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October 20, 2010

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Ex Parte

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

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

Dear Ms. Dortch:

On October 19, 2010, Kathleen Grillo, Curtis L. Groves and the undersigned of Verizon met with Christine Kurth, Policy Director and Wireline Counsel to Commissioner McDowell. We discussed the Amendment to Petition that the Nebraska and Kansas commissions recently filed, in which the states amended their July 16, 2009 Petition¹ to seek a declaratory ruling with prospective effect only.² We emphasized that, should the Commission decide to grant the Petition as amended, it should not disturb or cast any doubt upon the Commission's longstanding determination that states are preempted from regulating the entry, rates, or other terms and conditions of VoIP services.³ We also emphasized that the Commission should ensure that the scope of its ruling is limited to the Nebraska and Kansas commissions' request for prospective-only effect.

¹ Petition of Nebraska Public Service Commission and Kansas Corporation Commission *Universal Service Contribution Methodology; Petition for Declaratory Ruling of the Nebraska Public Service Commission and the Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring that State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues*, WC Docket No. 06-122 (July 16, 2009) ("Petition").

² Amendment to Petition, WC Docket No. 06-122 (Sept. 14, 2010) ("Amendment to Petition").

³ *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order, 19 FCC Rcd 22404, ¶¶ 18, 31-32 (2004) ("Vonage Order"), *petitions for review denied*, *Minnesota Pub. Utils. Comm'n v. FCC*, 483 F.3d 570 (8th Cir. 2007).

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We also explained that the Commission should recommend that states use a uniform sourcing methodology to identify which state can assess VoIP services, in order to avoid multiple assessments on the same services. We noted that “place of primary use,” which has become the standard for sourcing wireless services, is a superior alternative to the approaches the Nebraska and Kansas Commissions suggested. “Place of primary use” is defined in Section 124(8) of the Mobile Telecommunications Sourcing Act (*see* 4 U.S.C. § 124(8)) and is also codified in many state tax and VoIP and wireless E911 statutes as the location for sourcing communication services where the service location is not always fixed. The approaches suggested by the Nebraska and Kansas Commissions — such as billing address or registered 911 address – are unworkable because they fail to address the mobility inherent with some VoIP services as well as the ability to obtain summary billing for services provided to more than one location at a single address.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alan Beyar".

cc: Christine Kurth