



1228 Euclid Avenue  
Suite 390  
Cleveland, Ohio 44115-1800  
Phone: 216-373-4682  
Fax: 216-373-4669  
[www.broadvox.net](http://www.broadvox.net)

November 28, 2005

**VIA ELECTRONIC FILING**

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

RE: Petition by Broadvox Ltd., for an Extension of Time and Limited Waiver

Dear Ms. Dortch:

Pursuant to section 1.925 of the Commission's Rules, Broadvox Ltd. ("Broadvox"), hereby respectfully requests the Federal Communications Commission to grant its request for limited waiver associated with the November 28, 2005 deadline for Interconnected VoIP Service Providers.

Respectfully Submitted,

Pete Sandrev  
Director of Regulatory Affairs  
Broadvox, Ltd.  
[psandrev@broadvox.net](mailto:psandrev@broadvox.net)

PS/cf

cc: Byron McCoy (FCC)  
Kathy Berhot (FCC)  
Janice Myles (FCC)  
Best Copy and Printing, Inc.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

|   |   |                      |
|---|---|----------------------|
| In the Matter of                                      | ) |                      |
|   | ) |                      |
| IP-Enabled Services                                   | ) | WC Docket No. 04-36  |
|   | ) |                      |
| E911 Requirements for IP-Enabled<br>Service Providers | ) | WC Docket No. 05-196 |
|   | ) |                      |
| Broadvox Ltd.   | ) |                      |
| Petition for Extension and Limited Waiver             | ) |                      |

**PETITION FOR EXTENSION OF TIME AND LIMITED WAIVER**

Broadvox Ltd. (“Broadvox”), pursuant to Section 1.3 of the Commission’s Rules,<sup>1</sup> requests that the Commission grant it an extension of time to comply with and limited waiver of the obligations imposed on Broadvox pursuant to Commission Rules 9.5(b), 9.5(d) and (e) adopted in the *First Report and Order* in the above-captioned proceedings.<sup>2</sup> As explained in detail below, despite having made substantial progress toward meeting the requirements of the *VoIP E-911 Order*, Broadvox will be unable to comply fully for all of its customers by the November 28, 2005 deadline. Accordingly, Broadvox requests a 12-month extension of time and

---

<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, WC Docket Nos. 04-36 & 05-196, FCC 05-116 (released June 3, 2005) (“*VoIP E-911 Order*”). Commission Rule 9.5 (b) and (c), 47 C.F.R. §§ 9.5(b) and (c), implementing the VoIP E-911 Order are scheduled to take effect on November 28, 2005.

limited waiver in order to comply with those obligations. Broadvox also requests expedited treatment of this Petition.

**I. DESCRIPTION OF THE PETITIONER**

By way of background, Broadvox is a VoIP service provider which offers service to a variety of wholesale and retail business and residential customers in locations throughout the United States. Broadvox has provided a description of its service offerings to the Commission in its compliance report submitted on the same date as this Petition.<sup>3</sup> Pursuant to the definitions adopted in the *VoIP E-911 Order*, Broadvox is a provider of interconnected Voice over Internet Protocol (“VoIP”) services.

Since the release of the *VoIP E-911 Order*, Broadvox has taken a number of steps to comply with the Commission’s new rules. In addition to what is discussed in greater detail in Section IV below, Broadvox has hired a Regulatory and Compliance Manager and has contracted with HBF Group ([www.hbfgroup.com](http://www.hbfgroup.com)), an outsourced VPC provider of 911 DB administration and routing services. Broadvox notified all subscribers prominently and in plain language of the circumstances under which E-911 services may not be available. Broadvox has obtained 100% affirmative acknowledgement from all of its subscribers. Additionally, each Broadvox subscriber whether existing or new is sent 5 Warning Labels for visual alert of the current E-911 limitations. Broadvox will also be implementing a system effective December 1, 2005 that will disable the device for new customers until they

---

<sup>3</sup> See Letter to Marlene H. Dortch from Peter Sandrev of Broadvox, WC Docket Nos. 04-36 and 05-196 (filed November 28, 2005) (“Broadvox Compliance Report”)

have a Registered Location on file. A process was put in place that requires acknowledgement during the sign-up process as well.

Despite those efforts, Broadvox will not be in full compliance with the requirements of the *VoIP E-911 Order* by November 28 and requires additional time to implement an E-911 solution for all of its customers.

As discussed in greater detail in Section IV below, Broadvox was not able to meet 100% compliance in the areas of coverage for E-911 and obtaining Registered Locations for all its subscriber base. However, Broadvox is implementing an E-911 solution that will comply with the requirements of the *VoIP E-911 Order*. To achieve full compliance, Broadvox by and between its relationships with HBF Group and the efforts they are undertaking, expects to achieve 100% E-911 coverage for its Broadvox customers within a 12-month timeframe. That is to say that all Broadvox customers will either have E-911 coverage from Broadvox, via HBF, or the customer will be forced to leave Broadvox's service based on non-supportable Registered Locations. It should be noted that because the service Broadvox offers is Nomadic by nature it is quite possible for a customer's address to be E911 supportable on one day and a different Registered Location, entered by the customer, to **NOT** be E-911 supportable on another day. With that said, customers beyond the requested Waiver period, who sign up for the service with a Registered Location outside of the HBF E-911 coverage area will be turned away. Further, Existing Customers who have a Registered Location that Broadvox cannot provide E-911 service to will also be notified that they will either have to move their service

to an E-911 covered address, or their service with Broadvox will be canceled by a pre-determined date. In order to accomplish the tasks and processes set forth above, and to comply fully with the *VoIP E-911 Order*, Broadvox will require an additional 12-months.

