

Donna Donahue
Verizon Business

Knology, Inc. Reply to Verizon Inquiry Regarding Compensated for VoIP Traffic

Dear Ms. Donahue,

Knology hereby replies to your letter proposing discussions related to entering into a "commercial agreement" for exchange of traffic. Verizon cites the following cases in support of its belief that IP-originated or IP-terminated traffic is not subject to switched access tariffs or related charges: *PAETEC Communications, Inc. v. CommPartners, LLC*, No. 08-cv-397 (D.D.C. Feb. 18, 2010), (*PAETEC*); *Manhattan Telecomms. Corp. v. Global NAPS, Inc.*, No. 08-cv-3829, 2010 WL 1326095 (S.D.N.Y. Mar. 31, 2010), (*ManTel*).

The *PAETEC* decision is under appeal. See *In re: PAETEC Communications, Inc. v. CommPartners, LLC*, Case No. 10-8002, United States Court of Appeals, the District of Columbia Circuit. The *ManTel* case is among cases involving issues being addressed by the Federal Communications Commission in a Wireline Competition Bureau docket. See *Global NAPS Petition for Declaratory Ruling and Alternative Petition for Preemption of the Pennsylvania, New Hampshire and Maryland State Commissions*, WC Docket No. 10-60, at 1 (filed Mar. 5, 2010) (Petition), *Pleading Cycle Established for Comments on Global Naps Petition for Declaratory Ruling and for Preemption of The Pennsylvania, New Hampshire And Maryland State Commissions*, WC 10-60, Public Notice, DA-10-461 (March 18, 2010). The Petition seeks declaratory rulings by the Commission "to guide state commissions and federal courts in resolving actual controversies between Global and several local exchange carriers ('LECs') regarding the tariff treatment of Voice over Internet Protocol ('VoIP') traffic terminated to end users of interconnected LECs through Global.

As a review of the *PAETEC* and Global NAPS Petition proceedings shows, in no way can the issue regarding treatment of traffic that may use VoIP for part of the transmission in relation to switched access tariffs be considered settled, especially for parties and states not involved in *PAETEC* and *ManTel*. Moreover, Knology believes that the Appellate Court and the Commission will sustain charging access charges for interexchange calls that may have been transmitted partially by VoIP. As Knology believes that calls that only partially use VoIP for transmission will remain subject to switched access charges, we believe that any discussions regarding alternative arrangements are not warranted at this time.

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