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October 22, 2014

Dr. Burl Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, MN 55101

PUBLIC DOCUMENT - TRADE SECRET DATA EXCISED

Re: Response of Charter Fiberlink CCO, LLC, Charter Fiberlink CC VII, LLC, Charter Advanced Services (MN), LLC and Charter Advanced Services VIII (MN), LLC to Minnesota Department of Commerce Complaint (MPUC Docket No: P5615/C-14-383)

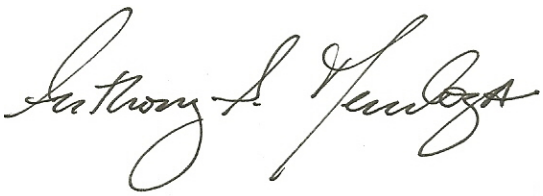
Dear Dr. Haar:

Enclosed for filing is the Public Response of Charter Fiberlink CCO, LLC, Charter Fiberlink CC VII, LLC, Charter Advanced Services (MN), LLC and Charter Advanced Services VIII (MN), LLC (herein "Charter") to the complaint filed by the Minnesota Department of Commerce against Charter on September 26, 2014.

Please contact me if you have any questions about this filing.

Very truly yours,

MENDOZA LAW OFFICE, LLC



Anthony S. Mendoza

Enc.

cc: Service List

PUBLIC DOCUMENT- TRADE SECRET DATA HAS BEEN EXCISED

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
Dr. David C. Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Complaint By The Minnesota Department of Commerce (DOC) Against the Charter Affiliates Regarding Transfer of Customers

MPUC Docket No: P5615/C-14-383

RESPONSE OF CHARTER FIBERLINK CCO, LLC, CHARTER FIBERLINK CC VIII, LLC, CHARTER ADVANCED SERVICES (MN), LLC AND CHARTER ADVANCED SERVICES VIII (MN), LLC

Charter Fiberlink CCO, LLC, Charter Fiberlink CC VIII, LLC (collectively, "Charter Fiberlink"), Charter Advanced Services (MN), LLC and Charter Advanced Services VIII (MN), LLC (collectively, "Charter Advanced Services" and with Charter Fiberlink, collectively referred to hereinafter as "Charter") by and through the undersigned counsel hereby submit this preliminary response to the complaint (the "Complaint") filed by the Minnesota Department of Commerce ("DOC") against Charter on September 26, 2014.[1]

I. INTRODUCTION

Because the Commission lacks subject matter jurisdiction over Charter's voice over Internet protocol ("VoIP") services, the Commission must dismiss the Complaint. Alternatively, the Complaint must be dismissed because it fails to satisfy the formal complaint filing requirements set out in Minnesota Rule 7829.1700.

[1] Minnesota Rule 7829.1600 states that the Commission "shall review a complaint as soon as practicable to determine whether the commission has jurisdiction over the matter ... On concluding that it lacks jurisdiction or that there is no reasonable basis to investigate the matter, the commission shall dismiss the complaint." Because the question of the Commission's subject matter jurisdiction over Charter's VoIP services is at the heart of this matter, Charter is providing a preliminarily response to that question, even though the Commission's formal complaint rules do not contemplate briefing of the jurisdictional issue prior to the Commission's decision finding jurisdiction over the matters in the Complaint. If the Commission's rejects Charter's request to dismiss the DOC Complaint, Charter reserves its right to more fully address the jurisdictional issues in any Answer.

Like many suppliers, Charter provides voice service to its customers using Voice over VoIP technology. When a Charter customer makes a telephone call with Charter's VoIP service, the analog signal from the customer's telephone is converted into digital Internet protocol ("IP") voice packets by a multimedia device installed at the customer's premises. The IP voice packets are then routed in a variety of ways over Charter's managed IP network, including to headend facilities where IP voice packets are delivered to the public switched telephone network (the "PSTN") for termination to a dialed party. To receive telephone calls from the PSTN, the technology works essentially the same way in reverse.

