

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

In the Matter of

)

)

Framework for Next Generation 911 Deployment

PS Docket No. 10-255

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

**THE TEXAS COMMISSION ON STATE
EMERGENCY COMMUNICATIONS**

THE TEXAS 9-1-1 ALLIANCE

Patrick Tyler
General Counsel
Commission on State Emergency
Communications
333 Guadalupe Street, Suite 2-212
Austin, Texas 78701-3942
512-305-6915
512-305-6937 (fax)
Patrick.tyler@csec.state.tx.us

Michael J. Tomsu
Vinson & Elkins L.L.P.
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527
512-236-3211 (fax)
mtomsu@velaw.com

On the comments:

Richard A. Muscat
Bexar Metro 9-1-1 Network District

February 28, 2011

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

In the Matter of)
)
Framework for Next Generation 911 Deployment) **PS Docket No. 10-255**

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

Table of Contents

| | <u>Page No.</u> |
|---|------------------------|
| I. Executive Summary | 2 |
| II. NG9-1-1 Capabilities and Applications..... | 6 |
| 1. Potential Media Types in an NG9-1-1 Environment and Primary vs. Secondary Usage of Media Types..... | 6 |
| 2. SMS for Emergency Communications and NG9-1-1 Applications for Persons with Disabilities and Special Needs | 9 |
| III. NG9-1-1 Network Architecture | 10 |
| 1. Transport Mechanisms, NG9-1-1 Participants, Interoperability and Standards, and PSAP Functions in NG9-1-1 Environment | 10 |
| IV. Other Specialized NG9-1-1 Applications | 11 |
| 1. Device-Initiated Services for Emergency Communications | 11 |
| 2. Social Media for Emergency Communications | 13 |
| 3. N11 Numbers and Other Services for Emergency Communications..... | 14 |
| 4. MLTS for Emergency Communications in an NG9-1-1 Environment..... | 15 |
| V. Issues Related to NG9-1-1 Implementation/Transition | 15 |
| VI. Conclusion | 19 |

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

In the Matter of

)

)

Framework for Next Generation 911 Deployment

PS Docket No. 10-255

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

The Texas Commission on State Emergency Communications¹ and the Texas 9-1-1 Alliance² (collectively referred to herein as the “Texas 9-1-1 Agencies”) respectfully submit the following joint initial comments in response to the Notice of Inquiry (“NOI”) adopted by the Federal Communications Commission (“Commission” or “FCC”) on December 21, 2010, in the above-referenced matter.³ The NOI initiates a comprehensive proceeding to gain a better understanding of: (1) how to effectively bridge the gap between the capabilities of modern networks and devices and today’s 9-1-1 system; and (2) NG9-1-1 and the applications that it supports. The Commission specifically seeks comments on how to further the transition to Internet Protocol (“IP”) based communications capabilities for emergency communications and NG9-1-1.

¹ The Texas Commission on State Emergency Communications (“CSEC”) is a state agency created pursuant to Texas Health and Safety Code Chapter 771, and is the state authority on emergency communications. CSEC oversees the implementation of 9-1-1 service provided by Texas’ 24 Councils of Government, which serve approximately two-thirds of the geographic area of Texas and one-third of its population.

² The Texas 9-1-1 Alliance is an interlocal cooperation entity composed of 24 Texas Emergency Communication Districts with E9-1-1 service and public safety responsibility for approximately 53% of the population of Texas. These districts were created pursuant to Texas Health and Safety Code Chapter 772.

³ *In the Matter of Framework for Next Generation 911 Deployment*, Notice of Inquiry, PS Docket No. 10-255, FCC 10-200, ¶ 45 (rel. Dec. 21, 2010).

I.

Executive Summary

At the core of the NOI is the recognition of a fundamental transitioning from legacy circuit switch technologies to IP-based (e.g., NG9-1-1) technologies for providing critical public safety services. To ultimately achieve a fully capable and complete NG9-1-1 system over time will require that 9-1-1 authorities upgrade their systems to IP and NG9-1-1 technologies⁴ and that operating service providers (e.g., providers of the access network and the application, whether provided together or separately) upgrade their systems to identify and deliver to Public Safety Answering Points (“PSAPs”) an accurate number and address location with the 9-1-1 request.⁵

Without the Commission’s additional and specific guidance on core NG9-1-1 regulatory requirements and related matters, efforts to deploy NG9-1-1 will likely hit one delay or roadblock after another, as evidenced by recent numerous time-consuming state and federal arbitration and court proceedings involving Intrado, AT&T, Verizon, and others on the potential use of IP selective routers.⁶ In Texas, the Public Utility Commission (“PUC”) has taken initial steps towards NG9-1-1 by recently amending its 9-1-1 rules to include the following:

