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

In the Matter of	)	
	)	
Report on Technical and Operational Wireless E911 Issues	)	WT Docket No. 02-46
	)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	)	CC Docket No. 94-102

SPRINT COMMENTS

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SPRINT COMMENTS

Sprint Corporation, on behalf of its local, long distance and wireless divisions ("Sprint"), submits these comments in response to the "Hatfield Report" and the Commission's request for proposals to "overcome any obstacles and accelerate deployment" of E911 emergency services.[1]

I. SUMMARY/INTRODUCTION

Sprint commends Mr. Hatfield for his efforts and analysis of the difficult issues surrounding implementation of wireless enhanced 911 services. The Hatfield Report is a thoughtful review of this complex subject, and it correctly identifies many of the factors that have inhibited the development and implementation of this service. As a leader in E911 efforts, Sprint has long been aware of the technical and administrative complexities presented by this project. As the Commission has been previously advised, Sprint has implemented all of the network modifications needed to deploy E911 services nationwide. Sprint was the first to sell GPS-enabled phones and now offers ten different GPS-enabled models from which customers may chose.

[1] *See Public Notice,* Wireless Telecommunications Bureau Seeks Comment on Report on Technical and Operational Wireless E911 Issues, WT Docket No. 02-46, DA 02-2666, at 1 (Oct. 16, 2002).

Sprint has worked cooperatively with PSAPs and LECs across the country and has launched service where it has been possible to do so.

Unfortunately, many of Mr. Hatfield's recommendations, while laudable, come too late in the process to have a significant impact on the timing of E911 deployment. The creation of a National 911 Program Office, for example, could have simplified the creation of industry standards and might have provided coordination among the variety of jurisdictions answering 911 calls, had it been created at the time of the original 1996 mandate. Now, the time required to form a new federal entity within the nascent Department of Homeland Security could be substantial, however. Further, once formed, additional time would be required for that entity to review the existing 911 structure and recommend a course of action. As a practical matter, Phase II services may be largely deployed by the time a new federal agency could take action. Sprint acknowledges, however, that such an office might still be of assistance in smaller under-funded PSAP jurisdictions that are not expected to request Phase II service soon.

Other recommendations are more practical in their application, and Sprint supports them. For example, Sprint agrees that the Commission should remain focused on the implementation of Phase II services and should resist pressure to continue to create new and additional 911 obligations on wireless carriers. As Mr. Hatfield correctly describes, Phase II service is an extremely complex undertaking. Continuing to add to that complexity will simply slow implementation as finite resources are applied to new areas. Finding ways to provide Phase II location information and call back numbers for non-service initialized phones, for example, is diverting scarce resources from actual deployment. Sprint submits that the Commission's focus should be on the implementation of Phase II services for the over 130 million mobile customers currently active on wireless networks. Adding even more requirements, such as Z coordinates or billing address

information only promises to set back implementation further. The Commission should place a moratorium on new requirements for 911 service through the 2005 completion date for Phase II service.

II. SPRINT DOES NOT OPPOSE ESTABLISHMENT OF A "NATIONAL 911 PROGRAM OFFICE" WITHIN THE PROPOSED DEPARTMENT OF HOMELAND SECURITY BUT NOTES THE LIMITATIONS OF THIS PROPOSAL

The implementation of operational wireless E911 systems, Mr. Hatfield correctly notes, is "an extremely challenging undertaking" because there is "complexity in every dimension."[2] Complexity is caused by the sheer number of different parties involved in implementing a single E911 system. The situation is further complicated because the existing landline E911 infrastructure is "seriously antiquated" and as a result, has "serious limitations":

> The existing 9-1-1 infrastructure is in no condition to accommodate the pervasive use of wireless technologies, the Internet, or the many other product offerings that invite or demand access to 9-1-1 services.[3]

Mr. Hatfield concludes that there is a "strong Federal interest" in implementing wireless E911, especially since the tragic events of September 11, 2001.[4] Indeed, Congress declared even before September 11 that our Nation's interests are served by "the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs."[5] As Mr. Hatfield recognizes, however, a major obstacle in achieving

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[2] Hatfield Report at iii, 18, 20 and 24.

[3] *Id.* at 14.

[4] *See id.* at 17.

