

Before the Federal Communications Commission

IN RE

FACILITATING THE DEPLOYMENT OF TEXT-TO-9-1-1
AND OTHER NEXT GENERATION 9-1-1 APPLICATIONS
FRAMEWORK FOR NEXT GENERATION 9-1-1 DEPLOYMENT

ON FURTHER NOTICE OF PROPOSED RULEMAKING

**REPLY COMMENTS OF THE
NATIONAL EMERGENCY NUMBER ASSOCIATION
WITH RESPECT TO SECTIONS III(B) & (C)**

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PS Dockets № 11-153 / 10-255

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The National Emergency Number Association (“NENA”) respectfully submits the following reply to comments filed in response to §§ III(B) & (C) of the *Further Notice of Proposed Rulemaking (FNPRM)* adopted by the Commission on December 12th, 2012.

REPLY

NENA is encouraged by the many supportive comments filed in response to the *FNPRM*. In addition to providing a factual record for the Commission’s interim text proceeding, the comments relating to interconnected- and applications-based-text providers clearly demonstrate the additional capabilities (e.g., enhanced location determination) that can come from these now-common services.

A. *The CVAA conveys clear authority for the Commission’s proposed rules.*

NENA agrees with AT&T that the 21st Century Communications and Video Accessibility Act of 2010 (CVAA) provides clear authority for the Commission’s proposed Text-to-9-1-1 rules.¹ Despite trade-group insistence to the contrary,² the CVAA cannot be read so narrowly as to exclude Commission authority over the transition to IP-enabled emergency services like interim Text-to-9-1-1. Section 106 of the Act expressly contemplates a “migration” to future IP-enabled emergency services,³ and authorizes the Commission to implement regulations “to achieve” (future-tense) accessibility, interoperability, etc.⁴ Further, nothing in the act suggests that Congress intended to require a “flash-cut,” in which IP-enabled NG9-1-1 services spring suddenly into existence.⁵ Indeed, this evolutionary view of NG9-1-1 deployment is consistent with the prior views of the industry expressed in this very docket.⁶ Further, the cramped reading proposed by CTIA and VoN is contrary to the legislative history of the CVAA: The Senate report that accompanied the Act clearly places the migration to next-generation services in context with “updating of rules regarding 911 and E911 services.”⁷ The Commission’s proposed rules are consistent with the recommendations of the Emergency Access Advisory Committee (EAAC) and the extensive record in this proceeding, both of which demonstrate the necessity of deploying Text-

¹ AT&T, Inc., *Comments* at 1, 25-26 (Mar. 11, 2013).

² CTIA: The Wireless Association, *Comments* at 8 (Mar. 11, 2013); Voice on the Net Coalition, *Comments* at 3 (Mar. 11, 2013).

³ 21st Century Communications and Video Accessibility Act of 2010 § 106, Pub. L. 111-260, 124 Stat. 2751, 2762-64 (Oct. 8, 2010) (*codified at* 47 U.S.C. § 615(c) (2012)).

⁴ *Id.* at § 106(g).

⁵ *Contra* CTIA, *Comment* at 8 (Mar. 11, 2013).

⁶ *E.g.*, CTIA, *Comments* at 17 (Feb. 2, 2011).

⁷ S. Rep. 111-386 at 10, 111th Cong., 1st Sess. (2010).

to-9-1-1 as a first step toward the eventual implementation of full NG9-1-1 capabilities. The Commission therefore has authority to issue its proposed rules under the jurisdictional grant of the CVAA.

