

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

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

COMMENTS OF RCA – THE COMPETITIVE CARRIERS ASSOCIATION

Rebecca Murphy Thompson
In-Sung Yoo
RCA – The Competitive Carriers Association
805 15th Street NW, Suite 401
Washington, DC 20005
(202) 449-9866

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RCA—The Competitive Carriers Association (“RCA”) hereby submits these Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) September 22, 2011 Notice of Proposed Rulemaking in the above Next –Generation 911 (“NG911”) proceedings.¹

INTRODUCTION AND SUMMARY

RCA commends the Commission in its continuing effort to bring multimedia capabilities to public safety communications and improve emergency response for the general public. In these comments, RCA highlights the numerous significant questions surrounding this undertaking, and to emphasize that near-term efforts to speed improved capabilities to market should not be pursued with a blind eye to real-world implications for rural and regional wireless carriers. As seen in the response of competitive carriers to public safety answering point (“PSAP”)/county-level location accuracy proposals in the wireless location accuracy

¹ *In re* Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications, Framework for Next Generation 911 Deployment, *Notice of Proposed Rulemaking*, PS Docket No.s 11-153, 10-255 (Sept. 22, 2011).

proceeding,² rural and regional carriers face a much different set of circumstances than their national counterparts. The areas of concern from that proceeding are only magnified in the NG911 proceeding, and the Commission should take care to issue any subsequent regulatory directives in a reasonable and realistic manner, so NG911 deployment may proceed without imposition of prohibitive costs and undue logistical burden on carriers. Without consolidation of PSAPs and assurance of additional funding sources, the overarching financial pressures may render any short-term fixes meaningless, or worse, result in wasteful spending on redundant systems. Finally, to maximize the ability of competitive wireless carriers to develop NG911 improvements, the Commission should remove existing barriers to deployment of broadband-capable networks by non-national carriers.

DISCUSSION

I. PUBLIC SAFETY ANSWERING POINTS MUST BE CONSOLIDATED TO REALIZE CRUCIAL COST SAVINGS AND MAXIMIZE EFFICIENCY

While recognizing that a local presence of emergency personnel affords certain benefits, the current economic climate and need for financial restraint make consolidation of PSAPs an essential part of the transition to NG911. Consolidation brings with it a host of benefits such as reduced overhead and infrastructure, and more efficient staffing. Consolidation is one of the most important preliminary steps on the path to widespread NG911 deployment.

² See *In re* Comment Sought on Proposals Regarding Service Rules for Wireless Enhanced 911 Phase II Location Accuracy and Reliability, *Reply Comments of the Blooston Rural Carriers*, PS Docket No. 07-114, at 2–5 (Dec. 4, 2009); *In re* Wireless E911 Location Accuracy Requirements, *Comments of T-Mobile USA, Inc., Rural Cellular Association and the Rural Telecommunications Group, Inc.*, PS Docket No. 07-114, at 10–18 (Nov. 20, 2009) [hereinafter *Comments of T-Mobile, RCA, and RTG*]; *In re* Comment Sought on Proposals Regarding Service Rules for Wireless Enhanced 911 Phase II Location Accuracy and Reliability, *Comments of the Blooston Rural Carriers*, PS Docket No. 07-114, at 2–3 (Oct. 6, 2008) [hereinafter *Blooston Comments*].

The general consensus of government agencies proves the need for greater efficiency in the management of these PSAPs. The Communications Security, Reliability and Interoperability Council (“CSRIC”) reported that “[i]n the vast majority of cases, there are clear benefits to consolidation,” and “[d]riving forces from political, economic and service quality factors are increasingly demanding public safety officials consider consolidation with neighboring communities of interest.”³ The CSRIC report notes the cost savings stemming from greater efficiency, coordination, and technical compatibility, but also the ultimate improvement in service level to the community.⁴ Indeed, even the municipalities in charge of PSAP administration are reassessing the value of consolidation.⁵ Steve Wisely, interim director of the Association of Public-Safety Communications Officials (APCO) communications center and 911 services division, indicated that “[f]ewer tax dollars are expected to be collected in 2009 and the coming years, so municipalities are warming up to [PSAP] consolidation in order to save money and improve efficiencies.”⁶

The Commission itself has acknowledged that PSAP consolidation would produce significant cost efficiency. In its September NG911 Cost Study, assuming a constant number of PSAPs, the Commission estimated the cost of PSAP broadband connectivity to be \$2.68 billion over 10 years. This amount is compared to an estimated cost of \$1.44 billion over that same span if a significant number of PSAPs—amounting to a 35 percent decrease in total number—

³ Communications Security, Reliability and Interoperability Council – Working Group 1A, Key Findings and Effective Practices for Public Safety Consolidation: Final Report 4 (2010) [hereinafter Working Group 1A Report].

