

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Technology Transitions)	GN Docket No. 13-5
)	
AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition)	GN Docket No. 12-353
)	

**REPLY COMMENTS
of
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in response to comments filed regarding the Iowa Network Services (“INS”) proposal² to conduct a service-based “IP transition” experiment. The INS Proposal concerns the Time-Division Multiplexing (“TDM”)-to-Internet Protocol (“IP”) transition for Centralized Equal Access (“CEA”) services.

In comments filed March 21, 2014 in the above-captioned proceedings, AT&T argues that INS should be required to provide “additional detail and clarification” concerning its proposed service-based technology transitions trial before the Commission authorizes it to proceed.³ Despite protestations to the contrary, AT&T’s request for “clarification” and comments regarding the INS proposal indicate that it is actually seeking to use the IP “trial”

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers and broadband providers, and many provide wireless, video, satellite, and/or long distance services as well.

² Application of Iowa Network Service, Inc. for Authority to Conduct a Service-Based Experiment Concerning the TDM-to-IP Transition for Centralized Equal Access Service, GN Docket No. 13-5 (fil. Feb. 20, 2014) (“INS Proposal”).

³ Comments of AT&T Services, Inc. (“AT&T”), GN Docket No. 13-5, 12-353 (fil. Mar. 21, 2014), at 1.

process to confirm that various legal and policy issues surrounding IP interconnection arrangements have been resolved – in AT&T’s favor.

In these reply comments, NTCA respectfully suggests the Commission disregard AT&T’s comments regarding “prudential” issues supposedly associated with the INS Proposal. By approving the INS Proposal as submitted, the Commission would permit INS to offer IP interconnection to customers on a voluntary basis, under the same terms and conditions as TDM interconnection currently offered to consumers. In other words – INS’ proposal merely assumes the *status quo* – even as the company offers interconnection via a different technological interface to the benefit of those interested in such interconnection. While AT&T would obviously prefer that different regimes apply to IP interconnection, a voluntary experiment such as that proposed by INS should not be *precluded* in this trial process, nor should AT&T be permitted to use the trial process to “confirm” that the Commission has already adopted its preferred resolution of the many legal and policy issues still surrounding IP interconnection and compensation arrangements.⁴

I. BACKGROUND

As NTCA explained in its initial comments in this proceeding, the INS Proposal seeks to achieve one of the Commission’s primary goals in setting up service-based IP experiments – *i.e.*, to “speed technological advances in rural America while preserving the positive attributes of

⁴ Sprint filed comments supporting the INS Proposal, but argues the Commission should change the *status quo* relating to existing CEA arrangements. For the reasons expressed herein, the Commission should decline to do so in the context of this proceeding. Comments of Sprint Corporation (“Sprint”), GN Docket No. 13-5, 12-353 (fil. Mar. 21, 2014).

network services that consumers have come to expect.”⁵ The CEA services provided by INS have previously enabled the availability of competitive and advanced communications services for consumers that might not otherwise have affordable access, or access at all, to such services. Advances secured by the INS network (as well as the networks of other rural rate-of-return-regulated incumbent local exchange carriers (“RLECs”)) have all occurred within the existing regulatory framework. While this framework may be in need of review and modernization, “the INS Proposal underscores how the Commission can promote and sustain the IP evolution going forward by preserving the best parts of the framework that has brought such benefits to consumers.”⁶

AT&T’s comments nominally request the Commission obtain “clarification” from INS regarding the timing of and schedule for the proposed trial, including information about dates for the various trial phases and when any data gathered during the course of the trial will be available for analysis.⁷ AT&T also has questions regarding the voluntary nature of the trial, specifically whether decisions made by interexchange carriers to participate in the trial will be binding on LECs that interconnect with INS’ CEA tandem, and *vice versa*.⁸

The bulk of AT&T’s comments, however, are devoted to expressing its “prudential concerns” regarding the application of existing interconnection and intercarrier compensation rules and policies within INS’ proposed trial.⁹ For example, AT&T questions how a proposed

⁵ NTCA at 2, citing INS at 1.

⁶ NTCA at 2.

⁷ AT&T at 7-8.

⁸ *Id.*, n. 17 and accompanying text.

⁹ *See id.* at 2-7.

trial of IP-based CEA will inform the IP transition given what AT&T sees as the “questionable” relevance CEA arrangements will have in the post-TDM world.¹⁰ AT&T suggests it is unclear whether any equal access obligations set forth in the 1996 Act will apply in an all-IP environment, given that there may not be any entities providing service as “local exchange carriers” as IP networks advance.¹¹ AT&T further asserts that such provisions would be inapplicable to Voice over Internet Protocol (“VoIP”) service because, in AT&T’s view, services offered using VoIP technology are “not properly classified as ‘telephone exchange service’ or ‘telephone toll service.’”¹² AT&T further questions the relevance of CEA services in an all-IP environment because, according to AT&T, it is “highly unlikely” that customers will have the option of selecting a separate interexchange carrier to carry long distance calls.¹³

AT&T’s main concern, however, appears to relate to the application of existing intercarrier compensation arrangements to IP traffic. In this regard, AT&T suggests that VoIP traffic will likely not respect local access and transport area (“LATA”) or even state boundaries, but will likely involve the exchange of traffic over broader regional, national, or global areas “at perhaps only a handful of geographic locations across the country (or the globe).”¹⁴ Again, in AT&T’s view, these arrangements “will be best established between parties through commercial negotiations.”¹⁵

¹⁰ *Id.* at 2.

¹¹ *Id.* at 3.

