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## SUPPORTING STATEMENT

The FCC requests OMB approval of a revision of this information collection contained in 3060-1085: Section 9.5, Interconnected Voice over Internet Protocol (VoIP) E911 Compliance.

The revision is due to elimination of item 1F of this Supporting Statement (Compliance Letter) which was a one-time reporting requirement that required VoIP providers to file a letter detailing their compliance with the Commission by November 28, 2005. The Commission is reducing the burden by 1,600 hours for this reporting requirement. There is no change in the recordkeeping and/or third party disclosure requirements.

There has been an increase in the number of estimated responses (81,746) due to a re-calculation of the estimates since this was last submitted to the OMB in 2005. Finally, the Commission is reporting an increase in the total annual burden hours and the annual cost. This is due to a re-calculation of the estimates. See the Appendix A. at the end of this Supporting Statement for a breakdown of the estimated burdens.

**A. Justification:**

1. In the *Notice* released March 10, 2004,<sup>1</sup> the Federal Communications Commission (Commission) asked, among other things, about the potential applicability of basic 911, enhanced 911 (E911), and related critical infrastructure regulation to voice over Internet protocol (VoIP) and other internet protocol (IP) enabled services.

Specifically, after noting that the Commission previously found in the *E911 Scope Order* that it has statutory authority under sections 1, 4(i), and 251(e)(3) of the Communications Act of 1934, as amended (Act) to determine what entities should be subject to the Commission's 911 and E911 rules,<sup>2</sup> the Commission sought comment on whether it should exercise its regulatory authority in the context of IP-enabled services.

The Commission further sought comment on the appropriate criteria for determining:

- (a) Whether and to what extent IP-enabled services should fall within the scope of its 911 and E911 regulatory framework; and
- (b) Whether IP-enabled services are technically and operationally capable of meeting the Commission's basic 911 and/or E911 rules or of providing analogous

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<sup>1</sup> See *IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863 (2004) (*Notice*).

<sup>2</sup> 47 U.S.C. §§ 151, 154(i), 251(e)(3).

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functionalities that would meet the intent of the 911 Act<sup>3</sup> and the Commission's regulations.

The Commission is obligated by statute to promote "safety of life and property"<sup>4</sup> and to "encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure" for public safety.<sup>5</sup>

Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911.<sup>6</sup>

Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service.

The *Order* the Commission adopted on May 19, 2005,<sup>7</sup> set forth rules requiring providers of VoIP services that interconnect with the nation's existing public switched telephone network (interconnected VoIP services) to supply E911 capabilities to their customers.

The *Order* required the collection of information in six instances. However, for purposes of this submission to the OMB, item A.1F, page 4 of this Supporting Statement, is now complete and the reporting requirement is now being removed from this collection:

*A. Location Registration.*

- (1) Interconnected VoIP service providers, like wireline and wireless telecommunications carriers, utilize information regarding the location of a 911 caller in order to route the 911 call to a geographically appropriate emergency answering point.
- (2) In many cases, the 911 caller's location information and call back number also is automatically provided to call dispatchers at the emergency answering point.
- (3) Prior to the *Order*, there was no way for certain classes of interconnected VoIP providers to reliably and automatically provide information regarding

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<sup>3</sup> Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286, § 2(b) (1999) (911 Act).

<sup>4</sup> See 47 U.S.C. § 151.

<sup>5</sup> 911 Act § 2(b).

<sup>6</sup> See 911 Act § 3, *codified at* 47 U.S.C. § 251(e).

<sup>7</sup> *IP-Enabled Services*, WC Docket No. 04-36, *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, FCC 05-116 (rel. June 3, 2005) (*Order*).

the location of their end users to an emergency answering point without the end user's active cooperation.

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The *Order* required that:

- (1) Providers of interconnected VoIP services must obtain location information from their customers for use in the routing of 911 calls and the provision of location information to emergency answering points.

Specifically, interconnected VoIP providers must obtain from each customer, prior to the initiation of service, the physical location at which the service will first be utilized.<sup>8</sup>

- (2) Interconnected VoIP providers must further provide their end users one or more methods of updating information regarding the end user's physical location.

The most recent location provided to an interconnected VoIP provider by a customer is the "Registered Location."

Although the *Order* does not specify any particular method for collecting such information, the *Order* required that any method utilized allow an end user to update their Registered Location at will and in a timely manner, including at least one option that requires use only of the customer premises equipment necessary to access the interconnected VoIP service.<sup>9</sup>

Interconnected VoIP providers can comply with this requirement directly or by utilizing the services of a third party.