## II. SPECIFIC WAIVERS REQUESTED

Broadvox requests a limited waiver of and a 12-month extension of time to implement the following requirements of the *VoIP E-911 Order*:

- the requirement to transmit all 911 calls, in all geographic regions served by the Wireline E911 Network, along with the ANI and the caller's Registered Location for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority.<sup>4</sup>
- the requirement to route all 911 through the use of ANI and, if necessary, pseudo-ANI.<sup>5</sup>
- the requirement to provide the Registered Location to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.<sup>6</sup>

## III. STANDARD OF REVIEW

Section 1.3 of the Commission's Rules states that the Commission may waive its rules for good cause where the facts of a particular case make strict compliance inconsistent with the public interest and when the relief requested will not

---

<sup>4</sup> See 47 C.F.R § 9.5(b)(2)

<sup>5</sup> See 47 C.F.R. § 9.5(b)(3)

<sup>6</sup> See 47 C.F.R. § 9.5(b)(4)

undermine the policy objective of the rule in question.<sup>7</sup> To prevail, a petitioner must demonstrate that application of the challenged rule would be inequitable, unduly burdensome, or contrary to the public interest.<sup>8</sup>

The Commission's approach to requests for waivers in the wireless area is illustrative. Section 1.925(b)(3) of the Commission's Rules is comparable to Section 1.3 and provides that the Commission may grant a request for waiver if

(i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>9</sup>

In the wireless E-911 context, the Commission has stated that technical infeasibility and delays beyond the control of the carrier, including the inability to obtain required products or services despite good faith efforts by a petitioner, is reason to grant a waiver.<sup>10</sup>

#### **IV. PETITIONER MEETS THE STANDARD FOR GRANTING A WAIVER**

##### **A. Strict Enforcement of the New Rules is Not Necessary to Serve the**

---

<sup>7</sup> 47 C.F.R. § 1.3. *See Wait Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *see also Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

<sup>8</sup> *Wait Radio*, 418 F.2d at 1159.

<sup>9</sup> 47 C.F.R. § 1.925(b)(3).

<sup>10</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers*, CC Docket No. 94-102, Order, FCC 05-79, released April 1, 2005 (“*Wireless E911 Tier III Second Waiver Order*”) at P 10.

## Public Interest

Strict adherence to the requirements of the *VoIP E-911 Order* is inconsistent with the public interest in the present case. As noted above, although Broadvox has made good faith efforts to comply with those requirements, and has made progress toward compliance, it will not be able to provide full E-911 service to all of its customers by November 28. However, demanding strict compliance with the *VoIP E-911 Order* will not further the goal of providing E-911 to all consumers, but will only punish Broadvox for its efforts to date. It also could result in the suspension of Broadvox's service to Broadvox's existing customers and prohibit Broadvox from accepting new customers. The result will be that Broadvox will be less likely ultimately to comply with the *VoIP E-911 Order*. Such a result does not serve either the public interest or the goals of the *VoIP E-911 Order*. Accordingly, grant of the extension of time and limited waiver requested by Broadvox is appropriate and necessary.

Strict compliance with the requirements of the *VoIP E-911 Order* could require Broadvox to discontinue its services to some customers and to cease accepting new customers.<sup>11</sup> These actions would deprive existing customers of access to Broadvox's VoIP services and destroy Broadvox's relationships with its customers. In addition, the ability of Broadvox to attract new customers would be

---

<sup>11</sup> While the Commission is indicated that it is not "requiring" providers to disconnect current customers, it has made no commitment not to pursue enforcement actions against providers that continue to provide service. This puts carriers in the untenable position of courting an enforcement action if they do continue to provide service to existing customers.

severely hampered. The loss of current customers and the inability to accept new customers will deprive Broadvox of the ability to maintain or expand its user base and revenues. In addition to the extreme economic hardship that Broadvox would suffer, the loss of revenues also would limit Broadvox's ability to roll-out E-911 services.

Given Broadvox's efforts to date to comply with the *VoIP E-911 Order* and its plans for full compliance, which are described in detail below, strict application of the November 28 deadline with respect to Broadvox is not necessary and is contrary to the public interest. Requiring Broadvox to suspend or discontinue its services and prohibiting it from accepting new customers until it has a fully developed E-911 solution will result in substantial harm to Broadvox. More important, it will make it less likely that Broadvox will ever be able to comply with the *VoIP E-911 Order*. Therefore, the Commission should grant the Petition.

