

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20544**

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| <i>In the Matter(s) of</i>   | ) |  |
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| <i>Administration of the North American<br/>Numbering Plan</i>   | ) | <b>CC Docket 99-200<br/>[DA 11-2074]</b> |
|  | ) |  |
| <i>CoreComm-Voyager, Inc., Dialpad<br/>Communications, Inc., Enhanced<br/>Services d/b/a PointOne, Frontier<br/>Communications of America, Inc.,<br/>Nuvio Corporation, Qwest<br/>Communications Corporation, RNK, Inc.<br/>d/b/a RNK Telecom, Inc., Unipoint,<br/>VoEx, Inc., Vonage Holdings Corp.,<br/>&amp; WilTel Communications, LLC</i> | ) |  |
| <i>Petition(s) for Limited Waiver of Section<br/>52.15(g)(2)(i) of the Commission’s<br/>Rules Regarding Access to<br/>Numbering Resources.</i>   | ) |  |

**MOTION OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS  
FOR EXTENSION OF TIME**

Pursuant to Rule 1.46 of the Federal Communications Commission’s (“FCC” or “Commission”) Rules of Practice and Procedure, 47 C.F.R. § 1.46 (2010), the National Association of Regulatory Utility Commissioners (NARUC), on behalf of several of its member commissions, respectfully files this motion requesting an extension of time for the filing of further comments in response to the FCC’s December 27, 2011 released Public Notice DA 11-2074 captioned *Wireline Competition Bureau Seeks to Refresh Record on Petitions for Waiver of Commission’s Rules Regarding Access to Numbering Resources*, available at: [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db1227/DA-11-2074A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db1227/DA-11-2074A1.pdf).

Given the seven year lapse since these petitions were filed, the notice sets establishes a deadline for comments to refresh the record on numerous petitions<sup>1</sup> for limited waiver of section 52.15(g)(2)(i) of the Commission's rules to allow the requesting Voice over Internet Protocol (VoIP) providers direct access to numbering resources from the North American Numbering Plan Administrator and the Pooling Administrator.

The Public Notice requests input beyond just the Vonage Petition, seeking broadly "to ensure that the record reflects current viewpoints on any issues raised by providing direct access to numbering resources for VoIP providers." Public Notice at 2. The Public Notice was issued on Tuesday, December 27, 2011 and establishes a deadline of Wednesday, January 11, 2012 for comments, and provides no opportunity for reply comments.

***For the reasons discussed infra, NARUC respectfully requests that the Commission extend the date to submit comments to February 8, 2012.***

In support of this request, NARUC states as follows:

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<sup>1</sup> See, *RNK, Inc. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed February 7, 2005; *Nuvio Corporation Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed February 15, 2005; *UniPoint Enhanced Services d/b/a PointOne Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed March 2, 2005; *Dialpad Communications, Inc. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, filed March 1, 2005; *Vonage Holdings Corporation Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, filed March 4, 2005; *VoEX, Inc. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, filed March 4, 2005; *Qwest Communications Corporation Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed March 28, 2005; *CoreComm-Voyager, Inc. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed April 22, 2005; *Net2Phone Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed May 6, 2005; *WilTel Communications, LLC Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed May 9, 2005; *Constant Touch Communications Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed May 23, 2005; *Frontier Communications of America, Inc. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Numbering Resources*, filed August 29, 2006.

## I. NARUC AND IT'S INTERESTS

NARUC, founded in 1889, is the national organization representing the Congress referenced from the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. These commissions are charged with regulating the rates and conditions of service associated with the intrastate operations of telephone utilities. NARUC is recognized by Congress in several statutes<sup>2</sup> and consistently by the Courts<sup>3</sup> as well as a host of federal agencies,<sup>4</sup> as the proper entity to represent the collective interests of State utility commissions. In the Federal Telecommunications Act,<sup>5</sup> Congress references NARUC as “the national organization of the State commissions” responsible for economic and safety regulation of the intrastate operation of carriers and utilities.<sup>6</sup>

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<sup>2</sup> See 47 U.S.C. §410(c) (1971) (Congress designated NARUC to nominate members of Federal-State Joint Board to consider issues of common concern); See also 47 U.S.C. §254 (1996); See also *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where this Court explains “Carriers, to get the cards, applied to (NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the “bingo card” system).

