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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide	)	NSD-L-99-24
	)	
Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, Georgia), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code	)	NSD-L-98-80
	)	
The Use of N11 Codes and Other Abbreviated Dialing Arrangements	)	CC Docket 92-105

To: The Commission

OPPOSITION OF THE INTELLIGENT TRANSPORTATION SOCIETY OF AMERICA TO PETITIONS FOR RECONSIDERATION

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EXECUTIVE SUMMARY

The Intelligent Transportation Society of America ("ITS America") strongly opposes the Petitions for Reconsideration seeking to overturn or significantly alter the Commission's assignment of 511 to government agencies for the provisioning of traveler information services. Accordingly, the Petitions for Reconsideration should be denied in all respects.

First, the application of the *511 Order* to Commercial Mobile Wireless Operators is not a new rule that contravenes the Congressional directive, and Commission policy, against imposing new rules on the commercial wireless industry. Rather, the 511 assignment is a public interest decision made under the Commission's plenary authority over numbering issues. Moreover, the *511 Order* was not a decision made as part of a rulemaking proceeding. Therefore, there can be no violation of the Administrative Procedures Act regarding notice and opportunity to comment, Federal Register publication, effective date of the *Order*, etc. The Petitioners are trying to use alleged procedural infirmities for a second opportunity to raise their objections to the assignment. The Commission earlier provided notice and a sufficient opportunity to comment on the U.S. Department of Transportation's Petition. The Commission did not violate the Administrative Procedures Act and should dismiss the Petitions for Reconsideration as untimely.

Second, the 511 assignment properly applies to wireless carriers. Supporters of the U.S. Department of Transportation's Petition requesting a national, three-digit code compiled a substantial record illustrating the significant public benefits to be gained from such an assignment. This assignment is also consistent with Commission precedent assigning 711 and 311 for Telecommunications Relay Services and non-emergency police access, respectively. Given the inherent mobile character of providing traveler information, the Commission was justified in requiring wireless carriers to provide 511 when requested by the appropriate federal, state or local transportation agency. Recognizing that telecommunications carriers, and wireless carriers in particular, are not in a position to award 511 when mutually exclusive requests are received, the transportation community has taken upon itself to ensure that only one entity requests the code from the carriers in a given region or statewide. There is no need for continuing Commission or state public utilities commission involvement beyond those articulated in the *511 Order*.

Third, the *511 Order* will not have an anticompetitive effect on the wireless carriers. In fact, it should serve to enhance competition between these carriers. Contrary to the assertions of

the Petitioners, the Commission did not create a "government monopoly" for the provisioning of 511. Rather, the public interest is limited to ensuring that a basic level of traveler information is available to all, and that it meets consistent quality and uniform access procedures across the country. Consequently, there are no First Amendment concerns implicated in the *511 Order*. Wireless carriers, and others, are not precluded from offering their own branded services to the public on a fee-for-service, subscription or through another payment option, much as they do currently. While the possible business models are still evolving, it is expected that wireless carriers will be invited to compete to offer 511 on their networks or will be otherwise "qualified" as providers of 511 services in a given region or state.

And, fourth, the transportation community acknowledges that the wireless carriers face technical and operational obstacles for routing 511 calls on their networks. However, by working cooperatively these barriers can be overcome. Thus, the Commission properly refused to specify the parameters for cost recovery and other technical considerations so that these may be determined through negotiation between the requesting transportation agencies and the telecommunications carriers. The carriers are resolving many of these same questions as they implement "Enhanced 911" technologies to locate calls to 911 on wireless phones. Allowing the wireless carriers to comply voluntarily with the *511 Order* will render the assignment a fatal blow.

For the foregoing reasons, and those presented in the Opposition that follows, ITS America urges the Commission to deny the Petitions for Reconsideration in their entirety.

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To: The Commission

OPPOSITION OF THE INTELLIGENT TRANSPORTATION SOCIETY OF AMERICA TO PETITIONS FOR RECONSIDERATION

The Intelligent Transportation Society of America ("ITS America"), pursuant to Section 1.429 of the Commission's Rules,[1] hereby respectfully submits its Opposition to the Petitions for Reconsideration filed in regard to the Commission's Third Report & Order[2] assigning 211 and 511 for information and referral and traveler information services, respectively. ITS America respectfully requests that the Commission deny the Petitions for Reconsideration in their entirety.

[1] 47 C.F.R. § 1.429.

[2] *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, 15 FCC Rcd 16753, FCC 00-256 (Released July 31, 2000), *summarized in*, 66 Fed. Reg. 9674 (February 9, 2001) ("*511 Order*").

I. INTRODUCTION

A. ITS America

ITS America is the preeminent, national transportation association dedicated to the development and deployment of Intelligent Transportation Systems ("ITS")[3] to improve the safety and efficiency of the nation's surface transportation infrastructure. In this capacity, ITS America serves as a utilized Federal Advisory Committee to the U.S. Department of Transportation under the Federal Advisory Committee Act.[4] ITS America draws its members, numbering in excess of 600 organizations, from all facets of business, the academic community and government that have a stake in the application of technology in order to improve the nation's transportation.

B. *Order* Assigning 511 for Traveler Information Services

In March 1999, the U.S. Department of Transportation filed with the Commission a petition seeking the assignment of a nationwide "N11" code for use by state and local governments to provide travel-related information to the public. On April 20, 1999, the Commission released a Public Notice requesting comment on the Department's Petition.[5] ITS America, in conjunction with the American Association of State Highway & Transportation Officials ("AASHTO") and the American Public Transportation Association ("APTA"), filed Joint Comments and Joint Reply Comments in support of the assignment. The majority of other comments supported the assignment without qualification. Comments were also received from other parties.

On July 21, 2000, the Commission announced that it would grant the Department's Petition and, therefore, assigned 511 as the national traveler information number (the "*511 Order*").[6] The same *order* also assigned 211 as the national number for community information

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[3] ITS uses communications, computer and information technology in transportation to improve the safety and efficiency of the nation's surface transportation systems. ITS technologies include electronic toll facilities; computerized control of traffic signals that dynamically respond to changing conditions; "real time" information provided to travelers on traffic, weather and other conditions; navigation, route guidance systems, information and entertainment services within vehicles; and collision warning devices and "mayday" systems that can pinpoint the location of broken-down vehicles or those involved in accidents and notify emergency authorities.

[4] 5 U.S.C. Appendix.

[5] *Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide*, Public Notice, DA 99-761, CC Docket No. 92-105 (1999).

