Charles W. McKee
Vice President – Government Affairs
Federal and State Regulatory

Sprint Nextel
Suite 700
900 7th Street, NW
Washington, DC 20001

July 29, 2011

Via Electronic Submission
Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: Written Ex Parte Communication
Interconnection of IP Networks for the Exchange of Broadband Voice Traffic, *WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No, 96-45, WC Docket No 03-109*

Dear Ms. Dortch:

Reform of the intercarrier compensation regime must take into account the evolution of voice communication from traditional time division multiplexing (TDM) to Internet protocol (IP). Today's networks largely rely on more efficient IP technology to handle and deliver traffic to consumers. Establishing traffic exchange rules based upon the quickly disappearing TDM world will only cement inefficiencies in the network, resulting in unnecessary cost to consumers.

The incumbent LEC position regarding the interconnection of IP networks for the exchange of broadband (or packetized) voice traffic ("IP Voice Interconnection") threatens to undermine the advantages of this technological innovation and is incompatible with the explicit directives that Congress has imposed on the Commission. Sprint Nextel Corporation has therefore proposed adoption of a handful of rules that would accelerate the availability of IP Voice Interconnection – action that would benefit consumers by offering them a superior voice product at a lower price and thereby make even more compelling the case for consumers to subscribe to broadband Internet access services.

A. IP Voice Interconnection Is Necessary to Spur Broadband Deployment

The National Broadband Plan recognized that IP Voice Interconnection is critical to broadband deployment:

Office: (703) 433-3786 Fax: (202) 585-1940 charles.w.mckee@sprint.com

> Without interconnection, a broadband provider . . . is unable to capture voice revenues that may be necessary to make broadband entry economically viable.[1]

The National Broadband Plan observed that some LECs have adopted an "anticompetitive interpretation of the Act" and imposed a "barrier to broadband deployment" by "resisting" IP Voice Interconnection and claiming they have "no basic obligation to negotiate interconnection agreements."[2] The Plan therefore urged the FCC to "clarify the rights and obligations regarding [IP Voice] interconnection to remove any regulatory uncertainty," recognizing that for "competition to thrive, the principle of interconnection – in which customers of one service provider can communicate with customers of another – needs to be maintained":

> For consumers to have a choice of service providers, competitive networks need to be able to interconnect their networks with incumbent providers. Basic interconnection regulations, which ensure that a consumer is able to make and receive calls to virtually anyone else with a telephone, regardless of service provider, network configuration or location, have been a central tenet of telecommunications regulatory policy for over a century.[3]

In response to the Plan's recommendation, the Commission sought comment on the "steps we can take to promote IP-to-IP interconnection."[4]

The record evidence submitted in response to the *NPRM* demonstrates that the availability of IP Voice Interconnection has "not kept pace with the deployment of IP in internal networks" and that until "widespread IP interconnection is available, consumers and carriers alike will not realize the full benefits of IP technology."[5] Although Sprint is one of the nation's largest voice providers, it has been unable to reach an IP Voice Interconnection agreement with any ILEC, large or small. Other competitive IP network operators have told the FCC they face significant difficulty establishing IP interconnection arrangements – namely, ILECs have "steadfast[ly] refus[ed] to enter into such [IP Voice] agreements despite the willingness of many other providers to do so."[6]

Congress has specified unequivocally that the FCC "*shall encourage* the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans,"

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1 National Broadband Plan at 49.

2 *Ibid.*

3 National Broadband Plan at 49, Recommendation 4.10.

4 *See Connect America Fund et al. NPRM*, 26 FCC Rcd 4554, 4773 ¶ 678 (Feb. 9, 2011) ("*ICC Reform NPRM*").

5 XO Reply at 5. *See also* EarthLink Reply at 2 ("[C]arrier interconnections in IP have lagged internal network deployments due in large part to [ILEC] refusals to negotiate IP interconnection.").

