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September 12, 2005

VIA ELECTRONIC FILING AND OVERNIGHT UPS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

DOCKET FILE COPY ORIGINAL

Re: Reply Comments of RNK, Inc. d/b/a RNK Telecom in WC Docket No. 05-196

Dear Ms. Dortch:

RNK, Inc., d/b/a RNK Telecom, in addition to the electronically-filed version at the Commission's website, hereby submits one (1) original of the above-captioned document for filing in WC Docket No. 05-196, in response to the *First Report and Order and Notice of Proposed Rulemaking*¹ in that docket. As provided by the Commission's Rules,² please treat the electronic version as the "original, official copy."³

Please indicate your receipt of this filing on the copy of this letter and the additional first page of the filing provided and return it to the undersigned in the enclosed self-addressed, postage-prepaid, envelope.

Should you have any questions related to this filing, please do not hesitate to contact me at 781-613-6000. Thank you for your attention to this matter.

Sincerely,

Leah Williams
Sr. Counsel

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¹ *IP-Enabled Services and E911 Requirements for IP-Enabled Service Providers, First Report and Order and Notice of Proposed Rulemaking*, WC Docket Nos. 05-196 and 04-36. 2005 WL 1323217, FCC, (rel. Jun 3, 2005).

² See *Electronic filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998) at ¶5.

³ *Id.*

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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

REPLY COMMENTS OF RNK, INC., D/B/A RNK TELECOM

In response to comments submitted pursuant to the Federal Communications Commission's (the "Commission") Notice of Proposed Rulemaking issued in the above-captioned proceedings,¹ RNK, Inc. d/b/a RNK Telecom ("RNK") hereby respectfully submits the following comments.

I. INTRODUCTION

RNK, a small, privately-held company, based in Dedham, Massachusetts is an integrated communications provider, marketing local and interexchange telecommunications services, as well as Internet services and IP-enabled voice services. RNK offers "interconnected VoIP services" ("IVS"), as defined by the Commission in its *VoIP E911 First Report and Order*, primarily to independent resellers on a wholesale basis.

RNK is also a certified Competitive Local Exchange Carrier ("CLEC") in the states of Massachusetts, Rhode Island, New York, Florida, New Jersey, New Hampshire, and Connecticut offering residential and business telecommunications services via resale and through its own facilities. In addition, RNK has

¹ In the Matters of IP-Enabled Services (WC Docket No. 04-36) and E911 Requirements for IP-Enabled Service Providers (WC Docket No. 05-196), FCC 05-116 para. 24 (June 3, 2005) ("*VoIP E911 First Report and Order*").

interexchange ("IXC") authority in Vermont and Maine, as well as international §214 authority from the Commission.

I. THE COMMISSION SHOULD NOT LIMIT TECHNOLOGIES THAT INTERCONNECTED VOIP SERVICE PROVIDERS ("IVSPS") MAY USE TO COMPLY WITH THE VOIP E911 FIRST REPORT AND ORDER

RNK supports the position of Telecommunication Systems, Inc. ("TCS") that the Commission should encourage IVSPs to develop innovative technologies for purposes of complying with the Commission's E911 rules.² In the *VoIP E911 First Report and Order*, the Commission requires IVSPs to transmit all 911 calls, with a call back number and the end user's Registered Location,³ to the appropriate public safety answering point ("PSAP") or default answering point via the dedicated Wireline E911 Network.⁴ The Commission acknowledges that to comply with its directive, IVSPs will have to rely on incumbent local exchange carriers ("ILECs") for access to trunks and selective routers.⁵

If the Commission elects to simply encourage ILECs to provide non-discriminatory access to its E911 network elements, and does not require cooperation on the part of ILECs as discussed further in Section II herein, the Commission will effectively place IVSPs in the position of having to rely on the goodwill of ILECs to provide access at reasonable rates to vital network services. The Commission must provide IVSPs with a more certain means of achieving compliance, and can do so by allowing IVSPs to employ innovative techniques to interconnect with the Wireline E911 Network.

² Comments of Telecommunications Systems, Inc. (August 15, 2005).

³ A "Registered Location" is the "most recent information obtained by an IVSP that identifies the physical location of an end user." *VoIP E911 First Report and Order*, Appendix B, Final Rules, §9.3.

⁴ The Wireline E911 Network is "a dedicated, redundant, highly reliable wireline network, which is interconnected with, but largely separate from, the PSTN." *Id.* para. 14.

