



June 12, 2015

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re *Numbering Policies for Modern Communications*, WC Docket No. 13-97; *IP-Enabled Services*, WC Docket No. 04-36; *Telephone Number Requirements for IP-Enabled Service Providers*, WC Docket No.07-243; *Numbering Resource Optimization*, CC Docket No. 99-200

Dear Ms. Dortch:

On June 11, 2015, the National Association of Regulatory Utility Commissioners (“NARUC”) and NTCA – the Rural Broadband Association (“NTCA”) filed ex partes opposing the grant of numbering rights to interconnected VoIP providers.¹ This ex parte is a permitted reply to those filings.²

The central theme of both NARUC and NTCA’s arguments is that the Commission should classify interconnected VoIP as a telecommunications service. Their position on VoIP classification, while long held,³ has no place in this proceeding. The purpose of this proceeding is to remove unnecessary roadblocks to the innovative new services and other consumer benefits that will follow from granting interconnected VoIP providers direct access to numbering resources—not about the proper classification of interconnected VoIP.

¹ Letter from James Bradford Ramsay, General Counsel, NARUC, to Marlene Dortch, Secretary, Fed. Commc’ns Comm’n, WC Dkt. No. 13-97, et. al (June 11, 2015) (“NARUC Ex Parte”); Letter from Michael Romano, Sr. Vice President, NTCA, to Marlene Dortch, Secretary, Fed. Commc’ns Comm’n, WC Dkt. No. 13-97, et. al (June 11, 2015) (“NTCA Ex Parte”).

² See 47 C.F.R. § 1.1203(c); 47 C.F.R. § 1.1206(b)(2)(iv).

³ Notably, however, neither NARUC nor NTCA explains how its position that interconnected VoIP is a telecommunications service can be reconciled with the Commission’s determination that services that enable a net-protocol conversation are information services. See *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended*, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-489, 11 FCC Rcd. 21,905, 21,956-57 ¶¶ 104-05 (1996).

NARUC and NTCA also argue that the Commission lacks authority to grant numbering rights to entities other than common carriers. But this argument is foreclosed by the statute and the Commission's previous decisions. Section 251(e) grants the Commission plenary authority over numbering rights,⁴ and the Commission has successfully relied on this provision to adopt number porting, LNP contribution, and NANPA contribution obligations for interconnected VoIP providers.⁵ Just as the Commission had authority to take these steps, it has authority to grant interconnected VoIP providers direct access to numbering resources.⁶

Because the Commission may grant direct access pursuant to its plenary Section 251(e) authority, the D.C. Circuit's holding in *Verizon v. FCC*⁷ does not apply here. NARUC and NTCA's arguments that a grant of numbering rights by the Commission amounts to reliance on "general authority . . . to impose obligations that are inconsistent with more specific statutory authority"⁸ ignore the Commission's specific and settled authority to impose numbering obligations on interconnected VoIP providers,⁹ as well as its "well-established power . . . to interpret ambiguous provisions in the statutes" it administers.¹⁰

Finally, the Commission should reject NARUC and NTCA's transparent effort to delay direct access by insisting that the Commission must answer yet more (unspecified) questions before it can act. The Commission has proceeded with great caution and care, including conducting a limited trial of direct access, to confirm that there are no technical obstacles to direct access. The robust record before the Commission demonstrates that a grant of direct access will serve the public good.

⁴ 47 U.S.C. § 251(e)(1) ("The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.").

⁵ *Telephone Number Requirements for IP-Enabled Service Providers*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd. 19531, 19547 ¶ 28 (2007).

⁶ The Commission has explained that "the plenary numbering authority set forth in section 251(e)(1) of the Act provides ample authority for the Commission to extend numbering-related requirements to interconnected VoIP providers that obtain telephone numbers directly or indirectly, regardless of the statutory classification of interconnected VoIP service." *In the Matter of Numbering Policies for Modern Commc'ns*, 28 FCC Rcd. 5842, 5880 ¶ 84 (2013).

⁷ *Verizon v. Federal Comm'ns Comm.*, 740 F.3d 623 (D.C. Cir. 2014).

⁸ NARUC Ex Parte at 5; NTCA Ex Parte at 3.

⁹ See 47 U.S.C. § 251(e); *Telephone Number Requirements for IP-Enabled Service Providers*, 22 FCC Rcd. 19531 at 19547 ¶ 28; see also Comments of Vonage Holdings Corp., WC Dkt. No. 13-97, *et. al.*, at 9-10 (filed July 31, 2012).

¹⁰ *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, FCC No. 15-34, ¶ 331 (March 12, 2015).

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For all of these reasons, Vonage urges the Commission to grant interconnected VoIP providers direct access to numbers.

Sincerely,

A handwritten signature in black ink, appearing to read 'BDSB', with a long horizontal line extending to the right.

Brita D. Strandberg

Counsel to Vonage Holdings Corporation

cc: Travis Litman
 Rebekah Goodheart
 Amy Bender
 Nicholas Degani
 Daniel Alvarez
 Randy Clarke
 Ann Stevens
 Marilyn Jones
 Melissa Kirkel