

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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
)	

COMMENTS OF VERIZON AND VERIZON WIRELESS

Michael E. Glover
Of Counsel

Gregory M. Romano
Robert G. Morse
1300 I Street, N.W.
Suite 400 West
Washington, DC 20005
(202) 515-2400

*Attorneys for Verizon
and Verizon Wireless*

April 4, 2014

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SUMMARY

The Voluntary Agreement between Verizon, AT&T, Sprint, T-Mobile, and public safety organizations to make text-to-911 available for PSAPs nationwide by May 2014 is spurring deployment of text-to-911 and it is too early to conclude that new regulations will more effective than the Voluntary Agreement. PSAPs face no real cost or technical obstacles, and PSAP demand for text-to-911 should be better understood a reasonable period after the May 2014 date once it is available from providers serving the overwhelming number of wireless consumers. Additional time is also warranted to give non-nationwide wireless providers and over-the-top interconnected text providers meaningful opportunity to further any voluntary efforts of their own.

Should the Commission nevertheless proceed with rules it should do so in a manner that does not discourage similar voluntary efforts in the future. The Commission should approach industry commitments like the Voluntary Agreement in the first instance as an alternative to, not a basis for, new regulations. Only if voluntary efforts do not achieve the desired benefits, should regulations be considered, and those regulations should initially implement rather than expand upon the voluntary commitments. This approach can help preserve incentives for meaningful participation in voluntary initiatives.

Accordingly, any near-term Commission rules should not exceed the commitments of the Voluntary Agreement, which are premised on the use of technically feasible and commercially available short message service-based (SMS) solutions. This is particularly important given that providers have already deployed text-to-911 in reliance on those commitments. Likewise, any regulations for over-the-top (OTT) text messaging providers should be technically feasible and not impose further regulatory burdens on wireless providers, such as the proposed “no-blocking” rule, which mistakenly presumes that wireless providers, rather than device manufacturers or operating system providers, are principally responsible for the design and capabilities of a device’s application programming interface.

If the Commission moves forward with regulations, it should modify or clarify the scope of the proposed rule to reflect limitations of text messaging platforms and technologies and the scope of the Voluntary Agreement. First, the delivery of multimedia messaging (MMS) to PSAPs raises issues that are not relevant to the current bounceback rule, relating to PSAPs’ ability to handle non-text content and communications to multiple addresses. The rules should thus not apply to messages delivered as MMS by a wireless provider. The Commission should also remove the proposed call routing restriction, which is inconsistent with current technology solutions and has not been a problem for any of Verizon’s existing text-to-911 deployments. Wireless providers’ obligations in roaming situations should remain limited to the current bounceback rule. And the Commission should allow service providers to focus on the development of location capability for LTE-based IP-enabled text messaging, as such requirements are not technically feasible at present and could implicate users’ privacy interests.

The Commission should also modify the proposed PSAP readiness criteria in important ways. Like the existing enhanced 911 rules, the Commission should expressly allow PSAPs and service providers to mutually negotiate alternative deployment deadlines. The Commission

should also ensure that service providers can implement early PSAP requests in a sequential manner. And PSAPs should be capable of receiving 911 text messages via the 911 Short Code in a format consistent with applicable technical standards to ensure that PSAPs utilize existing standards and technologies as well as the 911 Short Code itself.

Finally, any Commission rules must be consistent with Section 106 of the Communications and Video Accessibility Act (CVAA). The Commission proposes to apply emergency 911 requirements traditionally associated with common carrier telephony and related services to information services like SMS, mobile broadband, and OTT messaging. Any rules should thus be limited to the commitments of the Voluntary Agreement to ensure compliance with the CVAA's mandate that any regulations be technically feasible and achievable. In any event, the Commission may not impose common carrier-type regulations on non-common carrier, private mobile radio services, including with respect to any rules governing relationships between wireless and OTT providers.

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COMMENTS OF VERIZON AND VERIZON WIRELESS¹

In December 2012, Verizon, AT&T, Sprint and T-Mobile entered into a heralded voluntary agreement with public safety organizations to begin offering short message service-based (SMS) text-to-911 service to capable public safety answering points (PSAPs) nationwide by May 2014.² This voluntary effort has proven successful, as the Commission itself has acknowledged. As of last week, Verizon is providing live text-to-911 service to 60 PSAPs in 16 states, and the other signatories report that they are on track to meet the voluntary deadline.³ In this proceeding, however, the Commission now proposes new rules that would use the terms of

¹ In addition to Verizon Wireless, the Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc. (collectively, “Verizon”).

