Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petitions for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources	)	**CC Docket No. 99-200**
	)	
	)	**DA 05-663**
	)	

To: The Federal Communications Commission

INITIAL COMMENTS OF THE TEXAS 9-1-1 ALLIANCE

The Texas 9-1-1 Alliance,[1] submits these initial comments in response to the Federal Communications Commission ("Commission" or "FCC") public notice (DA 05-663) in the above-referenced docket soliciting comments on the petitions for limited waivers of Section 52.15(g)(2)(i) of the Commission's numbering rules filed by RNK, Inc. d/b/a RNK Telecom (RNK), Nuvio Corporation (Nuvio), Unipoint Enhanced

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[1] The Texas 9-1-1 Alliance is an entity organized under the Texas Interlocal Cooperation Act and composed of the following Texas Emergency Communication Districts: Abilene/Taylor County 9-1-1 District, Austin County Emergency Communications District, Bexar Metro 9-1-1 Network, Brazos County Emergency Communication District, Calhoun County 9-1-1 Emergency Communication District, Cameron County Emergency Communications District, 9-1-1 Network of East Texas, DENCO Area 9-1-1 District, Emergency Communications District of Ector County, Galveston County Emergency Communication District, Greater Harris County 9-1-1 Emergency Network, Henderson County 9-1-1 Communication District, Howard County 9-1-1 Communication District, Kerr County Emergency 9-1-1 Network, Lubbock County Emergency Communication District, McLennan County Emergency Communication District, Midland Emergency Communications District, Montgomery County Emergency Communication District, Potter-Randall County Emergency Communications District, Smith County 9-1-1 Communications District, Tarrant County 9-1-1 District, Texas Eastern 9-1-1 Network, and Wichita-Wilbarger 9-1-1 District. These districts were created pursuant to Texas Health and Safety Code Chapter 772.

Services d/b/a PointOne (PointOne), Dialpad Communications, Inc. (Dialpad), Vonage Holdings Corporation (Vonage), and VoEX, Inc. (VoEX); hereinafter collectively referred to as "Petitioners." The Texas 9-1-1 Alliance would respectfully submit that granting these waivers may be in the public interest, but only when the Voice over Internet Protocol ("VoIP") service provider Petitioners demonstrate their ability to comply immediately with E9-1-1 responsibilities and requirements as a condition of being granted a waiver similar to that granted to SBCIS.[2]

I.

E9-1-1 Service Provider Responsibilities and Requirements should be a condition for granting the waivers.

The Petitioners fail to mention E9-1-1 or how E9-1-1 will be provided as part of the numbering and interconnection associated with their respective waiver requests. This is a significant omission. Petitioners all point out that the major benefit of obtaining numbering resources directly is that they no longer will have to go through a Competitive Local Exchange Carrier ("CLEC") to obtain the numbers and that they will therefore have a more efficient interconnection to the Public Switch Telephone Network ("PSTN").[3] The Texas 9-1-1 Alliance respectfully submits that this benefit should be

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[2] *In the Matter of Administration of the North American Numbering Plan*, Order, CC Docket No. 99-200, FCC 05-20 (released Feb. 1, 2005) ("SBCIS Waiver Order").

[3] RNK Petition at pp. 4-6; Nuvio Petition at p. 3; Point One Petition at p. 4; VoEX Petition at pp. 4-6; Dialpad Petition at pp. 4- 6; Vonage Petition at pp. 2-4. RNK further points out that VoIP service providers going through CLECs has other negative effects for consumers, especially with respect to Local Number Portability (LNP) because in the CLEC indirect interconnection model, the VoIP service providers cannot obtain the Local Routing Numbers ("LRNs") needed to meet a service providers LNP requirements and responsibilities. RNK Petition at pp. 4-6. The Texas 9-1-1 Alliance supports a common

associated with and conditioned on their demonstrated immediate compliance associated with E9-1-1 responsibilities and requirements as well.

In the SBCIS situation, the Commission ordered:

> To further ensure that the public interest is protected, the waiver order is limited by certain conditions. Specifically, we require SBCIS to comply with the Commission's other numbering utilization and optimization requirements, numbering authority delegated to the states, and industry guidelines and practices [footnote 20, See, 47 C.F.R. Part 52] ....[4]

The Commission also ordered that SBCIS, as part of the "facilities readiness" requirement, had to show proof of an available tariff or an approved interconnection agreement.[5] While the same "discriminatory access"[6] concerns between SBC and SBCIS may not be present here, there is still a significant need for the Petitioners to show immediate proof that they are ready to provide E9-1-1 service as a condition of the waiver.

At least one Texas Alliance member was privy to the SBCIS Dallas trial that was associated with the SBCIS temporary waiver and that included E9-1-1 functions as part of the SBCIS trial. As further documented in SBCIS contracts ready for execution with Texas 9-1-1 Alliance members, SBCIS's VoIP services will be provided in compliance with E9-1-1 responsibilities and requirements. The potential lack of E9-1-1

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process for LNP that includes addressing E9-1-1 responsibilities and requirements associated with LNP as well.

