BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	
Connect America Fund	WC Docket No. 10-90
A National Broadband Plan for Our Future	GN Docket No. 09-51
Establishing Just and Reasonable Rates for Local Exchange Carriers	WC Docket No. 07-135
High-Cost Universal Service Support	WC Docket No. 05-337
Developing a Unified Intercarrier Compensation Regime	CC Docket No. 01-92
Federal-State Joint Board on Universal Service	CC Docket No. 96-45
Lifeline and Link-Up	WC Docket No. 03-109
Universal Service Reform –Mobility Fund	WT Docket No. 10-208

COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA ON SECTIONS XVII.L-R OF THE FURTHER NOTICE OF PROPOSED RULEMAKING

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I. INTRODUCTION

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these comments in response to the Federal Communications Commission's (FCC or Commission) Further Notice of Proposed Rulemaking (*FNPRM*) seeking separate comments on Sections XVII.L-R of the *FNPRM* concerning intercarrier compensation (ICC) reform.[1] Specifically, Sections L through R of the *FNPRM* seek comment on the next steps to comprehensively reform the ICC system initiated in the *Order*, including the transition to bill-and-keep for rate elements not specifically addressed in the *Order*, and interconnection and related issues that must be addressed to implement bill-and-keep.[2]

The CPUC supports the transition to more efficient internet protocol (IP) based networks. However, the CPUC has serious concerns about the lack of clarity regarding state authority to arbitrate and adjudicate interconnection matters that involve IP-enabled services. If the FCC intends states to have a role in enforcing good faith negotiation rights and arbitrating and adjudicating IP-to-IP interconnection arrangements, the CPUC urges the FCC to provide very clear rules regarding the source of this state authority in

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[1] *In the Matter of Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109; *Universal Service Reform –Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, rel. Nov. 18, 2011 (hereafter *Order* or *FNPRM*).

[2] *Id*., at para. 1296.

the case of IP-to-IP connections. This clarification is vital given that the regime the FCC's proposal hinges on, §§ 251 and 252 of the 1996 Telecommunications Act[3], refer only to "telecommunications services" and "telecommunications carriers." In these comments, the CPUC also addresses the states' role in transitioning the remaining intrastate rate elements to bill-and-keep and urges the FCC to move as quickly as possible to reform transit, transport, and tandem switching rates to eliminate further opportunities for arbitrage. Clear guidelines on how to delineate the "network edge" are needed so that opportunities for regulatory arbitrage and revenue recovery are not merely pushed further upstream. The CPUC also addresses here the need for further clarification of the FCC's rules regarding interconnection rights and obligations of telecommunications carriers, including the adoption of procedural and substantive rules governing compensation arrangements between competitive local exchange carriers (CLECs) and commercial mobile radio service (CMRS) providers. The absence of clarity to date concerning the interconnection rights of these entities has led to numerous disputes, often leading to litigation in the federal courts. Finally, the CPUC supports requiring carriers to include Subscriber Line Charges (SLCs) or Access Recovery Charges (ARCs) in their advertised prices for services that are subject to the SLC or ARC if the carrier seeks to recover such. A fundamental tenet of a competitive environment is, and should be, the ability of consumers to easily evaluate and compare the price of service among different providers.

[3] Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996) (Act or 1996 Act). All statutory references are to the 1996 Act, unless otherwise stated.

The CPUC reserves the right to file reply comments on sections L through R issues not addressed in these comments.

II. DISCUSSION

M. Transitioning All Rate Elements to Bill-and-Keep

The FCC's *Order* unifies interstate and intrastate terminating access charges, and adopts a glide path to reduce gradually access charges and reciprocal compensation charges to bill-and-keep by 2020. As the FCC indicates, the regulatory relationship between ICC reform and the accompanying proposed reforms to Universal Service turns on lowering the cost profile of supported networks through migration to more efficient IP-based networks and to more efficient compensation schemes appropriate for such networks. In the *FNPRM*, the FCC seeks comments on aspects of the reform effort that will transition, in addition to terminating access, other intercarrier compensation rate elements to bill-and-keep. Although the FCC has specified the details and duration of the transition for certain terminating access rates in the *Order*, it has not done so for other rate elements, including originating switched access, dedicated transport, tandems switching, tandem switched transport, and transit.