[5] Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 State 1286, 1287, § 2(b) (Oct. 26, 1999).

the prompt deployment of wireless E911 systems is that "existing Federal programs to encourage the implementation are fragmented."[6]

Mr. Hatfield recommends that federal agencies work more closely with each other.[7] But recognizing that the benefits of intra-agency cooperation are inherently limited, Mr. Hatfield further recommends the establishment of a "National 911 Program Office" within the proposed Department of Homeland Security."[8]

Sprint recognizes that such an office could provide assistance in the coordination and implementation of E911 services. The time required to create such an office, however, as well as the additional time required for such an office to create a plan of action, could easily exceed the time within which wireless carriers have to complete deployment of Phase II services, at least in the major metropolitan areas. In addition, Sprint questions whether such a federal agency could be successful in directing the action of the multifarious political entities that currently operate PSAPs across the United States. Sprint acknowledges, however, that a federal 911 office, with sufficient funding, could be of assistance in certain circumstances. For example, a National 911 Program Office might be able to address issues surrounding rural PSAPs and the uneven service coverage provided by the current locally controlled PSAP agencies.

Accordingly, while Sprint does not see a National 911 Program Office as a means of speeding Phase II deployment in the short term, Sprint acknowledges that such an Office may be of assistance sometime in the future. Sprint encourages the Commission, however, to exercise its own authority to address issues as they arise, as it did recently on the issue of cost allocation

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[6] Hatfield Report at 17.

[7] *See id* at 17.

[8] *See id.*

for Automatic Location Identification database upgrades, rather than await the creation of a new federal agency to address implementation problems.

III. THERE ARE IMPORTANT STEPS THAT THE COMMISSION CAN TAKE IN THE NEAR TERM TO FACILITATE PROMPT DEPLOYMENT OF WIRELESS E911 SYSTEMS

The wireless industry is, as Mr. Hatfield correctly observes, at a "critical stage of the roll-out" of Phase II wireless E911 service: "It is the next few years that are particularly important to the future of wireless E911."[9] Sprint's entire nationwide PCS network is Phase II ready and other wireless networks are quickly becoming Phase II ready. ALI databases are being upgraded to include Phase II capabilities. Sprint submits that the industry's focus in the near term should be on implementation and activation of as many valid and actionable PSAP Phase II requests as possible. The Commission should avoid any distractions from this effort, such as the provision of E911 service for non-service initialized or stolen phones, Z coordinates, or the provision of billing address information. Until the Phase II deployment deadlines pass, the Commission should permit the industry to apply its finite resources where they will do the most good.

Mr. Hatfield recommends that in the near future, the Commission "maintain or even increase its oversight of the rollout of wireless E911 services in the U.S."[10] Sprint below identifies the three steps that, based on its extensive E911 implementation experience, would be most effective in facilitating the rapid deployment of operational wireless E911 systems.

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[9] *See* Hatfield Report at 21 and 40.

[10] *Id.* at 21.

A. The Commission Should Adopt a Moratorium Through 2005 on Additional E911 Requirements to Permit Parties to Focus on Phase II Implementation

Mr. Hatfield recommends that the Commission avoid "Requirements Creep" – that is, "avoid the addition of new requirements during this critical stage of the rollout."[11] Sprint agrees. All parties – including PSAPs, carriers and the Commission – have finite resources. Resources spent debating and developing new or additional E911 requirements necessarily are resources that cannot be devoted to E911 deployment. For example, the Commission requires carriers to pass all 911 calls regardless of whether the handset originating the call was stolen, cloned, terminated for lack of payment, or was never provisioned for service on the carrier's network. As the Commission acknowledged when this rule was created, the provision of E911 services for such phones would be technically difficult. This is still the case. Rather than diverting resources to finding ways to provide enhanced services to a relatively few stolen or cloned phones, the Commission should permit carriers to focus their efforts on deployment of service for the more than 130 million wireless customers that have legitimate expectations of service.

The American public will benefit from wireless E911 service only when the service becomes operational. Sprint therefore submits that during the next three years, the industry's focus – including PSAPs, carriers and the Commission – should be devoted exclusively to Phase II implementation, so as to maximize the number of Phase II systems that can be activated. The proliferation of operational Phase II systems will also provide the added benefit of giving both PSAPs and carriers the operational experience needed to determine what additional requirements, if any, would be helpful. Moreover, the Commission must consider carefully the impact of the multiple unfunded mandates already being imposed on wireless carriers as a general mat-

[11] Hatfield Report at 40.

ter. Sprint therefore recommends that the Commission adopt a three-year moratorium at minimum (*i.e.,* through the current 2005 deadline for implementation) on the imposition of additional E911 requirements.

