
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF WWC HOLDING CO., INC.
FOR ARBITRATION OF INTERCONNECTION AGREEMENT

DOCKET NO. 03-2403-02

DIRECT TESTIMONY OF
RAYMOND A. HENDERSHOT

On behalf of

Gunnison Telephone Company
Manti Telephone Company
South Central Utah Telecommunications Association, Inc.
Uintah Basin Telecommunications Association, Inc.
UBET Telecom, Inc.

1 Q. PLEASE STATE YOUR NAME AND CURRENT BUSINESS ADDRESS.

2 A. My name is Raymond A. Hendershot. My business address is 2270 LaMontana Way,
3 Colorado Springs, Colorado 80918.

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

5 A. I am a Vice President and Office Manager for the Colorado Springs office of GVNW
6 Consulting, Inc. ("GVNW").

7 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK
8 EXPERIENCE.

9 A. I graduated from Brigham Young University with a Bachelor's Degree in Accounting and
10 a Master's Degree of Accountancy in 1973. I received a CPA Certificate from the State
11 of Texas. Upon graduation, General Telephone and Electronics ("GTE") employed me,
12 where I served in a variety of positions within the financial area of the company. In
13 1985, I joined GVNW. GVNW provides a wide variety of management services within
14 the communications industry. My primary areas of responsibility have included the
15 development of rates and tariffs, preparation of toll cost separation studies and
16 depreciation rate studies, evaluations of acquisitions and sales of telephone properties,
17 and providing other management services.

18 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY
19 COMMISSION?

20 A. Yes. I have provided testimony on telecommunications issues before this Commission
21 on numerous occasions. I have also testified in various telephone company filings and
22 generic regulatory proceedings before the Arizona Corporation Commission, the Idaho

23 Public Utility Commission, the Washington Utilities and Transportation Commission, the
24 Wisconsin Public Service Commission, and the Wyoming Public Service Commission.

25 Q. FOR WHOM ARE YOU APPEARING IN THIS PROCEEDING?

26 A. I am appearing on behalf of Gunnison Telephone Company (“Gunnison”), Manti
27 Telephone Company (“Manti”), South Central Utah Telephone Association (“SCUTA”),
28 Uintah Basin Telecommunications Association (“UBTA”), and UBET
29 Telecommunications (“UBET”). I refer to them hereafter collectively as “the
30 Companies”, Rural Telephone Companies (“RTC”) or “the Rural Independent Local
31 Exchange Carriers (“ILECs”)”.

32 Q. ARE YOU APPEARING AS THE ONLY SPOKESPERSON FOR THE ABOVE
33 NAMED COMPANIES IN THESE PROCEEDINGS?

34 A. No. My comments address areas of general concern to the Companies listed above.
35 Each of the companies is a party to these proceedings, and one or more may choose to
36 provide additional comments regarding issues of special interest to that company or
37 companies.

38 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

39 A. I will respond on behalf of the RTCs to many of the policy issues raised in the Western
40 Wireless (“WWC”) arbitration petition. Specifically, I will be responding to Unresolved
41 Issues #1, 2, and 3.

42

43 **Unresolved Issue No. 1 – (Effective Date)**

44 **What is the appropriate effective date of an arbitrated Interconnection Agreement?**

45 Q. COULD YOU BRIEFLY SUMMARIZE THE DISPUTE ON WHAT IS THE
46 EFFECTIVE DATE OF AN INTERCONNECTION AGREEMENT AND THE
47 POSITION OF THE INDEPENDENTS?

48 A. Two of the companies, UBTA-UBET and Manti, purchased exchanges from Qwest
49 where WWC had an interconnection agreement with Qwest. The order approving the
50 sale of exchanges adopted the Stipulation presented by the parties in the case. It was very
51 clear through the negotiations and in the Stipulation that the buyers would honor all
52 Qwest contracts associated with the purchase of exchanges. Upon closing the sale of
53 Qwest exchanges to the buyers, the companies, UBTA-UBET and Manti, continued to
54 operate under the impression that the interconnection agreement between Qwest and
55 WWC transferred to the respective buyers. One of the buyers had a discussion with
56 WWC about the interconnection agreement and was reinforced in the opinion that WWC
57 was continuing the interconnection agreement with the buyers until a new agreement was
58 negotiated. The buyers continued to exchange traffic with WWC in accordance with the
59 Qwest Interconnection Agreement that existed prior to the sale of exchanges. It is our
60 contention that the prior interconnection agreement between Qwest and WWC was
61 effective with the transfer of exchanges on April 6, 2001.

