

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

In the Matter of)	
)	
Reporting Requirements for U.S. Providers of)	IB Docket No. 04-112
International Telecommunications Services)	(Terminated)
)	
Amendment of Part 43 of the)	
Commission's Rules)	

ORDER

Adopted: June 17, 2015**Released: June 17, 2015**

By the Chief, International Bureau:

I. INTRODUCTION

1. We dismiss the petition for reconsideration (Petition) of the *Second Report and Order* filed by the Voice on the Net Coalition ("VON Coalition" or "Petitioner")¹ as the Petition does not meet the requirements of section 1.429(b) of the Commission rules.² Petitioner seeks reconsideration of the Commission's decision to extend international traffic and revenue reporting requirements to entities providing international calling service via Voice over Internet Protocol (VoIP) connected to the public switched telephone network (PSTN) and to require submarine cable landing licensees to file reports identifying capacity they own or lease on each submarine cable. The Petition relies on facts and arguments Petitioner previously could have presented to the Commission in response to the *Further Notice* in this proceeding, but did not present.³ The reconsideration process is not intended to allow petitioners who have declined to participate in the rulemaking process to delay implementation of Commission rules by advancing arguments after the rules are adopted. Accordingly, we dismiss the Petition pursuant to section 1.429 of the Commission's rules.⁴

¹ VON Coalition, Petition for Reconsideration, IB Docket No. 04-112 (filed Apr. 11, 2013). *See Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112, Second Report and Order, 28 FCC Rcd 575 (2013) (*Second Report and Order*). In the *Second Report and Order*, the Commission adopted section 43.62 of its rules, which went into effect on February 11, 2015. *See Reporting Requirements for U.S. Providers of International Telecommunications Services*, 80 Fed. Reg. 7547 (Feb. 11, 2015); *see also* 47 C.F.R. § 43.62, Reporting Requirements for Holders of International Section 214 Authorizations and Providers of International Services.

² 47 C.F.R. § 1.429, Petition for Reconsideration of Final Orders in Rulemaking Proceedings. Paragraph (b) of section 1.429 provides that the Commission will grant a petition for reconsideration that relies on facts or arguments not previously presented only under very limited circumstances. 47 C.F.R. § 1.429(b). Petitioner has not argued that those circumstances apply here.

³ *Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112, First Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 7274 (2011) (*Further Notice*).

⁴ 47 C.F.R. § 1.429.

II. BACKGROUND

2. In the *Second Report and Order*, the Commission streamlined its international traffic and revenue reporting requirements and at the same time included providers of VoIP service connected to the PSTN (interconnected VoIP) within the scope of the requirements.⁵ With regard to the circuit capacity reports, the Commission found that all submarine cable landing licensees and common carriers that have capacity on international submarine cables should report their owned or leased capacity on submarine cables.⁶

3. Petitioner seeks reconsideration of the requirements that interconnected VoIP providers file annual international traffic and revenue reports and that submarine cable landing licensees file reports for certain circuit capacity they hold.⁷ Petitioner claims the *Second Report and Order* did not demonstrate Commission authority to apply the traffic and revenue reporting requirements to providers of VoIP services connected to the PSTN.⁸ Petitioner also asserts that requiring cable landing licensees to file reports identifying capacity they own and lease on cables licensed to other operators is unlawful and unreasonable.⁹ Vonage Holdings Corporation and Bandwidth.com Inc. filed comments in support of VON Coalition's petition.¹⁰

III. DISCUSSION

4. The Petition does not meet the requirements of section 1.429(b) of the Commission's rules.¹¹ Petitioner relies on facts and arguments it could have presented earlier in the proceeding, following Commission adoption of the *Further Notice*. The *Further Notice* sought comment on requiring interconnected VoIP providers to file traffic and revenue reports and non-common carriers to report their international circuits.¹² In the *Further Notice*, the Commission discussed why interconnected VoIP service is a substitute for PSTN services, and sought comment on the Commission's legal authority to require interconnected VoIP providers to file international traffic and revenue data.¹³ Similarly, the Commission asked about extending streamlined reporting requirements to international non-common carrier circuits, observing that the then existing reporting requirements only applied to common carrier circuits despite the general fungibility of common carrier and non-common carrier circuits provided from

⁵ *Second Report and Order*, 28 FCC Rcd 575.

⁶ *Id.* at 604, ¶ 100.

⁷ Petition at 2.

⁸ *Id.* at 3-11.

⁹ *Id.* at 11-13.

¹⁰ Comments of Vonage Holdings Corporation, IB Docket No. 04-112 (filed July 16, 2013); Comments of Bandwidth.com Inc., IB Docket No. 04-112 (filed July 16, 2013).

¹¹ 47 C.F.R. § 1.429(b). Paragraph (b) of section 1.429 provides that the Commission will grant a petition for reconsideration that relies on facts or arguments not previously presented only under limited circumstances. *Id.* Petitioner has not argued that those circumstances apply here.

¹² *Further Notice*, 26 FCC Rcd at 7312-20, ¶¶ 116-31.

