7852 Walker Drive, Suite 200
Greenbelt, Maryland 20770
phone: 301-459-7590, fax: 301-577-5575
internet: www.jsitel.com, e-mail: jsi@jsitel.com

December 13, 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
Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On December 13, 2006, Keith Oliver of Home Telephone Company ("Home"), Ben Spearman of PBT, Inc. ("PBT") and John Kuykendall of John Staurulakis, Inc. ("JSI") met with John Hunter in the Office of Commissioner Robert M. McDowell on behalf of the South Carolina Telephone Coalition ("SCTC") to discuss two petitions filed by Time Warner Cable and related comments filed in WC Docket Nos. 06-54 & 06-55. Home and PBT are among the twenty-one members of the SCTC. A copy of the presentation which was discussed at the meeting is attached.

In the meeting, Mr. Oliver and Mr. Spearman explained that the SCTC and many of the member companies including Home and PBT were directly involved in one or more of the South Carolina Public Service Commission proceedings that are referenced in the petitions. The representatives 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 only in the context of its IP Enabled Services Notice of Proposed Rulemaking proceeding.

Please contact the undersigned with any questions.

Respectfully submitted,

/s/ John Kuykendall

John Kuykendall
Director – Regulatory Affairs
on behalf of
The South Carolina Telephone Coalition

cc: John Hunter

Attachment

Echelon Building II, Suite 200
9430 Research Blvd.
Austin, Texas 78759
phone: 512-338-0473, fax: 512-346-0822

Eagandale Corporate Center, Suite 310
1380 Corporate Center Curve
Eagan, Minnesota 55121
phone: 651-452-2660, fax: 651-452-1909

6849 Peachtree Dunwoody Road
Building B-3, Suite 200
Atlanta, Georgia 30328
phone: 770-569-2105, fax: 770-410-1608

547 South Oakview Lane
Bountiful, Utah 84010
phone: 801-294-4576,fax: 801-294-5124

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

The South Carolina Telephone Coalition

FCC *ex parte*

December 2006

The South Carolina Telephone Coalition

- Organization comprised of twenty-one Rural Telephone Companies that serve portions of South Carolina
- The Coalition intervened in the South Carolina Public Service Commission (SCPSC) proceeding which is the subject of the Time Warner Cable's (TWC's) Preemption Petition
- Several members of the Coalition were directly involved in the SCPSC proceedings and have a first-hand perspective on TWC's petitions

TWC's Preemption Petition

- Oct 2004 - TWC's VoIP affiliate, TWC Information Services (TWCIS), filed an application with the SCPSC seeking to expand its certificate of public convenience and necessity to include rural areas served by five of the Coalition's members
- Pursuant to state law, the SCPSC conducted a public hearing and, on the basis of their findings issued orders denying the application because of TWCIS' failure of proof with respect to its request
- Mar 2006 – TWC and TWCIS filed the Preemption Petition with the FCC

TWC's Declaratory Ruling Petition

- Mar/Jun 2005 - MCImetro Access Transmission Services (MCI) filed petitions with the SCPSC seeking to arbitrate unresolved issues between MCI and five Coalition members
- MCI sought to deliver TWCIS' VoIP traffic to the five members under Sections 251(a)&(b) of the Act
- The SCPSC correctly applied federal laws and rules to limit the exchange of traffic between carriers to that generated by their own end-user customers
- Mar 2006 - TWC filed a petition with FCC alleging that SCPSC has effectively foreclosed its ability to introduce competitive VoIP service in many areas

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 TWC VoIP customers are routinely terminated to Coalition members’ customers without blocking

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
- Until it is clear that the traffic exchanged is telecommunications traffic, Section 251(b)(5) does not apply
- Accordingly, TWC seeks to change both FCC rules and the Telecom Act with respect to non-telecommunications VoIP traffic

TWC Also Seeks Change in LNP Rules

- LNP rules require only “service provider portability”
  - Ability of “users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another”
- In this case, TWC’s VoIP affiliate is seeking to port numbers through an intermediary, MCI
  - No rules governing ports between a telecommunications carrier and a non-telecommunications carrier or when the end-user is switching to a non-telecommunications service

Benefits Must Come with Attendant Obligations

- The Act and FCC Rules foster fair and robust competition
- By filing its petitions with the FCC, TWC seeks to circumvent these balanced rules and tip the scales in favor of VoIP providers
- The public interest would be harmed if VoIP providers were allowed to have the same rights as telecom providers regarding interconnection and exchange of traffic without the obligations that are concomitant with these rights

Matters Should Not be Decided in a Piecemeal Manner

- FCC should consider issues raised in the petitions along with a whole range of VoIP issues raised in the context of the 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
- Affording VoIP providers with Title II benefits without Title II requirements would be subject to legal challenge and result in bad public policy

Matters Should be Decided Based on Existing Law

- Contrary to statements made by TWC Pres and CEO to Chairman Martin, the SCPSC's actions were not anti-competitive
  - Harmonious with federal provisions, under state law, the SCPSC is obligated to consider public interest issues before certifying a telecommunications provider within rural areas of the state
  - The SCPSC rightfully delineated the duties to exchange traffic under federal law

Matters Should be Decided Based on Existing Law (Cont'd)

- SCPSC properly found it was not clear what services TWCIS sought to provide as a regulated telecommunications provider. TWCIS sought to obtain interconnection from Coalition members so that its affiliate could provide VoIP services that it asserted were not telecommunications services and would not be subject to regulation by the SCPSC

Conclusion

- TWC demands the rights and privileges afforded to telecommunications providers without assuming the obligations
- The SCPSC acted well within the purview as a state regulatory body
- If the FCC were to preempt the SCPSC's decision regarding certification, the effect would be to override the state PSC's authority under state law to require applicants to meet a measurable showing of proof as well as its 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

Representatives for the South Carolina Telephone Coalition

- Home Telephone Company - Keith Oliver

  Senior Vice President – Corporate Operations

  P.O. Box 1194, Moncks Corner, SC 29461

  843-761-9101; Keith.Oliver@hometelco.com

- PBT, Inc. - Ben Spearman

  Vice President, Chief Regulatory Officer

  1660 Juniper Spring Road, Gilbert, SC 29054

  803-894-1104; bspearman@PBTTel.Net