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December 7th, 2012

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

Re: *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing a Unified Intercarrier Compensation Regime; WC Docket Nos. 10-90, 07-135, CC Docket Nos. 01-92*

Dear Ms. Dortch:

On December 5th, Christi Shewman, Penn Pfautz and I, on behalf of AT&T, met with Deena Shetler, Travis Litman, Victoria Goldberg, Randy Clarke, Alec MacDonell, Rhonda Lien and Robin Cohn of the Wireline Competition Bureau and James Carr of the Office of General Counsel. During the meeting we responded to ex partes¹ by Level 3 Communications, LLC. (Level 3) and Bandwidth.com, Inc. (Bandwidth) urging the Commission to reconsider its decision to exclude providers that do not provide terminating switching functionality from charging terminating access.

The attached presentation formed the basis of the discussion but in particular, AT&T noted that the Commission determined on three separate occasions that it was inappropriate to charge for functions performed by neither the CLEC nor its retail service provider partner:

- “...our rules do not permit a LEC to charge for functions performed neither by itself or its retail service provider partner.” October, 2011 – Report and Order and FNPRM – Connect America Fund et.al.
- “The Commission made clear in adopting the VoIP symmetry rule that it intended to prevent double billing and charging for functions not actually provided.” February, 2012– Order – Connect America Fund et.al.
- If this exchange of packets over the Internet is a “virtual loop,” then so too is the entire public switched telephone network – and the term “loop” has lost all meaning. April, 2011 – YMAX vs AT&T

¹ See ex parte letters from Level 3 and Bandwidth filed September 10, 2012 and October 4, 2012 filed in the above referenced dockets.

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If you have any questions or need additional information, please do not hesitate to contact me. Pursuant to section 1.1206 of the Commission's rules, this letter is being filed electronically with the Commission.

Sincerely,

/s/ Brian J. Benison

cc: Deena Shetler
Travis Litman
Victoria Goldberg
Randy Clarke
Alec MacDonell
Rhonda Lien
Robin Cohn
James Carr



at&t

Over the Top VOIP Traffic

December 3, 2012

The Internet is not a SLC Remote Terminal

- Level 3/Bandwidth citing Revised RAO 21 is arguing that the function performed by a customer's ISP in terminating a call to an OTT subscriber is akin to a remote concentrator rather than a remote switch, and, so local switching is done by the VoIP Provider and its CLEC partner
- RAO 21, however, states that
- “The distinguishing attribute between a remote switch and remote terminal of a concentrator is that a remote switch can provide a switched path for calls between its directly connected local subscribers and a remote terminal of a concentrator cannot. A remote terminal of a concentrator depends on the host switch to switch all calls and the voice path always extends to the host switch. (emphasis added)
- The customer's ISP functions as the last switching element – not a concentrator



Key functions not preformed by the OTT Provider

Layer	OTT	Cable VOIP	TELCO VOIP	PSTN
Session	√	√	√	√
Transport	√	√	√	√
Network	√	√	√	√
Data Link		√	√	√
Physical		√	√	√