- B. *Provision of Automatic Location Information (ALI)*. The existing E911 network is a dedicated, redundant, highly reliable wireline network (Wireline E911 Network) which is interconnected with but largely separate from the public switched telephone network (PSTN).

When a 911 call is placed, the call is routed to the appropriate emergency answering point based on the location information contained in an Automatic Location Information database (ALI Database) maintained by the entity that operates the Wireline E911 Network.

The ALI Database also is used to provide location information to emergency answering points that request such information.

In order to meet the obligations set forth in the *Order*, interconnected VoIP service providers will place the Registered Location information for their

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<sup>8</sup> Interconnected VoIP providers were also required to obtain from their existing customers, within 120 days of the effective date of the Order, the physical location at which the service is being utilized.

<sup>9</sup> We expect that location information will be submitted electronically, either via the customer's CPE or through the service provider's website.

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customers into, or make that information available through, ALI Databases across the country.

- C. *Customer Notification.* In order to ensure that consumers of interconnected VoIP services are aware of their interconnected VoIP service's actual E911 capabilities, the *Order* requires that all providers of interconnected VoIP service specifically advise every subscriber, both new and existing, prominently and in plain language, the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.
- D. *Record of Customer Notification.* The *Order* requires VoIP providers to obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory.
- E. *User Notification.* In addition, in order to ensure to the extent possible that the advisory is available to all potential users of an interconnected VoIP service,<sup>10</sup> interconnected VoIP service providers must distribute to all subscribers, both new and existing, warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on and/or near the customer premises equipment used in conjunction with the interconnected VoIP service. Due to the widespread proliferation of VoIP services and new telephone equipment sold to replace existing telephone equipment, the information included with the new equipment and the warnings given by service provider representatives at the time of sale absorb this collection in items C and D above. See Appendix A, pp. 1-2 (assumptions) of this support statement.
- F. *Compliance Letter (this requirement has been completed and is now being removed from this IC).*

The *Order* also required all interconnected VoIP providers to submit a letter to the Commission detailing their compliance with the rules set forth in the *Order* no later than 120 days after the effective date of the *Order* (or by November 28, 2005).

This letter enabled the Commission to ensure that interconnected VoIP providers have achieved E911 compliance by the established deadline. *The Commission no longer requires the filing of this letter and is the reason for the revision to this information collection.*

Statutory authority is contained in 47 U.S.C. §§ 151, 154(i)-(j), 251(e), 303(r).

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<sup>10</sup> Some users of an interconnected VoIP service will not be subscribers. Guests at a subscriber's premises, for example, may not know their host's phone service is provided via interconnected VoIP.

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As noted on the original OMB Form 83-I, this information collection does affect individuals or households, and thus, there are impacts under the Privacy Act. However:

- (1) The information that is related to individuals or households is collected by a third party, the interconnected VoIP provider;
  - (2) The FCC has no direct involvement in the collection of this information on individuals or households;
  - (3) Since the FCC has no direct involvement in the collection of this information, the Commission is not required to complete a privacy impact assessment; and
  - (4) Further, interconnected VoIP providers generally have written privacy policies governing the treatment of information collected from their subscribers, to include information regarding a customer's Registered Location.
2. A. *Location Registration.* The Registered Location will be used by the interconnected VoIP provider, the entity that operates the Wireline E911 Network, and public safety officials in order:
- (1) To deliver 911 calls to an appropriate emergency answering point and, in many cases,
  - (2) To deliver a call back number and location information to emergency call takers to facilitate emergency response.
- B. *Provision of ALI.* In order to meet the obligations set forth in the *Order*:
- (1) Interconnected VoIP service providers will place the Registered Location information for their customers into, or make that information available through, ALI Databases maintained by local exchange carriers (and, in at least one case, a state government) across the country.
  - (2) The ALI will be used by the interconnected VoIP provider, the entity that operates the Wireline E911 Network, and public safety officials in order to deliver 911 calls to an appropriate emergency answering point and, in many cases, deliver a call back number and location information to facilitate emergency response.
- C. *Customer Notification.* The Commission requires that VoIP providers perform customer notification to ensure that interconnected VoIP service subscribers are aware of their interconnected VoIP service's actual E911 capabilities and limitations (third party notification requirement).

