

FCC Adopts Report and Order Facilitating Transition to Next Generation 911

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On July 18, the Federal Communications Commission (FCC or Commission) adopted a Report and Order at its July 2024 Open Commission Meeting intended to facilitate a nationwide transition to Next Generation 911 (NG911) emergency communications networks. Below, we provide an overview of the Commission's NG911 transition efforts, which began over a decade ago, and summarize key aspects of the Report and Order. By establishing a default cost demarcation point in the NG911 environment and timelines for originating service providers to begin delivering NG911 traffic, the FCC hopes to overcome obstacles to the transition from legacy circuit-switched to IP-based networks.

Background: The FCC's Efforts to Transition to NG911

U.S. Communications Networks Transition from TDM to IP Services. The Commission designated "911" as the national emergency telephone number in 2000 as part of its implementation of the Wireless Communications and Public Safety Act of 1999 (911 Act). Since the 911 Act's designation of the national emergency telephone number, U.S. communications networks have routed 911 calls through Time Division Multiplexing (TDM)-based circuit-switched architectures. Recognizing that communications networks across the country were evolving from TDM-based architectures to Internet Protocol (IP)-based architectures with the introduction of interconnected Voice Over Internet Protocol (VoIP) calling, Congress passed the New and Emerging Technologies Improvement Act of 2008 (NET 911 Act) to facilitate the deployment of VoIP 911 services. And in 2010, Congress enacted the Twenty-First Century Communications and Video Accessibility Act (CVAA), which authorized the Commission to implement regulations to ensure access to IP-enabled emergency

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networks by individuals with disabilities. More recently, Congress enacted the Next Generation 9-1-1 Advancement Act of 2012 (NG911 Act), which obligated the FCC to submit a report to Congress on recommendations for the legal and statutory framework for NG911 services. Instead of relying on a TDM-based architecture, NG911 relies on IP-based architecture to provide an expanded array of emergency communications services that take advantage of the capabilities of IP based devices and networks. Once implemented, the Report and Order states that NG911 will increase system resilience, improve connections between 911 call centers and support the transmission of text, photos, videos, and data to public safety answering points (PSAPs). NG911 will also improve interoperability between PSAPs and improve the efficiency of location information that is available to PSAPs.

NG911 Rulemaking Proceeding. In June 2023, the Commission issued the *NG911 Notice*, which sought to establish a framework to facilitate the nation's transition to NG911 by proposing comprehensive requirements applicable to wireline, commercial mobile radio service (CMRS), interconnected VoIP, and Internet-based Telecommunications Relay Service (TRS) providers. Specifically, the *NG911 Notice* proposed to: (1) require wireline, interconnected VoIP, and Internet-based TRS providers to complete all translation and routing to deliver 911 calls in the requested IP-based format to 911 authorities that have certified their capability to receive IP-based 911 communications; (2) require wireline, interconnected VoIP, CMRS, and Internet-based TRS providers to transmit 911 calls to points designated by a 911 authority; and (3) in the absence of agreements by states or localities on alternative cost recovery structures, require wireline, interconnected VoIP, CMRS, and Internet-based TRS providers to cover the costs of transmitting calls to the points designated by the applicable 911 authority.

NG911 Implementation Challenges. Although efforts to transition to NG911 have been ongoing since Congress passed the NET 911 Act in 2008, the FCC, states, and 911 authorities have faced implementation challenges. One key challenge has been the inherent uncertainty between state 911 authorities and originating service providers regarding cost allocation for connecting commercial networks with new NG911 delivery points, and the timeline, terms, and conditions for the transition. This uncertainty can make it difficult for 911 authorities and originating service providers to reach mutual agreements necessary for connection. According to the Report and Order, these delays have not only postponed the deployment of new capabilities, improved interoperability, and enhanced system resilience, but also resulted in state and local 911 authorities incurring "prolonged costs because of the need to maintain both legacy and IP networks during the transition."

The Report and Order Envisions a Multi-Year, Phased NG911 Transition

The Commission's Report and Order adopts a two-phased NG911 implementation approach spanning two years. As the Report and Order explains, "Each phase is initiated by a 911 Authority submitting a valid request to [Operating Service Providers ('OSPs')] within the jurisdiction where the 911 Authority is located for the OSPs to comply with NG911 requirements. . . ." We briefly recap the Report and Order's two-phase approach below.

- **Phase 1:** An OSP, which includes wireline providers, CMRS providers, covered text providers, interconnected VoIP providers and Internet-based TRS providers, must commence the delivery of 911 traffic in IP-based Session Initiation Protocol (SIP) format to one or more delivery points upon receiving a valid Phase 1 request from a 911 authority.
 - A request is considered “valid” where the 911 authority certifies that it has all the necessary infrastructure installed and can receive 911 traffic in SIP format and transmit such traffic to the PSAPs connected to it.
- **Phase 2:** After receiving a valid Phase 2 request from a 911 Authority, an OSP must commence delivery of 911 traffic to the designated in-state NG911 delivery points in an IP-based SIP format that complies with NG911 accepted standards identified by the 911 authority, including by having location information embedded in call signaling using Presence Information Data Format–Location Object (“PIDF-LO”), or its functional equivalent.
 - A request is considered “valid” under Phase 2 if the 911 authority certifies: (1) that it has all of the necessary infrastructure installed and is operational to receive 911 traffic in SIP format that complies with NG911 commonly accepted standards and can transmit such traffic to the PSAPs connected to it; and (2) that its E911 is connected to a fully functioning NG911 network that can provide access to a location validation function (LVF) and interface with the location information server (LIS) or functional equivalent provided by the OSP. Additionally, OSPs must install and deploy all equipment, software applications, and other infrastructure, or acquire all services necessary to use a LIS or its functional equivalent, for verifying customer location information and records.

Implementation Timeline. Nationwide CMRS providers, covered text providers, interconnected VoIP providers, and wireline providers other than rural incumbent local exchange carriers (RLECs) will have six months following a 911 Authority’s valid Phase 1 request to comply with Phase 1 requirements, and six months following a valid Phase 2 request to comply with Phase 2 requirements. RLECs, non-nationwide CMRS providers, and Internet-based TRS providers will have one year following a 911 Authority’s valid Phase 1 request to comply with Phase 1 requirements, and one year following a valid Phase 2 request to comply with Phase 2 requirements.

Cost Allocation. The Report and Order makes OSPs financially responsible for the cost of transmitting 911 traffic to NG911 Delivery Points, absent an alternative cost arrangement. Additionally, the Report and Order makes OSPs responsible for the costs associated with translating 911 traffic into the required IP-based format.

Wiley’s Telecom, Media & Technology practitioners can assist clients in navigating the complex rules associated with emergency calling using various types of platforms and devices. For more information about the FCC’s Report and Order, please contact one of the authors listed on this alert.