

**BEFORE THE
NEBRASKA
PUBLIC SERVICE COMMISSION**

In the Matter of the Commission, on its own motion, seeking to investigate and determine whether additional funds from the Enhanced Wireless 911 Fund should be made available to public safety answering points for costs to implement text to 911 solutions.

Application No. 911-060 / PI-191

COMMENTS OF CTIA-THE WIRELESS ASSOCIATION®

Pursuant to the May 6, 2014 Order Opening Docket Seeking Comment and Scheduling Hearing (“Order”) in this proceeding, CTIA – The Wireless Association® (“CTIA”) appreciates the opportunity to provide comments to the Commission regarding the use of Enhanced Wireless 911 funds to support equipment for Text-to-911 solutions.

CTIA and its member companies support the Nebraska public safety answering points’ (“PSAPs”) efforts to utilize the Text-to-911 services voluntarily offered by the nationwide wireless service providers. While CTIA believes that the Commission may authorize the use of funds to support Text-to-911 solutions, CTIA urges the Commission to clarify that Text-to-911 is not “Enhanced Wireless 9-1-1” service under the Enhanced Wireless 911 Services Act (“Act”). Given any potential impact on wireless consumers who support Nebraska’s Enhanced Wireless 911 Fund, the Commission should also note that PSAPs have multiple technical options for enabling the capability, with many involving no or minimal additional incursion of costs. CTIA believes that the Commission should be mindful of all options when entertaining requests from Nebraska’s Enhanced Wireless 911 Fund.

I. INTRODUCTION

CTIA, its member companies, and the wireless industry at large share the goal of ensuring that all citizens can effectively utilize wireless for emergency services, such as 9-1-1. CTIA and its member companies have been actively involved with and have supported the development and deployment of 9-1-1 services, including Next Generation 911 (“NG911”), through collaborations with the public safety community, standard-setting organizations and regulatory bodies at all levels of government. The wireless industry has demonstrated a strong commitment to public safety through a variety of collaborative and voluntary efforts, such as the voluntary commitments by AT&T, Sprint, T-Mobile and Verizon Wireless to enable Text-to-911 on their networks. Many of CTIA’s member companies have also voluntarily developed and deployed public safety programs such as the Wireless Emergency Alerts (“WEA”) to provide alerts to consumers with WEA-capable devices in the area of an emergency.

CTIA and its member companies support the Nebraska PSAPs’ efforts to utilize the Text-to-911 services voluntarily offered by the nationwide wireless service providers. While CTIA believes that the Commission may authorize the use of funds to support Text-to-911 solutions, CTIA urges the Commission to clarify that Text-to-911 is not “Enhanced Wireless 9-1-1” service under the Act. Given any potential impact on wireless consumers who support Nebraska’s Enhanced Wireless 911 Fund, the Commission should also note that PSAPs have multiple options for enabling the capability, with many involving no or minimal additional incursion of costs. CTIA believes that the Commission should be mindful of all options when entertaining requests from Nebraska’s Enhanced Wireless 911 Fund.

II. THE COMMISSION SHOULD CLARIFY THAT TEXT-TO-911 IS NOT AN “ENHANCED WIRELESS 911” SERVICE WHILE AUTHORIZING THE USE OF FUNDS TO SUPPORT TEXT-TO-911 SOLUTIONS

On May 15, 2014, the nationwide wireless service providers, AT&T, Sprint, T-Mobile and Verizon, fulfilled a voluntary commitment to offer Text-to-911 services to requesting PSAPs. CTIA appreciates the Nebraska PSAPs’ request for equipment upgrades to support Text-to-911 in order to benefit Nebraska’s wireless consumers by adopting the services voluntarily offered by the nationwide wireless service providers. While CTIA supports PSAP adoption of Text-to-911 service and believes that the Commission may authorize the use of funds to support Text-to-911 solutions, CTIA urges the Commission to clarify that Text-to-911 is not an “Enhanced Wireless 9-1-1” service under the Act.

In the Order, the Commission stated that “the ability for a PSAP to receive and process text messages and determine the location of the wireless subscriber is indisputably a wireless service.”¹ The Commission’s statement that Text-to-911 is a “wireless service” suggests that Text-to-911 is “enhanced wireless 911.” However, the Commission should clarify that Text-to-911 is not “enhanced wireless 911” because Text-to-911 does not meet the definition of “enhanced wireless 911” under the Act.

The Act defines “enhanced wireless 911 service” as “a telephone exchange communications service by which wireless carriers can provide automatic number identification, pseudo-automatic number identification, and wireless automatic location identification information to a PSAP which has capability of providing selective routing,

¹ Order, at p. 2.

selective transfer, fixed transfer, automatic number identification, and wireless automatic location identification.”²

Given the terms of the Act, Text-to-911 services do not meet the elements necessary to qualify as an “enhanced wireless 911” service under the Act. Specifically, text messages sent to 9-1-1 are not “telephone exchange service” because Text-to-911 services are based on “store and forward” short messages service (“SMS”), rather than circuit switched telecommunications.³ Similarly, “enhanced wireless 911 service” must have “automatic location information” that the Act defines as “a feature by which information is provided to a PSAP identifying the location, the latitude and longitude within the parameters established by the Federal Communications Commission, of a wireless unit originating a call to a PSAP,” but Text-to-911 services support only coarse location information.⁴ For these reasons, the Commission should clarify that Text-to-911 service is not an “enhanced wireless 911” service under the Act.

