useful to convey location information in certain circumstances.[261] A ``pseudo-ANI'' mimics a telephone number, but is used to convey additional information to a PSAP or for other purposes. As TIA and CTIA discuss, the current definition may impair the flexibility of carriers to deliver the called number and the base station or cell site location information in ways that accommodate the capabilities of some wireline switches, and implies a particular implementation that may not be desirable for many wireless carriers.[262]

102. Accordingly, we adopt the revised, implementation neutral definition of ``pseudo-ANI,'' as TIA and CTIA propose, by modifying the Section 20.03 definition of ``pseudo-ANI'' to mean a number, consisting of the same number of digits as ANI, that is not a North American Numbering Plan telephone directory number and may be used in place of an ANI to convey a special meaning. The specific meaning assigned to the pseudo-ANI is determined by agreements, as necessary, between the telephone system originating the call, intermediate telephone systems handling and routing the call, and the destination telephone system.[263]

103. This definition permits the specific meaning of the ``pseudo-ANI'' to be determined by agreements among the telephone systems involved in completing the calls. With respect to Alliance's request that the Commission not leave any issues to industry agreement which may delay the implementation of E911,[264] we do not believe that this modification of the Section 20.03 definition will delay Phase I implementation, because it only gives covered carriers flexibility in implementing Phase I. The change in the definition has no effect on the obligation to provide cell site or base station location information or on the Phase I implementation schedule.

b. Section 20.18(d) Phase I Requirements and Implementation Schedule

104. Upon reviewing the record, we deny BellSouth's petition to revise Section 20.18(d) of the Commission's Rules to require covered carriers to pass ANI *or* ``pseudo-ANI,'' not *both* ANI and ``pseudo-ANI.''[265] Contrary to the BellSouth claim that it is not technologically feasible to pass *both* types of information at this time, the record indicates that it is not only technically feasible, but that the Phase I requirements are already being

[261] *See* TIA Petition at 6-7.

[262] *Id.*; CTIA Petition at 14-15.

[263] *See* TIA Petition at 7; CTIA Petition at 14-15.

[264] Alliance Opposition at 10; *See also* CTIA Petition at 15; Motorola Reply at 5.

[265] *See* BellSouth Petition at 5.

successfully implemented by carriers.[266] While BellSouth's claim is based on the assumption that it is not currently possible to transmit 10-digit directory numbers through the LEC switch without major infrastructure upgrades because of the limited capabilities of the existing wireline-based 911 system, the record indicates that new technology can now provide for transmission of 10-digit telephone numbers using existing LEC systems. XYPOINT, for example, contends that its product can comply with the Phase I requirements without requiring any LEC upgrades.[267] Proctor also claims that its product, Cell-Link System, fully satisfies the Phase I requirements using the existing 911 network, and that it has been implemented in the State of Washington by US West.[268] *Ex parte* comments by the Coalition, of which Bell South is a member, also indicate that 10 digit ANI and pseudo-ANI can both be transmitted to PSAPs if appropriate trunks are used.[269]

105. Moreover, we believe that the progress of TIA's Committee TR 45.2 standards will help resolve any remaining issues related to the implementation of the Phase I requirements.[270] The more flexible definition of ``pseudo-ANI" we are adopting in this Order should also facilitate carrier compliance. Based on current technological developments and the progress made by the industry standards-setting bodies, therefore, we find that there is no reason to modify or delay the Phase I requirements at this time. Thus, we also deny Nextel's request to delay the Phase I implementation schedule for one or two years. The modifications and clarifications we are adopting should make it easier for carriers to comply with the April 1, 1998 final deadline, most carriers appear ready to comply, and any delay would impair public safety. To the extent that Nextel or other carriers have particular problems meeting the Phase I implementation deadline, they may request specific waivers, subject to the requirements described in the *E911 Report and Order*[271] and this section.[272]

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[266] For example, the Phase I and Phase II E911 features have been successfully tested in New Jersey. *See* New Jersey *Ex Parte* Filing (May 21, 1997).

[267] XYPOINT Petition at 1-2. *See also* XYPOINT *Ex Parte* Filing (Mar. 27, 1997).

[268] Proctor *Ex Parte* Filing (June 13, 1997).

[269] Wireless E911 Coalition *Ex Parte* Filing at 13 (July 10, 1997).

[270] The TR-45 (Mobile & Personal Communications Public 800 Standards) committee is within TIA's Mobile and Personal Communications Division (MPCD), developing performance, compatibility, interoperability and service standards for cellular telephone systems in the 800 MHz spectrum. *See* http://www.industry.net/orgunpro/tia.

[271] 11 FCC Rcd at 18710 (para. 66).

[272] *See* para. 107, *infra.*

106. In its petition, BellSouth also claims that, in the absence of any revision to the requirements, the number of carriers requesting waivers may equal or exceed the number of carriers complying with the Phase I implementation schedule. BellSouth contends that new selective routers must be installed in LEC networks in order to pass 10 digit ANI and ``pseudo-ANI.''[273] In the *E911 First Report and Order*, the Commission stated that the inability of a LEC to transmit 10-digit telephone numbers and cell site information can be a basis for a waiver of the Phase I requirements, based on our understanding that the upgrade of the existing LEC networks is a prerequisite to compliance with the Phase I requirements.[274]

107. The record indicates, however, that it is currently feasible to comply with the Phase I requirements based on the current wireline E911 network, without incurring substantial upgrades either to LEC networks or to PSAP equipment. Considering these technological developments, we expect covered carriers to explore all available options, including non-LEC-based solutions, before filing a waiver application. As in the case of a waiver based on a carrier's own equipment upgrade, we will also require a carrier to submit a deployment schedule for meeting the Phase I requirements as a part of any waiver request based on a LEC's capability.

c. Obligation To Provide Call Back Capability

108. Some petitions seek clarification of the call back obligation, contending that carriers cannot always provide a call back number, or reliable call back capability. In the *E911 First Report and Order*, we stated that transmission of ``code-identified'' 911 calls will be useful in enabling PSAPs, *in some cases,* to call back the person seeking emergency assistance if the person's 911 call is disconnected.[275] Thus, the Commission recognized that call back information may not be available for handsets not currently in active service.[276] Because the language in Section 20.18(d) of the Commission's Rules did not clarify this limitation, however, we grant the petitioners' request by clarifying that where the handset's directory number is not known to the serving carrier, the carrier's obligations under this section extend only to delivering 911 calls to PSAPs. Therefore, covered carriers will not be required to provide reliable call back numbers to PSAPs in the case of mobile units that are not associated with a dialable telephone number (for example, because they were designed or offered on an originate-only rate plan, they were never initialized, or the subscription has

[273] BellSouth Petition at 5-7.

[274] *E911 First Report and Order*, 11 FCC Rcd at 18710 (para. 66).

[275] *Id.* at 18694 (para. 35).

[276] *Id.* at 18694-96 (paras. 35, 38).

lapsed).[277] Carriers will be expected to transmit all calling party information that is compatible with their systems for 911 calls from validated customers.

