2004-280-C

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October 31, 2005

VIA HAND DELIVERY

Ms. Barbara Scott
Richland County Clerk of Court
Richland County Courthouse
1701 Main Street
Columbia, South Carolina 29201

Re: Time Warner Cable Information Services v PSC
Appeal of Order Nos. 2005-412 & 2005-484

Dear Ms. Scott:

On behalf of Time Warner Cable Information Services (South Carolina), LLC enclosed for filing please find the following:

1. Notice of Appeal of PSC Order Nos. 2005-412 & 2005-484,
2. Summons and Petition for Judicial Review,
3. Certificate of Exemption from Arbitration,
4. Cover Sheet for Civil Actions,
5. Certificate of Service, and
6. Check for $150.00 in payment of your filing fees.

Please stamp the extra copies provided as proof of filing and return them with our courier. By copy of this letter we are serving the same on the Office of Regulatory Staff; counsel for Farmers Telephone Cooperative, Inc.; Fort Mill Telephone Co.; Home Telephone Co., Inc.; PBT Telecom, Inc.; St. Stephen Telephone Co.; the South Carolina Telephone Coalition; and the Public Service Commission of South Carolina. Please call if there are any questions.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.

Bonnie D. Shealy

Bonnie D. Shealy

/bds
Enclosures
cc/enc: Ms. Julie Patterson (via email)
Charles Terreni, Chief Clerk of PSC (certified mail, restricted, return receipt requested)
Dan F. Arnett, Chief of Staff of ORS (certified mail, restricted, return receipt requested)
Margaret M. Fox, Esquire (certified mail, restricted, return receipt requested)
John Bowen, Esquire (certified mail, restricted, return receipt requested)
Benjamin P. Mustian, Attorney ORS (certified mail, restricted, return receipt requested)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

2005CP4005687

CIVIL ACTION COVERSHEET

Time Warner Cable Information Services (South Carolina), LLC

Petitioner(s))
v.)
)
Public Service Commission, Farmers Telephone Cooperative, et al.)
Respondent(s))

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S.C. P.S.C.

(Please Print)
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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (*Check all that apply*)

If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
- ☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- ☒ This case is exempt from ADR (certificate attached).

NATURE OF ACTION
(Check One Box Below)

Contracts
- ☐ Construction (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract(140)
- ☐ Other (199) _____

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- ☐ Other (299) _____

Torts – Personal Injury
- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Other (399) _____

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499) _____

Inmate Petitions
- ☐ PCR (500)
- ☐ Sexual Predator (510)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599) _____

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)**
- ☐ Other (799) _____

Administrative Law/Relief
- ☐ Reinstate Driver's License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture (840)
- ☐ Other (899) _____

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Administrative Law Judge (980)
- ☒ Public Service Commission (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999) _____

Special/Complex/Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Other (699)

Submitting Party Signature: Bonnie D. Shealy Date: October 31, 2005

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
Time Warner Cable Information Services (South Carolina), LLC	)	
Petitioner,	)	**CERTIFICATE OF EXEMPTION / WITHDRAWAL FROM ARBITRATION / MEDIATION**
v.	)	
Public Service Commission of South Carolina; Farmers Telephone Cooperative, Inc.; Fort Mill Telephone Co.; Home Telephone Co., Inc.; PBT Telecom, Inc.; St. Stephen Telephone Co.; South Carolina Telephone Coalition; and Office of Regulatory Staff,	)	
Respondents.	)	

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C.C.C.

I CERTIFY THAT THIS ACTION IS EXEMPT FROM ARBITRATION BECAUSE:

_____ monetary relief requested in this case exceeds $25,000.00;
_____ this is a class action;
_____ there is a substantial claim for injunction or declaratory relief in this case;
_____ this case involves (check one or more of the following)
  _____ title to real estate;
  _____ wills, trusts and decedents' estates;
  _____ mortgage foreclosure;
  _____ partition;
_____ this is a special proceeding or action seeking extraordinary relief such as mandamus, habeas, corpus, or prohibition;
_____ monetary relief requested in this case is unspecified but exceeds $25,000;
_____ this case is a companion or related to similar actions pending in other courts with which the action might be consolidated but for lack of jurisdiction or venue;
__x__ this action is appellate in nature;
_____ this is a post-conviction relief matter;
_____ this is a forfeiture proceeding brought by the State; or
_____ this is a contempt of court proceeding.

Date: October 31ST, 2005

Bonnie D Shealy
Attorney for Petitioner

*FOR MANDATED ADR COUNTIES ONLY

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral within 210 days of filing of this action, and the Plaintiff shall file a "Stipulation of Neutral Selection" on or before the 224th day after the filing of the action. If the parties cannot agree upon the selection of the neutral within 210 days, the Plaintiff shall notify the Court by filing a written "Request for the Appointment of a Neutral" on or before the 224th day after the filing of this action. The Court shall then appoint a neutral from the Court-approved mediator/arbitrator list.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Case are exempt from ADR only upon the following grounds:

    a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

    b. Cases which are appellate in nature such as appeals or writs of certiorari;

    c. Post Conviction relief matters;

    d. Contempt of Court proceedings;

    e. Forfeiture proceedings brought by the State;

    f. Cases involving mortgage foreclosures; and

    g. Cases that have been submitted to mediation with a certified mediator prior to the filing of this action.

4. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference had been concluded.

Please Note: **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

* Florence, Horry, Lexington, Richland, Greenville, and Anderson

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Time Warner Cable Information Services (South Carolina), LLC	)	Case No.:
Petitioner,	)	**NOTICE OF APPEAL OF FINAL DECISION OF ADMINISTRATIVE AGENCY**
v.	)	
Public Service Commission of South Carolina; Farmers Telephone Cooperative, Inc.; Fort Mill Telephone Co.; Home Telephone Co., Inc.; PBT Telecom, Inc.; St. Stephen Telephone Co.; South Carolina Telephone Coalition; and Office of Regulatory Staff,	)	
Respondents.	)	

FILED 2005 OCT 31 PM 05 CLERK OF COURT

TO: PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA; FARMERS TELEPHONE COOPERATIVE, INC.; FORT MILL TELEPHONE CO.; HOME TELEPHONE CO., INC.; PBT TELECOM, INC.; ST. STEPHEN TELEPHONE CO.; SOUTH CAROLINA TELEPHONE COALITION; AND OFFICE OF REGULATORY STAFF,

YOU ARE HEREBY GIVEN NOTICE of the appeal of Time Warner Cable Information Services (South Carolina), LLC of Orders Nos. 2005-412 and 2005-484 in Docket No. 2004-280-C. Copies of the orders are attached as Exhibits 1 and 2.