¹² *Id.*

¹³ *Id.* at 4.

¹⁴ *Id.* at 6.

¹⁵ *Id.*

While AT&T cautions against approving the INS Proposal insofar as it “assumes away” resolution of these issues, it does request that at a minimum the Commission should make clear that authorization of the trial does not prejudice the outcome of these important legal and policy issues.¹⁶

II. DISCUSSION

AT&T’s “prudential concerns” regarding INS’ proposal are unwarranted. In assuming existing rules and regulatory structures continue to apply to its proposed voluntary IP-based CEA trial, INS has taken a reasonable and conservative approach. As NTCA explained in comments, the proposed trial is specifically intended to explore the usefulness of CEA-type arrangements in an IP-enabled network environment, but does not aim to decide, during the trial, whether such obligations should continue indefinitely. Similarly, the INS proposal correctly assumes existing network compensation arrangements continue to apply unless and until the Commission decides otherwise.¹⁷

In contrast, AT&T’s supposed “predicate” concerns are based on numerous assumptions regarding the nature and legal classification of IP services that are debatable at best. As the Rural Associations have pointed out, the Commission has repeatedly determined that VoIP services are viewed by consumers as indistinguishable replacements for traditional telephone services and should therefore bear obligations similar to those imposed on TDM-based voice

¹⁶ *Id.* at 7.

¹⁷ As NTCA pointed out in comments, the National Exchange Carrier Association’s current tariff already includes provisions for IP-based interconnection under existing rules. NTCA at 5.

services.¹⁸ It may be true that VoIP interconnection will “almost certainly” involve different types of interconnection arrangements than currently exist for TDM traffic, but there is no basis for the Commission to deny or delay approval of the INS Proposal simply because it assumes today’s arrangements remain in place pending a trial.

Similarly, it is AT&T that appears to be making a “fundamental policy assumption concerning the nature of compensation for traffic exchange in an all-IP environment” when it argues that no regulatory oversight will apply to such arrangements in the future. Here again, INS appears to have made the reasonable decision to assume existing rules apply and its proposal should not be delayed or revised based on AT&T’s preferences concerning future intercarrier compensation arrangements.

It is clear not all regulatory authorities agree with AT&T’s preferences. The Michigan Public Service Commission determined in a December 6, 2013 Order that under Section 251(c)(2) AT&T Michigan must provide Sprint with IP-to-IP interconnection, and in March 2014 ordered AT&T to file an IP interconnection arrangement it concluded with Sprint so that the PSC could approve or reject it.¹⁹ It cited long-standing FCC precedent that the Section 252(e)(1) filing requirement applies whether or not the parties label the proposed agreement an

¹⁸ See e.g., Reply Comments of NECA, NTCA, WTA & ERTA, GN Docket No. 12-353, at 20-21 (filed Feb. 25, 2013); Comments of NECA and OPASTCO, GN Docket 12-353, at 10 (filed Jan. 28, 2013); Comments of NECA, NTCA, OPASTCO, ERTA, and WTA, WC Docket No.12-105, at 7 (filed June 14, 2012).

¹⁹ See, Petition of Sprint Spectrum L.P. for arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 to establish interconnection agreements with Michigan Bell Telephone Company, d/b/a AT&T Michigan, Case No. U-17349, Order (Mich. PSC Dec. 6, 2013). See also, Case No. U-17349, Joint submission of Sprint Spectrum L.P. and Michigan Bell Telephone Company, d/b/a AT&T Michigan for approval of an interconnection agreement, Case No. U-17569, Order (Mich. PSC Mar. 18, 2014) (“March 2014 PSC Order”).

interconnection agreement, a contingent resolution, other designation.²⁰ The PSC noted in this regard that if third-party carriers are forced to endure discrimination, delay, and unnecessary expense in negotiating a new IP-to-IP ICA with AT&T Michigan, it would clearly frustrate the FCC’s “express goal of facilitating industry progression to all-IP networks”²¹

As the INS proposed for an IP trial is intended to facilitate industry evaluation of and progress toward all-IP networks, the FCC should not allow AT&T’s or any other parties’ “predicate” concerns or policy assumptions to stand in the way of an IP trial, simply on the basis that it does not propose at its outset to challenge existing FCC rules and policies.

III. CONCLUSION

AT&T’s request for “clarification” and comments regarding the INS proposal indicate that, despite its “predicate concerns” as to the proposed INS trial, that AT&T is itself actually seeking to use the IP “trial” process to confirm that various legal and policy issues surrounding IP interconnection arrangements have been resolved – in AT&T’s favor. While AT&T would obviously prefer that different regimes apply to IP interconnection, a voluntary experiment such as that proposed by INS should not be *precluded* in this trial process, nor should AT&T be permitted to use the trial process to “confirm” that the Commission has already adopted its preferred resolution of the many legal and policy issues still surrounding IP interconnection and

²⁰ The Michigan PSC also cited the FCC’s *Qwest Communications Order*, which found that the parties must file the proposed IP-to-IP ICA, because “*any agreement contain[ing] an ongoing obligation relating to section 251(b) or (c) must be filed [with the State commission].* March 2014 PSC Order at 4 citing *Qwest Communications International Inc. Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*, Memorandum Opinion and Order, 17 FCC Rcd. 19337 (2002) n. 26.

²¹ *Id.* at 6, citing *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) ¶ 1335.

compensation arrangements. The Commission should disregard AT&T's comments regarding "prudential" issues supposedly associated with the INS Proposal and allow the trial to proceed.

Respectfully Submitted,



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