B. The Commission should reject pleas for extensive and unwarranted delays.

NENA has previously expressed support for a limited extension-of-time regime aimed at recognizing the technical and financial realities of small-carrier operations.⁸ Despite our efforts to accommodate the challenges facing small and rural carriers, however, some commenters have nevertheless called for extensive further delays in the implementation of *any* new 9-1-1 requirements for such carriers.⁹ Leaving aside for a moment questions about the legal propriety of providing differing treatment to Commercial Mobile Radio Service (CMRS) providers who are, at least objectively, similarly-situated under the Commission's rules, and the competition-policy implications of routinely acquiescing in calls for such differing treatment, NENA grows weary of self-reinforcing demands for delay. After the Commission has proposed technically and operationally reasonable rules, and public safety commenters have supported reasonable accommodations, pleas for further delays measured in "years"¹⁰ ring particularly hollow.¹¹ If the Commission were to allow delays of the length suggested by RTG,¹² the very next demand of the industry would undoubtedly be to skip over interim Text-to-9-1-1 entirely, based in part on the advances toward NG9-1-1 accomplished during the delay. Consequently, such proposals cause NENA to question the

⁸ NENA: The 9-1-1 Association, *Comments* at 6-7 (Mar. 11, 2013).

⁹ NTCA, *Comments* at 2-3 (Mar. 11, 2013); Rural Telecommunications Group, *Comments* at 3 (Mar. 11, 2013).

¹⁰ NTCA, *Comments* at 3 (Mar. 11, 2013).

¹¹ *Cf.* Boulder Regional Emergency Telephone Service Authority, *Comments* at 7 (Mar. 11, 2013).

¹² Rural Telecommunications Group, *Comments* at 3 (Mar. 11, 2013).

breadth of our support for future default extension regimes in the emergency services context. Though NENA does not withdraw its support for reasonable waivers of time requirements for Text-to-9-1-1 deployment at this time, we do suggest that the Commission explicitly reject calls for unreasonably-long general delays in its Report and Order adopting final Text-to-9-1-1 rules. Such an action will send a clear and needed message that emergency communications services must evolve alongside consumer offerings, and will not be allowed to remain forever grounded on legacy platforms.

C. CMRS-providers' interim text obligations should be tied to the provisioning of mobile-switched service.

Recently, NENA expressed to the Commission our view that CMRS providers' obligation to carry 9-1-1 calls from Non-Service Initialized (NSI) devices should phase out with the transition to all-IP access network service.¹³ Similarly, NENA believes that CMRS providers' *interim* text obligations (particularly with respect to the SMS text platform) should sunset with the transition to IP-enabled text service. Specifically, NENA believes that interim text obligations should not apply to CMRS networks that support NG9-1-1 text origination. Such a rule will incentivize CMRS providers to transition to IP-based NG9-1-1-capable access network and originating service capabilities; it will also provide needed certainty against the stranding of legacy mobile-switched text assets. Additionally, such a rule will reinforce the point that Text-to-9-1-1 obligations apply with respect to originating service providers (OSPs), regardless of technology, and carry a clear message that competitive interconnected text OSPs cannot permanently rely on the obligations and capabilities of underlying Access Network Providers

¹³NENA: The 9-1-1 Association, *Notice of Ex Parte Communication* at 2 (PS Docket 08-51) (Feb. 11, 2013).

(ANPs) to supply text origination in the 9-1-1 context for their customers.¹⁴

D. The Commission must not create an opening for manipulative conceptual bifurcation of interconnected text messaging service.

As several commenters rightly assert, the Commission should carefully avoid creating any new opportunities for providers to escape obligations under the proposed rules based on a conceptual bifurcation of service.¹⁵ The conceptual bifurcation of VoIP service has, for too long, permitted objectively-interconnected voice OSPs to escape critical 9-1-1 service obligations, endangering the public in the process. This unfortunate state of affairs need not be duplicated in the Text-to-9-1-1 context: The Commission should make clear from the outset that *any* service that allows a consumer to originate text messages to E.164 telephone numbers is subject to the Commission's Text-to-9-1-1 rules.

CONCLUSION

The Commission should adopt the proposed rules with minor changes consistent with these and NENA's previously-filed comments.

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¹⁴*Cf.*, AT&T, Inc., *Comments* at 6 & 16.

¹⁵AT&T, Inc., *Comments* at 10-11 (Mar. 11, 2013); Bandwidth.com, *Comments* at 9 & 10 (Mar. 11, 2013).