⁴ In some situations, interim steps such as initial IP networks and IP selective routers may not be considered to constitute an NG9-1-1 system or ESInet because call location information is not being sent as part of routing and 9-1-1 call delivery. Such interim solutions, however, are using IP-based solutions and will ultimately evolve into a full NG9-1-1 system. For purposes of these comments, therefore, the term “NG9-1-1” is used broadly to include both interim IP migrations and a fully deployed NG9-1-1 system.

⁵ The need for both 9-1-1 authorities and operating service providers to make upgrades over time is demonstrated by issues such as those surrounding Short Message Service (SMS). Even if public policy favored using SMS for emergency communications and all 9-1-1 authorities were NG9-1-1 capable and ready, wireless carriers, internet and broadband carriers, application providers and other operating service providers of SMS would still need to be able to determine an accurate dispatchable address location within a sufficient time in order to route SMS messages to a national call center.

⁶ See, e.g., *In the Matter of Petition of Intrado Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Arbitration of an Interconnection Agreement with Central Telephone Company of Virginia and United Telephone-Southeast, Inc. (collectively, Embarq)*, WC Docket No. 08-33; see also *The Ohio Bell Telephone Company v. Public Utilities Commission of Ohio, et al.*, Case No. 09-CV-00918-ALM-MRA (S.D. Ohio, filed Oct. 15, 2009); and

Migration of 9-1-1 Service. Unless otherwise determined by the commission, nothing in this rule, any interconnection agreement, or any commercial agreement may be interpreted to impair a 9-1-1 administrative entity's authority to migrate to newer functionally equivalent IP-based 9-1-1 systems and/or NG9-1-1 systems, or to require the removal of unnecessary direct 9-1-1 dedicated trunks, circuits, databases, or functions.⁷

To achieve an orderly transition, the shift to IP technologies for 9-1-1 service necessitates that the Commission rule promptly on core NG9-1-1 regulatory matters, including but not limited to:

- (1) Must system service providers of NG9-1-1 services be registered or certificated by the Commission and/or state PUCs, and do Commission and/or state PUC quality of service regulations applicable to 9-1-1 legacy service providers also apply to NG9-1-1 system service providers?
- (2) What are the Commission expectations regarding NG9-1-1 service providers' compliance with requirements, such as outage reporting, notice of network changes, CALEA, local interconnection, and Net 9-1-1 Improvement Act responsibilities?
- (3) If a legacy 9-1-1 service provider is displaced by an NG9-1-1 system service provider in an area, state, or nationally, must the legacy 9-1-1 service provider still be a 9-1-1 "provider of last resort" for some period during initial NG9-1-1 transition?
- (4) What are the respective responsibilities, if any, in a NG9-1-1 environment for operating service providers (including access network providers and/or application providers) to identify, route and send an accurate address location with the 9-1-1 call in a timely manner?

Appropriate 9-1-1 authorities in conjunction and cooperation with operating service providers and other industry members should determine whether certain NG9-1-1 capabilities and applications (*e.g.*, messaged-based text, real-time text, still images, real-time video) should be core or non-core elements, or primary or secondary media types. Such determinations should follow testing and evaluation of considerations, such as bandwidth, call response implications, staffing, and funding.

BellSouth Telecommunications, Inc. d/b/a AT&T North Carolina v. Finley, Complaint for Declaratory and Injunctive Relief, Case No. 5:09-CV-00517-BR (E.D.N.C. filed Dec. 2, 2009).

⁷ P.U.C. Subst. R. 26.433(i).

If SMS and other text messaging services prove to be unreliable for emergency communications at present, then the Commission should carefully consider the wisdom of any mandate to accommodate SMS and other text messaging to 9-1-1, even if a single national call center would solve the problem of routing SMS and other text messaging to the correct PSAPs. If SMS or other texting messaging services are, in fact, reliable, there may still be drawbacks compared to a voice 9-1-1 call. In any case, a national call center may still be evaluated as a potential interim step for specific groups. Accordingly, the Commission should proceed with its suggestion of a separate rulemaking regarding SMS and other text messaging services to 9-1-1 for specific groups, particularly for deaf and people with hearing/speech impairments.

