

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

In the Matter of

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**Implementation of the NET 911
Improvement Act of 2008**

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WC Docket No. 08-171

**COMMENTS OF THE TEXAS 9-1-1 ALLIANCE AND
THE TEXAS COMMISSION ON STATE EMERGENCY COMMUNICATIONS**

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TEXAS COMMISSION ON STATE
EMERGENCY COMMUNICATIONS

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The Texas 9-1-1 Alliance¹ and the Texas Commission on State Emergency Communications,² collectively the “Texas 9-1-1 Agencies,” submit these initial comments to the Federal Communications Commission (“Commission” or “FCC”) in response to the Notice of Proposed Rulemaking (“NPRM”) released August 25, 2008, and published in the Federal Register on August 28, 2008.³ In the NPRM, the FCC seeks comments focusing on the one particular obligation of the New and Emerging Technologies 911 Improvement Act of 2008 (“NET 911 Act”) requiring the Commission to adopt regulations ensuring, and related to, the rights to access capabilities needed for 9-1-1 emergency services obligations from any entity with ownership or control over such capabilities.

I.

Preliminary Statement and Summary of Comments

The Texas 9-1-1 Agencies agree that the reasonable and non-discriminatory access to capabilities needed for 9-1-1 service provisioning must be available under reasonable terms and conditions to providers for the current 9-1-1 systems and for the future Next Generation 9-1-1 (“NG9-1-1”) systems. The NET 911 Act focuses on access to capabilities by Interconnected VoIP providers. As services converge and NG911 is deployed, rules on requirements and on access to capabilities may need to address more than Interconnected VoIP or wireless and may depend more on functional provisioning and public interest necessity obligations than strict or otherwise applicable definitions.

¹ The Texas 9-1-1 Alliance is an interlocal cooperation act entity composed of the Texas Health and Safety Code Chapter 772 Emergency Communication Districts with E9-1-1 service public safety responsibility for approximately 53% of the population of Texas. These districts were created pursuant to Texas Health and Safety Code Chapter 772.

² The Texas Commission on State Emergency Communications is a state agency created pursuant to Texas Health and Safety Code Chapter 771, and is the State of Texas’ authority via statute for 9-1-1 emergency communications.

³ Implementation of NET 911 Improvement Act of 2008, 73 Fed. Reg. 50741 (Aug. 28, 2008).

In order to provide reasonable and non-discriminatory access to needed capabilities, the Texas 9-1-1 Agencies believe that any adopted rule should define a list of the known core capabilities needed currently (e.g., access to the MSAG validation information, etc.) as well as establish a rebuttable presumption that the same rates, terms, and conditions available to other similar carriers is the appropriate general benchmark. Any adopted rule should also clarify or establish that 9-1-1 terms and conditions should be publicly available information to determine and compare reasonableness.

Lastly, the rule should establish and clarify a reasonable arbitration dispute resolution process as differences on applicability and special factual circumstances may likely arise that will need prompt dispute resolution. The Commission should consider the use of an arbitration dispute resolution process similar to the existing federal and state public utility commission cooperation and procedures for arbitrations under Sections 251 and 252 of the Telecommunications Act of 1996 for interconnection, but with the addition of appropriate adaptations for 9-1-1 public safety and public interest participation. To the extent that issues associated with capabilities for interconnection to 9-1-1 systems are similar to other local exchange interconnection issues for 9-1-1 systems, for example, the location of the interconnection points, access or modifications of legacy systems, etc., the experiences of state public utility commissions and local and state 9-1-1 authorities may be most helpful.

As far as reasonable access to capabilities, the Texas 9-1-1 Agencies believe that it is neither technically nor operationally reasonable to allocate individual p-ANI pools for each and every Interconnected VoIP Provider. P-ANI pools for Interconnected VoIP should be available only for those Interconnected VoIP Providers with their own switch and those providing VoIP Positioning Provider (“VPC”) functions associated with and used for the 9-1-1 call routing and

display – just as pure wireless resellers do not have access capabilities to their own p-ANI pools for 9-1-1 routing and display. Technical restriction on access to p-ANI capabilities by Interconnected VoIP Providers is reasonable and consistent with the NET 911 Act requirement to take into account technical differences between Interconnected VoIP service and wireless services. The Texas 9-1-1 Agencies request the FCC to recognize that the same specific p-ANIs cannot reasonably be used as Emergency Services Routing Keys (“ESRKs”) for wireless 9-1-1 and Emergency Services Query Keys (“ESQKs”) for Interconnected VoIP. This point is vital and critical in the protection of public safety. In order to achieve wireline equivalency using the NENA i2 standard for Interconnected VoIP, ESQKs are necessarily assigned to represent specific Emergency Service Numbers (“ESNs”) that perform proper routing and call processing features such as selective call-transfer thereby adhering to reasonable call-taker training and dispatching protocols.

