

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
IP-Enabled Services)	WC Docket No. 04-36
)	
E-911 Requirements for IP-Enabled Service Providers)	WC Docket No. 05-196
)	

**PETITION OF SPEAKEASY, INC. FOR LIMITED WAIVER
AND MOTION FOR DECLARATORY RELIEF**

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TABLE OF CONTENTS

	Page
I. INTRODUCTION AND SUMMARY	1
II. DESCRIPTION OF THE PETITIONER.....	2
III. SPECIFIC RELIEF REQUESTED.....	5
IV. STANDARD OF REVIEW	6
V. SPEAKEASY MEETS THE STANDARD FOR GRANTING A WAIVER	7
A. Unusual Factual Circumstances Justify the Requested Waivers	7
B. Grant of a Limited Waiver to Speakeasy is in the Public Interest	10
1. Speakeasy’s Plan to Achieve Full Compliance	11
2. The Relief Speakeasy Seeks Is in the Public Interest	12
VI. THE COMMISSION SHOULD DECLARE THAT A POTS BACK-UP END- USER DEVICE COMPLIES WITH ITS VOIP E-911 REQUIREMENTS OR GRANT A WAIVER AUTHORIZING THE DEPLOYMENT OF SUCH A DEVICE IN PLACE OF A VOIP E-911 NETWORK SOLUTION	14
VII. CONCLUSION.....	16

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Speakeasy, Inc. (“Speakeasy”), pursuant to Section 1.3 of the Commission’s Rules,¹ respectfully requests a limited waiver extending the time for it to comply with the obligations imposed pursuant to Section 9.5(b) and (c) of the Commission’s Rules,² adopted in the *First Report and Order* in the above-captioned proceeding.³

I. INTRODUCTION AND SUMMARY.

As explained in detail below, despite having made substantial progress toward meeting the requirements of the *E-911 Order*, Speakeasy’s underlying wholesale provider, New Global Telecom (“NGT”), is currently unable to provide Enhanced 911 (“E-911”) service for a portion of the public safety answering points (“PSAPs”) that serve Speakeasy’s existing and targeted customers. As such, Speakeasy’s ability to deploy its E-911 solution has been hampered by factors outside its direct or immediate control. Speakeasy thus respectfully requests a limited

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 9.5(b), (c).

³ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245 (2005) (“*E-911 Order*”).

waiver to allow it to continue to serve existing customers served by PSAPs to which Speakeasy's underlying service provider is currently unable to provide E-911 service. In addition, Speakeasy seeks a limited waiver to allow it to market and provide service to new customers served by PSAPs that are on its service provider's planned coverage rollout list and where customers will have access to the operator-assisted 911 back-up solution described below. Speakeasy also requests expedited consideration of this Petition.

In addition, pursuant to Section 1.2 of the Commission's Rules,⁴ Speakeasy seeks a declaration from the Commission that its Plain Old Telephone Service ("POTS") 911 back-up solution, currently under development and described below complies with the *E-911 Order*, or in the alternative that it be granted a waiver to allow it to use its POTS 911 back-up solution in situations where fully compliant VoIP E-911 is otherwise unavailable.

II. DESCRIPTION OF THE PETITIONER.

Speakeasy is the largest, independent nationwide provider of broadband voice and data communication focused on meeting the needs of small businesses. Speakeasy manages its own private, fiber-optic, national network, ensuring fast connections and security. Speakeasy offers a full range of innovative services including VoIP, OneLink dedicated DSL, and multiple business-grade connectivity options. Speakeasy provides broadband and voice communication services on a retail basis directly to customers. Pursuant to the definition adopted in the *E-911 Order*, Speakeasy is a provider of interconnected VoIP services.⁵

Speakeasy is focused on meeting the needs of home office and small business customers by acquiring its managed VoIP services from an underlying service provider on a wholesale

⁴ 47 C.F.R. § 1.2.