Stating that Text-to-911 service is not an “enhanced wireless 911” service under the Act should not inhibit the Commission’s ability to determine the appropriate use of the Enhanced Wireless 911 Fund in this proceeding. As the Commission notes, LB 1222

² Neb. Admin. Code, Title 291, Chapter 15, Section 001.01E (July 22, 2013).

³ See Comments of CTIA-The Wireless Association®, FCC, WC Docket No. 08-7, 31-47 (March 14, 2008) (describing how Short Message Service more closely resembles email than traditional switched voice calls).

⁴ See FCC, In the Matter of Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications Framework for Next Generation 911 Deployment, PS Docket No. 11-153, PS Docket No. 10-255, *Further Notice of Proposed Rulemaking*, 27 FCC Rcd 15659, 78 FR 1799, Para. 114 (2012) (“*FCC Text to 911 FNPRM*”) (proposing to require CMRS providers (and their associated text-to-911 vendors) to use cell sector location to route 911 text messages originated on their networks to the appropriate PSAP, but declining to propose the provision of E911 Phase II location information in conjunction with 911 text messages); see also, FCC, In the Matter of Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications Framework for Next Generation 911 Deployment, PS Docket No. 11-153, PS Docket No. 10-255, *Policy Statement and Second Further Notice of Proposed Rulemaking*, 29 FCC Rcd 1547, 79 FR 10807, Para. 41 (2014) (“*FCC Text to 911 Policy Statement and Second FNPRM*”) (seeking comment and stating “We appreciate...that with currently available technology CMRS carriers face technical difficulties in providing Phase II equivalency for text-to-911 messages.”).

(Section 11) (2006) may provide the Commission with authority to determine the services and equipment that may be eligible for support under the Act.⁵ As such, even while clarifying that Text-to-911 is not an “enhanced wireless 911” service, the Commission may still use its authority to determine that Text-to-911 solutions are eligible for support from the Enhanced Wireless 911 Fund.

III. THE COMMISSION SHOULD BE MINDFUL OF ALL TECHNICAL OPTIONS TO ADOPT TEXT-TO-911 IN ORDER TO MANAGE REQUESTS FROM THE ENHANCED WIRELESS 911 FUND

Given any potential impact on wireless consumers who support Nebraska’s Enhanced Wireless 911 Fund, the Commission should note that PSAPs have multiple options for enabling Text-to-911, with many involving no or minimal additional incursion of costs. CTIA believes that the Commission should be mindful of all technical options when entertaining requests from Nebraska’s Enhanced Wireless 911 Fund.

Nebraska’s wireless consumers generally face one of the highest combined tax, fee and surcharge rates in the nation on wireless service.⁶ In 2012, Nebraska’s combined wireless tax, fee and surcharge rate could be as high as 18.67%, which, when coupled with the 5.82% federal USF tax, means Nebraskan consumers paid as much as 24.49% in wireless taxes, fees and surcharges – over three times the state sales tax rate of 7.0% on other consumer goods and services.⁷ Given the combined tax, fee and surcharge burden already imposed on Nebraska’s wireless consumers, the Commission should consider that

⁵ Order, at p.2.

⁶ MyWireless.Org, “State Tax Rankings Where Does Your State Stand? Taxes and Fees on Monthly Wireless Service”, July 2013. Available at <http://www.mywireless.org/state-issues/state-tax-rankings/> (last accessed June 5, 2014).

⁷ Mackey, Scott. “Wireless Taxes and Fees Continue Growth Trend.” *State Tax Notes* (October 29, 2012), 321, 324. Available at <http://www.ksefocus.com/wordpress-content/uploads/2012/11/mackey-state-tax-notes.pdf> (last accessed June 5, 2014).

requests for support from the Enhanced Wireless 911 Fund may ultimately increase the combined tax, fee and surcharge rates that Nebraskan consumers pay to support 9-1-1 services.⁸

The Commission should also recognize that wireless service providers voluntarily offer Text-to-911 services through a variety of delivery methodologies, including existing TTY services and web-based browsers, as well as dedicated Text-to-911 equipment.⁹ Notably, the TTY and web-based browser methods might not involve new costs or minimally incur additional costs because those methods rely on existing or commercially available infrastructure (*i.e.* a broadband connection). The Commission should consider the National Emergency Numbering Association's ("NENA's") resources and planning guides for interim Text-to-911 solutions when evaluating PSAPs' technical options.¹⁰

While CTIA and its member companies support Nebraska PSAPs adopting the Text-to-911 services voluntarily offered by nationwide wireless service providers, the Commission should note that PSAPs have multiple technical options for enabling Text-to-911, with many involving no or minimal additional incursion of costs. CTIA believes that the Commission should be mindful of all options when entertaining requests from Nebraska's Enhanced Wireless 911 Fund.

IV. CONCLUSION

CTIA and its member companies support the Nebraska PSAPs' efforts to utilize the Text-to-911 services voluntarily offered by the nationwide wireless service providers.

⁸See Comments of CTIA – The Wireless Association, Application No. 911-059 / PI-190 (*filed concurrently on this date*) (recommending that the Commission consider a statewide approach to PSAP consolidation in order to manage costs to the Enhanced Wireless 911 Fund).

⁹ See *FCC Text to 911 FNPRM* at Paras.127–146.

¹⁰ NENA, SMS Text-to-9-1-1 Resources for PSAPs & 9-1-1 Authorities, <http://www.nena.org/?page=textresources> (last visited June 5, 2014).

