

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

In the Matter of

The Time Machine, Inc.,
Request for a Declaratory
Ruling Concerning Preemption
of State Regulation of
Interstate 800-Access Debit
Card Telecommunications
Services

MEMORANDUM OPINION AND ORDER

Adopted: October 26, 1995; Released: November 3, 1995

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On April 29, 1993, Time Machine, Inc. (TMI) submitted the above-captioned Petition for Declaratory Ruling (TMI Petition) asking the Commission to preempt state regulation of interstate 800-access debit card telecommunications services.¹ Eighteen parties filed comments, oppositions, or replies regarding TMI's request.² For the reasons stated below, we deny TMI's request for preemption.

II. TMI'S PETITION

2. In its petition, TMI states that it is a provider of interstate debit card telecommunications services. TMI explains that these cards permit customers to make pre-paid interstate calls by purchasing disposable cards that contain long-distance calling units of varying dollar amounts. Customers, according to TMI, may purchase or renew such debit cards at retail locations or vending machines, and may use the cards by calling a nationwide 800-access number from any telephone, including payphones.

3. TMI states that it provides its debit card service as a "pure" resale carrier. Because it neither owns nor controls any telecommunications facilities, TMI contends that it relies on the facilities and information processing capabilities of its underlying interexchange carrier (IXC). According to TMI, when a debit card customer makes an 800-access call, the underlying carrier, not TMI, receives the call, validates the customer's calling card number and security code, determines the amount of time left on the card, and completes the call to the number requested by the customer.

4. TMI states that its 800-access debit card service is interstate in nature. It purports to offer its debit card service pursuant to FCC tariff "exclusively as an interstate offering," and allegedly does not market or hold out its service for intrastate or intraLATA use. TMI notes that all of its debit cards and marketing materials state "expressly and prominently" that the cards are to be used only for interstate calls. Although TMI admits that the cards can be, and are, used to complete intrastate calls, it contends that such use is incidental to the intended use of the cards. TMI claims that it cannot block intrastate use of its debit cards.

5. According to TMI, states have begun asserting jurisdiction over interstate 800-access debit card telecommunications carriers, even though the intrastate calls completed over their systems may be incidental. As an example, TMI alleges that the Kansas Public Utilities Commission has directed TMI to secure prior certification because TMI's customers can complete intrastate calls within Kansas, and because TMI does not block such calls. TMI states further that most states subject non-local exchange carriers (non-LECs) that provide intrastate services to forms of regulation including certification, "block or compensate" requirements,³ and rate regulation.

6. TMI asks the Commission to preempt these three types of state regulation with respect to 800-access debit card services because they "threaten to curtail the ability of carriers to offer these innovative services to American consumers." In particular, TMI states that 800-access debit card service providers cannot separate the intrastate aspects of 800-access debit card services from the interstate aspects, and that such regulation would thwart achievement of federal policy in favor of such services. TMI also seeks preemption because 800-access debit card service is an interstate service over which the FCC has exclusive jurisdiction.

7. In support of its preemption request, TMI states that it is technically and economically infeasible to separate intrastate from interstate traffic over its debit card network. TMI explains that an 800-access debit card call using TMI's service actually consists of two calls. The first call consists of the subscriber's call to the underlying IXC's 800 switch, and the IXC's validation of the card number at a connected debit card processing switch. Upon validation, the IXC initiates the second call and connects the end user to the called party. According to TMI, Automatic Number Identification (ANI) is not forwarded to and cannot be processed by the IXC's processing switch; therefore, TMI cannot determine the originating location of the call on a real-time basis.

8. Under these circumstances, TMI concludes that it cannot comply with state regulations that would require it to identify intrastate calls before they are completed. To do so, TMI asserts it would be forced to acquire its own switching facilities, a requirement it asserts is wasteful and unnecessary to the efficient provision of debit card services.⁴ Although TMI concedes that ANI may be used to separate intrastate from interstate calls in the future, it argues that such use now would be prohibitively costly,

¹ Public Notice, Pleading Cycle Established for Comments on the Time Machine, Inc. Petition for Declaratory Ruling, 8 FCC Rcd 4002 (1993).

² Parties filing pleadings in this proceeding are listed at Appendix A.

³ TMI states that "block or compensate" regulations generally

require that non-LEC carriers block intraLATA traffic (or intrastate traffic in single LATA states). TMI states that where blocking is not feasible, non-LEC carriers are required to compensate the LEC at the LEC's tariffed rates for all intraLATA/intrastate calls completed. TMI Petition at 9.

⁴ See TMI Reply at 2, 8-9.

and would make debit card services uneconomical for small resale carriers.⁵ Further, TMI notes that ANI only provides a billing number, not the caller's telephone number, and therefore does not necessarily disclose a caller's location.⁶

9. TMI also states that separating intrastate from interstate calls by manual review of billing records after call completion is impractical. TMI asserts that the only way to accomplish such separation is by comparing the times that inbound 800-access calls are received at the IXC switch with the times that outbound calls are originated from the IXC switch, because the network contains no mechanism to associate specific in-bound calls with specific out-bound calls. According to TMI, this procedure would not only be extremely costly because of the amount of labor involved, but also would not produce accurate reports because the system can support multiple simultaneous calls. TMI further asserts that determining where the debit card was bought or sold provides no assistance in separating interstate from intrastate calls, because the cards are inherently portable and may be used anywhere in the country.

10. TMI contends that state "block or compensate" and rate regulation requirements directly conflict with federal policy. Because TMI cannot separate interstate from intrastate services, it argues that compliance with a state's regulations would require TMI to apply them to all debit card traffic, even interstate calls, originating from the particular state. Thus, according to TMI, not only would state rate regulations apply to interstate debit card calls, but TMI would be required to block all interstate calls originating from a state with a "block or compensate" requirement, because of its inability to identify the intrastate calls subject to the requirement.

