

**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
	)	

To: The Commission

**REPLY COMMENTS OF SOUTHERNLINC WIRELESS**

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**REPLY COMMENTS OF SOUTHERNLINC WIRELESS**

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless (“SouthernLINC Wireless”) hereby submits its reply comments in response to the Commission’s *Further Notice of Proposed Rulemaking* (“FNPRM”) in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

SouthernLINC Wireless appreciates and applauds the voluntary commitments that have been made by the nation’s four largest wireless carriers regarding the implementation of text-to-911 services. SouthernLINC Wireless cautions, however, that these voluntary commitments reflect only what these four carriers, with their substantial resources, believe might be achievable on their own networks and do not give any consideration to the circumstances and operational realities faced by the regional and rural wireless carriers that make up the rest of the industry. To

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<sup>1</sup> / *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications, Framework for Next Generation 911 Deployment*, PS Docket No. 11-153, PS Docket No. 10-255, Further Notice of Proposed Rulemaking, FCC 12-149 (rel. Dec. 13, 2012) (“FNPRM”).

the extent the Commission determines that an industry-wide mandate is necessary, SouthernLINC Wireless urges that any rules the Commission may adopt should appropriately take into account the diverse operational realities of the entire industry, not simply those of the industry's largest players.

Regional and rural wireless carriers in particular face substantially different circumstances than the four large nationwide carriers, including technical and economic issues and limits on resources that impose significant constraints on their ability to match the voluntary commitments made by the nationwide carriers. For example, SouthernLINC Wireless will need to develop and deploy a unique solution customized specifically for its iDEN network. This solution would require just over \$1 million and approximately eight months of intense work and would require resources to be diverted from other essential areas such as network maintenance and upgrades. Although these costs may appear marginal or reasonable to the Commission or to the nationwide carriers, for a regional carrier the size of SouthernLINC Wireless they are in fact quite significant.

Moreover, small and mid-size regional and rural wireless carriers often have far too few customers to allow the costs of implementing text-to-911 to be spread across their customer base in an economically feasible manner, and, as other commenters have noted, existing state cost recovery programs are both inconsistent and inadequate. Effective cost recovery must therefore be a prerequisite to the adoption of any rule mandating the implementation of text-to-911.

For these reasons, SouthernLINC Wireless submits that a uniform timeframe applicable to the entire industry is not feasible and urges the Commission to consider alternative timeframes that would allow text-to-911 to be implemented industry-wide in an achievable and cost-effective manner. NTCA has proposed one reasonable alternative, which would be to link the

requirement for smaller wireless carriers to implement text-to-911 to PSAP readiness.

Alternatively, the Commission should consider staggered implementation timeframes for regional and rural wireless carriers in recognition of the constraints such carriers will face, just as the Commission previously did for the implementation of E911 Phase II services. In any event, the Commission must adopt as part of its implementation framework a reasonable waiver process with clear and reasonable standards.

Finally, SouthernLINC Wireless joins with other commenters in urging the Commission to promote the development of uniform liability protections at the state and local levels for all persons involved in the handling of any aspect of an emergency communication, including text-to-911.

## **II. THE VOLUNTARY COMMITMENTS MADE BY THE FOUR LARGEST WIRELESS CARRIERS SHOULD NOT SERVE AS AN INDUSTRY-WIDE MANDATE**

The *FNPRM* makes clear that the Commission's proposed rules requiring all CMRS carriers to implement text-to-911 service capability throughout their networks are based entirely on voluntary commitments made by the nation's four largest wireless carriers as part of the "Carrier-APCO-NENA Agreement." However, these voluntary commitments reflect only what these four carriers – with their substantial resources and unmatched access to new technologies, equipment, and third-party vendors – believe might be achievable on their own networks and do not give any consideration to the circumstances and operational realities faced by the regional and rural wireless carriers that make up the rest of the industry.

