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*Via Overnight Delivery & Electronic Filing*

August 22, 2011

Ms. Catrice C. Williams, Secretary  
Department of Telecommunications and Cable  
1000 Washington Street, Suite 820  
Boston, MA 02118-6500

**Re: Department Review of Billing and Termination Rules**

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are the Comments of XO Communications, PAETEC, tw telecom and One Communications.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Paula Foley", with a long horizontal flourish extending to the right.

Paula Foley

cc: Karlen Reed, Director, Competition Division

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**COMMENTS OF XO COMMUNICATIONS, PAETEC, TW TELECOM  
AND ONE COMMUNICATIONS ON  
MASSACHUSETTS BILLING AND TERMINATION RULES**

XO Communications Services, Inc. (“XO Communications”); PAETEC Communications, Inc. (“PAETEC”); tw telecom data services llc (“tw telecom”); and Choice One Communications of Massachusetts, Inc., Conversent Communications of Massachusetts, Inc., CTC Communications Corp., and Lightship Telecom, LLC (all of which do business as and are referred to collectively as “One Communications”)<sup>1</sup>; (herein after referred to as “CLECs”) submit the following comments on the June 30, 2011 Notice of Public Informational Forums and the July 7, 2011 Revised Notice of Public Informational Forums (together, “Notice”) issued by the Department of Telecommunications and Cable (“Department”). In the Notice, the Department is considering whether to “modernize” its telecommunications billing and termination rules in order to take into account new technologies and the potential need for new consumer protections.

As a rule, the CLECs do not serve residential customers and therefore express no view as to the application of billing and termination rules related to residential service. Also, although the Department has requested comment on a number of consumer protection issues in its Notice, the CLECs’ comments herein are directed solely at the Department’s consideration of whether

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<sup>1</sup> The One Communications companies are now subsidiaries of EarthLink, Inc. and are in the process of changing their names to “EarthLink Business.” For ease of reference, “One Communications” will be used in these comments.

consumer protection regulations should be extended to include small businesses in addition to individuals. As the Department's review of these issues progresses, the CLECs may provide input on additional issues or proposals by the Department or other commenters.

**Should the Department's Consumer Protection Regulations be Extended to Small Businesses in Addition to Individuals?**

The Department's existing billing and termination consumer protection regulations currently apply to telephone and cable television service providers offering retail residential services in Massachusetts. The Department should refrain from expanding the applicability of existing or "modernized" consumer protection rules beyond residential customers to small business customers.

There is no indication that small business customers are in need of additional protections that are afforded residential customers. Businesses (large and small) are generally more capable of and sophisticated in addressing commercial and legal matters involving their suppliers, including suppliers of telecommunications services. As such, businesses have less need for consumer protection than do residential consumers.

There is no indication or evidence that the small business market has become subject to consumer protection problems as a result of the technological evolution in telecommunications or the convergence and bundling of various telecommunications and video services. In the absence of such evidence, the Department may not and should not impose additional regulatory obligations on telecommunications providers.

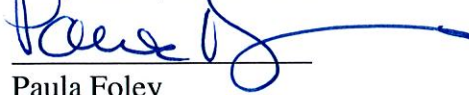
Historically, regulatory protection is necessary in the absence of a competitive marketplace. By the very nature of the customer segments served by the CLECs, the competitive

dynamics of the retail marketplace serve as the ultimate consumer protection for its customers, including its small business customers. In other words, if a CLEC fails to meet the needs of its small business customers, its customers can (and do) “protect” their interests by choosing a different provider. The ability of small business customers to choose another provider of service serves as the ultimate oversight of the CLECs’ performance. Therefore, extending consumer protection rules to small business customers would add an unnecessary and costly regulatory burden for the CLECs without any discernable benefit beyond that which small business customers already have today.

In addition to the power of being able to choose among numerous service providers, small business customers still have sufficient protection through a wide array of existing rules. Among the many examples are the general requirements that a provider’s rates be fair, nondiscriminatory, and non-preferential. G.L. c. 159 § 14. Its regulations, practices, equipment, appliances, and service must be just, reasonable, safe, adequate, and proper. G.L. c. 159 § 16. Business customers are protected against slamming. G.L. c. 93 §§ 108-113; 220 CMR 12.00. Truth-in-billing requirements protect both business and residential customers. 47 C.F.R. § 64.2401.

Business customers are sufficiently well protected by the many regulations to which telecommunications providers are subject. Thus, there is no need to increase the level of regulation – with attendant costs – of providers of business telecommunications services.

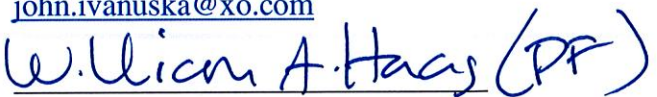
Respectfully Submitted,



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Dated: August 22, 2011