

October 5, 2005

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Meeting, WC Docket Nos. 04-36 and 05-196**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("FCC") Rules, this letter serves to provide notice in the above-captioned proceedings of *ex parte* meetings described below. On October 4, 2005, the undersigned accompanied Mr. Jason P. Talley, Chief Executive Officer of Nuvio Corporation, to meet with the following people: Russell Hanser, Acting Legal Advisor to Commissioner Abernathy, Scott Bergmann, Legal Advisor to Commissioner Adelstein, Julie Veach, Acting Deputy Bureau Chief – Wireline Competition Bureau, Ian Dillner, Legal Counsel to the Bureau Chief, and, in the Competition Policy Division, Christi Shewman, Acting Assistant Division Chief.

Nuvio explained to the FCC that the Company is committed to providing Voice over Internet Protocol ("VoIP") E-911 services to all of its customers and that Nuvio shares the FCC's goal to make such services available as soon as possible. Nuvio is working hard to comply with the VoIP E-911 Order and continues to obtain affirmative acknowledgements from its customers. Nuvio provided the FCC with an update as to the number of subscribers that have provided affirmative acknowledgement. In the report filed with the FCC on September 22, 2005, Nuvio reported that 85% of their customers had provided affirmative acknowledgement. The Company has now received affirmative acknowledgements from more than 90% of their subscribers.

During the meetings, Nuvio also expressed concern with the FCC's November 28, 2005, deadline to have an E-911 nationwide solution in place for all users of the Company's VoIP service and the ambiguities associated with the VoIP E-911 Order. Attached to this filing are questions that Nuvio circulated during meetings with FCC staff concerning the applicability of the VoIP E-911 Order to a variety of ways that customers use Nuvio's VoIP service. Answers to these questions are critical so that the Company, as well as the industry, can fully understand what is required in order to comply with the VoIP E-911 Order.

Similar to all VoIP service providers, Nuvio is reliant on the efforts of third parties in order to comply with the VoIP E-911 Order. As the FCC is well aware, the VoIP industry cannot develop and deploy an E-911 solution alone. Instead, VoIP providers require the assistance of ILECs, CLECs, and VoIP Positioning Center (“VPCs”) companies in order to deliver an E-911 solution. However, the VoIP E-911 Order imposes obligations only on VoIP providers. As a result, VoIP providers have found themselves at an enormous disadvantage when entering into contracts with third-party VoIP E-911 solution providers.

Based upon ongoing discussions with a major VPC vendor, it is clear that much of the continental United States will not have a VoIP E-911 solution in place that makes use of dedicated trunking for the delivery of E-911 calls. This VPC vendor is not only unwilling to commit as to when they will have a dedicated VoIP E-911 in place, but continues to insist on allowing for the delivery of VoIP E-911 calls using a variety of means. One method provides for routing VoIP E-911 calls through the PSTN, which the FCC has not yet ruled as to whether it is an acceptable solution. Another method provides for call centers to handle calls where there is no VoIP E-911 solution in place.

The problems associated with some third-party solution providers are compounded by other terms and conditions that restrict the manner in which VoIP providers may seek other solutions. Unfortunately, there are very few companies offering VoIP E-911 solutions so VoIP providers are left with little choice but to sign a contract without knowing whether the solution it is now committed to will be found by the FCC to conform to the VoIP E-911 Order. It has now become clear that there will be no nationwide solution that includes dedicated trunking to all of the selective routers in the United States by November 28, 2005. Given what we believe are clear limitations on the availability of a VoIP E-911 solution, it is imperative for the FCC to clarify whether the agency will allow for VoIP E-911 services to be phased in over a certain period of time or if the FCC will insist on nationwide coverage by November 28, 2005, through the exclusive means of dedicated trunking to selective routers.



**ATTACHMENT**

**Questions Distributed During Meetings with Staff**

## Scenarios

For purposes of these questions, IP endpoint means either a nomadic analog terminal adapter (ATA), IP telephone, or softphone client.

1. Customer has a registered address outside of the E-911 service area that Nuvio can serve. Customer has completed affirmative acknowledgement of Nuvio's E-911 and limitations. Customer is aware that there is no E911 services for customer's registered address. What should Nuvio do with this customer?
  
2. Customer has a registered address inside Nuvio's E-911 service area. Customer has completed affirmative acknowledgement of Nuvio's E-911 and limitations. Customer moves IP endpoint to an area outside of Nuvio's E-911 service area without notifying Nuvio. What should Nuvio do with this customer?
  
3. Customer has a registered address inside Nuvio's E-911 service area. Customer has completed affirmative acknowledgement of Nuvio's E-911 and limitations. Customer moves IP telephone device to an area outside of Nuvio's E-911 service area. Customer updates registered address with Nuvio informing Nuvio of location of IP endpoint. What should Nuvio do with this customer?
  
4. Customer has a registered address inside Nuvio's E-911 service area. Customer has completed affirmative acknowledgement of Nuvio's E-911 and limitations. Customer has made statements that customer plans on traveling outside of Nuvio's E-911 service area. However, Customer will not update registered address for fear of service being suspended. Nuvio is generally aware customer may travel outside E-911 service area, but not precisely when. What should Nuvio do with this customer?
  
5. Customer has multiple offices. One or more of these offices is inside Nuvio's E-911 service area, and one or more of these offices is outside of Nuvio's E-911 service area. Customer has completed affirmative acknowledgement of Nuvio's E-911 and limitations. What should Nuvio do with this customer?