

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Public Safety and Homeland Security Bureau)	PS Docket No. 21-479
Seeks Comment on Petition for Rulemaking)	
Filed by the National Association of State 911)	
Administrators)	

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

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Public Notice² released by the Federal Communications Commission’s (“Commission”) Public Safety and Homeland Security Bureau seeking comment on a Petition for Rulemaking/Notice of Inquiry (“*Petition*”) filed by the National Association of State 911 Administrators (“NASNA”).³ The *Petition* seeks the initiation of a rulemaking or notice of inquiry proceeding to, “[e]stablish Commission authority over originating service providers’ (OSPs)...delivery of 911 services through IP-based emergency services,”⁴ and a declaration that the delivery of traffic to demarcation points set by the Commission “is the responsibility of the OSPs, except where cost-recovery is provided by state law or regulation.”⁵ The *Petition* also

¹ NTCA–The Rural Broadband Association represents approximately 850 independent, community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or are themselves engaged in the provision of such services.

² *Public Safety and Homeland Security Bureau Seeks Comment on Petition for Rulemaking Filed by the National Association of State 911 Administrators*, PS Docket No. 21-479, Public Notice, DA 21-1607 (rel. Dec. 20, 2021).

³ *Petition for Rulemaking; Alternatively, Petition for Notice of Inquiry*, National Association of State 911 Administrators CC Docket No. 94-102 and PS Docket Nos. 18-64, 18-261, 11-153, and 10-255 (fil. Oct. 19, 2021) (“*Petition*”).

⁴ *Id.*, p. 2.

⁵ *Id.*, pp. 2-3.

seeks the Commission establishment of “NG911 cost demarcation point or points, for allocating costs [for instances] when the parties cannot agree on the appropriate demarcation points(s).”⁶

NTCA notes herein (1) the negative repercussions that could emerge should the Commission grant the specific relief that NASNA seeks out of an eventual rulemaking without accounting for significant new transport costs that could be absorbed by small, rural customer bases and (2) that certain policy issues that underlie those raised by the *Petition* are also found in other contexts and are far better addressed in a comprehensive proceeding to examine them. More specifically, the Commission should avoid consideration and perhaps adoption of “one-off” piecemeal changes to interconnection and “network edge” rules that may apply in *some* instances of IP voice traffic exchange but not in others, thereby adding confusion and chaos to the marketplace and imposing costs on rural consumers.

As an initial matter, NTCA supports steps to advance the transition to NG 911 – among other features, rural consumers stand to benefit from the increased situational awareness it will provide to first responders.⁷ Even more broadly, the proliferation of voice traffic originated on and exchanged across IP voice networks is a top priority for NTCA members – these rural operators have been leaders in the IP transition, and in addition to offering modern IP-based services to their rural communities, most can originate voice traffic in such format.⁸ Yet the continued presence of TDM in upstream networks owned and operated by other providers,

⁶ *Id.*, p. 3.

⁷ *How NG911 Benefits Telecommunicators, Next Generation Advanced* (Sep. 15, 2021), available at: <https://nga911.com/news/post/how-ng911-benefits-telecommunicators>.

⁸ Broadband/Internet Availability Survey Report, NTCA–The Rural Broadband Association, Dec. 2019, p. 9 available at: [https://www.ntca.org/sites/default/files/documents/2019-12/2019%20Broadband %20Survey %20Report.pdf](https://www.ntca.org/sites/default/files/documents/2019-12/2019%20Broadband%20Survey%20Report.pdf). (finding that survey data indicate that 93 percent of the association’s members have IP-enabled switches within their networks, meaning that most RLECs have the capability to implement STIR/SHAKEN within at least parts, if not all, of those networks).

together with a clear absence of any simple “rules of the road” to help manage this technology transition, has limited NTCA members’ ability to exchange voice traffic in IP. As noted previously, this will continue to have negative repercussions for consumers in at least one specific context, as NTCA members and similarly situated operators are unable to adopt caller-ID authentication technology that can protect rural consumers from unscrupulous actors given that this critical consumer protection technology relies on the end-to-end transmission of IP voice traffic.⁹ Thus, *rural operators have strong incentives to ensure that the end-to-end exchange of voice traffic in IP can be a reality across the board for both the delivery NG 911 traffic, and otherwise.*

With respect to the *Petition*, the relief that NASNA seeks from a future rulemaking/NOI could, if care is not taken, impose substantial and likely unrecoverable costs on rural operators. The *Petition* specifically seeks the Commission establishment of “cost demarcation points” that would determine the allocation of costs for originating service providers’ delivery of NG 911 traffic in situations in which the parties could not come to an agreement. Recently, NTCA members in some states have reported that entities awarded statewide contracts for the provision of NG 911 services have demanded rural carrier establishment of IP trunking facilities for the delivery of 911 traffic several hundred miles outside the latter’s service area (indeed in some cases in neighboring states). Simply put, acceding to such demands would impose on rural operators, for the first time, the sole financial responsibility for the costs of delivering voice calls destined from their networks to these distant points of interconnection as dictated by other

⁹ Comments of NTCA–The Rural Broadband Association, WC Docket No. 17-97 (fil. May 15, 2020), p. 3 (noting that “even the most forward-looking, technologically-advanced small, rural carrier seeking to adopt STIR/SHAKEN cannot realize the benefits of doing so for its customers because any caller-ID authentication information generated on the RLEC network would be lost as it is delivered to the TDM facility upstream”).

entities. Absent Commission attention to the implications here, the costs imposed could be unrecoverable from small rural customer bases, putting at risk the continued affordability of voice service and potentially undermining the universal service mandates of Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (“the Act”).

