

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

In the Matter of	)	
	)	
Revision of the Commission's Rules	)	CC Docket No. 94-102
To Ensure Compatibility with	)	
Enhanced 911 Emergency Calling Systems	)	
	)	
Sprint Request for Limited Waiver	)	DA 03-20
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**SPRINT REPLY COMMENTS**

Sprint Corporation, on behalf of its wireless operating division, Sprint Spectrum, L.P., d/b/a Sprint PCS ("Sprint"), submits the following reply in support of its request for a limited and temporary waiver of Rule 20.18(g)(1)(iv), which specifies that a carrier activate after December 31, 2002 only location-capable handsets.<sup>1</sup>

Sprint has demonstrated good cause for a waiver of the Commission's rules, and the Commission should grant Sprint an extension to June 30, 2003 by which it must meet the 100% activation benchmark. No one has opposed the limited relief Sprint seeks. At most, the Association of Public-Safety Communications Officials-International, Inc. ("APCO") raises concerns and suggests that the Commission "proceed with care."<sup>2</sup> The extension Sprint seeks is, in fact, less than that already granted to its competitors, and denial of Sprint's request would only result in discriminatory treatment between similarly situated carriers, thereby undermining the regula-

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<sup>1</sup> See *Public Notice*, Wireless Telecommunications Bureau Seeks Comment on Request by Sprint for Six Month Extension of Deadline for 100% Location-Capable Handset Activation, CC Docket No. 94-102, DA 03-20 (Jan. 3, 2002).

<sup>2</sup> APCO Comments, CC Docket No. 94-102 at 5 (Jan. 24, 2003). The two other national public safety agencies – the National Emergency Number Association ("NENA"), and the National Association of State 9-1-1 Administrators ("NASNA") – neither submitted comments nor joined APCO in its comments.

tory parity directive of the Omnibus Budget Reconciliation Act of 1993.<sup>3</sup> The Commission would set no dangerous precedent by granting Sprint's request, nor would grant of the requested relief provide an incentive to delay deployment. In this regard, Sprint has already completed installation of its Phase II network architecture and is proceeding with live deployment in all markets where PSAPs are ready to proceed with Phase II deployment.

#### **I. SPRINT'S WAIVER REQUEST IS UNOPPOSED**

As Sprint noted in its waiver request, the National Emergency Numbering Association ("NENA") has authorized Sprint to state that it does not oppose the relief Sprint seeks.<sup>4</sup> APCO has not endorsed Sprint's request, but it did not directly oppose it. APCO suggests that the Commission proceed with "great care," but it does not argue that Sprint's request should be denied. Indeed, APCO recognizes in its comments that "Sprint has been a leader in the deployment of wireless E911, and has worked hard to meet the deadlines in the Commission's rules":

APCO acknowledges those efforts, and agrees that Sprint's record should be a factor in the Commission's consideration of its request. \* \* \* Sprint has established a record of E9-1-1 deployment and of cooperation with APCO and other public safety organizations. Sprint's record of compliance should be a fact in the Commission's consideration of its waiver request.<sup>5</sup>

The only two other comments submitted endorsed Sprint's request.<sup>6</sup> Based upon the record, it is appropriate for the Commission to grant Sprint's request for a limited and temporary rule waiver.

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<sup>3</sup> Congress has "directed" the FCC to "achieve regulatory parity among services that are substantially similar." H.R. REP. NO. 103-111, 103d Cong., 1<sup>st</sup> Sess. 259-60 (1993). The FCC has similarly noted that regulatory symmetry "ensure[s] that consumer demand, not regulatory decree, dictates the course of the mobile services marketplace." *Third CMRS Order*, 9 FCC Rcd 7988, 7992 ¶ 1 (1994).

<sup>4</sup> Specifically, NENA authorized Sprint to state that it did not oppose the relief Sprint sought, but that it would reserve the right to comment further, should new information come to light.

<sup>5</sup> APCO Comments at 2 and 4.

<sup>6</sup> See T-Mobile Comments, CC Docket No. 94-102 (Jan. 24, 2003); Cellular Telecommunications & Internet Association Comments, CC Docket No. 94-102 (Jan. 24, 2003).

## II. SPRINT HAS MADE MORE THAN GOOD FAITH REASONABLE EFFORTS TO COMPLY WITH THE E911 RULES

No one can question that Sprint has made more than “good faith, reasonable efforts” to comply with the 911 mandate as required by the Commission and that it is on “a clear path to full compliance.”<sup>7</sup> Sprint has sold more than 5.8 million GPS enabled handsets as of the end of 2002. During the month of December, 62% of handset activations and 82% of handset sales were GPS enabled. Live Phase II service is now operational in 21 markets representing 121 PSAPs, with more deployments scheduled to launch over the next several months. Sprint is actively pursuing deployment for every PSAP that has requested service and is capable of receiving and utilizing Phase II information.

Sprint has consistently led the industry, being the first and only carrier to meet the Commission’s October 1, 2001 deadline to begin selling GPS enabled handsets and being the first carrier to launch a handset-based Phase II system (in the State of Rhode Island). Sprint completed upgrading its network infrastructure nationwide *before* the Commission’s deadlines and has met every other benchmark set by the Commission. Because Sprint led the industry, it did not initially expect to need an extension of the December 31, 2002 deadline. However, unexpected intervening events have disrupted Sprint’s expected sales. The Commission itself acknowledged that such events could occur and affect carrier activations.<sup>8</sup> Under these circumstances, Sprint respectfully submits it would be wholly inappropriate for the Commission to deny

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<sup>7</sup> *Fourth E911 Reconsideration Order*, 15 FCC Rcd 17442, 17457 ¶ 44 (2000)(“[W]e expect waiver requests to be specific, focused and limited in scope, and with a clear path to full compliance.”); and *Third E911 Order*, 14 FCC Rcd 17388, 17413-14 ¶ 54 (1999)(“[G]ood faith, reasonable efforts should be sufficient.”).