11. Moreover, TMI alleges, application of state certification requirements for every state in which a caller might use the debit card would require TMI to delay service while it sought certification in all 50 states. Such delay, according to TMI, would conflict with the FCC's statutory mandate to make available a rapid, efficient, nationwide communications service, as well as its interest in promoting new technologies and innovative services.⁷ TMI also claims that such certification requirements would infringe on stated federal interests, such as ensuring wide coverage of services that are inherently interstate. TMI observes that state entry regulation of interstate debit card services would conflict with the FCC's forbearance policies toward nondominant interstate common carriers, which are intended to encourage competition and innovation.⁸

12. TMI further contends that its debit card service is an exclusively interstate service because TMI does not advertise or promote the card for intrastate calling purposes. TMI states that intrastate usage of the debit card, which for technical reasons it cannot prevent, is entirely incidental. Further, TMI argues that debit card services are inherently interstate, because they are not linked to any one physical location, telephone number or customer billing number.⁹ Thus, TMI asserts that the debit card falls within the Commission's exclusive jurisdiction over interstate service, and state regulation of the card is invalid, even if not inconsistent with federal law.

III. PLEADINGS

13. A number of states and telephone companies oppose TMI's petition.¹⁰ They argue generally that states have jurisdiction over even incidental intrastate debit card services, that it is possible to separate intrastate from interstate services, and that state regulation of intrastate services will not thwart or impede federal policy. They also argue that state certification requirements would not inordinately delay the introduction of debit card services and that, in any case, TMI has presented no ground for preemption.

14. In their comments, states generally assert jurisdiction over intrastate debit card calling. They argue that Section 2(b) of the Communications Act of 1934, as amended (Act), reserves regulation of intrastate services for the states. Citing *NARUC v. FCC*,¹¹ they contend that even incidental intrastate traffic is subject to state jurisdiction.¹² In this regard, they assert that interstate 800-access debit card service providers are no different for jurisdictional purposes than other IXCs offering both interstate and intrastate services.¹³ In any event, states reject as unsupported TMI's contention that intrastate debit card calling will constitute only an incidental portion of debit card calls.¹⁴ Indeed, some argue that, given the likely class of debit card users -- persons on a budget, college students, employees of small businesses -- the predominant use of debit cards will likely be intrastate.¹⁵

15. Given the states' asserted jurisdiction over even incidental intrastate debit card traffic, many commenters argue that TMI has failed to demonstrate that preemption is justified. They contend that, contrary to TMI's argument, it is technically possible to separate intrastate from interstate traffic in order to comply with state regulations applicable to intrastate traffic.¹⁶ In particular, Teleddebit, an 800-access debit card service provider competing with TMI, states that it has essentially the same network as TMI, except that it owns its own validating platform. Teleddebit claims that it

⁵ TMI Petition at 7, note 18.

⁶ *Id.* (citing *Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards*, 6 FCC Rcd 7571, 7635, n.257 (1991) (*BOC Safeguards Order*), *aff'd in part and remanded in part, California v. FCC*, 39 F.3d 919 (1994) (*California III*)).

⁷ *Id.* at 18 (citing 47 U.S.C. § 151).

⁸ *Id.* at 2, n.1 (citing Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities and Authorizations Therefor, 91 FCC 2d 59 (1982)).

⁹ TMI Reply at 3.

¹⁰ See, e.g., Bell Atlantic Opposition at 1; NARUC Comments at 1; PaPUC Comments at 1; SWBT Comments at 1; Teleddebit

Comments at 1; California Opposition at 1; New York Reply at 1; Florida Reply at 1-2.

¹¹ 746 F.2d 1492 (D.C. Cir. 1984).

¹² NARUC Comments at 5; California Opposition at 2-3 (stating that incidental intrastate usage is subject to state regulatory authority "to the same extent as incidental interstate usage is subject to federal authority"); NARUC Reply at 6, Appendix A; New York Reply at 4; Florida Reply at 2.

¹³ See NARUC Comments at 6; California Opposition at 3; PaPUC Comments at 9; NARUC Reply at 2.

¹⁴ See NARUC Comments at 5; PaPUC Comments at 4-5.

¹⁵ PaPUC Comments at 5; Florida Reply at 2-3.

¹⁶ Teleddebit Comments at 4; California Opposition at 3-4; USTA Comments at 2-3.

receives ANI, and is therefore able to compare the calling number with the called number to separate intrastate from interstate calls on a real-time basis.¹⁷ Thus, Teledebit states that it is able to block intrastate calls in states where it is not permitted to carry them.¹⁸ Teledebit also suggests that absent ANI, TMI would be unable to perform certain other functions (such as answer detection) necessary for handling calls.¹⁹ Other parties agree with Teledebit that ANI is available and that it is possible for 800-access debit card service providers to use ANI to separate intrastate from interstate calls.²⁰ For example, California notes that some IXCs already have ANI capabilities and can pass such information on to companies like TMI.²¹ SWBT similarly notes that TMI's underlying IXC carrier can use the same methods to determine jurisdiction for TMI's calls that the carrier uses to determine jurisdiction for its own calls.²²

16. Moreover, various parties state that even if TMI's system cannot support real-time identification of calls through ANI, other options exist for jurisdictionally identifying the calls. Bell Atlantic contends that TMI failed to show that it could not design its service to comply with state regulations.²³ Parties also claim that carriers can manually review records to determine whether particular calls were intrastate or interstate. For example, USTA asserts that TMI can "match" inbound calls to, and outbound calls from, the 800-access switch, and can make use of call stamping or statistically reliable sampling.²⁴ California notes that even if these methods are not absolutely accurate, they nonetheless show that intrastate and interstate calls can be separated.²⁵

17. Parties contend that it is also economically feasible for TMI to separate intrastate from interstate calls. These parties argue that TMI has not shown that it is economically burdensome to separate interstate and intrastate services. Specifically, they reject TMI's assertion that obtaining either call information from an underlying IXC with ANI capabilities, or the equipment necessary to receive ANI, is prohibitively expensive.²⁶ They state that neither these costs, nor the cost of manually reviewing calling records would justify preemption.²⁷

18. Commenters also assert that state regulation of 800-access debit card services does not impede federal policies and therefore should not be preempted. They state that

such state requirements either are not burdensome enough to impede, or are consistent with,²⁸ federal objectives. According to PaPUC, many of the state certification requirements are streamlined.²⁹ PaPUC also states that rate regulation may be consistent with federal policy. For example, PaPUC asserts that Pennsylvania rate cap regulation, which caps rates at the highest level charged by facilities-based IXCs in the state, provides consumer protection against excessive rates without unduly burdening new entrants or otherwise thwarting federal policy.³⁰ Some states cite the fact that a number of debit card service providers already have obtained state certification as proof that certification requirements are not burdensome.³¹ USTA notes that many state regulations are designed to achieve purposes, such as universal service, consistent with federal policy.³² Various states assert that their regulation is intended to protect consumers from excessive rates and other abuses, thereby ensuring that provision of intrastate service is in the public interest.³³

