

# Abbreviated Dispute Resolution Process: Restoring the Balance of Power for Intercarrier Compensation Issues

Presented by  
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# Introduction

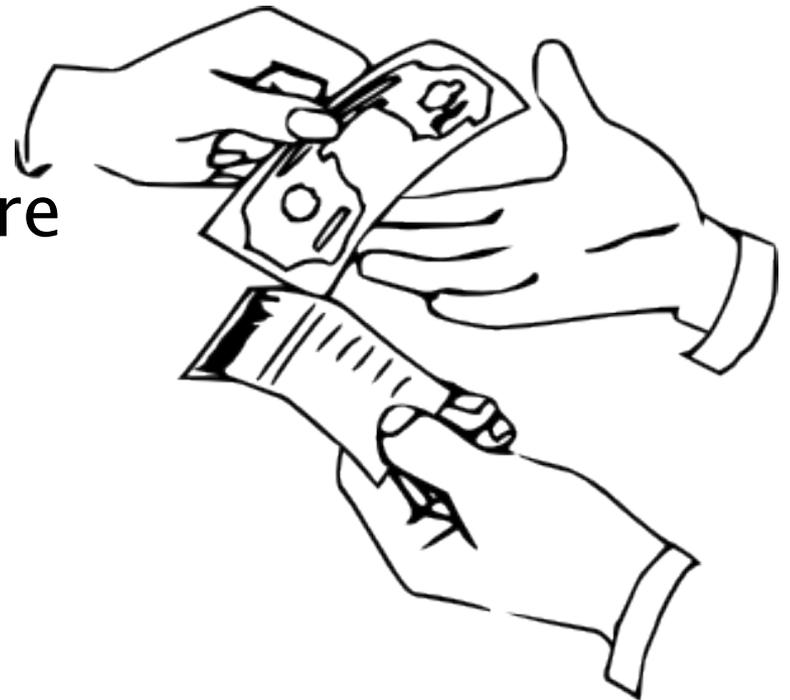
- ▶ Introduction of FSN and Smaller Carriers
- ▶ Traditional Balance of Power
- ▶ Telecom Imbalance of Power
- ▶ Commission Pronouncements
- ▶ ADRP: Restoring the Balance for Smaller Carriers
- ▶ Conclusion

# Overview

- ▶ FSN – Pennsylvania based small telephone company serving several thousand retail customers
- ▶ Other similarly situated small telephone companies – CLECs, Wireless and RLECs

# Traditional Balance of Power

- ▶ Payment for goods & services required in the marketplace
- ▶ Providers not expected to give away services or products for free
- ▶ Even regulated utilities are permitted to disconnect retail services for non-payment



# Traditional Balance of Power

- ▶ Bottom line result is an equal balance of power



# Telecom Imbalance of Power

- ▶ Cannot cease providing wholesale service to other carriers based on a payment dispute
- ▶ Legitimate concern about disrupting the flow of traffic
- ▶ Not a typical arms' length transaction
- ▶ Carriers cannot demand payment while pursuing their rights



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# Telecom Imbalance of Power

## ▶ Dispute resolution options:



- Attempt to privately negotiate a resolution
  - NEED incentive to negotiate
  - OR legal requirement to negotiate
- Pursue payment through legal system
  - Extensive time & resource drain

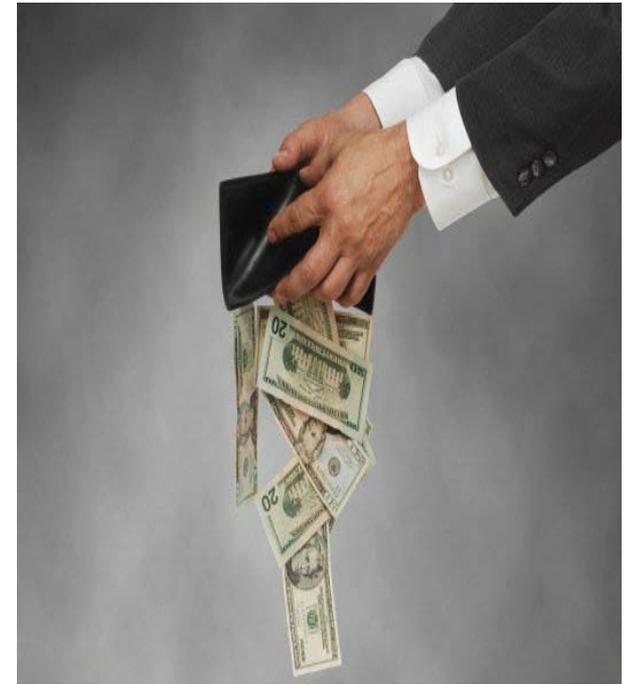
# Telecom Imbalance of Power

- ▶ Bottom line result is an imbalance of power for telecom carriers with intercarrier compensation disputes



# Telecom Imbalance of Power

- ▶ Smaller carriers are more negatively impacted by the imbalance of power
- ▶ Forced to choose between providing services for free or pursuing costly legal options
- ▶ Opportunity cost for carrier filing the complaint
- ▶ e.spire entitled to \$60M at time of bankruptcy filing