[6] *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, 15 FCC Rcd 16753, FCC 00-256 (Released July 31, 2000) ("*511 Order*").

and referral services. The Commission concluded that the public interest would be served by making 511 available for these services as it would maximize the benefits of traveler information, thus resulting in less congestion, reduced air pollution, improved productivity and enhanced public safety.[7]

The Commission's *511 Order*[8] provided that only state and local government agencies may request 511 from the carriers, but there is no mandate that governments must implement 511. Wireless carriers are "encouraged" to negotiate roaming agreements with other carriers in order to complete 511 calls. Second, the Commission declined to specify the parameters for cost recovery and other technical issues. Rather, the Commission gave federal, state and local government transportation agencies the "discretion" to determine the deployment schedule and type of information to be available through 511.[9] The Commission expressly noted that setting technical and other requirements would likely hinder 511 deployment. However, the Commission advised these agencies to work cooperatively to implement 511 as a national resource that crosses political boundaries and to determine uniform standards for providing traveler information to the public. Third, the *511 Order* provided that state public utilities commissions and similar government bodies may get involved to the extent necessary to ensure that carriers comply "expeditiously" with requests for 511. Finally, the Commission noted its expectation for "widespread" deployment of 511 services within five years.

C. 511 Policy Committee

In response to the *511 Order*, ITS America is a co-sponsor of the "511 Policy Committee" comprised of all the stakeholder groups with an interest in 511.[10] The other co-

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[7] *Id.* at ¶ 13.

[8] *511 Order* at ¶¶ 15, 16.

[9] The Commission further explained that these implementation issues should be worked out consistent with its Order assignment 311 for non-emergency police access. *See In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, First Report and Order and Further Notice of Proposed Rule Making, 12 FCC Rcd 5572, 5596, ¶ 37 (1997) ("*N11 First Report & Order*") (concluding that local jurisdictions should be given discretion to determine whether and how to incorporate other services for 311 code in addition to non-emergency police access).

[10] When it assigned 711 for Telecommunications Relay Services ("TRS"), the Commission decided to lead implementation efforts itself for the service. The Commission then organized public forums to gather input on how TRS services may be implemented nationwide through the code. *See, e.g., Revised Public Notice on FCC Convenes A Public Forum On 711 Access to Telecommunications Relay Services*, Public Notice, DA 99-170 (released June 16, 1999). While not convening under the auspices of the Commission, the 511 Policy Committee is similarly seeking to identify and resolve outstanding issues related to implementing 511 through input from and consensus among all stakeholders in this new service.

sponsors are the U.S. Department of Transportation ("US DOT" or "the Department"), the American Association of State Highway and Transportation Officials ("AASHTO") and the American Public Transportation Association ("APTA"). Membership of the 511 Policy Committee includes the secretaries of eight state departments of transportation; the chief executives of seven municipal transportation agencies; executives from three public transit agencies; senior executives from six companies that supply traveler information; and a representative from each of the Cellular Telecommunications & Internet Association ("CTIA"), the United States Telephone Association ("USTA"), a Regional Bell Operating Company, the American Automobile Association and the Institute of Transportation Engineers. The chairman of the committee is the Minnesota Secretary of Transportation.

Recognizing that a national response is needed to implement 511 successfully, US DOT and the co-sponsors have committed time and resources to bring together all the interests, including the telecommunications industry, which must participate in order to deploy 511. The 511 Policy Committee most recently met on March 29 and 30, 2001, in Tampa, Florida. As will be discussed in more detail below, the committee is examining many of the same issues raised in the Petitions for Reconsideration. The 511 Policy Committee works by consensus and is the most effective forum for resolving conflicts. Further participation from the telecommunications industry is encouraged at future meetings already scheduled for August of this year.

D. Petitions for Reconsideration of *511 Order*

The *511 Order* did not appear in the Federal Register immediately upon its release in July 2000. However, on February 9, 2001, Federal Register publication occurred.[11] Thirty days thereafter, on March 12, 2001, six organizations filed with the Commission a Petition for Reconsideration or Request for Clarification of the *511 Order* pursuant to Section 1.429 of the Commission's rules.[12] Petitions for Reconsideration were received from CTIA; Nextel Communications; Qwest International Corporation; Sprint Spectrum, d/b/a Sprint PCS; and Verizon Wireless. SBC Communications filed a Request for Clarification.[13]

The Petitions for Reconsideration make several common claims:

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[11] 66 Fed. Reg. 9674 (February 9, 2001).

[12] 47 C.F.R. § 1.429.

[13] SBC Communications poses two related questions for clarification regarding (1) whether and how callers to 211 or 511 might be charged for these calls; and (2) if the Commission will have a role in determining which agencies are granted 211 and 511 in particular areas.

- The Commission imposed a new rule on CMRS operators in contravention of a Congressional directive and Commission policy. Also, the *511 Order* violated the procedural requirements of the Administrative Procedures Act and the Regulatory Flexibility Act.
- The *511 Order* fails to adequately explain the technical requirements for wireless carriers to route 511 calls, especially where a cell site tower serves multiple political jurisdictions;
- The *511 Order* does not designate what priority should be given to multiple requests for 511 in a given area;
- As it applies to wireless carriers, the *511 Order* will have a detrimental effect on wireless competition. Because the 511 code is reserved for government entities, a government monopoly is created that prevents wireless carriers from competing to provide traveler information services. Consequently, compliance with the Order should be voluntary for wireless carriers; and
- The U.S. Department of Transportation, and other supporters of the petition, failed to provide sufficient evidence, especially regarding the resulting benefits, to justify the assignment.

As shown herein, the 511 assignment was duly justified both procedurally and substantively. The Commission, therefore, should deny the Petitions for Reconsideration in all respects.

II. COMMISSION COMPLIED WITH ALL PROCEDURAL REQUIREMENTS

Qwest, Sprint Spectrum and Verizon Wireless attack the *511 Order* as an impermissible new Commercial Mobile Radio Services ("CMRS") regulation, as well as for alleged violations of the Commission's procedures for rulemaking proceedings and other requirements under the Administrative Procedures Act.[14] The first contention is that the *511 Order* contravenes Congress's directive and the Commission's policy not to impose new regulations on CMRS operators. Second, the Petitioners argue that the *511 Order* constitutes a "rule" subject to the Administrative Procedures Act. Accordingly, their claims that the *511 Order* needed to be published in the Federal Register, could not become effective without a 30-day notice period, and the Commission also need to conduct the analyses pursuant to the Regulatory Flexibility Act.[15]

The *511 Order* is not a new CMRS regulation, but a proper exercise of the Commission's clear authority over national numbering decisions and, therefore, justifiably applies to wireless

[14] Qwest Petition for Reconsideration at 4-5; Sprint Spectrum Petition for Reconsideration at 2-6; Verizon Wireless Petition for Reconsideration at 5-8; 20-26.

[15] The *511 Order* did eventually appear in the Federal Register in February 2001, some seven months after its issuance. 66 Fed. Reg. 9674 (February 9, 2001).

carriers. The *Order* also does not constitute a "rule" for purposes of the Administrative Procedures Act and its required procedures. Consequently, the procedural violations alleged by these Petitioners fall flat. In fact, the Petitioners are seeking to have a second bite at the apple. The Commission provided sufficient notice and opportunity for comments regarding the U.S. DOT's Petition, including from several of the Petitioners themselves. The Petitioners should not now be permitted another opportunity to raise their objections to the assignment, regardless of their merits.