The FCC specifically seeks "the input of the states on how to transition to bill-and-keep for originating access charges."[4] The FCC states that it seeks "to reach the end state for all rate elements as soon as practicable, but with a sensible transition path that ensures

[4] *Id*., at para. 1302.

that the industry has sufficient time to adapt to changed circumstances."[5] For instance, the FCC asks whether rate of return carriers should be given additional time to transition to such rates.[6] "Since originating intrastate access rates are not capped for rate of return carriers, we ask whether we should initially defer transition to bill-and-keep for originating access to the states to implement."[7]

The FCC has concluded that it has "statutory authority to establish bill-and-keep as the default compensation arrangement for all traffic subject to section 251(b)(5)" of the 1996 Act.[8] The FCC states that this "includes traffic that, prior to this Order, was subject to the interstate and intrastate access regimes, as well as traffic exchanged between two LECs or a LEC and a CMRS carrier." Although the CPUC shares the FCC's overall objective in reforming the ICC system and its move to eliminate access charges, the CPUC understands that the FCC's reading of the relevant statutes may be challenged in federal court. The remaining rate elements to be transitioned to bill-and-keep are properly intrastate rates traditionally under the jurisdiction of the states, and the states should be allowed to determine how and on what schedule the remaining intrastate rate elements are transitioned to the FCC's desired end-state. The CPUC has no quarrel with the amount of time afforded carriers for migration to bill-and-keep for terminating

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[5] *Id*., at para. 1297.

[6] *Id*., at para. 1299.

[7] *Id*., at para. 1302.

[8] *Id*., at para. 769. At para. 772, the FCC concludes "that we have authority, independent of our traditional interstate rate-setting authority in section 201, to establish bill-and-keep as the default compensation arrangement for all traffic subject to section 251(b)(5), *including intrastate traffic*." (Emphasis added.)

access charges (six years for price cap, nine years for rate-of-return); however, the states should determine how and over what stages the remaining intrastate access charges are transitioned to bill-and-keep.

In addition to respecting the states' traditional role with regard to intrastate rates, states should retain the ability to reform the remaining intrastate access charges for all LECs, including rate-of-return carriers, because states will closely feel the impact of the FCC's *Order* regarding bill-and-keep for terminating access on end-users, local rates, and company revenue requirements. The reduction of access rates raises complex issues with potentially significant adverse impact on end user customers that states are in a better position to explore and address. State expertise in implementing bill-and-keep regarding other rate elements would, as the FCC acknowledges, allow for an implementation schedule fitted to local circumstances without compromising what the FCC is trying to accomplish on a national level. Likewise, preserving a state role in reforming intrastate access charges need not conflict with the time-frame set by the FCC for reaching its preferred end-state of bill-and-keep for the remaining rate elements. States are capable of engaging in access charge reform in a manner consistent with federal law and policy.

N. Bill-and-Keep Implementation

In the *FNPRM*, the FCC seeks comment on interconnection and related issues that must be addressed to implement comprehensive intercarrier compensation reform, including the end point of bill-and-keep pricing.[9] While establishing this bill-and-keep

[9] *Id*., at para. 1315.

“default framework” for terminating access, the FCC is leaving carriers free to negotiate different terms for access apart from the default regime. The *Order* indicates that the states “will continue to oversee the tariffing of intrastate rate reductions during the transition period as well as interconnection negotiations and arbitrations pursuant to §§ 251 and 252 [of the 1996 Act], and will have responsibility for determining the network ‘edge’ for purposes of bill-and-keep.”[10] The FCC believes that states should establish the network edge pursuant to Commission guidance and seeks comment on defining the network edge.[11] In addition to seeking comment on network edge issues, the FCC asks about the possibility of extending interconnection rules to all telecommunications carriers, including CLECs, CMRS providers, and interexchange carriers, to ensure a more competitively neutral set of interconnection rights and obligations. The CPUC addresses these issues below.

1. Points of Interconnection and the Network Edge

The FCC asks whether it needs to provide new or revised points of interconnection rules at some later stage of the transition to bill-and-keep, and whether the FCC needs to prescribe POIs under a bill-and-keep methodology.[12] With respect to points of interconnection (POIs), it is the CPUC’s understanding that POIs have generally been established either through state or FCC precedent, or as a matter of industry practice or

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[10] *Order*, at paras. 790, 796.

[11] *Id*., at paras. 1320-21.

[12] *Id*., at paras. 1316, 1318.

via interconnection agreements. Nevertheless, how these practices and precedents will find relevance in the network edge context remains uncertain.

