

**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	)	
	)	

**REPLY COMMENTS OF NTCA–THE RURAL BROADBAND ASSOCIATION**

I. INTRODUCTION AND SUMMARY

NTCA–The Rural Broadband Association<sup>1</sup> (“NTCA”) hereby submits these reply 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”).<sup>2</sup> NTCA urges the Commission to consider the unique circumstances of small and rural wireless carriers when implementing text-to-911 service mandates. The record in this proceeding supports a more measured implementation of text-to-911 services by smaller carriers. In addition, initial commenters support NTCA’s common sense suggestion to tie text-to-911 service implementation to a local Public Safety Answering Point’s (“PSAP’s”) readiness to communicate with the public via text messages. NTCA also notes that there is consensus that the Federal Communications Commission (“the Commission”) must

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<sup>1</sup> NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers (LECs) and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended.

<sup>2</sup> See *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications, Framework for Next Generation 911 Deployment, Further Notice of Proposed Rulemaking*, FCC 12-149 (Dec. 13, 2012).

address cost recovery and liability protection in order for the industry at large to adopt new services such as text-to-911.

II. THE COMMISSION SHOULD DELAY IMPLEMENTATION OF TEXT-TO-911 SERVICE BY SMALL AND RURAL WIRELESS PROVIDERS UNTIL AN INDUSTRY STANDARD IS DEVELOPED AND A LOCAL PSAP IS READY TO COMMUNICATE VIA TEXT

The initial comments filed in this proceeding demonstrate broad support for the delayed implementation of text-to-911 services by smaller carriers. The Telecommunications Industry Association (“TIA”) expressly notes that the proposed May 15, 2014, text-to-911 service implementation deadline “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,” particularly in regard to small carriers not part of the Carrier-APCO-NENA voluntary agreement, which stands as the model for this FNPRM.<sup>3</sup>

The Rural Telecommunications Group, Inc. (“RTG”) observes that the implementation of text-to-911 service will require small and rural carriers to select and negotiate agreements with service providers and vendors, and implement new hardware and software.<sup>4</sup> “[T]he cost of implementing these upgrades is not insubstantial for small carriers, and the yearly budget cycle on which such carriers operate does not allow the budgetary flexibility to incur such expense on such a short timeline.”<sup>5</sup> RTG, therefore, supports postponement of the deadline to allow small and rural wireless carriers to absorb the cost of these upgrades without overly burdening their customers, the only mechanism to fund such a service.

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<sup>3</sup> Comments of TIA at 10

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

<sup>5</sup> Id.

The National Emergency Number Association (“NENA”) recognizes that small and rural wireless providers often operate in sparsely populated or difficult-to-serve areas, and as such, deploying new text-to-911 services will be capital intensive, especially when viewed in light of small CMRS providers’ thin operating margins. “NENA is conscious of the need to ensure that network changes occasioned by the imposition of new rules do not displace so much capital as to adversely impact a carrier’s ability to maintain acceptable coverage, capacity, and reliability for its subscribers.”<sup>6</sup> Accordingly, NENA supports a delayed implementation deadline for small and rural carriers, which will provide sufficient time to meet these new obligations without affecting current service levels. Further, the Competitive Carriers Association (“CCA”) has asked the Commission for a delayed implementation deadline for its members, regional and small wireless providers.<sup>7</sup>

In light of such support on the record, the Commission should delay implementation of text-to-911 service by small and rural wireless providers until an industry standard has been developed.<sup>8</sup> 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. A standard for text-to-911 service would offer end users a level of safety, security, quality, and consistency in the service. Standards also reduce cost and time to market for new services. Without a generally

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<sup>6</sup> Comments of NENA with Respect to Sections III(B) and (C) at 6-7.

<sup>7</sup> Exparte, CCA, PS Docket Nos. 11-153 and 10-255, March 12, 2013.

