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# LATHAM & WATKINS LLP

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October 21, 2011

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

**Re: Notification of Ex Parte Presentation, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51**

Dear Ms. Dortch:

On October 21, 2011, Terri Natoli of Time Warner Cable Inc. (“TWC”) and the undersigned (representing TWC), together with Mary McManus of Comcast Corporation (“Comcast”) and Richard Metzger of Lawler Metzger Keeney & Logan, LLC (representing Comcast), and Grace Koh and Barry Ohlson of Cox Enterprises, Inc. (representing Cox Communications, Inc. (“Cox”)), met with Randy Clarke, Deena Shetler, and Douglas Sloten of the Wireline Competition Bureau regarding intercarrier compensation (“ICC”) reform proposals advanced in the above-captioned proceedings.

At this meeting, we reiterated our view that any ICC reform undertaken with respect to terminating access charges should clearly address the rights of competitive local exchange carriers (“CLECs”) that provide (a) wholesale telecommunications services to facilities-based interconnected VoIP providers, or (b) interconnected VoIP services directly to end users. We urged the Commission to adopt the proposed rules submitted by Comcast, TWC, and Cox with

their ex parte letter of October 5, 2011.<sup>1</sup> We further noted that the draft ICC rules submitted by the price cap carriers responsible for the “ABC Plan” contain numerous flaws, most of which arise from those rules’ exclusive focus on incumbent LECs’ network architecture.<sup>2</sup> Although we continue to believe that those ILEC-centric rules should not be adopted, we discussed changes that would be necessary in the event the Commission chose to incorporate any elements of the price cap carriers’ proposal. Those proposed revisions are attached hereto in the form of a redlined version of the price cap carriers’ discussion draft of October 3, 2011.<sup>3</sup> Our willingness to suggest contingent revisions to rules we have opposed should not be interpreted as support for such rules.

In addition, we discussed how best to ensure that CLECs’ existing tariff language describing access services can remain in force without inadvertently creating openings for access customers to challenge the validity of that language. Our October 5 Ex Parte included a proposed rule, section 51.706(a), that would deem any tariff, price list, or other authorized mechanism to be amended to comply with the newly adopted federal requirements. Upon further consideration, we believe that a better approach would be to deem the descriptions of CLECs’ access services in such tariffs, price lists, or other authorized mechanisms to be compliant with the newly adopted federal definitions of dedicated transport access service, end office access service, and any other relevant services.

Accordingly, we submit the following amended version of proposed section 51.706(a) for the Commission’s consideration:

**§ 51.706 Applicability of tariffs and interconnection agreements.**

**(a) To the extent that a local exchange carrier provides [Transitional Interstate Access Service] or other intercarrier service pursuant to any interconnection agreement, interstate tariff, intrastate tariff, price list, or other mechanism authorized by law, the description of any such service included therein shall be deemed to comply with the definition of the comparable service contained in this Section and other terms of service (including, without limitation, prices) included therein shall be conformed to the requirements applicable to [Transitional Interstate Access Service], without need for amendment of any existing interconnection agreement, interstate tariff, intrastate tariff, price list, or other mechanism authorized by law to incorporate the service description contained in the Commission’s rules.**

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<sup>1</sup> See Ex Parte Letter of Mary McManus to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 et al. (Oct. 5, 2011) (“October 5 Ex Parte”).

<sup>2</sup> See Ex Parte Letter of Mary McManus, Barry J. Ohlson, and Terri B. Natoli to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 et al. (Oct. 17, 2011).

<sup>3</sup> See Ex Parte Letter of John Banks, US Telecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 et al. (Oct. 3, 2011).

LATHAM & WATKINS<sup>LLP</sup>

Please contact the undersigned if you have any questions regarding these issues.

Sincerely,

*/s/ Matthew A. Brill*

Matthew A. Brill  
*Counsel for Time Warner Cable*

cc: Randy Clarke  
Deena Shetler  
Doug Slotten