

**Before the
Federal Communications Commission
Washington, DC 20554**

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

COMMENTS OF NTCA–THE RURAL BROADBAND ASSOCIATION

I. INTRODUCTION AND SUMMARY

NTCA–The Rural Broadband Association¹ (“NTCA”) hereby submits these comments in response to the Public Safety and Homeland Security Bureau’s Further Notice of Proposed Rulemaking (“FNPRM”) that proposes rules to enable Americans to send text messages to 9-1-1 (“text-to-911”). NTCA commends the Commission for its continuing efforts to update 9-1-1 (“911”) services with new multimedia capabilities and therefore improve emergency response offered to the general public. NTCA also recognizes that, with this proposal, the Federal Communications Commission (“the Commission”) is attempting to take an interim step toward the full deployment of next-generation 9-1-1 (“NG911”) capabilities.

The FNPRM proposes a framework for text-to-911 service based upon the recent voluntary commitment of the nation’s four largest wireless providers—in agreement with the

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

Association of Public Safety Communications Officers and the National Emergency Number Association—to make text-to-911 available to their customers by May 15, 2014, and to provide automatic bounce back messages across their networks by June 30, 2013.² NTCA cautions the Commission to avoid regulating the entire marketplace based upon the capabilities and financial resources of the four largest wireless providers. CCA notes that “[a]s seen in response to competitive carriers to public safety answering point (“PSAP”)/county-level location accuracy proposal in the wireless location accuracy proceeding, rural and regional carriers face a much different set of circumstances than their national counterparts.”³ For small and rural wireless carriers, implementation of text-to-911 service poses some of the same obstacles to deployment as more advanced NG911 technologies, including the lack of an existing industry standard solution, insufficient funding support and/or cost recovery, and inadequate liability protection.

Accordingly, NTCA recommends that the Commission refrain from mandating that small and rural wireless carriers offer the text-to-911 service; the Commission should step back and allow additional time for technical organizations to develop one standardized—and cost efficient—solution. Further, any federal mandates that wireless carriers offer text-to-911 service should not apply until local PSAPs are ready to accept and send text messages. The Commission also should develop a sufficient cost recovery mechanism to enable wireless carriers and PSAPs to recover their implementation costs for text-to-911 services and future NG911 capabilities. Further, the Commission should work with Congress to establish adequate liability protection for all carriers, vendors, and PSAPs in the 911, Enhanced-9-1-1 (“E911”) and NG911 marketplace.

² FNPRM at 3.

³ Comments of CCA—The Competitive Carriers Association, *In the Matter of 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 Nos. 11-153, 10-255), (Sept. 22, 2011), (“CCA Comments”).

II. THE COMMISSION SHOULD REFRAIN FROM IMPOSING ANY TEXT-TO-911 SERVICE MANDATES ON SMALL AND RURAL WIRELESS CARRIERS UNTIL A STANDARD INDUSTRY SOLUTION IS DEVELOPED AND PSAPS ARE READY TO ACCEPT TEXT MESSAGES

Text-to-911 is a new service, without an established, tested, and proven industry solution. Standards are critical to ensuring that the text-to-911 service functions in a successful manner throughout the nation, providing for consistent, uniform links between the end user's wireless handset, a wireless carrier's network, and the PSAP. A standard for text-to-911 service would offer end users a level of safety, security, quality, and consistency in the service. The lack of an industry standard creates unnecessary complexity with various service designs in use throughout the nation that may result in confusion about how the service functions from an end user and PSAP perspective.

Standards also reduce costs and time to market for new services. Without a generally accepted industry method for delivering text-to-911 messages, all wireless carriers will be forced to develop customized solutions. These independent, one-off solutions will likely require network operators to purchase new hardware and/or software, a substantial investment for small, rural wireless carriers with extremely limited subscriber bases and resultant revenues over which to spread the implementation costs.

Standards also enable compatibility and interoperability between vendor solutions in the marketplace. Currently, in order to provide current E911 services, small carriers typically contract with third-party providers. The third-party vendor maintains connections to various PSAPs. The vendor also serves as a middleman between the wireless carrier and the PSAP, relaying call routing and location accuracy information. Without standards, when the industry moves to a text-to-911 service, the use of multiple third-party solutions creates additional

complexity and interoperability issues. PSAPs may choose to interface with different third-party vendors than the solutions selected by the wireless carriers in the area. Various third-party solutions may be incompatible with one another and with the wireless carrier's network and the PSAP's selected solution.

