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

In the Matters of	§	
	§	
E911 Requirements for IP-Enabled Service Providers	§	**WC Docket No. 05-196**
	§	
	§	
IP-Enabled Services	§	**WC Docket No. 04-36**

JOINT REPLY COMMENTS OF THE TEXAS 9-1-1 ALLIANCE AND THE TEXAS COMMISSION ON STATE EMERGENCY COMMUNICATIONS

Michael J. Tomsu
Vinson & Elkins L.L.P.
State Bar No. 20125875
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527
512-236-3211 (fax)
mtomsu@velaw.com

ATTORNEY FOR THE TEXAS 9-1-1 ALLIANCE

Gabriel Garcia
Assistant Attorney General
Office of the Attorney General of Texas
State Bar No. 00785461
300 W. 15th St., WPC Bldg., Floor 9
Austin, Texas 78701
512-936-1660
512-322-9114 (fax)
gabriel.garcia@oag.state.tx.us

ATTORNEYS FOR THE TEXAS COMMISSION ON STATE EMERGENCY COMMUNICATIONS

On the reply comments:

Richard A. Muscat
Bexar Metro 9-1-1 Network District

September 12, 2005

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The Texas 9-1-1 Alliance[1] and the Texas Commission on State Emergency Communications[2] (collectively referred to herein as the "Texas 9-1-1 Entities") respectfully submit these joint reply comments to the Federal Communications Commission ("Commission" or "FCC") Notice of Proposed Rulemaking ("NPRM")[3] in the above-referenced dockets on the next additional steps to take to address E9-1-1 for Voice over Internet Protocol ("VoIP") services.[4] The primary purpose of these reply comments is to help facilitate VoIP E9-1-1 deployments, best protect citizens using VoIP services, and assist the Commission in its leadership on these efforts.

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[1] The Texas 9-1-1 Alliance is an interlocal cooperation act entity composed of twenty-three Texas Emergency Communication Districts with E9-1-1 service public safety responsibility for approximately 50% of the population of Texas. The Texas 9-1-1 Alliance members are: Abilene/Taylor County 9-1-1 District, Austin County Emergency Communications District, Bexar Metro 9-1-1 Network District, Brazos County Emergency Communication District, Calhoun County E9-1-1 Emergency Communications 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 Communications District, Greater Harris County 9-1-1 Emergency Network, Henderson County 9-1-1 Communications District, Howard County 9-1-1 Communications District, Kerr Emergency 9-1-1 Network, Lubbock County Emergency Communications District, McLennan County 9-1-1 Emergency Assistance District, Midland Emergency Communications District, Montgomery County Emergency Communications 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.

[2] The Texas Commission on State Emergency Communications is a state agency created pursuant to Texas Health and Safety Code Chapter 771, and is the State of Texas' authority via statute for 9-1-1 emergency communications.

[3] *In the Matter of IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, FCC 05-116, WC Docket No. 04-36, 05-196 (rel. June 3, 2005) (*VoIP E9-1-1 Order*) (to be codified at 47 C.F.R. 9.5).

[4] The Texas 9-1-1 Alliance and the Texas Commission on State Emergency Communications each filed separate initial comments.

I.
Summary of Reply Comments

The Commission should reject the arguments of those who assert that nomadic VoIP should provide a lesser level of E9-1-1 service than that which applies to traditional wireline telephone service, provided the service level is consistent with the spirit and intent of existing FCC rules and orders and technically feasible. Similarly, the Commission should reject the arguments intended to undermine the authority of state and local governments to ensure that nomadic VoIP services provide such reasonably comparable E9-1-1 and to apply reasonable funding requirements currently applicable to traditional wireline services. Furthermore, the Commission should reasonably facilitate or require that the VoIP providers make a reasonable amount of reporting and deployment information available given the justified needs of the public safety community for such information.

