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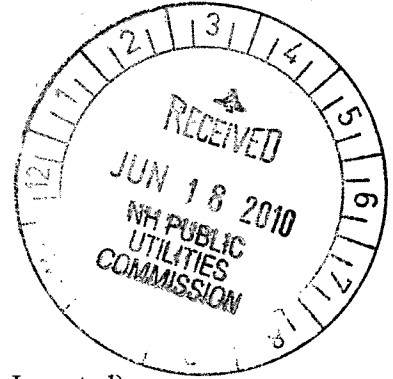
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Hand Delivered

June 18, 2010

Debra Howland
Executive Director & Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH MD 03301-2429



Re: Docket No. DT 08-028 (Joint Petition of Hollis Telephone Company, Inc. et al).

Dear Ms. Howland,

Attached please find Global NAPs Inc.'s Ex Parte Response Pursuant to 47 C.F.R. §1.1206(b), to Comments Made at May 26, 2010 Meeting in Regard to Proceedings in WC Docket No. 10-60, filed with the Federal Communications Commission on June 17, 2010. This filing was electronically filed today. Seven copies of this filing were delivered to the Commission today.

Sincerely yours,

Joel Davidow
Joel Davidow

SMG:bas
Enclosure

cc: Electronic Service List

State of New Hampshire
Before the New Hampshire Public Utilities Commission

DT 08-028

Joint Petition of Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company, Inc., for Authority to Block the Termination of Traffic from Global NAPs, Inc. to Exchanges of the Joint Petitioners in the Public Switched Telephone Network

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OF COUNSEL - SAMUEL V. GOEKJIAN

June 17, 2010

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: In the Matter of Petition for Declaratory Ruling and Alternative Petition for
Preemption to the Pennsylvania, New Hampshire and Maryland State
Commissions WC Docket No. 10-60

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), this letter is to provide notice of written *ex parte* comments. The attached Ex Parte Response Pursuant to 47 C.F.R. §1.1206(b), to Comments Made at May 26, 2010 Meeting in Regard to Proceedings in WC Docket No. 10-60, was mailed electronically to Marcus Maher, Sharon Gillett, Jennifer Prime, William Dever, Pamela Arluk, Albert Lewis, Commissioner Copps, Commissioner McDowell, Commissioner Clyburn, Commissioner Baker, Chairman Genachowski, Priya Aiyar, Jennifer Schneider, Christine Kurth, Angela Kronenberg and Christi Shewman. The above document has also been filed electronically in the above-captioned docket through the Commission's Electronic Comment Filing System procedures and two copies of the filing are attached to this letter. If you have any questions or require additional information, kindly contact the undersigned at (202) 263-0806.

Thank you for your attention.

Sincerely,


Joel Davidow

KILE
GOEKJIAN
REED

 **McMANUS** PLLC
ATTORNEYS AT LAW

MEMORANDUM

June 17, 2010

To: Sharon Gillett
From: Joel Davidow
Subject: Ex Parte Response Pursuant to 47 C.F.R. §1.1206(b), to Comments Made at May 26, 2010 Meeting in Regard to Proceedings in WC Docket No. 10-60

On March 5, 2010, Global NAPs Inc., a VoIP forwarder based in Quincy, Massachusetts, and several of its affiliates (collectively “Global”), filed a petition in this Commission requesting four clarifications of FCC policy and seeking a preemption ruling to prevent state commissions in Pennsylvania, Maryland, and New Hampshire from enforcing anticipated decisions. This memorandum is submitted to respond to, rebut, and correct assertions made during a May 26, 2010 meeting about that petition.

Background

It is helpful, at the outset, to review the facts which led to the filing of Global’s petition. In 2007, TVC, an independent telephone company (“ICO”) filed a complaint against Global at the New York Public Service Commission seeking payment of intrastate tariff charges. The New York Commission concluded that Global’s traffic was primarily nomadic Voice over Internet Protocol (“VoIP”) and thus interstate under the *Vonage* ruling and not subject to intrastate tariffs.