6 Cablevision Reply at 2. *See also* Charter Reply at 6; Cbeyond Reply at 2 and 4; Paetec Reply at 6; XO Reply at 2 and 6.

further classifying broadband voice as an advanced communications service.[7] In May, the Commission concluded that broadband is "not being deployed in a reasonable and timely fashion to all Americans."[8] This finding is important because in this situation, Congress has directed the FCC to take "*immediate* action to *accelerate* deployment" of broadband voice and other advanced services.[9]

So what "immediate action" do incumbent LECs propose the FCC take to "accelerate deployment" of broadband voice service? *Nothing*. For example, CenturyLink and the Rural ILEC Associations contend that the FCC should not even consider IP Voice Interconnection at this time and instead delay such consideration for "three to five years":[10]

> [T]he Commission should strive first to get TDM ICC right – then move on to dealing with a rational transition from the TDM network to all-IP networks, and finally, to addressing the regulatory implications of an all-IP network.[11]

Obviously, delaying for "three to five years" the time before the FCC even considers the subject of IP Voice Interconnection cannot possibly be deemed consistent with the statutory directive that the FCC take "immediate action to accelerate deployment" of broadband voice services.

The nation's two largest ILECs take a slightly different position, with AT&T and Verizon urging the FCC to address this subject but find that no new rules are necessary. For example, AT&T asserts that "market forces alone" should govern IP Voice Interconnection because, AT&T claims, any new rules would only "resolve hypothetical problems that may never arise":[12]

> As the industry transitions to an all-IP communications infrastructure, there will be no need for the Commission to regulate interconnection or interprovider compensation for *any* type of packet-switched communications. Instead, relationships among IP networks should continue to be governed, as they are today, by freely negotiated agreements.[13]

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7 47 U.S.C. § 1302(a) (emphasis added); *see also* 47 U.S.C. § 153(1) ("The term 'advanced communications service' means (A) interconnected VoIP service; (B) non-interconnected VoIP service . . . ."). These two terms are defined in 47 U.S.C. §§ 153(23) and (34).

8 *Seventh Broadband Progress Report*, GN Docket No. 10-159, FCC 11-78, at ¶ 1 (May 20, 2011). *See also Sixth Broadband Deployment Report*, 25 FCC Rcd 9556, 9558 ¶ 2 (2010).

9 47 U.S.C. at § 1302(b) (emphasis added).

10 *See* NECA *et al.* Reply at 61.

11 CenturyLink Comments at 56. While CenturyLink demands immediate expansion of public funding mechanisms to subsidize its IP network, it is simultaneously urging the FCC to put off any consideration of efficient interconnection of its IP network with other carriers that it expects the FCC to require to subsidize CenturyLink. The FCC should reject this obvious inconsistency.

12 AT&T Comments at 17 and 25.

13 AT&T Reply at 2 (italics in original). In making these claims, AT&T does not identify any IP network operator with which its ILEC has an IP Voice Interconnection agreement. Moreover, in Texas,

Similarly, Verizon asserts that new rules would "lead to arrangements that are economically and technically suboptimal, or even unviable."[14]

This position is to be expected given that Verizon and AT&T currently control more than 75% of incumbent local exchange lines and 64% of wireless subscribers. Sprint and other competitive IP network operators are not asking the FCC to "resolve hypothetical problems that may never arise." The fact is that market forces will work *only* if incumbent LECs are willing to establish IP Voice Interconnection agreements. But the record evidence demonstrates that IP interconnection agreements are not being widely established with the incumbent LECs. A rule requiring incumbent LECs to negotiate in good faith IP Voice Interconnection agreements cannot possibly, as the RBOCs claim, "cause significant harm," "prejudge the outcome of industry negotiations," or result in arrangements that would be "economically and technically suboptimal, or even unviable."[15]

There is no ambiguity in the statutory directive. Specifically, where the evidence shows that broadband voice services are not being deployed timely to all Americans – and such deployment cannot exist without ILECs agreeing to IP Voice Interconnection agreements – then the FCC is to take "immediate action to accelerate deployment" of broadband voice services. Incumbent LECs, in taking their position, basically want the FCC to delegate to them the authority to determine when all-IP networks will become available to American consumers. Of course, such a delegation would not begin to meet the statutory directive.