Critical to the successful implementation of NG9-1-1 is the proper design of NG9-1-1 capable devices and applications. Ensuring that NG9-1-1 device-initiated or application-initiated services for emergency communications satisfy certain standards, requirements and applicable laws would enhance the value of 9-1-1 service and serve to meet growing consumer expectations. Lack of cooperation and standardization could potentially be significantly detrimental in the case of automatic 9-1-1 calling. For example, a malfunctioning automated 9-1-1 call system could be just as detrimental or harassing to emergency communications as repeated inappropriate 9-1-1 calls originating from non-initialized cell phones. Generally, device-initiated 9-1-1 calls should only be considered acceptable and appropriate when implemented in an agreed manner with applicable governmental authorities consistent with applicable federal and state laws and requirements.

Regarding poison control, aligning and coordinating the poison control centers' transition to next generation with the transition to NG9-1-1 may have service improvement and cost benefits. If, however, current laws or rules prevent poison control from accessing the transitional

elements for NG9-1-1, then these laws and rules should be changed appropriately. Furthermore, similar to NG9-1-1 and for the same reasons, it is essential that applicable laws and rules provide for call identification to be provided for next generation poison control because this enables poison control to be assigned an emergency service uniform resource name, and apply location determination rules.

The Commission should promptly address regulatory issues involving IP and 9-1-1. The Commission, however, should not needlessly disturb the coordinated and cooperative public safety structural framework among federal, state, regional, and local governmental entities recognized under federal law and provided for under applicable state laws. Deploying NG9-1-1 is not a basis for nationwide “one-size-fits-all” structural framework changes on 9-1-1 authorities that could be counterproductive or undermine public safety. Similarly, imposing NG9-1-1 deadlines on 9-1-1 authorities at this time is simply unwarranted, and could be counterproductive or undermine public safety. In Texas, a cooperative NG9-1-1 public safety effort has begun and includes adoption of CSEC Rule 252.8 providing for a state-level ESInet Advisory Council.⁸ The Commission should make clear the authority of states and give them the opportunity to address their public safety structural framework as they deem appropriate to accomplish public safety goals.

⁸ 1 Tex. Admin. Code 252.8.

II.

NG9-1-1 Capabilities and Applications

1. Potential Media Types in an NG9-1-1 Environment and Primary vs. Secondary Usage of Media Types

In the NOI, the Commission reviewed the potential capabilities that the deployment of NG9-1-1 will provide and the likely architecture. The Commission seeks comments on whether there are core and non-core elements that should be part of every NG9-1-1 system and standardized across all NG9-1-1 deployments, and how such elements will be affected by future technological changes.⁹ Specifically, the Commission asks about message-based text, real-time text, still images (photos), real-time video, telemetry data, and auxiliary medical and other personal data.¹⁰

Initially, the aforementioned media types should be designated core components that NG9-1-1 will make available. However, requiring service providers to make available these core components must coincide and be contingent upon the ability of 9-1-1 authorities to make use of such elements. In this regard, NG9-1-1 deployment is analogous to the Commission's prior implementation of wireless Phase I and II service, wherein the requirement of wireless service providers to provide such levels of service was contingent upon the PSAP being able to receive and make use of the information provided under each level. For example, message-based text to 9-1-1 should be a core element of NG9-1-1; however, the requirement to provide text 9-1-1 must turn on the ability of the 9-1-1 authorities' NG9-1-1 networks and PSAPs to be able to receive and make use of text 9-1-1. Accordingly, identifying the listed media types as core elements

⁹ NOI at ¶ 31.

¹⁰ NOI at ¶¶ 32-38.

should not necessitate the requirement to provide a particular media type as a component of 9-1-1 service. Additional threshold issues must also be addressed including, but not limited to, the suitability of the platform for a given media type, reliability of the media type when used for public safety, whether a dispatchable address location is included, and public expectations. For example, whereas message-based text to 9-1-1 should be deemed a core element in NG9-1-1, current SMS may be an unworkable platform for providing text 9-1-1.

Similarly, whether the described media types should be considered primary or secondary media should be determined by the applicable 9-1-1 authorities in conjunction with industry standards and best practices after more testing and evaluation of positive or negative competing considerations, such as bandwidth, call response implications, staffing, and funding. The Commission recognizes the potential limitations for core element, primary media types by asking for comments on whether e-mail or social networking could be used as primary media in cases in which core elements are not available. In short, the classification of primary and secondary media and the requirement to provide core elements as either primary or secondary media must again be contingent upon the factors discussed regarding the required deployment of core elements. Above all, the degree to which 9-1-1 authorities and PSAPs choose the media types in which they will, or more precisely can, support, should not be the basis for determining what media types are core and whether they are deemed primary or secondary media.

