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

In the Matter of	)	
	)	
Facilitating Implementation of Next Generation 911 Services (NG911)	)	PS Docket No. 21-479
	)	

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Executive Summary

The Commission should modify the rules as proposed in the NPRM in a manner that still serves the needs of public safety but avoids imposing substantial burdens upon smaller providers. NTCA supports the aims of the rules generally, but as currently drafted, they would require small, rural operators such as those represented by the association to assume costs for the transport of traffic to points well outside their existing network footprints, or even far outside the state in which service is provided. These would be costs that these providers – and likely many other originating service providers ("OSPs") – do not typically incur today. These new costs could be significant as new, dedicated transport routes would need to be established, and they would need to be recovered from small, rural customer bases and thereby raising universal service implications for the affordability of voice services.

The NPRM's proposal to foist such costs on small, rural customer bases is based on a number of factual misconceptions and technical errors, and it would in fact appear that *the NPRM largely fails to contemplate altogether the nature or even existence of the costs at issue here beyond a general awareness of the need for transport.* In particular, while the NPRM poses a handful of questions about transport considerations, it seems premised fundamentally on the notion that the delivery of NG911 traffic to points outside an OSP's network is somehow costless (or at least minimally so). For example, the "default" under which OSPs will be responsible for all transport to points chosen unilaterally by a state 911 authority unless the parties mutually agree otherwise is hardly a "default" at all – to the contrary, it is an invitation for NG911 entities to refuse to entertain any arrangements that would have them bear any such costs. Such a "default" structure only makes sense if the presumption is that transport is somehow magically costless and thus can be traded freely back and forth between the parties to

such interconnection. The NPRM also appears oddly to assume that existing IP-enabled switching functionality within OSPs' networks somehow translates to the current existence of cost-free IP transport, effectively conflating switching and transport functions. As discussed further herein, that is certainly not the case for most OSPs, and many small rural providers in particular will face significant inter-network transport costs that have nothing to do with advanced intra-network switching capabilities.

The NPRM further errs in its misplaced reliance on the *King County* 911 proceeding as well as the interconnection provisions found in the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act"). The NPRM asserts incorrectly that various limited grants of authority to address discrete portions of 911 as a service, along with limited grants to the Commission to regulate some aspects of that space on a shared basis with states, can somehow be cobbled together to provide general all-encompassing authority to adopt the rules as proposed here.

To be clear, NTCA members strongly support steps to advance the NG911 transition, but the specific implementation proposed in the NPRM proceeds from mistaken assumptions. To remedy such concerns while still serving the overarching aims of the NPRM, the cost allocation proposals made in Section V herein would provide all parties involved the regulatory certainty to advance the NG911 transition in a balanced and thoughtful way that accurately reflects and fairly apportions the efforts and costs associated with such an undertaking.

Finally, NTCA urges the Commission to make clear that OSPs can leverage the existing Automatic Location Identification ("ALI") databases in the manner they do today. Adoption of the NPRM's proposal on this issue would impose significant costs on OSPs.

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COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION

I. INTRODUCTION

NTCA–The Rural Broadband Association ("NTCA")[1] hereby submits these comments in response to the Notice of Proposed Rulemaking ("NPRM")[2] released by the Federal Communications Commission ("Commission") seeking comment on rules to advance the already ongoing nationwide transition to Next Generation 911 ("NG911") service. The NPRM proposes to: (1) require wireline, interconnected VoIP, and Internet-based TRS providers (hereinafter "OSPs") to route 911 calls, in Internet Protocol ("IP") format, to a delivery point(s) as determined by the state 911 authority;[3] and (2) establish a cost allocation methodology that would require OSPs (as opposed to the private NG911 provider contracted to manage NG911

[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] *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").