The Commission should reject the arguments that deployment of E9-1-1 for nomadic VoIP is not reasonable at this point. Although more detailed work is required, nomadic VoIP E9-1-1 deployments have occurred, are occurring, and can occur in major markets by the Commission's current deployment deadline. Therefore, the Commission should not modify the current deployment deadline. The Commission should only consider waivers when VoIP providers can demonstrate and document that they have been working in good faith with state and local 9-1-1 agencies to meet the current deadline and have made substantial progress toward deployment.

The promise and benefits of IP E9-1-1 networks to enhance emergency services deserve strong federal encouragement and careful consideration by state and local 9-1-1

governmental authorities. Specific IP E9-1-1 deployment plans must be developed at the federal, state, and local government levels and integrated appropriately as IP technology and IP E9-1-1 standards continue to evolve.

The Commission should reject all arguments that in the context of 9-1-1 universal emergency telephone number services, there is a reasonable or significant distinction between a "telecommunications service" using telephone numbers to deliver voice services and an "information service" using telephone numbers to deliver VoIP services. By public safety necessity and legislative intent, state 9-1-1 statutes apply to such VoIP services and the use of IP-technology for E9-1-1 networks is consistent with the statutory responsibility for state and local agencies to provision 9-1-1 emergency services.

II.
Reply Points

Reply Point No. 1: Deployment of E9-1-1 solutions for nomadic VoIP should provide a level of E9-1-1 emergency service comparable to existing E9-1-1 deployments for fixed/static only VoIP and traditional wireline services as is currently technically feasible, including, but not limited to, (1) MSAG validation, (2) English Language Translations and selective transfer functions, and (3) other standard wireline ALI information.

Some of the initial comments make arguments that would result in less than comparable E9-1-1 emergency services for nomadic VoIP customers.[5] Other comments make arguments in favor of providing a level of E9-1-1 for nomadic VoIP customers that is comparable to existing E9-1-1 deployments for fixed/static VoIP and traditional

[5] Cf., Telecommunications System, Inc. (TCS) Comments at p. 9 ("The FCC has properly refused to require MSAG validity of the ALI data provided by the IVSP to the PSAPs."); Verizon Comments at p. 4 ("For example, a customer may not know whether the database will accept 'Sixth Avenue' or 'Avenue of the Americas' in New York City. Because of issues such as these, the Commission should not impose standards on providers for updating registered locations.").

wireline E9-1-1.[6] The Commission should reject the arguments of those that urge less than comparable E9-1-1 services for nomadic VoIP.

The FCC should clarify and affirm that implementation of nomadic VoIP should be subject to E9-1-1 service level functions comparable to those that apply to fixed/static VoIP and traditional wireline telephone service, provided those service level functions are consistent with the spirit and intent of existing FCC rules and orders.[7] At a minimum, the FCC should not preclude state and local 9-1-1 agencies from expecting a level of E9-1-1 service from nomadic VoIP providers that is consistent with the spirit and intent of existing FCC requirements.

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[6] As Intrado explained:

Providing the Registered Location, however, is less desirable than providing a master street address guide (MSAG)-validated address. Delivering the Registered Location may result in the display of an improper set of emergency response agencies at the PSAP and may render Computer Aided Dispatch (CAD), Geographic Information System (GIS)/Mapping, and other MSAG address-sourced public safety systems ineffective. As a result, the public safety community may be required to consume already limited administrative and economic resources to modify existing CAD/GIS systems to support non-MSAG validated address data. Further, requiring that an MSAG-validated address be provided to the PSAP, rather than the Registered Location, will promote parity between wireline and VoIP E911 services.

Initial Comments of Intrado at pp. 1-2 (footnote omitted); United Online Comments at p. 12 ("Resolving these [MSAG validation] address conflicts is a critical component to ensuring that customers receive the E911 service they expect."); National Emergency Number Association ("NENA") Comments at p. 11 ("At a minimum, VoIP Providers should meet existing wireline standards when an end user updates Registered Location information and when the service provider takes the actions necessary to enable E9-1-1 from that new location.") and at p. 16 ("For various reasons, this information [customer name] is very important within wireline E9-1-1 and should not be forgotten or omitted in VoIP E9-1-1, particularly for services marketed as wireline replacements.").

