

November 15, 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 Monday, November 13, 2023, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> met with Marco Peraza, Wireline Advisor to Commissioner Nathan Simington of the Federal Communications Commission (the “Commission”). The parties discussed the record compiled in response to the Notice of Proposed Rulemaking (“*NPRM*”) in the above-referenced proceeding that sought comment on ways to advance the transition to Next Generation 911 (“NG911”).<sup>2</sup> Among other things, the *NPRM* proposes to require all wireline, interconnected VoIP, and Internet-based TRS providers (hereinafter “OSPs”) to “transmit all 911 calls to destination point(s)...designated by a 911 authority” and in IP format.<sup>3</sup>

As an initial matter, NTCA reiterated its support for reasonable steps to advance a transition to NG911 given the increased situational awareness it will provide to first responders. NTCA’s advocacy for an alternative cost allocation methodology in place of that proposed by the Commission would simply be a surgical amendment to the overall approach as found in the *NPRM* in specifying that the party that is paid by and contractually responsible to state and local governmental entities to implement NG911 should be responsible for the costs of doing so. Pursuant to NTCA’s proposal, to the extent that the private contracted NG911 provider wishes to choose unilaterally destination points for the routing of NG911 traffic that are located outside of an originating service provider’s network boundary, the financial responsibility for the delivery of such traffic should fall to that NG911 provider – the party making that choice and the private entity tasked with NG911 implementation – in the absence of a state cost recovery mechanism. Through such a default construct, all of the parties involved in the provision of 911 service would continue to bear the same well-known and well-understood financial responsibilities as they do today for the exchange of public safety traffic even if physical routes for transmission change. This default preservation of existing well-known and well-defined divisions of responsibility

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<sup>1</sup> 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.

<sup>2</sup> *Facilitating Implementation of Next Generation 911 Services (NG911)*, PS Docket No. 21-479, Notice of Proposed Rulemaking, FCC 23-47 (rel. Jun. 9, 2023) (“*NPRM*”).

<sup>3</sup> *Id.*, ¶ 2.

should expedite the NG911 transition and end the cost allocation disputes to which the NPRM refers.<sup>4</sup>

NTCA then noted that the NPRM’s proposed cost allocation rule – that would place the responsibility and cost of routing 911 calls to distant points as designated by a 911 provider entirely on OSPs (in the absence of a state-created cost recovery mechanism) – would represent, for small rural providers, a significant departure from the current process by which calls to 911 are delivered today. It would specifically require most OSPs to assume substantial new transport costs for the routing of NG911 traffic to points that are not of their choosing and beyond their control to establish or reach, and for delivery to a private entity that is being paid by governmental entities for the purpose of ensuring that NG911 traffic is delivered successfully. For RLECs in particular as OSPs, these costs could have significant universal service implications.

The transport costs at issue in this proceeding are ones that bidders should reasonably have accounted for in responding to requests for proposal and proposing to become the NG911 provider for that state or locality. It would be odd indeed for parties bidding to perform certain obligations under contract to presume the adoption of subsequent rules that would mandate *other third parties* to bear the costs of providing inputs to the performance of those contracts. To the extent that the NG911 provider did include such costs in its bid, the default rule in the NPRM would enable “double recovery,” rather than recognize that the state has already “paid for” these costs in the amount of remuneration given to the winning bidder. On the other hand, to the extent that a private NG911 provider neglected to factor these costs into its winning bid, the Commission should not “rescue” this private entity’s failure to act reasonably and endorse a cost allocation methodology that foists these costs onto *other providers* to make up for this failure. In any case, the private entity that wins the contract to assist with NG911 implementation for a particular state will receive substantial remuneration for the provision of this service, and this payment should incorporate an expectation that the NG911 provider will be responsible for any costs necessary to secure any and all inputs necessary to fulfill the contract.

Beyond the perverse incentives and odd results that would follow from a default rule that allows a private entity to transfer the costs of performing contractual obligations to suppliers of inputs, the structure that would be created by such a default rule would harm rural consumers. Rural OSPs’ small, localized network footprints translate to higher transport costs than other OSPs face to reach far-flung locations chosen unilaterally by each NG911 provider – and because these costs would not appear to be recoverable via universal service mechanisms, they will be foisted upon rural consumers (who already pay rates higher than the urban average) and potentially impact the ongoing affordability of voice rates in these areas. The better approach, and one that recognizes that NG911 has a community-wide benefit, is one that places the cost responsibility on the NG911 provider that has the capability to establish the interconnection points for such traffic and has assumed a legal obligation to the state to implement NG911.

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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<sup>4</sup> *Id.*, ¶ 27.

Marlene H. Dortch  
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