A. *511 Order* Does Not Impose A New Regulation on CMRS Operators

Verizon Wireless[16] argues that, given the "highly competitive" market for wireless services in the United States, the U.S. Congress directed the Commission not to issue unnecessary federal regulation applicable to Commercial Mobile Radio Services ("CMRS") operators, the commercial wireless carriers.[17]

Section 251 of the Communications Act of 1934, gives the Commission exclusive jurisdiction over numbering administration and over those portions of the North American Numbering Plan that pertain to the United States.[18] The Commission may delegate all or parts of this responsibility to state public utilities commissions or other entities, such as the North American Numbering Plan Administrator.[19] In issuing the *511 Order*, the Commission applied its clear and unambiguous authority, granted to it by Congress, to make a public interest determination regarding a scarce national resource, namely N11 codes. It reached this decision based on full and complete record after a full and complete notice and comment opportunity, which several wireless carriers themselves participated in. If the *511 Order* were to be viewed as a new CMRS regulation, such a determination would negate the Commission's authority to utilize N11 codes in the public interest. The wireless carriers seem to suggest that because they operate over a wireless link in a competitive environment, they are free of all the Commission's authority. Such a conclusion cannot stand.

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[16] Verizon Wireless Petition for Reconsideration at 5-8.

[17] *See* Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, Sec. 6002, codified in principal part at 47 U.S.C. § 332.

[18] 47 U.S.C. § 251(e)(1).

[19] *Id; see also 511 Order* at ¶ 4.

B. *511 Order* Not A Decision In A Rulemaking Proceeding

In addition, Qwest, Sprint Spectrum and Verizon Wireless all claim that the Commission failed to comply with the procedures specified under the Administrative Procedures Act ("APA") when it issued the *511 Order*.[20] The APA requires, according to these Petitioners, that agency rules of "general applicability" must be issued through observance to specified rulemaking procedures, such as notice and opportunity to comment, publication in the Federal Register, a 30-day notice period before becoming effective, etc.[21] This argument must fail for several reasons. First, the *511 Order* is not the result of a rulemaking proceeding, therefore it was not subject to the procedural requirements of the APA. The Commission's assignment of 511 (and 211) is a result of its plenary authority, granted to it by Congress, over national numbering matters. Further, the Commission specifically noted in the *511 Order* that that its assignments did not constitute the adoption of new rules or a change to existing rules.[22] In response to several requests filed during the comment period, the Commission also declined to conduct a "comprehensive rulemaking" for decisions on N11 assignments.[23] The Petitioners should not now be permitted to bootstrap their substantive objections to the assignments based on a suspect procedural violation.[24]

Second, the Petitioners cannot claim, nor do they, that there was no notice of the request from the U.S. Department of Transportation or that there was no opportunity to comment. The U.S. DOT submitted their Petition to the Commission in March 1999. On April 9, 1999, the Commission released the Public Notice announcing the Petition and establishing a public comment and reply comment period that ran for 120 days.[25] Regarding the U.S. DOT Petition, the record shows 103 comments and reply comments, including several from

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[20] Qwest Petition for Reconsideration at 4-5; Sprint Spectrum Petition for Reconsideration at 2-6; Verizon Wireless Petition for Reconsideration at 20-26.

[21] *See generally* 5 U.S.C. §§ 551 *et seq.*

[22] *511 Order* at ¶ 47.

[23] *Id.* at ¶ 44.

[24] The fact that the U.S. DOT's Petition and the February 2001 Federal Register publication of the Order were captioned as a "Rulemaking" and "Final Rule," respectively, is of no significance. How a petitioner captions his/her filing should not dictate how the Commission views the substantive points.

[25] *Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide*, Public Notice, DA 99-761 (1999).

telecommunications companies and related interests.[26] An important purpose of the APA is to give the public an opportunity to weigh in on decisions before the government. Regardless of how the *511 Order* is characterized for procedural purposes, the Petitioners cannot claim that they had no such opportunity.

Third, no Federal Register publication was required. As the *511 Order* did not come under the APA, there was no requirement that it be published in the Federal Register.[27] The Commission's rules do not require that numbering decisions, whether made by the Commission or these other entities, must be published in the Federal Register.[28]

Last, the Petitions for Reconsideration were not timely filed and should be dismissed. The APA is inapplicable; therefore, no predicate Federal Register publication was required in order to start the 30-day window for the filing of Petitions of Reconsideration regarding decisions in rulemaking proceedings.[29] Rather, the *511 Order* is more appropriately considered under the Commission's rules at Section 1.4(b)(2).[30] This rule provides that for "non-rulemaking documents released by the Commission or staff, whether or not published in the Federal Register," the actual release date of the Commission order serves as the date of "public notice."[31] Therefore, because the *511 Order* is not a decision in a rulemaking proceeding, the Petitions for Reconsideration should have been filed within 30 days after the release of the *511 Order*, or August 31, 2000,[32] rather than March 12, 2001, which was 30 days after the *Order*'s publication

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[26] Comments and/or reply comments were received from AT&T Corp., BellSouth Corporation, Cellular Telecommunications & Industry Association, Cox Enterprises, GTE Service Corporation (now part of Verizon), MCI Worldcom (now Worldcom), and Sprint Spectrum.

[27] Without any APA predicate, Verizon Wireless cannot also claim that the Commission violated the APA by making the *511 Order* immediately effective and failing to conduct the requisite analyses under the Regulatory Flexibility Act (at 5 U.S.C. §§ 603 and 604.) *See* Verizon Wireless Petition for Reconsideration at 24-26. The Commission conducted these analyses when it assigned 311 and 711. *See N11 First Report & Order*. As noted above, the Commission specifically noted in the *511 Order* that because it was neither adopting a new rule nor making changes to an existing rule, no regulatory analysis was required. *511 Order* at ¶ 47.

[28] *See* 47 C.F.R. §§ 52 *et seq.*

[29] *See* 47 C.F.R. § 1.429(d) (Petitions for Reconsideration of decisions in rulemaking proceedings are to be filed within 30 days of publication in the Federal Register, citing 47 C.F.R. § 1.4(b)(1)).

[30] 47 C.F.R. § 1.4(b)(2).

[31] *Id.*

[32] The Commission on July 21, 2000 released the *511 Order*. *511 Order*. Ten days earlier, on July 21, 2000, the Commission released a press release regarding the 211 and 511 assignments. *Federal Communications Commission Assigns Easy To Use Phone Numbers for Community Referral Service Information and Travel & Transportation-Related Information*, News Release (released July 21, 2000).

in the Federal Register. Accordingly, the Petitions for Reconsideration should be dismissed as untimely.

C. "Industry" Has Acted in Reliance on *511 Order*

As shown above, the publication of the *511 Order* in the Federal Register this past February was neither required nor timely. Because there was no expectation that Federal Register publication would occur, the transportation community reasonably relied on the finality and legitimacy of the *511 Order*. If the Petitions for Reconsideration were to be granted now, it would thus have a significant detrimental impact on those already implementing 511 and those preparing to do so.