109. While we acknowledge that it is not currently possible for carriers to provide reliable call back numbers for all wireless 911 calls, and it is unlikely that the capabilities can be developed, tested, and implemented prior to the scheduled April 1, 1998, implementation date, we urge the wireless industry to continue their efforts to evaluate and develop these capabilities. In particular, we note Alliance's claim that call back capability is technically feasible in almost all situations, including ``non-code identification'' 911 calls,[278] while also noting the various rebuttals to that claim.[279]

110. While parties argue that Alliance's proposed solution is fraught with problems, and that the time and costs associated with developing the solution advocated by Alliance would be prohibitive,[280] they also concede that it may be possible in the future to create unique call back capabilities for non-service initialized handsets.[281] SBMS, for example, claims that substantial development work by switch manufacturers, along with network reconfiguration by wireless carriers, would be required to allow carriers to provide reliable call back numbers for all wireless 911 calls.[282] Because the present record is insufficient to evaluate Alliance's proposed solution, however, we ask signatories to the Consensus Agreement and other interested parties to include a status report on this issue as part of their

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[277] *See* TIA Petition at 10-11. SBMS, BellSouth, CTIA, and PCIA also claim that call back is available only when the caller is a current subscriber of the carrier or of a carrier which has a roaming agreement with the carrier. *See* SBMS Petition at 6-8; BellSouth Petition at 8-9; CTIA Petition at 6-7; PCIA Petition at 6-7; *see also* Coalition *Ex Parte* Filings (June 4, 1997, July 10, 1997, August 8, 1997); GTE *Ex Parte* Filing (July 7, 1997); AirTouch Additional Comments at 6-7; AT&T Additional Comments at 1-2; BANM Additional Comments at 5-6; CTIA Additional Comments at 6-7; NENA Additional Comments at 4-5; SBMS Additional Comments at 3; 360° Communications Additional Comments at 2.

[278] *See* Alliance Opposition at 6; Alliance *Ex Parte* Filings (July 11, 1997, Aug. 4, 1997); s*ee also* Alliance Comments on *E911 Second NPRM*, Appendix D.

[279] *See* AirTouch Additional Comments at 6-7; AT&T Additional Comments at 1-2; BANM Additional Comments at 5-6; CTIA Additional Comments at 6-7; NENA Additional Comments at 4-5; SBMS Additional Comments at 3; 360° Communications Additional Comments at 2; Coalition *Ex Parte* Filing (Aug. 8, 1997).

[280] *See* AirTouch Additional Comments at 6-7; AT&T Additional Comments at 1-2; BANM Additional Comments at 5-6; CTIA Additional Comments at 6-7; NENA Additional Comments at 4-5; SBMS Additional Comments at 3; 360° Communications Additional Comments at 2; Coalition *Ex Parte* Filing (Aug. 8, 1997); BellSouth Reply at 4-6.

[281] *See, e.g.*, BellSouth Reply at 4; AirTouch Additional Comments at 8-9.

[282] SBMS Petition at 6-8.

scheduled annual reports to us.[283] We will revisit this issue when we resolve remaining issues in later stages of this proceeding.

E. Phase II E911 Requirements

1. Background and Pleadings

111. For E911 Phase II, we adopted rules requiring that, as of October 1, 2001, covered carriers provide to the designated PSAP the location of a 911 call by longitude and latitude within a radius of no more than 125 meters in 67 percent of all cases.[284] Based on the record and reports from actual trials of ALI technologies, we determined that the degree of accuracy should be calculated through the use of Root Mean Square (RMS) methodology.[285] To comply with this requirement, covered carriers must attempt to determine mobile unit location in each case in which a 911 call transits their system. For purposes of applying the RMS methodology, we stated that the level of accuracy achieved by the carrier shall be calculated based upon all 911 calls originated in a service area.[286]

112. In their petitions for reconsideration, BellSouth, PCIA, Omnipoint, and Nokia ask the Commission to reconsider the Phase II ALI requirements, contending that the five-year implementation schedule is premature. BellSouth, for example, urges the Commission to eliminate the current five-year Phase II deadline in favor of convening periodic industry meetings throughout the next two years to evaluate the status of end-to-end solutions.[287] PCIA claims that the implementation date is not feasible for PCS and SMR systems, arguing that the current location technology may not work with PCS and SMR interfaces and no

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[283] We note that the text of the *E911 First Report and Order* indicates that the annual report of the signatories to the Consensus Agreement, PCIA, and Alliance must be filed not later than 30 days following the end of each annual period after the effective date of the *E911 First Report and Order* (*i.e.*, October 31). *See, e.g., E911 First Report and Order*, 11 FCC Rcd at 18742 (para. 132). The ordering clause in the *E911 First Report and Order*, however, requires these parties to file joint annual reports within 30 days after the end of each calendar year (*i.e.*, January 30). *E911 First Report and Order*, 11 FCC Rcd at 18752 (para. 162). We wish to take this opportunity to clarify that we will consider annual reports filed within 30 days after the end of the calendar year to be timely filed.

[284] *E911 First Report and Order*, 11 FCC Rcd at 18712 (para. 71); *see* 47 C.F.R. § 20.18(e).

[285] *Id.* at 18711 (para. 70). Root Mean Square is a method used to calculate the probability that the location information will be accurate. Based on the tests performed by Associated Group and KSI, RMS probability results in accuracy of location measurements within 125 meters two-thirds to three-quarters of the time. *See* Consensus Agreement at 2-3.

[286] *E911 First Report and Order*, 11 FCC Rcd at 18712 (para. 71).

[287] BellSouth Petition at 11-12.

digital systems have been field tested.[288] Similarly, Omnipoint raises several technical issues related to the PCS-1900 and IS-661 system.[289] Nokia also argues that it is too early to determine the feasible accuracy for the different technologies, and urges the Commission to defer the Phase II implementation schedule.[290]

113. On the other hand, other parties, including public safety organizations and location technology developers, urge the Commission to maintain the current Phase II implementation schedule. I-95 Coalition, for example, contends that the accuracy requirement is feasible with the current technology and that any delay in the current requirements would not be warranted.[291] The Joint Commenters and KSI also argue that granting the PCIA and BellSouth petitions would delay the benefits of location technology for as much as three more years, to the detriment of public safety.[292]

114. With regard to the accuracy standard of the Phase II requirement, some petitioners seek modification or clarification of our 125 meter standard by longitude and latitude using RMS. For example, TIA asks that the Commission require carriers to identify the location of 911 callers within 125 meters using measurement and compliance procedures other than longitude and latitude, as determined by industry standards-setting groups.[293] Both the Ameritech and TIA petitions for reconsideration request that the Commission allow other measurement standards, such as Universal Transverse Mercator (UTM) coordinates and State Plane Coordinate Systems (SPCS).[294] In response to these claims, however, KSI argues that there is no need to modify the longitude-latitude form, because this presentation of location is the distortion-free form used to express a position on the globe unambiguously and accurately.[295]

115. After the close of the formal pleading cycle for reconsideration petitions, many parties filed *ex parte* presentations regarding ALI technologies, including network-based

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[288] PCIA Petition at 12-13.

[289] Omnipoint Petition at 16-19.

[290] Nokia Petition at 3-4.

[291] I-95 Coalition Opposition at 1-2.

[292] Joint Commenters Opposition at 4-5; KSI Opposition at 3-6.

