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Search Engines and Web Shortcuts

Legislation

Federal¹

- If you want to look up a bill, Committee Report or Public Law as well as obtaining the status of such legislation dating back almost 20 years, go to <http://thomas.loc.gov/> and insert the bill number or do a word search to learn the bill number.
- You can also call 202 225 1772, the legislative search office of the Congress and they will provide you insights into where a bill stands.
- TeleCommUnity's Web site (<http://www.telecommunityalliance.org/>) is a great place to start if you are looking for a briefing paper or local government's testimony on a given subject.

State

- If you want to look up a bill being considered by a state legislature, go to <http://www.ncsl.org> . Go to the pull down menus for state web pages for each of the 51 state (50 + DC) legislatures.

Regulation

FCC

- You can download every docketed filing that has been made at the FCC by going to http://gullfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi and inserting the docket number in the "Proceeding" block.
- NATOA's web page (www.naruc.org) and Miller& Van Eaton's web page are very good starting points for information and think pieces on various federal legislative and regulatory activities.

State

- Much like NCSL's webpage, NARUC (www.naruc.org) provides a link to each of the 51 public utility (service) commissions.

¹ Non exhaustive list of legislation of interest to local government.

- Internet Tax Freedom Act: **S. 2082** (Alexander); **S. 150** (Allen-Wyden); **H.R. 49**.
- VoIP: **S. 2281** (Sununu); **H.R. 4129** (Pickering); **H.R. 4757** (Stearns-Boucher)
- Public Safety Spectrum -- **HR 1425** (HERO Act)
- First Responder Funding: **S. 1250**(Burns-Clinton); **H.R. 2898**.
- Highway Bill and ITS preemption: **H.R. 3550**; **S.1072**.

Local Governments' 2004 Telecommunications Statements, Testimony & FCC Filings in 2004

BROADBAND

- **"The Regulatory Status of Broadband Services: Information Services, Common Carriage, or Something In-Between."** Joint testimony of TeleCommUnity, NATOA, National League of Cities, US Conference of Mayors and National Association of Counties. (July 21, 2003) Download at <http://www.telecommunityalliance.org/images/broadbandtestimony2003.pdf>

CABLE RATES

- **The Case for Competition and Effective Rate Regulation.** Testimony of the Honorable Marilyn Praisner on behalf of NACO and TeleCommUnity. (March 25, 2004) Download at <http://www.telecommunityalliance.org/testimony/cableratetestimony.1.0304.html>
- **"Cable Competition – Increasing Price; Increasing Value?"** Testimony of NATOA President Coralie Wilson. (February 11, 2004) Download at <http://www.natoa.org/>
- **Media Ownership in Video Markets: The Case for Competition and Effective Rate Regulation.** Testimony of the Honorable Marilyn Praisner on behalf of NATOA, TeleCommUnity, NACO, USCM and NLC. (May 6, 2003.) Download at <http://www.telecommunityalliance.org/testimony/cableratetestimony2003.html>

INTEROPERABILITY

- **"First Responder Interoperability: Can You Hear Me Now?"** Testimony of the Honorable Marilyn Praisner before the House Government Affairs Committee on behalf of TeleCommUnity and NACO (November 6, 2003). Download at <http://www.telecommunityalliance.org/testimony/interferencetestimony03.html>

VOIP/IP

- **Local Government's Comments and Reply in the FCC's IP Enabled Services Docket 04-36.** (May and July of 2004) Download at <http://www.natoa.org/>
- **Local Governments' Concerns with the Characterization of "VoIP" Services --** Joint Statement of TeleCommUnity, NATOA and NACO to the Senate Commerce Committee. (February 24, 2004) Download at <http://www.telecommunityalliance.org/testimony/voipconcerns0204.html>
- **S. 2281 GOES TOO FAR: VoIP Bill Goes Beyond What Departments of Defense, Justice and Homeland Security as well as Consumer Groups or Even Industry Seek.** (June 16, 2004) Download at <http://www.telecommunityalliance.org/issues/s2281analysis.html>

S. 150 -- INTERNET TAX FREEDOM ACT

- ACTION ALERT on S 150, the Internet Tax Ban Extension and Improvement Act. (First published in September 03 and updated through June '04). Download at <http://www.telecommunityalliance.org/issues/internettaxation.html>
 - **TeleCommUnity Alliance Applauds Growing Opposition to Provisions of Internet Tax Moratorium (November 5, 2004)**
 - **Press Release: TeleCommUnity Objects to S.150 and Praises Sen. Alexander's Statement. (October 24, 2003)**
 - **TeleCommUnity Issues an Action Alert on HR 49/S 150, the "Internet Tax Non-Discrimination Act" (September 25, 2003)**
 - **Opposition Letters to Senate Commerce Committee Regarding S 150 the "Internet Tax Non-Discrimination Act" (August 28, 2003)**

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

_____)	
In the Matter of)	
)	
IP-Enabled Services)	WC Docket No. 04-36
)	
_____)	

COMMENTS OF
NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND
ADVISORS;
NATIONAL LEAGUE OF CITIES; NATIONAL ASSOCIATION OF COUNTIES;
U.S. CONFERENCE OF MAYORS; NATIONAL ASSOCIATION OF TOWNS
AND TOWNSHIPS;
TEXAS COALITION OF CITIES FOR UTILITY ISSUES;
WASHINGTON ASSOCIATION OF TELECOMMUNICATIONS OFFICERS
AND ADVISORS;
GREATER METRO TELECOMMUNICATIONS CONSORTIUM;
MT. HOOD CABLE REGULATORY COMMISSION;
METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS;
RAINIER COMMUNICATIONS COMMISSION;
CITY OF PHILADELPHIA;
CITY OF TACOMA, WASHINGTON;
AND
MONTGOMERY COUNTY, MARYLAND

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May 28, 2004

SUMMARY

The NPRM suggests that in an effort to establish a structure for regulating IP-enabled services, the Commission may be contemplating a comprehensive review of the regulatory structure established by the Communications Act. The Local Government Coalition believes that any action the Commission can take at present must be consistent with the terms of Titles II, III, and VI of the Act. Consequently, if the Commission is to take any action outside that framework, it must first obtain specific authority from Congress.

The history of communications regulation in the United States is a success story. In a dynamically changing world of technology delivering information and efficiency, the Communications Act has played a central role in restraining monopoly power, extending universal service, requiring socially responsible actions by major telecommunications vendors, and supporting the fundamental democratic and economic underpinnings of our democracy. The Commission must respect and use this history to inform its actions as it considers the disruptive and revolutionary possibilities presented by the deployment of IP-enabled services.