SouthernLINC Wireless appreciates the nationwide carriers' efforts and emphasizes its own ongoing commitment to ensuring that its subscribers have the best possible access to emergency communications services. For example, SouthernLINC Wireless has already implemented SMS and MMS automatic notification (*i.e.*, "bounce-back") capabilities throughout

its network, even though this capability has not yet been formally required by the Commission.<sup>2</sup> Other regional and rural carriers have likewise consistently demonstrated a similar level of commitment to consumer safety and welfare.

Nevertheless, as other commenters have noted, smaller regional and rural wireless carriers face substantially different circumstances than the four large nationwide carriers, including technical and economic issues and limits on resources that impose significant constraints on their ability to match the voluntary commitments made by the nationwide carriers.<sup>3</sup> SouthernLINC Wireless therefore joins NTCA in cautioning the Commission to avoid regulating the entire wireless marketplace based upon the capabilities and extensive resources of the four largest wireless providers.<sup>4</sup> As discussed further below in these reply comments, to the extent the Commission determines that an industry-wide mandate is necessary, any rules the Commission may adopt should appropriately take into account the diverse operational realities of the entire industry, not simply those of the industry's largest players.

### **III. IT IS FAR FROM CLEAR THAT THE IMPLEMENTATION OF TEXT-TO-911 ON AN INDUSTRY-WIDE BASIS CAN BE ACHIEVED IN A FEASIBLE, COST-EFFECTIVE MANNER WITHIN THE TIMEFRAMES ENVISIONED BY THE COMMISSION**

In the *FNPRM*, the Commission takes the view that the implementation of text-to-911 is technically feasible using existing technologies and can be achieved in the near term at a reasonable cost.<sup>5</sup> The Commission bases its position on the voluntary commitments made in the

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<sup>2</sup> / See *FNPRM* at ¶¶ 25 – 32 (requesting comment on the Commission's proposal to adopt a "bounce-back" requirement).

<sup>3</sup> / See Comments of NTCA – The Rural Broadband Association ("NTCA"); Comments of the Rural Telecommunications Group ("RTG"); Comments of the Telecommunications Industry Association ("TIA") at 10; Comments of CTIA at 6.

<sup>4</sup> / Comments of NTCA at 2.

<sup>5</sup> / See *FNPRM* at ¶¶ 58 – 66.

Carrier-APCO-NENA Agreement, on cost estimates provided by vendors, and on the results of a limited number of text-to-911 trials and demonstrations.<sup>6</sup> However, as CTIA pointed out, the Commission’s reliance on the Carrier-APCO-NENA Agreement as evidence of cost-effectiveness and feasibility ignores the fact that only four carriers – all of whom have substantial resources – entered into this voluntary agreement.<sup>7</sup> With respect to the cost estimates provided by vendors, the estimates cited to by the Commission in the *FNPRM* are very broad and general at best and do not appear to take into account the wide variety of network sizes, architectures, and technological and operational conditions that exist across the country.<sup>8</sup> The Commission must also recognize that the cost estimates provided by vendors are only *estimates*; they are not cost commitments, and, should the Commission adopt the mandates envisioned in the *FNPRM*, there is nothing to prevent these costs from escalating significantly as the complexities of implementing text-to-911 on the multiplicity of networks deployed across the country become clear.

Finally, as T-Mobile – itself one of the signatories to the Carrier-APCO-NENA Agreement – astutely observed, while several trials of text-to-911 have taken place and are ongoing, they have been of limited scope and involved limited numbers of PSAPs (even with the expansion of the Black Hawk County trial to the State of Iowa, all of the wireless 911 texts sent in Iowa continue to be routed to Black Hawk County), thus “making it difficult to draw any definitive conclusions” regarding the cost and feasibility of widespread implementation.<sup>9</sup> T-Mobile further observed that these trials have required users to include their location information

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<sup>6</sup> / *Id.* at ¶ 66.

<sup>7</sup> / Comments of CTIA at 6.

<sup>8</sup> / *FNPRM* at ¶¶ 66, 149, and 151.