⁵ See 47 C.F.R. § 9.3.

basis. Unlike other VoIP providers, Speakeasy provides digital voice and broadband services over one, nationwide, managed network. Such a configuration ensures that calls are secure and enables VQ Technology (voice call prioritization) to deliver unmatched quality.⁶

Speakeasy is committed to implementing the Commission's VoIP E-911 requirements, since having a fully functional E-911 service in the United States is essential not only for commercial reasons, but to promote public safety. To that end, and even before the Commission released its *E-911 Order*, Speakeasy was working diligently to provide an E-911 solution for its VoIP customers. Moreover, since the release of the *E-911 Order*, Speakeasy has expended considerable time and effort and has allocated significant resources and personnel toward deploying an E-911 solution. Among other things, Speakeasy has taken the following steps to comply with the Commission's VoIP rules: (1) satisfied the Registered Location and customer notification/acknowledgement requirements set forth, respectively, in 47 C.F.R. § 9.5(d) and (e);⁷ (2) timely submitted its Compliance Letter pursuant to 47 C.F.R. § 9.5(f), as well as associated status reports required by the Enforcement Bureau; and (3) made substantial progress towards full implementation of the E-911 service requirements established in 47 C.F.R. § 9.5(b) and (c).

⁶ Speakeasy's network and customer service have received some of the highest satisfaction ratings in the industry. Speakeasy was recently recognized as a "Superior VoIP Service Provider" by the editorial staff and readers of the industry-leading magazine, *Internet Telephony*. Chosen from thousands of companies, Speakeasy VoIP was lauded at the publication's conference and expo earlier this year for its significance, originality and innovation, as well as its contributions to the growth of the VoIP industry overall.

⁷ Speakeasy has filed with the Commission all of the status reports required by the Enforcement Bureau, therein demonstrating the Company's compliance with the customer notification and acknowledgement requirements in the *E-911 Order*, and has provided the information required to be included in the November 28, 2005 Compliance Letter. As reflected therein, Speakeasy has obtained affirmative acknowledgement of the limitations of VoIP 911 services from 100 percent of its U.S. customer base. In addition, Speakeasy has always obtained and continues to obtain the Registered Location of each new customer subscriber upon account activation. Customers may update their Registered Location by calling an 800 number into a call center.

Specifically, Speakeasy contracted with New Global Telecom (“NGT”), an Intrado reseller, to deploy its VoIP E-911 solution. In most markets, NGT offers an E-911 solution that complies fully with the Commission’s VoIP E-911 requirements. However, for a number of markets in which Speakeasy’s current or targeted customers are located, NGT does not offer an E-911 solution.

With respect to these areas, Speakeasy’s agreement with NGT calls for NGT to provide on an interim basis until E-911 is fully implemented, an emergency operator-assisted 911 service known as “SafeCall® Operator Assisted 911 Service.” Under this interim solution, 911 calls placed by customers with U.S. Registered Locations outside the areas where NGT has deployed E-911 service, will be routed to an emergency call response center (“ECRC”). The ECRC has operators standing by 7 days a week, 24 hours a day with access to the subscriber’s Registered Location and call-back number. The ECRC provides a “soft transfer” of the 911 call to the appropriate 911 dispatcher or to a local exchange telephone line of the geographically appropriate PSAP. The ECRC then communicates the Registered Location and call back number prior to transferring the actual call.

As such, all of Speakeasy’s current and targeted customers are (or will be) covered by either NGT’s fully compliant E-911 solution, or, on an interim basis in certain markets, NGT’s SafeCall® operator service. While NGT’s SafeCall® service is available in markets around the country, where fully compliant E-911 service is currently unavailable through its existing provider, Speakeasy’s plan is to provide its VoIP services only to new customers served by PSAPs listed on NGT’s planned PSAP coverage rollout list, or otherwise in a manner that complies with the E-911 rules. Hence the waiver being sought for new customers is for interim relief pending implementation of fully compliant E-911 service.

III. SPECIFIC RELIEF REQUESTED.

Speakeasy respectfully requests a limited waiver allowing an extension of time to implement the following requirements of the *E-911 Order*:

- 1) The requirement to transmit all 911 calls, in all geographic regions served by the Wireline E-911 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.⁸
- 2) The requirement to route all 911 through the use of ANI and, if necessary, pseudo-ANI.⁹
- 3) 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.¹⁰

In addition, Speakeasy seeks a limited waiver in order to market and provide its VoIP service to new customers where fully-compliant E-911 is not available, under the terms provided herein.¹¹ Speakeasy also requests a declaration from the Commission that its POTS 911 back-up solution currently under development and described below complies with the *E-911 Order*, or in the alternative a waiver to allow it to use its POTS 911 back-up solution in situations where fully compliant VoIP E-911 is otherwise unavailable.

⁸ 47 C.F.R. § 9.5(b)(2).

⁹ 47 C.F.R. § 9.5(b)(3).

¹⁰ 47 C.F.R. § 9.5(b)(4).

