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

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

PETITION OF NET2PHONE, INC.; MILLENNIUM DIGITAL MEDIA SYSTEMS, L.L.C.; CITY OF TIFTON; NORTHLAND COMMUNICATIONS CORPORATION; ETAN IINDUSTRIES, d/b/a CMA COMMUNICATIONS; RURAL WEST – WESTERN RURAL BROADBAND, INC.; COMMUNICATIONS SERVICES; USA COMPANIES; AND PHONOSCOPE, LTD FOR LIMITED WAIVER OF THE COMMISSION'S RULES ON VOIP E911 IMPLEMENTATION

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Net2Phone, Inc.; Millennium Digital Media Systems, L.L.C. ("Millennium"); City of Tifton (Georgia) ("Tifton"); Northland Communications Corporation ("Northland"); ETAN Industries, d/b/a CMA Communications ("CMA"); Rural West – Western Rural Broadband, Inc. ("Rural West"); Communications Services; USA Companies; and Phonoscope, Ltd. (collectively, "Rural VoIP Providers" or "Petitioners"), by their attorneys, hereby respectfully request the Federal Communications Commission ("FCC" or "Commission") to grant a limited waiver of the Commission's rules on provision of E911 capability for interconnected voice over Internet Protocol ("VoIP") services[1/] to allow Petitioners to continue to provide and market their VoIP services using Net2Phone's Managed N911 solution in those areas where E911 capability is not reasonably available through third-party E911 providers.

1/ 47 C.F.R. § 9.5.

As explained in more detail below, the Petitioners urge the grant of this waiver request because good cause exists and it would serve the public interest.

In accordance with Section 1.3 of the Commission's rules, the Commission may waive a rule upon a demonstration of good cause.[2/] This waiver standard has been interpreted to provide the Commission with the discretion to waive a rule when the particular facts make strict compliance inconsistent with the public interest.[3/] When determining whether good cause exists, the Commission may also consider hardship, equity, or whether the waiver will result in more effective implementation of overall policy.[4/] Waiver of the Commission's rules is thus appropriate when special circumstances warrant a deviation from the general rule, and such a deviation would serve the public interest.[5/]

Grant of the Rural VoIP Providers' waiver request is consistent with the goals of the Commission and Congress to "encourage more consumers to demand broadband service" and to ensure the "deployment of advanced telecommunications capability to all Americans by using measures that 'promote competition in the local telecommunications market.'"[6/] As the Commission recognized in the *IP-Enabled Services NPRM*, VoIP services "will encourage consumers to demand more broadband connections, which will

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[2/] 47 C.F.R. § 1.3.

[3/] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

[4/] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) ("*WAIT Radio*").

[5/] *WAIT Radio*, 418 F.2d at 1159.

[6/] *Petition for Declaratory Ruling that pulver.com's Free World Dialup is Neither Telecommunications Nor a Telecommunications Service*, WC Docket No. 03-45, 19 FCC Rcd 3307, 3318-20, ¶¶ 18-19 (2004) (citing 47 U.S.C. § 157 nt).

foster the development of more IP-enabled services."[7] Granting the requested waiver will spur implementation of IP-enabled services and facilitate increased choices of services for all American consumers.[8]

I. DESCRIPTION OF SERVICES

Among the IP-enabled services Net2Phone provides, Net2Phone offers cable operators the ability to deliver a viable cable VoIP service to their video and high-speed data customers. Net2Phone's market focus is on small to medium-sized multi-system cable operators and other broadband service providers, who may not have the know-how or financial and technical resources to implement their own voice solutions.[9/] For many cable operators, offering voice enables the "triple play" combination of video, high-speed data, and telephony, which not only delivers high quality service and convenience to consumers, but also aids in competitive and technological development by creating

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7/ *In the Matter of IP-Enabled Services*, WC Docket 04-36, 19 FCC Rcd 4863, 4867, ¶ 5 (2004) ("*IP-Enabled Services NPRM*").