19. Some parties contend that the economic burden of complying with state regulations alone may not, as a legal matter, impede federal objectives and therefore justify preemption. NARUC concludes, for example, that such an "economic impracticality" test would ignore the Act's dual regulatory scheme by justifying preemption of all state regulation of intrastate services with large interstate components. California asserts that the mere cost of compliance with state regulations or the lack of economic ability of a carrier to comply with state regulations with which other carriers comply by itself does not justify preemption.³⁴ Others note that state regulation would merely require TMI to bear the costs of doing business within a state, just like other IXCs must do.³⁵ USTA argues similarly that IXCs that benefit from even the incidental provision of intrastate service should be required to accept the burdens associated with such service.³⁶

20. Finally, opponents of TMI's petition allege that the preemption request is overbroad. They claim that there is no guarantee that state regulations would even apply to TMI's debit card services.³⁷ NARUC argues initially that states have not taken any action to regulate debit card services, and that preemption is therefore unwarranted.³⁸ They note that those state regulations that might be ap-

¹⁷ Teledebit Comments at 2-3; Teledebit Reply at 2.

¹⁸ Teledebit Comments at 4.

¹⁹ Teledebit Reply at 2.

²⁰ New York Reply at 3; NARUC Comments at 6; California Reply at 2; *but see* PaPUC Comments at 4.

²¹ California Opposition at 4.

²² SWBT Comments at 3.

²³ *See* Bell Atlantic Opposition at 1; New York Reply at 2; California Reply at 2. Teledebit concludes that TMI has merely configured its network to avoid being able to comply with state regulations. Teledebit Comments at 1.

²⁴ *See* USTA Comments at 2-3; California Opposition at 7-8; PaPUC Reply at 4.

²⁵ *See* California Opposition at 5 (noting that the FCC has sanctioned use of estimates to approximate jurisdictional usage where more accurate measures were unavailable) (*citing Smith v. Ill. Bell Tel. Co.*, 282 U.S. 133, 150-51 (1930)); *see also* Petitions of MCI Telecommunications and GTE Sprint Communications Corporation Regarding the Validity of Connecticut Statute and Decisions of the Connecticut Department of Public Utility Control Relating to Unauthorized Interstate Traffic, 1 FCC Rcd 270 (1986) (*Unauthorized Interstate Traffic*).

²⁶ *See* PaPUC Reply at 4.

²⁷ *See id.* at 5 (*citing Louisiana Public Service Commission v. FCC*, 476 U.S. 355 (1986) and *Public Service Commission of Maryland v. FCC*, 909 F.2d 1510 (D.C. Cir. 1990)); California Opposition at 4; New York Reply at 2, n.2.

²⁸ *See* PaPUC Reply. *See also* PaPUC Comments.

²⁹ PaPUC Comments at 7-8.

³⁰ *Id.* at 10-11.

³¹ *See* PaPUC Comments at 8-9; NARUC Comments at 7.

³² USTA Comments at 3.

³³ *See* PaPUC Comments at 10; Florida Reply at 2-3.

³⁴ *See* California Opposition at 6-7; PaPUC Reply at 5.

³⁵ *See* California Opposition at 6-7; PaPUC Reply at 3. *See also* PaPUC Comments at 9 (would not be fair to exempt certain debit card providers from certification requirement because other IXCs, including other debit card providers, have already obtained certification); NARUC Comments at 6. *See generally* SWBT Comments at 4.

³⁶ USTA Comments at 4; New York Reply at 5.

³⁷ *See* PaPUC Reply at 3.

³⁸ *See* NARUC Comments at 2. *But see* WorldLink Communications *Ex Parte* Statement, submitted December 23, 1993, at 1 (stating that the Florida PSC recently required it to submit an intrastate tariff for its debit card service).

plicable to debit cards may involve minimal requirements.³⁹ New York asserts that the request is overbroad because it would apply to all debit card service providers, rather than just to those that are unable to separate intrastate from interstate calls.⁴⁰

21. A number of IXC's support TMI's request for preemption, essentially for the same reasons advanced by TMI.⁴¹ They argue that the competitive and other benefits of debit card services, the incidental nature of the intrastate traffic, and the tremendous burden on small debit card service providers that state regulation would impose militate in favor of preemption.⁴² Certain commenters support TMI's contention that debit card service is inherently interstate and should therefore be regulated only at the federal level.⁴³ TNT asserts that regulatory agencies in several states have asserted jurisdiction over debit card providers, noting that the North Carolina Utility Commission proposed to penalize one such provider for precertification operation.⁴⁴

22. Other 800-access debit card service providers support TMI's contention that it is impossible for debit card service providers to forward ANI to the debit card processing switch to allow calls to be identified as interstate or intrastate.⁴⁵ In particular, TNT asserts that because its PC-based debit card processor intervenes between the customer's originating phone call and the ultimate terminating phone call, TNT rarely receives the customer's originating phone number.⁴⁶ TNT states that when it does receive an originating phone number, the number is often inaccurate and does not reflect the caller's location.⁴⁷ Cleartel and Teltrust argue that even if it is technically possible to separate intrastate from interstate traffic, it may not be practically feasible for all IXC's.⁴⁸ They urge the Commission not to require some IXC's to purchase expensive equipment necessary to separate traffic in order to comply with state regulations, given the small amount of traffic that would actually fall under state jurisdiction.

23. Preemption proponents argue that state regulations are often inconsistent, both among the separate states and with federal regulations, making compliance impossible for debit card service providers.⁴⁹ TNT cites a Washington state requirement that restricts debit cards to denominations of \$50.00 or less, and argues that this restriction impermissibly limits the interstate usage of the cards and deprives consumers of lower rates they could obtain by using one of TNT's larger denomination cards.⁵⁰ TNT also estimates that there may be over 40 separate state rate regulation schemes applicable to debit card service. TNT asserts that debit card providers cannot comply with multiple rate regulation schemes simultaneously, because debit cards rely on a uniform rate structure, owing to their portable, pre-paid nature.⁵¹ Commenters also support TMI's claim that compliance with state certification requirements can be costly and can unduly delay provision of debit card services.⁵² IXC's, however, generally agree that certification would be appropriate in states in which the debit card is sold.⁵³

24. Some IXC's point to a debit card-type service offered by AT&T which they assert is not subject to state regulation, and contend that small debit card service providers should be treated no differently than AT&T in their provision of debit card services.⁵⁴ AT&T states that its debit card service, "Teleticket," is an enhanced service that is not regulated under Title II of the Act and therefore requires no formal approval.⁵⁵ AT&T states additionally that, except in Wyoming, Teleticket is "not offered on an intrastate basis and, as such, does not require any formal intrastate regulatory approval either."⁵⁶ TMI asserts that, in a proceeding before the Florida Public Service Commission, AT&T said that it lacks the technical capability to separate debit card traffic jurisdictionally.⁵⁷ TMI argues that AT&T's statement supports TMI's contention that separation is technically infeasible and state regulation of debit card services should not be permitted.

