

**FHH Telecom Law**  
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**Wholesale VoIP Providers**  
**Entitled to LEC Interconnection**

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The FCC's Wireline Competition Bureau has granted a petition for declaratory ruling filed by Time Warner Cable (TWC) asking the Commission to declare that *wholesale* telecommunications carriers are entitled, pursuant to Sections 251(a) and (b) of the Communications Act, to interconnect and exchange traffic with local exchange carriers (LECs) when providing services to other service providers, including VoIP service providers. This ruling is a minor victory for VoIP providers and the telecommunications carriers that provide underlying services to VoIP providers. A "bone" is thrown to the incumbent LECs, though.

TWC, like other cable companies and similar carriers, purchases wholesale telecommunications services from certain telecommunications carriers, including MCI WorldCom Network Services Inc. and Sprint Communications, in order to connect TWC's VoIP service customers with the public switched telephone network (PSTN). MCI and Sprint provide transport for the origination and termination on the PSTN through their interconnection agreements with incumbent LECs. In addition, MCI and Sprint provide TWC with connectivity to the incumbent LEC's E911 network and other necessary components of a wholesale service.

TWC filed its petition essentially on behalf of MCI and Sprint, because MCI has been unable to provide wholesale telecommunications services to TWC in certain areas in South Carolina, while Sprint has been unable to provide wholesale telecommunications services to TWC in certain areas in Nebraska. Unlike certain other state commissions, the South Carolina Public Service Commission and the Nebraska Public Service Commission have determined that rural incumbent LECs are not obligated to enter into interconnection agreements with competitive service providers (like MCI and Sprint) to the extent that such competitors operate as *wholesale* service providers.

The Bureau granted TWC's request, noting that the Act does not differentiate between retail and wholesale services when defining "telecommunications carrier" or "telecommunications service." It therefore declared that telecommunications carriers are entitled to interconnect and exchange traffic with incumbent LECs pursuant to Section 251(a) and (b) of the Act for the purpose of providing *wholesale* telecommunications services. The Bureau also noted that the regulatory classification of the service provided to the ultimate end user has no bearing on the wholesale provider's rights as a telecommunications carrier to interconnect under Section 251. As such, the Bureau clarified that the statutory classification of a third-party provider's (TWC's) VoIP service

as an information service or a telecommunications service is irrelevant to the issue of whether a wholesale provider of telecommunications (Sprint, MCI) may demand interconnection under Section 251(a) and (b).

To address concerns by commenters about which parties are eligible to assert these rights, the Bureau stated that the scope of its declaratory ruling is limited to wholesale carriers that are acting as telecommunications carriers for purposes of their interconnection request. In affirming the rights of wholesale carriers, they also made clear that this decision in no way diminishes the ongoing obligations of these wholesalers as telecommunications carriers, including compliance with any technical requirements imposed by this Commission or a state commission. In addition, the Bureau confirms that it is most consistent with Commission policy that where a LEC wins back a customer from a VoIP provider, the number should be ported to the LEC that wins the customer at the customer's request, and therefore the Bureau made such a requirement an explicit condition to the Section 251 rights clarified in the Order. Other concerns about porting will supposedly be addressed in the *IP-Enabled Services* proceeding that has been pending for years. In any case, the skirmishing between VoIP providers and incumbent carriers will certainly continue.