Local governments are large scale users of telecommunications and information services, and keenly aware of the importance of this rulemaking to their constituents, themselves, and society in general. But we are also aware that there are many issues and interests at stake over and above the regulatory classification of IP-enabled services. Local governments are concerned with the preservation of a fair and effective universal service program, as well as with meeting their obligations for managing the public's investment in rights-of-way, cable customer service, zoning, land use, and public safety matters. All of these interests could be affected by ill-considered action in this proceeding.

Despite the pressure on the Commission to take sweeping steps, the agency must resist because it has no authority to develop a rational and comprehensive regulatory scheme. The Commission may have authority to act in a partial manner, but even that authority is limited. Under *GTE Service Corp. v. FCC*, 474 F.2d 724 (2d Cir. 1973), the Commission may have the authority to adopt rules governing the provision of information services by telecommunications providers, cable operators, and other entities regulated by the Communications Act. But it does not have the authority to regulate the provision of information services by entities not involved in regulated activities. On the other hand, under *FCC v. Midwest Video Corp.*, 440 U.S. 689 (1979), the Commission may be able to adopt rules governing otherwise unregulated entities – but only to the extent the Commission seeks to advance the policies of Title II, Title III or Title VI of the Act. The Commission has no power to adopt a comprehensive scheme for regulating information services independent of Title II, Title III, or Title VI. The decision of the Ninth Circuit in *Brand X Internet Services v. FCC*, 345 F.3d 1120 (9th Cir. 2003), illustrates the complexity of this area and how difficult it will be for the Commission to move ahead with any degree of certainty.

The Coalition also urges the Commission to bear in mind that important social policies beyond advancing competition for the delivery of IP-enabled services are at stake. The Commission must not take any action that threatens the effectiveness of universal service, CALEA, 911 service, access to persons with disabilities, or consumer protection. Promoting IP-enabled services without due regard to those policies could have undesirable consequences. Instead, the Commission should act to extend those policies to IP-enabled services, in a technology-neutral manner. For example, public safety and homeland security demand that all providers of IP telephony services and data services capable of 9-1-1 emergency

communications be required to develop and implement the technology necessary to deliver automatic number and location information to 9-1-1 centers for emergency callers on their systems.

Before it acts, the Commission should also consider a number of other policy considerations that are not addressed in the NPRM. They include:

- The federal government should respect and preserve the police powers of state and local governments, including right-of-way management, zoning, and cable customer service.
- Facilities owners that do not face meaningful competition should be regulated accordingly.
- Commission action should not have the effect of undermining local taxing authority.
- PEG access promotes open government, free speech, and public participation in community affairs.
- Users of the public rights-of-way should pay fair prices for the use of public property.

Finally, asserting jurisdiction and then forbearing from regulation is not the answer. The Commission's forbearance power is limited to telecommunications carriers and telecommunications services, so it is not a universal principle. Furthermore, an effort to forbear that undercuts any of the other public policies of concern to local governments would not be in the public interest.

In closing, the Commission is constrained by the express provisions of Titles II, III, and VI, and must act accordingly.

Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

_____)	
In the Matter of)	
)	
IP-Enabled Services)	WC Docket No. 04-36
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_____)	

REPLY COMMENTS OF

**NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND
ADVISORS;
NATIONAL LEAGUE OF CITIES; NATIONAL ASSOCIATION OF COUNTIES;
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RAINIER COMMUNICATIONS COMMISSION;
CITY OF PHILADELPHIA;
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MONTGOMERY COUNTY, MARYLAND**

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July 14, 2004

SUMMARY

The NPRM opens the door to the assertion of Commission authority over the entire field of information services, but does not offer the public the benefit of the Commission's thoughts on exactly how far that authority might extend or how the Commission intends to exercise it. Consequently, commenters have taken the opportunity to promote their own self-interested visions of the future, with little regard for the overall reasonableness or effectiveness of those visions. Commenters also have presented a wide range of views regarding the scope and origin of the Commission's authority over information services, which confirms the Local Government Coalition's skepticism regarding the Commission's ability to offer any certainty in this area.

The Coalition remains convinced that the Commission cannot act outside the scope of the Act as it stands, and in particular that Titles II and VI of the Act preclude any effort to adopt a radical new scheme based solely on Title I. Nevertheless, in response to the multiple regulatory rubrics proposed by other parties in the opening round of comments, the Coalition has developed a set of nine principles that should guide any federal action with respect to the regulation of IP-enabled services. The Commission may not have the power to implement these principles, but any attempt to establish a fair, rational, and efficient regulatory structure must include them.

The nine principles are:

- 1. The federal government should act to promote technological progress while protecting the rights and interests of all affected parties.* In essence, the Commission should not favor any particular technology or industry sector, nor should it favor the private sector over the interests of the public, as represented by local governments and other government bodies.

2. ***Federal law should regulate the “facilities” layer.*** The Commission must be sensitive to the advantages inherent in facility ownership and the ability to cross-subsidize. Consequently, facilities owners that do not face meaningful competition must be regulated. Two or three facilities owners are insufficient to provide meaningful competition.
3. ***Service providers should pay fair prices for access to networks.*** Any person who uses the property of another should pay for the right: facilities owners are entitled to compensation from providers who use their networks to provide services.
4. ***Facilities owners should pay fair prices for their use of public property, regardless of their choice of technology.*** Government entities act as trustees for the public, and thus have an obligation to obtain fair compensation for the use of public property, whether it consists of the public rights-of-way or the public airwaves. All facilities owners should pay for the use of public property on a model similar to the cable franchise fee model.
5. ***Federal law should forbear from economic regulation of service providers in competitive markets.*** If there is meaningful competition for a service, economic regulation is not necessary. The Coalition believes such competition will develop for most and possibly all services. Nevertheless, the possibility of regulation must not be foreclosed, so that the appropriate level of government can deal with any exceptions.
6. ***All service providers should be required to contribute towards support of universal service.*** All service providers, regardless of whether they provide information services or telecommunications services, benefit from the existence, maintenance, and extension of the network. Thus, all should pay to ensure that

every American has access to the network. Otherwise, providers will migrate to new technologies that are not required to participate, and eventually undermine the goal of access for all citizens.

