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February 21, 2014

Via Hand Delivery and ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Attention: Wireline Competition Bureau

Re: Petition for Further Extension of Time and Limited Waiver
***In the Matter of Rural Call Completion*, WC Docket No. 13-39**

Dear Secretary Dortch,

On behalf of Vonage Holdings Corp. ("Vonage"), enclosed for filing are an original and four (4) copies of a Petition for Further Extension of Time and Limited Waiver of the Call Ringing Rules adopted in the Commission's October 28, 2013, Report and Order and Further Notice of Proposed Rulemaking, in the above-referenced proceeding.[1]

Please date-stamp and return the enclosed extra copy of this filing. Any questions relating to this submission should be directed to the undersigned.

Sincerely,

Ronald W. Del Sesto, Jr.
Counsel to Vonage Holdings Corp.

Enclosure

cc: Julie Veach
Gregory Kwan
William Dever
Carol Simpson

[1] *In the Matter of Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154 (2013) *("Order")*.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Rural Call Completion	)	WC Docket No. 13-39

PETITION FOR FURTHER EXTENSION OF TIME AND LIMITED WAIVER

Vonage Holdings Corp. ("Vonage"), pursuant to Section 1.3 of the Commission's Rules,[1] requests that the Commission grant a limited waiver further extending the time for it to comply with the obligations imposed on Vonage pursuant to Commission Rule 64.2201 (the "Rule"),[2] adopted in the Report and Order in the above-captioned proceeding.[3] As explained in detail below, despite having made substantial progress toward meeting the requirements of Rule 64.2201 as set forth in its initial Petition for Extension of Time and Limited Waiver,[4] Vonage will be unable to comply fully with the Rule by the March 3, 2014 deadline, pursuant to the Order granting Vonage's initial waiver request.[5] Accordingly, Vonage requests another 30-day extension of time, until April 2, 2014, to comply with those obligations. It likewise requests a 30-day extension of time, until April 2, 2014, to comply with the requirement set forth in the

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[1] 47 C.F.R. § 1.3.

[2] 47 C.F.R. § 64.2201.

[3] *See Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 13-39, FCC 13-135 (rel. Nov. 8, 2013) ("*Rural Call Completion Order*").

[4] *See Rural Call Completion*, Vonage Holdings Corp. Petition for Extension of Time and Limited Waiver, WC Docket No. 13-39 (filed Jan. 17, 2014) ("*Initial Petition*") (requesting a thirty day extension of time for the company to meet the requirements of the Rule). Vonage hereby incorporates by reference the details set forth in the *Initial Petition* concerning its new call ringing technical solution.

[5] *See Rural Call Completion; Vonage Holdings Corp. Petition for Extension of Time and Limited Waiver*, Order, WCB Docket No. 13-39, DA 14-104 (WCB Jan. 13, 2014) ("*Vonage Waiver Order*") (granting the *Initial Petition*). *See also* 78 Fed. Reg. 76218 (Dec. 17, 2013) (setting January 31, 2014 as the original effective date for 47 C.F.R. § 64.2201).

Vonage Waiver Order that the company file a letter in this docket notifying the Commission that it has come into compliance with section 64.2201.

Good cause exists for granting this Petition. As Vonage detailed in the *Initial Petition*, the company has undertaken significant efforts with its equipment and software vendors to implement a calling signal solution that is in compliance with the Commission's new Rule.[6] However, as Vonage has deployed the solution it described in the *Initial Petition* it has determined that certain technical characteristics of the ringing solution require further modification and additional testing in order to ensure that Vonage's customers are not inadvertently negatively impacted. As such, a grant of this Petition for an additional extension of time is in the public interest.

I. THE TECHNICAL SOLUTIONS DEPLOYED BY VONAGE REQUIRE ADDITIONAL TESTING AND POTENTIALLY MODIFICATION TO ENSURE CUSTOMER SERVICES ARE NOT AFFECTED

The Commission's new Rule provides that a voice service provider shall not convey a ringing indication to the calling party until the terminating provider has signaled that the called party is being alerted to an incoming call, such as by ringing.[7] As discussed in the *Initial Petition*, Vonage currently only plays a ringing sound if it has not received a ring signal from an intermediate telecommunications provider within four seconds.[8] Due to the inability to leverage its existing system to meet the requirements of the Rule, Vonage is building a new system to play a message to customers in situations where a ring is not received from an intermediate carrier

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[6] *See generally Initial Petition*, at 2-5 (detailing the work Vonage has undertaken so far, and the steps the company would undertake in the future to come into compliance with the Rule).

[7] *See* 47 C.F.R. § 64.2201(a). See also 47 C.F.R. § 64.2201 (a)(1) (applying the new call ringing rules to interconnected VoIP providers, such as Vonage).

[8] Vonage chose this four second interval very early in the company's existence based on the belief that if silence extended beyond four seconds, a customer would assume that his or her call had not gone through and would disconnect.

within four seconds for customers' calls. As discussed in the *Initial Petition*, the installation of this new system is a fundamental modification of Vonage's network architecture, touches all calls made on Vonage's network, and requires careful design, testing, and implementation.

Vonage performed necessary software upgrades at its call processing centers to deploy the new system, and is in the process of installing the new network components at its call processing centers. However, during deployment and testing, Vonage determined that under certain circumstances, the solution did not function properly and would not play ringing received from the intermediate carrier. Thus, for a call where Vonage did not receive a ringing signal from the intermediate carrier within four seconds, the customer would hear the system delivered message that Vonage is attempting to connect the call and the system delivered message would properly stop when a ring signal is received from the intermediate carrier. The system, however, would not play the ringing received from the intermediate carrier, so the customer would hear silence until the called party answered.