Regarding privacy concerns, the current protections in 47 U.S.C. § 222 may be insufficient to provide federal protection against disclosure for requests made under state or federal public information laws. Additionally, the term “telecommunications” as used in 47 U.S.C. § 222 and the terms “commercial mobile service” and “IP-enabled voice service” in 47 U.S.C. § 222(d)(4) could limit the applicability of such protections to NG9-1-1 (notwithstanding

future Commission proceedings regarding the evolving definition of the terms “telecommunications” and “information”). This may especially be the case with respect to the Commission’s identified media types. For example, a tape recording of a 9-1-1 call is generally deemed public information in Texas. A live video 9-1-1 recording, however, could easily include unanticipated personal information beyond that necessary to dispatch necessary emergency services. It should also be recognized that these issues are not necessarily limited to state, regional, or local provision of 9-1-1 service, as some 9-1-1 authorities have designated federal governmental entities as PSAPs, including the Pentagon and West Point Military Academy. Amending 47 U.S.C. § 222 to apply more clearly to the Commission’s identified media types (at least comparable to the liability structure in 47 U.S.C. § 615a, discussed herein), would create greater certainty in the NG9-1-1 environment on matters of privacy and federal and state public information laws.

As for liability concerns, the provisions in 47 U.S.C. §§ 615a and 615b for **other emergency communications providers** should be clearly interpreted to cover most NG9-1-1 related matters for operating service providers, persons, PSAPs, PSAP vendors, PSAP agents, and 9-1-1 administrative or governmental authorities. With respect to service providers, such protection should be conditioned upon proper coordination with, and authorization from, the appropriate 9-1-1 administrative or governmental authorities.¹¹

¹¹ OTHER EMERGENCY COMMUNICATIONS SERVICE PROVIDER- The term ‘other emergency communications service provider’ means-- (A) an entity other than a local exchange carrier, wireless carrier, or an IP-enabled voice service provider that is required by the Federal Communications Commission consistent with the Commission’s authority under the Communications Act of 1934 to provide other emergency communications services; or (B) in the absence of a Commission requirement as described in subparagraph (A), an entity that voluntarily elects to provide other emergency communications services and is specifically authorized by the appropriate local or State 9-1-1 service governing authority to provide other emergency communications services. 47 U.S.C. § 615b: (9) (emphasis added). See also 47 U.S.C. § 615(a) and (b):

(a) Provider parity. A wireless carrier, IP-enabled voice service provider, **or other emergency communications provider**, and their officers, directors, employees, vendors, and agents, **shall have**

2. SMS for Emergency Communications and NG9-1-1 Applications for Persons with Disabilities and Special Needs

The Commission seeks comments on various general matters regarding SMS and NG9-1-1 systems.¹² Specifically for individuals with disabilities, the Commission notes that it was directed by Congress to form an EAAC and seeks comment on whether it should conduct a separate rulemaking to ensure that individuals with disabilities have access to an IP-enabled emergency network, where achievable and technically feasible. The overarching issues of concern regarding mandated SMS and other text messaging to 9-1-1 is the present reliability of such platforms/applications and appropriately managing public expectations. Even if public policy favored using SMS for emergency communications and all 9-1-1 authorities were NG9-1-1 capable and ready, wireless carriers, internet and broadband carriers, application providers and other operating service providers of SMS would still need to be able to timely determine and provide an accurate address location. Such would be the case even in the event a national call center is used to initially receive and route an SMS or other text message to 9-1-1.

immunity or other protection from liability in a State of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise) applicable in such State, including in connection with an act or omission involving the release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to emergency calls, emergency services, or other emergency communications services.

(b) User parity. A person using wireless 9-1-1 service, or making 9-1-1 communications via IP-enabled voice service or other emergency communications service, shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law in similar circumstances of a person using 9-1-1 service that is not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service. (emphasis added):

¹² NOI at ¶¶ 41-43.

If present SMS and other text messaging services prove unreliable for emergency communications, then the Commission should carefully consider the wisdom of any mandate to accommodate SMS and other text messaging to 9-1-1, even if a single national call center would solve the problem of routing SMS and other text messaging to the correct PSAPs. If SMS or other texting messaging services are, in fact, reliable, there may still be drawbacks compared to a voice 9-1-1 call. In any case, a national call center may still be evaluated as a potential interim step for specific groups. Accordingly, the Commission should proceed with its suggestion of a separate rulemaking regarding SMS and other text messaging services to 9-1-1 for specific groups, particularly for deaf and people with hearing speech impairments.