⁵ *VoIP E911 First Report and Order* para. 40.

TCS appropriately points out in its comments that “IVSPs and CLECs must be able to access the ILEC infrastructure that supports PSAPs in a manner that permits the free selection of VoIP E911 technical solutions”⁶ and that a “one size-fits-all solution for 6,000 PSAPs with different levels of technological sophistication will not work.”⁷ Commenters such as Global IP Alliance and Professor Henning Schulzrinne, and Vonage America Inc. (“Vonage”) go so far as to recommend that the Commission should not rely on the outdated Wireline E911 Network in developing its VoIP E911 rules, and that the system should be overhauled in favor of an Internet Protocol (“IP”) - based network.⁸ RNK agrees that a shift toward an IP-based network could address problems inherent in IVSPs’ reliance on ILECs to provide open access to their E911 networks,⁹ and could also offer innovations in the market, such as the possible transmission of video and medical records associated with the individual in need of emergency assistance.¹⁰ Until such time as a fully functional IP-based E911 network is viable, however, IVSPs should be permitted to interconnect with the Wireline E911 Network through any means that provides successful delivery of E911 services to American citizens.

Likewise, the Commission must provide flexibility to IVSPs with regard to delivery of the end user’s Registered Location in the event a “911” call is placed. That is, when capable, IVSPs should be permitted to use existing wireless E911

⁶ Comments of Telecommunications Systems, Inc. at 6 (August 15, 2005).

⁷ *Id.* at 6.

⁸ Comments of the Global IP Alliance and Professor Henning Schulzrinne (August 15, 2005); Comments of Vonage America Inc. (August 15, 2005).

⁹ For example, Vonage suggests the use of dedicated connections to Network Access Points (“NAPs”) in place of unnecessary reliance on dedicated trunk groups to selective routers. Comments of Vonage America Inc. para. II (August 15, 2005).

¹⁰ *Id.*

infrastructure to transmit longitude and latitude coordinates to the PSAPs in lieu of a physical address.¹¹

In sum, RNK concurs with TCS's position that network neutrality is essential to facilitate IVSPs' compliance with the *VoIP E911 First Report and Order* and to further the goal of public safety.

II. THE COMMISSION SHOULD REQUIRE ILECS TO PROVIDE OPEN ACCESS TO THEIR E911 NETWORKS TO IVSPS

In its initial comments in this proceeding,¹² RNK argued that the Commission should, at a minimum, "deem, for the limited purpose of providing 911/E911 services, IVSPs to be telecommunications carriers."¹³ This would allow all IVSPs, regardless of market power or geographic location, to obtain interconnection and unbundled access to the ILEC's baseline 911/E911 offerings on the same basis as traditional wireline and wireless carriers. RNK continues to support its proposal and disagrees with other commenters who seem to indicate that affordable and efficient access to baseline public safety communications should be left to the whim of the ILECs' goodwill.

SBC, in its comments, "urge[s] the Commission to reject" any suggestion that the Commission should "mandate that ILECs offer [any] particular 911 services" directly to IVSPs.¹⁴ It points to public statements by Vonage, following "successful" negotiations between Vonage and Verizon and SBC regarding access to their E911 infrastructure as evidence that ILECs need not be compelled to provide such

¹¹ See Petition of T-Mobile USA, Inc. for Clarification §VI (July 29, 2005) and Comments of RNK, Inc., d/b/a RNK Telecom (August 15, 2005).

¹² Comments of RNK, Inc., d/b/a RNK Telecom (August 15, 2005).

¹³ *Id.* para. II(A).

¹⁴ Comments of SBC Communications Inc. (August 15, 2005) at 15.

access.¹⁵ However, this belies Vonage's own statements to this Commission in this respect,¹⁶ which it filed less than two weeks prior to the press release in question.

