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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:)
)
Revision of the Commission's)
Rules To Ensure Compatibility)
With Enhanced 911 Emergency)
Calling Systems)

CC Docket No. 94-102

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PETITION FOR RECONSIDERATION

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Rules To Ensure Compatibility)	RM-8143
With Enhanced 911 Emergency)	
Calling Systems)	

PETITION FOR RECONSIDERATION

The Personal Communications Industry Association ("PCIA")¹ respectfully petitions for clarification and reconsideration of the above-captioned *Report and Order*.² While PCIA supports the implementation of E911 capabilities by wireless carriers, the regulations adopted for wireless E911 must consider the technical and practical realities facing commercial and other covered mobile radio service providers. Specifically, the regulatory regime set forth in the *Report and Order* should be modified on reconsideration to clarify certain requirements and to ensure that the rules are both technically feasible and economically equitable.

¹ PCIA is the international trade association created to represent the interests of both the commercial and the private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

² FCC 96-264 (July 26, 1996) ("*Report and Order*").

I. INTRODUCTION AND SUMMARY\

The *Report and Order* in this proceeding promulgates a number of rules designed to ensure that wireless networks and mobile units are compatible with enhanced 911 ("E911") systems. Among other things, the *Report and Order* adopts the following requirements for "covered" wireless service providers:

- ▶ *First*, covered carriers are required to send a call back number and cell segment information to public safety answering points ("PSAPs") within 18 months of the effective date of the *Report and Order* (Phase I requirements).
- ▶ *Second*, at the request of a PSAP, covered carriers are required to process and route 911 calls from non-service initialized mobiles.
- ▶ *Third*, covered carriers are required to provide access to 911 services to the speech and hearing impaired within 12 months of the effective date of the *Report and Order*.
- ▶ *Fourth*, within five years, covered carriers are required to provide PSAPs the longitude and latitude of a wireless caller, accurate to 125 meters in 67 percent of all cases (Phase II requirements).
- ▶ *Fifth*, meeting the Commission's automatic number identification requirements is made contingent on the "adoption" of funding mechanisms by the states.

For purposes of these rules, "covered" carriers include cellular and PCS providers as well as some, but not all, specialized mobile radio ("SMR") carriers.

PCIA urges the Commission to clarify and reconsider aspects of the E911 regulations adopted in the *Report and Order*. First, the FCC should clarify the relationship between "code identification" and a meaningful call back number, and determine whether the rules require carriers to send PSAPs the caller's "calling party number" or their "automatic number identification." Further, requiring carriers to pass non-service initialized calls to

PSAPs will make it impossible for PSAPs to call back the 911 caller, thereby defeating one of the most important features of E911.

Second, the Commission should reconsider the decision to require wireless carriers to route 911 calls from non-service initialized mobile units on a PSAP-by-PSAP basis, which implicates severe technical difficulties. If carriers are nonetheless required to perform selective routing, the Commission should shield carriers from liability for not routing non-service initialized 911 calls to non-requesting PSAPs.

Third, the Commission should reconsider its text telephone device ("TTY") compatibility deadline and its Phase II deployment schedule. Because the significant incompatibilities between digital CMRS networks and existing TTYs have not yet been resolved by inter-industry committees, the Commission should suspend its 12 month implementation deadline and defer the TTY portion of this proceeding until industry standards bodies have resolved certain technical issues. Similarly, because there currently are no digitally compatible automatic location identification ("ALI") technologies, and because the ALI technology referenced in the Consensus Agreement has not yet been sufficiently field tested, the Phase II deployment schedule should be deferred for at least two or three years beyond the proposed five year deadline.

Fourth, the Commission should also make the Phase I and Phase II requirements adopted in the *Report and Order* contingent on the *implementation* of adequate funding mechanisms rather than the *adoption* of funding mechanisms. This rule revision will avoid

requiring wireless carriers to make large capital expenditures until there exists a firm commitment from the states and localities to support wireless E911 services.