Two years later, another ICO, Palmerton, filed a complaint at the Pennsylvania Public Utility Commission (“PAPUC”) seeking similar payments from Global. At the fact hearing in that proceeding, those companies that supposedly originated the calls at issue admitted to selling

their phone numbers to Vonage. Global's telecommunications expert, Dr. John Fike, of Texas A&M University, further testified that a significant amount of Global's traffic was nomadic VoIP, and that the vast majority was enhanced in ways that included the removal of background noise and addition of short codes. Having heard this evidence, the Pennsylvania Commission administrative law judge ("ALJ") ruled for Global on all issues concerning payment of intrastate access charges for the disputed traffic. The Chairman of the commission, supported on various grounds by the other commissioners, did not overturn the ALJ's specific findings of fact, but decided that Global must pay full intrastate rates for termination of all calls that originated at a Pennsylvania area code. The Chairman held that *Vonage* did not prevent states from enforcing intrastate tariffs with respect to the exchange of nomadic VoIP traffic, and that the enhancements to Global's traffic were too minor to change its nature. His decision was adopted by the full Commission and will influence suits by other members of the Pennsylvania Telephone Association against other VoIP carriers, which are pending in the PAPUC and await the result in the Global matter.

In Maryland, a Public Service Commission ALJ found for Global on the question of whether intrastate charges should apply to VoIP traffic, but the staff recommended to the Commission that it should nevertheless order Global to pay the local ICO, Armstrong, for all calls exchanged between telephone numbers associated with intrastate area codes.

In New Hampshire, despite a finding that some of Global's traffic might be nomadic VoIP, Global was ordered to pay the local city ICOs at full intrastate rates or at whatever rates the ICOs would accept. The New Hampshire commission also ruled that Global's traffic would be blocked if Global did not meet the ICOs' conditions.

The Pending Petition

In light of these events, Global petitioned this Commission, asserting that its directives in *Vonage* were being ignored in some states, that interstate traffic was wrongfully being blocked, that a progressive industry segment of VoIP forwarders was being threatened and that the costs and risks of litigation had become excessive.

Global therefore requested that this Commission clarify its pronouncements as to the treatment of nomadic VoIP traffic. The first three requested clarifications in Global's petition related to the implications of the topics discussed in the Commission's 2004 *Vonage* decision:¹ The interstate nature of nomadic VoIP, the need for uniformity in a national regime governing internet traffic, the impossibility of separating nomadic VoIP traffic into interstate and intrastate components and the impossibility or exorbitant cost of determining where callers originated nomadic VoIP calls. Global's petition asked the Commission to affirm that certain determinations flow logically from the discussions in *Vonage*:

- (1) that since nomadic VoIP calls are declared jurisdictionally interstate, they may not be subjected to intrastate tariffs
- (2) that since intrastate charges may not be imposed on any interstate calls, intrastate charges cannot be assessed on an estimated percentage of non-nomadic or non-interstate calls; and
- (3) that since the showing that a nomadic VoIP call originates from a phone with an intrastate area code (based on the LERG or a NANP number) does not prove where the caller resides or attest to the geographic location from which the caller placed the call, area codes should be

¹ *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, 19 F.C.C.R. 22404, 2004 WL 2601194 (2004) (*Vonage*).

deemed to be insufficient proof to support the imposition of intrastate tariff charges on nomadic VoIP calls.

As we noted, all of these positions have been embraced, expressly or implicitly, by the New York PSC² and/or by ALJs in the Maryland³ and Pennsylvania⁴ commissions. On the other hand, the same positions were rejected by the Pennsylvania PUC⁵ and the New Hampshire PUC.⁶

The fourth clarification sought by Global was that “intermediate” carriers of VoIP traffic -- i.e. ones who do not have end user customers and do not carry the call out of the area where it originates -- are not subject to access charges. Our position on this issue was based on footnote 92 of this Commission’s *IP-in-the-Middle*⁷ decision and on the Wireline Competition Bureau’s ruling in the *Time Warner*⁸ case. Also, that position had recently been accepted by the Maryland ALJ. *Armstrong*, at 24.

