

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

In the Matter of)	
)	
Facilitating Implementation of Next Generation)	PS Docket No. 21-479
911 Services (NG911))	OMB 3060-XXXX
)	FR ID 252551

**COMMENTS
OF
NTCA AND THE RLEC PARTIES**

I. INTRODUCTION AND SUMMARY

NTCA–The Rural Broadband Association (“NTCA”)¹ and various Rural Local Exchange Carrier (“RLEC”) groups (collectively the “NTCA and the RLEC Parties”) hereby submit these comments in response to the Federal Register Notice (“*Notice*”) issued by the Federal Communications Commission (“Commission”).² The *Notice* seeks comment on the Commission’s compliance with the Paperwork Reduction Act of 1995 (the “PRA”)³ in connection with certain provisions of a Report and Order released by the Commission in its Next

¹ NTCA is an industry association composed of approximately 850 community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or themselves are engaged in the provision of such services. The RLEC groups include the Rural Telephone Company Consortium (the “RTCC”), the South Carolina Telephone Coalition (the “SC Coalition”), the South Dakota Telecommunications Association (“SDTA”), the Pennsylvania Telephone Association (“PTA”), the Kansas Rural Local Exchange Carriers (“KS RLECs”), the Communications Coalition of Kansas (“CCK”), the Iowa Communications Alliance, and Home Telephone ILEC, LLC. The companies represented by the RTCC, the SC Coalition and the KS RLECs are listed in Appendix A.

² Information Collection Being Reviewed by the Federal Communications Commission, Notice, 89 FR 83012 (Oct. 15, 2024) (“*Notice*”).

³ Paperwork Reduction Act of 1995, Public Law No. 104-13, 109 Stat. 163 (May 22, 1995), codified at 44 U.S.C. § 3501, *et seq.*

Generation 911 (“NG911”) proceeding.⁴ Among other things, the *Notice* seeks comment on the “Estimated Time Per Response” and “Total Annual Cost” estimates made by the Commission associated with Sections 9.31 (a), (b), and (c), and 9.34, of its rules.⁵ These rules set forth (1) the process by which state 911 Authorities will issue requests to Originating Service Providers (“OSPs”) initiating the first and second steps of the *NG911 Report and Order*’s NG911 transition framework,⁶ (2) the process pursuant to which an OSP can challenge a state 911 Authority’s readiness to make such a request,⁷ and (3) the notice to the Commission that any OSP must make should they and a state 911 Authority mutually agree to implement NG911 in a manner different from that set forth in the *Order*.⁸ These comments are directed only toward the second item above, the costs that OSPs will incur with respect to the Section 9.31(c) challenge process.⁹

⁴ *Facilitating Implementation of Next Generation 911 Services (NG911)*, PS Docket No. 21-479, Report and Order, FCC 24-78 (rel. Jul. 19, 2024) (“*NG911 Report and Order*” or “*Order*”).

⁵ The *Notice* seeks comment on the “Estimated Time per Response,” “Total Annual Burden” and “Total Annual Cost” estimates for 47 C.F.R §§ 9.31(a)-(c) and 9.34. These rules were adopted by the Commission on July 19, 2024 but are not effective until such time as the Office of Management and Budget (“OMB”) approves them for compliance with the PRA. *NG911 Report and Order*, ¶ 225. While these comments reference the Commission’s adopted rules, those references recognize the need for OMB approval prior to any obligation being imposed by such rules as reflected in 47 C.F.R. §9.31(d). The *Notice* estimates that a typical entity subject to these rules will expend between 2 and 40 hours per response, that the responses will be made “on occasion,” that compliance with these rules will impose a total annual burden of 10,012 hours and will impose a total annual cost of \$0 on entities subject to them.

⁶ 47 C.F.R. § 9.31(a) and (b).

⁷ 47 C.F.R. § 9.31(c).

⁸ 47 C.F.R. § 9.34.

⁹ Sections 9.31 (a) and (b) are applicable to state 911 Authorities, while Sections 9.31(c) and 9.34 are applicable to OSPs. The “Estimated Time per Response,” “Total Annual Burden” and “Total Annual Cost” estimates are made by the Commission for the rules as a whole and are not specific to OSPs and/or state 911 Authorities.

For the reasons demonstrated herein, the Commission has failed to comply with the applicable requirements of the PRA. Specifically, the Commission estimates that OSPs will incur zero costs for the preparation and filing of a petition and affidavit that challenges a state 911 Authority's readiness to initiate the transition. This cost estimate is made despite the fact that this rule would require OSPs to obtain and impart to the Commission in a petition a variety of information, such as the physical network infrastructure that the 911 Authority has, or lacks, for the provision of NG911 service. The Commission must under the PRA justify how this could impose no costs on OSPs when over 10,000 hours are estimated for compliance with Sections 9.31 and 9.34. The Commission should modify its estimate of "zero" cost for the reporting burden when it is clear that both internal and external resources will be needed for compliance and that these resources are not cost-free to reporting entities.

