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March 23, 2015

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

VIA ELECTRONIC FILING

Re: In the Matters of 911 Governance and Accountability, PS Docket No. 14-193 and Improving 911 Reliability, PS Docket No. 13-75

Dear Ms. Dortch:

The Industry Council for Emergency Response Technologies (“iCERT” or “Industry Council”)ⁱ respectfully submits the following comments in connection with the Policy Statement (“Policy Statement”) and Notice of Proposed Rulemaking (“NPRM”) adopted and released on November 21, 2014 by the Federal Communications Commission (“FCC” or “Commission”) in the above-referenced dockets.ⁱⁱ iCERT commends the FCC for its continued efforts to save lives and to provide federal leadership for emergency communications. iCERT supports efforts to promote the highest degree of reliability and resiliency for 911 services, and it looks forward to the opportunity to work with the FCC and others to achieve that goal. However, iCERT members are concerned with a number of the proposals outlined in the NPRM and believe, if adopted, they might have a negative impact on innovation, competition and 911-related deployments including Next Generation 911 (NG911). Instead, iCERT recommends the FCC engage the industry in a collaborative dialogue to explore alternative approaches for improving reliability and resiliency, such as the development of NG911 best practices through CSRIC.

EXPANDING CATEGORY OF COVERED 911 SERVICE PROVIDERS

As a backdrop, in December of 2013, the FCC adopted rules designed to improve the reliability and resiliency of America’s 911 communications system following the June 2012 derecho storm (“Reliability Order”).ⁱⁱⁱ The Reliability Order requires Covered 911 Service Providers to take measures to provide reliable 911 service and to provide written certification with respect to three 911 system functions: circuit auditing, central office backup power and diverse network monitoring.^{iv}

Under the Reliability Order, a Covered 911 Service Provider is any entity that provides 911, E911, or NG911 capabilities such as call routing, automatic location information (ALI), automatic number identification (ANI), or the functional equivalent of those capabilities,

directly to a public safety answering point (PSAP), statewide default answering point, or appropriate local emergency authority.^v The NPRM seeks to expand this definition – and thus the scope of entities covered by rule 12.4 – to include all entities that provide 911-specific network infrastructure including the following additional items not currently in the Reliability Order: “... location information services [sic^{vi}] (LIS), text-to-911, or any other capability required for delivery of 911, E911 or NG911...;” and the proposal seeks to expand the applicability of rule 12.4 to all covered entities “...whether [they are acting] directly or indirectly as a contractor or agent to any other entity.”^{vii}

Under the Reliability Order, the 911 system service provider (911SSP) that is designated by the PSAP to operate the PSAP’s portion of the 911 system (frequently, the Incumbent Local Exchange Carrier, or ILEC) is typically the entity covered under rule 12.4, and this is a relatively small number of entities today. As proposed, an expanded rule 12.4 would potentially sweep into the category of Covered 911 Service Provider a large number of additional entities (beyond 911 SSPs) that will likely increase in number as NG911 deployments increase. Many of these new Covered 911 Service Providers have no direct contractual or tariff relationship with the PSAP today. Many wireless and VoIP providers, i.e., those that utilize an MPC or VPC, respectively, to process and route 911 calls would be swept into the category of Covered 911 Service Provider. This would be in addition to the responsibility that originating service providers have under other FCC rules to provide access to 911 service for their subscribers;^{viii} so too would their subcontractors be responsible as Covered 911 Service Providers.^{ix}