[293] TIA Petition at 18-19.

[294] *Id.*; Ameritech Petition at 7.

[295] KSI Opposition at 6-9.

solutions and handset-based technologies using the GPS satellite system.[296] Several of them made inquiries with respect to whether handset-based technologies using the GPS satellite system could comply with the Commission's rules.[297] Other parties urge the Commission not to delay the Phase II implementation schedule, claiming that their products are currently capable of meeting the Phase II ALI requirement.[298] TruePosition, for example, contends that its system is ready to be implemented after successful trials in the State of New Jersey.[299]

116. In addition, TruePosition has provided the Commission with a recent public poll result which, according to TruePosition, demonstrates strong public support for the Commission's E911 Phase II requirements.[300] According to the E911 Public Opinion Poll cited by TruePosition, the public values E911 location capability much more than the traditional caller ID functions or voice mail options commonly offered in wireless packages.[301] Regarding the implementation schedule of the Phase II requirements, 42 percent of the people polled think that companies should be required to offer the ALI service sooner than 2001, while 35 percent support the current 2001 schedule and 17 percent support delay of the

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[296] *See, e.g.*, Cambridge Positioning Systems *Ex Parte* Filing (Mar. 6, 1997); State of New Jersey, Office of Emergency Telecommunications Services (OETS) *Ex Parte* Filing, ``The First 100 Days; A Report on the New Jersey Wireless Enhanced 911 System Trial," (May 21, 1997); TruePosition *Ex Parte* Filings (Aug. 7, 1997; Sept. 9, 1997); SnapTrack *Ex Parte* Filings (June 26, 1997, July 17, 1997); U.S. Wireless *Ex Parte* Filing (July 2, 1997, Oct. 20, 1997); Motorola *Ex Parte* Filing (Sept. 26, 1997); Tendler Cellular *Ex Parte* Filing (Oct. 14, 1997); KSI *Ex Parte* Filing (Oct. 17, 1997); Zoltar Further Reply Comments.

[297] *See, e.g.*, SnapTrack *Ex Parte* Filing (June 26, 1997); Tendler Cellular *Ex Parte* Filing (Oct. 14, 1997); Motolora *Ex Parte* Filing (Sept. 26, 1997); Zoltar Further Reply Comments.

[298] *See* New Jersey OETS *Ex Parte* Filing (May 21, 1997); TruePosition *Ex Parte* Filings (Aug. 7, 1997; Sept. 9, 1997); SnapTrack *Ex Parte* Filings (June 26, 1997, July 17, 1997); U.S. Wireless *Ex Parte* Filings (July 2, 1997, Oct. 20, 1997); Tendler Cellular *Ex Parte* Filing (Oct. 14, 1997); KSI *Ex Parte* Filing (Oct. 17, 1997).

[299] TruePosition *Ex Parte* Filings (Aug. 7, 1997; Sept. 9, 1997).

[300] *See* ``Wireless Enhanced 911 Survey Findings," prepared by Public Opinion Strategies, attached to TruePosition *Ex Parte* Filing (Sept. 9, 1997) (E911 Public Opinion Poll); *see also* TruePosition Further Comments at 2. Public Opinion Strategies conducted a national poll of 800 wireless telephone users or people who considered buying a wireless telephone in the past year. Public Opinion Strategies indicates that the poll was completed on July 31-August 3, 1997, and has a margin of error of $\pm$ 3.45 percent, in 95 out of 100 cases. Of the respondents, 70 percent were people who are current subscribers, while 30 percent were individuals who over the past year have considered buying a wireless phone.

[301] E911 Public Opinion Poll at 3; TruePosition Further Comments at 2. Given a list of five possible wireless services, 61 percent of those polled chose emergency 911 location service as the most important to them personally.

implementation schedule.[302] Ameritech, however, urges the Commission not to rely on the conclusions of the E911 Public Opinion Poll cited by TruePosition, in the absence of additional information allowing the Commission to verify that the survey is reliable.[303]

2. Discussion

a. Phase II Implementation Schedule

117. Based on the record and new evidence presented to us after the adoption of the *E911 First Report and Order*, we reaffirm our commitment to firm target dates for wireless E911, and we deny portions of petitions for reconsideration filed by BellSouth, PCIA, Omnipoint, and Nokia that deal with the Phase II implementation schedule. As an initial matter, a petition for reconsideration must generally rely on facts which have not previously been presented to the Commission, rather than reiterating arguments made prior to the Commission's final action.[304] While these petitioners urge the Commission to defer or modify the Phase II implementation schedule, we find that they fail to present new facts that warrant reconsideration of our decision.

118. BellSouth and Nokia argue that Phase II ALI requirement is premature, in that technical feasibility is not proven for the principal radiolocation technologies discussed on the record.[305] To support its petition to defer the Phase II implementation schedule, BellSouth presents the results of an informal survey of more than 150 equipment vendors as to their ability to provide location information, claiming that no respondent provided assurance that any solution would function across the diversity of BellSouth's systems.[306] In response to BellSouth's claim, however, KSI contends that it referred BellSouth to KSI's filings in this proceeding and preferred to reconvene discussions with BellSouth, rather than providing a detailed description of planned innovations.[307]

119. In addition, in its *ex parte* presentation, Cambridge Positioning Systems (CPS) claims that it has developed technology capable of identifying positions to within 75 meters

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[302] *Id.* at 4.

[303] Ameritech Further Reply Comments at 1-3.

[304] *See* Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429.

[305] BellSouth Petition at 10-12; Nokia Petition at 3-4.

[306] *See* Appendix to BellSouth Petition.

[307] KSI Opposition at 5-6.

using the GSM networks at 900 MHz.[308] We also note that Nokia's petition does not provide any new facts or circumstances that have not previously been presented to us prior to adoption of the *E911 First Report and Order.* In their opposition, the Joint Commenters urge that Nokia's and BellSouth's claims should be disregarded because the Commission made reasonable projections of the pace and affordability of new or developing technologies based on the facts presented in the record.[309]

120. In adopting the Phase II requirements, we found that the record supported the proposal made in the Consensus Agreement that the 5-year implementation schedule for ALI technology allowed adequate time to develop the currently available location technologies for various wireless systems, despite the fact that some commenters claimed it was premature to adopt such a mandatory schedule.[310] Actual testing and other evidence also convinced us that the 125 meter RMS standard is currently technically feasible and represents a satisfactory initial minimum standard.[311] Moreover, technical developments and tests since the adoption of the *E911 First Report and Order* indicate that several location technology vendors have already proved the viability of the required 125 meter RMS standard.[312] Even if this standard were not currently achievable, we also agree with the Joint Commenters that its achievement is a reasonable projection of the pace of this technology. Moreover, we believe that setting a firm date will encourage entrepreneurial efforts and investment to serve this market.

121. While PCIA and Omnipoint contend that the current location technologies may not work for various digital systems,[313] particularly for PCS systems, we believe that the

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[308] *See* CPS *Ex Parte* Filing (Mar. 6, 1997).

[309] Joint Commenters Opposition at 4.

[310] *See E911 First Report and Order*, 11 FCC Rcd at 18711-12 (paras. 70-72).