Dated this 31ST day of October, 2005

ROBINSON, MCFADDEN & MOORE, P.C.

Bonnie D. Shealy

Frank R. Ellerbe, III
Bonnie D. Shealy
Post Office Box 944
Columbia, SC 29202
Telephone: (803) 779-8900
Facsimile: (803) 252-0724

Attorneys for Time Warner Cable Information Services (South Carolina), LLC

'BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2004-280-C - ORDER NO. 2005-412

AUGUST 1, 2005

IN RE: Application of Time Warner Cable Information Services (South Carolina), LLC d/b/a Time Warner Cable to Amend its Certificate of Public Convenience and Necessity to Provide Interexchange and Local Voice Services in Service Areas of Certain Incumbent Carriers who Currently have a Rural Exemption.	)	ORDER RULING ON EXPANSION OF CERTIFICATE

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Time Warner Cable Information Services (South Carolina), LLC, d/b/a Time Warner Cable (TWCIS) to amend the Certificate of Public Convenience and Necessity issued to TWCIS by the Commission in Order No. 2004-213 in Docket No. 2003-362-C. By its Application, TWCIS seeks to provide interexchange and local voice services in the service areas of the following incumbent local exchange carriers: Farmers Telephone Cooperative, Inc. (Farmers); Fort Mill Telephone Company, d/b/a Comporium Communications, Inc. (Fort Mill); Home Telephone Company, Inc. (Home); PBT Telecom, Inc. (PBT); and St. Stephen Telephone Company (St. Stephen) (collectively, the rural incumbent local exchange carriers or RLECs). Each of the RLECs

has a rural company exemption pursuant to Section 251(f)(1) of the Federal Telecommunications Act of 1996.

A public hearing was held in this matter on March 31, 2005. TWCIS was represented by Frank R. Ellerbe, III, Esquire and Bonnie D. Shealy, Esquire. TWCIS presented the direct and rebuttal testimony of Julie Y. Patterson. The RLECs and the Intervenor South Carolina Telephone Coalition (SCTC) were represented by M. John Bowen, Jr., Esquire and Margaret M. Fox, Esquire. These parties presented the direct testimony of Emmanuel Staurulakis and H. Keith Oliver. The Office of Regulatory Staff (ORS) was represented by Benjamin P. Mustian, Esquire. ORS did not present a witness.

The opening statement by counsel for TWCIS is significant. Mr. Ellerbe stated that, although TWCIS is asking in this case to extend its certification into the areas served by the RLECs, it is not asking to set aside the RLECs' rural exemption under the Telecommunications Act of 1996. What TWCIS is asking is that this Commission extend the Company's already existing certificate to the RLECs' areas, so that it can propose interconnection agreements to those companies. Tr. at 7-8. This is the crux of TWCIS's ultimate case as presented, and it varies significantly from the original Application submitted. The testimony of the witnesses is summarized below.

II. SUMMARY OF TESTIMONY

Julie Y. Patterson, Vice-President and Chief Counsel, Telephony for Time Warner Cable, testified on behalf of TWCIS. Ms. Patterson described the Company's corporate structure, presented evidence on the financial, technical and managerial abilities of TWCIS, and discussed the proposed expansion of TWCIS' certificated

authority. She testified that TWCIS currently provides to its customers "features similar to those offered by traditional analog telephone service but utilizes IP technology to transport telephone calls." Tr. at 15. Ms. Patterson opined that the Federal Communications Commission's decision in a case involving Vonage Holdings Corporation and the Minnesota Public Utilities Commission preempts this Commission from imposing certification and tariffing requirements with respect to certain VoIP services, and, therefore, TWCIS intends to withdraw the retail voice services in its current tariff once a new non-regulated entity is created to provide the retail voice services currently being offered by TWCIS. Tr. at 16. See *In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission,* WC Docket No. 03-211, Memorandum Opinion and Order, FCC 04-267, released November 12, 2004 (the Vonage Order). TWCIS intends to remain a certificated carrier and plans to obtain interconnection services from incumbent LECs and eventually offer wholesale services to the newly created non-regulated entity, according to Ms. Patterson.

Emmanuel Staurulakis, President of John Staurulakis, Inc. (JSI), a telecommunications consulting firm, testified on behalf of the RLECs and SCTC. Mr. Staurulakis testified that the Vonage Order does not preempt the authority of the Commission to act upon TWCIS' request to expand its certificated authority to include areas served by the rural LECs. Tr. at 136. Mr. Staurulakis asked the Commission to deny the application for expanded authority, given the potential adverse impact that TWCIS' VoIP service offering may have on the availability of affordable local exchange service

to all rural telecommunications customers in the State. Tr. at 135. Mr. Staurulakis testified regarding the differences between TWCIS' proposed VoIP service and the service at issue in the Vonage case. See Tr. at 137; 154-157. Mr. Staurulakis further stated that it was not clear to him what TWCIS is seeking from the Commission at this proceeding. In addition, the witness states that this Commission should deny the requested authority because TWCIS has failed to meet the state public interest standard.