III.

NG9-1-1 Network Architecture

1. Transport Mechanisms, NG9-1-1 Participants, Interoperability and Standards, and PSAP Functions in NG9-1-1 Environment

The Commission notes there will potentially be different transport mechanisms, and seeks comment on the mechanisms that will be used to transport digital content across NG9-1-1 networks and their impacts. The Commission also seeks comment regarding mandatory interfaces for all devices, mandatory format compatibility, certifications requirements, and labeling requirements; whether there are steps needed to ensure seamless interoperability; and whether there may be the need for some national infrastructure components (such as LoST “forest guide, public-key cryptography certificate, interconnection to an IP-based national network”).¹³

In the past, standards and standards-based compliance and regulations were critical to interoperability of telecommunications. Going forward, as the Commission points out, end user

¹³ NOI at ¶¶ 49-55.

devices are far more likely to be liberated from a particular transport network and thus dramatically increase the number of participants in an NG9-1-1 environment. Managing interoperability consistent with meeting consumer expectations is a growing significant challenge that can only have a chance of being satisfied if appropriate standards-based solutions are broadly deployed and followed. Development and deployment cannot be left exclusively to the marketplace or industry. The jurisdiction of the 9-1-1 authorities as far as the standardization process must be recognized and affirmed in order to avoid the development of potentially inconsistent devices and applications.¹⁴ Standards-based solutions and industry consensus efforts are needed and are to be encouraged, but the Commission and regulators will need to fill gaps and promote compliance via regulations as needed.¹⁵

IV.

Other Specialized NG9-1-1 Applications

1. Device-Initiated Services for Emergency Communications

The Commission notes that in an IP-based network architecture, emergency calls can be placed not only by human beings, but also by a variety of automatically triggered devices.¹⁶ The Commission seeks comment on how NG9-1-1 will facilitate deployment of device-initiated

¹⁴ An example of where a pure market approach to utilizing technology can lead to inconsistency in public safety is demonstrated by UMA Access Points and femtocells. Such devices essentially provide fixed, non-mobile in-home wireless and/or VoIP communications services. The 9-1-1 information provided for a 9-1-1 call initiated through such devices, however, varies according to device and/or carrier pre-determinations. In Texas, the customer name field received by the PSAP is populated with the carrier's name and an indication of the device being used. Additionally, some carriers provide only the latitude/longitude of the 9-1-1 caller, consistent with the Commission's requirements for wireless 9-1-1, whereas at least one carrier also provides an MSAG-valid customer address. Accommodating such differences may require changes at the PSAP or additional training. More importantly, the level of 9-1-1 service over these devices is not necessarily commensurate with that of traditional wireline service, for which they were designed in part to replace, notwithstanding that customer expectations for home-initiated 9-1-1 calls are likely the same in either case.

¹⁵ Additional regulatory aspects beyond interoperability will be discussed in more detail herein.

¹⁶ NOI at ¶ 58.

emergency services to reach PSAPs, what is needed to facilitate such deployment, and whether there is a need to modify existing laws and regulations to ensure that device-initiated emergency calls have access to the NG9-1-1 network.

In general, IP-based networks may make device-initiated emergency calls more accessible. Greater accessibility can be an advantage or disadvantage, depending on whether that access is used in an agreed manner. Lack of cooperation and standardization could be significantly detrimental, especially in the case of automatic 9-1-1 calling. For example, a malfunctioning automated 9-1-1 call system could be just as detrimental or harassing to emergency communications as repeated inappropriate 9-1-1 calls originating from non-initialized cell phones. On the other hand, there are successful examples of cooperation.¹⁷ Similarly, whether existing laws and regulations need modification depends on whether device-initiated services are treated as ancillary to 9-1-1 service or a primary media type for 9-1-1.

In Texas, there are statutes requiring 9-1-1 authority consent in some areas in order to use an automatic intrusion alarm or automatic alerting device installed to call 9-1-1.¹⁸ There are also state criminal laws against silent or abusive 9-1-1 calls and harassing calls.¹⁹ Federal law also

¹⁷ Today there are automatic alarm company solutions that go directly to Computer-Aided Dispatch (“CAD”) systems as agreed by involved parties, and there is no reason to believe similar agreements could not be reached as appropriate in the NG9-1-1 environment. Similarly, operating service providers using call-center solutions such as Onstar and ATX are in use today and interface with the 9-1-1 system with callback number and location information and have worked out delivery and training matters with applicable 9-1-1 authorities on their service offerings.