Last month, in a report to the Technology Advisory Council ("TAC"), the Critical Legacy Transition Working Group ("CLT-WG") recommended that the FCC "take steps to expedite the transition" to all IP networks.[16] The CLT-WG observed that a "fast transition" can "generate significant economic activity and at the same time lower the total cost."[17] The fact is that a transition to all-IP networks cannot meaningfully begin until ILECs, and the major ILECs in particular, begin to negotiate IP Voice Interconnection agreements. As Cox has correctly observed:

> Allowing market forces to determine the terms of IP-enabled voice interconnection would essentially give the incumbent LECs the unilateral ability to develop the paradigm governing IP interconnection.[18]

In closing, Sprint agrees with XO that the "refusal of ILECs to interconnect with competitive carriers on an all IP basis so far is all the evidence that is required to show that

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AT&T claimed it has no obligation to negotiate such agreements (because it placed most of its IP assets in a separate affiliate that it deems to be unregulated). *See* Sprint Comments at 20.

[14] Verizon Comments at 16.

[15] AT&T Reply at 13; Verizon Comments at 16.

[16] *See* Technology Advisory Council, *Status of Recommendations*, at 11 (June 29, 2011), *available at* http://transition.fcc.gov/oet/tac/TACJune2011mtgfullpresentation.pdf.

[17] *Id.* at 10.

[18] Cox Reply at 3. *See also* Cbeyond Reply at 11.

market forces alone will not usher in reasonable and nondiscriminatory IP-based interconnection":

> [I]t is clear from the current state of the industry that the necessary widespread shift to IP-based networks will not occur without some regulatory intervention.[19]

Accordingly, Sprint urges the Commission to adopt the rule proposals discussed below.

B. Adoption of a Handful of High-Level Rules Should Accelerate the Availability of IP Voice Interconnection and All IP Networks

Sprint submitted in its pleadings explicit proposals in response to the FCC's question regarding the "steps we can take to promote IP-to-IP interconnection."[20] Sprint below identifies the most important steps the Commission can take to begin the transition to all-IP networks.

1. Incumbent LECs and Their Affiliates That Offer Retail Broadband Voice Services Should Be Required to Negotiate IP Voice Interconnection Agreements in Good Faith

Several parties have urged the FCC to establish a firm date by which the transition from the PSTN to all IP networks, for purposes of interconnection, would be completed. For example, Sprint has proposed that the transition be completed no later than the end of 2015,[21] while AT&T has proposed that this date be deferred for another year.[22]

Incumbent LECs have taken the position they should not be required to offer any IP Voice Interconnection before the transition end date that the FCC ultimately adopts – even if they already offer broadband voice services to their own customers and even though such IP interconnection would reduce their own costs of service.[23] In other words, ILECs contend that the entire industry should flash cut to IP interconnection on the same, far in the future, day. The Commission should reject this ILEC position. There is no legitimate reason why an ILEC already offering retail broadband voice services should be excused from negotiating an IP Voice Interconnection agreement with competing IP network operators.

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19 XO Reply at 2 and 11.

20 *ICC Reform NPRM*, 26 FCC Rcd at 4773 ¶ 678. Sprint further demonstrated the FCC possesses ample legal authority to adopt its proposed rules for IP Voice Interconnection. *See* Sprint Reply, Appendix D.

21 *See* Sprint Reply at 19. *See also* Sprint NBP Public Notice #25 Comments, GN Docket No. 09-51, at 16 (Dec. 22, 2009) ("By 2016, carriers should provide all of their traffic to other carriers in IP format.").

22 *See, e.g.*, AT&T Comments at 32 (proposing that all PSTN "interconnection obligations" end on January 1, 2017).

23 *See, e.g.*, *ICC Reform NPRM*, 26 FCC Rcd at 4710 ¶ 506 ("[T]he transition to IP can result in cost savings, including reductions in circuit costs, switch costs, space needs, and utility costs, as well as the elimination of other signaling overhead.").

AT&T asserts that direct IP Voice Interconnection is unnecessary because competitive IP network operators can always interconnect with it indirectly.[24] But as AT&T recognizes, because industry quality of service standards for broadband voice do not exist,[25] IP network operators interconnecting indirectly necessarily would be relegated to offering consumers a broadband voice service without any quality of service guarantees (*e.g.*, their customers' voice calls would be treated no differently than a gaming session).[26] In other words, AT&T claims that the FCC should empower it and other ILECs to determine unilaterally the quality of voice service that their competitors are able to offer to consumers. This position is untenable, and it is not surprising that AT&T makes no attempt to explain how the public interest would be served by precluding American consumers from having the option of specifying the level of quality they want to use with their voice services – especially when, as even AT&T acknowledges, such a capability "already exists" (at least with direct interconnection).[27]