From a regulatory perspective, Charter's voice service is an interconnected VoIP service. The Federal Communications Commission ("FCC") defines an interconnected VoIP service as a service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires IP-compatible customer premises equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.[2] Although the FCC has not yet determined whether interconnected VoIP services will be classified as information services or telecommunications services, the FCC has clearly stated, through its words and actions, that it alone will determine which regulations apply to interconnected VoIP providers. And, as discussed below, those regulations are very limited and do not include the regulations asserted by the DOC in the Complaint.

The Commission and DOC have previously recognized the FCC's role in determining the regulations that apply to interconnected VoIP providers, and the Commission has refrained on multiple occasions from asserting jurisdiction over VoIP services and/or providers with respect to entry certification, TAM and TAP services and associated fees. The Commission should continue that same approach now and decline the DOC's request for the Commission to assert jurisdiction over the Complaint.

[2] 47 C.F.R. § 9.3.

II. THE FCC HAS ASSERTED ITS AUTHORITY OVER THE REGULATORY CLASSIFICATION OF INTERCONNECTED VOIP SERVICE AND HAS REFUSED TO CLASSIFY SUCH SERVICE AS TELECOMMUNICATIONS SERVICE

A. The Vonage Order.

The introduction of VoIP technology into the marketplace in Minnesota has brought with it questions about whether VoIP services would be regulated. In 2003, the DOC filed a complaint against Vonage Holding Corp., one of the first companies to offer a VoIP product to Minnesota customers. The complaint attempted to apply traditional telephone regulations under Minnesota Statutes Chapter 237 to Vonage. At the time, Vonage provided a "nomadic" VoIP service that originated and terminated voice IP packets over the public Internet, allowing customers to make and receive calls from any geographic location in the world as long there was a broadband connection.

Vonage challenged this Commission's jurisdiction over nomadic VoIP service, arguing the service was an "information service" not a "telecommunications service" under federal law.[3] Vonage also argued that it was not providing a "telephone service" under Minnesota law. As the DOC is asking this Commission to do with respect to Charter, the Commission asserted jurisdiction and ordered Vonage to comply with Chapter 237 and all applicable Commission rules. The Commission, however, declined to decide whether Vonage's service was an "information service" or a "telecommunications service" under federal law. Rather, the Commission determined that Vonage was providing a "telephone service" under Minnesota law, thus subjecting Vonage to Minnesota's traditional telephone regulatory regime.

[3] Following a line of FCC decisions known as the *Computer Inquiries*, in which the FCC made a critical regulatory distinction between "enhanced services" (data processing services) and "basic services" (the transmission component underlying enhanced services), Congress codified this distinction in the Telecommunications Act of 1996 (the "1996 Act"), which amended the Communications Act of 1934. The 1996 Act equated "telecommunications services" to "basic services" – the transmission component, and "information services" to "enhanced services" – the data processing component. A "telecommunications service" is defined under the 1996 Act as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." The term "information service" is defined under the 1996 Act as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service." 47 U.S.C. §§ 153(24) and (53).

In federal district court, however, a permanent injunction was entered preventing the Commission from regulating Vonage under Chapter 237. The court determined that Vonage was providing an "information service" as defined under the federal Communications Act of 1934. The federal district court held the Commission could not regulate information services "because of the recognizable congressional intent to leave the Internet and information services largely unregulated."[4]

At the same time it filed suit in federal court, Vonage petitioned the FCC for a declaratory ruling requesting that the FCC preempt this Commission's assertion of jurisdiction on the grounds that Vonage is offering an "information service" and not a "telecommunications service." The FCC granted Vonage's motion. While declining to classify Vonage's nomadic VoIP product as either an "information service" or "telecommunications service" under federal law, the FCC held under the so-called "impossibility doctrine" that it had the authority to preempt state regulations that thwart federal policy. On this basis, the FCC preempted this Commission's assertion of jurisdiction over Vonage.[5]

Importantly, the FCC's *Vonage Order* held that "regardless of the definitional classification of Digital Voice under the Communications Act, the *Minnesota Vonage Order* directly conflicts with our pro-competitive deregulatory rules and policies governing entry regulations, tariffing, and other requirements arising from these regulations ...." The FCC said state entry and certification requirements could delay entry for service providers. The FCC also held that state tariffing requirements could harm the public interest by subjecting VoIP providers to burdensome filing requirements, cost studies, and orders to change a rate, term, or condition set forth in a tariff. "The administrative process involved in entry certification and tariff filing requirements, alone, introduces substantial delay in time-to-market and ability to respond to changing

[4] *Vonage Holdings Corp. v. MPUC*, 290 F. Supp. 2d 993, 1002 (D. Minn. 2003), *affirmed*, *Vonage Holdings Corp. v. MPUC*, 394 F.3d 568 (8th Cir. 2004).

