TESTIMONY OF THE VOICE ON THE NET COALITION

BEFORE THE SENATE JOBS, AGRICULTURE AND RURAL DEVELOPMENT COMMITTEE

HEARING ON S.F. No. 895

FEBRUARY 25, 2015

Good afternoon Chairman Sparks, Vice Chair Schmit and members. My name is Glenn Richards and I am the Executive Director of the Voice on the Net Coalition (www.von.org). Thank you for the opportunity today to express the VON Coalition's support for SF 895.

The VON Coalition's members include many of the leading Internet communications companies, including Google, Microsoft, Skype, Vonage and Broadvox. For the past 17 years, VON has been working with federal and state policymakers to advance regulatory policies that enable consumers, businesses and government to enjoy the full promise and potential of Internet Protocol or IP communications. The companies in VON are developing and delivering the next generation of voice, video and data communications services that can be used anywhere and everywhere that broadband is available -- no telephone required.

Once limited to hobbyists, IP communications today is the dominant technology for users of communications services. According to a report released last month by the FCC, at the end of 2013, there were more than 852,000 interconnected VoIP subscriber lines in Minnesota, receiving service from 116 VoIP providers. Of these, 465,000 are residential subscriber lines and 387,000 are business lines. ILECs served 2,000 of these VoIP lines; while competitors served 850,000 VoIP lines. Nationally, there were more than 48 million VoIP subscriber lines, representing about 35% of all residential and business retail lines.

The dramatic growth of IP communications has created viable competition in the communications industry, to the benefit of consumers that are saving hundreds of millions of dollars each year by switching to VoIP and other IP-enabled services. VoIP also provides consumers flexibility and features not possible in yesterday's telephone network. These include the ability to use an IP-enabled phone through any broadband connection anywhere in the world; allowing voice mail to be sent to email or converted to text; allowing multiple devices to ring at the same time, and bringing video conference calling to the masses. At the same time, quality and reliability have improved to equal if not surpass that of the legacy phone network.

For businesses, particularly small and medium sized businesses that are at times ignored by larger carriers, IP communications is lowering costs, allowing increased control over communications, increasing productivity, increasing mobility, enabling collaboration, and giving companies a competitive advantage. IP communications promotes telework; allowing people to work seamlessly from home as if they were in the office; creating more time with family and greater employment opportunities for parents of small children, adult caregivers and the disabled.

IP communications has prospered in a largely unregulated environment. The Federal Communications Commission in 2004 found that IP communications between computers, such as Skype, should not be regulated at all; and it also that same year preempted state regulation of interconnected VoIP – which include VoIP services provided by cable companies. The FCC has, however, imposed public safety and consumer protection requirements on interconnected VoIP providers that are similar to those imposed on traditional phone companies, including a requirement to provide enhanced 911 services, protect customer data, report service outages and contribute to universal service. There is no federal entry or price regulation of VoIP.

At least 29 states and the District of Columbia have codified regulatory "safe harbors" for VoIP or IP-enabled communications. These states recognize there is no benefit to imposing legacy telephone regulations on IP communications and that investment will be lost if regulatory ambiguities remain in place. In a competitive market with low barriers to entry and low switching costs, entry and rate regulation has the potential to materially and adversely impact technological innovation, hinder the growth of open, competitive markets and place unnecessary costs on companies eager to invest in and deliver innovative products and features.

By adopting SF 895, Minnesota now has the opportunity to join these progressive states and launch a new era of broadband-enabled benefits for consumers and businesses in Minnesota by eliminating the threat of conflicting state regulation of VoIP and IP-enabled services. These are the innovative products and applications that are driving Minnesota's information technology economy. To ensure that consumers continue to have access to these transformative broadband applications, both current ones and those that have not been developed yet, it is critical that state and local regulation not burden such innovation. The FCC has created a uniform framework for the regulation of these two-way VoIP services that applies in all 50 states. SF 895 recognizes and retains federal preemption of state and local regulation.

I would like to briefly address arguments you are likely to hear this afternoon from opponents of this bill.

First, opponents argue that the bill undermines the authority of the PUC and Department of Commerce, who today believe they can regulate fixed VoIP services – which are those that cannot be used from any broadband connection. That is incorrect. Based on the FCC's 2004 Order, which is still the law, neither the PUC nor the DOC can regulate any form of interconnected VoIP. As I noted earlier more than 100 companies provide VoIP services in

Minnesota and I strongly doubt any are licensed by, or believe they are subject to, the regulations of PUC. These companies offer great rates and services, enjoyed by hundreds of thousands of consumers and businesses in Minnesota – including this body based on the Cisco phones I see on your desks, not because they are required to by the PUC, but because they operate in a fiercely competitive market. I would add that every fixed VoIP provider is technically capable of developing a software application that would make the service nomadic, which the PUC itself would concede is preempted by federal law.

Opponents argue that the bill would undermine Minnesota's 911 services. That is incorrect. As noted earlier, the FCC requires interconnected VoIP providers to offer enhanced 911 – the same 911 service provided by traditional wireline and wireless phone companies. VoIP providers are required to report location information for every customer and update that information as customer's move from one location to another. VoIP providers also pay 911 fees where required, as is already the case in Minnesota.

Opponents argue that passage of this legislation is premature because the FCC may address the regulatory classification of VoIP in the Net Neutrality decision, which will be voted at tomorrow's open meeting. In my opinion the net neutrality decision will focus on broadband internet access providers, not VoIP services. However, we expect the FCC order to be issued within a matter of days and we can easily confirm whether VoIP is addressed.

Opponents argue that oversight is necessary to prevent slamming and cramming by VoIP providers. As an initial matter, slamming by VoIP providers is technically impossible. The service requires special hardware and software. I am not aware of cramming related to VoIP. VoIP services are typically provided in a fixed, rate bundled package. VoIP providers typically do not bill for third party services – which creates the most cramming complaints. For these

reasons, the FCC has declined to extend slamming and cramming laws to VoIP. Finally, should VoIP providers engage in deceptive billing or advertising practices, the Minnesota attorney general retains full authority to prosecute based on state consumer protection laws, the same as with any other business operating in Minnesota.

Finally, certain telecom carriers may argue that the bill undermines the PUC's authority to hear interconnection disputes. To date, IP interconnection has been successfully accomplished through commercial negotiations, without the need for regulatory intervention. I expect to see many more IP interconnection agreements signed during the next two years as legacy telecom carriers recognize that the technical efficiency of IP interconnection outweighs the dwindling revenue potential of access charges, which have been effectively eliminated by the FCC. In any event, the issue of IP interconnection – and whether any regulation is necessary – is for the FCC to decide (and may be addressed in the FCC's net neutrality order).

In conclusion, adoption of SF 895 will provide three critical benefits:

(1) a platform for innovation delivering advanced broadband communications features to consumers and business in Minnesota;

(2) increased competition among network and service providers leading to cost savings for consumers and businesses across the state; and,

(3) increased infrastructure investment and accelerated broadband deployment – critical elements of job creation and economic growth in the state, particularly in rural areas.

We look forward to working with you and other policy makers in Minnesota to forge pragmatic solutions that enable consumers, businesses, and the economy to achieve the full promise and potential that VoIP and IP-enabled services can deliver.

Thank you again for your time and I look forward to your questions.