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Vice President-Federal Regulatory

EX PARTE

Electronic Filing via ECFS

March 15, 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TW B-204
Washington, DC 20554

RE: In the Matters of Level 3 Petition for Forbearance from Assessment of Access Charges on Voice Embedded IP Communications, WC Docket No. 03-266; IP-Enabled Services, WC Docket No. 04-36

Dear Ms. Dortch:

On Monday, March 14, 2005, representing Qwest Communications International Inc. (“Qwest”), I met with Jessica Rosenworcel, Legal Advisor to Commissioner Michael Copps of the Federal Communications Commission (“Commission”). The purpose of the meeting (as outlined in the attached) was to discuss why the Level 3 Forbearance Petition should be denied. Qwest emphasized that the Petition is not necessary as the current ESP exemption, applicable to true VoIP calls from a VoIP end user to a PSTN end user, is a logical response to any “uncertainty” as articulated by Level 3. In fact, any claim that IP Voice providers are languishing is contradicted by all evidence, not the least of which is provided by IP Voice providers themselves.¹

Further, the scope of the Level 3 Petition, as far as we are able to determine based on Level 3’s March 2, 2005 ex parte,² appears to go far beyond just addressing true VoIP-to-PSTN calls, as it also attempts to exempt PSTN-to-IP calls, dialed using 1+, 10XXX or VNXX, from the imposition of access charges. Finally, the costs and time to implement any type of interim measure distracts from the Commission’s objective to develop and implement a unified intercarrier compensation regime on a holistic basis.

¹ See Ben Charny, Cable Raises its Voice, c/net news.com, http://news.com.com/Cable+raises+its+voice/2100-7352_3-5579111.html, March 3, 2005; Steven Lawson, SPRING Von: VOIP players gear up fast for fast-growing market, IT World.com Site Network, www.itworld.com/Net/3303/050307von/pfindex.html, March 7, 2005.

² Letter from John T. Nakahata to Marlene H. Dortch, March 2, 2005.

Ms. Marlene H. Dortch, Secretary
March 15, 2005

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In accordance with Commission Rule 1.49(f), this *ex parte* letter is being filed electronically via the Commission's Electronic Comment Filing System for inclusion in the public record of the above-referenced dockets pursuant to Commission Rule 1.1206(b)(2).

Sincerely,
/s/ Cronan O'Connell

Attachment

Copy to:
Jessica Rosenworcel (jessica.rosenworcel@fcc.gov)
Scott Bergmann (scott.bergmann@fcc.gov)
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Qwest®



Spirit of Service

**Voice over Internet Protocol (VoIP)
Level 3 Petition
WC Docket 03-266**

March 2005

VoIP Discussion: Level 3 Petition

- **The Level 3 Petition should be denied**
 - The existing ESP exemption, when properly applied, already protects ISP traffic from access charges
 - The ESP exemption permits an ISP POP located in the same local calling area as the called party to be treated as an end user
 - This Petition goes far beyond the legitimate bounds of the existing ESP exemption
- **An Interim Order is not necessary as the “common ground somewhere in the middle” is in place today**
- **An Interim Order would also impose undue costs and confusion**
- **Complete the IP-Enabled NPRM and declare true VoIP traffic to be an information service**
- **Complete the Intercarrier Compensation docket**