The functional nature and need of the 9-1-1 call and whether the device can be used in a mobile manner must currently be the most important criteria to determine the applicable minimum 9-1-1 call delivery requirements and protocols. Definitional issues for other purposes on whether a service is more CMRS wireless, wireless broadband, wireless VoIP, Interconnected VoIP, Internet Protocol (“IP”), IP over GSM, local exchange service, private network service, etc. cannot be excuses or justifications for not doing what is needed and most appropriate for public safety and consumers. Currently for 9-1-1 emergency call delivery purposes, a call from a handset that can potentially be used in a mobile manner must be distinguished and delivered technically differently from a device that is not capable of being used in a mobile manner. The wireless 9-1-1 requirements of 47 C.F.R. 20.18 should be the minimum requirements when a dual mode handset that can be used in a mobile manner is involved, but the Interconnected VoIP

9-1-1 requirements of 47 C.F.R. 9.5 should be the minimum service level requirements when a caller uses a single mode Wi-Fi home router and handset phone with a telephone number and service connection that cannot be used in a mobile manner. Investigating improvements for additional last known wireless cell site location routing could be demonstrated to be useful in some mobile handset situations and there is an immediate need to further consider certain converged services in a separate NPRM in the near future. However, the original T-Mobile filing, public notice, and the specifics in the record in this NPRM support the Commission summarily rejecting any approval of a T-Mobile waiver or clarification request for services from a non-mobile phone for the second generation T-Mobile TalkForever Wi-Fi home router service that enables a separate, single-mode phone with a separate telephone number and service connection.

II.

Capabilities; Ownership, Control, Availability, and Right of Access; Rates, Terms, and Conditions

The FCC asks to what extent is it appropriate for the Commission to define “capabilities” in this rulemaking, or whether it is appropriate to determine what constitutes “capabilities” on a case-by-case basis.⁴ The Texas 9-1-1 Agencies, as noted above, believe any adopted rule should list certain core elements of the current 9-1-1 system. The list of core elements needs to include access to the Master Street Address Guide information or its equivalent for address validation. For example, as to those carriers with Certificated Telecommunications Utility (“CTU”) status in Texas, the rules of the Public Utility Commission of Texas include the following:

PUC Subst. Rule 26.433(f)(2)(A):

A 9-1-1 database management services provider operating in the state of Texas shall:

⁴ NPRM at ¶ 6.

(A) Provide copies of the MSAG(s) for the 9-1-1 administrative entities it serves to any CTU authorized to provide local exchange service within the jurisdiction of those 9-1-1 administrative entities. The 9-1-1 database management services provider shall make all updates to the MSAG electronically available to CTUs within 24 hours of update by the 9-1-1 administrative entity.

PUC Subst. Rule 26.272(e)(B)(ii)(IV):

. . . Interconnecting CTUs shall be allowed access to the ALI database by the appropriate CTU for verification purposes. The local 9-1-1 entity shall provide non-discriminatory access to the Master Street Address Guide.⁵

Including comparable specific item requirements for reasonable and non-discriminatory access capabilities in any new FCC rule may similarly be helpful.

The new rule clarifying core access capabilities would also assist in clarifying requirements that these core capabilities must be used in an operationally and technically appropriate manner to provide 9-1-1 service. For example, clarifying in the new Commission rule that access to the MSAG content and daily updates or access to the Validation Database (“VDB”) and the Emergency Services Zone Routing Database (“ERDB”) must be made available also clarifies the obligations to use these capabilities for address validation in the appropriate manner.

The further deployment of NG9-1-1 systems may also raise new capability and obligation requirements. For example, new network security requirements associated with the future deployment of NG9-1-1 systems may need to be addressed. Since these elements and capabilities will change and evolve over time, rules will need further modifications or interpretations in the future for NG9-1-1 systems.