[7] State and local emergency service agencies in Texas that have designed, paid for, operated, and maintained 9-1-1 networks within state boundaries have a legitimate interest in establishing operating procedures under which nomadic and fixed/static VoIP providers will access their 9-1-1 networks.

These operating procedures include service level functions common to wireline E9-1-1 service, such as: (1) MSAG validation, (2) routing based on appropriate Emergency Services Zones and use of wireline English Language Translations ("ELTs") to enable PSAP selective transfer, (3) display of customer name, and (4) other appropriate ALI information. Many of these functions, such as MSAG validation and routing based on Emergency Services Zones are inherent in the NENA I2 standard. Most nomadic VoIP providers do not dispute that these are necessary functions and are working cooperatively with the 9-1-1 community to implement comparable wireline-type functionality.[8] However, the Commission in affirming and clarifying its expectation as to comparable E9-1-1 services for nomadic VoIP should avoid unnecessary disputes related to such issues and ensure customers of nomadic VoIP services are similarly protected. In the absence of such an affirmation, the Commission should, at a minimum, support the ability of the Texas 9-1-1 Entities and other 9-1-1 authorities to address such issues in a reasonable manner as long as they do not conflict with Commission rulings on these issues.

Reply Point No. 2: The continued involvement of state and local 9-1-1 governmental authorities in the administration of E9-1-1 and in E9-1-1 service level functions is critical to ensure end user customers are protected.

Some of the initial comments argue that the role of state and local 9-1-1 agencies should be limited, modified, eliminated, or taken over by the federal government as to

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[8] This is crucial as it appears that many nomadic VoIP providers are representing their services as a replacement substitute or alternative to traditional wireline telephone services. The lack of MSAG validation, routing based on Emergency Services Zones, and ELTs are contrary to such representations and reasonable end user customer and PSAP call-taker expectations.

either operations or funding.[9] On the other hand, state Public Utility Commissions or state 9-1-1 programs noted the importance of state and local involvement in E9-1-1 deployments and operations, including for VoIP E9-1-1.[10]

The former comments fail to appreciate the structural differences regarding the manner in which 9-1-1 policy and operational procedures are established from state-to-state. For instance, in some states the Public Utility Commission may determine 9-1-1 policy for wireline service provided by local exchange companies and operating

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[9] Cf., Comments of iPosi at p. 9 ("iPosi believes the Commission should progress down the path of federal control of 911 for VoIP solutions."); Initial Comments of Intrado at p. 4 ("Thus, Intrado encourages the Commission to monitor and discourage any network connection requirements/rules imposed by state and local governments on VoIP network design and configuration criteria."); National Association of State Utility Consumer Advocates ("NASUCA") Comments at p. 21 ("In regard to 9-1-1 fees, the Commission should require the states to designate one state-wide collection point to which VoIP providers may forward 9-1-1 payments."); Comments of the Voice On the Net Coalition ("VON Coalition") at p. 22-23 ("Indeed, the FCC alone should administer and enforce the new VoIP E9-1-1 rules." Alternatively, "the Commission should consider preempting state laws to ensure, consistent with the Commission's ruling in *Vonage*, that such laws to [sp] do not establish roadblocks to the Commission's technology neutral and competition policies." The VON Coalition also argues to preclude the Commission from adopting "additional regulations that would facilitate the states' ability to collect 9-1-1 fees from interconnected VoIP providers.").

