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December 6, 2013

**Via ECFS**

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: American Cable Association Notice of Ex Parte Communication; In the Matter of Improving 9-1-1 Reliability, PS Docket No. 13-75; Reliability and Continuity of Communications Networks, Including Broadband Technologies, PS Docket No. 11-60**

Dear Ms. Dortch:

Ross Lieberman, Vice President of Government Affairs, American Cable Association (“ACA”), and the undersigned met via telephone on December 5, 2013, with Daniel Alvarez, Legal Advisor, Office of Chairman Wheeler; and Ross Lieberman met separately via telephone with Louis Peraertz, Legal Advisor - Wireless, International, and Public Safety, Office of Commissioner Clyburn and Jeffrey Neumann, Office of Commissioner Pai, to discuss how best to define the class of service providers subject to the new enhanced 9-1-1 reliability requirements and public safety answering point (“PSAP”) reporting obligations in the above referenced proceeding.<sup>1</sup>

ACA shares the Commission’s goal of enhancing the reliability of the 9-1-1 system, but again questioned whether sufficient notice has been given by the NPRM for the Commission to expand the universe of entities to which service is provided for purposes of the definition of a covered 9-1-1 Service Provider to include not only PSAPs, as specified in the NPRM, but also entities such as “statewide default answering points” or “local emergency authorities.” ACA noted that the NPRM does not mention either of these terms. ACA explained that, to the extent that the Commission is contemplating expansion of the 9-1-1 Service Provider definition to include the provision of services to these entities, it would need to seek comment on the matter in a further notice of proposed rulemaking, consistent with the requirements of the Administrative Procedure Act.<sup>2</sup> ACA noted that because the Commission has not sought comment in the NPRM, the Commission lacks a complete

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<sup>1</sup> *Improving 9-1-1 Reliability, Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75, 11-60, Notice of Proposed Rulemaking, 28 FCC Rcd 3414 (“NPRM”). See also FCC Pub. Safety & Homeland Sec. Bureau, Impact of the June 2012 Derecho on Communications Networks and Services: Report and Recommendations (rel. Jan. 10, 2013), available at <http://www.fcc.gov/document/derecho-report-and-recommendations> (“Derecho Report”).

<sup>2</sup> See 5 U.S.C. § 553. The NPRM uses the term “9-1-1 Service Provider” as defined in the Derecho Report in discussing entities subject to the new 911 reliability mandates. The NPRM states that the “9-1-1 Service Provider” is a communications provider “responsible for routing and delivering 9-1-1 calls to PSAPs.” NPRM, ¶ 23. The NPRM further tentatively defined that term “to include all entities, including ILECs, that provide 9-1-1 call routing, ALI, emergency service Internet protocol networks (ESInets) and similar services directly to a PSAP” and sought comment on that definition. *Id.* Nowhere in the NPRM did the Commission discuss service to entities other than PSAPs.

record on which to evaluate the costs and benefits of this expanded definition of a covered 9-1-1 Service Provider. The new burdens associated with providing 9-1-1 service to entities other than PSAPs may result in some providers choosing to terminate their service to such entities, thus weakening rather than strengthening the nation's 9-1-1 service.

Notwithstanding the aforementioned issue, ACA stressed its appreciation of the Commission's efforts to define a 9-1-1 Service Provider in a manner that captures only a provider directly servicing PSAPs with, for example, 9-1-1 trunk lines, 9-1-1 related databases and similar functionalities, and excludes an entity that simply originates 9-1-1 calls for its subscribers.<sup>3</sup> However, ACA recommends that the definition of 9-1-1 Service Provider adopted include not only the notion of serving a PSAP directly with the listed network elements or functions, but also specify that this provision of service to PSAPs occur under tariff, contract or other direct arrangement.<sup>4</sup> By taking this dual-level approach to the foundational definition in the new rules, the Commission can avoid unnecessary provider uncertainty.

If you have any questions, or require further information, please do not hesitate to contact me directly. Pursuant to section 1.1206 of the Commission's rules, this letter is being filed electronically with the Commission.

Sincerely



Barbara Esbin

cc (via email): Daniel Alvarez  
Louis Peraertz  
Jeffrey Neumann

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<sup>4</sup> ACA Reply Comments at 4-8; ACA Comments at 5. By "direct arrangement" ACA intends to include entities that are required by state or local law or regulation to provide service directly to PSAPs.