

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

In the Matter of)	
)	
Facilitating the Deployment of Text-to-911)	PS Docket No. 11-153
And Other Next Generation 911 Applications)	
)	
Framework for Next Generation 911)	PS Docket No. 10-255
Deployment)	
)	
)	

COMMENTS OF UNITED STATES CELLULAR CORPORATION

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EXECUTIVE SUMMARY

United States Cellular Corporation supports the Federal Communications Commission's goals for facilitating carrier deployment of Next Generation 911 ("NG-911") technology and improving public safety service including enabling text-to-911 but does have specific concerns regarding the manner in which the important goal of transitioning to NG-911 will be achieved. In order for the transition to result in reliable, effective and cost-effective service, customers, carriers and public safety service providers must adopt the appropriate technology and standards that can be used across a variety of networks. The Commission should carefully consider the need for feasible service and standards, as well as the needs of different types of carriers in addressing the issues of technological feasibility, standards, timing, costs, and liability as it moves forward with its rulemaking.

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TO: The Commission

COMMENTS OF UNITED STATES CELLULAR CORPORATION

United States Cellular Corporation (“USCC”), by its undersigned attorneys, hereby submits its comments in response to the above-referenced Notice of Proposed Rulemaking (“NPRM”).¹ USCC supports the Federal Communications Commission’s (“FCC’s” or “Commission’s”) goals for facilitating carrier deployment of Next Generation 911 (“NG-911”) technology and improving public safety service including enabling text-to-911. USCC recognizes the important role wireless carriers play in ensuring that those in distress can access emergency services from anywhere at any time. USCC does have specific concerns regarding the manner in which the important goal of transitioning to NG-911 will be achieved. In order for the transition to result in reliable, effective and cost-effective service, customers, carriers and public safety service providers must adopt the appropriate technology and standards that can be used across a variety of networks. USCC recognizes that many jurisdictions are already pushing forward with their transitions, despite the absence of standards or guidance in place where they

¹ *Framework for Next Generation 911 Deployment*, PS Docket No. 10-255, *Notice of Proposed Rulemaking* (Sept. 22, 2011).

are potentially necessary. The Commission should carefully consider the need for feasible service and standards, as well as the needs of different types of carriers in addressing the issues of technological feasibility, standards, timing, costs, and liability as it moves forward with its rulemaking.

I. INTRODUCTION & SUMMARY

USCC is a regional wireless carrier and serves numerous rural, as well as urban, markets. As of December 2010, USCC had approximately 6.1 million customers in 26 states. USCC was recently named by Consumer Reports as the nation's best major carrier for the second year in a row and is committed to the safety of its customers and others accessing its network. USCC has, for example, spent millions of dollars to implement Phase II E-911 capabilities throughout its service area to meet its public safety responsibilities.

On December 21, 2010, the Commission released a Notice of Inquiry ("NOI") regarding the framework for deploying NG-911.² The NOI characterized NG-911 as relying "on IP-based architecture rather than the [Publicly Switched Telephone Network]-based architecture of legacy 911 to provide an expanded array of emergency communications services that encompasses both the core functionalities of legacy E911 and additional functionalities that take advantage of the enhanced capabilities of IP-based devices and networks."³ After taking comments in the beginning of 2011, the Commission released the NPRM on September 22, 2011. In the NPRM, the Commission requested comment across a wide range of NG-911 related issues with a particular emphasis on short-term implementation of SMS-to-911 and long term transition to other text-to-911 and related technologies.

² *Framework for Next Generation 911 Deployment*, PS Docket No. 10-255, *Notice of Inquiry* (Dec. 21, 2010).

³ *Id.*, at ¶ 18.

As the Commission considers the issues raised in the NPRM, it should evaluate the capabilities for transition of all carriers, including those serving customers in rural areas. It should also consider the scales for implementation faced by differently situated carriers. These needs should be kept in mind across many of the key issues under consideration including the technical feasibility of SMS and Automatic Location Information (“ALI”), standards for adoption, capability triggers for an orderly transition, and the costs to carriers and consumers for adoption.

