PUBLIC NOTICE

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DA 12-1738
October 31, 2012

PETITION FOR PROTECTION FROM ANTICOMPETITIVE BEHAVIOR AND STOP SETTLEMENT PAYMENT ORDER ON THE U.S.-PAKISTAN ROUTE

IB Docket No. 12-324

PLEADING CYCLE ESTABLISHED

Comments or Oppositions Due: November 13, 2012
Replies Due: November 20, 2012

This Public Notice is issued pursuant to Section 64.1002(d) of the Commission's rules. 47 C.F.R. § 64.1002(d).

The International Bureau seeks comment on a petition filed by Vonage Holdings Corp. ("Vonage") on October 3, 2012, requesting that the Commission issue an order stopping U.S. settlement payments to certain Pakistani long distance international ("LDI") carriers.[1] Vonage states that the LDI carriers have implemented a new International Clearing House ("ICH") exchange for all international incoming calls to Pakistan, creating a monopoly provider of international termination in Pakistan, and have increased by approximately 400% the termination rates to be paid by international telecommunications carriers for terminating calls into Pakistan to more than $0.088 per minute.

Vonage requests that the Commission impose temporary requirements on U.S. carriers prohibiting all U.S. carriers from paying the LDI carriers more than the current cost-based termination rate to Pakistan, without prejudice to the Commission's findings on Vonage's petition requesting a stop payment order on the U.S.-Pakistan route.

In its petition, Vonage states that, in 2011, the LDI carriers submitted to the Competition Commission of Pakistan ("CCP") an application seeking an exemption for the ICH Agreement under the Pakistani Competition Act of 2010. The LDI carriers later withdrew the application in February 2012, and the CCP subsequently issued an order that month disposing of the application and identifying concerns with the application. In that order, the CCP outlined the following details of the ICH Agreement: (1) it assigns the rights of 13 LDI carriers to terminate incoming international traffic to the

[1] Vonage alleges that the following LDI carriers have colluded to engage in anticompetitive behavior: Pakistan Telecommunication Company Limited (PTCL), Multinet Pakistan (Private) Limited, 4B General International (Private) Limited, Wi-tribe Pakistan Limited, Dancom Pakistan (Private) Limited, Wise Communication System (Private) Limited, Worldcall Telecom Limited, ADG (Private) Limited, Link Direct International (Private) Limited, Telecard Limited, Circle Net Communications Pakistan (Private) Limited, Wateen Telecom Limited, Redtone Telecommunications Pakistan (Private) Limited, and Telenor LDI Communications (Private) Limited.

Pakistan Telecommunication Company Limited ("PTCL"), the incumbent telecommunications service provider in Pakistan; (2) each LDI carrier is to suspend and keep suspended all interconnection capacities in relation to Pakistan incoming international traffic; (3) PTCL is to act as the sole LDI operator with the right to exclusively terminate all incoming traffic to Pakistan; (4) PTCL is to sell its call terminating services to foreign carriers at the approved settlement rates of the Pakistan Telecommunications Authority ("PTA"); and (5) each LDI carrier will get a pre-determined fixed quota from PTCL to terminate calls on its network, and receive a fixed share of revenues generated from all incoming international traffic.

Vonage states in its petition that the Ministry of Information Technology of Pakistan ("MOIT") nevertheless subsequently issued a directive calling for the establishment of the ICH Plan. On August 28, 2012, the CCP sent a Policy Note to the PTA and the MOIT, warning that the ICH Plan was illegal under Pakistan's Competition Act. Vonage notes that the LDI carriers, PTA and MOIT have moved forward with the ICH Plan and have implemented the rate increase to more than $0.088 per minute as of October 1, 2012.

Vonage's petition points out that the Commission, under past precedent, protects U.S.-international carriers and U.S. consumers from alleged anticompetitive behavior. Vonage argues that the rate increase meets the Commission's standard for finding anticompetitive conduct as it establishes a rate floor above previously negotiated rates. Vonage further argues that the LDI carriers' actions have created a rebuttable presumption of harm to the public interest.

Vonage requests that the Commission respond by requiring U.S. carriers to stop settlement payments to the LDI carriers until the ICH Plan is abrogated and international termination rates are re-established at cost-based levels on the U.S.-Pakistan route.[2] Vonage argues that the harm cannot be addressed through *post facto* remedies. Thus, Vonage also requests that the Commission impose temporary requirements on U.S. carriers prohibiting all U.S. carriers from paying the LDI carriers anything more than the current termination rate to Pakistan.

EX PARTE STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,[3] the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if it finds that the public interest so requires. We announce that this proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[4]

Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all

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[2] According to the most recent information filed with the Commission, the following carriers serve the U.S.-Pakistan route: AT&T, MCI, Sprint, Bharti Airtel, France Telecom, iBasis/KPN, IDT Corp., New Century, Pacifica Telecom/ITE, Primus Telecomm, Reach Services, Reliance Communications, Telecom Colombia USA, Telecom Italia Sparkle, Telecom New Zealand, TRICOM, and Telia Sonera.

[3] 47 C.F.R. § 1.1200(a) (2011).

[4] 47 C.F.R. §§ 1.1200 *et seq*.

data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

GENERAL INFORMATION

Interested parties must file comments or oppositions to the petition no later than **November 13, 2012**. Replies to such comments or oppositions must be filed no later than **November 20, 2012**. All filings concerning matters referenced in this Public Notice should refer to **DA 12-1738, IB Docket No. 12-324**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://fjallfoss.fcc.gov/ecfs2/.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

  Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of <u>before</u> entering the building.

  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Additionally, filers may deliver courtesy copies by email or facsimile to the following Commission staff:

(1) James Ball, Policy Division, International Bureau, at James.Ball@fcc.gov or (202) 418-2824 (facsimile);

(2) David Krech, Policy Division, International Bureau, at David.Krech@fcc.gov or (202) 418-2824 (facsimile);

(3) Kimberly Cook, Policy Division, International Bureau, at Kimberly.Cook@fcc.gov or (202) 418-2824 (facsimile);

(4) Mark Uretsky, Policy Division, International Bureau, at Mark.Uretsky@fcc.gov or (202) 418-2824 (facsimile).

For further information, contact James Ball, Policy Division, International Bureau, at 202-418-0427 or David Krech, Policy Division, International Bureau, at 202-418-7443.

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