

**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
	)	

**REPLY COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION**

Competitive Carriers Association (“CCA”) hereby submits these reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Second Further Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup> CCA’s members include over 100 competitive wireless service providers and almost 200 manufacturers and other vendors of products and services utilized throughout the wireless service supply chain.

**INTRODUCTION AND SUMMARY**

CCA continues to support efforts by industry, public safety and the Commission to facilitate deployment of text-to-911 services. Yet despite CCA and its members endeavoring to find business solutions to this important need,<sup>2</sup> practical challenges remain and several new challenges have arisen as a result of additional measures contained in the Second FNPRM.

As an initial matter, the Commission should not adopt a specific day by which Commercial Mobile Radio Service (“CMRS”) providers must have a text-to-911 solution incorporated into their networks. As public safety answering points (“PSAPs”) are ultimately the

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<sup>1</sup> See *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, PS Docket No. 11-153, *et al.*, Policy Statement and Second Further Notice of Proposed Rulemaking, 29 FCC Rcd 1547 (2014) (*Second FNPRM*).

<sup>2</sup> *Id.* at ¶ 19, n.43.

gatekeepers for text-to-911 service, a set deadline for carriers will not result in ubiquitous text-to-911 availability. At a minimum, the Commission should establish the deadline based on adoption of a final order in this proceeding.

Beyond the proposed implementation deadline, currently there are impediments to several of the Commission's proposals related to location accuracy information and providing text-to-911 service while roaming. As the Commission itself has suggested, only coarse (cell sector) location information should be required to be provided for text-to-911 for the foreseeable future. Similarly, several paradigms have been offered for facilitating text-to-911 while roaming *in the future*, but industry hasn't agreed on any one method—therefore, the Commission should forego mandating a roaming requirement in the near term. Additionally, calls for essential, uniform protections against tort and other liabilities have yet to be adequately answered by the Commission or other policymakers, an issue that should be addressed before requiring providers to provision this service. Finally, CCA urges the Commission to be cognizant of concerns that arise in the context of negotiating “voluntary” industry solutions.

## DISCUSSION

### **I. A UNIFORM IMPLEMENTATION DEADLINE WILL ONLY RESULT IN COMPETITIVE CARRIERS BEING FORCED TO DEPLOY A CAPABILITY INTO THEIR NETWORKS THAT A MAJORITY OF PSAPS HAVE FAILED TO UTILIZE**

CCA appreciates the Commission's desire for text-to-911 to be made available “in a timely manner, so that all consumers will be assured access to text-to-911 regardless of what text provider they choose.”<sup>3</sup> Placing a set deadline of December 31, 2014 for all CMRS providers to implement this capability into their networks, however, is not likely to help achieve this goal. Indeed, establishing a uniform deadline may confuse consumers without a counter-balanced

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<sup>3</sup> *Second FNPRM* at ¶ 16.

benefit to PSAPs.<sup>4</sup> The impact (or lack of an impact) on PSAPs of a deadline is best evidenced by their reaction to the voluntary agreement entered into by and between public safety groups and the nation’s largest carriers almost a year and a half ago (the “Carrier-NENA-APCO Agreement”).<sup>5</sup> Of the approximately 6,000 PSAPs in the United States and its territories,<sup>6</sup> it appears that 175 PSAPs are accepting text-to-911 as of April 8, 2014 (a little less than 3%).<sup>7</sup> While the four largest carriers are not required to have their solutions available nationwide until May 15, 2014, they have engaged in considerable outreach to the PSAP community. All available evidence suggests that PSAPs have not been waiting on CMRS providers to implement the capability into their networks—a number of providers have “built it,” but the PSAPs have yet to come.

Similarly, consumers would, at best, be unaffected by a requirement that all providers implement a solution by December 31, 2014. As T-Mobile has pointed out, “the ultimate decision to make text-to-911 available to consumers rests with the PSAPs.”<sup>8</sup> The PSAPs are the gatekeepers for this service, and until the Commission finds a way to increase PSAP adoption, the deadline imposed on carriers will not further the Commission’s objectives. Rather, the announcement of a nationwide deadline applicable to all carriers for implementation of the

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<sup>4</sup> *Second FNPRM* at ¶ 18.