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- D. *Record of Customer Notification.* The Commission requires interconnected VoIP service providers to keep and retain affirmative acknowledgement by every subscriber of the customer notification described above in order to facilitate the Commission's review and, if necessary, enforcement of interconnected VoIP providers' compliance with the rules (recordkeeping requirement).
- E. *User Notification.* The Commission originally required that VoIP providers distribute to interconnected VoIP subscribers warning stickers or other appropriate labels in order to ensure to the extent possible that the advisory is available to *all* potential users of an interconnected VoIP service (third party notification requirement). Please see item 1.E above.
3. A. *Location Registration.* As discussed above, the *Order* required that:
- (1) Any method utilized must allow an end user to update their Registered Location at will and in a timely manner, including at least one option that requires use only of the customer premises equipment necessary to access the interconnected VoIP service.
  - (2) We anticipate that many interconnected VoIP providers will also allow their customers to update their Registered Location via a webpage.
- B. *Provision of ALI.*
- (1) Entities that make information available in or through ALI Databases do so by electronic means.
  - (2) Interconnected VoIP providers will also use electronic means to provide location information via the ALI Database.
- C. *Customer Notification.* Customer notification may be provided in conjunction with an interconnected VoIP provider's subscription process, which may be conducted electronically.
- D. *Record of Customer Notification.* The record obtained by an interconnected VoIP provider can be obtained and stored electronically, likely in conjunction with the normal product ordering process usually conducted over via a webpage.
- E. *User Notification.*
- (1) It will not be possible to provide warning stickers or other appropriate labels to subscribers by electronic means.
  - (2) Distribution of such warning stickers or other appropriate labels can, for new customers, be integrated into an interconnected VoIP providers' equipment

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provisioning process, to the extent that providers send or install customer premises equipment.

4. None of the information collected as a result of the *Order* will be duplicative of other information.
5. The Commission has attempted to balance the economic interests of small businesses with the public's great interest in access to E911 services when using interconnected VoIP services:
  - A. The *Order* discusses how E911 service is critical to our nation's ability to respond to a host of crises and that the public has come to rely on the life-saving benefits of such services in emergency situations.
  - B. While the Commission sought comment on, and considered, ways that the public safety could be protected through access to E911 services that are less burdensome to small businesses than the imposition of E911 obligations, the Commission concluded that it was important for *all* interconnected VoIP service providers to participate in protecting the public safety.
  - C. As the Small Business Administration (SBA) notes, many VoIP providers are likely to be small businesses. The SBA claims that "[t]hese small providers are developing a nascent technology and are especially vulnerable to disproportionate regulatory costs."
  - D. Nevertheless, as discussed in the *Order*, the Commission believes it is reasonable to expect any business electing to interconnect with the PSTN to the extent required to provide interconnected VoIP service also to provide E911 service in order to protect the public interest.
  - E. Small businesses may still offer VoIP service without being subject to the rules adopted in the *Order* by electing not to provide an *interconnected* VoIP service.
  - F. (1) The Commission determined that it was necessary to impose E911 obligations on all providers of interconnected VoIP service in order to ensure the ubiquitous availability of E911 service for users of interconnected VoIP service,
    - (2) The Commission minimized the burdens of this regulation by, for example, requiring straightforward reporting requirements and by setting reasonable timetables for implementation of the rules adopted in the *Order*.<sup>11</sup>
  - G. (1) The Commission minimized the burdens of this regulation by not mandating any particular technical solution.

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<sup>11</sup> See 5 U.S.C. § 603(c).

- (2) Interconnected VoIP providers may connect:
- (i) Directly to the Wireline E911 Network;
  - (ii) Indirectly through a third party, such as a competitive local exchange carrier; or
  - (iii) Through any other solution that allows a provider to offer E911 service.
6. The reporting requirement for interconnected VoIP providers to send compliance letters by November 28, 2005 was intended as a one-time only requirement and this requirement has now sunset since this information collection was last sent to OMB. There are no consequences to Federal programs or policy activities if the collection is not conducted or is conducted less frequently. The frequency of the collection is determined by the respondents and its customers.
7. The Record of Customer Notification will be retained by interconnected VoIP providers for periods longer than three years to the extent individuals remain subscribers for longer than three years.
8. Pursuant to 5 CFR 1320.8(d), the Commission published a 60 day notice in the Federal Register on November 10, 2008 (72 FR 66644). No comments were received.
9. Respondents will not receive any payments.
10. A. If applicants want to seek confidential treatment of their filing, they may do so pursuant to 47 CFR § 0.459 of the Commission's rules.
- B. With respect to Location Registration, Provision of ALI, Customer Notification, Record of Customer Location and User Notification, the Commission currently does not have rules governing the treatment of such information by interconnected VoIP providers.
- C. The *Notice*, however, requested comment on whether the Commission's existing customer proprietary network information (CPNI) or similar requirements should apply to any provider of interconnected VoIP or other IP-enabled services.<sup>12</sup>