Several states and metropolitan regions have identified themselves as "lead implementers" of 511 services. These include Kentucky, Ohio, Arizona, Michigan, Virginia, Minnesota and the Metropolitan Transportation Commission for the San Francisco and Oakland, California region. In the Cincinnati, Ohio and Northern Kentucky area, for example, the regional freeway traffic manager, ARTIMIS,[33] has already converted landline access from 211 to 511 at a cost of over $200,000. Two wireless providers have also converted to 511. Another four wireless providers, including three of the Petitioners, still provide only 211 but just to local customers.[34] Starting April 2, 2001, callers have been able to dial both numbers for a period of 90 days. Also, in Arizona, which will be implementing 511 on a statewide basis, the state department of transportation has initiated discussions with the 20 incumbent Local Exchange Carriers to direct 511 to the department's existing toll-free number for traffic and road condition information.

Soon after the *511 Order* was released by the Commission, the Federal Highway Administration, an agency of the U.S. Department of Transportation, announced a "511 Conversion Program" to provide federal funding grants to assist in the conversion of existing

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[33] ARTIMIS, which stands for the "Advanced Regional Traffic Interactive Management and Information System" for the region, manages the region's freeways and, since 1995, has provided real-time traffic information to the public via first 311, then 211 and, now 511. Its member agencies include the Kentucky Transportation Cabinet, Ohio Department of Transportation, Ohio-Kentucky-Indiana Regional Council of Governments, the City of Cincinnati, Ohio and the Federal Highway Administration.

[34] One of these wireless carriers, Verizon Wireless, provides access to ARTIMIS's traffic information through 211. Previously, its subscribers could dial 311 when ARTIMIS utilized that code. The Kentucky Transportation Cabinet, or other member agencies of ARTIMIS, did not pay Verizon Wireless to program its switches for either 311, when it was available, or 211 now. It is not known whether Verizon Wireless will seek payment to reprogram its switches again to utilize 511.

traveler information telephone numbers to the 511 code.[35] An individual public agency may receive up to $50,000 upon the program.[36] The US DOT will make available up to $5 million over three years.[37]

These and other public agencies, and their private sector partners, were justified in relying on the *511 Order* as final and legitimate. Significantly altering or overturning that *Order* now would impose severe costs and potentially doom these and other deployment efforts.

III. 511 ASSIGNMENT PROPERLY APPLIES TO WIRELESS CARRIERS

The Petitioners have failed to justify why the Commission's 511 assignment should not apply to them. The US Department of Transportation and its supporters compiled a compelling record illustrating the need and benefits to be gained by granting the Department's 511 petition. The Commission made the assignment consistent with its precedent for other N11 codes. In accordance with the *511 Order*, the transportation community has already taken concrete steps to reduce the potential for conflicting requests for 511, and minimize any role for either the Commission or state public utilities commissions. Consequently, permitting wireless carriers to "opt out" of the assignment now would fatally harm deployment efforts just as they are getting under way.

A. Record Before Commission Warranted 511 Assignment

Qwest is wrong to claim that the record before the Commission did not support the assignment.[38] Nearly 100 other organizations or individuals filed supporting comments, including nearly half of the state departments of transportation, three governors, more than 25 transit agencies, and 20 metropolitan planning organizations (responsible for establishing funding priorities to meet regional transportation needs). Support also came from significant private sector interests not traditionally associated with transportation. An industry group representing Silicon Valley companies like Hewlett-Packard, Intel, TRW, Bank of America, noted that granting the petition would help reduce congestion in that important economic center.[39]

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[35] *Conversion of Traveler Information Telephone Numbers to 511; Request for Participation*, 65 Fed. Reg. 48797 (released August 9, 2000).

[36] *Id.*

[37] *Id.*

[38] Qwest Petition for Reconsideration at 2.

[39] *See* Silicon Valley Manufacturing Group Comments.

Support was also received from the telecommunications industry. MCI Worldcom and Sprint PCS expressed their support for such an assignment.[40] Two other carriers, Bellsouth Corporation and AT&T Corporation, while expressing some concerns, did not oppose the assignment.[41] CTIA also articulated several concerns but did not oppose the assignment.[42]

The supporting comments also reflected a commitment to make 511 a reality. Already by the time of the US Department of Transportation's petition, almost 300 different telephone numbers were in use across the country, offering a wide variety of traveler information services.[43] This existing infrastructure can be – and is being – converted to take advantage of the availability of the 511 code. Comments from such organizations as the Kentucky Transportation Cabinet and the Metropolitan Transportation Commission of San Francisco illustrated how the availability of 511 would significantly increase their ability to provide this information to the traveling public.[44] It will take time to make 511 universally available across the country, but the record before the Commission could not have been clearer that the transportation community stands behind the assignment and will make it a reality sooner rather than later.[45]

B. 511 Assignment Consistent with Commission Precedent.

The Commission's 511 assignment is consistent with its previous assignments of 311 and 711 for access, respectively, to police in non-emergencies and Telecommunications Relay Services ("TRS") for the hearing and speech disabled.[46] As a preliminary matter, the Commission has the authority to assign N11 codes for national use. Pursuant to the 1996 Telecommunications Act, the Commission is given "exclusive jurisdiction over those portions of

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[40] *See* MCI Worldcom, Inc. Comments; Sprint PCS Comments

[41] *See* BellSouth Corporation Comments; AT&T Corporation Comments.

[42] *See* CTIA Reply Comments.

[43] Joint Comments of ITS America, AASHTO and APTA at 19-21 and Appendix 7.

[44] *See* Kentucky Transportation Cabinet Comments; Metropolitan Transportation Commission Comments.

[45] Again, the Northern Kentucky/Cincinnati, Ohio example is germane. The regional traffic authority, ARTIMIS, has already converted its existing 211 service to 511. Callers can now access local traffic information by dialing the newly available code through select landline and wireless carriers. Other states and regions are sure to follow soon.

[46] *See In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, First Report and Order and Further Notice of Proposed Rule Making, 12 FCC Rcd 5572 (1997) ("*N11 First Report & Order*")

the North American Numbering Plan that pertain to the United States."[47] This exclusive jurisdiction can be delegated to the states or other entities as appropriate.[48]

Regarding the 311 assignment, the Commission concluded that it would be in the public interest to make the code available for non-emergency police access.[49] According to the Commission, "promoting the safety of life and property [and] ensuring the public prompt access to emergency services is consistent with Section 1 of the [1934] Act."[50] The Commission concluded that the availability of 311 would lessen the burden on 911 operators, which is in the public interest.[51] For 711, the Commission concluded that granting the assignment would also satisfy the public interest. The national assignment would facilitate access to TRS and, therefore, further the goals of the Americans with Disabilities Act and the 1996 Telecommunications Act, which require that telecommunications services, facilities and equipment be made available on a "functionally equivalent" basis for disabled persons.[52]

As the Commission concluded in the *511 Order*, making the code available for traveler information services is also in the public interest. The availability of national traveler information through 511, according to the Commission, would "maximize the benefits of such information" and result in decreased traffic congestion, reduced air pollution, improved economic productivity and, most important, save lives.[53] These documented benefits comport with the public interest goals of the Commission as laid out in the Communications Act of 1934[54] and for transportation and Intelligent Transportation Systems as articulated by the U.S. Congress in the Transportation Equity Act for the 21st Century.[55]

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[47] 47 U.S.C. § 251(e)(1).