² See Letter from Christopher Guttman-McCabe, CTIA, to Marlene Dortch, FCC, PS Docket Nos. 11-153 & 10-255 (filed Dec. 6, 2012) (explaining the voluntary agreement involving APCO, NENA, AT&T, Sprint Nextel, T-Mobile, and Verizon) (the “Voluntary Agreement”).

³ Verizon Wireless Fourth Quarterly Status Report, PS Docket No. 11-153, Att. at 1-3 (Apr. 1, 2014) (“Verizon April 2014 Report”); see also AT&T Quarterly Progress Report, PS Docket No. 11-153, at 1-2 (Apr. 1, 2014); Sprint Quarterly Progress Report, PS Docket No. 11-153, at 1-2 (Apr. 1, 2014); T-Mobile Status Report, PS Docket No. 11-153, at 1-3 (Apr. 1, 2014).

the Voluntary Agreement as a baseline for new regulations.⁴ Verizon supports the public interest objectives underlying this proceeding, but the presumptively regulatory framework the Commission proposes would impose requirements beyond the parameters of the Voluntary Agreement. For this reason and others, the framework as proposed in the *Second FNPRM* will not provide industry stakeholders with incentives to meaningfully participate in efforts like the Voluntary Agreement in the future.

The Commission should therefore approach the necessity for and any adoption of new text-to-911 regulations under a fundamentally different framework by (1) allowing the Voluntary Agreement and other voluntary efforts responsive to the *Policy Statement* reasonable time to move forward, (2) limiting the scope of any rules to SMS-based services consistent with the Voluntary Agreement, and (3) ensuring that any rules are consistent with the Commission's limited authority in this area under Section 106 of the Communications and Video Accessibility Act (CVAA).

I. THE VOLUNTARY AGREEMENT IS SPURRING DEPLOYMENT OF TEXT-TO-911.

The development and deployment of text-to-911 technology to date reflects how voluntary, consensus-driven efforts among industry and public safety stakeholders can achieve important public safety policy objectives. The Voluntary Agreement in particular has facilitated the timely and efficient deployment of innovative solutions that benefit consumers' public safety interests, while affording industry the flexibility to account for the forthcoming transition from circuit-switched to IP-enabled wireless networks. As of March 31, 2014, Verizon has already

⁴ See *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, Policy Statement and Second Further Notice of Proposed Rulemaking, PS Docket Nos. 11-153 & 10-255, FCC 14-6, ¶¶ 18-19 (rel. Jan. 31, 2014) ("*Policy Statement*" or "*Second FNPRM*," as applicable).

deployed service to 60 individual jurisdictions, with several additional deployments expected through the first half of 2014.⁵ Durham, North Carolina recently announced that AT&T has begun providing text-to-911 there,⁶ and nationwide carriers covering the overwhelming majority of all wireless consumers all report that they expect to meet the May 2014 voluntary deadline.⁷ Nor has progress been limited to larger service providers' efforts. Standards were developed within a matter of months after the Voluntary Agreement was executed to help ensure that any wireless service provider can provide text-to-911.⁸ And as the Commission acknowledges in the *Second FNPRM*, last year the Competitive Carriers Association (CCA) and Intrado announced a partnership to enable smaller providers to participate in this effort.⁹

It is too early to conclude that the proposed rules will more effectively achieve the Commission's public safety and accessibility objectives than voluntary efforts. While the Commission posits that new rules could encourage more PSAPs to incur the costs of implementing text-to-911 once there is wider "availability on the provider side,"¹⁰ in fact the cost and implementation burdens on PSAPs under the text-to-911 solutions developed since

⁵ See Verizon April 2014 Report, Att. at 1-3.

⁶ See City of Durham, North Carolina News Release, *Durham 911 Center Launches AT&T Texting* (Mar. 13, 2014) <http://durhamnc.gov/Pages/NNDetails.aspx?detailId=721>.

⁷ See *supra* note 3.

⁸ See Alliance for Telecommunications Industry Solutions and Telecommunications Industry Association (ATIS/TIA), *Joint ATIS/TIA Native SMS to 9-1-1 Requirements and Architecture Specification*, J-STD-110 including J-STD-110.a & J-STD-110.01 (March 2013); ATIS/TIA, Joint Press Release, *ATIS/TIA Guidelines Enable Interim Nationwide Text to 9-1-1 Solution* (Dec. 3, 2013), <http://www.atis.org/PRESS/pressreleases2013/120313.asp> (announcing release of implementation guidelines for the standard).

⁹ See *Second FNPRM*, ¶ 19 n.43 (citing *CCA and Intrado Partner to Bring Comprehensive Text-to-9-1-1 Solution to CCA Members*, Press Release (July 24, 2013) <http://competitivecarriers.org/press/rca-press-releases/cca-and-intrado-partner-to-bring-a-comprehensive-text-to-9-1-1-solution-to-cca-members/9111999>).