B. The Commission Must Act Promptly to Resolve Any Controversies Arising During Phase II Implementation

The Commission should remain committed to the expeditious resolution of Phase II implementation disputes. Disagreements during implementation of complex new technology involving so many parties are inevitable, and disagreements can (and often, do) stall implementation. Accordingly, Phase II systems will move forward and be implemented effectively only if the Commission resolves expeditiously any disputes submitted to it. For example, a dispute between wireless carriers and BellSouth regarding ALI database upgrade activity threatened to delay Phase II implementation across the southeast United States. After bringing the issue to the Commission's attention, a letter from the Wireless Bureau appears to have effectively removed the point of contention and allowed the parties to move forward.[12] Delays, such as those that occurred in addressing the upgrading of ALI databases, must be prevented in the future.

Mr. Hatfield recommends that the Commission consider use of a "special master" or "expedited waiver" approach to address disputes expeditiously.[13] Sprint cannot join in this recommendation, although it certainly agrees that expedited decision-making is imperative to help ensure prompt deployment. Sprint fears that establishment of new procedures could be counterproductive, because resources devoted to this effort necessarily are resources not available to resolving disputes. The Commission has the experience and background to address these issues

[12] *See* Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Kathleen B. Levitz, BellSouth, Luisa Lancetti, Sprint PCS, and John T. Scott, Verizon Wireless, CC Docket No. 94-102 (Oct. 28, 2002).

and, as it recently demonstrated, is able to take quick action when required. It should continue to intervene, as necessary, to keep Phase II deployment efforts on track.

C. The Commission Should Monitor ILEC ALI Upgrades and Cost Recovery

ILECs play a "vital role" in the provision of wireless E911 services because they "stand between the wireless carrier and the PSAP."[14] The ALI database status reports that the ILECs filed on August 28, 2002 suggest that most ALI databases will be Phase II capable by the end of the year. However, ILECs have generally taken the position that they will not activate their updated databases until they receive the necessary authorization to recover their upgrade costs. Sprint certainly recognizes the right of ILECs to recover their E911 costs from PSAPs. But it would be unfortunate if the activation of E911 systems is delayed because of protracted disputes over the prices ILECs want to charge for the upgrades they make to their E911 infrastructure. For example, no one can activate wireless E911 services in Michigan because a local circuit court has enjoined the ILEC from filing a tariff to recover its costs.[15]

The Commission should use its position of influence to ensure that ILEC services supporting E-911 are priced as economically as possible, with due regard for public safety and the benefits that are derived from such services. The Commission has the expertise and background to monitor ILEC cost recovery efforts and ensure that the interest of the public is properly served. All carriers should be striving to provide this service in an economically reasonable manner.

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[13] Hatfield Report at 46.

[14] Hatfield Report at 32.

[15] *See, e.g.,* Letter from Jonathan J. Boynton, SBC, to Marlene H. Dortch, FCC Secretary, CC Docket No. 94-102 (Oct. 28, 2002). Sprint is not familiar with the details of this state court litigation and thus is unable to comment on its merits.

The Commission might consider intervening in the Michigan court litigation, for example, if only to advise the circuit court of the need for an expeditious resolution of the dispute, so the Michigan Commission can begin considering the cost recovery question. This Commission might also consider requiring ILECs to submit periodic status reports of their efforts to recover their costs and the type of cost recovery they are seeking. Such reports should identify those states where the cost recovery issue may not be resolved expeditiously, and armed with this information, the Commission could then open a dialogue to emphasize the importance of resolving these issues. Again, ILEC actions will directly impact Phase II implementation.

IV. THE COMMISSION MUST HARMONIZE ITS E911 POLICIES AND REQUIREMENTS WITH ITS SPECTRUM POLICIES AND RULES

The Commission has long had a policy that CMRS carriers should provide to PSAPs the most accurate location information that is available from technology.[16] However, in its *UWB Order* adopted earlier this year, the Commission took steps that undermine the ability of Sprint and other wireless carriers to provide PSAPs the location accuracy that their networks are capable of supplying.[17] In the *UWB Order*, the Commission authorized the operation of UWB devices in the GPS and PCS bands, despite uncontroverted record evidence that UWB devices undermine the function of GPS-enabled handsets and, in fact, jeopardize the very ability of mobile customers to originate E911 calls in certain situations. As set forth more fully in its Petition for

[16] *See, e.g., Third E911 Order,* 14 FCC Rcd 17388, 17422 ¶ 74 (1999)("More accurate ALI will reduce the area that must be searched to locate the emergency situation while also making the selecting routing of calls to PSAPs more accurate and reliable.").

[17] *See Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems,* ET Docket No. 98-153, *First Report and Order,* FCC 02-48, 17 FCC Rcd 7435 (April 22, 2002)("*UWB Order*").

