

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

In the Matter of §
§
911 Call-Forwarding for Non-Service- § **PS Docket No. 08-51**
Initialized Phones §

INITIAL COMMENTS OF TEXAS 9-1-1 ENTITIES

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INITIAL COMMENTS OF TEXAS 9-1-1 ENTITIES

The Texas 9-1-1 Alliance,¹ the Texas Commission on State Emergency Communications,² and the Municipal Emergency Communication Districts Association³ (collectively, the “Texas 9-1-1 Entities”) respectfully submit the following initial comments in the Federal Communication Commission’s (the “Commission’s”) above-referenced proceeding seeking comment on whether the obligation to transmit 9-1-1 calls from Non-Service-Initialized (“NSI”) devices continues to serve an important public safety objective. The Commission also seeks comment on alternative approaches to addressing the issue of fraudulent 9-1-1 calls from NSI devices.⁴

¹ The Texas 9-1-1 Alliance is an interlocal cooperation entity composed of 25 Texas emergency communication districts with E9-1-1 service and related public safety responsibility for more than 60% of the population of Texas. These emergency communication districts were created pursuant to Texas Health and Safety Code Chapter 772 and are defined under Texas Health and Safety Code Section 771.001(3)(B).

² The Texas Commission on State Emergency Communications (“CSEC”) is a state agency created pursuant to Texas Health and Safety Code Chapter 771, and by statute is the state program authority on emergency communications. CSEC oversees and administers the Texas state 9-1-1 program under which 9-1-1 service is provided in 214 of Texas’ 254 counties, covering approximately two-thirds of the geography and one-fourth of the state’s population.

³ The Municipal Emergency Communication Districts Association (“MECDA”) is an association of 26 municipal emergency communication districts, as defined under Texas Health and Safety Code § 771.001(3)(A), that are located primarily in the Dallas-Fort Worth area.

⁴ *911 Call-Forwarding Requirements for Non-Service-Initialized Phones*, PS Docket No. 08-51, Notice of Proposed Rulemaking, FCC No. 14-186 (rel. Apr. 1, 2015) (“NPRM”) (available at <https://www.fcc.gov/document/fcc-seeks-comment-911-call-forwarding-requirements-nsi-phones>).

I. Preliminary Statement and Summary of Initial Comments

The issues related to the transmission of 9-1-1 calls from NSI devices admittedly present a difficult public policy issue. Because of the complex competing considerations, the Texas 9-1-1 Entities continue to evaluate the available NSI data in order to make the best possible recommendations to the Commission, while recognizing that there may be no absolutely perfect option. Specific data that the Texas 9-1-1 Entities could gather and validate in time for the initial comment deadline is included in these initial comments.

To date, the Commission has not expanded NSI obligations regarding 9-1-1 calls to newer technologies, such as interconnected Voice over Internet Protocol (“VoIP”) and text-to-9-1-1. The question now before the Commission is whether the Commission should go further and eliminate NSI obligations altogether, instead of selectively limiting its expansion as new technologies continue to emerge.

The majority of the Texas 9-1-1 Entities strongly believe that now is the time for the Commission to go further to eliminate NSI obligations from the Commission rules within a reasonable period, based on the record to be developed from this NPRM. This position is based in large part on the relatively high percentage of NSI 9-1-1 calls (roughly ranging from 8 to 18 percent), and a growing potential for increased consumer confusion regarding the ability to use NSI devices for 9-1-1 calls. Additionally, there may be superior alternatives to NSI obligations at least in some cases, such as the use of wireless lifeline programs, new service-initialized donation programs, or standardization and/or expansion of “grace periods” (as suggested by the Commission) for assisting domestic violence victims who have expressed concerns with eliminating the NSI obligations.

At least one 9-1-1 entity (whose jurisdiction covers a large geographic area near the US/Mexico border) believes that, notwithstanding the significant concerns regarding fraudulent NSI 9-1-1 calls coming from Mexico, the continuation of current NSI obligations may be the only reasonable alternative in some unique scenarios, such as for undocumented immigrants traveling into its region under less than optimal circumstances.⁵ All Texas 9-1-1 Entities have empathy for certain at-risk individuals with special needs that are perhaps being met via the current ability to dial 9-1-1 through a NSI device.