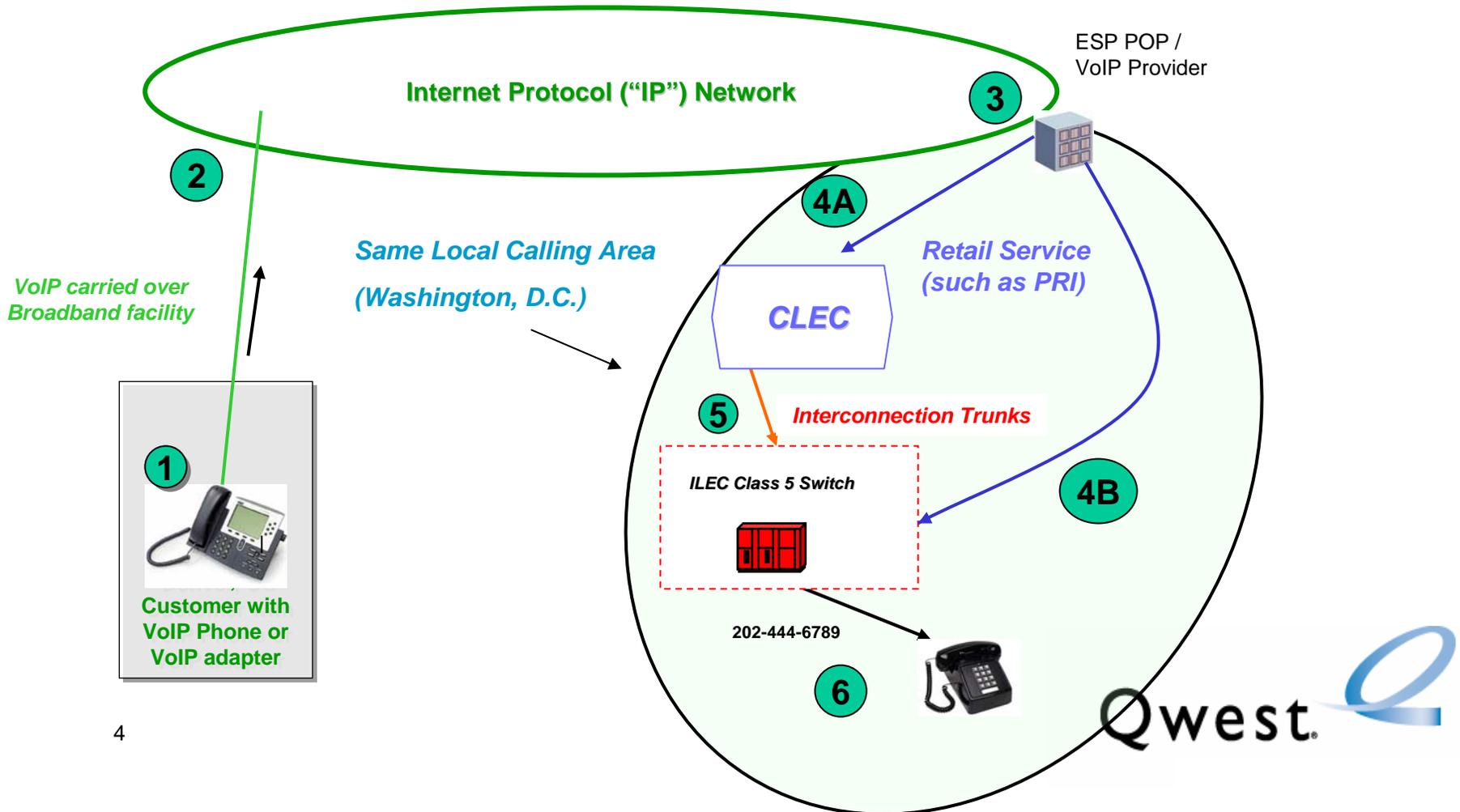
Legitimate Application of the ESP Exemption for True VoIP Calls

- Applies solely to ESPs in their offering of information services
- *Applicable only in circumstances where the ESP POP is in the same local calling area as the called party*
- Allows an ESP to be treated as an end user for purposes of terminating calls for its end users
 - ESPs have the option of purchasing local retail business services as a means to terminate traffic for these customers

