

June 10, 2015

Submitted via ECFS

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

**Re: Ex Parte Submission, WC Docket Nos. 13-97, 13-39, 04-36, 07-243, 07-149, 09-109 & 10-90;
CC Docket Nos. 01-92, 99-200 & 95-116; CG Docket NO. 02-278; GN Docket Nos. 12-353 &
13-5**

Dear Ms. Dortch:

The purpose of this letter is to respond, on behalf of SmartEdgeNet LLC, dba Edge Communications (“SEN”), to certain claims made in *ex parte* submissions in the above-noted matters by Bandwidth.com, Inc. and Public Knowledge.¹ Neither submission raises any real concerns regarding the assignment of telephone numbers to interconnected VoIP providers.

Bandwidth.com’s letter speaks vaguely and generally about “risks” and “wide-ranging issues” (Bandwidth.com Letter at 2), and “questions the advisability of introducing uncertainties” (*id.* at 3). It does not, however, connect its worries to any actual, real-world problems that might arise when numbers are directly assigned to interconnected VoIP providers. As SEN and others demonstrated in their comments, vague worries of this sort are baseless. With direct numbering assignments, interconnected VoIP providers can directly populate the LERG and other industry databases to ensure that calls to their own subscribers are properly routed. This will be less costly and more flexible than the current system, which requires interconnected VoIP providers to rely on a local carrier as a middleman. This will also encourage and facilitate efficient direct interconnection between carriers and VoIP providers and, indeed, directly between VoIP providers as well. The Commission should be eager to achieve these benefits. Moreover, with direct access to numbering resources, interconnected VoIP providers will have every incentive to ensure that their entries in industry databases are accurate – if they aren’t, then their subscribers will not receive calls. These entities will therefore have at least as much motivation to handle this process carefully and accurately as do traditional LECs today. There no reason to suspect – much less any actual evidence to suggest – that vague problems of the sort that Bandwidth.com worries about would arise in the real world.²

¹ Letter from G. Rogers (Bandwidth.com) to M. Dortch dated June 9, 2015 in dockets noted above (Bandwidth.com Letter); Letter from H. Feld (Public Knowledge) to M. Dortch dated June 9, 2015 in dockets noted above (Public Knowledge Letter).

² In large part, Bandwidth.com simply identifies matters that were raised in the notice of proposed rulemaking in this matter. Bandwidth.com Letter at 2. SEN assumes that the Commission, in fashioning its order, will either resolve those matters based on the record or seek further comment on them. The fact that there are “issues identified in the NPRM” that “still need[] resolution” is hardly a reason for the Commission not to move forward to resolve the issues at hand.

When it gets down to specifics, moreover, Bandwidth.com's suggestions should be rejected. Bandwidth.com claims that interconnected VoIP providers should be subject to "a robust application and approval process" that would include demonstrating their "technical, financial, and managerial ability" to comply with their already-existing regulatory obligations relating to matters such as 911, CALEA, CPNI, etc. – essentially, the federal equivalent of a traditional state-level carrier certification process. Bandwidth.com Letter at 3. A moment's reflection, however, shows that this suggestion is preposterous. Interconnected VoIP providers are **already required** to meet the obligations that Bandwidth.com references, and already **do** meet them, despite having entered the market **without** being subject to a certification process – "robust" or otherwise. Bandwidth.com provides nothing that suggests that giving interconnected VoIP providers direct access to numbers would either interfere with their ability to meet their regulatory obligations, or create some new (and perverse) incentive to ignore those obligations. The fact that interconnected VoIP providers meet these already-existing obligations – and, again, neither Bandwidth.com's letter nor anything else in the record seriously suggests that they do not – actually confirms that it is entirely reasonable – and would serve the public interest – for the Commission to extend access to numbering resources to interconnected VoIP providers. The success and responsible operation of these entities in the marketplace **today** shows that no additional certification or "credentialing" process is necessary. See also Public Knowledge Letter at 1 (arguing for a "certification" or "credentialing" process).

Public Knowledge's letter is similarly long on vague worries and short on any plausible problematic scenarios – much less any evidence that problems would actually occur.

First, Public Knowledge's discussion about Title I versus Title II authority over interconnected VoIP providers (see Public Knowledge Letter at 1) misses the point. Under Section 251(e)(1), the Commission has plenary authority over all aspects of numbering administration. That includes the authority to promulgate the rules needed to govern the use of numbering resources. See *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366, 377-78 (1999) (by placing Section 251 in the Communications Act, Congress necessarily extended the grant of authority to promulgate rules in Section 201(b) to the matters addressed by Section 251). Public Knowledge frets about the Commission's legal basis for regulating **VoIP providers**, but that is not the issue. With plenary authority over **numbering resources**, the Commission can condition continued access to those resources on meeting reasonable requirements – such as the already-existing obligations on interconnected VoIP providers to handle responsibilities relating to 911, CALEA, CPNI, etc. The combination of Section 201(b) and Section 251(e)(1) is all the statutory authority the Commission needs.

This analysis also fully addresses Public Knowledge's vague concern that permitting interconnected VoIP providers to directly receive numbers could (in some unspecified way) "jeopardize" the Commission's ability to fulfill international numbering and/or call-routing obligations. An international PSTN call makes its way from some other country into the United States by means of the facilities of some interexchange carrier. Once here, the IXC will look to the LERG to determine how to route the incoming call to its destination – just as IXCs and local carriers do with domestic calls. Public Knowledge does not articulate any additional complications or concerns that might arise if a call originates in Canada or Chile as opposed to California or Colorado – and there are none.

Moreover, aside from free-floating xenophobia, it is difficult to understand Public Knowledge's concern about "hand[ing] authorized phone number blocks to entities outside the jurisdiction of United States law enforcement." Public Knowledge Letter at 1. Today, neither local exchange carriers, nor interexchange carriers, nor VoIP providers, have any obligation to locate their switching equipment in the United States. To the extent that such entities have obligations under CALEA, those obligations are stated in terms of "assistance capability requirements" (see 47 U.S.C. § 1002(a)), *i.e.*, information that the entity must be able to "expeditiously" deliver to law enforcement in response to appropriate authorization. Those requirements are not conditioned on the geographic location of the relevant entity's switching or routing equipment. As a result, to the extent that an entity that provides services in the United States is subject

to CALEA (or other laws) relating to those services, it is hard to see how “law enforcement” would lack any “jurisdiction” it needs. And, of course, if an entity – any entity – that received numbers systematically and materially flouted its obligations under CALEA, that would logically provide a basis to revoke that entity’s right to continue to be assigned those numbers.

In sum, the submissions of both Bandwidth.com and Public Knowledge seem more devoted to inducing fear and uncertainty – and therefore delay and excessive regulation – than to identifying any actual problems that might arise from permitting interconnected VoIP providers to directly receive allocations of telephone numbers, or suggesting meaningful solutions to any problems they claim to be worried about. SEN submits, therefore, that the Commission can and should reject their stated concerns and proceed with permitting interconnected VoIP providers to directly receive number allocations within the North American Numbering Plan.

Respectfully submitted,

Davis Wright Tremain LLP

A handwritten signature in black ink, appearing to read "Chris W. Savage". The signature is fluid and cursive, with a long horizontal flourish at the end.

Christopher W. Savage