While ensuring reliable and resilient 911 services is paramount, the Commission should consider the impacts of its regulations on innovation and competition, especially where benefit of improved reliability and resiliency is not clear or even doubtful. The prospect of excessive regulation is likely to discourage 911 investments and participation in the 911 ecosystem. New entrants possessing new and innovative technologies will likely think twice about getting into a line of business that carries with it this kind of regulatory oversight; and entities that are already in the market will necessarily reconsider investments in innovative new technologies (or even consider leaving the market) if it means increased regulatory costs, impediments and delays. This kind of regulatory overhang stagnated 911 technology in the 1980’s and 1990’s which in turn played a major role in broadening the technology gap between advanced products and services brought to commercial markets and those that were brought to the 911 market under a heavily regulated regime. With IP-based (next generation) 911, the public safety industry is beginning to close that gap, resulting in increased competition and innovation. However, if imposing the kind of regulations proposed in the NPRM has the chilling effects described above, then they will cause a gap to reoccur – where public safety will be technologically left behind once again. iCERT respectfully suggests that contractual and market incentives already exist today to ensure that 911 products and services are highly reliable and resilient. Given that iCERT is primarily comprised of companies that serve as vendors to the 911 ecosystem, we speak with experience with regards to existing contracts and incentives – our member companies maintain Service Level Agreements (SLAs) with our customers and today face penalties and loss of business when we fail in our duties to the 911 SSPs whom we serve. Additional FCC oversight would be redundant to the duties we already perform.

iCERT also believes that the proposed rule, if adopted, would have significant implications for state authority over 911 services. By expanding the definition of a Covered 911 Service Provider, the proposed rule would expand the borders of what has long been considered a state-regulated, dedicated 911 system. While the FCC has jurisdiction over wireless and VoIP providers, it should not use that authority to justify the conversion of state-regulated entities into 911 SSPs.

PROPOSED RULE 12.5

The Commission proposes a new rule, Part 12.5, to require: (1) public notification for major changes in multi-state 911 networks and services, giving exception to changes requested by the responsible state or local emergency authority;^x and (2) prior Commission approval for the discontinuance, reduction or impairment of existing 911 services.^{xi}

(1) Notification For Major Changes To 911 Networks Or Architecture

The rule would require Covered 911 Service Providers to notify the FCC and the public no less than 60 days prior to implementing any major change in the provider's multi-state network architecture or scope of 911 service that is not otherwise covered by existing network change notification requirements.^{xiii} iCERT strongly opposes this proposal for several reasons.

The proposed rule is too broad and too vague. The NPRM gives no definition of a "major" change; thus providers will have no basis for product and resource planning or implementation timelines or related financial investments. Similarly, more specificity would be needed to understand the meaning of any change in the "scope" of 911 service. Without that specificity, and based on the breadth of the NPRM, the industry must assume that this term has the potential to encompass any and every thing done to the 911 system – an untenable approach that would cause long delays, potentially expose proprietary information, and create unnecessary confusion and possibly alarm in parties that are not involved in the normal operations of complex systems and therefore unaware of the extreme efforts taken to ensure that no public impacts would be felt. Further, the NPRM presumes that no notifications are given today. In reality, 911 SSPs currently work with state and local emergency authorities when changes are made that are deemed to impact those entities' operations. Quality assurance principles demand the appropriate level of end-to-end testing for major architectural changes; and iCERT members take these principles seriously, especially because they are dealing with solutions that provide access to life-saving emergency services. Once again, the NPRM would impose redundant obligations on 911 SSPs, and the introduction of artificial notification timelines and expansion of the list of items requiring these notifications could slow down or even discourage changes to current systems.

The statements made and positions taken by the FCC in this regard suggest an intention to broaden the Commission's authority to regulate 911 services – an area that is the domain of the states – as discussed more fully below. The Commission seems to be asserting, wrongly in our view, that state and local officials have not done a good job of informing their constituents (the public) of such changes. There is also no evidence to support that assertion or that there is wide public demand for such information; public safety officials will be aware of it anyway as a matter of contract or tariff policy. Nor is there evidence showing that changes made to 911 systems are so poorly conceived or out of synch with industry norms and standards that a federal accountability mechanism is warranted – a mechanism that would, by design, challenge decision making and inherently delay the progressive steps taken every day by the industry to make improvements to the 911 system, including improvements to 911 reliability.

