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Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	
		DOCKET FILE COPY ORIGINAL
Revision of the Commission's Rules to Ensure	)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency	)	
Calling Systems	)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Wireless Telecommunications Bureau

REPLY COMMENTS OF
PRIMECO PERSONAL COMMUNICATIONS, L.P.

PrimeCo Personal Communications, L.P. ("PrimeCo"), hereby replies to comments responding to the Wireless Telecommunications Bureau's June 1, 1999 Public Notice regarding implementation of handset-based E-911 ALI technologies.[1] The record in this proceeding demonstrates that modifying or waiving Section 20.18(e) of the Commission's rules to allow handset-based solutions to be deployed for Phase II compliance purposes will serve the public interest and promote rapid and widespread deployment of ALI technologies.

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[1] *See Public Notice, Wireless Telecommunications Bureau Requests Targeted Comment on Wireless E911 Phase II Automatic Location Identification Requirements*, CC Docket No. 94-102, DA 99-1049 (rel. June 1, 1999), 64 Fed. Reg. 31530 (June 11, 1999) ("Public Notice").

I. Allowing Phased-In Deployment of ALI-Capable Handsets Subject to Target Benchmarks Will Facilitate the Rapid and Widespread Availability of Phase II Technologies for Consumers

Commenters support PrimeCo's view that amending or waiving the Commission's rules to allow phased-in implementation of handset-based solutions subject to good faith compliance with initial deployment benchmarks will promote the rapid deployment of ALI-capable handsets and the availability of Phase II services for consumers.[2] The record also shows that rapid handset turnover, standardization, and carrier and PSAP education and marketing efforts will facilitate the availability of handset-based ALI services for roamers and render expensive mandated handset retrofitting or replacement unnecessary.[3] For its part, PrimeCo estimates the industry-wide wireless customer churn will continue at 25-35 percent annually. Handset churn, in conjunction with prompt Commission action, will effectively promote the Commission's public safety objectives in this proceeding and ensure widespread deployment of Phase II solutions.

Arguments that amending or waiving the Commission's rules will disserve consumers relative to network-based "flash-cut" implementation are flawed. For example, TruePosition asserts without support that handset turnover rates are likely to decline by late 2001.[4] TruePosition fails to acknowledge, however, the emergence and rapid development of

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[2] PrimeCo at 3-6; *see* Aerial at 3-4; AirTouch at 7-14; King County at 2-4; Motorola at 3; Nortel at 3-4; Sprint at 6-7. Other parties also noted the importance of prompt release of a Commission *Order* in this proceeding. *See* PrimeCo at 4-5.

[3] PrimeCo at 6-7; *see* AirTouch at 4; SnapTrack at 8. As AirTouch notes in its comments, automobile airbags "were widely promoted and accepted by consumers at rates -- and in a time frame -- that greatly exceeded initial projections." *See* AirTouch at 13 n. 24.

[4] TruePosition at 10.

data- and Internet-based wireless services, including 3G technologies and services. Similarly, TruePosition asserts, again without support, that subscribers will increasingly keep their handsets when they change from one carrier to another due to dual-mode and tri-mode phones.[5] TruePosition fails to acknowledge, however, that many CMRS subscribers routinely change their handsets to take advantage of new features and services, and that this will also facilitate the rapid introduction of ALI handset technology in the marketplace. Further, even today, PCS carriers using the *same* transmission standards typically provide a new phone to subscribers by virtue of the carrier-customer service agreement, and a handset change also occurs when a CMRS provider switch also results in a technology switch (*e.g.* GSM to CDMA).

For its part, KSI argues that the costs of handset-based implementation will exceed $10 billion, yet fails to acknowledge that the vast proportion of those so-called "costs" are not attributable in any way to the handset-based ALI solution.[6] While PrimeCo has not decided on a particular solution (and indeed, the lack of vendor commitments in this regard is troubling), it is clear from the record that amending the rules to give carriers the flexibility to select and implement alternative solutions that meet the Commission's public safety objectives — as proposed by PrimeCo and other carriers — will serve the public interest. Claims to the contrary are largely self-serving and should be rejected by the Commission.

II. Network-Based Solutions Are Not Commercially Available and Will Not Likely Be Implemented on a Widespread Basis Prior to the October 1, 2001 Date

A number of commenters, primarily vendors and other advocates of network-based Phase II solutions, make a number of deficient arguments relating to proposed standards

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[5] TruePosition at 10.

[6] *See* KSI at 8.

for phased in deployment of ALI-capable handsets. These arguments are flawed for two primary reasons: (1) they misstate the current state of development of network- and handset-based Phase II solutions, particularly for carriers using CDMA systems; and (2) they fail to acknowledge the delayed deployment of network-based solutions that will result after the October 1, 2001 compliance date, due to the staggered timing of PSAP upgrades and cost recovery mechanisms. PrimeCo addresses these matters in turn below.

A. No Phase II Solutions Are Commercially Available, but Handset-Based Solutions Show Considerable Potential for Carriers with CDMA Systems

The record in this docket demonstrates that handset-based technologies show considerable potential as a cost-effective, highly accurate ALI solution.[7] Proponents of network-based solutions largely resuscitate issues raised in earlier public comment cycles regarding the technical feasibility of these potential competing technologies.[8] PrimeCo submits that these issues are largely "smokescreens," particularly considering that network-based solution providers are -- by their own admission -- only in the *preliminary stages* of developing solutions for CDMA systems.