8 *See e.g.*, President Bush's Technology Agenda *at* http://www.whitehouse.gov/infocus/technology/ (last visited Nov. 27, 2005) ("The President has called for universal, affordable access for broadband technology by the year 2007 and wants to make sure we give Americans plenty of technology choices when it comes to purchasing broadband."); *E911 Requirements for IP-Enabled Services*, WC Docket No. 05-196, First Report and Order and Notice of proposed Rulemaking, 20 FCC Rcd 10245, 10251, ¶ 10 (2005) ("*VoIP E911 Order*") ("[T]he emergence of IP as a means of transmitting voice and data and providing other services via wireless, cable, and wireline infrastructure has significant implications for meeting the nation's critical infrastructure and 911 communications needs.").

9/ The primarily rural nature of the markets served by Petitioners can be gathered from the following sampling of communities served by various Petitioners: Tifton, GA; Homer, LA; Belle Chasse, LA; Spring Hill, LA; Hubbardston, MI; Lake Odessa, MI; Grass Lake MI; Leland, MS; Hollandale, MS; Arcola, MS; Enterprise, NV; Otis, OR; Depoe Bay, OR; Siletz, OR; Jasper, TX; La Grange, TX; Sour Lake, TX; Brinnon, WA; Marblemount, WA; Port Hadlock, WA. Petitioners also serve other small markets in Alabama, Idaho, Montana, Nebraska, North Carolina, and South Carolina, as well as other states.

customer demand for more broadband services (especially in underserved markets). Cable operators generally market VoIP service as a fixed ancillary service to their video service similar to high speed data; all of which are available to the customer using their cable company connection. Net2Phone manages cable operators' provision of VoIP service and related network facilities so operators can be assured of quality of service from call inception to completion.

II. BACKGROUND

A. The Commission's VoIP E911 Order.

On June 3, 2005, the Commission released the *VoIP E911 Order* requiring interconnected VoIP providers to provide their new and existing subscribers with E911 service no later than November 28, 2005.[10] As a condition of providing interconnected VoIP service, each interconnected VoIP provider is required to:

- Transmit all 911 calls to the public safety answering point ("PSAP"), designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location.[11] Such transmissions must include the caller's Automatic Numbering Information (ANI)[12] and Registered Location to the extent that the PSAP, designated statewide default answering point, or appropriate

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[10] *VoIP E911 Order* at 10267-68, ¶ 37. The effective date of the requirements was set at 120 days after the effective date of the *VoIP 911 Order*. *Id*. The *VoIP 911 Order* became effective 30 days after publication in the Federal Register. Because the order was published in the Federal Register on June 29, 2005, and became effective on July 29, 2005, the effective date of these requirements is November 28, 2005. *See* E911 Requirements for IP-Enabled Service Providers, 70 Fed. Reg. 37,273 (June 29, 2005); E911 Requirements for IP-Enabled Services, 70 Fed. Reg. 43,323 (July 27, 2005).

[11] 47 C.F.R. § 9.5(b)(2). An end-user's "Registered Location" is "The most recent information obtained by an interconnected VoIP service provider that identifies the physical location of the end-user." 47 C.F.R. § 9.3.

[12] ANI is a system that identifies the billing account for a call and, for 911 systems, identifies the calling party and may be used as a call back number. 47 C.F.R. §§ 9.3, 20.3.

local emergency authority is capable of receiving and processing such information;[13]

- Route all 911 calls through the use of ANI and, if necessary, pseudo-ANI,[14] via the Wireline E911 Network,[15] and make a caller's Registered Location available to the appropriate PSAP, designated statewide default answering point or appropriate local emergency authority from or through the appropriate Automatic Location Identification (ALI) database;[16]

On November 7, 2005, the FCC Enforcement Bureau ("Bureau") released a Public Notice that, among other things, clarified that providers that have not achieved full 911 compliance by November 28, 2005 are not required to discontinue service to any existing customers.[17] The Bureau stated it expects, however, "that such providers will discontinue marketing VoIP service, and accepting new customers for their service, in all areas where they are not transmitting 911 calls to the appropriate PSAP in full compliance with the Commission's rules" as of the November 28 deadline.[18] In the *VoIP E911 Order*, the Commission emphasized that VoIP providers may not fulfill their E911 obligations by

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[13] 47 C.F.R. §§ 9.5(b)(2), (c).

[14] Pseudo-ANI is "a number, consisting of the same number of digits as ANI, that is not a North American Numbering Plan telephone directory number and may be used in place of an ANI to convey special meaning. The special meaning assigned to the pseudo-ANI is determined by agreements, as necessary, between the system originating the call, intermediate systems handling and routing the call, and the destination system." 47 C.F.R. § 9.3.

