



**Telecommunications Oversight 2017:
A State Perspective**

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Report No. 18-03

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National Regulatory Research Institute

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Acknowledgments

The author thanks the staff of the 47 State Public Utility Commissions that responded to the 2017 Regulation Survey.

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Executive Summary

Oversight of retail wireline telecommunications services in the United States has been reduced over time as a result of increased competition and the transition of end-users from traditional wireline service to the more lightly regulated wireless and voice over internet protocol (VoIP) services. Although traditional regulation has been reduced, the States continue to oversee those functions delegated to them by the 1996 Telecommunications Act, including Intercarrier Agreements (ICAs) and other wholesale services, numbering, the designation of eligible telecommunications carriers (ETCs), the collection and distribution of state and federal universal service funds, Lifeline, basic local service (in some states), carrier of last resort services (in those states that still require it), Telecommunications Relay Services (TRS), etc.

As of December 2017, 35 states had passed legislation limiting direct oversight of the retail wireline telecommunications services provided by the large incumbent price cap service providers.¹ In addition, Iowa, Pennsylvania, New Jersey, and Rhode Island had reduced oversight in either all or part of the state after a formal commission examination and review proceeding. The decision to reduce regulation in these states focuses on the availability of alternative providers and the extent to which competition can reduce or obviate the need for traditional commission oversight.

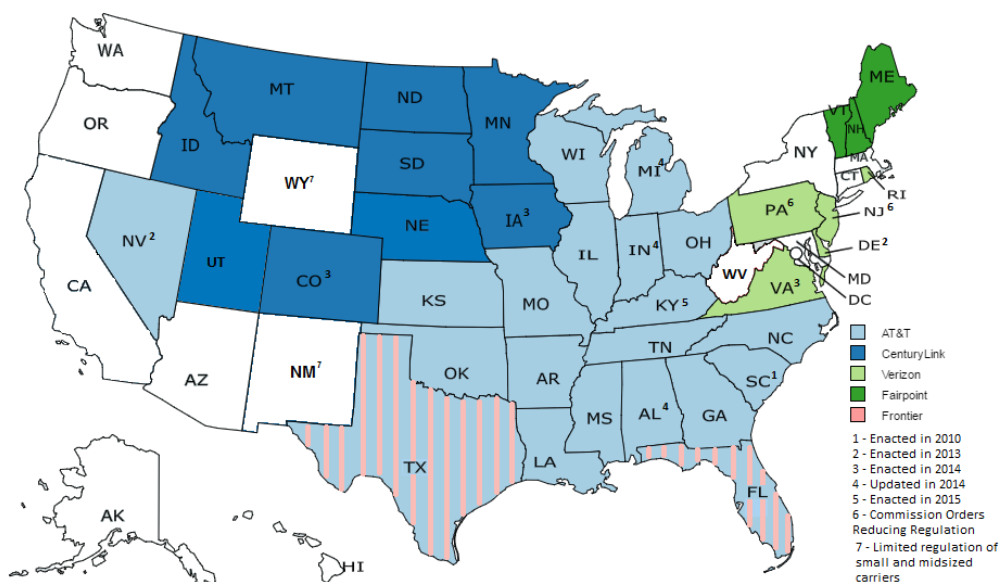
Twelve states and the District of Columbia continue to exercise traditional oversight of the services provided by the large incumbent providers, although these states, too, have reduced or eliminated many of the requirements of traditional regulation, including tariffs and price regulation.²

The map below shows state oversight of wireline telecommunications as of November, 2017.

¹ The large price cap companies, AT&T, CenturyLink, FairPoint (now part of Consolidated Communications), Frontier, and Verizon, have been deregulated in the 35 states discussed here. The States continue to regulate rural rate of return carriers and those carriers that have chosen not to "elect" deregulation. Data on the level of oversight exercised by the State Commissions described in this paper is based on responses to the 2017 NRRI Regulatory Survey. Where possible, we have validated this information through direct research. Where no research sources were available, we have deferred to the survey responses.

² Alaska, Arizona, California, the District of Columbia, Hawaii, Massachusetts, Maryland, New York, Oregon, Vermont, Washington, and West Virginia continue to exercise traditional regulatory oversight of over price cap carriers, particularly for basic residential services (BLS). Rhode Island has not legislatively deregulated wireline telecommunications but does not exercise direct oversight of wireline carriers. For this reason, we place them in the deregulated category.

Wireline Deregulation Status: 2017



Source: Author's construct, data from Legiscan.

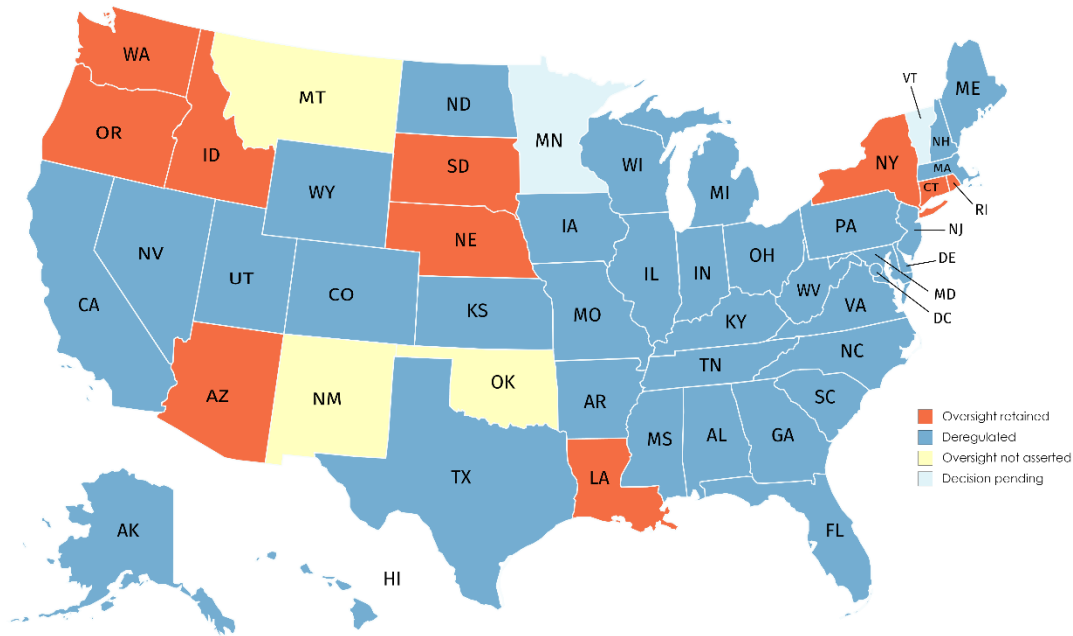
State legislatures have also actively addressed the question of the regulatory classification of IP-enabled services, including interconnected Voice over Internet Protocol (VoIP) s. Thirty-four states have passed legislation limiting Commission oversight of these services. Arizona House Bill 2106 (pending) would bring that number to 35.³

Staff in ten states report that they continue to assert oversight of VoIP carriers. Five states, Alaska, Montana, New Mexico, North Carolina, and Oklahoma, report that state legislation does not limit oversight of VoIP, the Commission has chosen not to not assert jurisdiction over these carriers.

Litigation regarding the proper classification of VoIP as either a telecommunications service or an information service remains pending in Minnesota. The Vermont Public Utility Commission has completed Phase I of its investigation into the proper regulatory designation of VoIP but continues to review oversight requirements, while Oregon continues to explore the legal requirement for VoIP providers to contribute to the state universal service funds.

The map below provides a snapshot of the status of the oversight of IP-enabled services, including VoIP, across the country. Data for the map is based on responses to the 2017 survey, as well as the author's research.

³ Arizona House Bill 2106, available at <https://legiscan.com/AZ/text/HB2106/id/1737571/Arizona-2018-HB2106-Engrossed.html>



The deregulatory legislation limiting oversight has generally either been based on a presumption that competition reduces the need for regulation or on the idea that oversight should be restricted simply based on the type of technology used to provide the service. For example, Mississippi House Bill 825 (2012) specifies that

Competition or other market forces adequately protect the public interest. Therefore . . . the commission no longer has jurisdiction over the services, other than the provision of intrastate switched access service, provided by such public utilities.⁴

While this legislation limits retail oversight, it maintains the state commission’s jurisdiction over wholesale services and those other services delegated to the States by the Act.

While the sheer volume of deregulatory legislation appears to have significantly reduced or eliminated oversight of both wireline and IP-enabled services, including VoIP, this ten thousand foot view of the regulatory landscape does not fully address the tools that state commissions continue to use to ensure service quality and reliability and to address customer concerns, regardless of the type of service they have chosen. Despite legislation diminishing their direct regulatory jurisdiction, many State commissions continue to oversee such key areas as carrier certification, ETC designation, emergency services, network quality, carrier of last resort obligations (COLR), and consumer complaints for both wireline and VoIP services.

⁴ Mississippi House Bill 825 (2012), available at <http://billstatus.ls.state.ms.us/documents/2012/pdf/HB/0800-0899/HB0825SG.pdf>

NRRI surveyed the 51 State Public Utility Commissions to identify the areas in which the State Commissions report that they continue to oversee at least some aspect of telecommunications services, even after deregulation. Forty-seven states responded to the survey.⁵ The results belie the idea that deregulation means no regulation. Indeed, no state, even those with the most expansive deregulation bills, responded that it had completely lost all jurisdiction over wireline services, despite the broad deregulatory mandate. A significant number of states also asserted that they retain at least some jurisdiction over VoIP carriers, although in more limited areas than wireline.

The results of the survey show that the majority of the states continue to accept complaints about service, billing, and other issues from their constituents, regardless of the technology used to offer the service. They refer these complaints to the provider, track the status, and reserve the right to initiate formal proceedings where necessary and appropriate. The states continue to certificate or register carriers to operate in their jurisdictions, both to ensure that these carriers contribute to Federal and State universal service funds and to identify points of contact for problem resolution. They certify Eligible Telecommunications Carriers (ETCs) and Lifeline providers. They collect and act on outage data and ensure the availability of emergency service.

Reductions in commission oversight of telecommunications through legislation and/or commission action have posed new challenges for state public utility commissions as they seek ways to ensure that communications providers' private goals align with the public interest. This paper explores the ways in which state commissions continue to ensure that telecommunications providers support the public good, even where legislation or the courts have diminished their direct role in this process.

Understanding the limits of the states' jurisdiction over wired and VoIP services will help state commissions and legislators determine whether there are specific areas where competition and customer awareness may not be sufficient to ensure that service levels continue to be acceptable regardless of the technology that provides that service. These areas may require additional commission oversight or support to ensure that consumers continue to enjoy the benefits of their growing communications options. To that end, this paper suggests three areas on which the states should focus to ensure that telecommunications services of all types remain available, reliable, and affordable.

1. Collect and evaluate customer complaint data to identify and resolve problem areas.
2. Broaden outage reporting in order to evaluate and improve service quality and reliability

⁵ Connecticut, Idaho, New Jersey, and Tennessee did not respond. Information provided about the regulatory picture in these states is based on the author's research.

3. Continue to work with customers and providers to identify and meet their needs.

Recent disasters have again proven the importance of reliable telecommunications services that are widely available. Ensuring this reliability and supporting consumers and businesses remains one of the key functions of the State Public Utility Commissions, despite limitations on oversight and regulation. State Commissions may use the information provided in this paper to help their state legislatures understand this important goal and craft legislation to encourage it.

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Telecommunications Oversight 2017:

A State Perspective

I. Introduction

As of September 2017, 39 states had reduced or eliminated oversight of retail telecommunications services, an increase of one over 2016. Of these states, 35 had passed legislation reducing or eliminating Commission's oversight of the large incumbent price cap service providers;⁶ 4 additional states, Iowa, Pennsylvania, New Jersey, and Rhode Island had reduced oversight in either all or part of the state after commission examination and review. The decisions in these states, like those achieved via legislation, focus on the availability of competitive suppliers and the extent to which competition can reduce or obviate the need for traditional commission oversight. The remaining 11 states and the District of Columbia continue to exercise traditional oversight of wireline services provided by their incumbent providers, although they too have reduced or eliminated many of the requirements of traditional regulation, including tariffs and price regulation.⁷

The deregulatory legislation adopted by the states has often included expansive language that attempts to withdraw all oversight responsibilities from State commissions based on competition, the number of customers choosing to move to competitive suppliers, or simply on the type of technology used to provide the service. For example, Mississippi House Bill 825 (2012) specifies that

Competition or other market forces adequately protect the public interest. Therefore . . . the commission no longer has jurisdiction over the services, other than the provision of intrastate switched access service, provided by such public utilities.⁸

⁶ Generally, AT&T, CenturyLink, FairPoint (now part of Consolidated Communications), Frontier, and Verizon have been deregulated. The majority of states continue to regulate rural rate of return carriers and those carriers that have chosen not to "elect" deregulation. Data on the level of oversight exercised by the State Commission cited in this paper is based on responses to the 2017 NRRI Regulatory Survey. We have attempted to validate this information through direct research but have deferred to the survey responses where applicable.

⁷ Alaska, Arizona, California, the District of Columbia, Hawaii, Massachusetts, Maryland, New York, Oregon, Vermont, Washington, and West Virginia continue to have traditional regulatory jurisdiction over price cap carriers.

⁸ Mississippi House Bill 825 (2012), available at <http://billstatus.ls.state.ms.us/documents/2012/pdf/HB/0800-0899/HB0825SG.pdf>

Most recently, Kentucky passed legislation allowing carriers to "modify" their terms of service to reduce regulation throughout the state, regardless of the number of customers served, a change from previous legislation reducing oversight only in those areas where the incumbent served 15,000 or more "housing units."⁹

Under Kentucky SB 10 (2017), "modifying carriers" may choose to be deregulated regardless of the number of customers they serve. They may also choose to stop offering basic local service (generally, dial tone-only local exchange service) to customers in locations where the company had not previously installed service.

The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of any retail service of the modifying utility. . .¹⁰

The modifying utility is not obligated to offer basic local exchange service at [a location where service has not been previously installed].¹¹

State legislatures have also actively addressed the question of IP-enabled services, and particularly, interconnected Voice over Internet Protocol (VoIP) services. Thirty-four states have passed legislation eliminating commission oversight of IP-enabled services, including Voice over Internet Protocol (VoIP) services. Five other states, Alaska, Montana, New Mexico, North Carolina, and Oklahoma do not assert jurisdiction over VoIP carriers, bringing the number of states that do not have oversight of VoIP and other IP-enabled services to 39. Pending Arizona House Bill 2106 could bring this number to 40.¹² Litigation regarding the classification of VoIP is pending in Minnesota, and Vermont. The remaining 10 states report that continue to exercise oversight of VoIP carriers; for example accepting and resolving customer complaints, collecting USF contributions, and managing low income and other state telecommunications support programs.¹³

⁹ Kentucky Acts Chapter 002, House Bill 152 (2015), available at <https://legiscan.com/KY/bill/HB152/2015>

¹⁰ Kentucky Acts, Ch. 43, an act relating to telecommunications (SB 10), 3/20/2017, available at <https://legiscan.com/KY/text/SB10/2017> Kentucky's legislation modifies legislation passed in 2015 that eliminated commission jurisdiction over areas of the state with more than 15,000 retail users.

¹¹ Id.

¹² <https://legiscan.com/AZ/text/HB2106/id/1737571/Arizona-2018-HB2106-Engrossed.html>

¹³ Our 2016 report found 44 states that do not have or do not assert jurisdiction over products offered using IP technology. The current report changes that number to 39 based on state responses to the 2017 Regulation Survey. See Lichtenberg, Sherry, Ph.D., NRRI, Examining the Role of State Regulators

The bills reducing the regulation of IP-enabled services and VoIP generally include expansive language limiting oversight of these services only to those areas specifically deferred to the states by the FCC including ETC designation for carriers offering bundled voice and data service. For example, Massachusetts directly prohibits any

Department, agency, commission or political subdivision of the commonwealth, [from] . . . enact[ing], adopt[ing] or enforc[ing], either directly or indirectly, any law, rule, regulation, ordinance, standard, order or other provision having the force or effect of law that regulates or has the effect of regulating, the entry, rates, terms or conditions of VoIP service or IP enabled service.¹⁴

Despite Maryland's continued oversight of wireline service, language in the Maryland Public Utility Code governing the oversight of VoIP specifies that

The Commission does not have jurisdiction over the regulation of VoIP service, including the imposition of regulatory fees, certification requirements, and the filing or approval of tariffs.¹⁵

The California legislature's language in SB 116, passed in 2012, is even more direct.

(a.) The commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute or as set forth in subdivision. (b.) No department, agency, commission, or political subdivision of the state shall enact, adopt, or enforce any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law, that regulates VoIP or other IP enabled service, unless required or expressly delegated by federal law or expressly authorized by statute or pursuant to subdivision.¹⁶

Although deregulatory legislation has significantly reduced or eliminated oversight of IP-enabled services, including VoIP, this 10,000 foot view of the regulatory landscape does not address the tools that state commissions continue to use to ensure service quality and reliability

as Traditional Oversight Is Reduced 2 (July 11, 2015), <http://nrri.org/wpcontent/uploads/2016/04/2015-Jul-Sherry-Lichtenberg-Role-of-State-Regulators.pdf>

¹⁴ Massachusetts General Laws, Chapter 256, Section 6A (2010), available at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter25C/Section6A>

¹⁵ Maryland Public Utilities Code § 8-602 (2013), available at <http://law.justia.com/codes/maryland/2013/article-gpu/section-8-602/>

¹⁶ California Public Utility Code, Chapter 4, Section 710, available at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC§ionNum=710

and address customer concerns regardless of the type of service they have chosen. The responses to the 2017 Regulation Survey report that State commissions continue to oversee such key areas as carrier certification, ETC designation, emergency services, network quality, carrier of last resort obligations (COLR), contributions to State Universal Service programs, and consumer complaints for both wireline and VoIP services.