³⁹ See Teledebit Comments at 7.

⁴⁰ See New York Reply at 4.

⁴¹ See e.g., RCI Comments; LinkUSA Comments; Teltrust Comments; WorldLink *Ex Parte* Statement; Talk 'N Toss, Inc. (TNT) *Ex Parte* Statement, submitted November 9, 1993; Advantage Communications, Inc. (ACI) *Ex Parte* Statement, submitted January 31, 1994. One commenter proposes that the Commission convene a joint state/federal board for the purpose of adopting an approach to incidental intrastate traffic in primarily interstate services. ACTA Comments at 5-7.

⁴² See LinkUSA Comments at 2-3; see generally Teltrust Comments.

⁴³ TNT *Ex Parte* Statement at 7; ACI *Ex Parte* Statement at 2; but see TNT *Ex Parte* Statement at 5 (TNT "has no way of knowing whether [its debit] card will be used solely for interstate calling, solely for intrastate calling, or a combination of both").

⁴⁴ TNT *Ex Parte* Statement at 3 and Attachment A.

⁴⁵ LDDS Comments at 3. See also WorldLink Communications *Ex Parte* Statement at 1 (stating that the network design of WorldLink's debit card service system does not support any timely or economical method of segregating interstate and intrastate calls).

⁴⁶ TNT *Ex Parte* Statement at 2.

⁴⁷ *Id.*

⁴⁸ Cleartel/Teltrust Reply at 4.

⁴⁹ TNT *Ex Parte* Statement at 4; see also ACI *Ex Parte* Statement at 2.

⁵⁰ TNT *Ex Parte* Statement at 4, 6-7. TNT also criticizes as

burdensome a Washington State requirement that debit card service providers establish escrow accounts to protect advance payments from customers. *Id.* at 4, n.1.

⁵¹ TNT *Ex Parte* Statement at 5.

⁵² See Teltrust Comments at 1-2; Visiology Comments at 1; Cleartel/Teltrust Reply at 8.

⁵³ See RCI Comments at 2, n.4; Teltrust Comments at 2-3; Cleartel/Teltrust Reply at 7, n.14.

⁵⁴ RCI Comments at 3, n.5; LinkUSA Comments at 4-5; TMI Reply at 13-14; see generally TMI Supplemental Comments. LinkUSA suggests that debit card service itself is an enhanced service, because the system must track and report to the customer the time remaining on the card, thus providing real-time call information in addition to completing the call. LinkUSA Reply at 8.

⁵⁵ AT&T Reply at 2. The AT&T Teleticket service is a prepaid card service, available in nine languages, that allows purchasers to access international news, U.S. weather reports, currency exchange information, and interpretation services, as well as to make outbound telephone calls. Letter and attachments from Glenn B. Manishin, Blumenfeld & Cohen, to Mr. William F. Caton, Acting Secretary, FCC, filed October 13, 1993 (TMI *Ex Parte* Filing) at Attachment 2 (AT&T News Release dated May 11, 1992). In its reply, AT&T specified that it took no position on the merits of TMI's petition, but rather intended only to correct erroneous characterizations of its Teleticket debit card service. AT&T Reply at 1.

⁵⁶ AT&T Reply at 2.

⁵⁷ TMI Supplemental Comments at 3-4, Attachment 1.

IV. DISCUSSION

25. The Commission has adopted no special rules regarding debit card services. Under Section 203 of the Act,⁵⁸ common carriers are required to tariff their interstate communications services.⁵⁹ Thus, the underlying basic interstate telecommunications services associated with debit card services must be offered pursuant to tariffs. Several local exchange carriers offering debit cards have tarified the basic services underlying these cards.⁶⁰ As discussed in the following sections, we decline to preempt state certification, rate, and "block or compensate" regulations as requested by TMI, because TMI has failed to make the showing required by *Louisiana Pub. Serv. Comm'n v. FCC*⁶¹ and its progeny.

26. The Communications Act establishes a system of dual state and federal regulation over telephone service, under which purely intrastate matters are "fenced off" from FCC regulation.⁶² Section 2(a) of the Act specifically grants the Commission jurisdiction over "all interstate and foreign communications by wire and radio," while Section 2(b) generally reserves to the states jurisdiction over "intrastate communications by wire or radio."⁶³ Under this regulatory framework, the states exercise the same authority over intrastate telecommunications as the Commission exercises over interstate telecommunications.⁶⁴ Thus, if the Commission seeks to regulate the provision of intrastate services, it must specifically preempt state regulation of such services.

27. Under the Supremacy Clause of Article VI of the U.S. Constitution, Congress may preempt state laws that affect interstate commerce. Federal agencies acting within the scope of their congressionally delegated authority may also preempt state regulation.⁶⁵ The Supreme Court has determined that the Commission may preempt state regulation of intrastate services when it is "not possible to separate the interstate and the intrastate components of the asserted FCC regulation."⁶⁶ Federal courts that have construed the "impossibility" exception to Section 2(b)(1) have held that the Commission must show that state regulation over intrastate service thwarts or impedes the Commission's exercise of its lawful authority over interstate communications service.⁶⁷ In interpreting its preemption authority, the Commission has recognized the broad latitude of the states in regulating intrastate common carrier services, and has declined to preempt certain state policies affecting intrastate services even where they have significant effects on matters subject to the Commission's plenary authority.⁶⁸

28. We deny TMI's Petition for several reasons. First, there is considerable dispute in the record of the proceeding on the question of whether it is impossible to separate interstate and intrastate calls. Second, the economic burden that compliance with state regulation may impose on entrants into the 800-access debit card long distance services market is insufficient, standing alone, to justify preemption. Third, the scope of the preemption proposed by TMI is too broad. In view of the fact that the Commission has neither articulated a unified federal regulatory scheme governing debit card services, nor affirmatively deregulated the area of 800-access debit card services, state certification, rate, and "block or compensate" regulations do not conflict with specific federal counterpart regulations. Further, such state regulations do not so impede our broad federal policy goals -- namely, encouraging competition and innovation in the telecommunications market and promoting rapid, efficient, nationwide telephone service with adequate facilities at reasonable charges -- as to establish a valid basis for preemption.