¹⁰ *Second FNPRM* ¶ 40.

execution of the Voluntary Agreement are minimal. Thus, PSAPs face no real implementation obstacles. And the matter of “availability on the provider side” will be addressed by mid-2014 once text-to-911 is available from providers serving the overwhelming number of the country’s wireless consumers. Thus, PSAP demand and investment in text-to-911 should be better understood within a reasonable period after the May 2014 voluntary deadline – without any new regulations. This additional time should also give non-nationwide wireless providers and over-the-top (OTT) interconnected text providers a meaningful opportunity to make progress toward voluntary text-to-911 implementation for their users.

II. ANY TEXT-TO-911 RULES SHOULD REWARD INDUSTRY’S VOLUNTARY EFFORTS AND BE TECHNICALLY FEASIBLE FOR ALL PROVIDERS.

Should the Commission nevertheless proceed with new rules despite the ongoing tangible progress, it should do so in a manner that does not discourage similar efforts in the future. The Commission should thus assess the need for any new rules a reasonable period after the May 2014 voluntary deadline has passed and, if it finds a compelling need for new rules at that time, ensure that any rules for text-to-911 delivery are limited to SMS-based platforms and the parameters of the Voluntary Agreement, and otherwise applied in a technically feasible manner.

A. The Commission Should Not Deter Future Voluntary Initiatives.

If the Commission proceeds with new rules, it should do so in a manner that does not discourage the use of voluntary initiatives as a meaningful alternative to regulation. Such an outcome would be inconsistent with President Obama’s policies for improving the effectiveness and efficiency of agency regulations¹¹ and could undermine the effectiveness of bodies like the

¹¹ See President Barack Obama, *Improving Regulation and Regulatory Review*, Executive Order 13563 § 4, 76 Fed. Reg. 3821 (2011); *Regulation and Independent Regulatory Agencies*, Executive Order 13579, § 1(c), 76 Fed. Reg. 41587 (2011); Memorandum for the Heads of

Communications Security, Reliability and Interoperability Council (CSRIC), Technological Advisory Council (TAC) and the standards organizations that implement best practices and other voluntary efforts. The success of these efforts is dependent on the ability of stakeholders' technical subject matter experts to work in a collaborative, non-adversarial manner, and to address complex issues and problems in ways that adequately account for differences in individual service provider networks and technologies. Treating these voluntary efforts as a process akin to a negotiated rulemaking, in which regulation is *per se* the ultimate outcome (as the Commission's suggested "safe harbor" proposals¹² would do), risks undermining their usefulness for the public interest and would have a chilling effect on industry's interest in supporting them.

Thus, any meaningful "framework for encouraging voluntary industry commitments that will benefit the public interest"¹³ must ensure that: (1) any voluntary commitments and practices will in the first instance apply in lieu of – not as a steppingstone toward – new regulations; (2) those commitments and practices will remain voluntary as long as they substantially achieve the desired benefits; (3) there are compelling reasons to find that regulations will more effectively achieve those benefits; and (4) any near term rules will apply – not supplement – the parties' voluntary commitments. Without this basic framework, participants' incentives to compromise and agree to meaningful actions are reduced, and the outcome of the voluntary process instead

Executive Departments and Agencies, and of Independent Regulatory Agencies, Cass R. Sunstein, Administrator, OMB Office of Information and Regulatory Affairs, Feb. 2, 2011, at 3 http://www.whitehouse.gov/sites/default/files/omb/inforeg/icb/2011_ICB_Data_Call.pdf ("acknowledg[ing] the importance of considering flexible approaches and alternatives to mandates, prohibitions, and command-and-control regulation.").

¹² See *Second FNPRM* ¶¶ 58-61.

¹³ See *id.* ¶ 58.

could reflect a lowest common denominator “hedge” against the potential outcome of a rulemaking.

The proposed framework for text-to-911 rules set forth in the *Second FNPRM* does not meet these criteria or the Commission’s stated objective.¹⁴ As a threshold matter, the Commission at minimum should assess the need for new rules once a reasonable period has lapsed after the nationwide service providers’ May 2014 voluntary deadline. As noted above, at that point it can more readily assess PSAPs’ interest in text-to-911 availability, which is a critical factor underlying both the need for and details of any new regulations. That additional period should also be long enough to afford regional and interconnected text providers a reasonable opportunity to meaningfully respond to the Commission’s invitation in the *Policy Statement* to “develop implementation details on a consensual basis” and “work with the public safety community” to develop a framework for their participation in text-to-911.¹⁵

B. Any New Rules Applicable to Wireless Providers Should Not Exceed the Framework in the Voluntary Agreement.

Industry participants in voluntary initiatives need assurance that, if the Commission finds a compelling need for rules, it will respect and show deference toward the stakeholders’ collective judgment, which will always entail some balancing of policy differences. It will be difficult for participants in those efforts to reach consensus on challenging issues in the future, however, if the Commission as a matter of course adopts rules that heighten the regulatory burdens beyond those that the parties voluntarily adopted. This is particularly true where, as here, services *already have been developed and deployed* in reliance on those voluntary commitments. Accordingly, any rules the Commission adopts here should meet this criteria.

