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Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: WC Docket Nos. 06-54 and 06-55

Dear Ms. Dortch:

Please find enclosed the Comments of Comcast Corporation the above-referenced proceedings. Please let me know if you have any questions regarding this filing.

Sincerely,

/s/ Valerie Yates _____

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**Before the
Federal Communications Commission
Washington DC 20554**

In the Matter of)	
)	
Petition of Time Warner Cable for)	WC Docket No. 06-55
Declaratory Ruling that Competitive)	
Local Exchange Carriers May Obtain)	
Interconnection Under Section 251 of the)	
Communications Act of 1934, as)	
Amended, to Provide Wholesale)	
Telecommunications Services to VoIP)	
Providers)	
)	
Petition of Time Warner Cable for)	WC Docket No. 06-54
Preemption Pursuant to Section 253 of)	
the Communications Act, as Amended)	
)	

COMMENTS OF COMCAST CORPORATION

Comcast Corporation ("Comcast") submits these comments in support of the above-captioned Petitions for Declaratory Ruling and Preemption ("Petitions") submitted by Time Warner Cable ("Time Warner") requesting that the Federal Communications Commission ("Commission") confirm that telecommunications carriers are entitled to obtain local exchange carrier certification and interconnection with incumbent local exchange carriers ("ILECs") for the purpose of exchanging traffic on behalf of providers of interconnected voice over Internet protocol ("VoIP") services.¹

¹ 47 C.F.R. § 9.3 ("An interconnected Voice over Internet protocol (VoIP) service is a service that: (1) Enables real-time, two-way voice communications; (2) Requires a broadband connection from the user's location; (3) Requires Internet protocol-compatible customer premises equipment (CPE); and (4) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.")

I. INTERCONNECTED VOIP SERVICES PROVIDE RESIDENTIAL VOICE COMPETITION AND FOSTER BROADBAND DEPLOYMENT

The two primary objectives of the Telecommunications Act of 1996 were to bring the benefits of phone competition to American consumers² and to promote the deployment of advanced services.³ To that end, over the past ten years, the Commission has produced a voluminous record of rulemaking and related proceedings designed to open local telephone markets to competition.⁴ Despite this considerable effort, in the Commission's recent report on the status of local telephone competition, competitive local exchange carriers ("CLECs") account for only 14 percent of the total wireline end-user switched access lines serving residential customers.⁵ Less than 30 percent of those CLEC-provided lines constitute true facilities-based competition.⁶

In comparison, the Commission's market-based approach to the Internet has been tremendously successful in encouraging the deployment of broadband Internet

² See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§ 151 *et. Seq.* ("An Act to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage rapid deployment of new telecommunications technologies.") ("1996 Act").

³ 47 U.S.C. § 230(b)(2) (It is the policy of the United States "to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.")

⁴ See, e.g., In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, *First Report and Order*, FCC 96-325 (rel. Aug. 8, 1996) ("Local Competition Order"). The proceeding history for this docket alone shows over 10,000 records, including 70 substantive documents released by the Commission.

⁵ *Local Telephone Competition: Status as of June 30, 2005*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission (Apr. 2006) ("2005 Local Competition Report") at Table 2. Out of roughly 117 million total end-user switched access lines serving residential customers, the 16.7 million CLEC lines reported amount to approximately 14 percent.

⁶ See 2005 Local Competition Report at Chart 3. The remainder are provided via unbundled network elements or resale.

services. While the number of CLEC local telephone lines has not quite tripled since 2000,⁷ the number of “advanced services” lines, defined as capable of providing service at speeds in excess of 200 kilobits per second (“kbps”), increased by a factor of twelve during this same period.⁸

The emergence of voice services provided via Internet Protocol (“IP”) technology can be seen as one of the great successes of the Commission’s Internet strategy. Rather than waiting for regulatory certainty,⁹ seeking legislative changes, or mounting elaborate public relations campaigns lamenting the obstacles to deployment, cable operators have forged ahead to provide facilities-based competitive voice services in an expanding number of markets nationwide. At this point, interconnected VoIP services present the strongest challenge to the residential local telephone monopolies held by the ILECs. Moreover, the Commission has observed that the proliferation of IP-enabled services spurs further growth in the number

⁷ See 2005 Local Competition Report at Table 2 (showing approximately 6.6 million residential CLEC lines in December 2000 and roughly 16.7 million as of June 2005.)

⁸ Compare *High-Speed Services for Internet Access: Status as of June 30, 2005*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission (Apr. 2006) (reporting 37.7 million “advanced services” lines) to *High-Speed Services for Internet Access: Status as of June 30, 2000*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission (Oct. 2000) (reporting 2.8 million advanced services lines.)