⁴ *Id.*

⁵ Mary Rose Roberts, *Tough Economic Climate May Drive PSAP Consolidation*, Urgent Communications, Feb. 18, 2009, http://urgentcomm.com/policy_and_law/news/psap-consolidation-0218/.

⁶ *Id.*

consolidated or integrated hosted service solutions into their operations.⁷ While those estimates account only for connectivity and call routing costs and funding concerns will persist throughout the transition process,⁸ the substantial effect of consolidation cannot be ignored. As an initial step in this massively complex process, consolidation and the related efficiencies could make or break the chances of eventual success.⁹ RCA urges the Commission to explore all options for encouraging increased consolidation of PSAPs as a means to bring NG911 costs under control.

II. ADDITIONAL FUNDING SOURCES MUST BE IDENTIFIED

Wireless subscribership continues to skyrocket while wireline subscriptions decrease. Concern for adequate funding of future 911 systems is widespread and the increasing burden on wireless and IP-based providers to maintain the 911 system moving forward is troubling.¹⁰ For many rural and regional carriers, maintenance of *current* 911 systems continues to be a significant challenge. CSRIC acknowledged that “[i]n some cases, the technological challenges, coupled with increasingly difficult economics and funding challenges barely permit operation to keep pace in providing the response to emergencies that the American public expects and demands.”¹¹ CSRIC further noted that rural areas in particular face substantial challenges. Due to the need for greater technological and logistical efficiency, the Commission should identify

⁷ Public Safety and Homeland Security Bureau, Federal Communications Commission, 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 6–10 (2011).

⁸ See discussion *infra* Part II.

⁹ See Donny Jackson, *Congress Should Recognize that FCC Cost Study on NG-911 only a First Step*, Urgent Communications, Oct. 11, 2011, http://urgentcomm.com/policy_and_law/commentary/fcc-ng911-cost-study-20111011/index.html.

¹⁰ See Communications Security, Reliability and Interoperability Council – Working Group 4B, Transition to Next Generation 9-1-1 Final Report 42–45 (2011) [hereinafter Working Group 4B Report].

¹¹ *Id.* at 4.

new funding models and ensure their sufficiency so that market participants will not be completely overwhelmed by the tremendous resource needs.¹² The likelihood of parallel operation of the legacy system along with the newer NG911 system during an undefined transition period only exacerbates these concerns.¹³

State agencies are seeing the effect of the larger national trend of declining wireline subscriptions. Newer technologies are shouldering the increased financial burden of providing critical 911 systems for more and more consumers.¹⁴ Wireless carriers and their customers—particularly those served by smaller, rural and regional carriers—cannot and should not be forced to bear the brunt on their own, especially when it is known that some states dip into their 911 funds for purposes other than public safety advancement. The FCC’s report to Congress on state collection and distribution of 911 fees found that numerous states divert 911 funds to other unrelated purposes—a stark example of the inefficiency of the current 911 funding mechanism.¹⁵ Further, aside from outright misappropriation of 911 funds, a number of states have looked to expand their statutory authority to disburse 911 funds as a means to permit greater flexibility in

¹² *Id.* CSRIC noted that “[w]ithout implementation of new funding models to provide an adequate alternate and additional source of revenue for NG9-1-1 systems, the transition period to NG9-1-1 will be protracted and compromised, service to our citizens will be jeopardized, and Public Safety’s ability to keep pace with technological developments will be hampered.” *Id.*

¹³ *Id.* at 8.

¹⁴ Emergency Communication Networks Division, Minnesota Department of Public Safety, Statewide 911 Program: Annual Report to the Legislature 6 (2010), <https://dps.mn.gov/divisions/ecn/Documents/2010%20MN%20911%20Annual%20Report.pdf>; L. Robert Kimball & Associates, Inc., Next Generation 9-1-1 Funding Study, submitted to The Washington State Military Department 14–16 (2008), <http://www.emd.wa.gov/e911/documents/RPT090122KRS-WashingtonStateNG911FundingStudy-Final1-29-09.pdf>.

¹⁵ Federal Communications Commission, Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges 10–11 (2011).

the use of 911 funds.¹⁶ A certain amount of leeway would appear to be in line with the admittedly complex nature of 911 system implementation. However, unchecked movement in this direction could open the door to increased use of 911 funds that may retain only a modicum of connection to provision of 911, and inject an additional measure of uncertainty into a system already plagued by inconsistency. A sufficient level of certainty for carriers is an absolute must in order to incent rapid deployment of NG911 infrastructure.¹⁷ On the other hand, duplicative fees, appropriation for non-911 purposes, and lack of coordination between oversight entities are antithetical to responsible maintenance of funding drawn from the pockets of consumers.