H. Keith Oliver, Vice-President of Finance for Home Telephone Company also testified for the RLECs and SCTC. Mr. Oliver asked the Commission to deny TWCIS' request to expand its certificated authority to provide service in five additional areas served by the RLECs because it is not in the public interest and because of its adverse impact on the availability of affordable local exchange service. Tr. at 181. Mr. Oliver pointed out that, while TWCIS suggests that it will compensate other carriers and comply with Commission regulations regarding contributions to the State USF and other requirements, it has only agreed to do so until issues involving IP-enabled services are resolved at the Federal level, and has only agreed to comply with "applicable" regulations while continuing to maintain that the service it seeks to provide is non-regulated and that none of the Commission's regulations apply to TWCIS. Tr. at 185, 194. Mr. Oliver stated that TWCIS' request should be denied, given the uncertainty in this area and the potentially devastating impact it could have on customers in rural areas if a carrier is permitted to provide service and later stops compensating other carriers for use of the Public Switched Telephone Network (PSTN). Tr. at 185.

III. DISCUSSION

Time-Warner's position in this case is confusing, to say the least. The original Application in this matter sought authority to expand its existing Certificate to directly serve customers in the RLECs' various service areas. At the hearing, however, the oral argument and testimony was to the effect that TWCIS intended to negotiate interconnection agreements with the RLECs subsequent to expanded certification and then provide services as a wholesaler to a Time-Warner non-regulated subsidiary, who would then serve the proposed areas. Further, TWCIS' attorney states that the Company is not seeking a waiver of the rural exemptions of the RLECs subject to the Telecommunications Act of 1996. We believe that this last position leaves us with very little choice as to how to rule in this matter.

Since, as amended at the hearing, the rural exemptions of the RLECs are not at issue in this case, we cannot waive those exemptions. Thus, there is a failure of proof regarding the original application. Accordingly, we must deny the Application for expansion of the Certificate as originally filed by the Company.

With regard to the Application as amended during the hearing, the Company seeks only the authority to enter into negotiations toward interconnection agreements with the local exchange companies under the rural exemption. This Commission already considers the Company to possess the ability to enter into these negotiations under Section 251 of the Telecommunications Act of 1996. No expanded Certificate is needed. The Commission recognizes this ability, and the Company may enter into such negotiations without further approval of this Commission.

Obviously, this Order should not be construed as a ruling on the waiver of the rural exemptions in this case, since this issue was not before the Commission.

Lastly, with regard to Time-Warner's late-filed Exhibit No. 1, we believe that we should admit the Exhibit into the evidence of this case, but we hereby note in the record of the proceeding the rural LEC's objection to the exhibit as stated by the rural LECs.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Application of TWCIS originally sought an expanded Certificate of Public Convenience and Necessity to serve the service areas of the denominated rural local exchange carriers. At the hearing, TWCIS stated its desire to possess the expanded certificate so that it could enter into interconnection agreements with the rural LECs, and then serve a non-regulated Time-Warner subsidiary as a wholesaler. No expansion of the Company's Certificate is needed for it to enter into negotiations with the RLECs. The Company possesses this ability as a telecommunications carrier under Section 251 of the Telecommunications Act of 1996 and no further blessing of this Commission is needed for this undertaking.

2. The status of the RLECs rural exemptions is not before this Commission, so this Order should not be construed as ruling on a waiver of the rural exemptions.

3. The original Application of the Company must be denied as moot based on representations made at the hearing and, therefore, for failure of proof as to the original request.

4. Exhibit No. 1 should be admitted into the evidence of this case, subject to the stated objections of the RLECs in its May 5, 2005 letter to this Commission.

V. ORDER

1. The original Application is denied.

2. We need not rule on the modified Application since the Company has the ability to enter into interconnection agreements without further expansion of its Certificate.

3. Exhibit No. 1 is admitted into the evidence of this case, subject to the stated objections of the RLECs.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice Chairman

(SEAL)

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2004-280-C - ORDER NO. 2005-484

SEPTEMBER 26, 2005

IN RE: Application of Time Warner Cable Information Services (South Carolina), LLC DBA Time Warner Cable to Amend its Certificate of Public Convenience and Necessity to Provide Interexchange and Local Voice Services in Service Areas of Certain Incumbent Carriers who Currently have a Rural Exemption.	)	ORDER DENYING REHEARING OR RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing or Reconsideration of Order No. 2005-412 filed by Time Warner Cable Information Services (South Carolina), LLC (Time Warner, TWCIS or the Company). Because of the reasoning stated below, the Petition is denied and dismissed.

In its Petition, TWCIS asserts that the Commission erred in several respects. First, TWCIS contends that the Commission erred in finding that there was a failure of proof regarding the original Application. Petition at 2, paragraph 3. The Company further asserts that this Commission failed in finding that there is a failure of proof because TWCIS failed to request a waiver of the Rural Local Exchange Carriers' (RLECs') rural exemptions under 47 U.S.C. Section 251(f)(1) in this proceeding, and further contends that the Commission erroneously held that TWCIS "should have sought to pierce the rural exemption in this certification proceeding." Petition at 3, paragraph 4; Petition at 4, paragraph 7. These assertions are without merit.

First, the Commission's finding that there is a failure of proof with respect to the original Application is clearly supported by the evidence of record. There was a major discrepancy between the Application, the prefiled testimony, and the testimony presented at the hearing as to what authority the Company was seeking. The Application described the service for which it was requesting certification as follows: "TWCIS plans to provide facilities-based local and long distance Internet protocol ("IP") voice service, targeted to the residential market in [RLECs'] service areas..." TWCIS Application at paragraph 9. When TWCIS filed testimony in support of its Application, its position changed. Although the original Application was not amended, TWCIS sought different authority in its testimony. Ms. Patterson stated in her prefiled testimony that TWCIS intended to remain a certificated carrier and would obtain interconnection service from incumbent LECs and eventually offer wholesale services to the newly created non-regulated utility. TR at 16 (Julie Y. Patterson prefiled direct testimony at p. 5, ll. 18-23). At the hearing, TWCIS once again changed its description of the services for which it was seeking certification, by making references to seeking authority to provide "telecommunications services" as a "full-fledged CLEC." See, e.g., TR at p. 119, ll 10-12. TWCIS now argues that "the Commission ignored numerous instances in which Ms. Patterson testified that TWCIS seeks to amend its initial certification order to be a full-fledged CLEC in the service territories of the [RLECs]." TWCIS Petition at p. 3. This request to amend the initial certification, however, is not reflected in TWCIS's Application or in Ms. Patterson's pre-filed testimony in this proceeding. Further, it is not clear from the references to being a "full-fledged" or "fully regulated" CLEC as to exactly what services TWCIS seeks to provide. See, e.g., TR at 29, 35, and 119. The Commission's rules

require that "Applications shall state clearly and concisely the authorization or permission sought..." S.C. Code Ann. Regs. 103-834(A). However, if Time Warner intended to change its position with regard to the authority that it sought, it never sought to amend its original Application except on a *de facto* basis through testimony, which itself was unclear.