Reductions in commission oversight of telecommunications through legislation and/or commission action have posed new challenges for State Public Utility Commissions as they seek ways to ensure that communications providers' private goals align with the public interest. This paper explores the ways in which State Commissions continue to work with providers and customers to support the public good, even where legislation has diminished the Commission's direct role in this process. The information regarding commission oversight in the paper reflects the results of NRRI's 2017 survey of state regulatory commissions. Its goal is to identify and understand those areas where the States continue to work with customers and carriers to ensure the success of the customer-facing aspects of communications, regardless of the technology utilized to provide that service. Data on the actual level of oversight exercised by State Commissions is based on responses to the 2017 Survey. Where possible, we have validated these responses through direct research but have deferred to the State responders where applicable.

- **Part I** of this paper is this introduction.
- **Part II** reviews the status of wireline and VoIP regulation in 2017. It addresses legislation reducing wireline and IP regulation passed in Arizona, Illinois, Kentucky, New Mexico, Utah, and West Virginia in 2017. It also reviews state commission actions affecting the oversight of wireline and IP-enabled services.
- **Part III** presents the results of the NRRI 2017 oversight survey. It identifies the areas where the states continue to assert jurisdiction over wireline and IP-enabled service, including ETC designation, Lifeline, contribution to the state universal service fund, as well as areas specifically assigned to the states by the Telecommunications Act, such as interconnection and the resolution of disputes between carriers. This section of the paper also describes the survey methodology, including the number of responses and the cross checks employed to ensure accuracy.
- **Part IV** provides conclusions and recommendations.

Understanding the limits of the States' jurisdiction over wired and VoIP services will help state commissions and legislators determine whether there are specific areas where competition and customer awareness may not be sufficient to ensure that service levels continue to be acceptable regardless of the technology that provides that service. These areas may require additional commission oversight or support to ensure that consumers continue to enjoy the benefits of their growing communications options.

II. State Communications Jurisdiction: 2017

NRRI began reporting on legislation impacting telecommunications regulation in 2011. Since then, we have tracked bills in each state that have reduced or eliminated state public utility commission oversight of wireline telecommunications on a yearly basis. These reports have focused on the legislation itself, particularly the limitations on direct commission jurisdiction, and have addressed the areas in which the state commission continues to assert oversight, either directly or through cooperative efforts with the service providers only peripherally.

This paper broadens that focus. It reviews the areas where the states have retained oversight of telecommunications services despite deregulatory legislation in order to answer the questions of what jurisdiction remains and how the states exercise it. The report addresses oversight of both wireline and IP-based services, including VoIP. It tracks the number of states that are "prohibited" from creating regulations for IP-based services, as well as examining areas of jurisdiction that the laws preserve.

By September 2017, 38 states had passed legislation or issued Commission orders eliminating or significantly limiting oversight of wireline telecommunications services. Utah joined this group in 2017, passing HB 239, limiting commission oversight in areas with "effective competition."¹⁷ Two other states Kentucky and New Mexico, which had previously reduced regulation on incumbent wireline providers based on the number of access lines or households served, passed legislation further reducing the areas in which the state commission retained oversight of the large incumbent carriers.¹⁸ In addition, Illinois passed an expansive bill providing a pathway to discontinuing TDM-based service, and the Iowa Utilities Board (IUB) completed a rulemaking eliminating most regulation of wireline carriers. We discuss those bills in this part of the paper.

Despite continuing deregulatory pressure, 13 states (Alaska, Arizona, California, the District of Columbia, Hawaii, Massachusetts, Maryland, New York, Oregon, Rhode Island, Vermont, Washington, and West Virginia) continue to assert traditional, if somewhat limited, jurisdiction over the large incumbent price cap carriers. These states have reduced traditional oversight in areas where it is no longer required (for example, tariff requirements and pricing) but retain oversight of customer facing services, including 911 and E911 and complaints. In the

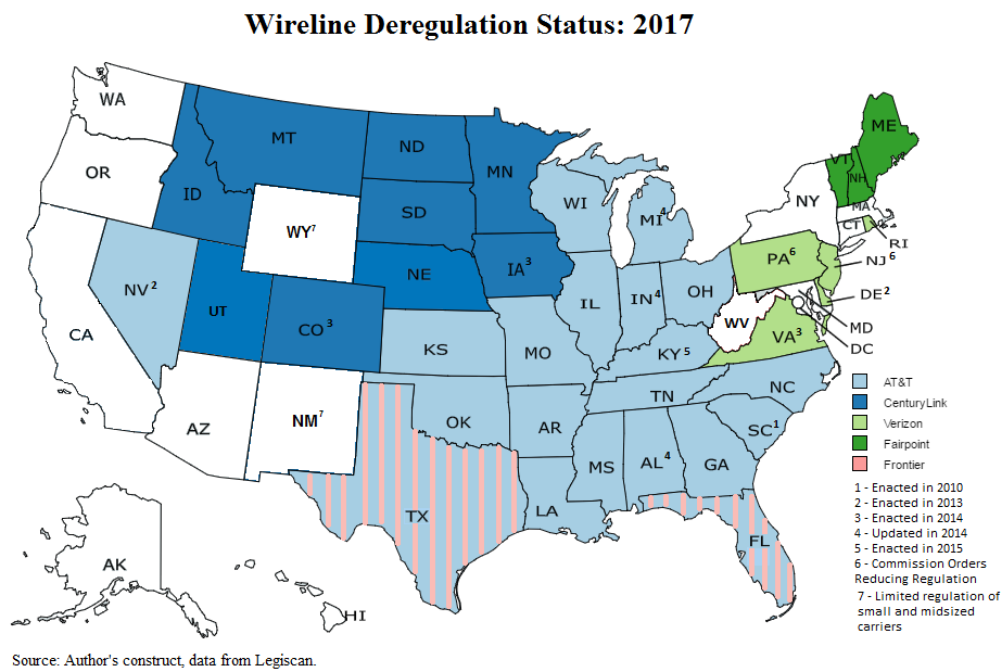
¹⁷ New Jersey and Pennsylvania reduced regulation through Commission orders in 2015. The Iowa Utilities Board issued an order and promulgated rules reducing wireline oversight in 2017. Utah passed HB 59 in 2017.

¹⁸ Both Kentucky and New Mexico initially limited deregulation to areas of the state where the ILEC served significant populations. Kentucky Senate Bill 10 and New Mexico Senate Bill 53 expanded limitations on oversight to the entire state. See Kentucky Senate Bill 10, An Act Relating to Telecommunications, (3/20/2017), available at <https://legiscan.com/KY/text/SB10/id/1540278/Kentucky-2017-SB10-Draft.pdf> and New Mexico Senate Bill 53, Jurisdiction over Incumbent Local Exchange Carriers, 2017, available at https://legiscan.com/NM/text/SB53/id/1589142/New_Mexico-2017-SB53-Enrolled.pdf

majority of states, the States retain jurisdiction over rural carriers, as well as those carriers that have chosen not to opt into the new regime.¹⁹

Figure 1 shows the current status of commission oversight of wireline service provided by price cap local exchange carriers across the country.

Figure 1. Wireline Deregulation Status: 2017



The deregulatory picture is different for VoIP service. Thirty-four states have passed legislation limiting or eliminating commission oversight of carriers providing service using VoIP, the most recent being West Virginia in 2017. Legislation pending in Arizona would raise this total to 35. Five states, Alaska, Montana, New Mexico, North Carolina, and Oklahoma have not passed laws limiting oversight of VoIP, although the State commissions in these states have not asserted jurisdiction over service provided using this technology. Litigation regarding the status of VoIP is pending in Minnesota. Vermont has resolved Phase I of its investigation into the regulatory status of VoIP, determining that the cable voice service provided by Comcast is a

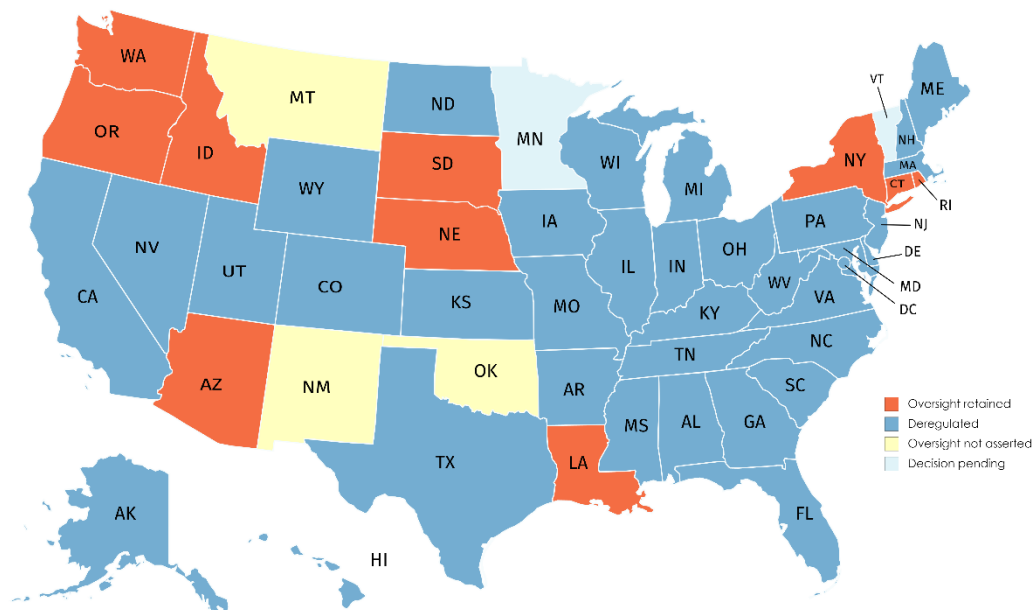
¹⁹ For example, while the majority of carriers in North Carolina have chosen to opt into the states deregulatory format, one ILEC has chosen to remain regulated.

telecommunications service. The next phase of this investigation will determine the regulatory requirements for this service.

We discuss the status of commission oversight of these services in this section. Part A reviews legislation passed in 2017. Part B reviews rulemakings in Iowa and Minnesota reducing commission oversight of carriers in areas with effective competition. Part C addresses litigation regarding the oversight of VoIP pending in Minnesota and Vermont. We provide details of the legislation limiting VoIP oversight by state in Appendix B.

Figure 2 shows the status of VoIP oversight by state in 2017.

Figure 2. IP-Enabled Services Oversight: 2017



A. Wireline Oversight

Thirty-nine states limit oversight of wireline providers. Utah was added to this list in 2017 by passing legislation limiting oversight of its incumbent wireline provider, CenturyLink. Kentucky and New Mexico passed laws extending deregulation to additional areas of the state.²⁰

²⁰ The Wyoming legislature also proposed extending the deregulation of wireline service in 2017, but the bill failed. Current Wyoming statutes require companies proposing deregulation to petition the public utility commission. HB 239 would have allowed companies serving 50,000 or more access lines to

The Iowa Utilities Board limited oversight of wireline and IP-enabled services via a commission rulemaking. Finally, Illinois passed Public Act 100-20, providing a glide path for discontinuing wireline service across the state. We discuss these activities here.

1. Utah

Utah House Bill 59 allows the State commission to find that a "telecommunications company or service" should be exempted from oversight in areas with "effective competition." The decision must be based on the following criteria:

(a) the extent to which competing telecommunications services are available from alternative telecommunications providers; (b) the ability of alternative telecommunications providers to offer competing telecommunications services that are functionally equivalent or substitutable and reasonably available at comparable prices, terms, quality, and conditions; (c) the market share of the telecommunications corporation for which an exemption is proposed; (d) the extent of economic or regulatory barriers to entry; (e) the impact of potential competition . . .²¹

Unlike earlier legislation in other states that cites effective competition as the predicate for deregulation, SB 59 considers the impact of this change on customers without competitive choice. The bill requires the State commission to assess the impact of reduced regulation on "captive customers," to ensure that the deregulated carrier does not use its new status to increase prices and decrease service availability.

2. Kentucky

Kentucky passed HB 152, An Act Relating to Telecommunications, in March, 2015. The bill deregulated retail telecommunications services in areas with more than 15,000 housing units, eliminated retail tariffs, reduced quality of service oversight, and prohibited oversight of VoIP. Most importantly, HB 152 modified Kentucky's COLR and basic service requirements to allow carriers to provide service using any technology, including VoIP and fixed wireless, and to determine when and with what technology they will provide service to locations where they did not provide service previously.

The Kentucky legislature extended these reductions in oversight to all areas of the state by passing SB 10 in February, 2017. The bill provides that

opt into reduced regulation. Wyoming House Bill HB 239, An act relating to telecommunications, available at <https://legiscan.com/WY/text/HB0239/id/1478115/Wyoming-2017-HB0239-Introduced.pdf>

²¹ Utah House Bill 59 (Utah Code 54-8b-3), 2017, Amend a provision relating to telecommunications, available at <https://legiscan.com/UT/text/HB0059/id/1560645/Utah-2017-HB0059-Enrolled.pdf>

The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of any retail service of the modifying utility . . . in all exchanges.²²

The bill preserves commission oversight of carrier to carrier practices under Sections 251/252 of the Telecommunications Act, as well as maintaining commission jurisdiction over complaints regarding anti-competitive practices as defined under federal and state law.

3. New Mexico

New Mexico bill SB 53 extends previous limitations on commission oversight of mid-sized incumbent carriers to those companies serving 50,000 or more access lines based on a finding of "effective competition."²³ The bill's definition of effective competition is particularly instructive.

"Effective competition" means the competition that results from the customers of the service having reasonably available and comparable alternatives to the service.²⁴

Unlike states like Kentucky that have deregulated based simply on the number of lines served, or legislation that designates specific areas of the state as competitive, SB 53 requires that the New Mexico Public Regulatory Commission (PRC) open a proceeding to determine the services that may be deemed competitive and to reduce regulation on those specific products where competition can substitute for oversight. Interestingly, if the PRC finds that basic local service is competitive in a specific area, the entire wire center in which the carrier offers that service will be deemed competitive. Carrier of last resort requirements are eliminated in areas judged to be effectively competitive.

The commission shall, by its own motion or upon petition by any interested party, hold hearings to determine if any public telecommunications service is subject to effective competition in the relevant market area. When the commission has made a determination that a service or part of a service is subject to effective competition, the commission shall . . . modify, reduce or eliminate rules, regulations and other requirements applicable to the provision of such service,

²² Kentucky Acts, Ch. 43, An act relating to telecommunications (SB 10), 3/20/2017, available at <https://legiscan.com/KY/text/SB10/2017>

²³ The New Mexico legislature proposed a similar bill, SB 193, in 2015, but it did not pass.

²⁴ New Mexico Senate Bill SB 53, 63-9A-3(D); An act relating to communications, available at https://legiscan.com/NM/text/SB53/id/1589142/New_Mexico-2017-SB53-Enrolled.pdf

including the fixing and determining of specific rates, tariffs or fares for the service.²⁵

SB 53 preserves the PRC's oversight of pricing, service quality, and wholesale requirements. In addition, carriers will no longer be exempt from the state's Unfair Practices Act or the Antitrust Act in locations and for products found to be effectively competitive.

Most importantly, beginning in 2019, SB 53 requires the PRC to review the status of competition every 3 years to determine the impact of deregulation on basic local service and to re-regulate that service if necessary.

The commission shall review the impact of provisions of the New Mexico Telecommunications Act on residential and business consumers in urban and rural areas of the state every three years, the first review to be completed by July 31, 2019, and shall report its findings to the legislature . . . if the commission finds that reregulation of basic local exchange service is necessary to protect the public interest . . . following a hearing and findings of fact and conclusions of law, after July 31, 2021, the commission shall regulate basic local exchange service.²⁶

The New Mexico Public Regulation Commission (PRC) initiated a rulemaking proceeding on September 20, 2017 to implement Senate Bill 53, in response to CenturyLink's notice of its intent to raise retail rates under the terms of the Act. Case 17-00186-UT will determine how the law should be implemented.²⁷

4. Illinois

Illinois Act 100-20 provides a roadmap for telecommunications companies deregulated in 2010 under PA 096-097 as "large electing providers"²⁸ to transition their customers to IP-enabled service after customer notice but without a formal Commission proceeding. This is the first bill to lay out such a roadmap.

Effective June 30, 2017, a large electing provider may begin to transition customers to IP-enabled service without direct oversight by the Illinois Commerce Commission (ICC).

²⁵ Op. cit. Section 63-9A-8 (A)

²⁶ Op. cit. Section 7. This caveat also exists in other states, although none have yet determined that the negative impact of deregulation is significant enough to return to regulated oversight.

²⁷ PRC Case 17-00186-UT, available at <http://164.64.85.108/index.asp>

²⁸ 220 ICLS 5/13-506.2. "A large electing provider means a carrier that provided at least 700,000 access lines to end users and is affiliated with a provider of [wireless] service as of January 1, 2017."

