

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>911 Governance and Accountability</b>	)	<b>PS Docket No. 14-193</b>
	)	
<b>Improving 911 Reliability</b>	)	<b>PS Docket No. 13-75</b>

**COMMENTS OF ITTA –  
THE VOICE OF MID-SIZE COMMUNICATIONS COMPANIES**

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**March 23, 2015**

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**COMMENTS OF ITTA – THE VOICE OF MID-SIZE COMMUNICATIONS COMPANIES**

ITTA – The Voice of Mid-Size Communications Companies (“ITTA”) hereby submits its comments in response to the November 21, 2014 Notice of Proposed Rulemaking (“*NPRM*”) issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceedings.<sup>1</sup> The *NPRM* seeks comment on a number of proposals that would significantly expand the FCC’s role with respect to oversight of 911 service.

**I. INTRODUCTION AND SUMMARY**

In the *NPRM*, the Commission proposes to expand the definition of covered 911 service providers to include additional entities in the 911 ecosystem, regardless of whether they have a direct relationship with a public safety answering point (“PSAP”);<sup>2</sup> increase its reliability and certification requirements to include additional measures relating to network alarming, database and software configuration, and situational awareness;<sup>3</sup> adopt new regulations to govern market

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<sup>1</sup> *In the Matter of 911 Governance and Accountability; Improving 911 Reliability*, PS Docket Nos. 14-193, 13-75, Policy Statement and Notice of Proposed Rulemaking, FCC 14-186 (rel. Nov. 21, 2014) (“*Policy Statement*” or “*NPRM*,” as appropriate).

<sup>2</sup> *Id.* at ¶ 42.

<sup>3</sup> *Id.* at ¶¶ 43-47.

entry,<sup>4</sup> discontinuance of service,<sup>5</sup> and major changes to 911 service;<sup>6</sup> and create a new role for Network Operations Center (“NOC”) providers to serve as a clearinghouse for information sharing in the event of 911 outages or service disruptions.<sup>7</sup>

ITTA’s members appreciate the importance of reliable 911 service and continuously invest in their networks and take proactive steps to improve service to their PSAP customers and the public. Reliable service is a competitive necessity in today’s communications marketplace, and 911 service reliability is of the utmost importance because it is critical to public safety and the well being of consumers.

As explained below, however, the Commission does not need to adopt additional reliability measures or related obligations for covered 911 service providers at this time. The FCC adopted several requirements in late 2013 that were specifically designed to promote 911 reliability and resiliency.<sup>8</sup> Industry stakeholders are in the process of implementing those measures, and as such, it is premature for the FCC to adopt additional prescriptive rules relating to 911 service.

To the extent the Commission wishes to further explore some of the proposals in the *NPRM*, we urge it to refer such matters to the Communications Security, Reliability, and Interoperability Council (“CSRIC”) and/or other appropriate entities, consistent with its longstanding approach to communications reliability issues. With respect to the additional

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<sup>4</sup> *Id.* at ¶¶ 57-63.

<sup>5</sup> *Id.* at ¶¶ 53-56.

<sup>6</sup> *Id.* at ¶¶ 49-52.

<sup>7</sup> *Id.* at ¶¶ 64-75.

<sup>8</sup> See *Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75, 11-60, Report and Order, FCC 13-158 (2013) (“*911 Reliability Order*”).

certification requirements proposed in the *NPRM*, CSRIC could play a valuable role in evaluating what industry measures are currently in place, whether there are any gaps to be filled that would further promote 911 service reliability, and whether development of voluntary, consensus-based standards would be useful to address any needs that may be identified.

With respect to other proposals in the *NPRM*, ITTA is concerned that they are unworkable or overreaching. The proposal to require NOC providers to serve as a clearinghouse for information during 911 service disruptions would entail significant burdens and risks for affected entities. The FCC's proposals relating to market entry, discontinuance of service, and major changes in 911 service are issues that are better left to state and local officials, which have the primary oversight role with respect to provision of 911 service

## **II. THE FCC'S PROPOSALS ARE PREMATURE IN LIGHT OF ONGOING IMPLEMENTATION OF THE MEASURES ADOPTED IN THE *911 RELIABILITY ORDER***

The FCC's December 2013 *911 Reliability Order* adopted several requirements to improve the reliability and resiliency of 911 service. Pursuant to these rules, covered 911 service providers must annually certify that they are taking reasonable measures to provide 911 service reliability with respect to circuit diversity, central office backup power, and diverse network monitoring, or that they have implemented reasonable alternative measures in these areas.