<sup>8</sup> The FNPRM’s Initial Regulatory Flexibility Analysis (IRFA) recognizes that the Commission is required to “describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach,” including “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities” (IRFA, ¶36, citing 5 U.S.C. §§ 603(c)(1)-(c)(4)). However, the IRFA falls short of this requirement, as it discusses no specific alternatives. Instead, the IRFA only refers to a voluntary commitment made by the four *largest* wireless carriers, and notes that the Further Notice seeks comment on potential alternatives and whether small entities can match the milestones proposed by large providers (IRFA . ¶4; ¶¶ 37-40).

accepted industry method for delivering text-to-911 messages, all wireless carriers will be forced to develop customized solutions, an expensive undertaking for a small, rural wireless operator with a limited subscriber base over which to spread the implementation costs. Further, once an industry standard is developed, 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.

A. The Commission Should Not Rely on Waiver Requests to Extend the Text-to-911 Implementation Deadline Given that All Small Wireless Operators Face the Same Circumstances

Some of the initial commenters recommended that the Commission mandate a uniform text-to-911 service launch timeline for all CMRS providers, regardless of size, and allow individual companies to submit waivers for specific technical and financial implementation issues.<sup>9</sup> However, a company-specific waiver request is an expensive undertaking, which typically requires the time and resources of outside counsel. There is no guarantee that a waiver request will be granted by the Commission. Further, a waiver is only an appropriate solution when the situation is unique to each company. The implementation of text-to-911 service poses an industry-wide problem; all small and rural wireless providers will have grave difficulty adopting a cost-effective solution within the proposed timeframe. As such, extending the text-to-911 service implementation timeline on a one-off waiver basis for an individual carrier is an inappropriate and ill-fitting solution.

NTCA urges the Commission to take into account the shared circumstances of small and rural wireless carriers, and postpone the text-to-911 implementation timeline for the entire rural

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<sup>9</sup> Comments of the Association of Public Safety Communications Officers at 4; TIA at 10; and AT&T at 13.

wireless industry.<sup>10</sup> A delayed implementation deadline will provide technical organizations with sufficient time to create an industry standard, and enable third parties to develop and deploy solutions with the support of larger carriers who have already committed to support a voluntary roll out of the new service. A postponed deadline also will allow rural wireless carriers to purchase new hardware and software during the normal course of business, and spread the implementation costs over a longer time period.

B. NTCA Urges the Commission to Tie the Implementation of Text-to-911 Service to PSAP Readiness

Initial commenters also support NTCA's common-sense approach to tie text-to-911 service implementation to a PSAP's readiness to communicate with the public via text messages.<sup>11</sup> Under the Carrier-APCO-NENA voluntary agreement, the nation's four largest wireless carriers have agreed to offer text-to-911 services *only after* a local PSAP has indicated it is ready to accept and transmit text messages. Participants recognize that in order to offer a new 9-1-1 service to the public, the wireless carrier's ecosystem is only half of the equation; the local PSAP also must commit significant resources to execute the new service. Verizon explains, "Mandatory rules and deadlines for service providers would not address the fundamental role of PSAP acceptance of and investment in text-to-911, which are a prerequisite to its nationwide implementation."<sup>12</sup> Indeed, in its recent NG911 Report to Congress, the Commission has recognized that the "deployment of any 911-related capability, and its availability to consumers, will critically depend on the resources, capabilities, and interest of state and local PSAPs."<sup>13</sup>

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<sup>10</sup> Comments of NENA with Respect to Sections III(B) and (C) at 6-7; Exparte, CCA, PS Docket Nos. 11-153 and 10-255, March 12, 2013; Comments of RTG at 2.

<sup>11</sup> Comments of RTG at 2.

<sup>12</sup> Comments of Verizon and Verizon Wireless at 3.

<sup>13</sup> Comments of Verizon and Verizon Wireless at 3. *See infra* Section III; Federal Communications Commission, Legal and Regulatory Framework for Next Generation 911 Services, Report to Congress and Recommendations, § 4.1.4.1 (Feb. 22, 2013) ("mechanisms for collection [of 911 fees], and the amounts collected, can differ substantially across jurisdictional boundaries" and "[h]ow funds may be spent also varies between states, creating further

Therefore, given the substantial financial and personnel resources required for a small wireless operator to deploy text-to-911, NTCA urges the commission to clarify that CMRS providers do not need to offer text-to-911 service until after a local PSAP has indicated its readiness.

