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Technology Transitions Policy Task Force
Public Notice Regarding Potential Trials
GN Docket No. 13-5

COMMENTS OF CABLEVISION SYSTEMS CORPORATION

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COMMENTS OF CABLEVISION SYSTEMS CORPORATION

Cablevision Systems Corporation (“Cablevision”) hereby submits comments on the Commission’s Technology Transitions Policy Task Force (“Task Force”) proposal to conduct Voice over Internet Protocol (“VoIP”) interconnection trials.1 Cablevision supports this proposal, and suggests specific mechanisms to help ensure that the trials will provide useful information to guide the Commission’s future efforts in advancing IP interconnection nationwide.

INTRODUCTION AND SUMMARY

Cablevision has long been a leader in deploying Internet Protocol (“IP”) architecture, and in encouraging other providers to leverage the advantages of IP technology by interconnecting using IP rather than less efficient legacy time division multiplexing (“TDM”) technology. As the Commission has repeatedly recognized, the evolution of IP-enabled communications brings significant consumer benefits.2 IP networks are more bandwidth-efficient and use fewer

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2 See, e.g., In re IP-Enabled Services, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4867 ¶ 5 (2004) (“[T]he changes wrought by the rise of IP-enabled communications promise to be revolutionary. These developments are expected to reduce the cost of communication and to
resources to route and account for traffic – resources that instead can be devoted to offering consumers innovative products. IP interconnection results in fewer connection points than traditional TDM interconnection, which translates into better quality voice services for consumers and cost reductions for carriers that no longer have to maintain and operate multiple redundant facilities.

Cablevision has thus long sought interconnection in IP with other providers in its service area, including both competitive and incumbent providers. While Cablevision has been successful in negotiating IP interconnection agreements with competitive providers and interexchange carriers (“IXCs”), Cablevision’s inability to obtain IP interconnection from incumbent local exchange carriers (“ILECs”) has led it to the conclusion that the Commission must take specific steps to facilitate IP interconnection more generally, including by clarifying the legal regime that governs it.

As the Task Force’s proposal notes, although some competitive providers have been taking advantage of the benefits and efficiencies of IP interconnection, the United States has lagged behind other parts of the world in IP interconnection,3 in part because of ILEC resistance to abandoning TDM interconnection requirements that impose needless costs on IP-based competitive carriers. Cablevision therefore welcomes the Task Force’s proposal to begin technical trials that will help the Commission gain additional information concerning IP interconnection, particularly by ILECs, and help advance future Commission action in this area.

spur innovation and individualization, giving rise to a communications environment in which offerings are designed not to fit within the limitations of a legacy network but rather to provide each end user a highly customized, low-cost suite of services delivered in the manner of his or her choosing. IP-enabled services generally – and VoIP in particular – will encourage consumers to demand more broadband connections, which will foster the development of more IP-enabled services. IP-enabled services, moreover, have increased economic productivity and growth, and bolstered network redundancy and resiliency.”).

3 Notice at 4.
To ensure that these trials yield the most valuable information possible for the Commission’s future efforts, Cablevision encourages the Commission to (1) require the trials to be conducted over large geographical areas to best emulate market conditions, (2) require participants to publicly disclose certain information to facilitate analysis of the trials, and (3) conduct the trials as voluntary negotiations while reserving for another day the question whether the Section 251/252 framework governs IP interconnection.

**DISCUSSION**

I. **TRIALS SHOULD BE FRAMED TO EMULATE REAL-WORLD CONDITIONS AND MAXIMIZE THE USEFULNESS OF THEIR RESULTS.**

Cable VoIP providers such as Cablevision have long been on the forefront of IP interconnection, and many already interconnect with one another using IP, as well as with IXCs and competitive local exchange carriers (“CLECs”) providers in the same manner. In Cablevision’s experience, it is only ILECs that have resisted IP interconnection, and the proposed trials can help advance the ultimate goal of securing widespread participation by ILECs in IP interconnection.4

To ensure that the trials yield the most valuable information, they should reflect insofar as possible the real-world conditions under which ILECs and competitive carriers would actually negotiate IP interconnection agreements in a market environment. The Commission should also take steps to minimize the degree to which the trials can be manipulated. Given the ILECs’ continued market power, there is a substantial risk that ILECs will simply negotiate whatever terms they deem most helpful in convincing the Commission to favor their desired deregulatory

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4 Indeed, given the success that CLECs and IXCs have had in interconnecting their networks in VoIP over the past several years, Cablevision does not believe that technical, as opposed to market, forces are contributing in any meaningful manner to the current ILEC resistance to IP interconnection.
policies, with no assurance that they would follow the same course once those policies are in place.\(^5\)

