HOUSE COMMITTEE ON COMMERCE, LABOR AND ECONOMIC DEVELOPMENT

TESTIMONY OF VERIZON ON HB 2326

FEBRUARY 18, 2013

Good afternoon, Chairman Kleeb and Committee members. My name is Lyle Williamson and I am Verizon's Central Region Director of State Government Relations with responsibility for Kansas. Thank you for the opportunity to appear before you today. Verizon supports HB 2326 which, upon enactment, will provide certainty for investors and innovators in the broadband and Internet "app" economy by making clear that Voice over Internet Protocol (VoIP) and other IP-enabled services will not be subject to legacy telephone regulations in Kansas.

The purpose of my testimony today is to explain what VoIP and IP-enabled services are; to provide an overview of the policy in *other* states regarding these services; and to explain the role these services play in what is called the "broadband ecosystem," which may be the most important driver in today's economy. In my few minutes with you I will illustrate why states across the country are embracing this legislation and why Kansas should, as well.

I also will explain why VoIP is not the same as, and should not be treated the same as, plain old telephone service.

1. What are IP-enabled services?

IP-enabled services are the next generation of communications and are rapidly being deployed to meet consumer demand. These are broadband services and by definition require a broadband connection at the end user's location. They utilize Internet Protocol (IP) technology — which changes the contents of the communication into digital packets and sends them over the fastest available route over the Internet. By utilizing IP technology, these services can provide an integrated suite of capabilities and features for consumers to communicate by voice, data and/or video, and to manage their communications dynamically. VoIP — or Voice over Internet Protocol — is one type of IP-enabled service that provides voice communication. Examples of VoIP and other IP-enabled services include Skype, Vonage, Magic Jack, as well as a host of "digital voice" services provided by cable and telecommunications providers, wireless and wireline.

2. State Policy on VoIP and Other IP-enabled Services

Today, no state regulates VoIP and other IP-enabled services. I will qualify that statement in a moment. But to this point twenty-four states and the District of Columbia have enacted statutes that expressly *prohibit* the regulation of VoIP or IP-enabled services or both, and a number of other states have similar legislation pending this session. Just last September California became the twenty-fourth state to pass such legislation.

As of today, only three state commissions, I believe, are even *attempting* to assert jurisdiction over VoIP: Vermont, New Hampshire and – as of, January 30 of this year, Kansas. On that day, our KCC denied a petition for reconsideration made by TWC Digital Phone LLC, saying the KCC has authority to regulate TWC as a public utility, requiring it to obtain a certificate of convenience and authority and have its tariffs approved.

That presents two questions then, "Why have 24 states and D.C. made explicit the policy choice *not* to regulate VoIP and other IP-enabled services and should you step in now as state policymakers on this issue?"

State legislatures are recognizing (1) that IP-enabled services play a critical role in driving the development and expansion of the "broadband ecosystem;" (2) that this broadband ecosystem, which includes the Internet, broadband networks, service providers, "app" developers, communications devices, and equipment and chip manufacturers, *is essential to economic growth* and (3) just as the Internet developed and grew, IP-enabled services will best develop and grow without state regulatory involvement.

3. The Broadband Ecosystem

Perhaps the best way to describe the broadband ecosystem and its critical role in our economy is to envision a circle that has three segments to it: (1) one segment is the *broadband networks*, which could be wireline, cable, wireless, or

satellite; (2) a second segment is the *devices* that use the broadband networks, such as smart phones, laptops, iPads and other tablets; and (3) the third segment is the *applications* that you access from your device, such as a FaceTime, Facebook, Skype and other VoIP services, music apps, YouTube, etc. (This "circle" example is found in *The National Broadband Plan*, Ch. 3, at 15-16, available on the FCC's website.)

These three segments of the broadband ecosystem drive each other. For example, increased broadband deployment drives the growth of devices that use the broadband network and the growth of devices drives the growth of apps. Likewise, the popularity of devices drives the growth of apps, which in turn drives the growth of broadband networks, including of course, the Internet. This is what the FCC calls the "virtuous cycle" of the broadband ecosystem.

This illustrates how each segment of the broadband infrastructure influences the others. For example, if there were no broadband networks, or if the development of these networks were impaired by regulation, then there would be no (or fewer) devices and apps. And if the development of devices and apps were impaired, then the deployment of broadband networks would likewise be impaired.

This point also underscores the importance of VoIP and other IP-enabled services, which play a significant role in the growth of the broadband ecosystem

and, like other services and apps, help drive and expand the "virtuous cycle" of economic growth.

Indeed, this is why all participants in the broadband ecosystem – the network providers; the smart phone, tablet, and computer manufacturers; the service providers; the app developers; the chip and server manufacturers; and, of course, the consumers who make all of this possible — have supported legislation throughout the country that ensures VoIP and IP-enabled services are not regulated like traditional telephone service.

4. VoIP is Not "Plain Old Telephone Service"

Since at least 2004, regulatory proponents have argued that state commissions should regulate VoIP just like any plain old telephone or "basic" service. They make two principal arguments:

First, they claim that VoIP is essentially the same as traditional telephone service, and therefore VoIP should be regulated like basic service.

Second, they claim that FCC decisions in this arena have not prohibited state commissions from regulating a certain type of VoIP called "fixed" VoIP, and therefore this type of VoIP should be regulated. That is essentially what your Corporation Commission just decided, looking also at Kansas law but essentially saying that TWC's VoIP service was "fixed" and therefore a "public utility" under Kansas law.

First, VoIP is *not* the same as traditional telephone service. As a threshold matter, VoIP, by definition, requires a broadband connection — it is a *broadband* service, as I explained. This is what makes VoIP an essential part of the broadband ecosystem I described earlier, and it is more properly viewed as an *application* that rides over broadband networks. In contrast, plain old telephone service does not require a broadband connection; it is provided mostly over copper wires.

Moreover, VoIP does much more than plain old telephone service — it is an Internet Protocol-based service that offers customers a suite of integrated capabilities and features that far exceed the capabilities and features of basic telephone service. Fundamentally, it is the IP-based nature of the service that allows VoIP to offer this suite of integrated capabilities and features. Users can send and receive information and access their calls and information in a variety of ways from multiple devices. Users can retrieve voicemail messages through a computer or receive them in an email, with the actual message attached as a sound file, have caller identification information appear on a television screen, cause incoming calls to ring at multiple locations simultaneously, or combine voice calling with a live video connection.

Of course, it is true that you can use VoIP to make a "regular" call just like you can make a call using traditional telephone service, but this doesn't mean that

VoIP is the same thing (or should be treated the same way) as plain old telephone service.

Now let me turn to the second argument — that the FCC has not preempted state commissions from regulating "fixed" VoIP. It might not shock you to hear that lawyers have been arguing for nearly a decade over what FCC decision-making regarding IP networks means. In fact, the point has been debated and teed up for further FCC clarification.

We could dive deeper into the status of this but *truthfully, this almost decade-long dispute among lawyers is one that for Kansas this Legislature can and should step in now and resolve.* Now is the time for this Legislature to determine the proper *Kansas policy*, to make clear for Kansas that these exciting new services will be free to develop without being subject to legacy telephone-company regulations designed for the monopoly era of the past, to provide certainty to investors and innovators that Kansas is open for business, and to promote economic growth particularly in the high-tech, broadband sector of the economy. That's what this legislation will do, and we ask for your support.

Your support will better position Kansas for more efficient logistics and fleet management, remote sensing and energy and health monitoring, irrigation and crop management, remote education, on-line and interactive government.

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