[48] *Id.*

[49] *N11 First Report & Order* at 5595, ¶ 35.

[50] *Id.*

[51] *Id.* at ¶ 36.

[52] *See* 47 U.S.C. §§ 225, 255.

[53] *511 Order* at ¶ 13.

[54] *See* 47 U.S.C. § 151.

[55] *See* Pub. L. No. 105-178, 112 Stat. 107 (1998) (see especially Title V, Subtitle C).

C. Wireless Carriers Will Not Be Faced with Conflicting Requests for 511

CTIA, Qwest and Verizon Wireless all question how wireless carriers are to resolve mutually exclusive requests for 211 and 511.[56] The decision as to which transportation entity, most likely the state department of transportation, will be the lead organization for implementing 511 generally will be made before a carrier is approached. In the unlikely event that multiple requests for 511 are received, the carriers should look to the responsible transportation authorities to solve any such conflicts.

This is already happening. In Arizona, for example, the state department of transportation will be implementing 511 as a statewide service. All 511 calls originating throughout the state will be routed to a single 511 information center managed by the state department of transportation. All carriers operating in Arizona will be asked to direct 511 calls on their networks to the same, single termination point. Consequently, only the Arizona Department of Transportation will request 511 from the carriers.

Kentucky is another example. Already, the Kentucky Transportation Cabinet has been awarded 511 on a statewide basis by the Kentucky Public Service Commission.[57] To date, 511 is available in Kentucky to callers only in the six northern counties nearest to Cincinnati, Ohio.[58] 511 is also available in the Ohio and Indiana portions of the local LEC's service area. There has been one entity requesting 511 from the local LEC and six wireless carriers in this three-state, two million person, metropolitan area: the Kentucky Transportation Cabinet, either directly or through its traveler information subcontractor. Consequently, the carriers have not faced mutually exclusive requests. As 511 is implemented across the state, again, only the Kentucky Transportation Cabinet will request 511 from the carriers.

Verizon Wireless, while acknowledging the strong role given to transportation agencies to determine how to deploy 511, suggests that implementing 511 in the New York City Metropolitan Statistical Area ("MSA") presents special problems as there are multiple states

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[56] CTIA Petition for Reconsideration at 6; Qwest Petition for Reconsideration at 4-5; Verizon Wireless Petition for Reconsideration at 19 n.24.

[57] *In the Matter of Investigation into the Assignment of Abbreviated N11 Codes*, Administrative Case No. 343, Public Service Commission of the Commonwealth of Kentucky (released October 30, 2000).

[58] The Kentucky Transportation Cabinet, along with its state counterparts in Ohio and Indiana, will eventually make 511 available on a region-wide basis to reflect travel patterns between the three states in and around the Cincinnati, Ohio region. The three states all participate in a regional transportation authority, ARTIMIS, which has been given the responsibility for implementing 511, first in the nine counties of Kentucky closest to Cincinnati and then regionally in Ohio and Indiana.

(New York, New Jersey and Connecticut) and multiple transportation agencies (Port Authority of New York and New Jersey, the New Jersey Turnpike and the New Jersey Department of Transportation, for example) with overlapping authority for managing traffic.[59] While the New York City MSA may present a unique level of complexity for 511, the institutions are already in place to answer Verizon Wireless's question.

In areas such as New York City, traffic, transit and other traveler services are organized on a region-wide basis to reflect the movements of the traveling public. Travel is not limited by political boundaries; neither are the responsible government institutions.[60] In the New York City MSA, all of the government transportation authorities, and others, are participating members of a region-wide transportation coordination authority called TRANSCOM,[61] which is located in Newark, New Jersey. A possible scenario is that TRANSCOM, or its designee, would request 511 in the New York City MSA from the local LECs and wireless carriers. The agency would also be responsible for informing the carriers how 511 calls should be routed. In all likelihood, there would be one 511 information center to serve the entire New York City MSA. Consequently, just as in Arizona and Kentucky, there would one point of contact for the carriers.

At its most recent meeting on March 29-30, 2001, the 511 Policy Committee reemphasized that it is the responsibility of the transportation community to present a single face to the telecommunications carriers when 511 is requested for a state or region. Carriers should, therefore, not be faced with mutually exclusive requests for the code. Transportation community, through the 511 Policy Committee, is working now with the carriers to head off this problem before it occurs.

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[59] Verizon Wireless Petition for Reconsideration at 19 n.24.

[60] Verizon Wireless asserts that a "transportation agency of one jurisdiction has no governmental authority to provide traffic information for another, adjoining jurisdiction." *Id.* at 12 n.14. This statement reflects a fundamental misunderstanding of how surface transportation is managed throughout the United States. Certainly, the authority of a city department of transportation ends at the city line. As is discussed in this section, however, transportation agencies are very aware of their jurisdiction limits and, therefore, have organized themselves into many forms of statewide, regional and other associations with their sister agencies to coordinate their activities across political divisions. Given that the wireless carriers' networks are also organized to reflect the location of population and heaviest usage, the "footprints" between the transportation agencies and the carriers may, in fact, be very similar.

[61] TRANSCOM, which stands for "Transportation Operations Coordinating Committee," is a coalition of 16 transportation and public safety agencies in the New York City, New Jersey and Connecticut Metropolitan region representing highway, transit systems, police, bridges, tunnels, and ports.

D. State Public Utilities Commissions and FCC Will Have Limited Roles in Implementing 511

Sprint Spectrum and SBC Communications ask for clarification of the roles the Commission and state public utilities commissions ("state PUCs") will have in implementing 511.[62] Specifically, Sprint Spectrum suggests that the Commission has set forth inconsistent statements regarding state PUCs.[63] Sprint Spectrum, as does SBC Communications, requests that the Commission further explain what role state PUCs will have in deploying 511.

The statements cited by Sprint Spectrum are not in conflict. Sprint Spectrum correctly notes that Congress has given the Commission plenary authority over numbering issues.[64] This authority, however, may be delegated by the Commission to third parties, such as state PUCs.[65] In assigning 511 nationally for traveler information services, the Commission delegated its numbering authority to federal, state and local transportation authorities. In addition, the Commission delegated limited authority to state PUCs to ensure that carriers in their individual states "expeditiously" honor the requests for 511.[66] Where such intervention is sought, the appropriate state PUC procedures would be followed.

The second statement cited by Sprint Spectrum out of context appears within a more general discussion of the possible roles the Commission, the North American Numbering Plan Administrator ("NANPA") and state PUCs may play in other national N11 assignments. Consequently, Sprint Spectrum's concern is misplaced.[67] Taken in context, the Commission has reserved the option in <u>future</u>, national N11 assignments to specify other roles for state PUCs. In

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[62] Sprint Spectrum Petition for Reconsideration at 15-26; SBC Communication Request for Clarification at 2.

[63] Sprint Spectrum Petition for Reconsideration at 15 (citing *511 Order* at ¶¶ 15, 43.)