¹⁴ *See id.* ¶ 58.

¹⁵ *See Policy Statement* ¶ 15.

In that regard, Verizon expects that nearly all wireless providers offering text messaging services will be able to begin offering text-to-911 and accommodate PSAPs' interest and demand for the capability sometime during 2014, provided that they are able to comply through technically feasible *SMS-based solutions* commercially available today under the Voluntary Agreement. Thus, should the Commission adopt new rules here, it should affirm in the rule or the accompanying Report and Order that the use of the SMS-based text-to-911 technologies used to comply with the Voluntary Agreement is *per se* compliance with any near-term deadline to “have the capability to route a 911 text message to a PSAP” as proposed in the *Second FNPRM*.¹⁶ This approach is simpler than the *Second FNPRM*'s suggested “safe harbor” framework, which contemplates that the Commission would adopt requirements that supplement the Voluntary Agreement's commitments.¹⁷ It also should help facilitate most non-nationwide wireless providers' compliance with a near-term deadline, possibly including the December 31, 2014 deadline proposed in the *Second FNPRM*. The Commission could then accommodate smaller wireless providers facing legitimate cost or technical obstacles through limited waivers, which is preferable to a blanket exemption or stand-alone deadlines given the proposed rule's public safety and accessibility objectives.¹⁸

C. Text-to-911 Rules for Third Party OTT Interconnected Text Providers Must Be Technically Feasible and Should Not Impose Additional Regulatory Burdens on Wireless Providers.

The Commission's authority to regulate OTT text messaging services and applications is limited, and the Commission should afford OTT providers a meaningful opportunity to

¹⁶ See *Second FNPRM* at App. A (proposed rule 47 C.F.R. § 20.18(n)(11)).

¹⁷ See *id.* ¶¶ 58-61.

¹⁸ See *id.* ¶ 19 (proposing a generally applicable December 31, 2014 deadline for all CMRS providers).

voluntarily reach out to handset manufacturers, operating system (OS) and platform providers, and mobile broadband providers to negotiate the technical and commercial arrangements necessary to enable OTT providers to deliver 911 text messages. Should the Commission determine that rules are appropriate, however, any regulations for OTT text messaging services should be technically feasible and not impose further regulatory burdens on wireless providers.

The Commission’s suggested “CMRS network-based model,” in which an OTT provider would “utilize SMS-based protocols [to] route the text over the underlying carrier’s SMS network” via the device’s SMS application programming interface (API)¹⁹ may be a viable technical solution for some OTT text messaging applications. The APIs in question, however, are most likely controlled by device manufacturers and/or licensors of device operating systems – *not* the wireless provider, as the Commission suggests.²⁰ The *Second FNPRM* thus erroneously suggests that wireless providers are in a position to “coordinate” among the other players in the complex ecosystem of application developers, OS platforms and device manufacturers to “ensure that each device model is capable of supporting” the CMRS network-based model.²¹ And it understates the principal and necessary role that other entities in the ecosystem for IP-enabled services and products must play in developing such a solution. Thus, any new rules and deadlines for OTT providers would need to reflect their legitimate need to engage device manufacturers, OS providers and, secondarily, mobile broadband providers to resolve technical and other commercial issues that may arise.

¹⁹ See *Second FNPRM* ¶¶ 25-26.

²⁰ See *id.* ¶ 27 (“the model posits that CMRS providers could receive requests...for similar access to the CMRS provider’s native texting application APIs” (emphasis added)).

²¹ See *id.* ¶ 27.

For similar reasons, the Commission should not promulgate “a requirement that CMRS carriers not block the access to capabilities that would enable interconnected text providers to provide consumers using their OTT applications to send texts to 911.”²² As explained above, wireless providers will play a secondary role to OS providers and device manufacturers in enabling OTT providers to comply with a text-to-911 mandate. But the Commission envisions a specific program for wireless providers to support OTT providers for 911 purposes, the scope of which is unclear but would entail “technical and product management resources to meeting such requests,” “ongoing maintenance and performance” responsibilities, and coordination with individual handset manufacturers and their associated operating system providers, all of which would be subject to “reasonable compensation.”²³ Wireless providers are not typically in a position to play such a role, and imposing such obligations on them would require service providers to fundamentally alter the relationships between and services provided among wireless providers, OTT providers, OS providers and device manufacturers.

