

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

|   |   |                     |
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| In the Matter of                              | ) |                     |
|   | ) |                     |
| Petition of Time Warner Cable for Declaratory | ) |                     |
| Ruling That Competitive Local Exchange        | ) |                     |
| Carriers May Obtain Interconnection Under     | ) | WC Docket No. 06-55 |
| Section 251 of the Communications Act of      | ) |                     |
| 1934, as Amended, to Provide Wholesale        | ) |                     |
| Telecommunications Services to VoIP           | ) |                     |
| Providers                                     | ) |                     |

**INITIAL COMMENTS OF THE VON COALITION**

The Voice on the Net (“VON”) Coalition<sup>1</sup> hereby files in support of the petition for declaratory ruling submitted by Time Warner Cable (“TWC”) in the above-captioned proceeding.<sup>2</sup> TWC requests the Commission to affirm that competitive local exchange carriers (“CLECs”) are entitled to interconnect with incumbent local exchange carriers (“ILECs”)

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<sup>1</sup> The VON Coalition consists of leading VoIP companies, on the cutting edge of developing and delivering voice innovations over Internet. The coalition, which includes Acceris, AccessLine, BMX, BT Americas, CallSmart, Cisco, Conveda, Covad, EarthLink, iBasis, Intel, Intrado, Microsoft, MobilePro, Multi-Link, New Global Telecom, Openwave, Pandora Networks, PointOne, Pulver.com, Skype, Switch Business Solutions, T-Mobile USA, USA Datanet, VocalData and Veraz Networks. The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the full promise and potential of VoIP. The Coalition believes that with the right public policies, Internet based voice advances can make talking more affordable, businesses more productive, jobs more plentiful, the Internet more valuable, and Americans more safe and secure. Since its inception, the VON Coalition has promoted pragmatic policy choices for unleashing VoIP’s potential. More information about the VON Coalition can be obtained at [www.von.org](http://www.von.org).

<sup>2</sup> See *Pleading Cycle Established for Comments on Time Warner Cable’s Petition for Declaratory Ruling That Competitive Local Exchange Carriers May Obtain Interconnection to Provide Wholesale Telecommunications Services to VoIP Providers*, Public Notice, WC Docket No. 06-55, DA 06-534 (rel. Mar. 6, 2006); *Wireline Competition Bureau Grants Request for Extension of Time to File Comments on Time Warner Cable’s Petition for Declaratory Ruling That Competitive Local Exchange Carriers May Obtain Interconnection to Provide Wholesale Telecommunications Services to VoIP Providers*, Public Notice, WC Docket No. 06-55, DA 06-639 (rel. Mar. 21, 2006).

pursuant to section 251 of the Communications Act of 1934 (the “Act”), as amended, for the purpose of exchanging traffic on behalf of Voice over Internet Protocol (VoIP)-based service providers. The Commission should expeditiously grant TWC’s request in order to ensure that IP-based services can thrive to the benefit of millions of American consumers. Moreover, the FCC should clarify in any order issued in this proceeding that, pursuant to its jurisdiction over VoIP services as established by the Vonage decision,<sup>3</sup> VoIP service traffic qualifies for interconnection under Section 251 of the Act, and that it would rule similarly should other states find otherwise in the future.

The VON Coalition agrees with TWC that the Nebraska Public Service Commission and the Public Service Commission of South Carolina misapplied the Act when holding that the right to interconnect hinges upon the identity of and the services provided by the requesting carrier’s customer.<sup>4</sup> TWC’s petition provides an accurate characterization of CLEC wholesale telecommunications offerings, of interconnection rights and requirements pursuant to federal law, and numerous examples of the Commission’s clear findings with respect to interconnection for the purpose of providing common carrier wholesale services to third parties.<sup>5</sup> TWC also correctly points out that the lack of a clear regulatory classification of VoIP by the Commission

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<sup>3</sup> *In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order, WC Docket No. 03-211 (rel. November 12, 2004), *appeal pending* (8<sup>th</sup> Circuit Court of Appeals).

<sup>4</sup> *See* TWC Petition at 11. The VON Coalition also supports TWC’s related request that the Commission preempt the determination of the Public Service Commission of South Carolina that TWC was not able to be certificated to provide VoIP services in South Carolina. As the FCC found in the *Vonage Order*, states are prohibited from imposing economic regulation such as certification requirements on VoIP providers. In its *Vonage Order*, the FCC preempted states from imposing certification and tariffing requirements on VoIP providers, *Order in Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order, WC Docket No. 03-211, 19 FCC Rcd 22404, 22423-24 ¶¶ 31-32 (2004) (“*Vonage Order*”).

<sup>5</sup> *See id.* at 13-18.

is irrelevant to the requested declaratory ruling.<sup>6</sup> This can be seen clearly and directly in the Commission's recent *VoIP E911 Order*, where the Commission held that interconnected VoIP providers could satisfy their E911 service requirements "by interconnecting indirectly through a third party such as a competitive local exchange carrier (LEC), interconnecting directly with the Wireline E911 Network, or through any other solution that allows a provider to offer E911 service."<sup>7</sup>

The problems that TWC faces in South Carolina and Nebraska are not isolated, they threaten the competitive availability of VoIP services, and they effectively create "digital divides" between those who can enjoy the benefits of VoIP and those who cannot. In the absence of Commission intervention, it is possible, and even likely, that other ILECs and other state utility commissions will follow the example of South Carolina and Nebraska to the detriment of competition, innovation, and consumer benefits. The availability of VoIP as a competitive, feature-rich alternative to traditional voice services is compelling throughout the United States, and it is especially powerful for consumers in rural areas where TWC has encountered these regulatory issues. Accordingly, the VON Coalition urges the Commission to clarify at the federal level that section 251 of the Communications Act allows CLECs to obtain interconnection and interconnection agreements that enable them to provide wholesale telecommunications services to third parties such as VoIP providers that offer VoIP services to end users.

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<sup>6</sup> *See id.* at 19-20.

<sup>7</sup> *See IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245 ¶¶ 1, 38, n. 83, and Statement of Chairman Martin at 1-2, Statement of Commissioner Adelstein at 1 (2005).

VON Coalition  
WC Docket No. 06-55  
April 10, 2006

Respectfully submitted,

**THE VON COALITION**

/s/ Staci L. Pies \_\_\_\_\_  
President

April 10, 2006