



October 14, 2010

(Filed electronically)

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: **Ex Parte Notice**
Petition of Nebraska Public Service Commission and Kansas Corporation
Commission for Declaratory Ruling, WC Docket No. 06-122

Dear Ms. Dortch:

On October 14, 2010, Glenn Richards, Executive Director and Counsel for the VON Coalition, met with Christine Kurth, Legal Advisor for Commissioner McDowell.

During the meetings, the VON Coalition reiterated its opposition to the Petition and explained how the 2004 *Vonage Preemption Order* had helped create a vibrant, highly competitive VoIP industry, lowering prices and increasing the service options and features available to residential, governmental and enterprise customers. VON is concerned that an order granting the Petition will be perceived by the investment community as narrowing the *Vonage Preemption Order*, stifle innovation, curtail investment in VoIP services and applications, slow broadband deployment and embolden the states to assert jurisdiction over all forms of VoIP. Approval of the petition will also lead to an increase in rates for all VoIP customers and adversely impact VoIP providers who will bear significant administrative expenses to comply with multiple, varying state USF rules and payment obligations.

The VON Coalition argued that the Commission had preempted the imposition of state universal service fund obligations on providers of nomadic VoIP services in the *Vonage Preemption Order*. In addition, VON explained that an order permitting state assessments could tie the FCC's hands on decisions in future proceedings, including reform of the Federal Universal Fund, and that this Kansas-Nebraska decision should be delayed until these broader policy issues have been addressed.

If the Commission chooses to grant the petition, the VON Coalition expressed concern that any decision stating only that is prospective may not provide enough legal justification if challenged by a state seeking retroactive USF payments from a VoIP provider. The Commission must make clear that it is changing (and not simply clarifying) the law, or there will may be unnecessary litigation. The Commission should also give VoIP providers at least 90 days after the effective date of the order to begin complying



October 14, 2010
Page 2

with any state USF requirements, as that time is needed to change billing systems and confirm how much to collect, from whom to collect and where to remit payments. Finally, there should be a statement in the order that expressly reaffirms the *Vonage Preemption Order* and clarifies that the states' authority to impose regulation is solely limited to USF.

Please contact me directly if you have any questions.

Sincerely,

/s/

Glenn S. Richards
Executive Director

cc: Christine Kurth (by email)