### III. THE RECORD OVERWHELMINGLY SUPPORTS THE NEED FOR ENHANCED, UNIFORM LIABILITY PROTECTION

The record overwhelming supports the need for the Commission to work with Congress to bolster liability protection in support of NG911 services and intermediate measures such as text-to-911.<sup>14</sup> The New and Emerging Technologies Improvement of Act of 2008 and the Next-Generation 9-1-1 Advancement Act of 2012 strengthened liability protections for 911 service providers and wireless operators. However, as commenters noted in the Commission’s recent legal and statutory framework for NG911 services proceeding—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 may become increasingly inapplicable in an IP-enabled service environment. NTCA reiterates its position that the Commission should work with Congress to develop comprehensive, standardized and platform-agnostic liability protection for all manufacturers, vendors, PSAPs, and service providers operating in the 911, E911, and NG911 marketplace.

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disparities among the states’ 911 programs ....”); id. § 4.1.3.2(2) (“The record indicates that NG911 deployments and ESInet construction will be piecemeal.”).

<sup>14</sup> Comments of CTIA at 18-20; Sprint Nextel at 16; NENA at 24; AT&T at 15; and Motorola at 5-6. Also see *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), Comments of AT&T at 4; Comments of Telecommunication Systems at 6; Verizon and Verizon Wireless at 5; and T-Mobile at 9.

#### IV. AN ADEQUATE FUNDING MECHANISM IS NECESSARY TO SUPPORT TEXT-TO-911 SERVICE

Currently, the methodology and rates for imposing 911 funding charges are governed by state or local regulations. This results in inconsistent funding mechanisms and total amounts collected for 911 services, which vary across jurisdictional boundaries. TracFone agrees that there are “significant problems with the existing 911 funding mechanisms because these mechanisms vary by state and often fail to require contributions from all customers of telecommunications service that are able to access 911 services.”<sup>15</sup> Further, it is widely known that some states utilize collected 911 funds for non-911 purposes, and previous efforts to curb this process have proven ineffective.<sup>16</sup>

Looking forward, Motorola asserts that funds are needed “to support the entire range of initial and ongoing expenses related to NG9-1-1 and text-to-9-1-1 deployment, including training and other expenses beyond the core network, such as the various peripheral devices, processes, and applications necessary to support and utilize the new functionality.”<sup>17</sup> New services such as text-to-911 will require small and rural wireless carriers to make a substantial investment in new hardware and software. NTCA’s members 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.

NTCA agrees with Motorola that the federal government has an important role to play in coordinating and providing structure for the state and local implementation efforts.<sup>18</sup> In support of this, NTCA urges the Commission to work with Congress to broaden the base of contributors

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<sup>15</sup> Comments of TracFone at 3.

<sup>16</sup> FCC Report to Congress at 35.

<sup>17</sup> Motorola at 4.

<sup>18</sup> Motorola at 5.

to NG911 funding to more accurately reflect the benefits derived from NG911 services, and ensure that the funds collected and appropriated for 911 are only used for 911-related operations and deployment. NTCA also urges the Commission to “leave no PSAP behind.” Before the Commission issues a new regulation to further upgrade 911 services, NTCA recommends that the Commission 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.

## V. CONCLUSION

The record supports postponing the implementation of text-to-911 service by small and rural wireless providers until an industry-wide standard solution has been developed and deployed, and until a local PSAP is able to transmit and accept text messages. Additionally, there is overwhelming industry support for NTCA's position that the Commission should work with Congress to develop enhanced, uniform liability protection. Finally, the Commission should take steps to establish or otherwise ensure an adequate, sufficient, and long-term funding mechanism for text-to-911 and future NG911 services.

Respectfully submitted,



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