Specifically, the Commission adopted practices that would "significantly reduce the potential for a catastrophic failure of communications" related to emergency call completion.<sup>9</sup> The Commission also amended its rules to clarify covered 911 service providers' obligations to provide PSAPs with timely notification of outages affecting 911 service. Together, these actions

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<sup>9</sup> *Id.* at ¶ 4.

were designed “to ensure that the public has access to a state-of-the-art, reliable, and resilient 911 communications system” in times of need.<sup>10</sup>

Yet, less than a year after adopting these requirements, and prior to their full implementation, the FCC is considering measures that would significantly expand on the Commission’s previous actions. ITTA submits that the *NPRM*’s proposals are unwarranted in light of the industry’s ongoing efforts to implement the rules adopted in 2013. The Commission should allow covered 911 service providers to continue to implement those requirements before imposing additional obligations in an overly broad and overly prescriptive manner.

The Commission suggests that the measures proposed in the *NPRM* may be necessary in light of a “sunny day” 911 service outage that occurred in April 2014, but that outage occurred before the rules the Commission adopted in the *911 Reliability Order* were fully effective. Covered 911 service providers are in the process of instituting those measures and will not file their initial reliability certifications until October of this year. The Commission should permit affected entities to continue on this path and evaluate the effectiveness of these measures on 911 service reliability once it can be assessed.

In the meantime, it may be useful for the Commission to refer some of the proposals in the *NPRM*, such as the proposed certification requirements relating to network alarming and software and database configuration, to CSRIC for consideration. Doing so would be consistent with the Commission’s historical approach to communications reliability issues by working with service providers to develop voluntary best practices. Federal advisory committees such as CSRIC, which includes representatives from both industry and public safety organizations, have

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<sup>10</sup> See *id.* at ¶ 6.

developed numerous network reliability best practices that communications providers have been encouraged to adopt on a voluntary basis.

In fact, the FCC report that gave rise to this *NPRM* concludes among its principal recommendations that the Commission develop and implement NG911 transition best practices. In the report, the Bureau recommends “that the Commission charge CSRIC with developing and refining a comprehensive set of best practices in this area.”<sup>11</sup> Given the industry’s strong commitment to network reliability absent prescriptive rules, the Commission should continue to support its longstanding approach to 911 service resiliency based on voluntary and consensus-based standards, best practices, self-evaluation efforts, and public-private partnership efforts.

### **III. THE COMMISSION’S PROPOSAL TO REQUIRE NOC PROVIDERS TO COORDINATE INFORMATION SHARING AND SITUATIONAL AWARENESS IS UNWORKABLE AND CARRIES SIGNIFICANT BURDENS AND RISKS**

ITTA does not believe the Commission’s proposal to require NOC providers to serve as a clearinghouse for information sharing in the event of 911 outages or service disruptions merits further consideration.<sup>12</sup> It does not appear that this proposal would be workable in practice. Among other things, we question how the NOC provider can maintain real-time situational awareness regarding the operational status of 911 service throughout the 911 network when there are other covered 911 service providers in the call completion chain.

We also harbor serious concerns with the burdens associated with this approach. The role of the NOC provider as proposed in the *NPRM* would be enormous. As the Commission observes, it is not feasible (or appropriate) for one entity to monitor, control, or repair another

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<sup>11</sup> FCC Public Safety & Homeland Security Bureau, *April 2014 Multistate 911 Outage: Cause and Impact*, PS Docket No. 14-72, PSHSB Case File Nos. 14-CCR-0001-0007 (Oct. 2014), available at: <http://www.fcc.gov/document/april-2014-multistate-911-outage-report>.

<sup>12</sup> See *NPRM* at ¶¶ 64-75.

911 service provider's network.<sup>13</sup> It also is not workable for the NOC provider to have a triage role. Each entity must do its own job when it comes to information sharing and providing situational awareness; responsibilities of this nature are non-delegable. When the Commission factors in the number of entities involved in the 911 ecosystem, and the variety of network partnerships and configurations that exist, taking on the role of 911 NOC coordinator would be unreasonably resource intensive and burdensome for affected entities.

The proposed role of the 911 NOC coordinator also would carry significant legal risk. A NOC provider could be subject to a substantial penalty for failing to monitor another covered 911 service provider's network, failing to recognize a disruption in 911 service caused by another provider's network, failing to communicate that disruption to other covered 911 service providers and PSAPs, and failing to take steps to mitigate it, when it has no actual knowledge of any problem. Although the Commission suggests that NOC providers would not be legally responsible for adverse consequences resulting from outages attributable to failures of network components outside their control, or for remediating or repairing such failures, NOC providers would nonetheless be held accountable for collecting, aggregating, and disseminating information regarding such outages to other affected stakeholders to mitigate the impact and support rapid restoration of service.<sup>14</sup> Indeed, the Commission indicates that it would expect NOC providers to "have omniscient situational awareness of the status of 911 network components outside their control... to the extent they are empowered to obtain such information from other parties or through their own network monitoring processes."<sup>15</sup> In other words, the proposed rules mandate NOC providers to request information from other 911 service providers

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<sup>13</sup> *Id.* at ¶ 65.

<sup>14</sup> *See id.* at ¶ 68.

