

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England Inc., d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 Requiring the Agreement to be filed with the Department for Approval in Accordance with 47 U.S.C. § 252

DTC 13-6

INITIAL BRIEF OF COMCAST PHONE OF MASSACHUSETTS, INC.

Comcast Phone of Massachusetts, Inc. (“Comcast”) respectfully submits that the Commonwealth of Massachusetts’ Department of Telecommunications and Cable (“Department”) should encourage the continued rapid and unfettered growth of a robust marketplace for Voice over Internet Protocol (“VoIP”) services by refraining from adopting any regulatory requirements applicable to IP voice interconnection at this time.

As explained below, regulatory intervention in the emerging area of IP voice interconnection is both unnecessary and ill-advised. Indeed, state-level intervention threatens the particular harm of inconsistent and possibly conflicting regulatory treatment across different jurisdictions — ultimately harming consumer interests.

I. Regulation of IP Voice Interconnection Is Premature.

Department regulation of IP voice agreements, including the agreements at issue in this proceeding, would be premature at this juncture. The marketplace for IP voice interconnection has been evolving successfully, and continues to deliver innovative services to consumers.¹ Operating in a marketplace free of regulatory prescriptions has enabled industry participants to

¹ See Comments of Comcast Corporation, WC Docket No. 10-90, at 25 (Feb. 24, 2012).

fashion mutually agreeable, rational, and efficient service arrangements, such as individualized interconnection agreements for the exchange of voice traffic in IP.²

The record in this proceeding has confirmed these marketplace successes. Verizon has already negotiated eight agreements to facilitate interconnection, and is in the process of finalizing a number of others.³ Moreover, these efforts by market participants to develop solutions to issues relating to IP voice interconnection have been expressly encouraged and facilitated by the Federal Communications Commission (“FCC”).⁴

Premature regulatory intervention may not only impede the efficient operation of the IP voice marketplace, but also affirmatively harm the ongoing growth of the IP voice industry. For example, IP voice networks require fewer interconnection points to exchange traffic efficiently.⁵ Consequently, new regulatory requirements patterned after legacy TDM-oriented rules likely would deprive consumers of the savings that more efficient IP voice networks can realize.

Moreover, regulatory initiatives directed toward the IP voice industry create a significant risk of subjecting voice network operators that manage IP interconnection facilities in many states, like Comcast, to different and potentially inconsistent requirements. Such a patchwork regime would serve as a major obstacle to achieving the FCC’s goal of promoting investment

² See Comments of Comcast Corporation, GN Docket No. 13-5, at 4-6 (Jul. 8, 2013) (“[f]or example, facilities-based VoIP providers have employed direct IP-to-IP interconnection with full bandwidth, direct interconnection with rate-limited bandwidth, virtual private network interconnection, and multi-protocol label switching interconnection. In other cases, the parties have found it preferable (and satisfactory) to rely on indirect interconnection via a transit provider.”)

³ See Evid. Hearing Transcript Vol. I at 21 (Apr. 30, 2014).

⁴ See, e.g., Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform -- Mobility Fund, 26 F.C.C.R. 17,663, ¶ 1341 (2011) (encouraging parties to negotiate IP interconnection agreements in good faith and expecting that “such good faith negotiations will result in interconnection arrangements between IP networks.”).

⁵ See Evid. Hearing Transcript Vol. II at 51-52; 124 (May 1, 2014).

in—and facilitating a transition to—IP-based networks, by creating regulatory uncertainty and increasing the costs facing IP voice service providers.⁶

In sum, the record in this proceeding confirms that the marketplace for IP voice interconnection is functioning, and producing freely negotiated interconnection agreements that are tailored to the individual needs of the parties involved. In light of the ongoing growth and changes in IP technology and services, it would be premature and likely affirmatively harmful for the Department or any other state commission to introduce new regulatory requirements.

II. Because the FCC Is Currently Examining a Variety of Issues Involving IP Voice Interconnection, the Department Should Defer Action In This Proceeding Until FCC Proceedings Have Concluded.

Given the complexity of the IP transition, the FCC has sought comment on whether IP voice interconnection should be subject to the requirements of Section 251.⁷ Likewise, the FCC has recently encouraged voluntary IP trials, to assess and better understand the natural evolution of interconnection efforts.⁸ Because the FCC is actively examining a wide variety of technical and other issues relating to IP voice interconnection arrangements, it would be premature for the DTC to impose obligations that may be inconsistent with—or possibly preempted by—decisions that the FCC may make in the foreseeable future.

⁶ See Comments of Comcast Corporation, GN Docket No. 13-5, at 1 (Jul. 8, 2013).

⁷ See Connect America Fund, 26 F.C.C.R. 17,663, at ¶ 1342 (2011).

⁸ See Technology Transitions; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Connect America Fund; Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Numbering Policies for Modern Communications, GN Docket No. 13-5, GN Docket No. 12-353, WC Docket No. 10-90, CG Docket No. 10-51, CG Docket No. 03-123, and WC Docket No. 13-97, Order, Report, and Order and Further Notice of Proposed Rulemaking, Proposal For Ongoing Data Initiative, FCC 14-5 (rel. Jan. 31, 2014).

For the above reasons, the DTC should continue to promote the dynamic growth and evolution of the marketplace for IP voice services by refraining from taking any action to adopt regulatory requirements applicable to IP voice interconnection at this time.

Respectfully submitted,
COMCAST PHONE OF
MASSACHUSETTS, INC.

By its attorneys,



Kevin C. Conroy (BBO #644894)
Thaddeus A. Heuer (BBO #666730)
FOLEY HOAG LLP
155 Seaport Blvd.
Boston, MA 02210-2600
617-832-1000
kconroy@foleyhoag.com
theuer@foleyhoag.com

Dated: May 30, 2014

CERTIFICATE OF SERVICE

I certify that on May 30, 2014, I served the foregoing document on the Service List in DTC Docket No. 13-6, in accordance with 220 C.M.R. 1.00 *et seq.*



Thaddeus A. Heuer