Finally, the Commission should narrow the definition of "covered" carriers to exclude small SMR operators. This definition should be narrowed because customers of such operators do not expect the same access to emergency services as do customers of cellular carriers or broadband PCS providers. Further, various technological and economic factors make the implementation of E911 requirements impractical for small SMR systems.

The clarifications and revisions requested herein are critical to implementing wireless E911 in a rational and equitable manner. These suggestions ensure that regulatory mandates are clear and technically feasible, and that implementation deadlines are not triggered prematurely in advance of needs or industry developments. PCIA urges the Commission to reconsider aspects of the *Report and Order*, and to issue clarifications and revisions consistent with these suggestions.

II. ELEMENTS OF THE PROPOSED PHASE I DEPLOYMENT SCHEDULE REQUIRE CLARIFICATION

The *Report and Order* requires that, within 12 months of the effective date of these rules, covered carriers must begin to implement a system that relays the caller's call back number and cell site information to the PSAP. Carriers must complete this Phase I deployment within 18 months.³ As a technical matter, a prerequisite to the implementation of these requirements is the ability of mobile units to transmit unique data that enables

³ *Report and Order*, ¶ 63.

carriers to "reconstruct" a call back number from stored database information. Only if a call back number can be reconstructed will useful and intelligible information be passed to the PSAP.

In order for carriers to be able to implement Phase I, the Commission should clarify two aspects of the *Report and Order*. First, the Commission should clarify the meaning of "code identification" and indicate whether Phase I implementation rules require covered carriers to transmit a meaningful call back number if the mobile unit is not service initialized. Second, the Commission should clarify whether the Phase I implementation rules require carriers to pass automatic number identification ("ANI") or calling party number ("CPN") as the call back number.

Although the *Report and Order* defines "code identification,"⁴ carriers are unsure of how the definition relates to the call back rules. All technologies with a unique code identifier can provide call back and subscriber information. Cellular and some PCS mobile units, for example, have a mobile identification number ("MIN")⁵ that is programmed by a carrier's authorized representative.

⁴ "Code identification" is defined as (1) in the case of calls transmitted over non-SMR systems, a call originated from a mobile unit that has a Mobile Identification Number (MIN); and (2) in the case of calls transmitted over SMR systems, a call originated from a mobile unit that has the functional equivalent of a MIN. *Report and Order*, ¶ 10 n.12.

⁵ A MIN is defined as "a 34-bit binary number that a PCS or cellular handset transmits as part of the process of identifying itself to wireless networks. Each handset has one MIN, and it is derived from the ten-digit North American Numbering Plan (NANP) telephone number that generally is programmed into the handset at the time service for a new subscriber is initiated." *Report and Order*, ¶ 10 n.12.

Other CMRS mobile units, however, do not have MINs and providing call back information is not possible. Specifically, in both the IS-661 and PCS-1900 technologies, mobile units are uniquely identified with an International Mobile Subscriber Identity ("IMSI") number. These IMSIs are 15-digit numbers that do *not* contain the directory telephone number (Mobile Station Integrated Services Data Network number or "MSISDN") of the mobile unit.⁶ Because the association between the IMSI and the directory number is made only in the home location register ("HLR") database of the customer's home network, providing the PSAP with the IMSI is fruitless. Finally, in some cases, a mobile unit may not even possess a valid MSISDN, even if it has a valid IMSI.

Thus, as defined by the FCC, the existence of a "code identifier" does not correlate with the ability to provide call back information. The intent of the Commission to provide such information would be better served, and the definition of "code identification" would become technology independent, if the term mobile identification number were re-defined as "a unique identifier assigned to a mobile unit, from which the serving network operator may determine the directory telephone number (if any) assigned to the mobile station."