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<sup>12</sup> Section 222 of the Act prevents telecommunications carriers from disclosing customer proprietary network information (CPNI), including customer location information, without customer approval. 47 U.S.C. § 222(c)(1). The Commission has noted that Congress in the 911 Act provided certain privacy protections related to wireless carriers' ability automatically to obtain and transmit precise customer location information, and exceptions from those rules for the provision of E911 service. See 911 Act § 5 (amending section 222 by, *inter alia*, adding new sections 47 U.S.C. § 222(d)(4), (f) (concerning CPNI) and 47 U.S.C. § 222(g) (concerning subscriber information)). Also, in redesignating former section 47 U.S.C. § 222(f) as section 47 U.S.C. § 222(h), the 911 Act amended or added definitions. 47 U.S.C. §

11. This information collection does not address any private matters of a sensitive nature.

12. A. Respondent Burden:

- (1) We anticipate that a significant number of smaller interconnected VoIP providers:
  - (i) Will partner to provide E911 functionality; and/or
  - (ii) Will outsource the execution of the information collection obligations set forth in the Order to third parties, resulting in significant economies of scale.
- (2) We therefore calculate the estimated number of interconnected VoIP providers (respondents) for all the remaining information collection requirements at **12**, a number which is smaller than the estimated number of interconnected VoIP providers subject to the *Order* when this IC was submitted to OMB in 2005.
- (3) A chart detailing how the various burden estimates required under Questions 12 and 13 were revised and calculated is attached as **Appendix A**:
  - (i) Variable costs have been averaged over the three year authorized period for the information collection revision.
  - (ii) Please note that annualized capital and startup costs, which are identified in Item 13, are not included in the figures for this item 12.

B. *Location Registration*.

- (1) Interconnected VoIP providers will be required to obtain a Registered Location for each customer on the date the Order became effective or upon signup of a new customer.
- (2) As discussed in paragraph 12.A.4 above, we calculate the number of interconnected VoIP provider respondents for the Location Registration information collection at **12**.
- (3) Interconnected VoIP providers will, in addition, receive from customer's periodic updates of customer Registered Locations on an occasional basis, and will be required to maintain and update the associated databases.

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222(h)(1)(A), (h)(4)-(7). Interconnected VoIP service providers to date have not been classified as telecommunications carriers under the Act.

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- (4) Although the annual hour burden for each interconnected VoIP provider will vary as a function of the number of subscribers, customer churn, and mobility of customers, we estimate on an industry wide basis that the annual hour burden of obtaining registered locations (the averaged annualized hour burden of will be **568,800 hours**).
- (5) The “in-house” cost to respondents for the hour burden associated with obtaining Registered Locations is estimated, the average annualized cost for the first three years of the registered location information collection is \$11,165,325 (Appendix, A, third element of Item A.1 and Items A.2, A.3 and A.4).

C. *Provision of Automated Location Information (ALI).*

- (1) Interconnected VoIP providers will be required to place Registered Location information for their customers into, or make that information available through, ALI Databases each time a 911 call is made.
- (2) As discussed in paragraph 12.A.4 above, we calculate the number of interconnected VoIP provider respondents for the Provision of ALI information collection at 12.
- (3) The programming required to ensure such ALI provision is estimated to result in an annual hour burden of 6,000 hours (12 interconnected VoIP providers x 500 hours per response = **6,000 hours**).
- (4) The “in-house” average annualized cost to respondents for the hour burden for the programming required to ensure the provision of ALI is estimated at \$531,997 per year (Appendix A, Item B.3).

D. *Customer Notification.* The annual hour and cost burdens of the Customer Notification requirement are incorporated into the figures in Item 12.A (Registered Location) above (Appendix A, Item C).

E. *Record of Customer Notification.*

- (1) Interconnected VoIP providers will be required to obtain and store one record per customer, usually in conjunction with the customer signup process.
- (2) As discussed in paragraph 12.A.4 above, we calculate the number of interconnected VoIP provider respondents for the Record of Customer Notification information collection at 12.
- (3) The annual hour burden for obtaining and storing such record is estimated at 144 hours per year:

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12 interconnected VoIP providers x 12 hours per year per recordkeeping requirement = **144 hours**.

