

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of)	
)	
<i>Inquiry Concerning 911 Access, Routing And Location in Enterprise Communications Systems</i>)	PS Docket No. 17-239
)	
)	

**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

Pursuant to Sections 1.415 and 1.419 of the Federal Communications Commission's (FCC) rules, the National Association of Regulatory Utility Commissioners (NARUC) respectfully submits these reply comments on the FCC's September 26, 2017 Notice of Inquiry on 911 systems in the above-captioned proceeding.¹

For over 125 years, NARUC, a quasi-governmental non-profit corporation in the District of Columbia, has represented the interests of public utility commissioners from agencies in the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands charged with, *inter alia*, overseeing certain operations of telecommunications utilities.

¹ *In the Matter of Inquiry Concerning 911 Access, Routing and Location in Enterprise Communications Systems*, Notice of Inquiry, PS Docket 17-239, available online at: https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-125A1.pdf.

NARUC is recognized by Congress in several statutes² and consistently by the Courts,³ as well as a host of federal agencies,⁴ as the proper entity to represent the collective interests of State utility commissions.

At our recent November meetings in Baltimore, Maryland, NARUC passed a resolution directed at this NOI, attached as Appendix A, that:

supports federal and State actions to require ECS manufacturers, installers, and operators to design and configure ECS to allow direct dialing of 9-1-1, to route 9-1-1 calls to the proper PSAP regardless of the particular location of the extension used to call 9-1-1, provide the PSAP with location information specific and accurate enough for first responders to locate the caller, and to support on-site notification; and

² See 47 U.S.C. §410(c) (1971) (Congress designated NARUC to nominate members of Federal-State Joint Board to consider issues of common concern); See also 47 U.S.C. §254 (1996); See also *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where this Court explains “Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the “bingo card” system).

³ See, e.g., *U.S. v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), *aff’d* 672 F.2d 469 (5th Cir. 1982), *aff’d en banc on reh’g*, 702 F.2d 532 (5th Cir. 1983), *rev’d on other grounds*, 471 U.S. 48 (1985) (where the Supreme Court notes: “The District Court permitted (NARUC) to intervene as a defendant. Throughout this litigation, the NARUC has represented the interests of the Public Service Commissions of those States in which the defendant rate bureaus operate.” 471 U.S. 52, n. 10. See also, *Indianapolis Power and Light Co. v. ICC*, 587 F.2d 1098 (7th Cir. 1982); *Washington Utilities and Transportation Commission v. FCC*, 513 F.2d 1142 (9th Cir. 1976); Compare, *NARUC v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *NARUC v. DOE*, 851 F.2d 1424, 1425 (D.C. Cir. 1988); *NARUC v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *cert. denied*, 469 U.S. 1227 (1985).

⁴ Compare, NRC Atomic Safety and Licensing Board Memorandum and Order (Granting Intervention to Petitioners and Denying Withdrawal Motion), LBP-10-11, *In the Matter of U.S. Department of Energy (High Level Waste Repository)* Docket No. 63-001-HLW; ASLBP No. 09-892-HLW-CABO4, *mimeo* at 31 (June 29, 2010) (“We agree with NARUC that, because state utility commissioners are responsible for protecting ratepayers’ interests and overseeing the operations of regulated electric utilities, these economic harms constitute its members’ injury-in-fact.”)

specifies that any federal action should be mandatory for all ECS manufacturers, installers, and operators and that federal requirements regarding ECS must not be written or implemented in such a way that it preempts States from imposing additional requirements as they see fit, presuming that such additional requirements do not contradict or conflict with federal requirements.

Prior to the passage of the NARUC resolution, two NARUC member commissions filed in this proceeding – California and Colorado.⁵

NARUC generally agrees with crucial aspects of Colorado’s response, at page 7 of their comments, to the question posed by the FCC in ¶38. There the FCC asked:

Does it continue to be the case, as the Commission found in the E911 Scope Order, that the unique needs and circumstances of residential and business Enterprise Communications Systems [ECS] users are suited to state-level action?

