

Additional Intercarrier Compensation Impacts of VoIP Provider Number Resource Waivers

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The Commission Has Never Addressed Intercarrier Compensation Where Non-Carriers Hold TNs

- The *Connect America Fund Order (CAF Order)* addressed intercarrier compensation for toll and non-toll VoIP-PSTN traffic (see, e.g., ¶ 943).
- The *CAF Order* did not address the situation where the phone number is assigned to the VoIP provider as opposed to its wholesale partner.
- Many intercarrier compensation payments are traced back to the carrier that was assigned the number in the Calling Party Number (“CPN”) field.
- While Level 3 would take the position that payments are due, there is no rule to address either access charges or reciprocal compensation where the number in the CPN field has been assigned to a non-carrier provider.

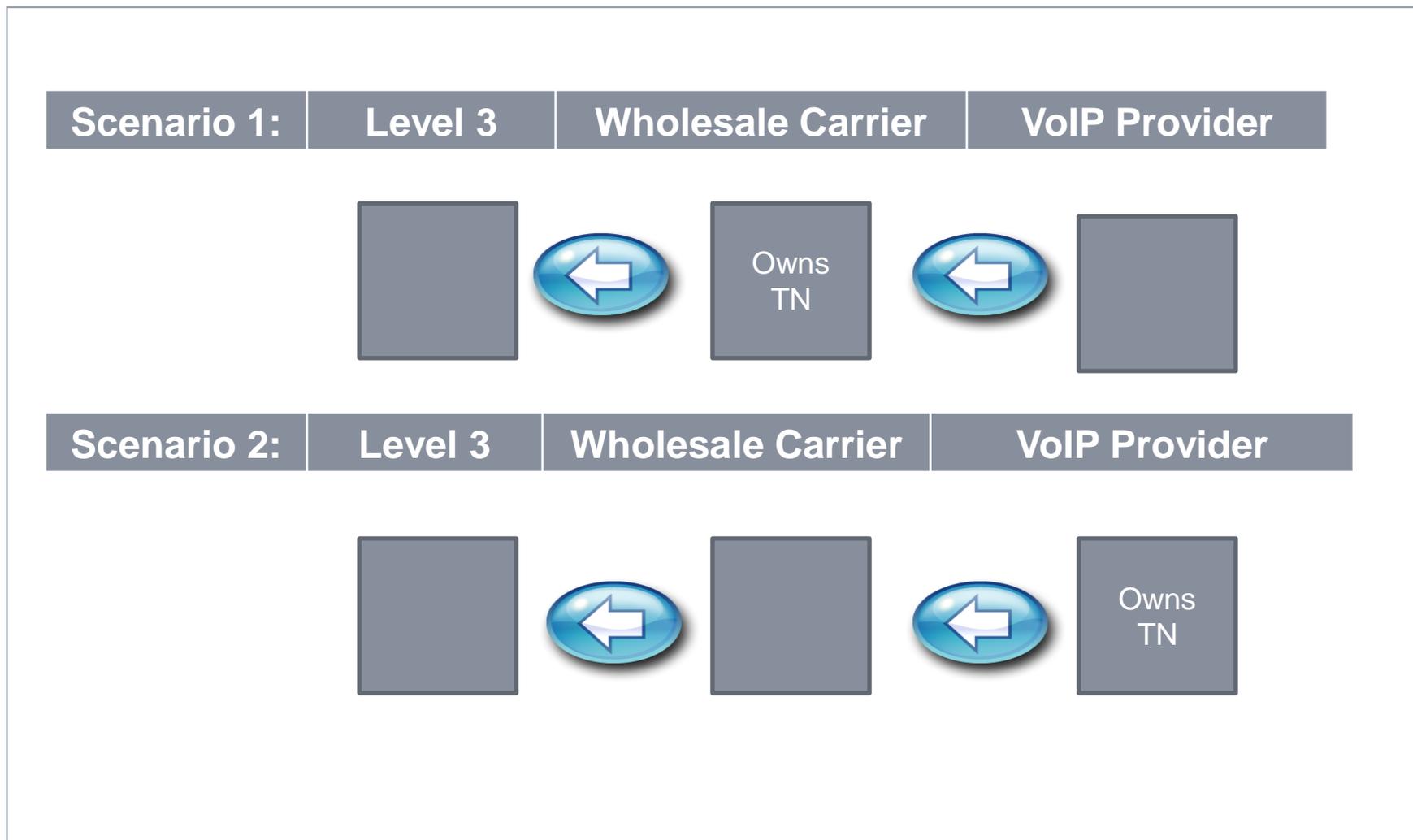
Access Charges

- IntraLATA and interLATA access regimes are subject to the same ambiguity.
- Significant volumes of traffic are no longer identified by long distance Carrier Identification Codes (“CICs”) (so-called “CIC-routed” traffic).
- Specifically with intraLATA toll traffic there is often no CIC on the call and the TN owner is responsible for payment to the terminating carrier.
- The *CAF Order* recognizes that many calls do not include complete call detail and that CPN is critical for carriers to identify and bill the appropriate party (*CAF Order*, ¶ 707-708).
- Many companies argue that the party ultimately responsible for unidentified traffic is the originating carrier as identified by its CPN.
- The *CAF Order’s* phantom traffic provisions rely heavily on CPN requirements:
 “The terminating carrier may not receive accurate identifying information for a variety of reasons. . . Commission rules require that carriers use SS7 to convey the calling party number (CPN) to subsequent carriers on interstate calls where it is technically feasible to do so.” (*CAF Order*, ¶ 707-708; see also ¶ 711).
- When calls are traced back to the CPN of a non-carrier VoIP provider, will the VoIP provider or its carrier partner take responsibility for payment?
- Granting direct numbering resources to non-carriers threatens to unwind the progress of the *CAF Order* before it has even been implemented.

Reciprocal Compensation

- Reciprocal compensation is billed by the terminating carrier to the originating carrier, typically at the incumbent LEC's "tandem interconnection rate" (47 C.F.R. § 51.711(a)(3)).
- The terminating carrier generally invoices the originating carrier associated with the TN identified in the CPN field in call detail records.
- Where an originating number is assigned to a wholesale carrier serving a VoIP provider, the *CAF Order* clearly requires payment of reciprocal compensation by the originating carrier.
- If an originating number were assigned to a VoIP provider, the VoIP provider's wholesale carrier would likely refuse to pay reciprocal compensation charges not associated with its own numbers (*i.e.*, numbers assigned to its VoIP customer).
- The interconnection obligations of Vonage and other VoIP providers obtaining waivers are unclear; obligations that traditionally give carriers the right to collect (and duty to pay) applicable reciprocal compensation and access charges, and provide a forum to arbitrate disputes related to payment of such charges.

How Does Moving the Number Impact the Payment Obligation?



The Payment Obligation in Scenario 2 Raises Novel Legal and Factual Issues

- Typically, the payment obligation follows the number.
- With AT&T (carrier) and AT&T-IS (VoIP provider), both entities are in the same corporate family.
- Here, there are two unaffiliated providers.
- Vonage has said that it favors bill and keep and that payments should be made by the carrier.
- Such carriers could argue they have no payment obligations because numbers are assigned to another provider.
- Waiver conditions cannot solve for this, as they could not be forced on third parties not receiving waivers.