

May 30, 2023

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C., 20554

**RE: Facilitating Implementation of Next Generation 911 Services (NG911)
PS Docket No. 21-479**

Dear Ms. Dortch:

On Tuesday, May 30, 2023, the undersigned and Brian Ford on behalf of NTCA–The Rural Broadband Association (“NTCA”)¹ met with the following staff from the Federal Communications Commission’s (the “Commission”) Public Safety and Homeland Security Bureau (“Bureau”): David Furth, Deputy Bureau Chief, John Evanoff, Chief of the Bureau’s Policy and Licensing Division, Brenda Boykin, Policy and Licensing Division Deputy Chief, and Rachel Wehr, Rasoul Safavian, and Madeline Strasser from the Bureau. The parties discussed the Draft Notice of Proposed Rulemaking (“*Draft NPRM*”) in the above-referenced proceeding that would seek comment on ways to advance the transition to Next Generation 911 (“NG911”).² Among other thing, the *Draft NPRM* proposes to require all voice service providers “to transmit all 911 calls to destination point(s)...designated by a 911 authority” and in IP format.³

In the meeting, NTCA noted the need for the *Draft NPRM* to solicit an accurate and complete record with respect to the categories and extent of costs that voice providers will incur should the draft rules be adopted as proposed. NTCA discussed these costs for providers serving small rural communities in particular, and proposed several surgical amendments to the *Draft NRPM* that could better illuminate these issues before the Commission, facilitate an informed cost/benefit analysis, and ultimately further the NG 911 transition in a rapid and orderly manner that does not unnecessarily burden rural consumers.

As an initial matter, NTCA articulated support for reasonable steps to advance the transition to NG 911 given the increased situational awareness it will provide to first responders. NTCA further highlighted that its members have long been leaders in the IP transition, with many offering modern IP-based services to their rural communities and capable of originating voice traffic in such format as the *Draft NPRM* indicates.⁴ Nonetheless, NTCA explained that its members are often trapped behind other upstream operators’ non-IP networks when it comes to

¹ NTCA represents approximately 850 providers of high-quality voice and broadband services in the most rural parts of the United States. In addition to voice and broadband, many NTCA members provide wireless, video, and other advanced services in their communities.

² Facilitating Implementation of Next Generation 911 Services (NG911), PS Docket No. 21-479, Draft Notice of Proposed Rulemaking, FCC-CIRC2306-01 (rel. May 18, 2023) (“*Draft NPRM*”).

³ *Id.*, ¶ 2.

⁴ *Id.*, ¶ 72.

the exchange of voice traffic with other providers. Among other things, as has been made evident in the context of the Commission’s efforts to combat robocalling, this frustrates these providers’ ability to leverage their modern IP networks to authenticate caller-ID on an end-to-end basis.⁵ NTCA observed that the proposals in the instant proceeding to compel transport of NG 911 calls to distant points in some respects mirrors the policy and economic challenges when it comes to interconnection issues, and we therefore urged the Commission to ensure that the record of this proceeding will properly account for the types of transport and transit costs that could be imposed on small, rural customer bases and the effect this could have on consumer rates for voice services.

Turning to the *Draft NPRM*, NTCA noted that selected adjustments are warranted to ensure a complete picture will be captured in the record of the communities that rural local incumbent local exchange carriers (“RLEC”) serve and the costs they could face if required to procure transport and transit services for the routing and delivery of traffic to distant points. For example, the *Draft NPRM* cites NTCA survey data with respect to RLECs’ ability to originate voice traffic in IP,⁶ and then points to an assertion by the National Association of State 911 Administrators (“NASNA”) that “small providers’ transition to IP ‘diminishes the argument that the distance to ESInet point of interconnection [POI] is cost prohibitive.’”⁷ These statements taken together seem to presume that taking calls in IP format from deeply rural areas to distant points designated by a public safety entity dozens or hundreds of miles away is somehow costless or without burden to originating providers. This, however, is hardly the case. As just one example, simply because an RLEC in a rural Kansas town has IP switching facilities within its own network,⁸ this *has no bearing on its ability to deliver traffic (or certainly the economics of doing so) outside its rural service area, much less to a neighboring state or several states away*. Indeed, the provider in this example (and many NTCA members) exchange most non-local voice traffic through upstream tandem switching facilities owned by other providers for delivery to points outside their networks. But, because these tandems are typically TDM and incapable of receiving IP voice traffic, RLECs will be unable to leverage these arrangements for the delivery of the traffic at issue in this proceeding. Instead, they will be forced to lease dedicated, direct IP connections to points designated by 911 authorities. Thus, the tentative conclusion that “the costs for rural LECs providing broadband to transmit 911 traffic via IP to a state’s NG911 point of interconnection would be small”⁹ has no stated basis in fact and fails to account for transport and/or transit costs. Moreover, it fails to recognize that for some providers, the costs of conversion to IP may be needed in parts of the network where IP origination capabilities do not already exist.

