



AUG 14 2012

Federal Communications Commission  
Office of the Secretary

August 14, 2012

**VIA HAND DELIVERY**

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

**REDACTED FOR  
PUBLIC INSPECTION**

**Re: Request for Confidential Treatment of Filing of  
Vonage Holdings Corp.; CC Docket No. 99-200**

Dear Ms. Dortch:

In support of its petition for limited waiver, Vonage Holdings Corporation (“Vonage”) hereby encloses an *ex parte* letter providing detailed information regarding Vonage’s monthly traffic data and related intercarrier compensation.

Vonage respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Commission’s rules, 47 C.F.R. §§ 0.457 and 0.459, the Commission withhold from public inspection and accord confidential treatment to the *ex parte* presentation because it contains sensitive trade secrets, commercial, and financial information that falls within Exemption 4 of the Freedom of Information Act (“FOIA”).<sup>1</sup> Vonage is voluntarily providing this information, “of a kind that would not customarily be released to the public”; therefore, this information is “confidential” under FOIA.<sup>2</sup> Moreover, Vonage would suffer substantial competitive harm if this information were disclosed.<sup>3</sup>

Vonage’s *ex parte* letter accordingly is marked with the header “SUBJECT TO REQUEST FOR CONFIDENTIAL TREATMENT – NOT FOR PUBLIC INSPECTION.”

In support of this request and pursuant to Section 0.459(b) of the Commission’s rules,<sup>4</sup> Vonage hereby states as follows:

<sup>1</sup> 5 U.S.C. § 552(b)(4).

<sup>2</sup> See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

<sup>3</sup> See *National Parks and Conservation Ass’n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

<sup>4</sup> 47 C.F.R. § 0.459(b).

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**1. IDENTIFICATION OF THE SPECIFIC INFORMATION FOR WHICH CONFIDENTIAL TREATMENT IS SOUGHT<sup>5</sup>**

Vonage seeks confidential treatment of certain portions of the enclosed *ex parte* letter.

**2. DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE SUBMISSION<sup>6</sup>**

Vonage is submitting new detail regarding its monthly traffic data and related intercarrier compensation.

**3. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION IS COMMERCIAL OR FINANCIAL, OR CONTAINS A TRADE SECRET OR IS PRIVILEGED<sup>7</sup>**

The information for which Vonage seeks confidential treatment contains sensitive trade secrets, commercial, financial, and technical information “which would customarily be guarded from competitors.”<sup>8</sup> The *ex parte* letter contains proprietary commercial information concerning Vonage’s network, routing, technical solutions, customers, and services.

**4. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION CONCERNS A SERVICE THAT IS SUBJECT TO COMPETITION<sup>9</sup>**

The *ex parte* letter contains information relating to commercial and technical matters that could be used by competitors to Vonage’s disadvantage. Vonage has numerous competitors in the Voice over Internet Protocol (“VoIP”) services sector in which it operates. Detailed technical and operations information of the type provided by Vonage could compromise Vonage’s position in this highly competitive industry. Release would therefore result in substantial competitive harm to Vonage.

**5. EXPLANATION OF HOW DISCLOSURE OF THE INFORMATION COULD RESULT IN SUBSTANTIAL COMPETITIVE HARM<sup>10</sup>**

Competitors could use Vonage’s proprietary commercial and operational information to Vonage’s detriment as they would gain access to sensitive information about how Vonage provides services that is not normally disclosed to the public.

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<sup>5</sup> 47 C.F.R. § 0.459(b)(1).

<sup>6</sup> 47 C.F.R. § 0.459(b)(2).

<sup>7</sup> 47 C.F.R. § 0.459(b)(3).

<sup>8</sup> 47 C.F.R. § 0.457(d)(2).

<sup>9</sup> 47 C.F.R. § 0.459(b)(4).

<sup>10</sup> 47 C.F.R. § 0.459(b)(5).

**6. IDENTIFICATION OF ANY MEASURES TAKEN BY THE SUBMITTING PARTY TO PREVENT UNAUTHORIZED DISCLOSURE<sup>11</sup>**

Vonage has not distributed the information included in its *ex parte* letter to the public.

