



WILTSHIRE
& GRANNIS LLP

July 31, 2012

Marlene H. Dortch
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: *Vonage's Petition for Limited Waiver*, CC Docket No. 99-200

Dear Ms. Dortch:

On July 27, 2012, the undersigned, along with Kurt Rogers, Ed Mulligan, Craig Lennon, Michael Doherty, and Brendan Kasper of Vonage, and Madeleine Findley of this firm, met with Julie Veach, Chief of the Wireline Competition Bureau, and Nick Alexander, Bill Dever, Lisa Gelb, Marilyn Jones, Rhonda Lien, Travis Litman, Deena Shetler, Ann Stevens, and Merry Wulff of the Wireline Competition Bureau to discuss Vonage's above-captioned request for direct access to numbering resources.

During that meeting, Vonage reiterated the importance to Vonage of direct access to numbers, explaining that direct access is critical to its ongoing efforts to deliver customers new and better services at a lower cost. Vonage addressed the points below. Vonage expressed its appreciation for the time and attention the Commission and the Bureau have dedicated to Vonage's Petition.

1. Granting Vonage's Petition is in the Public Interest.

Vonage described the public interest benefits that direct access to numbers will deliver, explaining first that direct access to numbers will remove a significant barrier to Vonage's efforts to exchange traffic over direct IP connections with other providers. Vonage described its ongoing efforts to exchange traffic in IP and explained that other providers have not agreed to route Vonage traffic directly to Vonage because industry routing databases like the NPAC and LERG associate Vonage telephone numbers with Vonage's underlying carriers, rather than with Vonage. Direct access to numbers will remove this barrier to IP interconnection and facilitate IP exchange of Vonage traffic.

The Commission has found that "IP interconnection between providers . . . is critical."¹ Vonage agrees, and explained that IP interconnection dramatically improves call quality by giving Vonage greater control over its calls, avoiding unnecessary TDM/IP handoffs, providing Vonage greater visibility into call routing, and simplifying troubleshooting. Where Vonage can achieve IP interconnection, it also has the opportunity to work with directly connected providers

¹ *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17,663, 18,044 ¶ 1010 (2011) ("CAF Order").

to implement high definition audio codecs to improve the quality of voice service and offer its customers end-to-end HD voice. As the industry and technology develop, Vonage expects to be able to implement additional features and improvements that depend on end-to-end IP transport. Moving to IP interconnection will also reduce costs by allowing Vonage to eliminate where possible its reliance on wholesale third-party networks.

Direct access to numbers also enables Vonage to offer features such as caller ID and SMS that require population of certain call signaling fields. Vonage is able to provide these features today only with the consent and cooperation of its numbering partners; obtaining that consent and cooperation can unnecessarily delay deployment of these customer-friendly features. Thus, as the Commission has already found, granting “direct access to telephone numbers is in the public interest” because it will “help to achieve the Commission’s goals of fostering innovation and speeding the delivery of advanced services to consumers.”²

Granting Vonage direct access to numbers will further the public interest in additional ways. Vonage seeks bill-and-keep arrangements with IP interconnection partners and grant of its request will serve the public interest by facilitating the transition to bill-and-keep.³ Direct access to numbers will also enable Vonage to build additional redundancy into its network, improving network reliability.⁴ Additionally, direct access to numbers will improve the states’ ability to monitor and manage number use.⁵ For all of these reasons, granting Vonage’s waiver will deliver concrete public interest benefits to its customers and the public at large.

2. CLECs are Required to Port Numbers to Vonage.

Vonage has already explained that the Commission’s rules require interconnected VoIP providers like Vonage to port numbers whether or not the iVoIP provider has a numbering partner.⁶ The Commission’s rules and orders would likewise require providers to port to Vonage if its requested waiver is granted.

² *Administration of the North American Numbering Plan*, Order, 20 FCC Rcd. 2957, 2960 ¶ 6 (2005) (“SBCIS Waiver Order”).

³ *See CAF Order*, 17,905-14 ¶¶ 740-759.

⁴ *See* Comments of Vonage Holdings Corp., CC Docket No. 99-200 at 7 (filed Jan. 25, 2012) (“Vonage Comments”).

⁵ *See* Ex Parte Letter from Brita D. Strandberg, Wiltshire & Grannis, on behalf of Vonage Holdings Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 99-200, at 7 (filed May 7, 2012) (“Vonage May 7 Ex Parte”).

⁶ *See* Ex Parte Letter from Brita D. Strandberg, Wiltshire & Grannis, on behalf of Vonage Holdings Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 99-200 at 3 (filed June 27, 2012) (“Vonage June 27 Ex Parte”); *see also* 47 C.F.R. § 52.34.