The only objection AT&T makes to direct IP Voice Interconnection is that this would require an ILEC to convert *some* of the incoming traffic to TDM (for calls destined to its PSTN customers). But this is a function that all network operators with a mix of PSTN and broadband voice customers would assume (*e.g.*, Sprint would be responsible for converting AT&T's IP traffic to TDM for the calls destined to Sprint's PSTN customers), so the performance of this conversion function would be applied in a competitively neutral fashion. Also, AT&T and other ILECs offering broadband voice services today already engage in such an IP-TDM conversion for calls between their own PSTN and IP customers, and no ILEC alleges it would incur any additional costs in performing this same function for some of the incoming traffic it receives from other IP networks. Finally, AT&T's "solution" – calls between two broadband voice customers should undergo two, completely unnecessary, IP-TDM conversions – makes no sense whatsoever.[28]

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[24] *See, e.g.*, AT&T Comments at 22. In taking this position, however, AT&T does not identify any IP networks that offer transit functionality to AT&T's IP network, including the quality of service levels these networks offer in conjunction with AT&T's IP network. While AT&T offers transit services (for an extra fee, of course), given its position that "mileage pumping" is an unreasonable practice under § 201(b) of the Act (*see* AT&T § XV Comments at 30-35), Sprint assumes that AT&T agrees that it cannot require competitive IP networks to use its transit services when the competitor prefers to connect directly to AT&T's IP network.

[25] *See* AT&T Reply at 12-13.

[26] *See id.* at 2 and 8. Since as AT&T concedes, the only way that quality of service guarantees can be offered today is *via* direct interconnection, there is no basis to AT&T's assertion that indirect interconnection acts as a "powerful competitive check" to the ability of ILECs to misuse their market power over direct interconnection. *See* AT&T Comments at 23.

[27] *See* AT&T Reply at 13.

[28] Under AT&T's proposal, an IP network operator would convert its broadband voice traffic into TDM before delivery to the ILEC, and the ILEC would then reconvert the call to IP for delivery to its broadband voice customers. In contrast, under Sprint's proposal, such calls would undergo no protocol conversions.

In the end, the real reason incumbent LECs are urging the FCC to ignore the issue of IP Voice interconnection is because, as the FCC has recognized, they have the "perverse incentive to maintain . . . legacy, circuit-switched-based [TDM] networks to collect intercarrier compensation revenue," even though "IP-to-IP interconnection would be more efficient":

> [T]he record suggests that the current [ICC] system may be disrupting a market-driven transition to more efficient forms of interconnection, such as IP-to-IP interconnection.[29]

As the National Broadband Plan correctly observed, while this forced TDM interconnection arrangement "may be in the short-term interest of a carrier seeking to retain ICC revenues, it actually hinders the transformation of American's networks to broadband."[30]

Broadband deployment and use will not become widespread until broadband voice is widely available. In turn, broadband voice will not become widely available and used, much less achieve its full potential, until IP networks begin interconnecting on an IP basis.

Sprint submits that to protect the interests of consumers and to accelerate the availability of robust broadband voice services, the Commission should order those incumbent LECs offering retail voice broadband services to negotiate in good faith IP Voice Interconnection agreements, upon receipt of a bona fide request. A plain reading of the statutory directive – the FCC shall take "immediate action to accelerate" the deployment of broadband voice capabilities – demands no less.

2. The Commission Should Adopt Interim Default POI Rules for IP Voice Interconnection

"[T]he location of the POI and the allocation of transport costs," the FCC has correctly observed, are "some of the most contentious issues in interconnection proceedings."[31] Even opponents of new rules recognize the need for the FCC to establish the default POIs (points of interconnection) that would be used to exchange broadband voice traffic between IP networks in the absence of an agreement between the two interconnecting parties.[32]

Google has urged the FCC to establish network efficiency as one of the overarching goals that should guide its actions in this docket.[33] Sprint agrees, and it is for this reason that it and T-Mobile have proposed that the Commission refer the default POI location issue to the Technological Advisory Council ("TAC") so the FCC can act with the benefit of the TAC's

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29 *ICC Reform NPRM*, 26 FCC Rcd at 4709-10 ¶¶ 506-507.