[311] *Id.* at 18711 (para 70).

[312] *See, e.g.*, State of New Jersey, OETS *Ex Parte* Filing (May 21, 1997); TruePosition *Ex Parte* Filings (Aug. 7, 1997; Sept. 9, 1997); U.S. Wireless *Ex Parte* Filings (July 2, 1997, Oct. 20, 1997); KSI *Ex Parte* Filing (Oct. 17, 1997); *see also* ``Wireless Communications Veterans form Cell-Loc Inc. to tackle growing wireless location market," Business Wire via Individual Inc., June 2, 1997 (reporting Cell-Loc's first product, Cellocate, that, according to the manufacturer, offers equipment manufacturers and wireless carriers a highly accurate, easily scalable, low-cost wireless location solution that meets all the Commission's E911 requirements).

[313] Omnipoint argues that PCS-1900 and IS-661 technologies cannot offer the same accuracy as analog cellular technology because (1) PCS-1900 uses frequency hopping and the hopping sequence must be tracked; (2) PCS-1900 is a TDMA system and IS-661 is a TDMA-CDMA system, both transmitting for a very short time; (3) PCS-1900 does not transmit a signal when the calling party is not speaking; (4) PCS-1900 systems are designed for low antenna heights and small cells in urban areas, which are not clear of urban clutter; and (5) PCS-1900 systems are not designed for major overlap, limiting the number of sites to determine the caller's

Phase II implementation schedule is sufficient to allow parties to develop necessary technology for digital wireless systems. Considering the importance of providing location information during emergencies and the passage of time since the establishment of PCS and the initiation of the E911 proceeding, we determine that the 5-year implementation schedule should not be delayed any longer and we urge the PCS industry and other wireless digital system providers to continue their efforts to comply with the rules. When the Commission adopted rules establishing PCS in 1993, we expressed particular concern that unless E911 capability is designed into PCS equipment, dialing 911 from a PCS telephone would not be sufficient equivalency to dialing 911 from a wireline telephone.[314] We believe that the PCS and other digital system providers had sufficient notice to prepare for the implementation of the E911 features since 1993, and it is not necessary to delay the October 1, 2001 implementation schedule at this time.

122. In view of the recent development of, and demand for, wireless location products and services, we are also confident that our 5-year implementation schedule for the Phase II requirement is technically and commercially feasible for all wireless services, including the digital systems. Although we recognize the technical challenges for the new digital systems, such as TDMA and CDMA, we encourage the wireless carriers, equipment manufacturers, and the location technology vendors to continue their efforts to deploy ALI technologies for digital wireless systems as scheduled, rather than asking for delay so far in advance. Moreover, if a covered carrier cannot comply with the Phase II requirements by October 1, 2001, despite its good faith efforts, such carrier may file a waiver request to us along with its implementation plan, as we indicated in the *E911 First Report and Order*. Therefore, we agree with the Joint Commenters and KSI that granting petitions to reconsider the Phase II implementation schedule due to the technical uncertainties for certain digital systems would not be in the public interest and could unnecessarily delay the benefits of location technology. The Commission will also continue to consider whether requirements establishing a higher degree of ALI accuracy should be adopted to take effect after the close of the 5-year Phase II period.[315]

123. One further point deserves mention. In setting deadlines and benchmarks for ALI, our policy has been to be technologically and competitively neutral. As we indicated in the *E911 First Report and Order*, our intention was to adopt general performance criteria,

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position. Omnipoint Petition at 16-18.

[314] *See* Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, 8 FCC Rcd 7700, 7756 (paras. 139-140) (1993) (*PCS Second Report and Order*).

[315] *See* 11 FCC Rcd at 18743 (para. 137).

rather than extensive technical standards, to guide the development of wireless 911 services.[316] Our goal is to ensure the rapid, efficient, and effective deployment of ALI as part of E911, in order to promote the public safety and welfare. Thus, we have not endorsed or mandated any particular ALI technology or approach, although we did recognize in the *E911 First Report and Order* that the parties at that time expected that ALI technology would be based in the network, not in the handset.[317]

124. Since the *E911 First Report and Order* was adopted, however, we have received several inquiries with respect to whether other technologies, such as handset-based technologies using the GPS satellite system, could comply with our rules.[318] To clarify our policies, we wish to reaffirm that our rules and their application are intended to be technologically and competitively neutral. We do not intend that the implementation deadline, the accuracy standard, or other rules should hamper the development and deployment of the best and most efficient ALI technologies and systems. Manufacturers and other interested parties who believe that our rules could be applied in a way that might unreasonably hamper the deployment of effective ALI solutions may raise this issue in the ongoing rulemaking or by requests for waivers. We do not expect to delay the 2001 deadline, but would consider proposals to phase in implementation, especially to the extent a proposal also helps achieve the further improvements in ALI capabilities we discussed in the *E911 Further NPRM*.[319]

b. ALI Accuracy Standard

125. With respect to the Phase II ALI accuracy standard of 125 meters using RMS methodologies, the I-95 Coalition argues that clarification of the accuracy requirement might be necessary, indicating that some parties might interpret the requirements as being met if the carrier is able to locate 67 percent of the mobile units with 100 percent accuracy or some combination of located users and levels of accuracy.[320] Based on their concern that carriers

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[316] *E911 Report and Order*, 11 FCC Rcd at 18714 (para. 76).

[317] *See id.* at 18732 (para. 111).

[318] *See, e.g.*, SnapTrack *Ex Parte* Filing (June 26, 1997); Tendler Cellular *Ex Parte* Filing (Oct. 14, 1997); Motorola Ex Parte Filing (Sept. 26, 1997); Zoltar Further Reply Comments.

[319] We note that Zoltar in its Further Reply Comments requests the Commission to modify the Phase II requirements to be applicable only to new wireless phones. Because this issue was not put out for further comments and thus no parties had an opportunity to response to Zoltar's proposal, however, we decide to treat Zoltar's pleading on this issue as an *ex parte* request. We may consider reopening the record on this issue upon a formal request. *See* Zoltar Further Reply Comments at 3-4.

[320] I-95 Coalition Opposition at 1-2.

might interpret the requirement as not requiring deployment in rural areas, the I-95 Coalition emphasizes the need for position location in rural as well as urban environments.[321]

126. Section 20.18(e) of the Commission's Rules requires that covered carriers identify the latitude and longitude of a mobile unit making a 911 call, within a radius of no more than 125 meters using RMS measurement.[322] Based upon the Consensus proposal, we determined in the *E911 First Report and Order* that the RMS methodology should be applied to reach this level of accuracy in identifying the location of *each* 911 call.[323] To comply with the rules, therefore, we stated that a carrier must deploy the ALI technology in its service area and determine mobile unit location in *each case* in which a 911 call transits its system.[324] To the extent that the discussion in the *E911 First Report and Order* may be unclear, we clarify that, as of October 1, 2001, licensees subject to this section must provide to the designated PSAP the location of all 911 calls by longitude and latitude such that the RMS is 125 meters or less,[325] which would represent approximately a 67 percent to 75 percent probability that the reported location would be within a 125 meter radius of the caller's actual location. This would include 911 calls made by roamers in a carrier's service area. Therefore, we expect that any Phase II ALI technology deployed by a carrier, whether it is a network-based approach, or any other approach, would satisfy this requirement.[326]

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[321] *Id.*

[322] 47 C.F.R. § 20.18(e).