[10] Cf., Comments of the New York State Department of Public Service at pp. 3-4 ("Efficient implementation of IP-enabled E911 service will require coordination among ILECs, third-party database providers, IP-enabled providers, local public safety authorities, and various levels of local government."); Comments of the New Jersey Board of Public Utilities at p. 9 ("States cannot continue to ensure the availability of this critical service [E9-1-1] without the ability to address individual concerns that only states are equipped to handle."); Comments of the Public Utility Commission of Texas at p. 4 ("[G]iven the extent to which the Texas PUC, CSEC and local authorities are involved in the implementation and operation of the state's 911 network, the Texas PUC believes that commissions and local authorities are best able to implement and monitor implementation of the provision of 911/E911, and they should continue to maintain that role with regard to interconnected VoIP providers."); Comments of the State of California and the California Public Utilities Commission at p. 7 ("The key role played by state and local entities is evident in the passage of the 911 Act, which directed the Commission to designate 911 as the universal emergency assistance number for wireless and wireline calls.").

procedures for the state's 9-1-1 network. In Texas, however, the Texas PUC develops some of the policies for 9-1-1 service applicable to traditional telephone service, but the Texas 9-1-1 Entities determine other policies and operating procedures (based on NENA or other appropriate standards) for connecting to the 9-1-1 network and the 9-1-1 database within each 9-1-1 entity's jurisdiction. In addition, each 9-1-1 entity pays for the operation and maintenance of the 9-1-1 network and 9-1-1 database within its jurisdiction.

It is beyond reasonable question that local 9-1-1 governmental authorities must be involved in some manner in the deployment details and funding associated with fixed/static, as well as nomadic VoIP E9-1-1, just as they have been heavily involved in traditional wireline and wireless E9-1-1 to deploy the services appropriately. This will be necessary even if the federal government adopts more detailed rules and standards or provides additional federal funding. There are specifics and emergency response details that necessitate such involvement and coordination to ensure all the involved parties understand what is required.

Local involvement by emergency service agencies may apply to specifics such as the documentation of the agreed default PSAP for the 10-digit contingency emergency number for problem 9-1-1 calls, the agreed emergency contacts and trouble resolution procedures, and other agreed operational details must be fully understood and documented by all the involved parties to ensure end user customers receive E9-1-1 emergency service comparable to that provided to customers of traditional wireline service. As noted above in reply point one, there are comparable wireline equivalence issues that are currently not specified in the FCC rules and orders. In many cases, they

are not currently specified in state PUC requirements, but rather have been worked out at the state and local level by the respective 9-1-1 agencies. Moreover, there are differences in individual areas of Texas or elsewhere in the country that require reasonable differences in specific 9-1-1 details.[11] These details must be clearly understood and coordinated appropriately by the involved parties.

Changes in communications regulation and technologies, as the FCC well knows, are placing additional technological, administrative, and operational burdens on local agencies and PSAPs. This happened when competitive local exchange companies ("CLECs") entered the local markets, with wireless E9-1-1, and with fixed/static VoIP; is happening for nomadic VoIP; and it will happen again with future technological or regulatory communications changes. Additional federal involvement and coordination (as well as perhaps supplemental federal funding, where appropriate) are to be encouraged to help ease these increased technological, administrative, and operational burdens. However, state and local 9-1-1 governmental authorities will continue to bear an increased burden. They are critical for ensuring the service level of E9-1-1 service is not undermined because of changes in the communication environment.

Additional federal involvement, support, and coordination with local emergency agencies on these issues are welcomed, and would serve the local end user customers.[12] However, the complete abdication of local 9-1-1 agency responsibilities on these issues

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[11] For example, a large urban area or a county with a single primary and many secondary PSAPs may have significantly different needs for the selective transfer function than a small county with one PSAP and no secondary PSAP.

[12] Comments of NENA at p. 13 ("NENA feels strongly that comprehensive national solutions to these issues must balance the interest and responsibility of all three levels of government. As appropriate, the FCC can and should play a role in clarifying that responsibility, and facilitating interaction among all levels of government.").

would not serve the interests of the local end user customers needing emergency assistance from emergency responders.

The Commission should reject the attempts to undermine the authority of state and local governments to ensure that nomadic VoIP providers achieve reasonably comparable E9-1-1 service. The Commission should similarly reject attempts to undermine the authority of state and local 9-1-1 governmental entities to apply the reasonable funding requirements currently applicable to traditional wireline services.