The *FNPRM* seeks comment on options for defining the network "edge."[13] A critical aspect of implementing bill-and-keep in the context of interconnection arbitrations will be defining the network edge for purposes of delivering traffic and we urge the FCC to clearly delineate at what point each carrier is responsible for delivering its traffic. Since state commissions are charged with arbitrating interconnection issues, the CPUC anticipates that questions will be raised as to whether some of the middle-mile or network-middle facilities will be considered part of the calling or called party's network, and whether they will be subject to bill-and-keep. The FCC's guidance on delineating the network edge is particularly important if the states are to move as quickly as possible to address the reform of transit, transport, and tandem switching rates, consistent with the FCC's guidance and general notion that the costs of these elements should be borne by end-users (called and calling parties) and not other carriers.[14] The CPUC further urges the FCC to quickly reform these remaining rate elements at the federal interstate level as well. Without bringing middle mile into the bill-and-keep framework, the whole notion and purpose (to eliminate inter-carrier billing) of the bill-and-keep framework would be defeated. By focusing only on terminating access charges and not the middle mile or transport costs, the *Order* creates a situation where

[13] *Id.*, at para. 1321.

[14] *See, e.g.*, *id.*, at para. 994.

terminating carriers (which often own the trunks and tandem transport) may just push the regulatory arbitrage and revenue recovery up stream.

2. The Role of Interconnection Agreements

In the *FNPRM*, the FCC states its belief that during the transition to bill-and-keep carriers will rely primarily on negotiated interconnection agreements (ICAs) to set the terms on which traffic is exchanged.[15] Given the potential for carriers to rely primarily on ICAs, the FCC seeks comment on the possibility of extending its interconnection rules to all telecommunications carriers to ensure "a more competitively neutral set of interconnection rights and obligations."[16]

The CPUC urges the FCC to expand the scope of its interconnection rules to all telecommunications carriers. The need for clarity is particularly crucial given the expectation that states likely will be resolving inter-carrier disputes concerning the definition of the network edge in contested applications of bill-and-keep. The CPUC has presided over a number of interconnection disputes concerning the rights of CLECs to interconnect with other CLECs or with CMRS providers. The CPUC has adjudicated numerous disputes between these types of carriers that have ended up in federal courts, where complaining carriers have raised issues concerning the CPUC's jurisdiction to arbitrate and adjudicate interconnection disputes, particularly in the absence of an interconnection agreement between the parties.

[15] *Id*., at para. 1323.

[16] *Id*., at para. 1324.

Specifically, the FCC asks whether it should extend the interconnection agreement process adopted in the *T-Mobile Order*[17] to all telecommunications carriers, including CLECs and interexchange carriers. The FCC also asks whether it should require CMRS providers to negotiate agreements with CLECs under the section 251/252 framework and give ILECs the right to require all carriers to negotiate interconnection agreements under the section 252 framework.[18] The CPUC agrees that CLEC-to-CLEC and CLEC-to-CMRS interconnection relationships should be brought within the section 251/252 framework of the 1996 Act.

Although all carriers have the duty to interconnect and establish reciprocal compensation arrangements, under the terms of the Act only ILECs have a statutory duty to negotiate an ICA in good faith (under 47 U.S.C. § 251(c)(1)) and only ILECs can be required to arbitrate an interconnection agreement (under § 252(b)). In its *T-Mobile Order*, the FCC set procedures for resolving disputes between wireless carriers and ILECs concerning compensation for interconnection services. As noted in the *FNPRM*, the FCC extended to CMRS providers the duty to negotiate ICAs with ILECs under the § 252 framework.[19] However, the FCC to date has not set a firm path for resolving interconnection disputes between CLECs and CMRS providers, or between CLECs and

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[17] In the Matter of Developing a Unified Intercarrier Compensation Regime; T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, CC Docket No. 01-92, Declaratory Ruling and Report and Order, 20 FCC Rcd 4855 (2005) (*T-Mobile Order*).

[18] *Order*, at para. 1324.

[19] *Id*.

other CLECs. The 1996 Act and the FCC's interconnection rules under *T-Mobile* have left an enforcement gap because, although the FCC in that order authorized states to adjudicate CMRS interconnection disputes under 252, the types of disputes over which states have authority under 252 are only those involving ILECS. Section 252 does not apply to disputes involving CLECs. While CLECs have a statutory duty to interconnect with other LECs and to provide reciprocal compensation, neither the Act nor the FCC has specified a procedure for one CLEC to require another CLEC (or CMRS provider) to enter into an interconnection agreement that would govern the terms of their reciprocal duties and compensation.