II. THE TOTAL ANNUAL COST ESTIMATE IN THE *NOTICE* FAILS TO CONSIDER THE NATURE OF THE COSTS THAT SMALL PROVIDERS WILL INCUR WITH RESPECT TO THE NG911 RULES AT ISSUE HEREIN, AND THUS THE COMMISSION HAS NOT SATISFIED THE DIRECTIVES OF THE PAPERWORK REDUCTION ACT.

Pursuant to the PRA, the Commission is explicitly directed by Congress to create a "specific, objectively supported estimate of [the] burden"¹⁰ of compliance with rules subject to that statute. The burden includes the "time, effort, and financial resources expended by persons to generate, maintain, or provide information."¹¹ In addition, the Commission is statutorily required to "take into account the resources available to those who are to respond"¹² in

¹⁰ 44 U.S.C. § 3506 (c)(1)(A)(iv).

¹¹ 44 U.S.C. § 3502(2).

¹² 44 U.S.C. § 3506 (c)(3)(C)(i).

considering reporting requirements and identifying alternatives. It is axiomatic that the Commission can only fulfill these statutory directives with a realistic estimate of cost based on the more than 10,000 annual hours the Commission estimates will be required for compliance. Left unexplained in the *Notice* is the irrational suggestion that all these hours required for compliance with the rules will somehow translate to “zero” costs to OSPs.

Even a cursory review of Section 9.31(c) undercuts any suggestion that compliance with the rule will come at no cost to OSPs. More specifically, in the case of an OSP receiving a Phase 1 or Phase 2 request from a state 911 Authority issued pursuant to either Sections 9.31(a) or (b), OSPs that believe such a request is invalid must, among other things, file a petition with the Commission’s Public Safety and Homeland Security Bureau that includes (1) an affidavit signed by a director or officer of the company, (2) a description of the steps the OSP has taken to implement Phase 1 or 2, and (3) the basis for the OSP’s assertion that the state 911 Authority has not satisfied the conditions set forth in Section 9.29(a) or (b) of the Commission’s rules.¹³ Section 9.29 (a) and (b) set forth the physical infrastructure that a state 911 Authority must have in place as a condition precedent to issuance of Phase 1 or Phase 2 requests to OSPs.¹⁴ In other words, an OSP that is of the belief that a state 911 Authority cannot meet its obligations under either Phase 1 or Phase 2 of the NG911 rules must obtain information as to the physical network infrastructure that the state 911 Authority has, or lacks, and evaluate the capabilities of such infrastructure via-a-vis applicable technical standards. The OSP must then incorporate the result of this information-gathering process and conclusions that arise from this process into a petition

¹³ 47 C.F.R. § 9.31(c).

¹⁴ 47 C.F.R. § 9.29 (a) and (b).

with a signed affidavit and pursuant to a rule that specifically notes that the affidavit must be “correct” under penalty of enforcement.¹⁵ Conspicuously absent from the *Notice* is how any of these actions, and the time and resources (both internal and external) that will be consumed, could possibly be estimated to impose no financial cost on an OSP.

A conclusion that small OSPs like those represented by NTCA and the RLEC Parties will incur “zero cost” in the implementation of Section 9.31(c) flies in the face of operational reality. These operators are small businesses with approximately 6,000 customers on average served over thousands of square miles; these operators face typical densities of approximately six locations per mile. Despite these challenges, they operate, on average, with approximately 30 full-time employees, including executive teams, installers, technicians, customer service representatives, and the staff that manage compliance with regulations and data collections such as the one at issue here. Even if in-house staff were to perform some or all of these functions for an OSP, this would not be costless, given that those staff are presumably not volunteers and the time spent on such efforts come at the opportunity cost of performing other functions. That said, most of these companies will likely be compelled to seek the assistance of outside consultants and attorneys for guidance with rules as complex as these and especially given the need to submit supporting affidavits. Certainly, neither such consulting or legal costs, nor the portion of Fully-Loaded Costs of Full Time Equivalent employees devoted to compliance with the instant data collection, should be ignored altogether in an estimate that the burden of reporting is “\$0.”

¹⁵ 47 C.F.R. § 9.31(c)(3) (“All affidavits must be correct. The originating service provider’s director or officer who signs the affidavit has the duty to personally determine that the affidavit is correct. If the affidavit is incorrect, he or she, as well as the originating service provider, may be subject to enforcement action.”).

Moreover, Section 9.31(c) contemplates much more than the simple matter of crafting a petition and an affidavit. As noted above, upon receipt of a Phase 1 request for example, it requires that an OSP explain the basis for asserting the inaccuracy of the state 911 Authority's certification "that it has installed and placed into operation all of the infrastructure needed to receive 911 traffic in an IP-based SIP format and transmit such traffic to the PSAP(s) connected to it."¹⁶ Obtaining and then imparting within a petition and affidavit such particularized information as to another entity's physical infrastructure in place requires a great deal of due diligence and technical analysis; to obtain such knowledge, an OSP would need to actively monitor, or even become an integral part of, the 911 Authority's NG911 implementation. There is no reasonable way to reconcile the scope of such required activities with an estimate that they will impose zero cost.

