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PUBLIC NOTICE

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COMMISSION SEEKS TO FACILITATE WIRELESS E911 IMPLEMENTATION AND REQUESTS A REPORT

CC Docket No. 94-102

INTRODUCTION

In the wireless Enhanced 911 (E911) proceeding, the Commission has required covered wireless carriers to provide enhanced 911 capabilities according to a phased-in approach. Implementation of Phase I of our E911 rules has not occurred as anticipated by the timetable in the rules and we believe that action with respect to two key implementation questions could expedite the pace of Phase I implementation. By this Public Notice, we seek additional information that will help the Commission speed E911 implementation.

Specifically, the E911 implementation schedule and requirements are, in significant part, based upon a Consensus Agreement between representatives of the wireless industry and public safety authorities that depends upon their cooperation to resolve a number of practical issues. It now appears that issues relating to cost recovery mechanisms and choice of Phase I transmission technologies may be causing delays in E911 implementation. These issues also are the subject of petitions for reconsideration and clarification of the *E911 Reconsideration Order* and the E911 rules.[1]

We have been informed that these issues are the subject of recent discussions among the parties to the initial Consensus Agreement. We seek to provide these parties an opportunity to augment the record on the petitions. We request a report to inform us of the status of the discussions on these issues and the outcomes. This request is consistent with these parties' ongoing reporting requirement and our commitment to remain actively involved by taking such actions as necessary to achieve E911 implementation. This will ensure that any further action we take will take into account the most recent positions of the parties. Other interested parties are encouraged to give consideration to these issues. We anticipate that any

[1] Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Memorandum Opinion and Order, 12 FCC Rcd 22665 (1997) (*E911 Reconsideration Order*).

reports or comments by the parties to the Consensus Agreement will be made available to all interested parties for review and comment.

Finally, it has come to our attention that, in some cases, Phase I services are not being provided even where the two conditions in our E911 rules would appear to be met to require implementation. In these cases, States have adopted a cost recovery mechanism and the carrier has received an appropriate request for Phase I service. We request the parties to the Consensus Agreement to include this related issue in their discussions and inform us in the report of their positions on the factors, if any, that may be responsible for implementation delays in these cases, which will be made available to all interested parties for review and comment.

BACKGROUND

The Commission adopted rules to establish an improved 911 emergency service for users of wireless telephones in the *E911 First Report and Order* and the *E911 Reconsideration Order*, which were the culmination of extensive efforts by the public safety community, the wireless telecommunications industry, and the Commission.[2] The E911 rules are based largely upon a framework submitted to the Commission in a Consensus Agreement by the Cellular Telecommunications Industry Association (CTIA) and three national public safety organizations - the Association of Public-Safety Communications Officials International, Inc. (APCO), the National Emergency Number Association (NENA), and the National Association of State Nine One One Administrators (NASNA).[3]

Covered carriers in the Commercial Mobile Radio Services (CMRS) are required to provide 911 features such as callback and location information to Public Safety Answering Points (PSAPs) that request the service.[4] Firm target dates were set to promote and achieve prompt and timely deployment. Phase I required carriers to provide by April 1, 1998, a caller's Automatic Number Identification (ANI) for callback and the location of the cell site or base station receiving the call for a rough location determination.[5] Phase II requires the carrier

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[2] Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18776 (1996) (*E911 First Report and Order* and *E911 Second NPRM*), adopting amendments to Section 20.3 and new Section 20.18 of the Commission's Rules, 47 C.F.R. §§ 20.3, 20.18.

[3] *Id.*, at 18688 (para. 22 n. 22), *citing* Public Notice, Commission Seeks Additional Comment in Wireless Enhanced 911 Rulemaking Proceeding Regarding "Consensus Agreement" Between Wireless Industry Representatives and Public Safety Groups, CC Docket 94-102, DA 96-198 (Released Feb. 16, 1996).