7. ***All providers of voice services should be required to offer E-911 functionality and disability access.*** Like universal service, these are fundamental requirements, and should be considered nonnegotiable.
8. ***The federal government should respect and preserve the police powers of state and local governments.*** Federal law must distinguish between economic regulation of service providers in competitive markets and the exercise of local police powers. Local governments play an essential role in a broad range of areas, including right-of-way management, zoning, and cable customer service matters. Neither the market nor the federal government is able to address these matters effectively.
9. ***All facilities-based providers should be required to make capacity available for public use.*** The Communications Act already contains a number of provisions designed to advance the public interest by requiring providers to make capacity available for public purposes. This policy should be preserved and extended by requiring all facilities-based providers to make a percentage of their network capacity available.

Any action by the federal government in response to the issues raised in this proceeding must be fair to all interested parties, respect underlying economic principles, and recognize the importance of providing access to the network in order to advance key social policies. Applying the Coalition's nine principles would allow the Commission to develop a viable long-term policy for letting IP-enabled services grow without needless government regulation. The nine

principles create a common framework for overseeing both IP-enabled services and existing services in a fashion that protects both public and private interests.

The Coalition thus urges the Commission to consider one more time whether it has the necessary authority and the public has received adequate notice of the Commission's intentions. If so, the Commission should only act in a manner consistent with the Coalition's nine principles.

MEMORANDUM

TO: NATOA
FROM: Gerard Lavery Lederer
Miller & Van Eaton
DATE: July 27, 2004
RE: Summary of IP-Enabled Services Comments

1. INTRODUCTION.

At the close of the comment cycle, there were 335 entries on the FCC's docket sheet for the IP-Enabled Services docket (*In the Matter of IP-Enabled Services*, CC Docket No. 04-36). While some of those entries are duplicates and others are filings by the Commission, we estimate that there were at least 175 parties that filed in the docket and few if any have addressed the issues raised in the NPRM in less than 25 pages for Comments or 20 pages for Reply Comments. Miller & Van Eaton has reviewed the comments of key parties, such as the RBOCs and the cable MSOs, and a selection of the comments of other parties. Brief summaries of those comments follow.

2. LOCAL GOVERNMENTS' INTERESTS IGNORED

There is almost no discussion of right-of-way issues, nor of local government authority in any area.² Nor was there any discussion of PEG access or cable customer service in the comments reviewed. There is broad recognition that the social policy issues – 911, disability access and universal service – must be addressed. Most parties do not address CALEA, apparently under the theory that it is being addressed separately. A few parties address consumer protection issues, generally stating that the FCC cannot address them effectively, and the states should be allowed to do so.

3. GENERALIZATIONS OF COMMENTS

In general, it is fair to say that each class of commenters (ILECs, CLECs, MSO's, etc.) appears to view this docket as a forum in which to articulate their view of what a new regulatory -- or deregulatory -- environment should look like. Not surprisingly, each party proposes an approach that benefits itself or its particular market segment.

The RBOCs generally take the position that IP-enabled services are interstate information services, and the Commission should preempt state regulation. For the most part (Qwest being an exception), they acknowledge the need for some regulation of VoIP, in order to address universal service, disability access and 911 service. The legal theory for this approach relies on extending Title II obligations under the authority of Title I. Non-voice IP services should be

² The exception to this statement was the number of cable commenters who went to great lengths to make the logically inconsistent argument that they have invested billions of dollars in new right-of-way infrastructure to make IP services available, but that the offering of IP services have placed no greater burden on the right-of-way.

essentially unregulated, and facilities based providers should not be subject to any additional regulation with respect to those services. The ILECs understandably reject the “layering” model.

AT&T, MCI, Sprint, and a number of other commenters promote the “layering” model for regulating facilities-based providers. Sprint argues that VoIP is a telecommunications service, not an information service, and should be regulated under Title II. MCI argues that IP-enabled services are information services, but that the Commission has no broad authority over information services under Title I; the FCC can and should, however, extend title II-type requirements to voice services. AT&T appears to take the same position, although its legal analysis is unclear.

The cable operators support regulation of IP-based services that meet the NCTA’s four-part test (provider uses the North American Numbering Plan, can receive or terminate calls using the public switched telephone network; represents a possible replacement for telephone service; and uses IP to reach the end-user). In return for this, they want interconnection rights and access to numbering, but are not to be treated as common carriers. Cable operators also call for preemption of local authority over information services.

4. SUMMARIES OF KEY COMMENTS.

Ad Hoc Telecommunications Users Committee

- The Commission should affirm that IP-enabled applications deployed over private enterprise networks are not subject to FCC jurisdiction, any more than traditional voice and data applications on private enterprise networks are today. p. i.
- The Commission’s rules should reflect the nature and cost of the facilities used to deliver telecommunications services, not differences among customers of such services, the applications they use, or the content they transmit. p. 8.
- The same principle should apply to intercarrier compensation. p. 10.
- Universal service funding mechanisms will not be threatened by migration to IP if the Commission adopts a numbers-based contribution assessment methodology. p. 13.

Alcatel

- By segregating the service from the platform, IP-enabled services empower new and different service providers to enter the marketplace (horizontal expansion) and provide the ability of all service providers to offer a converged set of diverse products (vertical expansion). p. 6.
- The Commission must act expeditiously or IP-enabled applications and services will be more extensively deployed in other nations with a more investment-friendly environment. p. 7.
- Alcatel urges the Commission to maintain exclusive jurisdiction over IP-enabled services that originate and/or terminate on IP.
- Alcatel suggests the Commission reexamine its dominant carrier rules to ensure they are not prematurely removed nor unjustly maintained on market participants that no longer possess effective market power or control bottleneck facilities. p. 1.

American Public Communications Council

- Filing focuses exclusively on the need for VoIP calls to identify and ensure that payphone operators are properly compensated.

Amherst, Massachusetts Cable Advisory Committee

- Commission should continue regulation of video services as “cable services” even when transported using IP. p.1
- The Commission should require that video content from the open internet not be discriminated against, as when compared to video content from a cable operator "walled garden," in terms of "quality of service." p. 2.

