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OCT 22 2012

Federal Communications Commission
Office of the Secretary

WG WILTSHIRE & GRANNIS LLP

October 22, 2012

VIA HAND DELIVERY AND EMAIL
Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

REDACTED – FOR PUBLIC INSPECTION

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

Dear Ms. Dortch:

On behalf of Vonage Holdings Corp., please find enclosed an *ex parte* for the above-captioned proceeding.

The filing contains confidential information. Confidential Information has been marked "CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN CC Docket NO. 99-200 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION" in accordance with the procedures set forth in the Protective Order entered in this proceeding.[1]

This confidential information contains sensitive commercial and financial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").[2] Vonage is voluntarily providing this information, "of a kind that would customarily not be released to the public"; therefore, this information is "confidential" under FOIA.[3] Moreover, Vonage would suffer substantial competitive harm if this information were disclosed.[4]

One machine-readable copy of the redacted version of the *ex parte* filing will be filed electronically via ECFS. Additionally, pursuant to the *Protective Order*, one original of the confidential version of the *ex parte* filing and two copies in redacted form are being filed with the Secretary's Office under separate cover, and two copies of the confidential version of the *ex parte* filing will be delivered to Marilyn Jones, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C264, Washington, D.C. 20554.

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1 *See Vonage Holdings Corp. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, Protective Order, CC Docket 99-200 at ¶ 5 (filed Aug. 23, 2012) ("Protective Order").

2 *See* 5 U.S.C. § 552(b)(4).

3 *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

4 *See National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 768 (D.C. Cir. 1974).

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

Sincerely,

Brita D. Strandberg
Rachel W. Petty
Counsel to Vonage Holdings Corp.

CC: Randy Clark,
William Dever
Lisa Gelb
Victoria Goldberg
Rhonda Lien
Travis Litman
Deena Shetler

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Federal Communications Commission
445 12th Street SW
Washington, DC 20554

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

Dear Ms. Dortch:

On Thursday, October 18, 2012, on behalf of Vonage Holdings Corp. ("Vonage"), Brendan Kasper, Edward Mulligan, and Craig Lennon of Vonage, together with Rachel Petty and the undersigned of Wiltshire & Grannis LLP, spoke by telephone with Randy Clark, William Dever, Lisa Gelb, Victoria Goldberg, Rhonda Lien, Travis Litman, and Deena Shetler of the Wireline Competition Bureau to discuss Vonage's pending Petition for Waiver.

The Commission has already taken critical, forward-looking steps to reform intercarrier compensation and encourage the transition to IP networks. The changes the Commission has already announced and, in particular, the transition to bill and keep for intercarrier compensation are likely to transform the market for CLEC and IXC wholesale services, eliminating or dramatically increasing the price of services on which Vonage relies today. Vonage seeks direct access to numbers in part to help it prepare for this anticipated shift in the marketplace for wholesale services.

Of course, as Vonage seeks to adapt its network to the changes already adopted by the Commission, it will continue to need to purchase services from underlying carriers. Vonage has found that a number of carriers are interested in adapting their services to support the increasing use of IP interconnection and to otherwise meet Vonage's changing needs. In other words, the carriers that oppose Vonage's request for relief appear to be bypassing an opportunity to compete in the marketplace to provide service that will support evolving networks and instead, to be using the regulatory process to attempt to impede a transition the Commission has already embraced. Instead of seeking to use regulatory roadblocks to delay the evolution of Vonage's network, these providers should compete for services the market will increasingly demand as providers move to IP interconnection. **[Begin Confidential]** [redacted] **[End Confidential]**

During the meeting, Vonage demonstrated that granting its Petition will have a very limited effect on carrier revenues. First, obtaining direct access to telephone numbers only impacts a limited range of carrier services that Vonage purchases. Second, even the limited range of impacted carrier services would decline gradually as Vonage transitions to directly obtaining telephone numbers and carrier revenues for these services would never go away entirely. Finally, grant of the waiver would not have a broader impact on the carrier wholesale market because Vonage is likely the only interconnected VoIP provider of any size that obtains telephone numbers indirectly.

Telephone Numbers. Vonage explained that it pays approximately **[Begin Confidential]** [redacted] **[End Confidential]** to lease telephone numbers ("TNs") from carrier partners. Vonage has approximately **[Begin Confidential]** [redacted] **[End Confidential]**. Vonage explained that in the event a waiver is granted, its costs for TNs will not be eliminated, but rather will decrease gradually over time as it transitions from indirect to direct TN access. Moreover, Vonage anticipates that some TN costs will remain indefinitely, as Vonage expects that it will continue to obtain TNs indirectly from underlying carriers in some areas.

Inbound Networking Costs. Vonage described its inbound networking costs, stating that it pays approximately **[Begin Confidential]** [redacted] **[End Confidential]** to carrier partners for all of its inbound networking costs, which includes all inbound trunking or connectivity and delivery of calls into the Vonage network. Vonage explained that if its waiver is granted, its inbound networking costs will decrease but will not be eliminated as Vonage will still require inbound networking services from its carrier partners to accommodate traffic not covered by voluntary IP interconnection agreements.

