



**Richard Juhnke**  
Vice President  
Federal Regulatory Affairs

401 9th Street, NW, Suite 400  
Washington, DC 20004  
Voice 202 585 1912  
Fax 202 585 1897  
richard.juhnke@mail.sprint.com

October 22, 2004

Marlene Dortch  
Secretary  
Federal Communication Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **EX PARTE PRESENTATION**  
**WCB Docket Nos. 04-36 and 03-211**

Dear Ms. Dortch:

On October 21, 2004, David Nall and the undersigned, on behalf of Sprint, met with John Stanley, Julie Veach, Chris Killion and Bill Scher of the Office of General Counsel to discuss issues relating to jurisdiction and state preemption in the above-referenced dockets.

We stated that Sprint's primary interest is in sound, legally sustainable decisions that provide regulatory certainty to business planning and that apply evenhandedly. In that regard, we stated that varying the degree of regulation with the presence or absence of market power was far more sound than doing so on the basis of the technology chosen by the service provider. Much of our presentation reiterated arguments made in our written submissions in the above dockets. We made the following additional points.

We addressed the argument that VOIP is inherently interstate because the provider has no way of knowing the origin and/or destination point of particular calls. We argued that VOIP service is highly unlikely to be confined to persons that are continually accessing the service from different locations, and that the far more realistic assumption is that VOIP will largely be used by persons to make calls from their homes or offices, and that overall, these calls are likely to exhibit the same mix of local, intrastate long distance and interstate long distance that voice traffic generally exhibits. We also pointed out that two VOIP providers – AT&T and Vonage – have either recently instituted (in AT&T's case) or recently discontinued (in Vonage's case) service options that differentiate between local and long distance calls, and that both carriers' websites encourage their customers to register the location from which their calls will be made for purposes for of establishing 911 capability. Thus, the fact that the origination of an unknown, but likely small, number of calls may be difficult to determine does not justify characterizing all calls as inherently interstate. Nor, does the fact that a call originating and terminating within a state may be transmitted outside the state (a condition that is not unique to VOIP) affect the jurisdiction of the call.

Marlene Dortch  
October 22, 2004  
Page 2

With respect to preemption, we noted that the examples of burdensome state regulation referred to in the record apply today to other providers of voice services, and we argued that if the Commission decides to preempt VOIP services on the basis of those burdens, it should extend the preemption to other voice services as well.

Sprint also pointed to collateral effects that an order dealing only with the jurisdiction issue could have on various segments of the industry. In view of the fact that the three largest RBOCs contend that terminating access charges apply to VOIP today, regardless of whether the service is considered an information service or a telecommunications service, a finding that VOIP is all-interstate could subject VOIP providers to claims for access charges on all terminating calls – even the local calls that would otherwise be subject to lower reciprocal compensation rates. We also pointed out that because of state regulatory policies, ILECs and CLECs – particularly those serving rural areas – rely on intrastate access charges that are often much higher than interstate access charges to cover costs that are not fully compensated by state-regulated retail rates, and that an “all-interstate” ruling would appear to foreordain that these carriers would be deprived of this revenue stream without giving these carriers a means to recoup those costs from other sources.

Finally, Sprint addressed briefly the possibility that non-facilities-based VOIP providers would be differentiated from providers that own their own local or long distance transmission facilities. We stated that basing jurisdictional classifications on such a distinction makes no sense and pointed out that resellers have never been treated differently for jurisdictional purposes than facilities-based carriers.

The attached materials were given to the Commission personnel during the meeting.

This notice is being filed electronically in each of the above-referenced dockets.

Respectfully submitted,



Attachment

cc: John Stanley  
Julie Veach  
Chris Killion  
Bill Scher

[http://www.vonage.com/help\\_knowledgeBase\\_article.php?article=666](http://www.vonage.com/help_knowledgeBase_article.php?article=666)

**Edison, NJ, October 1, 2004** – Vonage, the leading provider of broadband phone service in North America, announced today it will upgrade all customers on its Local Unlimited Plan, to Premium Unlimited, reducing the cost of unlimited calling throughout the US and Canada to \$24.99 per month.

“Over the past five months, we’ve noticed a trend in the industry away from calling certain minutes local and others long distance – in an IP world distance is irrelevant, so we have changed our calling plans to reflect that,” said Jeffrey A. Citron, Chairman and CEO of Vonage Holdings Corporation. “Instead of giving this great new upgrade to a small set of people, we decided to make it available to all of our customers and automatically upgrade those to the new price even if they’re on the unlimited package already.”

