

**STATEMENT OF
CHAIRMAN KEVIN J. MARTIN**

Re: Implementation of the NET 911 Improvement Act of 2008, WC Docket No. 08-171

Today, we implement the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act). I am pleased that we further refine our rules to support the safety of the public and the needs of our first responders. I am concerned, however, that today's Order does not go far enough to ensure that mobile VoIP providers comply with our rules.

As I have said before, everyone who dials 911 expects that he or she will be connected to the local emergency operator. This reasonable expectation exists whether that person is dialing 911 from a traditional wireline phone, a wireless phone, or a VoIP phone. Moreover, we need to ensure that our enhanced 911 (E911) rules provide meaningful automatic location information that permits first responders to reliably find callers, even when they are using mobile wireless or VoIP phones.

I am troubled that today's decision could leave mobile VoIP customers without adequate 911 service when they roam outside their service providers' footprint. In these instances, the service providers do not have access to "last known cell" information that they may need to deliver the call to the appropriate local emergency operator and to provide accurate location information to the appropriate public safety officials. Consistent with the rest of the Order, I would have gone further, giving mobile VoIP providers access to "last known cell" information so that they could comply with our rules without exception. I am concerned that failing to require that this information be provided to mobile VoIP providers will lead to some 911 calls not being delivered to the appropriate local emergency operator and/or the use of call centers that require VoIP customers to provide their exact location and then forward the call to the local emergency operator losing precious response time. Such a result is inconsistent with public safety's encouragement that the Commission "grant VoIP providers reasonable and non-discriminatory access to all capabilities that are necessary for the deployment of E9-1-1 services." See attached letter from NENA and APCO. For example, NENA stated that it "believes that having the ability to route calls based on the last known location of a caller roaming on another provider's network would provide public safety benefits. NENA would support the Commission taking steps to address this issue." Letter from NENA to FCC, WC Docket Nos. 04-36 and 05-196 (filed Aug. 21, 2008).

I am confused by some of my colleagues who claim that they both wish we had addressed this issue already and that it is too early to address it now. They claim that there is a right way and a wrong way to address these issues and that we should have both addressed the issue already and that we should not be locking ourselves into a particular solution.

Specifically, they claim not to "know if 'last known cell' or some other technology (or perhaps some combination of approaches) will best protect American consumers." They go on to conclude that "we should not be locking carriers (and their customers) in to a particular technology over the long run until we know it is the correct technology."

At the same time they claim to advocate that we should have already addressed this issue before the mobile VoIP products were even developed. Specifically, they argue that the Commission should "have addressed this question long ago, before mobile VoIP became a marketplace reality."

I am not sure how we were to have achieved these two inconsistent goals: both (1) addressing the issue fully "before mobile VoIP became a reality," and (2) refusing to adopt any technical solution today because of a desire to preserve the development of some future technology tomorrow. That is not advocating a right way or a wrong way – but trying to have it both ways.

In any event, I do not understand why some of my colleagues would deny mobile VoIP providers access to a capability they need to provide adequate 911 service to the public today. Congress gave us the opportunity and obligation to ensure that VoIP providers have any and all of the tools they may need to provide E911 service.

Importantly, VoIP providers are not required to take advantage of any particular capability we make available to them. Indeed, far from “lock[ing] in a particular technology or approach,” providing “last known cell” information expands VoIP providers’ options for providing E911.

We may determine, as technology changes, that providers should have access to even more capabilities. But by taking “last known cell” information off the table until we study every option and even whether there are additional options, we deny mobile VoIP providers the ability to provide adequate 911 service to their customers today. And we deny mobile VoIP customers access to full E911 capability.

I do not think we should jeopardize public safety for any amount of time when a capability that could be used to ensure 911 service is available now.

To delay only because we want to study – “develop[] a body of learning” – other technologies that may one day be available, would leave customers without adequate 911 service.

If a technology that can help save lives is available today, we should enable it. If future technologies develop that improve safety, we should enable them as well. But failure to do so today because of an uncertain promise about tomorrow certainly does not “address mobile/nomadic VoIP as soon as possible.”



