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Before the
Federal Communications Commission
Washington, D.C. 20554

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

CC Docket No. 94-102
DA 00-1875

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF VERIZON WIRELESS

Verizon Wireless hereby responds to the Wireless Telecommunications Bureau's Public Notice¹ seeking comment on the King County, Washington E-911 Program Office letter request regarding carriers' and PSAPs' enhanced 911 ("E-911") Phase I implementation obligations.² The Bureau should affirm that PSAPs remain financially responsible for the E-911 network and that wireless carriers are not responsible for E-911-related costs beyond the wireless switch.

The new interpretation of wireless carriers' E-911 obligations proffered by the King County E-911 Program would substantially alter carriers' and PSAPs' respective E-911 deployment responsibilities, contrary to the Commission's rules, precedent and industry practice. The Bureau cannot lawfully alter current requirements in such fashion, and the King County

¹ Public Notice, *Wireless Telecommunications Bureau Seeks Comment on Phase I E-911 Implementation Issues*, CC Docket No. 94-102, DA 00-1875 (rel. Aug. 16, 2000), 65 Fed. Reg. 51831 (Aug. 25, 2000) ("Public Notice").

² Letter from Marlys R. Davis, E-911 Program Manager, King County, Washington, to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, at 2 (May 25, 2000) ("Letter").

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request should accordingly be denied. Finally, it would be wrong as policy matter to impair PSAPs' ability to arrange for an E-911 network suited to their particular needs.

I. The E-911 Network Is Properly the Responsibility of PSAPs

Carriers' and PSAPs' respective responsibilities for the costs of providing E-911 fundamentally mirror each party's respective control over the design, capacity, and other features of the network elements necessary to complete the 911 call and provide usable data elements to the PSAP. In this regard, Verizon Wireless does not dispute that PSAPs need considerable authority and discretion in designing the E-911 network. PSAPs must work with numerous carriers -- wireline and wireless alike -- and may have different and legitimate reasons for selecting a particular E-911 solution, such as Call Associated Signaling or Non-Call Path Associated Signaling Solutions ("CAS" or "NCAS"). In addition, various third party providers are selected by PSAPs to enhance 911 data elements to meet PSAP requirements and provide other enhanced services. This, in turn, affects PSAPs' capacity and network design needs and requirements.

Carriers' and PSAPs' *financial* responsibilities also fundamentally reflect each party's respective control over the provisioning of particular facilities or services. As Verizon Wireless demonstrates herein, this basic principle already governs carriers' and PSAPs' E-911 responsibilities. Contrary to King County's assertions, there is no legal basis for a different result for wireless E-911, or in response to the King County filing. The current arrangement also will avoid a situation in which multiple duplicative or conflicting solutions are deployed in a particular PSAP market.

II. King County's Request Would Conflict with Long-Standing Wireline and PSAP Cost Allocations

The Commission seeks comment on any “rationale or precedent” in the wireline E-911 context “for a particular division of costs among carriers and PSAPs in the implementation of wireless Phase I technologies.”³ In the wireline context, PSAPs acquire and pay for all elements of the E-911 network beyond the carrier’s end office.⁴ Indeed, as King County acknowledges, E-911 facilities and services have traditionally been acquired from ILECs by state and local government authorities.⁵ PSAPs order from and compensate the LEC and ALI database service providers for a variety of services and functionalities, including: the master street address guide (“MSAG”) which establishes the static relationship between phone numbers and street addresses; database services, such as loading the MSAG data into the ALI database and the ongoing maintenance of the ALI database; trunking to the ILEC selective router from the end user ILEC location; trunking from the selective router to the ILEC end office that serves the PSAP; and their own CPE for answering, distributing, and managing incoming 911 calls.

These are the very types of services and functionalities for which King County now demands that wireless carriers pay. King County states that “[d]ue to the impracticality of replacing the E-911 networks throughout the entire country, various technologies have been specifically developed to convert the 20 digits of Phase I information sent by the wireless carriers

³ Public Notice at 2.

⁴ See Qwest Corporation, Advice No. 3157T, filed with the Washington Utilities and Transportation Commission, effective August 30, 2000, ¶¶ 9.2.1.A.1.c (911 customer has choice of service arrangement), 9.2.A.2 (defining “911 customer” as government unit with authority to respond to emergency calls), 9.2.1.A.4 and 9.2.1.B.2-4 (911 customer responsible for transport costs from LEC end office to PSAP).