<sup>5</sup> *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, PS Docket No. 11-153, *et al.*, Further Notice of Proposed Rulemaking, 26 FCC Rcd 15659, App’x C (2012).

<sup>6</sup> *See* 9-1-1 Statistics – National Emergency Number Association, <http://www.nena.org/?page=911Statistics>.

<sup>7</sup> FCC, Information on Specific Areas Where Text-to-911 is Available, <http://transition.fcc.gov/cgb/text-to-911-deployments.pdf>. As of January 2014, there were 115 PSAPs in Iowa, all of which are served by iWireless according to the Commission’s reporting.

<sup>8</sup> Comments of T-Mobile USA, Inc., PS Docket Nos. 11-153 *et al.*, at 9 (filed Apr. 4, 2014) (T-Mobile Comments).

service could cause more confusion to consumers who are unable to use the service after the deadline due to a lack of PSAP readiness. Consumers will reflexively blame their carriers, who will ultimately suffer the punishment.

Therefore, rather than adopting a single deadline for implementation by all CMRS providers, CCA proposes to require implementation within a set period of time (*e.g.*, six months) following a PSAP's request for service. Based on performance to date, a set timeframe following a PSAP's request for service is a more appropriate framework—particularly for small and rural providers. Competitive carriers cannot afford to implement a service into their networks only for it to sit on the shelf, collecting dust. At a minimum, the Commission should benchmark smaller wireless providers' implementation deadline from adoption of a final order, rather than the predetermined December 31, 2014 date. This will provide carriers with a set amount of time once final rules are announced to ready their networks.<sup>9</sup>

## **II. THERE ARE CURRENTLY NO VIABLE MECHANISMS AVAILABLE TO SUPPORT PROVISIONING OF PHASE II EQUIVALENT LOCATION DATA TO PSAPS**

The Second FNPRM seeks comment on “capabilities to provide Phase II equivalent location information” for text-to-911.<sup>10</sup> As the Commission itself recognizes in the Second FNPRM, “the Carrier-NENA-APCO Agreement, the ATIS standard J-STD-110, and a large part of the record suggest that only coarse (cell sector) location should be used for current text-to-911

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<sup>9</sup> CCA only comments here on the implementation deadline for CMRS providers to provision SMS-based text-to-911 service. There are further concerns with a requirement that CMRS providers facilitate or support text-to-911 for over-the-top texting applications—which carriers usually don't know have been downloaded by subscribers or are riding over their networks. These issues require additional consideration.

<sup>10</sup> *Second FNPRM* at ¶¶ 41-42.

purposes.”<sup>11</sup> Several carriers have reiterated in their comments that it is premature to consider requiring Phase II equivalent location information as part of text-to-911.<sup>12</sup> Attempting to use commercial location services for 911 communications presents a host of issues, including subscriber disablement of location data through privacy settings, restrictions built into the handsets which do not allow for use of commercial location services, and the potential for location spoofing. And, while Working Group I of CSRIC IV was scheduled to report last month on the technical feasibility of including Phase II location information in texts sent to PSAPs, that report has been delayed until June 2014.<sup>13</sup>

Until the standards and technology are fully developed for more precise location information, carriers subject to a text-to-911 requirement should only be obligated to provide coarse location data. If the Commission determines in the interim that the various impediments to commercial location services identified above are outweighed by potential public interest benefits, it should allow individual carriers to utilize those services on a voluntary, best efforts basis.

### **III. ROAMING REMAINS A CHALLENGE THAT SHOULD BE ADDRESSED THROUGH INDUSTRY STANDARDS-SETTING PROCESSES**

As several commenters have pointed out, the Carrier-NENA-APCO Agreement does not include a roaming obligation. In particular, each of the carriers who are signatories to that

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<sup>11</sup> *Second FNPRM* at ¶ 41.

<sup>12</sup> T-Mobile Comments at 6-8; Comments of Sprint Corp., PS Docket Nos. 11-153 *et al.*, at 9-10 (filed Apr. 4, 2014) (Sprint Comments); Comments of Verizon and Verizon Wireless, PS Docket Nos. 11-153 *et al.*, at 15-16 (filed Apr. 4, 2014) (Verizon Comments).