In favor of a simplified pricing model, Vonage will now only offer two residential calling plans with the same great features for free:

\$14.99/month - Residential Basic Plan – 500 minutes of local, toll and long distance calling throughout the United States and Canada.

\$24.99/month - Residential Premium Unlimited Plan – unlimited calling throughout the 50 United States and Canada anytime, anywhere.

Services and hardware included for free on any of the above plans:

- Voice mail
- Call hunt
- Call waiting
- Call transfer
- Caller ID
- Call return (\*69)
- Caller ID block (\*67)
- Call forwarding
- International call block
- Motorola VT1005v device
- Area code selection
- Call return (\*69)
- Repeat dialing
- Bandwidth saver
- Web-based account management:

- Online voicemail retrieval

- Real-time inbound/outbound call record details

## Real-time billing activity

### Great international calling rates:

Tel Aviv 4 cents per minute

London 3 cents per minute

Sydney 4 cents per minute

"We don't call ourselves a phone company, because phone companies often treat their customers unfairly when it comes to new offerings, giving new customers the advantage over loyal ones," added Mr. Citron. "Vonage believes in rewarding our existing customers first, then making the plans available to new ones."

### **About Vonage®**

Vonage is redefining communications by offering consumers and small businesses an affordable alternative to traditional telephone service. The fastest growing telephony company in North America, Vonage's service area encompasses more than 1900 active rate centers in over 125 North American markets. Vonage is sold directly through [www.vonage.com](http://www.vonage.com) and retail partners such as Amazon.com, RadioShack, Best Buy, Circuit City, Staples and Office Depot. Wholesale partners such as EarthLink, ARMSTRONG®, Advanced Cable Communications and the Coldwater Board of Public Utilities resell the Vonage broadband phone service under their own unique brands. With more than 275,000 lines in service, Vonage continues to add more than 25,000 lines per month to its network. Over 5 million calls per week are made using Vonage, the easy-to-use, feature-rich, flat rate phone service. Vonage is headquartered in Edison, New Jersey. For more information about Vonage's products and services, please visit [www.vonage.com](http://www.vonage.com) or call 1-VONAGE-HELP. Vonage®, Vonage Digital Voice™, Toll Free Plus<sup>SM</sup> and Virtual Phone Number<sup>SM</sup> are trademarks of Vonage



email this page    Username: [   
 bookmark this page    Password: [   
 forgot password?

Home | Products & Services | Availability | Features | International Rates | Sign Up | Help

Search [

## 911 Dialing



- 911 Dialing is an optional f
- 911 Dialing is free
- 911 Dialing is available an United States
- 911 Dialing requires prior : your part
- 911 Dialing and Vonage S-function During a Power O
- [E911 Dialing Now Availabl Rhode Island](#). Other areas

### ► Free Features

### ► Cool Options

### ▼ Great Benefits

#### 911 Dialing

Keep Existing Phone #

Great International Rates

Billing Information

Online Account Mgmt

Money-Back Guarantee

Live Customer Support

Network Availability #

311 Dialing

Bandwidth Saver

Free Phone Adapter

Free Calls to Canada

Refer-A-Friend

Affiliates Program

## Vonage Lets You Dial 911

*Prior Activation Required*

### Your Safety Is Important

Vonage offers 911 dialing to all customers. When you dial 911, your call is routed from the Vonage network to the Public Safety Answering Point (PSAP) for your area. (What is a PSAP?) There are several important differences between our Emergency Services dialing and traditional 911 dialing that you need to know:

### You Must Tell Us the Physical Location of Your Vonage Line for 911 Dialing to Function.

- ⌘ Remember that unlike traditional phone lines, Vonage service is portable to any location with broadband Internet access. For example, you can have a New York number and receive calls in Texas. You can also take your equipment with you on a trip but, when you travel, 911 Dialing will automatically route your call to the local emergency personnel location for the address on file, not your temporary location.
- ⌘ When you sign up for Vonage 911 Dialing service, you fill out a short form that tells us your actual physical address. When you dial 911, the call is routed to the local emergency personnel location designated for the address you register on file here.
- ⌘ When you move, you MUST provide your new location. You can easily update your new location through your web account. Be aware that it can take several days before your new settings take effect.
- ⌘ Since your 911 call could be from anywhere, we need you to verify the physical location of your phone in order to activate this 911 dialing feature from your phone.

### 911 Dialing Is Not Automatically Set Up for Use. You Must Pre-Activate 911 Dialing. You May Decline 911 Dialing.

- ⌘ We STRONGLY urge you to activate 911 Dialing. Even if you don't plan to make 911 calls from your Vonage line, there may be others who do. You can't plan in advance for all situations. For example, a residential line could be used by babysitters, young children, in-laws, and others who may need to make 911 calls. If you decline 911 from Vonage, you or others will not be able to call 911 from your Vonage line. Don't play games with your safety. Register today.