The carrier must obtain FCC approval to discontinue interstate service under Section 214 of the 1996 Act prior to beginning the transition process. An "alternative voice service" must be available to customers that will be required to transition. After Section 214 approval, the provider must give 60 days' written notice to business customers 225 days' notice of the proposed change to residential customers. The notice must describe the service to be discontinued, identify the earliest date on which the company will stop providing the service, provide a telephone number by which the existing customer may contact a company service representative and contact information for the ICC's Consumer Services Division. Customers that

Do not believe that an alternative voice service including reliable access to 9-1-1 is available . . . from either [the Large Electing Provider] or another provider of wired or wireless voice service . . . [may] . . . request the Illinois Commerce Commission to investigate the availability of alternative voice service including reliable access to 9-1-1.²⁹

The customer must notify the ICC and the company in writing within 60 days that she believes that no alternative service is available in writing to initiate a search for a suitable alternative supplier. If the ICC does not find a "willing" alternative supplier,

If the Commission determines that . . . no other provider [is] willing and capable of providing alternative voice service including reliable access to 9-1-1, [it] shall issue an order requiring the Large Electing Provider to provide alternative voice service . . . to each requesting existing customer utilizing any form of technology . . . including . . . continuation of the requested service, Voice over Internet Protocol services, and wireless services, until another willing provider is available. A Large Electing Provider may fulfill the requirement through an affiliate or another provider. The Large Electing Provider may request that such an order be rescinded upon a showing that an alternative voice service . . . has become available . . . from another provider.³⁰

Illinois Act 100-20 provides the first defined process for allowing an incumbent carrier to withdraw TDM-based service without a State Commission Proceeding approving that decision. To date, the Commission has not received any requests for service discontinuance.³¹

²⁹ 220 ILCS 5/13-406.1 c (1) (B), available at <http://ilga.gov/legislation/publicacts/100/100-0020.htm>

³⁰ 220 ILCS 5/13-406.1

³¹ Ohio House Bill 64 (2015) provides a similar process for discontinuing TDM service but required the state commission to convene a collaborative to identify areas where no alternative service is available prior to the ILEC requesting that a service be discontinued. That rulemaking is in process. See Ohio House Bill 64 (2015), available at <https://legiscan.com/OH/bill/HB64/2015>

5. Iowa Rules

The Iowa Utilities Board issued rules reducing its oversight of retail telecommunications services in August 2017. The Order in Docket INU-2016-0001 reduces oversight of retail local exchange providers based on "the widespread availability of effective competition." The Order

Deregulates retail local exchange service quality in Iowa, including nearly all customer service requirements, specific service quality standards, and provisions relating to discontinuation of service . . . [but] . . . finds that certain regulations involv[ing] essential communications services . . . meet the test for continued service regulation despite a finding of effective competition, including assessments for the Dual Party Relay Services fund and for Board expenses, and hearing and resolving customer complaints.³²

Unlike other states which have included the removal the State Commission's jurisdiction to hear complaints regarding service quality with deregulation, the Iowa Order continues the Board's current process for hearing and processing complaints regarding wireline service quality

With the goal of ensuring that either the customer has a choice of providers or that the only available service provider offers reliable access to service.³³

In addition to the continued oversight of essential services (like basic local service), the IUB continues to have jurisdiction over emergency services (911), operator services, slamming and cramming, and railroad rights of way.

Under Iowa Code § 476.1(7), the Board also retains its authority to re-regulate a service if it is no longer deemed to be effectively competitive or to remedy an egregious problem.

Any interested person may petition the Board to consider re-regulation, and the Board can initiate a proceeding for that purpose on its own motion.³⁴

The IUB is expected to begin crafting the final rules before the end of 2017.

B. IP Oversight

West Virginia passed legislation limiting oversight of IP-enabled services during 2017. Iowa also limited oversight of IP-enabled service during 2017, issuing new rules removing VoIP

³² Iowa Utilities Board, Order deregulating retail local exchange service quality; Docket No. INU-2016-0001, available at <https://efs.iowa.gov/cs/groups/external/documents/docket/mdax/njm5/~edisp/1639492.pdf>

³³ Id. p. 33

³⁴ Id., p. 17

providers from the definition of "telephone utilities" and specifically exempting them from oversight.³⁵ The addition of these states brings the number of states directly reducing or eliminating oversight of IP-enabled services and VoIP to 34. In addition, 6 states have not asserted jurisdiction over these providers, although they have not been legislatively prohibited from doing so, increasing the total to 40.³⁶

Legislation adopted in Arizona addressed the issue of changing telecommunications technology by passing SB1217, requiring that all regulations issued by the Arizona Corporation Commission be "competitively neutral." In addition, pending Arizona House Bill 2106 would remove ACC jurisdiction over IP-enabled services except for those designated by the 1996 Act.

Finally, litigation concerning state oversight of IP-enabled services, including VoIP, remains pending in Minnesota and has recently concluded in Vermont. We discuss the West Virginia and Arizona legislation and this litigation in the following paragraphs.³⁷

1. West Virginia

West Virginia passed SB 180 in April, 2017, becoming the 34th state to limit commission oversight of IP-enabled services, including services that provide voice, data, and video.

The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection: (1) "Internet protocol-enabled service" means any service, capability, functionality or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video. (2) "Voice-over Internet protocol service" means any service that: (i) Enables real-time two-way voice communications that originate or

³⁵ Iowa Administrative Code, Chapter 22 Service Supplied by Telephone Utilities, 2/15/17, p.3 available at <https://www.legis.iowa.gov/docs/iac/chapter/08-30-2017.199.22.pdf>

³⁶ As we noted in Part I, 5 states, Alaska, Montana, New Mexico, North Carolina, and Oklahoma, have not asserted jurisdiction over VoIP providers, bringing the total number of states limiting or prohibiting the regulation of IP-enabled services to 39. This number would increase to 40 should the Arizona legislation be enacted. Note that this number differs from that provided in our 2016 report based on the more granular responses provided by the states to our 2017 survey.

³⁷ Litigation in Montana filed in 2005 also addressed oversight of IP-enabled services. The Commission reviewed the requirements of Bresnan Cable's VoIP offer in this proceeding, eventually deciding to close but to continue tracking changes in VoIP oversight across the country. Montana continues "light touch" regulation of interconnected VoIP providers by accepting customer complaints and assisting consumers with service quality issues. Montana Public Service Commission, In the Matter of Bresnan Communications Voice over Internet Protocol Deployment, Docket No. D2005.5.82, available at http://psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/D2005-5-82_OUT_20050520_NCA.pdf

terminate from the user's location using Internet protocol or a successor protocol; and (ii) Uses a broadband connection from the user's location. (3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.³⁸

The bill also removes commission jurisdiction over telephone company transactions (including asset sales) if all the participating entities are under common ownership.

2. Arizona

Arizona continues to exercise "light touch" jurisdiction over both wireline and IP-enabled service. Arizona Senate Bill 1217 (Chapter 81) clarifies that regulations crafted by the Arizona Corporation Commission (ACC) should be equivalent across all technologies.

A state regulation of telecommunications providers that is subject to the jurisdiction of the commission shall be competitively neutral in relation to all telecommunications providers competing in this state. Just and reasonable rates for retail telecommunications services that have been classified as competitive by the commission do not need to be based on the rate of return evaluation traditionally used in establishing rates for noncompetitive telecommunications services.³⁹

Pending Arizona Bill 2106 would limit ACC oversight of VoIP by redefining this service as a non-telecommunications service.

A person that offers, furnishes or provides for profit or otherwise internet protocol-enabled service or voice over internet protocol service is not providing message transmission service to the public and is not a public service corporation. The commission may not regulate, directly or indirectly, the entry, exit, rates,

³⁸ West Virginia Senate Bill 180 (2017), An act relating to Internet Protocol-enabled Service, available at https://legiscan.com/WV/text/SB180/id/1587148/West_Virginia-2017-SB180-Enrolled.html

³⁹ The legislation limits competitively neutral oversight only to those that remain subject to Commission jurisdiction. See Arizona Senate Bill 1217 (Chapter 81), An Act amending Section 40-250, Arizona revised statutes; relating to telecommunications providers, 03/27/2017, available at <https://legiscan.com/AZ/bill/SB1217/2017>

terms, conditions or service quality standards of internet protocol-enabled service or voice over internet protocol service.⁴⁰

3. Minnesota

As we noted in the introduction to this section of the paper, the regulatory classification of VoIP continues to be the subject of debate in 2 states, Minnesota and Vermont. The Minnesota legislature, like that of 9 other states, has not passed legislation eliminating (or, indeed, prohibiting) oversight of IP-enabled services. Absent a legislative decision on the status of VoIP, the Minnesota Public Utility Commission, determined that Charter, its incumbent cable provider, is a telecommunications provider and is, therefore, subject to Commission oversight, including the imposition of fees for the state's Telecommunications Assistance (TAP) and its Telecommunications Relay Service (TRS) programs.

Charter contested this Commission decision, which is now under appeal in the Court of Appeals for the 8th Circuit.⁴¹ We discuss that proceeding here briefly in order to highlight the way in which some state commissions are addressing the oversight of VoIP service. Since the question of the Minnesota Commission's authority to regulate Charter's VoIP service has not been finally decided, we use this information to illustrate the point that a final decision on the regulatory status of VoIP remains under debate in those 9 states where the legislature or the state PUC has not made a determination otherwise.

In 1999, Charter FiberLink CCO, LLC, and Charter FiberLink CC VIII, LLC were certified as CLECs in Minnesota. The Charter FiberLink companies have provided telephone service using fixed VoIP technology since the inception of the service. Charter's service is a “managed” VoIP service, meaning that telephone calls between Charter subscribers are not carried on the public internet.

On March 1, 2013, the Charter FiberLink Companies transferred their residential service customers to two newly formed companies, the Charter Advanced Services companies, with no notice to regulatory agencies and without seeking regulatory approval. As a result of the transfer, Charter stopped collecting and remitting funds that support Minnesota's low income assistance program, TAP, and the State's Telecommunications Access Minnesota program (TAM), which supports individuals that are deaf, hard of hearing, speech disabled, or have a physical disability.

⁴⁰ Arizona House Bill 2106, available at <https://legiscan.com/AZ/text/HB2106/id/1737571/Arizona-2018-HB2106-Engrossed.html>. The Arizona legislative session ends in June 2018.

⁴¹ Charter Advanced Services (MN) LLC, and Charter Advanced Services VIII (MN), LLC v. Nancy Lange, Appellate Case 17-2290, United States Court of Appeals for the Eighth Circuit, available at https://www.pacermonitor.com/public/case/21678738/Charter_Advanced_Services,_et_al_v_Nancy_Lange,_et_al#

After moving its customers to the new entity, Charter filed an application with the FCC in March 2014 for authority to discontinue its initial Interconnected VoIP Service offer in Minnesota and some other states. The petition stated that the Charter FiberLink Companies currently have no customers in Minnesota for its interconnected VoIP service.

In September, 2014, the Minnesota Department of Commerce filed a complaint with the Minnesota Public Utilities Commission (Commission) concerning the transfer of customers from the Charter FiberLink Companies to the Charter Advanced Services companies without Commission approval. The complaint stated that the voice services provided to customers by the Charter Advanced Services companies are telephone service under Minnesota law and thus subject to Commission oversight, including the payment of fees to support TRS and other services.

In July 2015 the Minnesota Commission issued an Order finding that Charter's fixed interconnected VoIP service is a telecommunications service under Minnesota law. The Order required Charter to submit a filing stating how it would comply with the PUC Order.

Charter appealed the Commission's decision to federal district court. On May 8, 2017 the District Court issued a final order, finding that Charter's voice service is an information service because inherent in its operation is the ability to engage in protocol conversion. The Judge relied on the 2003 Federal District Court decision in Vonage Holdings Corp. v. Minnesota PUC. The Judge also agreed with Charter that its interconnected VoIP service does not fall within the "telecommunication management exception" in the Non-Accounting Safeguards Order.

On August 24, 2017, the Minnesota Commission filed an appeal of the lower court's decision with the U.S Court of Appeals. Charter filed its reply brief on October 23, 2017, contesting the MPUC's definition of its VoIP service as a telecommunications service. Charter's reply brief points out that the decision in this case will potentially inform the oversight of all VoIP and other IP-enabled services. The FCC filed an amicus brief in the case urging the Court to maintain the status quo but continuing to defer any Federal decision on the regulatory classification of VoIP. NARUC and others also made amicus filings. The case remains pending.

4. Vermont

The Vermont Public Service Board (PSB) also continues to review the regulatory classification of VoIP services. The PSB opened Docket 7316, Investigation into the regulation of Voice over Internet Protocol (VoIP) Services, in 2007 in order

To undertake a generic investigation into the nature and extent of Voice over Internet Protocol ("VoIP") services offered in Vermont and to clarify the regulatory status of VoIP service providers operating in [the] state.⁴²

The proceeding was divided into three phases, fact finding, identifying jurisdiction, and determining how that jurisdiction would be applied. The Board issued an Order in 2010 finding that the

Fixed VoIP services offered in Vermont fall within the statutory definition of a "telecommunications service" under Vermont law, and that the Board's authority to regulate fixed VoIP services is not preempted by federal law.⁴³

Comcast appealed the Order to the Vermont Supreme Court. The Court ruling issued a ruling in September, 2012, affirming the Phase I finding that VoIP is a telecommunications service under Vermont but remanding the case to the Board for the express purpose of "determining whether fixed VoIP is an information service within the meaning of the 1996 Act."⁴⁴

The Board convened a hearing on February 26, 2017 to begin the process of determining the proper regulatory classification of VoIP service. The Board issued an Order in this case on February 7, 2018. The Board found that

After consideration of the federal law, as required by the Vermont Supreme Court, we conclude that VoIP service is a telecommunications service. This conclusion does not, however, determine how VoIP services should be regulated. We therefore remand this proceeding to the Hearing Officer for further consideration of these issues.⁴⁵

In the interim, Vermont has not regulated VoIP beyond requiring carriers to obtain certificates of authority to provide service and contribute to the state universal service fund.

III. The 2017 Regulation Survey

⁴²Vermont Public Service Board, Order Closing Docket 7316, 2/2/2012, available at <http://puc.vermont.gov/sites/psbnew/files/orders/2012/7316%20ClosingOrder.pdf>

⁴³ Id.

⁴⁴ Vermont Public Service Board, Docket 7316; Investigation into regulation of Voice Over Internet Protocol (VoIP) services; available at <http://epuc.vermont.gov/?q=node/104/27048>

⁴⁵ Id.

As we noted in Part I of this paper, by September 2017, 39 states had reduced or eliminated oversight of wireline telecommunications services provided by the large incumbent carriers. In addition, 34 states have specifically exempted IP-enabled services and VoIP from traditional regulation. An additional six states (Alaska, Montana, New Mexico, New York, North Carolina, and Oklahoma) have not passed legislation eliminating oversight of VoIP but have chosen to assert only limited, if any, authority over this service, bringing the total number of states with only limited authority over IP-enabled service and VoIP to 40.⁴⁶ Nine states responded to the survey that they continue to regulate VoIP providers.

Tables 1 and 2 show the states that have eliminated wireline and/or VoIP regulation as of November, 2017.

Table 1. States Eliminating Wireline Oversight as of November 2017

State	Legislation/Commission Decision
AL	http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm
AR	Act 1098 https://legiscan.com/AR/text/SB948/id/782616
CO	HB 14-1331, 5/9/14; http://www.leg.state.co.us/clics/clics2014a/csl.nsf/fsbillcont3/4034ECA181A3A0D587257C9B00794391?Open&file=1331_enr.pdf
CT*	PA 94-83; 1994; https://www.cga.ct.gov/2010/rpt/2010-R-0290.htm ; https://www.cga.ct.gov/current/pub/chap_283.htm#sec_16-247a
DE	Bill 96, 6/15/13; https://legiscan.com/DE/text/HB96/id/863588/Delaware-2013-HB96-Engrossed.html
FL	HB 1232 2011 (Ch. 364.011 F.S.)
GA	Act 671 (2010); https://legiscan.com/GA/text/HB168/id/490240/Georgia-2009-HB168-Comm_Sub.html
IA	Docket No. INU-2016-0001; https://efs.iowa.gov/cs/groups/external/documents/docket/mdax/njm5/~edisp/1639492.pdf
ID*	HB 224 (2011); S1156; http://law.justia.com/codes/idaho/2016/title-62/chapter-6/
IL	Illinois Public Act 100-20 ; http://www.ilga.gov/legislation/publicacts/fulltext.asp?name=100-0020&GA=100&SessionId=91&DocTypeId=HB&DocNum=1811&GAID=14&Session=
IN	HEA 1279, 3/2006 http://www.in.gov/legislative/bills/2006/PDF/HE/HE1279.1.pdf

⁴⁶ Litigation to determine the regulatory classification of VoIP providers is pending in Minnesota and Vermont, so we do not include them in our totals here.