A. JURISDICTION

29. As a preliminary matter, we reject the contention that 800-access debit card services are "inherently interstate" in nature and thus subject to the plenary authority of the Commission alone. No party to this proceeding contests the fact that, unless blocked, intrastate calls may be completed using debit card service. This fact alone indicates that the service is jurisdictionally mixed, despite the fact that TMI does not market or hold out the debit cards for intrastate use, and despite their inherent portability.

30. In addition, we reject the implication raised in the pleadings that the routing of debit card calls through a remote 800 switch renders them jurisdictionally interstate in nature.⁶⁹ We have previously held that calls involving 800 switching should be treated for jurisdictional purposes as single, end-to-end communications.⁷⁰ Thus, we find that a debit card call that originates and ends in the same state is an intrastate call, even if it is processed through an 800 switch located in another state. It follows that we specifically reject AT&T's apparent conclusion that its Teleticket service does not have an intrastate component except in Wyoming, where its 800 switch is located.⁷¹

31. Moreover, neither TMI nor any of the other supporters of the preemption petition have provided enough evidence for us to make the determination that intrastate calls made using 800-access debit cards are "incidental" in nature and therefore should not be subject to state regulation.

⁵⁸ 47 U.S.C. § 203.

⁵⁹ The Commission has interpreted the definition of "common carrier" set out at 47 U.S.C. § 153(h) to include resellers that lease the underlying facilities they use to provide telecommunications service to the public, as well as facilities-based carriers. *AT&T v. FCC*, 572 F.2d 17, 24 (1977).

⁶⁰ See, e.g., U.S. West Communications Revisions to Tariff FCC No. 1, 9 FCC Rcd 4022 (1994); NYNEX Telephone Companies Revisions to Tariff FCC No. 1, 9 FCC Rcd 4027 (1994). See also TMI Petition at 7, n.6. (TMI states that it has filed with the Commission a tariff for its debit card service).

⁶¹ 476 U.S. 355 (1986) (*Louisiana PSC*).

⁶² See *Louisiana PSC*, 476 U.S. at 370.

⁶³ 47 U.S.C. § 152.

⁶⁴ See *NARUC v. FCC*, 880 F.2d 422, 428 (D.C. Cir. 1989).

⁶⁵ *Louisiana PSC*, 476 U.S. at 368-369.

⁶⁶ *Id.* at 375, n.4 (emphasis in original).

⁶⁷ See *California v. FCC*, 905 F.2d 1217, 1240 (9th Cir. 1990); *Public Service Comm'n of Maryland v. FCC*, 909 F.2d 1510, 1515 (D.C. Cir. 1990); *NARUC v. FCC*, 880 F.2d 422, 429 (D.C. Cir. 1989); *Illinois Bell Telephone Co. v. FCC*, 883 F.2d 104 (D.C. Cir. 1989).

⁶⁸ *Unauthorized Intrastate Traffic*, 1 FCC Rcd at 275, ¶ 24.

⁶⁹ See, e.g., LDDS Comments at 3; TMI Supplemental Comments, Attachment 2 at p. 2; see also AT&T Reply at 2.

⁷⁰ *Southwestern Bell Telephone Co. Transmittal Nos. 1537 and 1560, Revisions to Tariff No. 68*, 3 FCC Rcd 2339, 2341, ¶ 28 (1988) (citing *NARUC v. FCC*, 746 F.2d 1492 (D.C. Cir. 1984)); see also *Unauthorized Intrastate Traffic*, 1 FCC Rcd at 270, ¶ 3.

⁷¹ See AT&T Reply at 2.

Instead, TMI simply makes the unsupported assertion that 80-85% of debit card traffic is interstate, which means that up to 20% of the usage of the debit cards may be intrastate.⁷² Several opponents contend that many of the types of people most likely to be debit card users are also likely to be heavy intrastate callers, an assertion neither TMI nor its supporters refute. Because this case is factually similar to *Unauthorized Intrastate Traffic*,⁷³ in which the Commission declined to preempt Connecticut's "block or compensate" regulations in part because it could not conclude that intrastate traffic was "incidental," we decline to preempt state regulatory authority on this basis.⁷⁴

B. TECHNICAL INSEPARABILITY

32. Having determined that the debit card service described by TMI in its Petition is a "jurisdictionally mixed" service,⁷⁵ we next address the inseparability requirement -- whether the interstate and intrastate aspects of the service are so intertwined that separation is, as a practical matter, infeasible -- the threshold requirement for preemption of state regulation.⁷⁶ If debit card service providers had unrestricted ability to separate interstate from intrastate calls on a real-time basis, then compliance with all forms of state regulation at issue in this proceeding would cease to present a problem, because debit card service providers could simply choose to block completion of all intrastate calls in states where they were not fully prepared to comply with state regulations.⁷⁷ Because TMI and its supporters contend it is technically impracticable and economically burdensome to achieve such separation, however, they seek preemption of state regulations.

33. The record in this proceeding reflects sharp differences of opinion as to the technical impossibility of separating interstate from intrastate calls. It appears some debit card service providers, including TMI, are not technically capable of separating interstate from intrastate calls on a real-time basis, given the chosen configurations of their

systems.⁷⁸ These providers, thus, cannot block the intrastate calls they are not permitted to carry if they have not complied with state regulatory requirements. It is equally clear, however, in light of Teledebit's pleadings, that not all debit card service providers are disabled from separating their traffic.⁷⁹ Teledebit states that its system, which is configured differently than TMI's system,⁸⁰ separates interstate from intrastate calls and blocks completion of intrastate calls made within states in which Teledebit is not in compliance with state regulations.⁸¹ Consequently, we cannot conclude that it is technically impossible for TMI and other debit card service providers to separate interstate from intrastate calls.⁸²

34. Further, as TMI itself acknowledges, real-time separation is not the only way in which a debit card service provider may comply with state regulation of intrastate calls. Instead, debit card service providers may choose to perform after-the-fact review of their call records for the purpose of identifying intrastate calls in order to provide required compensation to the LECs. In particular, we reject TMI's contention that the only feasible way to comply with state "block or compensate" regulations is to block *all* calls originating in the state, because such regulations specifically provide an alternative means of compliance. In sum, contrary to TMI's assertions,⁸³ 800-access debit card providers would not necessarily be forced to purchase their own debit card processing switches in order to comply with state regulation of intrastate calls.