<sup>3</sup> See, e.g., *U.S. v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), *aff’d* 672 F.2d 469 (5th Cir. 1982), *aff’d en banc on reh’g*, 702 F.2d 532 (5th Cir. 1983), *rev’d on other grounds*, 471 U.S. 48 (1985) (where the Supreme Court notes: “The District Court permitted (NARUC) to intervene as a defendant. Throughout this litigation, the NARUC has represented the interests of the Public Service Commission’s of those States in which the defendant rate bureaus operate.” 471 U.S. 52, n. 10. See also, *Indianapolis Power and Light Co. v. ICC*, 587 F.2d 1098 (7th Cir. 1982); *Washington Utilities and Transportation Commission v. FCC*, 513 F.2d 1142 (9th Cir. 1976); *Compare, NARUC v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *NARUC v. DOE*, 851 F.2d 1424, 1425 (D.C. Cir. 1988); *NARUC v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *cert. denied*, 469 U.S. 1227 (1985).

<sup>4</sup> NRC Atomic Safety and Licensing Board *Memorandum and Order* (Granting Intervention to Petitioners and Denying Withdrawal Motion), LBP-10-11, *In the Matter of U.S. Department of Energy (High Level Waste Repository)* Docket No. 63-001-HLW; ASLBP No. 09-892-HLW-CABO4, *mimeo* at 31 (June 29, 2010) (“We agree with NARUC that, because state utility commissioners are responsible for protecting ratepayers’ interests and overseeing the operations of regulated electric utilities, these economic harms constitute its members’ injury-in-fact.”)

<sup>5</sup> *Communications Act of 1934*, as amended by the *Telecommunications Act of 1996*, 47 U.S.C. §151 *et seq.*, Pub.L.No. 101-104, 110 Stat. 56 (1996) (West Supp. 1998) (“Act” or “1996 Act”).

<sup>6</sup> See 47 U.S.C. § 410(c) (1971) (NARUC nominates members to FCC Joint Federal-State Boards which consider universal service, separations, and related concerns and provide formal recommendations that the FCC must act upon; *Cf.* 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). *Cf.* *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court

While NARUC did not file comments on the listed petitions, we did file comments on the SBC IP Communications petition that instigated the petitions that are the subject of the notice.<sup>7</sup> Moreover, several NARUC members did specifically file comments addressing one or more of the listed petitions on April 11, 2005.<sup>8</sup>

NARUC's members have an obvious interest in this proceeding and will be directly affected by the FCC's disposition of these requests irrespective of the outcome. Indeed, the genesis of this request was derived by statements on a conference call today that some NARUC members will be unable to draft their comments and get them through the State approval process in time to meet the deadline. Moreover, several NARUC commissioners are planning to sponsor a resolution likely relevant to some issues raised in this docket to be considered at NARUC's planned February 5-8, 2011 Committee meetings in Washington D.C.

All of the prior comments filed in this proceeding raise crucial issues for the State's efforts to assure conservation and efficient use of numbering resources. Moreover, both NARUC and its members have concerns about traffic pumping and call termination issues that could well be exacerbated by the FCC's action in this docket. NARUC's concerns are elevated

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explains "...Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the "bingo card" system.)

<sup>7</sup> See, August 30, 2004 *Reply Comments of the National Association of Regulatory Utility Commissioners*, filed in the proceedings captioned: *In the Matter of SBC IP Communications, Inc. Petition for a Limited Waiver of Section 52.159(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, CC Docket No. 99-200 [DA 04-2144], available online at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=6516482575>.

<sup>8</sup> See, e.g., the April 11, 2005 filed (1) *Comments of the Nebraska Public Service Commission*, at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=6517511475>; (2) *Comments of the Iowa Utilities Board*, at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=6517511123>; (3) *Comments of the Maine Public Utilities Commission*, available online at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=6517511256>; (4) *Comments of the Public Utilities Commission of Ohio*, available at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=6517511183>; (5) *Comments of the Michigan Public Service Commission*, available at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=6517511329>; and (6) *Comments of the California Public Utilities Commission and of the People of the State of California on Petitions For Limited Waiver*, available at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=6517511543>.

by the Commission's request for further comment not just as to Vonage, who has though numerous recent filings inspired the FCC to seek an updated record, but also on the numerous other similar outstanding petitions and the request for input generally "on any issues raised by providing direct access to numbering resources for VoIP providers." Public Notice at 2.

As a result of NARUC's interest, on a conference call of State Commissioners earlier today, the undersigned was specifically instructed to seek an extension of the comment cycle in this proceeding. NARUC immediately called the FCC contact and phone number listed in the Public Notice (at approximately 3:30 eastern) and left a message for Ms. Marilyn Jones, Esq. alerting her to the undersigned's intention to seek an extension of the comment deadline. NARUC followed up that call with an e-mail to Ms. Jones noting NARUC's intent to file this extension request today.

