BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NOS. 2005-402-C, 2005-403-C, 2005-404-C, 2005-405-C, 2005-406-C

Complaint of Time Warner Cable Information Services (South Carolina), LLC, Complainant/Petitioner, v. St. Stephen Telephone Company, Defendant/Respondent.	)

Complaint of Time Warner Cable Information Services (South Carolina), LLC, Complainant/Petitioner, v. Farmers Telephone Cooperative, Inc., Defendant/Respondent.	)

Complaint of Time Warner Cable Information Services (South Carolina), LLC, Complainant/Petitioner, v. Home Telephone Company, Inc., Defendant/Respondent.	)

Complaint of Time Warner Cable Information Services (South Carolina), LLC, Complainant/Petitioner, v. PBT Telecom, Inc., Defendant/Respondent.	)

Complaint of Time Warner Cable Information Services (South Carolina), LLC, Complainant/Petitioner, v. Fort Mill Telephone Company, Defendant/Respondent.	)

JOINT MOTION TO DISMISS OR, IN THE ALTERNATIVE, HOLD PROCEEDINGS IN ABEYANCE

St. Stephen Telephone Company, Farmers Telephone Cooperative, Inc., Home Telephone Company, Inc., PBT Telecom, Inc., and Fort Mill Telephone Company (collectively "the Companies"), through their undersigned counsel, hereby respectfully request that the Public Service Commission of South Carolina ("the Commission") dismiss the above-captioned complaints or, in the alternative, hold the proceedings in abeyance. Specifically, this Motion is made on the following grounds:

1. The Commission has consolidated the above-captioned matters and scheduled them for hearing for June 27-29, 2006.

2. In its complaints, TWCIS alleges that the Companies are refusing requests for interconnection negotiations, in violation of 47 U.S.C. § 251(c)(1).

3. As alleged in the Companies' answers to the respective complaints, the Companies are under no obligation to enter into negotiations under 47 U.S.C. § 251(c), because the Companies are exempt from such obligations pursuant to 47 U.S.C. § 251(f). As such, the complaints should be dismissed for failure to state a claim upon which relief can be granted.

4. In the event that the Motion to Dismiss is not granted, the Commission should nevertheless hold the above-captioned proceedings in abeyance pending review and resolution of the IP-enabled services docket currently before the Federal Communications Commission ("FCC").

5. The FCC is considering a generic proceeding related to Internet-enabled services, including VoIP services. See In the Matter of IP-Enabled Services, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4864, para. 1 n.1 (2004) (defining the term "IP-enabled services") ("IP-Enabled Services NPRM"). Some of the elemental issues being considered are the appropriate regulatory classification of IP-enabled services like DigitalVoice and similar services, and what responsibilities and obligations should apply to such services.

6. Specifically, the FCC in its IP-Enabled Services NPRM contemplated addressing matters related to those at issue here:

> Further, what are the impacts of our decisions on consumers' ability to bring section 208 complaints against IP service providers? Similarly, will there be any impact on the ability of IP service providers to bring enforcement actions against carriers or other providers? Will our decisions have any affect on the Commission's ability expeditiously to address complaints between

> IP service and facilities-based carriers? *To the extent that IP-enabled services, or some subset thereof, are considered to be information services, would state commissions have the authority to resolve interconnection or service-related disputes? As a general matter, what role should state and local governments play with respect to these issues?* How would that change under various approaches outlined in the item?

IP-Enabled Services NPRM, at para.78 (emphasis added).

7. Moreover, on March 1, 2006, TWCIS and its parent company, Time Warner Cable, filed a Petition for Preemption, WC Docket No. 06-54, and Time Warner Cable filed a Petition for Declaratory Ruling, WC Docket No. 06-55, with the FCC essentially seeking a ruling that competitive local exchange carriers are entitled to interconnection with incumbent local exchange carriers for the purpose of transmitting traffic to or from another (third party) service provider, such as a Voice-over Internet Protocol ("VoIP") provider.

8. The allegations and legal issues presented in the complaints and those before the FCC are inextricably intertwined and it would not be an efficient or judicious use of Commission resources to address issues that will be determined at the federal level. With respect to the FCC's ongoing IP-Enabled Services rulemaking proceeding, the comment cycle has expired[1] and a decision by the FCC is pending that would define the classification of services at issue and, therefore, would materially affect the rights and obligations of the parties in this matter.

9. Because the FCC's actions will impact any decisions that may be made by the Commission with respect to these matters, any decision of the Commission that precedes a final ruling by the FCC may be premature.

[1] See Pleading Cycle Established for Comments in IP-Enabled Services Rulemaking Proceeding, WC Docket No. 04-36, Public Notice, 19 FCC Rcd 5589 (2004).

10. If the FCC refuses to act upon the pertinent proceedings currently before it, then this Commission, with all reasonable dispatch, should move forward to address the complaints filed by TWCIS.

WHEREFORE, for the foregoing reasons, the Companies respectfully request that the Commission grant this Motion to dismiss or, in the alternative, hold in abeyance the complaints filed by TWCIS until such time as the FCC can rule upon the relevant pending matters.

Respectfully submitted,

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May 12, 2006

Columbia, South Carolina.

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I, Rebecca W. Martin, Secretary for McNair Law Firm, P. A., do hereby certify that I have this date served one (1) copy of a Joint Motion To Dismiss or, In The Alternative, Hold Proceeding In Abeyance on behalf of the Defendants/Respondents in the above-referenced matters on the following parties of record by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

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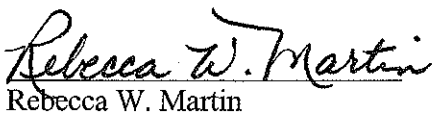

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