As a gateway issue, identification of adequate funding can help ensure a more seamless path to advanced 911 systems with less potential for unwanted outcomes. RCA supports the assembling of a Blue Ribbon Panel of stakeholders to address the many outstanding questions on the availability and allocation of funding for NG911.¹⁸ In the current fiscal climate, the availability of supplementary funding is far from certain¹⁹. Drawing on the insight of a broad range of industry and public safety participants is paramount to setting attainable goals outlined by rational regulatory expectations. Not surprisingly, the first recommendation in CSRIC Working Group 1A's Final Report to the FCC is that the agency should "consider promoting the development of new funding strategies to assist public safety agencies in their consolidation efforts," and encourage the Commission to consult with federal agencies to "determine if public safety infrastructure projects can be eligible under any new or existing public infrastructure

¹⁶ See e.g., G.A. Code Ann. § 46-5-134 (2011); N.C. Gen. Stat. § 62A-46 (2011).

¹⁷ *In re* Framework for Next Generation 911 Deployment, *Reply Comments of CTIA—The Wireless Association*, PS Docket No. 10-255, at 9–12 (Mar. 14, 2011).

¹⁸ See Working Group 4B Report at 14.

¹⁹ See Donny Jackson, *A Long Time Coming*, Urgent Communications, June 1, 2011, <http://urgentcomm.com/psap/mag/psap-ng911-adoption-201106/>.

funding programs” and “work with federal agencies and explore developing grant guidance that creates incentives for consolidation efforts.”²⁰ RCA supports these and other efforts to make the funding of 911 as equitable as possible for all parties to protect the future of the system.

III. REGULATORY BURDENS MUST BE MEASURED AND REASONABLE FOR SMALLER NETWORK OPERATORS TO IMPLEMENT

As seen in the E911 location accuracy proceeding, industry should not be expected to comply with regulatory demands that simply presume the availability of appropriate and affordable technologies. RCA takes the position that wireless carriers—specifically smaller carriers—risk being substantially burdened with overly ambitious regulatory requirements that do not account for real-world implications across a wide range of entities.²¹ Regulatory burdens should account for all players and reflect the reasonable expectations of industry participants in light of current means and resources. As the outlines of the NG911 regime continue to take shape, RCA respectfully reminds the Commission to consider the constraints of the smaller carriers that often serve areas most in need of reliable communications services.

²⁰ Working Group 1A Report at 39–40.

²¹ See *Blooston Comments* at 2–3; *In re* Wireless E911 Location Accuracy Requirements, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Association of Public-Safety Communications Officials-International, Inc. Request for Declaratory Ruling, 911 Requirements for IP-Enabled Service Providers; *Comments of United States Cellular Corporation*, PS Docket No. 07-114, CC Docket No. 94-102, WC Docket No. 05-196, at 2–5 (July 5, 2007); *In re* Wireless E911 Location Accuracy Requirements, Association of Public-Safety Communications Officials-International, Inc. Request for Declaratory Ruling, 911 Requirements for IP-Enabled Service Providers; *Comments of Rural Cellular Association*, PS Docket No. 07-114, WC Docket No. 05-196, at 3–7 (Aug. 17, 2007).

Furthermore, the Commission should not take for granted that necessary technological solutions—especially cost-effective solutions—will be readily available in the market.²² Those concerns are amplified for smaller carriers who hold less sway on the specifications of technologies brought to market. As seen in other contexts—namely, the lack of interoperability in the 700 MHz band²³—lack of size and scale means that these carriers’ needs are sometimes given short shrift in their attempts to obtain equipment. These carriers are left at the mercy of a technology market that may not be able to meet their specific needs. Equity demands that these companies should not be punished for any ensuing failure to meet regulatory expectations that were never attainable in the first place. Notably, courts have opined that “inquiries into technical and economic feasibility are ‘made necessary by the bar against arbitrary and capricious

²² See *In re* Wireless E911 Location Accuracy Requirements, *Comments of T-Mobile USA, Inc., Rural Cellular Association on the 911 Location Accuracy Remand*, PS Docket No. 07-114, at 2–5 (Oct. 6, 2008).