State commissions have been called upon to resolve innumerable disputes concerning the terms interconnection agreements between carriers, including terms pertaining to the exchange of traffic and what compensation is owed for the handling of traffic. California has been in Federal Court many times, defending its decisions resolving these disputes, yet the CPUC's authority to resolve such disputes has been challenged repeatedly because neither statute nor FCC order has established a clear procedural mechanism for states to resolve CLEC-to-CLEC disagreements. Some carriers, for example, have challenged the CPUC's jurisdiction to hear a dispute regarding interstate traffic outside of an arbitration proceeding pursuant to § 252. Providing CLECs with the right to demand negotiation and arbitration with CMRS providers, other CLECs, and interexchange carriers under the 251/252 framework will provide a clear vehicle for state commissions to resolve interconnection disputes. Clarifying state authority to resolve disputes will be increasingly important as issues concerning the definition of the "network edge" for purposes of bill-and-keep arise in the context of interconnection arrangements.

O. Reform of End User Charges

The FCC proposes to continue the Subscriber Line Charge (SLC) and to implement – then phase out – an Access Recovery Charge (ARC). It seeks "comment on requiring incumbent LECs (and other carriers, if they charge a SLC or its equivalent) to include such charges in their advertised price for services subject to SLC charges."[20] The FCC asks if it could "require that carriers include SLC charges [sic] (including ARCs) in their advertised price for services, or condition their ability to impose SLCs or ARCs or to receive CAF support on their doing so?"[21]

The SLC and ARC are flat rates applied regardless of the cost of the service, are voluntary, and are temporary. The FCC does not require their imposition. They are costs of doing business under the current intercarrier compensation regime. The SLC is simply a "rate" to recover federal jurisdictional costs related to specific carriers. The rationale for permitting an ARC outside of carrier advertised rates is no more legitimate than for the SLC being allowed outside those advertised rates. While the SLC and ARC should be itemized separately from the service component of the rate on the subscriber's bill, the *advertised* price of the customer's subscription to the service in question should clearly

[20] *Id*., at para. 1334.
[21] *Id*.

indicate the inclusion of any SLC and/or ARC as unavoidable rate components to be charged to the subscribing customer.

P. IP-to-IP Interconnection Issues

1. Standards and Enforcement for Good Faith Negotiations and IP-to-IP Interconnection Policy Frameworks

The *FNPRM* seeks comment on additional steps the FCC should take to encourage IP-to-IP interconnection. In the *Order*, the FCC expressed its "expectation" that all carriers will negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic.[22] However, the FCC acknowledges concerns that additional protections may be needed to ensure IP-to-IP interconnection. Accordingly, the FCC seeks comment on "the various possible statutory provisions as well as standards and enforcement mechanisms we should adopt to implement our expectation that carriers negotiate in good faith."[23] The FCC also seeks comment on the appropriate interpretation of statutory interconnection requirements and other possible regulatory authority for the FCC to adopt a policy framework governing IP-to-IP interconnection.[24] Finally, the FCC asks whether standards and enforcement of good faith negotiations should occur at the state commission level[25], whether the states should provide arbitration or dispute resolution when providers fail to reach agreement[26], and whether disputes over

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[22] *Id*., at paras. 1011, 1340-41.

[23] *Id*., at paras. 1341, 1348.

[24] *Id*., at para. 1380.

[25] *Id*., at para. 1348.

[26] *Id*., at para. 1370.

the rates, terms, and conditions of IP-to-IP interconnection could be left to case-by-case evaluation in state arbitrations.[27] In particular, the FCC considers the possibility of grounding a requirement for good faith negotiations in § 251 of the Act, with possible enforcement of this right at the state level. The FCC also asks whether it may ground the statutory interconnection framework in § 251(a)(1) or § 251(c)(2) of the Act, and have states arbitrate and adjudicate interconnection disputes as they do today pursuant to § 252.[28]

The CPUC supports the transition to IP-to-IP interconnection and has an interest in ensuring efficient interconnection for the exchange of voice and other IP services. However, the CPUC has serious concerns with the proposal to have enforcement of the standards and requirements of good faith negotiations occur at state commissions, as well as concerns with the possibility of having state commissions arbitrate and adjudicate interconnection disputes that arise with IP-to-IP interconnection. If the FCC intends for the states to have a role in enforcing IP-to-IP good faith negotiations, as well as a state role in arbitrating and adjudicating IP-to-IP interconnection disputes, then the FCC should clearly identify the source of this state authority where neither IP network provider is a telecommunications carrier.