<sup>9</sup> / Comments of T-Mobile at 2 – 3.

in any text messages sent to 911 and that any technical workarounds that would enable the transmission of coarse location information (*i.e.*, cell site) “have not been tested on a large scale involving multiple PSAPs and carriers.”<sup>10</sup>

Based on the foregoing, SouthernLINC Wireless submits that, despite the voluntary commitments made by the four nationwide carriers, it is far from clear that the implementation of text-to-911 on an industry-wide basis can be achieved in a feasible, cost-effective manner within the timeframes envisioned by the Commission.

#### **IV. REGIONAL AND RURAL WIRELESS CARRIERS FACE GREATER CHALLENGES THAN THE NATIONWIDE CARRIERS IN IMPLEMENTING TEXT-TO-911**

As has been previously noted in this docket, regional and rural wireless carriers face substantially different circumstances than the four large nationwide carriers, including technical and economic issues and limits on resources that impose significant constraints on their ability to match the voluntary commitments made by the nationwide carriers in the agreement that forms the basis of the Commission’s proposals on text-to-911.<sup>11</sup>

For its part, SouthernLINC Wireless has been investigating the technical feasibility and costs involved in implementing text-to-911 on its network for over a year, starting well before the Commission adopted this *FNPRM*. SouthernLINC Wireless has determined that text-to-911 cannot be implemented on its network as currently configured because there is no way to extract location information – even cell site information – from a text message on the network. SouthernLINC Wireless would therefore be unable to either determine the subscriber’s location or to route the 911 message to the appropriate PSAP. SouthernLINC Wireless has further

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<sup>10</sup> / *Id.* at 3.

<sup>11</sup> / *See* Comments of NTCA at 1 – 3 and 6; Comments of RTG at 2 – 3; *See also FNPRM* at ¶ 102 and *Initial Regulatory Flexibility Analysis (“IRFA”)* at ¶¶ 38 – 40.

determined that this technical obstacle might be overcome through the development and implementation of a third party application that would automatically associate an incoming 911 text message with the specific cell site to which the sender's handset is registered.

Upon speaking with vendors, however, SouthernLINC Wireless discovered that while some solutions may have been developed that would enable text messages to be automatically routed to PSAPs, no such solution has as yet been developed for the iDEN technology platform utilized by SouthernLINC Wireless. Faced with the need to develop and implement a customized iDEN solution for text-to-911, SouthernLINC Wireless conducted a feasibility study and concluded that just over \$1 million and approximately eight months of intense work would be required to develop and deploy text-to-911 on its iDEN network.<sup>12</sup> After the initial deployment is completed, SouthernLINC Wireless would then face additional costs to be paid to its 911 service provider on an ongoing basis for the handling of 911 text messages. In addition to these costs, SouthernLINC Wireless determined that, because implementing text-to-911 would place such a significant demand on its personnel and other resources, much of the work will have to be outsourced (another expense), and even then, resources will have to be diverted from other essential areas such as network maintenance and upgrades in order to manage the outsourcing activity.

Although these costs may appear marginal or reasonable to the Commission or to the nationwide carriers, for a regional carrier the size of SouthernLINC Wireless they are in fact quite significant, being equivalent to a substantial portion of the company's overall operating

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<sup>12</sup> / SouthernLINC Wireless cautions that this is a very preliminary estimate based on the information available at the time of the study and that these costs could increase as new standards are developed and implemented.

budget.<sup>13</sup> In addition, as RTG noted, regional and rural wireless carriers typically operate on a yearly budget cycle that does not afford the budgetary flexibility needed to incur these costs over the short implementation timeline proposed by the Commission.<sup>14</sup>

If such carriers should be required to implement text-to-911 under the aggressive timeframe proposed in the *FNPRM*, they will be compelled to divert scarce resources away from essential projects such as the deployment of new advanced wireless broadband technologies and infrastructure that will expand access to competitive broadband services for US consumers and which will lay the foundation for the deployment of Next-Generation 911 services. This diversion of resources could therefore ultimately delay the deployment of wireless broadband service to the detriment of consumers – particularly those in rural and underserved areas – thus frustrating the very policy goals the Commission has been pursuing for the past several years.

