

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
) CC Docket No. 99-200
Numbering Resource Optimization)

COMMENTS OF CENTURYLINK

CenturyLink comments here in response to the Wireline Competition Bureau's *Public Notice* (DA 11-2074), dated December 27, 2011, that seeks to refresh the record regarding access to numbering resources for VoIP providers. The *Public Notice* is issued in the context of a variety of VoIP providers' "me too" Petitions for Waiver pending since February/March of 2005, in connection with the Commission's waiver grant to SBC Internet Services Inc. (SBCIS) allowing it to secure numbering resources directly (rather than through an intermediary carrier).¹

CenturyLink's wholly-owned subsidiary, now known as Qwest Communications Company, LLC (QCC/VoIP), like Vonage (which the *Public Notice* references), has a pending Petition² seeking waiver of the Commission's rule 47 C.F.R. Section 52.15(g)(2)(i).³ QCC/VoIP still seeks waiver relief, all the more so since its commercial VoIP operations have increased across the country since 2005. In responding to that growth, QCC/VoIP has either had to rely on third-party carriers to secure numbers for it (a far from ideal situation) or has had to secure state

¹ *In the Matter of Administration of the North American Numbering Plan*, Order, 20 FCC Rcd 2957, 2959 ¶ 4 (2005) (*SBCIS Numbering Waiver Order*).

² Petition for Limited Waiver, filed by Qwest Communications Corporation on behalf of its IP-Enabled Services Operation, CC Docket No. 99-200, filed March 29, 2005 (*QCC/VoIP Limited Waiver Petition* or *Petition*).

³ QCC is certified in some states as a CLEC and, accordingly, has direct access to numbers in that capacity. The *QCC/VoIP Limited Waiver Petition* was sought so that QCC's VoIP operations could have similar access to numbers, including in those states where QCC is not certificated.

certification as a CLEC, even when its business model involved minimal traditional local exchange service offerings.

The most efficient, practical, and cost-effective means for a VoIP provider (such as QCC/VoIP) to secure access to numbering resources is for such a provider to be able to access them directly, in line with the relief requested by QCC/VoIP in its *Waiver Petition*. And Petitioners such as QCC/VoIP have relied on regulatory pronouncements that such waivers would be granted if they mirrored the SBCIS' waiver filing and agreed to the same conditions. Equity and fairness, then, support such waivers being granted. Moreover, not only QCC/VoIP as a business entity but its customers, as well, would benefit from direct access to numbering resources as a result of increased innovation and reduced delay in the delivery of products and services.

I. BACKGROUND REGARDING QCC/VoIP'S PENDING PETITION

In its *Limited Waiver Petition*, QCC/VoIP advised the Commission that its "facts and circumstances [were] not materially distinguishable from those of SBCIS;"⁴ and it agreed to abide by the conditions the Commission imposed on SBCIS when the Commission granted SBCIS its waiver.⁵ These conditions, the Commission determined, protected "the public interest,

⁴ *QCC Limited Waiver Petition* at 2. The only material fact that has changed since 2005 is that QCC/CenturyLink is in the process of withdrawing from the provision of VoIP services to the consumer market, while maintaining them in the business market.

⁵ *SBCIS Numbering Waiver Order*, 20 FCC Rcd at 2959 ¶ 4 (the conditions were compliance "with the Commission's other numbering utilization and optimization requirements, numbering authority delegated to the states, and industry guidelines and practices, including filing the Numbering Resource Utilization and Forecast Report (NRUF). . . [and the filing of] any requests for numbers with the Commission and the relevant state commissions at least thirty-days prior to requesting numbers from the NANPA or the PA."); *and see id.* at 2961-62 ¶ 9.

because they [would] help further the Commission’s goal of ensuring that the limited numbering resources of the NANP are used efficiently.”⁶

Accordingly, in line with the Commission’s assertion that, “[t]o the extent other entities seek similar relief [it] **would** grant such relief to an extent comparable to what [it] set forth”⁷ with respect to SBCIS, QCC/VoIP filed -- and has been awaiting action on -- its Petition. Having met the criteria for a waiver under the *SBCIS Numbering Waiver Order*, QCC/VoIP urges the Commission to grant its pending *Limited Waiver Petition*.

