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

In the Matter of	)	
	)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	)	CC Docket 94-102
	)	
Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; et al.	)	IB Docket 99-67

REPLY COMMENTS OF NENA AND NASNA

The National Emergency Number Association ("NENA") and the National Association of State Nine One One Administrators ("NASNA") submit this reply to the comments of others in the Second Further Notice ("SFN") in the captioned proceeding.[1] The longest submission in the opening round comes from Ad Hoc, which now "supports the Commission's decision to leave the regulation of MLTS operators' E911 responsibilities to state and local authorities." (Comments, 3)

Seven years ago, Ad Hoc joined with NENA, NASNA, APCO and the MultiMedia Telecommunications Association (now part of TIA) to propose a settlement of differences between and among MLTS manufacturers, distributors, owners and users on the one hand and public safety communicators ("PSCs") on the other hand. The proposal stated, among additional points:

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[1] On the FCC's Electronic Comment Filing System, comments have been posted from Ad Hoc Telecommunications Users Committee ("Ad Hoc"), APCO, CTIA, Globalstar, NTCA, TIA and Verizon (on behalf of its wire telephone companies).

> Both PSCs and MLTS providers and users recognized potential benefits in FCC action to address MLTS/E9-1-1 issues, but from different perspectives. For PSCs, calls from telephone stations served by MLTS should result in Automatic Number Identification (ALI) and Automatic Location Information (ALI) that approximates the information given to Public Safety Answering Points (PSAPs) and emergency responders by single-line residential and business telephone service. Only the FCC is able to order such an outcome nationally. For MLTS providers and users, whatever reasonable approximations of ANI and ALI -- or their functional alternatives -- are adopted by the FCC, the solution should be national and should preclude inconsistent state and local regulation.[2]

We continue to support the conclusion reached with Ad Hoc in 1997: that "only the FCC is able to order such an outcome nationally." Increasingly, over the years, we have come to recognize the economic virtues of a national solution. Thus, we have proposed revisions to Parts 68 and 64 of the FCC rules that, we believe, will introduce uniform guidance for manufacturers, distributors, owners, users and PSAPs, and for states that seek to adopt our Model Legislation. As indicated in our opening comments (March 26, 2004, at 6-7), the fashioning of a regulation such as proposed Section 68.319(c) and (d) should lead to more cost-effective solutions to the identification and location of MLTS callers to 9-1-1:

> [W]e believe that assertion of jurisdiction over [MLTS] equipment operators or users may not be necessary. Rather, the availability and affordability of MLTS E911 equipment will lead operators and users voluntarily to conclude that the correct solution for public safety is also a sound business decision.

While Ad Hoc has changed its position since 1997 on the potential benefits of a national solution, there may be less distance in that shift than first appears. Ad Hoc's principal concern is with any FCC attempt to exert ancillary authority over owners or operators of MLTS equipment,

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[2] "Public Safety-MLTS Industry Consensus, MLTS-E911 Issues, CC Docket 94-102," appended to letter to FCC Secretary from counsel for Ad Hoc, dated April 1, 1997, emphasis added.

as distinct from manufacturers. Thus, Ad Hoc's chief critique of an ex parte legal analysis from PSCs (Comments, 11, note 40) attacks not the assertion of jurisdiction over manufacturers but the extrapolation of that authority to cover persons who purchase MLTS equipment from manufacturers. (Comments, 12-13)

A closer reading of the PSC legal analysis, which we reiterated in our March 26th comments, shows that it is grounded chiefly in jurisdiction over manufacturers.[3] Because it recognizes that authority over MLTS customers is less clear, the PSC analysis (*Id*., 5) suggests:

"Even if the FCC were reluctant to extend its jurisdiction to persons neither carriers nor manufacturers, the agency understands the leverage available through regulation of the basic manufactured product. Even this can be accomplished indirectly, to wit:

> [A]lthough our Part 68 rules appear to establish elaborate requirements for terminal equipment manufacturers, the fundamental obligation that the rules impose is on the local exchange carriers -- they must allow Part 68-compliant equipment to be connected freely to their networks. [footnote omitted] . . .[B]ut equipment that is not Part 68-registered is not freely connectable to the public switched telephone network and thus has limited marketability.[4]

If the FCC's reasoning is sound, and we believe it is, we should expect that guidance to manufacturers and telephone companies about the capabilities and connectability of MLTS equipment will yield economies of scale and robustness of features. The equipment will become cheaper to buy and easier to operate.

Ad Hoc's second concern is its belief that occupational safety and health authorities -- federal or state -- are better suited to deal with workplace emergencies than is the FCC. As we observed earlier (Comments, 12), the two agency interests are not mutually exclusive. Thus far,

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[3] "Legal Basis for MLTS Regulation," transmitted by letter to FCC Secretary by Robert M. Gurss of APCO, November 7, 2003, pages 4-5.