(2) Discontinuance, Reduction Or Impairment Of Existing 911 Services

The proposed rule would require Covered 911 Service Providers to obtain prior Commission approval for the discontinuance, reduction, or impairment of any of its 911 products or services, except that any discontinuance, reduction or impairment that has been requested or initiated by the PSAP or the responsible state or local emergency authority would be exempted. iCERT strongly opposes this proposal because it would stifle competition and slow the introduction of innovative technologies and services without any clear benefit.

Bringing products and services to market, altering them to adjust to technology and market trends, and discontinuing them when appropriate, is done through market and contractual arrangements. The FCC has presented no evidence that the current market/contracting system is so ineffective or insufficient so as to warrant a federal rule to dictate when products and services may be withdrawn in whole or in part. Providers operate under market and contract requirements, which in turn drive decisions on research and development, investment and product timelines. The proposal would interfere with this model and significantly disrupt NG911 deployments. Further, the proposal implies that state and local officials are not doing an effective job of this and/or assumes the FCC is more qualified and better able to make these determinations than the participants in the 911 ecosystem, a

notion iCERT contests. If the FCC makes these decisions, there is no evidence that NG911 reliability will be improved, while there is a clear probability that innovation and competition will be significantly harmed.

PROPOSED RULE 12.6

The FCC proposes to add Part 12.6 to its rules which would require entities seeking to provide new 911 capabilities – with particular emphasis on capabilities that impact 911 call completion – to certify the entity’s technical and operational capability to provide services reliably. This requirement would affect existing Covered 911 Service Providers including new entrants when introducing new capabilities. Specifically, Covered 911 Service Providers would have to certify that they have conducted a reliability analysis and a security risk analysis of their IP-based network components, associated infrastructure and software. The proposal also would require certification that a provider is prepared to implement best practices associated with the product or service and to comply with existing Commission rules applicable to the new 911 capability.^{xiii}

iCERT opposes this approach as it represents a barrier to market entry and would interfere with innovation, competition and timely NG911 deployments. Requiring providers to comply with both state and federal licensing-type requirements is duplicative and thus inefficient. iCERT believes that public safety agencies that contract with providers and that supervise the delivery of products and services are in a better position than the FCC to make judgments as to the fitness of a product or service for their use. Finally, “new” services are defined as services that were not offered as of November 21, 2014. iCERT believes such an all-inclusive definition is inappropriate and further believes that even a more modest attempt at defining new services would be nearly impossible in a rapidly-evolving 911 market. By requiring a certification for each “new service,” the FCC would be inundated with certification filings. And, if providers had to certify every new service, that could entail certifying every software upgrade – a prospect that would work as a disincentive for making system improvements.

However, iCERT understands the Commission’s desire to ensure good development practices that take into consideration appropriate reliability and security concerns. The Commission, through CSRIC, already provides substantial analysis of best practices in these areas; and iCERT would support the Commission’s continued investment in these areas. The reports provided are of substantial benefit to the 911 ecosystem, saving the industry a great deal of cost and providing quick access to a wealth of information. iCERT would support any effort by the Commission to expand the reports provided by the Working Groups into a publicly-accessible library that would make access to this information even easier.

PROPOSED RULE 12.7

The Commission proposes to add Part 12.7 to create a “911 Network Operations Center” (911 NOC) Provider responsible for situational awareness and coordination with other service providers during an outage.^{xiv} In addition to a requirement to connect to and monitor 911 systems, 911 NOC Providers would be affirmatively responsible for detecting disruptions or degradations in 911 service in real time across the monitored system including in systems of other providers; and they would be responsible for network components within the control of their agents, contractors and sub-contractors, or others acting on their behalf.”^{xv}