[3] *Id*., ¶ 2. The NPRM proposes to define 911 authority as "the state, territorial, regional, Tribal, or local agency or entity with the authority and responsibility under applicable law to designate the point(s) to receive emergency calls." *Id*., ¶ 53.

services for a given state[4]) to arrange for, and assume the financial responsibility for, the routing of such calls to the destination point(s) as designated by a 911 authority.[5] The NPRM further states that this "default" cost allocation methodology would apply unless a state establishes a cost recovery mechanism that would, presumably, reimburse OSPs for costs incurred in the routing of 911 calls as proposed by the NPRM. As discussed further below, the NPRM's proposal to foist costs in such a manner on small, rural customer bases is based on several factual misconceptions, technical errors, and a misreading of the applicable legal frameworks, and this proposal should be modified as described herein to advance the NG911 transition in a balanced and thoughtful way that accurately reflects and fairly apportions the efforts and costs associated with such an undertaking.

II. THE PROPOSED RULES WOULD BE A SUBSTANTIAL DEPARTURE FROM EXISTING 911 ROUTING AND COST ALLOCATION PRACTICES; THE RESULTING SHIFTING OF COSTS TO RLECS COULD HAVE SERIOUS UNIVERSAL SERVICE IMPLICATIONS FOR CERTAIN RURAL CONSUMERS AS VOICE SERVICE RATES INCREASE.

As discussed in detail herein, the rules proposed in the NPRM would represent, for small rural providers, a significant departure from the current process by which calls to 911 are delivered today. Even if this change in routing can be shown to represent a necessary step in transitioning to NG911, it does not follow that the costs of taking this step must be transferred to, and borne entirely by, OSPs and their customers.

[4] The "NG911" provider as discussed herein is not to be confused with OSPs or the state 911 authority. The NG911 provider, rather, is in most states the third-party entity chosen by a state 911 authority – via a state issued Request for Proposal ("RFP") – to provide NG911 service to the residents of a particular state.

[5] NPRM, ¶ 2.

Some background is important to understand why this transition will create new transport responsibilities – and why these new obligations are not costless. Today, OSPs typically route 911 traffic to either the closest Public Safety Answering Point ("PSAP") or "selective router"[6] – in either case, for small rural providers such as those in NTCA's membership (referred to as "RLECs" herein), these PSAPs and selective routers are usually located within, or proximate to, the serving area where the RLEC's customers are located, and the calls can most often be directed over these OSPs' existing network facilities. Further, for most RLECs, at least today (if not for other OSPs) the PSAPs to which RLECs send 911 calls very often cover the cost of such transport.

As a more concrete example, NTCA member Madison Telephone is a small rural operator based in Madison, Kansas that serves 351 voice subscribers and 380 broadband subscribers in Greenwood and Lyon, counties. Madison operates over 200 square miles in rural Kansas, and its service area is 128 miles from Kansas City, Missouri, and 89 miles from Wichita, Kansas. Madison Telephone currently routes 911 traffic to the Lyon and Greenwood County PSAPs in Emporia, Kansas, and Eureka, Kansas. Madison Telephone's current 911 interconnect is through an AT&T ILEC connection on a common trunk at no cost to Madison Telephone or AT&T ILEC. As part of the NG911 transition in the state of Kansas, however, the private entity that is being paid by the state of Kansas to provide NG911 has demanded that all OSPs in the state route all 911 traffic in IP format to interconnection points in either California or Texas – at each OSP's sole cost. Per Madison Telephone's estimate, this would cost $1400.00 per month.

[6] *Id*., ¶ 6.

NTCA does not believe such cost estimates to be outliers, as members across the county have reported that comparable routing demands would require assumption of new transport costs commensurate with the estimate referenced above. These costs are significant for small, rural operators like Madison Telephone, and the Commission needs to consider and address the very real universal service implications of such a transfer of financial responsibility from the private NG911 provider to smaller rural OSPs. RLECs in particular operate in some of the nation's lowest-density, highest-cost-to-serve rural areas, meaning operating costs generally must be recovered from one of two places – higher rates charged to the relatively few rural consumers living in such sparsely populated areas and/or High-Cost Universal Service Fund ("USF") support. And, because the new operating costs at issue herein would not appear to be recoverable via USF, these costs will necessitate recovery through increased end-user rates. Moreover, as noted above in the example involving Madison and as explained further below, the routing of NG911 traffic will in most cases be to new points designated by the state NG911 authority – meaning that existing voice traffic interconnection and transport arrangements used today for voice calls, including but not limited to 911 traffic, cannot be leveraged. These will therefore be new routing responsibilities that come with potentially substantial new transport costs. To make matters worse, as explained in greater detail in Section III, *infra*, the NPRM appears to proceed from the mistaken notion that an OSPs' deployment of IP capability within its own local network renders the delivery of such traffic to far-flung points anywhere outside its network is somehow costless.