Moreover, wireless providers’ experience with text-to-911 and enhanced 911 (E911) deployment indicates that regulating the relationships between OTT providers and wireless providers is unnecessary to achieve the Commission’s objectives. For example, Verizon Wireless and other wireless providers have established relationships with third party vendors like Intrado and TCS to handle text-to-911 and E911 ANI and ALI data and route it to PSAPs. The Commission has long allowed those relationships to be governed by unregulated commercial negotiations and contractual relationships; the result has been the efficient deployment of

²² *Id.* ¶ 29.

²³ *Id.* ¶¶ 27-28.

wireless E911 Phase I and Phase II service nationwide. There is no basis for the Commission to conclude that a similar framework will not work for OTT providers.

This approach will also more effectively promote the Commission's public safety objectives in important ways. It would help ensure that covered third party OTT providers have adequate incentives to consider the 911 implications of their products and to work with underlying facilities-based mobile broadband providers and, more importantly, OS providers and device manufacturers, early on in the development process. OTT text messaging providers are mature companies with sophisticated experience in technology development, and are capable of determining the extent of their regulatory obligations and negotiating these matters with the necessary parties. As a related matter, to the extent that an OTT provider's particular application or service is subject to a new rule, the OTT provider itself, not the underlying wireless provider, should be solely responsible and liable for any resulting noncompliance. Again, this approach will promote the Commission's public safety objectives by providing third party OTT providers with the right incentives to incorporate text-to-911 compliance into their corporate policies and practices. Similarly, for OTT providers that opt for an all-IP solution that does not rely on the SMS network, the OTT providers should be solely responsible for developing those technologies and the necessary technical standards, software, and relationships with vendors, mobile broadband providers and PSAPs.²⁴

III. ANY REQUIREMENTS FOR SPECIFIC TEXT-TO-911 CAPABILITIES SHOULD REFLECT THE LIMITATIONS OF TEXT MESSAGING PLATFORMS AND TECHNOLOGIES.

The Commission should modify or clarify the proposed rule in several important respects to ensure that it is consistent with the parameters of the Voluntary Agreement, as well as

²⁴ See *id.* ¶¶ 30-33.

Verizon's recommended framework for promoting the use of voluntary commitments described above.

A. The Commission Should Exclude Multimedia Messaging Services from Any Rule.

The Voluntary Agreement and the technology solutions currently available to service providers are based on the use of SMS architecture and SMS-based text messages, regardless of whether the message originates on a user's CDMA or broadband-capable handset. The draft rule, however, appears to apply to a broader type of text message formats. Specifically, while the draft rule defines a 911 text message as one "consisting entirely of text characters,"²⁵ the Commission also described "text messages" covered by the rule to include multimedia messaging service (MMS) text messages and does not propose to modify the scope of the rule as adopted in the *Bounceback Order*, which also applies to MMS.²⁶ The Commission should clarify that messages delivered as MMS are not subject to the proposed text-to-911 delivery rule and allow industry to address non-text capabilities in the context of next generation 911 (NG911) and IP-enabled LTE technology instead.

Delivering MMS messages to PSAPs raises technical issues that the Voluntary Agreement and related technical standards do not address and that are not an obstacle to the bounceback capability. In some instances, if the message is sent to just one addressee, or with no attachments, Verizon Wireless will be able to transmit the full message as SMS even if the user typed the message via the device's native MMS application. But in all cases, the Commission's

²⁵ *Id.* at App. A (proposed rule 47 C.F.R. § 20.18(n)(9)).

²⁶ See *Facilitating the Development of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, Report and Order, 28 FCC Rcd 7556, ¶¶ 25, 110 n.294 (2013) ("*Bounceback Order*"); *Second FNPRM* ¶ 5 n.9 ("text messages" include MMS).

rules should not apply to messages *delivered as MMS* by a wireless provider, at least in the near term.

If the Commission intends that the rule should also cover messages delivered as MMS, it will need to afford industry and public safety stakeholders the opportunity to resolve the technical issues in a consistent, standard way, and to address the potential for consumer confusion. Issues that need to be resolved include, for example, whether all service providers can remove non-text content and non-911 addresses from a MMS before delivery to the PSAP. Consistency of provider practices and PSAP expectations in this area needs to be examined. There is also the potential for PSAP and consumer confusion in various scenarios associated with MMS. For example, if a non-PSAP addressee (say, a spouse) receives an MMS message that was also sent to 911, what happens when that addressee attempts to “respond to all?” In that scenario, there is a significant risk of confusion for the 911 caller (who is receiving texts from someone other than the PSAP) and the PSAP (who is receiving non-911 texts from someone who may not be in danger or even in the same jurisdiction). The Commission should instead allow industry and public safety stakeholders to address issues concerning non-voice and non-text content in the context of NG911 systems and IP-enabled originating networks. In the interim, the Commission’s and Verizon’s current approach of providing a bounceback to messages delivered as MMS is appropriate.

