

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of)	
)	
AT&T Petition to Launch a Proceeding)	GN Docket No. 12-353
Concerning the TDM-to-IP Transition)	
)	
Petition of the National Telecommunications)	
Cooperative Association for a Rulemaking to)	
Promote and Sustain the Ongoing TDM-to-IP)	
Evolution)	

REPLY COMMENTS OF COX COMMUNICATIONS, INC.

Cox Communications, Inc. (“Cox”), by its attorneys, hereby submits its reply comments in the above-referenced proceeding.¹

I. Introduction

The comments strongly support the positions taken by Cox: The Commission should approach the transition to an IP platform with caution; should consider changes to unnecessary retail regulation while protecting core interconnection obligations; should engage in trials only if critical conditions are met; and should not create new subsidies for providers shifting to IP interconnection.

Many commenters agreed with key elements of Cox’s position. In particular:

- A wide range of parties supports the conclusion that the transition to IP interconnection should be gradual, without a flash cut.²
- Many parties agree that incumbent local exchange carriers (“LECs”) retain market power, particularly in carrier-to-carrier relationships.³

¹ See Public Notice, Pleading Cycle Established on AT&T and NTCA Petitions, GN Docket No. 12-353, DA 12-1999 (rel. Dec. 14, 2012).

² See, e.g., Comments of CenturyLink at 9-10; Comments of XO Communications, LLC (“XO”) at 9-16; Comments of Sprint Nextel Corp. (“Sprint”) at 9-11.

³ See, e.g., Comments of U.S. Telepacific Corp. at 2; Comments of T-Mobile USA, Inc. at 9-10; Comments of XO at 6

- There is a broad consensus among non-incumbent LEC parties that the Commission should affirm the continuing applicability of Section 251 and 252 interconnection requirements.⁴
- There is a broad consensus that the trial, as proposed by AT&T, should not be adopted and that, if there is a trial, it should be designed much differently than the AT&T proposal.⁵
- Many parties oppose creating a new set of subsidies for rural incumbent LECs for the transition to IP interconnection.⁶

These reply comments focus on three issues that are particularly relevant to the Commission's actions in this proceeding. First, they explain why the Commission can address IP interconnection whether interconnected voice over IP service is classified as an information service or a telecommunications service, which means that the Commission need not decide that issue to ensure that IP interconnection is available to all providers of voice services. Second, they show that Commission action is not necessary for service providers to offer IP-based services to their customers. Third, they address the important differences between voice interconnection and IP peering that make peering an unsuitable model for IP interconnection for voice services.

II. The Commission Need Not Decide Whether Interconnected Voice Over IP Service is an Information Service or a Telecommunications Service.

Some parties argue that the Commission must decide to treat voice over IP service as a telecommunications service to move forward on IP interconnection or, conversely, that voice over IP service is not subject to any interconnection requirements because it is an information

⁴ See, e.g., Comments of COMPTTEL at 4-5; Comments of Competitive Carriers Association at 3-4; Comments of MetroPCS Communications, Inc. at 5-6.

⁵ See, e.g., Comments of CBeyond Communications, LLC, EarthLink, Inc., Integra Telecom, Inc., Level 3 Communications, LLC and tw telecom inc. at 19-30 (opposing a trial); Comments of Sprint at 6-8 (opposing a trial); Comments of Cablevision Systems Corporation at 5-6 (describing need for significant modifications to proposed trial); Comments of California Public Utilities Commission at 13-14 (describing concerns about a potential trial).

⁶ See, e.g., Comments of Sprint at 21-25.

service.⁷ Both arguments are incorrect, and the Commission need not decide whether voice over IP service is a telecommunications service to ensure that service providers will have access to interconnection.

Cox has addressed this issue in earlier filings at the Commission.⁸ Sections 251 and 252 are entirely technology-neutral and do not specify what transmission protocols they cover; so long as an incumbent LEC is using any transmission protocol or technology in its own network, interconnection is available.⁹ Further, the Commission's North Carolina Interconnection Order held that providers are entitled to interconnection at the wholesale, carrier-to-carrier level without regard for the specific service provided at the retail level to end users.¹⁰ Thus, there are multiple reasons for the Commission to conclude that interconnection is available for interconnected voice over IP services regardless of how they are classified. Of course, if voice over IP service is treated as a telecommunications service, it is obvious that Section 251 and 252 obligations apply.

