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## TELECOMMUNICATIONS E-BRIEF

### Connecticut Federal Court Finds AT&T has Transiting Obligation

In May, 2011, the United States District Court for Connecticut ("Court") issued an order concluding that "interconnection under Section 251(c) includes the duties to provide indirect interconnection and to provide transiting service."

The dispute before the Court started as an interconnection proceeding before Connecticut Department of Public Utility Control ("DPUC") where a carrier had obtained a ruling from the DPUC that AT&T must provide transiting traffic service. The Court in affirming the DPUC finding found that the Telecommunications Act of 1996 ("1996 Act") was passed to promote competition. Further the Court stated that if the Court did not find a transiting obligation, CLECs would be forced to create infrastructure redundant to the existing ILEC infrastructure. "Indirect interconnection is therefore necessary to ensure that new CLECs to a market can connect at minimal costs so as to promote competition within the market."

The Court also found that the Federal Communications Commission ("FCC") had not directly addressed the question of whether or not transiting is an obligation under Section 251(c) of the 1996 Act and found that the DPUC possessed the authority to conclude that the interconnection obligations included the obligation to provide transiting service.

**This decision is important to all carriers because it demonstrates the ability of state commissions to address issues regarding interconnection obligations under Section 251 where such issues have not been addressed by the FCC. As network design and competition continues to change and evolve, state commission determinations may become more**

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**important should the FCC continue to lag behind its state commission counterparts regarding interconnection matters. Moreover, the decision points out the importance of considering how to draft a properly constructed “change of law” provision within an interconnection agreement based on how a company may want to address situations where the FCC determines a particular interconnection issue differently than that company’s state commission.**

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