



Federal Communications Commission
Washington, D.C. 20554

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DA 10-816

Small Entity Compliance Guide

NET 911 Access Order

FCC 08-249
WC Docket No. 08-171
Released: October 21, 2008

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

**1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
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I. BACKGROUND

Our nation's communications landscape is changing, with an increasing number of consumers relying on interconnected voice over Internet Protocol (interconnected VoIP) services to place telephone calls. An interconnected VoIP service permits users to make and receive telephone calls to and from traditional telephone users over a broadband connection. Because they work over a broadband connection, interconnected VoIP services rely on special customer equipment that is compatible with Internet Protocol.

In 2005, to improve public safety, the Commission required interconnected VoIP providers to include as a mandatory service feature the ability to make 911 and enhanced 911 (E911) calls. As a result, when a person who is using an interconnected VoIP service dials '911', he or she now is connected to the appropriate emergency operators. In addition, if the emergency operators have answering equipment with E911 capabilities, they will know the location of the caller and will be able to call the person back if the 911 call disconnected.

II. OBJECTIVES OF THE *NET 911 ACCESS ORDER*

- To ensure that providers of interconnected VoIP service have access to the capabilities needed to satisfy their obligation to provide 911 and E911 service.¹
- To ensure that interconnected VoIP providers may access those capabilities under reasonable rates, terms, and conditions.
- To ensure that the nation's E911 network remains secure as an expanded number of entities are granted rights to this system.

III. COMPLIANCE REQUIREMENTS

Access to 911 and E911 Capabilities

- Any entity that owns or controls a capability that can be used for 911 or E911 service must make that capability available to a requesting interconnected VoIP provider. Specifically, an owner or controller of a 911 or E911 capability that offers that capability to a commercial mobile radio service (CMRS) provider (*e.g.*, a mobile telephone service provider) must also offer that capability to interconnected VoIP providers. [47 C.F.R. § 9.7(a)(1)] In addition, an owner or controller of a 911 or E911 capability that does not offer a 911 or E911 capability to any CMRS providers must nevertheless offer that capability to interconnected VoIP providers if that capability is necessary to enable the interconnected VoIP provider to provide 911 or E911 service in compliance with the Commission's rules. [47 C.F.R. § 9.7(a)(2)]
- An interconnected VoIP provider that obtains access to a capability under the rights described above may use that capability only for the purpose of providing 911 or

¹ As the design and operation of 911 architectures have developed on a localized basis, there is substantial variation in how these systems are built and operated. Consequently, the rules the Commission adopted in the *NET 911 Access Order* do not expressly define "capability."

E911 service in accordance with the Commission's rules. [47 C.F.R. § 9.7(c)]

Rates, Terms, and Conditions

- The rates, terms, and conditions on which a 911 or E911 capability is provided to an interconnected VoIP provider under the rules described above must be reasonable. [47 C.F.R. § 9.7(b)]
- It is evidence that the rates, terms, and conditions offered to an interconnected VoIP provider are reasonable if an owner or controller of a 911 or E911 capability makes that capability available to an interconnected VoIP provider:
 - On the same rates, terms, and conditions as offered to CMRS providers; or [47 C.F.R. § 9.7(b)(1)]
 - On the same rates, terms, and conditions as are made available to any telecommunications carrier or other entity for the provision of 911 or E911 service, in the event the owner or controller does not offer that 911 or E911 capability to any CMRS providers. [47 C.F.R. § 9.7(b)(2)]

Network Security and Information Privacy

- Interconnected VoIP providers must comply with all applicable industry network security standards to the same extent as traditional telecommunications carriers when they access 911 and E911 capabilities. [NET 911 Access Order]
- If an owner or controller of 911 or E911 infrastructure obtains information about an interconnected VoIP provider and its customers by providing 911 or E911 services, such information may only be used for the provision of 911 and E911 services. As a result, for example, no entity may use customer information obtained as a result of the provision of 911 or E911 services for marketing purposes. [NET 911 Access Order]

IV. COMPLIANCE DATE

In general, the rules adopted in the *NET 911 Access Order* became effective on October 5, 2009. Section 9.7(a) of the Commission's rules imposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13 and required approval by the Office of Management and Budget (OMB) before those requirements became effective. OMB approved the information collection requirements found in section 9.7(a) of the Commission's rules on December 3, 2009.

V. WEB LINKS

FCC 08-249 (*Net 911 Access Order*):

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-249A1.pdf

FCC 08-195 (*Net 911 Act NPRM*):

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-195A1.pdf

FCC 05-116 (*VoIP 911 Order*):

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-116A1.pdf

Pub. L. No. 110-283, 122 Stat. 2620 (NET 911 Act):

http://thomas.loc.gov/cgi-bin/toGPObsspubliclaws/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ283.110.pdf

Pub. L. No. 110-368, 122 Stat. 4027 (a technical amendment to the NET 911 Act):

http://thomas.loc.gov/cgi-bin/toGPObss/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ368.110.pdf