

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
IP-Enabled Services) WC Docket No. 04-36
)
E911 Requirements for IP-Enabled Service Providers) WC Docket No. 05-196
)
)

REPLY

The Voice on the Net (VON) Coalition,¹ hereby replies to the Opposition of the National Association of State Utility Consumer Advocates (“NASUCA”) (“Opposition”) to the Joint Petition for Clarification (“Petition”) filed by the National Emergency Number Association (“NENA”) and the VON Coalition in response to the *First Report and Order* in the above-captioned proceeding. First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245 (2005) (“Order”). NASUCA objects to only a single issue raised in the Petition. No other party objected to any of the clarifications requested.² As discussed below, NASUCA misunderstands the narrow scope of the clarification requested.

¹ The VON Coalition consists of companies that are developing and offering voice products and services for use on the Internet and IP networks, including Acceris Communications, Accessline Communications, AT&T, BMX, BT Americas, CallSmart, Cisco, Convedia, Covad, EarthLink, iBasis, Intel, Intrado, Level 3, MCI, Microsoft, Mobilepro, Multi-Link, New Global Telecom, PointOne, pulver.com, Skype, Switch Business Solutions, T-Mobile USA, USA DataNet, and VocalData. Largely through the efforts of VON Coalition members, packet-switched voice services are emerging as an exciting new technology benefiting consumers throughout the world. More information about the VON Coalition can be obtained at <http://www.von.org>.

² Sprint Nextel filed Comments in support of the NENA-VON Coalition Petition. Sprint Nextel Comments, WC Docket Nos. 04-36, 05-196 (Sept. 15, 2005). The VON Coalition agrees with T-Mobile and Sprint Nextel that CMRS providers that are also interconnected VoIP providers should be permitted to deliver location information in geographic longitude and latitude, or “x,y,” form. *See* Petition of T-Mobile USA, Inc. for Clarification, WC Docket Nos. 04-36, 05-196 (July 29, 2005). Granting CMRS providers this flexibility will improve public

Background

The Petition sought clarification of several technical and conforming aspects of the *Order* and did not seek reconsideration of the fundamental substantive findings and requirements of the *Order*. Specifically, the Petition sought clarification on the following issues:

- (a) for non-native/nomadic subscribers with non-native telephone numbers in cases where Automatic Location Information (ALI) is supported only for fixed subscribers, it is sufficient to route to the appropriate PSAP where the PSAP is not yet capable of processing the dynamic data necessary for delivering E9-1-1;
- (b) access to Master Street Address Guide (MSAG) data is required;
- (c) access to selective routers via the Public Switch Telephone Network (PSTN) is required as an interim solution;
- (d) reliance on accurate automatic location information as the “Registered Location” for converged wireless is permissible;
- (e) in certain limited circumstances, when the express terms of a customer’s contract with a VoIP provider allow the consumer to utilize that service from only a single location, the provider may limit E9-1-1 service to that location;³ and
- (f) the *Order’s* requirements do not apply to free interconnected VoIP services offered as part of a test or trial.⁴

NASUCA’s Opposition objects only to issue (e) above. NASUCA states that such a clarification is “nothing more than a request to continue in a business-as-usual manner; such an exception may swallow the Commission’s new E9-1-1 rules.”⁵

safety, as it will enable those providers to use existing automatic location capabilities to determine and deliver user location, rather than relying on possibly stale user-entered street addresses. This flexible approach would permit delivery of the most accurate information available to PSAPs, regardless of form.

³ NENA did not take a position on this issue.

⁴ NENA did not take a position on this issue.

⁵ NASUCA Opp. at 4.

Discussion

NASUCA misunderstands the VON Coalition’s position concerning contractual limits. In its Petition, the VON Coalition sought clarification that, only in certain limited circumstances, a VoIP provider could contractually prohibit a consumer from using VoIP service from anywhere other than a single, base location. NASUCA appears to believe that this request is an attempt to circumvent the Commission’s *Order* and the E9-1-1 requirements. This is hardly the case. VoIP providers have expended tremendous effort to comply with the Commission’s *Order* and the VON Coalition’s request is absolutely not a “request to continue in a business as usual manner”; nor would granting the clarification create “an exception [that] may swallow the Commission’s new E9-1-1 rules.”⁶ The VON Coalition appreciates NASUCA’s efforts on behalf of consumers and wholeheartedly agrees with NASUCA that access to emergency services is necessary and vital to the nation. Moreover, the VON Coalition agrees with NASUCA that any exception that would effectively swallow and undermine the Commission’s E9-1-1 rules is completely unacceptable. The VON Coalition’s clarification, however, is intended to be much more limited than NASUCA appreciates. The VON Coalition would welcome a clarification from the Commission that expressly limited the use of contractual limitations to the two circumstances described in the Petition and below.