The CPUC questions the FCC's authority to ground good faith negotiations and state arbitration of IP-to-IP interconnection disputes in the section 251/252 framework

[27] *Id.*, at para. 1384.

[28] *Id.*, at paras. 1370, 1384.

when the FCC to date has not classified IP services as telecommunications services. The FCC observes that § 251 of the Act is one of the key provisions specifying interconnection requirements, and that its interconnection requirements are technology neutral, i.e., they do not depend on whether one or both of the interconnecting providers is using Time Division Multiplex (TDM), IP, or another technology in their underlying networks.[29] However, while the CPUC agrees that § 251 is technology neutral, it is not also service neutral. The duty to interconnect under § 251(a)(1), for example, is limited to *telecommunications carriers*, and the language in § 252(c) concerning the duty to interconnect and negotiate in good faith refers to *telecommunications carriers*.[30] Likewise, the language used in § 252 to describe the procedures for negotiation and arbitration of agreements refers to *telecommunications carriers*. Similarly, §§ 251 and 252 contain repeated reference to *telecommunications services*. Accordingly, if the FCC adopts the 251/252 framework for IP-to-IP interconnection, then it must clarify the classification of carrier IP-enabled services for the purposes of interconnection pursuant

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[29] *Id.*, at para. 1342.

[30] 47 U.S.C. § 153 defines a "telecommunications carrier" as: "any provider of *telecommunications services*, except that such term does not include aggregators of telecommunications services (as defined in section 226 of this title). A telecommunications carrier shall be treated as a common carrier under this chapter *only to the extent that it is engaged in providing telecommunications services*, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage." (Emphasis added.) It is because the definition provides that a telecommunications carrier shall be treated as a common carrier only to the extent that it is engaged in providing telecommunications services that the FCC must focus on clarifying whether IP services are "telecommunications services" or "information services." Without this clarification as to the service, a state commission that otherwise has jurisdiction to resolve arbitration disputes between telecommunications carriers may be subject to challenges that its authority to arbitrate only extends to the telecommunications services exchanged between those carriers and not to IP-enabled services.

to those provisions of the Act. Absent such clarification, the FCC would thwart its own stated goal of having states arbitrate and adjudicate disputes concerning IP-to-IP interconnection because the scope of state authority would be in doubt, given that §§ 251 and 252 apply only to telecommunications services and/or carriers. Regardless of the scope of IP traffic exchange that would be encompassed by any IP-to-IP interconnection policy framework (voice or other types of IP traffic), the FCC must address the classification of this traffic if it intends to bring it under the 251/252 framework. Without FCC clarity on this issue, the states will not have unambiguous authority to address IP interconnection disputes and may face protracted litigation in federal courts. If state commissions will be delegated responsibility for arbitrating and adjudicating IP-to-IP interconnection disputes, then the states are in need of a clear and explicit determination as to how this traffic is classified.

Clarification of the status of IP services is further advisable because while on the one hand, the FCC is asking whether to have states arbitrate/adjudicate IP-to-IP interconnection issues in Section P of the *FNPRM*, in other sections of the *Order* the FCC is expecting states to resolve certain issues in the context of ICA arbitrations. The *Order*, for example, brings intrastate access traffic within the § 251(b)(5) framework for purposes of applying bill-and-keep, but it is unclear whether that intrastate "telecommunications traffic" includes IP-enabled services when the proposed reforms result in all-IP traffic across all-IP networks, which the *Order* is intended to effectuate.[31] The FCC claims that states will continue to play a vital role within the new ICC framework, "particularly in the context of negotiated interconnection agreements, arbitrating interconnection disputes under the section 251/252 framework, and defining the network 'edge' for bill-and-keep."[32] Again, however, the states' role in defining the network "edge" for any contested application of bill-and-keep remains uncertain when the traffic in question is IP-based. By placing all interstate and intrastate access traffic, including VoIP traffic, under § 251(b)(5) of the Act, and further claiming that it is the states' role to determine the network edge for purposes of bill-and-keep, is the FCC suggesting that state commissions have the authority to start arbitrating IP-to-IP issues?