⁷ See, e.g., Comments of National Association of Regulatory Utility Commissioners at 11-20 (claiming voice over IP service must be treated as a telecommunications service); Comments of AT&T at 11 (claiming that voice over IP service is an information service).

⁸ See Reply Comments of Cox, WC Docket No. 10-90 *et al.* (filed Mar. 30, 2012) (USF-ICC Transformation Further Notice proceeding) at 12, *citing* Comments of Cox, WC Docket No. 04-36 (filed May 28, 2004) (IP-Enabled Services proceeding) at 22-26.

⁹ 47 U.S.C. § 251 (c).

¹⁰ Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers, *Memorandum Opinion and Order*, 22 FCC Rcd 3513, 3517 (2007) (the "North Carolina Interconnection Order"). Even if retail voice over IP service is an information service, however, the Commission still has the authority to require that interconnection is provided to voice over IP providers. The Commission could act under Sections 201 and 202 of the Act to require incumbent LECs to provide interconnection, could invoke its ancillary jurisdiction authority under Section 4(i) of the Act or could determine that interconnection was required under Sections 251 and 252 as to the telecommunications component of the underlying voice over IP service. See 47 U.S.C. §§ 4(i), 201, 202. As the Commission noted in subjecting voice over IP services to universal service contribution obligations, the Commission has authority over the telecommunications used to provide information services. Universal Service Contribution Methodology, *Report and Order and Notice of Proposed Rulemaking*, 21 FCC Rcd 7518, 7538-40 (2006).

III. Service Providers Can Offer IP-Based Services to Their Customers Without Commission Action on Interconnection Issues.

USTelecom supports AT&T's position that the Commission should take action to permit AT&T to offer IP-based services, and ITTA supports removing state regulations that it claims prevent carriers from providing IP-based services.¹¹ But there is no evidence that any such action is necessary, as nothing prevents carriers from offering IP-based services at any time, least of all the nature of interconnection between service providers. However, while there is no need to force service providers to move to IP interconnection to ensure the deployment of IP-based services to customers, there is a need to be certain that service providers that offer IP-based services can continue to interconnect with incumbents and others.

First, and most obvious, the specific form of interconnection has no impact at all on the technology used to serve end users. This is apparent in many contexts, most notably in wireless services and in existing voice over IP services. Today, there are at least five different wireless protocols used in the United States to serve end users, and that does not prevent interconnection. As to wired services, many providers serve customers only through voice over IP or through a mix of TDM and voice over IP services. Cox, for instance, has served customers using both protocols since 2003. Equally important, in large part due to the fact that the Commission has validated competitors' interconnection rights, Cox has not experienced any barriers to offering service to end users using whatever technology it considers best for a market or an individual customer location, and it does not appear that AT&T (with U-verse), Verizon (with FiOS) or other incumbent LECs offering IP-based services have had any different experience.

In light of these facts, it is apparent that service providers do not need an early mandate from the Commission for IP interconnection to bring IP-based services to their customers. In

¹¹ Comments of United States Telecom Association ("USTelecom") at 3; Comments of Independent Telephone and Telecommunications Alliance ("ITTA") at 12.

fact, allowing service providers to transition their own networks to IP when the transition is advantageous to them will encourage appropriate development of IP interconnection as it becomes attractive to more and more providers.

However, that does not mean that there is no role for the Commission in ensuring interconnection for providers offering IP-based services. The gradual transition without mandates will work only if incumbent LECs continue to be subject to interconnection obligations for any form of interconnection they provide. As XO notes, the evolving network will continue to require interconnection, and incumbent LECs will remain as the essential interconnecting parties through the transition to an all-IP network and beyond.¹² While incumbent LECs will resist this obligation, as Sprint explains, they retain considerable market power because they still control access to most customers.¹³ This is a significant point: If there are no interconnection obligations, there is no guarantee that calls will be completed, which is the fundamental function of the network, whether it is denominated as the Public Switched Telephone Network (“PSTN”) or as something else.¹⁴ Further, Section 251(c)(2) explicitly requires incumbent LECs to provide the same interconnection to competitors that they provide to themselves and their affiliates.¹⁵ Thus, under current law, once an incumbent LEC begins providing IP interconnection to itself, it is obligated to provide it to others.