Outbound Voice Termination. Vonage explained that it pays approximately **[Begin Confidential]** [redacted] **[End Confidential]** for all outbound domestic voice termination services for all Vonage-originated calls.[1] Vonage works with approximately **[Begin Confidential]** [redacted] **[End Confidential]** carriers to terminate its domestic outbound traffic. Approximately **[Begin Confidential]** [redacted] **[End Confidential]** of Vonage's outbound domestic traffic is terminated to wireless carriers, **[Begin Confidential]** [redacted] **[End Confidential]** to ILECs, and the remainder to CLECs, IXCs, and cable companies. Vonage explained that if its waiver is granted, these costs could decrease as Vonage will be able to route traffic covered by voluntary IP interconnection agreements directly to the terminating carrier. Vonage will, however, continue to purchase outbound termination services, just as it does today, to permit termination of calls not covered by voluntary IP interconnection agreements.

Vonage emphasized that its requested relief will not alter outbound call routing except where the terminating carrier voluntarily enters an IP interconnection agreement with Vonage. Absent such voluntary arrangements, Vonage will continue to route outbound calls as it does today. And, absent such voluntary arrangements, intercarrier compensation will continue to be paid as it is paid today. Specifically, Vonage will continue to send its outbound traffic to CLEC

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[1] Vonage also spends approximately **[Begin Confidential]** [redacted] **[End Confidential]** with U.S. licensed carriers for international termination services. These services will not be impacted if Vonage obtains direct access to telephone numbers.

and IXC carrier partners that will terminate Vonage's traffic and handle intercarrier compensation for that traffic; Vonage will continue to pay these carriers their quoted and contracted rates, which are sufficient to cover the cost of access charges where due. Those carriers will continue to be bound to pay intercarrier compensation as required by the Commission's rules and orders, and will continue to be bound by contractual obligations to Vonage to comply with applicable law.[2]

Additional Services. Vonage purchases additional services from its carrier partners, such as collocation, international voice termination, and IP bandwidth. Spending on these services is in excess of **[Begin Confidential]** [redacted] **[End Confidential]**. The acquisition of such services will not be affected by the grant of a waiver.

Particular Carriers. The FCC also asked Vonage to specifically quantify the value of the services it purchases from Level 3, as well as other carrier partners. Vonage pays Level 3 approximately **[Begin Confidential]** [redacted] **[End Confidential]** for TNs, approximately **[Begin Confidential]** [redacted] **[End Confidential]** for outbound termination services, and approximately **[Begin Confidential]** [redacted] **[End Confidential]** for inbound networking services. Vonage also pays Level 3 for additional services that are not affected by TNs, such as collocation, which costs approximately **[Begin Confidential]** [redacted] **[End Confidential]**, IP bandwidth, at approximately **[Begin Confidential]** [redacted] **[End Confidential]**, and international voice termination services at up to **[Begin Confidential]** [redacted] **[End Confidential]**. In total, after a gradual transition to directly obtaining numbers and implementing IP to IP interconnection, Vonage expects that its spending with Level 3 will be in the rage of **[Begin Confidential]** [redacted] **[End Confidential]** percent of current spending.[3] This assumes that Level 3 does not seek to provide services that Vonage will need to support direct access to telephone numbers. Vonage, however, expects that Level 3 will seek to replace lost revenues by competing to provide other services Vonage will require if its waiver is granted.

Vonage explained that it also obtains services from other carrier partners, including **[Begin Confidential]** [redacted] **[End Confidential]**, which represent the balance of its total costs for TNs, termination services, and inbound networking services.

Finally, Vonage noted that grant of its waiver would not have a broader impact on the wholesale CLEC market. Vonage is not aware of other interconnected VoIP providers of significant size that purchase TNs and related services from Level 3 and other objecting carriers. Vonage noted that it understands that many cable-based interconnected VoIP providers rely on affiliated providers to obtain numbers, and therefore appear unlikely to seek the same relief requested by Vonage. Vonage further noted its understanding that many customers of TNs and

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2 Vonage June 16, 2012 Ex Parte at 1-2 and n.4.

3 A change of **[Begin Confidential]** [redacted] **[End Confidential]** per month is miniscule for a company like Level 3 that reported nearly $1.6B in quarterly revenues in its most recent 10-Q. *See* http://lvlt.client.shareholder.com/secfiling.cfm?filingID=794323-12-14.

related services are not interconnected VoIP providers and are not subject to the wide range of regulatory obligations—such as provision of 911 service and direct USF contributions—that fall on interconnected VoIP providers. The Commission has never suggested that providers not subject to these obligations should be granted direct access to numbers.

In conclusion, during the course of this proceeding, Vonage has demonstrated that grant of its waiver would serve the public interest by facilitating IP to IP interconnection, improving service quality, making it easier for Vonage to provide new and innovative services, and reducing costs for VoIP consumers. Further, grant of the waiver brings these benefits without substantially impairing Level 3 or Bandwidth.com's businesses—despite their claims to the contrary. Finally, the transition away from intercarrier compensation threatens to eliminate or greatly increase the price of wholesale telecommunications services on which Vonage relies, making it critical that Vonage start moving towards IP-to-IP interconnection arrangements now. Vonage has already reached commercial arrangements to exchange voice traffic IP-to-IP on a bill and keep basis but cannot fully implement these arrangements until it has direct access to telephone numbers so that its interconnection partner can easily identify Vonage-originated traffic. For these reasons, Vonage respectfully asks the Commission to expeditiously grant its waiver request.

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

Sincerely,

Brita D. Strandberg
Rachel W. Petty
Counsel to Vonage Holdings Corp.

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