B. The Proposed Text-to-911 Call Routing Rule Is Inconsistent with Current Technology Solutions.

The proposed rule would require that 911 text messages be routed “to the same PSAP to which a 911 voice call would be routed, unless the responsible local or state entity designates a

different PSAP to receive 911 text messages and informs the carrier of that change.”²⁷ As Verizon explained in its comments last year, this proposed rule goes beyond the scope of the Voluntary Agreement and is not presently technically feasible.²⁸

Routing for wireless 911 voice calls is pre-determined according to the location of the *cell sector* that receives the 911 call as that data is entered into the stand-alone 911 location server. Text-to-911 technology, in contrast, uses the commercial location server to obtain the *serving cell location* (a.k.a the “coarse location”) for routing the call. The commercial location server then provides the text control center with a cell sector centroid which is then plotted on PSAP boundaries and the call is routed to the PSAP (or receives the bounceback message) based on that plot. The cell sector and serving cell locations are not identical. Thus, while Verizon Wireless expects that a 911 voice and SMS or other 911 text call from the same location would almost always route to the same PSAP, differences could occur in limited cases for 911 texts originating at sites along PSAP jurisdictional borders. Moreover, 911 call routing methods for LTE-enabled 911 communications – voice and text alike – may differ slightly than those used for legacy networks, thus potentially creating yet more compliance challenges in the future.

This matter instead is appropriate for PSAP education and information sharing as part of the text-to-911 deployment process. Verizon Wireless has already extensively communicated the differences between text and voice 911 call routing in discussions with the PSAP community, and further briefs individual PSAPs about the issue in advance of every PSAP-specific deployment. No PSAP has expressed concern about this matter to Verizon Wireless. Furthermore, enabling the PSAP to unilaterally impose this obligation on a service provider, as

²⁷ See *Second FNPRM* at App. A (proposed rule 47 C.F.R. § 20.18(n)(11)).

²⁸ See Verizon Comments, PS Docket Nos. 11-153 & 10-255, at 6 (filed March 22, 2013).

the proposed rule would do, only heightens the potential for misunderstanding and disagreement between PSAPs and service providers in a manner that would unnecessarily delay the availability of text-to-911 for consumers. For these reasons, the Commission should not adopt the proposed 911 call routing rule, but simply modify the general obligation to require a covered text provider to provide “the capability to route a 911 text message to an appropriate PSAP.”²⁹

C. The Commission Should Continue to Apply the Bounceback Requirements to Roaming Consumers.

The Commission appropriately recognizes that text-to-911 in a roaming environment creates significant technical challenges and is not provided under the Voluntary Agreement.³⁰ Thus, should the Commission proceed with near term text-to-911 rules, it should simply affirm that when a consumer roams onto a service provider’s host network, the host and home providers’ obligations are governed by the bounceback requirements of section 20.18(n)(7) of the rules, as the Commission modified the rule on reconsideration.³¹

Verizon Wireless and other providers continue to consider possible methods to address this issue. Any potential solution, however, could require reconfiguration of SMS architecture or, at minimum, further standards development to ensure that service providers and their different vendors apply a consistent approach across one another’s platforms. Either of those efforts likely would last well into 2015. Moreover, in the meantime, Verizon anticipates that LTE-based global text telephony (GTT), with real-time text capability, will likely be available by

²⁹ *Second FNPRM* at App. A (proposed rule 47 C.F.R. § 20.18(n)(11) recommended new text underlined).

³⁰ *See id.* ¶¶ 51-52.

³¹ 47 C.F.R. § 20.18(n)(7).

then or shortly thereafter. If so, this issue could be rendered moot as consumers increasingly transition to LTE handsets.

D. The Commission Should Allow Service Providers to Develop Location Capability for LTE-Based IP-Enabled Text Messaging.

The Commission correctly recognizes that current SMS-based industry standard and existing technology solutions limit service providers to the provision of coarse location information to PSAPs.³² As noted above, interconnected text services in the near term may need to rely on the legacy SMS network to transmit 911 texts to PSAPs. Interconnected text messaging services, however, may not have the same access to data in a vendor's commercial location server as SMS-based services, and therefore may be unable to transmit coarse location information. Thus, any near term text-to-911 requirements should not include a location information component, consistent with the Commission's proposed rule and the Voluntary Agreement.