The Blooston Rural Carriers brought this issue to light in its December 2011 comments in this proceeding. Although the comments are more than a year old, the status of the marketplace has not changed. The Blooston Rural Carriers note that developing a text-to-911 standard is the first step; equipment vendors then will have to develop, manufacture, and deploy the necessary equipment, a process that will require several years.⁴ NTCA requests that the Commission refrain from imposing any text-to-911 service mandates on small and rural wireless carriers until the technical organizations have had sufficient time to develop an industry standard, and third-party providers have deployed a tested, proven, and accepted solution. In addition, small and rural wireless carriers should not be forced to adopt new technology and offer a new service until local PSAPs are able and willing to accept and send text message transmissions.

III. THE COMMISSION SHOULD RECOMMEND THAT CONGRESS ESTABLISH AN ADEQUATE FUNDING MECHANISM TO SUPPORT A NEW TEXT-TO-911 SERVICE

Existing cost recovery mechanisms are not sufficient to support the implementation of a new text-to-911 service. In its initial comments in this proceeding, CCA calls attention to a Communications Security, Reliability and Interoperability Council Working Group Report, which notes that “[c]oncern for adequate funding of future 911 systems is widespread and the

⁴ Comments of Blooston Rural Carriers at 4.

increasing burden on wireless and IP-based providers to maintain the 911 system is troubling.”⁵

The nationwide deployment of a text-to-911 service requires a sufficient and predictable fee structure. NTCA urges the Commission to recommend that Congress establish an adequate funding mechanism to support a new text-to-911 service and its NG911 successors.

The current 911 funding model is broken and ineffective at supporting existing 911 services, let alone advanced capabilities such as text-to-911. Under federal regulations, wireless providers, as non-regulated entities, are allowed to recover 911 implementation costs from their subscribers based upon the framework outlined in the Commission’s Second Memorandum and Order issued in 1999,⁶ and its subsequent 2001 demarcation ruling issued in response to King County, Pa.⁷ However, funding of 911 varies from state-to-state. The methodology and rates for imposing these charges are also governed by state or local regulations, which often place a line-item fee or surcharge on the customer’s bill based upon the type of voice service provided, such as wireline, VoIP, wireless, or wireless pre-paid service. Unfortunately, as noted in the Commission’s 2013 report to Congress, this results in inconsistent funding mechanisms and total amounts collected for 911 services, which vary across jurisdictional boundaries.⁸ Further, “[h]ow the funds may be spent varies between states, creating further disparities among the states’ 911 programs and potentially creating interoperability and compatibility issues where one

⁵ Comments of CCA at 4, *quoting* Communications Security, Reliability and Interoperability Council – Working Group 4B, *Transition to Next Generation 9-1-1 Final Report* 42-45 (2011).

⁶ *In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Second Memorandum Opinion and Order*, (CC Docket No. 94-102 and RM-8143), (adopted November 18, 1999, Released December 8, 1999.)

⁷ See Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Marlys R. Davis, E911 Program Manager, Department of Information and Administrative Services, King County, Washington (May 7, 2001).

⁸ *Pursuant to the Next Generation 911 Advancement Act of 2012 (Pub. L. 112-96 (2012)), Legal and Regulatory Framework for Next Generation 911 Services Report to Congress and Recommendations*, at 33, Federal Communications Commission, February 22 2013. (“FCC Report to Congress”).

state or locality progresses more quickly than another.”⁹ It’s widely known that some states utilize collected 911 funds for non-911 purposes, and previous efforts to curb this process have proven ineffective.¹⁰

As noted above, a new text-to-911 service will require small and rural wireless carriers to make a substantial investment in new hardware and software in order to route SMS information to the correct PSAP with its related location information. NTCA’s members, which operate wireless networks in rural and remote areas, provide service to a limited number of subscribers and, as such, they cannot successfully recover their text-to-911 implementation costs without substantially and unrealistically increasing end user rates. As the Commission notes in its FNPRM, Intrado estimates the national cost for wireless carriers to implement text-to-911 services at \$20 million over five years, or \$4 million annually.¹¹ NTCA’s members service approximately 5% of the nation’s telecommunications subscribers and 40% of the nation’s landmass. As a result, small and rural carriers may be expected to absorb a disproportionate share of implementation costs. NTCA agrees with the Commission’s recommendation: “Congress should develop incentives for states to broaden the base of contributors to NG911 funding to more accurately reflect the benefits derived from NG911 service.”¹²