35. The preemption proponents cite several Commission decisions in which state regulations were preempted. They place particular emphasis on two cases. In one case, the Commission barred a state from suspending the intrastate portion of a jurisdictionally mixed voicemail service.⁸⁴ In the other case, the Commission prohibited states from requiring preambles to 900 service that conflicted with the

⁷² TMI Reply at 15.

⁷³ 1 FCC Rcd at 276, ¶ 27. 4

⁷⁴ See discussion *infra* at ¶ 38.

⁷⁵ As an alternative to the theory that debit card service is "inherently interstate," TMI also characterizes such service as "jurisdictionally mixed." TMI Petition at 2; TMI Reply at 4-5. Several supporters of TMI's preemption request also argue that debit card service is jurisdictionally mixed, as opposed to inherently interstate, in nature. ClearTel/TelTrust Reply at 2; CompTel Comments at 2.

⁷⁶ See Policies and Rules Concerning Interstate 900 Telecommunications Services, 8 FCC Rcd 2343, 2348, ¶ 29 (1993).

⁷⁷ A distinction must be drawn between state rate and "block or compensate" regulations on one hand and state certification requirements on the other. In this context, the former require individual intrastate calls to be treated differently from interstate calls, whereas the latter simply require the service provider to complete the necessary application process and pay the necessary fee. Thus, inseparability would create a double burden with respect to the former -- not only does the inability to separate intrastate calls subject a carrier to state rate and "block or compensate" regulations, but it also impedes the carrier's ability to comply with these types of regulations. In contrast, although inseparability may subject a carrier to state certification requirements, it does not affect what the carrier must do to become certified.

⁷⁸ See TMI Petition at 7-8; LDDS Comments at 3; TNT *Ex Parte* Statement at 2. TMI also asserts that even interexchange

service providers with greater financial resources, including AT&T, are incapable of blocking intrastate calls made using their debit card services. See TMI Supplemental Comments at 4.

⁷⁹ In fact, TMI acknowledges that some carriers may be able to separate interstate from intrastate calls using ANI. TMI Petition at 17, n.18.

⁸⁰ Teledebit owns and operates its own debit card processing switch and also receives ANI from its underlying carrier. Teledebit Comments at 2-3. In contrast, TMI neither owns nor operates the platform that processes the caller's debit card information and places the outbound call, nor receives ANI from its underlying carrier. TMI Petition at 6-8; TMI Reply at 7-8.

⁸¹ Teledebit Comments at 4. Teledebit also states that it can rate intrastate calls in accordance with the applicable state tariffed rate schedule, applying applicable processing charges, MTS rates based on mileage bands, and appropriate time-of-day and day-of-week discounts. Teledebit Reply at 2.

⁸² As California asserts, IXCs or LECs with SS7 capability can provide ANI information enabling the separation of intrastate and interstate calls. California Opposition at 1. See also Rules and Policies Regarding Calling Number Identification Service, 9 FCC Rcd 1764 (1994).

⁸³ TMI Reply at 2.

⁸⁴ Petition for Emergency Relief and Declaratory Ruling Filed by the BellSouth Corporation, 7 FCC Rcd 1619 (1992) (*Georgia Preemption Order*), *aff'd Georgia Public Service Comm'n v. FCC*, 5 F.3d 1499 (11th Cir. 1993).

federally required preamble.⁸⁵ These cases are inapposite. Notably, in each case, the Commission specifically determined that it was impossible to separate the intrastate and interstate aspects of the services involved.⁸⁶ In addition, both voicemail and 900-number information lines offer service indiscriminately to interstate and intrastate end-users alike, whereas debit cards such as TMI's are intended by their providers to provide interstate long-distance telephone services to interstate users alone.⁸⁷

36. Thus, state regulation that requires TMI to treat intrastate calls differently or to block them entirely does not impose an affirmative burden on the service TMI holds itself out as providing. Instead, it sweeps within its net the intrastate debit card calls that TMI asserts it cannot technologically prevent. TMI therefore asks for preemption of state regulation to accommodate the technological shortcomings of its system; this is not a valid reason for preemption.

37. Proponents of preemption also rely on *Mobile Telecommunications Technologies Corporation (MTEL)*,⁸⁸ a case in which the Commission preempted the application of state entry requirements, technical standards, and rate regulation to the intrastate use of the provider's nationwide and regional paging service. In that case, the Commission found that intrastate use of the paging network was "incidental" because it occurred only when a call placed to the paging service in one state terminated with a paging subscriber in the same state. All pages sent out on the system, however, were simultaneously distributed to transmitters in at least seven states.⁸⁹ The Commission concluded that the paging system at issue was not capable of identifying the location of the party receiving the page, and specifically limited the scope of its ruling to paging systems that are not capable of distinguishing between interstate pages and pages that terminate in the same state in which the call to the paging service is placed.⁹⁰ Moreover, the Commission noted in the *MTEL* order that the price of the service acted as a deterrent to purely intrastate usage.⁹¹ In contrast, in the situation presented here, TMI has requested that we preempt state regulation with respect to all 800-access debit card resellers, although certain of these systems are capable of distinguishing between interstate and intrastate calls.

38. We believe that the issues presented by TMI's petition are similar to those that the Commission addressed in the *Unauthorized Intrastate Traffic* proceeding, in which it declined to preempt Connecticut's "block or compensate"

regulation of unauthorized intrastate calls. In that case, as in this one, the IXCs argued that the Connecticut regulation directly impaired their ability to provide interstate services in Connecticut, that their systems only carried "incidental" amounts of intrastate traffic, and that the costs of complying with the rule would be unduly burdensome.⁹² In particular, they argued that the inferior access arrangements provided by the LEC technologically prevented them from diverting unauthorized intrastate traffic to the LEC, and that blocking technology would result in the blocking of some authorized interstate traffic.⁹³ The Commission specifically determined that the intrastate traffic was neither "incidental to, [nor] inseparable from, the interstate traffic in the sense of any physical, logical, or practical inseparability that would require us to subject the intrastate portion to the federal regulatory regime along with the interstate portion."⁹⁴ Further, the Commission indicated that estimation, rather than precise measurement, was an acceptable method of separation.⁹⁵ Thus, despite finding that the Connecticut regulation was "not fully hospitable to this Commission's efforts to promote competition in interstate services," the Commission concluded that it did not conflict with either the Commission's rules or its exclusive jurisdiction over interstate communications, so as to require preemption.⁹⁶ Because certain parties to the present proceeding have asserted on the record that they can separate intrastate and interstate debit card traffic, we conclude, as we did in the *Unauthorized Intrastate Traffic* proceeding, that such traffic is not "practically inseparable," and for that reason we decline to preempt state regulation of intrastate debit card calls, as requested by TMI.