[323] *E911 First Report and Order*, 11 FCC Rcd at 18712 (paras. 71-72).

[324] *Id.*

[325] With a Gaussian-type (bell curve) distribution, an RMS value of 125 meters would result in approximately 67 percent to 75 percent of all calls having an accuracy of 125 meters or less. Maintaining the RMS approach as our primary standard for defining the prescribed accuracy for E911 calls demonstrates our concern for the accuracy of *all* calls, not just those that are within 125 meters. Under the RMS approach, the degree of error is relevant to assessing accuracy, including errors beyond 125 meters. Such errors are considered to be more tolerable if they are relatively small. This helps assure emergency service personnel that the location of the call is probably relatively near the reported location even if not within 125 meters. The value of E911 ALI for emergency service providers would be quite different if the accuracy of 25 percent or 33 percent of all calls was ignored and an error of, for example, 126 meters was treated as of equal significance with an error of 1,126 meters or of no location information at all.

[326] The parties in the Consensus Agreement and the record in the proceeding generally assured that an effective solution for meeting ALI requirements could use network-based technology without necessitating any handset modifications. It is our understanding that an approach based partly on upgraded handsets might be feasible. *See* CPS *Ex Parte* Filing (Mar. 6, 1997); SnapTrack *Ex Parte* Filing (July 21, 1997).

127. Other commenters urge that carriers be allowed to provide location information using data other than longitude and latitude.[327] TIA urges the Commission to eliminate the longitude and latitude requirements and replace them with their equivalent such as UTM coordinates, contending that UTM coordinates do not have the disadvantages of longitude coordinates, which get closer together as the latitude moves away from the equator.[328] Ameritech also requests the Commission replace the phrase ``longitude and latitude" in Section 20.18(e) with the phrase ``by longitude and latitude or equivalent, available and feasible technological measurement standards," arguing that longitude and latitude measurements may not be the most suitable for emergency telecommunications purposes.[329] Motorola also requests that the requirement be modified to require accuracy as ``within a 125 meter radius using measurement and compliance procedures as determined by industry standards group."[330] On the other hand, KSI argues that the Commission correctly specified accuracy in terms of longitude and latitude, which has advantages of establishing the basis for common interface and system-application designs as well as providing cost effective management of the system in the PSAPs.[331]

128. We believe that it is not in the public interest to revise our rules at this time. While we recognize the intention of Ameritech and TIA to provide flexible ways to comply with our rules, we believe that revision of the accuracy standard could in fact cause more confusion and delay in the deployment of the ALI systems, particularly for PSAPs that need to upgrade their systems to utilize the ALI data. The comments also do not provide a clear basis for concluding that other methods are superior. It is not apparent, for example, that UTM coordinates are preferable in practice because longitude coordinates are closer together away from the Equator. Latitude and longitude are the most universally known method for unambiguously identifying location. PSAPs, of course, can also translate this information into any other format they find useful.

129. The successful trial results in New Jersey convince us that the longitude and latitude measurement standard provides reliable location information relating to 911 callers in emergency situations without significant delay.[332] Moreover, we agree with KSI that the use of the latitude-longitude format, a common standard format for location information, will

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[327] *See* Ameritech Petition at 7; TIA Petition at 17-19; KSI Opposition at 7-9; Motorola Reply at 7-9.

[328] TIA Petition at 17-19.

[329] Ameritech Petition at 7.

[330] Motorola Reply at 7.

[331] KSI Opposition at 7-9.

[332] *See* New Jersey *Ex Parte* Filing (May 21, 1997).

allow the PSAP facilities to provide for the cost-effective management of E911 data. Considering the fact that the record in this proceeding supported the longitude and latitude measurement as a reasonable solution for the emergency situations, and in view of recent developments and actual testing results, we find that there is no need to modify our decision at this time and we thus deny the portion of the Ameritech and TIA petitions that request revision of our ALI accuracy standards. Similarly, we find that Motorola's proposal to allow industry standards-setting groups to determine measurement and compliance procedures could cause unnecessary delay in deployment of the ALI features. To the extent that industry standards-setting groups develop solutions to ALI problems that would improve performance, we will consider appropriate changes to the wireless E911 rules.

F. Other Issues

1. Limitation of Liability

130. In the *E911 First Report and Order*, the Commission decided not to exempt providers of E911 service from liability for certain negligent acts by preempting state tort law.[333] We found that the record did not support the arguments that a general exemption from liability is essential to achieving the goals of the Communications Act.[334] In particular, we noted that displacing the jurisdiction of state courts over tort suits for negligence in installation, performance, provision, or maintenance of E911 systems is not necessary to the inauguration of E911 service.[335] Because there was no evidence that specific state regulations are incompatible with national E911 goals, we determined not to preempt any state laws at this time and to examine the need for specific preemption in the future on a case-by-case basis.[336]

131. In response to concerns raised by some parties that the Wiretap Act[337] could affect 911 operations or the legal liability of carriers, the Commission indicated in the Order that it had requested the Department of Justice to provide a legal opinion of the relationship

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[333] *E911 First Report and Order*, 11 FCC Rcd at 18727 (para. 99).

[334] *Id.* at 18728 (para. 100).

[335] *Id.*

[336] *Id.* at 18730 (para. 105).

[337] The Communications Assistance for Law Enforcement Act of 1994 (``CALEA,'' also referred to as ``Wiretap Act''), among other things, requires telecommunications carriers to ensure that their equipment is capable of permitting the Government (pursuant to a court order or other lawful authorization) to access certain ``call-identifying information'' that is reasonably available to the carrier. *See* Section 1002(a) of the Wiretap Act, 47 U.S.C. § 1002(a).

between the Wiretap Act and the Commission's E911 rules.[338] In a Public Notice issued December 10, 1996, the Commission announced that it had received a Department of Justice Memorandum Opinion finding that the wireless E911 rules do not require persons subject to those rules to engage in any practices that might result in a violation of the Wiretap Act or other applicable provisions of law.[339]

132. Several petitioners seek reconsideration of our decision not to immunize wireless carriers from liability for 911 calls. These parties assert that the failure of the Commission to provide limited liability protection will be an obstacle to E911 implementation, contending that, without Federal liability limitations, state tort actions could interfere with Federal priorities for a workable long-term E911 system and for rapid introduction of more competitive mobile services.[340] In addition, they claim that, if covered carriers are required to provide access to 911 for all callers, including whose with whom they do not have any contractual relationship, they cannot contractually insulate themselves from liability when non-subscribers use their systems.[341] AT&T also requests that the Commission make the Department of Justice's opinion available for review and comments.[342]

133. In its petition, Ameritech requests that the Commission provide covered carriers with a limitation of liability, or alternatively, establish Federal guidelines for liability limitations and encourage public safety planning groups to work with the states to adopt such limitations.[343] In addition, Ameritech asserts that the Commission could make the 911 service deployment obligation contingent upon public safety organizations indemnifying carriers for negligence and other unintended errors, as suggested by US West's Comment on the

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[338] *E911 First Report and Order,* 11 FCC Rcd at 18727 (para. 98).