[15] The "Wireline E911 Network" is a "dedicated wireline network that: (1) is interconnected with but largely separate from the public switched telephone network; (2) includes a selective router; and (3) is utilized to route emergency calls and related information to PSAPs, designated statewide default answering points, appropriate local emergency authorities or other emergency answering points." 47 C.F.R. § 9.3.

[16] 47 C.F.R. §§ 9.5(b)(3), (4).

[17] Public Notice, *Enforcement Bureau Outlines Requirements of November 28, 2005 Interconnected Voice Over Internet Protocol 911 Compliance Letters*, DA 05-2945 (rel. Nov. 7, 2005).

[18] *Id*.

routing 911 calls to 10-digit NPA NXX numbers ("administrative numbers") where a selective router is available to connect to the PSAP.[19]

B. Net2Phone's 911 Service

As a provider of VoIP services in small-markets and rural areas, and as a wholesale VoIP services provider to the other Petitioners and other small-market cable companies seeking to provide VoIP services to their subscribers, Net2Phone enables E911 services in compliance with the *VoIP E911 Order* in those areas where Net2Phone's third-party providers offer E911 access ("*E911 Markets*"). Emergency calls in *E911 Markets* are routed through selective routers (where selective routers are available) by Net2Phone's third-party providers to the geographically appropriate PSAP based on the Registered Location provided to Net2Phone either directly by the end user or by Net2Phone's wholesale customers. Net2Phone's E911 service passes to the PSAP both the Automatic Location Information ("ALI") based on the user's Registered Location and the Automatic Numbering Information ("ANI") associated with the call.

In those markets where Net2Phone does not have full E911 access reasonably available from third-party providers, Net2Phone, in conjunction with third-party providers, has implemented an alternate form of emergency access, Net2Phone's Managed N911 solution. Under Net2Phone's Managed N911 solution, when a customer dials 9-1-1, Net2Phone sends a query to the database of a third-party provider such as Intrado. Intrado sends back the 10-digit routing number associated with the geographically appropriate PSAP for the customer's registered address. Net2Phone then routes the call to the PSAP associated with the 10-digit number. Should there be any

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[19] *VoIP E911 Order*, at 10271, ¶ 42, n. 142.

failure in the call stream or lack of communication between Net2Phone and its third-party 911 providers, such as Intrado, or if the customer's information is not able to be located by the third-party 911 provider, Net2Phone's Network Operations Center ("NOC") is alerted. In order to ensure safety, the call is then automatically routed to Intrado's Emergency Call Relay Center ("ECRC") where a live Intrado operator, trained to handle emergency calls, asks the customer where they are located. The trained operator, remaining on the line, makes a second call to the PSAP associated with the customer's physical location. If the customer cannot speak, the ECRC operator dips into the Intrado database associated with the customer's telephone number and will make the PSAP call based on the customer's last Registered Location. In the event Intrado cannot retrieve the customer information, the Intrado operator engages the Net2Phone NOC and the customer's information is relayed to the ECRC in real-time. All of this occurs automatically, in quick succession to ensure a rapid response. Prior to implementation of Net2Phone's Managed N911 solution, Net2Phone tests the service on a market-by-market basis with its third-party providers and wholesale customers to ensure full functionality.

III. ENFORCEMENT OF THE PROHIBITION ON MARKETING AND PROVISION OF SERVICE TO NEW CUSTOMERS AFTER NOVEMBER 28TH IN AREAS WHERE E911 IS NOT AVAILABLE WILL DENY A LARGE PORTION OF THE COUNTRY THE BENEFITS OF BROADBAND AND VOICE SERVICES COMPETITION.

The Rural VoIP Providers must rely on third-party providers for E911 services because of cost factors, technical limitations, and access issues.[20] Like many of its

[20] *See E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, [Nuvio Corp., et al.,] Motion for Partial Stay, at 6 ("*Nuvio Petition*") ("Since Movants could not create their own E911 solution that would conform with the *Order*, Movants contacted third-party solution providers . . . .").

wholesale customers, Net2Phone is an information service provider, not a common carrier with rights of interconnection. Thus, like other VoIP providers, Net2Phone has not negotiated directly with ILECs to provide E911 services, but is able to provide such services through contracts with third-party vendors such as Level 3, IDT, and Intrado as recommended by the *VoIP E911 Order*.[21] Third-party vendors have made it clear that they will not have systems compliant with the E911 Order available in all areas of the country by the November 28th deadline.[22] This is especially true in rural and less densely populated areas.