Upon reflection, it is still not clear exactly what authority TWCIS is seeking in this proceeding. However, upon viewing the hearing transcript along with the Application, there is substantial evidence in the record to support the Commission's finding that TWCIS appears to be seeking only authority to enter into negotiations toward interconnection agreements with the RLECs. See No. 2005-412 at 5. Specifically, it appears that TWCIS is interested in receiving certification as a telecommunications carrier as a vehicle for obtaining network interconnection and other services from incumbent local exchange carriers like the RLECs. TWCIS would then provide those functionalities to its soon-to-be-created non-regulated entity, which would provide the IP local telephone service to end users. See, e.g., TR at 8-9 ("One reason we want to be certified is...we want to be able to negotiate Interconnection Agreements"); TR at 16 ("TWCIS intends to remain a certificated carrier and will obtain interconnection services from incumbent LECs and eventually offer wholesale services to the newly created non-regulated entity.); TR at 38 ("At this point, we seek to obtain interconnection agreements and provide wholesale services to ourselves and to others and to tariff a wholesale offering"); TR at 56 ("We seek to provide a variety of non Internet protocol format telecommunications services in order to provide retail VoIP services and other services throughout the state of South Carolina"); TR at 56-57 ("[R]eally what we're looking to

do here is to be able to step in and provide all of those transport and other telecommunications services that you show on the board that are provided [to TWCIS] today by MCI"); TR at 70 ("We need certification in order to obtain interconnection rights") TR at 128 ("What we seek through this proceeding is the ability on our own, as full-fledged telecommunications carriers to obtain interconnection agreements on our own"). Viewing the evidence as a whole, it is clear that the Company failed to prove the allegations of its original Application. Therefore, Time Warner's first allegation of error is without merit.

Furthermore, the finding that the Company could not obtain waiver of the rural exemptions in this proceeding because they are not at issue in this case is factually correct and does not prejudice TWCIS in any way. TWCIS acknowledged that it is not seeking to terminate rural exemptions in this proceeding. See TR at 18 (Patterson prefiled testimony at 7, ll. 15-23). TWCIS's assertion that the Commission held that TWCIS "should have" sought to terminate rural exemptions in this case is not reflected in the language of this Commission's order. This Commission merely noted that the rural exemptions were not at issue and made it clear that the order should not be read to waive or terminate those exemptions. See Order No. 205-412 at 5 ("Since, as amended at the hearing, the rural exemptions of the RLECs are not at issue in this case, we cannot waive those exemptions."); Order No. 2005-412 at 6 ("Obviously, this Order should not be construed as a ruling on the waiver of the rural exemptions in this case, since this issue was not before the Commission.") This appears to be an undisputed point. Id., See also TR at 18 (Patterson prefiled direct testimony at 7, ll. 15-23).

TWCIS further asserts that the Commission's order violates Section 253(a) of the Telecommunications Act of 1996 because it allows the RLECs to "effectively prohibit competition within their service areas until such time as they choose to interconnect with CLECs." See Petition at 3, paragraph 6. This Commission's order does not constitute a barrier to entry within the purview of the Act.

TWCIS argues that this Commission is somehow denying TWCIS the right to provide competitive service within the RLECs' service areas. See Petition at 3. Yet TWCIS itself stated to the Commission that it does not need certification to provide the competitive service it seeks to provide within the RLECs' service areas. See TR at 16 (Patterson prefiled direct testimony at 5, ll 18-19). TWCIS filed an Application seeking certification for its residential facilities-based local IP service offering. At the hearing, it stated that it did not need certification for that service, but would like to have a certificate for "other" services, to which it only made vague references. This Commission properly denied TWCIS certification with respect to the Application it filed because, as we found in our previous order, there was a failure of proof with respect to the original Application, as discussed above.

Further, if TWCIS' IP service is indeed a "telecommunications service," then TWCIS would be a "telecommunications carrier" and would be entitled to seek interconnection under Section 251 of the Act. See 47 U.S.C. Section 153(44), which defines "telecommunications carrier" as a provider of "telecommunications service." See also 47 U.S.C. Sections 251(a)(1) and 251 (c)(2). Assuming that TWCIS is a telecommunications carrier, then there is no barrier to entry because, as we stated, TWCIS does not need this Commission's approval to proceed under Section 251. See

Order No. 2005-412 at 5. If on the other hand, TWCIS is not a telecommunications carrier because it is not providing a telecommunications service, then Section 253 of the Act does not even apply.

In addition, TWCIS also contends that this Commission's ruling that TWCIS has the ability to negotiate interconnection agreements without being certificated violates state law and is erroneous as a practical matter. See TWCIS Petition at 5, paragraphs 8 and 9. This is incorrect. As noted above, TWCIS either has the right to request interconnection under Section 251 of the Act or it does not, depending on whether the services TWCIS seeks to provide are telecommunications services or not, which is an unsettled question under Federal law. Again, TWCIS does not need this Commission's approval to request interconnection under Section 251 of the Act. See Order No. 2005-412 at 5. The State statute cited by TWCIS, S.C. Code Ann. Section 58-9-280(C)(1) specifically states that its provisions "shall be consistent with applicable federal law." Therefore, if, as TWCIS suggests, it is entitled under Section 251 to obtain interconnection in order to provide a service for which it asserts that it does not need state certification, then Section 251 of the Act would govern.

