



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS TO REFRESH THE RECORD REGARDING OPTIONS FOR ADDRESSING NON-EMERGENCY CALLS TO 911 FROM NON-SERVICE INITIALIZED HANDSETS

PS Docket No. 08-51

Comment Date: [45 Days after Publication in the Federal Register]

Reply Comment Date: [60 Days after Publication in the Federal Register]

The Commission's rules require commercial mobile radio service (CMRS) providers subject to the Commission's 911 rules to forward all wireless 911 calls, including those originated from "non-service-initialized" (NSI) handsets, to Public Safety Answering Points (PSAPs).¹ In 2008, nine public safety organizations and a software development firm (Petitioners) filed a petition for notice of inquiry to address the problem of fraudulent non-emergency 911 calls² placed to PSAPs from NSI handsets.³ The Commission granted this petition and issued a *Notice of Inquiry* in April 2008 to enhance its understanding of the extent of the problem and to explore potential solutions.⁴ Specifically, the Commission requested comment in three areas: (1) the nature and extent of fraudulent 911 calls made from NSI devices; (2) concerns with blocking NSI devices used to make fraudulent 911 calls, and suggestions for making this a more viable option for carriers; and (3) other possible solutions to the problem of fraudulent 911 calls from NSI devices.⁵

¹ See 47 C.F.R. § 20.18(b) (identifying the CMRS providers that are subject to the relevant 911 rules). A NSI handset is a mobile handset for which there is no valid service contract with a CMRS provider. See *id.*, § 20.18(l)(3)(i).

² Fraudulent non-emergency 911 calls may include hang ups, false reports of emergencies, and harassing calls to 911 operators.

³ See Petition for Notice of Inquiry Regarding 911 Call-Forwarding Requirements and Carriers' Blocking Options for Non-Initialized Phones, CC Docket No. 94-102 (filed Feb. 14, 2008) (Petition). The Petitioners are the Tennessee Emergency Communications Board, the National Association of State 9-1-1 Administrators (NASNA), the Michigan State 9-1-1 Office, the New Jersey State 9-1-1 Commission, the Snohomish County Enhanced 9-1-1 Office, the National Emergency Number Association (NENA), the Association of Public-Safety Communications Officials International (APCO), the State of Montana 911 Program, the Washington State E911 Program, and Openwave Systems, Inc. (collectively, Petitioners).

⁴ Petition for Notice of Inquiry Regarding 911 Call-Forwarding Requirements and Carriers' Blocking Options for Non-Initialized Phones, PS Docket No.08-51, *Notice of Inquiry*, 23 FCC Rcd 6097 (2008) (*Notice of Inquiry*).

⁵ *Id.* at 6101 ¶ 10.

In light of the concerns raised by Petitioners regarding fraudulent non-emergency 911 calls, one of the options on which the *Notice of Inquiry* sought comment was whether the Commission should eliminate the 911 call-forwarding requirement for NSI devices.⁶ In response, a number of public safety commenters advocated for the Commission to eliminate the requirement.⁷ However, other commenters, including Petitioners, other public safety entities, and commercial carriers, took the opposite view, arguing that the public had come to rely on the fact that NSI devices are 911-capable and that eliminating the call-forwarding requirement could lead to tragic results given this public reliance.⁸

In a recently filed *ex parte*, however, NENA: The 9-1-1 Association (NENA), one of the original Petitioners, has revised its earlier-stated position on this issue. NENA states that based on its “members’ experience since 2008 ... we now *can* support the reversal of the ‘all calls’ rule.”⁹ According to NENA, “PSAPs face an ever-growing onslaught of non-emergency calls to 9-1-1 from NSI devices.”¹⁰ Moreover, in recently filed comments in another docket, NENA states that there is now a “consensus view that the promotion of NSI devices does more harm than good.”¹¹ NENA further asserts that “most charities and domestic violence advocates [have] abandoned the practice of distributing NSI devices.”¹² NENA states that “NSI phone donation programs have since been supplanted by outright donations of devices *and* service by CMRS providers, and by state and federal programs (such as the Universal Service Fund-supported Lifeline program) that provide free or reduced-cost mobile service to low-income or at-risk

⁶ *Id.* at 6104-05 ¶¶ 19-20.