SouthernLINC Wireless acknowledges that its circumstances may be unique, since it will be the nation’s only significant iDEN-based wireless carrier once Sprint completes the final decommissioning of its Nextel iDEN network later this year. Accordingly, SouthernLINC Wireless will need to develop and deploy a unique solution customized specifically for its iDEN network and will not be able to take advantage of any economies of scale or leverage solutions developed for multiple carriers using similar network platforms. Nevertheless, SouthernLINC Wireless has not seen anything in the record that would lead it to believe that the implementation of text-to-911 will not place similarly disproportional burdens on other regional and rural wireless carriers.<sup>15</sup>

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<sup>13</sup> / See also Comments of NTCA at 3; Comments of RTG at 2- 3.

<sup>14</sup> / Comments of RTG at 3.

<sup>15</sup> / See *FNPRM* at ¶ 102 and *IRFA* at ¶¶ 38 – 40.

## V. EFFECTIVE COST RECOVERY IS A PREREQUISITE TO IMPLEMENTING TEXT-TO-911 INDUSTRY-WIDE

As discussed above, while the costs of implementing text-to-911 may appear reasonable to the Commission or to the nationwide carriers, for regional and rural wireless carriers they are in fact quite significant. Effective cost recovery must therefore be a prerequisite to the adoption of any rule mandating the implementation of text-to-911 on an industry-wide basis.

In the *FNPRM*, the Commission states that CMRS providers generally recover their 911 implementation costs from their subscriber base, and the Commission further presumes that CMRS providers have the ability to likewise recover the costs of implementing text-to-911 services throughout their networks from their customers.<sup>16</sup> The truth, however, is that small and mid-size regional and rural CMRS providers often have too few customers to allow these costs to be spread across their customer base in an economically feasible manner<sup>17</sup> and must therefore rely on state cost recovery programs (which are both inconsistent and insufficient), or – as is more typically the case – must absorb these costs themselves. Absorption of these costs means that carriers such as SouthernLINC are faced with choosing between the lesser of two evils – either pass through the costs to their customers (whether as a line item on the bill or embedded in an overall higher rate) or forego other investments that enhance the services they bring to their customers (such as high speed broadband services) in order to implement a government mandate that, depending on whether PSAPs acquire texting capability, may bring little practical benefits to their customers. As a result, SouthernLINC Wireless and other regional and rural wireless

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<sup>16</sup> / *FNPRM* at ¶ 151.

<sup>17</sup> / *See, e.g.*, Comments of NTCA at 6 (“NTCA’s members ... provide service to a limited number of subscribers and, as such, cannot successfully recover their text-to-911 implementation costs without substantially and unrealistically increasing end user rates.”).

carriers face a growing competitive disadvantage relative to the nationwide carriers as a result of unfunded government mandates.

The Commission also observes in the *FNPRM* that “under the Carrier-APCO-NENA Agreement, the major carriers have agreed to provide [text-to-911] service independent of cost recovery from state or local governments.”<sup>18</sup> As discussed above in these reply comments, however, there is a vast gulf between the resources available to the nationwide carriers and those available to most regional and rural carriers, and the willingness of the four largest carriers to act independent of cost recovery from state or local governments does not mean that this option is a viable one for the entire industry.

Finally, the Commission posits that an additional source of funding for text-to-911 cost recovery can be found in certain state cost recovery programs.<sup>19</sup> As other commenters have noted, however, existing state cost recovery mechanisms are inadequate.<sup>20</sup> As NTCA explained in its comments, 911 funding varies widely from state to state and can vary even within a state.<sup>21</sup> These variations result in inconsistent funding mechanisms (where such mechanisms exist in the first place), and, as the Commission itself noted in its 2013 report to Congress, the way in which funds may be spent also varies between states.<sup>22</sup>

For these reasons, SouthernLINC Wireless urges the Commission to reevaluate the ability of regional and rural wireless carriers to be able to recover costs sufficiently to make the

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<sup>18</sup> / *FNPRM* at 151.