[64] Sprint Spectrum Petition for Reconsideration at 15 n.51 (citing 47 U.S.C. § 251(e)(1)).

[65] 47 U.S.C. § 251(e)(1). *See 511 Order* at ¶ 4.

[66] As creatures of state law, individual state PUCs may be given some other oversight duties by their state legislature regarding how abbreviated dialing codes are implemented in their state. Consequently, the U.S. DOT has advised its counterpart state departments of transportation to approach their state PUC as they begin planning for 511 implementation. For example, some state law may require that the PUC designate the state department of transportation as the controlling authority for the code. In Virginia, the state legislature specifically named the department of transportation. The Arizona PUC has advised the state department of transportation that the PUC has no oversight over the code beyond the one issue reserved to it by the FCC. In Kentucky, the Transportation Cabinet pursued a statewide designated from the PUC for 511.

[67] Sprint Spectrum Petition for Reconsideration at 15 (citing *511 Order* at ¶ 43).

contrast, for 511, the Commission has given state PUCs the authority over only one issue: any failure of carriers to make 511 available "expeditiously" after receiving a request for the code.

As for any continuing role for the Commission itself, Paragraph 43 again provides the answer. The Commission wrote: "Once we [the Commission] assign or designate an N11 for national use, essentially all that remains to do is to implement that assignment and monitor the uses of the N11 codes."[68] In a footnote to that statement, the Commission further explains that "[i]mplementation ... may involve, in addition to discontinuing nonconforming uses, preparing and modifying switches to translate the N11 code and route the call accordingly, installing additional switching equipment, and installing or modifying software or other hardware."[69] In this instance, 511 is assigned for traveler information services to be implemented by "federal, state and local transportation agencies."[70] On the latter role, "monitoring" the implementation, the Commission earlier explained that it would reexamine deployment efforts in five years and, if there is not "widespread deployment", it may consider making 511 available for other uses or removing the its exclusive designation for traveler information services.[71] Consequently, the only role contemplated for the Commission for 511 is to monitor deployment efforts at the end of the stated five-year window. No further clarification is needed from the Commission.

IV. 511 DESIGNATION WILL NOT HAVE AN ANTICOMPETITIVE EFFECT ON WIRELESS CARRIERS

The wireless carriers further contend that the 511 designation undermines their ability to compete with each other by offering, as many of them already do, their own traveler information services to subscribers.[72] Furthermore, the Petitioners argue that the *511 Order* creates a government monopoly for traveler information services[73] and, by requiring the carriers to offer only "government-controlled speech," potentially violates the First Amendment.[74] Nothing in

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[68] *Id.*

[69] *Id.* at n.123.

[70] *Id.* at ¶ 15.

[71] *Id.* at ¶ 16.

[72] CTIA Petition for Reconsideration at 7; Nextel Petition for Reconsideration at 2-4; Sprint Spectrum Petition for Reconsideration at 8-9; Verizon Wireless Petition for Reconsideration at 17.

[73] Sprint Spectrum Petition for Reconsideration at 7-10; Verizon Wireless Petition for Reconsideration at 17-19.

[74] Verizon Wireless Petition for Reconsideration at 16.

the *Order* supports these claims. Wireless carriers will still be able to provide branded traveler information services to subscribers. The availability of 511 nationally should actually enhance competition between wireless carriers, further benefiting consumers in terms of price, service availability and quality of wireless communications.

A. *511 Order* Does Not Create A Government Monopoly

While it is true that the Commission assigned the 511 code to transportation agencies,[75] there is no statement in the *511 Order* that affirmatively declares, or even implies, that government transportation agencies are the only entities that may utilize 511 for traveler information services. Because of the strong public interest in managing highways, rail and bus systems, the Commission properly assigned the code to public transportation agencies. Consequently, according to the *511 Order*, it is the responsibility of these federal, state and local transportation agencies to determine how best, and on what schedule, to implement 511.[76] The Commission made no statement that wireless carriers are not to be involved in the provisioning of 511. In fact, as will be explained below, the involvement of telecommunications carriers, and especially wireless carriers, will be integral to the deployment of 511 across the country.

B. No First Amendment Concerns Implicated

Verizon Wireless claims that the *511 Order* "requires a carrier to provide only government-controlled speech;" thus, potentially violating the First Amendment of the U.S. Constitution.[77] This concern is misplaced. As discussed above, the *511 Order* contemplates a common baseline of services without any limit on private sector opportunity. While it is true that government agencies may request the code, the Commission did not establish an architecture that determines who will be the "speaker" to customers of wireless carriers or that only the government can determine what specific information must be provided. Consequently, no First Amendment concerns are implicated in the *511 Order*.

C. Wireless Carriers Not Precluded From Providing Traveler Information to Subscribers.

The Petitions for Reconsideration from CTIA, Nextel, Sprint Spectrum, and Verizon Wireless note that several of the national wireless carriers are already offering traveler

[75] *511 Order* at ¶ 15.

[76] *Id.* at ¶ 15.

[77] Verizon Wireless Petition for Reconsideration at 16 (emphasis in original).

information, such as traffic, directions, identification of hotels and restaurants, to subscribers.[78] The Petitioners view the 511 assignment to government agencies as establishing competing traveler information services that will supplant their own branded services. While giving federal, state and local government agencies the "discretion" to determine the type of information to be available through 511 and the appropriate deployment schedule, the Commission "encouraged" these agencies to cooperate to ensure that callers will have access to information that "transcends municipal boundaries," is retrievable in a single call, and utilizes the appropriate uniform standards across the country.[79] The 511 Policy Committee has been meeting to answer these and related questions.

Public transportation agencies, as the responsible governmental entities for transportation, already collect a significant amount of basic traffic and transit information.[80] This same information is also of value to the traveling public. In many instances, however, the traveler information generated by state and local departments of transportation is not provided directly to the public. Rather, private entities take this "raw" data, add some of their own content, and then "package it" for the traveling public. For example, there are private companies, such as Westwood One, Metro Traffic, that take basic accident or travel speed information on highways and add their own "value" to it by calculating approximate travel times or specific lane closures. Consequently, the traffic and related information that the public receives through such outlets such as cable TV, newspapers, websites, radio broadcasts, local TV news, and even wireless phone networks,[81] is a mix of both public and private content.

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[78] CTIA Petition for Reconsideration at 7; Nextel Petition for Reconsideration at 2-3; Sprint Spectrum Petition for Reconsideration at 8-9; Verizon Wireless Petition for Reconsideration at 17.

[79] *511 Order* at ¶ 15. Wireless carriers, such as Sprint Spectrum, that are already offering these services to subscribers are encouraged to continue to do so. Sprint Spectrum Petition for Reconsideration at 13-15. The *511 Order* did not require that these services be suspended to be replaced by a government-sponsored 511 service.

[80] Indeed, for certain kinds of traveler information, such as transit and rail schedules, and scheduled highway construction or closures, the responsible government transportation agencies are the <u>only</u> source.