Reply Point No. 3: The FCC should stay its current course and not grant waivers unless a nomadic VoIP provider demonstrates both exceptional circumstances and good faith E9-1-1 deployment efforts.

There are those who assert that implementation of E9-1-1 for nomadic VoIP consistent with the FCC rule or NENA I2 solution is not feasible.[13] At least one anticipated that there may be waivers and urged compliance reports to assist the FCC in evaluating such waiver requests.[14] Another, however, pointed out that nomadic VoIP E9-1-1 deployments have occurred, are occurring, and can occur in major markets by the current FCC deadline.[15]

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[13] Cf., Comments of the Global IP Alliance and Professor Henning Schulzrinne at p. 3 ("Proposed transition ('i2') solutions may lead to misroutes for mobile and nomadic users and thus other temporary measures, such as operator-assisted 9-1-1 or "service bureau [sic] approaches, need to be developed to support these particular emergency calls until the next-generation 9-1-1 network can be built and deployed.").

[14] Comments of TCS at p. 11 ("TCS anticipates that a number of IVSPs will apply for waivers asking the Commission for more time to complete the requested tasks. In order to assist the Commission in determining what weight to give such requests, TCS recommends that VoIP service providers should be obligated to report compliance statistics that detail the level of success or failure of their efforts to complete E9-1-1 deployments.").

[15] Cf., Comments of New Jersey Board of Public Utilities at p. 9 ("Board Staff was invited as observers during the implementation of E911 services for VoIP providers in New York City and can attest that through leadership and cooperation by all parties, E911 service can be made available to all VoIP end users in a timely fashion.").

By this point in time, VoIP providers or their representatives should be working in good faith with state and local 9-1-1 governmental authorities on nomadic VoIP deployments based on the NENA I2 solution. The Texas 9-1-1 Entities have been working cooperatively with some VoIP providers, third-party intermediaries, and the Local Exchange Carrier ("LEC") representatives to work through many of the detail issues associated with actual deployments.[16] Significant initial deployment of nomadic VoIP E9-1-1 still appears reasonable at this point, although more detailed work needs to be done by all the involved parties. Therefore, the FCC should not modify its current deployment deadline.

Where VoIP providers can demonstrate and document that they have been working in good faith to meet the current deadline and have made substantial progress in many areas, the FCC could consider delaying any enforcement efforts against such nomadic VoIP providers. This would not distract such nomadic VoIP providers from continuing their current good faith deployment. On the other hand, where a VoIP provider has done little or nothing towards implementation, the FCC and the state PUCs should use their full enforcement authority.

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[16] Neither the LECs nor the nomadic VoIP providers provided much detail in their comments about their current level of cooperation on nomadic VoIP deployment efforts. There was also a noticeable absence, however, of much complaint by VoIP providers related to LEC problems. Perhaps, as noted by AT&T, this was because its subject matter experts are focusing on deployment. See, AT&T Initial Comments at p. 6 ("[M]any of the same AT&T research, technical and operations staff who are currently engaged in an intense effort to meet the November 28 deadline, have the subject matter expertise necessary to evaluate the new requirements discussed in the *NPRM* and simply cannot be available for both projects.").

<u>Reply Point No. 4:</u> The FCC should continue to facilitate longer-term efforts toward an Internet Protocol E9-1-1 network.

Several comments support the Commission furthering development and deployment of the Internet Protocol ("IP") E9-1-1 network.[17] There were differences as to how soon this could reasonably be accomplished.[18] Some of the comments went too far from currently reasonable expectations.[19] Based on these initial comments, it is probably fair to say that a full IP E9-1-1 network is not ready for full nationwide deployment today or by the current deadline.