39. We also reject the argument that AT&T's provision of a debit card calling capability through Teleticket on a non-regulated basis supports TMI's preemption request.⁹⁷ AT&T provides Teleticket pursuant to a Comparably Efficient Interconnection (CEI) plan that includes interactive voice and interactive data enhanced services. The enhanced services provided through Teleticket are non-regulated services. The long distance calling capability using the Teleticket debit card, however, is a basic debit card interstate calling capability that must be taken by AT&T's enhanced services provider pursuant to tariff.⁹⁸

40. Finally, we do not agree with LinkUSA that debit cards that provide interstate calling are enhanced because information on the amount of time remaining on the card

⁸⁵ Policies and Rules Concerning Interstate 900 Telecommunications Services, 6 FCC Rcd 6166 (1991), *on reconsideration*, 8 FCC Rcd 2343 (1993) (900 Preemption Order).

⁸⁶ See *Georgia Preemption Order*, 7 FCC Rcd at 1622, ¶ 14; 900 Preemption Order, 6 FCC Rcd at 6180, ¶ 85.

⁸⁷ TMI Petition at 3, 12, 19-20 (characterizing debit card service as "exclusively" interstate); TMI Reply at 2-3, 4 n.7, 16.

⁸⁸ Mobil Telecommunications Technologies Corporation (MSD-90-12) and U.S. Central Inc. (MSD-90-3), 6 FCC Rcd 1938 (1991), *aff'd by the Commission*, 7 FCC Rcd 4061 (1992).

⁸⁹ 6 FCC Rcd at 1938, ¶ 4.

⁹⁰ *Id.* at 1941, n.14. Similarly, in the final 900 Preemption Order, the Commission acknowledged that technological advances might soon allow information providers to identify intrastate calls on a real-time basis and thus to comply with state preamble requirements that differed from the federal requirements. 8 FCC Rcd at 2348, ¶ 29. Thus, the Commission concluded that one of the fundamental requirements for preemption, jurisdictional inseparability, might no longer be

valid. *Id.* The Commission did not pursue the preemption issue in that case any further, however, because jurisdiction over 900 service preambles subsequently was assigned to the Federal Trade Commission (FTC).

⁹¹ 6 FCC Rcd at 1940, ¶ 15.

⁹² 1 FCC Rcd at 271, ¶ ¶ 5.6.

⁹³ *Id.* at 271, ¶ 5.

⁹⁴ *Id.* at 276, ¶ 27.

⁹⁵ *Id.* at 275, ¶ 27.

⁹⁶ *Id.* at 275, ¶ 23.

⁹⁷ RCI Comments at 3, n.5; LinkUSA Comments at 4-5; TMI Reply at 13.

⁹⁸ Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Final Decision, 77 FCC 2d 384, 475, ¶ 231 (1980) (*Computer II Final Decision*); IDCMA and AT&T Petitions For Declaratory Rulings Regarding Basic Frame Relay Service, *Memorandum Opinion and Order*, DA 95-2190, at ¶ ¶ 43-44 (Com. Car. Bur. October 18, 1995) (AT&T must unbundle and tariff basic services underlying its

is maintained by a computer.⁹⁹ Information on the amount of time remaining on the card is similar to the validation and screening information provided by carriers to verify credit card calls before allowing them to proceed.¹⁰⁰ We have previously concluded that provision of such information is incidental to the provision of basic communications services, and therefore is not an enhanced service.¹⁰¹

C. ECONOMIC BURDEN

41. Having determined that it is not technologically impossible for all debit card resellers to separate interstate from intrastate calls, we now consider whether it is economically burdensome to do so. The preemption proponents argue that compliance with state rate and "block or compensate" regulations will be so economically burdensome that small, non-facilities-based resellers will be driven out of the debit card services market.¹⁰² In particular, they assert that the number and diversity of state regulatory schemes make compliance extremely difficult, if not impossible.¹⁰³ TMI argues that compliance with state rate and "block or compensate" regulations would require it to reconfigure its system and acquire switching capabilities.¹⁰⁴ Further, TMI asserts that because a switching system is not necessary to provide debit card services, requiring all debit card services providers to acquire such systems in order to comply with the dictates of state law is wasteful and unnecessary.¹⁰⁵ Although TMI asserts that it lacks the resources necessary to purchase a switch, it does not specifically quantify the investment required.¹⁰⁶

42. In addition, the preemption proponents argue that state certification requirements also impose an undue economic burden on debit card service providers, as they delay development and implementation of debit card services and increase the cost of providing such services.¹⁰⁷ TMI does not specify the cost of compliance with state certification, but Visiology estimates that a company seeking certification in all states that require it would spend over \$100,000 and a minimum of two years in the process.¹⁰⁸

43. We find that the economic burden of compliance with state regulation alleged in this case does not rise to a level that would justify preemption of state regulation. As demonstrated by *Louisiana PSC*, where the Supreme Court rejected federal preemption of state depreciation schedules

that differed from the federal depreciation schedule, the Commission may not preempt state regulation merely because it imposes economic burdens on carriers engaged in both interstate and intrastate communications, even where such state regulation interferes with the FCC's goal of accelerating technological advances.¹⁰⁹ *Louisiana PSC* suggests that the Commission may not preempt state regulation of a matter of primarily local interest solely because such regulation conflicts with its ideas of sound economic or regulatory policy.¹¹⁰ Where the economic burden of imposed by state regulation is not so great as to "seriously threaten[] the growth of interstate competition or impede[] the expansion of IXC operations," the Commission has declined to preempt such regulation.¹¹¹

44. In sum, we find that the difficulties in complying with diverse and sometimes inconsistent state regulations described by TMI and other debit card service providers do not justify, as a matter of law, our preemption of those regulations. As we determined in the *BOC Safeguards Order*, diverse state regulatory regimes reflect different regulatory perspectives and experience, and should be accommodated whenever possible.¹¹² We note that several debit card services providers have already obtained state certification in a number of states.¹¹³ We conclude that, as recognized by TMI,¹¹⁴ the costs of compliance with state regulations, particularly those pertaining to certification, are simply the costs of doing business in the intrastate telecommunications marketplace.