¹¹ The Enforcement Bureau's Public Notice states that it expects "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." *Enforcement Bureau Outlines Requirements of November 28, 2005 Interconnected Voice Over Internet Protocol 911 Compliance Letters*, WC Docket No. 04-36, WC Docket No. 05-196, DA 05-2945, at 5 (rel. Nov. 7, 2005). Speakeasy engages exclusively in Web-based marketing, which cannot be limited by geographic area. Speakeasy, however, will provide service to new customers served by PSAPs currently covered by NGT's E-911 service, or that are on NGT's planned rollout list coupled with NGT's SafeCall® Operator Assisted 911 Service, or otherwise in a manner that complies with the rules.

IV. STANDARD OF REVIEW.

Section 1.3 of the Commission's Rules states that the Commission may waive its rules for good cause, which has been interpreted to exist when the facts of a particular case make strict compliance inconsistent with the public interest and when the relief requested will not undermine the policy objectives of the rule in question.¹² To prevail, a petitioner must demonstrate that application of the challenged rule would be inequitable, unduly burdensome, or contrary to the public interest, or where the party seeking a waiver has no reasonable alternative.¹³

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. It 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.¹⁴

The Commission made clear in the wireless E-911 context 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.¹⁵ Indeed, just two

¹² 47 C.F.R. § 1.3 (“The provisions of this chapter may be suspended, revoked, amended or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown.”). 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).

¹³ *Wait Radio*, 418 F.2d at 1159.

¹⁴ 47 C.F.R. § 1.925(b)(3).

¹⁵ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E-911 Phase II Compliance Deadlines for Tier III Carriers*, Order, 20 FCC Rcd 7709 (2005) (“*Wireless E-911 Tier III Second Waiver Order*”).

months ago, the Commission extended *for a third time* the 911 requirements applicable to video relay services provided to individuals with hearing and speech disabilities in view of the “continued technical challenges” associated with the service’s emergency call handling capabilities.¹⁶ The hurdles faced by Speakeasy in the rollout of VoIP E-911 are no less technically challenging. As discussed more fully below, Speakeasy respectfully submits that it meets the criteria under Section 1.3 for a limited waiver and extension of time necessary to comply with the Commission’s E-911 rules.

V. SPEAKEASY MEETS THE STANDARD FOR GRANTING A WAIVER.

A. Unusual Factual Circumstances Justify the Requested Waivers.

Even before the issuance of the *E-911 Order*, Speakeasy determined that it would be logistically impossible for Speakeasy to contact, negotiate, and contract with all of the necessary parties to implement and manage a nationwide network-based E-911 solution. Consequently, Speakeasy contracted with its third-party VoIP service provider, NGT, for the provision of E-911 services.

Specifically, Speakeasy purchased NGT’s “SafeCall® E-911 Service,” which utilizes Intrado’s network capabilities and services provided by other Emergency Service Gateway Providers (“ESGPs”) to provide VoIP E-911 service. The SafeCall® E-911 Service provides Speakeasy with Subscribers’ Registered Address Location management, phone-based address updating, and call center services where a live operator will answer failed calls 24 hours a day, 7 days a week. In its Compliance Letter submitted to the Commission on November 23, 2005, NGT reported that as of November 28, 2005, it expected to have fully compliant E-911 service

¹⁶ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CG Docket No. 03-123, DA 05-3139 (Consumer & Governmental Affairs Bureau, released Dec. 5, 2005) (“*VRS 911 Extension Order*”).

available to 70% of its VoIP end-users, in 2,081 rate centers in 31 markets, and expected to increase its coverage to 80% coverage of current customers by year end. Speakeasy, in turn, as reported in its Compliance Letter, had 50.2% of its customers with fully-compliant E-911 service as of November 28, 2005, and expected to increase that percentage to approximately 65% by year end. The import is that a portion of Speakeasy's current and targeted customer base is located outside of NGT's SafeCall® E-911 Service footprint. NGT, together with Intrado, are aggressively working to increase the market penetration of fully-compliant E-911, and thus provide for the coverage of an increasing proportion of Speakeasy's current and future customers.

