

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Establishment of Rules and Requirements For Priority Access Service	)	WT Docket No. 96-86
	)	
Revision of Rules and Requirements For Wireless Priority Service	)	

**REPLY COMMENTS OF VERIZON**

The Commission should support the U.S. Department of Homeland Security (“DHS”) initiative to expand the Wireless Priority Service (“WPS”) program to cover LTE- and other IP-enabled mobile wireless services while preserving its light regulatory touch for those services. Verizon and other wireless providers have already worked with DHS at length to develop the appropriate technical specifications and capabilities for an enhanced WPS program. And wireless providers are already free to support these enhancements without the need for new rules, as many of the liability considerations that drove adoption of the existing CMRS-based rules in 2000 do not apply.<sup>1</sup> As AT&T observes, the Commission’s rules thus do not presently impose legal barriers to extending WPS to those services, or to meeting public safety’s needs for prioritization and preemption.<sup>2</sup> Incorporating IP-enabled technologies into WPS and development of these new innovative capabilities is generally best left to arrangements between

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<sup>1</sup> See *The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Establishment of Rules and Requirements For Priority Access Service*, Second Report and Order, 15 FCC Rcd 16720, ¶¶ 22-24 (2000) (“2000 Order”), and Second Notice of Proposed Rulemaking, 12 FCC Rcd 17706, ¶¶ 196-206 (1997); AT&T Comments at 7-9.

<sup>2</sup> See AT&T Comments at 6-10.

DHS and industry stakeholders. Innovation in public safety services *will* continue irrespective of whether the Commission acts on the Petition.<sup>3</sup>

Verizon nonetheless understands DHS’s desire to establish a more formal framework for WPS’s development and expansion, and expects to offer additional suggestions in its ongoing discussions with NTIA and DHS. Should the Commission decide to move forward with new rules, the requirements proposed in the Petition<sup>4</sup> would, for the most part, achieve a workable framework by formalizing DHS’s and the wireless industry’s understanding of how WPS capabilities should evolve. Some changes in the Petition’s draft rules are warranted, though, to ensure that the rules are both internally consistent<sup>5</sup> and consistent with the Commission’s broader light-touch approach to IP-enabled services. Also, any rules should not inadvertently restrict the services wireless providers may offer government users,<sup>6</sup> or unnecessarily restrict the government’s ability to adapt the WPS program to changing technologies and first responder needs.<sup>7</sup>

Since the Petition would expand the WPS program to non-common carrier IP-enabled services, the Commission should relocate the rules from the Part 64 “common carrier” rules and redesignate them in Part 1 (or somewhere else below Part 20). This reorganization would be

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<sup>3</sup> Verizon does not agree that “providers will not offer vital public safety communications products” without further Commission action. *See* TechFreedom Comments at 4-5.

<sup>4</sup> *See* National Telecommunications and Information Administration, Petition for Rulemaking, Services, WT Docket No. 96-86 (July 9, 2018) (“Petition”); *Public Notice*, WT Docket No. 96-86, DA 18-845 (PSHSB Aug. 13, 2018).

<sup>5</sup> For example, service users’ provision of service-related information at section 3.e.10 of the proposed rules will need to be expansive enough for service providers to provide DHS with the usage-related information described at section 3.f.3. This detail could also be addressed through contractual arrangements among stakeholders instead. *See* AT&T Comments at 5.

<sup>6</sup> *See* AT&T Comments at 6-7.

<sup>7</sup> *See id.* at 4.

consistent with prior actions for other public safety-related rules when the Commission expanded them beyond traditional common carrier services, such as CALEA and outage reporting.<sup>8</sup>

Relatedly, the term “CMRS” in the draft rules should be modified to “mobile service” to better comport with legal developments since the rules were first adopted in 2000.<sup>9</sup>

