



1717 Pennsylvania Avenue,  
N.W.  
12<sup>th</sup> Floor  
Washington, D.C. 20006

Tel 202 659 6600  
Fax 202 659-6699  
www.eckertseamans.com

James C. Falvey  
jfalvey@eckertseamans.com  
Phone: 202 659-6655

February 11, 2013

**Via Electronic Filing**

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

Re: *Meetings with the FCC's Technology Transitions Policy Task Force*, GN Docket No. 13-5; *Petitions for Waiver of Commission's Rules Regarding Access to Numbering Resources*, CC Docket 99-200; *Connect American Fund, et al., Further Notice of Proposed Rulemaking on IP-to-IP Interconnection Issues*, WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; WT Docket No. 10-208

Dear Ms. Dortch:

On February 7, 2013, Greg Rogers, Deputy General Counsel, Bandwidth.com, Inc.; Michael Mooney, General Counsel, Regulatory Policy, and Andrea Pierantozzi, Vice President, Voice Services, both from Level 3 Communications, LLC (collectively, "CLEC Coalition"); and Justin Faulb and the undersigned of Eckert Seamans Cherin & Mellott, LLC met with the following members of the Technology Transitions Task Force ("TTTF" or "Task Force"): Julie Veach, Chief, Wireline Competition Bureau, Rebekah Goodheart, and Lisa Gelb, Wireline Competition Bureau; Sean Lev, General Counsel, Marcus Maher, and Tejas Narechania, Office of General Counsel; Charles Mathias, Office of Chairman Genachowski; Mindel De La Torre, International Bureau; Steve Wildman and Jonathan Chambers, Office of Strategic Planning and Policy Analysis; Patrick Halley, Office of Legislative Affairs; and David Turetsky, Public Safety and Homeland Security Bureau. The CLEC Coalition reiterated its concerns regarding Commission action on the many voice over Internet protocol ("VoIP") provider petitions for limited waiver of Section 52.15(g)(2)(i) to obtain direct access to number resources ("Waiver Petitions"), and particularly their concerns with granting any such waivers in advance of addressing the other IP transition issues under review by the TTTF.

The CLEC Coalition was pleased to see the Commission's recent announcement of the TTTF<sup>1</sup> and fully supports the Commission's efforts to rationalize, through a Commission-wide Task Force, the various aspects of the transition to an all-IP network. The CLEC Coalition emphasized that the formation of the TTTF represents a unique opportunity to ensure that interrelated IP transition issues are addressed in a holistic and coordinated manner. As in the past, we urged the Commission to proceed to address the issue of direct number resource assignment through a rulemaking. Proceeding by a rulemaking on this and other IP transition-related issues will ensure that the resolution of this issue is fully coordinated and comprehensively addressed along with other important IP transition-related issues. If the Commission were to allow the near-term issuance of number resources to non-carrier providers through an ad hoc and discriminatory waiver process, it may find it difficult to rationalize the waivers at a later date with other critical decisions, such as decisions relating to IP interconnection.<sup>2</sup>

The CLEC Coalition stated that one of the critical goals of the Task Force should be to provide a nondiscriminatory framework so that no company benefits from special treatment or obtains a head start on the IP transition process. The only way to ensure nondiscriminatory treatment in the area of the direct assignment of number resources is to deny the waiver petitions, and issue an NPRM that would place all providers on an equal footing.<sup>3</sup> Because there are fifteen (15) petitioners that have filed waiver petitions, the issuance of individual waivers would be discriminatory and would not meet the Commission's standard to grant a waiver. Each petitioner must meet a "heavy burden" to show that "special circumstances" warrant deviation from the Commission's rules, and that such deviation would be in the public interest.<sup>4</sup> Because there are no special circumstances that favor one provider over another, and because the TTTF should in any event be seeking to establish a nondiscriminatory framework for the IP transition, the Commission should deny the waivers and issue an NPRM.

The CLEC Coalition briefly discussed the series of issues that should be addressed in an NPRM if the Commission were to consider the direct assignment of number resources to non-carrier providers. By issuing an NPRM, the TTTF would ensure that the many interrelated CLEC Coalition concerns relating to IP interconnection,<sup>5</sup> intercarrier compensation,<sup>6</sup> number exhaust,<sup>7</sup> number portability,<sup>8</sup> and call routing<sup>9</sup> are addressed in a comprehensive manner.

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<sup>1</sup> See *Ex Parte Meetings With the Technology Transitions Policy Task Force*, Public Notice, GN Dkt. 13-5, DA 13-20 (Jan. 10, 2013).

<sup>2</sup> For example, the CLEC Coalition has in the past noted the connection between this issue and the issue of IP interconnection, including the concern that non-carrier providers that obtain direct access to number resources could enter into discriminatory interconnection agreements. See, e.g., *Ex Parte Letter from James C. Falvey, Counsel for CLEC Coalition, to Marlene H. Dortch, Secretary, Federal Communications Commission*, CC Docket No. 99-200, at 1-2 (June 6, 2012). ("June 6 Ex Parte").

<sup>3</sup> The CLEC Coalition, as explained in previous ex partes, is joined in this position by, among others, NARUC, COMPTTEL, NCTA, NTCA, and the California and Pennsylvania public utilities commissions.

<sup>4</sup> See *Administration of the North American Numbering Plan*, Order, 20 FCC Rcd. 2957, ¶ 3 (2005).

<sup>5</sup> See June 6 Ex Parte.

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The CLEC Coalition discussed the importance of “telecommunications carriers” to the Commission’s regulatory framework. Many of the Commission’s most important rules, including those relating to Section 251/252 interconnection and number portability, are rules that are applied in a carrier-to-carrier context. Moreover, the Commission’s rules require that a “telecommunication carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing telecommunications services.”<sup>10</sup> Given that many of the waiver petitioners claim not to be “telecommunications carriers” and also claim not to provide “telecommunications services,” they will not be treated as common carriers under the Commission’s rules. If the Commission intends to allow the direct assignment of number resources to non-carrier providers, a rulemaking is necessary to review fully the statutory and regulatory framework as it would apply to such providers.

As required by Section 1.1206(b), this ex parte notification is being filed electronically for inclusion in the public record of the above-referenced proceedings. If you have any questions or require additional information, please do not hesitate to contact me at 202.659.6655.

Sincerely,

/s/ James C. Falvey

James C. Falvey  
Justin L. Faulb  
*Counsel for CLEC Coalition*

cc: Julie Veach  
Sean Lev  
David Turetsky  
Charles Mathias  
Lisa Gelb  
Mindel De La Torre  
Steve Wildman  
Rebekah Goodheart  
Patrick Halley  
Marcus Maher  
Tejas Narechania  
Jonathan Chambers

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<sup>6</sup> See, e.g., Ex Parte Letter from James C. Falvey, Counsel for CLEC Coalition, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 99-200, at 8 (May 24, 2012) (“May 24 CLEC Coalition Ex Parte”).

<sup>7</sup> See, e.g., *id.* at 2-5.

<sup>8</sup> See, e.g., May 24 CLEC Coalition Ex Parte at 5-7.

<sup>9</sup> See, e.g., Ex Parte Letter from James C. Falvey, Counsel for Joint Commenters, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 99-200, at 3-4 (Mar. 1, 2012).

<sup>10</sup> 47 C.F.R. § 51.5.