Finally, TWCIS contends that the Commission's decision is arbitrary and capricious because TWCIS met the statutory certification requirements. See Petition at 6, paragraphs 10-11. As discussed above, however, TWCIS's Application was not sufficient and the authority sought by TWCIS was, at best, unclear. This allegation of error is without merit.

Moreover, TWCIS's assertion that it need not demonstrate a need in order to be granted a Certificate of Public Convenience and Necessity is perplexing. See TWCIS

Petition at 1 ("lack of immediate need for a certificate is not a valid ground for withholding one.") TWCIS's apparent belief that it is only required to show that it has the technical, managerial, and financial ability to provide services in South Carolina in order to receive a certificate essentially ignores half of the certification statute, and would allow carriers to receive a certificate even when they do not state with specificity the services for which they request certification. This position is contrary to state law, ignores the statutory role and duties of the Commission, and must be rejected.

Accordingly, because of the above-stated reasoning, the Petition for Rehearing or Reconsideration of Order No. 2005-412 filed by TWCIS is denied and dismissed. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice-Chairman

(SEAL)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)))	IN THE COURT OF COMMON PLEAS
Time Warner Cable Information Services (South Carolina), LLC Petitioner, v. Public Service Commission of South Carolina; Farmers Telephone Cooperative, Inc.; Fort Mill Telephone Co.; Home Telephone Co., Inc.; PBT Telecom, Inc.; St. Stephen Telephone Co.; South Carolina Telephone Coalition; and Office of Regulatory Staff, Respondents.	))))))))))))))	Case No.: **SUMMONS** **(APPEAL OF A FINAL DECISION OF ADMINISTRATIVE AGENCY – ORDER NOS. 2005-412 & 2005-484)**

2005 OCT 31 PM 3:05

TO THE RESPONDENTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition for Judicial Review in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer on the subscribers at Post Office Box 944, Columbia, South Carolina 29202, within thirty (30) days of the date of service, exclusive of such day. In the event you fail to answer within the stated time, judgment by default will be rendered against you for the relief demanded in the Petition for Judicial Review.

ROBINSON, MCFADDEN & MOORE, P.C.

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October 31, 2005

Attorneys for Time Warner Cable Information Services (South Carolina), LLC

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)))	IN THE COURT OF COMMON PLEAS
Time Warner Cable Information Services (South Carolina), LLC Petitioner, v. Public Service Commission of South Carolina; Farmers Telephone Cooperative, Inc.; Fort Mill Telephone Co.; Home Telephone Co., Inc.; PBT Telecom, Inc.; St. Stephen Telephone Co.; South Carolina Telephone Coalition; and Office of Regulatory Staff, Respondents.	))))))))))))))))	Case No. **PETITION FOR JUDICIAL REVIEW OF ORDER NOS. 2005-412 & 2005-484 IN DOCKET NO. 2004-280-C OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**

2005 OCT 31 FILED

Petitioner Time Warner Cable Information Services (South Carolina), LLC ("TWCIS") seeks appellate review of Order Nos. 2005-412 and 2005-484 in which the Public Service Commission of South Carolina ("Commission") denying TWICS' application for a certificate of public convenience and necessity to provide local telephone service in areas of South Carolina service by certain incumbent local exchange carriers. TWCIS complaining of the Respondents Commission; Office of Regulatory Staff ("ORS"); Farmers Telephone Cooperative, Inc. ("Farmers"); Fort Mill Telephone Co., d/b/a Comporium Communications, Inc. ("Fort Mill"); Home Telephone Co., Inc. ("Home"); PBT Telecom, Inc. ("PBT"); St. Stephen Telephone Co. ("St. Stephen"); and the South Carolina Telephone Coalition ("SCTC") (collectively "Respondents") would respectfully show as follows:

BACKGROUND

1. This Court has jurisdiction to review the final orders of the Commission pursuant to S.C. Code Sections 1-23-380 and 58-9-1410. TWCIS seeks judicial review of Order Nos. 2005-412 and 2005-484 in which the Commission denied TWCIS' request to amend its certificate of public convenience and necessity to provide local voice services in the service areas of the following incumbent local exchange carriers: Farmers, Fort Mill, Home, PBT, and St. Stepen (collectively "ILECs").

2. TWCIS is a limited liability company organized under the laws of the State of Delaware. TWCIS was granted a certificate of public convenience and necessity to provide interexchange and local voice services in Docket No. 2003-362-C, Order No. 2004-213, on May 24, 2004, in areas of South Carolina where the incumbent local exchange telephone company currently did not have a rural exemption under 47 U.S.C. § 251(f)(1). On July 27, 2005, the Commission approved TWCIS' application to amend its certificate to provide local voice services in the service area of Alltel South Carolina, Inc. ("Alltel"), an incumbent local exchange carrier with a rural exemption, in Order No. 2005-385(A), Docket No. 2004-279-C.

3. The Respondents in this appeal are the Commission, ORS, SCTC and the ILECs. The ILECs are telephone companies who provide local telephone services in specified georgraphic areas in South Carolina. The SCTC is a coalition of incumbent local exchange telephone companies in South Carolina.

4. The Commission is an administrative agency of the State of South Carolina which is authorized to supervise telephone utilities operating within the State of South Carolina. The Commission has the statutory obligation to issue certificates of

public convenience and necessity authorizing telephone companies to operate as a telephone utility in the service territory of incumbent local exchange carriers. S.C. Code § 58-9-280.

5. ORS is an administrative agency of the State of South Carolina which is authorized to provide legal representation of the public interest before state courts in proceedings that could affect the rates or service of any public utility.

6. On October 1, 2004, TWCIS filed two applications to amend its Certificate under Order No. 2004-213 to authorize TWCIS to serve customers in the geographic service areas Alltell of South Carolina, Inc. and the ILECs. The ILECs opposed the application. Alltel did not.