October 2, 2008

Honorable Kevin J. Martin Chairman
Federal Communications Commission
445 12th Street, S.W. Washington, D.C.
20554

RE: WC Docket No. 08-171, ex parte communication Pursuant to Section 1.1206 of the Rules

Dear Chairman Martin,

On September 9, 2008 NENA and APCO jointly filed comments in response to a Notice of Proposed Rulemaking (NPRM) which sought comments concerning regulations implementing the requirements of the *New and Emerging Technologies 911 Improvement Act of 2008* ("*NET 911 Act*"). As we stated in our comments, NENA and APCO believe that VoIP providers should be granted reasonable and non-discriminatory access to all capabilities that are necessary for the deployment of E9-1-1 services and such access should be provided at rates that are just, reasonable and non-discriminatory. We also stated that in return for such access, VoIP providers should commit to deploying fixed and nomadic VoIP service in accordance with national VoIP E9-1-1 standards, such as the NENA Interim VoIP Architecture for Enhanced 9-1-1 Services standard (known in short as "i2").

NENA, APCO and the VoIP industry advocated for the passage of the *NET 911 Improvement Act* because it provides needed tools to ensure E9-1-1 service for VoIP will be effectively deployed in all areas of the country. The regulations the Commission has been directed to implement by Congress are intended to ensure that VoIP providers have access to elements of the E9-1-1 system that they need to deploy E9-1-1 in all areas. Therefore, as stated in our September 9th filing, NENA and APCO encourage the commission to grant VoIP providers reasonable and non-discriminatory access to all capabilities that are necessary for the deployment of E9-1-1 services. Importantly, by granting access to such capabilities, we also encourage the Commission to make clear that VoIP providers are expected to comply with VoIP E9-1-1 rules in all circumstances where such capabilities have been made available.

Sincerely,

/s/
Patrick Halley
Government Affairs Director
NENA

/s/
Robert Gurss
Director, Legal and Government Affairs
APCO

cc: Commissioner Michael Copps
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: Implementation of the NET 911 Improvement Act of 2008, WC Docket No. 08-171

I am glad we establish rules today that implement the Net 911 Act. Today's decision continues the process we began several years ago with our first order on VoIP and E911. It improves the safety of VoIP customers by granting their providers adequate access to E911 resources. I especially appreciate the willingness of my colleagues to ensure that we do not impose burdensome requirements such as certification that would have the perverse effect of *reducing* VoIP providers' access to E911 resources.

I also think it is important we do not codify a "last known cell" approach before the public safety community and the FCC have looked at the full range of options for automatically identifying the location of mobile VoIP calls. Make no mistake, I am no friend of unnecessary delay. As I have stated before, I wish we had addressed this question long ago, before mobile VoIP became a marketplace reality. And I certainly look forward to addressing it as soon as possible. But there is a right way and a wrong way to proceed. The truth remains that today we do not know if "last known cell" or some other technology (or perhaps some combination of approaches) will best protect American consumers. We should not be locking carriers (and their customers) in to a particular technology over the long run until we know it is the correct technology.

Finally, I must respectfully disagree with the view that there is some inconsistency between my decision on the "last known cell" issue (discussed above) and my desire to address mobile/nomadic VoIP as soon as possible. The facts are these:

Back in 2005, when mobile VoIP was just on the horizon, the FCC teed up questions about how to automatically transmit caller location to 911 operators. I believed that the public safety community and the FCC were ready to move forward at that time—even before such products were in the marketplace—because of our long, shared experience with E911 for traditional mobile telephones (which are also small handheld, battery-powered devices that consumers use to call for help). And I agree 100% with all my colleagues that every caller should have an expectation of reaching help when they dial 911. That is why, when in 2006 I listed the top priorities for the FCC's new Public Safety and Homeland Security Bureau, I stated that "[o]n the VoIP front, we need to move forward with our ongoing rulemaking regarding automatic location sensing technologies."