One major complicating factor in deploying a VoIP E-911 solution is that both VoIP retail providers, like Speakeasy, and their underlying wholesale providers, like NGT and Intrado, are dependent upon the efforts of third parties, including local telephone companies and PSAPs, to deploy an E-911 solution. Circumstances beyond NGT's and Intrado's control thus affect Speakeasy's ability to deploy an E-911 solution to its customers. As described by certain members of Congress as well as industry experts in multiple *ex parte* filings with the Commission,¹⁷ the lack of the appointment of an interim Routing Number Authority has made it impossible for Intrado to access p-ANI in certain areas of the country, impeding the deployment of a VoIP E-911 solution. Also, in certain areas, PSAPs are either declining, or being advised to decline, entering into agreements with VoIP providers due to the lack of legislation protecting VoIP providers and PSAPs from any liability that may result from mistakes that may arise in the

¹⁷ See, e.g., *Ex Parte* Letter from The Honorable Joe Barton, et al. to Chairman Kevin J. Martin, Chairman, FCC (dated Nov. 22, 2005); *Ex Parte* Letter from Robert C. Atkinson, NANC Chair to Thomas Navin, Chief Wireline Competition Bureau, FCC (filed Sept. 8, 2005); *Ex Parte* Letter from David F. Jones, President, National Emergency Number Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196 (filed Nov. 4, 2005); *Ex Parte* Letter from Tom Goode, Associate General Counsel, Alliance for Telecommunications Solutions, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196 (filed Nov. 2, 2005).

routing or handling of 911 calls. As the Commission is aware, wireline and wireless carriers enjoy legal protection that insulates them from liability should emergency calls be mishandled; Intrado, NGT, and Speakeasy do not.

The Commission also recognized in the *E-911 Order* that the timeframe for requiring the deployment of an E-911 solution was “aggressive.”¹⁸ In fact, deployment of an E-911 solution for a new technology within 120-days is without precedent. VoIP providers, third-party solution providers, VoIP positioning companies, state and local E-911 officials, and RBOCs are faced with unique issues to resolve in the midst of developing a standard for the delivery of VoIP E-911 calls.¹⁹ The 120-day implementation timeframe has not allowed enough time for the industry to resolve all of these disparate issues in order to develop a comprehensive solution. Given the novel issues that arise in deploying a VoIP E-911 solution, coupled with the 120-day timeframe, it was to be expected that VoIP providers would encounter difficulties in establishing a timely, comprehensive VoIP E-911 solution.

As the Commission has found previously, delays that are beyond the control of a provider or the inability of a provider to obtain required products or services, despite good faith efforts, provides reason to grant a waiver.²⁰ In this case, Speakeasy has made good faith efforts to obtain an E-911 solution that complies fully with the *E-911 Order*, and in fact has made and continues to make substantial progress toward full compliance. Under these circumstances, Speakeasy respectfully submits that the unusual factual circumstances associated with the deployment of a VoIP E-911 solution justify the limited relief Speakeasy seeks in this Petition.

¹⁸ *E-911 Order* at ¶ 37.

¹⁹ See *IP-Enabled Services, E-911 Requirements for IP-Enabled Service Providers*, Reply Comments of NENA, WC Docket Nos. 04-36 & 05-196 (filed Sept. 12, 2005) (stating that NENA was still in the process of developing the standard, and has sought industry comments on a preliminary proposal).

²⁰ See, e.g., *Wireless E-911 Tier III Second Waiver Order* at 7715, ¶ 10; *VRS 911 Extension Order*.

B. Grant of a Limited Waiver to Speakeasy is in the Public Interest.

Strict adherence to the requirements of the *E-911 Order* in this instance would be inconsistent with the public interest. Speakeasy has made exceptional efforts to comply with the Commission's VoIP E-911 requirements and has made substantial progress toward compliance. Moreover, Speakeasy is working diligently to implement a plan that ultimately will enable it to comply fully with the Commission's rules. However, for reasons that are largely beyond its control, Speakeasy is not able to provide full E-911 service to all of its customers. Demanding strict compliance with the *E-911 Order* will not change that fact or further the Commission's goal of providing E-911 to all consumers, but will only punish Speakeasy for its efforts to date. It could result in the suspension of service to Speakeasy's customers²¹ and prohibit Speakeasy from accepting new customers. The result very well could be that Speakeasy will be less able ultimately to comply with the *E-911 Order*, as its resources to deploy a ubiquitous E-911 solution would be diminished. Such a result would not serve the public interest and would thwart the goals of the *E-911 Order* and the Commission's mandate to foster competition. Accordingly, a limited waiver of the requirements of the *E-911 Order* with respect to Speakeasy is necessary and in the public interest.

²¹ While the Enforcement Bureau has indicated that it is not "requiring" providers to disconnect current customers, the full Commission has not addressed this issue. Commission Rule 9.5 remains fully in effect, and even the Bureau has made no commitment not to pursue enforcement actions against providers that continue to provide service. In particular, it is unclear whether VoIP providers can continue to serve existing customers who change their registered location after November 28, 2005. Thus, the fact remains that non-compliant VoIP providers are in the untenable position of courting an enforcement action if they continue to provide service to existing customers.