The promise and benefits of IP E9-1-1 networks to enhance emergency services deserve strong federal encouragement and careful consideration by state and local 9-1-1 governmental authorities. The benefits of IP-enabled E9-1-1 networks may also include

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[17] Cf., Comments of Vonage at p. 2 ("Vonage respectfully submits that the shortest and easiest path to reaching that goal [a ubiquitous and reliable E-911 system] is for the Commission to encourage development of a framework for the administration of new E911 gateways that can form the basis for a new dynamic E911 system which operates based on open infrastructure principles."); Comments of NENA at p. 8 ("[W]hile the NENA I3 standard will still require the selective routing function for all 9-1-1 calls, the I3 standard assumes that the future 9-1-1 network will not require the use of current physical Selective Router switches.").

[18] Cf., Comments of Skype at p. 12 ("The leading industry proponents of an I3 solution have already identified a number of technical challenges that must be overcome to achieve a truly nomadic solution for E911 services." [footnote omitted in quotation]); Comments of the Global IP Alliance and Professor Henning Schulzrinne at p. 4 ("The FCC should support and even facilitate vendor-neutral early interoperability testing of IP-based emergency calling solutions, in conjunction with the broad set of interested and affected industry.").

[19] Cf., Comments of Donald Clark Jackson at p. 2 ("VoIP providers should not be required to integrated with the E911 system's selective routers and PSAPs via legacy circuit switched TDM trunks, the PSAPs and their selective routers should interconnect themselves with the public Internet, and accept calls that VoIP providers send them over the Internet, using the IETF standard SIP and RTP protocols.").

reasonable intermediate-term ways to address additional E9-1-1 redundancy issues.[20] This could be especially important in emergency situations impacting one type of communications technology (e.g. the PSTN) in an area, but not another type of communications technology (e.g., the IP-network) in the same area. These benefits may also include facilitating better communications from individuals within our communities with certain disabilities, although certain challenges may exist in that regard as well.[21] A competitive, deregulated communications market may make deployment of a new E9-1-1 network more difficult than in the old days when monopoly telephone companies could more easily implement major industry changes at their own option. Nevertheless, to realize the benefits of IP technology for E9-1-1 networks, specific deployment plans must be developed at the federal, state, and local government levels and integrated appropriately as IP technology and IP E9-1-1 standards continue to develop.

Reply Point No. 5: The reasonable minimal additional reporting requirements requested by 9-1-1 public safety entities and state commissions should be adopted.

State PUCs and 9-1-1 public safety entities requested access to an appropriate, minimal amount of information to monitor and ensure proper operation of VoIP E9-1-1 services to end user customers.[22] As noted earlier in these reply comments, at least one

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[20] Comments of NENA at p. 13 ("Investments in the 9-1-1 network may in fact be better spent on advancing to a next generation system than for multiple interconnected SRs.").

[21] Cf., Comments of the Rehabilitation Engineering Research Center on Telecommunications Access at p. 6 ("Far preferable for emergency (as well as non-emergency) situations, would be a single, reliable IP text standard that would enable any two parties who have screens and keyboards on their IP phones or other end-user equipment to use both text and voice (separately or together) as needed during conversations.").

[22] Comments of the State of Michigan Emergency Telephone Service Committee at p. 1 ("A registration/qualification system would serve to ensure that only authorized providers access the 9-1-1 system. It would also provide PSAPs with access to needed information,

company noted the importance of some reporting information as a threshold requirement for the evaluation of any waiver requests.[23] Similar information and reporting requirements currently exist for wireless carriers under FCC jurisdiction and traditional wireline and fixed/static VoIP carriers with state PUC certifications.[24]

Some minimal amount of information would place little burden on VoIP providers, and at the same time would meet the justified needs of the public interest and safety of VoIP end user customers. At a minimum, VoIP providers should be required to periodically submit a report of all emergency calls delivered via a call center.[25] The Texas 9-1-1 Entities respectfully urge the Commission to require the VoIP industry to make a reasonable amount of such information available.