Moreover, enabling legacy SMS-based solutions to provide the caller's location (so-called "precise location") raises issues for which the Commission, public safety and consumer stakeholders may need to make an important policy judgment. Specifically, it may be necessary for text-to-911 solutions to maintain ongoing access to providers' and devices' commercial location-based service (LBS) capabilities in order to deliver precise location information with a 911 text. This, in turn, may require a user to turn off all the device's privacy settings with respect to *all* communications, not just 911-related communications. Turning off all privacy settings could implicate consumers' privacy demands and at least indirectly affect service providers' location privacy practices. In determining the feasibility and desirability of precise

³² See *Second FNPRM* ¶¶ 41-42.

location capability the Commission and other stakeholders would need to consider all of the different policy considerations associated with such a feature, including consumers' location privacy preferences.

In contrast, GTT capabilities under development now for LTE are expected to include more precise caller location than cell site location by leveraging the same location solution currently under development for VoLTE.³³ Thus, as with roaming, LTE-based GTT could render this issue moot as consumers increasingly transition to LTE handsets. For this reason as well, the Commission should defer consideration of location information requirements for existing text messaging services at this time. Finally, the Commission should also encourage third party OTT providers to take voluntary measures in advance to ensure that their covered services address this issue in an all-IP environment.

IV. MINOR CHANGES TO THE PROPOSED PSAP READINESS CRITERIA ARE APPROPRIATE TO PROMOTE COOPERATION BETWEEN SERVICE PROVIDERS AND PSAPS.

The proposed rule would appropriately condition any text-to-911 delivery obligations on receipt of a valid PSAP request. If the Commission moves ahead with a rule, Verizon generally supports the proposed PSAP readiness conditions, subject to a few changes to facilitate smoother implementation of text-to-911 and facilitate cooperation between service providers and PSAPs.

First, the proposed rule imposes a fixed deadline of six months from a valid PSAP request. Verizon supports the proposed six-month period, but consistent with the current E911 rules, the Commission should add the following clause at the end of proposed Section 20.18(n)(11)(a) to enable PSAPs and service providers to mutually negotiate alternate deadlines:

³³ *See id.* ¶ 43 (seeking comment on “what technological developments need to occur for interconnected text providers to implement a solution that provides Phase II equivalent location information.”).

“... not to exceed six months, subject to a later date established by mutual consent between the PSAP and covered text provider.”³⁴ This will enable service providers to flexibly handle unforeseen delays on an informal basis with individual PSAPs, without the need to burden the Commission with waiver requests.³⁵

Second, to clarify how a six-month period would apply to individual PSAP requests, the Commission should modify the proposed rule by accounting for the staggered timing of individual valid PSAP requests, as follows: “... covered text providers are not obligated to begin providing such service until [the deadline], or six months after a valid request is made, whichever is later.”³⁶ Otherwise, under the proposed deadline, a valid request in December 2014 would arguably be subject to the same December 31st deadline as a valid request from August 2014, which creates resource prioritization challenges to service providers and potential unfairness to early adopter PSAPs. This approach is also consistent with how the Commission applies the six-month deployment deadlines of the wireless E911 rules.³⁷

Finally, to ensure consistency with service providers’ current technical solutions, PSAPs should be ready to receive 911 text messages “via the 911 Short Code in a format consistent with applicable technical standards,” rather than simply “in the format requested.”³⁸ This ensures

³⁴ See *id.* at App. A (proposed 47 C.F.R. § 20.18(n)(11)(a), new text underlined); 47 C.F.R. § 20.18(j)(5) (“Nothing in this section shall prevent Public Safety Answering Points and carriers from establishing, by mutual consent, deadlines different from those imposed for carrier and PSAP compliance”).

³⁵ *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petition of City of Richardson, Texas*, Order on Reconsideration, 17 FCC Rcd 24282, ¶ 29 (2002) (the rule “should encourage negotiation between the parties to tailor the implementation process to best suit specific situations that they face.”).

³⁶ See *Second FNPRM* at App. A (proposed 47 C.F.R. § 20.18(n)(11)(b), new text underlined).

³⁷ See 47 C.F.R. §§ 20.18(d), (f).

³⁸ See *Second FNPRM* at App. A (proposed 47 C.F.R. § 20.18(n)(11)(c)).

that a PSAP works within existing standards and technologies, and that the rule makes it expressly clear that only a PSAP's use of the 911 short code may be used to trigger service providers' text-to-911 delivery obligations. This would also have the benefit of discouraging the use of alternate text messaging short codes that purport to be used for emergency purposes, thereby promoting use of a consistent text-to-911 dialing format nationwide.

