

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

In the Matter of)	
)	
Revision of the Commission's Rules)	
To Ensure Compatibility with Enhanced)	
911 Emergency Calling Systems)	CC Docket No. 94-102
)	
Petition of City of Richardson, Texas)	

**COMMENTS OF T-MOBILE USA, INC. IN SUPPORT OF PETITIONS FOR
RECONSIDERATION BY CINGULAR WIRELESS LLC AND NEXTEL
COMMUNICATIONS, INC.**

Jim Nixon
Robert A. Calaff
T-MOBILE USA, INC.
401 9th Street, N.W.
Suite 550
Washington, D.C. 20004
(202) 654-5900

John T. Nakahata
Karen L. Gulick
Yul J. Kwon
HARRIS, WILTSHIRE & GRANNIS LLP
1200 18th Street, N.W.
Suite 1200
Washington, D.C. 20036
(202) 730-1300
Counsel to T-Mobile USA, Inc.

March 24, 2003

SUMMARY

T-Mobile USA, Inc. (“T-Mobile,” formerly VoiceStream Wireless Corporation) supports the petitions of Nextel Communications, Inc. (“Nextel”) and Cingular Wireless LLC (“Cingular”) for reconsideration of the Commission’s *Richardson Reconsideration Order*.

Nextel and Cingular both challenge the framework for initial tolling and certification delineated in the *Richardson Reconsideration Order* as complicating the efforts of wireless carriers to prioritize deployment efforts to those PSAPs that are actually ready to use wireless E911 data. Specifically, Nextel argues that the Commission’s rules create a labyrinth of new requirements and potential liabilities that ignore the complex realities of E911 deployment, such as the multi-party nature of the deployment process, the diversity of acceptable deployment standards that preclude a “plug and play” option, and the lack of a single standard for E911 feature set components and their end-to-end connectivity that renders distinctions between “valid” and “invalid” PSAP requests untenable. The *Richardson* framework, according to Nextel, establishes unnecessarily adversarial relationships between parties that should instead collaborate with one another in good faith. Nextel therefore urges the Commission to discard the *Richardson* rules and supplant them with simpler ones that requires carriers to work in good faith to deploy a PSAP within six months of a request.

Cingular likewise advocates for the wholesale rescission of the *Richardson* certification process, arguing that the current framework exacerbates PSAP readiness issues and delays the deployment of Phase II services to prepared PSAPs, and that the Commission adopted its *Richardson* rules without following the processes required by the Administrative Procedure Act (APA). Cingular emphasizes the objectionable scenario precipitated by the *Richardson* certification regime under which carriers would be compelled to continue deploying Phase II service even when it is clear that a PSAP will not be ready to utilize such service. This scenario, Cingular maintains, prevents it from effectively prioritizing PSAP requests and optimally allocating resources towards PSAPs that are capable of deployment. Cingular also describes a range of other problems with the certification process, including the requirement that carriers complete all necessary steps towards implementation before filing a certification, the *de facto* veto power over certification afforded to PSAPs, the infeasibility of the 21 day notification requirement for carriers seeking certification, the inability of PSAPs to accurately gauge their readiness, and the absence of an expedited process for resolving disputes between carriers and PSAPs. In light of these problems and others, Cingular urges the Commission to adopt a new Order reaffirming that PSAPs must be ready to receive and utilize Phase II information prior to requesting service, requiring PSAPs to submit readiness documentation with Phase II requests, clarifying that the six-month period for responding to a PSAP request is tolled where a PSAP’s readiness is challenged, and establishing an expedited process for resolving disputes over readiness. Beyond the problems identified with the certification process, Cingular correctly points out that the Commission’s rules promulgated under *Richardson I* and *II* do not conform to the requirements of the APA.