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while protecting information that is proprietary to VoIP providers. Because it would provide a base information infrastructure, a centralized/qualification system could be used in the future migration to an IP-based 9-1-1 network."); Comments of Staff of the Corporation Commission of the State of Kansas at p. 5 ("Staff recommends a VoIP national registry containing at least the service provider's d/b/a name, locations served (at the rate center or locality level), contact names for regulatory and compliant matters along with their respective telephone numbers and e-mail addresses.").

[23] Comments of TCS at p. 11. See also, Comments of Vonage at p. 19 ("VoIP providers are also well positioned to advise the Commission about the extent to which VoIP providers have been able to deploy E911 in each PSAP serving area.").

[24] Comments of the Public Utility Commission of Texas, Attachment A, Texas PUC Substantive Rules Pertaining to 911/E911, PUC Substantive Rule 26.433(e) requiring that a Certificated Telecommunications Utility ("CTU") that resell local exchange telephone service shall demonstrate "that subject to a confidentiality agreement with the 9-1-1 entity, it will release reselling CTUs wholesale billing records to 9-1-1 entities for quality measurement purposes, including, but not limited to, auditing a reselling CTU's collection and remittance of 9-1-1 emergency service fees in accordance with applicable law."

[25] An emergency call delivered by a call center occurs when the call is unable to be selectively routed to the appropriate PSAP. In essence, such a call is a "failed" 9-1-1 call. In order for 9-1-1 public safety entities to be able to ascertain how effectively a VoIP provider is provisioning E911, it is imperative that they be provided with information as to the number of calls being delivered by the provider's call center.

<u>Reply Point No. 6:</u> In the context of 9-1-1 emergency communications, there is no reasonable or significant distinction between a "telecommunications service" using telephone numbers to provide voice telephone services and an "information service" using telephone numbers to provide VoIP services, and such distinction cannot reasonably be interpreted to undermine (1) the ability of any person calling 9-1-1 to reach emergency services, (2) 9-1-1 confidentiality laws, (3) 9-1-1 limitation of liability laws, (4) 9-1-1 laws relating to the remittance of applicable fees, and (5) the enhancement of E9-1-1 networks via IP technology.

Several of the comments make arguments for or against the Commission declaring VoIP to be a "telecommunications service" or an "information service" for the purpose of achieving a desired outcome.[26] The Texas 9-1-1 Entities respectfully submit that while distinctions between these two terms may arguably have some relevance in other contexts, this alleged distinction must by any rules of statutory construction and reasonableness in accordance with state legislative intent be a meaningless distinction for

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[26] Cf., Comments of RNK Telecom at p. 15 ("[S]ince the Commission has not yet classified IVS as a telecommunications service, IVS is not subject to the requirements related to the privacy of customer information ...."); Comments of the VON Coalition at p. 23 ("Without liability relief, VoIP providers will face costs that other E9-1-1 service providers do not, impairing telecommunications competition."); Comments of United Online, Inc. at p. 19 ("While interconnected VoIP services do not constitute a 'telecommunications' service, the privacy protections applicable to wireline and wireless telecommunications carriers may be a reasonable proxy ...."); Comments of Comptel at p. 10 ("Because the ability of states and localities to provide reliable and high-quality 911 service to all citizens is not damaged by the deployment of Internet Protocol technology by telecommunications carriers that are already interconnected with the wireline E911 network and compliant with state and local regulation, the Commission should make clear that the federal E911 rules do not apply to such carriers."); Comments of the Global IP Alliance and Professor Henning Schulzrinne at p. 4 ("Government policies should support migration of all emergency calling to IP-enabled services ...."); Comments of NASCUA at p. 6 (Putting aside technical issues surrounding E9-1-1, it may profoundly impact the states should the FCC choose to adopt different definitional schemes for some providers of voice communications, i.e., VoIP providers. There are likely few states whose statutes and regulations would recognize a new regulatory classification of 'interconnected VoIP service' or the provider of such a service.").

the purposes of 9-1-1 emergency communications service provision, delivery, protections, and obligations.[27]

