



Henry Hultquist
Vice President
Federal Regulatory

AT&T Services, Inc. T: 202.457.3821
1120 20th Street, NW F: 202.457.3072
Suite 1000
Washington, DC 20036

March 15, 2010

Electronic Submission

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

EX PARTE

**RE: Developing a Unified Intercarrier Compensation Regime, CC
Docket No. 01-92; Intercarrier Compensation for ISP-Bound Traffic, WC
Docket No. 99-68; WC Docket No. 07-135, IP-Enabled Services, WC Docket
No. 04-36, A National Broadband Plan for Our Future, GN Docket No. 09-
51**

Dear Ms. Dortch:

On Friday, March 12th, Robert Quinn, Cathy Carpino, and myself, all of AT&T, met with Sharon Gillett, Chief of the Wireline Competition Bureau, and the following members of her staff: Jenny Prime, Bill Dever, Marcus Maher, John Hunter, and Al Lewis. During the meeting we pointed out that the failure of previous Commissions to provide guidance with respect to the appropriate intercarrier compensation for traffic between the public-switched-telephone network (PSTN) and voice-over-Internet Protocol (VoIP) endpoints, had resulted in substantial litigation, irrational asymmetries and chaos. We explained that carriers that provide wholesale interconnection services to VoIP routinely assess jurisdictionalized switched access charges on PSTN-VoIP calls, even while they assert the right to terminate VoIP-PSTN calls as "local." We recommended that the Commission provide regulatory clarity so as to end existing disputes, minimize future disputes, and eliminate pernicious asymmetries. The attached document served as the basis for our discussion.

In accordance with Section 1.1206 of the Commission's rules, this letter is being filed electronically with your office for inclusion in the public record of the above referenced proceedings.

Please call me if you have any questions.

Sincerely,

Attachment

Cc: Sharon Gillett
Jenny Prime
Bill Dever
Marcus Maher
John Hunter
Al Lewis



at&t

VoIP and Intercarrier Compensation

March 12, 2010

For 15 years, previous Commissions have ignored most VoIP compensation controversies

Partially addressed “IP-in-the-middle” and IP calling card platforms

- Continuing disputes for liability with IP-in-the-middle

No guidance at all on appropriate compensation regime for IP-PSTN/PSTN-IP traffic

Consequence has been chaos, irrational asymmetries, and litigation

- “Heads I win, tails you lose” behavior

Arbitrage adores a regulatory vacuum

Enterprising minds don't really want to know (and aren't wasting time waiting to find out) what the FCC thinks

- <http://www.voiparty.com/indexmain.php>
 - "The simplest way to explain how we generate income from IXC is this: What may be a FREE local call for you, is a long distance call for someone else. VOiParty uses our proprietary technology to capture and route non-member calls through the Internet to your VOiParty connection - thereby turning your FREE local call into CASH. In the USA alone the cash flow from wholesale IXC is over \$800 million per month."
- Wholesale carriers routinely offer lower prices (based on using local terminations) to entities claiming that their traffic is IP
- In the other direction, CLECs providing wholesale service to VoIP providers routinely apply jurisdictionalized access charges on PSTN-VoIP calls and VoIP-PSTN 8YY calls
 - "You pay me access, I pay you reciprocal compensation"
- Clear and consistent guidance needed

FCC has repeatedly refused to answer the question

- ACTA Petition – 1995
- Stevens Report – 1998
- Level 3 Forbearance Petition - 2002
- IP Enabled Services NPRM - 2004
- Vonage – November, 2004
- FGIP –
 - Forbearance denied January, 2009
 - Preemption denied October, 2009
- AT&T Petition – 2008
- Intercarrier Compensation Proposed Order - 2008

