

September 1, 2005

**VIA ELECTRONIC COMMENT FILING SYSTEM**

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

**Re: WC Docket 05-196 -- September 1, 2005 VoIP E911 Subscriber Acknowledgement Report**

Dear Ms. Dortch:

airBand Communications, Inc. ("airBand") is filing this second Subscriber Notification Report to provide the information called for by the Commission's *Public Notice* entitled *Enforcement Bureau Provides Further Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning Enforcement of Subscriber Acknowledgement Requirement* (the "August 26 Guidance").<sup>1</sup>

**Preliminary Statement**

airBand filed its initial Subscriber Notification Report (the "Initial Report") on August 31, 2005, in response to the requirements set forth in the Commission's *Public Notice* entitled *Enforcement Bureau Provides Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning the July 29, 2005 Subscriber Notification Deadlines*.<sup>2</sup> The reasons for the late filing of the first report<sup>3</sup>, and the mitigating circumstances which justify the Commission in refraining from taking any enforcement action against airBand, are set forth in detail in the Initial Report.

Because very little time has passed since the Initial Report was filed, much of the information contained in this report is similar to the information contained in the Initial Report. Nonetheless, as is set forth below, progress is being made with respect to airBand's compliance with the Commission's E911 policies and the timely submission of this required update is indicative of the commitment of airBand to comply with those policies.

**Report in Response to the August 26 Guidance**

airBand responds to the questions set forth in the August 26 Guidance as follows:

<sup>1</sup> See DA 05-2358, released August 26, 2005.

<sup>2</sup> See DA 05-2085, released July 26, 2005 (the "July 26 Guidance").

<sup>3</sup> Pursuant to the July 26 Guidance the Initial Report was due to be filed by August 10, 2005.

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1. A detailed explanation regarding current compliance with the notice and warning sticker requirements *if the provider did not notify and issue warning stickers or labels to 100% of its subscribers by the July 29, 2005 deadline. Providers are expected to update this information include those that were in the process of providing notice and/or stickers to their subscribers, but had not completed the process by July 29, 2005.*

As noted in the Initial Report, airBand did not notify and issue warning stickers to 100% of its subscribers by the July 29, 2005 deadline. However, since that time airBand has made a concerted effort to come into full compliance with the sticker requirement.

Specifically, on August 30, 2005, airBand sent every airBand VoIP customer an e-mail that included a sample of the warning labels that were to be placed by the customer on or near VoIP handsets and associated equipment. The warning labels were formatted in order to be easily printed on Avery No. 5661 blank label sheets, and customers were notified of this fact.

In addition to providing the sample warning label by e-mail, airBand has printed sets of warning labels on stickers and is sending them by mail to each airBand customer. airBand plans to have these labels mailed by September 2, 2005. In circumstances where customers are known to have multiple handsets in service using the airBand VoIP service, multiple sets of stickers are being sent in order to facilitate the posting process for the customers. A copy of the warning labels was attached to airBand's Initial Report.

airBand also has modified its customer initiation procedures in order to assure that all new customers receive full and complete information regarding the nature and extent of the limitations on the availability of E911 service from VoIP equipment. New customers must initial a paragraph on the new customer contract containing the following acknowledgements:

I am in receipt of the airBand advisory regarding the circumstances under which E911 services may not be available through the interconnected VoIP service I receive and the limitations of the E911 services that are available. I also am in receipt of the warning labels airBand provided for me to place on or near my VoIP equipment. (emphasis supplied)

Consequently, all new subscribers will receive the warning stickers and labels, along with instructions to post them on or near the VoIP equipment, prior to their initiation of service.

2. A quantification of the percentage of the provider's subscribers that have submitted affirmative acknowledgements as of the date of the September 1 and September 22 reports, and an estimation of the percentage of subscribers from whom the provider does not expect to receive an acknowledgement by September 28, 2005.

As of September 1, 2005, 20 % of airBand's subscribers have submitted affirmative acknowledgements. Note that this response has been received *in just one day* which is indicative of the resources that airBand is devoting to address this E911 issue. airBand expects its September 22 report to reflect that the company is on track to meet the September 28, 2005 extended enforcement date.

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3. A detailed description of any and all actions the provider plans to take towards any of its subscribers that do not affirmatively acknowledge having received and understood the advisory.

airBand intends to implement special follow-up procedures including telephone contacts, and even in-person visits if necessary, in order to secure customer responses. airBand shall file a further report on September 22, 2005, as required by the August 26 Guidance in order to provide the Commission with additional information regarding the status of the customer acknowledgements.

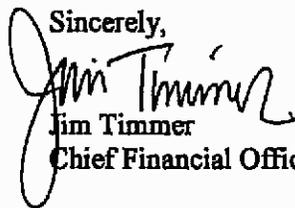
4. A detailed description of any and all plans to use a "soft" or "warm" disconnect (or similar) procedure for subscribers that fail to provide an affirmative acknowledgement by September 28, 2005. A provider's September 1 and September 22 reports must include either a statement that the provider will use a "soft" or "warm" disconnect (or similar) solution as of September 28, 2005, or a detailed explanation of why it is not feasible for the provider to use a "soft" or "warm" disconnect solution, as described above.

airBand is hoping to receive the requisite acknowledgements from all customers on a timely basis in order to avoid having any non-responsive subscribers face potential disruption of their VoIP service. As earlier noted, airBand plans to send additional reminder e-mails, contact non-responsive subscribers via telephone, and send airBand sales representatives to subscriber premises if necessary in an effort to ensure that all subscribers understand the advisory and provide affirmative acknowledgement.

However, the notification sent by airBand to its customer alerted them of the possibility of service disruptions if they did not respond before September 28, 2005. And, airBand is preparing for the use a soft disconnect procedure whereby after September 28, 2005, all non-911 calls made by airBand customers who have failed to submit an affirmative acknowledgement will be disallowed. Calls to 911 will continue to go to the appropriate PSAP. airBand's plans in this regard will be updated in its September 22 report.

Kindly refer any questions in connection with this report to the undersigned.

Sincerely,



Jim Timmer  
Chief Financial Officer

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