APCO

- VoIP without E-911 will endanger public safety.
- Citing to the public safety mandate of Section 1 of the Act, APCO calls upon FCC for expedited treatment of E-911 issue, as waiting until all issues have been resolved could take years and VoIP will be firmly established. p. 2.
- “Commission must not succumb to the temptation to defer entirely too voluntary standards and guidelines to address the E-911 problem.” p. 3 FCC must adopt enforceable regulations.
- Comments provide explanation of why some VoIP interim solutions do not work and examples of misdirected 911 calls.
- APCO calls for a cumulative test for what type of service must have E-911, meaning service must be a functional equivalent, use NANP and connect with PSTN. p. 6.
- Voluntary disclosure at point of sale is not a workable solution. p. 8.
- FCC should preserve state’s rights to require all telecommunications providers, including VoIP to contribute to E-911. p. 9.

Arizona Corporation Commission

- May not make sense to apply the whole panoply of Title II requirements on nascent technology. p. 2.
- Promotes the use of functional equivalents and layers system. pp. 5-8.
- Calls for the regulation of the underlying transmission network (including cable modem, citing *Brand X*) as a telecommunications service. Further questions how the Commission can continue to characterize DSL as a pure interstate service since many of the VoIP calls would be local. p. 11
- ACC calls for E911, CPNI, CALEA, disability access. pp. 14 –16.
- At p. 15 ACC calls for regulation to mandate E911 regulations, not merely voluntary standards.
- VoIP should pay interconnection fees if it interconnects with PSTN and all telecommunications services should pay into universal service. Also states that at some point FCC should consider whether info service provider should contribute to universal service. p. 19.

Association for Local Telecommunications Services

- It is important for the Commission to continue promoting the provision of these services by competitive providers because consumers cannot rely upon the ILECs to readily expand this market. p. 2.
- However, while ALTS stresses light regulation of the IP-enabled services themselves, the underlying ILEC bottleneck facilities must still be regulated so that UNEs are available to competitive carriers providing telecommunications and broadband services. p. 2.

AT&T

- “Legacy regulatory schemes are irreversibly broken.” p. 2.
- Classification of service should not determine regulatory treatment – goal should be for regulation to advance valid policy. p. 3.
- Regulation of facilities layer is necessary to protect consumers and competition. p. 4.
- “The Act, of course, does not permit the elimination of core obligations that apply to basic telecommunications services because they simply employ Internet Protocol.” p. 9
- Most VoIP services are information services, outside scope of Title II. pp. 16-28.
- FCC should use Title I authority to address disability access. p.36.
- It is too early to impose 911 requirements on VoIP. p. 29.
- Replace universal service revenue-based system with numbers-based system. p. 37.
- State regulation should be preempted. p. 45.

Avaya Inc.

- Broad deployment of VoIP will require PSAPs to update their own equipment, and it would be critically important for all PSAPs to adhere to a single, nationwide ALI database update protocol, as well as security protocols to protect against unauthorized monitoring, unauthorized access, and denial of service attacks. A single nationwide standard is necessary to maximize efficiency and to avoid the need for carriers and networks to maintain information as to which PSAPs accept which protocols.
- In short, the Commission should require access to 911 and E911 for IP-enabled voice services, but it must recognize that a transition will be necessary. If the Commission establishes clear goals and a reasonable timeframe for development and implementation, manufacturers can work towards those goals and, given enough flexibility, can design the equipment necessary to make the transition to IP-enabled 911. The Commission should also work with the industry to develop nationwide standards and protocols, and it should when appropriate preempt state efforts to establish additional or contrary standards for manufacturers, providers, or PSAPs that would have the effect of negating federal policy. p. 22
- The Commission should also consider new protections for end-users in an IP enabled environment. Compared with traditional telephony, IP network services are more loosely defined and much more susceptible to spoofing, masquerading, pretending, searching, stalking, and spying. New rules are needed to ensure that IP-enabled voice networks are secure, that identity is verifiable, and that privacy is guaranteed. p. 22.
- The Commission should adopt rules to govern IP-enabled services that:
 - (1) ensure competitive neutrality and consistent regulatory treatment for all VoIP calls across all technologies, whether “telephone” or “computer”;
 - (2) establish a federal regulatory regime that avoids a state patchwork of inconsistent regulations;

- (3) with appropriate transitions and recognition of the “readily achievable” standard, require access for individuals with disabilities;
- (4) require 911 and E911 functionalities, based on national standards and protocols, with a reasonable transition, and
- (5) consider appropriate consumer protections for security and privacy. pp. 23-24.

BellSouth

- FCC should structure unified approach to IP services regardless of who provides them or how they are classified. p. 3.
- IP should be broadly defined and that it could encompass both telecommunications and information services. p. 7.
- IP services employing the PSTN must be treated the same, and subject to universal service, 911, and CALEA requirements. p. 8.
- Commission should occupy the field, preempt states, and declare IP to be interstate service. p. 10.
- According to BellSouth, deregulation is based as much on the lack of monopoly power as it is on IP. p. 15-20.
- IP services are information services, subject to Title I, but some may qualify as telecom services. pp. 26, 54.
- ILECs do not have bottleneck control over IP transmission facilities. p. 40.
- Wants Computer II and Part 64 waived as being intrusive. “Part 64 is a vestigial relic.” p. 42.
- BellSouth citing *Cincinnati Bell Tel. Co v. FCC* 69 F 3d 752 (6th Cir. 1995) states that Courts have found the Commission has an obligation to regulate like services in a like manner. p. 47
- BellSouth argues that all IP providers must contribute to universal service as an information service contains a telecommunications component. pp. 48-49.
- BellSouth references favorably the work of NENA. pp. 50-51
- BellSouth wants the Commission to forbear from applying Title II requirements to IP services that are telecommunications services, and declare that Bell South is not a dominant carrier for IP. p. 59.
- BellSouth cites favorably the FCC’s tentative conclusion in the cable modem declaratory ruling that Title II regulation would not be appropriate for cable modem services. p. 60.

Cablevision Systems Corp.

- Application of legacy regulations to new VoIP services like Optimum Voice will siphon resources away from increased investment and development of IP-enabled services toward compliance with unnecessary regulations. p. 2
- IP-enabled services, such as those offered by Cablevision, are properly classified as information services. p. 7.
- VoIP services plainly offer the “capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications,” and therefore, fit within the definition of “information service” in the Act. p. 8
- Accordingly, VoIP services should be classified as information services consistent with the Commission’s statutory mandates and prior findings. p. 9.