**Your Call Will Go To A General Access Line at the**

**Public Safety Answering Point (PSAP). This is different from the 911 Emergency Response Center where traditional 911 calls go.**

- ⌘ This means your call goes to a different phone number than traditional 911 calls. Also, you will need to state the nature of your emergency promptly and clearly, including your location and telephone number, as Public Safety Answering Point (PSAP) personnel will NOT have this information on hand.

**Service Outages Can Prevent 911 Dialing.**

- ⌘ 911 Dialing and Vonage Service DO NOT function during an electrical power or broadband provider outage.

**Important Note**

Please refer to the 911 Dialing section in our [Terms of Service](#) for important information on potential limitations of this 911 feature, including the differences between our 911 Dialing feature and traditional 911 dialing.

We encourage Minnesota customers to test 911 Dialing.

[Corporate Information](#) | [Careers](#) | [Site Map](#) | [Contact Us](#) | [Privacy Policy](#) | [Terms Of Service](#) | [Affiliates Program](#)

Using the Vonage® mark and other Vonage Holdings Corp. intellectual property such as logos, slogans, trade dress, and graphic symbols on packaging, products, or services without express written permission from Vonage Holdings Corp..

Use of confusingly similar or disparaging terms is a violation of our intellectual property rights.

© 2001-2004 Vonage Holdings Corp.. All Rights Reserved.

Vonage, the broadband phone service, is redefining communications by offering consumers and small business - VoIP Internet phones, an affordable alternative to traditional service.

From Vonage's on-line schedule of terms and conditions:

## . EMERGENCY SERVICES- 911 DIALING

### 2.1 Non-Availability of Traditional 911 or E911 Dialing Service

You acknowledge and understand that the Service does NOT support traditional 911 or E911 access to emergency services. Vonage does offer a limited 911-type service available only on Vonage Devices as described herein, but you acknowledge and understand that 911-type dialing is NOT automatic, that you must separately take affirmative steps, as described in this Agreement and on Vonage's website, to activate such 911-type dialing capabilities and that such 911-type dialing is different in a number of important ways (some, but not necessarily all, of which are described in this Agreement) from traditional 911 service. Vonage 911 dialing cannot be used in conjunction with a Vonage Soft Phone application and is only available on Vonage-certified Devices or Equipment. You agree to inform any household residents, guests and other third persons who may be present at the physical location where you utilize the Service of the non-availability of traditional 911 or E911 dialing from your Vonage Service and Device(s). If you activate Vonage 911-type dialing service, you agree to inform any household residents, guests and other third persons who may be present at the physical location where you utilize the Service as to the important differences and limitations of Vonage 911 dialing service as compared with traditional 911 or E911 dialing that are set forth in this Agreement.

### 2.2 Description of 911-Type Dialing Capabilities - Activation Required

Vonage does offer a 911-type dialing service in the U.S. (but may not offer such service in Canada) that is different in a number of important ways from traditional 911 service. You acknowledge and understand that 911-type dialing is NOT automatic. You must successfully activate the 911 dialing feature by following the instructions from the "Dial 911" link on your dashboard. You acknowledge and understand that you cannot dial 911 from this line unless and until you have received a confirming email. Once you have received a confirming email that 911 dialing has been successfully activated, you may dial 911 as needed. When you dial 911, your call is routed from the Vonage network to the Public Safety Answering Point (PSAP) or local emergency service personnel designated for the address that you listed at the time of activation. You acknowledge and understand that when you dial 911 from your Vonage equipment it is intended that you will be routed to the general telephone number for the PSAP or local emergency service provider (which may not be answered outside business hours), and may not be routed to the 911 dispatcher(s) who are specifically designated to receive incoming 911 calls using traditional 911 dialing. Vonage relies on third parties for the forwarding of information underlying such routing, and accordingly Vonage and its third party provider(s) disclaim any and all liability or responsibility in the event such information or routing is incorrect. As described herein, this 911-type dialing currently is NOT the same as traditional 911 or E911 dialing, and at this time, does not necessarily include all of the capabilities of traditional 911 dialing. Neither Vonage nor its officers or employees may be held liable for any claim, damage, or loss, and you hereby waive any and all such claims or causes of action, arising from or relating to 911 dialing unless it is proven that the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness,

or intentional misconduct on the part of Vonage. You agree to indemnify and hold harmless Vonage and its third party provider from any claim or action arising out of misroutes of 911 calls, including but not limited to your failure to follow correct activation procedures for 911 calling or your provision to Vonage of incorrect information in connection therewith.