It is true that these new transport costs could be mitigated, to some extent, by routing such traffic over "best-efforts" public Internet connections. But the risks of routing NG911 traffic in such a manner must be considered. "Best-efforts" Internet contemplates "a service on a

shared network in which the *network does not provide any guarantee that data is delivered* or that delivery meets any quality of service, meaning that the services obtain unspecified variable bit rate, latency and packet loss, depending on the current traffic load."[7] This is to be contrasted with the quality of service guarantees that come with routing traffic over a dedicated connection. Given the importance of the traffic as issue herein – a 911 call is often the most important call a person will make – it is hard to fathom that the goal of the NPRM is to promote "best efforts" routing of this traffic. Indeed, the Commission has made quite clear in various other proceedings that reliability and resiliency of public safety traffic is a top priority.[8] Thus, if the Commission decides that "better-than-best-efforts" is necessary for NG911 traffic, it must acknowledge that this comes at a cost and issue rules that appropriately reflect how best to apportion this cost.

III. THE PROPOSED RULES ARE BASED ON A NUMBER OF FACTUAL AND TECHNICAL ERRORS THAT INDICATE A LACK OF UNDERSTANDING OF HOW RLECS OPERATE AS WELL AS THE COST IMPLICATIONS FOR THESE SMALL PROVIDERS.

As discussed in Section II, *supra*, the NPRM's proposal to grant a state 911 authority the effective right to designate the point of interconnection for NG911 traffic would place the responsibility and cost of routing 911 calls to distant points as designated by a 911 authority entirely on OSPs (in the absence of a state-created cost recovery mechanism) – and thus would ultimately require most OSPs to assume substantial new transport costs for the routing of NG911 traffic. For RLECs in particular as OSPs, these costs could have significant universal service

[7] Best Effort Service definition, Law Insider (emphasis added), available at: https://www.lawinsider.com/dictionary/best-effort-service.

[8] *See Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80, et al., Second Report and Order, FCC 22-88 (rel. Nov. 18, 2022).

implications. As demonstrated below, this cost allocation methodology is premised upon a number of factual, legal, and technical errors with respect to how RLECs route voice calls.

With respect to the small rural providers like those in NTCA's membership, the NPRM proceeds from the mistaken factual supposition that "many rural incumbent LECs offer broadband in addition to telephony, and these providers likely have already established IP peering relationships with other providers."[9] This unsupported statement is simply incorrect, and in turn leads to the incorrect and irrelevant 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."[10] As an initial matter, RLECs generally do not have settlement-free *peering* arrangements; most RLECs exchange Internet traffic through paid-for *transit* arrangements that provide access to one of several distant Internet Exchange Points ("IXPs"). Moreover, the existence of these relationships is irrelevant, as these IXPs will not necessarily be in the same locations as the NPRM expects NG911 traffic to be delivered, meaning some incremental cost for further transit and transport would likely be required for compliance with the NPRM's proposal. Thus, these broadband data routing arrangements almost certainly cannot be leveraged for the voice traffic at issue here at no additional cost.

Moreover, and likewise going to the question of relevancy, these Internet traffic routes from RLECs' central offices to IXPs are "best-efforts" connections[11] that almost certainly lack the assured quality and reliability that policymakers almost certainly desire for NG911 traffic.

[9] NPRM, ¶ 74.

[10] *Id*.

[11] *See* fn .7, *supra*.

Nonetheless, if the Commission decides it will be acceptable to adopt a rule that contemplates use of "best-efforts" routing for NG911 traffic, it would need to make clear that OSPs and their underlying transit providers bear no responsibility or liability for the failure of NG911 traffic that traverses such routes.