7. The Commission approved the request to expand TWCIS certificated service area to include the Alltel service area based upon the verified testimony of TWCIS' witness Julie Patterson in the Alltel docket and in the ILEC Docket. As the Commission put it:

> On March 31, 2005, the Commission waived the hearing and granted expedited review of the Application with the stipulation that a copy of the transcript of the testimony given by Ms. Patterson in Docket No. 2004-280-C, *In re: Application of Time Warner Cable Information Services (South Carolina) LLC, d/b/a Time Warner Cable to Amend its Certificate of Public Convenience and Necessity to Provide Interexchange and Local Voice Services in Service Areas of Certain Incumbent Carriers who Currently Have a Rural Exemption,* ("ILEC Docket") be entered into evidence as part of the formal record in Docket No. 2004-279-C ("Alltel Docket"). We also grant the relief sought in the Application based upon the testimony of Ms. Patterson.

Order No. 2005-385(A), p. 3, copy attached as Exhibit 1. In the same order, the Commission held that that, based upon the same testimony as presented in the ILEC

Docket, TWCIS met all statutory requirements for the provision of service as a CLEC as delineated in S.C. Code Ann. Section 58-9-280 (Supp. 2004).

8. On August 1, 2005, the Commission issued Order No. 2005-412, in which it denied TWCIS' application to expand its certificated service area in the ILECs' service territories.

9. On August 15, 2005, TWCIS filed its petition for rehearing or reconsideration of Order No. 2005-412, pursuant to S.C. Code Section 58-9-1200 and 26 S.C. Regs. 103-836. The Commission denied TWCIS' petition for reconsideration in Order No. 2005-484, which TWCIS received on September 29, 2005.

10. TWCIS has exhausted all administrative remedies available to it and asserts that the Commission orders have prejudiced its substantial rights for the reasons set forth in this petition.

11. TWCIS asserts that the Orders are erroneous as a matter of law; issued in violation of statutory provisions; clearly erroneous in view of the reliable, probative and substantial evidence of record; and are arbitrary and capricous or characterized by an abuse of discretion. TWCIS is entitled as a matter of legal right to judicial review and reversal of the Commission's decision for the following reasons.

12. The Commission appears to have denied TWCIS' application on three grounds in Order No. 2005-412: (1) that TWCIS was not clear about what it requested in the application, (2) that TWCIS does not need a certificate of public convenience and necessity to interconnect, and (3) that TWCIS is not entitled to a certificate until the Commission pierces the rural exemption of 47 U.S.C. § 251(f)(1). As shown below, each of these grounds is baseless.

ARGUMENT

I. Denying TWCIS a Certificate Cannot Be Justified on the Theory That TWCIS Did Not Clearly State Its Request

13. The Commission's Orders held that TWCIS was not clear about what authority the company was seeking from the Commission by erroneously finding that there is a failure of proof regarding the original application. The Commission 's orders would apparently require TWCIS to start the certification process over because of a change in the law during the application's pendency. Order No. 2005-214 erroneously finds that TWCIS seeks only the authority to negotiate interconnection agreements with the ILECs. The record clearly shows that Ms. Patterson testified that TWCIS sought authority to provide all types of services and that TWCIS sought to become a CLEC in the service territories of the ILECs. Tr. 18, 29, 34-36, 56 & 119. The record shows that TWCIS sought to amend its certificate for a number of equally important reasons: (1) to provide regulated telecommunications services in the expanded area, (2) to be able to interconnect with the ILECs, and (3) to continue to offer services regardless of the outcome of the *Vonage* appeal. Tr. 28, 34-36, 38-39, 56, 65-66, 71, 118-119 & 129. In Order No. 2005-484 the Commission refused to correct this error.

14. Order 2005-484 erroneously finds that there was a major discrepancy between the Application, the prefiled testimony, and the testimony presented at the hearing as to what authority the Company was seeking. The application clearly sought authority to amend TWCIS' service areas to include the ILECs' territories under the company's current South Carolina Tariff which is on file with the Commission. The application was filed in October and the *Vonage* order was issued in November. Ms.

Patterson's prefiled testimony attempted to explain the change in law as a result of the *Vonage* order and its impact on the application. Ms. Patterson testified that TWCIS was simply informing the Commission of its plans as a result of the *Vonage* decision. During the hearing Ms. Patterson testified that the company has not yet amended its tariff to delete the retail service offering described in its application. The record clearly shows that TWCIS was informing the Commission of the company's plans regarding its current tariff as a result of *Vonage*. Tr. 39, 118-119, 130-131.

15. The Commission has twice held that TWCIS meets the statutory requirements for a certificate in Order No. 2004-213 and in July 2005 in Order No. 2005-385. Order 2005-385(A) was based on an application that mirrored the application which is the subject of this appeal. The only difference between the two applications and the evidence of record was that the expansion was for Alltel South Carolina, Inc.'s service territory. The Commission certificated TWCIS in Alltel's service area. The Commission decision to issue the expanded certificate was based upon the testimony of Ms. Patterson in the Alltel docket and the testimony of Ms. Patterson in the present case which the Commission specifically incorporated into the Alltel docket. In Order No. 2005-385(A) the Commission held that TWCIS met all statutory requirements for the provision of service as a CLEC in Alltel's service area as delineated in S.C. Code Ann. Section 58-9-280 (Supp. 2004). Therefore, the Commission's decision to deny TWCIS request in the ILEC docket is arbitrary and capricious or characterized by an abuse of discretion.

16. The Orders violate the Administrative Procedures Act in that the final decision is not based on the record before the agency. S.C. Code § 1-23-350. The

record shows that Ms. Patterson specifically addressed each of the statutory requirements of S.C. Code Section 58-9-280(B). Tr. 14-16, 21-22, 25-26, 28-29, 34-35, 102-102. The Commission held that TWCIS met the statutory requirements to serve in Alltel's service territory based on the same evidence as presented in this case. In Order No. 2005-484 the Commission refused to correct the errors.

II. Denying TWCIS a Certificate Cannot Be Justified on the Theory That TWCIS Does Not Need a Certificate

17. The Order's holding that TWCIS can interconnect with the ILECs without being certificated violates S.C. Code Section 58-9-280(c)(1) which provides for interconnection between all ***certificated*** local telephone providers. The Commission failed to correct this error on reconsideration. The 1996 Telecommunications Act permits interconnection for requesting carriers for the purposes of providing (1) exchange access or (2) local exchange service. Under the Federal Act's definitions, if a company provides local exchange or exchange access, it is a local exchange carrier. Under South Carolina law, a firm cannot be a local exchange carrier without a certificate. Therefore, this ruling is wrong as a matter of law.

