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November 7, 2014

**Notice of Ex Parte**

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

**Re: Notice of Ex Parte Communication (CC Docket No. 96-45;  
CC Docket No. 01-92; WC Docket No. 03-109; WC Docket  
No. 05-337; WC Docket No. 07-135; WC Docket No. 10-90;  
GN Docket No. 09-51)**

Dear Ms. Dortch:

On November 5, 2014, Kyle Bertrand, VP, Network Planning and Regulatory, Broadvox-CLEC, LLC (“Broadvox”), and the undersigned met with Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel. Broadvox provided the attached presentation and discussed the importance of the VoIP Symmetry Rule to Broadvox as an over-the-top VoIP provider. Broadvox emphasized the need to ensure that any clarifications the Commission makes to the *Connect America Fund Order* (“CAF Order”)<sup>1</sup> are retroactive to the effective date of that order.

Broadvox also discussed the fact that Verizon’s effort to exclude originating 8YY access from the VoIP Symmetry Rule is not justified. Excluding such traffic would create the very asymmetry that the Commission intended to avoid, by permitting traditional local exchange carriers to collect full originating access on 8YY calls, but precluding competitive carriers such as Broadvox partnered with VoIP provider partners from collecting the same charges. Moreover, interexchange carriers (IXCs) that deliver calls to their 8YY customers will still collect the same rates from those customers, but would pay a discounted originating access rate on every such call that happens to originate from a VoIP provider customer. The Commission should ensure that IXCs do not receive such a windfall and that VoIP providers have an even chance to compete by guaranteeing equivalent compensation for all types of traffic.

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<sup>1</sup> *Connect America Fund*, Report And Order And Further Notice Of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (“CAF Order”).

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Verizon provides neither legal nor factual support for its new proposal to exclude originating access from the VoIP Symmetry Rule. Verizon's proposal is predicated on the assumption that originating access charges remain at their pre-*CAF Order* levels,<sup>2</sup> which is simply not true. The Commission in the *CAF Order* reduced originating access rates for intrastate VoIP-PSTN traffic—and only VoIP-PSTN traffic is subject to the VoIP Symmetry Rule—from their previous, significantly higher intrastate levels to much lower interstate levels.<sup>3</sup>

More importantly, there was never any consideration given in the *CAF Order* to excluding originating access from the VoIP Symmetry Rule. The VoIP Symmetry Rule has been in effect for more than two and a half years and yet Verizon provides no evidence whatsoever of any actual abuses of originating access traceable to the VoIP Symmetry Rule. Verizon's fearmongering—its claim, for example, that Commission action “could open the floodgates to new robocall schemes,”—is not a substitute for record evidence that the VoIP Symmetry Rule has increased arbitrage. In addition, even if there were evidence that there is a higher incidence of access stimulation among over-the-top providers than other providers (which there is not), the Commission has already addressed access stimulation in the *CAF Order*,<sup>4</sup> and those rules would apply with equal, symmetrical force to all providers, over-the-top or otherwise. Verizon's proposal to exclude originating access from the VoIP Symmetry Rule is a solution in search of a problem and should not be addressed in the Commission's impending order.

As required by Section 1.1206(b), this *ex parte* notification is being filed electronically for inclusion in the public record of the above-referenced proceedings. If you have any questions or require additional information, please do not hesitate to contact me at 202.659.6655.

Sincerely,

/s/ James C. Falvey  
James C. Falvey  
Counsel for Broadvox-CLEC, LLC

Enclosure

cc: Priscilla Delgado Argeris (via e-mail)  
Kyle Bertrand (via e-mail)

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<sup>2</sup> Letter from Alan Buzacott, Executive Director, Federal Regulatory Affairs, Verizon to Ms. Marlene H. Dortch, Secretary, FCC (Nov. 5, 2014), at 2.

<sup>3</sup> *CAF Order*, ¶ 961.

<sup>4</sup> *Id.*, ¶¶ 656-701.