- Brand X case is distinguishable on legal and factual grounds, and thus, does not compel a different result for cable-provided VoIP services. p. 9.
- There is simply no “compelling justification” for imposing burdensome, economic, and customer service regulations on IP-enabled services. p. 44.
- There is no need for the Commission to address the application of universal service or intercarrier compensation to VoIP service providers at this time. p. 45.
- Resolution of these issues should be deferred to the Commission’s pending dockets because it would be premature to impose these obligations on VoIP service providers without resolution of the critical issues to be addressed in those separate proceedings. pp. 15, 46.

California PUC

- Classifying underlying transport service as an information service removes service from Title II, and at the same time removes any predicate for regulation under Title I.
- CPUC opposes forbearance regarding DSL and cable modem service.

Century Telephone

- Use of IP-technology does not convert a “telecommunication service” into an “information service” under the Act. p. 4. All telecommunications services are subject to privacy, ADA, CALEA, E911 requirements regardless of technology employed. p. 22.
- If you use the PSTN, then you need to contribute to universal service and intercarrier compensation.
- Supports a dual federal-state regulatory framework.

Charter Communications

- Mimics Comcast, Cox and NCTA’s filings.
 - Regulatory framework associated with IP voice services must be clear and stable. p. 6
 - IP voice service providers should be granted certain rights in order to rapidly deploy advanced voice services. p. 8
1. Access to Interconnection. p. 11
 2. Access to Numbering Resources. p. 13
 3. Elimination of service standards and consumer protection regulations at local level. p.14
 4. Role for State Commissions. p. 16
 - Parity between facility based IP providers and non-facility based providers (p. 17) and Facilities-based providers should not be required to provide QoS for application-based service providers. p. 20
 - VoIP providers must have full, unfettered, peer-to-peer interconnection rights with the carrier entities that make up the present public switched telephone network (PSTN). The PSTN will be the dominant supplier of voice communications for years to come. Just, reasonable, and nondiscriminatory interconnection between the PSTN and VoIP providers is therefore essential to serve the public interest.
 - Role of States: While Charter firmly believes that states, like the federal government, should not apply traditional PSTN-type regulatory requirements to IP-based voice services, that does not at all imply that state commissions are no longer useful or required in the communications arena. To the contrary, state commissions have an important role to play, both in policing the relationship between VoIP providers and existing PSTN

entities, as well as providing certain (albeit limited) regulatory oversight of VoIP providers themselves. These include provider registration, receiving and publishing VoIP tariffs (if the VoIP provider chooses to file them), resolution of interconnection disputes with PSTN entities, collection and dissemination of state-level USF monies, and as a general clearinghouse for information collection and analysis.

Cisco Systems

- FCC's unbounded view of authority over Internet is incorrect. p. 13.
- FCC's view of ancillary jurisdiction is too broad. p. 16.

Citizens Utility Board (Illinois)

- Does a terrific job of showing that worldwide most agencies EU, UK, Canada and at least two US PUCs have found VoIP to be a telecommunications service.
- Refers to PSTN-integrated VoIP as Internet Protocol POTS or "IP-POTS." p. 2
- The Commission asks "what tests might we employ to identify" functional equivalence. In CUB's view, the test of functional equivalence for telephone service requires that three conditions be met or exceeded: 1) the same result must be obtained from each technology given the equivalent input; 2) the technologies operate in the same domain; and 3) they have the same functional range. p. 8.
- California Commission staff analysis demonstrates a total projected impact on state USF between \$183 and \$407 million by 2008. The CPUC tentatively concluded that "VoIP that is interconnected with the Public Switched Network qualifies as a public utility telecommunications service." p. 12.
- The EU now considers VoIP service as another voice service subject to the same regulatory rules as any other voice service even though it is based on a different technology. p. 16.
- Despite the potential financial advantage unregulated VoIP offers some consumers, the consequences of delayed or ineffectual regulatory treatment of VoIP could prove to be devastating for competitive neutrality, longstanding public social policy objectives and, in effect, the sustainability of the telecommunications network as a whole. p. 24.

Comcast

- The Commission should narrow its focus to a subset of issues capable of, and requiring, prompt disposition. p. 2.
- Deregulatory clarity will facilitate the introduction and widespread deployment of cable VOIP. p. 6.
- VOIP services meeting the NCTA's four-prong test should be subject to a regime that combines rights, responsibilities, and regulatory relief. p. 7.
- The appropriate deregulatory regime for VOIP services can best be established under the rubric of title I. p. 11
- The more that environment looks like the largely deregulated wireless marketplace or the completely unregulated Internet, the more likely it is that capital can be raised, imaginations unleashed, and deployment spurred. p. 2.
- Regulators must ensure that facilities-based VoIP service providers have the right to use rights-of-way, including pole attachments, ducts, and conduits under the same terms and conditions as other providers.

- VoIP services delivered by cable operators will normally be conveyed over pre-existing facilities already attached to poles, located in underground conduits or crossing rights-of-way. Accordingly, regulators must ensure that cable operators are not subject to additional or incremental assessments and fees when they change the pattern of signaling in their pre-existing physical transmission paths to add IP phone services to their existing video and Internet offerings. (Regulators must ensure that VoIP service providers that build the physical infrastructure needed to deliver their services are not disadvantaged as compared to VoIP providers that build no facilities.)

Communications Workers of America (May come closest to local gov't position)

- VoIP is a telecommunications service and not an information service. pp. 7, 11.
- Other than economic regulation, VoIP providers should be subject to Title II rules, including interconnection, universal service, E 911, consumer protection and ADA. pp. 12-16.
- Outlines the various disclaimer statements that VoIP folks are using on E 911. p. 20.
- Role of state PUCs does not evaporate in light of VoIP. "State jurisdiction over the intrastate portion of VoIP service does not interfere with federal policy to foster innovation and growth of the Internet." p. 25.
- "To be sure, VoIP raises complicated jurisdictional issues as to how to separate VoIP calls into intrastate and interstate portions. This is also true of wireless telephony, and increasingly of wireline telephony over circuit-switched networks. However, the "any distance" nature of the Internet does not require preemption of state regulation. In fact, preemption would leave a serious vacuum that would leave many consumers without many basic protections. Therefore, the Commission should not preempt state regulation of VoIP service. p. 26
- At page 26, citing Feed Fujii, "California Senate Holds Hearing on Voice-Over-Internet Protocol," *The Record*, Feb. 2, 2004 CWA states: "California, for example, estimates a loss of 1 billion dollars to its state universal service fund by 2008 if VoIP carriers are excluded from contribution."