² NYPSC Case No. 07-C-0059, *Complaint of TVC Albany, Inc. d/b/a Tech Valley Communications Against Global NAPs, Inc. for Failure to Pay Interstate Access Charges*, Order dated March 20, 2008, (*TVC*) at 14-15.

³ *Proposed Order In The Matter Of The Investigation, Examination And Resolution Of Payment Obligation Of Global NAPs–Maryland, Inc. For Intrastate Access Charges Assessed By Armstrong Telephone Company –Maryland* (December 30, 2009) (*Armstrong*) at 19, 22.

⁴ *Palmerton Telephone Company v. Global NAPs South, Inc., Global NAPs Pennsylvania, Inc., Global NAPs, Inc., and other affiliates*, C-2009-2093336, Initial Decision issued August 11, 2009 (*Palmerton*) at 14, 15-16, 17, 29.

⁵ *Palmerton Telephone Company v. Global NAPs South Inc. and Other Affiliates*, C-2209-2093336, Rewrite Opinion and Order, dated March 16, 2010 (*PAPUC Order*) at 9, 14, 25-26, 29-33, 38-42, found at <http://www.puc.state.pa.us/general/ConsolidatedCaseView.aspx?Docket=C-2009-2093336> (adopting and expanding Motion of Chairman Cawley (dated February 11, 2010)).

⁶ NHPUC Order Denying Motion for Stay, Rehearing or Reconsideration, No. 25-088, (April 2, 2010) at 15; NHPUC Order Addressing Petition for Authority to Block the Termination of Traffic from Global NAPs Inc., No. 25,043 (November 10, 2009) at 18-20.

⁷ *In the Matter of Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, FCC WC Docket No. 02-361, FCC 04-97 (released April 21, 2004) (*IP-in-the-Middle*).

⁸ *In the Matter of Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, WC

Prior to the May 26th meeting, Global had understood that its positions had a significant amount of support, given endorsements from a number of commenting parties. The VON coalition had urged the Commission to accept Global's petition.⁹ The comments of Verizon and Sprint indicated that they shared Global's view that nomadic VoIP is interstate and should not be subjected to intrastate rates.¹⁰

The May 26 Meeting and Global's Responses to the Points Raised

At the May 26th meeting, a number of points were presented in a manner suggesting that, unless refuted, they might constitute reasons for not granting Global's petition. The purpose of this memorandum is to review those objections, as we understood them, and to reply to them. Four primary points appear to have been raised at the May 26 meeting:

1) The statement was made that *Vonage* only banned state "regulation" of traffic in instances where it "conflicts" with federal law and policy. Even if this were true, there cannot be any doubt that the imposition of intrastate access charges on nomadic VoIP calls poses an explicit conflict with federal law. The Commission made that clear when it established interstate jurisdiction over nomadic VoIP calls and preempted the states from regulating them.

Indeed, the Commission could not have been more explicit that the *Vonage* order left nothing to be decided in regard to the ability of states to regulate nomadic VoIP. It stated in the first paragraph of *Vonage* that it had taken jurisdiction away from the states in regard to settling issues involving nomadic VoIP traffic:

Docket No. 06-55, DA 07-709, Memorandum Opinion and Order, (March 1, 2007) (*Time Warner*).

⁹ VON Comments, at 1-2.

¹⁰ Verizon Comments, at 3; Sprint Reply Comments, at 2; *See also* U.S. Telecom Comments, at 3.

