

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Revision of the Commission's)
Rules to Ensure Compatibility) CC Docket No. 94-102
with Enhanced 911 Emergency)
Calling Systems)

To: The Commission

ADDITIONAL *EX PARTE* COMMENTS OF APCO, NENA AND NASNA

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”), the National Emergency Number Association (“NENA”), and the National Association of State Nine One One Administrators (“NASNA”) (collectively referred to herein as “Public Safety Organizations”) hereby submit the following additional *ex parte* comments regarding the above-captioned proceeding.

The Commission currently has before it a large number of requests for waiver of various aspects of the Phase II requirements in the wireless E-911 rules. The Public Safety Organizations have filed comments in response to most of those requests from larger national or regional carriers, but take this opportunity to summarize their position and present other pertinent information.

Recent events surrounding the terrible tragedies in New York City, the Pentagon, and Western Pennsylvania have further demonstrated the critical importance of our nation’s 9-1-1 service and of wireless telecommunications. It is a sad irony that these unprecedented attacks occurred on September 11, 2001, which is “National 9-1-1 Day” and the day on which NENA issued its “Report Card to the Nation” (or “RCN”) concerning the status of 9-1-1. Among the

findings in the RCN is that the public has a very high level of awareness of and confidence in the 9-1-1 system. However, the RCN also confirmed that much additional work is necessary to extend the benefits of Enhanced 9-1-1 to every corner of the nation and, most importantly, to the rapidly expanding base of wireless telephone users. The urgency of this work has increased a thousand-fold in the face of the recent terrorist attacks on our own soil. Life in the United States of America has changed forever. The President has alerted us to prepare for further acts of terrorism here at home. This is real. Of one thing we can be certain: use of wireless phones will play a vital role in reporting and responding to incidents as they occur, and in preventing incidents *before* they occur. 9-1-1 operators will be the first to take the calls. They will be the caller's lifeline. The need for Phase II has always been clear; the need is even greater now. We no longer have the luxury of time.

The Public Safety Organizations believe that it is essential for wireless carriers, equipment and network infrastructure suppliers, Local Exchange Carriers (LECs) and Public Safety Answering Points ("PSAPs") to move forward as quickly as possible to implement fully accurate location capability for all of the nation's wireless telephone users. Recent events highlight even further the need for speed in this regard. The Commission established its rules five years ago, and carriers and their suppliers have long known that deployment must begin on October 1, 2001. Thus, the Commission must stand firm on this and other deployment deadlines. Otherwise there will be little incentive for carriers and others to fulfill the promise of wireless E9-1-1.

Our opposition to various waiver requests remains as set forth in our prior comments and other pleadings. Moreover, whether or not the Commission chooses nevertheless to grant certain waivers, it must maintain the following core principles:

- Under no circumstances should the Commission grant a waiver to a carrier that does not propose a location technology solution that meets (or comes very close to meeting) the relevant accuracy requirements. We are pleased to note AT&T Wireless's recent decision to withdraw its original waiver request, which failed to satisfy this core principle. AT&T has announced instead that will enter into an agreement within the next 30 days with a location technology vendor that promises to meet the Commission's accuracy requirements.¹
- Carriers that caused delay should not receive waivers or other regulatory relief. It may well be that necessary equipment or software changes (handsets, switch upgrades, etc.) to deploy Phase II cannot be delivered and installed in time for some carriers to meet the deadlines in the rules. However, to the extent those delays are the result of carriers failing to order equipment or software changes in a timely fashion, the responsible carriers must be held accountable for their inaction.
- Carriers must be subject to serious penalties for failure to meet the benchmarks in the rules or, if they are operating pursuant to waiver, the revised deadlines approved by the Commission. In this regard, the Public Safety Organizations urge the Commission to adopt pre-established, automatic penalties for such failures. This is the only way to correct the view held by some that there is no real penalty for failing to proceed with all deliberate speed.

The Public Safety Organizations also urge that all carriers must provide the Commission with quarterly reports regarding their progress toward Phase II implementation. Those reports

¹ Letter of Douglas Brandon to Thomas Sugrue, September 17, 2001, 2. AT&T's revised approach appears to track closely the decision of Cingular Wireless with regard to a location solution for its TDMA systems. The Public Safety Organizations commented on the amended Cingular waiver petition September 19, 2001.

should not, however, be limited to a description of the roll-out of the technical apparatus necessary to identify caller location. Reports must also include the status of actual delivery of Phase II information to PSAPs. In particular, the Commission should require carriers to report on the number and identity of Phase II requests that they have received, and the current status of their response. If more than six months has passed (or is expected to pass) from the date of the Phase II request, the carrier must explain why it will not be able to deploy, and supply a firm alternative schedule for doing so. To the extent that a carrier claims that a public safety request is not valid, it must identify that request and the reasons for its position.² The Public Safety Organizations reiterate that in the near term Project Locate stands ready to work with those carriers who are proceeding to implement real Phase II solutions to develop rational schedules for satisfying PSAP requests.

A final note concerns the role of the LECs, whose participation is essential to close the connection between wireless subscribers, carriers, databases, and PSAPs. Now that various elements of wireless E9-1-1 are finally falling in place, it is becoming increasingly evident that LEC cooperation remains a missing link in some situations. We reiterate our call on the Commission and other relevant state and federal policy makers to address this issue quickly and decisively.

With the Commission's action imminent on numerous waiver requests, we are poised to move from a stage of policy formulation to a phase of implementation and enforcement. PSAP readiness will be promoted and studied as part of a Comprehensive Plan on Wireless Implementation proposed by NENA. Under this Plan, NENA along with APCO and NASNA will work with stakeholders to develop a national inventory and profile of wireless

² In this regard, we urge the Commission to resolve finally the issues raised by the City of Richardson regarding what constitutes a valid request, consistent with our submissions on that matter.

implementation for each county in the United States. This comprehensive program will be utilized as a resource for all stakeholders in the wireless implementation effort to reference the progress made under the FCC's wireless rules.

CONCLUSION

The Commission should quickly and decisively resolve the pending waiver requests consistent with the principles set forth above and in our prior submissions.

Respectfully submitted,

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