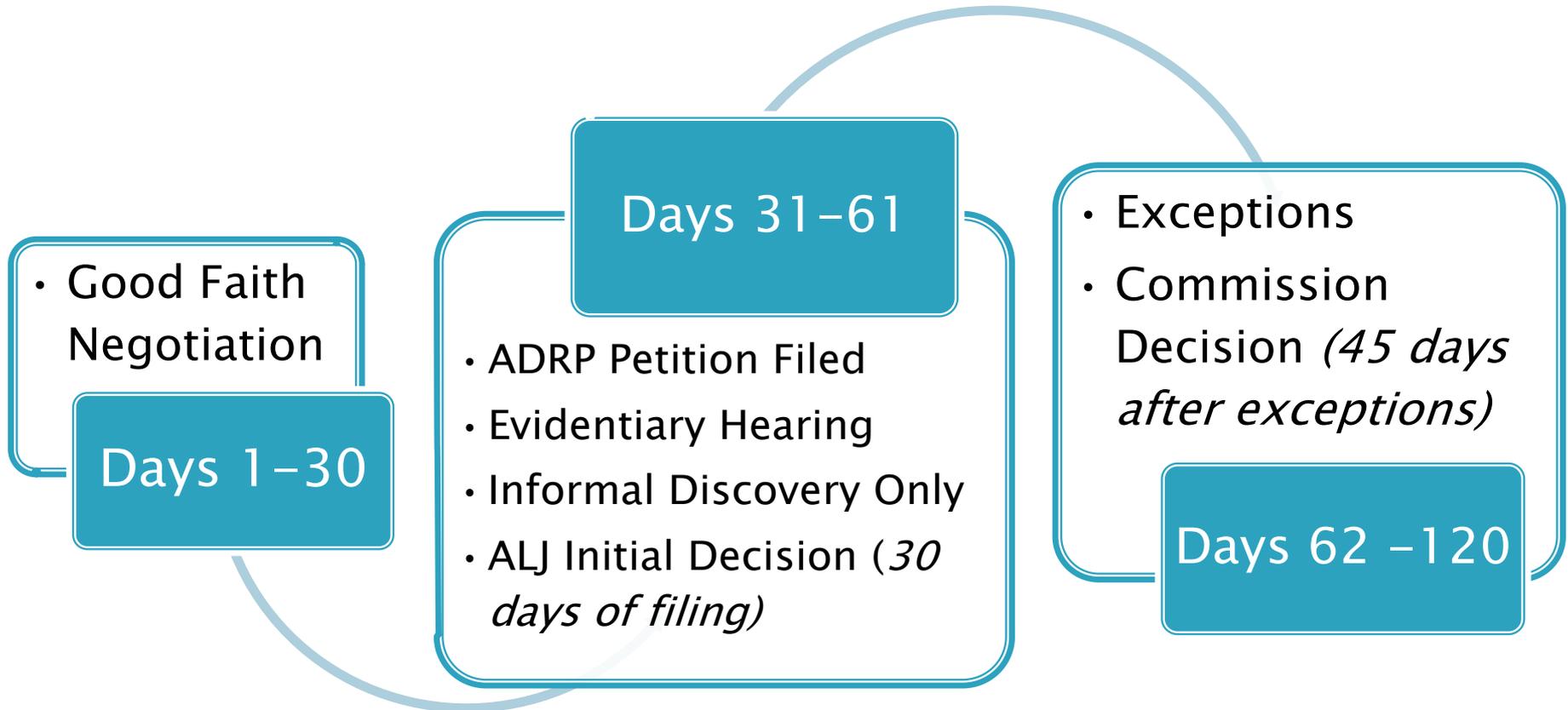
# Commission Pronouncements

- ▶ Since 1999 *Global Order*, Commission concerned with the success of local competition
- ▶ Commission does not condone attempts to escape payment
  - “non-payment of intrastate carrier access charges to Palmerton cannot be condoned as a matter of law and as a matter of sound regulatory policy.” *Palmerton v. Global NAPs*
- ▶ Commission has asserted jurisdiction to address intercarrier compensation disputes
  - Commission has the authority to establish non-utility rates in a proceeding that was initiated by the filing of a complaint. *CCES v. T-Mobile*

# ADRP: Restoring the Balance for Smaller Carriers

- ▶ Established in the *Global Order*
- ▶ Purpose to promote competitive markets by expediting resolution of certain disputes between competing carriers
- ▶ Reviewed twice since 1999
- ▶ Most recent review occurred in 2005 & current process set forth in Appendix A at Docket No. M-00021685
- ▶ Proposed rulemaking order still pending

# ADRP: Restoring the Balance for Smaller Carriers



# ADRP: Restoring the Balance for Smaller Carriers

- ▶ Pros of Current ADRP Process
  - Formal
  - Binding
  - Expedited
  - Provides incentive to negotiate
- ▶ Changes Needed to Current ADRP Process
  - Not well known
  - Clarify that it is available for intercarrier compensation disputes

# ADRP: Restoring the Balance for Smaller Carriers

## Mediation

- Need common goals to be successful
- Least expensive option IF agreement reached
- No binding decision issued

## ADRP

- Expedited process – less opportunity to delay resolution
- Less expensive than litigation
- Offers chance for carrier to timely resolve dispute & get back to business
- Formal & binding

## Litigation

- Most time consuming & costly option
- Presents many opportunities to delay resolution
- Final decision may be too late for smaller carrier

# Conclusion

Stu's Views

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Children,  
let's settle this  
like adults.



# Questions?

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