

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Petition for Declaratory Ruling Whether
Voice Over Internet Protocol Services
Are Entitled to the Interconnection Rights
Of Telecommunications Carriers

WC Docket No. 08-56

REPLY COMMENTS OF THE VOICE ON THE NET COALITION

I. INTRODUCTION

The Voice on the Net ("VON") Coalition hereby submits these reply comments in response to the above-referenced petition filed by Vermont Telephone Company ("VTel").¹

II. BACKGROUND

VTel's petition seeks clarification regarding whether Voice over Internet Protocol ("VoIP") providers are entitled to the interconnection rights of telecommunications carriers. Specifically, the petition seeks clarification regarding: (1) whether only telecommunications carriers are entitled to interconnection with local exchange carriers pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended ("Act"); (2) whether a VoIP provider is entitled to interconnection pursuant to Sections 251 and 252 of the Act when, in separate proceedings, that provider has taken a position that it is not a telecommunications carrier; and (3) whether Comcast Phone of Vermont, LLC ("Comcast"), as a VoIP provider, is a telecommunications carrier and therefore entitled to interconnection pursuant to Sections 251 and 252.

¹ *Pleading Cycle Established for Comments on Vermont Telephone Company's Petition for Declaratory Ruling Regarding Interconnection Rights*, Public Notice, WC Docket No. 08-56, DA 08-916 (rel. Apr. 18, 2008).

III. DISCUSSION

The VON Coalition agrees with the Vermont Department of Public Service, NCTA, Time Warner Cable, Bright House, Skype, and Comcast, who argue that VTel's petition mischaracterizes the factual and legal situation at hand. For instance, Comcast notes that VTel has mischaracterized, misstated, or omitted material information from its petition.² And many commenters note that VTel has utterly failed to reconcile its requests with the Commission's clear findings in the *Time Warner Declaratory Ruling*.³ Such activity should not be rewarded, or even condoned, by the Commission. Further, given these issues, it is impossible for the Commission to take the actions requested by VTel.

Importantly, VTel's petition reflects a fundamental misunderstanding of the distinction between providers of retail VoIP services, on the one hand, and the wholesale telecommunications carriers with whom VoIP providers typically partner, on the other.⁴ The fact that a CLEC can obtain interconnection and then provide service, on a wholesale basis, to an interconnected VOIP provider is well settled by the *Time Warner Declaratory Ruling*.⁵ Further, there is no basis to distinguish between interconnected VOIP providers that are affiliated or unaffiliated with the CLEC as relevant to the issue, as VTel invites. The VON Coalition agrees with the majority of commenters in this proceeding that the *Time Warner Declaratory Ruling* provides adequate guidance. Given the *Time Warner Declaratory Ruling*

² See Comcast comments at 10-12.

³ Comcast comments at 10-12. See also Vermont DPS comments at 4-5.

⁴ See, e.g., comments of AT&T at 4.

⁵ *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, Memorandum Opinion and Order, 22 FCC Rcd 3513 ¶ 15 (2007) ("*Time Warner Declaratory Ruling*") ("a provider of wholesale telecommunications service is a telecommunications carrier and is entitled to interconnection under section 251 of the Act. The regulatory classification of the service provided to the ultimate end user has no bearing on the wholesale provider's rights as a telecommunications carrier to interconnect under section 251.")

and the factual clarifications made by Comcast and the Vermont Department of Public Service in their comments, VTel's requests are extraneous.

As NCTA points out, "VTel's misstatement of the facts and its alleged confusion about the law is nothing more than a desperate attempt to preserve its monopoly and block Comcast from offering a competing service."⁶ Comcast notes VTel should not be permitted to use its pretextual confusion regarding the facts of the matter for purposes of anti-competitive delay.⁷ And the Vermont Department of Public Service and Feature Group IP urge the Commission not to condone VTel's attempts to skirt its Section 251 obligations.⁸ The Vermont Department of Public Service also correctly emphasizes that, in addition to competitive harm, VTel's actions ultimately result in harm to consumers of communications services in Vermont.⁹

Further, contrary to the assertion of the Washington Utilities and Transportation Commission,¹⁰ here, the Commission does not need to reach the issue of attempting to categorize all VoIP providers as either information or telecommunications providers.¹¹ This is no different from the Commission's analysis in the *Time Warner Declaratory Ruling*.¹² Indeed, most if not all of the issues VTel attempts to raise, either directly or indirectly

⁶ NCTA comments at 2. See also Vermont DPS comments at 2, 7.

⁷ Comcast comments at 13.

⁸ Vermont DPS comments at 1; Feature Group IP comments at 3.

⁹ *Id.* at 2.

¹⁰ See, e.g., Comments of Washington UTC at 6.

¹¹ See *Time Warner Declaratory Ruling* at ¶15 ("statutory classification of a third-party provider's VoIP service as an information service or a telecommunications service is irrelevant to the issue of whether a wholesale provider of telecommunications may seek interconnection under section 251(a) and (b).")

¹² See *id.* at ¶ 17 (finding it not "appropriate or necessary here to resolve the complex issues . . . that the Commission is currently addressing elsewhere on more comprehensive records.").

through its petition, are currently before the Commission in broader rulemaking proceedings. The VoIP classification issue and many other issues related to the regulatory treatment of VoIP services is currently pending in the *IP-Enabled Services* proceeding.¹³ And, to the extent VTel's fundamental issue with Comcast is intercarrier compensation, there is the pending *Inter-carrier Compensation* proceeding, where anticipated comprehensive reform is anticipated in the near future.¹⁴ There is absolutely no need for the Commission to take the actions VTel requests in the context of this proceeding.

Finally, the VON Coalition agrees with Verizon that all interconnected VoIP is/should be regulated, if at all, by the Commission as inseparably interstate.¹⁵ The VON Coalition also agrees with Verizon that, in this regard, it is important that the Commission take all possible care to "ensure that legacy rules do not hinder the development of VoIP and other IP-based communication services."¹⁶ Taking the action requested by VTel would undermine the development of VoIP, other IP-based communications services, and broadband generally to the detriment of consumers.

¹³ See WC Docket No. 04-36.

¹⁴ See, CC Docket No. 01-92. See also Feature Group IP comments at 2; Comments of California Public Utilities Commission at 4, 6; Verizon comments at 1-2, 5.

¹⁵ See Verizon comments at 3; AT&T comments at 3.

¹⁶ Verizon comments at 1.

IV. CONCLUSION

For the foregoing reasons, the Commission should dismiss or deny declaratory rulings and/or clarifications requested by VTel or otherwise decline to issue those same requests.

Respectfully submitted,

THE VON COALITION

By: /s/_____

June 9, 2008