PSTN To Broadband VoIP Customer End User - Illustrative

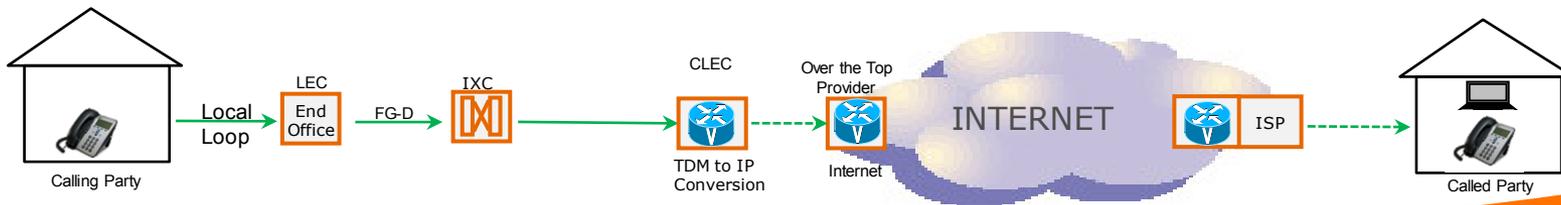
PSTN To PSTN Customer



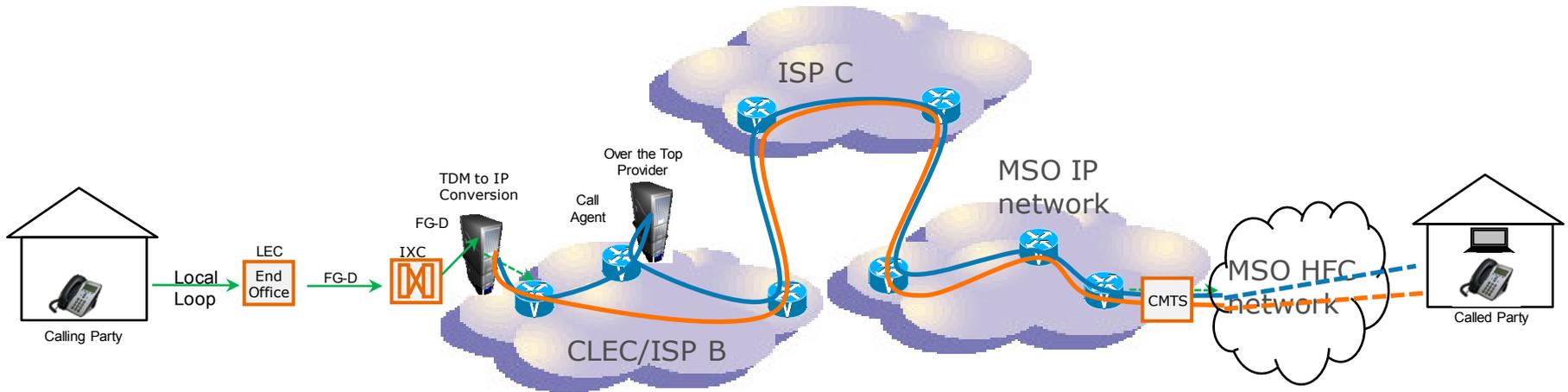
PSTN To Cable VoIP Customer



PSTN To Over-the-Top VoIP Customer



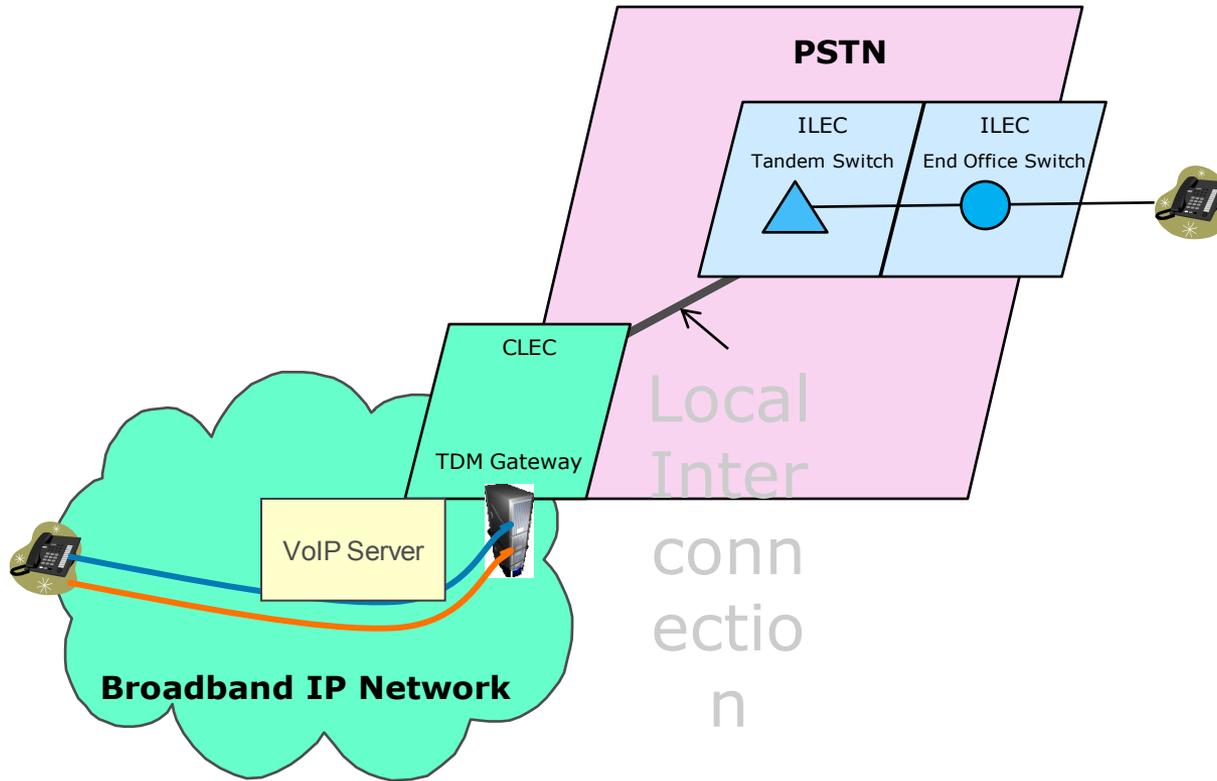
PSTN To Over-the-Top VoIP Customer End User served by Cable ISP - Illustrative