**7. IDENTIFICATION OF WHETHER THE INFORMATION IS AVAILABLE TO THE PUBLIC AND THE EXTENT OF ANY PREVIOUS DISCLOSURE OF THE INFORMATION TO THIRD PARTIES<sup>12</sup>**

Vonage has not previously disclosed the information included its *ex parte* letter.

**8. JUSTIFICATION OF THE PERIOD DURING WHICH THE SUBMITTING PARTY ASSERTS THAT MATERIAL SHOULD NOT BE AVAILABLE FOR PUBLIC DISCLOSURE<sup>13</sup>**

Vonage requests that the specified portions of this *ex parte* letter be treated as confidential for a period of ten years. This period is necessary due to the proprietary nature of the information in the enclosed *ex parte*.

**9. OTHER INFORMATION THAT VONAGE BELIEVES MAY BE USEFUL IN ASSESSING WHETHER ITS REQUEST FOR CONFIDENTIALITY SHOULD BE GRANTED<sup>14</sup>**

The information concerns Vonage's proprietary technical and network information, detailing current and planned commercial and operational information, and as such, is commercially sensitive.

Should you have any questions regarding the foregoing information, please contact the undersigned at (202) 730-1346.

Respectfully submitted,



Brita D. Strandberg

*Counsel to Vonage Holdings Corp.*

cc: Zac Katz  
Michael Steffen  
Julie Veach  
Randy Clarke  
Rhonda Lien

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<sup>11</sup> 47 C.F.R. § 0.459(b)(6).

<sup>12</sup> 47 C.F.R. § 0.459(b)(7).

<sup>13</sup> 47 C.F.R. § 0.459(b)(8).

<sup>14</sup> 47 C.F.R. § 0.459(b)(9).

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

Dear Ms. Dortch:

On August 14, 2012, Brendan Kasper of Vonage Holdings Corporation ("Vonage") and Madeleine Findley of this firm spoke by telephone with Randy Clarke and Rhonda Lien of the Wireline Competition Bureau. In this conversation, Vonage provided additional detailed information about the effect of a waiver on intercarrier compensation and access charges. Vonage also reiterated that the record demonstrates that granting Vonage's request for a limited waiver will both serve the public interest and advance the Commission's public interest goals in fostering innovation and speeding delivery of advanced services to customers.<sup>1</sup>

As Vonage has stated, direct access to numbers will change intercarrier compensation in two respects, neither of which endangers third-party rights to intercarrier compensation. First, where Vonage is able to negotiate IP interconnection agreements, it will seek bill-and-keep arrangements. Second, Vonage will not seek to bill for end office access elements or to collect reciprocal compensation for traffic that is inbound to Vonage.<sup>2</sup>

CLEC opposition to Vonage's requested waiver reflects concerns about losing access charges they collect on traffic that originates from or terminates to Vonage-assigned numbers. These concerns are significantly overstated. Specifically, Vonage's monthly domestic outbound traffic is approximately [BEGIN CONFIDENTIAL TREATMENT] [REDACTED] [END CONFIDENTIAL TREATMENT] minutes and its monthly inbound traffic is approximately [BEGIN CONFIDENTIAL TREATMENT] [REDACTED] [END CONFIDENTIAL TREATMENT] minutes. The domestic outbound traffic is essentially

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<sup>1</sup> *Administration of the North American Numbering Plan*, Order, 20 FCC Rcd. 2957, 2960 ¶ 6 (2005) ("*SBCIS Waiver Order*").

<sup>2</sup> Ex Parte Letter of Brita D. Strandberg, Counsel to Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, Docket No. 99-200, at 1-2 (filed July 16, 2012).

100% IP originated and the inbound traffic is essentially 100% terminated in IP.<sup>3</sup> We estimate that CLECs could get approximately [BEGIN CONFIDENTIAL TREATMENT] [REDACTED] [END CONFIDENTIAL TREATMENT] in monthly access charges on this traffic. This estimate represents a ceiling on access charges that may be assessed on Vonage traffic.