T-Mobile supports the petitions by Nextel and Cingular and agrees that the *Richardson* certification framework and the six month implementation deadline do not adequately reflect the underlying realities of deployment, and the need for cooperative participation from multiple

parties in order to meet the six month deadline. This lack of a reasonable fit with the realities of deployment means that the rules do not currently serve the public interest in expediting E911 deployment and, ideally, should be fundamentally reconceived from first principles to address the issues raised in the petitions. However, if the Commission is unwilling to do so, T-Mobile believes that the *Richardson* tolling and certification processes must, at minimum, be clarified and modified. Specifically:

- Certification should apply to all requests that cannot be completed within six months due to PSAP lack of readiness, even if the PSAP is technically able to receive and utilize E911 data elements at the six month deadline. As the Commission recognized in creating the certification process, some amount of time is required to complete a deployment after the PSAP becomes ready to receive and utilize E911 data. Once the PSAP advises the carrier that it is capable of receiving and utilizing the E911 data elements, the carrier should have ninety days to complete implementation whenever the deployment cannot be completed within the six month deadline.
- A PSAP's failure to provide necessary information (such as routing instructions) should be an appropriate subject for wireless carrier certifications.
- Wireless carriers seeking certification should be allowed to defer implementation steps until after the PSAP is ready if the carrier would otherwise have to perform those implementation steps twice (because, for example, the implementation step would become out-of-date).
- Wireless carriers seeking certification should be able notify the requesting entity, which may be the affected PSAP or another entity making the request on behalf of the affected PSAP.
- Initial tolling should be available for current pending requests as well as future requests for which a PSAP fails to provide documentation that it has: (1) ordered necessary equipment from a supplier with a commitment to have that equipment installed and operational within the six month period; and (2) made a timely request to the appropriate LEC for necessary trunking, upgrades, and other facilities. At a minimum, wireless carriers should be allowed to renew pending requests for *Richardson* documentation, and then toll the running of the six-month implementation period for all PSAP requests for which complete *Richardson* documentation is not supplied fifteen days thereafter.
- Tolling should be permitted regardless of when the wireless carrier requests the *Richardson* documentation remittal (*i.e.*, not just within the first 15 days after the receipt of a request).
- Tolling should be available when the carrier cannot complete implementation within six months due to third party implementation issues outside of the wireless carrier's control, regardless of whether that occurs on the wireless carrier's or the PSAP's side of the input to the selected router.

Moreover, T-Mobile agrees with Cingular that the Commission's changes in *Richardson I* and *II* to the requirements determining a valid request violated the APA. The *Richardson* rules cannot be deemed mere clarifications illustrative of original intent, as they substantively alter

parties' rights and duties. T-Mobile therefore urges the Commission to recognize that its failure to provide adequate notice as mandated by the APA renders the *Richardson* framework null and void.

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. NEXTEL AND CINGULAR CORRECTLY IDENTIFY CRITICAL FLAWS IN THE <i>RICHARDSON</i> CERTIFICATION PROCESS	1
A. Nextel’s Criticisms of the Certification Process Are On-Point and Compelling.....	1
B. Cingular’s Criticisms of the Certification Process Are Likewise On-Point and Compelling.....	3
C. In Light of the Problems Identified by Nextel and Cingular, the <i>Richardson</i> Certification Framework Should Be Rejected and Replaced.....	5
III. IN THE ALTERNATIVE, THE <i>RICHARDSON</i> CERTIFICATION AND TOLLING PROCESSES MUST BE CLARIFIED AND MODIFIED TO FUNCTION AS INTENDED	6
A. The Commission Should Clarify the Following Issues Regarding the Certification Process	6
1. Certification Should Apply to All Requests that Cannot Be Completed Within Six Months Due to PSAP Lack of Readiness.....	6
2. The Commission Should Clarify That Certification Procedures Apply to All PSAP Failures to Complete Steps Necessary to an E911 Deployment	8
3. Certification Should Not Require Completion of Implementation Steps That Would Have to Be Redone After a PSAP Is Ready	9
4. Carriers Should Be Permitted to Serve the Requesting Entity Rather Than the “Affected PSAP” When a PSAP Has Designated a Representative.....	11
5. The Notice of Intent to File and the Three-Week Pre-Filing Objection Period Serve No Purpose Because PSAPs May Object After Certification Is Filed	12
6. The Commission Must Rule on Disputed Certifications	13
B. The Commission Should Clarify the Following Issues Regarding the Initial Tolling Process.....	14
1. The Commission Should Permit Tolling for Current Pending Requests.....	15
2. The Commission Should Permit Tolling Regardless of When the Wireless Carrier Requests the <i>Richardson</i> Documentation.....	17
3. The Commission Should Clarify Treatment of Partial and Insufficient Responses.....	18
C. The Commission Should Toll Implementation When the Carrier Cannot Complete Implementation Within Six Months Due to Third Party Implementation Issues.....	19
IV. CINGULAR CORRECTLY POINTS OUT THAT THE <i>RICHARDSON</i> RULES WERE ADOPTED IN VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, WHICH FURTHER MILITATES IN FAVOR OF RECONSIDERATION	21
A. Because the New Rules Affect Rights and Obligations, They Cannot Be Deemed “Clarifications” Merely Illustrative of Original Intent	21
B. The Commission Gave No Notice of the Changes Ultimately Adopted	23
V. CONCLUSION.....	25