Yes. One reason why we support both State and federal action is because, as Colorado points out, although 9-1-1 remains a locally provided service, the States and the FCC have and will likely continue to share jurisdiction over the regulation of 9-1-1 services. There are certain aspects of 9-1-1 service that are best regulated by the State in order for the regulation to fit the specific needs of the State’s population and expectations. California also points out in its comments at page 8,

⁵ *Comments of the California Public Utilities Commission*, (Nov. 15, 2017) at: <https://ecfsapi.fcc.gov/file/11150090912367/PS%20Docket%20No%2017-239%20Comments%20to%20E911%20NOI.pdf>, and the *Comments of Colorado Public Utilities Commission*, (November 13, 2017) also available online at: <https://ecfsapi.fcc.gov/file/1113184553096/Enterprise%20911%20Comments.pdf>.

that it has already recommended consideration of “a legislative solution requiring MLTS owners/ operators/ lessees to provide E9-1-1 services with accurate caller information, noting that seventeen other states had already adopted such provisions at the time.”

We support State and federal actions to permit direct dialing of 9-1-1 accurate enough to assure first responders can locate the call because, again as Colorado points out in its comments, many American workers travel a great deal as part of their occupations. Expecting them to know the different requirements to make a 9-1-1 call through an ECS in Colorado, Texas, and New York is unrealistic. Nationwide consistency is required for the E911 capabilities of ECS. Specifically, ECS should be required to allow direct access to 9-1-1 without dialing an additional digit, to provide accurate and specific location information, and to route to an appropriate PSAP. It should be the case that a traveler in any State will be able to pick up any ECS phone, dial 9-1-1, and reach an appropriate PSAP which will have access to the caller’s location if it’s so equipped.

Finally, it is counterproductive for the FCC to limit State’s ability to enforce compliance with any federal mandates or limit State rules that provide additional protections/requirements that enhance efficient and reliable operations of 9-1-1 systems. For the same reason, there is no rational reason to limit State actions like those listed in the California comments at pages 4 – 6.

CONCLUSION

NARUC appreciates this opportunity to offer our members views on how to improve public safety with respect to the issues existing with the 9-1-1 capabilities of Enterprise Communications Systems. We look forward to participating in any further FCC rulemaking on this important public safety issue.

Respectfully submitted,

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Appendix A

Resolution on E911 Access and Enterprise Communications Systems

Whereas the Federal Communications Commission (FCC) issued a Notice of Inquiry on September 26, 2017 at PS Docket No. 17-239 (“NOI”) entitled “Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems” requesting input on the technical capabilities, public expectations, and needs of public safety answering points regarding the E911 capabilities of Enterprise Communications Systems (“ECS”);

Whereas voluntary efforts among ECS manufacturers, installers, and operators are laudable, but may leave many 9-1-1 callers vulnerable;

Whereas the ability to dial 9-1-1 in an emergency is often the first and last resort for many individuals in the United States when requesting help in an emergency;

Whereas members of the public traveling for work or leisure cannot be expected to know the different requirements and capabilities of ECS from one State to the next;

Whereas requiring callers using ECS attempting to call 9-1-1 to dial an additional digit before dialing 9-1-1 may cause significant delays in reaching a Public Safety Answering Point (“PSAP”), when even minor delays can mean the difference between life and death for individuals calling 9-1-1;

Whereas individuals calling 9-1-1 from an ECS may not know their address or may be unable to verbally describe their location, either due to an existing disability, an acute medical condition, or because speaking out loud would compromise their safety;

Whereas an ECS that provides on-site notification of 9-1-1 calls may allow on-site personnel to implement procedures to direct first responders to the proper location rapidly and efficiently;

Whereas calls that are misrouted to the wrong PSAP require transferring, significantly delaying emergency response to the incident that prompted the call;

Whereas the FCC has historically shared jurisdictional authority over various portions of 9-1-1 telecommunications services matters with the States;

Whereas consistency, uniformity, and ubiquity of service is highly desirable in the dialing of 9-1-1; *now therefore be it*

Resolved that the National Association of Regulatory Utility Commissioners, convened at its 2017 Annual Meeting and Educational Conference in Baltimore, Maryland, supports federal and State actions to require ECS manufacturers, installers, and operators to design and configure ECS to allow direct dialing of 9-1-1, to route 9-1-1 calls to the proper PSAP regardless of the particular location of the extension used to call 9-1-1, provide the PSAP with location information specific

and accurate enough for first responders to locate the caller, and to support on-site notification;
and be it further

Resolved that any federal action should be mandatory for all ECS manufacturers, installers, and operators; *and be it further*

Resolved that federal requirements regarding ECS must not be written or implemented in such a way that it preempts States from imposing additional requirements as they see fit, presuming that such additional requirements do not contradict or conflict with federal requirements.

Sponsored by the Committee on Telecommunications

Recommended by the NARUC Board of Directors November 14, 2017

Adopted by the NARUC Committee of the Whole November 15, 2017