. . . . this Commission, not state commissions, has the responsibility and obligation to decide whether certain regulations apply to DigitalVoice and other IP-enabled services having the same capabilities.¹¹

The Commission then clearly identified in that same paragraph those state functions -- the “general laws governing entities conducting business in the state” -- that it was *not* preempting: “states will continue to play their vital role in protecting consumers from fraud, enforcing fair business practices, for example in advertising and billing, and generally responding to consumer inquires and complaints.” *Vonage*, at ¶1. It is beyond question that the application of intrastate telecommunications charges does not fall within the “general laws” applicable to any business operating in a state. The Commission conspicuously left the intrastate tariffing of nomadic VoIP off the list of functions still available to the states and announced that: “*We emphasize that . . . we have decided the jurisdictional question for Vonage’s DigitalVoice here . . .*” *Vonage*, at ¶44 (emphasis added). Thus, although the *Vonage* decision still allows a state to regulate Vonage as a company by imposing duties or taxes on it, pursuant to traditional state powers,¹² it did not leave any room for state commissions, such as the PAPUC, to unilaterally decide to allow local telephone companies to impose intrastate tariffs on traffic that the Commission has declared must be treated as interstate in nature.

Furthermore, the *Vonage* opinion makes clear that imposing intrastate tariffs on nomadic VoIP conflicts with the federal policy of uniformity in regard to internet services. This Commission stated in its *Vonage* Order that its assertion of jurisdiction over VoIP traffic was not based solely on the impossibility of separating VoIP traffic into intrastate and interstate

¹¹ *Vonage*, at ¶1.

¹² Statement of Michael K. Powell, *Vonage*, at 35.

categories by using call termination points. It also declared – and the 8th Circuit acknowledged¹³ – that there exists a national interest over traffic that touches the internet, since

. . . . Congress has included a number of provisions in the 1996 Act that counsel a *single national policy* for services like DigitalVoice.¹⁴

The Commission concluded:

Finally, DigitalVoice, like other Internet services, is likely the type of commerce that is of such a ‘unique nature’ that it ‘*demand[s] cohesive national treatment*’ under the Commerce Clause. Because DigitalVoice is not constrained by geographic boundaries and cannot be excluded from any particular state, *inconsistent state economic regulation could cripple development of DigitalVoice and services like it*. If Vonage’s DigitalVoice service were subject to state regulation, it would have to satisfy the requirements of more than 50 jurisdictions with more than 50 sets of regulatory obligations.¹⁵

Thus, when some state entities, such as the Pennsylvania PUC, ignore the rulings of other state entities seeking to comply with *Vonage* and issue inconsistent decisions that assert jurisdiction and enforce prohibitively high access rates on indisputably nomadic VoIP traffic, such actions clearly conflict with the Commission’s *Vonage* Order and the policy of uniformity expressed in it. In fact, the \$0.04-\$0.06 per minute of use (“MOU”) rates that the ICOs in Pennsylvania, Maryland and New Hampshire wish to charge VoIP carriers are not only about 40 times higher than the \$.00045 per MOU rates that incumbent carriers charge for VoIP termination, but also four to six times higher than the standard approximately \$.01 per MOU that incumbent carriers, who comprise the majority of terminating carriers, charge for termination of landline long distance traffic. Thus, the ICO rates being considered in the Maryland, Pennsylvania and New Hampshire state commissions are not consistent with any standard

¹³ *Minnesota P.U.C. v. FCC*, 483 F.3d 570, 580 (8th Cir. 2007).

¹⁴ *Vonage*, at ¶33 (emphasis added).

¹⁵ *Vonage*, at ¶41 (emphasis added) (citing *American Libraries Ass’n v. Pataki*, 969 F. Supp. 160, 170 (S.D.N.Y. 1997); *American Civil Liberties Union v. Johnson*, 194 F.3d 1149, 1162 (10th Cir. 1999) (“As we observed . . . certain types of commerce have been recognized as requiring national regulation The Internet is surely such a medium.”)).

termination rates, and allowing them to be assessed would only stymie innovative service offerings and perpetuate the lack of uniformity *Vonage* was intended to end.