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[21] *VoIP E911 Order* at 10270, ¶ 40.

[22] Net2Phone's experience has been similar to that of RNK and Nuvio. *See E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Request of RNK, Inc., d/b/a RNK Telecom for a limited Waiver - Expedited Action Requested, at 4 (filed Nov. 3, 2005) ("*RNK Petition*") ("RNK has contacted a majority of the Local Exchange Carriers (LECs) and third party vendors . . . that currently purport to offer some type of E911 solution that complies with the Commission's VoIP E911 Rules. RNK's efforts have revealed that the current E911 solutions are either: 1) not available in particular U.S. states and/or LATAs in which its subscribers are currently located; 2) not fully developed and ready for deployment by November 28, 2005; 3) not compliant with the Commission's Rules (e.g., 911 calls routed to 10-digit NPA-NXX numbers of PSAPs and call center solutions); and/or 4) offer unreasonable contract terms including, but not limited to, lengthy term commitments, excessive start-up fees, and monthly minimum requirements."); *Nuvio Petition* at 6 ("Movants contacted third-party solution providers including Global Crossing, Intrado, Level 3**,** MCI, Telefinity and TeleCommunications Systems, Inc.. . . . [N]o company in the market offers a solution that will cover the entire United States by November 28. 2005."). *See also E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Cypress Communications, Inc. Petition for Extension of Time and Limited Waiver, at 6 (filed Nov. 28, 2005) ("[A]s the Commission is aware, adding network providers is a difficult and time-consuming process. Some network providers are wary of contracting to terminate E911 calls from telephone numbers that are not directly provisioned by them. While some network providers will provide E911 service for third-party provisioned telephone numbers, there are many operational, commercial, testing and technical issues that need to be resolved. Issues outside of Cypress's and NGT's control have been most difficult to manage, whether it is managing vendors to work together; waiting to acquire appropriate routing information, or waiting for PSAP testing.").

Net2Phone, and the small, primarily rural, broadband and cable companies it serves, are a key part of efforts to bring the benefits of advanced voice and data services to rural consumers who would otherwise not have access to such services. Indeed, as illustrated on the service area map attached as Exhibit A, without VoIP services provided by small cable companies, many rural areas would not have any competitive alternative to the ILEC for voice or data services. Indeed, the only means that several of the Petitioners have to compete is their ability to offer the triple play of services of which VoIP is a major part. Revenue from VoIP services are a significant part of the business plan for some small-market cable companies that make it possible for them to bring other broadband services to rural areas.[23] Small VoIP service providers who cannot obtain E911 access by November 28th may be forced to limit or discontinue offering broadband voice and data services in some areas where they may be the only Internet access provider or competitive voice alternative.[24/] This result is contrary to the Commission's goal to further competition throughout the United States.[25/]

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[23] As noted in its Compliance Letter filed in this proceeding, Millennium "viewed the ability to offer VoIP services as an important factor to justify the cost of implementing high speed data service in Millennium's rural systems, particularly stand alone systems. Millennium also viewed VoIP as a means of generating incremental revenue and justifying the cost of upgrades to its larger systems." *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Compliance Letter, at 1-2 (filed Nov. 28, 2005). In choosing Net2Phone, Northland viewed the addition of VoIP not only as a means to obtain new customers but to prevent churn from existing customers who would be less likely to move away from companies such as Northland if they were offering a triple play.

[24/] Millennium reports that it has launched high speed data in rural stand-alone systems with as few as 365 customers and high speed data in rural cities with populations of under 1500 people. In such small communities the deployment investment was partially justified by the expectation of revenue from adding VoIP service. Unless this waiver request is granted, existing and future decisions to invest in the deployment of high speed data in rural head-ends may be affected. There are also stand-alone rural

Presently, Net2Phone's services are deployed using a single platform to which a select number of third-party vendors have connected after completion of testing and network development. Net2Phone has incorporated the functionalities of this platform within the networks of its wholesale customers to enable their existing services (E911, where available, and Net2Phone's Managed N911 solution). Even if Net2Phone could directly interconnect or find providers that enable E911 services through selective routers in these rural and sparsely populated areas, Net2Phone would need to expend significant resources and time to reconfigure its network and platform to function with each and every provider's system. Modifying a system for a single wholesale customer so that it functions with several different E911 connectivity providers in a certain area not only requires development time and significant expense for Net2Phone, but also creates delay and expense for Petitioners and other wholesale customers of Net2Phone. These are the same small and medium-sized service providers who selected Net2Phone because they did not have the resources and expertise to develop a VoIP solution independently, let alone an E911 selective router solution.