- **Connection to customer-specific physical link takes place in customer's MSO**
- **Another ISP may intervene between the ISP serving the OTT SP and the ISP serving the customer**



Managed VoIP and Broadband Subscriber to POTS Subscriber

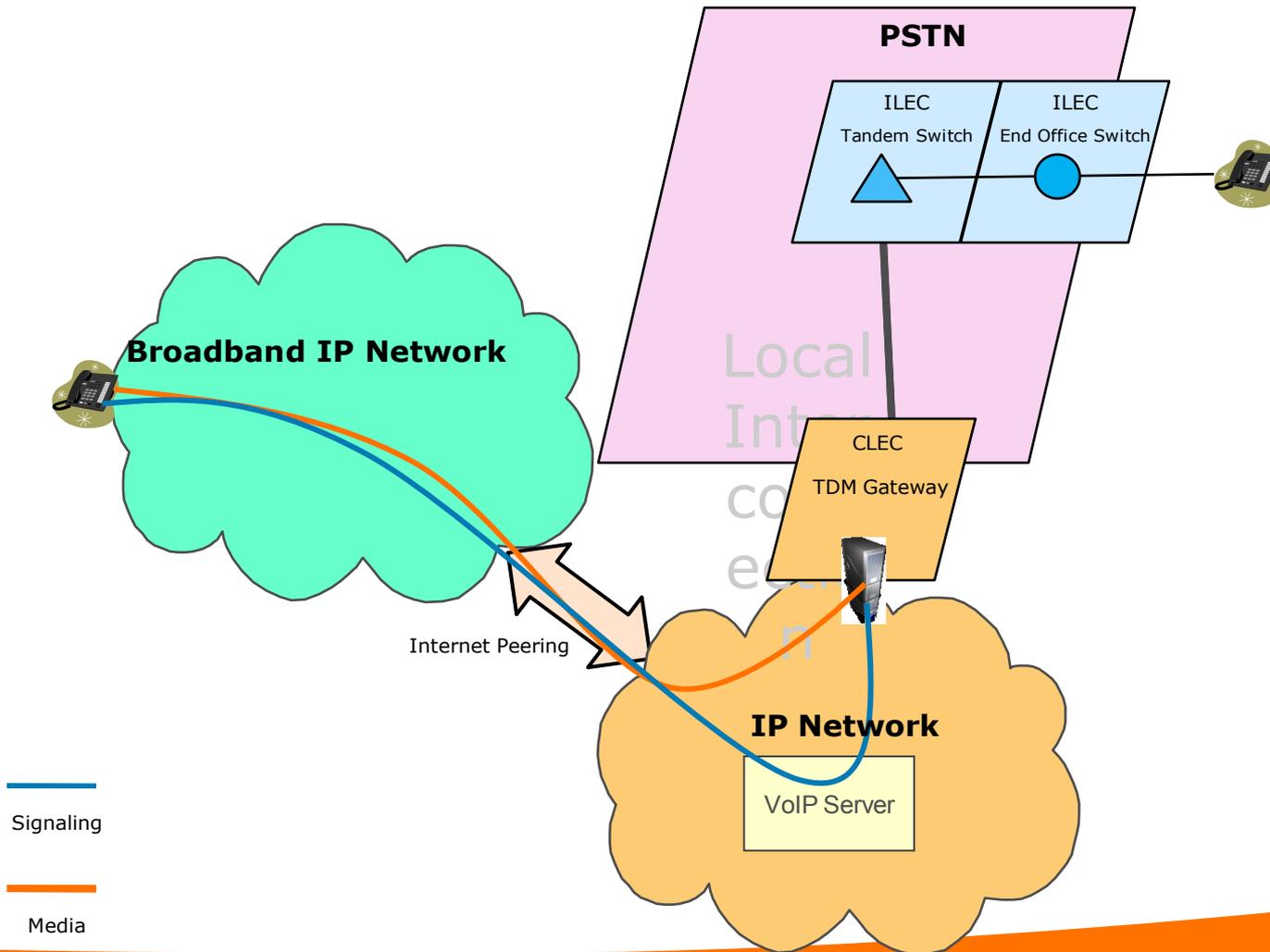


— Signaling

— Media



OTT VoIP Subscriber (w, w/o TN) With Broadband to POTS Subscriber



Call Between two OTT VoIP Subscribers