1. Speakeasy's Plan to Achieve Full Compliance.

In addition to the steps that it has already taken to implement the requirements of the *E-911 Order*, Speakeasy has taken steps to achieve full compliance within a reasonable period. Grant of this Petition will give Speakeasy the time and resources to carry out their compliance plan. As previously discussed, Speakeasy contracted with NGT, an Intrado reseller, to provide an E-911 solution to Speakeasy's customers. According to NGT, 80% of enduser customers were expected to have fully compliant E-911 by year-end 2005, and NGT and Intrado are engaged in an aggressive campaign to increase the markets served by fully compliant E-911. For example, NGT reports that as of November 28, 2005, it has deployed fully compliant E-911 service in 2,081 rate centers in 31 markets, with interconnections to 154 Selective Routers and over 2,500 PSAPs.²² In its Compliance letter, NGT also reported that it expects to bring on line 30 additional Selective Routers and 1,000 PSAPs by this month, serving an additional 1,781 rate centers in 20 additional markets. It also reported that it expects to increase deployment to 250 Selective Routers and 4,000 PSAPs by March 2006, and 400 Selected Routers by June 2006.²³

As new PSAPs are brought on line by Intrado and NGT, Speakeasy will provide fully-compliant E-911 service to its customers that are served by those PSAPs. In addition, Speakeasy will only serve new customers served in areas that do not currently have fully compliant E-911 through its underlying providers, to the extent the PSAPs serving those customers are on a planned PSAP deployment list provided by NGT, or in a manner that otherwise complies with the E-911 rules. Moreover, as detailed herein, for those VoIP customers without an E-911 solution, Speakeasy, via NGT, will provide access to NGT's SafeCall® Operator Assisted 911 Service on an interim basis, pending the availability of fully compliant E-911 service.

²² See *NGT Compliance Letter* at 5.

²³ *Id.*

2. The Relief Speakeasy Seeks Is in the Public Interest.

In light of the circumstances described above, grant of a limited waiver on an interim basis is in the public interest. Speakeasy has made and continues to make good faith and substantial efforts to comply with the requirements of the *E-911 Order*. As previously reported to the Commission, it has met the Registered Location and customer notification/ acknowledgement requirements set forth, respectively, in 47 C.F.R. § 9.5(d) and (e) for 100% of its U.S. customers, and as of year-end 2005, estimates that it would meet the E-911 service requirements of Sections 9.5(b) and (c) for approximately 65% percent of its customers. In addition, Speakeasy is working closely with NGT to increase the percentage of its customer base covered by fully-compliant E-911 service, ensuring that its VoIP customers (both current and targeted) will have full E-911 access within a reasonable period of time.

As noted above, for Speakeasy customers in markets where NGT does not offer an E-911 solution, Speakeasy's agreement with NGT calls for NGT to provide, on an interim basis until E-911 is fully implemented in those areas, an emergency operator-assisted 911 service – SafeCall® Operator Assisted 911 Service. Under this interim solution, 911 calls placed by customers with Registered Locations in the United States, but outside the areas where NGT has deployed E-911 service, will be routed to an ECRC. The ECRC will have operators standing by 7 days a week, 24 hours a day with access to the subscriber's Registered Location and call-back number. The ECRC would then provide a "soft transfer" of the 911 call to the appropriate 911 dispatcher or to a local exchange telephone line of the geographically appropriate PSAP. The ECRC then will communicate the Registered Location and call back number prior to transferring the actual call. Accordingly, Speakeasy's VoIP customers, regardless of the availability of E-911 services, will

have access to emergency services operators serving their locations, while NGT works to deploy a fully compliant E-911 solution to all of Speakeasy's VoIP customers.

Strict adherence to the *E-911 Order* could require Speakeasy to discontinue its services to some customers and to cease accepting new customers. These actions would deprive existing customers of access to Speakeasy's VoIP services and destroy Speakeasy's relationships with those customers. In addition, the ability of Speakeasy to attract new customers would be severely hampered. The loss of current customers and the inability to accept new customers will deprive Speakeasy of the ability to maintain or expand its user base and revenues, hampering Speakeasy's ability to roll-out compliant service in new areas. Such a result would be contrary to the public interest.