The proposed rule would require the 911 NOC Provider to have total visibility into the 911-related systems of other providers, to collect a vast amount of information in real time (e.g., call counts, alarms, high-level data about the status of networks), and to communicate it all to the FCC, public safety agencies, affected service providers and vendors.^{xvi} As a default position, the FCC proposes that the PSAP’s designated 911 SSP serve as the 911 NOC Provider. 911 NOC Providers (one in each designated jurisdiction) would also be required to coordinate and share information among themselves in addition to other entities referenced above. 911 SSPs and other entities would be required to share outage information with the 911 NOC Provider, some of which is likely

to be proprietary or even unrelated to 911 service, e.g., closely-guarded network information where IP networks are used for 911 and non-911 purposes.

iCERT finds this proposal unwieldy in terms of how it could actually be implemented. The variety of entities involved in providing 911 services and the myriad processes they each employ would no doubt lead to the establishment of duplicative processes and procedures designed to provide the requisite notifications. Such duplication, including among multiple 911 NOC Providers, is likely to create increased complexity and confusion, a result that would impede and not aid situational awareness. A requirement for 911 NOC Providers to report competitively sensitive information to all affected entities, including their competitors, will further complicate that process. iCERT agrees that effective and timely processes must be employed to monitor and mitigate any 911 outages. However, such processes should be addressed through a consensus-driven approach, consistent with technology standards and the evolution of NG911. There is value in providing a process through which affected 911 entities can collaborate during an outage or impairment event. iCERT supports further investigation of this worthy goal, but suggests an approach that would be invoked during such events rather than a continuous and complicated monitoring scheme that might reduce, rather than improve, situational awareness.

REGULATION OF 911 SERVICES IS RESERVED TO THE STATES

The Reliability Order and many of the FCC's new proposals are couched as certification requirements, but in reality they are regulations, or would-be regulations, applicable to a vast array of industry participants and the 911 products and services they offer; and other new proposals are overtly proposed regulations, e.g., notification requirements for changes to the 911 network; regulatory approvals for market entry and exit and new products; the creation of a 911 NOC provider and its attendant obligations – all of which have weak or nonexistent statutory foundation.^{xvii} iCERT recognizes the FCC's jurisdiction over interstate networks and wireless and VoIP access to 911 (distinguishable from the dedicated 911 system and related services), and iCERT commends the FCC for protecting the lives and property of wireless and VoIP subscribers through its regulatory action. But the Commission's basis for its authority to promulgate the rules as proposed in the NPRM,^{xviii} as outlined below, falls short of the authority granted by Congress for regulating 911 services.

In paragraph 28 of the NPRM, the Commission admits to the underpinnings of all this, but then marginalizes state jurisdiction over 911, stating, "Congress has clearly recognized the important role States and localities *can* play in ensuring reliable 911 service..."^{xix} as if states and localities aren't the foundation of the jurisdictional pyramid and as if states can – but aren't – playing a sufficient role in 911 reliability (which, as the FCC's argument goes, justifies its intervention). The NPRM recalls the FCC's fairly recent (2013) report to Congress on its recommendations for NG911 legal and regulatory framework wherein it speaks of undiluted state authority over 911 and related service and wherein the Commission asks Congress for authority to do a number of things, including what the FCC is attempting to do in the NPRM... without that Congressional authority, e.g., a federal backstop.^{xx} The FCC then concludes that its purpose is not to supplant state action^{xxi} and that its "...comprehensive national approach to the quality and reliability of 911 service is needed, to avoid the risk of confusion and incompatibility that would arise from a [state-by-state] patchwork of potentially inconsistent standards."^{xxii} That national approach is substantive federal regulation over the dedicated 911 system and its attendant 911 SSPs and services.

911 Act^{xxiii}

The Commission relies on its authority under the 911 Act to, "... 'encourage and support *efforts by States* to deploy comprehensive end-to-end emergency communications infrastructure,' and to '*consult and cooperate with State and local officials*' when developing national policies with respect to 911 governance, implementation, and reliability (emphasis added)."^{xxiv} Such statutory authority is a very long way from authority to regulate 911.