2) There was a suggestion that the *IP-in-the-Middle* decision can be read as only protecting from access charges IP-originated VoIP traffic which undergoes a “net protocol shift” earlier in transmission but not TDM-originated VoIP traffic that undergoes a protocol shift later. Although it appears that this point was raised as a basis for doubting the petition, it is not clear how this point is harmful to or has any impact at all on Global’s requests for relief. Nomadic VoIP traffic, which is the subject of Global’s petition, is IP-originated traffic and always undergoes a net protocol shift.¹⁶ Thus, this argument is irrelevant to the questions presented by the pending petition, and it should not distract from the core concern that certain states have assumed jurisdiction over nomadic VoIP traffic that this Commission deemed interstate in nature. For example, the ruling of the Pennsylvania PUC, which accepts its ALJ’s finding that Global’s traffic includes nomadic VoIP, *PAPUC Order* at 31-32, but then insists that Global pay intrastate tariff charges¹⁷ on *all* traffic is directly contrary to the narrowest reading of the *IP-in-the-Middle* decision as well as to the “jurisdictionally interstate” characterization of such traffic in *Vonage*.

Furthermore, the conclusion of the *IP-in-the-Middle* authors that AT&T’s mid-way protocol shift was of no consequence does not mean that it is physically or legally impossible for an intermediate carrier to transform traffic sufficiently for it to become an enhanced or information service under the TCA’s definitions and under this Commission’s exemptions for

¹⁶ *Vonage Holdings Corp. v. Ne. Public Service Comm’n*, 564 F.3d 900, 902 (8th Cir. 2009) (“Nomadic service allows a customer to use the service by connecting to the Internet wherever a broadband connection is available”); *Southwestern Bell Telephone v. Missouri Pub. Serv. Comm’n*, 461 F.Supp.2d 1055, 1082 (E.D. Mo. 2006) (“IP-PSTN traffic . . . involves a net protocol conversion from the digitized packets of the IP protocol to the TDM technology used on the PSTN”) (citations omitted).

¹⁷ *PAPUC Order*, at 60.

such service. Even if a call were not subject to a “net protocol shift,” an intermediate carrier might still transform that traffic sufficiently for it to become an enhanced or information service. This was recognized by federal judges in the *Transcom* cases¹⁸ and also by the ALJ in Pennsylvania who heard expert testimony on the subject of enhancements. Such testimony revealed that if for instance, an intermediate carrier removes background noise from a call, the audibility of that call can be significantly improved and the shift of the call back to TDM at its conclusion will not prevent the customer from experiencing the beneficial enhancement. *See e.g. Palmerton*, at 33, 50. Having heard this testimony and acknowledged that “[e]ntities that offer enhanced protocol processing services in conjunction with basic transmission services are treated as unregulated enhanced service providers,”¹⁹ and that “a service that routinely changes the form or the content of the telephone call is an enhanced service and an information service”²⁰ the *Transcom* judges and the Pennsylvania ALJ limited their roles to determining the credibility of witnesses attesting to various non-trivial enhancements.

The Pennsylvania commissioners, on the other hand, deprecating the analyses of the Pennsylvania ALJ and the *Transcom* judges, decided to rely on subjective condemnations of the various enhancements highlighted by Global’s technical expert before the fact-finding ALJ.²¹ Such determinations, however, put them in a position of taking over FCC functions and contributing to a highly undesirable trend where enhanced VoIP calls are treated differently in different states. This problem was recognized by Judge Siragusa in *Frontier Telephone of*

¹⁸ *See In re Transcom* (Case No. 05-31929-HDH-11) (Bankr. N.D. Tex. September 20, 2007) (*Transcom III*); *In re Transcom Enhanced Services, LLC* (Case No. 05-31929-HDH-11) (Bankr. N.D. Tex. April 28, 2005) (*Transcom I*), vacated on other grounds, *AT&T v. Transcom Enhances Services, LLC*, (Civ. Action No. 3:05-CV-1209-B) (Bankr. N.D. Tex. January 20, 2006) (*Transcom II*).

