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October 16, 2006

FILED/ACCEPTED

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Federal Communications Commission
Office of the Secretary

VIA HAND DELIVERY

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

Re: WC Docket No. 06-172: In the Matter of Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas

Dear Ms. Dortch:

NuVox Communications and XO Communications, Inc., through counsel and pursuant to 47 C.F.R. § 1.106, hereby submit for filing in the above-captioned proceeding their Petition for Reconsideration of Protective Order, and four (4) copies of the same. Please feel free to contact the undersigned counsel at (202) 342-8625 if you have any questions regarding this filing.

Respectfully submitted,

Brett H. Freedson

Brett Heather Freedson

cc: Jeremy Miller, Wireline Competition Bureau
Tim Stelzig, Wireline Competition Bureau
Marcus Maher, Wireline Competition Bureau

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CERTIFICATE OF SERVICE

I, Brett Heather Freedson, hereby certify that true and correct copies of the foregoing Petition for Reconsideration of Protective Order in WC Docket No. 06-172 were delivered via hand delivery and email, this 16th day of October 2006, to the individuals on the following list:

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Petitions of the Verizon Telephone Companies)
for Forbearance Pursuant to 47 U.S.C. § 160(c)) WC Docket No. 06-172
in the Boston, New York, Philadelphia,)
Pittsburg, Providence and Virginia Beach)
Metropolitan Statistical Areas)

To the Wireline Competition Bureau

PETITION FOR RECONSIDERATION OF PROTECTIVE ORDER

NuVox Communications and XO Communications, Inc. (the “CLEC Petitioners”), through counsel and pursuant to 47 C.F.R. § 1.106, hereby respectfully request that the Wireline Competition Bureau (the “Bureau”) reconsider, and as necessary modify its Protective Order in the above-captioned proceeding,¹ to permit the use of confidential information, including the final Commission order on the merits of the Verizon Petitions (to the extent the final order references confidential information), in current and future Commission proceedings to evaluate forbearance requests, under Section 10 of the Act, and judicial proceedings arising there from.² Specifically, for the reasons set forth herein, the Bureau should remove from the Protective Order the following limitation on the use of stamped confidential

¹ *In the Matter of the Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburg, Providence and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 06-172, Protective Order, DA 06-1870 (Sept. 14, 2006) (“Protective Order”).

² This Petition is submitted by the CLEC Parties out of an abundance of caution, to preserve the rights of the CLEC Parties, and others, to use the confidential information submitted in this proceeding for purposes of analyzing and responding to future forbearance petitions, under Section 10 of the Act. The CLEC Parties do not believe that a request for reconsideration of the Protective Order, under 47 C.F.R. § 1.106, is necessary to obtain the relief requested herein, and further, that the Protective Order may be modified at some future date, to accommodate the needs of parties to future Section 10 forbearance proceedings before the Commission.

documents by authorized parties: “[p]ersons obtaining access to stamped confidential documents under this order shall use the information only in the conduct of this proceeding, and any judicial proceeding arising there from, and shall not use such information for any other purpose, including business, governmental, commercial or other administrative or judicial proceedings.”³

DISCUSSION

On September 14, 2006, the Bureau issued a Protective Order, setting forth the terms and conditions of disclosure of confidential information submitted by interested parties to the above-captioned proceeding. In particular, the Protective Order includes the following limitation on the use of stamped confidential documents for purposes not directly related to this proceeding: “[p]ersons obtaining access to stamped confidential documents under this order shall use the information only in the conduct of this proceeding, and any judicial proceeding arising there from, and shall not use such information for any other purpose, including business, governmental, commercial or other administrative or judicial proceedings.”⁴ Accordingly, the Protective Order effectively prohibits any use of the confidential information submitted in this proceeding, including the final Commission order on the merits of the Verizon Petitions (to the extent that the final order references any confidential information), in current and future Commission proceedings to evaluate forbearance requests, under Section 10 of the Act, and judicial proceedings arising there from.

The public interest demands that the Bureau grant the relief requested by the CLEC Petitioners, and remove from the Protective Order the existing limitation on the use of stamped confidential documents, as described herein. The orders of the Commission applying the statutory forbearance requirements, as set forth in Section 10 of the Act, to the market-

³ Protective Order ¶ 7.

⁴ Protective Order ¶ 7.

specific data submitted by forbearance petitioners and commenters, critically guides the conduct of future Commission proceedings on forbearance requests. Importantly, such Commission orders provide significant market definitions and local competition benchmarks employed by the Commission, on which interested parties must be permitted to rely for purposes of assessing, through comments, whether the market-specific data submitted by forbearance petitioners satisfies each of the statutory thresholds of Section 10 of the Act. Moreover, where a forbearance request is based in whole or in part on relief previously granted by the Commission, interested parties cannot adequately respond to such request where the confidential information relied on by the Commission, for purposes of its prior forbearance determination, remains unavailable. The Protective Order, without modification, would serve as a substantial impediment to meaningful public participation in future forbearance proceedings, and in turn, would encumber informed Commission decision making of future forbearance requests.

CONCLUSION

For the reasons set forth herein, the Bureau should grant this Petition, and should reconsider, and as necessary modify the Protective Order in the above-captioned proceeding to permit the use of confidential information, including the final Commission order on the merits of the Verizon Petitions (to the extent the final order references confidential information), in current and future Commission proceedings to evaluate forbearance requests, under Section 10 of the Act, and judicial proceedings arising there from.

Respectfully submitted,

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Dated: October 16, 2006