Unfortunately, as today's item reflects, the FCC has not developed a body of learning on the pros and cons of different approaches to mobile VoIP autolocation. And for the reasons I've given above, until we meet this critical prerequisite, I don't think it serves the cause of public safety to lock in a particular technology or approach. The public safety community does not disagree with this view—while the leading organizations support (as do I) addressing these issues in an appropriate proceeding, they have not suggested it must be done in the context of the NET 911 Act.

The NET 911 Act reflects this approach and, in particular, the conclusion that we haven't yet gathered the appropriate information. Specifically, the Act requires other branches of the federal government to study "location technology for nomadic devices" and issue a report on the subject within a fixed period of time. While I certainly believe that the FCC is capable of investigating this issue itself (and has been capable of doing so for some time), Congress's decision strongly implies that *right now* we don't have all the information we need. I hope we remedy this

expeditiously. In any event, while I certainly recognize that reasonable minds may disagree on the difficult issue of how to move forward here, I must join the majority in concluding that adding “last known cell” to the list of items covered by the NET 911 Act was not Congress’s intent and would not serve the interests of American consumers.

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: Implementation of the NET 911 Improvement Act of 2008, WC Docket No. 08-171

With the passage of the “NET 911 Improvement Act of 2008” (NET 911 Act), Congress made clear that consumers of interconnected VoIP services deserve access to life saving 911 and E911 services and charged this Commission with an active role in transitioning to an IP-enabled emergency communications network.

In this Order we take up the Net 911 Act’s directive that providers of IP-enabled voice services comply with 911 and E911 obligations and that these providers have access to the capabilities necessary to provide 911 and E911 services. The Order adopts a reasonable approach in its implementation of the Net 911 Act’s requirements. Consistent with the Act, it sets out broad standards for access to E911 capabilities, and makes clear that providers are entitled to access capabilities from any entity that owns or controls those capabilities. I note that a number of E911 compliance and policy questions have been raised with respect to dual-mode mobile commercial mobile radio service/VoIP handsets that use Wi-Fi technology. Given the tight Congressional deadline for implementing the Act, and wide concern about limiting the development of more robust E911 solutions, it is appropriate for the Commission to resolve those issues in a separate proceeding.

Finally, I would like to thank the public safety community, carriers, VoIP providers, and all interested stakeholders who have helped us to implement this Act quickly and ensure that E911 services remain robust and reliable. We must remain committed to making E911 a success for these increasingly important services and for the consumers who reach for that critical lifeline in their time of need.

**STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE**

Re: Implementation of the NET 911 Improvement Act of 2008, WC Docket No. 08-171

With this item, the Commission establishes rules to ensure that service providers have the access they need to enable 911 and E911 service, which Congress has required in the New and Emerging Technologies 911 Improvement Act of 2008. Whether we are considering rules for use of the 700 MHz D block spectrum, location accuracy for 911 calls, or service providers' access to 911 capabilities, the Commission continues to take steps to ensure that our citizens and public safety service providers have the tools they need to ensure world-class emergency communications capabilities.

I especially want to recognize Congressman Bart Gordon, Congressman Chip Pickering, and Senator Bill Nelson for their longstanding leadership on this issue. It is important that the Commission's implementation of all rules in response to statutory requirements reflect the intent of Congress and the plain language of the laws directing our activities. I believe this item faithfully implements Congress' requirements with regard to 911 and E911 access rules.

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL**

Re: Implementation of the NET 911 Improvement Act of 2008, WC Docket No. 08-171

I am pleased to join my colleagues in implementing key provisions of the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act). This Order faithfully reflects the plain language and intent of the NET 911 Act, and will further the abilities of our nation's emergency response providers for the benefit of all Americans.

I would like to thank the Senate Commerce and House Energy and Commerce Committees for their guidance and hard work on this issue. I also would like to commend my colleagues and the staff for their diligence and cooperation in ensuring that we successfully met the tight deadlines established by the NET 911 Act.