KS	SB 72 (2012); https://legiscan.com/KS/text/SB72/id/549805/Kansas-2011-SB72-Enrolled.pdf
KY	http://www.lrc.ky.gov/Statutes/statute.aspx?id=45863
LA	General Order R-31839 (2014)
ME	Public law 2016, Ch.462 http://legislature.maine.gov/statutes/35-A/title35-Ach72sec0.html
MI	Act 52 (2014); https://legiscan.com/MI/text/SB0636/id/1000335/Michigan-2013-SB0636-Chaptered.html
MN	HF 1066, https://legiscan.com/MN/text/HF1066/id/1400881/Minnesota-2015-HF1066-Engrossed.pdf
MO	Senate Bill 651 in 2014; http://www.senate.mo.gov/14info/pdf-bill/tat/SB651.pdf
MS	HB 825, 4/19/12 http://billstatus.ls.state.ms.us/2012/pdf/history/HB/HB0825.xml
MT	HB 246 (2011); https://legiscan.com/MT/text/SB246/id/233083/Montana-2011-SB246-Enrolled.pdf
NC	S343 (2011); https://legiscan.com/NC/text/S343/id/279280/North_Carolina-2011-S343-Chaptered.html
ND	HB 1385 (2015); https://legiscan.com/ND/text/1385/id/1161543/North_Dakota-2015-1385-Enrolled.pdf
NE	LB 257 (2011); https://legiscan.com/NE/text/LB257/id/221394/Nebraska-2011-LB257-Chaptered.pdf
NH	SB 48 (2012); https://legiscan.com/NH/text/SB48/id/507736/New_Hampshire-2012-SB48-Introduced.html
NJ*	BPU Docket TX11090570 (2015); http://www.njslom.org/legislation/bpustipulation.pdf
NM	SB 53 (2017) https://legiscan.com/NM/text/SB53/id/1589142/New_Mexico-2017-SB53-Enrolled.pdf
NV	AB 518 (2007); https://www.leg.state.nv.us/Session/74th2007/Bills/AB/AB518_EN.pdf
OH	SB 162 (2010; effective 2013); https://legiscan.com/OH/text/SB162/id/444652/Ohio-2009-SB162-Enrolled.html
OK	Commission decisions have reduced oversight of ILECs
PA	Sec. 3016, 66 Pa. C.S. 3016, 2015
SC	Act 7 (2009) ; https://legiscan.com/SC/bill/H3299/2009
SD	Title 49-31-3.2; http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=49-31-3.2

TN*	Senate Bill 1180 (2013); https://legiscan.com/TN/text/SB1180/id/725134/Tennessee-2013-SB1180-Draft.pdf
TX	SB 980 (2011); https://legiscan.com/TX/text/SB980/id/288320/Texas-2011-SB980-Enrolled.html
UT	HB 59 (2017) UC 54-8b-3; https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S3.html?v=C54-8b-S3_2017050920170509
VA	SB 584 (2014); https://legiscan.com/VA/text/SB584/id/1006951/Virginia-2014-SB584-Chaptered.html
WI	WI Act 22 (2011), https://docs.legis.wisconsin.gov/2011/related/acts/22
WY	Competitive Determination Of CenturyLink QC Essential Business And Residential Services Inside The Base Rate Area And Zone 1, Docket No. 70000-1601-TA-14 February 6, 2015 https://dms.wyo.gov/ManageDocket.aspx?DocketId=a58CuQUx45f1vBPc5Q7Ot2B2uswKhJ7AoLrwXWNgHeg%3d

Table 2. States Eliminating Oversight of IP-enabled Services

State	Legislation/Commission Decision
AL	Alabama Code §37-2A-4 http://codes.findlaw.com/al/title-37-public-utilities-and-public-transportation/al-code-sect-37-2a-4.html
AR	AR Statute 23-17-411 (g)(1) ; http://law.justia.com/codes/arkansas/2014/title-23/subtitle-1/chapter-17/subchapter-4/section-23-17-411
CA	PUC Code 710, http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC&sectionNum=710
CO	CO HB 14-1329, https://legiscan.com/CO/text/HB1329/2014
DE	SB 96 (2014) https://legiscan.com/DE/text/HB96/2013
DC	17-165, Telecommunications Competition Amendment Act (2008); https://beta.code.dccouncil.us/dc/council/laws/docs/17-165.pdf
FL	SB-1322 (2005) Ch. 364.011 F.S.; http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0364/Sections/0364.011.html
GA	HB 168 (2010) https://legiscan.com/GA/text/HB168/2009 §46-5-222
HI	No legislation
IA	Iowa Administrative Code, Chapter 22 Service Supplied by Telephone Utilities, 2/15/17, p.3 available at https://www.legis.iowa.gov/docs/iac/chapter/08-30-2017.199.22.pdf
IL	Section 13-0401.1 Illinois PUA, http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=022000050HArt%2E+XIII&ActID=1277&ChapterID=23&SeqStart=22500000&SeqEnd=32900000
IN	HEA 1279, March 2006 http://www.in.gov/legislative/bills/2006/PDF/HE/HE1279.1.pdf ; Indiana Code 8-1-2.6-1.1
KS	K.S.A. 66-2017 , http://www.ksrevisor.org/statutes/chapters/ch66/066_020_0017.html
KY	HB 152 (2015) https://legiscan.com/KY/bill/HB152/2015
ME	Public law 2016, Ch.462 http://legislature.maine.gov/statutes/35-A/title35-Ach72sec0.html
MD	Public Utilities Statutes Article § 8-602; http://law.justia.com/codes/maryland/2013/article-gpu/section-8-602/

State	Legislation
MA	M.G.L. c. 25C, section 6A, (2010); https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter25C/Section6A
MI	MTA Sec. 484.2401, http://www.legislature.mi.gov/(S(zimwz35tgndgx0di0up44ow3))/mileg.aspx?page=GetMCLDocument&objectname=mcl-484-2401
MS	HB 825, 4/19/12, http://billstatus.ls.state.ms.us/2012/pdf/history/HB/HB0825.xml
MO	HB 1779 (2008); Sec 392.550 RSMo; Sec. 392.611
NV	https://www.leg.state.nv.us/Session/74th2007/Bills/AB/AB518_EN.pdf
NH	NH Senate Bill 48, 2012, http://www.gencourt.state.nh.us/legislation/2012/SB0048.html , now codified primarily in RSA 362:7, 362:8, 374:1-a, and 378:1-a.
NJ	NJ statute 48:17-35; http://law.justia.com/codes/new-jersey/2013/title-48/section-48-17-35
ND	HB 1385 (2015) https://legiscan.com/ND/text/1385/id/1161543/North_Dakota-2015-1385-Enrolled.pdf
OH	SB 162 (2010) ; 4927.03 Ohio Revised Code; https://legiscan.com/OH/bill/SB162/2009
PA	VoIP Freedom Act of 2008, 73 P.S. §§ 2251.1 et seq., Act 52 of 2008, Senate Bill 1000 (2008).
RI	Regulation reduced in 2006 via Commission decision.
SC	S 277 (2015) https://legiscan.com/SC/text/S0277/2015
TN*	SB 1180 (2013); https://legiscan.com/TN/text/SB1180/id/725134/Tennessee-2013-SB1180-Draft.pdf
TX	PURA 52.002, http://www.statutes.legis.state.tx.us/Docs/UT/htm/UT.52.htm
UT	CH 241 (2012) UC 54-19-103 https://le.utah.gov/xcode/Title54/Chapter19/54-19.html?v=C54-19_1800010118000101
VA	Section 56-1.3 Code of Virginia, https://law.lis.virginia.gov/vacode/title56/chapter1/section56-1.3/

State	Legislation
WV	SB180 (2017); https://legiscan.com/WV/text/SB180/2017
WI	Act 22 (2011) https://docs.legis.wisconsin.gov/2011/related/acts/22
WY	Wyoming Statute 37-15-105(b) deregulates VoIP

Data from survey responses and author's research.

A detailed listing of state legislation and commission actions reducing oversight of wireline and IP-enabled services appears in Appendix A.

Simply tracking the number of states reducing or eliminating telecommunications oversight, however, provides only a partial picture of the current status of commission jurisdiction. A closer look at current State Commission practices shows that although regulation of both wireline and VoIP providers has been reduced, it has not been totally eliminated, even in those states that have passed the most expansive deregulatory legislation.

This section of the paper explores the areas where state commissions retain at least some authority over the service provided by the large incumbent price cap carriers, cable companies, and VoIP providers.

A. Survey Methodology

In order to create a more fulsome picture of telecommunications oversight in 2017, NRRI surveyed the 51 state public utility commissions to determine what jurisdiction they have retained despite legislation and commission decisions limiting their role. The survey focused on jurisdiction over the large, price cap carriers such as AT&T, CenturyLink, Frontier, FairPoint (now Consolidated Telecommunications), and Verizon, although a number of state responses to the survey included information on jurisdiction over rural and rate of return carriers. In addition, some states reported that a number of smaller carriers have chosen to continue to be governed by their in-place tariffs.

The survey addressed the full range of telecommunications services: wireline, interconnected VoIP, nomadic VoIP (such as the VoIP services provided by Vonage, 8x8, and others), cable, and fiber to the home services. To ensure that we could create a full picture of telecommunications oversight, we also asked questions about commission oversight of wireless services, primarily ETC designation and contribution to State Universal Service Funds.

NRRI sent the survey to all 51 state commissions; 47 commissions responded, including Hawaii and Alaska. No responses were received from Connecticut, Idaho, New Jersey, and Tennessee. Where possible, we provide information for the non-responders by reviewing legislation, state statutes, and other sources. Where we cannot provide this information we note the non-response.

A copy of the survey appears in Appendix B. Individual state responses are available from the author. Compiled survey results appear throughout the paper. Tables 3 and 4 summarize the results of the 2017 regulation survey for traditional voice services.

Table 3. Oversight of wireline services

State	ILEC Deregulated	911 Oversight	ETC	Quality	Complaints	CPCN	Lifeline	Price Change Notice	Disco	TRS Fees
AK	No	Local gov	Y	Y	Y	Y	Y	Y	Y	Y
AL	Yes	Y	Y	Y	Refer	Y	No SUSF	N	N	Y
AR	Yes	No	Y	Limited	Y	Y	N	N	N	N
AZ	No	Provi- ders	Y	Y	Refer	Y	Y*	Y	Y	N*
CA	No	Y	Y	Y	Refer/Adj	Y	Y	Y	Y	Y
CO	Yes	Provider	Y	ETCs that accept HCF	Refer/ track	Y	N	ETCs w HCF	ETCs w HCF	Y
CT#	No	Y	Y	Y	Y	Y	Y	N	N	Y
DC	No	Other gov	Y	Y	Y	Y	Y	Y	Y	Y
DE	Yes	Y	Y Cell	N	N	Y	N	N	N	N
FL	Yes	Other gov	Y	N	Refer	Y	Y	N	N	Y
GA	Yes	Other gov	Y	Y	Refer	Y	N	Y	Y	Y
HI	No	N	Y	N	N	Y	N	N	N	N
IA	Limited	Y	Y	N	Refer	Option	Y	N	Y	Y
ID#	Limited	Fees	Y	Y	Y	Y	Y	N	N	Y
IL	Yes	Y	Y	Limited	Refer	Y	Y	Limited	N	Y
IN	Yes	Y	Y	N	Refer/Adj	Y	Fed	Y	N	Y
KS	Yes	Fees	Y	Reg ILECs	Limited	Y	Y	Reg ILECs	Reg ILECs	Y
KY	Yes	Y	Y	Y Rural	Refer	Y	Y	Rural	Rural	Y
LA	Yes	N	Y	Y (Basic)	Refer	Y	N	Y	Y	Y
MA	No	Y	Y	Y	Refer	Y	Option	Y	Y	Y
MD	No	Y	Y	Y	Refer	Y	Y	Y	Y	Y
ME	Yes	Y	Y	POLR	POLR	Y	Y*	POLR	POLR	Y
MI	Yes	Y	Y	N	Refer	Y	Y*	N	Y*****	Y
MN	Yes	Y	Y	Y	Y*****	Y	Y	Y	Y	Y
MO	Yes	N	Y	Y**	Y**	Y	MUSF	N	N	Y
MS	Yes	Y	Y	Y	Reg Cos.	Y	N	N	Y	Y
MT		Y	Y	Y	Refer/Adj	Y	Y	Y	Y	Y
NC	Yes	911 Bd	Y	1 ILEC not elected	1 ILEC not elected	Y	Y	1 ILEC	1 ILEC	Y

State	ILEC Deregulated	911 Oversight	ETC	Quality	Complaints	CPCN	Lifeline	Price Change Notice	Disco	TRS Fees
ND	Yes	N	Y	Y	Y	Y	N	Access	Y	Y - ITDiv
NE	Yes	Y	Y	Y	Refer/Adj	Y****	Y NUSF	Y	N	Y
NH	Yes	Y	Y	N	Refer	Y****	N	N	COLR	Y
NJ#	Yes	Y	N	N	Refer	Y	Y	N	N	Y
NM	Yes	Y	Y	Y	Refer	Y	SUSF	Y	Y	N
NV	Yes	Outage Rptg	Y	Y	Refer/ Adjudicate	Y	Y NUSF	Limited	Limited	Limited
NY	No	Y	Y	Limited	Y	Y	Y	Y	Y	Y
OH	Yes	Y	Y	BLES	Y	Y	N	Y	Y	Y
OK	Yes	Reg Cos	Y	Limited	Refer/adj	Y	Y	Y	Y	N
OR	No	Y	Y	Y	Refer	Y	Y	Y	Y	Y
PA	Limited	Y	Y	Y	Y	Y	Y	Y	Y	Y
RI	Yes	Y	Y	N	Refer	Y	N	Y	Y	Y
SC	Yes	N	Y	Y	Refer	Y	Y	Y	Y	Y
SD	Yes	Y	Y	Y	Refer/Adj	Y	Y	N	Y	Human Svcs
TN#	Yes	Y	Y	N	N	Y	Y	N	N	Y
TX	Yes	Y	Y	Reg Cos.	Reg Cos.	Y	Y	Reg Cos	Reg Co	Y
UT	Yes	Y	Y	Y	Refer/ Adj	Y	Y	Y	Y	Y
VA	Yes	Y	Y	CETCs	Y	Y	No SUSF	Tariff	non-CTCs	Dept of Deaf
VT	No	Network	Y	Y	Refer/adj	Y	Y	Y	Y	Y
WA	No	Y	Y	Y	Investi-gate	Y	Y	Y	Y	N
WI	Yes	Limited	Y	N	LL, LNP - Refer	N	Y	N	N	N
WV	No	Y	Y	Y	Y	Y	Y	Y	Y	Y
WY	No	Y	Y	Non CTC	Refer; Non CTC	Y	N	Y	Y	Y

* ME USF includes LECs, IYCs, Wireless, Pre-paid wireless, Radio paging

** MO PSC retains authority over "network configuration or other such matters." Could include quality.

**** NH VoIP providers may register voluntarily; 911 commission oversees but has no complete list of carriers

***** MI: disco oversight for active military and deaf, hard of hearing, speech impaired; VA - noncompetitive carriers

* MN/MS - work with customer to resolve; commission could bring

***** action

VA CTC - Carriers designated as competitive have limited oversight

* AZ - Other state agencies and AG

CT, NJ, ID, and TN did not respond to the survey. Information from author's research

Table 4 summarizes the responses to the 2017 Regulation Survey concerning the oversight of IP-enabled services and VoIP.

Table 4: Oversight of Interconnected VoIP Services

	Deregulated	911	ETC	Quality	Complaints	CPCN	Lifeline	TRS	Price Notices	Disco	USF
AK	Yes	No	No	No	No	No	No	No	No	No	Yes
AL	Yes	Yes	No	No	Refer	No	No	Yes	No	No	No
AR	Yes	Yes	Yes	No	No	No	No	Yes	No	No	Yes
AZ	No	Y voice	Yes	Yes	Refer	Option	Yes	No	Yes	Yes	All
CA	Yes	Y fees	No	No	No	Yes	No	Yes	No	No	All
CO	Yes	Y State carrier	Yes	HC ETCs	HC ETCs	Option	Yes	Yes	No	No	Yes
CT*	No										
DC	Yes	No	No	No	No	No	No	Yes	No	No	Yes VoIP, FTTTP
DE	Yes	Yes	No	No	No	No	No	No	No	No	None
FL	Yes	Y 911 Board	No	No	Refer - Other agency	Option	No	No	No	No	No SUSF
GA	Yes	Yes other	Yes	Yes	Refer	Yes	Yes	Yes	Yes	Yes	Yes All
HI	Yes	No	Yes	No	No	Yes	No	No	No	No	No SUSF
IA	No	Yes	Yes	No	Refer	Yes	Yes	Yes	Yes	Yes	No SUSF
ID*	No	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
IL	Yes	Limited	Yes	No	No	Yes	Yes	Yes	No	No	No
IN	Yes	Y other	Option	No	No	Yes	FCC	Yes	Yes	No	Option
KS	Yes	Yes	Yes	No	No	No	No	Yes	No	No	All
KY	Yes	No	Yes	No	Yes	Yes	No	Yes	No	No	All
LA	Yes	Yes	Yes	Yes	Refer	Yes	No	Yes	Yes	Yes	All
MA	Yes	No	No	No	No	No	No	No	No	No	No
MD	Yes	Yes	Yes	No	No	No	No	No	No	No	All
ME	No	Yes	Yes	No	No	Yes	Yes	Yes	No	No	All
MI	Yes	Yes	No	No	No	Yes	No	No	No	No	No
MN**	Pending										
MO	Yes		Yes	No	Access	Yes	Yes	Yes	No	No	All
MS	Yes	No	No	No	No	No	No	No	No	No	No
MT	No	Yes	Yes	Yes	Refer/adj	Yes	Yes	Yes	No	Yes	No SUSF
NC	Yes	No	No	No	No	No	No		No	No	No SUSF
ND	Yes	Yes	Yes	Yes	Refer	Yes	Yes	No	No	Yes	All
NE	Yes	Yes	Yes	No	Refer	Yes	No	Yes	Some	No	Yes - voice
NH	No	Fees	Yes	No	Refer	Option	Yes	Yes	No	No	N/A
NJ*	No	No	No	No	No	Yes	No	No	No	No	No
NM	No	No	Yes	No	No	Option	Yes	No	No	No	Cable, VoIP
NV	Yes	Rptng	Yes	w CPCN	w CPCN/refer	Option	w CPCN	w CPCN	No	w CPCN	w CPCN
NY	Yes	No	No	No	No	No	No	Option	No	No	No
OH	Yes	Yes w CPCN	Yes	No	Refer	Yes	No	Yes	No	No	No
OK	Yes	No	No	No	No	No	No	No	No	No	All
OR	No	Fees	Yes	LECs	Refer	License	Yes	Yes	ILEC	LEC	Pending

	Deregulated	911	ETC	Quality	Complaints	CPCN	Lifeline	TRS	Price Notices	Disco	USF
PA	Yes	Yes	Yes	No	Limited 911	Yes LNP	FCC	Yes	No	No	Voluntary
RI	Yes	Yes	Yes	No	Refer	Yes	Yes	Yes	Yes	Yes	All
SC	No	Rpt	Yes	Yes ETC	Refer ETC	Register	No	Yes	ETC	ETC	Yes All
SD	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	no SUSF
TN**	Yes										
TX	Yes	Yes	Yes	No	No	No	No	No	No	No	No
UT	Yes	No	Yes	No	No	No	Yes	Yes	No	No	All
VA	Yes	No	No	No	Refer	No	No	No	No	No	no SUSF
VT*	Pending										Yes
WA	No	Yes	Yes	No	Informal	Yes	Yes	Yes	No	No	No
WI	Yes	Yes	Yes	No	ETC, LNP	Register	Uncertain	Yes	No	No	Yes all
WV	Yes	Yes	Yes	No	No	Yes	No	No	No	No	No SUSF
WY	Yes	No	No	No	No	No	No	Yes	No	No	Yes
*Connecticut, Idaho, New Jersey, and Tennessee did not respond to the survey. Information from author's research.											
** Litigation on the status of VoIP is pending in MN and VT											

Data from 2017 Regulation Survey.

