

Entitled: Implementation of the NET 911 Improvement Act of 2008: Location Information  
From Owners and Controllers of 911 and E911 Capabilities

SUPPORTING STATEMENT

**A. Justification**

1. On July 23, 2008, President Bush signed the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act).<sup>1</sup> Among other things, the NET 911 Act explicitly imposes on each interconnected voice over Internet Protocol (VoIP) provider the obligation to provide 911 and E911 service in accordance with the Commission's existing requirements.<sup>2</sup> In addition, the NET 911 Act directs the Commission to issue regulations by no later than October 21, 2008 that ensure that interconnected VoIP providers have access to any and all capabilities they need to satisfy that requirement.

On October 21, 2008, the Commission released a *Report and Order (Order)*, FCC 08-249, WC Docket No. 08-171, that implements certain key provisions of the NET 911 Act.<sup>3</sup> As relevant here under the Paperwork Reduction Act (PRA), the Commission requires an owner or controller of a capability that can be used for 911 or E911 service to make that capability available to a requesting interconnected VoIP provider under certain circumstances. In particular, an owner or controller of such capability must make it available to a requesting interconnected VoIP provider if that owner or controller either offers that capability to any commercial mobile radio service (CMRS) provider or if that capability is necessary to enable the interconnected VoIP provider to provide 911 or E911 service in compliance with the Commission's rules.<sup>4</sup>

As the design and operation of 911 architectures have developed on a localized basis, there is substantial variation in how these systems are built and operated. Nevertheless, in many locations, the *Order* has the effect of mandating the collection of *Automatic Location Information (ALI)*, as explained in more detail below. In certain locations, the *Order* may also require the collection of other types of information.

As noted on the OMB Form 83-I, this information collection does affect individuals or households, and thus, there are impacts under the Privacy Act. However:

- (1) The information that is related to individuals or households is collected by a third party, the interconnected VoIP provider;

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<sup>1</sup> New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (2008) (NET 911 Act) (amending Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (1999) (Wireless 911 Act)).

<sup>2</sup> See NET 911 Act § 101(2); Wireless 911 Act § 6(a). The Commission regulations imposing 911 and E911 service obligations on interconnected VoIP providers are codified at 47 C.F.R. §§ 9.1 *et seq.*

<sup>3</sup> Statutory authority for the Order is contained in sections 1, 4(i), 4(j), 251(e) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 251(e), 303(r), and section 101 of the NET 911 Act, 122 Stat. 2620.

<sup>4</sup> 47 C.F.R. § 9.7(a).

- (2) The FCC has no direct involvement in the collection of this information on individuals or households; and
- (3) Since the FCC has no direct involvement in the collection of this information, the Commission is not required to complete a privacy impact assessment.
- (4) Further, interconnected VoIP providers generally have written privacy policies governing the treatment of information collected from their subscribers, to include information regarding a customer's Registered Location.

Statutory authority for this information collection is contained in the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act), P.L. No. 110-283, 122 Stat. 2620 (2008) (to be codified at 47 U.S.C. § 615a-1), and section 222 of the Communications Act of 1934, as amended.

2. The existing E911 network is a dedicated, redundant, highly reliable wireline network (Wireline E911 Network) which is interconnected with but largely separate from the public switched telephone network (PSTN).

When a 911 call is placed, the call is routed to the appropriate emergency answering point based on the location information contained in an Automatic Location Information database (ALI Database) maintained by the entity that operates the Wireline E911 Network. The ALI Database thus contains location information that telephone service providers, including interconnected VoIP providers, have collected from their customers and provided to the entity that operates the Wireline E911 Network. The ALI Database also is used to provide location information to emergency answering points that request such information.

As stated above, in a previous action, the Commission required interconnected VoIP providers to collect location information from their customers (reporting requirement) and disclose it to the entities (third party disclosure requirement) that own or control an ALI Database. This collection is contained and approved by OMB under OMB Control Number 3060-1085: Location Information; Provision of Notice and Reporting on Interconnected Voice over Internet Protocol (VOIP) E911 Compliance.

The present *Order* provides that the entities that own or control the ALI Database must make that database available to interconnected VoIP providers.<sup>5</sup> Thus, the new obligation to make the ALI Database and other 911 and E911 capabilities available to interconnected VoIP providers mirrors the existing obligation the Commission imposed on interconnected VoIP providers to provide 911 and/or E911 service, for which such capabilities would be accessed.

Although the NET 911 Act and the Commission's implementing rules are new legal requirements, all of the relevant costs of the entities that own or control an ALI Database were previously described in OMB Control Number 3060-1085: Location Information; Provision of Notice and Reporting on Interconnected Voice over Internet Protocol (VOIP) E911 Compliance.

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<sup>5</sup> If the location information from customers of interconnected VoIP service were not included in the ALI Database, those customers' ability to obtain emergency serviced by dialing 911 would be jeopardized.

The Commission currently seeks OMB approval for the collection required by the NET 911 Act and *Order* and plans to merge these two information collections into a single collection after OMB approval is obtained.