Further, NTCA agrees with the Blooston Rural Carriers that “at this point in time and for the foreseeable future, PSAPs are not equipped (and will not be equipped) to process SMS text-to-911 transmissions, and the costs associated with the PSAP upgrades needed to achieve this capability are apt to be great.”¹³ For a point of comparison between rural and urban areas, NTCA members report that many rural PSAPs are unable to accept E911 Phase 2 information.

⁹ FCC Report to Congress at 33.

¹⁰ FCC Report to Congress at 35.

¹¹ Comments of Intrado at 14.

¹² FCC Report to Congress at 35.

¹³ Blooston Rural Carriers Comments at 2.

Before the Commission issues a new regulation to further upgrade 911 services, NTCA urges the Commission to ensure that all PSAPs throughout the nation are able to accept E911 information, and an adequate, sufficient, and long-term funding model is in place to recover text-to-911 implementation costs.

IV. THE COMMISSION SHOULD URGE CONGRESS TO ESTABLISH UNIFORM LIABILITY PROTECTION FOR ALL SERVICE PROVIDERS AND VENDORS PROVIDING 911, E911 AND NG911 SERVICES SUCH AS TEXT-TO-911

NTCA urges the Commission to work with Congress to develop comprehensive and standardized liability protection for all manufacturers, vendors, public safety answering points (PSAPs), and service providers operating in the 911, E911, and NG911 marketplace. The association maintains that liability protection should be platform agnostic, and extended to all types of data, including multimedia content.

As it stands right now, existing 911 liability protection varies from state-to-state based upon LEC tariffs, statutes, and judicial decisions. The New and Emerging Technologies Improvement of Act of 2008 was an important step in the right direction. However, as several parties noted in the Commission's recent legal and statutory framework for NG911 services proceeding¹⁴—and in previous comments filed in the E911 and NG911 proceedings—the underlying statute is voice centric; it relies upon the immunity afforded to the LEC based upon local tariffs which vary by jurisdiction, and the statutes, are being eliminated or replaced as they are often tied to time-division multiplexed technology. Further, the Next Generation 9-1-1

¹⁴ Comments of AT&T, *In the Matter of Legal and Statutory Framework for Next Generation 9-1-1 Services Pursuant to the Next Generation 9-1-1 Advancement Act of 2012*, (PS Docket No. 10-25, PS Docket No. 11-153, and PS Docket No. 12-333), (“AT&T comments”) at 4. Also see comments of Telecommunication Systems at 6; Verizon and Verizon Wireless at 5; and T-Mobile at 9.

Advancement Act of 2012 was limited in scope and may not provide adequate protection for all parties involved in the planning, deployment, and operations of a NG911 system. As a result, current liability protection is not designed for the advanced, IP-based services, software, and applications that encompass NG911—nor an interim step such as text-to-911 service.

The Commission should recommend that Congress take further steps to: (1) develop certainty and predictability in liability protection by providing one standard of protection to all carriers and vendors, and (2) expand existing legislation to cover all forms of data, including multimedia content. NTCA agrees with AT&T that “[l]imitation of liability protection for all in the 9-1-1 provisioning chain should be clear and unambiguous, comprehensive, standardized, nationwide, and applicable to all equally—regardless of technology involved.”¹⁵

¹⁵ *Id.* at 2.

V. CONCLUSION

A standard text-to-911 solution does not currently exist, and the cost to provide a customized solution is exorbitant for small and rural wireless carriers with limited resources and subscribers over which to spread the costs. NTCA urges the Commission to refrain from mandating that wireless carriers offer new text-to-911 services until an established, tested, and accepted industry solution is in place, and local PSAPs are able to accept and send text messages. In addition, current 911 funding mechanisms are insufficient to support current services, let alone new emergency response capabilities. The Commission should recommend that Congress establish an adequate funding mechanism for text-to-911 and future NG911 services. Finally, the Commission should also establish uniform liability protection for all 911, E911, and NG911 service providers, vendors, and PSAPs.

Respectfully submitted,



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