In order to respond to the Commission's questions in the NPRM, the Texas 9-1-1 Entities gathered sample data dating back to the beginning of 2013 for several different areas of Texas, based on 9-1-1 calls from the 911 NPA followed by seven digits. The data available shows that the percentage of NSI 9-1-1 calls in these geographic areas generally ranges from 8 to 18 percent of the total number of 9-1-1 calls. Based on the limited Computed Aided Dispatch ("CAD") event data that the Texas 9-1-1 Entities were able to gather to date, the number of legitimate NSI 9-1-1 calls appears to be perhaps in the 3% range.

The Commission's concerns that impending technological changes in wireless carrier networks will make the NSI call-forwarding rule less effective in protecting consumers are

⁵ For example, the Rio Grande Council of Governments ("RGCOG") provided the following information:

The RGCOG faces several challenges due to our proximity to the US/Mexico border as they relate to 9-1-1 services. NSI services are essential for undocumented immigrants and the economically disadvantaged who may rely on NSI during an emergency. For example, when undocumented immigrants call 9-1-1, they surrender, they are dehydrated, and they are hungry. ... The challenge is the amount of fraudulent 9-1-1 calls which originate from Mexico. These fraudulent 9-1-1 calls are time-consuming, thus exhausting valuable emergency resources which could be redirected to a "true" emergency. ... In closing, RGCOG 9-1-1 Call Takers expect the worst, due to being on the border and on the I-10 corridor. The RGCOG's vast open range of approximately 20,000 square miles, also known as the last frontier, any type of emergency can happen.

It should be noted that RGCOG supports its point with a specific recent example. *See Border Patrol Rescues One, Finds One Dead*, The Big Bend Gazette, Mar. 24, 2015 (available at <http://bigbendgazette.com/2015/03/24/border-patrol-rescues-one-finds-one-dead/>).

warranted. In fact, the Commission could be underestimating the increased potential to create confusion among these consumers regarding the expectation that NSI 9-1-1 calls will reach the intended Public Safety Answering Point (“PSAP”). As a result of the migration from legacy networks to LTE, in the not-too-distant future, older NSI handsets may no longer be technically capable of supporting 9-1-1 call-forwarding. For example, notwithstanding that Wireless Home Phone (“WHP”) devices may look like and be marketed in the same way as interconnected VoIP home phone adapter devices, the WHP devices may not have (or may not be perceived to have) a Commission NSI 9-1-1 rule requirement.

Because of concerns that consumers with service-initialized phones potentially could be at risk if they were to lose 9-1-1-capability immediately following a CMRS provider’s stoppage of service for non-payment, the Commission’s views on the potential need for standardization of existing wireless carrier “grace periods” are well taken. The Commission should consider whether such “grace periods” could potentially help address the concerns of domestic violence victims.

The Commission asks how 9-1-1 calls from service-initialized devices that may appear to PSAPs to be NSI calls may be affected in the event the Commission eliminates the NSI requirement. One way to reduce any potential negative effect is for the Commission to prohibit companies or Wi-Fi providers that are currently or may be planning to generally use NSI as a short-cut, and require the use of subscribed services in those types of situations.

II. The Data on NSI 9-1-1 Calls

A. On average, NSI 9-1-1 calls appear to be approximately 8% to 18% of total 9-1-1 calls

The Commission seeks comment and updated data regarding (i) the degree to which the issue of fraudulent calls from NSI devices has continued since the *2013 Public Notice* comments were filed, as well as any other data that will help clarify the extent of the problem, and (ii) the percentage of fraudulent 9-1-1 calls coming from particular types of NSI devices or subsets of NSI device users.⁶ The Texas 9-1-1 Entities collected and reviewed data dating back to the beginning of 2013 for several different geographic areas of Texas, covering an approximate population of 12.8 million people (which represents about half of the Texas population and about 4% of the United States population). In most cases, the data was gathered from the call tracking and reporting systems based on the 911 NPA followed by seven digits.⁷ The source call-tracking and reporting data showing each 911-XXX-XXXX is not provided as part of these initial comments, because of potential confidentiality concerns under either federal or state law that could still be associated with non-subscribers who may call 9-1-1 from NSI devices.

