

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
IOWA UTILITIES BOARD**

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<b>IN RE:</b>	)	
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<b>AMENDMENTS TO</b>	)	
<b>TELECOMMUNICATIONS SERVICE</b>	)	<b>Docket No. RMU-2015-0002</b>
<b>REGULATIONS [199 IAC 22]</b>	)	
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**COMMENTS OF THE VOICE ON THE NET COALITION**

The Voice on the Net Coalition (“VON”)<sup>1</sup> hereby submits its comments pursuant to the Iowa Utilities Board’s (“Board”) October 2, 2015, Order Scheduling Workshop (“Order”), and October 30, 2015, Order Extending Time to File Comments.

**Discussion**

The Order seeks comments from participants of the October 27, 2015, workshop, memorializing their positions on issues discussed. The VON Coalition supports classifying VoIP as an information service in any revisions to 199 IAC 22.5 and 22.6 made by the Board, thereby excluding VoIP providers from traditional telephone service regulations.

**A. Federal Law Preempts State Regulation of VoIP**

The FCC has recognized a strong federal interest in ensuring that regulation does not hinder the growth of the Internet and the services provided over it, including VoIP and other IP-communications. In the *Vonage Preemption Order*, the FCC preempted the application of Minnesota’s “traditional ‘telephone company’ regulations” to Vonage’s Digital Voice service

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<sup>1</sup> The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the promise and potential of IP enabled communications. VON Coalition members are developing and delivering voice and other communications applications that may be used over the Internet. For more information, see [www.von.org](http://www.von.org).

because it was impossible to separate the intrastate and interstate components and the state regulation of the intrastate component interfered with valid federal rules and policies.<sup>2</sup>

The *Vonage Preemption Order* extended to both nomadic and non-nomadic VoIP offerings. The FCC noted that the same integrated capabilities and features were available for most, if not all, IP-based services, including those offered by facilities-based providers.<sup>3</sup> The FCC added, “Accordingly, to the extent other entities, such as cable companies, provide VoIP services, we would preempt state regulation to an extent comparable to what we have done in this Order.”<sup>4</sup>

Eleven years later, this landmark decision remains largely undisturbed and has led to substantial growth in the adoption of VoIP and other IP services. As a result of the Vonage Preemption Order, there is a single national policy for IP communications and Board regulation of VoIP providers is preempted by federal law.

#### **B. VoIP is Classified as an Information Service Under Federal Law**

By classifying VoIP as an “information service,” the Board would align itself with federal law. Under federal law, information services are exempt from telecommunications regulation, which includes state regulation. While the FCC has asserted limited jurisdiction over interconnected VoIP services, it has not treated interconnected VoIP as a traditional telecommunications service. The FCC has imposed a number of specific obligations, including, requirements to provide Enhanced 911 services, make the service accessible by law enforcement, contribute to the Federal Universal Service and Telecommunications Relay Service Funds, protect customer proprietary network information, and provide customers notice before

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<sup>2</sup> Memorandum Opinion and Order, *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404 (2004), *petitions for review denied*, *Minnesota Pub. Utils. Comm’n v. FCC*, 483 F.3d 570 (8th Cir. 2007).

<sup>3</sup> 19 FCC Rcd 22404 at Footnote 93.

<sup>4</sup> *Id.* at para. 32.

discontinuing service.<sup>5</sup> In none of these actions, however, has the FCC has granted the states authority to impose any other specific obligations on interconnected VoIP providers, other than state USF contributions where such contributions are not inconsistent with federal USF obligations and the payment of state and local fees to support the 911 network.<sup>6</sup>

At least 31 states and the District of Columbia have already codified regulatory “safe harbors” for VoIP or IP-enabled communications.<sup>7</sup> These states have recognized that there is no benefit to imposing legacy telephone regulations on VoIP, and that investment will be lost if regulatory ambiguities are allowed to remain in place. The Board should consider the actions of these states and create a VoIP safe harbor of its own.

### **C. A Technical Workshop Would be Useful**

The Board requested that those filing comments indicate whether an additional, technical workshop would be helpful to recommend or discuss specific language relating to various communications technologies. The VON Coalition supports such a workshop, as it could, depending on the content of the workshop, help highlight the differences between VoIP and traditional telephone services.

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<sup>5</sup> First Report and Order and Notice of Proposed Rulemaking, WC Docket No. 04-36, FCC 05-116, (rel. Jun. 3, 2005) (“*VoIP 911 Order*”); Report and Order and Notice of Proposed Rulemaking, WC Docket No. 06-122, FCC 06-94 (rel. Jun. 27, 2006) (imposing USF requirements); Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 04-36, FCC 07-22 (rel. Apr. 2, 2007) (imposing CPNI requirements); Report and Order, WC Docket No. 04-36, FCC 09-40 (May 13, 2009) (imposing discontinuance requirements).

<sup>6</sup> See Footnote 5, *infra.*, and *VoIP 911 Order* ¶52.

<sup>7</sup> Alabama, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming.

**Conclusion**

For the foregoing reasons, the VON Coalition supports specifically excluding VoIP providers from regulatory requirements of traditional telephone providers in any revisions to 199 IAC 22.5 and 22.6.

Respectfully submitted,

VOICE ON THE NET COALITION

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November 13, 2015