True-VoIP-Originated Call to PSTN End User

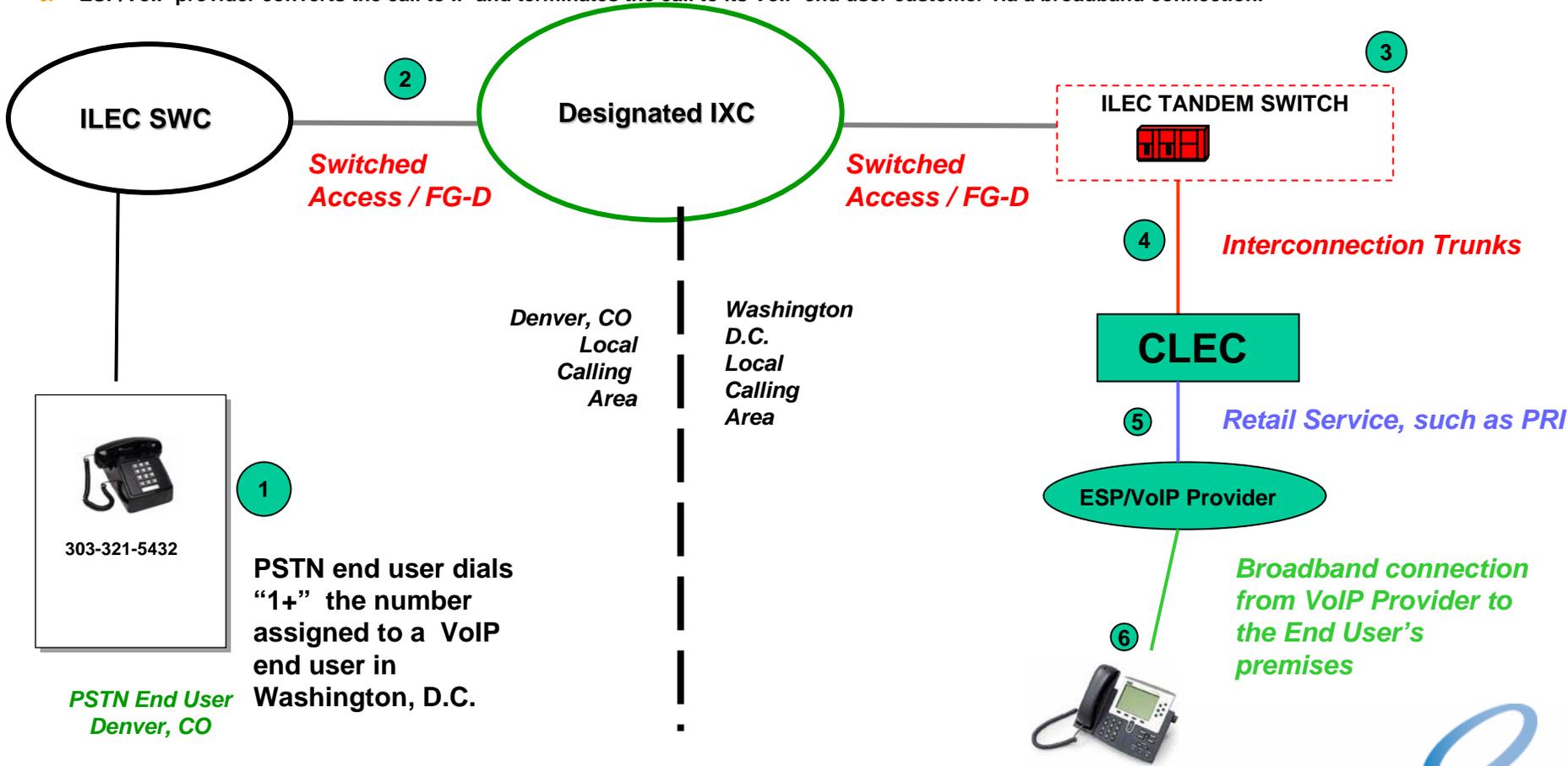
ESP POP and Terminating End User in the Same LCA

1. VoIP Phone or VoIP Adapter at Customer Premises
2. Call initiated in IP over a Broadband Connection (e.g. IP over: DSL, T1, or Cable modem)
3. Call is routed via the Internet Protocol Network to an Enhanced Service Provider/VoIP Provider's POP located in the same Local Calling Area as the terminating PSTN end user
4. ESP/VoIP Provider purchases Retail Service (PRIs) to connect to CLEC (4A) or alternatively purchases PRIs to connect to the ILEC (4B).
5. CLEC passes traffic to ILEC via Interconnection Trunks. Reciprocal Compensation applies
6. ILEC terminates call to end user.



PSTN-originated Call to VoIP End User in Different LCA

1. End user in Denver dials a "1+" call to an end user in Washington, D.C. Call is transported in TDM. The originating end user has purchased a telecom service from the originating LEC
2. Call routes from ILEC SWC to designated IXC. Switched access / FG-D charges apply.
3. IXC carries call from Denver to Washington, D.C. and hands the call off to Washington, D.C.-based ILEC. Jointly provided switched access charges apply
4. The ILEC sends traffic via its tandem to the CLEC switch. Jointly provided switched access charges apply.
5. CLEC sends the call to the ESP/VoIP Provider via a Retail Service (such as PRI) offered via contract or tariff.
6. ESP/VoIP provider converts the call to IP and terminates the call to its VoIP end user customer via a broadband connection.



VoIP End User:
202-444-6789
Washington, D.C.