The intent of the 911 Act was twofold: (1) establish 911 as the nationwide emergency number to dial from wireless telephones and (2) expedite the adoption of enhanced 911 (“E-911”) capabilities for wireless subscribers. The statute was narrowly written to adopt these consumer-oriented goals. It established 911 as the universal emergency number and expedited E-911 for wireless consumers by preempting “state laws that establish different standards of liability for wireless and wireline users and providers in certain circumstances.”^{xxxv} Another provision of the 911 Act reads, “...nothing in this section shall be construed to authorize or require the FCC to *impose obligations* or costs on *any person*,”^{xxxvi} and this is confirmed in the legislative history wherein the Committee recognized, “the bill will not subject any individuals or businesses affected by the bill to any additional regulation.”^{xxxvii} The 911 Act, alone or taken with other statutes, does not provide the Commission with authority to adopt rules governing the dedicated 911 network or related services.

Communications Act of 1934^{xxxviii}

The Commission bolsters its jurisdictional theory based on the Communications Act of 1934, which mandates the FCC to promote safety of life through the use of wire and radio communication.^{xxxix} The Commission does not have jurisdiction over intrastate communications.^{xxx} In determining whether a call is interstate (and subject to the Commission’s jurisdiction) or intrastate (and outside the FCC’s authority), the Commission has traditionally relied on “...the end points of the communication and consistently rejected attempts to divide communications at any intermediate points of switching or exchanges between carriers.”^{xxxi} By design, with rare exception 911 calls originate and terminate in the same state. Based on FCC precedent, the intrastate nature of 911 calls has significant implications for the FCC’s jurisdiction to adopt the NPRM’s proposed rules.

The NPRM highlights the nationwide transition to an NG911 network and asserts that the interstate nature of that network requires comprehensive federal oversight.^{xxxii} The 911 ecosystem is comprised of multiple, often regionalized, networks and systems. While the FCC has jurisdiction over interstate networks, some of which are used to deploy 911 services including NG911 services, that jurisdiction does not extend to the services that use those networks simply because those networks are employed. There’s an important distinction between facilities and services. It is worth pointing out that the FCC has not asserted jurisdiction based on 911 calling in an NG911 environment simply because it involves use of interstate networks.

Net 911 Act^{xxxiii}

The Net 911 Act required interconnected VoIP providers to offer enhanced 911 services to their subscribers. To accomplish this goal, the statute afforded VoIP providers access to the same 911 capabilities as CMRS providers, and this goal was accomplished through the Commission’s good work. The Commission relies on the Net 911 Act as another means to establish its authority to adopt the proposed rules, but this reliance is misplaced. The statute’s subject matter is 911 in a VoIP telephony environment – and that is as far as Congress went. The purposes and goals of the statute and attendant regulations have been fulfilled. Moreover, the statute states that it does not alter state or local agency jurisdiction over emergency communications absent interference with the Commission’s rules,^{xxxiv} and there is no evidence of that.

CVAA^{xxxv}

The Commission relies on the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”) as having “advanced the Commission’s implementation of technologies such as text-to-911 by granting authority to promulgate ‘regulations, technical standards, protocols, and procedures... necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible.’”^{xxxvi} The intent of the CVAA is to provide access to communications services to consumers with disabilities.^{xxxvii} The CVAA limits the Commission’s jurisdiction to implementing regulations and standards that ensure access to an IP-enabled

emergency network by individuals with disabilities.^{xxxviii} It is not a statute generally authorizing the Commission to act on anything having to do with 911.