In addition, if the FCC continues to require 911 access from non-service initialized handsets, the Commission should also clarify carriers' obligations to provide call back information for such handsets. For non-service initialized handsets, the information that

⁶ The IMSI is programmed into a Security Identity Module ("SIM") that can be removed from the handset. In addition, as a matter of network security, the IMSI is not always transmitted. Rather, the Temporary Mobile Station Identifier ("TMSI") is transmitted whenever possible.

happens to be in the data area where the MIN or its equivalent normally is stored may or may not be meaningful. Thus, if a customer dialing 911 has failed to initialize his or her phone, then the carrier's obligation should extend only to transmitting to the PSAP what logically should be a call back number, whether or not that number is valid.

Finally, with respect to call back numbers, it is unclear whether the FCC wants carriers to use ANI or CPN to provide a call back number. In the past, the FCC has stated that ANI should be used for billing purposes, while CPN is to be used for call back purposes.⁷ In order to allow carriers sufficient time to properly configure their networks, the Commission should clearly state which data type wireless carriers are required to send to PSAPs for call back purposes.

III. CMRS PROVIDERS CANNOT PROVIDE CALL BACK INFORMATION FOR NON-SERVICE INITIALIZED CUSTOMERS

Neither the JEM Report nor the Consensus Agreement required carriers to make 911 available to non-service initialized customers. The *Report and Order*, however, requires that, upon PSAP request, covered carriers must forward "all 911 calls from handsets that transmit a code identification," regardless of whether the handset is "service initialized."⁸ The rationale for this departure from industry recommendations is that pay telephones are required to provide free 911 access and that "a pay telephone is the closest wireline analogy

⁷ See *Rules and Policies Regarding Calling Number Identification Service*, 9 FCC Rcd 1764, ¶ 3 n.5, 6 (1994) (stating that ANI is used "by LECs and IXC's to identify telephone numbers for billing purposes" while CPN contains the subscriber line number).

⁸ *Report and Order*, ¶ 33.

to a wireless handset, in terms of offering a capability of accessing 911 service while the user is away from his or her home or office."⁹

Not only are pay telephones and CMRS mobile units not analogous, but providing 911 service to non-service initialized customers will make it impossible for PSAPs to call back wireless callers. Therefore, the Commission should reconsider its decision to require carriers to route 911 calls made by non-service initialized customers.

Preliminarily, pay telephones and CMRS mobile units are not analogous. Payphones are owned and operated by either local exchange carriers ("LECs") or competitive payphone owners,¹⁰ *not* by private individuals. Further, LEC-owned payphones are provided by entities that are public utilities and carriers of last resort, and are therefore required to provide service to all customers in their service areas. Finally, all payphone owners are entitled to compensation for "each and every completed intrastate and interstate call" under Section 276 of the 1996 Act. Thus, any obligation to provide E911 service to the general public is offset by a guaranteed source of funding for all payphone calls.

By contrast, the entity responsible for maintaining and operating CMRS mobile units is the individual customer, who is not given any monetary assistance to perform these

⁹ *Id.*, ¶ 37.

¹⁰ At present there are about 1.5 million LEC-owned payphones and 350,000 competitively provided payphones in the United States. *Implementation of the Pay Telephone Reclassification and Competition Provisions of the Telecommunications Act of 1996*, CC Docket 96-128, ¶ 6 (June 6, 1996).

functions. It seems inequitable to subject such individuals to the same regulatory treatment as the well compensated corporate entities that provide payphone service.

In addition, requiring wireless carriers to process calls from non-service initialized customers will deny PSAPs access to the call back number of these customers. As described in greater detail above, while a carrier might be able to provide PSAPs with whatever data is in the space normally reserved for the MIN, for non-service initialized customers, this data will not be translatable into a call back number.