It has been eight years since the implementation of the 1996 amendment to the Communications Act,[26/] the lack of competitive alternatives in these rural areas confirms that the economics of investing in sparsely populated areas has prevented competition from evolving and these rural areas likely will be the last to see the provision of E911 and V911 systems made available by third-party providers. If these third-party vendors

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head-ends where Millennium already has stopped plans to launch VoIP because of the unavailability of E911 service from a third party provider.

[25/] *See* notes 7 and 8, *supra*, and accompanying text.

[26/] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

("CLECs") cannot make the business case to expand in areas where they are entitled to access, it is difficult to imagine how those without such access could justify the investment.[27/] Consumers and the public safety will be protected by permitting the existing Net2Phone Managed N911 emergency calling solution to serve as an interim solution until E911 service becomes reasonably available from third parties. Accordingly, grant of this Petition will serve the public interest by continuing to promote the policy of the United States to encourage broadband technologies and services deployment to all Americans, including those in rural and less populated areas of the country.[28/]

[27/] *See, e.g.*, *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Comments of SBC Communications, Inc. at 1-2 (filed Aug. 15, 2005); *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Comments of the Voice on the Net Coalition at 5-7 (file Aug. 15, 2005). It has been suggested that if VoIP service providers had a right of access, this issue could be readily solved. *See, e.g.*, *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Reply Comments of RNK Telecom, at 4-7 (filed Sept. 12, 2005). The right to interconnect, however, does not solve the problem. Most independent ILECs have no experience with entering into agreements pursuant to 47 U.S.C. § 251 *et. seq.* CLECs, familiar with the rights and obligations under the Act have spent nine months to a year and substantial financial resources trying to enforce their rights under the Act with independent ILECs. This direct interconnection right also would not account for the many areas in Net2Phone's N911 footprint that are served by rural ILECs eligible for the interconnection exemption. It would appear that any right of access short of a reasonably priced, self-executing, retail tariff-like requirement for ILECs would render such a right of access for VoIP service providers meaningless, especially when the number of ILECs serving small geographic territories is taken into consideration.

[28/] *See e.g.*, 47 U.S.C § 157 ("It shall be the policy of the United States to encourage the provision of new technologies and services to the public."); 47 U.S.C. § 230 ("It is the policy of the United States to promote the continued development of the Internet and other interactive computer services and other interactive media.").

IV. GRANT OF THE REQUESTED WAIVER WILL SERVE THE PUBLIC INTEREST BY PROMOTING COMPETITIVE VOICE OPTIONS AND ADVANCED TECHNOLOGIES IN RURAL AREAS AND LESS DENSELY POPULATED AREAS.

Net2Phone has contracted with four third-party providers for E911 access. Even when Net2Phone combines the E911 coverage areas of all of its providers, it expects that it will not have access to E911 coverage in approximately twenty-eight percent (28%) of its service area as of November 28th. The maps in Exhibit A illustrates Net2Phone's E911 coverage area as compared with Net2Phone's Managed N911 solution coverage area based on the services provided to Net2Phone by third-party providers. The continued provision of VoIP services using Net2Phone's Managed N911 solution better serves the public interest than denial of services to consumers in rural and less densely populated areas where E911 is not readily available. This is especially true given that the services offered by Petitioners are fixed-VoIP services and are not generally marketed or advertised as nomadic. Petitioners generally offer VoIP as a component of a bundled package or triple play offering making movement of the device both economically and technically unattractive to the consumer. Accordingly, for most consumers in rural America, the Rural VoIP Providers' services with Net2Phone's Managed N911 emergency calling capability is a far better solution than no provision of services in the underserved areas targeted by Petitioners.