The FCC also brings VoIP traffic under § 251(b)(5) for the purposes of reciprocal compensation without classifying such traffic as "telecommunications services".[33] The FCC further states that providers have the ability to use existing section 251(c)(2) interconnection arrangements to exchange VoIP-PSTN traffic pursuant to compensation addressed in the providers' interconnection agreement and address the application of the

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[31] The FCC does state at para. 650 that it is adopting bill-and-keep as the ultimate uniform national methodology "for all telecommunications traffic exchanged with a LEC", which may imply that the bill-and-keep framework adopted in the order applies only to traditional circuit-switched telecommunications services. However, this assumption is in doubt as the FCC also raises the question of whether an ILEC that ceased offering circuit-switched voice telephone services and instead offered only VoIP service would still remain a "local exchange carrier." (*FNPRM*, at para. 1387.)

[32] *Order*, at para. 650; *see also* para. 796.

[33] *Id.*, at para. 954.

FCC policies regarding call blocking in this context.[34] However, this raises the question of state authority to resolve any disputes that may arise under those interconnection agreements. While the FCC notes that classification questions remain regarding retail VoIP services, it also observes that the exchange of VoIP-PSTN traffic that is relevant to ICC regulations typically occurs between two telecommunications carriers, one or both of which are wholesale carrier partners of retail VoIP service providers.[35] Nevertheless, the fact that VoIP-PSTN traffic typically occurs between two telecommunications carriers does not help resolve the issue of state jurisdiction to address disputes over the exchange of such traffic. The CPUC, for example, in arbitrating ICAs between two telecommunications carriers has been met with challenges to its jurisdiction to resolve issues related to IP services. The need to classify VoIP becomes all the more compelling in light of the FCC's question of whether a LEC ceases to remain a "local exchange carrier" if it stops offering circuit-switched voice telephone service and instead offers only VoIP services. To date, the FCC has determined that PSTN-to-IP traffic is to be treated as interstate and thus is exempt from reciprocal compensation. The FCC has yet to speak to how IP-to-IP traffic should be treated. Therein lies the conundrum for states trying to address inter-carrier disputes under the 251/252 scheme the FCC contemplates. Without clarification, the states' authority and the nature of the traffic at issue will be in doubt.

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[34] *Id*., at para. 933.

[35] *Id*., at para. 954.

It may be that the FCC will identify another provision of the Act on which to base a requirement for good faith negotiation and regulate IP-to-IP interconnection, as it also considers using §§ 201, 208, 256, 332, and 706, as well as its ancillary authority, as the statutory basis for developing an IP-to-IP interconnection framework.[36] Again, however, if the FCC expects state commissions to have a role in arbitrating and adjudicating IP-to-IP interconnection disputes, it must clearly articulate the basis for state authority to do so.

2. Measures to Encourage Efficient IP-to-IP Interconnection

As to other implementation issues, the FCC asks whether the responsibility for the costs of IP-to-TDM conversion should be borne by the carrier electing TDM interconnection, whether direct or indirect.[37] The whole point of the FCC's *Order* is to move telecommunications traffic to all-IP networks. As the FCC states, "[n]etworks that provide only voice service… are no longer adequate for the country's communications needs."[38] As the FCC further notes, "[t]he existing system, based on minutes rather than megabytes, is also fundamentally in tension with and a deterrent to deployment of IP networks."[39] The requirement to interconnect should not be an excuse to engage in cross-technology subsidies; moving away from the current compensation scheme based on minutes toward a neutral IP-based compensation scheme will reduce opportunities for cross-subsidies, discourage the support of obsolete and expensive technologies, and

[36] *Id*., at paras. 1354-57, 1394-97.

[37] *Id*., at para. 1361.

[38] *Id*., at para. 2. At para. 15, the FCC speaks of a transition "to an all IP world."

[39] *Id*., at para. 9.

encourage the use of the most efficient network. Accordingly, the costs of the IP-to-TDM conversion should be borne by the carrier that elects TDM interconnection.

III. CONCLUSION

California supports the reforms of the current ICC regime, and looks forward to working with the FCC to transition to an all IP-enabled communications world. However, the CPUC urges the FCC to preserve the states' role in reforming the remaining intrastate rate elements to bill-and-keep. Moreover, if the FCC expects the states to play a continuing role in arbitrating and adjudicating any disputes that may arise in the context of IP interconnection, the FCC must clearly articulate the basis for state authority to do so. The CPUC also urges the FCC to extend its interconnection rules to all telecommunications carriers to ensure a more competitively neutral set of interconnection rights and obligations. Finally, as discussed above, the CPUC supports the proposal to require the carrier electing TDM interconnection to bear the costs of IP-to-TDM conversion, and further supports requiring incumbent LECs (and other carriers,

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if they charge a SLC or its equivalent) to include SLCs or ARCs in their advertised price for services subject to those charges.

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