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May 17, 2006

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WC Docket Nos. 06-54 & 06-55
CC Docket No. 01-92
Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On May 16, 2006, Keith Oliver of Home Telephone Company ("Home") and John Kuykendall of John Staurulakis, Inc. ("JSI") met with Scott Bergmann in the Office of Commissioner Jonathan S. Adelstein to discuss two petitions filed by Time Warner Cable and related comments filed in WC Docket Nos. 06-54 & 06-55. A copy of the presentation which was discussed at the meeting is attached.[1]

In the meeting, the representative of Home explained that Home and PBT were directly involved in the South Carolina Public Service Commission proceedings that are referenced in the petitions. The representative demonstrated that exchange of traffic and not interconnection is the real issue in dispute and urged the Commission to deny the petitions and consider these matters in the context of its IP Enabled Services Notice of Proposed Rulemaking and Unified Intercarrier Compensation proceedings.[2]

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[1] The written presentation contains information regarding Home and another South Carolina company, PBT, Inc. ("PBT").

[2] During the discussion, the representative from Home explained its position which is already in the record that an intercarrier compensation regime based exclusively on minutes-of-use is not sustainable. *See* Comments of the Coalition for Capacity-Based Access Pricing filed May 23, 2005 in CC Docket No. 01-92 at 5.

Please contact the undersigned with any questions.

Respectfully submitted,

/s/ John Kuykendall

John Kuykendall
Director – Regulatory Affairs
on behalf of Home Telephone Company and PBT, Inc.

cc: Scott Bergmann

Attachment

Time Warner Cable's Petitions WC Docket Nos. 06-54 & 06-55

Home Telephone Company and PBT, Inc.

FCC *ex parte*

May 1, 2006

Home Telephone Company

- Serves rural portions of South Carolina with main office located in Moncks Corner.
- Company founded over 100 years ago.
- Provides telephone service to 19,000 customers under alt. reg. status through the ILEC.
- Over 92% of the company's facilities are broadband capable.
- Provides cable TV services to approx. 6,000 customers and offers basic, digital and HD/DVR services.
- CLEC has approx. 1,000 voice and 1,200 video customers.
- Company also offers long distance, Internet and wireless resale services.

PBT, Inc.

- Serves rural portions of South Carolina with main office located in Gilbert.
- Provides telephone service to approx. 17,000 customers under alt. reg. status in six counties.
- Company founded over 103 years ago.
- 100% of the company's facilities are broadband capable with customer penetration level of 19.77%.

Initial Observations on Time Warner Cable's Petitions

- The Act and FCC Rules foster fair and robust competition.
- The South Carolina PSC properly applied federal law and rules to the specific circumstances it faced.
- By filing its petitions with the FCC, Time Warner Cable seeks to circumvent these balanced rules and tip the scales in favor of VoIP providers.
- The FCC should not issue piecemeal orders regarding matters raised in the petitions. Rather, it should make definitive findings on a whole range of VoIP issues in its ongoing IP-Enabled Services NPRM.

South Carolina Facts

- Home and PBT were directly involved in the South Carolina PSC proceedings and have a first-hand perspective on Time Warner Cable's requests.
- Preemption Petition – pursuant to state law, the South Carolina PSC conducted a public interest finding and, on the basis of that finding, denied Time Warner Cable a certificate to provide telecommunications because of Time Warner Cable's failure to support its request.
- Declaratory Ruling Petition – the South Carolina PSC ruled against MCI in its attempt to deliver Time Warner Cable VoIP traffic to rural carriers under Section 251 rules and policies.

Dispute is Not About Interconnection

- Section 251(a) refers to a “physical linking of two networks.”
- Physical interconnections between the networks already exist
  - Calls from Time Warner Cable VoIP customers are routinely terminated to Home/PBT without blocking.
  - As a VoIP provider, Time Warner Cable’s customers may well be originating VoIP calls from subscribers within Home/PBT service areas.

Real Issue is Exchange of Traffic

- The duty to exchange local telecommunications traffic rests on Section 251(b)(5) of the Act which requires the payment for “the transport and termination of telecommunications” to be reciprocal.
- Under the scenario presented in the declaratory ruling petition, there is no telecommunications traffic exchanged, thus Section 251(b)(5) does not apply.
- Accordingly, Time Warner Cable seeks to change both FCC rules and the Telecom Act with respect to non-telecommunications VoIP traffic.

The South Carolina PSC's Decisions Were Not Anti-Competitive

- Harmonious with federal provisions, under state law, the South Carolina PSC is obligated to consider public interest issues before certifying a telecommunications provider within rural areas of the state.
- The South Carolina PSC has rightfully delineated the duties to exchange traffic under federal law.

IP Enabled Services NPRM

- The items raised in the petitions are already before the Commission in its IP-Enabled Services NPRM.
- In the NPRM, the Commission sought comment on a "wide assortment of regulatory requirements and benefits" in order to arrive at "sound legal and policy conclusions" regarding the differentiation of VoIP and traditional telecom services.
- Deciding to grant Title II rights to VoIP providers without considering Title II obligations would be subject to legal challenge and result in bad public policy.

Conclusion

- Time Warner Cable demands the rights and privileges afforded to telecommunications providers without assuming the obligations.
- The South Carolina PSC has acted well within the purview as a state regulatory body.
- If the FCC were to preempt the South Carolina PSC's decision regarding certification, the effect would be to override the state PSC's authority under the Act to make the necessary public interest findings when considering these types of matters.
- The FCC should deny the petitions and consider these matters only in the context of its broad IP Enabled Services NPRM.

Contacts

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