Cox

- Facilities-based competition provides the greatest consumer benefits. p. 8.
- The Commission must focus on fundamental regulatory issues and act quickly on them. p. 9.
- The Commission should issue rules as promptly as possible to provide the critical functions and interconnection needed for VoIP services to compete as true replacements for traditional telephone service. p. 11
- The Commission should provide for speedy enforcement and dispute resolution at the state level, including consumer complaints, public safety, consumer education and others. pp. 13-15.
- The Commission should adopt a standardized regulatory framework for all IP-based services that substitute for traditional telephone service. p. 17.
- FCC should preempt inconsistent state regulation using Section 253. p. 21.
- FCC has authority under Title I to adopt rules consistent with Title II obligations. p.24

CTIA

- Fundamentally interstate-international services and should be regulated only at the federal level, if at all. p. 2.
- This Commission should not simply dismiss Title II access requirements dating back to core common law principles, but should endeavor to adapt those principles – consistent with their original pro-competitive purposes – to the new IP environment. p. 6.
- FCC should not subject IP-enabled services to economic regulation absent clear evidence of market failure (p. 8) as a competitive market is the best vehicle for satisfying social policy related goals (p. 11).
- Universal service system needs reform but deployment of new technology may reduce need for program and its cost. p. 13.

Department of Defense

- Associates DOD with the Comments of DHS regarding national security emergency preparedness (“NS/EP”).
- Calls upon the Commission to retain Title II oversight over IP services so that transfers of IP service providers would be subject to Section 214 of the Act. (Section 214 provides that transfers to foreign parties may be examined to determine whether an applicant affects national security, infrastructure protection, law enforcement, foreign policy and trade policy.)
- Calls upon Commission to retain Title II so that DOD can monitor its own employees should DOD seek to achieve the saving and functionalities of VoIP.

DHS

- Citing the White House’s Convergence Task Force (December 29, 2000), DHS calls upon the FCC to ensure that VoIP services meet NS/EP requirements. NS/EP considerations provide compelling “rationale for the FCC to abstain from closing the door to addressing these issues by regulation of IP enabled services.” p.2
- In times of emergency and network congestion, NS/EP priority treatment may be required for certain communications such as electronic mail, instant messaging and video conferencing. The Commission’s rulemaking process must keep this in mind. p. 8
- DHS, we need both legacy and IP systems if we are to meet our national security and emergency preparedness goals and to exclude IP is to jeopardize NS/EP. And while DHS is pursuing agreements, they do not seek to surrender the ability to obtain services by means of government regulations.
- As to CALEA and E911, DHS associates itself with FBI and DOJ.

Earthlink

- The fundamental premise of the NPRM that the use of IP in providing a service in some manner determines the proper classification or regulation of that service under the Communications Act is incorrect. p 2
- The use of IP does not involve the creation of any new cable, wire or wireless network; it simply involves using the same physical transmission facilities in a different way. p.3 (Contrast this statement with that of FERUP at 3 which states: “VoIP is part of an IP network that is being built-out at the ‘edges.’”) There is no such thing as a separate IP network. p. 24.

- NPRM avoids issue of whether transmission services that employ IP will continue to be treated as common carrier services. pp. 4, 24
- NPRM does not propose any specific rules, and is too vague to provide actual notice as required by § 553(b)(3) of the Administrative Procedure Act. p. 24.
- Communications Act regulations are functional and not tied to a medium. Cites to § 153(46) which demonstrates that a “telecommunications service” exists regardless of the facilities used. pp. 5-6
- Vonage case is meaningless as it is but a Dist. Case on appeal. Brand X on the other hand is nationally binding precedent on the Commission. Acceptance of Brand X would permit the Commission to move forward. pp. 16-17

Electronic Frontier Foundation

- The Commission should tread lightly in regulating IP-enabled services, and not pick architectural winners and losers. p. 2
- The Commission should not assert jurisdiction over pure software or pure peer-to-peer systems. p. 3
- Services with no nexus to the PSTN should not by default be subject to PSTN specific regulations (p. 3) and non-PSTN services should be regulated merely because they show some “functional equivalence” or “substitutability” (p. 4).
- The Commission should pre-empt local regulation of IP-enabled services. p. 6.

Enterprise Communications Association

- Primary focus is the need for equal access to network facilities.
- Commission should consider banning ILECs from sale of CPE and IP as a bundled service for a transition period. p. 13.
- Commission should understand that it may need a legacy 911 system and support and an IP 911 system and support. p. 16 (They really want to ensure that system is in place to have an off the shelf 911 system that they can purchase for their systems.).
- Chides Commission on not having business end users at summits. p. 18

Federation for Economically Rational Utility Policy (Ferup)

- VoIP is a nascent technology that is borderless (*i.e.*, at a minimum, interstate) in nature, that is driving innovation, and that is spurring robust product, service and price competition.
- The existing telecommunications regulatory regime – an outgrowth of the economic regulation of monopolies and a regime designed to forge competition in the wireline telecommunications industry – is not suited to IP-enabled services, such as VoIP, and should be scrapped in favor of a new regulatory model that respects basic economic principles.
- The borderless (*i.e.*, interstate) nature of IP-enabled services and the need to avoid a patchwork of fifty different state policies argue strongly for regulation at the national level (with a rational mechanism to ensure that the legitimate concerns of states are addressed).
- A national policy should be minimalist in nature – economic regulation (including the terms and conditions of service) is not warranted in today’s emerging IP-enabled market; the focus should be on social policy (*e.g.*, E911, universal service).

- IP-enabled services, such as VoIP, do not have to be classified as telecommunications services and such services need not be subjected to the full range of telecommunications regulations in order to address public safety and welfare concerns.
- VoIP providers do not have to be classified as telecommunications companies and VoIP services need not be subjected to the full range of telecommunications regulations in order to address public safety and welfare concerns.
- VoIP is part of an IP network that is being built-out at the “edges.” p.3

Information Technology Association of America

- Title I allows the Commission to adopt rules governing common carriers’ participation in the information services market, but it does not provide the Commission with general authority to regulate information services. In any case, there is no compelling need for the Commission to apply social regulations to information services. To date, market forces have proven more than adequate to address any legitimate concerns. p. iii