¹³ *Id.* at 7312-18, ¶¶ 116-25. In the *Further Notice*, the Commission sought comment on whether it should require providers of interconnected VoIP service to file international voice traffic and revenue data. *Id.* at 7312, ¶ 116. It specifically sought comment as to "whether requiring interconnected VoIP service providers to meet certain of the Commission's Part 43 reporting requirements is reasonably ancillary to the effective performance of the Commission's statutory obligations under the Communications Act." *Id.* at 7315, ¶ 121. The *Further Notice* also sought comment on whether the Commission's continued ability to exercise its statutory obligations under the Communications Act would be facilitated by its ability to require providers of interconnected VoIP services to comply with the Part 43 reporting rules. *Id.* at 7315-16, ¶ 122.

the same platform (submarine cable, terrestrial, or satellite facility).¹⁴ Petitioner did not file comments in response to the *Further Notice*. Although Petitioner was aware of the proceeding, it waited until after the Commission adopted the *Second Report and Order* to raise objections.¹⁵

5. In seeking reconsideration of the *Second Report and Order*, Petitioner has neither explained why it was not able to present its arguments to the Commission during the comment cycle nor cited to any events or circumstances that changed after the comment cycle or adoption of the *Second Report and Order*.¹⁶ Under the Commission's rules, petitions for reconsideration that rely on facts or arguments that have not previously been presented to the Commission will be considered only under certain limited circumstances¹⁷ and may be dismissed by the relevant bureau if they do not meet those circumstances.¹⁸ The Petition does not meet the requirements of section 1.429(b), including the circumstances described in paragraphs (b)(1) through (3) of that section.¹⁹

6. In adopting its rules, the Commission weighs the facts and arguments presented by parties in response to its requests for public comment. Aware that new occurrences or changes in circumstances may arise during its rulemaking process, it provides the opportunity for members of the public to seek reconsideration of its actions.²⁰ The reconsideration process is not, however, intended to allow petitioners who have declined to participate in the rulemaking process to delay implementation of Commission rules by raising objections after the rules are adopted.

7. In summary, the Commission provided ample opportunity for comment on its proposals and then fully considered the public record developed in response to the proposals. Although aware of the proceeding, Petitioner did not file comments in response to the *Further Notice*, but rather waited until after the Commission adopted the *Second Report and Order* to raise objections. Moreover, Petitioner does not argue that its arguments fall under any of the exceptions to section 1.429(l)(2). Specifically, Petitioner does not claim to rely on facts or arguments based on events that occurred after the pleading cycle established in the *Further Notice* closed, nor does it claim to rely on facts or arguments that were unknown to it until after the close of the pleading cycle. Finally, Petitioner does not address the issue of whether considering the Petition would be in the public interest at this stage. Pursuant to section 1.429(l) of the Commission rules, we find that the Petition plainly does not warrant consideration by the Commission and dismiss it as relying on facts or arguments that do not meet the requirements of section 1.429(b)(1) through (3).

¹⁴ *Id.* at 7318-20, ¶¶ 126-31. The Commission proposed to require all non-common carriers, including cable landing licensees, to report all their circuits on submarine cables. *Id.* It sought comment on whether its statutory obligations under the Cable Landing License Act, 47 U.S.C. §§ 35-39, required it to gather information about the use of international non-common carrier circuits, noting that the Cable Landing License Act does not distinguish between common carrier and non-common carrier submarine cables. *Id.* at 7319-20, ¶ 130. It further inquired whether it has authority under the Communications Act to require reporting of international non-common carrier circuits, whether on submarine cables, terrestrial cables, or satellites. *Id.* at 7320, ¶ 131.

¹⁵ In seeking comment on whether to extend the reporting obligations to VoIP providers in the *Further Notice*, the Commission noted that the VON Coalition had filed an *ex parte* letter in this docket, arguing that the reporting requirements should not be extended to interconnected VoIP providers. This *ex parte* letter did not address Commission's authority to impose such a requirement on interconnected VoIP providers. *See id.* at 7312, ¶ 116 n.215.

¹⁶ *See* 47 C.F.R. §§ 1.429(b), (l)(2).

¹⁷ *See* 47 C.F.R. § 1.429(b).

¹⁸ *See* 47 C.F.R. § 1.429(l)(2).

¹⁹ 47 C.F.R. § 1.429(b).

²⁰ *See* 47 U.S.C. §§ 155(c)(4)-(5); 47 C.F.R. § 1.429.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4(i)-4(j), 5(c), 11, 201-205, 211, 214, 219, 220, 303(r), 403 and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 155(c), 161, 201-205, 211, 214, 219, 220, 303(r), 403, and 405, and sections 0.51, 0.261, 1.429(b), and 1.429(l) of the Commission's rules, 47 C.F.R. §§ 0.51, 0.261, 1.429(b), 1.429(l), the Petition for Reconsideration filed by the Voice on the Net Coalition in this proceeding IS DISMISSED and IB Docket No. 04-112 IS TERMINATED.

9. IT IS FURTHER ORDERED that, pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, this Order IS EFFECTIVE upon release. Petitions for reconsideration under section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, may be filed within thirty days of the date of public notice of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Mindel De La Torre
Chief, International Bureau