¹⁸ See *e.g.*, TEX. HEALTH & SAFETY CODE ANN. §§ 772.112(c) and 772.212 (“With the consent of a participating jurisdiction, a privately owned automatic intrusion alarm or other privately owned automatic alerting device may be installed to cause the number 9-1-1 to be dialed in order to gain access to emergency services.”).

¹⁹ See TEX. PENAL CODE § 42.061 (“A person commits an offense if the person makes a telephone call to 9-1-1 when there is not an emergency and knowingly and intentionally remains silent ... or permits a telephone under the person’s control to be used by another person in a manner described.”); see also § 42.07 (“A person commits an offense if, with intent to harass, annoy, alarm ... causes the telephone number of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner likely to harass, annoy, alarm ..., fails to hang up or disengage the connection ..., sends a repeated electronic communication in a manner reasonably likely to harass, annoy, alarm”).

recognizes the consent type approach in the context of liability protections in 47 U.S.C. §§ 615a and 615b for other emergency communications service providers.²⁰ The first and foremost step in the development and commercial deployment of device-initiated services is inclusion of 9-1-1 authorities at the early stages. Unquestionably, an operating service provider seeking to deploy device-initiated 9-1-1 calls could certainly do so responsibly and consistent with applicable laws. Similarly, an application developer or device manufacturers could develop applications or manufacturer devices that could be used responsibly and consistent with applicable 9-1-1 laws.

The key is to harmonize from the outset the expectations of both operating service providers and device/applications manufacturers with those of the 9-1-1 authorities. From this front-end collaboration, the parties in interest will be able to identify the additional steps needed to accommodate and advance device-initiated services, including any conforming changes in laws and regulations. Generally, device-initiated 9-1-1 calls should only be considered acceptable and appropriate when worked out in an agreed manner with applicable governmental authorities consistent with applicable federal and state laws and requirements.

2. Social Media for Emergency Communications

The Commission seeks comments on how consumers may use social media to report emergencies and asks other social media-related questions. The critical component in using social media for emergency communications is clear and careful management of consumer expectations. Such expectations should be managed so as not to mislead consumers into seeking emergency assistance in an unavailable, less reliable, or potentially dangerous manner. Social media may create additional avenues for responsible 9-1-1 education, but numerous issues and questions remain regarding the use of consumer social media in providing 9-1-1 service.

²⁰ *See, supra*, fn. 10.

3. N11 Numbers and Other Services for Emergency Communications

The Commission notes that NG9-1-1 may be similar to other location-based assistance services, and that there may be some interconnection and sharing benefits. The Commission specifically seeks comments on how NG9-1-1 might address or impact these other services.²¹ Regarding poison control, aligning and coordinating the poison control centers' transition to next generation with the transition to NG9-1-1 may have numerous benefits.

An NG9-1-1 technology platform that integrates poison control communications has the potential to improve services and reduce costs.²² The improvement in services can be similar to improvements in services that should be available to 9-1-1 from the transition to NG9-1-1.²³ To be clear, however, the timeline for transitioning poison control to an Emergency Services IP Network is dependent on the prior transition to NG9-1-1.

To the extent laws or rules do not facilitate next generation poison control being able to utilize the same legacy and transitional elements mechanisms utilized for the 9-1-1 transition for location acquisition, then there may be a significant gap that can be detrimental to next generation poison control. The transition to NG9-1-1 will not be a flash-cut. The initial transitional 9-1-1 system may use the ALI database for the location acquisition of wireline callers before it evolves into a more standards compliant location acquisition mechanism, and similar use by the next generation poison control would have the same benefits. If existing laws

²¹ NOI at ¶ 60.

²² For example, next generation poison control on an ESInet allows poison control and 9-1-1 to cost share on: (1) the IP network backbone including the security of the system; (2) the software and hardware for the routing mechanism; (3) the Master Geographic Information System (GIS) used to identify the initial route of the call based on the location of the caller's device and the management of the GIS data; and (4) the management and operation of the ESInet and shared applications and services.

²³ See NOI at ¶¶ 29, 33-38, 54, and 62.

and rules prevent the next generation poison control from having access to the same transitional elements as used for the 9-1-1 transition to NG9-1-1, then these laws and rules should be changed appropriately. Furthermore, similar to NG9-1-1 and for the same reasons, it is essential that applicable laws and rules provide for call identification to be provided for next generation poison control because this enables poison control to be assigned an emergency service Uniform Resource Name, and apply location determination rules.

