEC and Western Wireless are directly or indirectly interconnected. If indirectly interconnected, ILEC will deliver those calls to Western Wireless at the Qwest LATA tandem.

This is the arbitrated contract language approved by the Oklahoma Commission in the Oklahoma arbitration case I discussed earlier.

XI. DIALING PARITY (ISSUE 8)

Q. **How do the Utah ILECs propose to deliver calls to an NPA-NXX that Western Wireless has rated within an extended area service ("EAS") calling area?**

A. It is not clear. Western Wireless has the right to rate numbers in an exchange that is EAS to a ILEC rate center. Once it does so, landline customers within that rate center must be able to

dial the Western Wireless local numbers on a local basis. This is local dialing parity, and it is an obligation of every LEC:

> A LEC shall permit telephone exchange service customers within a local calling area to dial the same number of digits to make a local telephone call notwithstanding the identity of the customer's or the called party's telecommunications service provider.

47 C.F.R. § 51.207. Western Wireless simply seeks compliance with this rule, and wants to ensure that these calls will be delivered to Western Wireless without being routed to an IXC. For example, Western Wireless may obtain a block of numbers rated as local to the Manti Ephraim exchange. Manti's Manti exchange has EAS with Ephraim, meaning the landline customers in both communities can call each other locally. Local dialing parity obligations require that Manti's customers located in Manti have the ability to dial Western Wireless' Ephraim numbers on a local basis. It is up to Manti to deliver those calls to Western Wireless accordingly, which would presumably occur at the Qwest LATA tandem.

Q. How do landline customers in Manti currently call Western Wireless NPA-NXXs in Ephraim?

A. Currently Manti customers have to call the Western Wireless numbers in Ephraim by using their presubscribed IXC carrier. The customers are charged long distance fees, and Manti collects access charges. Manti selectively chooses which NPA-NXXs in Ephraim its Manti customers can call locally. Both numbers are rated in the same exchange but Manti gives preferential treatment to only one of them. Such routing practices discriminate against Western Wireless and are contrary to the FCC's rules.

Q. Do such routing practices occur elsewhere in the Utah ILECs' areas?

A. Yes. We know they also occur in UBTA's area, and they may well be occurring in other areas.

Q. How would Western Wireless know where local dialing parity obligations apply?

A. Western Wireless requests each final agreement contain an appendix showing each ILEC exchange, switch, CLLI code, and local calling areas. This information is not always easy to find, and will be important information to have ready access to as the parties implement this agreement.

XII. PROCEDURE FOR RENEGOTIATION (ISSUE 9)

Q. What procedure should apply if a Party seeks to renegotiation the Agreement at the end of a term?

A. The Agreement is valid for the established term, and either party may terminate the Agreement by giving sufficient notice to the other party. The Agreement should have automatic one-month renewals after the initial term until either Party moves to terminate the agreement.

Q. What language does Western Wireless propose be included in the interconnection agreement?

A. Western Wireless proposes the following language:

> If prior to expiration or termination of this Agreement either Party requests the negotiation of a successor agreement, then upon approval of the successor agreement this Agreement shall terminate. If the Parties are unable to negotiate a successor agreement prior to expiration of this Agreement, this Agreement shall remain in effect until the parties negotiate a new agreement within the statutory time frame set for negotiations under the Act, or establish a new agreement through state commission arbitration.

XIII. TERMS AND CONDITIONS OF INTERCONNECTION (ISSUES 10)

Q. HAVE THE TERMS AND CONDITIONS OF AN INTERCONNECTION AGREEMENT BEEN NEGOTIATED?

A. Yes, for all issues except those identified in Western Wireless' Petition for Arbitration. At the beginning of negotiation, Western Wireless proposed to the Utah ILECs a draft of an interconnection agreement with complete terms and conditions. This agreement was used as part of our discussions throughout the negotiations. Western Wireless raised in its Petition for Arbitration the issues it identified as the outstanding and unresolved issues in the interconnection agreement. In the Utah ILECs' Response they raised additional issues. It is my understanding that aside from the issues raised by both sides in this arbitration proceeding that the remaining language in the agreement is undisputed and that both Parties have accepted the language. The Utah ILECs must confirm their agreement or disagreement with the remaining terms and conditions.

Q. ARE THE AGREED-UPON TERMS AND CONDITIONS OF AN INTERCONNECTION AGREEMENT REFLECTED IN AN AGREEMENT?

A. Yes. During the course of negotiations between November, 2001 and the filing of the Western Wireless Petition, Western Wireless and the Utah ILECs negotiated the terms and conditions of an interconnection agreement. The apparently agreed-upon terms and conditions are reflected in Exhibit 2 to Western Wireless' Petition filed on April 25, 2003.

XII. ASSUMPTION OF QWEST INTERCONNECTION AGREEMENT

Q. DOES UBTA CLAIM TO BE A PARTY TO A QWEST COMMUNICATIONS INTERCONNECTION AGREEMENT WITH WESTERN WIRELESS?

A. Yes, UBTA claims that when it acquired certain Qwest exchanges that it also was assigned the Qwest interconnection agreement with Western Wireless.

Q. DID WESTERN WIRELESS AGREE TO ASSIGN THE QWEST INTERCONNECTION AGREEMENT TO UBTA?

A. No. Qwest never requested and Western Wireless never agreed to assign the Qwest interconnection agreement to UBTA. In Section (A)3.12.1 of the Qwest interconnection agreement, it explicitly states that:

> Neither Party may assign or transfer (whether by operation of law or otherwise) this agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party.

