

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554**

In the Matter of:)	
)	
Vonage Holdings Corporation)	WC Docket: 03-211
)	
Petition for Declaratory Ruling Concerning)	
An Order of the Minnesota Public Utilities)	
Commission)	

**REPLY COMMENTS OF
THE MICHIGAN PUBLIC SERVICE COMMISSION**

Pursuant to the Federal Communications Commission’s (“FCC”) procedural schedule established in the above docket, the Michigan Public Service Commission (“MPSC”) hereby submits its reply comments.

I. INTRODUCTION

On September 26, 2003, the FCC requested comments regarding the Vonage Holdings Corporation’s (“Vonage”) petition seeking the preemption of an order by the Minnesota Public Utilities Commission (“Minnesota PUC”) requiring Vonage to comply with Minnesota state laws governing providers of telecommunications services.¹

Vonage is requesting that the FCC preempt the Minnesota PUC from regulating Vonage as an intrastate telephone company, and find that the Minnesota PUC cannot impose specific 9-1-1 requirements on Vonage because they conflict with federal policies.² Vonage believes that preemption is necessary, due to the “impossibility of

¹ Vonage Holdings Corporation, Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission, WC Docket No. 03-211, September 22, 2003.

² Id., pg. 24

separating” intrastate from interstate service on the Internet, or for any service offered over the Internet.³

II. DISCUSSION

Vonage is only one of the many companies in the United States using Voice over Internet Protocol (“VoIP”) to provide voice service to end users. To grant Vonage’s preemption request, would create precedent for current and future companies, affecting all telecommunications programs including, but not limited to, numbering resources, use of abbreviated dialing for emergency and human services, and the Universal Service Fund.

As the MPSC has stated previously, VoIP is only an evolutionary change in our existing telecommunications technology, whose providers must acknowledge their responsibilities to the telecommunications network and its customers.⁴ Evolutionary change is necessary to remain competitive. However, as a state regulatory agency, the MPSC is concerned that technologies providing the same service, the transportation of voice, are operating under differing regulations and responsibilities. Moreover, the carriers providing numbering resources to VoIP providers, either directly or through service offerings, must share the responsibility for ensuring that end users have access to emergency services by dialing 9-1-1 and the competitive benefits of local number portability.⁵

³ Id., iv

⁴ MPSC Reply Comments, *Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, CC Docket No. 02-361, pg. 8, January 24, 2003.

⁵ Comments of the Minnesota Department of Commerce in Opposition to Vonage’s Petition for Declaratory Ruling, WC Docket 03-211, pg. 18, October 27, 2003.

In their comments, the State of New York Department of Public Service (“NYDPS”) urged the FCC not to “entertain Vonage’s request for a declaratory ruling” citing that the real issue may be the “disparate regulatory treatment of different technologies.”⁶ The concern of the MPSC, and the NYDPS, is that Vonage is just one of many companies providing VoIP services and this proceeding alone will not provide a full record of the issues in this evolutionary technology and its impact on the telecommunications arena. Dale Hatfield, in his report regarding enhanced 9-1-1 issues to the FCC, stated, “Even though the overall deployment of VoIP has been slower than many observers initially foresaw, the trend is clear and the implications for emergency services are significant.”⁷ In addition, the National Association of Regulatory Utility Commissions (“NARUC”) adopted two resolutions this year that urged the FCC to consider focusing on the characteristics of the service, not the underlying technology, in formulating its regulation.⁸

III. CONCLUSION

Evolving technology is a key to promoting competition in the telecommunications arena. Mandated responsibilities on these various providers, however, should not vary between technologies. Decisions made in this docket provide precedent for future cases of VoIP, and all future technological evolutionary changes in voice transmission.

⁶ NYDPS Comments, *Matter of Vonage Holding Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, pg. 2, October 27, 2003.

⁷ Hatfield, Dale N., *A Report on the Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services*, pg. 42, October 10, 2002.

⁸ NARUC, Resolution Relating To Voice Over The Internet Telecommunications adopted February 26, 2003; Resolution on Information Services adopted November 18, 2003.

Inconsistent provision of essential consumer services, such as 9-1-1 and local number portability, in the name of technical enhancement, should not be acceptable.

The MPSC urges the FCC to reject Vonage's request for a declaratory ruling. The narrow focus of Vonage's petition, as a single company, provides little information on VoIP services and capabilities. The MPSC commends the FCC for convening a forum on VoIP on December 1 and requests the FCC to commence a formal rulemaking to address the issue and not to make major policy pronouncements in the context of a petition for a declaratory ruling.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE
COMMISSION**

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