II. THE COMMISSION SHOULD CAREFULLY CONSIDER THE EFFECT ON REGIONAL CARRIERS OF ITS NG-911 NPRM.

USCC is a large, regional carrier that provides primarily post-paid, as opposed to prepaid, service in multiple geographic areas spanning the nation. Unlike local carriers which must meet NG-911 requirements in only one or a few geographic markets, USCC will have to do so across hundreds of markets, at the same time lacking the resources or scope of the largest nationwide facilities-based providers. As the Commission considers NG-911 requirements, including deployment of text-to-911, it needs to remain aware of different types of providers, their relative sizes, and ability to implement new requirements.

A. The Commission Must Recognize the Technological Hurdles to and Shortcomings of SMS-to-911 While Implementing an Interim Solution.

In the NPRM, the Commission places a great deal of emphasis on text-to-911 capability, which the Commission says is the “primary focus” of the notice.⁴ The NPRM compares the capabilities of four different types of messaging options which it identifies as TTY, IP-based messaging, Real-time Text, and SMS.⁵ In the short term, the Commission favors

⁴ NPRM, at ¶ 24.

⁵ *Id.*, at ¶ 31.

allowing the option of SMS-to-911 to be implemented.⁶ SMS-to-911 undoubtedly has benefits including its ubiquity among wireless users. Allowing, but not requiring, wireless carriers to offer SMS-to-911 has much to commend it. There are, however, many technological shortcomings that the Commission needs to keep in mind as it considers whether or not to *require* SMS-to-911, several of which should be solved prior to text-to-911 implementation. These issues include authentication of users accessing the network, reliability of the service, and the ability to locate callers.

USCC believes it and other wireless providers are capable of eventually providing SMS-to-911 services; however, functionality in the short-term would be largely limited to message delivery only. Providers can connect the Short Message Service Center (“SMSC”), which stores all messages sent to or from a handset by way of stations or towers, via Short Message Point-to-Point binds to the appropriate interface that the PSAP may eventually be able to access directly. This capability would require a secure and reliable connection, typically SS7, between the wireless service provider and the appropriate interface that would relay the SMS to the PSAP. In the current SMS environment, standards for this emergency message flow do not exist. Prioritization of emergency messages is another major hurdle. There is not a well-defined concept of emergency processing for text messages within the SMSC.

Commission rules require that all wireless 911 voice calls be transmitted to a PSAP regardless of whether the phone is activated on a network.⁷ If emergency SMS was to follow suit, in order to configure the system for that purpose carriers would need to make fundamental authentication changes both to handsets and the radio access network (“RAN”).

⁶ *Id.*, at ¶ 54.

⁷ 47 C.F.R. § 20.18(b).

Any approach addressing this requirement would need to confront the implicit security concerns that naturally arise by allowing handset authentication to be bypassed, as every wireless service provider would want to make certain non-validated phones are only being used for actual emergency purposes.

SMS is less reliable than emergency phone calls because unlike a phone call, it is not always apparent to the sender that a message has or has not gone through and been received. The majority of SMS environments operate in a store-and-forward methodology with minimal service or performance guarantees. When the destination is not available, for whatever reason, to accept the SMS it will be stored at the SMSC until the destination becomes available for delivery. A sender will not be aware that their message has not been received and may believe emergency assistance is on the way even when that may not be the case. A PSAP could, similarly, receive an outdated emergency message that has been pending at the SMSC for an extended period.

The Commission asks about the ability to adopt ALI to SMS messaging, so that PSAPs are able to determine the physical location of the emergency caller.⁸ With E-911, the methods for determining ALI are defined in standards that depend on whether a carrier uses a network-based or handset-based solution.⁹ With SMS-to-911, standards have not been developed for deriving location information. Voice calls to 911 using a handset-based solution rely in large part on assistance from the network Positioning Determining Equipment/Mobile Positioning Center (“PDE/MPC”) to get an accurate GPS location fix. In the case of SMS, the communication method or protocol between the SMS function in the device and the PDE/MPC

⁸ NPRM, at ¶ 56.

⁹ 47 C.F.R. §§ 20.18(f) and (g).

has not been defined by standards-setting bodies. Irrespective of a carrier's E-911 solution choice, message flow standards for SMS-to-911 need to be formulated and both handset and network changes need to occur for messaging to be considered a viable solution.