II. GRANTING THE PENDING PETITIONS REMAINS IN THE PUBLIC INTEREST

Granting *QCC/VoIP’s Limited Waiver Petition* is as much in the public interest now as it was when the Commission granted SBCIS a waiver in 2005. Then, the Commission pointed out that granting the waiver advanced the public interest because it furthered the Commission’s goals and objectives with respect to the promotion and advancement of new technologies and innovative services.⁸ And it specifically concluded that the conditions it imposed on SBCIS protected “the public interest, because they [would] help further the Commission’s goal of ensuring that the limited numbering resources of the NANP are used efficiently.”⁹

The Commission’s analysis and conclusions have been confirmed since it granted SBCIS relief. In response to the Commission’s request in the *SBCIS Numbering Waiver Order* to “the North American Numbering Council (NANC) to review whether and how [its] numbering rules should be modified to allow IP-enabled service providers access to numbering resources”

⁶ *Id.* at 2961-62 ¶ 9 (footnote omitted).

⁷ *Id.* at 2959 ¶ 4 (bold added).

⁸ *Id.* at 2959 ¶ 4, 2961 ¶ 8 (“[g]ranteeing the [SBCIS] waiver [would] spur the implementation of IP-enabled services and facilitate increased choices of services for American consumers.”).

⁹ *Id.* at 2961-62 ¶ 9 (footnote omitted).

directly,¹⁰ the NANC filed a report with the Commission supporting such a modification.¹¹ That support was reached only after the NANC Future of Numbering Working Group “conducted an extensive and exhaustive analysis” of the question; and the full NANC voted to endorse and adopt the Future of Numbering Working Group’s report and recommendations.¹²

QCC/VoIP fully supports the report and recommendations of the NANC Working Group.

Specifically, we agree that

[T]elephone numbers should be available to all service providers, including VoIP providers connecting to the PSTN, as long as [] such numbers can be reached when called from the [PSTN]. . . . [There should be a] principle that all providers should share and bear the same ‘numbering-related’ responsibilities.[¹³]

And we support the Vonage *Ex Partes*, filed in 2011,¹⁴ on the issue that lack of direct access to numbering resources can retard the ability of IP service providers to offer such now-commonplace services as Caller ID.¹⁵ Moreover, such lack of access surely acts to depress

¹⁰ *Id.* at 2957 ¶ 1.

¹¹ See Letter from Robert C. Atkinson, NANC Chair, to Mr. Thomas Navin, Chief, Wireline Competition Bureau, FCC, dated August 3, 2005 (Atkinson Letter) transmitting “VoIP Service Providers’ Access Requirements for NANP Resource Assignments: NANC Report and Recommendation,” by the Future of Numbering Working Group [FoN WG] (*NANP VoIP 2005 Report*), dated July 19, 2005.

¹² Atkinson Letter at page 1. *NANP VoIP 2005 Report* at 13.

¹³ Atkinson Letter at 1. *And see NANP VoIP 2005 Report* at 3, 13. Among those responsibilities, QCC/VoIP believes, is a requirement that numbers need to keep their rate center association to where codes/blocks are assigned. *See, e.g., NANP VoIP 2005 Report* at Appendix A, page 16, Item 7.

¹⁴ See Letter to Marlene H. Dortch, Secretary, FCC from Brita D. Strandberg, Wiltshire & Grannis LLP, CC Docket No. 99-200, dated Mar. 8, 2011 (referenced in the *Public Notice* at note 2) (*March 8, 2011 Vonage Letter*); Letter to Marlene H. Dortch, Secretary, FCC from Brita D. Strandberg, Wiltshire & Grannis LLP, CC Docket No. 99-200, dated Nov. 11, 2011 (*November 11, 2011 Vonage Letter*).

¹⁵ See *March 8, 2011 Vonage Letter* at 2, n.6; *November 11, 2011 Vonage Letter* at 4.

innovation because of the unnecessary delay in securing numbering resources and the drag of coordination with third-party numbering partners (*i.e.*, local exchange carriers).¹⁶

Removing impediments to quality service delivery, such as those identified above, was and remains in the public interest. The desire to realize the benefits of innovation and to deploy new and advanced technologies and services is not something peculiar to SBCIS or Vonage. These are benefits that IP-enabled service providers and their customers should generally enjoy, something that should ensue through the granting of the pending waivers.