<sup>15</sup> *Id.*

and to communicate this information to other parties (with no express limitations on NOC providers' liability), even when they are not aware of a disruption to 911 service, and even when such information has not been provided or is inaccurate.<sup>16</sup>

To the extent the Commission adopts rules relating to information sharing and situational awareness, such obligations should be limited to requiring covered 911 service providers to confirm PSAP contact information and to test notification plans periodically. Should the Commission nonetheless adopt rules requiring entities to take on a broader coordination role, it must recognize that a 911 NOC provider can only pass along information of which it has actual knowledge. An actual knowledge standard is essential to keep the NOC provider's role commercially reasonable and manageable. Further, the 911 NOC coordinator should not be subject to penalties for its performance of this function.

#### **IV. THE COMMISSION'S PROPOSALS RELATING TO MARKET ENTRY, DISCONTINUANCE OF SERVICE, AND MAJOR CHANGES IN 911 SERVICE ARE OVERREACHING**

As the Commission acknowledges, state regulators and local emergency response agencies play critical roles in ensuring 911 service is available when needed most.<sup>17</sup>

Unfortunately, the *NPRM* ignores the proper role of the states on 911 service-related matters by proposing a national governance structure that is tantamount to federalizing 911 service.

Nowhere is this usurpation of power more evident than in the FCC's proposals relating to market entry, discontinuance of service, and major changes in 911 service.

Specifically, the *NPRM* would require a new 911 provider that seeks to enter the market to first certify its qualifications to the FCC.<sup>18</sup> The *NPRM* also would require covered providers

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<sup>16</sup> *See id.* at Appendix A, p. 41.

<sup>17</sup> Policy Statement at ¶ 2.

<sup>18</sup> *NPRM* at ¶ 59.

that want to reduce or stop offering 911 capability to first get the FCC’s permission.<sup>19</sup> In addition, the proposed rules would impede 911 providers that wish to make necessary improvements by requiring them to notify the Commission and wait an extended period of time before making certain changes to 911 service.<sup>20</sup>

As a threshold matter, the *NPRM* fails to identify a problem to be solved or a gap to be filled by these proposals. FCC regulation in this area is completely unnecessary and represents a burdensome step backwards, adding needless delay.

Matters relating to market entry, discontinuance of service, and changes in 911 service should not be handled at the federal level. State and local authorities are well-equipped to manage the 911 services provided in their areas, and they should retain their primary role in 911 governance and oversight. Decisions as to 911 service provider qualifications and changes in or discontinuance of 911 service are decisions that are appropriately made at the state and local level. Governance of such matters should continue to rest with state and local officials, who can be most responsive to the public safety needs of local constituents. Moreover, if such decisions are coordinated with affected PSAPs, no federal notice or approval should be required.

**V. THE COMMISSION SHOULD NOT CONSTRUE THE ROUTING OBLIGATION IN SECTION 64.3001 AS A RELIABILITY MANDATE**

The *NPRM* observes that Section 64.3001 requires certain service providers to “transmit all 911 calls to a PSAP” while Section 4.9(h) requires notifications to PSAPs of disruptions in 911 service.<sup>21</sup> It states that “[t]ogether, these rules reflect the principle that all service providers

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<sup>19</sup> *Id.* at ¶ 54.

<sup>20</sup> *Id.* at ¶ 50.

<sup>21</sup> *Id.* at ¶ 19.

in the chain of 911 service – from origination to completion – must be accountable for reliable service and responsive in the event of an outage.”<sup>22</sup>

This assertion is a recent and improper characterization of Section 64.3001. Section 64.3001 was never intended to be a reliability mandate. Examining its history makes clear that it is a routing obligation adopted many years ago in the context of establishing 911 as the nationwide emergency calling number. In the 15 years since the rule was adopted, it has never been construed as a reliability mandate or to apply in the event of a network outage. If Section 64.3001 were interpreted to be a reliability mandate, it would impose a strict liability standard on completion of all 911 calls. This construction is improper as it would subject 911 service providers to risk for failing to complete 911 calls to a PSAP for any reason – even acts of God or terrorist acts.

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<sup>22</sup> *Id.*

## VI. CONCLUSION

Before expanding its requirements relating to 911 service, the Commission should allow the measures it adopted in the *911 Reliability Order* to be fully implemented. It is premature and overreaching to move forward with a comprehensive federal regime in the area of 911 service when the rules the Commission recently adopted for purposes of ensuring 911 service reliability and resiliency are not fully in effect.

Moreover, the Commission should refrain from adopting proposals that are unworkable and that would entail significant burdens and risks for affected entities, such as by requiring certain providers to serve as a clearinghouse for information sharing and situational awareness during outages and disruptions in 911 service. The Commission also should avoid injecting itself into matters relating to market entry, discontinuance of service, and major changes in 911 service. These issues are better left to state and local officials, which have the primary oversight role with respect to provision of 911 service.

Respectfully submitted,

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March 23, 2015