

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

In the Matter of)	
)	
IP-Enabled Services)	WC Docket No. 04-36
)	
Implementation of Sections 255 and 251(a)(2) of The Communications Act of 1934, as Enacted by The Telecommunications Act of 1996: Access to Telecommunications Service Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities)	WT Docket No. 96-198
)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
The Use of N11 Codes and Other Abbreviated Dialing Arrangements)	CC Docket No. 92-105

**UNITED STATES TELECOM ASSOCIATION
PETITION FOR WAIVER
OF CERTAIN REGULATIONS CONCERNING
PROVISION OF 711 DIALING**

The United States Telecom Association (“USTelecom”),¹ on behalf of its members, requests a limited waiver of section 64.604(a)(4) of the Commission’s rules, 47 C.F.R. § 64.604(a)(4), as they apply to Voice over Internet Protocol (VoIP) providers pursuant to the Commission’s TRS/VoIP Order,² which extended those rules to interconnected VoIP providers.

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks.

² *IP-Enabled Services; Implementation of Sec. 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications*

Generally speaking, USTelecom's members expect to be able to comply with the requirements of the Commission's June 15, 2007 TRS/VoIP Order extending Sections 225 and 255 of the Act to interconnected VoIP providers. However, as interconnected VoIP providers and providers of Telecommunications Relay Service (TRS) have worked to implement the Commission's requirements, they have determined that in certain limited circumstances, when an interconnected VoIP service customer dials 711 to place an emergency call, the TRS center will be unable to "automatically and immediately transfer[] the caller to an appropriate Public Safety Answering Point (PSAP)." 47 C.F.R. § 64.604(a)(4). In addition, it is possible that the caller's number might not be transmitted to the PSAP for some kinds of interconnected VoIP services. Solving the technical challenges posed by the use of 711 dialing in this context will require a joint effort by TRS operators, PSAPs, VoIP providers and their vendors, and the emergency services community. This cannot be accomplished by the October 5, 2007 effective date set by the Commission. Accordingly, USTelecom seeks a limited two-year waiver of the Section 64.604(a)(4) requirements, as they apply to interconnected VoIP providers, to afford sufficient time to ensure that callers who dial 711 to place an emergency call will reach an appropriate PSAP. USTelecom is not seeking a waiver of any other requirements contained in the TRS/VoIP Order.

Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; the Use of N11 Codes and Other Abbreviated Dialing Arrangements, 22 FCC Rcd 11,275 (2007)("TRS/VoIP Order").

Background

Emergency Calling Using Interconnected VoIP Service

As the Commission is aware, the North American Numbering Plan (NANP) number assigned to a customer of an interconnected VoIP service does not necessarily reflect the geographic location of a caller using that VoIP service. There are two possible reasons for this. First, many interconnected VoIP services are portable, or “nomadic,” and can be used “anywhere in the world where [the customer] can find a broadband connection.”³ Second, many providers of interconnected VoIP services allow customers to select telephone numbers from distant geographies.⁴ This can be the case for “fixed” as well as for nomadic VoIP services.

In 2005, the Commission recognized that this lack of correlation between NANP numbers and geographic location meant that “certain VoIP services pose significant E911 implementation challenges.”⁵ As a result, and based on trials conducted by ILECs, VoIP providers, and public safety agencies,⁶ the Commission adopted a framework requiring providers of interconnected VoIP services to obtain the Registered Location for each customer and to deliver the 911 call to the appropriate PSAP for that Registered Location through the selective router using the wireline E911 network when the user dials 911. Moreover, the Commission

³ *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404, ¶ 5 (2004), affirmed by *MPUC et. al. v. FCC.*, 483 F.3d 570 (8th Cir. 2007)(“Vonage Order”).

⁴ *See id.* ¶ 9.

⁵ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10,245, ¶ 25 (2005)(“VoIP 911 Order”).

⁶ *Id.* ¶ 39.

ordered that the interconnected VoIP provider transmit the caller's automatic number identification ("ANI") and Registered Location to the PSAP.