[4] Covered carriers are cellular, broadband PCS, and certain SMR carriers (*i.e.*, SMR carriers with an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoffs of subscriber calls).

[5] 47 C.F.R. § 20.18(d).

provide by October 1, 2001, a 911 caller's Automatic Location Identification (ALI) that identifies the location of all 911 calls within 125 meters using a Root Mean Square (RMS) methodology.[6] A carrier, however, is not required to implement E911 services unless two conditions are met: (1) that the carrier has received a request for service from a PSAP capable of receiving and utilizing the data, and (2) that a mechanism for recovering the costs of the service is in place.[7]

Although the Commission's E911 rules apply to carriers, implementation of E911 depends upon the cooperative efforts of carriers and State or local 911 authorities to find solutions that ensure the E911 capabilities are deployed in an effective manner within the timetable. Based on the Consensus Agreement, the Commission concluded that the parties would work cooperatively to resolve implementation issues and declined to undertake additional measures to address implementation concerns at that time.[8] The Commission, however, made clear its intention to remain actively involved and to take whatever action may be necessary to achieve timely and efficient implementation. The parties to the Consensus Agreement, as well as additional parties, were requested to file an annual joint report detailing the status of implementation and what can be done to expedite resolution of the issues.[9]

While the date by which we expected Phase I to be launched by carriers was April 1, 1998, recent filings in the record and other sources of information reveal the pace for implementation is very slow. For example, the 1998 Joint Annual Status Report informs us that NENA conducted a nationwide survey of PSAPs to see how many requested Phase I service as of September 30, 1998.[10] Of the total number of questionnaires returned, only seven percent answered yes to Phase I implementation. The primary reason given for negative responses is the lack of a funding mechanism, while the other reason is that the PSAP equipment is not ready. Thus, it appears that the two conditions that trigger a carrier's Phase I service obligation may contribute to the delay. Indeed, among the obstacles identified by the 1998 Joint Annual Status Report to Phase I implementation are questions by both carriers and PSAPs on what is an adequate cost recovery mechanism and which party selects the Phase I transmission method and related technology.[11]

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[6] 47 C.F.R. § 20.18(e).

[7] 47 C.F.R. § 20.18(f).

[8] *E911 First Report and Order*, 11 FCC Rcd at 18713-14 (para. 74).

[9] *Id.*, at 18714 (paras. 75-76).

[10] NENA *Ex parte* Filing, Feb. 1, 1999, "Report of CTIA, PCIA, APCO, NENA, NASNA, Alliance," at 12 (1998 Joint Annual Status Report).

[11] *Id.*, at 14-15. Other obstacles are identified that are the subject of further inquiry in related notices. Public Notice, Petition by Joint Petitioners to Ensure Interoperability of 911 Emergency Calling Systems, RM-9343, DA 98-1652 (Released Aug. 18, 1998); Public Notice, Wireless Telecommunications Bureau Requests Targeted Comment on Wireless E911 Phase II Automatic Location Identification Requirements, CC Docket No. 94-102,

We are concerned that, in addition to Phase I, similar disputes over cost recovery mechanisms and technology choice are negatively affecting early attempts to prepare for Phase II implementation.[12] As discussed more fully below, issues have been identified that have contributed to implementation delays and are the result of ambiguities in the initial Consensus Agreement and the E911 rules. We are encouraged that these issues are the subject of discussions by the parties to the Consensus Agreement, and we seek to ensure that the parties update the Commission on their discussions in a timely manner.

