

**CONCURRING STATEMENT OF  
COMMISSIONER JESSICA ROSENWORCEL**

Re: *Connect America Fund*, WC Docket No. 10-90; *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92.

With this decision we take up the Byzantine topic of our rules governing compensation for the exchange of network traffic. Specifically, we address the application of the so-called VoIP symmetry rule when the traffic exchange involves an over-the-top VoIP service on the terminating end of a call.

Four years ago, the agency took up this very same topic and found that the VoIP symmetry rule did not require a competitive carrier or its over-the-top VoIP partner to provide a physical last-mile facility to the VoIP provider's end user customers in order to provide the functional equivalent of end office switching. I believe that was the correct call because it advanced the goal of facilitating the IP transition and reduced incentives for arbitrage.

However, since then the court has spoken. It handed our prior ruling back and urged us to try again. While I would have preferred that this agency expand its work to justify our prior decision, I am mindful that the court left us with little room to maneuver. Accordingly, I acknowledge that in this decision we change course and on that I respectfully concur.