



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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Via Electronic Filing

March 1, 2011

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

**Re: Notice of *Ex Parte* Meeting
WC Docket No. 10-143
Petition of CRC Communications of Maine, Inc. and Time Warner
Cable Inc. for Preemption Pursuant to Section 253**

Dear Ms. Dortch:

Pursuant to 47 CRF 1.1206(b)(1), the Maine Public Utilities Commission (MPUC) files this written notice concerning *ex parte* conferences held with members of the Staff of the Federal Communications Commission (FCC).

On February 28, 2011, John A. Cashman, Chairman of the MPUC, and Andrew S. Hagler, a member of the staff of the MPUC, joined telephonically in a conference with Sharon Gillett, Lisa Gelb, and Jennifer Prime, members of the Staff of the FCC. The MPUC discussed matters relating to the law governing, and the facts presented, in the rural exemption proceedings at the MPUC involving five Maine Rural ILECs and Time Warner and CRC Communications. The MPUC also discussed matters relating to the law governing, and the facts presented, in the earlier MPUC proceeding that resulted in a MPUC Order commencing those rural exemption dockets – an MPUC Order that gives rise to the petition for preemption filed before the FCC by Time Warner and CRC.

Specifically, the MPUC discussed the fact that there was never presented to it, in any petition filed by CRC or Time Warner, any claim that the five Rural ILECs at issue in these matter have failed to satisfy their obligation, pursuant to 47 U.S.C. § 251(a), to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers, including those of CRC and Time Warner, and that the MPUC is aware of no such refusal by the Rural ILECs. Further, the MPUC discussed its view that any action taken by the FCC along the lines suggested by CRC and Time Warner, whether in the form of an order of preemption issued pursuant to 47 U.S.C. § 253(d), or in some other manner by which the FCC might convey its understanding of the law, such as in the form of a declaratory ruling, would be contrary to both the letter and the purpose of the rural exemption established in 47 U.S.C. § 251(f), would improperly and without Congressional authority undermine and infringe the exclusive jurisdiction of state utility commissions to implement the rural exemption, and would likely be overturned by a court on appeal from either the FCC's action or, possibly, in any

appeal that might arise out of further proceedings at the MPUC in which CRC or Time Warner sought to rely on such FCC action as grounds for reversal of the outcome of the MPUC's rural exemption proceedings involving these five Rural ILECs.

In addition, the MPUC discussed the fact that the record in the rural exemption cases giving rise to this matter does not support the proposition that cable companies such as Time Warner are in any way less likely to expand their broadband infrastructure into rural, unserved or underserved areas of Maine now that the rural exemption has, for these particular Maine Rural ILECs been upheld, than would be the case if the MPUC had decided to lift the exemption. In fact, as was explained during the conference call, the MPUC's decision that compulsory arbitration before the MPUC of interconnection agreements with a Rural ILEC is not available until and unless the rural exemption has been lifted, advances the central policy of Congress embodied by the rural exemption provisions of the statute, because it helps to ensure that Rural ILECs are financially capable of fulfilling their universal service obligations as a provider of last resort of telecommunications services.

Also, on February 25, 2011, John A. Cashman, Chairman of the MPUC, and Andrew S. Hagler, a member of the staff of the MPUC, joined telephonically in a conference with Zachary Katz, Jennifer Prime, William Dever, Lisa Gelb, Timothy Stelzig, and Edward P. Lazarus, members of the staff of the FCC, and Joseph G. Donahue, counsel for the Lincolnville, Tidewater, Oxford, and Oxford West telephone companies, and with Thomas J. Moorman and William S. Kelly, counsel for the UniTel telephone company. Likewise, on December 22, 2010, the undersigned joined in a conference with Austin Schlick, Sonja Rifken, Julie Veach, Raclynn Remy, and Timothy Stelzig, members of the staff of the FCC, and with Joseph G. Donahue and Stephen G. Kraskin, counsel for the Lincolnville, Tidewater, Oxford, and Oxford West telephone companies, and with Thomas J. Moorman and William S. Kelly, counsel for the UniTel telephone company, and in a separate meeting with Angela Kronenburg, a member of the staff of the FCC. On the previous day, December 21, 2010, the undersigned met with Margaret McCarthy, a member of the staff of the FCC. In each of these meetings in which the MPUC participated, the MPUC discussed the same matters as those addressed in the meeting of February 28, 2011 as described above.

In accordance with Section 1.1206(b)(1) of the Commission's rules, this letter is being filed electronically with your office. A copy of this Notice will be filed in the Docket listed.

If you have any questions, please contact me.

Sincerely,



Andrew S. Hagler
Director of Telephone and Water Utility Industries
Maine Public Utilities Commission