**1. Broadvox's Efforts to Comply With the VoIP E-911 Order**

Since the issuance of the *VoIP E-911 Order*, Broadvox has taken a number of steps to implement an E-911 solution. Broadvox has contracted with a third-party provider and have been working actively to meet the deadline. The current I1 solution is able to deliver emergency calls to 100% of the PSAPs via a 10-digit number. This solution provides 100% coverage in the United States. In the event a call cannot be delivered directly to the PSAP the caller is routed to a national call center with trained emergency operators.

Access to selective routers for delivery of voice to PSAP is an extremely costly and time-consuming procedure. This requires physical interconnection to over 650

selective routers owned by the ILECS as well as conversion of the call from IP to TDM. There are very few carriers capable of meeting this requirement and most are CLECs, such as Level 3, Global Crossing, and XO. However, none have 100% coverage and all have varying levels of support. Each requires use of their own DIDs in order to use their E911 infrastructure. They also require substantial upfront investments along with high recurring monthly charges. Finally, these existing solutions only support static numbers and cannot support out of area telephone numbers (foreign NPA/NXXs). For that we need a VPC provider.

Given the time and effort Broadvox has expended in attempting to meet the obligations of the VoIP E-911 Order, Broadvox has demonstrated its commitment to providing its customers full E-911 services as soon as possible. The Commission should reward those efforts and allow Broadvox the additional time necessary for Broadvox to fully deploy its E-911 solution.

## **2. Broadvox's Plan to Achieve Full Compliance**

In addition to the steps that it has already taken to implement the requirements of the *VoIP E-911 Order*, Broadvox has plans in place to achieve full compliance within a reasonable period. Grant of this Petition will give Broadvox the time and resources to reach full compliance. Broadvox's third-party provider (HBF) has been actively involved in meeting the requirements of this order but given the short timeframes this is proving very difficult.

Delivery of ANI and registered location information to the PSAP requires connection agreements with all the ILECs, frame relay circuits to all the ALI databases, testing of links and data exchange, and loading of ESQKs into all the

ALI databases. The circuit ordering timeframe is usually 4-6 weeks. Some of the smaller ILECs still do not have their VoIP ordering processes in place so no circuits have been ordered. Our third-party provider is installing these circuits but the 120 day timeframe from the FCC did not allow enough time to negotiate interconnection agreements with the ILECs and then order the circuits.

In addition, ESQKs have to be assigned and allocated. This issue current sits with the FCC to name an interim administrator for these non-dialable numbers. Without FCC guidance, it is nearly impossible to deploy services on a nationwide basis.

Finally, this solution requires testing with over 6000 PSAPs to meet the deadline. This takes time as each PSAP must be tested with each ESQK. Again the 120 day timeframe doesn't allow enough time to get interconnection agreements with each ILEC, provision circuits, create ESQK shell records, and then schedule/execute testing with 6000 PSAPs. Our third-party provider has this effort underway but it is time consuming. The wireless industry has had years to perform this same effort and they are not complete yet.

Until these issues are resolved, our third-party provider has developed a web-based solution that allows PSAPs to see the real-time ANI/ALI information for each VoIP call. This gives the PSAP access to callback information when the call is delivered via the I1 solution.

To achieve full compliance, Broadvox plans to continue working with our third-party provider who has been actively working with NENA, ATIS, the VON Coalition, as well as with every ILEC to complete the ESQK assignment process

and finalize the ANI/ALI links. In addition, access to the selective routers is being achieved through partnerships with CLECs throughout the country. This is an extremely time-consuming and costly process which is multiplied given the tight timeframes.

Broadvox additionally plans to continue notifications to its existing customer base to achieve 100% compliance with regard to Registered Locations. Broadvox plans to continue voicemail blasts, email blasts and phone calls in addition to the posted information on the web-based portal management system.

. Broadvox estimates that it will require an additional 12-months to comply fully with the *VoIP E-911 Order*.

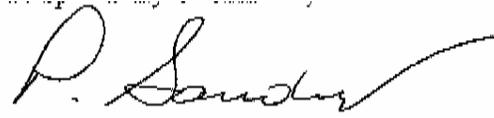
**B. Grant of the Petition will not Undermine the Policy Objective of the *VoIP E-911 Order***

As discussed above, Broadvox has worked and is continuing to work to implement an E-911 solution that meets the requirements of the *VoIP E-911 Order*. Grant of the Petition will not undermine the policy goal that customers of interconnected VoIP providers have access to emergency services. Broadvox is not requesting an exemption from or indefinite waiver of the rules. Rather, Broadvox is merely seeking additional time so that it can meet those requirements fully for all of its customers. This limited request for relief does not impair the public safety goals that underlie the Commission's new rules. Accordingly, the Commission should grant the Petition.

**V. CONCLUSION**

For the reasons set forth above, Broadvox respectfully submits that grant of this Petition for extension of time and limited waiver serves the public interest.

Respectfully submitted,



---

Peter Sandrev  
Director Regulatory Affairs  
Broadvox, Ltd.  
1228 Euclid Avenue  
Suite 390  
Cleveland, Ohio 44115  
Phone: 216-373-4608

PS/cf

cc: Byron McCoy (FCC)  
Kathy Berthot (FCC)  
Janice Myles (FCC)  
Best Copy and Printing, Inc.