The Texas 9-1-1 Agencies also believe that any adopted rule should allow for a dispute resolution process similar to the existing federal and state public utility commission cooperation and procedures for arbitrations under Sections 251 and 252 for interconnection with appropriate

⁵ Available at www.puc.state.tx.us.

adaptations for 9-1-1 public safety and public interest participation. The Commission may also want to consider its other authority under 251(h) of the Telecommunications Act of 1996 to deem any Local Exchange Company (“LEC”) acting as a 9-1-1 service provider as an Incumbent Local Exchange Company (“ILEC”) for purposes of interconnection to the 9-1-1 system.

As noted in the NPRM⁶, Vonage listed many reasonable items for access capabilities in its July 10, 2008, Ex Parte filing. The Texas 9-1-1 Agencies, however, believe it is not technically and operationally reasonable to use individual p-ANI pools for each and every Interconnected VoIP Provider. As the Texas 9-1-1 Alliance indicated in a November 23, 2005 Ex Parte filing in WC Docket No. 95-196, p-ANI pools for Interconnected VoIP should be available only for those Interconnected VoIP Providers with their own switch and VoIP Positioning Provider (“VPC”) functions associated with and used for the 9-1-1 call routing and display – just as pure wireless resellers do not have access capabilities for their own p-ANI pools for 9-1-1 routing and display. Such technical and operation restrictions on access to p-ANIs by Interconnected VoIP Providers are reasonable and consistent with the NET 911 Act requirement to take into account technical differences between Interconnected VoIP service and wireless services.

Critical for public safety protection is that the Commission incorporate in any new rules reasonable technical differences between p-ANIs used for wireless, ESRKs, and p-ANIs used for Interconnected VoIP, ESQKs. Generally, the same specific p-ANI cannot reasonably be used as both an ESRK wireless 9-1-1 and an ESQK for Interconnected VoIP 9-1-1. In order to achieve wireline equivalency using the NENA i2 standard for Interconnected VoIP, ESQKs are necessarily assigned to represent specific ESNs that perform proper routing and call processing features such as selective call-transfer thereby adhering to reasonable call-taker training and

⁶ NPRM at ¶ 6 and footnote 11.

dispatching protocols. As examples, it should be noted that (1) 9-1-1 calls may route to a different Public Safety Answering Point (“PSAP”) if an ESRK is used instead of a proper ESQK for Interconnected VoIP; (2) 9-1-1 call transfers will not operate optimally with proper functions if an ESRK is used instead of an ESQK for Interconnected VoIP; (3) the ALI system steering protocols may need to be different between ESRKs and ESQKs; (4) if an ESRK is used instead of the ESQK the equivalent wireline English Language Translation (“ELTS”) will not be displayed; (5) reasonable dispatching protocol differences may provide for dispatching for hang-up 9-1-1 calls for wireline and Interconnected VoIP with validated addresses but may not provide for dispatching for hang-up 9-1-1 calls for wireless 9-1-1 calls in the same manner; and (6) Computer Aided Dispatch (“CAD”) systems, which may not be easily modifiable, may be set up differently for wireline and Interconnected VoIP 9-1-1 calls that provide a validated address and for wireless 9-1-1 calls that provide a latitude and longitude. The NENA i2 standard was developed to accommodate 9-1-1 for Interconnected VoIP because the already existing wireless Phase II solution did not work for fixed and nomadic VoIP. For these and other reasons, the NET 911 Act is not limited to only wireless 9-1-1 access capabilities, and wireless capabilities alone cannot reasonably be expected to meet the 9-1-1 requirements for Interconnected VoIP in accordance with 47 C.F.R. 9.5.

III.

Mobile VoIP; Not Consider Waiver for T-Mobile on Single Mode Non-Mobile VoIP Phones in the NPRM; Further Clarify Rules 20.18 and 9.5 for Converged Services in a Separate NPRM

For 9-1-1 emergency call delivery purposes, currently a call from a handset that can be used in a mobile manner must be distinguished and delivered technically different from a handset that is not capable of being used in a mobile manner. The wireless 9-1-1 requirements under 47

C.F.R. 20.18 should be the minimum 9-1-1 requirement when a dual mode handset that can be used in a mobile manner is involved. Additional supplemental location information can be provided to enhance this minimum mobile service level, such as letting a person associate the latitude and longitude of the person's home or office as possible supplemental or secondary location information, but it is reasonable to provide a latitude and longitude as the primary location for a device that can be used in a mobile manner. The Interconnected VoIP 9-1-1 requirements under 47 C.F.R. 9.5 should be the minimum service level requirement when a caller uses a single mode Interconnected VoIP Wi-Fi home router and handset phone with a telephone number and service connection that cannot be used in a mobile manner. From the perspective of an ordinary person, PSAP emergency call-taker, and dispatching perspective, there are different expectations between services that can be used in a mobile manner and services that cannot be used in a mobile manner.