²³ *In re* Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DTV Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and to Promote Voluntary Agreements to Relocate Broadcast Stations From Channel 51; Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, *Comments of Rural Cellular Association*, RM-11626; RM-11592 (Apr. 27, 2011) at 4–5; *In re* Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DT Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and to Promote Voluntary Agreements to Relocate Broadcast Stations From Channel 51; Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, *Reply Comments of Rural Cellular Association*, RM-11626; RM-11592 (May 12, 2011) at 4–6; Letter of Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 06-150; WT Docket No. 05-265; PS Docket No. 06-229; GN Docket No. 09-51; RM-11592 (Feb. 24, 2011) (including summary of economic study by Dr. Raul Katz); Letter of Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in RM-11592; WT Docket No. 06-150; PS Docket No. 06-229; GN Docket No. 09-51; PS Docket No. 07-114 (Aug. 18, 2010) (including paper by Peter Cramton); Letter of David L. Nace, Counsel to Cellular South, Lukas, Nace, Gutierrez & Sachs, to Marlene H. Dortch, Secretary, FCC, filed in RM-11592 (June 15, 2011); Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592, RM-11626 (July 27, 2011).

decision-making.”²⁴ Carelessly crafted regulatory demands that increase ambiguity and uncertainty for carriers carry the risk of defeating the very purpose for which they were created by deterring market entry and thus depriving consumers of any coverage at all.²⁵ Surely that cannot be the Commission’s intent.

Roll-out of E911 capabilities has already resulted in significant expense for smaller carriers,²⁶ some of whom have noted that the high expense does not always result in the level of promised performance.²⁷ The Rural Telecommunications Group rightfully points out that, in the context of the wireless E911 location accuracy proceeding, “[T]he Commission has repeatedly found...that imposing location accuracy standards based on a hope that evolving technology will make compliance possible results only in the need for waivers, extensions or rule

²⁴ *Comments of T-Mobile, RCA, and RTG*, at 10–11 (quoting *Nuvio Corp. v. FCC*, 473 F.3d 302, 303 (D.C. Cir. 2006)).

²⁵ *In re Wireless E911 Location Accuracy Requirements, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Association of Public-Safety Communications Officials-International, Inc. Request for Declaratory Ruling, 911 Requirements for IP-Enabled Service Providers; Comments of Nsighttel Wireless, LLC*, PS Docket No. 07-114, CC Docket No. 94-102, WC Docket No. 05-196, at 3 (July 3, 2007) (“Concern with E911 location capability could become a factor in whether or not telecommunications companies choose to install a site. It would seem obvious that the complete lack of wireless coverage is contrary to the public interest and not at all helpful to public safety ...”); *see also In re Wireless E911 Location Accuracy Requirements, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Association of Public-Safety Communications Officials-International, Inc. Request for Declaratory Ruling, 911 Requirements for IP-Enabled Service Providers; Comments of Corr Wireless Communications LLC on Section III.A of Proposal*, PS Docket No. 07-114, CC Docket No. 94-102, WC Docket No. 05-196, at 3 (July 5, 2007) [hereinafter *Comments of Corr Wireless*].

²⁶ *Comments of Corr Wireless* at 2.

²⁷ *Id.*

modifications.”²⁸ Instead of opting to repeat that time-consuming and wasteful cycle, the Commission should instead take this opportunity to proceed with goals grounded in market realities.

The network demands on wireless carriers imposed by the move to NG911 will entail massive investment in broadband-capable networks to accommodate the envisioned multimedia capabilities. As Chairman Genachowski recently stated, “[T]o make sure mobile broadband is universally available, we need to close the infrastructure deployment gap.”²⁹ As such, the Commission should likewise take action to resolve the host of competitive issues—most notably, interoperability in the 700 MHz band³⁰—that impede the ability of smaller carriers to deploy their licensed spectrum and effectively compete with the larger national carriers. The benefits of such efforts not only would promote the deployment of next-generation public safety infrastructure, but also would help ensure robust competition for the future of wireless.

CONCLUSION

For the reasons stated above, RCA encourages the Commission to proceed at this time with development and implementation of NG911 systems in a holistic manner, taking into account the broader realities of public safety and wireless industry infrastructure. The near-term steps of NG911 should not be taken without constant mindfulness of the financial and operational concerns of the private-sector stakeholders most directly impacted by these steps. The overwhelming majority of the wireless sector supports the goal of NG911, but ensuring

²⁸ *In re* Wireless E911 Location Accuracy Requirements, *Comments of the Rural Telecommunications Group, Inc.*, PS Docket No. 07-114, at 2 (Oct. 6, 2008).

²⁹ Remarks of FCC Chairman Julius Genachowski, As Prepared For Delivery, GSMA Mobile Asia Congress, Hong Kong, Nov. 16, 2011, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-311177A1.pdf.

³⁰ *See supra* note 25.

expansive and effective roll-out of these vital public services will require an equitable assessment of the abilities and resources of all wireless carriers. To facilitate the goal of a nationwide NG911 system, the Commission should take whatever actions necessary to position carriers to partner fully with government to bring about swift deployment of improved 911 systems without alienating their customers or threatening their financial well-being.

Respectfully submitted,

/s/

Rebecca Murphy Thompson
In-Sung Yoo
RCA – The Competitive Carriers Association
805 15th Street NW, Suite 401
Washington, DC 20005
(202) 449-9866

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