<sup>13</sup> Working Group #1: NG911, Communications, Security, Reliability and Interoperability Council IV, Status Update at 2 (Mar. 20, 2014), *available at* [http://transition.fcc.gov/bureaus/pshs/advisory/csric4/CSRIC\\_IV\\_WG1\\_STATUS\\_03202014.pdf](http://transition.fcc.gov/bureaus/pshs/advisory/csric4/CSRIC_IV_WG1_STATUS_03202014.pdf).

agreement have argued that the uncertain (and likely expensive) undertakings necessary to facilitate delivery of text-to-911 to roaming subscribers should be avoided—instead, resources would be better spent in developing solutions for NG911 products and services.<sup>14</sup> Verizon has pointed out that “any potential solution . . . [w]ould require reconfiguration of SMS architecture or, at a minimum, further standards development to ensure that service providers and their different vendors apply a consistent approach across one another’s platforms.”<sup>15</sup> AT&T notes that “absent industry approved standards . . . it would be hard to estimate the costs and time involved” to effectuate a roaming obligation.<sup>16</sup> Rather than unilaterally imposing requirements for text-to-911 while roaming, the Commission should instead allow these issues to be investigated by industry and standards setting bodies—perhaps by the next iteration of CSRIC.<sup>17</sup>

But at the same time, smaller carriers and the customers they serve will be particularly impacted by a prolonged absence of any out-of-network capability to text-to-911, potentially putting these smaller carriers at a competitive disadvantage. If the Commission, weighing all the various public interest factors, decides that the benefits of an interim solution outweigh the usefulness of a more deliberative technical review, CCA would urge the Commission to utilize existing resources to the greatest extent possible so as to minimize overall costs to competitive carriers. TCS in its comments recommends a “‘hub-and-spoke’ roaming router be provided that interconnects MNOs [mobile network operators] in support of their voice/text roaming

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<sup>14</sup> Sprint Comments at 10-12; T-Mobile Comments at 8-10; Verizon Comments at 14-15; Comments of AT&T Inc., PS Docket Nos. 11-153 *et al.*, at 6-7 (filed Apr. 4, 2014) (AT&T Comments).

<sup>15</sup> Verizon Comments at 14.

<sup>16</sup> AT&T Comments at 7; *accord* Sprint Comments at 11.

<sup>17</sup> Comments of Motorola Mobility, PS Docket Nos. 11-153 *et al.*, at 8 (filed Apr. 4, 2014).

relationships.”<sup>18</sup> In this scenario, carriers’ location platforms would interconnect into a centralized hub which could make cell sector information available to all connected providers.<sup>19</sup> One potential way to implement this hub-and-spoke architecture would be to leverage CCA’s Data Services Hub.<sup>20</sup> While this approach would divert some resources away from NG911 developments, the Data Services Hub could serve as an efficient interconnection point for operators’ core networks and data location servers to facilitate a roaming solution.

The course of action most supported by the record is to recognize the inherent limitations of text-to-911 and instead focus on developing fulsome NG911 products and services. But, if the Commission mandates a roaming text-to-911 requirement prior to wide-spread implementation of NG911, it should seek to do so in the most efficient, cost-effective manner available, paying particular attention to the potential costs to competitive carriers.

#### **IV. TEXT PROVIDERS SHOULD NOT BE SUBJECT TO A MANDATE WITHOUT ADEQUATE LIABILITY PROTECTIONS IN PLACE**

CCA has previously raised the issue of adequate liability protection for CMRS providers who facilitate text-to-911.<sup>21</sup> Several carriers asked the Commission to address the patchwork of varying levels of liability protection afforded under state statutes, tariffs and regulations.<sup>22</sup> CCA

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<sup>18</sup> Comments of TeleCommunication Systems, Inc., PS Docket Nos. 11-153 *et al.*, at 17-18 (filed Apr. 4, 2014).