30 National Broadband Plan at 142.

31 *Unified ICC Regime NPRM*, 20 FCC Rcd 4685, 4727-28 ¶ 91 (2005).

32 *See* AT&T Reply at 25 ("The Commission could easily prevent carriers from dumping off traffic at inappropriate locations by adopting such default POIs."). *See also* Joint AT&T and Verizon Ex Parte Letter, Docket No. 01-92 (Oct. 14, 2008) (the RBOCs propose default POI rules).

33 *See* Google Comments at 1.

views on this important subject.[34] Nevertheless, interim default POI rules are still needed to guide interconnection negotiations that occur while the TAC is considering this matter and developing its recommendations to the Commission.

Parties addressing this subject in their pleadings have widely different views regarding the location of such default IP POIs, but very few of them explain why their proposal is superior to the alternatives. For example, some parties recommend retaining current LATA-based POIs – even though they recognize this arrangement reflects "the networks that existed at the time of the AT&T divestiture rather than the networks that exist today."[35] Other parties propose establishing a default IP POI in each State or in each MSA – proposals that would likely require IP network operators to build (or obtain from third parties) new facilities to reach the new POI locations.[36]

All of these default POI proposals are fundamentally flawed. They would not support VoIP – voice over IP networks; they would rather require IP voice interconnection locations (and connecting facilities) that would be used exclusively for transmission and exchange of voice traffic. In other words, proponents of the use of LATAs, States or MSAs as the location of default POIs effectively want the FCC to replicate for IP the inefficient interconnection architecture that is currently used for PSTN traffic – except that the trunks would transport voice traffic in the IP protocol rather than the TDM format.

The Commission should reject these PSTN-centric default POI proposals for the exchange of broadband voice traffic. As the *NPRM* correctly notes, it makes "little sense for providers to maintain different interconnection arrangements for the exchange of VoIP and other forms of Internet traffic."[37] In fact, as AT&T has stated, "maintaining two separate interconnection regimes for IP-to-IP traffic would be grossly inefficient, and thus would defeat one of the principal benefits of the transition to all-IP networks":

> VoIP accounts for only one percent of the traffic on IP networks, and as Sprint notes, "[r]edesigning IP networks based on one percent (1%) of the traffic transported over these networks so they accommodate legacy PSTN network architecture makes no sense whatsoever." Instead, efficiency requires providers to "transport and commingle IP voice over the same facilities used to transport other IP traffic."[38]

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[34] *See* Joint Sprint and T-Mobile Ex Parte Letter, Docket No. 01-92, at 3 (Jan. 21, 2011). *See also* Sprint Comments at 22-25.

[35] Level 3 Comments at 12. *See also* Hypercube Reply at 3.

[36] *See* Hypercube Reply at 3; Level 3 Comments at 12.

[37] *ICC Reform NPRM,* 26 FCC Rcd at 4773 ¶ 679.

[38] AT&T Reply at 15 (supporting citations omitted). *See also* AT&T Comments at 24 ("In fact, such a bifurcated regime would make *no sense at all.*") (italics in original). Inexplicably, however, AT&T later describes as "efficient" its past proposal that would establish at least one (and for traffic destined to AT&T customers, several) POIs per each LATA. *See id.* at 25.

If the default POIs for broadband voice are located where networks currently exchange non-voice IP traffic, the incremental cost to transport broadband voice – whether from the calling party or to the called party – would be miniscule, if not zero.[39] With efficient IP POIs, network operators would no longer require hundreds (or in Sprint's case, thousands) of separate low capacity facilities currently used for PSTN interconnection (*e.g.*, DS1s, DS3s). The cost savings the industry would realize by interconnecting at a handful of locations would be significant (and likely exceed $1 billion annually). In addition, having far fewer facilities and interconnection points would make use of redundant facilities more feasible. The consumer benefits from such a sizable reduction in service costs and an increase in network reliability would be enormous.