Level 3 Communications LLC

- “Phase I” should first address intercarrier compensation for IP-enabled services; the interstate nature of IP-enabled services; and universal service contribution. “Phase II” should confront the legal classification of IP-enabled services within the interstate regulatory regime; competition issues between IP-based providers and PSTN facilities; and the social obligations of IP-enabled service providers.
- Level 3 believes that communications providers should be required to incorporate access to emergency services into all voice communications products that offer real-time two-way voice service that:
 - (a) is interconnected to the PSTN;
 - (b) competes with traditional wireless or wireline telephone service;
 - (c) constitutes a service for which consumers have a reasonable expectation of access to 911 and E911; and
 - (d) allows technically and operationally feasible access to emergency services. p. vii.
- The commission should establish that IP-enabled communications are governed by the reciprocal compensation regime, clarify that IP-enabled services are jurisdictionally interstate, and restructure the universal service contribution methodology. p. 3.
- The Commission should utilize its forbearance authority and its rulemaking authority in concert to clarify that IP-enabled services are governed by the reciprocal compensation regime. p.7
- The commission should establish conclusively that IP-enabled services are interstate and subject to the commission’s exclusive rulemaking jurisdiction. p.13
- In tandem with its universal service contribution reform proceeding, the commission should adopt a restructured universal service support mechanism keyed to connections or numbers, rather than revenues. p. 22
- Phase II: the commission should eliminate virtually all legacy economic regulation and craft social policy rules that encourage IP-enabled service providers to create innovative and efficient solutions to problems faced by consumers. p. 25.
- The commission should constrain ILECs’ incentive to refuse interconnection with IP-enabled service providers. p. 30.

- The commission should issue narrowly targeted social policy regulations that reflect the distinct nature of IP-enabled services. p. 35.
- The commission should rely on the competitive and innovative IP-enabled service industry to develop appropriate E911 and public safety solutions. p.36.

Lucent

- FCC should create regulatory certainty. p.4.
- Regulations and policies governing IP-enabled services should be technologically neutral and support certain public interest objectives. p. 7.
- Calls for guaranteed interconnection. p. 14

MCI

- Economic regulation of the physical access layer is essential to the future of IP-enabled services as access layer is not competitive (p. 13) and access to that layer is essential (p. 16).
- Extensive discussion of lack of general Title I jurisdiction, precluding broad regulation of IP services. pp. 24-35.
- May have authority over voice applications to advance express purposes of Title II. p. 34.

Section 251(e)(3) and Section 615 of the Act have the broad purpose of creating an emergency telephone number to ensure the widespread availability of E911 for people making “telephone calls.” To the extent that some voice applications have begun to compete directly with traditional telephone service, so that users of those voice applications may use those applications and not traditional telephone service, the Commission may have the authority to impose E911 requirements. Under these circumstances, implementation of the 911 statute would arguably “be thwarted” absent extension of E911 requirements to IP-based voice applications. pp. 34-35.

- MCI then examines each of the social obligations to determine if there are grounds to mandate that obligation on IP.
 - Says yes for 911 if IP is a POTS substitute (p. 36), but goes on to call on forbearance until voluntary standards are worked out. They cite NENA as their source that such an agreement will be worked out. They do state that 911 should be national and not local.
 - Says no for ADA/TRS as service is not a close substitute.
 - Says No to intercarrier compensation -- “MCI disagrees. The Commission should not extend the current bloated and irrational access charge system to voice applications or to any other nascent IP-based services. Instead, the Commission needs to start from scratch.” p. 45
 - Universal Service -- “MCI believes that all providers of broadband access service should contribute to the Universal Service Fund, but that no contributions should be sought from providers who are not telecommunications carriers. In other words, consistent with layers principles, contributions should be assessed at only the physical layer of the network on top of which broadband-based applications and services ride, but not on the applications layer.” pp. 48-49.

NARUC

- “Regulatory jurisdiction should be based whenever possible on characteristics of service, not on the technology used to provide that service, whether the service is commingled with any other service or the speed or capacity of that service.
- Functional approach is desirable from a policy perspective and is the legal requirement.
- Any other approach runs the risk of the regulator effectively choosing technology winners by allowing inter- or intra-jurisdictional regulatory arbitrage – rather than allowing markets to sort out the most efficient competitors.

National Consumers League

- VoIP is a telecom service and should be regulated as such.
- Since VoIP is a telecom service, it should contribute to the universal service fund, provide full E-911, provide all consumer protections and meet all disability access mandates.
- States shouldn’t be pre-empted from VoIP regulation; and VoIP shouldn’t be allowed to unfairly shift the cost of telecom services to non-VoIP customers

NCTA

- Starts with proposition that VoIP should not be subject to regulation, unless they meet specific criteria (NCTA’s 4 prong test) and then should be regulated lightly under Title I (p. 6):
 - Voice services should remain unregulated interstate information services (p. 7); and IP-based voice services should be subject to the regulations NCTA does support (p. 9) at this time.
 - VoIP providers should be subject to public Health, safety and related responsibilities p. 16
 - VoIP providers should not be subject to “Legacy” telephony
 - VoIP Providers must be assured of certain rights such as Interconnection and rights of way. p. 21
- VoIP providers must have right to use ROW, poles, ducts and conduits. p.22.
- The Commission has the authority to ensure VoIP providers have necessary “Rights” even if VoIP is an information service (p. 25) and only minimally regulate if found to be a telecommunications service. p. 29.
- The Commission has the duty to preempt state and local laws and regulations that have the effect of prohibiting the provision of interstate or intrastate telecommunications service. p. 38.
- State and local governments should not be allowed to impose inconsistent regulations, which would require modifications to billing systems, customer service practices, training, etc. p. 40.

Net2Phone

- IP is an information service that is subject to at most Title I and should be regulated only in the protective embrace of the FCC.
- All other regulations were developed for monopolists and have no meaning in IP world.
- Industry should be given opportunity to develop CALEA, 911 and ADA compliance.

- No universal service commitment in this proceeding, but perhaps as part of there proceedings on issue.

OPASTCO

- IP technology doesn't reduce an ILEC's cost of providing network.
- VoIP services "should provide equitable compensation."
- IP services that are functionally equivalent to traditional telephony should provide full E-911 functionality and access for the disabled.

Qwest

- IP-enabled services are information services. p. 14.
- 911 regulations unnecessary or premature. p. 44.
- Disability access rules unnecessary. p. 46.
- Universal service should be addressed in that docket, not here. p. 47.
- "No present danger" if CALEA not applied to IP-enabled services. p. 48.