AT HOME & ON THE GO: PRODUCTS & SERVICES CUSTOMER CENTER ASSISTANCE

& BUNDLES CALLING SERVICES INTERNET SERVICES VOICE OVER IP PHONES & ACCESSORIES WIRELESS

**AT&T CallVantage™** Phone service for broadband **PLANS & PRICING**

- [AT&T CALLVANTAGE HOME](#)
- [WHAT IS AT&T CALLVANTAGE](#)
- [HOW IT WORKS](#)
- [PLANS & PRICING](#)
- [CallVantage Unlimited All Distance Service Plan](#)
- [AT&T CallVantage\(SM\) Local Plan](#)
- [Compare Offers](#)
- [SAVINGS CALCULATOR](#)
- [CHECK SERVICE AVAILABILITY](#)
- [SHOPPING CART](#)
- [REFER A FRIEND](#)
- [IMPORTANT INFO AND FAQS](#)
- [CONTACT US](#)
- [SUBSCRIBER AGREEMENT](#)
- [TAKE THE TOUR](#)

**AT&T CallVantage(SM) Local**

**Plan <sup>1</sup>**

**\$19.99**

Enjoy unlimited Local calling and spend only 4¢ per minute on all Long Distance calls, including calls forwarded to non-local numbers. In addition to remarkable voice quality, you'll also get:

**Powerful New Features**

**INCLUDED FEATURES**

- ✦ Voicemail+eFeatures
- ✦ Call Log
- ✦ Phone Book
- ✦ Locate Me
- ✦ Speed Dial
- ✦ Do Not Disturb
- ✦ 3-Way Calling
- ✦ Personal Conferencing
- ✦ Emergency 911 Dialing
- ✦ Call Forwarding
- ✦ Call Waiting
- ✦ Caller Id with Name

[SELECT THIS OFFER](#)

[VIEW ALL OFFERS](#)

<sup>1</sup>Broadband service charges not included. Monthly fee includes direct-dialed calls within your local calling area. All other calls are billed at additional per-minute rates. A \$29.99 service activation fee applies. Customers who disconnect Service must return equipment associated with Service in order to avoid \$29.99 disconnect fee. If a long distance number or non-local number is used for the Locate Me, 3-Way Calling or Calling Forwarding Features, charges will be applied. Other charges may apply.



The world's networking company™

att.com | At Home & On the Go | Small & Medium Business | E

AT HOME & ON THE GO: PRODUCTS & SERVICES CUSTOMER CENTER ASSISTANCE

CALLING PLANS INTERNET SERVICES BUNDLED SERVICES VOICE OVER IP PHONES & ACCESSORIES

# AT&T CallVantage™

Phone service for broadband

## PLANS & PRICING

- [AT&T CALLVANTAGE HOME](#)
- [WHAT IS AT&T CALLVANTAGE](#)
- [HOW IT WORKS](#)
- [PLANS & PRICING](#)
- [SAVINGS CALCULATOR](#)
- [CHECK SERVICE AVAILABILITY](#)
- [REFER A FRIEND](#)
- [IMPORTANT INFO AND FAQs](#)
- [CONTACT US](#)
- [SUBSCRIBER AGREEMENT](#)
- [TAKE THE TOUR](#)

AT&T CallVantage has a plan to fit your budget and calling needs. Whichever you choose, you'll get great service, exciting features, and substantial savings over traditional calling.

### CallVantage Unlimited All Distance Service Plan <sup>1</sup>

**\$0.00 for the first month and \$29.99 per month after that**

**Unlimited Local and Long Distance calling in the US and to Canada, plus:**

- ⌘ 50% savings on international calls
- ⌘ Exciting advanced features
- ⌘ Your favorite traditional features

[LEARN MORE](#)

### AT&T CallVantage(SM) Local Plan <sup>2</sup>

**\$19.99 per month**

**Unlimited Local calling, 4¢/minute Long Distance calling, plus:**

- ⌘ Voice Mail with eFeatures
- ⌘ Caller ID with Name
- ⌘ Exciting advanced features

[LEARN MORE](#)

[COMPAR](#)

### ALL SERVICES GIVE YOU:

Click on the links below to find out more about AT&T CallVantage Service features:

[VOICEMAIL + eFEATURES](#)

[CALL LOGS](#)

[DO NOT DISTURB](#)

[PERSONAL CONFERENCING](#)

[LOCATE ME](#)

[SPEED DIAL](#)

[KEEP YOUR NUMBER FOR LIFE](#)

[PREMIUM FEATURES](#)

[SIMPLE REACH<sup>SM</sup> NUMBER](#)

**Click on Learn More above or call to order service at 1-866-816-3  
ext. 64525**

<sup>1</sup>Broadband service charges not included. Offer expires 1/31/05. Monthly rate includes direct-dialed domestic calls and calls to Canada. International calls are billed at additional per-minute rates and may have different feature capabilities. A \$29.99 service activation fee applies. Other charges may apply. Customers who disconnect Service must return equipment associated with Service in order to avoid disconnect fee.