[4] 2000 Biennial Review of Part 68, 15 FCC Rcd 24944 (2000), ¶7.

OSHA rules have not delved very far, if at all, into emergency communications. And the FCC, for its part, makes no attempt to regulate evacuation of workplaces in the event of fire or other catastrophe. The two agencies could, if they chose, formulate a memorandum of understanding about their respective responsibilities. We see no reason, however, to suspend FCC action on 9-1-1 compatibility for MLTS that has been in the works for 10 years.

We appreciate TIA's support (Comments, 6) for our Part 64 proposals and recognize the validity of its critique of variations in PSTN signaling capabilities (Comments, 3). Regrettably, however, TIA omits to mention our Part 68 suggestions. We believe those suggestions, if adopted, would go a long toward meeting the following complaint (Comments, 2):

> However, TIA believes that a lack of uniformity and limited technical depth reflected in some state regulations for E911 handling by MLTS systems presents a serious product design and development cost barrier for equipment manufacturers and is troubling to system operators as well.

We agree, and our Part 68 proposals are aimed at introducing uniformity arising from thorough technical scrutiny, a process in which TIA, through MMTA, participated.

Comments of Verizon and NTCA

We are surprised at the belated criticism of the NENA MLTS proposals and the general misunderstandings of the proposals in the Comments of Verizon. At the outset, it should be noted that Deborah Prather of Verizon Midwest participated, along with Norine Lewis of Pacific Bell Telephone, on the NENA Private Switch Study Group that produced the proposals.[5] If these ILEC representatives dissented from the findings and recommendations of the Study Group, those differences are not evident in either the recommendations for amending Parts 64 and 68 or

[5] Exhibit B, "MLTS Proposal of NENA and APCO," July 24, 2001, CC Docket 94-102.

in the recommended "Model Legislation, Enhanced 9-1-1 for Multi-line Telephone Systems." (Exhibits A and C, respectively)

Verizon urges the FCC not to adopt additional requirements for MLTS E9-1-1, then proceeds to confuse the Model Legislation at Exhibit C of the NENA and APCO proposals with the recommendations for FCC action at Exhibit A. For example, Verizon criticizes (Comments, 6) the Model Legislation for its references to ISDN PRI. But those references were made within the context of state legislation, not federal, and would fall within the purview of state regulatory commissions. Verizon is experienced in working with such commissions and the state legislatures that write their governing laws. Its worries about the cost-effectiveness of multiple industry standards and about LEC cost recovery would, under the cited Model Legislation, be properly addressed to the states.

Verizon and NTCA fail to come to grips with the complaint of the MLTS owners that present methods for ANI and ALI available from most LECs are too costly, especially for small business users. If both the wire carriers and the MLTS users persist in their mutual claims of costs that are not justified by benefits, nothing will happen.

NENA and NASNA and APCO are trying to encourage action through uniformity of regulation and standardization of methodologies that will cut costs to both sides. If Verizon wants to reduce its exposure to a potential proliferation of "accepted industry standards," it knows how to make those arguments in the pertinent standards bodies. Meanwhile, there is no reason (Comments, 4) that the available options should require the purchase of inward DID numbers for each station behind a PBX. (Comments of NENA and NASNA, March 26, 2004, Attachment A)

Verizon is wrong in asserting (Comments, 9) that NENA and APCO's Part 64 proposals advocate direct access to LEC E9-1-1 databases. The citation to ¶117 of the SFN is mystifying because that paragraph does not discuss the subject. Our proposed Section 64.2102(b) simply calls for "a method for the MLTS Operator to process 9-1-1 database records to the 9-1-1 Database Provider for the local public 9-1-1 system."[6]

As with our other Part 64 and 68 recommendations, this is written as a performance objective, without specifying how the processing interaction is to occur. It is not helpful for either the FCC or Verizon to refer to these performance standards as "vague." Our recommendations were written as performance standards deliberately, so that the parties and standards bodies could design the details, with the oversight of the FCC.

Verizon had it right when it wrote, earlier in this docket, in the context of emerging services:

> [T]he Commission should consider not only technical feasibility, but also the cost to all parties -- service providers, PSAPs and infrastructure providers.[7]

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[6] MLTS Proposal, note 5 *supra*, Exhibit C.

[7] Reply Comments, March 25, 2003, 5.

We know that MLTS E9-1-1 solutions are technically feasible. It remains for the FCC to lead the way in making them affordable to all, including small business users and rural LECs.

Respectfully submitted,

NENA AND NASNA

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