B. Oversight of Retail Services

All respondents reported that despite limitations on oversight through legislation or Commission decisions, they retain at least some jurisdiction over traditional wireline services, either statutorily or operationally. This includes assessing 911 fees (but not necessarily imposing quality requirements on the service providers), issuing certificates of public convenience and necessity (CPCN) or otherwise registering and tracking carriers, designating eligible telecommunications carriers (ETCs), and responding to consumer questions and complaints. In addition, the states retain jurisdiction over wireline wholesale interconnection and carrier disputes, as well as other duties imposed by the FCC.

Many of these roles are carved out in the legislation reducing oversight or in commission rules. This language limits Commission oversight to those areas delegated to the States by the FCC. The Missouri statute is a good example of this decision.

A telecommunications company shall not be exempt from any commission rule established under authority delegated to the state commission under federal statute, rule, or order, including, but not limited to, universal service funds, number pooling, and conservation efforts. Notwithstanding any other provision of this section, nothing in this section extends, modifies, or restricts any authority delegated to the state commission under federal statute, rule, or order to require, facilitate, or enforce any interconnection obligation or other intercarrier issue

including, but not limited to, intercarrier compensation, network configuration or other such matters.⁴⁷

The picture is less clear regarding IP-enabled services. States report either no jurisdiction at all over IP-enabled services or limited oversight of the customer-facing services provided using internet protocol, for example the quality and availability of emergency service, , despite legislation eliminating or diminishing oversight.

The Alabama statutes make the limitations on the oversight of IP-enabled services in that state clear.

Notwithstanding any provision of law to the contrary, the commission shall not have any jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, or monitor, directly or indirectly, the rates, charges, classifications, provision, or any aspect of broadband service, broadband enabled services, VoIP services, or information services.⁴⁸

On the other hand, Iowa's rules maintain some oversight of IP-enabled services, defining certain services as "essential" and continuing their regulation by the IUB.

The Board finds that certain regulations involve essential communications services that meet the test for continued service regulation despite a finding of effective competition, including assessments for the Dual Party Relay Services fund and for Board expenses, and hearing and resolving customer complaints. The Board further finds that certain statutory provisions are unaffected by deregulation, including 911 services, regulation of alternative operator services, unauthorized changes in service, and utility crossings of railroad right-of-way.⁴⁹

We report here on the key areas where states retain jurisdiction over telecommunications services regardless of the technology used to provide them.

1. Carrier registration

Carrier registration allows the state commission to identify companies providing service, contact the carrier when necessary, and assess 911/E911 and regulatory fees. On the carrier side,

⁴⁷ Section 392.611 RSMo, available at <http://www.moga.mo.gov/mostatutes/ChaptersIndex/chaptIndex392.html>

⁴⁸ Alabama Code Title 37. Public Utilities and Public Transportation § 37-2A-4(a), available at <http://codes.findlaw.com/al/title-37-public-utilities-and-public-transportation/al-code-sect-37-2a-4.html>

⁴⁹ Iowa Utilities Board, Order deregulating retail local exchange service quality; Docket No. INU-2016-0001, available at <https://efs.iowa.gov/cs/groups/external/documents/docket/mdax/njm5/~edisp/1639492.pdf>

some states require a CPCN is generally necessary to obtain access to rights of way, pole attachments, local number portability, etc. Others provide an optional method of registration.

a. Wireline

Forty-nine states reported that they continue to require telecommunications carriers to obtain CPCNs. Iowa and Massachusetts no longer require carriers to obtain a CPCN but provides an optional registration process.

Local exchange carriers seeking a certificate of public convenience and necessity may voluntarily apply for a certificate by filing a petition meeting the requirements of Iowa Code § 476.29.⁵⁰

Wisconsin also responded that carrier registration is no longer required, since carriers are compensated only for their 911 network expenses. County and municipal PSAP expenses are paid for through county and municipal budgets.⁵¹

b. VoIP

The picture for VoIP is different. Only 23 states require registration of VoIP providers. Six states allow VoIP providers to obtain CPCNs, but the process is optional. Sixteen states have no VoIP provider registration requirement. One state, Oregon, licenses VoIP providers rather than offering a traditional CPCN. A decision on the status of VoIP regulation remains pending in Minnesota and Vermont.⁵²

As more providers transition from wireline to VoIP, registration may become a key issue for State commissions. As we noted earlier, registration allows the State to identify carrier contacts, identify carriers that are porting numbers, qualify for access to poles and rights of way, and assess universal service, E911, and regulatory charges. Table 5, below, summarizes VoIP provider registration requirements by state. Data is from survey responses.

Table 5. VoIP Provider Registration Requirements

VoIP carrier registration required	CA, GA, HI, IA, , IL, IN, KY, LA, ME, MI, MO, MT, ND, NE, OH, PA, RI, SC, SD, WA, WV, WI, WY
Optional registration	AZ, CO, FL, NH, NV, NM
No VoIP registration requirement	AK, AL, AR, DC, DE, KS, MA, MD, MS, NY, NC, OK, TX, UT, VA
Other registration type	OR (License)
Decision pending	MN, VT

⁵⁰ Id. Clause 3. The IUB is currently considering the rules necessary to implement the Board's order, including developing a voluntary company registration form.

⁵¹ Jahn, Peter, Survey response, 8/17/2017

⁵² Four states (Connecticut, New Jersey, Idaho, and Tennessee) did not respond to the survey

2. Emergency services and outage reporting

a. Wireline

Forty-three states retain some oversight of emergency services provided by wireline carriers, either directly or through a state 911 Board or similar entity. For example, the District of Columbia Division of Unified Communications and the Georgia Emergency Management agency collect 911 fees and track authorized carriers to ensure fee collections, even when a CPCN is no longer required. Similarly, Oregon's statutes authorize the Office of Emergency Management to collect 911 fees, but states that Commission may open proceedings against carriers that exceed outage requirements.

Colorado also continues to regulate statewide emergency services providers but provides direct oversight only over those providers that accept high cost funding in areas without effective competition. Colorado HB 1331 deregulated retail service in 2014 but continued to provide for commission oversight of essential services like E911.

Basic emergency service is declared to be subject to regulation pursuant under this [bill] and subject to potential reclassification.⁵³

Five states, Delaware, Florida, Hawaii, Missouri, and North Dakota, reported that they have no authority over emergency service, including assessing/collecting fees. For example, Missouri's response to the 2017 survey noted that legislation deregulating retail telecommunications services has limited the PUC's authority to overseeing universal service funding, telephone number conservation, and wholesale services.⁵⁴

Washington State presents the opposite side of the coin. Washington continues to require carriers to meet quality of service requirements and report outages in a timely fashion. Based on this information, the Commission may open an investigation into the problem.

Any company experiencing a major outage that lasts more than forty-eight hours must provide a major outage report to the commission within ten business days of the major outage. The major outages report must include a description of each major outage and a statement that includes the time, the cause, the location and number of affected access lines, and the duration of the interruption or impairment. The commission may choose to investigate matters to protect the public interest, and may request further information from companies that details

⁵³ Colorado Bill HB 14-1331, The Regulation of Basic Local Exchange Service, available at <https://legiscan.com/CO/text/HB1331/id/1019174/Colorado-2014-HB1331-Enrolled.pdf>

⁵⁴ Van Eschen, John, Missouri Survey response, 8/9/2017.

geographic area and type of service, and such other information as the commission requests.⁵⁵

The District of Columbia also continues to oversee the quality of service provided to its wireline customers. The Public Service Commission has proposed rules requiring communications service providers to report outages down "most specific location of the service outage and the geographic area affected by the service outage" in its initial notification to the Commission and the "actual location of the outage and the geographic area affected in the final report."⁵⁶

b. VoIP

The oversight of emergency services provided via IP technology or offered by VoIP providers continues to be a challenge for state commissions. Thirty-two state survey recipients responded that they continue to exercise authority over emergency service regardless of the technology used to provide it, despite legislation otherwise limiting oversight of IP-enabled service.⁵⁷ Thirteen states responded that they have no jurisdiction over emergency services provided by VoIP carriers. A decision about the regulatory classification of VoIP carriers remains pending in Minnesota and Vermont.

The transition to emergency services provided via IP has raised questions concerning the state commission's role in ensuring the availability and reliability of those services. Colorado addressed this issue in 2017. Colorado deregulated IP-enabled services in 2016. The enabling legislation, HB 133, preserved the Commission's oversight of "basic emergency services," but raised questions concerning its jurisdiction when those services are provided via an alternate technology such as VoIP. Colorado Senate Bill 16-183 (2016) created a Task Force to resolve these issues, including clarifying the types of emergency service that the PUC can oversee. The Bill clarifies that

The general assembly's intent [in HB 1331 was] to maintain the public utilities commission's authority over basic emergency services while prohibiting the

⁵⁵ Washington Administrative Code §480-120-439, Service quality performance reports, available at <http://apps.leg.wa.gov/WAC/default.aspx?cite=480-120-439>

⁵⁶ District of Columbia Public Service Commission, Docket RM27-2017-01-T-15, available at http://edocket.dcpSC.org/edocket/docketsheets_pdf_FS.asp?caseno=RM27-2017-01&docketno=13&flag=D&show_result=Y

⁵⁷ Arizona limits this oversight to carriers providing local exchange voice service.

regulation of internet-protocol-enabled services by defining the term "basic emergency service" in a manner that is consistent with such intent . . .⁵⁸

The Task Force provided a number of recommendations concerning the oversight of emergency services, including clarifying the definition of a "basic emergency services" provider subject to Commission oversight.

A basic emergency service provider, or BESP, is any person authorized to undertake the aggregation and transportation of 911 calls to a PSAP. Currently, CenturyLink is the only BESP in Colorado.⁵⁹

The Task Force recommended that the General Assembly continue to review how emergency services are provided and evaluated, including addressing questions regarding 911 system outages and reliability, as well as the proper agency to regulate 911 services. The report recommended that an Assembly Study Committee be established to

Consider whether [the PUC] or another state agency, such as the Division of Homeland Security and Emergency Management within the Colorado Department of Public Safety, is the appropriate agency to regulate 911 service. The study committee could include in its examination the organizational structure of regulation in other states.⁶⁰

The Colorado PUC opened Docket 17R-0488T in July, 2017, to develop the rules necessary to implement the Task Force's recommendations. The commission issued a draft decision in October, 2017, revising its current emergency services oversight rules to incorporate the recommended changes. A final decision is pending.⁶¹

As the transition to an IP-based network continues, other states will need to address the issues raised by the Colorado rulemaking.

Table 6 shows oversight of IP-enabled emergency services by state.

⁵⁸ Colorado Senate Bill 16-183, Concerning a Clarification of the General Assembly's Intent, available at <https://legiscan.com/CO/text/SB183/id/1418395/Colorado-2016-SB183-Enrolled.pdf>

⁵⁹ Colorado Legislative Task Force on 911 Oversight, Outage Reporting, and Reliability, Report to the Colorado General Assembly, Research Publication No. 683, January 2017, available at https://leg.colorado.gov/sites/default/files/911_task_force_final_report.pdf

⁶⁰ Task Force Report, p.10

⁶¹ Public Utilities Commission of the State Of Colorado, Proceeding No. 17R-0488T, Decision No. R17-0821, In The Matter Of Proposed Amendments To Telecommunications Rules, 4 Code Of Colorado Regulations 723-2-2130 through 2159 and 2008(A), Recommended Decision of Administrative Law Judge Robert I. Garvey Adopting Rules, October 13, 2017

Table 6. Oversight of IP-enabled Emergency Services

States with Oversight of IP-enabled Emergency Services	AL, AR, AZ, CA, CO, DE, FL, GA, IA, IL, IN, KS, LA, MD, ME, MI, MO, MT, ND, NE, NH, NV, OH, OR, PA, RI, SC, SD, TX, WA, WI, WV
States without jurisdiction	AK, DC, HI, KY, MA, MS, NC, NM, NY, OK, UT, VA, WY
Decision Pending	MN, VT
No response	CT, ID, NJ, TN

Data from state survey responses.

3. ETC Designation

All 51 states continue to certify wireline providers as eligible telecommunications carriers. Thirty-one states also designate VoIP providers as ETCs on request. Fourteen states do not designate VoIP providers as ETCs, either because their statutes prohibit any VoIP oversight, including ETC designation, or, like Oklahoma and New Mexico, because they have not asserted jurisdiction over VoIP providers. The question of the status of VoIP oversight remains pending in Minnesota and Vermont.

The question of designating VoIP providers as ETCs will become more important as more carriers move away from TDM services. Without an ETC designation, carriers cannot participate in the Lifeline program or receive universal service funding. The states that currently do not designate VoIP providers and, potentially, standalone broadband providers as ETCs will need to work with their legislatures to propose statutory changes to resolve this issue.⁶²

Table 7 summarizes the responses to the regulation survey on designating VoIP providers as ETCs.

Table 7. Designating VoIP Providers as ETCs

Designate VoIP Providers as ETCs	AR, AZ, CO, GA, HI, IA, IL, IN, KS, KY, LA, MD, ME, MO, MT, ND, NE, NH, NM, NV, OH, OR, PA, RI, SC, SD, TX, UT, WA, WI, WV
Do not designate VoIP ETCs	AK, AL, CA, DC, DE, FL, MA, MI, MS, NC, NY, PL. VA. WY
Pending classification	MN, VT

Note: Data from survey responses.

The FCC's Broadband Lifeline Order creates a standalone Broadband Lifeline designation, as well as adding broadband to the bundled services qualifying for Lifeline support. To understand how this order will impact State Lifeline funding and ETC designation, the 2017

⁶² During the 2017 legislative session, New Mexico, Oregon, and Utah added standalone broadband to their state universal service funds.

NRRI Regulation Survey queried the states to determine how they will treat this category of provider should they apply for Lifeline designation. Of the 31 states that designate VoIP providers as ETCs, only 17 responded that would designate a standalone broadband provider as a Lifeline provider. The remaining 14 states replied that they would not do so either because they have no jurisdiction over VoIP or because their state statutes limit ETC designation to providers that offer voice.

The states that would designate a standalone broadband carrier as a Lifeline provider are Arizona, Colorado, Georgia, Iowa, Illinois, Maine, Missouri, Montana, North Dakota, New Hampshire, New Mexico, Nevada, Oregon, Rhode Island, South Dakota, and Washington. Both Indiana and Pennsylvania stated that they would make the Lifeline designation if the FCC does not preempt the states from doing so.

To date, no standalone broadband providers have applied to offer Broadband Lifeline in the states.⁶³

4. Service quality

In many states of the states that previously regulated wireline service quality, competition has supplanted regulation as a means for ensuring carriers continue to provide reliable and useable service. One of the key components of the deregulation legislation enacted between 2010 and 2017 was the elimination of quality-of-service metrics and oversight. Generally, only the ILECs were covered by quality-of-service regulation. State commissions did not have jurisdiction over the retail performance of CLECs or cable companies, (with the exception of wholesale service quality metrics), so their performance was evaluated on a limited basis with penalties for poor service to their retail customers assessed only rarely.⁶⁴ This perceived "disparate treatment" led the ILECs to press for legislation that exempts them from quality-of-service oversight, except in the limited case of Federal Lifeline and High Cost support provided by eligible telecommunications carriers (ETCs).⁶⁵

As competition from non-traditional carriers such as cable companies, over-the-top VoIP providers, and wireless providers has increased, the ILECs have cited the increased availability of service from multiple providers, the number of competing products and services from which consumers may choose, and actual customer behavior as proof that quality-of-service regulation is no longer needed. They have argued that the ability to choose among multiple suppliers has made oversight unnecessary as a means of ensuring quality of service.