[5] *In the Matter of Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order, ¶ 14 WC Docket No. 03-211 (Nov. 12, 2004)(herein the "*Vonage Order*").

consumer demands, not to mention the impact these processes have on how an entity subject to such requirements provides its service."[6]

In summarizing its action to preempt this Commission's Vonage Order, the FCC drew an important line in the sand with respect to jurisdictional questions over Vonage's nomadic VoIP service *and other IP-enabled services:*

> [the FCC], not the state commissions, has the responsibility and obligation to decide whether certain regulations apply to [Vonage's nomadic voice service] and other IP-enabled services having the same capabilities. For such services, comparable regulations of other states must likewise yield to important federal objectives.[7]

B. The FCC's IP-Enabled Services Docket.

Following on the heels of its *Vonage Order*, the FCC issued the first of what would be a series of orders that decided whether certain regulations would apply to VoIP services.[8] In the first of this series of orders, the FCC determined that "interconnected VoIP providers" were required to comply with rules it promulgated regarding enhanced 911 services.[9] The FCC again declined to classify interconnected VoIP as either an information or telecommunications service, choosing instead to analyze whether to enact new regulations under its Title I jurisdiction over both types of service. Despite recognizing the important role that states had historically played in public safety matters, the FCC did not expressly authorize any state authority regarding the implementation of the *E911/IP-Enabled Services Order*. Instead, it issued a Notice of Proposed Rulemaking "seeking comment on what role states can and should play to help implement the E911 rules we adopt today."[10] In 2008 Congress adopted the "Net 911 Act" granting the FCC authority to *delegate* authority to states to enforce E911 regulations over "IP-enabled

[6] The FCC found that sections 230 and 706 of the Telecommunications Act of 1996 were consistent with its decision to preempt the Commission's Vonage Order. Section 230 provides, "[i]t is the policy of the United States – to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation." *Vonage* Order, ¶ 33. The FCC also found support in section 706 for its preemption of this Commission's assertion of jurisdiction over Vonage. *Id.* at ¶36. The FCC found that VoIP drove demand for broadband connections, and consequently encouraged broadband investment and deployment. *Id.* The Commission found that "precluding multiple disparate attempts to impose economic regulations" on Vonage advanced the goals of section 706. *Id.*

[7] *Id.* ¶1.

[8] *In re IP-Enabled Services*, First Report and Order and Notice of Proposed Rulemaking, WC Docket No. 04-36 (June 3, 2005).

[9] *Id.* ¶1.

[10] 47 U.S.C. § 615a-1(d).

voice providers." Congress further granted states authority to collect 911 fees from IP voice providers. Clearly, in precisely delineating the extent of state authority over a traditional area of state concern, both the FCC and Congress were affirming the priority of the national policy set forth in section 230 not to interfere with Internet related technologies. Both the FCC and Congress also affirmed that they alone, and not state commissions, are to determine whether state regulations would apply to IP-enabled services such as interconnected VoIP service.

Subsequent FCC orders in its *IP-Enabled Services* docket have followed the same pattern as the FCC's *E911/IP-Enabled Services Order*. In addition to federal E911 rules, interconnected VoIP service providers must: (i) comply with Local Number Portability (LNP) rules;[11] (ii) limit use of customer proprietary network information (CPNI), such as telephone calling records, and also protect such information from disclosure;[12] (iii) comply with the provisions of the federal Communications Assistance for Law Enforcement Agencies Act (CALEA);[13] (iv) contribute to the federal Universal Service Fund;[14] (v) comply with the discontinuance of service notification obligations that apply to domestic non-dominant telecommunications carriers under Section 214;[15] (vi) comply with federal Telecommunications Relay Services (TRS) requirements, contribute to the federal TRS Fund, offer abbreviated 711 dialing for access to relay services, and ensure services are available to and usable by individuals with disabilities, if such access is readily achievable;[16]and report qualifying outages to the FCC.[17]

