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EX PARTE OR LATE FILED

August 31, 1999 RECEIVED

SEP 01 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, D.C. 20554

Re: **CC Docket No. 94-102** (Wireless Enhanced 911 Implementation)

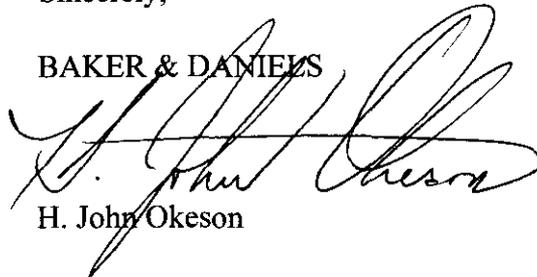
Dear Sir or Madam:

Enclosed are an original and ten copies of the Indiana Wireless Enhanced 911 Advisory Board's written ex parte presentation of comments concerning the referenced matter. Also enclosed are two additional copies submitted to meet the specific requirements of 47 C.F.R. § 1.1206.

Please contact me if you have questions concerning this presentation. Thank you for your assistance.

Sincerely,

BAKER & DANIELS



H. John Okeson

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

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SEP 01 1999

CC Docket No. 94-182
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
)
Revision of the Commission's Rules to)
Ensure Compatibility with Enhanced 911)
Emergency Calling System)

To the Commission:

**WRITTEN EX PARTE
PRESENTATION OF THE INDIANA
WIRELESS ENHANCED 911
ADVISORY BOARD CONCERNING
ENHANCED WIRELESS 911 SERVICE**

I. INTRODUCTION

The Indiana Wireless Enhanced 911 Advisory Board (the "Board") is pleased to make this presentation regarding the implementation of Phase I Enhanced Wireless 911 service. The Board recognizes that the Commission's most recent request for comment, FCC 99-132, did not specifically request comment from entities like the Board. However, the Board believes that a summary of its experiences in implementing enhanced wireless 911 ("E 911") service in Indiana will aid the Commission's efforts to facilitate E 911 implementation nationwide.

The Commission's request identified two possible impediments to the implementation of Phase I:

- (a) Lack of appropriate funding or "cost recovery" mechanisms; and
- (b) Lack of adequate Public Safety Answering Point ("PSAP") equipment and disputes over choice of technology related to call transmission options.

The Board's comments describe Indiana's E 911 experiences, address the Commission's expressed concerns, and identify other specific impediments which the Board believes have contributed to certain Phase I implementation delays.

II. INDIANA'S ENHANCED WIRELESS 911 EXPERIENCE: A BRIEF HISTORY OF MUCH SUCCESS

A. The Indiana Wireless Enhanced 911 Act.

In response to the Commission's E 911 mandates, the Indiana General Assembly passed the Indiana Wireless Enhanced 911 Act (the "Act") in early 1998.¹ The Act created the Board, a balanced entity comprised of five representatives of the wireless industry, five PSAP representatives, and chaired by the State Treasurer.²

As noted in the request for comment, Indiana's cost recovery mechanism is based on the imposition of a monthly subscriber surcharge.³ The surcharge is collected by the subscriber's wireless carrier or reseller, is remitted to the Board within 60 days of collection, and is allocated by the Board among various sub-accounts designed to ensure cost recovery for wireless carriers and PSAPs and also to cover the Board's administrative expenses. The Board may adjust the surcharge once annually and may prospectively reallocate the distribution of the surcharge as well.⁴ To date, wireless carriers and resellers have remitted more than 8.6 million dollars in collected surcharges.⁵

¹ I.C. § 36-8-16.5-1 et seq.

² I.C. § 36-8-16.5-18.

³ F.C.C. 99-132, p.5.

⁴ I.C. § § 36-8-16.5-21, 26, 35, 36, 39.

⁵Board records as of June 30, 1999.

B. Initial Board Activity.

The Board conducted its organizational meeting in July 1998.⁶ Soon thereafter, the Board created a Cost Recovery Committee to review wireless carrier cost recovery plans and make recommendations on the plans to the full Board. (To avoid conflicts of interest and in the spirit of the Act's confidentiality provisions, the Cost Recovery Committee does not include any wireless industry representative.) The Board made its first PSAP cost recovery distribution in November of 1998⁷, and its first wireless carrier distribution in February of this year.⁸

III. PHASE I COMPLIANCE

Allen County, Indiana became the first jurisdiction in the United States to receive regular E 911 service March 31, 1998.⁹ As of August 26, 1999, 31 Indiana counties--representing 46% of the State's population--receive E 911 service from at least one wireless carrier.¹⁰ Three wireless carriers now provide the service in various regions throughout Indiana.

To date, each wireless carrier providing E 911 service has elected to employ non-call path, or NCAS, call transmission technology. Virtually every carrier which has provided a detailed cost recovery plan to the Board has indicated its intention to use NCAS technology.

⁶ Board Minutes, July 21, 1998.

⁷Records of the Auditor of the State of Indiana.

⁸Records of the Auditor of the State of Indiana.

⁹Letter to Reuven M. Carlyle, Xypoint Corporation, to Hon. William E. Kennard (Dec. 11, 1998) (discussing E 911 cost, technology and regulatory issues).