Perhaps more importantly, these transport and transit costs are costs that RLECs typically do not incur today. When it comes to the exchange of non-local voice traffic (which is what distantly-routed NG 911 calls would effectively be), RLECs typically have financial responsibility for the delivery of this traffic to and from their “network edge” – this is typically a point at the boundary of or within the RLEC’s rural serving area. Thus, the *Draft NPRM* would propose for the first time

⁵ Comments of NTCA–The Rural Broadband Association, WC Docket No. 17-97 (fil. May 15, 2020).

⁶ *Draft NPRM*, ¶ 72.

⁷ *Id.*, ¶ 74.

⁸ *Id.* (“Further, we seek comment on any additional costs to transition to NG911 for a rural LEC that already provides broadband service.”). NTCA noted that a provider’s ability to offer broadband service has no bearing on the cost of transport/transit in IP to points outside their network.

⁹ *Id.*, ¶ 76.

to impose on rural operators the sole financial responsibility for the costs of delivering voice calls destined from their networks to distant points of interconnection as dictated by other entities. In short, the questions presented here – while posed specifically as to NG 911 traffic and characterized as somehow presenting no material routing burdens – in fact raise significant and broader policy and economic questions that go beyond the narrow matter of NG 911 traffic alone. Additional questions as proposed below would ensure that the *Draft NPRM* elicits a full picture of these economic and policy considerations, including the potential costs associated with these proposals and the possible implications of imposing such costs on small rural customer bases rather than apportioning them in other ways or ensuring that the entities seeking such routing provide cost recovery for them.

To ensure that the feedback produced by the *Draft NPRM* more fully illuminates the types of costs that providers could incur and addresses related policy and economic considerations, NTCA proposed specific amendments (found in bold and italics) to paragraphs 22, 25, 33 and 74 of the item:

22. We believe that this proposal would help jurisdictions that are seeking to implement NG911 because requiring wireline, interconnected VoIP, and Internet-based TRS providers to deliver IP-formatted calls and accompanying call set-up and location information would alleviate the burden on state and local 911 authorities of maintaining transitional gateways and other network elements to process and convert legacy calls. The Task Force on Optimal PSAP Architecture (TFOPA), a federal advisory committee, concluded in 2016 that a significant impediment to NG911 service was that originating service providers were not prepared to deliver 911 calls via IP technology with location information to NG911 service providers. Some 911 authorities contend that the use of legacy technology by carriers continues to impede state and local jurisdictions as they attempt to transition to NG911. Although some carriers are already delivering IP-based traffic voluntarily to NG911-capable PSAPs, so long as any providers continue to deliver 911 calls and routing information in legacy format, 911 authorities must fund and operate transitional technology to receive, translate, and process such calls within the NG911 system. We seek comment on the degree to which funding and operating transitional facilities extend the timeline and add to the cost incurred by state and local 911 authorities to transition to NG911. In addition, we seek comment and specific data on the benefits that the public would derive from our proposal, as well as on the costs to wireline, interconnected VoIP, and Internet-based TRS providers to deliver calls in IP-based format when a state or local 911 authority has requested it. **In particular, with respect to these costs to wireline, interconnected VoIP, and Internet-based TRS providers, we seek comment on the kinds of costs that would be associated with transport and/or transit of these calls in IP format and from originating providers to points set by the state/911 authority, and whether and to what degree these differ depending upon where and how the call is routed and delivered.**