The Texas data shows the approximate percentage of NSI 9-1-1 calls in these areas generally ranges from 8 to 18 percent of the total number of 9-1-1 calls. As shown below, there were some variances among different jurisdictions. For example, the Cameron County Emergency Communication District, which has an approximate population of 419,000 people, had materially lower numbers of calls (but with an almost doubling upward trend each year). NSI calls in the El Paso Emergency Communication District, which has an approximate

⁶ NPRM at ¶¶14 and 15.

⁷ In other cases, such as for the Tarrant County 9-1-1 District, the ALI database queries were used to provide the estimate. This necessitated removing multiple queries on the same call to estimate the data.

population of 842,000, exceeded more than 20% in 2013 and 2014 and may exceed 20% again in 2015 (after data from the summer months is included).

The data for several individual Texas 9-1-1 entities is shown below:

Year	9-1-1 Entity	Population Served	NSI Calls	Percent
2013	Greater Harris County 9-1-1 Emergency Network	5 million	582,409	15.20%
2014	Greater Harris County 9-1-1 Emergency Network	5 million	609,816	14.60%
2015 (to date)	Greater Harris County 9-1-1 Emergency Network	5 million	229,448	13.10%
2013	Bexar Metro 9-1-1 Network District	2 million	165,001	11.61%
2014	Bexar Metro 9-1-1 Network District	2 million	176,696	11.11%
2015 (to date)	Bexar Metro 9-1-1 Network District	2 million	63,393	11.11%
2013	Tarrant County 9-1-1 Emergency Assistance District	2.2 million		9.87%
2014	Tarrant County 9-1-1 Emergency Assistance District	2.2 million		9.63%
2015 (to date)	Tarrant County 9-1-1 Emergency Assistance District	2.2 million		9.79%
2013	Capital Area Emergency Communication District	1.9 million	125,555	9.01%
2014	Capital Area Emergency Communication District	1.9 million	133,790	9.07%
2015 (to date)	Capital Area Emergency Communication District	1.9 million	39,106	7.87%
2013	El Paso Emergency Communication District	842,000	125,810	21.93%
2014	El Paso Emergency Communication District	842,000	128,174	22.75%
2015 (to date)	El Paso Emergency Communication District	842,000	38,782	14.21%

Year	9-1-1 Entity	Population Served	NSI Calls	Percent
2013	Cameron County Emergency Communication District	419,000	2,175	0.59%
2014	Cameron County Emergency Communication District	419,000	14,082	1.71%
2015 (to date)	Cameron County Emergency Communication District	419,000	21,147	5.75%
2013	Lubbock Emergency Communication District	315,000		12.66%
2014	Lubbock Emergency Communication District	315,000		11.58%
2015 (to date)	Lubbock Emergency Communication District	315,000		11.04%
2013	McLennan County Emergency Communication District	242,000	20,800	11.10%
2014	McLennan County Emergency Communication District	242,000	23,367	11.10%
2015 (to date)	McLennan County Emergency Communication District	242,000	7,735	11.10%

B. The approximate percentage of legitimate NSI 9-1-1 calls

The approximate percentage of NSI 9-1-1 calls that actually may be legitimate emergencies is estimated based on limited CAD data because CAD is less readily available to us. Available CAD event information from the El Paso Emergency Communications District regarding the number of NSI 9-1-1 calls that were dispatched during 2013, 2014 and 2015 (to date) were tabulated and the CAD event dispatch consistently comes in around 3% for each of those years, as follows:

El Paso 911	2013	2014	YTD 2015
Total 911 Calls	573,681	563,524	272,836
Total NSI Calls	125,810	128,174	38,782
NSI Percentage of Total	21.93%	22.75%	14.21%
Events Dispatched w/NSI info			
Medical	930	1015	253
Fire	65	62	11