[339] Public Notice, ``Memorandum Opinion Issued by Department of Justice Concludes that Commission's Recently Adopted Wireless Enhanced 911 Rules Are Consistent with Wiretap Act," DA 96-2067, released Dec. 10, 1996.

[340] *See, e.g.*, Omnipoint Petition at 6; AT&T Petition at 8.

[341] SBMS Petition at 8-11; Omnipoint Petition at 6; BellSouth Petition at 9; AT&T Petition at 7; Ameritech Petition at 11.

[342] AT&T Petition at 7-8.

[343] Ameritech Petition at 14-15. Ameritech also argues that many states do not have specific laws limiting the liability of entities involved in the provision of 911 services. It notes that where states have adopted liability protection, it usually applies to the governmental or public safety employees, not to the telephone company, and if the telephone company is mentioned, it is likely that the law applies to wireline telephone companies and not to the wireless carriers. Ameritech Reply at 5-6, citing Fla. Stat. ch. 365.171(14) (1995).

Consensus Agreement in this proceeding.[344] AT&T argues that wireless carriers should be subject to the same ``gross and wanton negligence" standard applied to wireline carriers by many states, asserting that the Commission's concern about displacing state authority in this context is misplaced.[345] Alternatively, AT&T requests that the Commission require states to treat wireless carriers the same as wireline carriers with respect to liability, contending that such parity is consistent with the statutory goal of according similar regulatory treatment to providers of functionally equivalent services.[346]

134. SBMS proposes that the Commission impose a liability limitation for providing 911 services and mandate that anyone using the carrier's network who does not have a contractual relationship with a carrier is subject to the carrier's standard terms and conditions.[347] In addition, SBMS requests that the Commission determine that a carrier's inability to complete a call or provide the information required by this proceeding shall not be evidence of negligence.[348] BellSouth also argues that carriers cannot control the accuracy of information generated from non-service initialized handsets, and thus should not be liable for inaccurate information provided to PSAPs with regard to such handsets.[349]

135. On the other hand, Joint Commenters and TX-ACSEC oppose the petitions seeking reconsideration of our decision not to provide Federal protection from liability.[350] They reason that, because existing state laws developed over the years for wireline 911 operations provide substantial protection against the privacy and ordinary negligence claims of most callers, and because state legislatures are to clarify that the same limitation of liability clause would apply to all service providers, it is not necessary for the Commission to preempt state tort law to achieve its goal at this time.[351] TX-ACSEC, for example, states that a Texas state district court has held that wireless carriers are covered by the same broad statutory limitation of liability protection as those afforded wireline carriers under Texas law.[352] In

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[344] Ameritech Petition at 14, citing US West Comments on Consensus Agreement at 10.

[345] AT&T Petition at 7-8.

[346] *Id.* at 7.

[347] SBMS Petition at 8-11.

[348] *Id.* at 11.

[349] BellSouth Petition at 9.

[350] Joint Commenters Opposition at 3; TX-ACSEC Opposition at 4-6.

[351] *Id.*

[352] TX-ACSEC Opposition at 4.

addition, Joint Commenters argue that state tort laws on wireless carrier liability would be among those powers reserved to non-Federal authorities by Section 332(c)(3) of the Communications Act.[353] They also object to Ameritech's and US West's suggestion that public safety organizations indemnify carriers.[354]

136. In the September 25, 1997 Joint Letter, the parties request that the Commission defer any decisions regarding carrier liability until the interested parties develop consensus positions.[355] While supporting industry's commitment to continue negotiations with other interested parties, Congresswoman Eshoo urges the Commission not to delay resolution of issues under reconsideration.[356] Parties filing further comments and reply comments generally support the proposal contained in the Joint Letter to defer any decision regarding the carrier liability issue.[357] AT&T, however, contends that prompt resolution of the liability issue is critical.[358] To the extent the Commission is concerned about preempting state tort law, AT&T proposes that the Commission ``could issue a temporary default rule that would apply only where states have not resolved the issue.''[359] Nextel in its further comments also reiterates that the Commission should adopt a provision in this proceeding that would protect carriers from liability and that would preempt state laws to the extent they are inconsistent with the Commission's rules.[360]

137. None of the petitioners, however, presents arguments sufficient to persuade us to modify our determination that it is unnecessary to exempt providers of E911 service from liability for certain negligent acts and to preempt state tort law. As we noted in the *E911 First Report and Order*, states have particular interests in telecommunications and public safety matters, including operation of 911 emergency services.[361] Although the Commission may preempt state regulation when preemption is necessary to protect a valid Federal

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[353] Joint Commenters Opposition at 3.

[354] *Id.*; TX-ACSEC Opposition at 4-6.

[355] Joint Letter at 4.

[356] Eshoo *Ex Parte* Letter (Sept. 29, 1997).

[357] *See, e.g.*, AirTouch Further Comments at 1-2; BellSouth Further Comments at 3; CTIA Further Comments at 6-7; Joint Reply Comments at 1.

[358] AT&T Further Comment at 3.

[359] *Id.*

[360] Nextel Further Comments at 9.

[361] *E911 First Report and Order*, 11 FCC Rcd at 18727 (para. 99).

regulatory objective,[362] we believe it is premature and speculative for the Commission to establish a national standard of liability protection in order to achieve rapid deployment of wireless E911 systems. As the Commission determined in the Order, ``displacing the jurisdiction of state courts over tort suits for negligence in installation, performance, provision, or maintenance of E911 systems is not necessary to the inauguration of E911 service.''[363] Petitioners fail to persuade us that our decision to examine the need for specific preemption in the future on a case-by-case basis was wrong.

138. Petitioners' claims that the limitation of liability is necessary are not convincing, particularly considering the fact that major carriers are already transmitting all 911 calls and no evidence of liability problems is presented in the record of our reconsideration proceeding. Contrary to petitioners' speculative claim that current state laws are not ``likely'' to provide wireless carriers with adequate protection against liability, the record indicates that state legislative bodies and state courts are developing their own solutions to liability issues.[364] While we recognize that not all states currently provide specific statutory limitation of liability protection for wireless carriers, we believe that state courts and state legislatures are the proper forums in which to raise this issue, not the Commission.[365] For similar reasons, we deny AT&T's proposal that the Commission should ensure that wireless carriers are subject to the same ``gross and wanton negligence'' standard applied to wireline carriers by many states.[366] In addition, as TX-ACSEC's opposition proves, certain states are trying to revise

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[362] *E911 Notice*, 9 FCC Rcd at 6181 (para. 59); *E911 First Report and Order*, 11 FCC Rcd at 18729 (para. 104), citing Louisiana Public Service Comm'n v. FCC, 476 U.S. 355 (1986); Illinois Bell Tel. Co. v. FCC, 833 F.2d 104 (D.C. Cir. 1989); California v. FCC, 905 F.2d 1217 (9th Cir. 1990); Texas Public Utility Comm'n v. FCC, 886 F.2d 1325 (D.C. Cir. 1989); North Carolina Utilities Comm'n v. FCC, 522 F.2d 1036 (4th Cir.), *cert. denied*, 434 U.S. 874 (1977).