COST RECOVERY MECHANISMS

In the *E911 First Report and Order*, the Commission found that carriers and public safety officials in both the Consensus Agreement and individual filings uniformly recognized that resolving cost recovery issues is a prerequisite to E911 deployment.[13] The Consensus Agreement proposed to rely on State or local funding mechanisms and the Commission, in response, agreed that such mechanisms as a general matter are permissible.[14] Accordingly, the Commission included in its rules the requirement that a mechanism for recovering the costs be in place. The Commission declined, however, to prescribe any particular cost recovery methodology at the time, in part, to encourage the development of innovative solutions and avoid delays that may result from meeting an inflexible prescription.[15]

However, the flexibility we gave to the parties has not produced the prompt implementation we envisioned. It now appears that disputes have arisen between carriers and State or local 911 authorities, which are described both in the record on the pending petitions and the 1998 Joint Annual Status Report, on the definition of an adequate funding mechanism.[16]

Recently, the potential difficulties that these parties may have in implementing an adequate cost recovery mechanism in a particular situation are illustrated in a report prepared by the Department of Revenue of the State of Washington based on a study directed by the State Legislature seeking ways to implement E911.[17] The Washington Funding Study finds

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DA 99-1049 (Released June 1, 1999).

[12] Edward Warner, *Phase II Not Ready?*, Wireless Week, April 26, 1999, at 1.

[13] *E911 First Report and Order*, 11 FCC Rcd at 18722 (para. 89 n. 181).

[14] *Id.*, at 18720 (para. 87), 18722 (para. 90).

[15] *Id.*, at 18722 (paras. 89-90).

[16] 1998 Joint Annual Status Report, at 12 and 15.

[17] *Ex parte* Filing, April 30, 1999, "Report to the Legislature: Enhanced 911 Funding Study For Wireless Telecommunications in Washington State," Washington State Department of Revenue, Dec. 31, 1998 (Washington Funding Study).

that, because the State has no cost recovery mechanism for E911 service and the PSAPs have no additional funding to pay for E911, E911 service has not been implemented in the State.[18] As for funding mechanisms, the Study believes there are two approaches to consider. One option is described as "bill and keep," and relies on carriers to recover their costs from their own subscribers and on PSAPs to fund their own equipment upgrades.[19] The Study notes that a potential disadvantage of this mechanism is that it may not be allowed as a funding mechanism under the Commission's rule. The other option is a State tax that funds both carriers and PSAPs, but among the disadvantages that are noted are the difficulties in passing a new tax or calculating an acceptable tax rate and the inherent delays and expenses of a legislated solution.[20]

A recent update of State E911 legislative activity indicates that about half have adopted specific funding mechanisms for E911, generally in the form of line-item surcharges on wireless customer bills.[21] However, very few PSAPs have requested, and very few wireless carriers have implemented, Phase I and, as a result, only a small percentage of wireless users have the advantage of Phase I service. Included in the Washington Funding Study are the results of a State survey that found only Indiana and Oregon were collecting their wireless E911 surcharges and reimbursing carriers for Phase I in some parts of each State.[22] It appears that confusion and disagreements among interested parties about the cost recovery condition for Phase I implementation may be contributing to this situation. We are encouraged that the parties to the Consensus Agreement are discussing the cost recovery issues.

CHOICE OF TECHNOLOGY

In the *E911 First Report and Order*, the Commission determined that the extensive technical and operational issues and standards necessary for implementation are best resolved by the expertise of the parties through their ongoing processes for consultation and standards setting.[23] There were no significant differences between the parties on such implementation issues and it was agreed that the parties would proceed in good faith with the task. The 1997 Joint Annual Status Report identifies the development of the official standard, J-STD-034, for Phase I that includes two types of transmission methodologies and PSAP connections for

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[18] *Id.*, at Executive Summary, Introduction.

[19] *Id.*, Chapter 7 at 7.2-7.3.

[20] *Id.*, at 7.4-7.7.

[21] Master Chart of State E9-1-1 Treatment, February 15, 1999, XYPOINT website, <http://www.xypoint.com/public-policy/master-table.html>.

[22] Washington Funding Study, Chapter 5 at 5.5-5.7.

[23] *E911 First Report and Order*, 11 FCC Rcd at 18712-14 (paras. 73-74).

Phase I information.[24] Both of these transmission methods were discussed in the *E911 First Report and Order*.

