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May 21, 2004

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Meeting in WC 03-211

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("FCC") Rules, this letter serves to provide notice in the above-captioned proceedings of *ex parte* meetings with the Chairman and his staff. On May 20, 2004, the undersigned accompanied Mr. Jeffrey Citron, Chairman and CEO of Vonage Holdings Corp. ("Vonage") and Ms. Brooke Schulz, also of Vonage, to meet with the following people: Chairman Powell, Christopher Libertelli, Senior Legal Advisor to Chairman Powell, and summer intern Donald Jackson.

During these meetings, Vonage discussed the attached press release from the New York Public Service Commission ("Commission"). The press release indicates that the Commission has made the determination that Vonage's service qualifies as a "telephone corporation" under State law. Vonage stressed the need for the FCC to act on Vonage's petition so that the agency could proceed with its *IP-Enabled Service* proceeding and develop a national policy and regulatory framework for Internet applications.

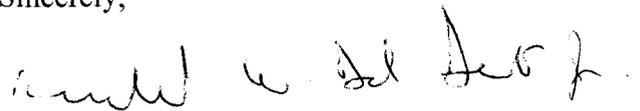
The Company further emphasized that a limited but timely ruling finding that the Vonage service is jurisdictionally interstate and subject to the exclusive regulatory jurisdiction of the FCC would avoid any possibility of a conflict such as that which occurred between the FCC's *Cable Modem Declaratory Ruling* and the Ninth Circuit's decision in the *Brand X Internet*

Services v. FCC cases. Any immediate ruling in this proceeding need *not* limit the Commission's ability to further address these services in the context of the *IP Enabled NPRM*.

The Company also expressed its view that the continual efforts by the states to regulate Internet applications would slow broadband deployment and negatively impact the consumer benefits associated with Vonage's service. Vonage recently announced a price decrease of \$5.00, per month, for its residential unlimited package of service that includes many features that other providers require consumers to pay for separately in order to utilize. The Company highlighted that premature regulatory action by state commissions threatens to encumber the deployment of advanced Internet applications and further lower broadband penetration rates in the United States.

Pursuant the Commission's Rules, this letter is being submitted electronically to the Secretary for filing in the above-referenced proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamar E. Finn".

Tamar E. Finn
Ronald W. Del Sesto, Jr.

Enclosures

cc: Chairman Powell
Christopher Libertelli
Donald Jackson

STATE OF NEW YORK

Public Service Commission

William M. Flynn, Chairman

Three Empire State Plaza, Albany, NY 12223

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<http://www.dps.state.ny.us>

FOR RELEASE: IMMEDIATELY

04038/03C1285

PSC: Vonage is a Telephone Corporation as Defined by NYS Law

- Commission Seeks to Maximize Benefits of New Technology, Protect Core Public Interests-

Rochester, NY 5/19/04 - The New York State Public Service Commission today determined that the Vonage Holdings Corporation (Vonage), which offers competitive telephone services to New Yorkers through Voice over Internet Protocol (VoIP) technology, is a telephone corporation as defined by New York State Law and, therefore, must obtain a Certificate of Public Convenience and Necessity (CPCN).

In its decision, the Commission emphasized its keen interest in applying only minimal regulations to ensure that it does not interfere with the rapid, widespread deployment of new technologies. At the same time, the Commission must ensure that its core public interest concerns, including public safety and network reliability, are met. Thus, consistent with its longstanding policy, the Commission determined that Vonage, a competitive service provider, should be subject to, at most, the same limited regulatory regime which is applied to comparable competitive carriers in New York. Therefore, Vonage will not be subject to economic or rate regulation, but, pursuant to Public Service Law, Vonage must obtain Commission authorization to provide telephone service (CPCN) and file a schedule of its rates.

"Telecommunications services are a critical component of this state's economy, and our decision today seeks to maximize the benefits of the emerging VoIP technology, while minimizing the risks to the public interest, including safety and economic interests." Commission Chairman William M. Flynn stated. "The Commission must interpret the law, and in administering it, we must weigh a number of public interests, including public safety and telecommunications network reliability. While today's decision means that Vonage will be subject to some form of regulation, we are limiting the effect of our decision to allow Vonage an opportunity to address the framework of that regulation."

Vonage provides a service that enables subscribers to complete telephone-like calls to other subscribers over the Internet and to subscribers of local telephone companies using landline networks. VoIP itself is the technology that Vonage uses to provide, and that was developed to enable, telephone-like voice communications over data networks, including the public Internet.

In September 2003, Frontier Telephone of Rochester, Inc. (Frontier) filed a complaint with the Commission alleging that Vonage should be required to obtain a Certificate of Public Convenience and Necessity under New York State Public Service law as an intrastate provider of telecommunications services. Frontier also asked that Vonage be required to route all "911" calls over dedicated "911" networks and participate fully in "enhanced 911" (E911) services where available.

After seeking public comments, the Commission determined that Vonage owns and manages equipment that is used to provide telephone service to Vonage's customers and to connect Vonage's customers to the customers of other telephone corporations via their public networks and thus, like other owners of telecommunications-provisioning equipment, is subject to the NYS Public Service Law. Further, the Commission found that Vonage is reselling to its customers telecommunications capabilities it acquires from other, third-party telephone corporations. Resellers have previously been found to be under the jurisdiction of the Commission.

Of particular interest to the Commission in this case is balancing the need to ensure the reliability of Vonage's VoIP-enabled service in providing access to effective 911/E911 emergency calling capabilities and the economic interests of advancing telecommunications services in the state. While the Commission does not guarantee the financial success of any one provider of competitive telecommunications services, it should not create unfair regulatory advantages for some providers over others.

"To be most effective, any regulation should target core public policy concerns without unnecessarily interfering with the free flow of markets and the development of innovative services and technologies," Chairman Flynn elaborated. "The events of September 11, 2001, emphatically attest to the state's vital interest in maintaining reliable telecommunications networks, and to the extent that New Yorkers come to rely on a VoIP-enabled service to access those services, we need to ensure such access."

In making its decision, the Commission determined that it is in the public interest to move cautiously in terms of defining a regulatory environment for Vonage's service. To that end, the Commission decided to defer any regulatory requirements for a reasonable period to permit Vonage to apply for a CPCN and file rate schedules. During this 45-day period, from the issuance of a written decision, Vonage is also permitted to seek permanent and/or temporary waivers of any regulations it deems to be inappropriate in its circumstance or with which it is not readily able to comply. Further, the Commission decided not to enforce its rules and regulations with regard to Vonage's service pending an evaluation of Vonage's potential waiver requests.

The Commission will issue a written decision detailing today's vote. The decision in Commission Case 03C1285 (Complaint of Frontier Telephone of Rochester, Inc. Against Vonage Holdings Corporation), when available, can be obtained from the Commission's website at <http://www.dps.state.ny.us> by accessing the Commission Documents section of the homepage. Many libraries offer free Internet access. Commission orders can also be obtained from the Files Office, 14th floor, 3 Empire State Plaza, Albany, NY 12223 (518-474-2500).