Events Dispatched w/NSI info (cont'd)			
Law Enforcement (LE)	3068	3110	765
Total	4063	4187	1029
Dispatched/NSI Percent	3.2%	3.2%	2.6%

III. There Is Increased Potential for Consumer and PSAP Call-taker Confusion with Maintaining NSI Obligations Going Forward

In its NPRM, the Commission raises concerns that impending technological changes in carrier networks are likely to make the NSI call-forwarding rule less effective in protecting the public. The Commission could in fact be *underestimating* the increased potential to create confusion among these users. As carriers migrate their networks away from legacy CDMA technology to LTE, older NSI handsets may no longer be technically capable of supporting 9-1-1 call-forwarding, and retaining the NSI obligations, despite the technological shift, “is likely to create confusion among the very consumers that have retained older-generation NSI handsets for their 911 capability.”⁸

In addition to the growing potential for older technology NSI handsets, such as CDMA, to no longer have the ability to provide NSI 9-1-1 calls, and notwithstanding that WHP devices may appear to marketed and sold in a similar manner as interconnected VoIP home phone adapter devices, the WHP devices may not have (or may not be perceived to have) a Commission NSI 9-1-1 call obligation:

⁸ NPRM at ¶27.

Verizon Wireless Home Phone⁹

Use Existing Home Telephone

Wireless Home Phone is compatible with cordless home telephones. Keep your home phone number* or set up a new one-the choice is yours.



In addition, one could perhaps read the Commission's NSI 9-1-1 rule requirement not to apply to similar looking "Wi-Fi-only" devices that may provide Wi-Fi calling capability, but perhaps not provide 9-1-1 calling capability:

Calls to 911 over Wi-Fi

... Calls to 911 may be limited or unavailable if your phone is set to Wi-Fi only mode, or if there's a power outage or a disruption in your Wi-Fi service or Internet connection.

You should consider placing a warning label about the limitations of this service on your Project Fi device. View and print one here.¹⁰

At this particular point in time, the typical consumer simply does not understand the material NSI 9-1-1 differences under the Commission's rule requirements between similarly looking

⁹ <http://www.verizonwireless.com/home-office-solutions/wireless-home-phone/>.

¹⁰ <https://support.google.com/fi/answer/6174034?hl=en>.

devices and similarly sold services. This presents a growing significant challenge going forward. Similarly, a person providing a NSI device to someone or leaving an old CDMA wireless phone around the house or in an automobile unknowingly may potentially do more harm than good at the worst possible time.¹¹ However, whether a six-month period is too short to eliminate existing NSI obligations, given issues such as consumer education, is a reasonable point for further Commission consideration based on the record to be developed from this NPRM.

IV. Other Alternative Options to Address Legitimate NSI 9-1-1 Calls

The Commission also seeks comment on whether the increasing ubiquity and decreasing cost of service-initialized devices obviates the need for the NSI rule.¹² The availability of wireless lifeline service programs alternatives to mitigate the need for NSI rule requirements in

¹¹ The Commission would not be the first to take such type of action based on similar changed circumstances and potential for adverse consequences and harm since the original action. *See, e.g.*, California Public Utilities Code Section 2883:

(a) (1) The Legislature finds and declares all of the following:

(A) As originally enacted, Section 2883 required local telephone corporations to provide a residential telephone connection with no customer account attached, also known as a warm line, access to “911” emergency service. This section took effect in 1995 when basic local exchange telephone service was provided exclusively by incumbent wireline providers operating within their franchise territories. Local exchange competition was nonexistent and wireless telephones were expensive and not in widespread use.

(B) At that time, the number of warm lines was very small. The practice of leaving warm lines in place continued the availability of “911” emergency service upon disconnection and permitted new residential service orders to be completed with minimum cost and delay.