IV. PSAP-BY-PSAP ROUTING OF NON-SERVICE INITIALIZED 911 CALLS IS DIFFICULT TO IMPLEMENT AND BAD PUBLIC POLICY

PCIA questions the *Report and Order* assertions that: (1) "current technology enables carrier switches selectively to transmit non-code identification 911 calls to some PSAPs and not to other PSAPs;" and (2) even in cases where such technology has not been employed, PSAP Administrators will be able to coordinate decisions as to whether to receive non-code identification calls.¹¹ As a practical matter, the nature of wireless communications networks makes a PSAP-by-PSAP choice for receiving calls impractical because one wireless switch generally serves many PSAPs, and may even cross state lines. Not only is it unclear whether these switches can be programmed to route 911 calls to only some PSAPs, but the fact that different states will have different E911 requirements might make coordination by "local" PSAP Administrators impossible.

¹¹ *Report and Order*, ¶ 40.

Moreover, allowing PSAP-by-PSAP decisions as to what calls to accept will create a patchwork of counties -- some of which provide wireless E911, others of which do not. It seems irrational to create a system wherein a caller's safety depends upon the county where the caller is located. Instead, PCIA believes there should be a nationwide E911 policy so that customers and carriers know exactly what type of E911 service to expect.

If, despite PCIA's well-founded concerns, the FCC does require CMRS providers to route non-service initialized calls *only* to requesting PSAPs, then the FCC should, at a minimum, protect carriers from liability for those calls they *do not* route to non-requesting PSAPs. As the Commission correctly notes, liability protection has traditionally been a state law issue.¹² Given that state legislatures cannot be expected to provide such protection within the Commission's 12 month implementation deadline, PCIA believes Commission action in this case is critical.

V. 911 ACCESS FOR TEXT TELEPHONE DEVICES SHOULD NOT BE MANDATED UNTIL INDUSTRY STANDARDS BODIES HAVE RESOLVED CERTAIN TECHNICAL ISSUES

The *Report and Order* requires that, not later than 12 months after the effective date of these rules, covered carriers must transmit 911 calls originated from text telephones to PSAPs.¹³ At the same time, however, the FCC also admits that interface standards between TTYs and wireless systems are currently lacking, and calls on industry standard bodies to set

¹² See *id.*, ¶ 99.

¹³ *Id.*, ¶ 50.

these standards "before the end of this calendar year."¹⁴ While PCIA's members are attempting to implement TTY access as rapidly as possible, they are concerned that a number of technical issues will not be resolved within 12 months of the effective date of this order.

Specifically, there are at least two complex technical issues that must be overcome in order to comply with the Commission's TTY compatibility requirements. First, digital wireless systems must be made capable of transmitting the 300 baud modem tones required by older TTYs. Second, different standards must be promulgated for digital and analog TTY devices because digital CMRS networks -- unlike analog networks -- distinguish between voice and data transmissions in order to implement such features as error detection and correction.

At present, wireless equipment manufacturers are entering into discussions with TTY manufacturers in order to resolve these issues. Given these discussions and the need to quickly implement other aspects of wireless E911, PCIA believes the FCC should defer resolution of the TTY access portions of the *Report and Order* until after industry groups have set standards for wireless TTY compatibility. After such standards have been set, the Commission should convene a wireless TTY technology forum, and, based on the input it receives from manufacturers and carriers, set an implementation schedule.

¹⁴ *Id.*, ¶ 51.

VI. COMPLIANCE WITH THE PHASE II IMPLEMENTATION SCHEDULE DOES NOT APPEAR TECHNICALLY FEASIBLE

Within five years, the *Report and Order* requires wireless carriers to provide PSAPs with automatic location information ("ALI") accurate to a 125 meter two dimensional radius in 67 percent of all cases.¹⁵ The Commission acknowledges that wireless carriers "see obstacles to implementing Phase II in five years."¹⁶ However, because "the equipment manufacturers believe a five-year deadline is achievable," the Commission has promulgated a five year implementation schedule.¹⁷

In its supplemental comments, PCIA pointed out a number of fundamental problems inherent in the triangulation ALI technology underlying the Consensus Agreement's requirements. First, it is unclear how robustly the system will perform in a real world, mobile environment. Second, the technology may not work with all air interfaces, including PCS and SMR air interface standards. Third, the triangulation-based location technology performs poorly, if at all, in many urban and rural areas where a mobile unit cannot receive three signals. Indeed, the system simply will not work for single tower systems such as SMR systems, or for cable based PCS systems that utilize distributed antennas. Finally, to PCIA's knowledge, no digital systems have been field tested with this location technology.