In this regard, the issues T-Mobile Hotspot@Home raised in its original waiver and clarification filing noted in the NPRM⁷ may properly be considered appropriate for wireless 9-1-1 service requirements; as such, position by latitude and longitude meets minimum FCC requirements when a dual mode mobile handset capable of both wireless and Interconnected VoIP service is being used. On the other hand, a second generation T-Mobile TalkForever Wi-Fi home router that enables a separate, non-mobile single-mode interconnected VoIP phone service with a separate telephone number and service connection is properly required to meet the Interconnected VoIP 9-1-1 requirements under FCC Rule 9.5. The T-Mobile original filing and paragraph seven and footnotes 19 and 20 of the NPRM appear to provide notice and discussion of only the older T-Mobile Hotspot@Home service, which can be used in a mobile manner, and

⁷ NPRM at ¶ 7 and footnotes 19 and 20.

not the more recent second generation T-Mobile TalkForever service for use independently from the mobile handset and telephone number.

Investigating improvements for additional last known wireless cell site location routing could be demonstrated to be useful in some mobile handset situations. But in this NPRM, the record and circumstances support rejecting any approval of a T-Mobile waiver request for services to a non-mobile phone and that there is a need separate from this NPRM for the Commission to further address for 9-1-1 service delivery purposes whether certain mixed-converged services are subject to the wireless 9-1-1 requirements under 47 C.F.R 20.18 or the Interconnected VoIP requirements under 47 C.F.R 9.5 as the applicable minimum 9-1-1 requirements.

IV.

Technical, Network Security, or Information Privacy Requirements That Are Specific to IP-Enabled Voice Services

The NET 911 Act amended 47 U.S.C Section 222 to cover Interconnected VoIP under the CPNI statute. Therefore, basic privacy protections should be addressed by that amendment. As NG9-1-1 systems and use of Session Initiation Protocol (“SIP”) become more widespread, network security issues must have additional consideration. The Commission should expect and seek industry standards related to additional security issues as needed and appropriate.

V.

Delegation of Enforcement to State Public Utility Commissions and Local and State 9-1-1 Authorities

Many state public utility commissions have been involved for years in the traditional LEC and ILEC interconnection process consistent with federal guideline policies. To the extent that issues associated with capabilities for interconnection to 9-1-1 systems are similar to other

local exchange interconnection issues for 9-1-1 systems (for example the location of the interconnection points, access or modifications of legacy systems, etc.), the experiences of state public utility commissions and local and state 9-1-1 authorities may be most helpful. The Commission has recognized many times that 9-1-1 is and remains a core local and state public safety service responsibility. To the extent that state public utility commissions and local and state 9-1-1 agencies want to work diligently with the Commission on these issues consistent with federal 9-1-1 public safety policy objectives, then such cooperation and delegation should be strongly encouraged as appropriate.

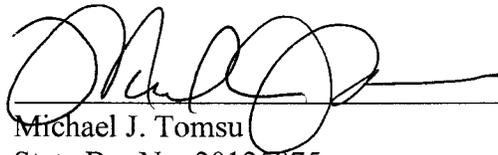
VI.

Conclusion

The Texas 9-1-1 Alliance and the Texas Commission on State Emergency Communications appreciate the opportunity to comment on these issues, and respectfully urge Commission action consistent with these initial comments.

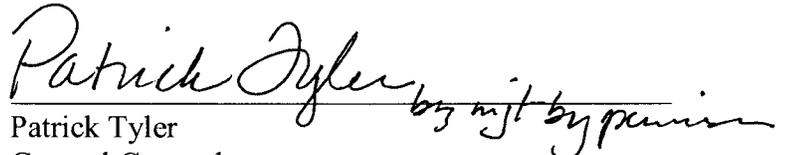
Respectfully submitted,

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