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VoIP's 911 Waterloo Plays Out At FCC, In Court

BODY:

As the Nov. 28 deadline approaches for Voice over Internet Protocol (VoIP) services to provide 911 capabilities and with the ruling being challenged in the courts, the Federal Communications Commission hopes to clear the air on several industry ponderables with a series of guidelines on compliance for companies interconnected with the public switched telephone network (PSTN).

In a recently released public notice under WC Docket No. 04-36 and WC Docket No. 05-196, the regulator's Enforcement Bureau outlined a number of "compliance letter" expectations and other requirements that are anticipated by Nov. 28. Interestingly, the public notice early on also commends steps undertaken by AT&T, MCI and Verizon Communications to comply with the order's provisioning requirements (TPR, May 23) - based in large part on letters sent to the FCC by the three carriers.

According to the FCC, the trio's compliance plans are all said to include an automatic detection mechanism that enable providers to identify when customers may have moved an interconnected VoIP service to a new location to ensure customers continue to receive 911 service even when using the interconnected VoIP service on a so-called "nomadic" basis.

"These plans also include a commitment to not accept new interconnected VoIP customers in areas where the provider cannot provide 911 service and to adopt a 'grandfather' process for existing customers for whom the provider has not yet implemented either full 911 service or the automatic detection capability," the regulator said. "The Bureau strongly encourages other providers to adopt similar measures to comply with the VoIP 911 requirements and will carefully analyze an interconnected VoIP provider's implementation of such measures in determining whether and how to take enforcement action."

The FCC bureau clarified that it does not require providers that have not achieved full 911 compliance by Nov. 28 to discontinue the provision of interconnected VoIP service to any existing customers, but it does expect that the companies will discontinue marketing VoIP services and accepting new customers in all areas where they are not transmitting 911 calls to the appropriate public safety answering points (PSAPs) in full compliance with the commission rules.

As a condition of providing interconnected VoIP services, VoIP providers must notify and received acknowledgments from all new and existing subscribers about VoIP capabilities and limitations as well as being able to handle the following specific functions and tasks:

- * Transmit all 911 emergency calls to PSAPs, designated state-wide default answering point or appropriate local emergency authorities, with Automatic Numbering Information (ANI) and Registered Location to the extent that those groups are able to receive and process such information.

* Route all 911 calls through the use of ANI and, if necessary "pseudo-ANI" via wireline enhanced 911 networks directly to the PSAPs and other such call handlers or through an appropriate Automatic Location Identification (ALI) database.

* Obtain from each existing and new customer, prior to the initiation of service, a Registered Location.

* Provide all end users with one or more methods of updating Registered Locations "at will and in a timely manner" with the mandate that at least one method must allow end users to use only the same IP telephony equipment which is currently used for access.

The subscriber-acknowledgement issue also has been a somewhat sticky matter. For the fourth time since August, the Enforcement Bureau has pushed back by one month - this time to Nov. 28 - the controversial requirement that VoIP carriers receive acknowledgements about basic and enhanced 911 conditions from 100 percent of their users.

On the compliance letters themselves, VoIP service providers are supposed to tell the FCC about a range of details and descriptions of their 911 solutions, including:

* A percentage-basis quantification in the number of subscribers capable of getting the 911-supported service.

* Routing information and, connectivity methods for 911 transmissions to the wireline E911 networks, including where selective routers are needed.

* Transmission of ANI and Registered Location information, such as a percentage-basis quantification on capable answering points within service areas and the number of subscriber whose ANI and Registered Location are being transmitted, or explanations as why this may not be happening.

* 911 coverage via text or maps of the areas of the country on a Metropolitan Statistical Area basis where companies are and are not in full compliance.

* All actions providers take to obtain each existing and new subscriber's current Registered Location - with dates, methods of contact and percentage-basis quantification of success rates - and a description of methods offered subscribers to update Registered Locations.

* Technical solutions for nomadic subscribers that have been or are being implemented.

The VoIP-oriented International Packet Communications Consortium (IPCC) and the Association of Public-Safety Communications Officials International (APCO) welcomed the new Enforcement Bureau guidance. IPCC singled out "the uninterrupted delivery of services while VoIP providers continue to expedite the adoption of E9-1-1 solutions" and the FCC's approval of the compliance plans submitted by the three larger carriers. "We believe it reflects a willingness to permit the use of innovative technical solutions to protect the safety of VoIP customers," stated IPCC Chairman Michael Khalilian. "The IPCC is fully aware that there is no universal solution for resolving service delivery issues."

The IPCC also has put together working groups to aid companies to meet the transition deadlines; among the companies backing this effort are Cisco Systems, CopperCom, Global Crossing, HBF, Kancharla, TMC VoIP, VoIP Inc. and

VoX Communications.

Pending Lawsuits

APCO International President Greg Ballentine said his group strongly

agrees that VoIP providers must discontinue marketing and acceptance of new customers in areas where they are not transmitting 911 calls. This position also led APCO and the National Emergency Number Association (NENA) to criticize the lawsuits filed by a group of VoIP providers against this aspect of the FCC order (TPR, Nov. 7).

Nuvio, Lightyear Network Solutions, Lingo (a Primus Telecommunications affiliate) and i2 Telecom International made an emergency motion in the US Court of Appeals for the District of Columbia Circuit asking for a temporary legal stall to be implemented by Nov. 15; they are seeking a partial stay of the Nov. 28 deadline in large part because of the no-marketing proviso.

The case played out twice in the federal court last week (TelecomWeb news break, Nov. 11, Nov. 9). The commission defended its decision in a 28-page reply that essentially said a temporary halt in the order is unwarranted despite the complaint that the 120-day compliance period is too short, and that the FCC is not responsive on questions and clarifications surrounding compliance.

Contrary to the legal arguments of the four companies, the commission maintained the order is not an unexplained departure from past policies nor is the timeframe for compliance unreasonable. It argued that the four companies "substantially overstate the near-term impact of the agency's order on their business operations" and that they won't suffer irreparable harm from the order.

The opponents, however, returned to the court to continue pressing the case. They argued a limited stay of the FCC's implementation is justified in part because the FCC's public-interest arguments behind the June order focus on the wrong issue - whether enhanced 911 service is desirable - instead of whether an achievable 120-day deadline time period is in the public interest.

The plaintiffs also said continued operations would allow them to make the capital investments needed to fulfill the FCC's goals and requirements, while keeping the mandates will have the opposite effect. After years of efforts, the federal regulator continues to deal with E911 compliance requests from the wireless business (also a source of scorn in the lawsuit).

The opponents' second court filing also maintained that pending federal legislation surrounding the FCC and its public-safety authority would negate many aspects of the order, including the Nov. 28 deadline; this was a reference to the Senate's IP-Enabled Voice Communications and Public Safety Act of 2005 (S.1063) that includes a number waiver safety-hatch options for VoIP providers that are unable to fully comply with E911 orders (TPR, Nov. 7). APCO and NENA have questioned the appropriateness of the waiver concepts in that proposed bill.

Public-safety emergency communications issues also are swirling around funding for E911, interoperability and first responders as well as spectrum reallocations issues earmarked in the proposed Senate and House bills on the digital television (DTV) transition (TPR, Nov. 7; Oct. 21). There may be a House vote on its DTV transition bill this week, according to sources.