The ability to use third party software of "over-the-top" applications to contact 911 also presents issues.¹⁰ Such a use of software programs is technically feasible. Existing instant messaging applications could be utilized to support 911 functionality, sending SMS messages to a relay service accessible by PSAPs. As with all solutions, there are some limitations, including the need to heavily coordinate with equipment manufacturers and the inability to access the application if there is no enabled data plan. There are also difficulties with deriving location information from these applications because, as explained by a Communications Security, Reliability and Interoperability Council ("CSRIC") Working Group report, "the applications do not use the wireless service provider's telephony infrastructure, and thus the capabilities such as...location are not provided with these applications."¹¹ The applications' core data center network or relay service would require additional connectivity to the wireless service provider's HLR and Mobile Switching Center infrastructure to obtain usable location based information.

Technically it may be possible to implement limited SMS-to-911 as an interim solution. Efforts to address the known limitations of SMS would, however, impair any expedited interim deployment timeframe. In particular, while USCC agrees that ALI and non-authenticated messages are important components of emergency calls, it may not be appropriate to require them as part of an interim SMS-to-911 solution because of the difficulty in promptly

¹⁰ NPRM, at ¶ 57.

¹¹ Communications Security, Reliability and Interoperability Council, Working Group 4C Technical Options for E9-1-1 Location Accuracy, Final Report at 18 (March 14, 2011).

adopting them to the SMS context. USCC is hopeful these technical hurdles can be overcome, but believes the Commission's efforts should be focused on long-term solutions rather than the flawed, interim SMS approach.

B. The Commission Must Ensure Interoperability of Standards for NG-911 and Must Do So Before Implementation Advances.

The Commission asks in the NPRM about standards development for NG-911, which so far includes three different approaches. These include (1) ATIS' "Considerations for an Emergency Services Next Generation Network," (2) the National Emergency Number Association's "NENA Functional and Interface Standards for Next Generation 9-1-1 Version 1.0(i3)," and (3) the 3rd Generation Partnership Project's "IP Multimedia Subsystem (IMS) Emergency Sessions."¹² Other organizations may be pursuing similar efforts. In the NPRM, the Commission asked if it should delay "additional regulatory action until standards are more universally adopted."¹³ USCC strongly agrees that imposing NG-911 mandates before standards are more fully developed should be avoided.

The Commission has an important role to play in ensuring that the standards-setting effort is coordinated across different PSAPs, states, and regions. A cacophony of conflicting, non-interoperable standards will make implementation extremely challenging both technologically and financially by creating the potential for all parties to continuously need to revisit and alter their infrastructure to meet changing standards. Most importantly, the adoption and implementation of conflicting standards may result in the failure to provide E-911 service access to those involved in emergencies. Some adjustments to standards will of course be

¹² *Id.*, at ¶¶ 76, et seq.

¹³ NPRM, at ¶ 89.

necessary over time as technology matures. Agreeing on a set of core standards prior to implementation, however, will minimize disruptive, expensive alterations going forward.

With customers in 26 states across 705 PSAPs, USCC is greatly affected by this issue because it interacts with so many different authorities that could adopt different standards. The company's scope may make it difficult to find solutions for varying standards or to cost-effectively implement solutions. Absent the establishment of consistent standards, USCC and smaller more regional carriers may be unable to implement NG-911 technology efficiently. Moreover, its customers and those roaming into its, and other carriers', service areas may experience unreliable access to NG-911 services.

Although not detailed in the NPRM, many states are already moving forward with the transition to NG-911 despite the differing standards at issue and many other outstanding questions. USCC has received requests with different deadlines from jurisdictions in at least eight states requesting that it transition part of its infrastructure to accommodate future deployment of NG-911, particularly switching to IP-based call routing. These requests do not acknowledge that NG-911 is still at its inception, and while USCC supports such a transition, rushing its implementation may lead to more problems for public safety in the long term than it resolves in the short term. Vendors are understandably eager to sell their wares to these jurisdictions and push for prompt adoption, but that should not be done at the expense of a well-planned, effective transition.