Upon investigation, Vonage determined that the problem is with the software upgrade to its call processing centers to support the network components necessary for the new system. To address the issue, Vonage's network equipment vendor had to develop a software update. The update was delivered on February 17th. Vonage is currently testing this update.[9] Once the update is ready and tested, Vonage will again go through a phased software upgrade at its call processing centers.[10]

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[9] More recently Vonage discovered that in call transfer scenarios, calls were intermittently failing. The network equipment vendor has not yet been able to determine the cause and identify a solution for this issue.

[10] This will be the third software update for the call processing centers so far. In testing the previous two updates, Vonage discovered issues that needed to be corrected.

Once these network components and upgrades have been deployed, Vonage will need to conduct additional testing to make certain that the individual components function properly, and that the entire system operates together as planned. Only after the system is fully tested can the company stage implementation across the Vonage network. This staged implementation approach is intended to minimize and isolate any potential disruptions to customers' services.

Vonage and its vendors continue to work very hard to push this process forward quickly. However, given the problems recently encountered with the deployment, Vonage requires additional time before it can roll out a complete solution to all customers. Vonage therefore requests an additional 30-day extension, *i.e.*, until April 2, 2014, to be in full compliance with the Commission's Rule. The technical solutions being implemented have the potential to impact every Vonage call and it is imperative that Vonage fully validate and test the new system and stage the rollout across its customer base in a responsible manner. The company cannot rush to deploy the new system as doing so would create substantial risk for disruption of service to customers, including calls not working at all, new network messages not being delivered, or new network messages not cutting off correctly when a ring signal is received from the intermediate carrier.

II. STANDARD OF REVIEW

Pursuant to Section 1.3, the Commission may grant a waiver of any of its rules "for good cause shown."[11] The Commission may waive a rule where the specific facts make strict compliance with the rule inconsistent with the public interest.[12] The Commission may also take into account considerations of hardship, equity, or more effective implementation of overall policy on

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[11] 47 C.F.R. § 1.3.

[12] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

an individual basis.[13] Additionally, the Commission's approach to requests for waivers in the wireless area is illustrative: under those rules the Commission may waive specific requirements where, "in view of unique or unusual factual circumstances …, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or [where] the applicant has no reasonable alternative."[14] The courts have likewise found that waiver is appropriate if "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest"[15] or when the rule, as applied, results in an outcome that erodes a Commission policy.[16] As shown below, these standards are met here, and Vonage's request should be granted.

III. GRANT OF VONAGE'S WAIVER IS IN THE PUBLIC INTEREST

The Commission has already recognized Vonage's particular circumstances and issues with respect to the roll out of the company's call ringing solution.[17] In particular, the Commission concluded "that Vonage has shown good cause for requesting a modest extension of time to comply with the ring signaling rule" given Vonage's need to undertake substantial network modification in order to comply with the Rule, "because modifying its existing system could not have brought Vonage into compliance with the rule across its entire customer base."[18] The Vonage Waiver Order also acknowledged that "this is a special circumstance that appears to be

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[13] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

[14] 47 C.F.R. § 1.925(b)(3)(ii).

[15] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (ci*ting WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)) (explaining the necessary criteria to establish good cause for a waiver). *See also NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008).

[16] *See KCST-TV v. FCC*, 699 F.2d 1185, 1193 (D.C. Cir. 1983) (agreeing with the Commission's holding that "[a] party demonstrating with persuasive evidence the invalidity of this underlying premise is entitled to waiver," *citing OkeAirCo, Inc*., 44 R.R.2d 166, 168-69 (1978)).

[17] *See generally Vonage Waiver Order*.

[18] *Vonage Waiver Order*, ¶ 7.

unique to Vonage."[19] The same reasons hold true. Vonage believes that an additional one month extension will allow sufficient time to adequately test the new system. Forcing deployment by March 3, 2014, on the other hand, could lead to call failures or to customer confusion, if the new network message does not play correctly. As the Commission has stated, "avoiding service disruption and customer confusion is consistent with the underlying purpose of the rule," and as such, grant of this additional limited waiver is in the public interest.

Vonage will continue to work diligently to design, test, and implement a compliant solution, and will continue to inform staff of its progress. Grant of this Petition will not undermine the policy goal of reducing customer confusion with respect to call signaling on long distance calls. Vonage is not requesting an exemption from or indefinite waiver of the Rule. Rather, it seeks additional time so that it can meet those requirements fully for all of its customers in a safe manner. For the same reasons that the Commission granted Vonage's Initial Petition, the Commission should grant this Petition and allow Vonage an additional thirty days to deploy its new call ringing solution and to attest to the same in a letter filed in this docket.

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19 *Id.*

IV. CONCLUSION

For the reasons set forth above, Vonage respectfully submits that grant of this Petition for further extension of time and limited waiver serves the public interest.

Respectfully submitted,

Vonage Holdings Corp.

By: */s/ electronically signed*

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Dated: February 21, 2014

VERIFICATION

I, Brendan Kasper, state that I am Senior Regulatory Counsel of Vonage Holdings Corp. ("Vonage"); that I am authorized to submit the forgoing *Petition for Further Extension of Time and Limited Waiver* ("*Petition*") on behalf of Vonage; that the *Petition* was prepared under my direction and supervision; and I declare under penalty of perjury that the *Petition* is true and correct to the best of my knowledge, information, and belief.

Brendan Kasper

Name: Brendan Kasper
Title: Senior Regulatory Counsel
Vonage Holdings Corp.