⁹ Over the past ten years, the Commission has grappled with the issue of how to classify IP-enabled services. See, e.g., In the Matter of Federal – State Joint Board on Universal Service, CC Docket No. 96-45, *Report to Congress*, FCC 98-67 (rel. Apr. 10, 1998) (considering the regulatory treatment of “certain phone-to-phone IP telephony services”). The Commission consolidated many of the outstanding questions in the rulemaking proceeding for IP-enabled services. In the Matter of IP-Enabled Services, WC Docket No. 04-36, *Notice of Proposed Rulemaking*, FCC 04-28 (rel. Mar. 10, 2004) (“IP-Enabled Services NPRM”) at para. 3. (“Our aim in this proceeding is to facilitate this transition, relying wherever possible on competition and applying discrete regulatory requirements only where such requirements are necessary to fulfill important policy objectives.”)

of broadband connections.¹⁰ In offering IP-enabled voice services, the cable industry is promoting broadband deployment and voice competition, the two primary goals of the Telecommunications Act of 1996.

II. ALL PROVIDERS OF INTERCONNECTED VOIP SERVICES RELY ON TELECOMMUNICATIONS SERVICES PROVIDED BY LECS

The provision of interconnected VoIP services depends on the ability of such providers to obtain not only the physical interconnection necessary for the exchange of traffic and e911 functionality,¹¹ but also access to numbering resources, directory assistance and directory listings.¹² Over the past several years, providers of VoIP services have pursued a variety of business strategies to obtain and provide these necessary components of competitive voice services. Some providers have obtained state CLEC certifications and provide the interconnected VoIP service as a regulated local exchange service pursuant to state-filed tariffs. Other providers, including Comcast, have segregated their operations between a regulated CLEC that provides wholesale telecommunications services and a separate unregulated entity that provides retail VoIP service to end-user customers.¹³

Whether the carrier is integrated, affiliated, or independent, behind every provider of interconnected VoIP services is a local exchange carrier that provides the wholesale telecommunications services and functions that are necessary components

¹⁰ IP-Enabled Services NPRM at para. 5.

¹¹ 47 U.S.C. § 251(a)(1).

¹² 46 U.S.C. § 251(b)(3).

¹³ In the past two years, Comcast has sought new or expanded certifications in sixteen states for the authorization to provide the wholesale telecommunications services that are necessary for the provision of interconnected VoIP service. In other markets, Comcast already had in place state-specific CLECs that were providing circuit-switched telephone service.

of the retail offering. At the same time, the underlying carrier ensures that basic obligations of telecommunications carriers are fulfilled, including, for example, providing number portability¹⁴ and complying with CALEA.¹⁵

III. THE ANALYSIS USED BY CERTAIN STATES TO DENY CERTIFICATION AND/OR INTERCONNECTION RIGHTS COULD BE EXTENDED TO REACH ALL PROVIDERS OF INTERCONNECTED VOIP SERVICES.

Based on the state commission decisions challenged by Time Warner, it is evident that certain state commissions are imposing unnecessary barriers to entry based on business decisions made by providers of interconnected VoIP services. In South Carolina, the Public Service Commission indicated that it found Time Warner's strategy to divide its operations between a wholesale carrier and a non-regulated subsidiary "confusing, to say the least."¹⁶ In Nebraska, the Public Service Commission emphasized that Time Warner had initially obtained its own CLEC authorization but subsequently chose to partner with Sprint.¹⁷ The Nebraska Commission sought to enforce Time Warner's initial entry strategy even though its business model had changed.¹⁸

¹⁴ 47 U.S.C. § 251(b)(2).

¹⁵ 47 U.S.C. § 229.

¹⁶ 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, Docket No. 2004-280-C, Order No. 2005-412, Public Service Commission of South Carolina, *Order Ruling on Expansion of Certificate* (Aug. 1, 2005) at p. 5.

¹⁷ In the Matter of Sprint Communications Company L.P., Overland Park, Kansas, Petition for Arbitration Under the Telecommunications Act, of Certain Issues Associated with the Proposed Interconnection Agreement Between Sprint and Southeast Nebraska Telephone Company, Falls City, Application No. C-3429, Nebraska Public Service Commission, *Findings and Conclusions* (Sep. 13, 2005) at para 19.

¹⁸ *Id.* at para. 20.

Like Time Warner, Comcast has faced obstacles in some states in which it sought to obtain the state certification and interconnection necessary to support the deployment of interconnected VoIP service. For example, in Pennsylvania, Comcast's request to expand its existing certification to provide wholesale telecommunications services in rural portions of Pennsylvania was rejected for the failure to provide an end-user tariffed offering.¹⁹ As a result, in precisely those portions of Pennsylvania where Comcast does not provide circuit-switched end-user services and where it intended to compete via its IP-enabled service, it has been deterred from doing so.