It must be noted as well that RLECs cannot leverage existing *voice* traffic exchange relationships for NG911 traffic as an alternative to such Internet-based routing. The typical RLEC routes most of its non-local voice traffic through upstream tandem switching facilities owned and operated by larger operators – yet because these operators mostly refuse to accept voice traffic in IP format,[12] NG911 traffic cannot be successfully routed through these facilities. Moreover, there is no financial or operational arrangement in place that would enable NG911 to be carried cost-free (even if it were in TDM) through those tandems to distant points of interconnection; here again, the OSP would be expected to pay upstream providers of voice routing for that service. It should be noted as well that today, for this non-emergency traffic routed through these tandems, RLECs are generally not financially responsible for any transport costs outside their existing "network edge."

Beyond these factual inaccuracies, the NPRM's proposal appears premised upon a misunderstanding of what it means to be "IP-enabled." Specifically, the NPRM further attempts to justify its proposed rules and the assertion that this is a minimal burden on small rural OSPs by citing a NASNA filing that baldly asserts "small providers' transition to IP diminishes the argument that the distance to ESInet point of interconnection [POI] is cost prohibitive."[13] This

[12] *See* Comments of NTCA, WC Docket No 17-97 (fil. May 15, 2020), pp. 3-5.

[13] NPRM, ¶ 74.

statement betrays a fundamental lack of understanding of how networks are built, operate, and interconnect. Simply because a RLEC in a rural Kansas town has IP switching facilities within its own network (and thus has "transition[ed] to IP" as NASNA describes it), this has no bearing on its ability to deliver traffic (or certainly the economics of doing so) outside of its network and/or its rural service area, much less to a neighboring state or across country at a point that is distinct and likely geographically disparate from the points to which it routes all other voice and broadband traffic today. In the end, the connections or services required to deliver NG911 traffic several states outside a RLEC's network will need to be *leased from other operators who will not do so for free*.

The NRPM errs as well in estimating the impact of the "IP transition" on the costs for routing NG911 traffic by misconstruing the results of a NTCA member survey in several ways and conflating switching and transport network capabilities and ownership. More specifically, the NPRM states that, "[o]ngoing costs will be incurred by the small percentage of providers that do not yet have IP switching facilities for voice traffic."[14] But what this statement somehow fails to capture is that switching and transport *are two different functions involving multiple different network elements*. The fact that one network element (switching) may be IP-enabled in many RLEC networks has no bearing on whether another network element (transport) is also IP-enabled or whether any IP-enabled transport arrangements that may actually be in place to enable delivery of IP traffic beyond the RLEC's own IP network to the specific points required by the state NG911 authority. Thus, the NPRM misses the mark in taking NTCA survey data finding that approximately 91.5 percent of its member companies can generate voice traffic in IP *within*

14 *Id*., ¶ 72.

their own networks (meaning they own IP switching facilities) and translating that into a conclusion that, at most, 8.5 percent "may need to hire a third-party to transport their TDM calls in IP format to the ESInets." As the Commission is well aware from many proceedings and filings over the years related to the IP transition and SHAKEN/STIR, the mere presence of IP-enabled technology at certain points within interconnected networks hardly translates to ubiquitous (or certainly costless) end-to-end IP connectivity. Put another way, just because RLECs have upgraded their networks does not mean others have – or that RLECs would be entitled to use the IP components of others' networks without paying the fees demanded by those network owners for them.[15]

Absent a full understanding of the nature of the costs involved here, the NG911 transition will in certain rural areas come with significant universal service implications, as costs passed onto small, rural customer bases place upward pressure on voice service rates. To be clear once more, NTCA members strongly support steps to advance the NG911 transition, however, and the concerns raised here are not as to the transition itself but rather the cost estimates and "default" rule that the NPRM devises to further such implementation. In lieu of continuing down this path,