SBC

- VoIP is overwhelmingly inter-state, and because you can not discern what is inter and intrastate, the Commission should find to be interstate. pp. 26-29
- VoIP is information service subject only to Title I and not Title II. Should Commission find that service is not pure information service, then it should forbear from applying Title II requirements. pp.. 33-38.
- FCC should preempt states if their actions stand in the way of federal policies. p. 43.
- Remainder of the filing talks about how Commission nonetheless has authority to regulate any IP services, especially those that use the PSTN, including the need for:
 - Universal service contributions
 - 911
 - ADA
- Basis for SBC statements is a combination of Title I ancillary authority and specific directions from Congress such as 47 U.S.C. §§ 230 (b)(2), 255, 615 (p. 56).
- IP should not be entitled to universal service support, but Commission should clarify that it has the authority to make such a determination at some time in the future.
- Consumer protection is not necessary because of robust nature of competition. p. 122

Sprint

- Classification of VoIP as information service would impair universal availability of voice service. pp. ii, 23.
- VoIP is an innovation in provision of voice, not a new kind of service. p. 8.
- FCC has authority to forbear. p. 14.
- Authority under Title I too unclear and risky. pp. 27-32.
- Can't extend disability access requirements to information service providers. p. 33.

The Rural Carriers

- Commission should adopt a policy that requires service providers that offer IP-enabled services that are functionally equivalent to traditional telecommunications services to pay for their share of use of the Public Switched Telephone Network ("PSTN").

- Commission must adopt policies that require IP enabled service providers to meet public policy mandates, including Communications Assistance for Law Enforcement, E911, local number portability and universal service.
- Commission must ensure that the regulation of IP-enabled services is competitively and technologically neutral to minimize the opportunities for marketplace distortions resulting from regulatory arbitrage

TIA

- VoIP is growing and any regulation would hamper development. pp. 3-4
- IP really is international in nature. TIA wants interstate designation and states preempted since the Commission has in the past where you cannot separate. p. 7
- It is not really clear that the Commission has authority to regulate (cites Pulver).
- “There is no basis for imposing additional franchise or right-of-way fees on VoIP applications that merely transit on already existing rights of way.
- TIA would require CALEA and other law enforcement compliance only to the extent that such is technically and operationally feasible.

Time Warner Cable

- Regulated VoIP services should be limited to those that use NANP numbers and exchange traffic with the PSTN. p. 7.
- FCC should apply 911, disability, universal service, consumer protection and CALEA requirements.
- FCC should prevent local governments from interfering in cable operator’s delivery of services, including by requiring payment of additional franchise fees. pp. 18-20.

United States Department of Justice

- The basic message of DOJ is to define IP enabled services as telecommunications services but free them from economic regulations and forebear everywhere else except for CALEA.
- The ability of a service provider to damage law enforcement and national security interests is created by its control over access to the communications, not by the protocol it employs. p. iii.
- Actions in the IP NPRM Proceeding must not prejudice the outcome of CALEA Proceeding. p. 2.
- IP NPRM provides that issues of CALEA coverage are distinct and reserved for the CALEA rulemaking proceeding, but as FCC categorizes specific types of IP-enabled services, it should be mindful not to adopt a classification scheme that could inhibit the ability of law enforcement to conduct court-ordered surveillance of communications occurring via IP-enabled services. p. 5.
- If the Commission utilizes its ancillary jurisdiction under Title I to apply mandates required by CALEA, such action could be challenged in court and result in delays and prolonged regulatory uncertainty, which is not in the interest of industry or of law enforcement. p. 7.
- FCC should not rely on Title I but should use its powers under Section 229 of the Communications Act. p. 21.

- “As a clear recognition that voluntary compliance can be inadequate even where appropriately applied, the Commission recently proposed to make wireless network outage reporting mandatory after discovering the failings of voluntary reporting.”³
- DOJ wants Commission to differentiate between facilities-based providers and Pulver.

United Telecom Council (UTC) and the United Power Line Council (UPLC)

- Classifying IP-enabled services as information services will provide incentives for electric utilities to use the technology to upgrade their own private networks and provide broadband services to consumers.
- FCC should not assume that “additional regulation of IP-enabled services is necessary to promote social policy objectives such as universal service and public safety and disability access services.”
- Oppose any regulations that would apply to private networks of critical infrastructure industries used primarily to support their core electric, gas and water services.

U.S Small Business Administration

- NPRM and initial regulatory flexibility analysis (“IRFA”) do not contain concrete proposals. They are more akin to an advance notice of proposed rulemaking (“ANPRM”) or a notice of inquiry (“NOI”). Because of the vagueness of the NPRM, the IRFA does not provide an analysis of proposed compliance burdens, consideration of alternatives, or discussion of overlapping regulations.

Valor Telecommunications of Texas, L.P., and Iowa Telecommunications Services, Inc.

- LECS must be compensated for use of the public switched network. p. 4.
- IP-enabled services are interstate. p. 8.
- Economic regulation of IP-enabled services is unnecessary. p. 9.
- IP enabled voice service providers should not be exempt from supporting those public policy mandates applicable to all other providers of voice services, such as E-911, CALEA, and universal service, to the extent technically feasible. p. 11.

Verizon

- IP-enabled services are highly competitive and economic regulations will harm consumers and deter investment. pp. 5-16.
- All IP-enabled service providers should be subject to the same deregulatory policy. p. 18.
- Commission should forbear from applying the requirements of Title II to IP. p. 29.
- IP services are interstate and state rules should be preempted as burdensome and in violation of commerce clause. pp. 31, 32, 39.
- Providers of IP-service that use PSTN to originate or terminate interstate calls should pay access charges. p. 43.
- VOIP providers should be subject to:

³ Compare this with AT&T and ITAA at 29 “Rather than imposing prescriptive regulatory requirements, the Commission should allow industry an opportunity to develop voluntary solutions. As the Commission correctly notes, there is evidence that voluntary agreements can achieve the Commission’s social policy.”

- CALEA (p.48);
- 911 (p. 51);
- Universal Service Fund. (p. 55) (that is, identical to Verizon, p. 59) regardless of whether the service is classified as a telecommunications service (p. 60).

Z-TEL Communications, Inc.

- Commission appears poised to repeat the mistake of *Computer I*. In essence, the *NPRM* proposes to adopt a new set of “hybrid” Title I/Title II rules that would ascribe particular forms of regulation based upon whether a service offers the “functional equivalence” to, or serves as a “substitute” for “traditional telephony.” p. 3
- Supports a layered regulatory approach to “economic” regulation but demands but demands wholesale network access. p. 14
- Commission should act quickly to resolve.