62
63 For the other ILECs, the effective date should be no later than the date that WWC
64 requested arbitration. In the case of SCUTA, the existing arrangement between SCUTA
65 and WWC should continue until a new interconnection agreement is signed and accepted
66 by the PSCU

67

68 **Unresolved Issue No. 2 – (Scope of Reciprocal Compensation Obligations)**

69 **What traffic is subject to reciprocal compensation in accordance with the FCC’s rules?**

70 Q. COULD YOU BRIEFLY SUMMARIZE THE ISSUE IN DISPUTE BETWEEN THE
71 WWC AND THE RTCS REGARDING THE TRAFFIC SUBJECT TO RECIPROCAL
72 COMPENSATION?

73 A. Yes. The dispute is related only to wireline originated traffic terminating to WWC within
74 the MTAs in Utah. As I understand WWC’s position, they claim that any call originating
75 from an RTCs end user that terminates to WWC within an MTA should be subject to
76 reciprocal compensation and thus the RTC’s should pay WWC reciprocal compensation
77 for all such calls. The RTCs disagree with WWC specifically regarding calls originated
78 by an RTC’s end user which are carried by interexchange carriers (IXCs).

79 Q. WHAT IS WWC’S PRIMARY REFERENCE FOR SUPPORTING THEIR POSITION?

80 A. WWC refers to Section 51.701(b)(2) of the FCC rules which defines telecommunications
81 traffic as, “Telecommunications traffic between a LEC and a CMRS provider that, at the
82 beginning of the call, originates and terminates within the same Major Trading Area
83 (“MTA”), as defined in §24.202(a) of this chapter.” WWC argues that this rule supports
84 their position.

85 Q. DO THE RTCS DISPUTE THE FCC RULE ITSELF?

86 A. No, they do not. They do, however, dispute the interpretation of the rule made by WWC.
87 The RTCs differ from WWC in WWC’s determination of what traffic is “between a LEC
88 and a CMRS provider”. Note that the rule specifically says such traffic must be between
89 the LEC as an entity, and not from a LEC end user. The RTCs dispute with WWC has to
90 do whether all calls from end user of a LEC are calls from the LEC itself. The RTCs

91 contend that calls from a LEC end user, but carried by an IXC, are not. An end user of a
92 LEC can also be, and is, the end user of other telecommunications providers.
93 Specifically in the example relevant here, for long-distance calls to WWC within the
94 MTA, the end user is the end user of an IXC, not a LEC. Thus the calls that are in
95 dispute are really calls between an IXC and a CMRS provider, and not between the LEC
96 and a CMRS provider.

97 Q. COULD YOU DESCRIBE THE DEVELOPMENT OF LOCAL CALLING AREAS,
98 TOLL CALLING, AND THE BASIC FEATURES OF THE NETWORK THAT
99 DISTINGUISH BETWEEN LOCAL AND TOLL CALLS?

100 A. Yes. Throughout the past decades, state commissions generally have had the
101 responsibility for establishing local calling areas and distinguishing calls within those
102 areas from calls that went outside those areas. Those calls that left the local calling areas
103 were known as toll calls. With the advent of direct distance dialing several decades ago,
104 the 1+ prefix was used to distinguish toll calls from local calls and to provide a “signal”
105 to the end user that they were dialing a toll call which would bear a toll charge. The
106 Public Service Commission of Utah (“PSCU” or “the Commission”) approves local
107 exchange boundaries and reviews all changes to such boundaries. These boundaries
108 describe the statutory limits of the provision of local exchange service. Some of the Utah
109 companies also provide extended area service that provides expanded area calling
110 without usage-based toll charges. These extended area service arrangements are
111 available to wireline customers of the company, or to customers of other companies,
112 pursuant to contractual arrangements with those companies. Many of these extended area

113 service plans also have been established pursuant to the Commission’s administrative
114 processes.

115
116 At the time of the AT&T divestiture, the business relationships related to toll calling were
117 modified to reflect the exchange access business relationship where LECs sold the use of
118 their exchange access facilities to IXCs who provided toll service. These IXCs charged
119 end users for the provision of toll service and compensated the originating and
120 terminating LECs for the use of their exchange access facilities pursuant to both interstate
121 and intrastate access tariffs approved by the Federal Communications Commission (FCC)
122 and the Commission respectively. Under these arrangements the IXCs provided toll
123 service to end user customers. In the intraLATA environment, some large LECs also
124 chose to provide toll services and to act as interexchange carriers in the access charge
125 environment.

126 Q. WHEN THE LEC IS SELLING ITS SERVICES UNDER THE PROVISIONS OF ITS
127 ACCESS TARIFFS, IS IT PROVIDING A RETAIL SERVICE TO AN END USER
128 CUSTOMER?