As noted above, the Commission is directed by Congress to create a "specific, objectively supported estimate of [the] burden"¹⁷ of compliance with any rule subject to the PRA and, most relevant to Section 9.31(c), that includes "time, effort, and financial resources expended by persons to generate, maintain, or provide information."¹⁸ Yet, by asserting its rule is costless in impact, it appears that the Commission has failed entirely to account for the "time, effort... expended by persons to generate, maintain, or provide information" necessary to comply with Section 9.31(c). Moreover, the Commission appears to have neglected as well to adhere to the

¹⁶ 47 C.F.R. § 9.31(a)(1).

¹⁷ 44 U.S.C. § 3506 (c)(1)(A)(iv).

¹⁸ 44 U.S.C. § 3502(2).

PRA’s directive to “take into account the resources available to those who are to respond”¹⁹ in considering the requirements of Section 9.31(c) or identifying alternatives. Taking account of every “cost” reasonably involved in a data collection is the only way to assess the burden it will impose on reporting entities and to consider less burdensome alternatives as the PRA directs.

NTCA and the RLEC Parties support the NG911 transition, as it will no doubt benefit the rural communities they serve through more advanced and reliable public safety services. But to suggest that the steps outlined in the rules discussed herein will result in no costs being incurred lacks reasonable basis, and appears to be the latest in a recent pattern of data collections that oddly seem to assume that efforts to comply are somehow costless for providers.²⁰ Compliance with the PRA, as noted above, demands more; anything other than a full acknowledgement of the true costs of the reporting burdens on those subject to this statute renders it meaningless.

III. CONCLUSION

The Commission should modify its estimate of zero cost for reporting burden when it is clear that both internal and external resources will be needed for compliance and that these resources are not cost-free to reporting entities.

¹⁹ 44 U.S.C. § 3506 (c)(3)(C)(i).

²⁰ Paperwork Reduction Act Comments of NTCA, FCC Docket No. 22-2, 3060-XXXX, FR ID 126104, (fil. Apr. 10, 2023), available at: <https://www.ntca.org/sites/default/files/federal-filing/2023-04/04.10.23%20NTCA%20Broadband%20Labels%20PRA.pdf>; Paperwork Reduction Act Comments of NTCA, OMB 3060-XXXX, FR ID 130762 (May 15, 2023), available at: <https://www.ntca.org/sites/default/files/federal-filing/2023-05/5.15.23%20NTCA%20cmnts%20ACP%20data%20collection%20PRA%20burden%20FINAL.pdf>

Respectfully submitted

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Attachment A

RLEC Members of the Rural Telephone Company Coalition¹

Arapahoe Telephone Company
Benkelman Telephone Company
Consolidated Telco, Inc.
Consolidated Telecom, Inc.
Consolidated Telephone Company
Curtis Telephone Company
Diller Telephone Company
Glenwood Telephone Membership Corporation
Glenwood Network Services
Great Plains Communications, LLC
Hamilton Telephone Company
Hardy Telecommunications, Inc. (WVA)
Hartington Telephone Company
Hartman Telephone Exchanges, Inc.
Hemingford Cooperative Telephone Company
Hershey Cooperative Telephone Company
K & M Telephone Company
Mainstay Communications
Nebraska Central Telephone Company
Northeast Nebraska Telephone Company
The North-Eastern Pennsylvania Telephone Company (PA)
Pierce Telephone Company, Inc.
Sodtown Communications, Inc.
Southeast Nebraska Communications, Inc.
Stanton Telephone Company
State Telephone Company (NY)
Three River Telco
Wauneta Telephone Company
Wilkes Telephone & Electric Company (GA)

¹All listed Companies operate within the State of Nebraska except as otherwise noted.

RLEC Members of the South Carolina Telephone Coalition

Chesnee Telephone Company
Comporium, Inc. (f/k/a Rock Hill Telephone Company)
TruVista Communications, Inc. (f/k/a The Chester Telephone Company)
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company d/b/a Comporium
Home Telephone ILEC, LLC
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company d/b/a Comporium

Lockhart Telephone Company d/b/a TruVista
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
PBT Telecom d/b/a Comporium
Ridgeway Telephone Company d/b/a TruVista
Sandhill Telephone Cooperative, Inc.
West Carolina Rural Telephone Cooperative, Inc.

The Kansas RLECs

Madison Telephone, LLC
Blue Valley Tele-communications, Inc.
Cunningham Telephone Co., Inc.
The Golden Belt Telephone Association, Inc.
Haviland Telephone Co., Inc.
JBN Telephone Co., Inc.
Rainbow Telecommunications Association, Inc.
South Central Telephone Association, Inc.
Gorham Telephone Co., Inc.
Pioneer Telephone Association, Inc.
Peoples Telecommunications, LLC
Columbus Communications Services, LLC H&B
Communications, Inc.
Home Telephone Co. Inc.
LaHarpe Telephone Co., Inc.
Southern Kansas Telephone Co., Inc.
Totah Telephone Co., Inc.
Twin Valley Telephone, Inc.
Wamego Telecommunications Co., Inc. Wilson
Telephone Co., Inc.
Zenda Telephone Co., Inc.