[363] *E911 First Report and Order*, 11 FCC Rcd at 18728 (para. 100).

[364] For example, the Alaska statute states that except for intentional acts of misconduct or gross negligence, a service supplier, local exchange telephone company, or mobile telephone company, including a cellular service company, and their employees and agents, are immune from tort liability that might be incurred in the course of installing, training, maintaining, or providing enhanced 911 systems or transmitting or receiving calls on the system. Alaska Stat. § 29.35.133; *see also* XYPOINT *Ex Parte* Filing, ``Master Chart of State E911 Laws'' (Mar. 27, 1997) .

[365] Based on XYPOINT's survey of state 911 legislation, Ameritech and Omnipoint argue that many states still do not have specific laws limiting the liability of entities involved in the provision of 911 services. *See* Ameritech Reply at 6; Omnipoint Reply at 3-4.

[366] AT&T Reply at 7.

their tort laws to provide the same limitation of liability to both wireline and wireless services.[367]

139. We also disagree with AT&T that a single uniform national standard of liability is required to achieve the goals of the Communications Act and that the Commission should preempt state tort law under Section 332(c) of the Act.[368] While we recognize covered carriers' concern over potential exposure to liability in the provision of 911 services, we do not believe that the lack of a single national standard of liability should cause delay in implementation of effective wireless 911 services. Wireless carriers already transmit 911 calls without Federal preemption of state liability laws. Moreover, we do not believe that state tort laws dealing with 911 services should be considered as prohibited ``rate and entry regulation of CMRS" under Section 332(c), at least without case-by-case evaluation. We find meritless AT&T's argument that the absence of protection against liability could have an unintended consequence of discouraging E911 deployment where PSAPs decline to hold carriers harmless, because covered carriers must deploy E911 services pursuant to our rules regardless of indemnification by the PSAPs.

140. As an alternative to a Federally mandated limitation of liability, petitioners also argue that the Commission should ``require" states to treat wireless carriers the same as wireline carriers with respect to liability or ``encourage" the public safety community to work with states to develop the necessary framework for indemnification agreements.[369] Although we encourage the public safety community, wireless carriers, as well as state governments, to continue their efforts to develop mutually acceptable indemnification agreements, we affirm our prior decision that it is premature or unnecessary to preempt state laws at this time. We recognize, however, petitioners' claim that they cannot contractually insulate themselves from liability when non-subscribers use their systems.[370] Because covered carriers are required to transmit 911 calls from all handsets regardless of subscription, we agree with SBMS that it would appear reasonable for a carrier to attempt to make the use of its network by a non-subscriber subject to the carrier's terms and conditions for liability.[371] We do not, however, seek to preempt any applicable state laws.

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[367] TX-ACSEC Opposition at 4-6.

[368] AT&T Petition at 8.

[369] *See* AT&T Reply at 8; Ameritech Reply at 7.

[370] SBMS Petition at 8-11; Omnipoint Petition at 6; BellSouth Petition at 9; AT&T Petition at 7; Ameritech Petition at 11.

[371] SBMS Petition at 8-11.

141. We also do not adopt AT&T's proposal that we establish a temporary default rule that would apply only where states have not resolved the issue.[372] This proposal was introduced very late in this proceeding in response to the Wireless Telecommunications Bureau's October 3 Public Notice, although the Notice did not seek additional comment on liability issues. No other party appears to have responded to this proposal. Despite AT&T's suggestion that its proposal relieves concerns about preemption of state tort law, it would appear that adoption of a default standard would in fact operate to preempt state law. If a default is to have any effect, it presumably must at least preclude state courts from applying state common law or precedent to wireless 911 liability issues. We find no adequate basis for imposing this sort of preemption upon the states.

142. With regard to AT&T's request that the Department of Justice's opinion regarding the application of the Wiretap Act be made available for review and comment, we do not believe it is necessary to seek comment. AT&T expresses its concern about carrier liability for disclosing calling party number, location, and other call related information to emergency personnel under the Wiretap Act.[373] After the petitions for reconsideration were filed, the Commission received the Department of Justice's opinion.[374] The Commission has already issued a Public Notice announcing the Department of Justice's opinion and the text of the opinion has been included in the docket for review. In a Memorandum Opinion, the Department of Justice concludes that the requirements of the Commission's rules relating to wireless E911 features and functions do not violate either the Wiretap Act, the Electronic Communications Act,[375] or the Fourth Amendment to the United States Constitution. In particular, with respect to the interpretation of Section 1002(a) of the Wiretap Act, the Department of Justice concludes that the statutory provision, by its terms, does not prohibit a wireless carrier's transmission to local public safety organizations of information regarding the physical location of a wireless 911 caller.[376]

2. Cost Recovery and Funding

143. In the *E911 First Report and Order*, the Commission determined not to prescribe a particular E911 cost recovery methodology, because (1) the record did not demonstrate a need for such action; and (2) an inflexible Federal prescription would deny carriers and

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[372] AT&T Further Comments at 3.

[373] AT&T Petition at 7.

[374] *See* Memorandum Opinion for J. Keeney, Acting Assistant Attorney General, Criminal Division, Department of Justice, attached to Public Notice, DA 96-2067.

[375] Section 2703 of the Electronic Communications Act of 1986, 18 U.S.C. § 2703.

[376] Department of Justice, Memorandum Opinion at 5.

Government officials the freedom to develop innovative cost recovery solutions tailored to local conditions and needs.[377] The Commission also added that nothing in the record persuaded the Commission that, as a general matter, all state and local E911 cost recovery mechanisms are either necessarily permissible, or necessarily barred, under the provisions of Section 332(c) preempting state rate regulation of CMRS.[378]

144. A number of petitioners argue that the Commission should require a Federal cost recovery mechanism or guidance to prevent discrimination against wireless carriers, or guarantee that the carriers will be paid.[379] On the other hand, public safety organizations and state governments urge denial of these petitions, contending that the Commission properly rejected establishing a Federal cost recovery mechanism.[380] In particular, Joint Commenters contend that petitioners reiterate arguments the Commission has already considered and denied in the Order.[381] They also argue that petitioners have given the Commission no reason to change our decision favoring state and local initiatives for cost-effective and creative solutions to funding of wireless compatibility improvements.[382]

145. We reaffirm our decision and deny petitions to establish a Federal cost recovery mechanism for the reasons stated in the *E911 First Report and Order.* We continue to find no adequate basis on this record for preemption of the various state and local funding mechanisms that are in place or under development, or for concluding that state and local cost recovery mechanisms will be discriminatory or inadequate.

146. Although some parties argue that the Commission should clarify who would be eligible to recover their costs in implementing E911 systems, we leave these issues to the state and local entities. We agree with the Joint Commenters that, absent failures of local agreement on funding mechanisms for the necessary compatibility upgrades by PSAPs, wireless and wireline carriers, and radiolocation and equipment vendors, national prescriptions are not warranted.

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[377] *E911 First Report and Order*, 11 FCC Rcd at 18722 (paras. 89-90).

[378] *Id.* (para. 90).

[379] Ameritech Petition at 16-17; AT&T Petition at 2-4; PrimeCo Petition at 7; PCIA Petition at 13-15; Omnipoint Petition at 19-20.