Charter voice customers today are protected by these existing federal regulations, just as nomadic VoIP customers (and wireless customers) are today. More importantly, Charter customers are protected by an intensely competitive retail marketplace for voice

[11] *IP-Enabled Services*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 1953143 ¶17 (Nov. 8, 2007).
[12] *IP-Enabled Services*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 692740 ¶54 (April 2, 2007).
[13] *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, ET Docket No. 04-295, First Report and Order and Further Notice of Proposed Rulemaking, 20 FCC Rcd 14989, 14991-92, ¶ 8 (2005).
[14] *IP-Enabled Services*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 ¶34 (June 27, 2006).
[15] *IP-Enabled Services*, Report and Order, 24 FCC Rcd 6039, ¶8 (May 13, 2009).
[16] *IP-Enabled Services*, Report and Order, 22 FCC Rcd 1127541 ¶¶17-31 (June 15, 2007).
[17] *In re The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Report and Order, 27 FCC Rcd 265055, ¶46 (Feb. 21, 2012).

services. If customers do not receive the service they want or need from Charter, they can vote with their feet and move to other voice service providers, whether that be wireless providers, incumbent LECs, or nomadic VoIP providers.

III. THE DOC COMPLAINT SHOULD BE DISMISSED FOR LACK OF JURISDICTION AND FOR FAILURE TO COMPLY WITH THE COMMISSION'S RULES

A. The Commission Maintains No Jurisdiction Over VoIP.

In its Complaint, the DOC, again, asks this Commission to assert jurisdiction over a VoIP service. The Commission has no jurisdiction over Charter's interconnected VoIP service and it should therefore dismiss the DOC Complaint. As discussed in the background section above, the FCC has refused to classify interconnected VoIP as either an information or telecommunications service. And while the FCC has steadfastly refused to categorize interconnected VoIP services, the FCC has asserted its jurisdictional authority *as if* interconnected VoIP were an information service. And the FCC warned this Commission and all other states that it is "highly unlikely that the Commission would fail to preempt state regulation of those services to the same extent" it did in the *Vonage Order*. These statements and actions, over a period of ten years, strongly indicate that the FCC believes VoIP services, whether fixed or nomadic, are unregulated information services. Thus, except to the extent permitted by the FCC in the *IP-Enabled Services* docket, this Commission has no jurisdiction over Charter's VoIP service.[18] The FCC has not explicitly granted states any authority over VoIP services of any kind. And this Commission has not attempted to assert jurisdiction over VoIP services since its failed attempt to do so in the *Vonage* case.

With respect to the Telecommunications Access Minnesota (TAM) and Telephone Assistance Plan (TAP) programs, which are a substantial subject matter of the DOC Complaint, this Commission has remained silent as to whether VoIP providers must participate in such programs, either as contributors or participants. This Commission

[18] *See Verizon v. FCC*, 740 F.3d 623, 650 (D.C. Cir. 2014)(holding that with respect to FCC jurisdiction over broadband services, which the FCC has classified as "information services," the FCC would violate 47 U.S.C. section 153(51) of the Communications Act were it to regulate broadband providers as common carriers.). Section 153(51) provides, "A telecommunications carrier shall be treated as a common carrier under this [Act] only to the extent that it is engaged in providing telecommunications services."

opened a docket in 2009 asking a series of questions underscoring its own doubts about its jurisdiction over interconnected VoIP providers. This Commission asked for comment on important questions, such as "Has Congress or the FCC preempted the application of a) TAP, b) TAM, and c) 911 statutes to fixed interconnected VoIP or other VoIP providers?[19] Several parties commented in that proceeding that this Commission has no regulatory jurisdiction over VoIP and/or no ability to require VoIP providers to participate in the TAP or TAM programs.[20] After soliciting these comments over five years ago, the Commission has taken no action. More recently, in its 2014 TAP Annual Review docket, the Commission's staff observed that the TAP revenue base was declining due, among other reasons, to "the continued migration of telecommunications users to wireless and VoIP services" and that the Commission's jurisdiction with respect to VoIP was "still an open issue."[21]