As noted above, Speakeasy is the largest, independent nationwide provider of broadband voice and data communication focused on meeting the needs of small businesses. Its ability to compete with ILECs, CLECs, and wireless companies results in more service choices and better prices for those services. Both Congress and the Commission have long held that the public benefits from competitive forces that increase choices and bring better prices to consumers. As required by Commission's rules, Speakeasy undertook an extensive notice campaign to ensure that its customers understand and acknowledge the difference between traditional 911 and E-911 service. To date, 100 percent of Speakeasy's customers have been informed of and have acknowledged that they understand these differences. In addition, Speakeasy, working with its underlying provider, is continuing to aggressively rollout fully-compliant E-911 service in additional markets, and is making an interim back-up solution available to customers where fully-compliant E-911 has not yet been deployed, but is targeted for deployment. It would be unreasonable and contrary to objectives of the Communications Act and the *E-911 Order* to

enforce a marketing restriction on Speakeasy that would have no effect but to deny customers the opportunity to obtain competitive VoIP service.

Finally, grant of this Petition will not undermine the policy objectives of the *E-911 Order*. As discussed above, Speakeasy has worked, and is continuing to work, to implement an E-911 solution that meets the requirements of the *E-911 Order*. Grant of the Petition will not undermine the policy goal that customers of interconnected VoIP providers have access to emergency services. Speakeasy is not requesting an exemption from or indefinite waiver of the rules. Rather, Speakeasy merely seeks additional time and interim relief so that it can meet those requirements fully for all of its customers. As discussed above, the Commission has routinely issued limited waivers and extensions of time to the wireless and TRS industries for 911 deployment, thereby recognizing that such limited waivers do not undermine the objectives of those rules. The situation here is no different. Speakeasy's limited request for relief does not impair the public safety goals that underlie the Commission's new rules. Accordingly, the Commission should grant Speakeasy's Petition.

VI. THE COMMISSION SHOULD DECLARE THAT A POTS BACK-UP END-USER DEVICE COMPLIES WITH ITS VOIP E-911 REQUIREMENTS OR GRANT A WAIVER AUTHORIZING THE DEPLOYMENT OF SUCH A DEVICE IN PLACE OF A VOIP E-911 NETWORK SOLUTION.

In addition to the aforementioned SafeCall® Operator Assisted 911 Service, Speakeasy is developing an end-user device that would allow its customers to utilize an active POTS line as a back-up for VoIP E-911 service. The device will have both POTS and broadband connectivity. In the event of a VoIP outage, or in areas where VoIP E-911 is unavailable, the device would automatically switch 911 calls to the POTS connection, for routing to the dedicated E911 Wireline Network and the PSAP serving that customer location. To use such a device, as part of its service contract with Speakeasy, the customer would be required to maintain a basic

telephone connection, in addition to subscribing to Speakeasy's VoIP service. Speakeasy envisions that while such a solution may not make sense for single-line residential customers, the solution will be attractive to multi-line business customers, who would have multiple VoIP "lines," and a single active POTS line for emergency back-up 911 service.

Speakeasy seeks a declaration that such a device would satisfy the E-911 service requirements of the *E-911 Order*. Specifically, the deployment of such a device fulfills the requirement that an interconnected VoIP service provider transmit 911 calls to the PSAP or other emergency answering point serving that customer's location, and to the extent the PSAP has the capability of processing such information, the customer's ANI and registered location.²⁴ Such a solution would serve the Commission's goal of extending to VoIP customers its "longstanding and continuing commitment to a nationwide communications system that promotes the safety and welfare of all Americans."²⁵ That the 911 traffic is routed over the public switched telephone network to the Wireline E911 Network from the customer's premises, rather than handed-off by the VoIP provider at the selective router, is a distinction without a difference. The key point is that the VoIP customer would always have the availability of E-911 service. To the extent the Commission were to conclude that a POTS back-up solution would not technically comply with the requirements of the *E-911 Order*, the Commission should grant Speakeasy a waiver to deploy this end user device in place of a VoIP E-911 network solution where such a solution is unavailable.

²⁴ See 47 C.F.R. § 9.5(b), (c).

²⁵ *E-911 Order* at ¶ 5.

CERTIFICATION

On behalf of Speakeasy, Inc., I hereby certify that the statements in the foregoing Petition and Motion are true, complete, and correct to the best of my knowledge, information and belief, and are made in good faith.

By: 
Name: Bruce A. Chatterley
Title: President & CEO

Dated: February 8, 2006

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of February, 2006 that a copy of the foregoing Petition and Motion was served via electronic mail on the persons or entities listed below.

/s/
Sharon Agranov

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