## **II. NEED FOR RELIEF**

Even if it were not during the holidays and during the lead up to comment deadlines in other crucial FCC dockets, the short time between the notice and the comment deadline cannot give any interested party adequate time to prepare a proper response, much less allow NARUC members to generate an adequate response and get it through State required clearance procedures. The issues at stake in this proceeding are of critical importance to the proper functioning and interoperability of the nation's telecommunications networks. For many NARUC members who returned from vacation on Tuesday, January 3<sup>rd</sup>, the current deadline provides seven (7) work days to review the pertinent issues. During this same time period, members will be consumed by the upcoming January 18, 2012 deadline to submit comments on Sections XVII.A-K

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of the Connect America Fund further notice of proposed rulemaking (“FNPRM”).<sup>9</sup> The issues in the FNPRM, like those in the preceding Connect America Fund NPRM, are critical to NARUC members. In light of the holidays, the required State comment clearance procedures, and the critical competing priorities, NARUC believes some extension is justified to allow its members to consider the important issues addressed in the Public Notice.

Moreover, it appears likely NARUC will consider a policy resolution providing insight into the views and experiences of a broader swath of affected State officials on some of the issues raised in the proceeding. Those views too can be timely submitted if the extension is delayed less than a month (until February 8<sup>th</sup>).

By providing an extension to February 8<sup>th</sup> to file comments, the Commission will provide just over four (4) weeks after the holiday break and, perhaps more importantly, a bit over two (2) weeks after the FNPRM comments are due, to consider the issues and prepare comments. NARUC respectfully suggests that after a seven year lapse – a few additional weeks is unlikely to unduly prejudice any party – yet it will assure that at least two NARUC member commissions can timely file comments (while also providing a window for NARUC to file any resolution that emerges from the pending Washington meetings).

This plan (i) obviously raises issues of concern to the NARUC's state commission membership and (ii) if adopted will unquestionably impact upon these members' ability to adhere to their respective mandates to serve the public interest. No other participant's filed initial and reply comments can adequately represent the viewpoint of those NARUC's members that plan to file in this proceeding. This viewpoint is necessary to fully illuminate the issues raised by this proposal and assure a complete record upon which to base a decision. Hence, granting the

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<sup>9</sup> In the Matter of the Connect America Fund, WC Docket No. 10-90, *et seq.*, *Report and Order and Further Notice of Proposed Rulemaking* (released Nov. 18, 2011).

requested extension will serve the public interest by ensuring State commissions continued full participation.

Indeed, the FCC only recently granted an extension of time in response to a similar request also reflecting the impact of the combination of the holiday season and the substantial nature of the tasks at hand: “the Joint Parties state that in light of these substantial filings and the intervening holiday season, ‘[a]n extension will allow commenters a meaningful period to review, analyze, solicit feedback from member organizations, and allow these new findings to inform their reply comment submissions.’” *In the Matter of Facilitating the Deployment of Text-to-911 and other Next Generation 911 Applications, Framework for next Generation 911 Deployment*, PS Docket Nos. 11-153, 10-255, *Order*, DA 11-2049 (“Extension Order”), ¶4 (released Dec. 21, 2011 (citations omitted). The Commission found that, while it does not routinely grant extensions of time, as stated in 47 C.F.R. § 1.46(a), “it has done so when necessary to ensure that the Commission receives full and informed responses and that affected parties have a meaningful opportunity to develop a complete record for the Commission’s consideration.”<sup>10</sup>

NARUC submits that here, too, an extension request is necessary to ensure that the Commission receives full and informed responses and that industry-wide affected parties have a meaningful opportunity to develop a complete record for the Commission’s consideration.

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<sup>10</sup> Extension Order, at ¶ 4 (*citing* *In the Matter of Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, WC Docket 05-196, *Order*, 25 FCC Rcd 16879, 16880 ¶¶ 3-5 (PSHSB 2010) (granting 14-day extension to permit various Communications Security, Reliability, and Interoperability Council (CSRIC) working groups to develop and finalize recommendations relating to E911 and NG911); *Wireless Telecommunications Bureau Grants Extension of Time to File Reply Comments on Commercial Mobile Radio Services Market Competition, Public Notice*, WT Docket No. 09-66, DA 09-1419 (WTB rel. June 24, 2009) (granting 14-day extension for “development of a complete record on the issues.”)).

#### IV. CONCLUSION

Accordingly, because of the critical importance of the issues raised by Notice and the various petitions, and because of the clear need for additional time to adequately review and get clearances to address those issues, NARUC respectfully requests the FCC grant the requested extension to February 8, 2012.

**Respectfully Submitted,**

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**January 6, 2012**