To implement the Commission's framework, providers of interconnected VoIP services, ILECs, PSAPs, and third-party database providers, such as Intrado, TCS, and HBF, worked intensively for many months developing processes and populating databases to correlate the VoIP end user's NANP numbers with the Registered Location and the appropriate PSAP for the Registered Location, building trunks to connect to selective routers, and testing systems. Today, more than 95 percent of interconnected VoIP customers have E911 service available to them.⁷

When a user of an interconnected VoIP service that is nomadic or has a non-geographically relevant NANP number dials 911, the network recognizes the call as a 911 call, suspends the call temporarily and dips into third-party database. The third-party database correlates the NANP number with the customer's Registered Location and the appropriate PSAP for that Registered Location. The third-party database also assigns a "pseudo ANI" – a ten-digit number that will be recognized by the selective router serving the appropriate PSAP for the Registered Location. The VoIP provider then routes the call through the selective router to the PSAP. At the PSAP, the pseudo ANI alerts the PSAP's automatic location identification (ALI) database that it must check the third-party's database to obtain the caller's location information and ANI. Based on the Registered Location obtained from the third-party database, the PSAP dispatches emergency assistance to the caller's location.

⁷ Comments of the VON Coalition in Response to Part III.B of the NPRM, *Wireless E911 Location Accuracy Requirements, 911 Requirements for IP-Enabled Service Providers*, at 2, PS dkt 07-114, WC dkt 05-196 (August 20, 2007); VON Coalition, VoIP Progress Presentation, http://www.von.org/usr_files/911%20--%20Progress%201-10-07%20-%20ns.pdf.

Emergency Calling Using TRS

Despite advice on the Commission's Disability Rights web page that, in the event of an emergency, text telephone (TTY) users should call 911 directly, and not make a TRS call via 711,⁸ some callers do dial 711 to place emergency calls.⁹ For this reason, the Commission has required TRS providers to "use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to an appropriate" PSAP. 47 C.F.R. § 64.604(a)(4).

Today, when a TTY user on the public switched telephone network (PSTN) calls 711 to make an emergency call, the network "call forwards" the caller to the relay center designated by the state where the caller is located. If the caller asks the TRS operator to place an emergency call, the operator will ask the caller for his or her location (street address, city and state). Based on the city and state, the relay center uses its own database to locate an appropriate PSAP, and then calls the PSAP. The caller's ANI flows with the call and the PSAP uses the ANI to check the ALI database in order to determine the caller's location.

Emergency Calling Using a TTY Device Connected to Interconnected VoIP Service

In its TRS/VoIP Order, the Commission, *inter alia*, extended the TRS obligations in its rules to providers of interconnected VoIP services, and also required providers of interconnected VoIP services to enable 711 dialing. Generally speaking, USTelecom's members expect to be able to comply with these aspects of the Commission's order by the October 5 effective date. However, as providers have worked to implement the Commission's requirements, they have

⁸ See <http://www.fcc.gov/cgb/consumerfacts/711.html>.

⁹ A very small percentage of 711 calls – less than one-third of one percent – request emergency assistance.

determined that the combination of interconnected VoIP service and dialing 711 to place an emergency call presents technical and practical challenges beyond the ability of any individual provider to solve by itself. Instead, a solution to these issues will require a joint effort by providers of interconnected VoIP services, TRS providers, PSAPs and others. Such a solution cannot be designed and implemented by the October 5 effective date of the TRS/VoIP Order.

If a deaf or hard of hearing caller uses a TTY device connected to an interconnected VoIP service and dials 911 directly, the call will be routed through the selective router over the wireline E911 network to the PSAP that serves the caller's Registered Location as described above, just as it would be for a hearing VoIP caller. This process is the same whether the customer's interconnected VoIP service is fixed or nomadic, and whether or not the customer's NANP number reflects the geographic location where the caller is located.