As described above, Net2Phone's Managed N911 solution is managed and tested. The service has a default redundancy component that ensures that customers receive an emergency response. Petitioners continue to explore improvements to their existing Net2Phone Managed N911 service. Net2Phone is working closely with third-party

providers to fortify its existing Net2Phone Managed N911 solution with additional functionalities to ensure that customers are always able to reach help in the most efficient way without requiring any additional action from the customer. Net2Phone's goal is to provide a simple and elegant solution that ensures that the customer experience in calling 911 is easy and reliable.

In working toward a long-term solution to bring the best emergency response services to its customers, Net2Phone has already contracted with a third-party vendor to purchase a virtual 911 ("V911") or like solution when such solution becomes generally available.[29] Even the V911 solution, however, will not likely reach rural and sparsely populated areas in the near future. Net2Phone's third party V911 provider has indicated that V911 will first be rolled out in major metropolitan areas. There is no guarantee when V911 will be deployed in all of the rural and sparsely populated markets that Net2Phone presently serves with Managed N911.[30] Net2Phone's understanding is that Managed N911 is the necessary precursor to V911.

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[29] According to Intrado, the "V9-1-1™ solution enabled by Intrado provides a true E9-1-1 solution for VoIP Service Providers. Intrado enables a comprehensive approach to delivering E9-1-1 for VoIP by handling all aspects of the VoIP 9-1-1 call delivery and VoIP Positioning Center (VPC) functionality such as Master Street Address Guide (MSAG) Address Validation, ESQK management, Geocoding, real-time provisioning and routing determination. Included in the Service for the VSP is also the call delivery component to ensure the 9-1-1 call reaches the appropriate selective router and Public Safety Answering Point (PSAP). Intrado manages the VPC functionality and the Call delivery component on behalf of the VSP thereby enabling a full end to end solution from one service provider." Intrado FCC Reporting Packet (Nov. 21, 2005) ("*Intrado Reporting Packet*") (on file with Net2Phone).

[30] Intrado's V911 system will initially only be available in major metropolitan cities based on Intrado's customer base priorities. Additional Intrado's V911 deployments are scheduled for completion in the first and second quarters of 2006, but testing and implementation will necessarily require additional time before Petitioners are able to fully implement V911. *Intrado Reporting Packet*.

Like any other business decision, the decision to provide VoIP services in a particular market depends on whether providers can expect to see a return on their investment within a reasonable period of time. Because Net2Phone cannot predict with certainty when a V911 or similar solution compliant with the Commission's E911 Order will be available in all markets, Rural VoIP Providers cannot effectively plan to enter these markets if prohibited from doing so with Net2Phone's Managed N911 solution. Accordingly, rural and sparsely populated areas where E911 is not readily available may be excluded from receiving the benefits of advanced technologies altogether if providers are prevented from entering these markets using proven interim solutions for emergency calling. Rather than deny, *de facto*, the availability of advanced services and the benefits of competition to substantial portions of the country, the Rural VoIP Providers request a waiver of the Commission's prohibition against interim use of Net2Phone's Managed N911 solution in those areas where E911 service is not reasonably technically, economically or contractually available to VoIP providers through third-party vendors.

V. CONCLUSION

For the foregoing reasons, Petitioners' respectfully submit that good cause and special circumstances exist for finding that it is in the public interest to grant Petitioners a waiver of the Commission's prohibition on the marketing and offering of VoIP services with a Managed N911 capability where E911 capability is not reasonably available from third-party providers. In addition, Petitioners respectfully request that the Commission consider the foregoing waiver request on an expedited basis because the prohibition on marketing and connection of new customers went into effect on November 28, 2005, and

Petitioners and their rural customer base will begin to suffer the detrimental effects of the new rules immediately thereafter.

Respectfully submitted,

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Dated: December 2, 2005

WDC 378533v.1

CERTIFICATE OF SERVICE

I, Ernest C. Cooper, hereby certify that on this 2nd day of December 2005, the foregoing Petition of Net2phone, Inc.; Millennium Digital Media Systems, L.L.C.; City Of Tifton; Northland Communications Corporation; ETAN Iindustries, d/b/a CMA Communications; Rural West – Western Rural Broadband, Inc.; Communications Services; USA Companies; and Phonoscope, Ltd for Limited Waiver of the Commission's Rules on VoIP E911 Implementation, was filed electronically through the FCC's Electronic Comments Filing System (ECFS) and copies were served on the following as indicated:

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