I. INTRODUCTION

T-Mobile USA, Inc. (“T-Mobile,” formerly VoiceStream Wireless Corporation) respectfully submits these comments in support of the petitions filed by Nextel Communications, Inc. (“Nextel”) and Cingular Wireless LLC (“Cingular”) for reconsideration of the Commission’s November 26, 2002 *Richardson Reconsideration Order*.¹

II. NEXTEL AND CINGULAR CORRECTLY IDENTIFY CRITICAL FLAWS IN THE *RICHARDSON* CERTIFICATION PROCESS

Nextel and Cingular criticize the certification process established under the *Richardson Recon Order* by identifying a range of deficiencies that merit the wholesale substitution of the certification rules with alternative ones.

A. Nextel’s Criticisms of the Certification Process Are On-Point and Compelling

In its Petition for Reconsideration, Nextel argues that the Commission in the *Richardson Recon Order* “adopted new procedural guidelines for requesting information about a PSAP’s Phase II readiness and created a labyrinth of new requirements and potential liabilities for wireless carriers as part of the [E911] deployment process.”² In doing so, Nextel asserts that the new rules ignore the complexities of deployment. As Nextel points out, numerous parties outside the wireless carrier’s control can influence and determine how quickly a deployment proceeds.³ In addition, the number of alternative accepted standards for equipment and technology, as well as the lack of uniform end-to-end configuration standards, prevents deployment from being a “plug and play” process.⁴ Further, the lack of a single standard for

¹ *Petition of City of Richardson*, Order on Reconsideration, CC Docket No. 94-102, 17 FCC Rcd. 24,282 (2002) (“*Richardson Recon Order*” or “*Richardson I*”); *see also* *Petition of City of Richardson*, Order, CC Docket No. 94-102, 16 FCC Rcd. 18,982 (2001) (“*Richardson Order*” or “*Richardson I*”).

² Nextel Communications, Inc. Petition at 2-3.

³ *See id.* at 6.

⁴ *See id.* at 5.

E911 feature set components and their end-to-end connectivity give rise to a large number of variables that preclude the simple categorization of PSAP requests as either “valid” or “invalid.”⁵

By ignoring the complex realities of deployment, the certification framework established by the Commission, in Nextel’s view, imposes an adversarial process to a situation where successful deployment depends on a high degree of coordination and cooperation among multiple parties.⁶ Rather than maintain such a complicated administrative and adversarial process, Nextel urges the Commission to promulgate a substitute rule that imposes on carriers an obligation to work in good faith to deploy a requesting PSAP within six months of a request. As a corollary measure, the Commission is encouraged to provide an expedited process for parties to resolve disputes over deployment.⁷

T-Mobile categorically agrees with Nextel’s criticisms regarding the *Richardson* certification process. By instituting an overly cumbersome and adversarial process that focuses on assigning “blame” rather than promoting cooperation, the Commission is priming the deployment process for downstream conflict and frayed relationships between carriers and PSAPs. Furthermore, the rules require wireless carriers to engage in non-productive and non-prioritized “hurry up and wait” deployment activity to meet certification requirements, even when no acceleration of final deployment will result. The rules lose sight of their objective – timely deployment – and micromanage the process. The *Richardson* rules also do not incorporate the inherent flexibility necessary to encompass the full range of contingencies that are likely to arise during the deployment process, such as incompatibility issues associated with the different types of equipment, standards, and configurations that may be deployed by carriers

⁵ See *id.* at 9.

⁶ See *id.* at 7-8.

⁷ See *id.* at 12.

and PSAPs. At the same time, as Nextel recognizes, the rules oversimplify other aspects of the deployment process, such as propagating the convenient but nonworkable designation of PSAP requests into “valid” and “invalid” categories. Accordingly, T-Mobile supports Nextel’s petition to reconsider the *Richardson* rules and supplant them with a more collaborative framework better adapted to the realities of Phase II deployment.