⁶³ The majority of wireless Lifeline providers include broadband in their bundles.

⁶⁴ The ILECs generally also remain subject to wholesale performance measures and penalties. Because these metrics that flow from Sections 271/251/252 of the 1996 Act, the deregulatory legislation has not completely eliminated them.

⁶⁵ ETCs remain bound by FCC and state performance requirements.

Indeed, some states have even concluded that reducing service-quality oversight would enhance economic development and encourage more telecommunications investment, although this assertion remains unproven. Arkansas Act 594, for example, specifically ties the elimination of quality-of-service regulation to increased competition and, ultimately, to job growth.

The General Assembly finds that the removal of quality-of-service regulation of wireline services provided in the competitive exchanges of electing companies will serve to encourage private-sector investment in the telecommunications marketplace.⁶⁶

Florida's 2016 Report on the Status of Competition in the Telecommunications Industry also concludes that competition can fill the need for service quality and reliability oversight.

The number and variety of competitive choices among all types of service providers suggest that competition is having a positive impact on the telecommunications market in Florida . . . The continued decrease in both business and residential incumbent local exchange carrier wireline access lines demonstrates customers are finding reasonable pricing packages and functionality with competitive local exchange companies, cable providers, and wireless providers, as well as Voice over Internet Protocol services from the incumbent local exchange carriers . . . Based on the continued growth of interconnected Voice over Internet Protocol services and wireless-only households, network reliability of non-incumbent providers is sufficient to satisfy customers.⁶⁷

The results of the 2017 NRRI Regulation Survey bear out the view that the availability of competitive suppliers has reduced commission oversight of service quality, for both wireline and VoIP providers. We review those results briefly here.

a. Wireline

Twenty-three states continue to oversee service quality for wireline providers. Nine states have only limited oversight. These states (Colorado, Illinois, Maine, Missouri, New York, Ohio, Oklahoma, Pennsylvania, and Wyoming) monitor service quality only for basic local

⁶⁶ 2011 Ark. Acts 594 (originally SB 755), Section 1.5.b, available at <http://www.arkleg.state.ar.us/assembly/2011/2011R/Acts/Act594.pdf>

⁶⁷ Florida Public Service Commission, Report on the Status of Competition in the Telecommunications Industry as of December, 2016, available at <http://www.floridapsc.com/Files/PDF/Publications/Reports/Telecommunication/TelecommunicationIndustry/2017.pdf>

service customers not for general retail subscribers.⁶⁸ Fifteen states no longer assert oversight of wireline service quality.

Ensuring that customers receive reliable service remains an important task for state commissions. For example, despite designating CenturyLink as a competitive carrier and reducing oversight, Wyoming continues to monitor the quality of service it provides to its end users. Wyoming's definition of "essential services" is helpful in understanding the Commission's oversight role.

"Essential telecommunications service" means a customer's access to service that is necessary for the origination or termination, or both, of two-way, switched telecommunications . . . Essential telecommunications services are limited to: (A) Access to interexchange services . . . (B) Single line flat-rate or single line measured residence or business voice service; (C) Transmission service and facilities necessary for the connection . . . [necessary] to access essential telecommunications services; (D) Services necessary to connect 911 emergency services to the local network; (E) Switched access. . . .⁶⁹

The Pennsylvania PUC also retains jurisdiction over the quality of basic local service, despite Commission Orders limiting regulation of the state's largest provider, Verizon.

Under Sec. 3016 of the Pa. Public Utility Code, 66 Pa. C.S. 3016, and 2015 Pa. PUC Orders, residential and business basic local exchange services of Verizon Pennsylvania LLC and Verizon North LLC have been declared competitive, are de-tariffed, and are price deregulated in 153 out of 504 wire centers of these two ILECs within Pennsylvania. The Pa. PUC maintains jurisdiction over the adequacy, reliability, safety, and privacy of such basic local exchange services in these Verizon wire centers.⁷⁰

⁶⁸ New York monitors Verizon's customer service metrics only for a subset of customers that have no other service option.

⁶⁹ Wyoming Statute 37 15 103(a)(iv):

⁷⁰ Pilalis, Labros, Response to NRRI Regulation Survey

Table 8, Wireline Quality of Service Oversight, shows the states that fall into each category of oversight.

Table 8. Wireline Quality of Service Oversight

Quality of service oversight	AL, AK, AZ, CA, DC, GA, KY, LA, MD, MA, MN, MS, MT, NE, NV, NM, ND, OR, SD, UT, VT, WA WV
Limited oversight	CO, IL, ME, MO, NY, OH, OK, PA, WY
No oversight	AR, DE, FL, HI, IA, IN, KS, MI, NH, NC, RI, SC, TX, VA, WI
No response	CT, ID, NJ, TN

Data from survey results.

b. VoIP

Survey respondents reported that state oversight of IP-enabled services, including VoIP, is more limited than oversight of wireline carriers. Only 5 states indicated that they continue to oversee VoIP service quality. Four states, Arizona, Colorado, Nevada, and South Carolina, exercise limited oversight. Arizona limits oversight to the voice portion of a VoIP offering. Colorado oversees service quality only for those carriers receiving high cost support in non-competitive areas. Nevada and South Carolina oversee only those carriers that have CPCNs, which are optional in these states.

Thirty-six states reported that they have no oversight of service quality for VoIP carriers (including cable providers). Table 9, VoIP Quality of Service Oversight, summarizes these responses.

Table 9. VoIP Quality of Service Oversight

Quality of service oversight (5)	GA, LA, MT, ND, SD
Limited oversight (4)	AZ (Voice), CO (HCS), NV (w/CPCN), SC (w/CPCN)
No oversight (36)	AL, AK, AR, CA, DE, DC, FL, HI, IA, IL, IN, KS, KY, ME, MD, MA, MI, MO, MS, NE, NH, NY, NM, NC, OH, OK, OR, PA, RI, TX, UT, VA, WA, WV, WI, WY
Pending decision (2)	MN, VT
No response (4)	CT, ID, NJ, TN

Data from survey responses.

5. Customer complaints

A key role of the state commissions has always been to accept, track, and resolve consumer complaints about telecommunications service, including installation timeliness, billing, and service quality and reliability. Tracking complaints allows state commissions to identify and resolve problems before they become critical. By monitoring complaints, the

Commission can get early warning of slamming, cramming, and other deceptive practices, as well as ensure that customers continue to receive reliable and affordable service.

a. Wireline

The deregulation of wireline telecommunications has limited the state commissions' direct oversight role, but it has not diminished its ability to counsel consumers and work with carriers to resolve problems. Despite limited jurisdiction, many states continue to maintain robust, consumer-facing organizations to accept and monitor complaints regarding wireline service, often based on statutory language specifically preserving this role. In other states, consumer complaints have been referred to different agencies, including the Department of Agriculture (Florida and Wisconsin) and the State Attorneys General.

For example, although Kansas allows companies to "elect" limited regulation, the Kansas Corporation Commission (KCC) continues to accept and, when necessary, adjudicate consumer complaints. The KCC has full authority over consumer complaints for ILECs, for electing carriers, and for other telecommunications carriers (including CLECs). The KCC has authority to

Administer consumer complaints against telecommunications carriers and electing carriers to investigate fraud, undue discrimination and other practices harmful to consumers, but the commission shall not use this authority to regulate telecommunications carriers or electing carriers beyond the jurisdiction provided the commission in this subsection.⁷¹

Pennsylvania has also retained the authority to accept and adjudicate consumer complaints.

The Pa. PUC handles both informal and formal consumer complaints involving telecommunications services. Informal complaints are handled by the Pa. PUC's Bureau of Consumer Services. Formal complaints are adjudicated before the Pa. PUC's Office of Administrative Law Judge (OALJ).⁷²

Other states have limited authority over carriers but continue to accept and refer complaints to these carriers and to adjudicate or otherwise resolve them when possible.

Table 10 summarizes the responses in this area.

⁷¹ KSA 66-2005 (Z) (1) (3) (g), available at http://www.kslegislature.org/li/b2017_18/statute/066_000_0000_chapter/066_020_0000_article/066_020_0005_section/066_020_0005_k/

⁷² Pilalis, Labros, Response to 2017 NRRI Survey.

Table 10. Wireline Complaint Authority

Process wireline complaints	AK, AR, DC, MO, ND, NY, OH, PA, VA, WV, WY
Refer complaints	AL, CO, FL, GA, IA, IL, KY, LA, MI, MS, NH, NM, OR, RI, SC,
Refer/adjudicate complaints	AZ*, CA, IN, MA, MD, MN, MT, NE, NV, OK, SD, UT, VT, WA
Limited	KS, ME**, WI***
No oversight	DE, HI, NC, TX
No response	CT, ID, NJ, TN

* AZ may refer complaints to the state AG

**ME adjudicates complaints only against its ILEC carrier of last resort, FairPoint.

***WI limited to complaints about Lifeline and numbering

b. VoIP

Fewer states continue to have jurisdiction over services provided via IP, including VoIP. Twenty-three states reported that they have no jurisdiction over complaints against VoIP providers. In DC, for example, sales representatives for Verizon FiOS specifically inform customers that there the Commission has no oversight of the product and that complaints must be directed to the company.⁷³

Thirteen state commissions continue to refer complaints to the provider, but only Montana, retains the option to adjudicate complaints against IP-enabled service providers. Six states retain limited oversight of IP-enabled products such as VoIP. Colorado, Missouri, Nevada, Pennsylvania, South Carolina, and Wisconsin resolve complaints against VoIP providers when these products are offered as "basic local service."

South Dakota and Washington continue to exercise oversight of VoIP providers, including processing complaints.

Table 11 summarizes the responses to the question of jurisdiction over complaints against VoIP providers.

⁷³ Author's personal experience. Verizon also offers a fiber-based standalone voice product that remains regulated by the PSC.

Table 11. VoIP Complaint jurisdiction

Process VoIP complaints	SD, WA
Refer complaints	AL, AZ, FL, GA, IA, LA, ND, NE, NH, OH, OR, RI, VA
Refer/adjudicate complaints	MT
Limited to BLS and Lifeline	CO, MO, NV, PA, SC, WI
No oversight	AK, AR, CA, DC, DE, HI, IL, IN, KS, MA, MD, ME, MI, MS, NC, NM, NY, OK, TX, UT, WV, WY
Pending decision	MN, VT
No response	CT, ID, NJ, TN

Data from 2017 Regulation Survey responses

C. Interconnection

As we noted earlier, the States continue to perform those tasks delegated to them by the Telecommunications Act for traditional TDM-based telecommunications services. Some states responded that they would also perform these tasks for IP-enabled services, despite the fact that the question of oversight of IP-enabled services under Sections 251 and 252 of the Act remains unclear. These states responded that they would arbitrate interconnection agreements, resolve carrier disputes regarding interconnection, access charges, and adjudicate areas where predatory behavior might may limit competition, should the need arise.

Ohio's statutes make this requirement clear. Despite limitations on the oversight of competitive carriers,

The public utilities commission has such power and jurisdiction as is reasonably necessary for it to perform the obligations authorized by or delegated to it under federal law, including . . . (A) Rights and obligations under the "Telecommunications Act of 1996; (B) Authority to mediate and arbitrate disputes and approve [interconnection] agreements . . . (C) Administration of telephone numbers and number portability; (D) Certification of Telecommunications carriers eligible for universal-service funding . . . (E) Administration of truth-in-billing; (F) Administration of customer proprietary network information . . . (G) Outage reporting consistent with federal requirements.⁷⁴

The 2017 Regulation Survey explored a key aspect of the duties delegated to the states by the Telecommunications Act of 1996, arbitrating interconnection agreements and resolving carrier disputes. We discuss this question in the following paragraphs.

1. Wireline

⁷⁴ Ohio Revised Code § 4927.04, available at <http://codes.ohio.gov/orc/4927.04>

All 47 survey respondents reported that they continue to arbitrate interconnection agreements for traditional TDM services. In addition, these state commissions continue to oversee local number portability (including number exhaust and the need for new area codes) and resolve carrier disputes, primarily those relating to wholesale services.

For example, Florida, which has deregulated all retail telecommunications, reported that it continues to accept and resolve wholesale complaints.⁷⁵ Pennsylvania adjudicates disputes between carriers regarding interconnection and access charges.

The question of the state commission's role in adjudicating disputes regarding wholesale products offered under commercial agreements, such as AT&T's Local Wholesale Complete (LWC) product, is less clear. Granite Telecommunications, a competitive supplier offering service to business customers, has brought suit in California, Michigan, and Ohio against AT&T regarding the pricing and terms and conditions of the LWC offer. Granite's complaint in California accuses AT&T of engaging in

A multi-faceted scheme by which AT&T is using its dominant position as the incumbent local exchange carrier ("ILEC") and supplier of wholesale voice services to artificially limit competition in the downstream retail market for the purchase of voice services by multi-location businesses ("voice platform services").⁷⁶

AT&T argues that they are negotiating in good faith, and that, in any case, the Granite - AT&T agreement to provide LWC is a commercial contract not subject to arbitration under Section 252 of the Telecommunications Act and, therefore, outside the State Commission's jurisdiction.

Ohio is currently reviewing the complaint. Michigan has dismissed Granite's request for an injunction without prejudice as not yet ripe for consideration. California dismissed the complaint at the request of AT&T and Granite based on the current status of contract negotiations.⁷⁷ The ultimate disposition of these cases could broaden the state's oversight of wholesale products.

2. VoIP

⁷⁵ The Florida Commission refers consumer complaints to the Department of Agriculture and Consumer Services but continues to investigate and adjudicate complaints regarding telecommunications relay service, Lifeline, and payphones.

⁷⁶ California Public Utility Commission, *Granite Telecommunications v. Pacific Bell Telephone Company D/B/A AT&T California*, C. 17-08-020 (Filed August 1, 2017), Opposition to Motion for Preliminary Injunction.

⁷⁷ Granite also purchases a wholesale platform product from Verizon but has not complained about unfair treatment in the states where that product is offered.

The question of IP interconnection is less clear. The survey responses are almost evenly split on the question of commission arbitration of interconnection agreements for carriers offering VoIP or other IP-enabled services.

When asked if they have authority to arbitrate an interconnection agreement (ICA) between a VoIP provider and a traditional service provider or between VoIP providers, 22 state staffs responded that they retain oversight of interconnection for IP-enabled services, although arbitration requests have not come up in these states, so the question remains open. Twenty-one states responded that they do not arbitrate these agreements, although only Michigan has addressed this question directly, arbitrating an agreement between AT&T and Sprint. One state, New Hampshire, noted that it would arbitrate an ICA agreement between a VoIP provider and a VoIP/TDM provider, although that situation has not arisen. Massachusetts, Minnesota, Oregon, and Vermont responded that legal reviews of this question are pending. The outcome of these reviews will determine whether these states will arbitrate IP interconnection agreements, as well as continue to assert other areas of oversight. Four states did not respond to the survey.

Table 12, below, provides the state responses to this question.

Table 12. Oversight of IP Interconnection Agreements

Oversee IP Interconnection	AL, AZ, AR, CA, CO, GA, IL, KS, LA, ME, MI, MO, MT, NV, NM, ND, PA, SC, SD, TX, UT, WA, WY
Do not oversee IP interconnection	AK, DE, DC, FL, HI, IA, IN, KY, MD, MA, MS, NE, NY, NC, OH, OK, RI, VA, WV, WI
Limited oversight	NH,
Legal decision pending	MN, OR, VT
No response	CT, NJ, ID, TN

Data from survey responses.

D. Finding 3: Contribution

The survey also asked the states to report on the types of carriers that contribute to their State Universal Service Funds (SUSF). Thirty-one of the 47 states responding to the survey stated that they have State Universal Service Funds. Of these, 25 assess Interconnected VoIP providers. Interconnected VoIP providers contribute voluntarily in New York. Cable providers contribute to the SUSF in 25 states. A cable provider contributes voluntarily in Pennsylvania, but Interconnected VoIP providers are not assessed. Minnesota, Oregon, and Vermont have cases pending to determine the legal classification for VoIP and cable services so are not included here.

Oregon, New Mexico, and Utah passed legislation during 2017 addressing the impact of broadband products on the SUSF. Oregon House Bill 2091 added broadband to the services supported by the State Universal Service Fund.

In addition to using the universal service fund to ensure basic telephone service, the Public Utility Commission may use the universal service fund to encourage broadband service availability and to provide support to telecommunications carriers that provide both basic telephone service and broadband service.⁷⁸

The bill includes VoIP and cable providers in the State fund but specifically excludes wireless carriers from the contribution requirement.

Bills in New Mexico and Utah added broadband to the list of services supported by the State fund. These bills may be bell weathers of things to come, since they expand the definition of access lines subject to the universal service contribution to include not only traditional TDM services, but also VoIP and other "uniquely identifiable functional equivalents." Most importantly, both bills provide the option of creating a connection-based rather than a revenue-based state fund.

