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VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Notice of Oral Ex Parte Communication, In the Matter of
Implementation of the NET 911 Improvement Act of 2008,
WC Docket No. 08-171**

Dear Ms. Dortch:

On October 9, 2008, the undersigned as counsel, together with Tim Lorello, Global Commercial Sales Sr. VP and Chief Marketing Officer and Kim Robert Scovill, Senior Director of Government Relations of TeleCommunication Systems, Inc. ("TCS") spoke telephonically with Tim Stelzig of the Wireline Competition Bureau in connection with the above-referenced docket.

We explained how wireless E911 routing vendors—which are the equivalent of VoIP Positioning Companies (VPCs) for VoIP—administer p-ANI for wireless carriers for use in routing wireless 911 calls from the specific carrier's service area to the correct PSAP. We explained that this system would not work well in the field of VoIP because although every wireless carrier has a typical pool of 10 p-ANI per carrier per PSAP, there are only a few wireless carriers per PSAP. In contrast, there are approximately 1,400 VSPs in operation and a similar system would require that they each obtain thousands of p-ANI codes given that they would need codes in all PSAPs.

We noted that the purpose of the NET 911 Act is to promote and enhance public safety by providing VoIP service providers (VSPs) with the ability to access the capabilities necessary to provide 911 and E-911 service to their subscribers. We pointed out that VPCs such as TCS have long played a vital role in permitting VSPs to meet their obligations and without VPCs

many VSPs would be unable to provide the adequate 911 and E-911 service required by the NET 911 Act.

Clearly, Congress was aware of the important role that VPCs play when it adopted the Act. As AT&T indicated at pages 4-5 of its Comments, in the House Report at page 6 Congress noted that for the past three years, VSPs have “entered into commercial arrangements with LECs or third parties to gain access to gain access to 911 components.” *See* H.R. No.110-442 at 6. Further, at page 13 of the Report, Congress explicitly stated that the NET 911 Act was not intended to “abrogate existing commercial arrangements relating to the provision of 911 and E911 services entered into by VoIP providers prior to enactment” of the Act. *Id.* at 13.

Consistent with Congressional intent, the FCC should avoid adopting rules which would have the unintended consequence of precluding VSPs from continuing to rely upon VPCs for vital services, thereby disrupting existing commercial arrangements, imposing tremendous costs on VSPs, threatening the public safety, and straining the numbering infrastructure. The Commission acting under the NET 911 Act, as well as its broad plenary power under both Titles I and II, has the authority to permit VPCs to continue to obtain p-ANIs, without state certification, so that they might either continue to have or to obtain control over the capabilities necessary for VSP 911 and E-911 service and to continue to provide these capabilities to VSPs.

Additionally, although the services provided by VPCs are clearly information services, the term “any entity” under the NET 911 Act is to be broadly construed because critical components of the 911 infrastructure may reside with assorted bodies. *Id.* at 14. Consequently, a VPC would most likely qualify as an “entity” with control over 911 capabilities under Section 6(b) of the NET 911 Act and might therefore be subject to Commission regulation for this limited purpose. Numbering authorities are without doubt entities covered by Section 6(b). If VPCs were so subject to FCC jurisdiction, then logically the FCC might also be able to specify the terms under which various Section 6(b) entities interact in order to fulfill Congress’ clear intent that VPCs be able to continue to support the provision of 911 and E-911 service by VSPs.

Pursuant to the commission’s rules, 47 C.F.R. § 1.1206(b)(1), this letter is being filed electronically for inclusion in the record of the above-referenced proceeding.

Respectfully submitted,



H. Russell Frisby, Jr.

Counsel to TeleCommunication Systems, Inc.

Attachment

cc: Mr. Tim Stelzig