<sup>2</sup>Broadband service charges not included. Monthly fee includes direct-dialed calls within your local calling area. All other calls are billed at additional per-minute rates. A \$29.99 service activation fee applies. Customers who disconnect Service must return equipment associated with Service in order to avoid \$29.99 disconnect fee. If a long distance number or non-local number is used for the Locate Me, 3-Way or Calling Forwarding Features, charges will be applied. Other charges may apply.

[Terms & Conditions](#) | [Privacy Policy](#) | [Contact Us](#)  
© 2004 AT&T. All rights reserved.

From AT&T web site, [http://www.usa.att.com/callvantage/faqs/about\\_911.jsp](http://www.usa.att.com/callvantage/faqs/about_911.jsp)

### **Important Information about the 911 Emergency Dialing Feature**

AT&T is concerned about your safety. We want you to feel secure that emergency assistance is only three digits away, similar to your standard telephone. That's why we provide a 911 Emergency Dialing feature, automatically included with your AT&T CallVantage<sup>SM</sup> Service.

[Back to list.](#)

There are some important differences between 911 Emergency Dialing on AT&T CallVantage Service and on a standard telephone that you should be aware of. These include:

### **We Need to Know the Physical Location of your AT&T CallVantage Service Phone for 911 Emergency Dialing to Function**

? With 911 Emergency Dialing on AT&T CallVantage Service, when you dial 911 your call may be routed to a different dispatcher than that used for traditional 911 calls. This dispatcher will be located at a Public Safety Answering Point (PSAP) center or other PSAP or local or regional center designated for wireless services associated with the service address you provided when you signed up or other backup emergency answering services.

? **In order for 911 Emergency Dialing to work properly, the service address we have on file for you MUST correspond to the physical location of your AT&T CallVantage Service phone.** This will enable us to accurately identify your emergency Public Safety Answering Point and correctly route your call. You cannot specify a PO Box.

? If you relocate your AT&T CallVantage Service phone on a temporary basis, such as taking your Telephone Adapter (TA) with you when you go to a vacation home, you MUST use a DIFFERENT telephone to dial 911 from your new location. If you dial 911 from your AT&T CallVantage Service phone and you are not at your physical service address location, we will not be able to route your call to the appropriate emergency operator.

? If you permanently relocate your AT&T CallVantage Service phone, for example when you move homes, you MUST provide AT&T with your new physical service address location.

? You can update your physical service address by calling Customer Service at 866-596-8464. It will take several days to update your records with the emergency services provider at your new location.

? You can update your physical Service Address by calling Customer Service at **1-866-596-8464. It will take several days to update your records with the emergency services provider at your new location.**

### **When You Call 911 the First Information You Should Provide is your Location.**

? If you do need to dial 911 from your AT&T CallVantage Service phone, the first information you will need to provide to the emergency operator should be your location, name, and telephone number, as the Emergency Services PSAP personnel will NOT have this information available automatically. This occurs because your call will go to a general access line at the PSAP which is different from how traditional 911 calls are handled by the PSAP.

### **Service Outages Can Prevent 911 Emergency Dialing.**

? Just as your regular cordless phone will not work today without power, your Telephone Adapter (TA) does not operate without power. As a result, you will be unable to make 911 Emergency Dialing calls from your AT&T CallVantage Service phone during an electrical power outage.

? Similarly, you will not be able to make 911 Emergency Dialing calls from your AT&T CallVantage Service phone if your broadband service provider has a service outage, or if any other service disruptions keep you from being able to make an outbound call.

**Additional Important Differences**

From time to time, due to network congestion, you may have a greater possibility of receiving a busy signal or experiencing unexpected and/or longer answering wait times when you dial 911 Emergency Dialing with AT&T CallVantage Service than with traditional 911 calls.

**Important Note**

Please refer to the 911 Emergency Dialing Terms of Service section in the AT&T CallVantage Service Subscriber Agreement for important information on possible service limitations of the 911 Emergency Dialing feature, including the differences between the AT&T CallVantage Service 911 Emergency Dialing feature and traditional 911 dialing.