18. The Commission's ruling is also erroneous as a practical matter. The ILECs' own testimony confirmed that TWCIS cannot begin the process for interconnection until TWCIS is certificated by the Commission. Tr. 166. ILECs will not sell services to a CLEC until that CLEC provides proof of certification. See Interconnection Agreements between Horry Telephone Cooperative and Global Connection, filed November 1, 2004, Docket No. 2004-317-C, § 1.8 (The effective date shall be no earlier than proof of CLEC certification in the jurisdiction); Alltel and

BellSouth Long Distance, filed August 2, 2005, Docket No. 2005-228-C, § 1.4 (Prior to execution of this Agreement BSLD agrees to provide ALLTEL in writing BSLD's CLEC certification....); BellSouth and KMC Data, filed July 18, 2005, Docket No. 2005-214-C (Prior to execution of this Agreement, BellSouth may request and KMC agrees to provide BellSouth in writing KMC's CLEC certification....). The Commission failed to correct or even address this error in its order on reconsideration.

19. As explained above, TWCIS asked for a certificate of public convenience and necessity in part for interconnection, but TWCIS had several other equally important reasons to expand its certification. TWCIS intends to provide regulated telecommunications services other than the VoIP currently offered under its current South Carolina tariff. In addition, the *Vonage* order is currently being appealed. TWCIS seeks certification in order to continue providing VoIP services regardless of the outcome of the *Vonage* appeal.

III. Denying TWCIS a Certificate Cannot Be Justified on the Theory That TWCIS Must First Seek To Pierce the RLECs' Rural Exemptions

20. Order No. 2005-412 erroneously finds that there is a failure of proof because TWCIS failed to request a waiver of the ILECs rural exemptions under 47 USCA § 251(f)(1). This is an error of law. Neither the federal Telecommunications Act nor S.C. Code Section 58-9-280 require a CLEC to pierce the rural exemption to be certificated. Order No. 2005-484 incorrectly holds that this assertion is not reflected in the language of Order No. 2005-412.

> "Further, TWCIS' attorney states that the Company is not seeking a waiver of the rural exemption of the RLECs subject to the Telecommunications Act of 1996. *We believe that this last position leaves us with very little*

> *choice as to how to rule in this matter.* Since, as amended at the hearing, the rural exemptions of the RLECs are not at issue in this case, we cannot waive those exemptions. *Thus, there is a failure of proof regarding the original application.*

Order No. 2005-412, p. 5.

21. Order 2005-412 violates Section 253 of the federal Telecommunications Act, 47 U.S.C.A. § 253(a), by barring TWCIS' entry into the ILECs service territories. Section 253(a) prohibits states from barring competition in rural areas. The Commission's order allows the ILECs to effectively prohibit competition within their service area until such time as they choose to interconnect with CLECs. Tr. 207-208. *In the Matter of Silver Star Telephone Co., Inc. Petition for Preemption*, 13 FCCR 16,356, 13 FCC Rcd. 16356, ¶ 3 (1998). *See also In the Matter of AVR, LP, dba Hyperion of Tennessee Petition for Preemption*, 14 FCCR 11,064, 14 FCC Rcd. 11064, ¶13 – 15 (199). *See also RT Communications, Inc. v. FCC*, 201 F.3d 1264, 1268 (10th Cir. 2000).While the federal Telecommunications Act protects rural telephone companies by exempting them from certain interconnection obligations, it does not allow a state to protect the ILECs through the state's certification process. *AT&T v. Iowa Utilities*, 525 U.S. 366, 371 (1999). The Commission failed to correct its error in Order no. 2005-484.

WHEREFORE, having fully set forth its grounds for judicial review, TWCIS respectfully requests that this Court review the Commission's orders and issue an order

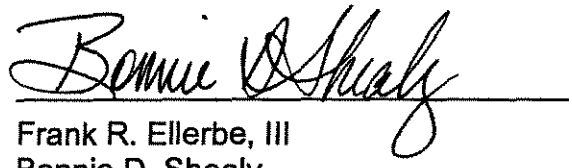
A. Reversing Order Nos. 2005-412 and 2005-484,

B. Remanding the matter to the Commission for an order granting TWCIS' application to expand its certificate to include the service areas of the ILECs, and

C. Granting such other relief as the Court may deem appropriate.

Dated this 31st day of October, 2005.

ROBINSON, MCFADDEN & MOORE, P.C.



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BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2004-279-C - ORDER NO. 2005-385(A)

JULY 27, 2005

IN RE: Application of Time Warner Cable Information Services (South Carolina), LLC, DBA Time Warner Cable to amend its Certificate of Public Convenience and Necessity to Provide Interexchange and Local Voice Services in Alltel South Carolina, Inc.'s Service Areas.	)))))))	AMENDED ORDER GRANTING AMENDMENT TO CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the necessity to amend Commission Order No. 2005-385 issued in the present docket. Order No. 2005-385 was issued July 20, 2005, on the Application of Time Warner Cable Information Services (South Carolina), LLC d/b/a Time Warner Cable which approved an amendment to Time Warner Cable's Certificate of Public Convenience and Necessity. On page one of Order No. 2005-385, the docket number is erroneously shown as Docket No. 2005-279-C. To correct this error, the present Order is being issued to reflect the appropriate docket number as Docket No. 2004-279-C. All other language of Order No. 2005-385 remains verbatim.

INTRODUCTION

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of Time Warner Cable Information Services (South

Carolina), LLC, d/b/a Time Warner Cable, ("TWCIS" or "Company") to expand its scope of authority. TWCIS submits its Application to amend its Certificate of Public Convenience and Necessity under Order No. 2004-213 to authorize TWCIS to serve customers throughout the service area of Alltel South Carolina, Inc. ("Alltel"). The Company is currently authorized to offer interexchange services to customers throughout the State and local telecommunications services to customers in South Carolina subject to a Stipulation entered into with the South Carolina Telephone Coalition. In Docket No. 2003-362-C, Order No. 2004-495, TWCIS was authorized to operate under an alternative regulatory plan under S.C. Code Sections 58-9-575 and 58-9-585 and seeks to operate under the same regulatory scheme in the Alltel service area.