129 A. No, it is not. The service provided under these access tariffs is to provide facilities to
130 IXCs who use those facilities to transmit messages for their end user customers. The
131 RTCs are not responsible for the transmission of messages under their access tariffs.
132 Section 2.1.1(A) of the National Exchange Carrier Association (NECA) interstate access
133 tariff and the Exchange Carriers of Utah (“ECU”) intrastate access tariff, with which the
134 Companies are either issuing or concurring Companies, states specifically that, “The
135 Telephone Company does not undertake to transmit messages under this tariff.”

136 Q. WHEN WIRELESS PROVIDERS BEGAN PROVIDING SERVICE, HOW DID
137 CALLS TO SUCH CARRIERS FIT INTO THE LOCAL AND TOLL CALLING
138 PATTERNS?

139 A. When wireless providers began providing service, they sought and received central office
140 codes (NPA-NXX codes) or purchased the use of telephone numbers in telephone
141 company central office codes for their customers and associated those codes with
142 telephone company local exchange areas. Calls to those wireless customers from within
143 the telephone company local calling area generally were and are treated as local calls
144 where an interconnection agreement has been signed. In the absence of an
145 interconnection agreement, the call would be a toll call to connect with the wireless
146 carrier. Calls to wireless customers with NPA-NXX codes outside the local calling area
147 were, and are treated as toll calls. Local switching systems are programmed pursuant to
148 approved tariffs to complete toll calls using a 1+ prefix.

149
150 Pursuant initially to AT&T divestiture requirements and associated FCC Orders, and
151 more recently to the Telecommunications Act of 1996 (the Act), dialing parity and
152 presubscription procedures have been established so that end user customers can direct all
153 1+ calls to the IXC(s) of their choice. According to these legal and regulatory
154 requirements, LECs direct 1+ dialed calls to their end user customers' presubscribed
155 carrier who provides the toll call for the customer. The IXCs continue to use the LECs'
156 exchange access facilities in order to provision the service to their end user customers.

157 Q. ARE THE LOCAL CALLING AREAS ESTABLISHED BY THE STATE
158 COMMISSIONS USED TO DETERMINE THE DIALING CHARACTERISTICS AND

159 LOCAL OR TOLL JURISDICTION OF CALLS FROM WIRELINE CUSTOMERS TO
160 CMRS PROVIDER END USERS?

161 A. Yes they are, as I described in my previous answer. For example, a call from an end user
162 in the Randelett exchange served by UBTA who called a wireless customer with a Salt
163 Lake City NPA-NXX code would dial that call using the 1+ prefix and that customer's
164 IXC would be responsible for carrying the call. If Worldcom was the IXC that
165 provisioned and completed the call then Worldcom would charge the end user customer
166 under its rate schedule and pay UBTA its originating access charges. It would also
167 compensate the terminating wireless carrier based on the business relationships
168 established between the IXC and the terminating wireless carrier.

169 Q. WOULD SUCH A CALL BE A CALL BETWEEN A LOCAL EXCHANGE CARRIER
170 AND A WIRELESS CARRIER?

171 A. Clearly it would not. From a carrier standpoint the call is between Worldcom and the
172 wireless carrier. In relationship to this call, the end user is Worldcom's end user, not the
173 LEC's end user.

174 Q. DID THE 1996 TELECOMMUNICATIONS ACT RESULT IN CHANGES TO THE
175 DIALING ARRANGEMENTS RELATED TO TOLL CALLS TO CMRS END USERS?

176 A. No it did not. Things certainly haven't changed in Utah either in regard to the RTCs or to
177 the other companies, including Qwest, in the state. I am not aware of the implementation
178 of any changes to dialing arrangements of calls between wireline and wireless customers
179 as a result of the passage of the Act.

180 Q. CAN YOU BRIEFLY SUMMARIZE THE BUSINESS RELATIONS THAT EXIST
181 BETWEEN END USERS, LECS, AND IXCS IN RELATION TO A PRESUBSCRIBED
182 1+ TOLL CALL?

183 A. Yes. The end user chooses a presubscribed IXC to handle its 1+ calls and establishes a
184 business relationship with that IXC. The IXC, through the purchasing of access services
185 from the LECs' access tariff, arranges to use the LECs' facilities to "access" its end user
186 to provide toll services to that end user. When an end user makes a call by dialing 1+, the
187 IXC, using the LEC facilities which it has purchased, and its own facilities, fulfills its
188 obligation to the end user to complete the toll call, possibly to a CMRS provider within
189 the MTA. It then charges the end user for the provision of that service.

190 Q. IN THIS RELATIONSHIP IS THE CALL THE END USER MAKES A CALL
191 "BETWEEN A LEC AND A CMRS PROVIDER"?

192 A. It is not. The call is between the IXC and the CMRS provider. The LECs involvement is
193 that of a seller of facilities to the IXC so that the IXC can complete its obligation to its
194 end user. The fact that the IXC's end user is also the LECs end user for the provision of
195 local service is irrelevant in regard to the specific toll call between the IXC and the
196 CMRS provider.