⁵ Letter at 2.

into a usable format that can be transmitted over the existing E-911 networks to the PSAPs.”⁶ It asserts, without support, that the obligations and costs of such systems are to be borne by wireless carriers. In fact, these are the very types of functionalities currently provided in the wireline context by the ILEC *at the PSAPs’ expense*.

For example, as to the MSAG, the street address is a carrier-generated database record that is the result of converting the carrier’s internal cable route and cable pair records into a description that is usable by the PSAP. PSAPs are not capable of using cable route and cable pair data to locate an emergency wireline call any more than they are capable of using the wireless carrier’s pseudo-ANI that designates a cell cite or sector. The systems and facilities needed to perform these functionalities in the wireless context, such as the SCP (in the case of an NCAS solution, which the Washington counties prefer), and the necessary trunks, are the very facilities necessary to perform these functions. While PSAPs have been accountable for such functionalities in the wireline context, King County now seeks to shift such accountability to carriers in the wireless context. There is no basis for such revision.

To confirm, the wireline E-911 network is fundamentally designed and maintained by the PSAP -- a fact which applies with equal force in the wireless context. Verizon Wireless remains willing to accommodate the technical and service needs of the PSAPs, whether they select the NCAS or CAS solution, including cooperation with third-party vendors, as necessary.⁷ A

⁶ *Id.* at 1-2.

⁷ Wireless carriers are not precluded from voluntarily contributing to a PSAP’s efforts to upgrade the E-911 network, but the King County Letter underscores the need for the Commission to confirm PSAPs’ continuing responsibility for funding the E-911 network. In this regard, Verizon Wireless understands that carriers may have entered into certain arrangements with PSAPs in the past where a cost recovery mechanism (for both entities) was required. While such voluntary arrangements can still be pursued, there is no legal basis for *mandating* additional
(continued...)

carrier's provision of E-911 service in accord with PSAP requirements, however, does not render it financially responsible for the E-911 network, including any necessary PSAP upgrades. Again, carriers' E-911 Phase I regulatory and financial obligations are fully satisfied by provisioning the data to the wireless switch.

III. Wireless Carriers Meet Their E-911 Obligations By Providing Phase I Information at the Wireless Switch Interface in a Format that PSAPs Are Capable of Receiving and Utilizing

The Bureau seeks comment on an appropriate "demarcation point" in the E-911 network "that separates the responsibilities of carriers and PSAPs for providing the various components or upgrades needed to implement Phase I technologies."⁸ The Bureau's inquiry begs the question, however, of whether carriers have *any* responsibility for the "E-911 network," defined as "all facilities and equipment beyond the wireless carrier's switch necessary to transmit wireless 911 calls to PSAPs."⁹ King County's interpretation, as set forth in the letter, would define the "PSAP" as, essentially, the CPE used by a PSAP emergency operator. Such an interpretation, however, would render carriers responsible for the PSAP's E-911 network facilities and elements for the first time. The "demarcation point" has already been established and there is no basis for changing it in this proceeding.

⁷ (...continued)
carrier E-911 financial obligations.

⁸ Public Notice at 2.

⁹ *Id.* at 2 n.3.

The Commission's rules require a CMRS carrier to provide specific data by making it available to a PSAP.¹⁰ Verizon Wireless remains ready and willing to provide such information, at its expense, as the rules require. It is up to the PSAP, however, to determine how to configure and pay for the network elements needed in order to receive and utilize such information.

Wireless carriers' provision of E-911 information to the PSAP in no way alters the traditional relationship between carriers and the PSAP. Wireless E-911 service simply builds on basic 911 by enhancing the PSAP's operational effectiveness by including the ANI and ALI information of the calling party. Wireless carriers thus meet their obligations under the Commission's Phase I rules by delivering the requisite 911 data elements to the PSAPs at the wireless switch trunk interface between the E-911 network and the wireless carrier switch.

The Commission's rules impose E-911 obligations on carriers "only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the Public Safety Answering Point's costs of the enhanced 911 service is in place."¹¹ This precondition necessarily requires PSAPs to be capable of receiving and utilizing 20 digits over the E-911 network. Whether the PSAP accomplishes this objective via a CAS or NCAS solution is up to the PSAP, but it is also the PSAP's responsibility to fund the necessary upgrades to the E-911 network. As discussed above, this is consistent with wireless carriers' E-911 call delivery obligations and PSAPs' obligations in the wireline context.