(C) In recent years, the providers of warm line service have lost a significant percentage of their customer base to competitors. Today, the number of warm lines in California has increased in proportion to the loss of wireline customers. An estimated 2,000,000 warm lines exist today and that number continues to grow.

(D) Rather than being converted to new active service accounts, many warm lines remain in place indefinitely, even when customers switch to other voice carriers that provide “911” emergency service access. As warm lines age, deterioration can create shorts in these lines that trigger “911” calls, also known as phantom “911” calls because there is no person making the call.

(E) Responding to phantom “911” calls places a drain on public safety resources including increased costs for public safety responders. In addition, the state pays providers on a monthly basis, based on volume, to maintain number and location records in the state “911” database, including the records for increasing numbers of warm lines.

(F) The cost to local telephone companies to energize and maintain warm lines is the same as for active service accounts. Energy provided to warm lines at residences where access to “911” emergency service is being obtained through a different provider is a waste of limited natural resources.

(2) It is the intent of the Legislature to amend Section 2883 in a manner that continues to provide a public safety net in a competitive telecommunications market, eliminates phantom “911” calls, conserves energy for productive uses, and limits costs to the state, local governments, and local telephone corporations.

¹² NPRM at ¶19.

at least some instances appears to be a matter that is relatively undisputed.¹³ However, domestic violence victims groups have presented information that existing wireless lifeline programs provide insufficient options in their particular circumstances.¹⁴

Because of potential concern that consumers with service-initialized phones could be at risk if they were to lose 9-1-1-capability immediately following a CMRS provider's stoppage of service for non-payment or expiration of a term contract, the Commission asks whether it would be in the public interest to require all CMRS providers to continue to forward calls to 9-1-1 from

¹³ *Cf., Free Government Cell Phones in Texas*

Luckily, you can get a free cell phone from the government to help you get in contact with employers, and to simply have for emergencies and other important calls. That's right, the Lifeline phone service program will help let you get a free cell phone and free minutes from several vendors in your state:

Free Cell Phone Providers in Texas:

Here's a list of all the Lifeline Assistance free government cell phones in Texas. They all offer different plans with different numbers of minutes, different refill options, and serve different geographic areas. So click through them all and find the plan that's best for you.

[Access Wireless](#)

[Assurance Wireless](#)

[Blue Jay Wireless](#)

[Budget Mobile](#)

[enTouch Wireless](#)

[Life Wireless](#)

[Q Link Wireless](#)

[Reachout Wireless](#)

[Safelink Wireless](#)

[StandUp Wireless](#)

[Tag Mobile](#)

[Terracom](#)

[True Wireless](#)

(available at <http://www.freegovernmentcellphones.net/states/texas-government-cell-phone-providers>).

¹⁴ See National Network to End Domestic Violence Initial Comments (filed June 3, 2015) at p. 1. ("In many cases, abusers will destroy victim's phones, discontinue paying the phone bill or refuse to replenish minutes, or monitor their phones with spyware – monitoring software – in an effort to control and isolate the victim and prevent them from reaching out for help. NSI devices offer survivors another option. One Illinois advocate explained, 'I give the phones out and suggest that they keep the phone as a backup plan in case the abuser takes their regular cell phone.' Survivors can hide more than one NSI device from the abuser, and because it is an NSI device, they don't have to worry about paying a service contract.

such devices for a certain “grace period” following stoppage of service.¹⁵ Currently, at least some wireless carriers appear to provide a “grace period” between being a full wireless subscriber and being in NSI 9-1-1 status:

What happens if I use my account balance before my account expiration date?

You won't be able make or receive calls, send text or picture messages, or access paid portions of the mobile web until you top-up, but your account expiration date will not change. You'll still be able to receive voicemail and text messages, dial *611 or 800-CRICKET, top-up your account, and dial 911 for emergency services.

What happens when I reach my account expiration date?