B. Cingular’s Criticisms of the Certification Process Are Likewise On-Point and Compelling

Cingular argues that the *Richardson* certification process exacerbates PSAP readiness issues and delays the deployment of Phase II services to prepared PSAPs.⁸ The primary objection raised by Cingular to the certification rules pertains to the fact that they would require carriers to continue deploying Phase II service even in instances when it is clear that a PSAP will not be capable of utilizing such service. This scenario would obtain when a PSAP submits a valid request but then subsequently finds itself incapable of being ready within the six month timeline. Even though it may be apparent to both the PSAP and the carrier that timely deployment is impossible, the *Richardson* rules would force the carrier to continue taking steps toward deployment. Cingular maintains that this obligation prevents it from effectively prioritizing PSAP requests and optimally allocating resources towards PSAPs that are ready.⁹ As a result, the public policy goal of ensuring E911 deployment effectively and expeditiously is frustrated by the Commission’s rules for certification.

Cingular’s petition identifies several unnecessary procedural hurdles added by the *Richardson Recon Order* that impede a rational prioritization of deployment efforts to those PSAPs that will be ready to receive and use E911 service. First, a carrier is permitted to file a

⁸ See Cingular Wireless LLC Petition at 14.

⁹ See *id.* at 15.

certification regarding a PSAP's lack of readiness only after the carrier has completed all necessary steps towards implementation.¹⁰ Second, the rules grant PSAPs *de facto* veto power over certification applications by carriers.¹¹ Third, the 21-day advance notification requirement for carriers that request certification can preclude carriers from availing themselves of the certification process.¹²

In light of these problems and others, Cingular urges the Commission to adopt a new Order: (1) reaffirming that PSAPS must be ready to receive and utilize Phase II information prior to requesting service; (2) requiring PSAPs to submit readiness documentation with Phase II requests; (3) clarifying that the six-month period for responding to a PSAP request is tolled where a PSAP's readiness is challenged; and (4) establishing an expedited process for resolving disputes over readiness.¹³

T-Mobile affirms the validity and significance of the problems highlighted in Cingular's petition, and categorically supports Cingular's recommendations for fashioning better rules to replace the existing ones. The public interest would be best served by allowing carriers to allocate their resources toward PSAPs capable of benefiting from those resources – the original purpose of the validity requirement. However, under the current certification regime, carriers may be obligated to continue deploying to a PSAP even when it is apparent that the PSAP will not be ready within the allotted time period. This outcome directly contravenes the purpose of imposing certification requirements in the first place – ensuring that carrier resources will not be wasted or tied up deploying to unprepared PSAPs.

¹⁰ *See id.* at 15-16.

¹¹ *See id.* at 16.

¹² *See id.* at 16.

¹³ *See id.* at 18.

The remaining specific problems outlined in Cingular's petition are also issues that bear careful scrutiny and consideration. Each limits a carrier's ability to use the certification process for the legitimate goal of verifying that a PSAP will be ready for deployment. In combination, they effectively eviscerate the safeguards motivating the certification framework and reduce the process to an onerous burden that yields few of its intended systemic benefits.

The alternative rules proposed by Cingular are sound. They would ensure that carrier resources are not invested in stalled endeavors while other PSAPs that are ready for deployment lay idle. Cingular has demonstrated that the percentage of PSAPs incorrectly gauging their readiness is exceptionally high.

C. In Light of the Problems Identified by Nextel and Cingular, the *Richardson* Certification Framework Should Be Rejected and Replaced

Nextel and Cingular espouse rejecting the *Richardson* certification framework and replacing it with flexible rules promoting collaboration and efficiency. In light of the scope and magnitude of the problems with certification identified in their petitions, T-Mobile is persuaded that reconstituting the certification framework from first principles would represent the best approach for fully resolving the range of concerns implicated in this proceeding. It is apparent that the existing rules do not speak to all the various contingencies that are likely to arise, and that, in certain circumstances, the rules would actually mandate outcomes that are antithetical to the purpose for which they were adopted. In other instances, however, the rules would not permit the flexibility needed to negotiate complex deployment challenges requiring individualized or ad hoc solutions. Therefore, T-Mobile supports Nextel's and Cingular's petitions for the Commission to reconceive the certification process so as to render it more practicable and economically efficient.

