



October 12, 2010

(Filed electronically)

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: **Ex Parte Notice**
Petition of Nebraska Public Service Commission and Kansas Corporation
Commission for Declaratory Ruling, WC Docket No. 06-122

Dear Ms. Dortch:

On October 12, 2010, Glenn Richards, Executive Director and Counsel for the VON Coalition, met with Bradley Gillen, Legal Advisor for Commissioner Baker and Zac Katz, Legal Advisor for Chairman Genachowski.

During the meetings, the VON Coalition reiterated its opposition to the Petition and explained how the 2004 *Vonage Preemption Order* had helped create a vibrant, highly competitive VoIP industry, lowering prices and increasing the service options and features available to residential, governmental and enterprise customers. VON is concerned that the Commission will release an order in the proceeding that will be perceived by the investment community as narrowing the *Vonage Preemption Order*, stifle innovation, curtail investment in VoIP services and applications, slow broadband deployment and embolden the states to assert jurisdiction over all forms of VoIP services.

The VON Coalition argued that the Commission had preempted the imposition of state universal service fund obligations on providers of nomadic VoIP services in the *Vonage Preemption Order*. VON explained that state USF assessments could be problematic because the changing nature of VoIP makes it very difficult for providers to determine the physical location of customers, and that billing address and telephone numbers alone are not always determinative, leading to the likelihood of disputes and double billings of VoIP providers. In addition, VON explained that an order permitting state assessments could tie the FCC's hands on decisions in future proceedings, including reform of the Federal Universal Fund, and that this Kansas-Nebraska decision should be delayed until these broader policy issues have been addressed.

Finally, the VON Coalition expressed concern that any decision stating only that is prospective may not provide enough legal justification if challenged by a state seeking retroactive USF payments from a VoIP provider. The Commission must make clear that



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it is changing (and not simply clarifying) the law, or there will may be unnecessary litigation. Finally, approval of the petition will raise rates for all VoIP customers at a time when they are facing difficult economic circumstances and cause hardship to VoIP providers who will bear significant administrative expenses to comply with multiple, varying state USF rules and payment obligations.

Please contact me directly if you have any questions.

Sincerely,

/s/

Glenn S. Richards
Executive Director

cc: Brad Gillen (by email)
Zac Katz (by email)