Moreover, eliminating “the middle entity” from the number acquisition process also promotes the public interest. It would reduce the time-to-market for new services, remove the need for sometimes burdensome coordination and cooperation, and provide more efficient interconnection options to the PSTN,¹⁷ not only for SBCIS but for other service providers.

On the other hand, not granting the pending waivers allows for competitive inequities between SBCIS and other similarly-situated entities seeking similar, beneficial relief.¹⁸ Given that the Commission has already determined that the public interest was advanced by granting SBCIS the relief that it did, there is no logical reason to treat other providers seeking the same relief differently. Particularly since the volume of pending petitions is limited, granting them would not compromise the Commission’s numbering resources or conservation objectives.

¹⁶ *March 8, 2011 Vonage Letter* at 1-2; *November 11, 2011 Vonage Letter* at 4 (describing the process as “cumbersome, wasteful, and operat[ing] as an obstacle to providing services”).

¹⁷ According to SBCIS, allowing a VoIP service provider to interconnect with the PSTN through a trunk-side connection (such as an incumbent LEC tandem switch) can allow greater efficiencies and scalability regarding service provisioning than the process whereby VoIP providers must partner with LECs/CLECs to purchase retail offerings such as PRI ISDN. *SBCIS Numbering Waiver Order*, 20 FCC Rcd at 2959 ¶ 4. Such interconnection can also be accomplished through the middle carrier through DID connections. See *November 11, 2011 Vonage Letter* at 4; and *NANP VoIP 2005 Report* at 5 (Section 3.0), at 7 (Section 5.0).

¹⁸ See *QCC/VoIP Limited Waiver Petition* at 2.

While the Commission made clear that the SBCIS waiver grant was limited “until the Commission adopts final numbering rules regarding IP-enabled services,”¹⁹ it never suggested the public interest was in jeopardy or at risk with IP-enabled providers having direct access to numbering resources pending a final determination on the overall topic. And, to date, no such final determination has been made.

III. THE COMMISSION IS NOT ADDRESSING AN INDUSTRY WAIVER; NOR HAS IT ALREADY DETERMINED WHAT ACCESS IP-ENABLED PROVIDERS SHOULD HAVE TO NUMBERING RESOURCES INTO THE FUTURE

QCC/VoIP expects at least one opposition will be filed against any Commission action to grant the pending petitions. Based on 2011 filings from COMPTTEL,²⁰ directed to the Vonage 2011 *ex parte* filings referenced above, QCC/VoIP anticipates that COMPTTEL will argue that the granting of the pending “me too” waivers is improper for two reasons. First, COMPTTEL argues it would be procedurally improper to grant such waivers because the current situation is at odds with the notion that waivers are to be granted based on individual circumstances.²¹ COMPTTEL’s arguments are incorrect and misplaced.

The Commission has not granted an “industry waiver” regarding access to numbering resources; nor has it signaled an intention to do so. Quite the contrary. The Commission indicated an intention to grant waivers to “other entities” that independently sought relief based on facts similar to those faced by SBCIS and a willingness to abide by the previously-determined

¹⁹ *SBCIS Numbering Waiver Order*, 20 FCC Rcd at 2962-63 ¶ 11.

²⁰ See Letter to Marlene H. Dortch, Secretary, FCC from Karen Reidy, CC Docket No. 99-200, dated June 20, 2011 (*COMPTTEL June 2011 Letter*); see Letter to Marlene H. Dortch, Secretary, FCC from Karen Reidy, CC Docket No. 99-200, dated Nov. 29, 2011 (*COMPTTEL November 2011 Letter*).

²¹ *COMPTTEL June 2011 Letter* at 3; *COMPTTEL November 2011 Letter* at 1-2.

conditions. Granting these separate waiver petitions does not amount to an “industry waiver.”²² But even if such a waiver were involved, as the Commission has noted, it is free in its discretion to grant waivers to entities similarly-situated with SBCIS.²³

COMPTEL’s second argument that granting the pending petitions would be in error stems from an erroneous reading of the *IP-Enabled Service Providers Order*.²⁴ COMPTEL claims the Commission has already “considered the very question [pending] in the waiver requests” in the *IP-Enabled Service Providers Order* and there “reaffirmed that only a carrier may access numbering resources directly” from NANP or the PA.²⁵ It argues, therefore, that even the SBCIS waiver should no longer be considered valid, since the termination point during which the waiver was to be effective (*i.e.*, until a permanent decision was made on direct access to numbering resources by VoIP providers) has passed.

