Sprint

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Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Written Ex Parte Communication
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems – City of Richardson, CC Docket No. 01-92

Dear Ms. Dortch:

On September 20, 2002, representatives of the National Emergency Number Association ("NENA"), the Association of Public-Safety Communications Officials-International, Inc. ("APCO") and the National Association of State Nine One One Administrators ("NASNA") filed comments regarding a proposed rule change to Section 20.18 (j) advocated by Verizon Wireless ("VZW") and Sprint Corporation ("Sprint") to facilitate deployment of Phase II E911 services.[1] This letter responds to that *ex parte* correspondence and seeks to provide further information regarding the need for, and proper application of, the proposed rule change.

Sprint agrees with these public safety representatives that Commission rules should be drafted in a manner that permits good faith accommodation to occur.[2] It is for this reason that Sprint has advocated a rule change that would permit PSAPs and wireless carriers to agree upon an implementation deadline. Specifically, Sprint has proposed the following revision to the language of 20.18 (j) of the rules:

> Where a PSAP has not completed all of the CPE and ALI database upgrades necessary to be capable of receiving and utilizing the data elements associated with Phase II service at the time of its request, the licensee shall begin delivering

[1] *See* Letter from John Melcher to Marlene Dortch, FCC Secretary, CC Docket 94-102 (September 20, 2002).

[2] "[C]ommon-sense accommodations reached in good faith among the parties" are the best method to implement Phase II operations. *See* Letter at 1.

Phase II enhanced 911 service to the PSAP within six months of the request or within one hundred twenty (120) days after the PSAP is in fact capable of receiving and utilizing the data elements associated with Phase II service, whichever is later. Nothing in this rule shall prohibit PSAPs and licensees from reaching some other mutually agreeable implementation deadline.

Acknowledging the need for such flexibility, however, does not resolve the rule problems identified in VZW and Sprint's reconsideration and *ex parte* filings. As currently drafted, the rules create deadlines that cannot be met and may place carriers in jeopardy of enforcement proceedings as a result of actions beyond their control.[3] Sprint respectfully submits that providing PSAPs with full and discretionary authority to grant "absolution" in these circumstances does not resolve the defects contained in the rule. Sprint and other carriers cannot establish reasonable implementation plans without clear rules on this subject. Further, it would be inappropriate for the Commission to abdicate its responsibility to draft workable and enforceable rules. While Sprint intends to continue its cooperative efforts with public safety, the rules must be drafted in a rational and workable manner.

The public safety agencies express concern that a wireless carrier could "unilaterally" extend the window when its "perception" is that the PSAP has failed to upgrade its equipment (a position Sprint does not advocate). Public safety suggests as an alternative that PSAPs be granted the "unilateral" authority to determine a wireless carrier's deadline. Sprint suggests that neither party should be granted unilateral authority to determine the deadline. Rather, the rule should clearly articulate the deadline in a manner that can be complied with by the carrier and enforced by the agency. Sprint's proposed language would accomplish this result.

Public safety also suggests that Sprint seeks a retroactive application of this proposed rule change. This is not the case. As Sprint articulated in its previous filing, "the new rule should be applied prospectively."[4] This is because retroactive application would have the unintended consequence of creating a glut of newly "valid" requests that could not be implemented in the limited 120 day period proposed by Sprint. Requests by PSAPs that failed to upgrade their ALI databases within six months of their request are already invalid under the current rules.

Once again, Sprint emphasizes the need for realistic rules that address the actual problems presented to the Commission. Ceding the FCC's authority to PSAPs to determine whether an extension of time should be granted under the rules would be both legally questionable and unworkable as a practical matter.

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[3] Indeed, a PSAP may find itself in difficulty if a LEC declares itself ready and the PSAP has made a request for Phase II service to all carriers in its territory. The PSAP would then need to be capable of deploying six or more carriers (including cell site by cell site testing) within 120 days.

[4] *See* Letter from Luisa Lancetti to Marlene Dortch, FCC Secretary, CC Docket 94-102 (September 9, 2002).

As Sprint has previously advised the Commission, it has completed (ahead of schedule) all network upgrades necessary to implement Phase II services throughout the United States. Unfortunately, a number of PSAP ALI database agents have not completed the work needed to allow deployment to continue. In these circumstances, the Commission has an obligation to ensure that its rules do not potentially impose penalties on wireless carriers that have met their obligations but cannot provide Phase II service for reasons clearly beyond their control.[5]

To confirm, Sprint agrees with the public safety organizations that a critical, remaining key to successful implementation of Phase II services is cooperation among all parties. Sprint intends to continue its deployment efforts and its work with PSAPs to provide Phase II services throughout its national network. However, Sprint must note that the issue before the Commission in the *Richardson* reconsideration proceeding is the structure and language of its rules with respect to PSAP readiness and carrier deadlines. The Commission should act on the Sprint and Cingular reconsideration filings, consistent with the views expressed herein, and in Sprint's earlier filings.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, one copy of this letter is being electronically filed with the Secretary's office for filing in CC Docket No. 94-102.

Respectfully submitted,

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[5] Contrary to the suggestion of the public safety organizations, it is not the responsibility of wireless carriers to *prove* that a PSAP has failed to upgrade its ALI database. The ALI database is the responsibility of the PSAP, not the carrier, and the FCC has already clearly recognized this fact. *Revision of the Commission's Rule to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County, Washington,* CC Docket No 94-102, Reconsideration Order, FCC 02-124, (May 14, 2002).

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