[81] Verizon Wireless notes in its Petition that in the Washington, DC area it offers two different traffic information services to its subscribers under the "SmarTraveler" and "Star-JAM" labels. Verizon Wireless Petition for Reconsideration at 17. What Verizon fails to realize or refuses to acknowledge is that the "SmarTraveler" service is supported by the state departments of transportation from Virginia, Maryland and the District of Columbia and is partially funded by the U.S. Department of Transportation as part of the larger "Partners In Motion" traveler information project. "SmarTraveler" is the commercial brand name for this information. If it were not for this public support, Verizon would not have this source of traffic information. Nextel also notes that SmarTraveler can provide traffic information to the wireless carriers through the 511 code. Nextel Petition for Reconsideration at 2 n.3. However, Nextel similarly fails to note that the SmarTraveler program is supported by public funds.

The 511 Policy Committee has considered several potential models for 511 services. While a public transportation agency in a given region or state may decide that it has the ability and resources to support a 511 service on its own, it is likely that such a model will be the exception and not the rule. As discussed by the 511 Policy Committee, it is much more likely that transportation agencies will seek private partners rather than go it alone. There might be a "franchise" model, for example, where the local, regional or state department of transportation awards a franchise to one or more entities to be the recipient of the 511 number. There would be no impediment to a wireless carrier competing to win such a franchise in this scenario.

In all of these models, wireless carriers would likely want to continue to provide "value-added" traveler information services to subscribers, services for which they can – and do – impose an extra charge. Such premium services could still be provided through different access code designations other than 511. It is expected that these models will evolve over time as 511 services are deployed and as new technologies become available. Consequently, it is wrong to conclude that only government agencies will offer 511 services.[82]

V. TECHNICAL AND OPERATIONAL OBSTACLES TO IMPLEMENTING 511 ON WIRELESS NETWORKS CAN BE SOLVED

CTIA, Qwest, Sprint Spectrum, and Verizon Wireless all claim that the *511 Order* failed to address and take into account the technical barriers faced uniquely by wireless carriers.[83] Further, they suggest that the Commission erred in imposing the same 511 operational requirements on these wireless carriers as it did on landline carriers.[84] It is acknowledged that the routing of 511 calls through wireless networks presents technical and operational issues different than for landline calls to 511. However, the transportation community believes that these issues can be solved and is committed to working with the wireless carriers. The wireless carriers can charge for effectuating the necessary routing changes and subsequent updates. There

[82] Another model could be for the transportation agency to qualify several private providers of traveler information, including one or more wireless carriers, as meeting the basic level of 511 services in a specific region or state. Wireless carriers could then use this designation as a means to differentiate themselves from competing carriers. In addition, callers to 511, on wireless or landline networks, could be given a choice of 511 "providers" in a call directory menu.

[83] CTIA Petition for Reconsideration at 3-5; Qwest Petition for Reconsideration 2-4; Sprint Spectrum Petition for Reconsideration at 13-16; Verizon Wireless Petition for Reconsideration at 10-16.

[84] Qwest Petition for Reconsideration at 2-3; Sprint Spectrum Petition for Reconsideration at 10-11; Verizon Wireless Petition for Reconsideration at 8-9.

is no expectation that the wireless carriers will not be able to recover these and related costs. The Commission, therefore, properly declined to dictate these requirements, thereby leaving the decisions to the wireless carriers in consultation with the transportation community.

A. Commission Was Not Required to Determine 511 Technical Requirements for Wireless Access

The Petitioners argue that the 511 assignment should not apply to them because the Commission failed to explain the technical requirements for implementing 511. Then they complain that what little technical advice the Commission does provide is misdirected toward them.

The Commission justifiably applied the 511 assignment to the wireless carriers while properly refraining to dictate the technical requirements. In the *511 Order*, the Commission specifically rejected calls to specify the parameters for cost recovery and other technical issues.[85] Instead, the *Order* instructed federal, state and local transportation agencies to answer these questions in a cooperative manner with, one assumes, telecommunications carriers.[86] Further, according to the Commission, having it answer these questions would most likely hinder 511 deployment.[87] This conclusion is consistent with the Commission's longstanding policy of not dictating technical requirements for telecommunications services, especially regarding Commercial Mobile Radio Services. For example, in the Enhanced 911 ("E911") proceeding currently before the Commission, the agency refused to dictate a specific technical solution that is best able to provide the location of 911 calls placed on wireless phones.[88] Instead, the Commission permitted the wireless carriers to choose one or the other solution based on their individual assessment of their needs and abilities.[89] This same conclusion applies equally to 511 implementation.

In order to resolve these and other issues, the 511 Policy Committee is committed to working cooperatively with the telecommunications industry, both landline and wireless.

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[85] *511 Order* at ¶ 15.

[86] *Id.*

[87] *Id.*

[88] *In the Matter of Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems*, Third Report and Order, CC Docket No. 94-102, 14 FCC Rcd 17388, ¶¶ 32-34, ¶¶ 78-81 (1999).

[89] *Id.* at ¶¶ 87-88.

Representatives from CTIA, USTA and one Regional Bell Operating Company have participated since the committee was formulated this past January. More participation from other telecommunications industry representatives is being pursued and is strongly encouraged.

B. Wireless Carriers Will Recover Their Costs for Implementing 511

It is not expected that there would be for 511 services as there is for 911 services federal or state legislation assessing a fee on each local telephone service customer. The 511 Policy Committee has not suggested that such a funding mechanism be established.[90]

Models under study include franchises, portal services, membership and fee-based. Regardless of the model used, there is no expectation by the transportation community that the carriers will not recover their costs.[91] The best option now is to allow states, regions and local communities, in consultation with the affected carriers, to determine what business model(s) work best for them. Answers on cost recovery will be determined by the requesting transportation agencies and each carrier on an individual basis.

C. Wireless Carriers Are Already Experienced in Routing Other Three-Digit Codes Based on the Caller's Location

While there are technical questions yet to be resolved for routing 511 calls, the wireless carriers have already confronted them in implementing other N11 codes, specifically Enhanced 911. To be able to identify the location of 911 calls from mobile phones, the wireless providers are expected to have certain capabilities. Under what the National Emergency Numbering Association (NENA) calls Phase 0, wireless carriers are required to route wireless 911 calls to a Public Safety Answering Point ("PSAP") over a 7-digit line provided by the PSAP. For Phase I wireless E-911, there are several additional pieces of information that the wireless carrier is supposed to provide. This includes the delivery of the caller's 10 digit telephone number for call back purposes, the street address from the cell where the call originated, and if possible, the

[90] In its filing, SBC Communications requests that the Commission clarify its statement in the *511 Order* that both the 211 and 511 Petitioners proposed to make their respective services available to the public "without an additional charge to callers." SBC Communications Request for Clarification at 1 (citing *511 Order* at ¶ 2). The *511 Order* does not provide further explanation for this language. However, the 511 Policy Committee believes that callers should not pay any more than the cost of a local call to dial 511 for the baseline level of information. If a caller desires so-called "value-added" or "premium" services, through one of the carriers or another private company, then additional charges could, and likely would, be imposed.

