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October 9, 2024

The Honorable Maria Cantwell
Chair
The Honorable Ted Cruz
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Facilitating Implementation of Next Generation 911 Services (NG911); Location-Based Routing for Wireless 911 Calls*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC) entitled “Facilitating Implementation of Next Generation 911 Services (NG911); Location-Based Routing for Wireless 911 Calls” (FCC 24-78). We received the rule on August 12, 2024. It was published in the *Federal Register* on September 24, 2024. 89 Fed. Reg. 78066. The effective date of the rule is November 25, 2024.

According to FCC, with this rule it adopts a Report and Order to advance the nationwide Next Generation 911 (NG911) transition rules that define the responsibilities and set deadlines for originating service providers to implement NG911 capabilities on their networks and deliver 911 calls to NG911 systems established by 911 authorities. In addition, FCC stated that the rule preserves the authority of state, territorial, regional, tribal, and local government to adopt alternative approaches to the configuration, timing, and cost responsibility for NG911 implementation within their jurisdictions. FCC further stated that this rule is a summary of its Report and Order in PS Docket Nos. 21-479 and 18-64, FCC 24-78.

Enclosed is our assessment of FCC’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: David L. Furth
Deputy Bureau Chief, Public Safety and Homeland Security Bureau
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
“FACILITATING IMPLEMENTATION OF NEXT GENERATION 911 SERVICES (NG911);
LOCATION-BASED ROUTING FOR WIRELESS 911 CALLS”
(FCC 24-78)

(i) Cost-benefit analysis

In its submission to us, the Federal Communications Commission (FCC) indicated that it was not required to prepare an analysis of the costs and benefits of this rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FCC prepared a Final Regulatory Flexibility Analysis (FRFA). 89 Fed. Reg. at 78117. The analysis included (1) a statement of the need for and objectives of the rule; (2) a summary of significant issues raised by public comments in response to the Initial Regulatory Flexibility Analysis; (3) responses to comments by the Chief Counsel for Advocacy of the Small Business Administration; (4) a description and estimate of the numbers of small entities to which the rule will apply; (5) a description of projected reporting, recordkeeping, and other compliance requirements for small entities; (6) steps taken to minimize the significant economic impact on small entities and significant alternatives considered; and (7) a statement that FCC will provide a report to Congress that includes the FRFA. *Id.* at 78117–78127.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, FCC is not subject to the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to

proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

As an independent regulatory agency, FCC is not subject to the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On July 10, 2023, FCC published a proposed rule. 88 Fed. Reg. 43514. FCC stated that it received 47 comments, 28 replies, and a number of ex partes. FCC included a list of entities that filed comments, replies, and ex partes in Appendix C of the Order. See 89 Fed. Reg. 78073.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FCC stated that this rule and the Order contain new information collection requirements subject to PRA. FCC further stated that this rule will be submitted to OMB for review. See 89 Fed. Reg. 78117.

Statutory authorization for the rule

FCC promulgated this rule pursuant to sections 151, 152, 154(i), 201, 214, 222, 225, 251(e), 301, 303, 316, 332, 615, 615a, 615a-1, 615b, and 615c of title 47 of the United States Code. See 89 Fed. Reg. at 78127.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FCC is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FCC is not subject to the Order.