4. MLTS for Emergency Communications in an NG9-1-1 Environment

The Commission seeks comment on whether it has jurisdiction to regulate MLTS in light of NG9-1-1 potential impacts on MLTS.²⁴ It appears that most new MLTS situations, or a large number of them, involve VoIP systems. As such, and separate from NG9-1-1, the Commission may have greater jurisdiction than in the past over MLTS because of the Commission's Interconnected VoIP rules. In an unregulated environment, the line between Interconnected VoIP providers serving enterprise customers and VoIP MLTS providers is not clearly distinguishable.

V.

Issues Related to NG9-1-1 Implementation/Transition and Jurisdiction and Regulatory Roles

The Commission seeks comments on many operational, technical, and other challenges associated with the transition to NG9-1-1 including: (1) what action the Commission should take to encourage the deployment of NG9-1-1; (2) what changes need to take place regarding emergency communications governance structures, at both the federal and non-federal levels; (3) whether a timetable or deadline should be established for all PSAPs to support a minimal set of

²⁴ NOI at ¶ 63.

NG9-1-1 capabilities;²⁵ and (4) whether each state should designate an organization that will be responsible for planning, coordinating, and implementing NG9-1-1.²⁶ The Commission also seeks comment on related matters, such as competition, regulation modifications (including its definition of “wireline E9-1-1,” which is arguably narrower than the 47 U.S.C. Sec. 615b definition), and other issues such as liability, confidentiality and privacy, and location capabilities (which have been addressed elsewhere in these comments).

The Commission should promptly address regulatory issues involving IP and 9-1-1. In doing so, however, the Commission should not needlessly seek to disturb the coordinated and cooperative public safety structural framework among federal, state, regional, and local governments recognized under federal law and provided for under applicable state laws. Deploying NG9-1-1 does not present a basis for nationwide “one-size-fits-all” structural framework changes imposed on 9-1-1 authorities and public safety entities that could be counterproductive or undermine public safety. Similarly, imposing NG9-1-1 deadlines on 9-1-1 authorities and public safety entities at this time is simply unwarranted, and could be counterproductive or undermine public safety. In Texas, a cooperative public safety effort has begun and includes adoption of CSEC Rule 252.8 providing for a state-level ESInet Advisory Council.²⁷ The Commission should recognize state authority and provide clear direction giving the states the opportunity to address their public safety structural framework as they deem appropriate to accomplish public safety goals.

²⁵ NOI at ¶¶ 64-66.

²⁶ NOI at ¶ 84.

²⁷ 1 Tex. Admin. Code 252.8.

In many states, *rate* regulation of telecommunications services or IP telecommunications services may be very limited or non-existent—although state quality of service requirements may remain. Notwithstanding the shift to a more unregulated communications environment, as Congress recognized in the Net 9-1-1 Act,²⁸ the Commission has a continuing interest in legacy and NG9-1-1 providing non-discriminatory access to competitors, resolving competitor 9-1-1 interconnection disputes, CALEA, outage reporting, numbering and local number portability, and other similar operating service provider competitive and regulatory matters.

Absent direction by the Commission on basic core NG9-1-1 regulatory landscape matters and requirements, NG9-1-1 deployment efforts may hit one unnecessary delay or roadblock after another. For example, for over three years, there have been several time-consuming state and federal arbitrations proceedings involving Intrado, AT&T, Verizon, and others on the potential use of IP selective routers.²⁹ The Texas’ PUC has recently taken initial regulatory steps on NG9-1-1 and adopted the following in its 9-1-1 rules:

Migration of 9-1-1 Service. Unless otherwise determined by the commission, nothing in this rule, any interconnection agreement, or any commercial agreement may be interpreted to impair a 9-1-1 administrative entity’s authority to migrate to newer functionally equivalent IP-based 9-1-1 systems and/or NG9-1-1 systems, or to require the removal of unnecessary direct 9-1-1 dedicated trunks, circuits, databases, or functions. ... Paragraph (1) of this subsection is intended to promote and ensure collaboration so that 9-1-1 service architecture and provisioning modernization can proceed expeditiously for the benefit of improvements in the delivery of 9-1-1 emergency services. Paragraph (1) of this subsection is not intended to require or authorize a 9-1-1 administrative entity’s rate center service plan specifications or a 9-1-1 network architecture deviation that causes new, material cost shifting between telecommunications providers or between telecommunications providers and 9-1-1 administrative entities. Examples of such a deviation would be points of interconnection different from current LATA configurations and requiring provisioning of the 9-1-1 network

²⁸ *New and Emerging Technologies 911 Improvement Act of 2008*, Pub. L. No. 110-283, 122 Stat. 2620 (2008) (“NET 911 Act”).