- (4) The “in-house” average annualized cost to respondents for the hour burden for collection of such records is estimated per year:

\$12,768 (Appendix A, Item D.2).

F. *User Notification.*

- (1) The distribution of user notification materials can be incorporated into regular mailings, and therefore is not anticipated to create an annual hour burden for respondents.

- (2) The annualized cost to respondents for distribution of user notification materials is addressed in Item 13 (Appendix A, Item E).

**Total Number of Respondents:** 12 (estimated number of interconnected VoIP providers).

**Number of Responses:** 6,310,000 (a. Location Registrations)  
6,310,000 (b. Provision of ALIs)  
1,700,000 (c. Customer Notifications)  
0 (d. Records of Customer Notifications)  
1,700,000 (e. User Notifications)  
**14,320,000 Total Number of Responses**

**Total Annual Burden Hours:** 568,800 + 144 + 6,000 = 574,944 hours.

**Total:** With the exception of item d. above, Records of Customer Notifications which is a recordkeeping requirement – and not a response to the Commission or third parties - the estimated number of responses is **14,320,000 responses**. This is an increase of 81,746 estimated responses since the last submission to the OMB which was approved January 16, 2006.

13. A chart detailing how the cost estimates required under Question 13 were calculated is attached as Appendix A.

A. Annualized capital and startup costs are estimated to include:

- (1) The annual equipment cost of VoIP gateway routers used to translate VoIP calls to digital formats at \$3,750,000/year (Appendix A, Item B.1); and

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- (2) The cost of mailing warning stickers to new customers that previously subscribed to a different provider is included in the revision for location registration above.

**A. The total annualized capital and startup costs is:** Most of the start up and capital costs have been met after implementation of this service three years ago except what is described in items 13A(1) and (2) above is: \$3,750,000.

B. Total annualized O&M and purchase of services costs are estimated to include:

- (1) The costs of making Registered Location information available to or through the ALI databases, minus the startup costs for gateway routers and the programming and operations cost associated with updating ALI databases, for an average revised annualized cost of \$79,140,000 for the three years of the information collection renewal (Appendix A, Items B.2 and B.4);
- (2) The cost of storing paper and electronic customer certifications, for an average revised annualized cost of \$6,416 for the three years of the information collection (Appendix A, Item D.1); and
- (3) The cost of including warning stickers with newly sold phones, for an average revised annualized cost of \$1,088,889 (Appendix A, Item E.2).

**B. The total average annualized O&M and purchase of service costs are therefore estimated at:**  $\$79,140,000 + \$6,416 + \$1,088,889 = \$80,235,305$ .

**Total Annual Cost for items 13A and B:**  $\$3,750,000 + \$80,235,305 = \$83,985,305$ .

14. Cost to the Federal Government: Minimal. The only requirements in this information collection are third party requirements and recordkeeping requirements. There will be minimal Commission review. Only if the Commission is queried or if someone files a complaint, the Commission will use a GS-14/Step 5 staff attorney at \$55.97 per hour to review the complaint or query that is filed, each requiring approximately 10 minutes to review.

$$12 \text{ responses} \times 0.6 \text{ hours/response} \times \$55.97/\text{hour} = \$402.98 \text{ (rounded to } \$403\text{)}.$$

15. The Commission is reporting a -1,600 program change due to elimination of the compliance letter requirement which has now sunset (see item 1F). The decrease in the estimated respondents is due to a re-estimate of this fairly new service. The increases in the total hourly burden and annual cost have been adjusted due to re-calculations of the estimates.
16. The data will not be published for statistical use.

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17. The Commission is not requesting to “display” the OMB expiration date for this information collection because this IC contains recordkeeping and third party requirements. However, the Commission publishes a list of all OMB-approved information collections in 47 CFR 0.408 of the Commission’s rules.
18. There are several exceptions to the Certification Statement in Item 19 of the OMB Form 83-I. This information collection (IC) was transferred to another bureau within the Commission and their staff conducted a comprehensive review of the existing hourly burden and cost estimates since OMB approved this IC was approved by them in 2006. During this review, it was determined that the information published in the 60 and 30 day notices was inaccurate.

**B. Collections of Information Employing Statistical Methods:**

This information collection does not employ any statistical methods.

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