There are two critical elements to ensuring that the trials are sufficiently broad in scope to emulate real-world market conditions and prevent manipulation. First, the trials should extend to large geographical areas, such as entire states or groups of states. Cablevision notes that the Notice proposes that the trial include “at least one major metropolitan area and one rural area.”\(^6\) While both should certainly be included in any trial(s), interconnection agreements are typically negotiated on a statewide, regional, or multistate basis, and the trials should reflect that reality. For the same reason, any negotiated agreements arrived at should remain in place even after the “trial” period. Only by requiring carriers to continue doing business on the terms negotiated during the trials will it provide the incentive for negotiations to reflect the economic realities carriers will eventually face in negotiating IP interconnection agreements. In combination, these two elements (wide geographic areas and agreements that remain in place beyond the trial period) will ensure that trial participants have a sufficient stake in the outcome of the negotiations to reduce manipulation and will provide more useful data to the Commission about how IP interconnection agreements with ILECs would be negotiated outside of an artificial trial environment.

The Task Force has also sought comment on data that participating carriers should be required to report to the Commission. See Notice at 6. Because the purpose of the trials is “to

\(^5\) Cf. In re Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services, Second Report and Order, 26 FCC Rcd 5411, 5426, ¶ 27 (2011) (“We are also concerned that the recent successes by some providers in obtaining 3G data roaming agreements or offers may have been the result of large providers seeking to defuse an issue under active Commission consideration and may not accurately reflect the ability of requesting providers to obtain data roaming arrangements in the future if the Commission were to decide not to adopt any data roaming rules.”) (footnote omitted).

\(^6\) Notice at 5.
obtain data that will be helpful to the Commission,”7 participating carriers should be required to disclose, at minimum, the “time it took to reach an agreement, the issues in dispute, [and] a copy of any agreements that are reached.”8 The Commission has ample authority to require disclosure of this information, which is essential to gain insight on IP interconnection practices, and why IP interconnection with ILECs has been so difficult to obtain.9 Moreover, it is important that this information is disclosed publicly so that parties interested in commenting on Commission proposals concerning IP interconnection can meaningfully analyze the results. It makes little sense to conduct the trials without making this data publicly available.

II. THE COMMISSION NEED NOT RESOLVE THE LEGAL REGIME GOVERNING IP INTERCONNECTION TO CONDUCT THE PROPOSED TRIALS.

The Commission can proceed with the IP interconnection trials on a voluntary basis, without resolving the legal framework governing IP interconnection more generally. It should make clear, however, that embarking on the trials is without prejudice to the outcome of the pending proceeding regarding that framework.

Cablevision has long maintained that the Section 251/252 legal framework governs interconnection irrespective of whether the connection is in TDM or IP.10 Congress created a specific framework governing interconnection among carriers in the Telecommunications Act of 1996.11

7 Id. at 1.
8 Id. at 6.
9 See 47 U.S.C. § 403 (“The Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing . . . concerning which any question may arise under any of the provisions of this chapter, or relating to the enforcement of any of the provisions of this chapter.”). It has long been held that Section 403 “includes authority to obtain the information necessary to discharge [the Commission’s] proper functions.” Stahlman v. FCC, 126 F.2d 124, 127 (D.C. Cir. 1942).
1996, and nothing in the statute permits carriers or the Commission to disregard that framework based solely on the technology used to interconnect. Thus, as carriers transition to interconnecting in IP rather than TDM, the Section 251/252 framework, with its corresponding responsibilities for carriers and regulatory oversight by state commissions, remains fully applicable.

That being said, ILECs have argued against application of the Section 251/252 framework and, as the Task Force’s proposal notes, they may be unwilling to participate in interconnection trials under that framework.\textsuperscript{11} In the interests of promoting participation and avoiding unnecessary delays, the Commission should simply proceed with the trials as negotiations among willing participants, while expressly reserving the legal issues surrounding application of the Section 251/252 framework for another docket and another day. Even if the Section 251/252 framework applies to IP interconnection as Cablevision believes it does, that framework expressly permits carriers to negotiate interconnection on a voluntary basis. \textit{See} 47 U.S.C. § 252(a)(1). The Commission could thus easily limit participation in the trials to carriers willing to negotiate on a voluntary basis under Section 252(a)(1) (without an admission as to whether the provision applies), and willing to waive any rights for compulsory arbitration under Sections 252(b)/(c). This would allow trials to move forward without bogging the Commission down in legal disputes best resolved elsewhere.

\textsuperscript{11} \textit{See Notice} at 5 n.23 (noting that “it is unclear whether any incumbent LECs would voluntarily agree to a trial using the Section 251/252 framework”).
CONCLUSION

Cablevision strongly supports the proposed IP interconnection trials and urges the Commission to conduct them in an open manner, over large geographical areas, in a manner that saves for another day any legal disagreements concerning the ultimate applicability of the Section 251/252 framework.

Respectfully Submitted,

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