TWCIS applied to provide the same services in the rural ILEC's service area that are provided in its current service area. In its certificated service area, TWCIS currently provides facilities-based Internet Protocol ("IP") voice service to customers that is offered on a bundled-flat rate basis and allows standard local calling in addition to operator services, directory assistance, enhanced "911" services, outbound 800 toll free calling, customer calling features such as call waiting, caller identification, and directory listings.

TWCIS notes that the information on the TWCIS' financial, technical and managerial ability filed in the original application remains materially unchanged since it was filed in 2003. TWCIS also notes that in Order No. 2004-213 the Commission concluded that TWCIS is financially qualified and that TWCIS possesses sufficient managerial and technical resources to provide telecommunications services and be

certificated by the Commission. In addition, TWCIS seeks the same limited waivers it was granted in Order No. 2004-213.

Pursuant to the instructions of the Commission's Docketing Department, the Company published notice of its filing of the Application in area newspapers. No protests were received. Alltel intervened in the matter but subsequently notified the Commission that it would not attend or participate in the hearing. The Office of Regulatory Staff ("ORS") does not oppose the expansion of the Company's service area. No other petitions to intervene were filed.

On March 3, 2005, TWCIS filed the verified testimony of Julie Patterson, Vice President and Chief Counsel, Telephony, for Time Warner Cable. On March 31, 2005, the Commission waived the hearing and granted expedited review of the Application with the stipulation that a copy of the transcript of the testimony given by Ms. Patterson in Docket No. 2004-280-C, *In re: Application of Time Warner Cable Information Services (South Carolina), LLC, d/b/a Time Warner Cable to Amend its Certificate of Public Convenience and Necessity to Provide Interexchange and Local Voice Services in Service Areas of Certain Incumbent Carriers who Currently Have a Rural Exemption,* be entered into evidence as part of the formal record in Docket No. 2004-279-C. We also grant the relief sought in the Application based upon the testimony of Ms. Patterson.

Ms. Patterson is responsible for the legal and regulatory affairs relating to TWCIS' deployment of Voice Over IP services and regulated telecommunications services throughout the country. Ms. Patterson presented evidence on the financial, technical, and managerial abilities of TWCIS to provide local services in the Alltel

service area in South Carolina. Tr. 14-15. She also described the services that TWCIS proposes to offer in the Allel service area and how TWCIS planned to proceed with future tariff filings as a result of the Federal Communications Commission's recent ruling regarding the regulatory status of VoIP-based services. Tr. 16.

Ms. Patterson testified that TWCIS continues to rely on the same officers identified in the initial certification docket. She also testified as to the managerial and technical experience of the local employees headed by Charlene Keys, Vice President & General Manager of General Phone. Ms. Patterson noted that Time Warner Cable maintains a relationship with TWCIS whereby Time Warner Cable provides the funding, financing, and capital necessary to provide services to customers in the Alltel service area. Tr. 14-15.

Ms. Patterson testified that TWCIS intends to begin offering services in the Alltel service area once it obtains an interconnection agreement directly with Alltel or through its relationship with TWCIS' interconnecting carrier, MCI. Tr. 17-18, 94.

Ms. Patterson testified that the issuance of an amended certificate to TWCIS would be in the public interest in that competition will be further increased in South Carolina.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. TWCIS has submitted an application to amend its Certificate of Public Convenience and Necessity to serve customers throughout the Alltel service area in South Carolina.

2. The Company is currently authorized to offer interexchange services to customers throughout the State and local telecommunications services to customers in South Carolina subject to a Stipulation entered into with the South Carolina Telephone Coalition.

3. It is appropriate for the Company to continue to operate under the alternative regulatory plan under S.C. Code §§ 58-9-575 and 58-9-585 approved in Order No. 2004-495 for the Alltel service area.

4. Expedited review is appropriate for this Application.

5. The Company has the financial, managerial, and technical resources to provide the expanded local service to the Alltel service area.

6. The Company continues to meet all statutory requirements for the provision of service as a CLEC as delineated in S.C. Code Ann. Section 58-9-280 (Supp. 2004). Accordingly, the Company meets the statutory requirements to provide service in the proposed expanded service area.

7. The Application for an amended Certificate should be granted as filed.

ORDER

Expedited review is granted. The Application of TWCIS for an amendment to its Certificate to expand into the service area of Alltel is hereby approved based on the evidence as outlined above. All reporting requirements and other directives found in Order Nos. 2004-213 and 2004-495 shall remain in full force and effect, unless exceptions are noted above, including, but not limited to those allowing various waivers.

The Company shall, in addition, file copies of all reports outlined in Order No. 2004-213 with the Office of Regulatory Staff, in addition to filing them with the Commission. The Company may continue to operate under the alternative regulatory plan approved in Order No. 2004-495. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice-Chairman
(SEAL)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Time Warner Cable Information Services (South Carolina), LLC	)	Case No.:
Petitioners,	)	
v.	)	**CERTIFICATE OF SERVICE**
Public Service Commission of South Carolina; Farmers Telephone Cooperative, Inc.; Fort Mill Telephone Co.; Home Telephone Co.; PBT Telecom, Inc.; St. Stephen Telephone Co.; South Carolina Telephone Coalition; and Office of Regulatory Staff	)	
Repondents.	)	

FILED
2005 OCT 31 PM 4:05
C.C.C. & G.S.

This is to certify that I, Mary F. Cutler, a Legal Assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Notice of Appeal of PSC Order Nos. 2005-412 & 2005-484, Summons and Petition for Judicial Review, Certificate of Exemption from Arbitration, Cover Sheet for Civil Actions** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

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Dated at Columbia, South Carolina this 31st day of October, 2005.

Mary F. Cutler