Rule 52.35 obligates “[a]ll telecommunications carriers required by the Commission to port telephone numbers” to “complete . . . port request[s].”⁷ LECs are undoubtedly “telecommunications carriers required by the Commission to port telephone numbers.” The rule does not in any way limit this porting obligation to ports to other carriers, and even if it did, the rule defines carrier to include iVoIP providers.⁸

The *VOIP LNP Order* confirms this conclusion. The Commission there “prescribe[d] requirements that expand number portability to include ports *to and from interconnected VoIP providers*”⁹ and expressly required LECs to port iVoIP numbers obtained indirectly:

We exercise our authority under the Act to ensure that consumers’ interests in their existing telephone numbers are adequately protected whether the customer is using a telephone number obtained from a LEC directly or indirectly via an interconnected VoIP provider. *In either case, the LEC or LEC numbering partner must comply with the Commission’s LNP rules.*¹⁰

This passage makes plain that LECs must port Vonage’s existing numbers, as all of Vonage’s existing numbers are numbers that Vonage customers “obtained from a LEC indirectly via an interconnected VoIP provider.” The Commission had, of course, already granted a waiver to SBCIS when it issued the *VOIP LNP Order*, and carriers routinely port to SBCIS/AT&TIS,¹¹ demonstrating that the industry has long understood that the Commission extended number porting obligations and benefits to iVoIP providers whether or not those providers receive numbers directly.

Further, the *VOIP LNP Order* details the Commission’s interest in setting “uniform national rules” for number portability to implement “national policies adopted pursuant to section 251.”¹² It would be flatly inconsistent with this interest—and with the public’s interest in being able to port numbers among service providers—for certain CLECs to now read the Commission’s LNP rules to require porting to and from iVoIP providers in all circumstances *except* where an iVoIP provider has obtained a number pursuant to a numbering waiver.

Finally, CLEC arguments that the Commission somehow lacks authority to require porting to iVoIP waiver recipients are also flatly contradicted by the *VOIP LNP Order*. There,

⁷ 47 C.F.R. § 52.35.

⁸ *See id.*

⁹ *Local Number Portability Porting Interval and Validation Requirements*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd. 19,531, 19,544 ¶ 23 (emphasis added) (“VoIP LNP Order”).

¹⁰ *Id.* (emphasis added).

¹¹ A review of numbers held by SBCIS/AT&TIS shows that carriers commonly port numbers *into* the SBCIS/AT&TIS OCN.

¹² *VoIP LNP Order*, 19,545 ¶ 25.

the Commission concluded that it had “ample authority” to impose porting requirements on LECs and iVoIP providers.¹³

3. Vonage Will Populate the NPAC and LERG to Enable Call Routing.

Vonage next explained that if it is granted direct access to numbers it will populate the NPAC or LERG, as appropriate, by associating Vonage’s OCN with Vonage-assigned telephone numbers. This will enable providers dipping these databases to see return information showing the Vonage OCN for Vonage-assigned numbers, thereby enabling carriers to route calls to Vonage-assigned numbers directly pursuant to IP interconnection agreements. Where Vonage does not have IP interconnection, providers will route to Vonage using the NPAC or LERG designation showing the switch CLLI to which Vonage phone numbers will be homed. As Vonage has previously explained, it plans to use carrier partners to provide the necessary switch facilities to achieve this routing.¹⁴ Finally, Vonage noted its expectation that it will continue to rely in certain cases on numbers obtained through carrier partners. For these numbers, existing routing (based on the association of these telephone numbers with Vonage’s carrier partner’s OCN in the NPAC or LERG) will remain in place.

4. Vonage Will Negotiate IP-to-IP Interconnection in Good Faith.

The Commission has not yet adopted a regulatory framework for voluntary IP interconnection arrangements. Instead, the Commission in the *CAF Order* seeks comment on which of a number of available frameworks it should adopt to implement IP-to-IP interconnection.¹⁵ And sections 251 and 252 do not apply to non-carriers like Vonage.¹⁶ The Commission has mandated, however, that carriers engage in good faith negotiations towards IP interconnection agreements.¹⁷ Vonage has repeatedly affirmed its commitment to negotiate in good faith with any carrier or provider that seeks IP interconnection with Vonage.¹⁸

¹³ *VoIP LNP Order*, 19,543 ¶ 21; *see also id.*, 19,541 ¶ 19.

¹⁴ *See* Vonage Comments at 10-11; Ex Parte Letter from Brita D. Strandberg, Wiltshire & Grannis, on behalf of Vonage Holdings Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 99-200 (filed March 21, 2012) (“Vonage March 21 Ex Parte”).