Aside from these general concerns, USCC notes several specific points. First, USCC wishes to call the Commission's attention to ATIS' Interim NonVoice Emergency Services ("INES") Incubator. That group is doing important work with stakeholders to produce interim text-to-911 solutions while longer term NG-911 solutions are being developed. Their

report should be issued by the end of December and should act as a guidepost for the Commission in setting any standards for an interim, SMS-to-911 solution.¹⁴ The Commission should consider these solutions – into which wireless carriers have had input – and should limit allowable solutions to one primary and one secondary solution. For an interim period, more than two solutions would be cumbersome to deploy across the nation and would not be cost effective for public safety entities, carriers, or other stakeholders.

Second, USCC also believes that the Commission should develop requirements for vendor credibility with regards to hosting new data local exchange facilities (“DLECs” or “Data Centers”). These centers are anticipated to support the routing of emergency traffic across several access networks. To the extent a vendor contracts with a PSAP to host and implement an Emergency Services IP Network (“ESInet”), the Commission should have some authority over that vendor and rules to ensure the vendor is acting in a manner consistent with the Commission’s goal of public safety.

USCC anticipates the transition to NG-911 and agrees the transition will bring many public safety benefits. But USCC also wants to make certain that states and PSAPs are not moving so quickly to implement NG-911 that they are forced to revisit their implementation a short time later following adoption of a different standard. In the E-911 context, the Commission originally implemented network-based and handset-based solutions for location accuracy. Before long, however, the Commission began to realize that the triangulation method of network-based technologies was not as precise as using the handset-based solutions, which uses GPS technology. The Commission is now in the process of phasing out the separate network-based and handset-based accuracy standards in favor of a unitary standard that adopts

¹⁴ See, II.A, *supra*.

the handset-based accuracy requirements.¹⁵ Working towards strong standards, interoperability of messaging services among operators and interoperability among NG-911's other technical specifications will be a key to the success of NG-911.

C. The Commission Should Enact Triggers for NG-911 Adoption.

In the NPRM, the Commission cites the transition process for E-911 as a potential model for NG-911.¹⁶ The E-911 transition process required service providers to provide E-911 only when the PSAP had requested, and would be capable of using, the service.¹⁷ The Commission asks in the NPRM if a similar process should be enacted for NG-911. USCC strongly supports such a process because of the orderly, cost effective transition it would ensure. CSRIC III, Working Group 1 is currently crafting recommendations supporting triggers which the Commission should carefully review.

The issues surrounding the implementation of E-911 location capability have many similarities to facilitating NG-911, including the need for PSAPs to make technological investments and changes of their own in order to take advantage of the advances made by wireless carriers. In the case of E-911, the Commission required wireless carriers to provide service in two phases.¹⁸ The E-911 requirements are only triggered, however, if a PSAP has requested the service, would be capable of receiving and utilizing the E-911 data, and a cost recovery mechanism for the PSAP's E-911 costs were in place. In the "Richardson Process"

¹⁵ *Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, *Notice of Proposed Rulemaking, Third Report and Order, and Second Further Notice of Proposed Rulemaking*, at ¶ 19 (July 13, 2011).

¹⁶ The E-911 transition process is sometimes referred to as the "Richardson Process" named after a pair of decisions involving the city of Richardson, Texas.

¹⁷ NPRM, at ¶¶ 90-91.

¹⁸ 47 C.F.R. § 20.18(d); (e).

case, the Commission explained these requirements in more detail, providing explanations as to how each element of the process could be met.¹⁹ The PSAP-based triggers helped to ensure that carriers were making investments that could be used by PSAPs, making the development of wireless E-911 location reporting more manageable, predictable, and ultimately far more beneficial to public safety.

One area the NG-911 transition could improve is in determining the geographic areas that trigger the need to initiate the transition. State or regional-based triggers, as the Commission raises the possibility of in the NPRM, would be preferable to a more disjointed PSAP-by-PSAP approach.²⁰ State or regional triggers will also ensure a more universal standard over a broader area, reducing the threat of conflicting standards.²¹ The Commission staff has also observed the possibility that PSAPs will consolidate NG-911 systems, which will also make state or regional-based triggers more sensible.²²

The NG-911 transition would strongly benefit from state or regional-based triggers similar to the E-911 location accuracy transition. If carriers could enact SMS-to-911 immediately, for example, it would not do any good if public safety providers were not equipped to receive the messages. Rather than require carriers to make significant investments for

¹⁹ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Order* (2001) ("Richardson Process I"); *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Order on Reconsideration* (2002) ("Richardson Process II").