Ancillary Jurisdiction

The Commission asserts that its Title I ancillary jurisdiction gives the agency authority to adopt the proposed rules. The agency notes that “whether or not the increasingly diverse range of entities providing 911 services are common carriers or Commission licensees, they nevertheless have undertaken to provide a critical public safety communications services that is within our general jurisdiction ‘to promote safety of life and property through the use of wire and radio communication.’”^{xxxix}

In order for the FCC to regulate under its ancillary jurisdiction, the subject of the regulation must be: (1) covered by the Commission’s general grant of jurisdiction under Title I of the Communications Act which encompasses all interstate and foreign communication by wire or radio; and (2) the subject of the regulation must be reasonably ancillary to the effective performance of the FCC’s various responsibilities.^{xi} The subject of the regulation in this matter is NG911 service, reliability and accountability. With regard to prong (1): even though NG911 service, reliability and accountability entail use of interstate networks, the subject of the regulation is not the networks; it is about NG911 service reliability and 911 service provider accountability – all of which falls to the states and entails intrastate calling (not within the FCC’s general grant of jurisdiction). Regarding prong (2): The FCC has itself all-but conceded that NG911 regulation is not reasonably ancillary to the effective performance of its various responsibilities as evidenced by its own National Broadband Plan^{xii} and its 2013 report and recommendations to Congress^{xiii} wherein the agency lays out policy goals that assume jurisdiction over 911 services is exclusively reserved to states and localities.

Additionally, in the Middle Class Tax Relief and Job Creation Act of 2012,^{xliii} Congress again recognizes existing state authority over 9-1-1 services.

iCERT recognizes the Commission’s sincere efforts to improve the performance and reliability of 911 services. However, regulatory mandates that might impede technical innovation or slow network deployments are unlikely to improve 911 services. Such mandates are even more problematic when they threaten to change the governance framework of 911 services, which is generally delegated to the States. To the extent that the Commission can encourage best practices and can establish an environment that supports collaboration, innovation and the important role of the States, iCERT believes that the Commission’s goals will be better served. When a 911 network impairment occurs, collaboration can be critical to improving time-to-resolution; and the FCC can play a strong role in encouraging best practices and collaborative communications. iCERT and its members look forward to working with the Commission, the public safety community, and other industry stakeholders on such an initiative.

Respectfully submitted,



George Rice
Executive Director

ⁱ Established by a group of prominent business leaders in December, 2005 originally as the 9-1-1 Industry Alliance, iCERT plays an important role as the voice of commercial public safety companies, wireless carriers, and related vendors on public policy issues impacting 9-1-1 and the emergency response system. iCERT's membership is diverse, and many of its members not only have differing business objectives, they may be direct competitors. All of iCERT's members agree that an invigorated vendor community engaged in frequent two-way dialog with public safety officials, regulators and policy makers is indispensable to creating the highest quality emergency services for all Americans. Industry Council members believe history has demonstrated that business leaders' expertise can assist public policy makers and government emergency communications professionals as they address complex choices regarding advanced communications technologies. *See*, <http://www.theindustrycouncil.org/index.cfm>

ⁱⁱ *See* In the Matters of 911 Governance and Accountability, PS Docket No. 14-193 and Improving 911 Reliability, PS Docket No. 13-75, adopted November 21, 2014, Rel. November 21, 2014.

ⁱⁱⁱ In the Matter of Improving 911 Reliability, PS Docket No. 13-75, Reliability and Continuity of Communications Networks, Including Broadband Technologies, PS Docket No. 11-60, Report and Order, Adopted December 12, 2013, Rel. December 12, 2013.

^{iv} 47 C.F.R. §12.4 – Reliability of Covered 911 Service Providers.

^v *Id.* §12.4(a)(4)(i).

^{vi} LIS is an abbreviation for location information *server* – 911-related equipment.

^{vii} *NPRM*, paragraph 42, Appendix A, p. 35.

^{viii} *See*, In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-102, Adopted June 12, 1996, Rel. July 26, 1996; and In the Matters of IP-Enabled Services WC Docket No. 04-36 and E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, First Report and Order and Notice of Proposed Rulemaking, Adopted May 19, 2005, Rel. June 3, 2005.

^{ix} *NPRM*, paragraph 42. *See*, also footnote 101, p. 19, where the FCC states, "...we propose that both the carrier and the subcontractor would be required to certify their respective reasonable measures to maintain reliable 911 service because both entities would provide 911 capabilities specific in the proposed rule."