Sprint submits that the preeminent factor the FCC should use in establishing default POIs for broadband voice is to maximize the extent to which such voice traffic can be exchanged at the same locations where IP networks today exchange non-voice IP traffic. Accordingly, Sprint recommends that while the TAC is considering this subject, the FCC establish interim default IP POIs at the locations where IP networks today interconnect for purposes of exchanging non-voice Internet traffic. Of course, this interim rule would be a default rule only, as two IP network operators could always agree to use different locations for the exchange of their broadband voice traffic.

3. The Commission Should Ask the TAC to Identify the Steps the FCC Should Take to Facilitate Efficient Indirect Interconnection Between IP Networks

While direct interconnection will be the most appropriate means of exchanging IP voice services in many cases, there are over a thousand incumbent LECs and hundreds of competitive networks. It is not realistic to believe that all 1,800 to 2,000 networks will connect directly with each other. Rather, as is the case today with PSTN interconnection, in many circumstances it will be more efficient for two networks to interconnect indirectly with each other, using an IP network operated by a third party.

The practical problem, as AT&T recognizes, is that "additional technical requirements [are needed] for indirect interconnection" to ensure a minimum level of quality for broadband voice services, and such standards do not exist today.[40] While different standards bodies are working on developing such standards,[41] it is not now known when these standards will be developed, whether they will be sufficiently complete and consistent with each other, whether international standards will be suitable for the U.S. market, and whether these standards will provide the minimum level of service quality that the FCC believes should be available to American consumers.

Given the importance of indirect interconnection, especially with respect to the traffic exchanged with small networks, coupled with the statutory directive that the FCC take "immediate action to accelerate the deployment" of broadband voice services, Sprint submits that the TAC is ideally suited to identify the steps the FCC should take to ensure that indirect

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39 *See* Sprint Comments at 17-18 and 23-25.

40 *See* AT&T Reply at 12-13.

41 *See id.* at 13 and n.16.

interconnection is widely available and provides the minimum level of service quality that consumers deserve.

4. The Commission Should Confirm That Its Complaint Remedy Is Available to Resolve IP Voice Interconnection Disputes – Including Refusals to Negotiate in Good Faith

Finally, the Commission should confirm that any IP voice network operator may file a complaint with it if the operator is unable to reach timely an interconnection agreement with an incumbent LEC.[42]

The Commission has long held that under Section 2(a) of the Act, it has "plenary jurisdiction to require . . . interconnection negotiations to be conducted in good faith":

> [T]he conduct of interconnection negotiations cannot be separated into interstate and intrastate components because failure to reach an interconnection agreement for intrastate services also precludes interconnection for interstate services.[43]

If the FCC possesses the authority to order that interconnection negotiations be conducted in good faith, it necessarily follows it has the authority to entertain complaints alleging that one of the parties to the negotiations is not, in fact, negotiating in good faith.

Moreover, the Commission has squarely held that portable broadband services must be subjected to a federal regime because such services "cannot be separated into interstate and intrastate communications," and it has further declared that this ruling applies to other providers of broadband voice services, including fixed location IP voice services:

> [T]his Commission, not the state commission, has the responsibility and obligation to decide whether certain regulations apply to DigitalVoice and other IP-enabled services having the same capabilities.[44]

Of course, if fixed and portable broadband voice services are subject to a federal regime, it necessarily follows that mobile broadband voice services must be subject to the same regime.[45] Indeed, the FCC has recognized that broadband voice is merely an application like other

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[42] The FCC possesses regulatory authority to resolve IP voice interconnection disputes whether broadband voice services are deemed to be a telecommunications service or an information service. *See* Sprint Reply Comments, Appendix D at 6-9.

[43] *See Cellular Interconnection Reconsideration Order*, 4 FCC Rcd 2369, 2371 ¶ 16 (1989). *See also Cellular Interconnection Order*, 2 FCC Rcd 2910, 2912-13 ¶ 21 (1987).

[44] *Vonage Order*, 19 FCC Rcd 22404, 22404-05 ¶ 1, 22424 ¶ 32 (2004), *aff'd*, 483 F.3d 570 (8th Cir. 2007). Given the FCC's finding that certain broadband voice services should be classified as interstate, information services, *see pulver.com Order*, 19 FCC Rcd 3307 (2004), and given the importance of competitive neutrality so markets can operate effectively, it is critically important that all providers of broadband voice services be regulated under the same set of regulatory rules.