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[15] To compound matters, the NPRM makes several assumptions about the costs it believes *would* be borne by non-IP-enabled OSPs for transport – but then inexplicably makes such an estimate of costs based only upon the wages of a "full-time telecommunications technician," failing altogether to include any costs for the actual networks or services involved in routing traffic over and between networks. *See Id*., ¶ 72 ("To estimate the cost of additional transport service, we make several assumptions. First, we assume that the 81 providers are evenly spread across 56 U.S. states, commonwealths, and territories. This would yield an additional 1.45 providers (81/56) per state. That is, we assume it would require adding 1.45 providers and 28,281 calls per year into existing transport services available in each state or territory. Hiring an additional full-time telecommunications technician in one transport service provider per state should be more than sufficient to handle the increase in calls. The annual wage, including benefits of a telecommunication technician would be $44 per hour, as above, multiplied by 2080 hours, for a total of $91,520 for each state. Given an estimated average of 55.53% gross margin for the communications service industry, the annual cost to providers would be $205,802 for each state. Multiplying the annual cost per state by 56 states and territories, we estimate a total annual recurring cost of $11,524,912, which we round to $11.6 million per year.")

the cost allocation proposals made in Section V, *infra*, are intended to provide all parties involved the regulatory certainty to strike an appropriate balance in advancing the NG911 transition and the implementation costs that could have an adverse impact on the broader mission of affordable universal service.

IV. THE PROPOSED RULES ARE BASED ON A MISAPPLICATION OF THE *KING COUNTY* PROCEEDING AND ARE CONTRARY AS WELL TO THE INTERCONNECTION PROVISIONS OF THE ACT.

The NPRM proposes to require OSPs to deliver NG911 voice traffic to interconnection points as designated by state 911 authorities and to assume the costs of doing so, even as those points may be located well outside each OSP's service area. Relying, in part, on the *King County* proceeding[16] (in which wireless providers' costs of complying with 911 call routing rules as adopted by the Commission were at issue), the NPRM frames the assumption of these costs as somehow the OSPs' duty. The NRPM also declares inapplicable the interconnection provisions set forth in the Act to the unilateral attempts to impose transport costs on OSPs.

As an initial matter, reliance on the *King County* proceeding is misplaced. In citing to that proceeding for the proposition that wireless carriers were compelled to undertake certain costs of network upgrades to enable 911 functionality), the NPRM states that *King County* confirms that "the costs of installing, maintaining, and upgrading components necessary to continue to deliver 911 traffic to 911 networks are required costs for wireline, CMRS, interconnected VoIP, and Internet-based TRS providers to continue to provide 911 service."[17]

[16] *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Request of King County, Washington*, CC Docket No. 94-102, Order on Reconsideration, FCC 02-146 (rel. Jul 24, 2002) (King County Order on Reconsideration)

[17] NPRM, ¶ 36.

What the NPRM misses, is that the costs at issue in *King County* involve a materially different and much narrower proposition – the costs of network upgrades and trunking facilities on their owned and operated network facilities or otherwise within their licensed service areas.[18] The fact pattern here is of course vastly expanded (and expansive), as OSPs are being asked here not only to undertake the costs of upgrading their own networks as necessary to continue to deliver 911 traffic, but also to build or otherwise procure connectivity or services that will extend far beyond the network or the serving area or even the state in which services are provided. In fact, NTCA submits that, if anything, the *King County* precedent could and should be read to indicate that the private NG911 provider that bid to win to provide such service to the state should be responsible for ensuring the service it is being paid to provide works and is engineered effectively – including bearing the transport costs and upgrades necessary to make that happen.

The NPRM further declares that Sections 251 and 252 of the Act do not apply to the routing of NG911 traffic because state and local 911 authorities are "government actors" and not commercial "telecommunications carriers."[19] It is incomplete, however, to depict these two entities – OSPs and the state and local authorities – as the only participants in the exchange of NG911 traffic. The interconnection in fact does not occur with the state and local authorities; instead, the party with which OSPs interconnect is typically a private NG911 operator that has contracted with the state to sell a service that includes receipt of NG911 traffic. The mere fact

[18] *King County Order on Reconsideration*, ¶ 4 (stating that "wireless carriers are responsible for the costs of all hardware and software components and functionalities that precede the 911 Selective Router, including the trunk from the carrier's Mobile Switching Center (MSC) to the 911 Selective Router, and the particular databases, interface devices, and trunk lines that may be needed to implement the Non-Call Path Associated Signaling and Hybrid Call Path Associated Signaling methodologies for delivering E911 Phase I data to the PSAP").