197 Q. ARE YOU AWARE OF ANY DISCUSSION IN THE FCC'S FIRST REPORT AND
198 ORDER IN CC DOCKET NO. 96-98 (FCC #96-325) ADOPTED ON AUGUST 1, 1996
199 (THE FIRST REPORT) THAT DISCUSSED ANY CHANGES IN CARRIER
200 RESPONSIBILITIES OR CUSTOMER DIALING PROCEDURES RELATED TO THE
201 IMPLEMENTATION OF THE ACT?

202 A. No. I have reviewed relevant portions of that Order and saw no such discussion.

203 Q. ARE THERE STATEMENTS IN THAT ORDER THAT SUGGEST THAT THE FCC
204 DID NOT INTEND TO CHANGE SUCH ARRANGEMENTS?

205 A. Yes. Paragraph 1043 of the FCC interconnection Order as follows:

206 Based on our authority under section 251(g) to preserve the current
207 interstate access charge regime, we conclude that the new transport and
208 termination rules should be applied to LECs and CMRS providers so that
209 CMRS providers continue not to pay interstate access charges for traffic
210 that currently is not subject to such charges, and are assessed such charges
211 for traffic that is currently subject to interstate access charges.¹

212
213 This indicates to me that the FCC intended that calls to CMRS providers that were
214 currently being provided by IXCs and for which access charges applied would continue
215 to be given the same treatment.

216 Q. ARE THERE SUBSEQUENT RULINGS BY THE FCC THAT CALLS CARRIED BY
217 IXCS WOULD CONTINUE TO BE SUBJECT TO ACCESS CHARGES?

218 A. Yes. In a decision issued in 2000 related to a compensation complaint between a paging
219 carrier and an ILEC, the FCC made the following statement:

220 Pursuant to Section 51.703(b), a LEC may not charge CMRS providers for
221 facilities used to deliver LEC-originated traffic that originates and
222 terminates within the same MTA, as this constitutes local traffic under our
223 rules. Such traffic falls under the reciprocal compensation rules if carried
224 by the incumbent LEC, and under our access charge rules if carried by an
225 interexchange carrier.² [emphasis added]

226
227 Q. DOES WWC BELIEVE THAT IN IMPLEMENTING THE ACT, THE FCC MADE
228 SOME FUNDAMENTAL CHANGE IN THE RESPONSIBILITY FOR CALLS
229 BETWEEN LECS AND CMRS PROVIDERS?

230

¹ First Report and Order in CC Docket No. 96-98 (FCC #96-325) adopted on August 1, 1996, paragraph 1043.

² *TSR Wireless, LLC v. U S West Communications, Inc.*, Memorandum Opinion and Order, Released June 21, 2000 FCC 00-194 (“*TSR Wireless Order*”), paragraph 31.

231 A. From the position taken by WWC in this arbitration proceeding, it appears that it does.
232 While I agree that changes were made in compensation regarding calls between LECs
233 and CMRS providers, I do not believe that the FCC changed responsibilities for calls nor
234 did the FCC change the dialing arrangements.

235 Q. BEFORE EXPLORING THE ISSUES RELATED TO IMPLEMENTATION OF THE
236 ACT COULD YOU BRIEFLY DESCRIBE THE CONTEXT IN WHICH THE FCC
237 IMPLEMENTED RULES RELATED TO THE ACT?

238 A. Yes. The Act became law on February 8, 1996. Pursuant to requirements of the Act the
239 FCC had six months in which to develop and implement rules on a host of technical,
240 financial, and policy issues related to the new requirements of the Act providing for local
241 interconnection, reciprocal compensation, dialing parity, and the pricing for such
242 services. The FCC had a total of fifteen months to address and implement rules regarding
243 universal service issues. These time frames put tremendous pressure on the FCC and its
244 staff to review thousands of pages of comments on a large number of issues and to
245 develop policies, procedures, and rules to implement the Act. The two Orders in CC
246 Docket 96-98 issued on August 6, 1996, (dealing with interconnection issues) amounted
247 to a total of 833 pages and incorporated some 70 pages of new rules. Given this time
248 frame and the overwhelming number of issues that had to be dealt with, the FCC's focus
249 was primarily on implementation as it related to the Bell Operating Companies (BOCs)
250 and the large metropolitan areas of the country since they comprised both the vast
251 majority of the LEC customers and particularly the areas where competition was
252 expected first. Thus, in establishing rules and in the implementing text, it is not always
253 clear how the rules apply in the case of small companies, whose operations are often

254 different than the BOCs. I believe that it is important that this Commission keep that in
255 mind as it reviews the FCC's discussion and rules related to LECs and CMRS providers.