This is not an academic point, as disputes over the incumbents’ obligations already are emerging with respect to IP interconnection agreements. In Massachusetts, for instance, Verizon New England has declined to file an IP interconnection agreement for FiOS voice traffic at the Massachusetts Department of Telecommunications and Cable (MDTC). On January 31, 2013, a

¹² Comments of XO at 5-6.

¹³ Comments of Sprint at 12-13.

¹⁴ It is noteworthy that Section 251 and the rest of the relevant portions of the Communications Act do not mention the PSTN at all.

¹⁵ 47 U.S.C. § 251(c)(2)(C).

group of competitive LECs asked the MDTC to require Verizon to file the agreement for review under Section 252(a)(1) and 252(e)(2) to ensure it is not discriminatory and is consistent with the public interest. The competitive LECs want an opportunity to evaluate and adopt the agreement if appropriate and maintain filing “would also greatly reduce negotiation costs and facilitate the development of IP-to-IP interconnection agreements more generally.”¹⁶ Verizon filed a motion to dismiss, arguing broadly that such agreements are not subject to the interconnection provisions of the Act (“...Sections 251(b) and 251 (c) (and thus the filing requirements of Section 252) do not apply to the agreement that is the subject of the Petition.”). Absent Commission action to affirm that interconnection obligations apply to IP-based services, disputes of this sort are likely to continue to emerge, much as incumbent LECs sought to avoid Section 251 and 252 obligations by claiming other types of agreements were not interconnection agreements in the immediate aftermath of the 1996 Act.¹⁷

IV. Interconnection for the Provision of Voice Services Is Not Equivalent to IP Peering.

Some parties argue that IP interconnection for voice service can be provided under the peering model that prevails for broadband services.¹⁸ This argument misapprehends the nature of IP interconnection and the underlying service being provided. In fact, voice interconnection and broadband interconnection are, and should remain, distinct.

As Cox noted in its initial comments, interconnected voice services have specialized interconnection requirements.¹⁹ The best-efforts Internet model cannot guarantee the essential requirements of the managed voice over IP service Cox and other CLECs provide. Some of

¹⁶ See CLEC Petition to Require Filing and Review of FiOS Digital Voice Interconnection Agreement, Massachusetts Department of Telecommunications and Energy, Docket 13-2, January 31, 2013.

¹⁷ See Qwest Communications International Inc., *Memorandum Opinion and Order*, 17 FCC Rcd 19337, 19340-1 (2002) (denying Qwest request for declaratory ruling that “settlement agreements” containing terms and conditions for interconnection need not be filed with state commissions under Section 252).

¹⁸ See, e.g., Comments of CenturyLink at 8-9; Comments of Verizon and Verizon Wireless at 38 (proposing use of Internet model for interconnection).

¹⁹ Comments of Cox at 13.

these requirements result from managing those services to provide a specified quality of service; others result from regulatory mandates like CALEA, 911 and number portability. Taken together, they create a service that is quite different from standard broadband service and best-efforts voice services that are sometimes provided over it, both at the retail level and at the level of service provider traffic exchange. The consequence is that the “best efforts” model that works for broadband services is not suitable for interconnected voice services.²⁰

Further, voice networks typically are distinct from broadband networks, even when the traffic is carried over the same facilities. In Cox’s network, for instance, voice service is allocated bandwidth to ensure sufficient capacity (effectively giving voice traffic its own “lane” on the network); in most wireless networks, voice and data are carried over separate frequencies. This approach facilitates separate management of the voice and broadband services. Even in an all-IP environment, voice service will be treated differently than broadband within a provider’s own network so as to maintain quality of service and compliance with regulatory obligations.

As a consequence, it is inappropriate to conflate voice interconnection and broadband interconnection because the two types of interconnection are intended to meet different goals. Broadband, best efforts interconnection is not sufficient to meet the needs of voice service and, conversely, voice service interconnection provides functionalities that are entirely superfluous to broadband connections. So long as there are separate managed voice services, this distinction will remain.

In the context of interconnection regulation, that means that it is critical that Section 251 and 252 requirements remain in place for voice service. It also means that there is no reason to apply voice interconnection requirements under Sections 251 and 252 to broadband service. The proper approach is to maintain the separation between the two.

²⁰ *Id.*

V. Conclusion.

For all of these reasons, the Commission should act in this proceeding in accordance with these reply comments.

Respectfully submitted,

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