¹⁹ *Palmerton*, at 46.

²⁰ *Transcom I*, at 11, *Transcom III*, at 5.

²¹ *PAPUC Order*, at 36-38.

*Rochester v. USA Datanet Corp.*²² When asked, in that case, to determine whether Datanet's enhancements were sufficient to qualify its traffic for treatment as "enhanced" he stated:

As to whether or not Datanet's VoIP telephone service provides "enhanced functionality," the Court believes that this inquiry involves technical and policy considerations that are particularly within the expertise of the FCC. (citations omitted).²³

Thus, he held that the case had to be stayed on primary jurisdiction grounds in order to avoid inconsistent results and interference with the Commission's determination of enhancement issues. *Id.* at 150-51.

3) There was a suggestion that since Global had obtained licenses as a telecommunications carrier and did not claim to enhance traffic itself, it had no right to any exemption for information or enhanced services. But the Commission's regulations clearly demonstrate that telecommunications carriers such as Global can also carry information services. 47 C.F.R. § 51.100(b), states "A telecommunication carrier that has interconnected or gained access under sections 251(a)(1), 251(c)(2), or 251(c)(3) of the Communications Act of 1934, as amended (the "Act"), may offer information services through the same arrangement"

Furthermore, the position that an intermediate carrier is not eligible for exemption from access charges conflicts with the FCC's decision in the *Time Warner* case. There, the Commission held that "intermediary" carriers of VoIP traffic – firms like Global NAPs – were entitled to interconnect with terminating carriers pursuant to their rights under section 251 of the Act. This meant that intermediary carriers should also be able to terminate traffic at negotiated, cost-based rates rather than tariff rates. The Commission stated that

We further find that our decision today is consistent with and will advance the Commission's goals in promoting facilities-based competition as well as

²² 386 F.Supp.2d 144, 150 (W.D.N.Y. 2005)

²³ *Id.* at 150.

broadband deployment. Apart from encouraging competition for wholesale services in their own right, ensuring the protections of section 251 interconnection is a critical component for the growth of facilities-based local competition.²⁴

ICOs in places like Pennsylvania, New Hampshire and Maryland, with the assistance of some state commissions, are attempting to do precisely what the LECs in *Time Warner* attempted to do in South Carolina and Nebraska. They are attempting to deny intermediate carriers the benefits of their section 251 interconnection rights. These are actions that this Commission has clearly prohibited, as exemplified not only by the *Time Warner* Order, but also by a press release by former Chairman Michael Powell, responding to a new connectivity tariff issued by SBC and addressing the effect that tariff could have in imposing “legacy access charges” on VoIP carriers:

Should we conclude that this [optional] tariff is being used to justify the imposition of traditional tariffed access charges on VoIP providers or to discriminate against SBC’s competitors, the Commission will take appropriate action . . . Nothing in this tariff should be interpreted to force a set of compensation relationships on VoIP providers *and their connecting carriers* at this commission or in other venues.

FCC Press Release, “Chairman Powell Issues Statement on SBC’s TIPToP Service” (November 26, 2004). (emphasis added).

The suggestion that the information and enhanced services exemptions do not apply to an intermediary would conflict not only with FCC pronouncements, but also with rulings in other tribunals. Such a conclusion would suggest that the judges and ALJs who have ruled in favor of providers such as Global,²⁵ CommPartners²⁶ and Transcom²⁷ in the past were in error.

In any event, bestowing protection from access charges only on Vonage, Skype and the like would be meaningless public policy since they do not originate or terminate traffic and thus

²⁴ *Time Warner*, at ¶13.