[19] NPRM, ¶ 56.

that the NG911 provider may operate under a contract with a state or local government does not magically transform the provider itself into an arm of the state. It is a private actor providing a service to the governmental entity. To the extent that the service it is providing to the government is a telecommunications service as determined by *other* federal or state telecommunications regulators, then it should be clear that Sections 251 and 252 do apply regardless of the identity or status of the customer.

NTCA submits that the functions that NG911 service providers perform constitute "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used."[20] Even to the extent some may argue that this constitutes a "wholesale" service of some kind, the NG911 provider still falls within the definition of a "telecommunications carrier." The only distinguishing factor here is the fact that the Commission proposes to delegate to the state 911 authority, rather than the state public utility commission, the role of setting the point of interconnection. Section 251 and 252 therefore govern the establishment and apportionment of interconnection responsibilities between OSPs and the private NG911 carrier that has contracted with the state to help receive and route these certain kinds of calls.

Alternatively, if the Commission were to determine that these private NG911 providers are *not* "telecommunications carriers," then there is only one other option – to conclude that they are end-users that must purchase a service (the routing of 911 traffic from OSPs to designated points) for the purpose of fulfilling their contractual duty to the state. As broad as the

[20] 47 U.S.C. § 153(53).

Commission's mandate to promote public safety and resilient emergency services may be,[21] it does not on its face enable creation of an entirely new category of entity from whole cloth – the private government contractor that can demand interconnection on its own terms at any point it wishes without any other governing construct for such arrangements. For example, while the "RAY BAUM'S Act directed the Commission to consider adopting rules to ensure that dispatchable location is conveyed with 911 calls 'regardless of the technological platform used,'"[22] this congressional grant of authority is limited to the specific issue of how "dispatchable location information" will be provided to first responders and not the routing and cost responsibilities of OSPs and NG911 providers. Similarly, in granting the Commission the "authority to promulgate 'regulations, technical standards, protocols, and procedures . . . necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network,'"[23] the 21st Century Communications and Video Accessibility Act neither empowers nor compels the creation of unique interconnection mandates for NG911 traffic. And, fortunately, the Commission need not reach for such justifications because existing legal constructs provide ample opportunity to advance NG911 implementation as described in Section V, *infra*, without needing to foist all costs of transporting NG911 traffic onto providers other than the private NG911 operator.

[21] NPRM, ¶ 60 (noting "a role for the Commission in the nationwide implementation of advanced 911 capabilities").

[22] *Id*., ¶ 61.

[23] *Id*.

V. THE COMMISSION SHOULD DESIGNATE OSPs' "NETWORK EDGE" AS THE COST DEMARCATION POINT FOR THE ROUTING OF NG911 TRAFFIC.

The Commission should establish OSPs' "network edge" as the demarcation point for the allocation of costs related to NG911 call routing. Pursuant to this approach, to the extent that destination points for the delivery of NG911 traffic are located outside an OSP's network boundary, *the financial responsibility for the delivery of such traffic would fall to the NG911 provider in the absence of a state cost recovery mechanism*. All of the parties involved in the provision of 911 service would continue to bear the same well-known and well-understood responsibilities as they do today for the exchange of public safety traffic. This preservation of existing well-known and well-defined constructs should in fact expedite the NG911 transition and end the cost allocation disputes to which the NPRM refers.[24] Moreover, this will do so while also ensuring that the cost of the transition is shared equally across the entire community that benefits from this valuable service.

As an initial matter, the NPRM misses the mark when it asserts that its proposal to require providers to assume these costs (unless a state recovery mechanism is available) is "necessary to resolve disputes regarding the point(s) to which wireline, CMRS, interconnected VoIP, and Internet-based TRS providers must deliver 911 traffic in order to meet their obligations in an NG911 environment."[25] To be sure, *some cost allocation rule would help resolve the disputes to which the NRPM points* – but *any* default rule that unambiguously defines the relative cost responsibilities would serve to resolve disputes of the kind at issue here. Nothing compels a default rule that foists these transport costs entirely on OSPs.

[24] *Id*., ¶ 27.