3. Entities that make information available in or through ALI Databases do so by electronic means.
4. None of the information collected as a result of the *Order* will be duplicative of other information.
5. The Commission has attempted to balance the economic interests of small businesses with the public's great interest in access to E911 services when using interconnected VoIP services:
  - A. In the *NET 911 Notice*, the Commission specifically sought comment on the costs and burdens any new rules might impose upon small entities and how these costs could be ameliorated.
  - B. In the Commission's regulatory flexibility analysis that accompanied the *Order*, the Commission emphasized that it must assess the interests of small businesses in light of the NET 911 Act's goal of ensuring that interconnected VoIP providers have access to any and all capabilities they need to provide 911 and E911 service.
  - C. The Commission considered but declined to issue highly detailed rules listing specific capabilities or entities with ownership or control of those capabilities.<sup>6</sup> The Commission recognized that the nation's 911 system varies from locality to locality, and overly specific rules would fail to reflect these local variations, and would thereby place undue burdens on all entities, including any small entities, involved in providing E911 service. Small interconnected VoIP providers and small entities that own or control those capabilities will benefit from the flexibility of the Commission's rules, which, as noted above, will accommodate the local variations as well as the various technologies necessary for 911 and E911 service.
  - D. As a practical matter, the Commission does not anticipate significant deviation from current practices, particularly from small entities as a result of the *Order*. Many interconnected VoIP providers today are successfully delivering E911 calls to the appropriate emergency answering point.
6. The collection and disclosure of ALI must be conducted on an "as needed" basis in order to ensure that E911 service is available to all customers of interconnected VoIP service.
7. There are no special circumstances under 5 CFR 1320.5(d)(2).
8. Pursuant to 5 CFR 1320.8(d), the Commission published a 60 day notice in the Federal Register. See 74 FR 37708 (July 29, 2009). No comment were received as a result of the notice.
9. Respondents will not receive any gifts or payments.

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<sup>6</sup> See *id.* at para. 22.

10. To implement section 222 of the Communications Act, 47 U.S.C. § 222, the Commission's rules impose a general duty on carriers to protect the privacy of customer proprietary network information and carrier proprietary information from unauthorized disclosure. *See generally* 47 C.F.R. §§ 64.2001 *et seq.* In the *Order*, the Commission additionally has clarified that the Commission's "rules contemplate that incumbent LECs and other owners or controllers of 911 or E911 infrastructure will acquire information regarding interconnected VoIP providers and their customers for use in the provision of emergency services. We fully expect that these entities will use this information only for the provision of E911 service. To be clear, no entity may use customer information obtained as a result of the provision of 911 or E911 services for marketing purposes." *See Order*, para 39.
11. This information collection does not address any private matters of a sensitive nature.
12. *Respondent Burdens.* [The Commission is not currently aware of any existing data or information regarding the number of entities that will be impacted by the information collection obligations set forth in the Order.](#) The Commission has estimated there to be 12 interconnected VoIP providers respondents for the information collected in 3060-1085. Interconnected VoIP providers in most circumstances provide E911 service by partnering with a traditional telecommunications carrier or through outsourcing rather than by obtaining 911 and E911 capabilities directly. Consequently, we estimate that each interconnected VoIP provider identified above will collect and disclose information subject to the Paperwork Reduction Act to no more than 5 respondents, including those who own or control an ALI Database. **We therefore estimate 60 respondents** (*i.e.*, 5 interconnected VoIP providers multiplied by 12 entities who own or control a relevant 911 or E911 capability).

We are not aware of any significant respondent burdens associated with the present collection. We anticipate that the obligations in the *Order* would be triggered only if a respondent had already constructed and was operating a relevant 911 or E911 capability. Consequently, we assume that all 60 respondents have existing 911 or E911 capabilities that they are operating and making available to other providers of telephone service. Due to the limited amount of information being collected, and its use in the routing of 911 calls and services provided to emergency call takers, we believe respondents will use their existing processes to collect the information at issue in this analysis. Due to the existing, routine, and largely automated nature of the present data collection, we estimate the information collection obligations in the *Order* impose approximately a 5 minute burden per respondent.

**Therefore, the Commission estimates the present collection involves: 60 respondents x 0.0833 hours (5 minutes) per respondent = 5 total annual burden hours.**

13. *Respondent Costs.* The Commission already has accounted for the cost burden of designing the systems that enable interconnected VoIP providers to obtain 911 and E911 capabilities from respondents, which give rise to the present information collection, under OMB Control No. 3060-1085. To avoid double-counting these burdens, we therefore estimate respondents have zero costs associated with the present collection.
14. This collection will not result in costs to the Federal government.
15. This is a new collection resulting in a program change increase of 5 burden hours.
16. The data will not be published for statistical use.

17. The information collected will be functionally incorporated into a telephone system switch that is a component of 911 and E911 provisioning systems. In addition, there are no FCC forms associated with this information collection. Therefore, it is not feasible to display on an FCC form or in the 911 and E911 provisioning system the expiration date for OMB approval of the information collection. Finally, the Commission publishes a list of all OMB-approved information collections in 47 CFR 0.408 of the Commission's rules.
18. There are no exceptions to the Certification Statement in Item 19 of OMB Form 83-I.

**B. Collections of Information Employing Statistical Methods**

This information collection does not employ any statistical methods.