There are a number of important considerations when considering this estimate for access charges. *First*, this revenue will not go away immediately. Vonage will enter voluntary direct IP arrangements with carrier partners,<sup>5</sup> a process that will occur over time. Any IP-interconnection agreement will be voluntary and Vonage anticipates that a sizeable number of carriers will prefer to continue with current arrangements rather than shift to IP-interconnection. For these reasons, significant call traffic will continue to flow over CLEC facilities and be subject to CLEC access charges.<sup>6</sup> In addition, as Vonage has noted, it anticipates a careful, gradual transition to direct access to numbers.<sup>7</sup> Vonage thus will continue to obtain many numbers from CLECs for the foreseeable future.

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<sup>3</sup> [BEGIN CONFIDENTIAL TREATMENT] [REDACTED]

[END CONFIDENTIAL TREATMENT]

<sup>4</sup> [BEGIN CONFIDENTIAL TREATMENT] [REDACTED]

[END CONFIDENTIAL TREATMENT]

<sup>5</sup> Ex Parte Letter of Brita D. Strandberg, Counsel to Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 99-200, at 1 (filed June 25, 2012).

<sup>6</sup> *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Red. 17,663, 17,905 ¶¶ 740-759 (2011) (“Connect American Fund Order”).

<sup>7</sup> Ex Parte Letter of Brita D. Strandberg, Counsel to Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 99-200, at 5 (filed July 31, 2012).

*Second*, the access-charge data provided above does not presage any larger loss of potential CLEC revenues if interconnected VoIP providers receive direct access to numbers. Indeed, Vonage is probably the only interconnected VoIP provider with a significant number of customers that does not already have direct access to numbering resources. Additional requests for direct access to numbers from interconnected VoIP providers are unlikely to cause substantial changes in CLEC access-charge revenues.

*Third*, the Commission's stated goal is to move all compensation to a bill-and-keep regime, a goal that the Commission has found serves the public interest.<sup>8</sup> As access-charge revenues decline under the *Connect America Fund Order*, CLECs may be less willing to provide or may seek to charge much more for the same level of service (especially for inbound services). This makes it critically important for Vonage to move towards establishing direct IP interconnection arrangements that do not rely on CLECs for handling inbound traffic.

*Fourth*, Vonage notes that the waiver it seeks will affect only a very limited share of CLEC revenues from numbering resources.<sup>9</sup> CLECs provide only a portion of their numbers to interconnected VoIP providers such as Vonage. And the effect on each individual CLEC will be yet smaller still. Far more of the CLECs' revenues flow from numbers provided to non-interconnected VoIP providers such as Google Voice and others.

Finally, and most importantly, delaying relief that the Commission has found is in the public interest, slowing the transition to IP interconnection, and impeding the shift to bill-and-keep in order to protect the business model of a small number of carriers elevates the commercial interests of the few over the public benefit.

Granting Vonage's waiver request will facilitate the transition to bill-and-keep that the Commission has found is in the public interest.<sup>10</sup> The cost savings that Vonage will experience as a result of direct access to numbers will be passed on to consumers in the form of lower prices or improved service.<sup>11</sup>

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<sup>8</sup> *Connect America Fund Order*, 26 FCC Red. at 17,905 ¶¶ 740-759.

<sup>9</sup> Ex Parte Letter of Brita D. Strandberg, Counsel to Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, Docket No. 99-200, 1-2 (filed Aug. 13, 2012) ("Vonage Aug. 13, 2012 Ex Parte").

<sup>10</sup> *Connect America Fund Order*, 26 FCC Red. at 17,905 ¶¶ 740-759.

<sup>11</sup> Vonage Aug. 13, 2012 Ex Parte at 1-2.

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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.”<sup>12</sup> For these reasons, Vonage urges the Commission to expeditiously grant Vonage’s long-standing waiver request.

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

Respectfully submitted,



Brita D. Strandberg  
*Counsel to Vonage Holdings Corp.*

cc: Zac Katz  
Michael Steffen  
Julie Veach  
Randy Clarke  
Rhonda Lien

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<sup>12</sup> SBCIS Waiver Order, 20 FCC Rcd. at 2960 ¶ 6.