If you reach your expiration date before you top-up, your account will expire. Any balance remaining on your account will be forfeited. You won't be able make or receive calls, send text or pix, or access paid portions of the mobile web until you top-up. You'll still be able to dial *611 or 1-800-CRICKET, top-up your account, and dial 911 for emergency services. If you don't top-up within 60 days, your account will be canceled and you will lose your phone number.¹⁶

Increased standardization regarding such “grace periods” may lessen the perceived need for extending NSI obligations, especially if “grace periods” are not currently available from some wireless carriers. Moreover, such “grace period” options may be potential additional alternatives to NSI rule requirements for certain special consumers that may be making legitimate NSI 9-1-1 calls, such as domestic violence victims who may need to maintain special anonymity, or poorer at-risk population who may view themselves as having limited options other than utilizing a NSI device. Since CTIA has a Consumer Code for Wireless Service, it is reasonable to ask why a standard 60-day grace period is not currently a part of that Code, in lieu of necessitating that the Commission consider mandating a standard 60-day “grace period.” As such, the Commission’s views on the potential for “grace period” standardization are well taken, and such standardization

¹⁵ NPRM at ¶35.

¹⁶ <https://www.cricketworkless.com/o/support/plans-and-features/cricket-paygo/common-questions.html>.

should also be considered as a potential option for certain at-risk consumers. In addition, once a standardized “grace period” is established, the resulting information should be broadly shared with public safety to ensure potential for optimal call-taker training as appropriate.

The Commission also seeks comment on (i) how 9-1-1 calls from service-initialized devices that may appear to be NSI calls to the call-taker may be affected in the event the Commission were to eliminate the NSI requirement, (ii) whether this is an extensive issue of concern, and (iii) under what specific circumstances would a service-initialized device nevertheless appear to a CMRS network as an NSI device. To some extent, the question is difficult to address, because the PSAP may only see the 9-1-1 call as being NSI because of the 911-XXX-XXXX. For example, the Texas 9-1-1 Entities have experienced a few situations where a service-initialized device may appear to be a NSI 9-1-1 call in the receiving PSAP if the call goes over another wireless carrier’s network where the subscriber’s wireless carrier has cell towers but the carrier’s network is temporarily unavailable.¹⁷

Another potential NSI situation that has not yet been seen, but that may seem likely to happen based on carrier website 9-1-1 terms and conditions, may involve certain “Wi-Fi only” providers that have not established relationships with a wireless carrier. For example, compare the website 9-1-1 terms and conditions of Republic Wireless¹⁸ who generally send any 9-1-1 calls over the CMRS network instead of over Wi-Fi, with the website 9-1-1 terms and conditions of Freewheel,¹⁹ who appears to generally send Wi-Fi 9-1-1 calls to a third-party call center if Wi-

¹⁷ *Cf.*, Life Protect 24/7 (available at <http://www.lifeprotect24-7.com/products/>).

¹⁸ “Republic will always try to route your emergency call via cellular first (where available), as it includes your actual location, rather than a predetermined address.” (available at <https://community.republicwireless.com/docs/DOC-1681>).

¹⁹ “You must have sufficient WiFi connectivity to place emergency calls using the Service; if you attempt to place a call when you do not have WiFi connectivity, or have only a weak WiFi signal, the call will not be completed through the service. In these instances, attempted 911 calls may be completed through an available cellular network,

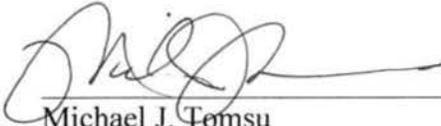
Fi is first available, and if Wi-Fi is not available, then “perhaps” (based on their explanation) as NSI wireless 9-1-1 calls to PSAPs. Companies or Wi-Fi providers should not be allowed to use NSI as a short-cut to avoid better and more 9-1-1 compliant solutions for callers in distress and should instead be using subscribed solutions.

V. Conclusion

The Texas 9-1-1 Entities appreciate the opportunity to provide these initial comments on these important matters, and respectfully request that the Commission take action on these matters consistent with these reply comments.

but Cablevision cannot guarantee that such calls will be completed and any calls that complete through the cellular network will neither provide call-back nor specific location information to emergency call takers.” (*available at <https://freewheel.com/911>*).

Respectfully submitted,



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