⁷ See Comments of Clinton County Emergency Telephone Systems Board, PS Docket No. 08-51 (filed June 29, 2008), at 3; Comments of Connecticut Enhanced 9-1-1 Commission, PS Docket No. 08-51 (filed June 27, 2008), at 2; Comments of King County E911 Program, PS Docket No. 08-51 (filed June 30, 2008), at 1; Comments of Livingston County Sheriff, PS Docket No. 08-51 (filed April 29, 2008), at 3; Comments of Michael Mahn, PS Docket No. 08-51 (filed May 16, 2008), at 1; Comments of Washington State E911 Administrator (Washington State), PS Docket No. 08-51 (filed June 30, 2008), at 1; Washington State Reply Comments, PS Docket No. 08-51 (filed July 29, 2008) at 3.

⁸ Comments of American Roaming Network (ARN), PS Docket No. 08-51 (filed June 30, 2008), at 6-7; Comments of AT&T, PS Docket No. 08-51 (filed June 30, 2008), at 4; Comments of California 9-1-1 Emergency Communications Office, PS Docket No. 08-51 (filed June 27, 2008), at 2; Comments of CTIA, PS Docket No. 08-51 (filed June 30, 2008), at 1, 4, 7; CTIA Reply Comments, PS Docket No. 08-51 (filed July 29, 2008), at 1; Comments of Hamilton County, Department of Communications, PS Docket No. 08-51 (filed June 27, 2008), at 2; Comments of the National Association of Telecommunications Officers and Advisors, PS Docket No. 08-51 (filed June 2, 2008), at 2; Comments of T-Mobile USA, Inc., PS Docket No. 08-51 (filed June 30, 2008), at 6-7; Comments of Stephen Weinstein, PS Docket No. 08-51 (filed April 14, 2008), at 1; ARN Reply Comments, PS Docket No. 08-51 (filed July 28, 2008), at 2; Petitioners Reply Comments, PS Docket No. 08-51 (filed July 29, 2008), at 3; Reply Comments of Verizon Wireless, PS Docket No. 08-51 (filed July 29, 2008), at 2.

⁹ See Letter, Telford Forgety, III, NENA Director of Governmental Affairs & Regulatory Counsel, to Marlene Dortch, Secretary, Federal Communications Commission, PS Docket No. 08-51 (Feb. 11, 2013) (*NENA Ex Parte*) (emphasis in original). See also Comments of National Emergency Number Association in PS Docket Nos. 10-255, 11-153, 12-333 (filed Dec. 13, 2012) at 20 (“The Commission should eliminate the rules requiring Non-Service Initialized phones to be capable of completing a call to 9-1-1.”). NENA notes that it cannot speak for its co-Petitioners. *NENA Ex Parte* at 1.

¹⁰ *NENA Ex Parte* at 1.

¹¹ See Comments of the National Emergency Number Association in PS Docket Nos. 10-255, 11-153, 12-333 (filed Dec. 13, 2012) at 21.

¹² *Id.*

individuals.”¹³ However, NENA does not support “overnight” elimination of the 911 call-forwarding requirement, proposing instead that the Commission should phase out the requirement “for devices and networks that no longer support legacy circuit-switched calling.”¹⁴ NENA claims that this would “minimize stranded investments by carriers and consumers as carriers transition to fully IP-based architectures such as LTE and consumers transition to IP-only devices that no longer support circuit-switched voice services.”¹⁵

In light of NENA’s revised view on the 911 call-forwarding requirement, as well as the passage of time since the filing of comments in response to the *Notice of Inquiry*, we seek to refresh the record in this proceeding. In particular, we seek comment on whether other interested parties agree or disagree with NENA’s view that the Commission should consider phasing out the call-forwarding requirement as it applies to NSI devices. More generally, we seek comment on relevant changes in industry, technology, regulation, public practice, or otherwise that may have occurred since the earlier filing of comments. We also ask commenters to point out any earlier-submitted facts or analyses in the record that they now regard as outdated, and to provide any new information that they consider relevant.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁶ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Parties may file comments on the Petition on or before the dates indicated on the first page of this document. Please place the docket number **PS DOCKET NO. 08-51** on all filings. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).¹⁷

¹³ *NENA Ex Parte* at 2 (emphasis in original).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ 47 C.F.R. §§ 1.1200 *et seq.*

¹⁷ *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

Copies of the Petition and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

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For further information, contact: Eric Ehrenreich, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-1726 or Eric.Ehrenreich@fcc.gov.

Action by the Chief, Public Safety and Homeland Security Bureau.

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