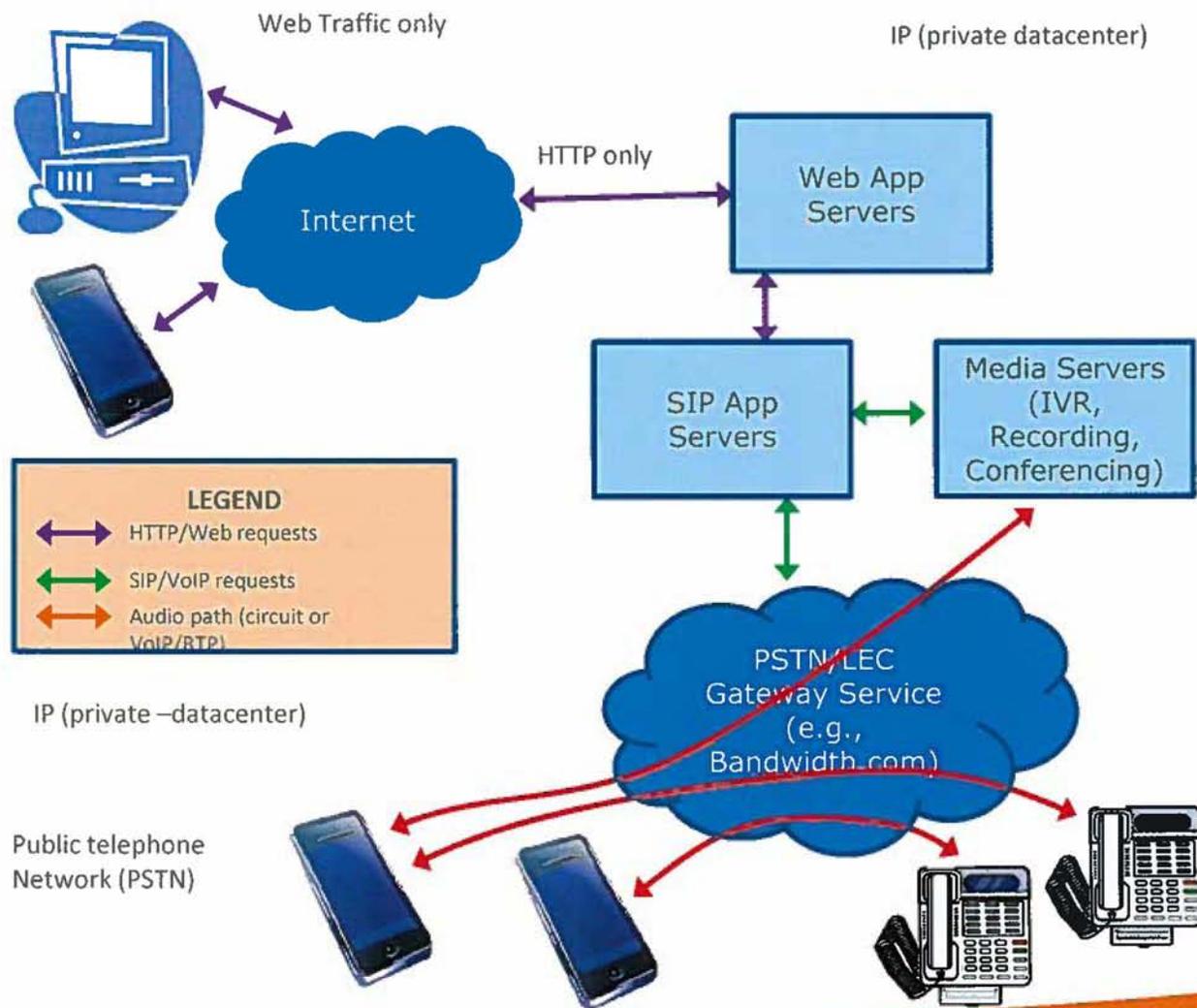
And there are even more questions to consider

If CLECs may assess switched access charges on PSTN-VoIP calls, what “functionality” do they provide?

- Per FCC rules, CLECs may only assess for switched access functions that they perform (47 C.F.R. sec. 61.26).
- Do CLECs provide “local switching” when they provide transport between a VoIP provider’s media gateway and a tandem switch?
- Does the answer depend on whether there is a CLEC switch in the call flow?

What access functions does a CLEC perform when it provides a PSTN gateway for a service like Google Voice?

A closer look at Google Voice



Two types of Google Voice calls: PSTN-PSTN and PSTN-IP (note that a single "call" can include both).

Questions:

1. May Google's CLEC assess switched access charges on PSTN-IP calls?
2. May Google's CLEC assess switched access charges on PSTN-PSTN calls?
3. If the answer to either of these questions is yes, is Google's CLEC providing originating access or terminating access?

FCC Inaction Has Produced a Litigation Bonanza

- PA PUC 2010 Palmerton v Global Naps – Intrastate access applies to VOIP calls terminating to the PSTN
- District of Columbia District Court 2010 PaeTec v CommPartners - Determined VOIP was an information service and access does not apply
- Cases stayed pending FCC decision on applicability of access to VoIP
 - Missouri District Court, 2006, Southwestern Bell Tel v. Global Crossing
 - Montana District Court 2008 3Rivers, et al. v. CommPartners
- New York PSC 2008 Tech Valley Comm v. Global NAPs - Concluded GNAPs' traffic is nomadic VoIP and not subject to the NY PSC's jurisdiction, but ordered ICA negotiations to address it
- Georgia PSC, 2009 Request for Declaratory Ruling Blue Ridge Telephone et.al. - Intrastate terminating access applies to VOIP traffic
- Countless others

Conclusion

Lack of clarity is driving opportunistic behavior, litigation, and inconsistent results

Commission should provide clarity

Commission should eliminate irrational asymmetries

Commission should review the application of switched access charges in emerging circumstances (such as Google Voice calls)