<sup>8</sup> *Third E911 Order*, 14 FCC Rcd at 17412 ¶ 51 (“For any of several reasons (*e.g.*, a recession, declining growth rates, or early deployment of non-ALI-capable digital phones that consumers elect not to replace), the actual pace of ALI-capable handset deployment could lag and may take several years.”).

Sprint an extension merely because it has been the industry leader and has a more rigorous set of benchmarks than other carriers.

Importantly, grant of the requested relief would not, as APCO suggests, establish “dangerous precedent for future waiver requests.”<sup>9</sup> As APCO notes, the December 31, 2002/100% activation milestone was deemed “necessary to stem the flow of ‘legacy’ handsets into the marketplace.”<sup>10</sup> This objective has been achieved. As Sprint reported in its waiver request, it has stopped purchase of handsets that are not GPS enabled.

The limited relief Sprint seeks is necessary because the economy generally, and Sprint’s sales in particular, slowed considerably after the Commission established Sprint’s December 31, 2002/100% activation milestone, leaving Sprint with a greater inventory of “legacy” handsets than it had anticipated it would possess at this time. In this regard, APCO acknowledges that a change in the economy is a factor that is “not irrelevant.”<sup>11</sup> Sprint is confident that had the Commission known of the upcoming changes in the economy when it adopted its December 31, 2002/100% activation milestone some years ago, it would have adopted different deadlines.

Sprint cannot agree with APCO that its waiver request is “fundamentally different from most other E9-1-1 waivers.”<sup>12</sup> A slowed economy is a factor “beyond the carrier’s control” as are consumer decisions whether to purchase Sprint service, replace an existing handset, or purchase one handset model over another.<sup>13</sup> What is important is that Sprint has met or exceeded all

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<sup>9</sup> APCO Comments at 2.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Ibid.*

<sup>12</sup> *See id.* at 3.

<sup>13</sup> After leading the wireless industry in net customer additions for 13 consecutive quarters, Sprint could not have expected or planned for the dramatic downturn it encountered in the third quarter of 2002. Sprint had experienced net additions in excess of 300,000 in the second quarter of 2002 before suffering a loss of 78,000 customers in third quarter 2002.

Commission requirements that have been under its control. Accordingly, grant of the requested waiver would not establish any new precedent, much less “dangerous precedent for future waiver requests.”<sup>14</sup>

### **III. GRANT OF THE REQUESTED RELIEF WOULD BE CONSISTENT WITH “FIRM, FAIR, AND CONSISTENT ENFORCEMENT” OF THE E911 RULES**

APCO urges the Commission to pursue a course of “[f]irm, fair, and consistent enforcement” of the E911 rules.<sup>15</sup> Sprint wholeheartedly agrees. All other wireless carriers using a handset-based solution have been granted an extension of the December 31, 2002 deadline requiring that 100% of activations be GPS enabled.<sup>16</sup> Because Sprint has been far ahead of other carriers in deploying and supporting E911, it did not initially seek an extension of that deadline. Unexpected intervening events, however, have prevented Sprint from completing its GPS conversion on its original schedule. Accordingly, Sprint seeks only to be granted an extension consistent with what other carriers have already been extended. In fact, Sprint seeks a shorter extension than has been granted its competitors. Sprint will continue to lead the industry, and it still anticipates being the first carrier to convert 100% of its handset lineup to GPS enabled models.

APCO states that carriers were given “adequate notice” of the December 31, 2002 date.<sup>17</sup> This suggestion, of course, ignores the fact that circumstances change, which is the very reason the waiver process was established. The existence of a fixed date established by the government does not help carriers to predict consumer behavior or economic downturns. Public safety officials were similarly aware of the deployment schedules imposed on carriers, yet the vast majority

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<sup>14</sup> See APCO Comments at 2.

<sup>15</sup> APCO Comments at 3.

<sup>16</sup> See Sprint Waiver Request, CC Docket No. 94-102, at n.10 (Dec. 20, 2002).

<sup>17</sup> See APCO Comments at 3.

of these PSAPs are not ready to proceed with Phase II service. Sprint recognizes that there are many factors affecting the pace of Phase II deployment and believes all parties are working toward implementation in good faith. Unexpected circumstances do arise, however, and the Commission must permit flexibility for all parties involved to overcome these unexpected hurdles. Sprint is committed to Phase II deployment and its actions reflect that. Under the circumstances, any enforcement action would be entirely inappropriate.

#### IV. CONCLUSION

Sprint is the industry leader in E911 implementation and deployment. It seeks a limited rule waiver that would extend the time within which it would be required to meet the 100% activation benchmark. This extension would be less than that granted by its competitors and is not opposed by any party. The Commission should grant Sprint's request.

Respectfully submitted,

**SPRINT CORPORATION on behalf of  
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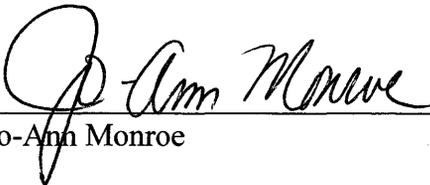
February 3, 2003

**CERTIFICATE OF SERVICE**

I, JoAnn Monroe, certify that on February 3, 2003, I caused a copy of the foregoing Sprint Reply Comments to be served on the following parties by first-class postage-prepaid mail:

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