

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Use of N11 Codes and Other) CC Docket No. 92-105
Abbreviated Dialing Arrangements)

COMMENTS OF NENA
ON MARITEL PETITION

The National Emergency Number Association ("NENA") hereby comments on the Petition for Reconsideration or Clarification of the Fourth Report and Order in the captioned proceeding, filed September 28, 2000, by Maritel. ("Maritel Petition")¹ The Fourth Report and Order in CC Docket 92-105, FCC 00-327, released August 29, 2000 ("Order"), was accompanied by a Third Notice of Proposed Rulemaking in the same docket and a Notice of Proposed Rulemaking in a separate docket, WT 00-110, dealing with implementation of the Wireless Communications and Public Safety Act of 1999, P.L. 106-81, enacted October 26, 1999, 113 Stat. 1286 ("911 Act") These comments are confined to the Maritel Petition, which seeks reconsideration of the Order. NENA is not addressing, at this time, the related comments, dated October 16, 2000, filed by Maritel in WT Docket 00-110.

NENA respectfully submits that the FCC may not grant the relief sought by Maritel. Section 3(a) of the 911 Act is clear on its face when it creates a new paragraph (3) of Section 251(e) of the Communications Act, 47 U.S.C. §251(e)(3):

The Commission . . . shall designate 9-1-1 as the universal emergency telephone number *within the United States* for reporting an emergency to appropriate authorities and

¹ Notice of receipt of the Maritel Petition was published in the Federal Register of October 30, 2000, 65 Fed.Reg. 64703-04.

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requesting assistance. The designation shall apply to both wireline and wireless telephone service. (emphasis supplied)

As a provider of VHF public coast radio station services licensed under Part 80 of the FCC's rules, Maritel acknowledges its status as a commercial provider of wireless telephony. Finding no definition in the 911 Act for "wireless telephone service," Maritel turns to the Act's description of "wireless carrier" as

a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless 9-1-1 service.²

Since the FCC earlier had exempted Part 80 licensees from the wireless 9-1-1 service rules at Section 20.18, Maritel asserts, Congress must also have intended to exempt these licensees from receiving or using 9-1-1 as a calling code for marine emergencies. (Maritel Petition, 3-4)

Maritel's attempt to substitute the definition of wireless carrier for the term "wireless telephone service" in Section 3(a) of the 911 Act is not persuasive. The section does not use the term, wireless carrier, at all. Significantly, however, Congress ordained the universal use of 9-1-1 "within the United States for reporting an emergency." "Within the United States" must be read to include inland waterways and coastal waters out to the limit of national jurisdiction.

The 911 Act's reference to "wireless carrier" is not intended to define "wireless telephone service." Instead, it is meant to describe the recipient of "parity of protection" in Section 4. There, the use of FCC regulatory requirements as a distinction makes perfect sense. Those carriers compelled to provide wireless 9-1-1 service are precisely the ones who should receive limited liability protection for that mandated undertaking—measured by the comparable safeguards afforded wireline carriers in state law.

² 911 Act, Section 6(4).

We are not challenging, at this time, Maritel's exemption from the wireless 9-1-1 regulations at Section 20.18. But that exclusion does not and cannot excuse maritime wireless telephone services from complying with Section 3(a) of the 911 Act.

Maritel argues alternatively that the Commission should "interpret" the statute to exclude Part 80 licensees, relying on the deference afforded the agency under *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). No such deference is warranted, however, where Congress "has directly spoken to the precise question at issue."³ Congress declared, straightforwardly, that the designation of 9-1-1 as the universal emergency telephone number "shall apply to both wireline and wireless telephone service." Maritel operates a wireless telephone service. Therefore, Maritel and other maritime wireless telephone services must use 9-1-1 for emergency calls.

This is not a case where literal reading produces the mischief of unintended consequences. Congress' purpose was to "facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs." [911 Act, Section 2(b)] A key aspect of that desired integration and ubiquity is the use of a common and universal number to report emergencies.

The number to be used is distinct from the question of how to respond to the call. NENA does not disagree with Maritel's assessment (Petition, 5) that the U.S. Coast Guard's existing Search and Rescue Coordination Centers are the preferred respondents in most marine emergencies. If so, then let the dialing or other signaling of 9-1-1 over public coast station

³ 467 U.S. at 842. ("If the intent of Congress is clear, that is the end of the matter.")

radios be a summons for Coast Guard help. The Search and Rescue Coordination Centers can and should function as “PSAPs” for maritime incidents.

Congress left time for “appropriate transition periods” in Section 3 of the 911 Act. While NENA generally does not believe that long transitions are needed for cellular and PCS carriers in most communities to adapt to 9-1-1 dialing, it might be appropriate for the FCC to take the lead in working with the Coast Guard on whatever adaptations are needed for 9-1-1 to be usable in reaching Search and Rescue Coordination Centers from marine phones. The process could and should involve emergency communications organizations such as NENA and APCO, as well as Maritel and other interested marine radio licensees.

NENA hopes to be able to supply additional information about current PSAP receipt of cellular, PCS or other wireless calls originating from boats or from other mid-river or offshore locations.⁴ Perhaps current methods of answering these calls already are making use of Coast Guard, harbor police/fire and similar emergency response organizations.

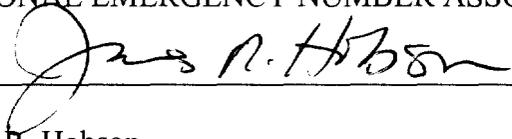
To summarize: NENA suggests that the manifest Congressional intent to make 9-1-1 the universal emergency number within the United States can be honored without overly burdening Part 80 licensees or other mobile providers who, prior to the adoption of the 911 Act, created emergency calling systems now requiring integration under the new statute. In our view, the law

⁴ NENA has no intention of inhibiting the use or effectiveness of the Global Maritime Distress and Safety System (“GMDSS”), discussed in the Maritel Petition at 6. We understand GMDSS to be intended chiefly for larger, ocean-going vessels, perhaps including Great Lakes transports. That system does not necessarily meet the localized emergency response needs generated by cellular, PCS or public coast station radios.

requires 9-1-1 to be used for maritime emergencies in the United States, and we will work collaboratively to implement that mandate.

Respectfully submitted,

NATIONAL EMERGENCY NUMBER ASSOCIATION

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ITS ATTORNEYS

Certificate of Service

I certify that I served today, by U.S. mail, a copy of the foregoing "Comments of NENA" upon Maritel as follows:

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November 14, 2000



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