DOCKET FILE COPY ORIGINAL

DOCKET FILE COPY DUPLICATE

YOUNG & JATLOW
2300 N STREET, N. W.
SUITE 600
WASHINGTON, D. C. 20037

DAVID C. JATLOW
FRANCIS L. YOUNG*
*ADMITTED IN TEXAS

TELEPHONE
(202) 663-9080
TELEFAX
(202) 331-8001

November 26, 1997

RECEIVED OR LATE FILED

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

In re: XYPOINT Corporation
CC Docket 94-102
Ex Parte Communications

Dear Ms. Salas:

Pursuant to the provisions of Section 1.1206 of the Commission's rules, please be advised that on November 26, 1997, Reuven Carlyle of XYPOINT Corporation and the undersigned met with Ari Fitzgerald, Esq. from the Office of Chairman Kennard regarding issues related to the above-referenced proceeding. Mr. Carlyle discussed matters XYPOINT raised in previously filed pleadings and ex parte presentations submitted in this docket, including (1) the necessity for the Commission to ensure that wireless E911 rules are technology neutral and (2) the necessity for CMRS carriers to be able to select their own wireless E911 technology. Attached hereto are written materials provided to Mr. Fitzgerald at this meeting which provide detailed information on the matters discussed.

An original and one copy of this letter is being submitted for inclusion in the record in this proceeding. A copy is also being hand delivered this day to Mr. Fitzgerald.

Respectfully submitted,

David C. Jatlow
Counsel for XYPOINT Corporation

cc: Ari Fitzgerald, Esq. (w/encl)

0+1

I. The Reconsideration Order should clarify that:

CMRS providers should have authority to select their own technology or service delivery method to meet the Phase I requirements.

Neither PSAPs, State or local regulatory agencies or LECs should have authority to or be able to mandate how CMRS providers comply with the Phase I obligations.

II. Clarification will accomplish the following public policy objectives:

Ensures rapid implementation of wireless E911 service

Ensures competition in the delivery of wireless E911 service

Ensures lower prices for delivery of wireless E911 service

III. The FCC should define and clarify what is meant by the ability of a PSAP to "receive and utilize the data elements" in a strictly technology neutral manner

Wireless E911 implementation is not necessarily dependent on PSAP and LEC equipment changes

Ensures there is competition in the marketplace for delivery of wireless E911 services

Eliminates incentives to use the waiver process to avoid wireless E911 obligations

Clarify Licensees' Responsibility to Deliver Wireless E911 Service Elements and Endorse Technology Neutral Solutions for Wireless E911

Amend Section 20.18(d) as follows:

> (d) As of April 1, 1998, licensees subject to this section must relay to equipment at the Public Safety Answering Point, the telephone number of the originator of a 911 call and the location of the cell site or base station receiving a 911 call from any mobile handset or text telephone device accessing their systems, ~~to the designated Public Safety Answering Point~~ through the use of Pseudo Automatic Number Identification and Automatic Number Identification without the Public Safety Answering Point having to incur significant expense for special equipment or undertake extraordinary actions. Licensees shall not be restricted or prohibited from using any technology or service delivery method to comply with the provisions of this section.

Rationale: Language is added to make it clear that (1) licensees subject to the Phase I rules have an affirmative obligation to deliver Automatic Number Information ("ANI") and Pseudo Automatic Number Information ("P-ANI") in a useful and practical format to the premises of the PSAP and (2) that the PSAP does not have an obligation to expend substantial funds or take extraordinary actions to utilize the data. These changes provide more explicit direction on what obligations are being imposed on licensees subject to the rules. The language also ensures PSAPs that they will not have to make major modifications to their facilities or expend substantial funds if they request Phase I services, especially since some Phase I solutions do not require such actions to be taken by PSAPs. Taken together, the proposed rule changes will create an incentive for PSAPs to make requests for the services, thus expediting the deployment of Phase I wireless E911 services.

The new sentence proposed to be added at the end of Section 20.18(d) also acknowledges that there may be multiple systems capable of providing Phase I wireless services. It is intended to reinforce the concept that the Commission's rules are not intended to favor one

technology over another. This is consistent with the Commission's statements in paragraph 73 of the *Report & Order* that it does not want to micromanage the process of developing technical standards for wireless E911. It is also consistent with the Commission's general policy of adopting rules which are technologically neutral so the marketplace can decide which technology is best suited to meet the Commission's intended purposes. The sentence also serves to place language in the rules which is consistent with the Commission's preemption statements in paragraphs 104-105 of the *Report & Order*, i.e., that it does not want state actions to burden nationwide implementation of E911 services.

PSAPs' Ability to Utilize Phase I Data Elements

Section 20.18(f) should be amended by separating into two subsections the conditions which must be met before covered carriers are required to comply with Phase I requirements. An explanatory note should also be added. The complete text of proposed Section 20.18(f) should be as follows:

> (f) The requirements set forth in paragraphs (d) and (e) of this section shall be applicable only if (i) the administrator of the designated Public Safety Answering Point has requested the services under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and (ii) a mechanism for recovering the costs of the service is in place.
>
> Note to section (f)(i): Among other methods, a Public Safety Answering Point shall be deemed capable of receiving and utilizing the data elements associated with the service if it is capable of providing E911 service for wireline calls.
>
> Rationale for note to section (f)(1): Many PSAPs erroneously believe they will have to replace their existing infrastructures to be able to receive and utilize the data elements associated with Phase I E911 service. In part, some confusion may have been caused by language in paragraph 63 of the *Report & Order* which suggests that PSAPs will have to make significant investments in equipment such as Feature Group D trunks in order to make Phase I wireless E911 services available. The language proposed above is intended to make it clear to PSAPs that

there may be numerous methods to implement Phase I requirements, not all of which require carriers, LECs or PSAPs to upgrade their equipment. Approximately 85% of all PSAPs currently have the capability to provide E911 services for wireline calls. Phase I solutions for wireless E911 exist today which are fully compatible with PSAPs' wireline E911 infrastructures. Express language such as that proposed in this note will eliminate confusion PSAPs have with regard to what constitutes the ability to receive and utilize data elements associated with Phase I wireless E911 service.