²⁵ See *TVC, Palmerton, Armstrong, supra*. See also *Manhattan Telecommunications Corp. v. Global NAPs Inc.*, 08-civ-3829 (JSR) (S.D.N.Y. Filed March 31, 2010).

²⁶ See *Paetec Communications Inc. v. CommPartners*, Civ. Action No. 08-0397 (D.D.C. Filed February 18, 2010).

²⁷ See *Transcom I, Transcom III, supra*.

cannot be assessed access charges -- they still must obtain connection to the PSTN through some other entity in every case. On the other hand, their ability to provide reasonably priced innovative services would certainly be impaired by the imposition of \$.04 or \$.06 per minute intrastate access charges on the companies that deliver their calls to their termination points.²⁸

4) The thought was expressed that any use of the “impossibility” doctrine to classify VoIP as interstate is no longer valid because providers like Vonage have some ability to determine or estimate what amount of their subscribers’ addresses are within a given state. Even if this were true in some cases -- and it appears at this point to be more supposition than fact -- a provider of nomadic VoIP services cannot know whether a subscriber was actually in the state when he or she used a modem to initiate a call.

In any event, in suits between Palmerton and Global NAPs in Pennsylvania, for instance, Vonage, the only party who could even guess at the originating location of the callers, was not a party nor was it subject to subpoena as a witness. Without information from Vonage, neither side has any ability to determine the originating physical location of any subscriber who purchased a phone number through a nomadic VoIP company. Furthermore, even if this information could be obtained, as this Commission pointed out in *Vonage*, ascertaining the actual origin of hundreds of thousands (and now millions) of calls would likely be prohibitively expensive for any party disputing the issue:

The significant costs and operational complexities associated with modifying or procuring systems to track, record and process geographic location information as a necessary aspect of the service would substantially reduce the benefits of using the Internet to provide the service, and potentially inhibit its deployment and continued availability to consumers.²⁹

²⁸ See e.g. *Armstrong*, at 23 (“Levying a local access charge on Global would levy a local access charge on Global’s traffic, which is, as Staff admits, essentially VoIP traffic.”).

²⁹ *Vonage*, at ¶23.

There is no reason to believe that this wise conclusion would be any different at present.

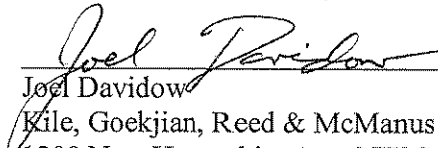
Finally, the Commission never intimated that its assertion of jurisdiction over VoIP traffic was based solely on the impossibility doctrine. To the contrary, it made clear in its *Vonage* order that it was asserting jurisdiction over VoIP in order to establish and preserve a national regulatory framework for internet telephony. *Vonage*, at ¶¶33, 41.

Conclusion

Global's case for a prompt grant of its petition has always been twofold: First, as the chart in our petition showed, uncertainty about the imposition of tariff charges on nomadic VoIP traffic has led to excessive litigation and a growing disparity of results -- the opposite of the uniform treatment of nomadic VoIP the FCC has always sought and espoused. Second, a clarification that intrastate charges are inapplicable to nomadic VoIP will reinforce the Commission's authority to set intercarrier compensation for all types of VoIP connections and carriers, whereas leaving the termination of nomadic VoIP traffic subject to a patchwork of intrastate rates imposed by all kinds of carriers will only complicate (if not undermine entirely) any such efforts by this Commission.

Global welcomes the opportunity to discuss these issues further in future meetings.

Respectfully submitted by


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Dated June 17, 2010

CERTIFICATE OF SERVICE

I, hereby certify that I have caused copies of the foregoing to be served on the attached service list.

Executed this day, June 18, 2010.


Victoria Romanenko

State of New Hampshire
Before the New Hampshire Public Utilities Commission

DT 08-028

Joint Petition of Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company, Inc., for Authority to Block the Termination of Traffic from Global NAPs, Inc. to Exchanges of the Joint Petitioners in the Public Switched Telephone Network

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