Under the circumstances, the goal of a five year implementation schedule is overly ambitious. Indeed, standards bodies have yet to even promulgate performance standards for

¹⁵ *Id.*, ¶¶ 68, 71.

¹⁶ *Id.*, ¶ 68.

¹⁷ *Id.*

the provision of wireless ALI. After these performance standards are promulgated, standards for equipment design, data transfer, and interoperability must be developed for LECs, wireless carriers, and PSAPs. Further, even after these performance and design standards are promulgated, prototype devices must be manufactured and tested. Finally, production versions of any location system must be manufactured and thoroughly field tested prior to being put into use. Thus, it is not surprising that some PCIA members have submitted requests for proposals to supply them with location systems, but no manufacturer has responded with a proposal that makes a five year implementation schedule feasible. PCIA accordingly requests that the Commission reconsider the five year deadline for the implementation of wireless ALI. In two to three years, technical standards will have been set, and location technologies will be more mature. At that point, the FCC should convene a wireless ALI technology forum, and, based on the input it receives from manufacturers and carriers, set an implementation schedule.

VII. COMPLIANCE WITH PHASE I AND PHASE II REQUIREMENTS SHOULD BE CONTINGENT ON THE IMPLEMENTATION OF EQUITABLE COST RECOVERY MECHANISMS

The FCC's deadlines should be contingent on the *implementation* of *equitable* cost recovery schemes in each state, rather than "contingent upon the *adoption* of a cost recovery mechanism."¹⁸ At best, making the implementation of wireless E911 contingent on the *adoption*, as opposed to the *implementation*, of state funding mechanisms might leave wireless carriers with their available capital tied up in large infrastructure investments

¹⁸ *Id.*, ¶ 89.

pending state reimbursement. Given the nature of the legislative process, it is quite possible that such funding will be substantially delayed, be less than what was originally called for by the legislature, or be eliminated.

Therefore, the Commission should make carrier compliance contingent on the actual availability of funds. This would ensure that carriers are not put in the difficult position of making cash outlays with no guarantee of timely reimbursement.

The implementation deadlines should also be contingent on the implementation of *equitable* cost recovery schemes. Wireless carriers should not be required to contribute any more than wireline carriers towards E911 funding. In particular, PCIA's members are aware of situations where PSAPs have required wireless carriers -- but not wireline carriers -- to pay PSAPs a connection fee prior to accepting wireless E911 calls. The FCC should explicitly preempt such discriminatory actions.

Further, while the Commission has made meeting its Phase I requirements explicitly contingent on the existence of a cost recovery mechanism,¹⁹ the FCC has failed to make the meeting its Phase II requirements similarly contingent on allowing carriers to recover their costs.²⁰ As noted above, the Commission should require the *implementation* of cost recovery rules prior to requiring carriers to meet either the Phase I or Phase II requirements. Even if the Commission adheres to the original "adoption" language, the Commission should

¹⁹ See *Report and Order*, ¶ 63.

²⁰ See *id.*, ¶ 69.

rationalize its Phase I and Phase II requirements, and not require carriers to implement Phase II unless "a cost recovery mechanism is in place."²¹

Finally, the FCC should clarify that the funding mechanism established by each individual state should permit CMRS carriers to recover the costs of terminating their interconnection agreements. LEC interconnection agreements have early termination penalties that will be triggered by the implementation of new agreements that provide for E911 services. Therefore, CMRS carriers should be permitted to either recover these termination costs, or the wireless E911 requirement should be tolled until the expiration of a carrier's current interconnection agreement.