V. ANY RULES MUST BE CONSISTENT WITH SECTION 106 OF THE COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT (CVAA).

Verizon supports the Commission's public safety objectives in this proceeding, as evident from its leadership role in developing text-to-911 technology and status as an early adopter and promoter of text-to-911 deployment. The Commission should nevertheless be conscious of its jurisdiction in this area. Emergency 911 requirements have traditionally been associated with common carrier telephony services, as reflected in the Communications Act itself³⁹ and the Commission's rules and Orders,⁴⁰ and with interconnected VoIP services that closely mimic the services available "using an analog telephone."⁴¹ The proposals in the *Second FNPRM*,

³⁹ 47 U.S.C. § 251(e)(3) (in Title II of the Act, "designat[ing] 9-1-1 as the universal emergency telephone number").

⁴⁰ See 47 C.F.R. § 64.3000 et seq. (applying basic 911 call routing requirements to telecommunications carriers generally); *id.* § 51.319(f) (including access to 911/E911 databases in ILECs' section 251(c)(3) unbundling obligations); *id.* § 20.18(a) (applying wireless E911 rules to common carrier CMRS providers); *Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems*, 18 FCC Rcd 25340, ¶¶ 16-17 (2003) (applying 911 rules to wireless services "that are similar to CMRS or wireline services" consistent with Congress's intent); see also *Implementation of 911 Act; The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Fourth Report and Order, 15 FCC Rcd 17079, ¶¶ 9-21 (2000) (discussing history of 911 as an abbreviated (N11) dialing code administered by ILECs and state regulatory commissions and then by the Commission under the North American Numbering Plan).

⁴¹ *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, ¶ 23 (2005) (codified at 47 C.F.R. § 9.5).

however, would expand the scope of the wireless 911 rules beyond the regulation of spectrum licensees and commercial mobile services and networks to include aspects of wireless providers' SMS offerings and mobile broadband services, as well as OTT applications, all of which are information services for which Congress has prohibited the imposition of common carrier regulations.⁴²

To the extent the Commission relies on Section 106(g) of the CVAA as a basis for jurisdiction,⁴³ any requirements must meet important statutory criteria, as the Commission recognized in adopting the bounceback rule.⁴⁴ Specifically, any rule adopted under Section 106(g) must be (1) technically feasible, and (2) achievable (i.e. at reasonable effort and expense).⁴⁵ The Commission should limit the scope of the proposed rules as described above to help ensure that any rules do not exceed the scope of the Commission's CVAA authority.⁴⁶ Finally, in any event the Commission should follow recent guidance from the U.S. Court of Appeals for the D.C. Circuit to not impose common carrier-type regulations on non-common

⁴² See 47 U.S.C. § 332(c)(2) (provider of private mobile service “shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this [Act]”); *Verizon v. FCC*, 740 F.3d 623, 658 (D.C. Cir. 2014) (rules potentially would impose common carrier obligations on non-common carrier services insofar as they “establish a minimum level of service that broadband providers must furnish to all edge providers”); *Cellco Partnership v. FCC*, 700 F.3d 534, 548 (D.C. Cir. 2012) (despite Title III authority “to promulgate the data roaming rule” the agency “has no authority to treat mobile-data providers like Verizon as common carriers.”).

⁴³ Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751, 2762-64, § 106(g) (2010), codified at 47 U.S.C. § 615c(g).

⁴⁴ See *Bounceback Order*, ¶¶ 100-127, modified on reconsideration, 28 FCC Rcd 14422 (2013).

⁴⁵ 47 U.S.C. §§ 615c(c)(8) and (g), 617(g) (defining “achievable”).

⁴⁶ See *supra* Sections II-III.

carrier, private mobile radio services.⁴⁷ In particular, the court has admonished the Commission that business relationships relating to wireless service providers' private, non-common carrier services, which include SMS and mobile broadband service, among others, require considerable flexibility and should be governed by commercially reasonable terms and conditions through individualized bargaining.⁴⁸ Any rules governing the relationships between wireless providers and OTT providers must comply with this requirement at minimum.

Respectfully submitted,

/s/ Robert G. Morse

Michael E. Glover
Of Counsel

Gregory M. Romano
Robert G. Morse
1300 I Street, N.W.
Suite 400 West
Washington, DC 20005
(202) 515-2400

*Attorneys for Verizon
and Verizon Wireless*

April 4, 2014

⁴⁷ See *id.*; *Cellco v. FCC*, 700 F.3d at 548 (Commission “has no authority to treat mobile-data providers like Verizon as common carriers.”).

⁴⁸ See *Verizon v. FCC*, 740 F.3d at 655-659; *Cellco v. FCC*, 700 F.3d at 548.