256 Q. WHAT PARTICULAR RULES AND ORDERS ARE RELEVANT TO THE
257 DISCUSSION OF THE EXTENT THAT RECIPROCAL COMPENSATION IS
258 APPLICABLE IN THE CORE SITUATION THAT YOU DESCRIBED?

259 A. The FCC's First Report and Order, discussed earlier, is the Order that addressed the
260 implementation of the Act in regard to these issues. Particularly relevant to this issue is
261 the discussion in paragraphs 1033 to 1045. In the FCC rules, the pertinent section is
262 Section 51.701, particularly 51.701(b) in which the FCC defines a local calling area for
263 reciprocal compensation purposes.

264 Q. ARE THERE PLACES IN THE PARAGRAPHS YOU MENTIONED ABOVE THAT
265 INDICATE THAT THE FCC WAS FOCUSING PRIMARILY ON BOC
266 CIRCUMSTANCES RATHER THAN SMALL COMPANY CIRCUMSTANCES
267 WHEN IT ADDRESSED THESE ISSUES?

268 A. Yes. In the middle of paragraph 1043 the FCC states, "Under our existing practice, most
269 traffic between LECs and CMRS providers is not subject to interstate access charges
270 unless it is carried by an IXC..." This statement was likely true for the BOCs where calls
271 between the BOC and CMRS providers were primarily either in large metropolitan areas
272 with large local calling areas, or intraLATA toll calling areas where the BOC provided
273 virtually all intraLATA toll calling at the time. For small companies, such as the RTC
274 companies, there was very little existing LEC to CMRS traffic that was not subject to
275 access charges.

276

277 In paragraph 1034 the FCC contrasts the access charge regime where the originating
278 LEC, terminating LEC, and an IXC are involved in a call with the intended use of
279 reciprocal compensation which, according to the FCC is intended for, "...the situation in
280 which two carriers collaborate to complete a local call." For the RTC companies, hardly
281 any calls between CMRS providers and the RTC companies fall in this description of the
282 intended use of reciprocal compensation, while most fall under the access charge regime
283 for wireline originated calls. For wireless originated calls very few involve only two
284 carriers to complete the calls to the RTC companies, with most calls involving a third
285 carrier, often a large LEC, to complete the call.

286 Q. UPON WHAT BASIS DOES WWC APPARENTLY DERIVE ITS OPINION THAT
287 THE RTC COMPANIES ARE RESPONSIBLE FOR COMPENSATION TO CMRS
288 PROVIDERS FOR TRAFFIC TERMINATED WITHIN THE MTA EVEN IF IT IS
289 CARRIED BY AN IXC?

290 A. It apparently bases its position upon Paragraph 1036 of the FCC's First Report and Order.
291 The FCC begins this paragraph by stating that it is defining, "...local service areas for
292 calls to or from a CMRS network for the purposes of applying reciprocal compensation
293 obligations under section 251(b)(5)³. [emphasis added] After discussing varying types of
294 wireless service areas and indicating that it will choose the largest of these areas, the
295 paragraph is concluded with the following statement: "Accordingly, traffic to or from a
296 CMRS network that originates and terminates within the same MTA is subject to
297 transport and termination rates under section 251(b)(5), rather than interstate and
298 intrastate access charges."

299

³ The First Report, para. 1036.

300 Q. CAN THESE STATEMENTS BE PROPERLY UNDERSTOOD WITHOUT PUTTING
301 THEM IN THE BROADER CONTEXT OF THE REMAINDER OF THE FCC'S
302 DECISION ON THIS SUBJECT?

303 A. No. Taken on their face and out of context from the remainder of the First Report and the
304 rules adopted in that order, these sentences seem to say that all calls to a wireless carrier
305 within the MTA are not subject to access charges. However, the rules adopted by the
306 FCC are more specific and limiting than this paragraph. They do not talk about all calls
307 with the MTA, but a more limited set of calls. In §51.701(a) (adopted in the First
308 Report) the FCC defines the scope of the rules for reciprocal compensation for the
309 transport and termination of local telecommunications traffic as follows:

310 (a) The provisions of this subpart apply to reciprocal compensation for
311 transport and termination of local telecommunications traffic between
312 LECs and other telecommunications carriers.