As the VON Coalition stated in its Petition, contractual limits on E9-1-1 service are anticipated to be necessary in only two cases. The first is where an enterprise service restricts employees’ use of consumer premises equipment to the work location. Clarifying that VoIP providers may accommodate the legitimate business needs of its customers and are not required to provide E9-1-1 service from locations where a customer does not intend the equipment to be

⁶ NASUCA Opp. at 4.

used is eminently reasonable and consistent with the public interest. NASUCA’s argument that an employee “may well use” such equipment outside of the workplace⁷ ignores the fact that such an employee either would be attempting the technically impossible or would be acting in violation of his or her employer’s policies. There are any number of reasons why an employer might want to restrict use of its property to the workplace and VoIP providers should not be required to provide E9-1-1 service when equipment that is not intended to be used outside of the workplace is so utilized. It is important to note that the service in fact would comply with the Commission’s E9-1-1 requirements when used from the workplace. As stated in another party’s Petition for Clarification, “the VoIP services provided to these business subscribers already include access to the existing E911 wireline system on an equivalent basis as existing traditional T1 systems and services, posing no new or different limitations over traditional T1 services.”⁸ Given that E9-1-1 access is provided from the workplace and that concerns about consumers’ expectations do not apply to enterprise services, the Commission should not interfere with the private sector’s legitimate business needs and plans that might require VoIP equipment to be used only at the workplace.

The second circumstance in which the VON Coalition anticipated that contractual limits may be necessary was in the case of local or regional VoIP providers that would contractually limit E9-1-1 service to that particular region or locality. As expressly noted in the Petition, this would be done to allow local or regional VoIP providers to initially deploy E9-1-1 service to their particular locality or region before eventually allocating resources and deploying nationwide E9-1-1 service. This clarification would serve the public interest by allowing smaller

⁷ NASUCA Opp. at 5.

⁸ Petition for Reconsideration/Clarification and/or Waiver by CompTel, WC Docket Nos. 04-36, 05-196 (July 29, 2005) (“CompTel Petition”). The VON Coalition supports the CompTel Petition and also notes that NASUCA does not oppose the CompTel Petition.

VoIP providers to provide their customers with E9-1-1 service where they need it most, in their home locality or region, before providing it everywhere else. Indeed, the clarification increases VoIP customers' access to E9-1-1 and the myriad public safety benefits that flow from E9-1-1. The far more dangerous thing to do would be to force local or regional VoIP providers to cut-off service entirely and leave their subscribers, including those who never use their service outside of a particular locality or region, without any 9-1-1 access.

Finally, VON is perplexed by NASUCA's concern about the use of equipment after the contract expires. The problem NASUCA is concerned with appears to be illusory.⁹ Once the contract with a particular VoIP provider expires, the customer is no longer a customer of that provider and does not have access to any of that provider's VoIP services. If a VoIP provider is not providing service to a customer, the provider should be under no obligation to provide E9-1-1 service to the former customer. If the former customer signs up for service with another interconnected VoIP provider, then that second provider would be subject to the Commission E9-1-1 requirements. It is not clear what harm could possibly result from the expiration of a contract that limits E9-1-1 service to a single registered location.

Conclusion

NASUCA's limited Opposition to the Petition appears to be based on a misunderstanding of the scope of the clarification sought regarding contractual limitations on E9-1-1 and does not provide a basis for denying any portion of the Petition. In sum, the VON Coalition reiterates its

⁹ NASUCA Opp. at 5.

support of the fundamental principles of the *Order* and respectfully requests clarification of the *Order* with regard to the specific issues discussed in the Petition and herein.

Respectfully submitted,

VON COALITION

/s/ Jim Kohlenberger

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Dated: September 26, 2005

CERTIFICATE OF SERVICE

I, Jim Kohlenberger, Executive Director of the VON Coalition, hereby certify that copies of the foregoing "REPLY" were served via first-class mail this 26th day of September 2005 to the following:

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