However, there are disputes in the record on the petitions for reconsideration and clarification between carriers and PSAPs over which method, and the related technologies, to use when the PSAP requests Phase I service. According to the 1998 Joint Annual Status Report, the availability under the official standard of multiple transmission options can be an implementation issue absent cooperation and coordination among the interested parties that make up a particular 911 system.[25] There also are multiple technologies, so that differences between the PSAP and carrier on which party makes the selection can result in an impasse and be a major impediment to E911 implementation. It appears that differences between a carrier and a PSAP have led to such results in at least one instance.[26]

We are encouraged that the parties to the Consensus Agreement also are addressing this question to reconcile the delays with the timetable and the processes that they agreed would ensure prompt implementation. We find it reasonable that carriers may want to choose one technology for the transmission of their Phase I data in order to take into account a systemwide application in the interest of cost efficiency and effectiveness. On the other hand, a PSAP must take into account its own individual system, which is made up of both wireline and wireless networks, and the public funds on which the system depends. In addition, the determination of the technology and the cost recovery mechanism can be related. PSAPs seek a role in choosing the technology if they must provide the funding mechanism to reimburse carriers, whereas carriers that recover the costs through their rates seek to control the determination.

OTHER ISSUES

Finally, it has come to our attention that Phase I services are not being provided in some cases even where the two conditions for service under our E911 rules appear to be met.[27] In these cases, States have adopted an E911 cost recovery mechanism and the carrier has received an appropriate request from a PSAP with the technological capabilities of receiving the transmissions. We request the parties to the Consensus Agreement to address this issue in their current discussions and what factors, if any, may be responsible for the delay in Phase I implementation in these cases. Inasmuch as the delays in these cases are related to the two issues the parties are currently discussing, it is appropriate that they include

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[24] NENA *Ex parte* Filing, Jan. 30, 1998, "Report of CTIA, PCIA, APCO, NENA, NASNA, Alliance," at 3-4 (1997 Joint Annual Status Report).

[25] 1998 Joint Annual Status Report, at 14-15.

[26] AT&T *Ex parte* Filings, Oct. 2, 1998, March 11, 1999, March 18, 1999, with attachments.

[27] SCC Communications Corp. *Ex parte* Filing, March 10, 1999, with attachment, Edward Warner, *Safety Wars, Part 911*, Wireless Week, May 24, 1999, at 1.

in the report their positions on such delays and any outcomes of such discussions. By augmenting the record on this issue, as well, we seek to ensure that whatever action we may take achieves our goals for timely and efficient E911 implementation.

FILING SCHEDULE

In furtherance of our commitment to the timely and effective deployment of E911 service, we ask the parties to the Consensus Agreement to submit a report to us on the issues described above not later than **August 9, 1999**. It is appropriate they have an opportunity to address the ambiguities in their original agreement and recommend alternatives for resolving these issues. The report should reflect the status of their discussions and the positions of the various parties participating in these discussions. Other interested parties are encouraged to give consideration to these issues. We anticipate that any reports or comments by the parties to the Consensus Agreement will be made available to all other interested parties for review and comment to ensure a complete record. We intend to issue a decision expeditiously on the pending petitions for reconsideration and clarification of the *E911 Reconsideration Order* upon the completion of the filings.

To file formally in this proceeding, participants must file an original and five copies of all comments. If participants want each Commissioner to receive a personal copy of their comments, an original and ten copies must be filed. All comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C., 20554, referencing CC Docket No. 94-102. Paper filings also can be received at a designated counter located at TW-A325 in the 12th Street lobby of the Portals II Office Building from 8:30 a.m. to 7:00 p.m., Monday through Friday, except holidays. This proceeding is a permit-but-disclose proceeding governed by the provisions of Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206.

FURTHER INFORMATION

For further information, contact Barbara Reideler at 202-418-1310, Wireless Telecommunications Bureau, Policy Division.