Throughout the E-911 proceeding, the Commission's requirements have consistently been premised on the recognition that carriers and PSAPs would both incur expenses in

¹⁰ See 47 C.F.R. § 20.18(d).

¹¹ *Id.* § 20.18(j).

deploying wireless E-911.¹² The *PSAP Cost Recovery Order* did not, contrary to King County's implication, shift all of these funding responsibilities to carriers. Indeed, the Commission in that decision reaffirmed PSAPs' significant funding obligations and expressly required that a PSAP cost recovery mechanism be in place as a pre-condition to E-911 deployment. As the Commission stated:

Without adequate funding, PSAPs may not be able to finance expenditures required to upgrade their hardware or software capabilities to receive and use Phase I and Phase II information, as well [as] to finance recurring costs that may be associated with the additional network services.¹³

In that proceeding, the Commission confirmed that the PSAP cost recovery requirement is "a component of the PSAP's capability of receiving and utilizing the data elements of the E911 services."¹⁴ As such, the PSAP's responsibility to upgrade the E-911 network is part and parcel of its responsibility to fund such upgrades.

King County's interpretation would amount to a substantive change in carriers' obligations under the rules. Such action can only be accomplished via a rulemaking proceeding.¹⁵ Accordingly, any change to the cost recovery requirement in this proceeding

¹² See *Notice of Proposed Rulemaking*, 9 F.C.C.R. 6170, 6178 nn. 48-49, 6179 n.53 (1994); *Report and Order and Further Notice of Proposed Rulemaking*, 11 F.C.C.R. 18676, 18681, 18709, n.119 (1996); *Second Memorandum Opinion and Order*, 14 F.C.C.R. 20850, ¶¶ 66-69 (1999) ("*PSAP Cost Recovery Order*").

¹³ *PSAP Cost Recovery Order* ¶ 66.

¹⁴ *Id.* ¶ 69.

¹⁵ 47 C.F.R. § 0.331(d) (Bureau "shall not have the authority to act upon notices of proposed rulemaking and inquiry, [and] final orders in rulemaking proceedings and inquiry proceedings, . . . except such orders involving ministerial conforming amendments to rule parts, or orders conforming any of the applicable rules to formally adopted international conventions or agreements *where novel questions of fact, law, or policy are not involved*" (emphasis added)); see *American Hospital Assn' v. Bowen*, 834 F.2d 1037, ("[s]ubstantive rules are ones which
(continued...)")

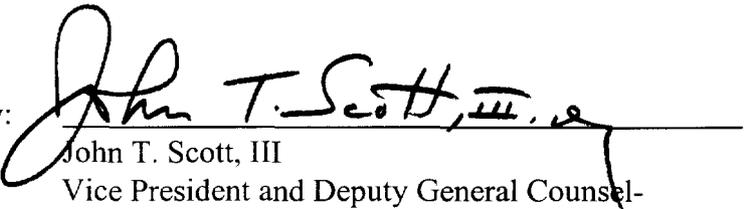
would exceed the limited delegation of authority the Commission granted to the Bureau in the *PSAP Cost Recovery Order* and would be unlawful.¹⁶

CONCLUSION

For the foregoing reasons, the Commission should reject King County’s request and confirm that PSAPs remain responsible for funding and upgrading the E-911 network.

Respectfully submitted,

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¹⁵ (...continued)

‘grant rights, impose obligations, or produce other significant effects on private interests,’” *citing Batterton v. Marshall*, 648 F.2d 694, 701-02 (D.C. Cir. 1980)); *Caruso v. Blockbuster-Sony Music Entertainment*, 174 F.3d 166 (3d Cir. 1999) (agency may not (1) adopt rule without offering explanation as to how it resolves disputed issue, and (2) later resolve the dispute by way of interpretation).

¹⁶ *PSAP Cost Recovery Order* ¶¶ 91-92 (delegating staff authority to resolve disputes where “a particular issue on selecting the transmission technology cannot be worked out” such as “the choice between the CAS or NCAS method, or another standards-compliant method . . . that results in an impasse that cannot be resolved by negotiation”); *see also* 47 C.F.R. § 0.331(a)(2) (providing that the Bureau “shall not have authority to act on any complaints, petitions or requests, whether or not accompanied by an application, when such complaints, petitions or requests present *new or novel questions of law or policy* which cannot be resolved under outstanding Commission precedents and guidelines) (emphasis added).