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September 19, 2003

Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

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Re: *In the Matter of the Petition of Qwest Corporation For
Competitive Classification of Basic Business Exchange
Telecommunications Services*
Docket No. UT-030614

Dear Ms. Washburn:

Enclosed for filing in the above referenced docket are the original and 14 copies of the Commission Staff's Response to Bench Request No. 3, and a Certificate of Service.

Very truly yours,

LISA WATSON
Assistant Attorney General

LW:tt
Enclosures
cc: All Parties



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COMMENTARY

By Jane Black

Time to Rewrite the Rules of Telecom

Now that voice calls can be sent over the Net, existing phone regulations are becoming irrelevant. The FCC has to make some tough choices

Since its launch in April, 2002, Internet telephony company Vonage has been a rip-roaring success. Over the last year, the Edison (N.J.) company signed up 45,000 customers, who pay a flat rate of \$39.99 a month for unlimited local and long-distance calling, plus caller ID, voice mail, call waiting, and a bevy of other services.

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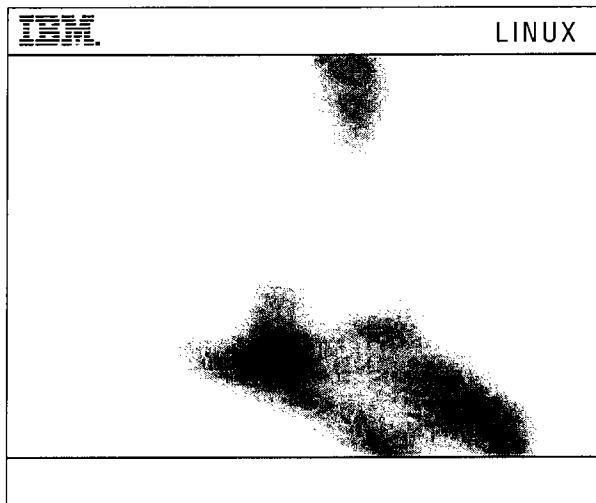


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Vonage can offer such low prices because its calls are sent through a customer's broadband connection, a technology known as voice over Internet protocol (VOIP). Sending sound in packets over the Net is cheaper and more efficient than routing calls over traditional copper wires and phone company circuit switches. And VOIP has been exempt from telecommunications taxes and standards. Until now.

In the next few days, the Minnesota State Public Utility Commission plans to hand down an order mandating that Vonage be held to the same standards, taxes, and requirements as more traditional telecom operations. In Minnesota's view, if it walks like a duck, quacks like a duck, and looks like a duck, it's a duck.

THE REAL PROBLEM. More like a sitting duck, say Vonage and a chorus of VOIP evangelists. They argue that the convoluted, often irrational, web of telecom regulations that have evolved over the last century threaten to kill a vibrant new technology and stifle greater efficiency and sorely needed investment in the ailing sector. "To single out VOIP as a telephone service is a terrible misunderstanding of the Internet industry. I would submit that, someday, the phrase Internet telephony will sound as archaic as 'horseless carriage' sounds today," says Vint Cerf, one of the designers of the Internet protocol and vice-president for technology and Internet architecture at MCI (MCWEQ).

The rush to lump VOIP in with phone services obscures the larger problem: The 100-year-old regulatory structure for telephones is no longer adequate for today's advanced telecom services. These rules were written in a time when each technology delivered one type of service: Voice traveled over copper wires. Broadcast radio and TV signals flew through the air. Multichannel video journeyed across a coaxial cable.

The Internet has changed all that because it makes no distinction between

a voice call, an e-mail, or a video stream. Digital technology improvements mean that it costs no more if that information goes cross-town or cross-country. Moreover, because the Internet is new, it isn't hobbled by regulations that were established when long distance meant higher costs. "Over time, VOIP will make the telecom system as we know it irrelevant," says Blair Levin, a former Federal Communications Commission chief of staff who's now a telecom analyst at investment firm Legg Mason in Washington, D.C.

BATTLE WITH THE STATES. That puts at least \$14 billion in so-called access fees at stake, according to a 2001 FCC analysis, the latest numbers available. These are the fees that long-distance and upstart telecoms pay the Baby Bells -- Verizon (VZ), SBC (SBC), BellSouth (BLS), and Qwest (Q) -- and other local-exchange carriers to "terminate" calls, or pass them over their networks to the end customer. As carriers move traffic onto the Internet backbone, those fees no longer apply.

Small wonder MCI plans to shift 25% of its voice traffic to IP networks by the end of 2003. By 2005, 100% of MCI's traffic will be carried over the Net, instead of traditional copper lines.

With so much up for grabs, states are taking an interest. On Aug. 12, Alabama ordered a "declaratory ruling" on whether VOIP will be subject to so-called access and interconnection charges that apply to traditional phone calls. Ohio's Public Utility Commission has opened an inquiry into how providers are using VOIP and whether such efforts constitute a telecom service subject to taxes and fees. Only Florida has ruled to leave VOIP unregulated. But that was in exchange for allowing incumbent telecom BellSouth to boost its rates by \$1 billion, an increase that otherwise would have been spread over six years.

NEW TECH, OLD FEES? Established telecoms have also gone head-to-head with rivals over VOIP. AT&T (T) and Sprint (FON) are now locked in a dispute over what fees can be assessed on calls that are delivered over the Internet backbone. In 2002, according to AT&T, Sprint refused to terminate AT&T's VOIP calls over its local business lines in Tallahassee, Fla., forcing AT&T to reroute calls over traditional networks to avoid disruption.

Moreover, according to AT&T, Sprint threatened to disconnect the circuits unless AT&T agreed to move all traffic onto paid-for-access service. When AT&T complained, Sprint resumed service but filed a billing dispute claiming that access fees apply whether the call is delivered over the Net or through copper wires.

Sprint disputes AT&T's account, saying the dropped calls were a "translation error" due in part to AT&T's desire to hide what it was doing. Either way, Sprint maintains that the calls should be subject to traditional access fees. According to Sprint's FCC filing, access fees

make up between one-third and one-half of incumbents' revenue stream. "Failure to assess access charges on this traffic places [local-carrier] revenue at extreme risk [and] could exacerbate cost imbalances among [long-distance] competitors," the filing warns.

"IRRATIONAL" SYSTEM. One thing both sides agree on is that today's regulatory regime is outdated. "This is a real blurring of the landscape," says Patrick Merrick, AT&T's director of regulatory affairs. "It's time for the FCC to make some important decisions."

Easier said than done. Still, analysts say, it's a task that the FCC can avoid for only so long. "These are the market manifestations of convergence trends" that people like MIT professor and telecom guru Nicholas Negroponte spotted 10 years ago, says John Nakahata, a partner at Washington law firm Harris, Wiltshire & Grannis and former FCC chief of staff. "It's forcing us to finally confront the irrationality of the current system," he adds.

Look for VOIP to turn the focus of policymakers toward redefining telecom regulation in the very near future.

Black covers telecom for BusinessWeek Online in New York
Edited by Douglas Harbrecht



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CERTIFICATE OF SERVICE
UT-030614

I hereby certify that I have this day served the Commission Staff's Response to Bench Request No. 3 upon the persons and entities listed on the Service List below by depositing a copy of said documents in the United States mail, addressed as shown on said Service List, with first class postage prepaid.

DATED at Olympia, Washington this 19th day September, 2003.


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