These decisions have the potential to halt the further expansion of competition in voice services. The same analysis that has been used to deny Time Warner, Comcast and Sprint the ability to obtain CLEC authorization and/or interconnection would seemingly preclude other CLECs from providing wholesale telecommunications services on behalf of additional providers of interconnected VoIP services. Even more troubling, these decisions can be used to undo the limited progress that has already been made. For example, at least one ILEC has challenged Comcast's right to purchase local interconnection trunks to support Comcast's provision of interconnected VoIP service by arguing that the existing agreement does not encompass IP-enabled voice traffic. Without clear guidance from the Commission, all providers of interconnected VoIP services should expect similar obstacles to emerge.

¹⁹ Letter from James J. McNulty, Secretary, Pennsylvania Public Utility Commission, to Alan Kohler, Counsel For Comcast Phone of Pennsylvania, LLC, dated Feb. 1, 2006 (citing "no proposed local tariff" as deficiency of filing).

IV. COMCAST URGES THE COMMISSION TO GRANT TIME WARNER'S PETITIONS TO PRESERVE THE PROMISE THAT INTERCONNECTED VOIP SERVICES HOLD FOR LOCAL COMPETITION AND BROADBAND DEPLOYMENT

Providers of interconnected VoIP services have demonstrated their substantial commitment to providing competitive voice services by working within the existing framework of common carrier regulation during this transition period in which the regulatory treatment of the retail IP-enabled service remains undecided. In so doing, providers of interconnected VoIP services have reasonably relied on the guidance issued by the Commission regarding the treatment of these services.

In the Local Competition Order, the Commission specifically recognized that "an entrant, such as a cable company, that constructs its own network will not necessarily need the services or facilities of an incumbent LEC to enable its own subscribers to communicate with each other. A firm adopting this strategy, however, still will need an agreement with the incumbent LEC to enable the entrant's customers to place calls to and receive calls from the incumbent LEC's subscribers."²⁰ Unless and until the Commission concludes that providers of interconnected VoIP services are themselves entitled to the rights and subject to the obligations of telecommunications carriers, a CLEC is a pre-requisite to obtaining interconnection. By seeking CLEC certification for the wholesale telecommunications service components of the interconnected VoIP service, these entities (whether integrated, affiliated, or unaffiliated) are holding themselves out as common carriers and state commissions have no reasonable basis for denying certification.

Moreover, unless and until the Commission concludes that interconnected VoIP services must be provided by a certificated carrier subject to state commission tariff

²⁰ Local Competition Order at para. 13.

requirements and other conditions on entry, it is a reasonable business decision to provide these services through a separate, unregulated entity. The Commission affirmed the VoIP/CLEC partnership strategy when it discussed the methods by which interconnected VoIP providers could satisfy the Commission's E911 requirements. In VoIP E911 Order, the Commission observed that "interconnected VoIP providers may satisfy this requirement by interconnecting indirectly through a third party such as a competitive LEC, interconnecting directly with the Wireline E911 Network, or through any other solution that allows a provider to offer E911 service as described above."²¹

In the Local Competition Order, the Commission observed:

"[N]ew entrants will follow multiple paths of entry as market conditions and access to capital permit . . . [Competitors] may use a combination of entry strategies simultaneously – whether in the same geographic market or in different ones. . . Section 251 neither explicitly nor implicitly expresses a preference for one particular entry strategy. Moreover, given the likelihood that entrants will combine or alter strategies over time, an attempt to indicate such a preference in our section 251 rules may have unintended consequences and undesirable results."²²

This perspective is equally applicable to the issues raised in the pending Petitions. If state commissions are permitted to establish regulatory roadblocks to competitive entry and to dictate the entry strategies used by providers of interconnected VoIP services, the promise these services hold for both residential voice competition and broadband deployment will be severely undermined.

²¹ VoIP E911 Order at para. 40. See also In the Matter of Administration of the North American Numbering Plan, Order, CC Docket 99-200, FCC 05-20 (rel. Feb 1, 2005) ("Absent this waiver, SBCIS would have to partner with a local exchange carrier (LEC) to obtain North American Numbering Plan (NANP) telephone numbers. Allowing SBCIS to directly obtain numbers from the NANPA and the PA, subject to the conditions imposed in this order, will help expedite the implementation of IP-enabled services that interconnect to the PSTN; and enable SBCIS to deploy innovative new services and encourage the rapid deployment of new technologies and advanced services that benefit American consumers. Both of these results are in the public interest.")

²² Local Competition Order at para. 12.

V. CONCLUSION

Comcast urges the Commission to grant Time Warner's petitions. The progress being made toward competition for residential voice services and further broadband deployment must not be thwarted by errant state commission decisions.

Respectfully submitted,

/s/ Joseph W. Waz Jr.
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COMCAST CORPORATION
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Date: April 10, 2006

CERTIFICATE OF SERVICE

I, Valerie Yates, hereby certify that a copy of the foregoing Comments filed by Comcast Corporation in WC Docket Nos. 06-54 and 06-55 was served by electronic mail on April 10, 2006 to the persons listed below.

/s/ Valerie Yates

Valerie Yates

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