Because Charter Advanced Services is not a "local service provider that provide[s] local exchange services" in Minnesota, Charter Advanced Services is not obligated to contribute to the TAP fund,[22] and it ceased making voluntary contributions to that fund after Charter Fiberlink assigned its interconnected VoIP customers to Charter Advanced Services on March 1, 2013. Contrary to the allegations in the DOC Complaint, however, Charter Fiberlink has continued to honor the settlement agreement it entered into with the DOC in 2009 in which it voluntarily agreed that TAP credits would continue to be provided to Charter voice customers.[23]

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[19] *In the Matter of a Commission Investigation of the Applicability of 911, TAP, and TAM Surcharges to VoIP Services*, Notice Soliciting Comments, MPUC Docket No. P999/CI-09-157 (May 14, 2009).

[20] *Id., see* Reply Comments of VON p. 4 (July 10, 2009), Comments of Minnesota Cable Communications Ass'n, p. 2 (June 29, 2009), Qwest Corporation's Reply Comments, p. 1 (July 13, 2009), Comments of Vonage Holdings, p.1 (June 15, 2009).

[21] *In the Matter of the Telephone Assistance Plan (TAP) Annual Review*, Minnesota Public Utilities Commission Staff Briefing Papers, MPUC Docket No. P999/CI-14-470 (filed Aug. 5, 2014), p. 8.

[22] Minn. R. 7817, which contains this Commission's TAP rules applies to "local service providers." A "local service provider is defined as "a service provider of local exchange service." Minn. R. 7817.0100, Subp. 10a.

[23] DOC Complaint, at p. 13. While Charter continues to provide the TAP credit to [**trade secret data begins] [trade secret data ends]** customers, Charter Advanced Services does not pay into the TAP fund, nor does Charter Advanced Services receive reimbursement from the fund for the TAP credits it continues to provide. Since March 1, 2013, Charter has provided [**trade secret data begins] [trade secret data ends]** in TAP credits. Charter estimates the amount it would have paid into the TAP fund during this period if it were providing local exchange services in Minnesota to be **[trade secret data begins] [trade secret data ends].** Thus, over the past 19 months, Charter has voluntarily provided a greater amount in TAP credits to Minnesota customers than it would have paid into the TAP fund.

The DOC Complaint also alleges Charter violated state law by transferring Charter Fiberlink customers to Charter Advanced Services "without prior Commission notice or approval," and without "meaningful notice or prior consent" of Charter's customers. The DOC attempts to mischaracterize this transfer as a "slamming" incident. However, none of the statutory provisions the DOC cites as having been violated apply to VoIP services. It makes no difference that Charter Fiberlink holds a certificate of authority from this Commission. The jurisdictional question underlying this dispute is one of subject matter jurisdiction – the Commission either has jurisdiction or it doesn't. The fact that Charter voluntarily paid into the TAP fund, or voluntarily agreed to comply with certain Commission rules relating to telephone or telecommunications services for any period of time while it offered VoIP services in Minnesota is irrelevant. Subject matter jurisdiction cannot be waived.[24] The FCC has never granted any authority to states to enforce traditional common carrier telephone regulations over VoIP services. A regulation that requires obtaining permission from a state commission before transferring VoIP customers from one corporate entity to another is precisely the type of common carrier regulation that is preempted by federal law.

The DOC also claims Charter Advanced Services is operating in violation of state law because it does not hold a certificate of authority from this Commission. State certification requirements were just the kind of market entry restrictions that were expressly preempted in the FCC's *Vonage Order.*[25] The FCC has never permitted states to impose market entry restrictions on any VoIP provider under any circumstances. Nor – since the FCC's *Vonage Order* – has the Commission sought to impose such entry requirements on VoIP providers. The DOC is well aware of this fact based on a 2007 docket reviewing Comcast Phone of Minnesota, Inc.'s decision to discontinue its Digital Phone product line in favor of its VoIP-based Digital Voice product line in which the DOC filed comments asserting that "The Department's view is that whether and to what extent the Commission chooses to assert jurisdiction over the [Digital Voice] offering (*and other similar offerings in Minnesota*) is currently for the Commission to

