

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

In the Matter of)
)
Revision of the Commission's)
Rules to Ensure Compatibility) CC Docket No. 94-102
with Enhanced 911 Emergency)
Calling Systems)
)
Cingular Wireless LLC) DA-01-1628
Request for Waiver)

To: The Commission

**COMMENTS OF APCO, NENA, AND NASNA
IN RESPONSE TO REQUEST FOR WAIVER OF
CINGULAR WIRELESS, LLC**

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”), the National Emergency Number Association (“NENA”), and the National Association of State Nine One One Administrators (“NASNA”) (collectively referred to herein as “Public Safety Organizations”) hereby submit the following comments in response to the Commission’s *Public Notice*, DA 01-1628, released July 11, 2001, seeking public comments regarding a “Petition for Limited Waiver of Sections 20.18(e)-(h)” filed by Cingular Wireless LLC (“Cingular”) on July 6, 2001, in the above-captioned proceeding.

Cingular initially sought waivers for both its TDMA and GSM networks, but with substantially different approaches for each technology. For its TDMA networks, Cingular proposed as an “interim” solution a yet-to-be-tested switch-based location technology that would fall far short of the Commission’s accuracy requirements. Thereafter, Cingular would transition

to a yet-to-be-selected 3G technology to replace its TDMA network, and would initiate a unspecified permanent Phase II solution.

Cingular's TDMA "solution" is grossly inadequate under the Commission's waiver standards. Cingular did not provide adequate evidence that other TDMA solutions are not available, did not provide test results of its proposed interim switch-based solution, and failed to provide even a glimmer of a path towards full compliance with the Commission's rules. Cingular may have legitimate business desires to replace eventually its TDMA networks. However, that is no excuse for failing to come to the plate now with a meaningful solution to protect the safety of its existing TDMA subscribers.

Cingular has now withdrawn the TDMA portion of its waiver request pending further testing of its proposed switch-based location technology.¹ Unfortunately, those test results alone will not cure the fatal deficiencies in Cingular's TDMA waiver request. Cingular should either comply with the rule, or come to the Commission with a real solution with a clearly defined path towards compliance.

Still in play at this time is Cingular's proposal for its GSM networks, which is to implement an E-OTD solution as quickly as equipment becomes available and necessary network upgrades occur. This aspect of the waiver request comes closer to meeting the FCC's waiver guidelines, though it still leaves certain questions unanswered. As a fundamental matter, Cingular rejects alternative handset-based solutions such as A-GPS on the grounds that handsets

¹ Public Notice, DA 01-1809, released July 27, 2001.

are not currently available. That, however, is a somewhat circular argument as handsets might have been available by now had Cingular and others placed firm orders earlier in the process. Similarly, the delays in network infrastructure cited by Cingular might have been avoided had decisions been made sooner and equipment orders placed with vendors. A question for Commission consideration, therefore, is whether Cingular acted diligently in pursuing its Phase II options.

Cingular does propose a slightly more aggressive schedule for distribution of location capable handsets than that required in the Commission's rules. Query, however, whether an even more aggressive schedule is possible, and should be required as a condition of the waiver? Unfortunately, as with other GSM carriers proposing E-OTD, Cingular also finds it necessary to request a waiver of the accuracy requirements, pledging only to meet the network-based accuracy levels, not the handset-based technology requirements that would otherwise apply. Will E-OTD ever provide the required 50 meter radius accuracy? Will it even meet the network requirement? These questions remain unanswered and continue to trouble the public safety community as more and more carriers gravitate towards GSM and the E-OTD approach. Here again, the Commission must be satisfied that other, potentially more accurate, alternatives received full and fair consideration before being rejected by Cingular and other similarly situated carriers.

While Cingular will deploy E-OTD capable handsets on an accelerated schedule, those handsets will not be able to deliver location information until necessary network upgrades occur. Unfortunately, delays in the delivery of network upgrades from Nortel and Ericsson will

postpone actual E-OTD implementation until December 2002. While such delays may be beyond Cingular's control at this point, did Cingular (and other carriers subject to similar network equipment availability problems) move with all deliberate speed earlier in the process to minimize those delays? That is yet another question for which there is no clear answer.

Finally, as a "safety net," Cingular states that it will provide a NSS solution similar to that proposed by VoiceStream. The Commission should give little or no consideration to the provision of NSS, however, as its 1000 meter radius accuracy is, at best, of minimal benefit in locating 9-1-1 callers. A 1000 meter radius creates a huge search area, adding little to the ability of emergency personnel to locate an emergency, especially in dense urban/suburban areas.

Cingular's waiver request comes very late in the game, barely two months before the October 1, date for initiating Phase II deployment. The lateness of Cingular's request places an unnecessary burden on the Commission and others who must evaluate its validity. On the other hand, having submitted a proposed deployment schedule which is about to begin, Cingular should be presumed to be well-positioned to meet that schedule, and thus should be held strictly accountable for any delays. Therefore, if the Commission deems it appropriate to grant Cingular's GSM request, it must make clear that the full panoply of Commission penalties could be imposed should Cingular fail to meet any of its newly proposed benchmarks.

CONCLUSION

Cingular's GSM waiver request, unlike its TDMA request, deserves careful Commission consideration and scrutiny, subject to the concerns raised above.

Respectfully submitted,

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