[380] Alliance Opposition at 7-8; Chicago Opposition at 2-3; Joint Commenters Opposition 5-7; TX-ACSEC Opposition at 7-9.

[381] Joint Commenters Opposition at 5-6.

[382] *Id.*

3. Additional Issues

147. In addition to their specific proposals, the parties to the Joint Letter also request that the Commission refrain from making any decisions at this time other than those related to their proposals. The Joint Letter states that the parties have scheduled meetings to discuss certain issues, and argues that only when all relevant parties have had the opportunity to study in depth and present consensus positions to the Commission will the Commission have sufficient information to make a reasoned decision. The Joint Letter specifically proposes deferral of decisions regarding carrier liability, certain call back capabilities, strongest signal technology, the use of temporary call back numbers, and the status of uninitialized phones.[383]

148. We have not deferred decisions on any of these issues based on the Joint Letter. Interested parties have had numerous opportunities to develop proposals to address the issues in this proceeding. They have also had many opportunities to present their views on the record, both individually and jointly. While we encourage all parties to work toward the effective resolution of issues in this and other proceedings in the public interest, we will not delay decisions on the current record in the hope that this will happen.

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Act

149. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis of the expected impact on small entities of the changes in our rules adopted herein. The Supplemental Final Regulatory Flexibility analysis is set forth in Appendix C.

B. Paperwork Reduction Act of 1995 Analysis

150. This Order contains either proposed or modified information collections. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due 60 days from date of publication of this Order in the Federal Register. Comments should address:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility.

[383] Joint Letter at 4.

- The accuracy of the Commission's burden estimates.
- Ways to enhance the quality, utility, and clarity of the information collected.
- Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Comments on the information collections contained in this Order should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503, or via the Internet to fain_t@al.eop.gov.

C. Authority

151. This action is taken pursuant to Sections 1, 4(i), 201, 303, 309, and 332 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 154(i), 201, 303, 309, 332.

D. Further Information

152. For further information, contact Dan Grosh or Won Kim of the Policy Division, Wireless Telecommunications Bureau, at 202-418-1310 (voice) or 202-418-1169 (TTY).

V. ORDERING CLAUSES

153. Accordingly, IT IS ORDERED that the Petitions for Reconsideration of the First Report and Order, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, 11 FCC Rcd 18676 (1996), filed by parties listed in Appendix A, ARE GRANTED in part, as provided in the text of the Order, and OTHERWISE DENIED.

154. IT IS FURTHER ORDERED that Part 20 of the Commission's Rules is amended as set forth in Appendix B.

155. IT IS FURTHER ORDERED that Sections 20.18(a), 20.18(c), and 20.18(g) of the Commission's Rules, 47 C.F.R. §§ 20.18(a), 20.18(c), 20.18(g), as amended by this Order in Appendix B, and the foregoing provisions of this Order that pertain to Sections 20.18(a), 20.18(c), and 20.18(g) of the Commission's Rules, SHALL BECOME EFFECTIVE upon

publication in the Federal Register. This action is taken on the basis of our finding that, because the amended provisions of Sections 20.18(a), 20.18(c), and 20.18(g) are substantive rules that have the effect of granting an exemption, the effective date of these provisions may occur less than 30 days before publication of the provisions, pursuant to Section 553(d)(1) of title 5, United States Code.

156. IT IS FURTHER ORDERED that (1) Section 20.18(b) of the Commission's Rules, 47 C.F.R. § 20.18(b), as amended by this Order in Appendix B; (2) the definition of ``designated PSAP" in Section 20.3 of the Commission's Rules, 47 C.F.R. § 20.3, as added by this Order in Appendix B; and (3) the foregoing provisions of this Order that pertain to Section 20.18(b) of the Commission's Rules, and to the definition of ``designated PSAP" in Section 20.3 of the Commission's Rules SHALL BECOME EFFECTIVE upon publication in the Federal Register. This action is taken, pursuant to Section 553(d)(3) of title 5, United States Code, on the basis of our finding that there is good cause that the effective date of these provisions should occur less than 30 days before publication of the provisions. Our finding of good cause is based upon our conclusion that the rule change will serve the purpose of ``promoting the safety of life and property" under Section 1 of the Communications Act and that the particular safety issues involved — extending the benefits of 911 services to as many wireless phone users as possible — are of sufficient importance to warrant making the rule requirements immediately effective upon publication in the Federal Register. In addition, we note that, since the adoption of the *E911 First Report and Order* in June 1996 there has been considerable confusion and uncertainty regarding the ability of covered carriers to comply with the provisions of Section 20.18(b) of the Commission's Rules, as those provisions were initially prescribed in the *E911 First Report and Order*. This confusion and uncertainty were heightened by assertions made by the Wireless 911 Coalition regarding technical issues associated with requirements imposed by the rule.[384] Although the decision of the Wireless Telecommunications Bureau in the *Stay Order* was an appropriate step in this case in light of the continuing pendency of these issues at the time the *Stay Order* was issued, it also resulted in a continuation of the confusion and uncertainty surrounding the question of whether all users of wireless services provided by covered carriers could expect and rely upon the fact that their 911 calls would go through to emergency service providers. Now that we have resolved this issue by the action we take today, we can find no basis for any failure to end as quickly as possible this confusion and uncertainty regarding the obligations of covered carriers and the public safety expectations of the users of wireless services.

157. IT IS FURTHER ORDERED that the remaining rule amendments made by this Order and specified in Appendix B SHALL BECOME EFFECTIVE 30 days after the date of the publication of the rule amendments in the Federal Register.

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[384] *See* para. 20, *supra*.

158. IT IS FURTHER ORDERED that the Wireless Telecommunications Bureau is hereby delegated authority to grant an additional 3-month suspension of enforcement of Section 20.18(c) of the Commission's Rules, 47 C.F.R. § 20.18(c), until January 1, 1999, with respect to wireless carriers who use digital wireless systems, upon reviewing the joint quarterly status reports on TTY compatibility with digital systems filed by the signatories to the TTY Consensus Agreement.

159. IT IS FURTHER ORDERED that the signatories to the TTY Consensus Agreement SHALL FILE a joint quarterly status report regarding TTY compatibility with digital systems within 10 days after the end of each calendar quarter during the period beginning January 1, 1998 and ending September 30, 1998, with the first report due April 10, 1998, as set forth in the foregoing provisions of this Order.

160. IT IS FURTHER ORDERED that the Request of an Extension of Time to File the Joint Status Report on TTY Issues, filed by the Cellular Telecommunications Industry Association on October 1, 1997, IS GRANTED, and that the signatories to the Consensus Agreement, the Personal Communications Industry Association, and Telecommunications for the Deaf, Inc. must file a Joint Status Report on or before December 31, 1997.

161. IT IS FURTHER ORDERED that the information collections contained in the rule amendments set forth in Appendix B WILL BECOME EFFECTIVE following approval by the Office of Management and Budget. The Commission will publish a document at a later date establishing the effective date.

162. IT IS FURTHER ORDERED that, the Director of the Office of Public Affairs shall send a copy of this Order, including the Supplementary Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary