

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of

Petition for Declaratory Ruling Whether  
Voice over Internet Protocol Services Are  
Entitled to the Interconnection Rights of  
Telecommunications Carriers

WC Docket No. 08-56

**COMMENTS OF VERIZON<sup>1</sup>**

As the Commission has recognized, Voice over Internet Protocol (“VoIP”) is an increasingly important communications vehicle. In addition, VoIP “driv[es] consumer [and business] demand for broadband connections, and consequently encourag[es] more broadband investment and deployment.”<sup>2</sup> Because of its growing significance, there are a number of key issues surrounding VoIP that require the Commission’s attention. First, the Commission should reaffirm its exclusive jurisdiction over all VoIP services and confirm that all VoIP services — regardless of the technology or provider — are interstate services. The Commission also should use that authority to clarify the regulatory framework for intercarrier payments for VoIP traffic by adopting default payment rules for IP-PSTN traffic. These steps will ensure that legacy rules do not hinder the development of VoIP and other IP-based communication services, while promoting commercial, negotiated arrangements among providers, which can best adapt to this rapidly changing industry. The Commission’s request that parties refresh the record in the

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<sup>1</sup> The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

<sup>2</sup> Memorandum Opinion and Order, *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404, ¶ 36 (2004), *petitions for review denied*, *Minnesota Pub. Utils. Comm’n v. FCC*, 483 F.3d 570 (8th Cir. 2007).

Intercarrier Compensation Reform proceeding encompasses these issues, and the Commission should make accomplishing these goals the centerpiece of that proceeding.

The Commission does not, however, need to focus on the Vermont Telephone Company’s (“VTel”) petition for declaratory ruling. VTel seeks three declaratory rulings: one interpreting the provisions of 47 U.S.C. §§ 251 and 252 and two regarding the specifics of Comcast Phone of Vermont, LLC’s (“Comcast”) proposal to provide service in competition with VTel. With respect to the first request, the interconnection rights and duties in §§ 251 and 252 apply only to “telecommunications carriers.” Therefore, VTel does not establish the existence of a dispute as to the scope of those sections. With respect to the other two requests, the record currently lacks sufficient information for the Commission to issue a declaratory ruling on whether Comcast is entitled to the specific interconnection arrangement it seeks with VTel. To the extent that VTel seeks a ruling on the question whether VoIP providers, generally, are providing telecommunications service and, therefore, are telecommunications carriers, the Commission should resolve that question in the *IP-Enabled Services* docket.

A. In § 251, Congress “create[d] a three-tiered hierarchy of escalating obligations based on the type of carrier involved.”<sup>3</sup> Thus, § 251(a) imposes “duties on all telecommunications carriers,” while § 251(b) imposes “duties on telecommunications carriers that are LECs,” and § 251(c) imposes “duties on LECs that are incumbent LECs.”<sup>4</sup> The § 251 duties, therefore, vary only as to the *type* of telecommunications carrier to which they apply. But they all impose duties *only* on carriers that are telecommunications carriers. In the *Time Warner*

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<sup>3</sup> Declaratory Ruling and Notice of Proposed Rulemaking, *Guam Public Utilities Commission Petition for Declaratory Ruling Concerning Sections 3(37) and 251(h) of the Communications Act*, 12 FCC Rcd 6925, ¶ 17 (1997).

<sup>4</sup> *Id.*

*Cable Declaratory Ruling*,<sup>5</sup> the Commission concluded that the “provider of wholesale telecommunications service [in that case was] a telecommunications carrier and [was] entitled to interconnection under section 251.” *Time Warner Cable Declaratory Ruling* ¶ 15.

The § 252 process for implementing certain of the § 251 duties through interconnection agreements likewise applies only to telecommunications carriers. That process starts with a “request” from a “requesting telecommunications carrier” to an incumbent LEC for “interconnection, services, or network elements pursuant to section 251.” 47 U.S.C. § 252(a)(1); *see also T-Mobile Declaratory Ruling*<sup>6</sup> ¶ 16 (authorizing incumbent LECs to “invoke the negotiation and arbitration procedures set forth in section 252” with CMRS carriers). Other provisions of § 252 likewise confirm that this section, as well, is limited to telecommunications carriers. *See* 47 U.S.C. § 252(e)(2)(A)(i) (authorizing state commission to reject negotiated agreement that “discriminates against a telecommunications carrier not a party to it”); *id.* § 252(i) (providing that approved interconnection agreements are to be made available to “other telecommunications carriers”).

Accordingly, there can be no question that “only ‘telecommunications carriers’ are entitled to interconnection” under §§ 251 and 252. VTel Pet. at 8. VTel does not allege that there is either a controversy or any uncertainty about the scope of these sections. Accordingly, there is no need for the Commission to issue a declaratory ruling reaffirming the plain text of these sections and the Commission’s prior orders interpreting and applying these sections, as

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<sup>5</sup> Memorandum Opinion and Order, *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, To Provide Wholesale Telecommunications Services to VoIP Providers*, 22 FCC Rcd 3513 (2007) (“*Time Warner Cable Declaratory Ruling*”).

<sup>6</sup> Declaratory Ruling and Report and Order, *Developing a Unified Intercarrier Compensation Regime; T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, 20 FCC Rcd 4855 (2005) (“*T-Mobile Declaratory Ruling*”).

issuing the ruling VTel requests would not “terminat[e] a controversy or remov[e] uncertainty” regarding the application of §§ 251 and 252. 47 C.F.R. § 1.2.

**B.** VTel also seeks two declaratory rulings specific to Comcast, based on representations that Comcast purportedly made in other contexts and on the specific manner in which Comcast proposes to offer service in competition with VTel in Vermont. VTel does not provide sufficient information on either subject in its petition to give the Commission a basis for issuing the declaratory rulings VTel seeks. For example, in support of its claims about Comcast’s alleged statements to the Vermont Public Service Board, VTel attaches a pleading by a different party — the Burlington Electric Light Department — which does not provide a sufficient record on which to base a declaratory ruling. *See* VTel Pet. at 5 & Exh. 1.

Similarly, VTel does not fully describe the manner in which Comcast seeks to provide service in competition with VTel in Vermont. For example, it is unclear whether Comcast proposes to provide its VoIP service by purchasing a “wholesale telecommunications service” from a CLEC that is a common carrier, which in turn will be interconnected with VTel; as the Commission has recognized, in those circumstances, the CLEC is “a telecommunications carrier” and “is entitled to interconnection under section 251.” *Time Warner Cable Declaratory Ruling* ¶ 15. It is likewise unclear whether Comcast proposes to do so through an “affiliated [c]ompetitive [c]arrier” and, if so, whether that affiliate “hold[s] [it]sel[f] out as offering . . . telecommunications indiscriminately to any and all potential customers” and, therefore, qualifies as a telecommunications carrier in providing service to its affiliate. *Bright House Recommended Decision*<sup>7</sup> ¶ 17. Without a more detailed explanation of the service arrangement at issue — and whether it is identical to, or the extent to which it differs from, either of the arrangements at issue

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<sup>7</sup> Recommended Decision, *Bright House Networks, LLC v. Verizon California Inc.*, 23 FCC Rcd 587 (Enf. Bur. 2008) (“*Bright House Recommended Decision*”).

in the *Time Warner Cable Declaratory Ruling* and the *Bright House Recommended Decision* — the Commission lacks a sufficient record on which to provide a declaratory ruling.<sup>8</sup>

Finally, the Commission should not use this proceeding as the vehicle for classifying VoIP generally as a telecommunications service, an information service, or telecommunications. VTel notes that this question is pending in the *IP-Enabled Services* docket and states that it makes no claims here as to whether VoIP “is, or is not, a telecommunications service.” VTel Pet. at 5 & n.1. The Commission has previously found that it is not “appropriate or necessary to resolve” the “proper statutory classification of VoIP” in a stand-alone declaratory ruling proceeding, because the Commission is “currently addressing” that issue “on [a] more comprehensive record[]” in the *IP-Enabled Services* docket. *Time Warner Cable Declaratory Ruling* ¶ 17. The Commission should make the same finding here.

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<sup>8</sup> Verizon reserves the right to comment further on these issues should Comcast, VTel, or other parties supplement the record with respect to Comcast’s representations and the manner in which it seeks to provide service.

**CONCLUSION**

For the foregoing reasons, the Commission should act on this petition consistent with the foregoing comments.

Respectfully submitted,

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