313
314 This clearly limits the application of the subpart to calls between LECs and other
315 telecommunications carriers and not to calls between IXCs and such carriers. This
316 distinction from Paragraph 1036 is also made clear in the specific FCC definition of a
317 telecommunications traffic, found in §51.701(b) of the FCC's rules which states:

318 (b) *Telecommunications traffic.* For purposes of this subpart,
319 telecommunications traffic means:

320
321 (1) Telecommunications traffic exchanged between a LEC and a
322 telecommunications carrier other than a CMRS provider, except for
323 telecommunications traffic that is interstate or intrastate exchange
324 access, information access, or exchange services for such access (*see*
325 FCC 01-131, paras. 34, 36, 39, 42-43); or

326
327 (2) Telecommunications traffic between a LEC and a CMRS
328 provider that, at the beginning of the call, originates and terminates
329 within the same Major Trading Area, as defined in § 24.202(a) of
330 this chapter.
331

332 In reviewing the rule it refers specifically and only to telecommunications traffic
333 “between a LEC and a CMRS provider”. Thus, for example, traffic between an IXC and
334 a CMRS provider is not local telecommunications traffic under the FCC’s rules for any
335 purpose.

336 Q. IS THIS DISTINCTION FURTHER CLARIFIED IN ANOTHER PARAGRAPH OF
337 THE FIRST REPORT?

338 A. Yes. Between paragraphs 1036 and 1043 of the First Report there is clarification. In
339 Paragraph 1043 the FCC states:

340 We reiterate that traffic between an incumbent LEC and a CMRS network
341 that originates and terminates within the same MTA...is subject to
342 transport and termination rates under section 251(b)(5), rather than
343 interstate or intrastate access charges.

344
345 The FCC states here that they are reiterating a previous statement. If one reviews the
346 intervening paragraphs it is clear that this reference can only be to Paragraph 1036 where
347 it spoke on this subject. In that Paragraph, however, it was not as specific in its
348 reference to “...calls between an incumbent LEC and a CMRS network.” This is
349 emphasized by the following sentences where the FCC recognizes that most traffic
350 between LECs and CMRS providers are not subject to access charges, unless they are
351 carried by an IXC. The paragraph concludes with the following statement:

352 Based on our authority under section 251(g) to preserve the current
353 interstate access charge regime, we conclude that the new transport and
354 termination rules should be applied to LECs and CMRS providers so that
355 CMRS providers continue not to pay interstate access charges for traffic
356 that currently is not subject to such charges, and are assessed such charges
357 for traffic that is currently subject to interstate access charges.

358
359 This statement indicates the FCC’s intent to preserve the interstate access regime for such
360 calls to CMRS providers.

361 Q. IN THE DISCUSSION IN THIS PART OF THE FIRST REPORT AND IN THE
362 RULES THAT THE FCC ADOPTED IS THERE ANY INDICATION THAT THESE
363 RULES APPLIED FOR ANY PURPOSE BEYOND THE DETERMINATION OF
364 COMPENSATION?

365 A. No there is not. The discussion throughout this section discusses compensation for calls
366 between LECs and CMRS providers. Section 51.701(A) cited above specifically
367 indicates that it applies to compensation for those calls. There is nothing, either in the
368 rules, or in the discussion in the Order that indicates any intent to require changes in
369 network arrangements or dialing patterns. For example there is no discussion of
370 removing interexchange carriers from carrying calls within the MTA by eliminating 1+
371 dialing on calls to wireless carriers within the MTA. It appears to me that the FCC was
372 very careful to establish this relationship for reciprocal compensation purposes while not
373 disturbing existing network calling patterns and existing network relationships.

374 Q. ARE THERE OTHER PARTS OF THE FCC'S DISCUSSION IN THESE
375 PARAGRAPHS THAT HIGHLIGHT THE DIFFERENCES BETWEEN RECIPROCAL
376 COMPENSATION AND ACCESS CHARGE COMPENSATION?

377 A. Yes. In Paragraph 1033 the FCC specifically notes that, "The Act preserves the legal
378 distinctions between charges for transport and termination of local traffic and interstate
379 and intrastate charges for terminating long-distance traffic." In Paragraph 1034 the FCC
380 states:

381 ...reciprocal compensation for transport and termination of calls is
382 intended for a situation in which two carriers collaborate to complete a
383 local call. In this case, the local caller pays charges to the originating
384 carrier, and the originating carrier must compensate the terminating carrier
385 for completing the call. [emphasis added]
386

387 Further in Paragraph 1034 the FCC states:

388 We note that our conclusion that long distance traffic is not subject to the
389 transport and termination provisions of section 251 does not in any way
390 disrupt the ability of IXC's to terminate their interstate long-distance traffic
391 on LEC networks... We find that the reciprocal compensation provisions
392 of section 251(b)(5) for transport and termination of traffic do not apply to
393 the transport or termination of interstate or intrastate interexchange traffic.

394 These three statements indicate the intent of the FCC to maintain the access regime and
395 to apply reciprocal compensation rules only in situations where two carriers are directly
396 connected. They also confirm that reciprocal compensation and access are two separate
397 and mutually exclusive compensation systems.