If, however, a caller using interconnected VoIP service dials 711 to place an emergency call and either uses a nomadic VoIP service from a location other than his or her Registered Location or uses a fixed VoIP service with a non-geographically relevant NANP number, the TRS operator may not be able to direct the call to an appropriate PSAP – even if the caller identifies his or her location. Moreover, in cases where the caller cannot communicate his or her location, the TRS operator will not know which PSAP to contact. There are several factors that create this situation. First, when the caller dials 711, the network may forward the call to the TRS center for the state represented by the caller's NPA-NXX¹⁰, which may be in a different part of the country from where the caller is actually located. That TRS center may not have

¹⁰ See 47 C.F.R. §§ 52.7(a), (c).

phone numbers for PSAPs outside of the state.¹¹ Second, even if the TRS center has a national database of PSAPs,¹² the tools that the TRS center would normally use to determine an appropriate PSAP will not work in this situation. Because the caller's NPA-NXX does not reflect the caller's geographic location, the TRS center's database will not provide an appropriate PSAP – one that the caller would have reached if he or she had dialed 911 directly or one that is capable of enabling the dispatch of emergency services to the caller in an expeditious manner. Third, even if the TRS operator completes the call to the appropriate PSAP including forwarding the caller's ANI, the PSAP will be unable to determine the caller's address or location by using the ANI to check the ALI database, since the caller's ANI does not “match” his or her location.

In this situation, the TRS center has no access or connectivity to the third-party databases that were built and populated to provide E911 for users of interconnected VoIP service. And because the PSAP receiving the call does not receive any indicator (such as a pseudo-ANI), the PSAP would not know to check the third-party databases to correlate the NANP number with a Registered Location.

The technical and practical challenges that must be solved to make sure that a caller dialing 711 to make an emergency call reaches an appropriate PSAP are many. For example, should TRS centers have access to the third-party databases? Is it feasible to build that access and connectivity? How long would this process take and at what cost? If TRS centers have access to the databases, should the systems and databases that now route calls automatically be

¹¹ Some VoIP providers are considering whether to route all VoIP 711 calls to a single TRS center. Such a center could still be located in a different state from where the caller is calling.

¹² Several TRS providers use national databases, but some may only have a database for PSAPs in the state(s) they serve.

reconfigured to allow for the manual intervention and look-up that TRS operators perform when they must determine and complete a call to an appropriate PSAP? If so, how would the systems assign a pseudo-ANI to the call? Can the pseudo-ANI be transmitted with the call when the TRS operator completes the call to the PSAP? As stated above, these challenges cannot be solved by the October 5 effective date of the order. Moreover, they cannot be solved by any individual provider on its own. Instead, addressing these challenges will take a joint effort by TRS providers, interconnected VoIP service providers, public safety agencies and others.

Request for Waiver

The Commission plainly has the authority to waive its own rules: “Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown.” 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule when the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may “take into account considerations of hardship, equity, or more effective implementation of overall policy” on an individual basis.¹³ In short, a waiver is justified when “circumstances warrant a deviation from the general rule and such a deviation will serve the public interest.”¹⁴

In this case, circumstances warrant a waiver of the specified rules, and such waiver is in the public interest. The Commission has noted in connection with IP-Relay and Video Relay Services that “presently a technological solution does not exist to automatically route Internet-

¹³ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁴ *Northeast Cellular*, 897 F.2d at 1166; see also *Allband Communications Cooperative, Petition for Waiver of Sections 69.2(hh) and 69.601 of the Commission’s Rules*, 20 FCC Rcd 13,566 (2005).

based emergency . . . calls [made through a relay center] to the appropriate PSAP – *i.e.*, to automatically determine the geographic location of the . . . caller so the call can be linked to the appropriate PSAP.”¹⁵ For that reason, the Commission has granted a waiver of its emergency call handling rules for these services.¹⁶ As demonstrated above, a similar situation exists for providers of interconnected VoIP services and TRS providers with respect to calls made over an interconnected VoIP service when the caller dials 711 to place an emergency call and has a non-geographically relevant NANP number or is using the service nomadically.

Conclusion

For the reasons stated above, USTelecom, on behalf of its members who are providers of interconnected VoIP service and those who are TRS providers, requests a limited waiver of the Commission’s emergency call-handling rules.

Respectfully submitted,

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¹⁵ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 21 FCC Rcd 14,554, ¶ 9 (2006).

¹⁶ *See id.*