New Mexico Bill SB 308 redefines "universal service" to include both basic local exchange service and

Comparable retail alternative services at affordable rates, service pursuant to a low-income telephone assistance plan and **broadband internet access service** to unserved and underserved areas as determined by the commission. (Emphasis added)⁷⁹

Utah bill SB 130 requires

Each access line or connection provider in the state [including broadband providers] to contribute to the Universal Public Telecommunications Service Support Fund; [and] requires the Public Service Commission to develop a method for calculating the amount of each contribution charge assessed to an access line or connection provider.⁸⁰

Table 13, below, shows VoIP and cable contributions to the State Universal Service Funds.

⁷⁸ Oregon House Bill 2091, Relating to Telecommunications carriers, amending ORS 759.425, 3/14/17, available at <https://legiscan.com/OR/text/HB2091/id/1607240/Oregon-2017-HB2091-Enrolled.pdf>

⁷⁹ New Mexico SB 308. An Act Relating To Telecommunications; Amending A Section Of The Rural Telecommunications Act of New Mexico to Update State Rural Universal Service Fund Provisions And Establish A Broadband Program, available at https://legiscan.com/NM/text/SB308/id/1587331/New_Mexico-2017-SB308-Enrolled.pdf

⁸⁰ Id.

Table 13. VoIP and Cable Contributions to SUSF

State	Interconnected VoIP Providers	Cable Providers
AL	No SUSF	No SUSF
AK	X	X
AZ	X	X
AR	X	X
CA	X	X
CO	X	X
CT	No response	No response
DC	X	X
DE	No SUSF	No SUSF
FL	No SUSF	No SUSF
GA	X	X
HI	No SUSF	No SUSF
ID	No SUSF	No SUSF
IL	No SUSF	No SUSF
IN	Providers classified as telecom	Providers classified as telecom
IA	No SUSF	No SUSF
KS	X	X
KY	X	X
LA	X	X
ME	X	X
MD	X	X
MA	No SUSF	No SUSF
MI	No SUSF	No SUSF
MN	Legal decision pending	Legal decision pending
MS	No SUSF	No SUSF
MO	X	X
MT	No SUSF	No SUSF
NE	X	X
NV	Providers with CPCNs	Providers with CPCNs
NH	No SUSF	No SUSF
NJ	No response	No response
NM	X	X
NY	Provider contributes voluntarily	
NC	No SUSF	No SUSF

State	Interconnected VoIP Providers	Cable Providers
ND	X	X
OH	X	X
OK	X	X
OR	Legal decision pending	Legal decision pending
PA		X (1)
RI	X	X
SC	X	X
SD	No SUSF	No SUSF
TN	No response	No response
TX	No SUSF	No SUSF
UT	X	X (3)
VT	X	X
VA	No SUSF	No SUSF
WA	Allocation from Gen Fund	Allocation from Gen Fund
WV	No SUSF	No SUSF
WI	X	X
WY	X	X

IV. Conclusions and Recommendations

Since 2005, 39 states have reduced regulation of wireline telecommunications carriers either through legislation or commission action. The most recent additions to this list Utah and Iowa. The Iowa Order provides a snapshot of State consideration of the current state of wireline competition and the need for oversight.

In this order, the Board deregulates retail local exchange service quality in Iowa, including nearly all customer service requirements, specific service quality standards, and provisions relating to discontinuation of service. This action is based upon the widespread availability of effective competition for retail local exchange communications services . . .⁸¹

In addition to the states reducing regulation on traditional wired services, 34 states have also directly eliminated or reduced regulation of IP-enabled services such as VoIP, often through legislation expressing a flat prohibition on any oversight beyond the specific requirements mandated by the FCC (e.g., number portability, assessment of access charges and other fees,

⁸¹ Iowa Utilities Board, Order deregulating retail local exchange service quality; Docket No. INU-2016-0001, available at <https://efs.iowa.gov/cs/groups/external/documents/docket/mdax/njm5/~edisp/1639492.pdf>

etc.). Another 5 states have not formally deregulated IP-enabled services, but have not asserted jurisdiction over them, bringing the total number of states that exercise only minimal oversight of these services to 39.⁸² Alabama's statute illustrates the prohibition on oversight of any "broadband enabled" service.

Notwithstanding any provision of law to the contrary, the commission shall not have any jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, or monitor, directly or indirectly, the rates, charges, classifications, provision, or any aspect of broadband service, broadband enabled services, VoIP services, or information services.⁸³

The 2017 NRRI Regulation Survey, however, shows that many States continue to work with their citizens and providers to ensure the quality and reliability of both wireline and IP-enabled services, even without specific oversight. Again, the Iowa Order provides insight on this subject.

The Board finds that certain regulations involve essential communications services that meet the test for continued service regulation despite a finding of effective competition, including assessments for the Dual Party Relay Services fund and for Board expenses, and hearing and resolving customer complaints. The Board further finds that certain statutory provisions are unaffected by deregulation, including 911 services, regulation of alternative operator services, unauthorized changes in service, and utility crossings of railroad right-of-way.⁸⁴

Based on the results of the survey, it appears that commission involvement in communications services continues, albeit in limited and creative ways.

The majority of the States continue to require both wireline and VoIP providers to obtain CPCNs or otherwise register before providing service. This ensures that the Commission has points of contact to escalate issues, collect fees, and refer consumer complaints. While fewer commissions adjudicate consumer complaints on a regular basis, all accept these complaints (some through the Attorney General or another state agency) and try to resolve them, regardless of the type of service offered. For example, Virginia reported that although they have no jurisdiction over VoIP, they accept and help to resolve customer complaints "as a courtesy."

⁸² Minnesota, Oregon, and Vermont continue to litigate cases to determine the regulatory status of services provided via IP.

⁸³ Alabama Code Title 37. Public Utilities and Public Transportation § 37-2A-4, available at <http://codes.findlaw.com/al/title-37-public-utilities-and-public-transportation/al-code-sect-37-2a-4.html>

⁸⁴ Id. Iowa Utilities Board Order. The IUB deregulated IP-enabled services in January, 2017, but maintained oversight of those areas delegated to the States by the FCC.

In the majority of states, VoIP providers, including cable companies, pay fees to support Universal Service, 911/E911, and services to the deaf and hard of hearing (TRS). The States continue to designate wireline providers as Eligible Telecommunications Carriers (ETCs) and state that they would consider VoIP providers for this designation if requested to do so. Finally, many states continue to require outage reporting and to investigate emergency service failures, an important tool for determining the reliability and adequacy of a service, regardless of the technology used to provide it.

These continuing responsibilities provide the states with a window into the quality, affordability, and availability of communications services. To that end, we provide the following recommendations that may allow the states to leverage the information provided here to ensure that carriers provide the best service possible across their footprint.

1. Collect and evaluate customer complaint data to identify and resolve problem areas

Complaints are an excellent means of identifying areas where some oversight is needed to ensure service availability, reliability, and quality. States that accept customer complaints and either adjudicate or refer them to the carriers can use this data to identify problem areas and work with companies to resolve them. They can also identify areas where competition may not yet be an adequate substitute for regulation. This commission function will become particularly important as more customers transition their service from traditional wireline technology to VoIP and wireless services. The complaint process can inform the Commission of areas where new services are not yet available or where they are not adequate or reliable enough to substitute for traditional wireline offers.

2. Broaden outage reporting in order to evaluate and improve service quality and reliability

The majority of states retain some level of oversight of emergency services, regardless of the technology used to provide those services. The States that already oversee emergency services may want to broaden this oversight to include a more detailed reporting scheme for service outages that reduce or eliminate the ability of customers to reach emergency providers. States that do not have this responsibility may want to consider adding it, particularly in light of recent emergency service outages and natural disasters.

Data regarding carrier performance during Hurricanes Harvey, Irma, and Maria, and the California wild fires, can help the states to determine the adequacy of both their communications infrastructure and the resiliency of these critical networks. This data will also help the states to craft emergency communications plans and provide insight into the way in which IP-enabled services and wireless services perform during disasters and to identify areas that may need improvement. This information may also help the states to determine where legislation is needed to craft service restoration and support plans. To that end, the States may want to participate in any FCC proceedings convened to identify lessons learned from these disasters.

3. Continue to work with customers and providers to identify the best way to identify and resolve customer problems.

Customers and providers are the best sources of information for defining and ensuring the universal availability of reliable and adequate telecommunications services. State Commissions may want to use "crowdsourcing" techniques to identify areas where service is limited or lacking and to identify potential solutions for this problem. This information will be particularly important as carriers seek to eliminate what they believe are unnecessary, unused, or minimally used services as they transition to IP-enabled service and fixed and mobile wireless services.

Recent disasters have again proven the importance of reliable telecommunications services that are widely available. Ensuring this reliability and supporting consumers and businesses remains one of the key functions of the State Public Utility Commissions, despite limitations on oversight and regulation. State Commissions may use the information provided in this paper to help their state legislatures understand this important goal and craft legislation to encourage it.

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Texas Senate Bill 1003, An act relating to the participation of deregulated telecommunications companies in the Lifeline program, 9/1/2001, available at <http://www.legis.state.tx.us/tlodocs/85R/billtext/pdf/SB01003F.pdf#navpanes=0>

Utah House Bill 59 (Utah Code 54-8b-3), 2017, Amend a provision relating to telecommunications, available at <https://legiscan.com/UT/text/HB0059/id/1560645/Utah-2017-HB0059-Enrolled.pdf>

Vermont Public Service Board, Docket 7316; Investigation into regulation of Voice Over Internet Protocol (VoIP) services; available at <http://epuc.vermont.gov/?q=node/104/27048>

Order Closing Docket 7316, 2/2/2012, available at
<http://puc.vermont.gov/sites/psbnew/files/orders/2012/7316%20ClosingOrder.pdf>

Vermont Supreme Court, In re Investigation into Regulation of Voice Over Internet Protocol (VoIP) Services , 2013 VT 23, available at
<https://www.vermontjudiciary.org/sites/default/files/documents/In%20re%20Investigation.pdf>

Washington Administrative Code §480-120-439, Service quality performance reports, available at <http://apps.leg.wa.gov/WAC/default.aspx?cite=480-120-439>

West Virginia Senate Bill 180 (2017), An act relating to Internet Protocol-enabled Service, available at https://legiscan.com/WV/text/SB180/id/1587148/West_Virginia-2017-SB180-Enrolled.html

Wyoming House Bill HB 239, An act relating to telecommunications, available at <https://legiscan.com/WY/text/HB0239/id/1478115/Wyoming-2017-HB0239-Introduced.pdf>

Appendix A

Wireline Regulation

Commission Oversight of Wireline Service				
	Wireline jurisdiction (ILEC)		Legislation/Commission Decision	Notes
AK	Yes			
AL		No	http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm	Section 37-2a, Code of Alabama; carriers may elect limited regulation
AR		No	Act 1098 https://legiscan.com/AR/text/SB948/id/782616	Large carriers may elect reduced regulation
AZ	Yes		N/A	
CA	Yes		SB 1161; https://legiscan.com/CA/text/SB1161/id/665350/California-2011-SB1161-Chaptered.html	Wireline oversight only; Section 3.710.3(e); no VoIP oversight
CO		No	HB 14-1331, 5/9/14; http://www.leg.state.co.us/clics/clics2014a/csl.nsf/fsbillcont3/4034ECA181A3A0D587257C9B00794391?Open&file=1331_enr.pdf	PUC retains oversight of ETCs receiving high cost support
CT*		No	PA 94-83; 1994; https://www.cga.ct.gov/2010/rpt/2010-R-0290.htm ; Regs https://www.cga.ct.gov/current/pub/chap_283.htm#sec_16-247a	Competitive services exempted from traditional RoR regulation. DPUC adopted alternative forms of regulation, such as price indexes.
DC	Yes			
DE		No	Bill 96, 6/15/13; https://legiscan.com/DE/text/HB96/id/863588/Delaware-2013-HB96-Engrossed.html	
FL		No	HB 1232 2011 (Ch. 364.011 F.S.)	Retain oversight of Lifeline and wholesale

GA		No	Act 671 (2010); https://legiscan.com/GA/text/HB168/id/490240/Georgia-2009-HB168-Comm_Sub.html	Oversight limited to RoR carriers. ILECs may elect to be exempt.
HI	Yes			
IA		No	Docket No. INU-2016-0001; https://efs.iowa.gov/cs/groups/external/documents/docket/mdax/njm5/~edisp/1639492.pdf	New rules proposed 8/9/17
ID*		No	HB 224 (2011); S1156; http://law.justia.com/codes/idaaho/2016/title-62/chapter-6/	Tariffs no longer req.; retain oversight of quality; USF; complaints
IL		No	Illinois Public Act 100-20 ; http://www.ilga.gov/legislation/publicacts/fulltext.asp?name=100-0020&GA=100&SessionId=91&DocTypeId=HB&DocNum=1811&GAID=14&Session=	Carriers may elect reduced oversight; oversight for rural carriers
IN		No	HEA 1279, 3/2006 http://www.in.gov/legislative/bills/2006/PDF/HE/HE1279.1.pdf	Limited oversight - Lifeline, ICA, ETC, CPCN
KS		No	SB 72 (2012); https://legiscan.com/KS/text/SB72/id/549805/Kansas-2011-SB72-Enrolled.pdf	Carriers may elect to be exempt. Carriers that elect price cap regulation shall be exempt from rate base, rate of return and earnings regulation and shall not be subject to the provisions of K.S.A. 66-136 and 66-127
KY		No	http://www.lrc.ky.gov/Statutes/statute.aspx?id=45863	Carriers may elect reduced oversight; oversight retained for rural carriers
LA		No	General Order R-31839 (2014)	ILECs deregulated; oversight of basic svc only
MA	Yes			Legislation expected in 2018
MD	Yes		Commission decision, Case No. 9414; http://www.psc.state.md.us/search-results/?keyword=9414&x.x=0&x.y=0&search=all&search=cas e	Reduce tariff requirements on competitive services.

ME		No	Public law 2016, Ch.462 http://legislature.maine.gov/statutes/35-A/title35-Ach72sec0.html	Oversight of providers of last resort only (FairPoint); POLRs may drop designation
MI		No	Act 52 (2014); https://legiscan.com/MI/text/SB0636/id/1000335/Michigan-2013-SB0636-Chaptered.html	Carriers may elect deregulation; oversight of providers of last resort; rules for withdrawing basic svc.
MN		No	HF 1066, https://legiscan.com/MN/text/HF1066/id/1400881/Minnesota-2015-HF1066-Engrossed.pdf	Carrier may apply for reduced regulation; CL granted reduced reg in 103 of 108 exchanges
MO		No	Senate Bill 651 in 2014; http://www.senate.mo.gov/14info/pdf-bill/tat/SB651.pdf	Section 392.611 RSMo: retail service is deregulated. The PSC's authority is limited to universal service funds, telephone number conservation and wholesale matters. Carrier of last resort relief has been available to Missouri companies as described in Section 392.460 RSMo.
MS		No	HB 825, 4/19/12 http://billstatus.ls.state.ms.us/2012/pdf/history/HB/HB0825.xml	Jurisdiction over some rural LECs that file tariffs.
MT		No	HB 246 (2011); https://legiscan.com/MT/text/SB246/id/233083/Montana-2011-SB246-Enrolled.pdf	Carriers may petition for alt reg plans. CL petition approved in 2013. D2013.11.78; http://psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/D2013-11-78_7324f.pdf
NC		No	S343 (2011); https://legiscan.com/NC/text/S343/id/279280/North_Carolina-2011-S343-Chaptered.html	GS 62-133.5(l). ILEC may choose to be deregulated. I rural ILEC remains regulated
ND		No	HB 1385 (2015); https://legiscan.com/ND/text/1385/id/1161543/North_Dakota-2015-1385-Enrolled.pdf	Carriers may elect to be exempt. Commission retains jurisdiction over essential service (BLS)
NE		No	LB 257 (2011); https://legiscan.com/NE/text/LB257/id/221394/Nebraska-2011-LB257-Chaptered.pdf	Chapter 86 Section 126; no reg in competitive areas; LB 573 to eliminate reg in additional areas failed in 2017

NH		No	SB 48 (2012); https://legiscan.com/NH/text/SB48/id/507736/New_Hampshire-2012-SB48-Introduced.html	Deregulate carriers serving >25K lines except for basic svc.
NJ*		No	BPU Docket TX11090570 (2015); http://www.njslom.org/legislation/bpustipulation.pdf	All Verizon svcs are competitive; limited oversight; Quality of service rules apply until 2018
NM		No	SB 53 (2017) https://legiscan.com/NM/text/SB53/id/1589142/New_Mexico-2017-SB53-Enrolled.pdf	NM Stat § 63-9A-5.1 (2016) Commission may reduce regulation where there is effective competition. Case 17-00186-UT, Implementing SB 53; http://164.64.85.108/index.asp
NV		No	AB 518 (2007); https://www.leg.state.nv.us/Session/74th2007/Bills/AB/AB518_EN.pdf	ILECs regulated as CLECs; limited oversight
NY	Yes			
OH		No	SB 162 (2010; effective 2013); https://legiscan.com/OH/text/SB162/id/444652/Ohio-2009-SB162-Enrolled.html	Authority over BLS only; ILEC may choose not to provide BLS
OK		No	Commission decisions have reduced oversight of ILECs	
OR	Yes			
PA		No	Sec. 3016, 66 Pa. C.S. 3016, 2015	VZ detariffed, price deregulated in 153 of 504 wire centers
RI	Yes			
SC		No	Act 7 (2009) ; https://legiscan.com/SC/bill/H3299/2009	ILECs may elect reduced oversight; jurisdiction remains for rural carriers
SD		No	Title 49-31-3.2; http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=49-31-3.2	No oversight of competitive svcs or emerging services.
TN*		No	Senate Bill 1180 (2013); https://legiscan.com/TN/text/SB1180/id/725134/Tennessee-2013-SB1180-Draft.pdf	Carriers may choose to be "market-regulated;" TRA may not issue any new rules or costs on carriers. § 65-5-109(m)