Reconsideration in the UWB proceeding,[18] Sprint urges the Commission to consider the ramifications of its decision in this area on the important issue of public safety.

V. THE COMMISSION SHOULD TAKE STEPS TO FACILITATE THE AVAILABILITY OF "SEAMLESS, UBIQUITOUS" WIRELESS NETWORKS AS CONGRESS HAS DIRECTED

Congress has declared that "the construction and operation of *seamless, ubiquitous* and reliable wireless telecommunications systems promote public safety," and that "the prompt deployment throughout the United States" of such "seamless, ubiquitous" networks should be "encourage[d] and facilitate[d]."[19] Congress has noted the obvious: "A wireless telephone is worthless unless the call goes through."[20] It has expressed concern that "in many areas across the country, there are 'holes' or 'dead zones' in the wireless network where a wireless call cannot be transmitted due to the absence of a nearby cellular or personal communications services (PCS) antenna," and it has encouraged that these "dead zones" be filled in to "facilitate . . . the provision of emergency wireless services, thereby enhancing public safety":

> The Committee believes strongly that the construction and operation of seamless, ubiquitous, reliable wireless systems serve the public interest by enhancing public safety, improving the usefulness of communications services, and facilitating interstate commerce.[21]

There are areas around the country where Sprint and other new entrant PCS licenses have "dead zones" because they are unable to obtain the necessary approval to locate a base station in the area in order to eliminate the "dead zone." Some local zoning boards have determined that it is unnecessary for Sprint to provide service in a given area because wireless services are already

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[18] *See* Sprint Petition for Reconsideration, ET Docket No. 98-153 (June 17, 2002).

[19] Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 State 1286, 1287, §§ 1(a)(6), 2(b) (Oct. 26, 1999)(emphasis added).

[20] H.R. REP. NO. 106-25, 106th Cong., 1st Sess., at 5 (Feb. 29, 1999).

[21] *Id.* at 4-5 and 9.

available from incumbent cellular carriers.[22] Of course, if Sprint is precluded from providing service in these areas, its customers traveling in these areas cannot use their wireless service and cannot make E911 calls.[23]

Sprint does not question the authority of local zoning authorities to determine the location of its base stations or determine the type of "stealth" technique it should use to hide the base stations. But a local zoning authority may not prohibit Sprint, or any other CMRS carrier, from providing service in its federally licensed service area by precluding them from installing any base station in order to fill a "dead zone."

The Communications Act is very clear that state and local governments are preempted from regulating the entry of PCS and other CMRS carriers.[24] Congress has charged the Commission with enforcing the Act, and local governments and courts must give deference to the Commission's interpretations of the Act. As the Supreme Court has declared:

> The Federal Communications Commission is the experienced administrative agency . . . [and] its construction of the [Communications Act] is entitled to judicial deference "unless there are compelling indications that it is wrong.[25]

Congress has been clear in declaring that "dead zones" should be eliminated so "seamless, ubiquitous and reliable" wireless service is available "throughout the United States" and so

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[22] Sprint has previously advised the FCC of the incident in Roxbury, New Jersey, where its application to install a base station was denied because certain zoning board members used AT&T Wireless' services and the zoning board determined that there was no need for additional competitors. *See* Sprint Reply Comments, WT Docket No. 00-193, at 21-22 (Feb. 5, 2001).

[23] These local government decisions also harm consumers in these areas because consumers are deprived of choosing Sprint as their service provider.

[24] *See* 47 U.S.C. § 332(c)(3)(A)("[N]o State or local government shall have any authority to regulate the entry of . . . any commercial mobile service."). *See also id.* at § 332(c)(7)(B)(i)(Local governments are prohibited from discriminating among CMRS carriers and from taking actions that have the effect of prohibiting the provision of CMRS).

[25] *CBS* v. *FCC,* 453 U.S. 367, 390 (1981), *quoting Red Lion Broadcasting* v. *FCC,* 395 U.S. 367, 381 (1969). *See also FCC* v. *WNCN Listeners Guild,* 450 U.S. 582, 596 (1981).

mobile customers can originate E911 calls when needed, regardless of their location. In order to discharge this unequivocal Congressional intent, the Commission should declare that while local governments may control the location of base stations, they may not preclude a CMRS licensee from installing a base station altogether in order to fill a "dead zone." The provision of reliable E911 services is at stake.

VI. CONCLUSION

For the foregoing reasons, Sprint Corporation respectfully requests that the Commission take actions consistent with the positions discussed above.

Respectfully submitted,

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