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

<sup>20</sup> Press Release, CCA, TNS Delivers Next Generation Data Services Hub Including LTE Roaming Solutions for CCA Members (Mar. 12, 2013), *available at* <http://competitivecarriers.org/press/rca-press-releases/tns-delivers-next-generation-data-services-hub-including-lte-roaming-solutions-for-cca-members/9111344>.

<sup>21</sup> *Ex Parte* Letter from Rebecca Murphy Thompson, General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, PS Docket Nos. 11-153, *et al.* at 2 (filed Nov. 5, 2012); *Ex Parte* Letter from Rebecca Murphy Thompson, General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, PS Docket Nos. 11-153, *et al.* at 2 (filed Mar. 12, 2013).

<sup>22</sup> AT&T Comments at 7-8; T-Mobile Comments at 14.

urges the Commission to recommend to Congress that it adopt a national liability standard for providers of 911 services. This should be a prerequisite to any mandate that carriers be required to provide text-to-911 service. At a minimum, the Commission should adopt fulsome “best practices” concurrent with any mandate, for carriers to utilize in tort proceedings. While not wholly adequate, this would provide some base level of protection against liability.

In addition to tort liability, carriers (and their selected vendors) who are required to provide this service could become susceptible to intellectual property claims. TCS has previously sought a decision from the Commission that providers of life-saving E911 services should not be subject to frivolous infringement litigation by patent assertion entities (patent trolls).<sup>23</sup> CCA, along with others, supported calls for the Commission to provide clarity on this subject.<sup>24</sup> Protection from patent trolls will be all the more important in the event the Commission mandates a text-to-911 requirement for wireless service providers.

#### **V. THE COMMISSION SHOULD ACCOUNT FOR RURAL AND REGIONAL CARRIERS’ INVOLVMENT IN NEGOTIATING VOLUNTARY AGREEMENTS WHEN DECIDING THEIR TREATMENT**

CCA is concerned by questions asked in the Second FNPRM about how to treat voluntary industry commitments.<sup>25</sup> To the extent the Commission’s goal is to “reward” entities that enter into voluntary agreements (or “punish” entities that do not), the Commission should be cognizant of smaller entities’ ability to “get a seat at the table” to negotiate such agreements. It would be fundamentally unfair to hold the smallest service providers to a set of expectations and

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<sup>23</sup> *Public Safety and Homeland Security Bureau Seeks Comment on Petition for Declaratory Ruling and/or Rulemaking filed by Telecommunication Systems, Inc.*, PS Docket No. 11-153, *et al.*, Public Notice, 28 FCC Rcd 1435 (PSHSB 2013).

<sup>24</sup> Comments of Competitive Carriers Association, PS Docket Nos. 11-153 *et al.* (filed Apr. 8, 2013).

<sup>25</sup> *Second FNPRM* at ¶¶ 58-61.

requirements negotiated by the largest ones, without any consideration of the impact the agreement may have on those smaller providers. CCA also shares concern raised in the record that “codifying or attempting to enforce voluntary commitments risks inhibiting stakeholders’ inclination to undertake future voluntary efforts.”<sup>26</sup> This could produce a result that is the exact opposite of what the Commission hopes to achieve. Finally, the Commission should not contemplate revising voluntary agreements based on public comment.<sup>27</sup> Where an agreement is negotiated by a critical mass of relevant stakeholders, it should not be subject to further “puts and takes” by parties upon whom the agreement has no potential financial or enforcement impact.

## CONCLUSION

CCA recognizes the importance of making text-to-911 ubiquitously available, but has concerns with some of the specific proposals contained in the Second FNPRM. As PSAPs are the ultimate gatekeepers of this important service, more must be done to promote their adoption of the capability. Moreover, there are technical and policy roadblocks to this ambitious goal, including the absence of specifications for providing detailed location information to PSAPs or facilitating text-to-911 while roaming, and inadequate liability protections. Finally, the Commission should make sure not to take any action that would dampen incentives for industry to enter into voluntary agreements for solutions to issues identified as priorities to the Commission.

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<sup>26</sup> Comments of CTIA – The Wireless Association®, PS Docket Nos. 11-153 *et al.*, at 3 (filed Apr. 4, 2014).

<sup>27</sup> *Second FNPRM* at ¶ 60.

Respectfully submitted,

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