399 Q. HOW DO THE PROVISIONS OF SECTION 251(G) OF THE ACT RELATE TO THIS
400 ISSUE?

401 A. Section 251(g) of the Act is a section that fundamentally assures that provisions related to
402 compensation for exchange access services would be preserved upon implementation of
403 the Act. In relevant part it states:

404 [O]n and after the date of enactment of the Telecommunications Act of
405 1996, each local exchange carrier ... shall provide exchange access ... and
406 exchange services for such access to interexchange carriers ...in
407 accordance with the same equal access and nondiscriminatory
408 interconnection restrictions and obligations (including receipt of
409 compensation) that apply to such carrier on the date immediately
410 preceding the date of enactment of the Telecommunications Act of
411 1996....

412 This section clearly indicates that the provision of and compensation for exchange access
413 shall be the same for IXC's after the implementation of the Act as it was before that
414 implementation. Thus, suggestions that the Act fundamentally changed relationships
415 between LEC's and IXC's and that calls carried by an IXC should no longer be subject to
416 access charges are contrary to this section of the Act.
417

418 Q. HAS THE FCC FURTHER CLARIFIED THAT CALLS SUBJECT TO ACCESS
419 CHARGES ARE NOT SUBJECT TO RECIPROCAL COMPENSATION?

420 A. Yes. In the *ISP Reciprocal Compensation Order*, the FCC found that the
421 telecommunications subject to sections 251(b)(5) and 251(d)(2) are all such
422 telecommunications not excluded by section 251(g). The FCC further found, however,
423 that section 251(g) excludes “exchange access, information access and exchange services
424 for such access” provided to IXC’s and information service providers from the reciprocal
425 compensation requirements of Section 251(b)(5).⁴ Thus, IXC-carried traffic is subject to
426 access charges, not reciprocal compensation. While this Order has been remanded to the
427 FCC by the Court of Appeals, the issues on remand do not change the provisions of the
428 Order regarding the “carve out” requirements of Section 251(g).

429 Q. CAN THIS ISSUE BE RESOLVED IN THE AGREEMENT BETWEEN WWC AND
430 THE COMPANIES?

431 A. The interconnection agreement needs to clarify that traffic carried from an end user
432 pursuant to an IXC’s tariffs, rate schedules, or contracts is not traffic “...between a
433 CMRS provider and the Telephone Company.” This could be done by clarifying the
434 definition of the traffic.

435 Q. WHAT ARE SOME OF THE RAMIFICATIONS THAT COULD RESULT IF THE
436 COMMISSION DETERMINED THAT IT WOULD ADOPT WWC’S PROPOSALS
437 REGARDING UNRESOLVED ISSUES #1 AND #2?

438 A. They would be substantial and would include:

⁴ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, Order on Remand and Report and Order, para. 34 (FCC 01-131)(Rel. April 27, 2001), remanded in *WorldCom v. FCC, et al.*, No. 01-1218 (D.C. Cir.)(May 3, 2002).

439 1) The RTCs would experience a significant decrease in access minutes and revenues
440 which would lead to adverse financial impacts and consequent negative impacts on
441 infrastructure investments and upgrades.

442 2) A requirement that RTCs route all intraMTA traffic to the CMRS provider would
443 cause a significant decrease in toll minutes for interexchange carriers, without their
444 participation in the proceeding, and would likely raise questions regarding this decision
445 in relation to the Commission's dialing parity and presubscription requirements.

446 3) Imposing such a requirement upon the RTCs without imposing a similar
447 requirement on Qwest could raise issues of discrimination. The Commission should
448 consider whether such a decision would require it to readdress this issue in Qwest's
449 interconnection agreements with CMRS providers.

450

451 **Unresolved Issue No. 3 (Delivery of Land-to-Mobile Traffic)**

452 **What obligations do the ILECs have to deliver traffic subject to reciprocal compensation to**
453 **Western Wireless' network?**

454

455 **Issue No. 3(a): Are the ILECs prohibited from collecting access charges from any**
456 **telecommunications carrier on land-to-mobile calls that originate and terminate in the**
457 **same MTA?**

458

459 **Issue No. 3(b): If WWC established a direct connection with an ILEC, should the**
460 **ILEC deliver all land-to-mobile intraMTA traffic to WWC over those direct**
461 **facilities?**

462

463 Q. ARE THE ISSUES STATED IN UNRESOLVED ISSUE NO. 3 RELATED TO THOSE
464 IN UNRESOLVED ISSUE NO. 2?

465 A. They are directly related, and, to a certain extent, are restatements of the broader issue
466 raised in Unresolved Issue #2. As discussed in the response to Issue #2, the RTCs clearly
467 are not prohibited from collecting access charges on calls that are carried by IXCs. As

468 further discussed in the response to Issue #2, the FCC indicated no intent to change
469 network configurations or dialing patterns in regard to intraMTA calls from those that
470 were in existence when the Act was implemented. Thus, the calls that had previously
471 been carried by IXC's could continue to be carried by IXC's, hence making those calls
472 subject to access charges.