COMPTEL mischaracterizes the Commission’s determinations in the *IP-Enabled Service Providers Order*. The Commission did not there declare that VoIP providers “that have not

²² Were such a waiver involved, the Commission likely would have already granted -- in the *SBCIS Numbering Waiver Order* itself -- such relief to any carrier who determined itself to be similarly situated to SBCIS and who stood ready, at sometime in the future if called upon, to demonstrate its compliance with the conditions the Commission imposed on SBCIS.

²³ *SBCIS Numbering Waiver Order*, 20 FCC Rcd at 2962-63 ¶ 11 and footnote 50 (citing to *Pacific Telesis Petition for Exemption from Customer Proprietary Network Information Notification Requirements*, Order, DA 96-1878 (rel. Nov. 13, 1996) granting waivers to a number of carriers because the Commission believed it was in the public interest to do so). QCC/VoIP also agrees with Vonage’s analysis of this issue in its March and November *Ex Partes*. *March 8, 2011 Vonage Letter* at 2-3; *November 11, 2011 Vonage Letter* at 2-3.

²⁴ *In the Matter of Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements; IP-Enabled Services; Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues; Final Regulatory Flexibility Analysis; Numbering Resource Optimization*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531 (2007) (*IP-Enabled Service Providers Order*). COMPTEL refers to as the *VoIP LNP Order*.

²⁵ *COMPTEL June 2011 Letter* at 2-3; *COMPTEL November 2011 Letter* at 3.

obtained license[s] or certificate[s] of public convenience and necessity from the relevant state[s]” were required to utilize numbering partners in all circumstances.²⁶ Rather, the Commission correctly noted that “absent a Commission waiver” VoIP providers “that have not obtained a license or certificate” from relevant states (a potential requirement under Commission rule Section 52.15(g)(2)(i)) could not receive numbers directly from the number administrator but would need to gain access to numbers through carriers *via* commercial agreements.²⁷ This does no more than state the obvious and the current rule of “general applicability.”²⁸ And it is undisputed that rules are to be abided by, absent a waiver of their application.

Indeed, rather than determining in the *IP-Enabled Service Providers Order* that the public interest is ill served by granting IP-enabled service providers access to numbering resources as a matter of future policy, the Commission imposed on such providers two aspects of its numbering policy generally reserved for carriers having such direct access: number porting and contribution to the numbering administration support obligations. It did so, in part, because it believed that “VoIP service ‘is increasingly used to replace analog voice service,’ . . . [and] consumers’ expectations for these services trend toward their expectations for other telephone services.”²⁹

²⁶ *COMPTEL June 2011 Letter* at 2-3; *COMPTEL November 2011 Letter* at 3.

²⁷ *IP-Enabled Service Providers Order*, 22 FCC Rcd at 19542 ¶ 20.

²⁸ *Id.* at 19542 n.59 (noting that its restatement of the general rule was not meant to be read to pre-judge the merits of the pending petitions for waiver).

²⁹ *Id.* at 19540-41 ¶ 18.

It makes sense that with these additional numbering obligations should come additional numbering access, for those willing to assume the conditions associated with securing such access. Accordingly, QCC/VoIP's pending Petition should be granted as soon as possible.

Respectfully submitted,

CENTURYLINK

By: /s/ Kathryn Marie Krause
Kathryn Marie Krause
CenturyLink
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
Phone 303-992-2502
Kathryn.Krause@CenturyLink.com

Its Attorney

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CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF CENTURYLINK** to be: 1) filed via ECFS with the Office of the Secretary of the FCC in CC Docket No. 99-200; 2) served via e-mail on the Competition Policy Division, Wireline Competition Bureau at CPDcopies@fcc.gov; and 2) served via e-mail on the FCC's duplicating contractor, Best Copy & Printing, Inc. at fcc@bcpiweb.com.

/s/ Richard Grozier

January 25, 2012