¹⁰Board Records as of August 26, 1999.

IV. IMPEDIMENTS TO E 911/PHASE I IMPLEMENTATION

A. FCC-Identified Concerns.

In its request for comments, the Commission identified **cost recovery** and **choice of technology** as specific impediments to Phase I implementation. As discussed above, Indiana's cost recovery mechanism has to date worked as designed. Wireless carriers and resellers have *generally* collected the surcharge and remitted their collections to the Board in a timely manner. To the extent that cost recovery issues threaten to impede Phase I implementation in Indiana, these issues relate to (1) whether the surcharge will be sufficient to provide total cost recovery given certain local exchange carrier ("LEC") charges, and (2) the unique cost issues encountered by rural wireless providers and providers with limited service areas and/or relatively few subscribers (see "Other Causes for Delay" below).¹¹

To the Board's best knowledge, technology choice debate has had little or no impact on Phase I implementation. This circumstance may result from the Act's mechanism permitting wireless carriers to select whichever technology they desire without challenge from PSAPs or the Board. The Board notes, however, that the NCAS provider selected by most Indiana wireless carriers has objected to certain LEC tariffs (and the "bundled" services included therein) as being unduly burdensome to the provision of NCAS solutions and inconsistent with provisions of the Telecommunications Act of 1996 (see "Other Causes for Delay" below).¹²

¹¹See also letter from Mary Davis, United States Cellular, to the Board (Feb. 18, 1999) (discussing cost issues).

¹²See footnote 9.

B. Other Causes for Delay.

1. LEC Issues.

Wireless carriers and PSAPs have identified several impediments to Phase I implementation not described in the request for comments. Many of these concerns stem from relationships with LECs. The most prominent LEC-driven issues are summarized as follows:

- **Connectivity.** One LEC has denied connectivity to its 911 equipment to all three wireless carriers currently providing E 911 service in Indiana. In some instances, the connectivity requests are more than 12 months old. This connectivity refusal has effectively denied E 911 service to requesting PSAPs in the LEC's service area, and the subject LEC has not indicated when it will provide connectivity. In addition, the subject LEC has not provided connectivity price data to wireless carriers, making future planning difficult.¹³
- **Technological Delays.** A second LEC has provided connectivity but has been slow to provide circuits or lines. One wireless carrier reports waiting seven months for a voice circuit, further delaying E 911 implementation. Wireless carriers do not report receiving reasons for these delays.¹⁴
- **Prohibitive Pricing.** A third LEC has provided prompt connectivity but at prices wireless carriers consider excessive. In fact, carriers believe they are being charged fees which exceed those charged competitive LECs for the same 911 connectivity. Wireless carriers believe this LEC's fees stem in part from its refusal to "unbundle" its services, resulting in wireless carriers employing NCAS solutions paying for services they do not require. These wireless carriers also believe this refusal to unbundle violates the Telecommunications Act of 1996.¹⁵

2. Rural Carrier Costs.

The relatively high per-subscriber costs incurred by rural wireless carriers to implement E 911 service has also proven troublesome for Indiana's cost recovery mechanism. The

¹³These concerns were voiced by wireless carriers in meetings with the Board's Cost Recovery Committee.

¹⁴See footnote 13.

¹⁵See footnote 9.

Commission discussed this issue in its original E 911 mandate. Several rural carriers report per-subscriber costs in excess of the monthly cost recovery possible under Indiana's current surcharge structure¹⁶.

3. Contracts/Service Agreements.

Another Phase I impediment has been the insistence by some wireless carriers that PSAPs requesting E 911 service execute contracts or service agreements. Several PSAPs have refused to sign contracts, noting that some wireless carriers do not demand them and also observing that neither the FCC mandates nor the Act make a contract a specific condition precedent to a wireless carrier's obligation to offer E 911 service. The PSAPs also argue that the proffered contracts often seek to impose liabilities upon them that are inconsistent with the Act or the Commission's mandates.

Conversely, some wireless carriers argue that absent a specific prohibition in the mandates or the Act, their request is consistent with ordinary commercial practice. Because such contracts allocate legal risk and responsibilities between the parties, the Board has refused to intervene formally in these disputes and has encouraged the parties to continue to seek mutually acceptable and prompt resolutions.

V. CONCLUSION

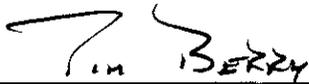
The Board appreciates the Commission's consideration of the practical successes and difficulties which the Board has encountered in implementing E 911 service in Indiana. The

¹⁶Wireless carriers serving limited areas or having relatively few subscribers report similar cost recovery concerns.

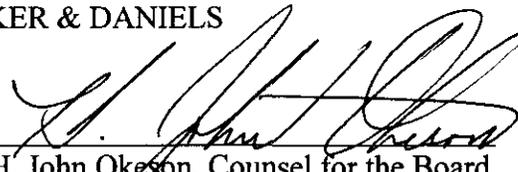
Board is available to supplement its comments with additional written information or personal testimony/comment should the Commission so request. We hope that Indiana's unique perspective lends important input to the Commission's deliberations.

Respectfully submitted,

Indiana Enhanced Wireless 911
Advisory Board

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