It is important to note that the costs discussed herein are not hypothetical. NTCA members have in other contexts reported costs of several thousand dollars or more per month to reach points of interconnection with respect to IP voice traffic. NASNA appears to contemplate that the “cost recovery” for such IP trunking costs at issue herein as coming entirely from end-users.¹⁰ NTCA members can confirm that demands for IP trunking facilities to points of interconnection have come with the demand that the originating service provider assume all costs.

Should the Commission move forward with a rulemaking/NOI, it must consider, first, that the Act eschews enabling parties to unilaterally shift transport costs of the sort at issue here onto other parties. Interconnection under the Act, as previously interpreted by this Commission, is to occur on carriers’ networks, and states in turn have the authority to establish rules surrounding interconnection as long as they set those consistent with the Act’s provisions. For example, rural telephone companies are not required to agree to interconnect at points outside of their network unless and until a state commission determines that doing so “is not unduly economically burdensome, is technically feasible, and is consistent with section 254 of this title.”¹¹ In addition, the Commission has, in another context, acknowledged that “a carrier has no legal obligation to agree to unilateral attempts to change network interconnection points.”¹²

¹⁰ *Petition*, pp. 2-3.

¹¹ 47 U.S.C § 251(f)(1)(A).

¹² *8YY Access Charge Reform*, WC Docket No. 18-156, Report and Order, FCC 20-143, (rel. Oct. 9, 2020), ¶ 71.

In doing so the Commission has also reminded the industry that “on several occasions the Commission has found that unilateral attempts by a carrier to change its interconnection point with another carrier that results in increased costs or inefficient routing of traffic is unjust and unreasonable under section 201(b) of the Act.”¹³ Any action taken in response to the *Petition* that would enable public safety entities to demand rural operators’ assumption of transport costs to distant points would require such costs to be recovered from small rural customer bases, undermining the universal service mandate and foisting the costs of such interconnection entirely on those rural consumers.

With all of this mind, it becomes clear that even as the *Petition* is intended to facilitate the transition to NG 911 services, absent caring for the cost-shifting implications discussed above, a large part of the cost of that transition in rural areas will come on the backs of rural consumers. Thus, a rulemaking/NOI as requested by NASNA cannot breeze past these considerations – indeed the implications of such cost-shifting, in light of the requirements of the Act and the Commission’s previous recognition that unilateral attempts to shift transport costs of the very sort at issue here run afoul of Section 201, must include a detailed examination of, and accounting for, these concerns.

Moreover, the Commission should not move forward with a rulemaking/NOI addressing *only the narrow context at issue in the Petition*. Even as the issues raised in the *Petition* are critical to the transition to NG 911 and for rural consumers (and likely others as well), the proper allocation of interconnection costs has long been the subject of significant debate and has emerged as critical in other important contexts as well. As noted above, the allocation of

¹³ *Id.*

transport costs is a critical stumbling block to rural operators' ability to adopt caller-ID spoofing mitigation technology and in a manner that does not require the assumption of significant new costs heretofore not their responsibility. In fact, it could also be seen as a hurdle to the completion of the IP transition, as addressing this issue would result in greater exchange of traffic in "all-IP." But, Commission action to address the *Petition* in a "one-off" manner could create piecemeal rules only applicable in some IP traffic exchange scenarios and not in others. The result could at the very least be confusion, and even worse, parties in other contexts attempting to exploit potential mismatches in regulatory obligations and leverage those in ways that run counter to the universal service implications noted above. Where the Commission has sought comment on the "network edge" issue,¹⁴ NTCA has noted that it should be set at the existing interconnection point within the rural local incumbent local exchange carrier ("RLEC") study area to ensure that the universal service mission of these operators is not undermined by massive new transport costs.¹⁵ And it is important to understand that any rules to address this need not be prescriptive – rather, "rules of the road" for what will happen once existing interconnection arrangements are scrapped and traffic is exchanged in IP could operate as a "default" and set interconnection point as is in the absence of otherwise mutually agreed upon terms and conditions. This would resolve these universal service concerns while providing all parties a clear path and clear incentives to enter into IP interconnection agreements for the exchange of voice traffic.

¹⁴ *Parties Asked to Refresh the Record on Intercarrier Compensation Reform Related to the Network Edge, Tandem Switching and Transports, and Transit*, Public Notice, WC Docket No. 10-90, CC Docket No. 01-92, Public Notice, DA 17-863 (rel. Sep. 8, 2017).

¹⁵ Comments of NTCA, et al., WC Docket No. 10-90, CC Docket No. 01-92 (fil. Oct. 26, 2017), pp. 19-24.

Considering these issues more holistically could include addressing specific hurdles to NG 911 and caller-ID authentication, while also ensuring that all such decisions are made against a broader and more comprehensive backdrop of IP interconnection issues generally. The costs that NASNA seeks to allocate by Commission rule do not exist in isolation – and neither do the hurdles to increased use of NG 911 and IP voice traffic exchange across the board. In short, NTCA recognizes and agrees with the need to tackle such issues – but doing so a piece at a time without taking account of the broader picture presents risks and challenges. Instead, NTCA urges the Commission to examine and address the questions presented as part of a comprehensive rulemaking on IP interconnection and “network edge” issues.

Respectfully submitted,



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