

August 30, 2016

Joe Cusik

Idaho Public Utility Commission

Via Email: 6774mailbox@gmail.com

Dear Mr. Cusik:

Level 3 Communications, Inc. ("Level 3") appreciates the opportunity to provide comments on our concerns related to the regulation of voice over internet protocol service ("VOIP") in the state of Idaho.

As I mentioned on the conference call, Level 3 does not oppose the relaxation of *retail* regulation for VOIP services. Our concerns center on maintaining regulatory jurisdiction over the wholesale market and carrier-to-carrier interconnection agreements, intercarrier compensation, tariffs, etc. While some states have passed legislation addressing regulatory frameworks for VOIP **retail** services, those regulatory frameworks continue to ensure that the role of state commissions to address their respective state and federal obligations over interconnection and wholesale issues, regardless of technology, remains intact.

Failure to limit VOIP deregulation to just the treatment of retail services threatens interconnection rights. Those rights are essential for connecting networks of various providers and ensuring fair-dealing amongst competitors that must work together to complete voice calls between their customers. Limiting any proposed deregulation of **retail** services provided by VOIP will:

- Ensure fair and equitable interconnection and traffic exchange regardless of service, capability, functionality, application or technology used by carriers in the network;
- Preserve state authority to consider issues/disputes among competitors and their impact on consumers and the marketplace; and
- Continue to foster and ensure a competitive marketplace for innovative providers and future providers of advanced communications services.

I am including language from two states, North Dakota and Florida, as examples of language that addresses VOIP regulation while explicitly maintaining important Commission authority over the wholesale market regardless of technology. There are additional examples if you would like me to forward them.

Again, thank you for the opportunity to comment. I am happy to provide more information if needed.

Sincerely,

Kristie Ince
VP State Public Policy
Kristie.ince@level3.com
972-455-7833

cc: Carolee Hall

Attachment

Attachment

North Dakota

Century Code Title 49

49-21-01.9. Voice over internet protocol service and internet protocol-enabled service.

1. Notwithstanding any other law, a state entity or political subdivision of the state may not by rule, order, or other means directly or indirectly regulate the entry, rates, terms, or conditions for internet protocol-enabled or voice over internet protocol service.

2. Voice over internet protocol service is subject to the following:

- a. Any required assessments under any state high-cost universal service fund.
- b. Any required assessment of 911 or E911 fees.
- c. Any required surcharge under section 54-44.8-08.
- d. Any required tax under chapter 57-34.

3. Nothing in this section affects or modifies:

- a. Any applicable wholesale tariff or any commission authority to implement or enforce any rights, duties, or obligations of any party related to wholesale services.**
- b. Any entity's obligations or rights or commission authority under sections 251 and 252 of the federal Communications Act of 1934 [47 U.S.C. 251 and 252].**
- c. Any commission jurisdiction over intrastate switched access rates, terms and conditions, including the implementation of federal law with respect to intercarrier compensation or existing commission authority to address or affect the resolution of disputes regarding intercarrier compensation.
- d. Any obligation for the provision of video or cable service by any entity under applicable law.
- e. Any commission jurisdiction or authority to address federal high-cost fund or federal universal service fund issues.
- f. Any obligation to offer essential telecommunications services.
- g. Authority to enforce criminal or civil laws, including consumer protection and unfair or deceptive trade practice laws under title 51, which apply generally to the conduct of business.

h. Authority of a political subdivision of the state to exercise its zoning power under chapters 40-47, 58-03, or 11-33.

i. Any obligation arising out of chapter 49-23.

- **Florida:** § 364.16 - Local interconnection, unbundling, and resale

(1) The Legislature finds that the competitive provision of local exchange service requires appropriate continued regulatory oversight of carrier-to-carrier relationships in order to provide for the development of fair and effective competition.

(2) It is the intent of the Legislature that in resolving disputes, the commission treat all providers of telecommunications services fairly by preventing anticompetitive behavior, including, but not limited to, predatory pricing.

(3) The commission shall, upon request, arbitrate and enforce interconnection agreements pursuant to 47 U.S.C. ss. 251 and 252 and the Federal Communications Commission's orders and regulations implementing those sections. The commission has the authority to resolve disputes among carriers concerning violations of this chapter and under the authority conferred by federal law to resolve such disputes, including, but not limited to, federal law addressing resale of services, local interconnection, unbundling, number portability, dialing parity, access to rights-of-way, access to poles and conduits, and reciprocal compensation. However, this section does not confer jurisdiction on the commission for services that are exempt from commission jurisdiction under s. 364.011 or s. 364.013. Additionally, a competitive local exchange telecommunications company is entitled to interconnection with a local exchange telecommunications company to transmit and route voice traffic between both the competitive local exchange telecommunications company and the local exchange telecommunications company regardless of the technology by which the voice traffic is originated by and terminated to an end user. The commission shall afford the competitive local exchange telecommunications company all substantive and procedural rights available to such companies regarding interconnection under the law.