Under state laws, the term "9-1-1" may be defined in statute as a "***telecommunications service.***" This is the case in Texas statutes.[28] State statutes may also provide that 9-1-1 emergency service is to be available "***to any person calling the telephone number 9-1-1 seeking police, fire, medical, rescue, and other emergency services***." This is the case in Texas statutes.[29] Moreover, this broad public safety policy has also been expressed in Texas statutes as: "***9-1-1 service is mandatory*** for each individual telephone subscriber in the district and is not an optional service ***under any definitions of terms relating to telephone service***."[30] (Emphasis added) These same Texas statutes address not only that the 9-1-1 service must be available to any person being able to use telephone numbers to call for emergency assistance, but also address liability issues, confidentiality of consumer information, and 9-1-1 emergency service fees.[31]

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[27] Similarly, arguable technology distinctions within an "information service" classification should have no such distinctions under similar circumstances. Comments of Intrado at p. 4 ("The transport used to access the service, whether it is DSL, cable, fiber, or wireless technology, should have no impact on the requirement for E911 services, and the Commission should make those requirements applicable to all VoIP services providing PSTN access.").

[28] Texas Health and Safety Code Ann. § 771.001(6), which provides "'9-1-1 service' means a ***telecommunications service*** that provides ***the user of the public telephone system*** the ability to reach a public safety answering point ***by dialing the digits 9-1-1***." (Emphasis added)

[29] Texas Health and Safety Code Ann. § 772.104.

[30] Texas Health and Safety Code Ann. § 772.110(e).

[31] Cf., Texas Health and Safety Code Ann. §§ 771.053, 771.061, 771.071, and 771.0711.

These statutes were intended to ensure all end users with telephone numbers and PSTN access and in need of emergency assistance could obtain that emergency assistance via the universal emergency number 9-1-1, and these statutes provide a comprehensive state public statutory scheme to achieve that goal. Any attempts to attach undue relevance to an alleged distinction between a "telecommunications service" using telephone numbers to provide voice services and an "information service" using telephone numbers to provide VoIP services in the context of 9-1-1 emergency communications would, among other things, undermine state legislative intent designating 9-1-1 as the universal emergency number and the envisioned comprehensive statutory scheme addressing the delivery of 9-1-1 service. It could possibly even legally preclude the ability of VoIP end users to have and use telephone numbers and make 9-1-1 calls in emergency situations and possibly prevent state and/or local governments from realizing the benefits of IP technologies for voice and emergency communications purposes all because such did not fit the definition "telecommunications service" under existing public safety or other state statutes. This could have disastrous results and is an unreasonable reading of such statutes.

The Commission should continue on its path to protect the public in this regard and avoid defining VoIP services in such a way as to cast a shadow over whether state 9-1-1 statutes, such as those in Texas, may properly apply to interconnected VoIP services, which can be used by end users to make 9-1-1 calls. These statutes provide important protections and safeguards for end users, PSAPs, and service providers. The Commission should declare that in the context of 9-1-1 universal emergency service, there is no reasonable or significant distinction between a "telecommunications service"

using telephone numbers to deliver voice services and an "information service" using telephone numbers to deliver VoIP services.

III.
Conclusion

The Texas 9-1-1 Entities appreciate the opportunity to submit these reply comments. The Texas 9-1-1 Entities respectfully urge Commission action consistent with these reply comments.

Respectfully submitted,

Michael J. Tomsu
Vinson & Elkins L.L.P.
State Bar No. 20125875
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527
512-236-3211 (fax)
mtomsu@velaw.com

On behalf of the Texas 9-1-1 Alliance

Gabriel Garcia by mjt by permission
Gabriel Garcia
Assistant Attorney General
Office of the Attorney General of Texas
State Bar No. 00785461
300 W. 15th Street, WPC Bldg., Floor 9
Austin, Texas 78701
512-936-1660
512-322-9114 (fax)
gabriel.garcia@oag.state.tx.us

On behalf of the Texas Commission on State Emergency Communications

On the reply comments:

Richard A. Muscat
Bexar Metro 9-1-1 Network District

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