<sup>19</sup> / *Id.* at 152.

<sup>20</sup> Comments of RTG at 3; Comments of NTCA at 4.

<sup>21</sup> / Comments of NTCA at 5 – 6.

<sup>22</sup> / *Id.* (citing *Legal and Regulatory Framework for Next Generation 911 Services; Report to Congress and Recommendations*, Federal Communications Commission, Feb. 22, 2013, at 33).

implementation of text-to-911 reasonably achievable and to take the necessary steps to ensure that an adequate cost recovery mechanism is in place.

## **VI. THE COMMISSION SHOULD ADOPT ALTERNATIVE IMPLEMENTATION TIMEFRAMES FOR REGIONAL AND RURAL WIRELESS CARRIERS**

The Commission has requested comment on whether it should require all CMRS providers to implement the capability to support text-to-911 throughout their networks by May 14, 2014 – *i.e.*, the deadline voluntarily agreed to by the four nationwide carriers under the Carrier-APCO-NENA Agreement.<sup>23</sup> SouthernLINC Wireless submits that a uniform timeframe applicable to the entire industry is not feasible and urges the Commission to consider alternative implementation timeframes that would allow text-to-911 to be implemented industry-wide in an achievable and cost-effective manner.<sup>24</sup>

In particular, the Commission must take into account the disparate impact that text-to-911 deployment will have on regional and rural carriers.<sup>25</sup> As the Commission’s experience with wireless E911 Phase II service demonstrated, the deployment of new network technologies places a significant burden on the more limited resources of Tier II and Tier III carriers, and such carriers have in the past found themselves “pushed to the end of the line” in their efforts to obtain

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<sup>23</sup> / *FNPRM* at ¶¶ 101 – 102. *See* Comments of CTIA at 12 (“CTIA notes that only four carriers were parties to the Carrier-APCO-NENA Agreement, and the Commission should not assume that their voluntary commitment can form the basis for an industry-wide regulatory deadline.”).

<sup>24</sup> / *See* Comments of CTIA at 12; Comments of TIA at 10 (“TIA believes that the application of a deadline requirement to all carriers and third party providers may not be feasible based on the fact that substantial changes to the existing wireless service provider SMS network standards and architecture is expected to create technical and economic feasibility issues for some more than others.”).

<sup>25</sup> / *See IRFA* at ¶¶ 38 – 40.

needed technology, equipment, and vendor support.<sup>26</sup> Thus, at every stage of 911 deployment, regional and rural carriers have generally been unable to begin deploying new technologies and solutions until well after the nationwide carriers, and any delays in the deployment schedules of the nationwide carriers necessarily create downstream delays for smaller carriers that are beyond these carriers' control.

NTCA has proposed linking the requirement for smaller wireless carriers to implement text-to-911 to PSAP readiness, suggesting that these requirements not apply “until local PSAPs are ready to accept and send text messages.”<sup>27</sup> According to NTCA, this approach would provide both carriers and PSAPs additional time to develop and implement cost-effective solutions based on industry standards (such as those announced last week by ATIS and TIA) that promote compatibility and interoperability.<sup>28</sup>

SouthernLINC Wireless believes that NTCA's proposal is a reasonable alternative.<sup>29</sup> Although the Commission has expressed concern over non-uniform deployment of text-to-911, this service will not work or be available unless and until it is implemented at the PSAP level, and as T-Mobile and other commenters have pointed out, PSAPs are under no mandate to make the necessary changes to accept text messages under the Commission's proposed framework.<sup>30</sup>

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<sup>26</sup> / The Commission has previously acknowledged that Tier II and Tier III carriers “have much less ability than the nationwide CMRS carriers to obtain the specific vendor commitments necessary” to carry out their E-911 obligations and are often pushed to the end of the supply line by vendors. *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, CC Docket No. 94-102, Order to Stay, 17 FCC Rcd 14841, 14844 (2002).