²⁹ *See* fn. 6.

with a similar type deviation that may involve new material burdens on competition or the public interest.³⁰

To achieve an orderly transition the shift to IP technologies for 9-1-1 service necessitates that the Commission rule promptly on core NG9-1-1 regulatory matters, including but are not limited to:

- (1) Must system service providers of NG9-1-1 services be registered or certificated by the Commission and/or state PUCs, and do Commission and/or state PUC quality of service regulations applicable to 9-1-1 legacy service providers also apply to NG9-1-1 system service providers?
- (2) What are the Commission expectations regarding NG9-1-1 service providers' compliance with requirements, such as outage reporting, notice of network changes, CALEA, local interconnection, and Net 9-1-1 Improvement Act responsibilities?
- (3) If a legacy 9-1-1 service provider is displaced by an NG9-1-1 system service provider in an area, state, or nationally, must the legacy 9-1-1 service provider still be a 9-1-1 "provider of last resort" for some period during initial NG9-1-1 transition?
- (4) What are the respective responsibilities, if any, in a NG9-1-1 environment for operating service providers (e.g., including access network providers and/or application providers) to identify, route and send an accurate address location with the 9-1-1 call in a timely manner?³¹

³⁰ P.U.C. Subst. R. 26.433(i).

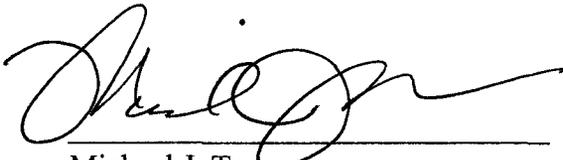
³¹ See NENA Next Generation Partner Program, NG9-1-1 Transition Policy Brief, Number Five, Addressing Gaps in Automatic Location of 9-1-1 Calls for Current and Emerging Devices and Services: ... NG9-1-1 policymaking efforts and investment have largely focused on the infrastructure side of 9-1-1. This Transition Policy Brief focuses on the critical need for accurate automatic location of all 9-1-1 calls to enable effective location-based routing and appropriate emergency response. It is a fundamental technical requirement of NG9-1-1 that the calling device or service must be aware of the caller's location for the call to be routed to the proper answering point. It must be a fundamental policy objective to ensure all communications devices capable of accessing 9-1-1, or those in which the customer reasonably expects to be able to do so, can be automatically and accurately located. This is true for current devices/services and for new consumer communications platforms when they come to market. ... The FCC, in conjunction with appropriate public safety and industry stakeholders, should take the lead in setting out the ultimate policy goal for location information from communications devices capable of accessing the 9-1-1 system. In doing so, the FCC should establish clear expectations of all stakeholders, require appropriate 9-1-1 service capability disclosures to consumers, and require a phased-in approach to 9-1-1 requirements, thus allowing carriers and providers to comply over time. Available at <http://www.nena.org/ng-partner-program/NG911-Transition-Policy-Maker-Blueprint>

VI.

Conclusion

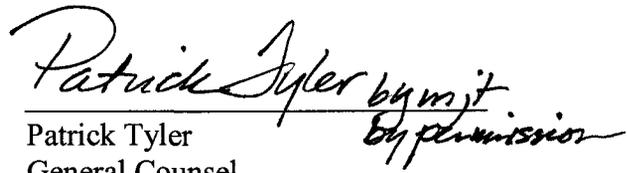
The Texas 9-1-1 Agencies appreciate the opportunity to submit these initial comments, and respectfully urge Commission action consistent with these initial comments.

Respectfully submitted,



Michael J. Tommsu
Vinson & Elkins L.L.P.
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527
512-236-3211 (fax)
mtommsu@velaw.com

On behalf of the Texas 9-1-1 Alliance



Patrick Tyler
General Counsel
Commission on State Emergency
Communications
333 Guadalupe Street, Suite 2-212
Austin, Texas 78701-3942
512-305-6915
512-305-6937 (fax)
Patrick.tyler@csec.texas.gov

On behalf of the Texas Commission on State
Emergency Communications

On the comments:

Richard A. Muscat
Bexar Metro 9-1-1 Network District

February 28, 2011