VIII. E911 REQUIREMENTS SHOULD NOT BE IMPOSED ON SMALL SMR OPERATORS

In addition to cellular and broadband PCS carriers, certain "covered" SMR providers are required to provide wireless E911 services. These "covered" SMRs include: (1) 800 MHz and 900 MHz SMR licensees that hold geographic area licenses; and (2) incumbent wide area SMR licensees -- defined as licensees who have obtained extended implementation authorizations in the 800 MHz or 900 MHz SMR service, either by waiver or under Section 90.629 of the Commission's Rules.²² However, the Commission excluded "local SMR licensees offering mainly dispatch services to specialized customers in a non-cellular system configuration" and "licensees offering only data, one-way, or stored voice services on an

²¹ *Id.*, ¶ 63.

²² *Id.*, ¶¶ 80-81.

interconnected basis," noting that these licensees "do not compete substantially with cellular and broadband PCS providers."²³

PCIA agrees that cellular and broadband PCS carriers should be covered by these rules. However, as noted in its Petition For Reconsideration in the CMRS Resale proceeding,²⁴ in defining "covered SMR providers," the Commission did not take into account that geographic area SMR licensees may choose to offer "mainly dispatch services to specialized customers in a non-cellular system configuration." Further, at 900 MHz an allocation of 10 channels is hardly sufficient to permit licensees to compete with cellular and broadband PCS. In addition, depending on the final rules adopted in the 800 MHz SMR proceeding, there may be hundreds of "local" geographic SMR licensees with 5 to 20 channels offering only limited interconnection. Finally, comparable scenarios could occur in the 220-222 MHz band, where the Commission is considering geographic-area licensing rules likely to result in the creation of geographic area licensing rules likely to result in the creation of small SMR operators offering limited interconnection.

PCIA believes that the Commission intended to exclude these types of systems from its E911 requirements. Moreover, there are compelling policy grounds for amending the rules to exempt all small SMR carriers from these requirements. Most importantly, consumers expect different things from small SMR systems than they do from cellular and

²³ *Id.*, ¶ 81.

²⁴ PCIA's Petition For Reconsideration in *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, First Report and Order, CC Docket 94-54 (filed Aug. 23, 1996).

broadband PCS systems. Specifically, these fleet dispatch customers do not expect a call to "911" to summon assistance to the location of the mobile unit. Rather, they expect to contact the dispatcher by SMR, and have the dispatcher send help to their location. Further, in small SMR systems -- especially those used for fleet dispatch -- the call back number is usually the dispatcher. Therefore the implementation of Phase I would serve no useful purpose. Finally, the implementation costs for E911 systems would overwhelm operators of small SMR systems, many of whom are low profit margin, small business men and women.

Therefore, the Commission should employ a simple mobile count definition to determine whether an SMR operator is a "covered SMR provider." Under this approach, when an SMR system -- not individual call signs -- reaches a certain number of mobile units,²⁵ it would be a "covered SMR provider," assuming that it is a CMRS licensee. Because CMRS operators are already required to report the number of mobiles on their systems on an annual basis in order to pay regulatory fees, the Commission will know immediately whether a particular system is "covered." Furthermore, because the annual mobile count submitted in conjunction with the regulatory fee requirement must be certified, the FCC will have a concrete way to ensure that all "covered" systems are regulated appropriately. Finally, a new mobile count must be supplied to the Commission annually; consequently, systems that currently fall below the threshold will become "covered" if the grow and become competitive with cellular and broadband PCS offerings.

²⁵ PCIA is working with its members to determine the proper mobile count to be used in defining "covered SMR providers." PCIA expects to present the Commission with a more definitive threshold test in its Reply Comments in the CMRS Resale proceeding.

IX. CONCLUSION

PCIA supports the implementation of wireless E911 services in a clear, rational, technically justifiable, and economically equitable manner. Unfortunately, as discussed above, the *Report and Order* in this proceeding sets implementation goals that, in some instances, do not recognize the practical realities of today's technology. PCIA accordingly urges the Commission to clarify and reconsider the *Report and Order* consistent with the recommendations herein.

Respectfully submitted,

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