473 Q. IN ITS PETITION WWC CITES FCC RULE 51.703(B) AS ITS AUTHORITY FOR
474 ITS POSITION THAT LECS SHOULD BE PROHIBITED FROM "...COLLECTING
475 CHARGES FROM ANY CARRIER FOR INTRAMTA LAND-TO-MOBILE
476 TRAFFIC." DO YOU AGREE WITH THIS INTERPRETATION OF THE CITED
477 RULE?

478 A. I do not. FCC Rule 51.703(b) states:

479 (a) Each LEC shall establish reciprocal compensation arrangements for
480 transport and termination of telecommunications traffic with any requesting
481 telecommunications carrier.

482
483 (b) A LEC may not assess charges on any other telecommunications carrier for
484 telecommunications traffic that originates on the LEC's network.
485

486 Since the heading of the rule is related to reciprocal compensation obligations of LECs,
487 clearly section (b) would only apply where reciprocal compensation obligations exist. As
488 previously discussed, such obligations do not apply in the case of traffic carried by IXC's.
489 This rule does not preclude LECs from charging access rates on calls carried by IXC's as
490 such calls do not fall under the reciprocal compensation definition and rules.

491 Q. IS WWC'S POSITION IN ITS PETITION SUPPORTED BY THIS RULE?

492 A. No. WWC's position is that the Commission should order all MTA traffic to be
493 delivered directly to their network without the payment of access to any carrier. Section
494 51.703 does not address at all how traffic should be delivered and whether the ILECs are

495 responsible to deliver it to WWC. As discussed in response to Issue #2, the ILECs are
496 not responsible to deliver traffic currently carried by IXCs directly to WWC. Since the
497 traffic is exchange access traffic delivered to IXCs it is not subject to reciprocal
498 compensation and thus the rule relied upon by WWC is inapplicable.

499 Q. CAN YOU BRIEFLY DESCRIBE THE CIRCUMSTANCES THAT LED TO THE
500 ADOPTION OF SECTION 51.703(B)?

501 A. At the time of the implementation of the Act, some ILECs who were directly connected
502 to CMRS providers were charging the CMRS carriers for the cost of originating traffic on
503 the ILEC network but which terminated to the CMRS provider. This rule was
504 promulgated to make it clear that such intercarrier charges, where the networks were
505 directly connected and the ILEC originated traffic was delivered directly from the ILEC
506 to the CMRS provider were no longer acceptable.

507 Q. DOES THE FACT THAT A DIRECT CONNECTION IS ESTABLISHED BETWEEN
508 WWC AND THE RTC REQUIRE THE RTC TO REDIRECT TRAFFIC AWAY FROM
509 INTEREXCHANGE CARRIERS TO WWC NNX CODES THAT HAVE BEEN
510 ASSIGNED TO AREAS WHERE THE CALL WOULD NORMALLY BE A TOLL
511 CALL?

512 A. No. The RTC should only be required to deliver to the direct connection calls from
513 within the local calling area of the rating point for WWC's NNX code. If the WWC
514 NNX code is located in an exchange that is outside the local exchange calling area of the
515 RTC exchange, calls to that NNX code would be subject to toll calling pursuant to the
516 RTCs tariffs and the dialing parity and presubscription requirements as I explained in my
517 response to Issue No. 2.

518 Q. DO THE FCC'S DIALING PARITY RULES ALLOW THE LEC TO
519 AUTOMATICALLY ASSIGN INTRALATA TOLL CALLS TO A SPECIFIC
520 CARRIER?

521 A. No. Section 51.709(c) of the FCC's rules states in relevant part that, "A LEC may not
522 assign automatically a customer's intraLATA toll traffic to itself, to its subsidiaries or
523 affiliates, ... or to any other carrier,...". The routing proposed by WWC for traffic that
524 would normally be intraLATA toll traffic would violate this rule.

525 Q. IN ADDITION TO THE FOREGOING TESTIMONY, ARE THEIR OTHER ISSUES
526 THAT NEED TO BE ADDRESSED IN THIS PROCEEDING?

527 A. Yes. I have attached hereto a list of 14 issues which the Utah ILECs believe need to be
528 resolved in this arbitration proceeding. See Exhibit RAH - 1 attached hereto. I have
529 also set forth briefly, the position of the companies with respect to how these issues
530 should be resolved. Additional testimony and briefing will be hereafter filed to further
531 support the companies' positions on these issues.

532 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

533 A. Yes.

534