Furthermore, prompt Commission action in this proceeding is critical to ensuring the commercial availability of handset-based solutions; in order for vendors to be able to continue to develop handset-based solutions, vendors and carriers will need the certainty that the

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[7] AirTouch at 1, 4; SnapTrack at 14-15; Sprint at 1; WCA Comments (attached Petition at 4-5). PrimeCo notes that Lucent recently announced a new technology that involves both the wireless handset with streamlined GPS units and existing network infrastructure. *See* Press Release, *Bell Labs Geolocation Technology Pinpoints Wireless 911 Calls Within 15 Feet*, June 30, 1999, *available at* <http://www.lucent.com/press/0699/990630.bla.html>. Again, the Commission should act to promote maximum flexibility in this area, so that technological advances beneficial to the public can be developed and facilitated.

[8] *See* NENA at 6; Radix at 3-4; U.S. Wireless at 5-6.

Commission's rules will accommodate the phased-in deployment of these solutions.[9] With such certainty, PrimeCo submits that it will be possible for economies of scale in the development and manufacturing of ALI-capable handsets will help ensure the cost-effectiveness and wide availability of handset-based solutions.[10]

PrimeCo has not ruled out the possibility of using a network-based solution, and would be particularly interested in a CDMA-compatible solution that mitigates costs by, as AirTouch suggests, administration via a clearinghouse provider whereby costs would be split among numerous carriers.[11] The fact remains, however, that no network-based solution is currently commercially available and, of particular concern to PrimeCo, little progress has been made toward the commercial development of such a solution for CDMA carriers.[12] Under the circumstances, the Commission should act to provide regulatory flexibility so that CDMA solutions for Phase II compliance can be facilitated.

B. Network-Based Solutions Will Not Result in Uniform, Ubiquitous Deployment of Phase II Technologies

While draping themselves under the public safety objectives of the Phase II rules, network-based solution providers have also fundamentally *misstated* carriers' Phase II obligations. As network-based providers are undoubtedly aware, carriers are required to

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[9] *See supra* note 3.

[10] Indeed, PrimeCo submits that CMRS handset developments benefit from "Moore's Law" with respect to computer chip processing power and consumer costs. CMRS handsets are continuing to evolve with new capabilities frequently added, at very competitive prices. ALI features are expected to follow this established pattern.

[11] *See* AirTouch at 6.

[12] *See* AirTouch at 1; Nortel at 4; U S WEST at 3-4; WCA Comments (Petition at 4-5).

implement Phase II capability by October 1, 2001 in a market *only if* the PSAP has requested the service, has the capability to receive the location information, and a cost recovery mechanism has been implemented.[13] Thus, "phased-in" deployment will occur with respect to handset *and* network-based ALI solutions. Further, given the current high cost estimates for network-based solutions, PSAPs may simply abstain from implementing Phase II until and unless cost issues are addressed. As the Commission is aware, implementation of Phase I capabilities -- which, by all accounts, are far less costly than Phase II -- has been delayed for this very reason.[14]

With this regulatory context in mind, contentions that customers without ALI-capable handsets will be disserved by phased-in deployment become transparently self-serving. As BellSouth and APCO note, in all likelihood network-based solutions will also be implemented on a staggered basis after the October 1, 2001 date. The implication that ubiquitous Phase II service will be available nationwide on October 1, 2001 is false.

Arguments that roamers will be better served by network-based solutions are also overstated. If handset-based solutions are regulated out of the marketplace, a customer whose carrier uses a network-based solution will not have Phase II service when roaming if the local PSAP has not met the E-911 prerequisites.[15] For handset-based solutions, moreover, the fact that development of technical standards will address many of the roaming issues of concern is

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[13] *See* 47 C.F.R. § 20.18(f).

[14] *See* AirTouch at 4-5; BellSouth at 3-4.

[15] For this reason also, Omnipoint's assertion that allowing phased-in deployment of ALI-capable handsets solutions will hinder roaming agreements between carriers is a red herring. To the contrary, the need for carriers to enter into roaming will, *in the first instance*, give carriers using the same digital technologies strong incentives to implement compatible ALI technologies. *See* Omnipoint Communications at 4.

supported by the record; and a number of parties have noted that market forces will facilitate Phase II availability for roamers with ALI-capable handsets.[16]

CONCLUSION

For the foregoing reasons and those discussed in PrimeCo's earlier filings, the Commission should waive or amend its rules to allow carriers the option of complying with the E-911 Phase II rules by implementing handset-based solutions.

Respectfully submitted,

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July 2, 1999

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[16] PrimeCo at 7; *see* King County at 5; SnapTrack at 20; Sprint at 5.

CERTIFICATE OF SERVICE

I, Loretta B. Rias, hereby certify that on this 2nd day of July, 1999, copies of the foregoing "Reply Comments of AirTouch Communications, Inc." in CC Docket No. 94-102, in response to DA 99-1049, were served by hand upon the following:

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