[91] For the Northern Kentucky/Cincinnati, Ohio deployment, Cincinnati Bell received a one-time payment to update its switches for 511. There are no recurrent costs for this landline connection. Similarly, two wireless carriers in the region are already making 511 available to their subscribers at no cost for airtime nor to the sponsoring transportation agencies for call completion. To date, the Kentucky Transportation Cabinet has paid almost $200,000 in non-recurrent costs to have landline switches reprogrammed for 511 and other capabilities.

sector of the cell (the "antenna face") that accepted the call.[92] In an area like Washington, DC, there is typically one PSAP per county, with another run by the State Police. The relevant metropolitan statistical area ("MSA") includes the District of Columbia, and the neighboring Virginia and Maryland counties of Arlington, Fairfax, Loudon, Prince William, Prince Georges, Anne Arundel, Montgomery, and parts of Frederick. The wireless carrier, in this example, has to associate a wireless call with approximately six to eight different PSAPs, depending on where the call originated.

511 implementation is significantly simpler than 911.[93] For basic services, callers to 511 would request the specific information they are interested in. Therefore, the caller's number and the address of the cell site are not required, and do not have to be forwarded to the 511 call center. In contrast, wireless carriers or others that provide "value-added" or "premium" services would want to know the location of the caller dialing 511. Also, there is expected to be a single 511 "location" for all calls to be routed to that is likely to be either on a State or Regional level. For instance, Arizona is considering having all calls in the state being sent to a single call center. Any subsequent routing of a call would be as a result of a caller's selection on an automated call director or other mechanism provided by the 511 call center rather than the wireless carrier.

Again, in the Washington, DC metropolitan statistical area, there is only one traffic information center servicing the region's transportation agencies, "Partners In Motion,"[94] as opposed to multiple PSAPs. All calls for transportation information via 511 in the eight counties listed above could potentially be routed to the single Partners In Motion information center. Any subsequent routing needed by the caller, such as a request for a transit schedule, could be an

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[92] One implementation would be to have the cell site send the caller's number and the cell site identifier to the mobile switching center ("MSC"). Then, the MSC forwards the cell site identifier to a third party database provider, which looks up the appropriate PSAP based on the cell site address. The MSC gets an emergency services routing key from the third party database provider, which supplies the proper routing information for the call.

[93] Verizon Wireless also questions the Commission's motives behind its statement that it expected that wireless carriers would enter into roaming agreements to ensure their subscribers' access to 511. Verizon Wireless Petition for Reconsideration 12 (citing *511 Order* at ¶ 15). The company continues to say that such agreements would permit a Washington, DC customer to access Washington-area traffic information by dialing 511 when he or she is roaming in Los Angeles, information that that subscriber is not likely to want. Verizon Wireless Petition for Reconsideration at 12 n.13. Obviously, a person who dials 511 in a given city or region is not going to want the traffic information for their "home" city or region. Where that "home" may be is irrelevant. Just as is the case with 911, callers to 511 will want information based on their then-current location.

[94] Partners In Motion, comprised of 26 state, county, city, local, transit and other government transportation agencies in the DC region as well as several private partners, co-sponsors a single traveler information service through one telephone number.

option on the automated call director. All that would be required from the wireless carrier would be to translate the 511 calls in the region to the existing 10-digit number currently used by the service. Since a single mobile switching center typically services between 50 and 200 cell sites, it is likely that all the mobile switching centers on a wireless carrier's network serving the region could send all incoming wireless calls to 511 to the same location.

There may also be some instances where a routing decision between two neighboring jurisdictions is necessary. This, however, can often be avoided. For example, the Baltimore-Washington corridor is comprised of two major metropolitan areas 30 miles apart. In all likelihood, the Maryland Department of Transportation would want to work with the wireless providers to determine the best geographic boundary by which to route calls from the Maryland suburbs to obtain either Baltimore or Washington traveler information. The need for making a routing decision depends on the location of the relevant mobile switch and the base stations it services. If determining the correct routing path from a subset of cell sites is difficult to implement or cost prohibitive, one option could be to route all the 511 calls from those cell sites or associated mobile switching center to the same call center. The Maryland DOT can have the call director programmed to instruct the caller to select Baltimore or Washington as their desired location. This remedy would relieve the wireless carrier from the responsibility of making any significant modifications to accommodate call routing.

D. Wireless Carriers' Voluntary Compliance with *511 Order*

First, Verizon Wireless suggests that given the technical and operational obstacles, and other problems with the *511 Order*, the Commission should allow wireless carriers to comply voluntarily with the assignment.[95] The Commission should reject this proposal. As noted by the Commission in making the assignment, ours is a mobile society dependent on the safe and efficient management of the nation's transportation systems.[96] Consequently, the Commission concluded that the 511 assignment for traveler information services would result in significant public benefits by helping to decrease traffic congestion, reducing air pollution, improving productivity and improving traveler safety.[97] It is likely that the majority of 511 calls would come from the public en route to a destination. Callers will want traveler information about

[95] Verizon Wireless Petition for Reconsideration at 26.

[96] *511 Order* at ¶¶ 11-12.

[97] *511 Order* at ¶¶ 10-14.

where they currently are and where they are going. Allowing wireless carriers to voluntary comply with the 511 assignment will instead deal a fatal blow to the national deployment efforts.[98]

Second, Verizon Wireless has previously rejected a request to make available a three-digit code for traveler information services on a voluntary basis. In 1996, a private aggregator and distributor of traveler information, requested that Bell Atlantic, Verizon Wireless's predecessor, voluntarily make available a three-digit code for traveler information through landline access, first in the Washington, DC region and eventually throughout the company's national footprint. Bell Atlantic rejected that proposal. Subsequently, the U.S. Department of Transportation also requested that Bell Atlantic voluntarily provide an N11 code. Negotiations continued for almost a year but, ultimately, Bell Atlantic declined to honor U.S. DOT's request.

VI. CONCLUSION

ITS America strongly urges the Commission to deny the Petitions for Reconsideration in all respects. The transportation community has taken several important steps to further the deployment of 511 for traveler information services. While there remain related implementation issues, especially concerning the wireless carriers, it is believed that these questions can be answered either through one-to-one negotiation or by industry roundtables that include

[98] Verizon Wireless notes that it is already offering its subscribers traveling information in the Washington, DC - Baltimore, Maryland region through either the "SmarTraveler" or "Star-JAM" labels. Calls to the "Star-JAM" service are currently routed by Verizon Wireless to either the Washington, DC or Baltimore offices of Metro Traffic, a private aggregator and distributor of traffic information. Apparently, at least in the Washington, DC – Baltimore, Maryland region, Verizon Wireless has already determined how to route calls on their network based on the location of the caller. The Commission should not permit Verizon Wireless, and the other wireless carriers, to hide behind their supposed claims of technical inability to warrant that they only must "voluntarily" comply with the *511 Order*.

representatives from both the transportation and telecommunications interests. Such a mechanism is already in place. Allowing the wireless carriers not to comply with the 511 assignment would condemn the national program to failure.

Respectfully submitted,

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