[45] This is especially the case with respect to mobile services because Congress has explicitly given the FCC regulatory authority over intrastate mobile services. *See* 47 U.S.C. § 152(b)(opening clause).

applications used with broadband Internet access services, "thus making jurisdictional determinations about particular DigitalVoice communications based on an end-point approach difficult, if not impossible."[46]

Finally, FCC enforcement of federal IP voice interconnection rules are needed given the very nature of IP technology and the business arrangements that are developing as a result. Two IP voice providers will negotiate one interconnection agreement, and even national providers will typically exchange their IP voice traffic at most at three or four locations nationwide. Given this reality and given that Congress has given the FCC exclusive regulatory authority over interstate services,[47] only the FCC can efficiently enforce whatever rules it adopts to promote the interconnection and exchange of IP voice services.

For all these reasons, coupled with the statutory directive that the FCC take "immediate action to accelerate deployment" of broadband voice services, Sprint urges the Commission to confirm that it will entertain, and act expeditiously on, any complaint that an ILEC or its affiliate offering retail broadband voice services is acting in bad faith or otherwise refusing to accept reasonable terms of interconnection for the exchange of IP voice services.

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Verizon asserts that Sprint and other competitive IP network operators want the FCC to adopt "heavy-handed regulation,"[48] while AT&T claims that competitors want the FCC to adopt a "one-size-fits all regulatory framework."[49] These RBOC claims grossly misrepresent the position of the competitive industry. As XO states, it is "not necessary for the Commission to analyze all the nuanced details of IP interconnection in order to take the critical step of confirming that all carriers must provide IP interconnection and traffic exchange (directly or indirectly)."[50] The handful of rules that Sprint discusses above would not, as Verizon claims, possibly result in arrangements that would be "economically and technically suboptimal, or even unviable."[51] Nor could such a regime, as AT&T asserts, possibly cause "more harm than good" or lead to "the same type of market distortions . . . that afflict the PSTN."[52]

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46 *Vonage Order*, 19 FCC Rcd at 22419 ¶ 24. *See also* American Libraries Ass'n v. Pataki, 969 F. Supp. 160, 170 (S.D.N.Y. 1997) ("Internet protocols were designed to ignore rather than document geographic location.").

47 *See, e.g., Vonage Order*, 19 FCC Rcd at 22412-14 ¶¶ 17-18.

48 Verizon Reply at 36.

49 AT&T Reply at 15.

50 XO Reply at 10. *See also* Cablevision Reply at 7 ("Cablevision and others do not propose a heavy hand of Commission regulation 'to displace efficient market forces with prescriptive rules.'").

51 Verizon Comments at 16.

52 AT&T Comments at 25.

The Commission in its *Open Internet Order* determined that the best approach for ensuring the openness of the Internet was to adopt high-level rules that would be applied in case-by-case adjudication, where the FCC would have the benefit of acting in the context of concrete facts. As the FCC explained, the "novelty of Internet access and traffic management questions, the complex nature of the Internet, and a general policy of restraint in setting policy for Internet access service providers weigh in favor of a case-by-case approach."[53] Sprint submits that the same approach should be utilized with respect to IP interconnection regarding the exchange of broadband voice traffic. Specifically, to accelerate the availability of IP Voice Interconnection, the Commission should expeditiously:

1. Direct incumbent LECs providing retail broadband voice services to negotiate in good faith upon receiving a *bona fide* request for an IP Voice Interconnection agreement;
2. Adopt interim default POI rules for IP Voice Interconnection while the TAC develops recommendations for permanent rules;
3. Ask the TAC to identify the steps the FCC should take to facilitate efficient indirect interconnection between IP networks; and
4. Confirm that the FCC will entertain complaints that an incumbent LEC is not negotiating in good faith.

Respectfully submitted,

/s/ Charles W. McKee
Charles W. McKee
Vice President - Government Affairs
Federal & State Regulatory

cc (*via* email): Zac Katz
Margaret McCarthy
Christine Kurth
Angela Kronenberg
Sharon Gillett
Randy Clarke
Rebekah Goodheart

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[53] *Open Internet Order*, 25 FCC Rcd 17902, 17952 ¶ 83 (2010). This case-by-case approach, the FCC noted, received "almost universal support among commenters." *Id.* at 17986 152.