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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
)  
Request for Emergency Declaratory ) CC Docket 94-102  
Ruling by California State 9-1-1 )  
Program Manager )

**COMMENTS OF THE  
NATIONAL EMERGENCY  
NUMBER ASSOCIATION**

The National Emergency Number Association ("NENA") hereby responds to the invitation to comment in the captioned matter released July 30, 1998, DA 98-1504. In a letter of July 20, 1998 to FCC Chairman Kennard, Leah Senitte,<sup>1</sup> 9-1-1 Program Manager for the State of California, asked for "an immediate ruling of the Commission on the following questions:"

1. Does the Phase 1 wireless caller identification/location requirement of Section 20.18(d) of the Commission's rules apply to covered service providers in states that "do not provide immunity from liability for E9-1-1 service?"
2. If the answer is yes, must the cost recovery mechanism required by Section 20.18(f) "reimburse carriers for the cost of insurance policies covering wireless E9-1-1 service?"
3. Concerning the selective routing requirements of Section 20.18(d) and other subsections of the rule -- calling for

<sup>1</sup> Mrs. Senitte is President of NENA for the June 1998-June 1999 term. The request was submitted in her capacity as a state official, not as NENA's President. The views expressed here were developed independently on the basis of NENA's obligations to all its members.

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relay of identification and location information to the "designated" PSAP -- what is the meaning of an "appropriate" answering point.<sup>2</sup>

We respond to each of these questions in turn.

Immunity is not a condition  
of Phase 1 service.

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Nothing in the rules calls for wireless carrier liability protection as a precondition to the Phase 1 obligation. The Commission recently reaffirmed its decision not to intrude upon traditional state prerogatives in this field:

None of the petitioners, however, presents arguments sufficient to persuade us to modify our determination that it is unnecessary to exempt providers of E911 service from liability for certain negligent acts and to preempt state tort law. (Reconsideration Order, ¶137)

Apparently recognizing the firmness of that FCC view, the Cellular Telecommunications Industry Association ("CTIA") and BellSouth have suggested a means of wireless carrier "self-help" -- informational tariffs filed at the Commission -- in states where liability protection is not available.<sup>3</sup> NENA submitted largely favorable comments<sup>4</sup> on the proposals, which remain pending. Even if the FCC is inclined to allow informational tariffs, however, the implementation of E9-1-1 in non-immunity states need not be delayed. The Commission should emphasize once more that Phase 1

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<sup>2</sup> The California Request correctly notes that the Commission uses "appropriate" interchangeably with "designated." *See, e.g.*, Memorandum Opinion and Order (on reconsideration), FCC 97-402, released December 23, 1997, ¶98. ("Reconsideration Order")

<sup>3</sup> Petitions for Reconsideration, February 17, 1998.

<sup>4</sup> Comments of NENA, APCO and NASNA, March 18, 1998.

obligations apply independently of the wireless carrier liability circumstances in a given state.

The negative answer on the immunity condition means that 9-1-1 Authorities are not compelled to fund liability insurance.

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If states and other 9-1-1 Authorities are not compelled to immunize carriers from liability as a condition of obtaining wireless E9-1-1 service, it follows that the cost recovery mechanism for Phase 1 implementation need not include reimbursement for carrier insurance coverage. The Commission also addressed this subject in the Reconsideration Order:

We reaffirm our decision and deny petitions to establish a Federal cost recovery mechanism for the reasons stated in the *E911 First Report and Order*. We continue to find no adequate basis on this record for preemption of the various state and local funding mechanisms that are in place or under development, or for concluding that state and local cost recovery mechanisms will be discriminatory or inadequate. (¶145)

There is no need to disturb this conclusion for now, surely not while the informational tariffs proposal is pending.

Responsible 9-1-1 Authorities determine "appropriate" or "designated" PSAPs to receive wireless E9-1-1 calls.

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Before the selective routing requirements in Sections 20.18(d) and (e) took effect, 9-1-1 Authorities often made decisions of convenience about initial routing of wireless calls to emergency answering points. Given the early development of cellular telephony as a vehicle-based service, it frequently made sense to route basic 9-1-1 calls -- which conveyed no

callback number or caller location information -- to highway patrol or state police offices. With the advent of Automatic Number Identification ("ANI") and Automatic Location Information ("ALI"), 9-1-1 Authorities have been able to consider routing based on location, recognizing that proximity of the PSAP and associated response services to the caller saves time and may better protect lives and property.

With or without ANI and ALI, wireless 9-1-1 call routing is a matter of governmental choice. Public authorities will want to consult with carriers about implementation, but in the end they must decide. As the FCC said in the Reconsideration Order:

[We] wish to clarify that the responsible state or local entity has the authority and the responsibility to designate the PSAPs that are appropriate to receive wireless 911 calls. (¶98)

Until responsible authorities make selective routing designations,

covered carriers can comply with our rules by continuing to route 911 calls to their incumbent wireless PSAPs.

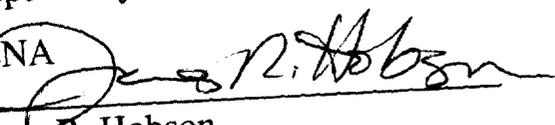
Just as Section 20.18(f) obliges a PSAP to demonstrate its readiness to receive and use ANI and ALI, so the selective routing requirement depends on a public, non-federal decision communicated to the wireless carrier.

CONCLUSION

For the reasons discussed, NENA supports the California Program Manager's request for FCC guidance, and suggests that the answers follow the outlines of prior decisions.

Respectfully submitted,

NENA

By 

James R. Hobson

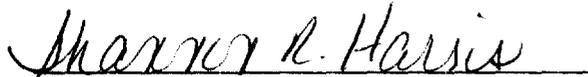
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August 14, 1998

## CERTIFICATE OF SERVICE

I hereby certify that I have on this 11th day of August, 1998 served copies of the foregoing *Comments of the National Emergency Number Association* by first-class mail, postage prepaid, on all parties of record in the above captioned proceeding.

  
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