Gila River Telecommunications, Inc. (GRTI) hereby submits comments in response to the Public Notice on the Petition for Declaratory Ruling (Petition) regarding the applicability of the intra-MTA rule to LEC-IXC traffic.

GRTI is a Tribally-owned incumbent local exchange company serving all of the residential and business customers within the Gila River Indian Community in Arizona. It provides both telecommunications and broadband services to community members.

GRTI files these comments in support of the petition for declaratory ruling filed by the petitioners in this proceeding. Specifically, GRTI agrees with commenters in the record that the intra-MTA rule, which provides for compensation between commercial mobile radio service (CMRS) carriers and local exchange carriers (LECs), has no application to traffic exchanged between LECs and interexchange carriers (IXCs). As outlined in the petition, the Commission’s resolution of other issues related to the intra-MTA rule in the USF/ICC Transformation Order

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did not alter the scope of the rule, which has for more than two decades been understood as
requiring IXCs to pay tariffed access charges for all traffic routed over access trunks. The
Commission’s prompt and favorable action on the Petition is needed in order to put an end to
costly lawsuits and the illegal withholding of access charges by certain IXCs, both of which are
especially harmful to LECs serving tribal areas.

I. IntraMTA Access Charges Were Lawfully Assessed and that Law has not Changed.

The Telecommunications Act of 1996 (1996 Act) preserved the pre-existing requirement
that IXCs compensate LECs for exchange access services. Neither Congress nor the FCC has
changed this requirement. Accordingly, as a matter of law the FCC should act expeditiously in
granting the relief sought by the Petitioners.

Section 251(g) of the Communications Act of 1934, as amended (the “Act”), limits
the reciprocal compensation obligations created by section 251(b)(5) of the 1996 Act. Under
section 251(g), enforcement of the exchange access payment regime continued even after
passage of the 1996 Act where: (1) the traffic was exchanged by a LEC with an IXC, (2) the
charge applied prior to the 1996 Act, (3) the carrier was subject to equal access and
nondiscriminatory interconnection restrictions and obligations, and (4) the payment obligation
was the result of a prior FCC decision or court order. Essentially, 251(g) carved out and
preserved the pre-existing exchange access intercarrier compensation regime. The 251(g)
exchange access payment obligation continues under the 1996 Act until “explicitly superseded

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2 Verizon Select Services, Inc. (“Verizon”) has sued GRTI and six other Arizona carriers in U.S. District Court for
the District of Arizona alleging that Verizon does not owe these carriers lawfully billed access charges for intra-
MTA traffic. MCI Commc’ns Svcs. Inc et al. v. Arizona Tel. Co. et al. Case No. 3:15-cv-00116-D, transferred to In
Re: IntraMTA Switched Access Charges Case No. 3:14-MD-2587-D (MDL No. 2587).
104-104, 100 Stat. 56 (the “Act”).
4 47 U.S.C. § 251(g).
by regulations prescribed by the Commission." The Commission has not passed regulations that explicitly supersede an interexchange carrier’s obligation to pay LECs for lawfully assessed access charges. The clarification of the intraMTA rule in the Commission’s 2011 USF/ICC Transformation Order cited by certain IXCs seeking to avoid access charge payments is limited to traffic between LECs and CMRS carriers and in no way supersedes the section 251(g) exchange access payment obligation between IXCs and LECs. GRTI supports the further elaboration of these legal arguments contained in the comments filed in this docket by the National Tribal Telecommunications Association.

II. Tribal Telecoms are Uniquely and Adversely Impacted by Verizon’s Claims

This misinterpretation of the Commission’s USF/ICC Transformation Order is the basis for a number of lawsuits brought by IXCs seeking both to avoid both future access charges and to obtain retroactive refunds for access charges already paid. The cost of defending against these lawsuits is particularly detrimental to LECs serving tribal areas. GRTI is one of three tribal utilities sued by Verizon in Arizona over intraMTA access charges. The lawsuit, and Verizon’s associated refusal to pay exchange access charges, have exacerbated preexisting revenue reductions on tribal lands attributable to the USF/ICC Transformation Order. GRTI, and similar tribal utilities, are grappling with large USF reductions, which makes lawfully assessed intercarrier compensation revenue even more critical to the success of the tribal utility. Likewise, a tribal telecom’s budget is doubly taxed when it is required to defend a federal lawsuit brought by an entity that has failed to pay lawfully owed access charges.

5 47 U.S.C. 251(g).
The FCC has recognized the clear need to expand and improve telecommunications services to underserved tribal lands.\(^9\) Tribal areas have the lowest reported level of telephone subscribership in America.\(^{10}\) Advances that improve infrastructure and services are hard-earned and difficult, but are successfully occurring through wholly owned tribal telecoms like GRTI. Verizon’s litigation against tribal telecoms and rural LECS, and its refusal to pay access charges, threaten these advances. When revenues intended for tribal services and products are withheld or redirected to fund litigation defense, tribal telecoms not only fail to roll-out improvements, but must actually delay projects intended to improve services on tribal lands.

III. CONCLUSION

In sum, the FCC should grant the petition and reverse the adverse impact on tribal utilities by promptly considering and granting the pending Petition. The text of the 1996 Act is unambiguous. Enforcement of exchange access continues until such obligations are superseded. Alternatively, the Commission should issue an interim order to preserve the status quo ante and declare any resolution prospective only.

Respectfully submitted,

Dated March 11, 2015

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