²⁰ *NPRM*, at ¶ 92.

²¹ *See*, II.B, *supra*.

²² *White Paper: A Next Generation 911 Cost Study: A Basis for Public Funding Essential to Bringing a Nationwide Next Generation 911 Network to America's Communications Users and First Responders*, Public Safety and Homeland Security Bureau, September 2011 at 5; *See*, II.D, *infra*.

technology that public safety providers cannot use, the Commission should enact a process whereby a carrier must furnish NG-911 capability only when public safety officials are ready to use it. This is especially true where standards may evolve or change. As it stands today, USCC and other carriers are receiving transition notices from states, often with short deadlines, regardless of local public safety agencies' ability to actually receive calls, text messages, or other traffic through an IP-based, NG-911 system.²³ Triggers would resolve this issue and smooth the transition by making sure that requirements on carriers are tied to public safety's ability to use the technology. Without that ability, NG-911 is just an expensive mandate providing no public safety benefit. Triggers will encourage both public safety officials and carriers to implement working NG-911 technology useful to those in emergencies.

D. The Commission Should Be Cognizant of the Costs to Carriers and Consumers of Adoption.

Accompanying the release of the NPRM was a staff white paper that analyzed two cost models to construct and operate a nationwide NG-911 network over ten years.²⁴ The white paper, however, was restricted solely to public costs and did not discuss wireless provider expenses or the costs to customers. The Commission should study the cost issue further and understand the full costs of implementing NG-911 to all those involved in providing service, not just to the PSAP community, but to consumers and carriers as well. A study limited to the public safety sector gives only a limited picture of the total costs involved in NG-911. The Commission makes several requests for information in the NPRM about the potential costs to carriers,

²³ See, II.B, *supra*.

²⁴ *White Paper: A Next Generation 911 Cost Study: A Basis for Public Funding Essential to Bringing a Nationwide Next Generation 911 Network to America's Communications Users and First Responders*, Public Safety and Homeland Security Bureau, September 2011.

consumers, and PSAPs of any NG-911 requirements.²⁵ Those costs should receive the same comprehensive review and discussion as the public costs already detailed in the white paper.

USCC can slowly recover these costs over time, but the Commission should still seek to minimize costs by adopting appropriate standards so that carriers are not continuously required to replace equipment on software and make technological changes.²⁶ Triggers should also be enacted by the Commission in order to spread out the costs over a longer period, linking those costs to state or regional ability to use NG-911 technology and improve public safety.²⁷

Related to the cost of actually implementing NG-911 technically will be consumer education requirements. The Commission discusses the need for consumer education and how such education can be undertaken in the NPRM.²⁸ USCC agrees with the importance of consumer education, particularly since PSAPs, states or regions may adopt different NG-911 capabilities at different times. If Americans broadly perceive text-to-911 as an option but most PSAPs are not capable of receiving the messages, the country would return to a time when those in distress would dial 911 in a PSAP that used a different emergency services number.²⁹

Even where text-to-911 is available, consumer education must be undertaken so that mobile device users understand the shortcomings of text-to-911 limitations.³⁰ The

²⁵ See, e.g., NPRM, at ¶ 55 (Costs of using SMS-to-911); *Id.*, at ¶ 62 (Costs of prioritizing 911 traffic on networks); *Id.*, at ¶ 85 (Costs using third party software applications for text-to-911); *Id.*, at ¶ 103 (Costs of using advanced regional 911 centers on an interim basis).

²⁶ See, II.B, *supra*.

²⁷ See, II.C, *supra*.

²⁸ NPRM, at ¶¶ 104-110.

²⁹ S. Rep. No. 106-138, at 2 (1999) (Discussing different emergency access numbers, e.g., *55 in Missouri, *999 in Illinois, and 9-1-1 in Indiana).

³⁰ See, II.A, *supra*.

Commission should work with other government stakeholders such as the Department of Justice, Federal Emergency Management Administration's Office of Disability Integration and Coordination, NENA, APCO, and others in the public safety community to promote public awareness of text-to-911 availability and limitations.