<sup>27</sup> / Comments of NTCA at 2; See also Comments of RTG at 2 (proposing that the obligation to provide text-to-911 be tied solely to PSAP readiness).

<sup>28</sup> / *Id.* at 2 – 4.

<sup>29</sup> / See *IRFA* at ¶ 40 (requesting comment on alternatives that better take into account the needs of regional, small, and rural CMRS providers).

<sup>30</sup> / See, e.g., Comments of T-Mobile at 4 – 5.

Therefore, the availability of text-to-911 service will inevitably be non-uniform regardless of carrier efforts, whereas a wireless carrier will still be required to bear the burden of implementing a service that may never be available in part or all of its service area due to a lack of PSAP implementation. SouthernLINC Wireless submits that the Commission's concerns could be addressed by modifying NTCA's proposal to require smaller regional and rural wireless carriers to implement text-to-911 on their networks once one-third or more of the PSAPs in their service area are capable of accepting 911 text messages.

Alternatively, SouthernLINC Wireless urges the Commission to consider the adoption of staggered timeframes for smaller regional and rural wireless carriers in the recognition of the constraints such carriers will face in implementing text-to-911.<sup>31</sup> Based on the experience of E911 Phase II, appropriately staggered timeframes would provide regional and rural carriers additional time to deploy text-to-911 services in a reasonable and cost-effective manner in light of their operational constraints and their more limited access to resources, equipment, technology, and vendor support.

In addition, the Commission should consider at the outset adopting as part of its framework a reasonable waiver process with clear and reasonable standards that would permit regional and rural carriers to obtain waivers of certain text-to-911 implementation obligations on an individualized basis.<sup>32</sup> SouthernLINC Wireless emphasizes, however, the need for such waiver guidelines and standards to be clear, consistent, understandable, and reasonable. As TIA stated in its comments, the Commission's use of its waiver authority should ensure that best efforts are not punished.<sup>33</sup>

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<sup>31</sup> / See *FNPRM* at ¶ 102; *IRFA* at ¶ 40.

<sup>32</sup> / See Comments of TIA at 10.

<sup>33</sup> / *Id.*

## **VII. THE COMMISSION SHOULD ENCOURAGE AND FACILITATE THE ADOPTION OF A CONSISTENT LIABILITY STANDARD**

Finally, SouthernLINC Wireless agrees that it is vital to ensure that all persons involved in handling any aspect of an emergency communication, including text-to-911, have unambiguous protection from liability under federal or state law.<sup>34</sup> Current liability protections for the provision and handling of 911 emergency communications vary from state to state and are based on an inconsistent patchwork of statutes, LEC tariffs, and judicial decisions. However, as T-Mobile stated, “Wireless services are nationwide and need to be interoperable in all regions, thus this patchwork of liability standards will continue to hamper efforts to implement new technologies and communications services for emergency contact.”<sup>35</sup>

SouthernLINC Wireless joins CTIA, T-Mobile, NTCA, and other commenters in urging the Commission to promote the development of uniform liability protections at the state and local levels and to work with Congress to establish uniform liability protection nationwide.<sup>36</sup>

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<sup>34</sup> / See Comments of CTIA at 18 – 20; Comments of T-Mobile at 10 – 11; Comments of NTCA at 7 – 8; Comments of AT&T at 14 – 18; Comments of Telecommunication Systems, Inc. at 6; Comments of Motorola Solutions at 5 – 6.

<sup>35</sup> / Comments of T-Mobile at 11.

<sup>36</sup> / *Supra*, note 34.

**WHEREFORE, THE PREMISES CONSIDERED**, SouthernLINC Wireless respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

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