Western Wireless never agreed to the transfer of the Qwest interconnection agreement to UBTA. Furthermore, in Section (A)3.24 of the Qwest agreement it explicitly rejects any third party beneficiaries and states that the agreement "does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege."

Q. DO ANY OTHER UTAH ILECS CLAIM TO BE A PARTY TO A QWEST INTERCONNECTION AGREEMENT WITH WESTERN WIRELESS?

A. Not that I am aware of.

Q. ACCORDING TO THE QWEST AGREEMENT IS UBTA DUE ANY COMPENSATION FOR TRAFFIC IT TERMINATED?

A. No. UBTA is not a party to the Qwest agreement. Western Wireless and UBTA do not currently have an interconnection agreement.

XIII. PAYMENT FOR BACK TRAFFIC

Q. Is Western Wireless required to pay back compensation to the Utah ILECs for traffic terminated prior to the effective date of this interconnection agreement?

A. No. Western Wireless and the Utah ILECs exchanged traffic to one another under the mutual benefit of a bill-and-keep arrangement. Except for South Central, there was no interconnection agreement in place that would set forth the terms and conditions and rates for termination of traffic between the Parties. In the absence of an interconnection agreement it is common industry practice that bill-and-keep provisions apply to any traffic exchanged between the parties.

Q. How far back do the Utah ILECs claim Western Wireless owes them back compensation?

A. Like the Utah ILECs' proposal for the effective date of the agreement, it appears the Utah ILECs have different requests for back compensation for different companies. Some claim back compensation to April 2001 and others have made no specific claim for back compensation.

Q. When might issues of back compensation legitimately arise in an interconnection arbitration arise?

A. Under FCC Rule 47 C.F.R. § 51.715(d) carriers can agree to an interim arrangement whereby final rates would be trued up or down to the final arbitrated rates. Issues of back compensation can only be applied when the Parties agree to use an interim arrangement during negotiations.

Q. Were interim arrangements ever discussed during negotiations?

A. Yes. Interim arrangements were discussed, along with interim provisions for local calling and other interim provisions for the transport and exchange of traffic. The Parties ultimately chose not to adopt any interim arrangements. Without an interim arrangement, the rule for back compensation simply does not apply.

XIV. USE OF AN INTER-MTA FACTOR

Q. What is an Inter-MTA factor used for in an interconnection agreement?

A. An Inter-MTA factor is used to determine what amount of wireless traffic is local telecommunications traffic and what amount of wireless traffic is non-local telecommunications traffic. The use of an Inter-MTA factor assumes the FCC's MTA license boundary area for a wireless license as being the local calling area for CMRS-LEC traffic. Traffic that is determined to cross the MTA boundary is considered to be non-local (long distance) traffic and is said to be Inter-MTA traffic and is therefore subject to access charges.

Q. How do the Parties determine how much traffic crosses the MTA boundary?

A. Inter-MTA traffic is difficult to measure. In lieu of measuring actual traffic the parties may agree to instead use a traffic factor to determine theoretically how much traffic is Inter-MTA traffic and thus how much traffic is subject to access charges.

Q. Should the interconnection agreement include the use of an inter-MTA factor?

A. No. The Inter-MTA traffic exchanged between the Parties is *de minimis* and does not warrant the use of an Inter-MTA traffic factor. If an Inter-MTA traffic factor is used, Western Wireless proposes that the traffic factor be set a zero. The Utah ILECs want to use a very large Inter-MTA factor so as to be able to charge access fees to a larger portion of the traffic.

Q. What is an effective way to determine how much traffic could be Inter-MTA traffic?

A. You could look to see where the Utah ILECs' local exchange areas are in relation to the MTA boundary. In this case, all of the Utah ILECs' exchange areas fall within the Salt Lake City MTA boundary area. If the Utah ILECs' exchange areas were to straddle the MTA boundary then it is more likely there would be Inter-MTA traffic.

XV. WHO PAYS THE UTAH ILECS' BILLING COSTS?

Q. Who should pay for billing costs?

A. Each Party should pay for their own billing costs. The costs incurred by each Party to prepare invoices for traffic terminated should be paid by the individual company that will receive payment.

Q. Do the Utah ILECs want Western Wireless to pay for the Utah ILECs' billing costs?

A. Yes. Apparently the Utah ILECs feel that they should not have to pay for the business costs they incur in preparing invoices to send to Western Wireless.

Q. Are there special costs the Utah ILECs will incur to prepare an invoice for Western Wireless?

A. The Utah ILECs can either measure the traffic they terminate and bill Western Wireless accordingly. In the alternative, the Utah ILECs have the option of buying from Qwest certain transiting reports that contain data on wireless transiting traffic that Qwest delivers to the Utah ILECs. Buying call records from Qwest is a cost that would be incurred by the Utah ILECs because they want to bill for this traffic but have failed to implement appropriate

software to do so in spite of the fact they have been on notice for years that they would need to do so. The Utah ILECs do not have the ability to directly measure the traffic they terminate and they do not want to pay Qwest for the costs of the Qwest transiting report. Instead, the Utah ILECs want Western Wireless to pay for the Qwest transiting reports.

Q. Is this customary industry practice?

A. No. This is nonsensical. Each Party should pay for its own costs of generating invoices. It is absurd to propose that one company must pay for the expense of preparing invoices to be sent to itself when ultimately another company will receive the payment. If the Utah ILECs are going to receive the benefit of payment, they should incur the costs of generating invoices. Finally, it is contrary to FCC pricing principles to suggest that Western Wireless should pay a share of a forward looking network and also pay for the Utah ILECs administrative costs to support their existing network.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, it does. Thank you.

Exhibit A