[24] *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006).
[25] *Vonage Order*, at ¶20.

determine."[26] Indeed, there would be no rational justification for requiring fixed VoIP providers to obtain a certificate before they can provide service, and not requiring the same of nomadic VoIP providers. The certification process is the process by which this Commission asserts its full jurisdiction over telecommunications carriers in Minnesota. There is a lengthy application process, financial disclosures, and a panoply of common carrier requirements that apply to certificated carriers. However, none of them apply to interconnected VoIP carriers. As the FCC has stated, one of the primary purposes of deregulating VoIP services was to establish a uniform, national regulatory structure for VoIP services. In its *Vonage Order*, the FCC said it could not "permit more than 50 different jurisdictions to impose traditional common carrier economic regulations such as Minnesota's . . . and still meet our responsibility to realize Congress's objective."

Charter's interconnected VoIP services are not subject to this Commission's jurisdiction. This Commission's jurisdiction over VoIP services is preempted by federal law. Charter is not required to participate in the TAP and TAM programs. Charter does not require the permission of this Commission to assign VoIP customers from one affiliate to another. Charter Advanced Services does not need to obtain a certificate of authority from this Commission in order to provide interconnected VoIP services in Minnesota. For all of these reasons, the DOC's Complaint must be dismissed.

B. The Complaint Is Fatally Flawed And Must Be Dismissed.

In addition to lacking any jurisdiction over interconnected VoIP services, the DOC's Complaint should also be dismissed because it fails to satisfy the Commission's formal complaint filing requirements. Commission Rule 7829.1700 provides that a formal complaint must include the relief sought by complainant. The DOC Complaint fails to specify what relief it is requesting from the Commission. This is a critical requirement because Minn. Rule 7829.1800 provides that "[o]n concluding that it has jurisdiction over the matter and that investigation is warranted, the commission shall serve the complaint on the respondent, together with an order requiring the respondent to file an answer either *stating that it has granted the relief the complainant requests*, or responding to the allegations of the complaint." Because the Complaint fails to request

[26] *In the Matter of Comcast Phone of Minnesota, LLC's Notice of Discontinuance of Comcast Digital Phone Service*, Comments of the Minnesota Department of Commerce, MPUC Docket No. P3123/M-07-1417 (Dec. 14, 2007), p. 10 (Emphasis added).

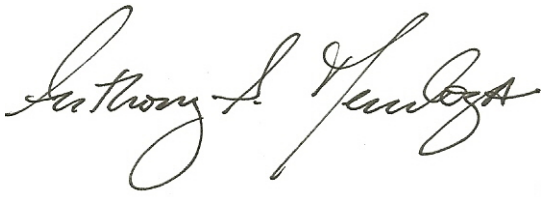
any relief, Charter is deprived of the ability to evaluate whether it can agree to the relief requested by the DOC. If the Commission does not dismiss the DOC Complaint for lack of subject matter jurisdiction, at minimum, the Commission should dismiss the DOC's complaint due to this fatal flaw.

IV. CONCLUSION

The DOC's Complaint asks this Commission to repeat the same mistake it made over 10 years ago when it asked this Commission to assert jurisdiction over Vonage's nomadic VoIP service. At that time, no one may have fully understood the ramifications of the Commission's decision to assert jurisdiction over Vonage. But the decision triggered a series of actions that has fundamentally changed the way voice services in this country are provided and regulated. Congress and the FCC have recognized and embraced the technological advances in the provision of voice services since the Vonage decisions, and have responded by establishing a national approach to regulating VoIP services. The FCC has carefully guarded its jurisdiction over, and national approach to, VoIP services from encroachment by the states. It has on numerous occasions had the opportunity to permit states to regulate or participate in the regulation of VoIP services, but it has steadfastly refused to allow such state participation. For these reasons, until the FCC expressly permits states to regulate fixed VoIP providers, this Commission has no jurisdiction, and the DOC's Complaint must be dismissed.

Dated: October 22, 2014

Respectfully submitted,



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