In addition, the draft rules appear unnecessarily detailed or prescriptive in some places.<sup>10</sup> For example, revised Section 3.d.5 would erroneously presume that a user would have visibility into whether the wireless provider’s network is suffering congestion before invoking WPS. End users do not have such visibility, nor do they need it. Section 3.f of the draft rules also would tie participating service providers to specific releases of various technical standards.<sup>11</sup> This could unnecessarily hamstring DHS, service providers and Commission staff as wireless technical standards and stakeholder expectations evolve in the future, since cross-referencing technical standards in codified rules can raise notice and comment issues when the standards are updated later on.<sup>12</sup> As the Commission has previously found, implementation details are better left to

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<sup>8</sup> *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, Second Report and Order and Memorandum Opinion and Order, 21 FCC Rcd 5360, ¶ 82 (2006) (moving rules to Part 1 as Part 64 “pertains to ‘telecommunications carriers’ under the Communications Act, rather than the broader application of that term under CALEA”); *New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16830, ¶ 1 (2004) (moving from Part 63 common carrier rules to Part 4); cf. 47 C.F.R. Part 9 (interconnected VoIP 911 rules).

<sup>9</sup> See Petition, Attachment 1; *Restoring Internet Freedom*, Declaratory Ruling, Order and Report and Order, 33 FCC Rcd 311, ¶¶ 74-85 (2018) (deeming mobile broadband service *private* mobile radio service and declining to “address whether IP-based services or applications such as Wi-Fi Calling or VoLTE would meet the definition of ‘interconnected service’ under section 332”); see also AT&T Comments at 9.

<sup>10</sup> See AT&T Comments at 4-5.

<sup>11</sup> See Petition, Attachment 1.

<sup>12</sup> See *Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment, Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies*, Report and Order, 29 FCC Rcd 16335, ¶¶ 85-87 (2014).

standards bodies, the service arrangements between DHS and participating service providers, and providers' network practices.<sup>13</sup> This conclusion applies with equal force today, including for standards and protocols for prioritization and preemption. And the Petition's proposal that the rules would "specify requirements that ensure WPS service providers meet the survivability of NS/EP communications outlined in [Executive Order] 13618"<sup>14</sup> is overbroad. Survivability issues such as "hardness, redundancy, mobility, connectivity, interoperability, restorability, and security" are already addressed through service providers' existing commercial network reliability and resiliency practices and best left to service provider-DHS discussions.<sup>15</sup>

Finally, Verizon generally supports the priority levels and allocations described in the Petition, including reaffirming that WPS Priority Level 1 users (those serving the President) are always given top priority, and expanding eligibility for the "Leadership and Key Personnel" category to better reflect today's diversity of first responder and critical infrastructure wireless users.<sup>16</sup> Extending WPS to a broader set of services and users, and the need to ensure the highest level of priority for the President, merit a uniform, consistently applied prioritization and preemption regime across all providers. A consistent, interoperable WPS system could be a model for public safety priority and preemption offerings offered outside the WPS context. In all

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<sup>13</sup> See *2000 Order*, ¶ 27 n.99, ¶ 35; see also *id.* ¶ 18 ("permit[ting] carriers to limit [WPS] to a portion of their spectrum").

<sup>14</sup> See Petition at 12-13 (citing Executive Order 13618, *Assignment of National Security and Emergency Preparedness Communications Functions*, § 5.2(b) (July 6, 2012)).

<sup>15</sup> See Executive Order 13618 § 5.2(b); Verizon Comments, PS Docket No. 17-344, at 3-7 (2017) (describing Verizon's network reliability and resiliency practices); AT&T Comments at 4-5.

<sup>16</sup> See Petition at 19-20.

events, DHS and the Commission should enable service providers to implement WPS and other prioritization and preemption offerings in a competitively neutral way.<sup>17</sup>

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If the Commission proceeds with new rules, these suggested changes would help ensure that they strike the right balance between the Commission's light regulatory approach to wireless and IP-enabled services, and giving DHS and government WPS users a legal framework within which the program can continue to meet prioritization and preemption needs as technology evolves.

Respectfully submitted,

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<sup>17</sup> As AT&T notes, "WPS providers are [not] *prohibited* from offering preemption of in-progress calls through their individual service contracts with WPS users." AT&T Comments at 7.