D. OVERBREADTH

45. Finally, TMI's request for preemption must be denied because it is overbroad. Specifically, TMI seeks preemption with respect to all 800-access interstate debit card services, despite the fact that some debit card service providers allege in their comments in this proceeding that they have been able to comply fully with such regulations without significant detriment to their interstate services. We have long respected the states' broad latitude to regulate intrastate common carrier services, and we recognize in particular their legitimate consumer protection interests in rate, certification, and "block or compensate" regulations, and in the application of these regulations to intrastate

enhanced services); American Telephone and Telegraph Company, Comparably Efficient Interconnection Plan for Enhanced Services Complex, 6 FCC Rcd 4839 (1991). See generally Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer III) (Phase II), 2 FCC Rcd 3072 (1987) (*Computer III Phase II Order*).

⁹⁹ LinkUSA Reply Comments at 8.

¹⁰⁰ Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, Report and Order and Request for Supplemental Comment, 7 FCC Rcd 3528 (1992) (*Joint Use Calling Card Order*), Second Report and Order, 8 FCC Rcd 4478 (1993), *recon.*, 8 FCC Rcd 6393, *further recon.*, 8 FCC Rcd 8798 (1993). See generally North American Telecommunications Association, 101 FCC 2d 349 (1985), *recon.*, 3 FCC Rcd 4385 (1988) (*NATA Centrex Order*).

¹⁰¹ *Joint Use Calling Card Order*, 7 FCC Rcd at 3531, ¶ 19.

¹⁰² TMI Reply at 8.

¹⁰³ TNT *Ex Parte* Statement at 4-7.

¹⁰⁴ *Id.* at 2, 8.

¹⁰⁵ *Id.* at 8-9.

¹⁰⁶ *Id.* at 8.

¹⁰⁷ TMI Petition at 18.

¹⁰⁸ Visiology Comments at 1; see also Teltrust Comments at 1. Visiology's Comments include a chart summarizing state certification requirements applicable to resellers in all 50 states. The chart shows that filing fees ranging up to \$350, and estimated application processing periods ranging from 30 days to a year. Visiology Comments, Exhibit A.

¹⁰⁹ *Public Service Comm'n of Maryland v. FCC*, 909 F.2d 1510, 1516 (D.C. Cir. 1990).

¹¹⁰ *Id.*

¹¹¹ *Unauthorized Interstate Traffic*, 1 FCC Rcd at 276, ¶ 29.

¹¹² *BOC Safeguards Order*, 6 FCC Rcd at 7631, ¶ 121. The Ninth Circuit specifically affirmed this aspect of the *BOC Safeguards Order*. *California III*, 39 F.3d at 932-33.

¹¹³ Teledebit has obtained state certification in Pennsylvania and New York and as of July 1993 had applied for certification in Kansas. PaPUC Comments at 3; New York Reply at 4; NARUC Comments at 4, n.1. A debit card reseller called World Telecom Group, Inc. had already obtained authorization to do business in 25 other states when it submitted its certification application to the Kansas Corporation Commission. NARUC Comments at 4, n.1.

¹¹⁴ TMI Reply at 12.

interexchange providers.¹¹⁵ In order to preempt state regulation, the Commission must demonstrate that its entire preemption order is narrowly tailored to preempt only state regulations that would negate valid FCC regulatory goals.¹¹⁶ On the facts of the present case, the state regulations at issue do not pose a regulatory barrier to all debit card providers, just to some. Thus, a blanket preemption of all such regulations does not constitute the narrowly tailored solution we are required under governing precedent to proffer.

46. In addition, preemption of state rate, certification, and "block or compensate" regulations for 800-access interexchange debit card resellers, as requested in the petition, would result in differential treatment compared to all other types of interexchange resellers, who would still be subject to these state regulations.¹¹⁷ Given that we have not identified a federal policy interest at stake in such differential treatment, and have not adopted federal policies dictating such treatment, we decline to adopt them negatively, by means of selective preemption.

V. ORDERING CLAUSES

47. Accordingly, it is ordered, pursuant to Section 0.291 of the Commission's rules, that the request for declaratory ruling filed by The Time Machine, Inc. IS DENIED for the reasons stated herein.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen M.H. Wallman
Chief, Common Carrier Bureau

APPENDIX A Parties Filing Pleadings

Comments

America's Carriers Telecommunications Association (ACTA)
Bell Atlantic
Competitive Telecommunications Association (CompTel)
LDDS Communications, Inc. (LDDS)
LinkUSA Corporation
National Assoc. of Regulatory Utility Commissioners (NARUC)
Pennsylvania Public Utility Commission (PaPUC)
People of the State of California and the Public Utility Commission of the State of California (California)
RCI Long Distance, Inc. (RCI)

Southwestern Bell Telephone Company (SWBT)
Teleddebit, L.P.
Teltrust Communications Services, Inc. (Teltrust)
United States Telephone Association (USTA)
Visiology, Inc.

Reply Comments

The Time Machine, Inc. (TMI)
American Telephone & Telegraph Company (AT&T) California
ClearTel Communications, Inc. and Teltrust Communications Services, Inc. (ClearTel/Teltrust)
Florida Public Service Commission (Florida)
LinkUSA
NARUC
New York State Department of Public Service (New York)
PaPUC

Supplemental Comments

TMI

Oppositions to Supplemental Comments

California
Teleddebit

Supplemental Reply Comments

Teleddebit

Ex Parte Comments

Advantage Communications, Inc. (ACI)
Talk 'N Toss, Inc. (TNT)
TMI
WorldLink Communications

¹¹⁵ See PaPUC Reply at 4; Florida Reply at 2-3; Teleddebit Reply at 3.

¹¹⁶ *People of State of Cal. v. FCC*, 905 F.2d 1217, 1243 (9th Cir.

1990); see also *NARUC v. FCC*, 880 F.2d 422, 430 (D.C. Cir. 1989).

¹¹⁷ See PaPUC Comments at 7-9.