Vonage was correct in its assessment that such a mandate would present “no significant technical obstacles, and ... little inconvenience or expense” to ILECs.¹⁷ After all, ILECs currently have mandates to allow competitive wireline access to their 911/E911 infrastructure, which in many cases is the only 911/E911 infrastructure in existence. This near-stranglehold (with notable exceptions of forward-looking jurisdictions like the State of Rhode Island, which is in the process of establishing a carrier-neutral E911 access architecture) on these vital access points, is, as Vonage points out, a classic example of an “essential facilit[y],” which warrants protection from predatory or discriminatory pricing, terms, and conditions.¹⁸

With such essential facilities within their grasp, the issue of reasonable and non-discriminatory rates, terms, and conditions arises. Reasonable rates and terms are more likely to be achieved in an open market that includes obtaining E911/911 facilities through publicly-available agreements and/or tariffs. This Commission has, in several contexts, promoted this approach, most notably in its successful efforts to open the domestic and international interexchange markets to competition.¹⁹ This effort retained the time-honored principle, rooted in §201 and §202 of the Act,²⁰ that

¹⁵ *Id.* at p. 16.

¹⁶ See *Ex Parte* Letter from William B. Wilhelm Jr., Counsel for Vonage Holdings Corp., to Hon. Kevin J. Martin, Chairman, Federal Communications Commission, WC Docket No. 04-36 (filed May 11, 2005).

¹⁷ *Id.* at p.2.

¹⁸ *Id.* at p.3. See also, *Id.* n. 7 for a brief synopsis of “essential facilities” doctrine.

¹⁹ *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 245(g) of the Communications Act of 1934*, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730 (1996) (*Interexchange Detariffing Order*) (adopting mandatory detariffing of most domestic interstate, interexchange services); Order on Reconsideration, 12 FCC 15014 (1997); Second Order on Reconsideration and Erratum, 14 FCC Rcd 6004 (1999), *aff'd*, *MCI WorldCom, Inc. v. FCC*, 209 F.3d 760 (D.C. Cir. 2000).

²⁰ 47 U.S.C. §201(a) (“It shall be the duty of every common carrier ... to furnish such communication service upon reasonable request therefore; and, in accordance with the orders of the Commission, in cases where

similarly-situated customers of telecommunications services receive similar rates, terms, and conditions of service. The “common-carrier” approach—since 911/E911 access provided by ILECs is, in fact (and regardless of the ultimate statutory and/or jurisdictional classifications of IVS), a telecommunications service—would allow IVSPs to avail themselves of common-carrier end-user (or interconnector) complaint and dispute resolution processes to prevent abuses by ILECs.

However, most importantly, if IVSPs, at least for purposes of interconnection for and to obtain E911 access, were deemed “telecommunications carriers,” negotiations for such access would be more meaningful and less one-sided than at present. If anything, the Commission’s mandated deadlines for IVSPs to provide E911 to their customers bolsters the need for such protection, now that IVSPs “must have” E911 capabilities by a date certain.

Specifically, the statutory mandates of §251(c)²¹ apply to all ILECs and would require ILECs to “to do the right thing,” rather than have IVSPs rely on their goodwill, regardless of how good the intentions of certain ILECs may be at the moment. First, ILECs would be required to negotiate²² with IVSPs in good faith, which they are not required to do currently. Second, ILECs would be required to provide interconnection and access to its 911/E911 services “at any technically feasible point within the carrier’s network, . . . that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party, [and]

the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto”); 47 U.S.C. §202(a) (“It shall be unlawful . . . to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services . . . directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference . . . or to subject any [customer to any undue or unreasonable prejudice or disadvantage.”)

²¹ 47 U.S.C. §251(c).

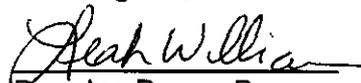
²² 47 U.S.C. §251(c)(1).

on rates, terms, and conditions that are just and reasonable.”²³ Third, ILECs would have “[t]he duty to provide . . . [911/E911] network elements” in a similar fashion.²⁴ Finally, unlike the present time, where IVSPs may not receive advance notice of E911-related network changes, limited treatment of IVSPs as “telecommunications carriers” would ensure that IVSPs would directly receive such notices.²⁵

III. CONCLUSION

In conclusion, RNK supports a philosophy of network neutrality, which would provide IVSPs with the requisite flexibility to employ various types of technology to comply with the *VoIP E911 First Report and Order*. In the event the Commission continues to tie IVSPs to the E911 Wireline Network, it must do more than suggest cooperation on the part of ILECs and, instead, must mandate the obligation of ILECs to provide open access to their E911 networks to IVSPs.

Respectfully submitted, by the
undersigned,



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²³ 47 U.S.C. §251(c)(2)(b)-(d).

²⁴ 47 U.S.C. §251(c)(3).

²⁵ 47 U.S.C. §251(c)(5).