[25] *Id*., ¶ 29.

The better approach, and one that recognizes that NG911 (or any 911 service for that matter) has a community-wide benefit, is one that places the cost responsibility on the community as a whole. Every member of a particular community benefits from a reliable 911 service: even those members of the community who never place a 911 call in their entire life benefit when someone else alerts the fire department to a raging fire that threatens the entire community. Yet because RLECs' smaller network footprints translates to higher transport costs to get to these far-flung locations than other providers, the proposed rules would foist these costs, disproportionately so, on small, rural customer bases rather than allowing them to be shared on a statewide (or at least more regional) basis and for a service that has broader benefit. Moreover, these are costs that the 911 authority likely should have expected bidders to account for in responding to the RFP and proposing to become the NG911 provider for that state or locality. To the extent that a private NG911 provider neglected to factor these costs into its winning bid, the Commission should not endorse a cost allocation methodology that pushes these costs onto OSPs to make up for this failure; worse still, to the extent that the NG911 provider *did* include such costs in its bid, the default rule in the NPRM would enable "double recovery."

It should be noted as well that the NPRM emphasizes (and correctly so) the numerous benefits of a transition to NG911, including cost reductions as legacy 911 facilities are retired and efficiency gains as 911 calls are more dynamically routed.[26] If the former were truly the case, it would seem that rural consumers should not end up paying *more* for 911 service. Yet that is the result that would likely come to pass should the NPRM's proposed default cost allocation methodology prevail here.

[26] *Id*., ¶ 64.

To emphasize once again, the point of interconnection is not the concern here – NTCA's position here should not be taken as pushing back on efforts to advance the NG911 transition, including the routing of voice traffic to distant points in the name of more efficient and effective 911 systems. *The singular focus here is upon whether the relative financial responsibility for the delivery of traffic to that point should fall entirely on OSPs, because either the transport costs that come with this transition were either misunderstood or ignored*. The rules as proposed by NTCA herein would inject certainty into the process, share the costs in an equitable manner, and accelerate the parties' agreements on other issues and the NG 911 transition overall.

VI. THE COMMISSION SHOULD DECLINE TO ADOPT THE LOCATION INFORMATION REQUIREMENT AS PROPOSED.

The NPRM proposes to require "wireline, interconnected VoIP, and Internet-based TRS providers to deliver IP-based 911 traffic under a similar framework to that proposed for CMRS and covered text providers in the *Location-Based Routing NPRM*."[27] NTCA urges the Commission to make clear that OSPs can leverage, instead, the existing Automatic Location Identification ("ALI") databases in the manner they do today.

As background, RLECs today typically route a 911 call to a PSAP (or selective router) with the telephone number only, with the PSAP using the latter to find the caller's address by accessing the ALI. Fixed, wireline handsets typically lack the GPS-enabled location capabilities found in mobile wireless devices, and this makes sense as the latter are "nomadic" as their users are "mobile."

In the wireline context, adoption of the NPRM's proposal would impose significant costs on OSPs. OSPs would be required to maintain an address database and expend substantial sums

[27] *Id*., ¶ 21.

on the hardware and software necessary to insert this information into a call stream – they have no technical ability to do this today. NTCA is also not aware of any vendor offering its members such a solution necessary to comply with the rules as proposed today.

Moreover, the NPRM proposes to require all OSPs to come into compliance with the new location information rules within 6 months. Yet this timeframe is based on the timeframe proposed for mobile wireless providers to comply with the Commission's location-based routing rulemaking, certainly an inapt comparison to the present proposal discussed herein. Moreover, as the Commission well knows, mobile wireless providers took nearly a decade to come into compliance with the location information rules under which they now operate, and thus a six-month compliance timeframe as proposed in the NPRM is overly optimistic, at best.

NTCA therefore urges the Commission to enable wireline OSPs to continue to leverage the ALI as they do today, as the costs necessary to move away from what has been a successful approach to providing 911 location information would be significant.

VII. CONCLUSION

For the reasons set forth above, the Commission should set aside the proposed rules and establish OSPs' "network edge" as the demarcation point for the allocation of costs related to NG911 call routing.

Respectfully submitted,

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