¹⁵ *See CAF Order*, 18,123 ¶ 1335 (“Commission requirements implementing the duty to negotiate IP-to-IP interconnection in good faith could take their primary guidance from one or more of various provisions of the Communications law—Sections 4, 201, 251(a), or 251(c) of the Communications Act, or 706 of the 1996 Act. We seek comment on which of the available approaches is most consistent with our statutes as a whole and sound policy.”).

¹⁶ *See* 47 U.S.C. §§ 251, 252.

¹⁷ *See CAF Order*, 18,045 ¶ 1011.

¹⁸ *See, e.g.*, Ex Parte Letter from Brita D. Strandberg, Wiltshire & Grannis, on behalf of Vonage Holdings Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 99-200 at 6 (filed Nov. 11, 2011) (“Vonage Nov. 11 Ex Parte”).

5. Vonage Will Commit to a 65% Overall Number Utilization Rate.

Vonage already maintains a high number utilization rate in its inventory of indirectly obtained numbers and will commit to a similarly high utilization rate as a condition of its requested waiver.¹⁹ Specifically, Vonage will maintain a 65% overall (*e.g.*, nationwide) number utilization rate and will voluntarily surrender numbers within a reasonable time when it falls below this threshold. Vonage noted that this commitment is far above CLEC industry average—according to the Commission’s 2011 NRUF Report, CLECs average 34% number utilization, well below ILEC average utilization of 47.3% and wireless average utilization of 66.7%.²⁰ As a result, grant of Vonage’s waiver should improve overall number utilization by shifting numbering resources from the least efficient industry segment to a provider subject to a high utilization requirement.

6. Vonage’s Waiver Will Not Endanger Third Party Rights to Intercarrier Compensation.

Granting Vonage’s requested waiver will not impair third party rights to intercarrier compensation or lead to access avoidance. *First*, Vonage will not use numbers that it obtains directly to engage in call routing intended to avoid assessment of access charges or reciprocal compensation due under the Commission’s rules and orders. Instead, Vonage will enter into voluntary commercial arrangements for the IP exchange of traffic, preferably on a bill-and-keep basis. *Second*, for calls outbound to carriers with which Vonage does not have direct IP interconnection agreements (calls for which Vonage intends to maintain its existing routing through carrier partners), Vonage will continue to work to ensure that its underlying carriers fulfill their intercarrier compensation obligations by: (1) paying these carriers their quoted and contracted rates and (2) continuing Vonage’s practice of requiring carrier partners to comply with applicable law, including intercarrier compensation obligations.

7. Vonage Will Carefully Migrate to Directly Accessed Numbers if its Waiver is Granted.

Vonage is committed to ensuring that its customers do not experience any disruption as a result of its requested direct access to numbers. Vonage has therefore planned a careful, gradual transition in the event its waiver is granted. To ensure that the Commission has the opportunity to monitor this transition, Vonage has proposed detailed and ongoing reporting requirements. Specifically, Vonage has proposed:

- Within 90 days of the grant of the waiver, Vonage will provide the Commission with a migration plan for its transition to direct access to numbers.

¹⁹ See Vonage Nov. 11 Ex Parte at 5-6.

²⁰ CRAIG STROUP & JOHN VU, INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, WIRELINE COMPETITION BUREAU, FEDERAL COMMUNICATIONS COMMISSION, NUMBERING RESOURCE UTILIZATION IN THE UNITED STATES 2 (2011), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303900A1.pdf.

- Within 90 days of the commencement of the migration, and every 90 days thereafter for 18 months, Vonage will provide the Commission with updates on the progress of the migration.
- Vonage's updates will detail (1) the current status of the migration, (2) anticipated actions in connection with the migration in the upcoming 90 days, (3) Vonage's compliance with the 65% number utilization commitment, (4) Vonage's compliance with NRUF reporting, and (5) Vonage's compliance with any applicable state reporting obligations.²¹

This proposed reporting will allow the Commission to understand Vonage's migration process and ensure that Vonage is fulfilling any conditions of its waiver.

Vonage urges the Commission to advance the public interest and the Commission's stated policy goals by expeditiously granting Vonage's requested waiver.

If you have questions or require any additional information, please do not hesitate to contact me at (202) 730-1346.

Sincerely,



Brita D. Strandberg
Counsel to Vonage Holdings Corp.

cc: Nick Alexander
Matthew Berry
Nicholas Degani
Priscilla Delgado Argeris
Bill Dever
Lisa Gelb
Angela Giancarlo
Marilyn Jones
Angela Kronenberg
Rhonda Lien
Travis Litman
Deena Shetler
Michael Steffen
Ann Stevens
Julie Veach
Merry Wulff
Zac Katz

²¹ See Vonage Nov. 11 Ex Parte at 6.