^x *NPRM*, paragraphs 49-50, pp. 21-22.

^{xi} *NPRM*, paragraphs 53-54, p. 23.

^{xii} This refers to network change notification requirements covered by section 51.325(a) of the FCC rules (47 C.F.R. §51.325(a)). *See*, also, *NPRM*, footnote 117, p. 22.

^{xiii} *NPRM*, paragraph 59, p. 24.

^{xiv} NPRM, beginning at paragraph 66, p. 27.

^{xv} NPRM, footnote 132, p. 28.

^{xvi} NPRM, paragraphs 70-74, pp. 28-29.

^{xvii} Arguably, this includes the Reliability Order.

^{xviii} NPRM, paragraphs 28-30, pp. 13-14.

^{xix} NPRM, paragraph 28, p. 13.

^{xx} NPRM, paragraph 30, p. 14.

^{xxi} NPRM, paragraph 38, p. 17.

^{xxii} NPRM, paragraph 36, p. 16.

^{xxiii} The Wireless Communications and Public Safety Act of 1999, PL 106-81, 113 Stat 1286 (1999) (codified at 47 U.S.C. §251(e)(3)).

^{xxiv} NPRM at paragraph 38.

^{xxv} Id. at p. 3.

^{xxvi} 47 U.S.C. §615.

^{xxvii} S. REP. 106-138, at 5 (1999).

^{xxviii} 47 U.S.C. §151.

^{xxix} NPRM at ¶76.

^{xxx} See, 47 U.S.C. 152(b).

^{xxxi} *In re Implementation of Local Competition Provisions in the Telecommunications Act of 1996 Inter-Carrier Comp. for ISP-bound Traffic*, 14 FCC Rcd. 3689 (1999). *See also*, *Bell Atl. Tel. Cos. v. FCC*, 206 F.3d 1, 5 (D.C. Cir. 2000) (“in a traditional circuit-switched network, the jurisdictional analysis is straightforward: a call is intrastate if, and only if, it originates and terminates in the same state.”).

^{xxxii} See, NPRM at ¶ 2 (“Nevertheless, we know that the technologies and commercial relationships that form the foundation of the 911 system are transitioning and, as a result, becoming increasingly interstate in nature”); *see also* NPRM at ¶¶ 10 *et seq* (discussing the transition to an IP-Based NG-911 network).

^{xxxiii} New and Emerging Technologies 911 Improvement Act of 2008 (“Net 911 Act”), PL 110-283, 122 Stat 2620 (2008).

^{xxxiv} Id. “Nothing in this section is intended to alter the authority of State commissions or other State or local agencies with jurisdiction over emergency communications, provided that the exercise of such authority is not inconsistent with Federal law or Commission requirements.”

^{xxxv} Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”), PL 111-260, 124 Stat 2751 (2010).

^{xxxvi} NPRM at paragraph 76, citing 47 U.S.C. §615(c)(g).

^{xxxvii} Id.

^{xxxviii} Id.

^{xxxix} NPRM at paragraph 80, citing 47 U.S.C. §154(i).

^{xi} Am. Library Ass'n. v. F.C.C., 406 F.3d 689, 691 (D.C. Cir. 2005).

^{xli} Connecting America: The National Broadband Plan (NBP), March 16, 2010, Section 16 (public safety communications), available at <http://www.broadband.gov/plan/>.

^{xlii} “Pursuant to the Next Generation 911 Advancement Act of 2012 (Pub. L. No. 112-96 (2012)), Legal and Regulatory Framework for Next Generation 911 Services, Report to Congress and Recommendations,” Feb. 22, 2013.

^{xliii} Pub.L. No. 112-96. See, Title VI, Subtitle E, Sections 6001 and 6509(3)(A) which together recognize state authority and collapse the definitions of basic 911, Enhanced 911 and NG911 into “911 service.”