25. We also seek comment on how our proposal should extend to 911 calls that originate on non-IP wireline networks. While the Commission has, for the last

decade, encouraged providers to transition to all-IP networks, some wireline carriers continue to use TDM switching facilities for voice traffic within portions of their networks. We note that our proposed rule would not require TDM-based carriers to originate 911 calls in IP-based format on their own networks. However, it would require such calls to be converted to IP-based format for delivery to the ESInet or other designated point(s) once a 911 authority has made a valid request to receive IP-formatted calls. We seek comment on this proposal. Should we instead take steps to require that wireline, interconnected VoIP, and Internet-based TRS providers originate all 911 traffic in IP format? What would be the costs and benefits associated with this proposal? Alternatively, should we limit our requirement for wireline, interconnected VoIP, and Internet based TRS providers to deliver 911 traffic in IP format to providers that originate 911 calls in IP? How would such a limitation impact the costs and benefits of our proposal? If providers fail to include appropriately formatted routing information, should those providers be responsible for additional costs beyond the points discussed in section III.A.2? **We also seek comment on the costs specifically associated with originating providers' conversion of voice traffic from TDM to IP.**

33. Cost Allocation. In addition to issues regarding the designation of 911 delivery points in the NG911 environment, disagreements over cost allocation appear to have contributed to delays in transitioning to NG911.¹¹¹ To address this concern, we propose to establish a default demarcation point for purposes of cost allocation in the NG911 environment. Under this proposed approach, states and localities would remain free to establish cost recovery mechanisms as they deem necessary for the costs of delivering 911 traffic to required destination point(s), but, in the absence of such mechanisms, the cost of compliance from call origination to the demarcation point would presumptively be the responsibility of the wireline, CMRS, interconnected VoIP, or Internet-based TRS provider. As a default mechanism, this proposal would allocate costs only when the parties are unable to agree on cost recovery measures. It thus would not preempt state or local authority over 911, including existing 911 cost recovery mechanisms. There is strong support for this default approach among public safety commenters, and it is consistent with the request in NASNA's Petition – **although we seek comment on whether such a default mechanism may inadvertently undermine good faith negotiations by enabling states and localities to pass along all costs of such delivery to providers rather than agreeing to some apportionment of or support for costs. We therefore seek comment on whether the proposal to require originating providers to assume all costs in the absence of state cost recovery mechanisms as a "default" would perversely incent states to eliminate and/or decline to establish such cost recovery mechanisms. We also seek comment on whether setting an originating provider's "network edge" as the cost demarcation point, and as a default in the absence of an agreement otherwise entered into by the NG911 provider and the originating provider, would inject greater certainty into the process and therefore accelerate the parties' agreements on other issues and the NG 911 transition overall.**

74. We seek comment on specifics of these anticipated costs under our proposed rules. What are the estimated initial and ongoing costs for a wireline provider to connect to an NG911 network via IP? For wireline, interconnected VoIP, and Internet-based TRS providers that have already transitioned to providing 911 traffic to the ESInet via IP or via legacy network gateway, what are the costs to provide such service? What variables impact the costs to different providers? Are costs to connect to NG911 significantly different for different providers? If so, how? We seek cost information associated with different use cases. In addition, we note that many rural incumbent LECs offer broadband in addition to telephony, and these providers likely have already established IP peering relationships with other providers. NASNA asserts that small providers' transition to IP "diminishes the argument that the distance to ESInet point of interconnection [POI] is cost prohibitive." We seek comment on this assertion. We tentatively conclude that the costs for rural LECs providing broadband to transmit 911 traffic via IP to a state's NG911 point of interconnection would be small, and we seek comment on this tentative conclusion. We also seek comment on costs for IP transport to points of interconnection located in adjacent states. In addition, we seek comment and specific data on wireline, interconnected VoIP, and Internet-based TRS provider costs to implement NG911 in rural areas, including any costs that could be avoided or reduced. Further, we seek comment on any additional costs to transition to NG911 for a rural LEC that already provides broadband service. **Finally, we seek comment on whether a provider's ability to originate traffic in IP format, or whether it provides broadband services to end-users within its service area, has any relationship to or bearing on the costs the provider will assume to transmit NG 911 traffic outside the boundaries of its network and serving area.**

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.



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