E. The Commission Needs to Ensure Liability Protection for NG-911.

In the NPRM, the Commission asks about the need to update existing liability protection to account for NG-911.³¹ As observed in the NPRM, the primary basis for liability protection currently provided by the federal government is the New and Emerging Technologies (Net) 911 Improvement Act of 2008,³² which states that wireless carriers have the same immunity or other protection from liability in a state to the same extent as a local exchange carrier would have in that state. This means that there is no full federal shield from liability and protection for wireless carriers is limited to the patchwork existing in different states.

State approaches to liability protection have varied, even among the 26 states USCC serves. A majority of states have some form of liability protection, although those states have vast differences. Wisconsin, for example, exempts telecommunications utilities and wireless providers from liability to any person who dials 911.³³ Iowa provides narrower liability protection for wireless providers, allowing suits if an act or omission is willful and wanton.³⁴ New Hampshire, however, has no immunity provision for providers at all.³⁵ Some states without

³¹ NPRM, at ¶ 120.

³² Codified at 48 U.S.C. § 615a.

³³ WIS. STAT. ANN. § 256.35(7).

³⁴ IOWA CODE § 34A.7(6).

³⁵ N.H. REV. STAT. ANN. § 106-H:8 (Imposing a duty for providers to connect to 911 but remaining silent on liability).

liability protection statutes grant a liability shield to local exchange carriers through their tariffs which extend to wireless carriers as a result. If the tariffs are withdrawn, that would remove the wireless carriers' liability protection.³⁶

The existing patchwork is hardly sufficient for the current 911 system, let alone a future system complicated by NG-911. The NPRM raises the possibility, for example, of using third party software applications on smart phones for text-to-911.³⁷ If such an application fails to operate correctly that could raise liability issues for a carrier regardless of their lack of involvement with the application. PSAPs will also have many options in their choices of vendors and solutions. Wireless carriers will have to conform to those solutions and should not be held liable for any operational failures that occur at the vendor level. NG-911 also holds the long term promise of allowing different types of information to be transmitted with an emergency call, such as health records.³⁸ Transmitting information in addition to a 911 call could raise further liability issues beyond the current legal protections as many states base their liability statutes on emergency calls, not data transfers. PSAPs and the Commission do not want carriers to refuse to transmit this information due to, for example, fears of some type of Health Insurance Portability and Accountability Act ("HIPAA") privacy violation.

Current law also protects customer propriety network information ("CPNI"),

³⁶ NENA, *Next Generation 9-1-1 Transition Policy Implementation Handbook, A Guide for Identifying and Implementing Policies To Enable NG9-1-1*, at 21-22 (Mar. 2010), available at http://www.nena.org/sites/default/files/NG911%20Transition%20Policy%20Implementation%20Handbook_FINAL.pdf; For an overview of state liability laws as they stood in 2001, see Peter P. Eyck, *Dial 911 and Report a Congressional Empty Promise: The Wireless Communications and Public Safety Act of 1999*, 54 FED. COMM. L.J. 53, 71-74 (2001-2002).

³⁷ NPRM, at ¶ 57; *See also*, II.A., *supra*.

³⁸ NOI, at ¶ 29.

including location information.³⁹ There is an exception in the law which allows PSAPs to be provided call location information in order to respond to emergency calls.⁴⁰ The Commission should further clarify in its rules that the exception applies in the text-to-911 and NG-911 contexts as well.⁴¹

The Commission should work with Congress to extend liability protection regardless of NG-911 implementation, but certainly NG-911 adds urgency to the need for a more robust liability shield that is uniform across the states and covers all types of calls or data transmitted to or from 911.

³⁹ 47 U.S.C. § 222(h)(1).

⁴⁰ *Id.*, at (d)(4).

⁴¹ 47 C.F.R. §§ 64.2001 et seq.

III. CONCLUSION

USCC supports a timely and effective implementation to NG-911, which will bring many public safety benefits. USCC requests that the Commission enact policies that ensure an orderly and cost effective transition include confronting technical limitations, improving standardization, establishing capability triggers for deployment, consideration of the costs involved for different types of carriers, and an extension of liability protection. As these comments indicate, the issues the Commission must grapple with are interrelated and the Commission should act on these in a comprehensive way.

Respectfully submitted,



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