[4] SBCIS Waiver Order at ¶ 4.

[5] SBCIS Waiver Order at ¶ 10. To date, it is at least questionable whether SBCIS has satisfied this FCC requirement as SBC has failed to address E9-1-1 in the TipTop tariff, Texas state tariff, or in a state approved interconnection agreement. SBC makes E9-1-1 interconnection available to SBCIS through an ancillary commercial agreement to the TipTop tariff. This is different than having a tariff or an approved interconnection agreement as required by the FCC in the SBCIS Waiver Order.

[6] SBCIS Waiver Order at ¶ 10.

interconnection would be a significant distinction from the SBCIS situation that is completely ignored by Petitioners. While Petitioners may have erred in asserting that they have demonstrated comparable and indistinguishable facts from the SBCIS situation related to the temporary and permanent waivers, Petitioners can remedy any alleged difference in comparable facts by agreeing to comply immediately with E9-1-1 responsibilities and requirements as condition of the Commission granting of their waivers. These requirements and responsibilities include E9-1-1 emergency service fee remittance in the states as well.[7]

The Texas 9-1-1 Alliance acknowledges that there may be technical issues associated with VoIP services that need to be worked out. As a result, VoIP customers may need to take on greater responsibilities in providing and entering their location information. Similarly, VoIP providers may have to commit additional time and resources validating such information. However, these issues should not be significant problems to most VoIP providers or end user customers and should not be a complete excuse for E9-1-1 non-compliance today. There are many different approaches currently in use and these various options should at least be on the table for discussion as viable immediate interim solutions today.

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[7] Moreover, while VoIP providers have argued to the FCC in other contexts that they at least pay some 9-1-1 fees to the CLEC as the CLEC's customer of record, even this minimal contribution will no longer continue if the petitions for waiver are granted because Petitioners may no longer be "retail" customers of the CLECs. This further compels the importance of the FCC requiring E9-1-1 compliance, including with 9-1-1 emergency service fee remittance requirements in the states, as a condition of granting the petitions for waivers, which SBCIS has agreed to do in Texas. Several Petitioners have requested to be able to continue "indirect" interconnection. (See, RNK Petition at p. 14; Point One Petition at p. 8; VoEx Petition at pp. 6-7; Dialpad Petition at p. 7.) To the extent that the FCC considers these requests for "indirect" interconnection, the FCC should nevertheless still require compliance with "provider" E9-1-1 responsibilities and requirements as well.

There are at least two immediate E9-1-1 solutions that can be implemented today for VoIP services in some manner. Like SBCIS, a fixed VoIP service provider can use dedicated 9-1-1 trunks and interface like a CLEC with the 9-1-1 system.[8] A VoIP provider can also currently use a third-party intermediary like Level 3. The Greater Harris County 9-1-1 Emergency Network is also pursing the use of its Automatic Crash Notification (ACN) solution via the PSTN for VoIP providers as well, and this PSTN access approach has been trialed in other areas and is under further discussions and review.

To the extent that Petitioners assert Incumbent Local Exchange Companies ("ILECs") are preventing or inhibiting their E9-1-1 interconnection and access, then the Commission should take appropriate action in coordination with state Public Utility Commissions ("PUCs") as appropriate to address the problem in conjunction with granting any further waivers. It is not in the public interest for the Commission to grant waivers at the expense of E9-1-1, the public's safety, or to further facilitate the burden that VoIP service providers place on the E9-1-1 system.

II.

Conclusion

The Commission should require each Petitioner to demonstrate proof that they are ready to provide E9-1-1 service immediately as a condition of granting their respective waiver. SBCIS is providing E9-1-1 service as part of its provision of service under its waiver, and Petitioners should do so as well consistent with the public interest. Petitioners can cure the E9-1-1 omission by each committing to comply immediately with

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[8] (The CLEC E9-1-1 interconnection for SBC is available https://clec.sbc.com/clec/shell.cfm?section=115.)

E9-1-1 requirements and responsibilities. Appropriate E9-1-1 arrangements and compliance requirements are fundamental to interconnection to the PSTN by providers. Granting waivers to Petitioners has benefits to them which should be granted as long as it is demonstrated that Petitioners will fully comply with all the E9-1-1 responsibilities of being a provider. This includes compliance with E9-1-1 requirements, including E9-1-1 database standards and the remittance of 9-1-1 fees associated with their provision of service as a provider. If ILECs are impeding VoIP service providers from performing E9-1-1 functions, then the FCC should take appropriate action in coordination with state PUCs as appropriate to address the problem in conjunction with granting any further waivers. It is not in the public interest for the Commission to grant waivers at the expense of E9-1-1, the public's safety, or to further facilitate the burden that VoIP service providers place on the E9-1-1 system.

Date: April 11, 2005

Respectfully submitted,

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On behalf of the Texas 9-1-1 Alliance

Certificate of Service

I certify that a copy of these comments is being served on or before April 11th by regular or overnight mail, fax or via e-mail on the Commission Secretary and other the personnel required by the public notice.

Michael J. Tomsu