

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C.**

In the Matter of )  
 )  
Forum of an Internet Policy Working Group )

**Comments of Cinergy Communications Company**

Cinergy Communications is a Competitive Local Exchange Carrier that provides facilities based and UNE-P local voice services, facilities based long distance services, VoIP or VoBB communications and internet services.

This memorandum is written in support of the proposition that VoIP or VoBB is a “telecommunications service” as that term is defined in the Telecommunications Act of 1996 (TA96).

While the expression VoIP is used to describe the furnishing of voice services using the Internet Protocol, this expression is not grammatically correct. The voice is not over the Internet Protocol; it is voice using the Internet Protocol. The more accurate expression of this process is “voice over broadband using the Internet Protocol.” In this memorandum, we will use the expression “VoBB” because we believe it is grammatically correct.

TA96 states “The term ‘telecommunications’ means the transmission, between or among points specified by the user, of information of the user’s choosing, **without change in form or content of the information as sent and received.**” (Emphasis added)

VoBB is “telecommunications” as that term is defined by TA96 because:

1. There is a transmission between or among points;
2. The transmission points are specified by the user;
3. There is no change in the “information sent and received” because it is the same voice sent by the originating caller as the voice received by the receiving caller.

While the originating voice signal goes through several mechanical and electrical transformations before it arrives to the called party, this is irrelevant for statutory construction purposes because the term “change,” as used in the definition, refers to the “information sent.” It is the same voice out as the voice in that was sent by the originating caller. There is no change in the information sent.

TA96 defines the term “telecommunications service” as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, **regardless of the facilities used.**” (Emphasis supplied).

VoBB fits squarely within the definition of “telecommunications service” as defined by TA96 because:

1. It is “telecommunications” for the reasons set forth above.
2. The service is furnished for a “fee.”
3. The service is furnished “directly to the public”; and
4. If meaning is to be given to the expression of legislative intent and the plain meaning of the words “regardless of the facilities used” quoted above in the definition of telecommunications services, it makes no difference whether VoBB or POTS is used to deliver this communication. Both are telecommunications services because the facilities used don’t matter.

VoBB is not an “information service” as that term is defined by TA96. “Information service” is defined as “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving utilizing, or making available information via telecommunications, and includes electronic publishing, **but does not include any use of any capability for the management, control, or operation of a telecommunications system or management of a telecommunications service.**” (Emphasis added)

The voice signals of a conversation go through several transformations when VoBB or POTS is used to transmit a conversation between calling and receiving parties. The voice signal generated by the caller strikes a diaphragm which converts the air sound waves to a mechanical vibration. The mechanical vibration is converted to an analog signal by a transducer. With VoBB, the analog signal is converted to a digital signal by an integrated access device, commonly referred to as an IAD. The digitized voice signal is then sent to a voice gateway. This voice gateway is a file server that is programmed with all the data that is necessary to process calls. The voice gateway determines if the call is to be forwarded for completion of the call on the internet or on the PTSN and is directed accordingly.

From the foregoing, it is obvious that the digitized voice signal is part of a process utilizing the voice gateway to control, operate or manage a telecommunications service. As such, VoBB falls within the exclusion from the definition of “information service” under TA96 as emphasized above.

We have many more points which support the proposition that VoBB is a telecommunications service under TA96. Because of the limitations on length, we will save this analysis when replying to the NPRM to be issued by the FCC.

In conclusion, from the foregoing statutory analysis, it is abundantly clear that Congress intended VoBB to be regulated as a telecommunications service.

If VoBB were regarded as an information service, it would have a tremendous competitive cost advantage over the current telecommunication services offered by ILECs and CLECs. VoBB would not be subject to State Sales Taxes, Federal Communications Taxes, Universal Fund Payments, E-911, CALEA and aid for the disabled requirements, local number portability charges or access and termination

charges even though VoBB is using the PTSN for the origination or termination of a substantial number of its calls. Congress intended that the competitive playing field be level for all forms of telecommunications services.

Respectfully submitted,

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