TX		No	SB 980 (2011); https://legiscan.com/TX/text/SB980/id/288320/Texas-2011-SB980-Enrolled.html	Deregulates markets; defines "transitioning carriers" no longer subject to regulation. Oversight of some small carriers.
UT		No	HB 59 (2017) UC 54-8b-3; https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S3.html?v=C54-8b-S3_2017050920170509	Commission may exempt co from regulation; CL is exempt. Retain oversight of small companies.
VA		No	SB 584 (2014); https://legiscan.com/VA/text/SB584/id/1006951/Virginia-2014-SB584-Chaptered.html	ILEC may choose to be deregulated where there is competition.
VT	Yes			
WA	Yes			
WI		No	WI Act 22 (2011), https://docs.legis.wisconsin.gov/2011/related/acts/22	Limited jurisdiction
WV	Yes			
WY		No	Competitive Determination Of CenturyLink QC Essential Business And Residential Services Inside The Base Rate Area And Zone 1, Docket No. 70000-1601-TA-14 February 6, 2015 https://dms.wyo.gov/Managedocket.aspx?DocketId=a58CuQUx45f1vBPc5Q7Ot2B2uswKhJ7AoLrwXWNgHeg%3d	

Regulation of IP-Enabled Services

State	Legislation	Notes
AL	Alabama Code §37-2A-4 http://codes.findlaw.com/al/title-37-public-utilities-and-public-transportation/al-code-sect-37-2a-4.html	Notwithstanding any provision of law to the contrary, the commission shall not have any jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, or monitor, directly or indirectly, the rates, charges, classifications, provision, or any aspect of broadband service, broadband enabled services, VoIP services, or information services.
AR	AR Statute 23-17-411 (g)(1) ; http://law.justia.com/codes/arkansas/2014/title-23/subtitle-1/chapter-17/subchapter-4/section-23-17-411	Can regulate only USF contribution for VoIP carriers
CA	PUC Code 710, http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC&sectionNum=710	(a) The commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute or as set forth in subdivision (c).
CO	CO HB 14-1329, https://legiscan.com/CO/text/HB1329/2014	Commission may not regulate VoIP.
DE	SB 96 (2014) https://legiscan.com/DE/text/HB96/2013	The Commission shall have no jurisdiction or regulatory authority over Voice over Internet Protocol ("VoIP") service, or IP-enabled service, including but not limited to, the imposition of regulatory fees, certification requirements, rates, terms or other conditions of service.
DC	17-165, Telecommunications Competition Amendment Act (2008); https://beta.code.dccouncil.us/dc/council/laws/docs/17-165.pdf	Internet Protocol Communications shall not be regulated by the Commission.
FL	SB-1322 (2005) Ch. 364.011 F.S.; http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0364/Sections/0364.011.html	The following services are exempt from oversight by the commission: broadband services, regardless of the provider, platform, or protocol; VoIP.
GA	HB 168 (2010) https://legiscan.com/GA/text/HB168/2009_5-222	The Public Service Commission shall not have any jurisdiction, right, power, authority, or duty to impose any requirement or regulation relating to the setting of rates or terms and conditions for the

		offering of broadband service, VoIP, or wireless services.
HI	No legislation	Certification only
IA	Iowa Administrative Code, Chapter 22 Service Supplied by Telephone Utilities, 2/15/17, p.3 available at https://www.legis.iowa.gov/docs/iac/chapter/08-30-2017.199.22.pdf	The board shall not directly or indirectly regulate the entry, rates, terms, or conditions for Internet protocol-enabled service or voice over Internet protocol service, but voice over Internet protocol service may be subject to fees subsequently established by state or federal statute, rule, or requirement such as 911 or dual party relay service.
IL	Section 13-0401.1 Illinois PUA, http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=022000050HArt%2E+XIII&ActID=1277&ChapterID=23&SeqStart=22500000&SeqEnd=32900000	Limited aspects of service
IN	HEA 1279, March 2006 http://www.in.gov/legislative/bills/2006/PDF/HE/HE1279.1.pdf ; Indiana Code 8-1-2.6-1.1	A VoIP provider is not a utility; require certification only
KS	K.S.A. 66-2017 , http://www.ksrevisor.org/statutes/chapters/ch66/066_020_0017.html	ILEC VoIP not regulated. VoIP deployed by rural ILECs remains subject to commission jurisdiction. Providers must pay USF and other fees.
KY	HB 152 (2015) https://legiscan.com/KY/bill/HB152/2015	The provision of broadband services shall be market-based and not subject to state administrative regulation.
ME	Public law 2016, Ch.462 http://legislature.maine.gov/statutes/35-A/title35-Ach72sec0.html	Jurisdiction over VoIP provided as a POLR svc
MD	Public Utilities Statutes Article § 8-602; http://law.justia.com/codes/maryland/2013/article-gpu/section-8-602/	The Commission does not have jurisdiction over the regulation of VoIP service, including the imposition of regulatory fees, certification requirements, and the filing or approval of tariffs.
MA	M.G.L. c. 25C, section 6A, (2010); https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter25C/Section6A	No department, agency, commission or political subdivision of the commonwealth, shall enact, adopt or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order or other provision having the force or effect of law that regulates or has the effect of regulating, the entry, rates, terms or conditions of VoIP service or IP enabled service.

MI	MTA Sec. 484.2401, http://www.legislature.mi.gov/(S(zimwz35tgndgx0di0up44ow3))/mileg.aspx?page=GetMCLDocument&objectname=mcl-484-2401	Except as otherwise provided by law or preempted by federal law, the commission does not have authority over . . . retail broadband service, video, cable service . . . [and] interconnected voice over internet protocol service.
MS	HB 825, 4/19/12, http://billstatus.ls.state.ms.us/2012/pdf/history/HB/HB0825.xml	
MO	HB 1779 (2008); Sec 392.550 RSMo; Sec. 392.611	Sec 392.550 RSMo Broadband and other internet protocol-enabled services shall not be subject to regulation under chapter 386 or this chapter; interconnected voice over internet protocol service shall continue to be subject to section 392.550.
NV	https://www.leg.state.nv.us/Session/74th2007/Bills/AB/AB518_EN.pdf	704.684 1. Except as otherwise provided in [subsection 2 and NRS 704.68984,] this section, the Commission shall not regulate any broadband service, including imposing any requirements relating to the terms, conditions, rates or availability of broadband service.
NH	NH Senate Bill 48, 2012, http://www.gencourt.state.nh.us/legislation/2012/SB0048.html , now codified primarily in RSA 362:7, 362:8, 374:1-a, and 378:1-a.	No [entity] shall enact, adopt, or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order, or other provision . . . that regulates or has the effect of regulating the market entry, market exit, transfer of control, rates, terms, or conditions of any VoIP service or IP-enabled service or any provider of VoIP service or IP-enabled service.
NJ	NJ statute 48:17-35; http://law.justia.com/codes/new-jersey/2013/title-48/section-48-17-35	Neither the State, nor any department, agency, board or commission thereof, nor any political subdivision of the State shall enact, adopt or enforce any law, ordinance, resolution, rule, regulation, order, standard or other provision, either directly or indirectly, having the force and effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of VoIP service or IP-enabled service offered to customers.
ND	HB 1385 (2015) https://legiscan.com/ND/text/1385/id/1161543/North_Dakota-2015-1385-Enrolled.pdf	Notwithstanding any other law, a state entity or political subdivision of the state may not by rule, order, or other means directly or indirectly regulate the entry, rates, terms, or conditions for internet protocol-enabled or voice over internet protocol service.

OH	SB 162 (2010) ; 4927.03 Ohio Revised Code; https://legiscan.com/OH/bill/SB162/2009	Sec. 4927.03. The commission has no authority over any interconnected voice over internet protocol-enabled service or any telecommunications service that is not commercially available on the effective date of this section and that employs technology that became available for commercial use only after the effective date of this section, unless the commission, upon a finding that the exercise of the commission's authority is necessary for the protection, welfare, and safety of the public, adopts rules specifying the necessary regulation.
PA	VoIP Freedom Act of 2008, 73 P.S. §§ 2251.1 et seq., Act 52 of 2008, Senate Bill 1000 (2008).	Retain jurisdiction over 911, TRS fees, USF fees, wholesale network access, Intercarrier comp, 73 P.S. § 2251.6
SC	S 277 (2015) https://legiscan.com/SC/text/S0277/2015	VoIP carriers must contribute to USF; no oversight of electing carriers
TN*	SBI 1180 (2013); https://legiscan.com/TN/text/SB1180/id/725134/Tennessee-2013-SB1180-Draft.pdf	Carriers may choose to be "market-regulated;" TRA may not issue any new rules or costs on carriers. § 65-5-109(m)
TX	PURA 52.002, http://www.statutes.legis.state.tx.us/Docs/UT/htm/UT.52.htm	Notwithstanding any other law, a department, agency, or political subdivision of this state may not by rule, order, or other means directly or indirectly regulate rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol services or other Internet Protocol enabled services.
UT	CH 241 (2012) UC 54-19-103 https://le.utah.gov/xcode/Title54/Chapter19/54-19.html?v=C54-19_1800010118000101	54-19-03 A state agency and political subdivision of the state may not, directly or indirectly, regulate Internet protocol-enabled service or voice over Internet protocol service.
VA	Section 56-1.3 Code of Virginia, https://law.lis.virginia.gov/vacode/title56/chapter1/section56-1.3/	The Commission shall not have jurisdiction with respect to the regulation of Voice-over-Internet protocol service, including but not limited to the imposition of regulatory fees, certification requirements, and the filing or approval of tariff
WV	SB180 (2017); https://legiscan.com/WV/text/SB180/2017	The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service.
WI	Act 22 (2011) https://docs.legis.wisconsin.gov/2011/related/acts/22	Limited oversight of VoIP ETCs, fees, 911
WY	Wyoming Statute 37-15-105(b) deregulates VoIP;	VoIP providers must remit state USF assessments and collect for 911 and TRS pay the assessment supporting the WYPSC.

* No response Connecticut, New Jersey, Idaho, and Tennessee. Information from author's research.

** Alaska, Montana, New Mexico, New York, North Carolina, and Oklahoma have not asserted jurisdiction = 6

*** Litigation pending in MN, and VT = 2

**** AZ, CT, ID, , LA, NE, OR, SD, RI, WA retain jurisdiction = 9

Appendix B

2017 NRRI Communications Jurisdiction Survey

August 7, 2017

Return to Sherry Lichtenberg (slichtenberg@nrri.org) by August 21, 2017

Deregulation has posed new challenges for state commissions as they seek ways to align communications providers' private goals with the public interest. Legislation reducing commission oversight of telecommunications has often included expansive language that attempts to withdraw oversight responsibilities from state commissions based on competition or simply the type of technology used to provide service. But this ten thousand foot view of deregulation does not address the tools that state commissions continue to use to ensure service quality and reliability and address consumer concerns. Despite legislation diminishing their regulatory power, many state commissions continue to assert oversight over key issues such as carrier certification, ETC designation, emergency services, network quality, carrier of last resort obligations (COLR), and consumer complaints.

This survey will identify those areas where the states retain jurisdiction over communications regardless of the technology utilized to provide connectivity.

Information from your state is critical to ensuring that we have a complete picture of the oversight of these services. We need your input to do this. **Please complete and return this survey to slichtenberg@nrri.org by August 18, 2017 to ensure that your state is adequately represented.**

I. Participant Information:

Name: _____
Title: _____
State: _____
Email address: _____
Phone: _____

II. Wireline regulation

1. Does your state have any jurisdiction over traditional wired landline service?
Yes _____ No _____
2. If you answered *No* to question 1 (above) was the decision to deregulate:
 - a. Legislative _____
Provide bill number, date, link _____
 - b. Commission decision _____

- Provide docket number, date, link
- c. Other (Please specify) _____
3. **If you answered *Yes* to question 1 (above), is legislation currently pending to reduce or eliminate your jurisdiction?** _____
- a. Bill number, date, link _____
- b. Commission decision ____ Docket number ____ Date ____ Link ____
4. **Despite any deregulatory legislation that may have occurred, does your state retain oversight of the following aspects of traditional landline telecommunications service?**
- a. Emergency services/911 _____
- b. ETC designation ____ Wireline ____ Wireless ____
- c. Quality of service _____
- d. Customer complaints _____
- If you answered yes to this question, please detail how you handle these complaints. Do you refer them to the carrier; adjudicate them; other?
- _____
- _____
- e. Interconnection _____
- f. Disputes between carriers _____
- g. Company registration or certification _____
- If your state does not require registration or certification of carriers, how does the state track what carriers must remit 911 fees?
- _____
- _____
- h. Low income assistance programs, including assessing and collecting fees (please specify)
- _____
- i. Cramming/slamming _____
- j. Tariffs _____
- k. Numbering resources/area code relief _____
- l. Acquisitions/Mergers _____
- m. Customer notice of price increases _____
- n. Process to disconnect service to a customer _____
- o. Rate of return regulation _____
- p. Fees supporting relay services (TRS) _____
5. **Does another state agency (other than the Commission) handle any of these issues?** ____ If so, what issues, what agency, under what authority?
- _____
- _____

III. Oversight of fixed VoIP services such as fiber to the home and cable voice.

This section of the survey asks questions concerning state oversight of voice service using IP technology (generally referred to as VoIP), such as cable voice, fiber to the home services such as Verizon and Frontier FiOS, AT&T's U-Verse (now known as AT&T Fiber), and similar offerings.

1. **Does your state have jurisdiction over fixed VoIP service?**
Yes _____
No _____
2. **If you answered *No* to question 1 (above), please provide the basis for the decision not to regulate fixed VoIP services.**
 - a. Legislation _____
Please provide bill number, date, link _____
 - b. Commission decision _____
Docket number, date, link _____
 - c. Other (please specify) _____
3. **If you answered *YES* to question 1 (above), please list the IP-enabled services over which you retain jurisdiction.**
 - a. Interconnected VoIP _____
 - b. Fiber to the home services such as FiOS and U-Verse _____
 - c. Cable voice _____
 - d. Other (specify) _____
4. **Is legislation or commission action pending or proposed to change your oversight of IP-enabled services?**
 - a. Legislation is pending _____
Please provide bill number, date, link _____
 - b. Commission action is pending _____
Please provide docket number, date, link _____
5. **Even if you do not directly regulate fixed VoIP services, you may oversee specific areas of those services.**
To what extent does your state oversee the following aspects of fixed VoIP service?
 - a. Emergency services/911 _____
 - b. ETC designation _____
 - c. Designation of Broadband Lifeline providers, including providers that offer broadband connectivity only _____
 - d. Quality of service _____
 - e. Customer complaints _____
If you answered yes to this question, please detail how you handle these complaints. Do you refer them to the carrier; adjudicate them; other?

-
-
- f. IP Interconnection _____
- g. Disputes between carriers _____
- h. Provider registration or certification _____
If your state does not require registration or certification of carriers, how
does the state track what carriers must remit 911 fees?
-

- i. Low income assistance programs, including fees supporting relay service
(TRS) _____
- j. Cramming/slamming _____
- k. Tariffs _____
- l. Numbering resources/area code relief _____
- m. Mergers/acquisitions _____
- n. Customer notice of price increases _____
- o. Process to disconnect service to a customer _____
- p. Rate of return regulation _____
- q. Other (for example broadband deployment, service availability, etc.) _____
-

6. **Does your state require providers of IP-enabled services such as VoIP and cable voice to contribute to the State USF?**

- a. Cable voice providers Yes _____ No _____
- b. Fixed VoIP providers Yes _____ No _____
- c. Fiber to the home providers Yes _____ No _____
- d. Other _____

IV. Oversight of nomadic VoIP Services.

(These services, for example Vonage or Google Voice, allow customers to use their service from any location that has a broadband internet connection.)

1. **Does your state have jurisdiction over nomadic VoIP service?**
Yes _____
No _____
2. **Even if you do not directly regulate nomadic VoIP services, you may retain jurisdiction over specific areas of those services.
To what extent does your state oversee the following aspects of nomadic VoIP service?**
- a. Emergency services/911 _____
- b. Customer complaints _____

If you answered yes to this question, please detail how you handle these complaints. Do you refer them to the carrier; adjudicate them; other? _____

- c. Disputes between carriers _____
- d. Registration or certification _____
If your state does not require registration or certification of carriers, how does the state track what carriers must remit 911 fees?

- e. Cramming/slamming _____
- f. Fees supporting relay services (TRS) _____

V. Oversight of wireless services

1. To what extent (if any) do you have jurisdiction over wireless services?

- a. Designate wireless ETCs _____
- b. Require that wireless ETCs meet quality of service requirements _____
- c. Require wireless carriers to contribute to state USF _____
- d. Review/resolve consumer complaints regarding wireless services _____
- e. Ensure wireless connectivity for emergency services _____
- f. Other _____

VI. Please provide any additional information/comments.

Return the survey to slichtenberg@nrri.org by August 21, 2017.