III. IN THE ALTERNATIVE, THE *RICHARDSON* CERTIFICATION AND TOLLING PROCESSES MUST BE CLARIFIED AND MODIFIED TO FUNCTION AS INTENDED

If the Commission is unwilling to undertake a comprehensive refashioning of the *Richardson* certification framework, T-Mobile believes that, at minimum, the certification and tolling processes should be clarified to partially address the issues raised by Nextel and Cingular.

A. The Commission Should Clarify the Following Issues Regarding the Certification Process

With respect to the certification process established under the *Richardson Recon Order*, the Commission should issue the following clarifications.

1. Certification Should Apply to All Requests that Cannot Be Completed Within Six Months Due to PSAP Lack of Readiness

Cingular's petition takes issue with the limits the Commission placed on a carrier's ability to use the certification process. In particular, Cingular criticizes the fact that a carrier may file for certification only after it has completed all necessary steps towards implementation that are not dependent on PSAP readiness.¹⁴ Another scenario that arguably escapes the scope of certification rules arises where a PSAP cannot receive and utilize E911 data for a lengthy period of time, but *can* do so by day 180. The Commission should clarify that, in such situations (*i.e.*, those in which a PSAP gains the ability to receive and utilize E911 data elements before the six-month deadline, but does so sufficiently close to the deadline that the wireless carrier is unable to complete its implementation reasonably within the remaining time), a wireless carrier may file a certification and have ninety days to complete the implementation from the date that the PSAP provides notification of its readiness to receive and utilize the data. Indeed, it would be arbitrary and capricious to refuse to make this clarification.

¹⁴ See Cingular Wireless LLC Petition at 15-16.

Section 20.18(j)(4) makes absolutely clear that, if a PSAP is not capable of receiving and utilizing E911 data elements on the day the six-month implementation period expires (day 180), the wireless carrier may file a certification. Assuming the carrier meets the other requirements for such a certification, even if the PSAP notifies the wireless carrier the next day (*i.e.*, day 181) that it is capable of receiving and utilizing E911 data elements, the wireless carrier will have ninety days from the receipt of the PSAP's written notice to complete implementation of the PSAP's request. This makes sense because the wireless carrier must complete implementation steps that, from a practical perspective, the wireless carrier either could not or should not have undertaken prior to the PSAP becoming ready to receive and utilize such data.¹⁵

By contrast, if Section 20.18(j)(4) is interpreted as *only* permitting certifications when a PSAP is unable to receive and utilize E911 data elements on day 180, then prior to the expiration of the six-month period, wireless carriers are subject to an ever-diminishing time period for implementation once the PSAP becomes ready to receive and utilize such data elements. If, for example, a PSAP becomes ready to receive and utilize E911 data on day 170, the rules require the wireless carrier to complete the deployment within approximately ten days of the PSAP becoming ready (day 180). There is no rational basis – and certainly no basis in the record – for the Commission to conclude that a wireless carrier reasonably needs ninety days to complete an E911 deployment when the PSAP becomes ready to receive and utilize E911 data on day 190, but requires only ten days if the PSAP is ready on day 170. Drawing such a line would be arbitrary in the extreme.

It is important to recognize that clarifying Section 20.18(j)(4) as suggested will not force the Commission to make fact-specific judgments about whether a wireless carrier had a

¹⁵ T-Mobile agrees that, in most situations, the 90-day implementation period provided by new Section 20.18(j)(4)(x) should be adequate, and that those few cases where ninety days will not be adequate can be addressed through waivers.

reasonable amount of time after the PSAP became ready to receive and utilize E911 data elements before the end of the six-month implementation period. The Commission previously determined that ninety days is a reasonable implementation period following the PSAP notifying the wireless carrier that it has become ready to receive and utilize E911 data. The Commission can apply the same ninety-day rule to situations in which the PSAP becomes ready prior to the expiration of the six month deadline: if fewer than ninety of the 180 days remain when the PSAP notifies the wireless carrier that it is ready, the wireless carrier has until the 90th day after notice to complete the implementation. As a result, if a PSAP notifies a wireless carrier on day 150 that it is ready to receive and utilize E911 data elements, the wireless carrier would have approximately sixty days after the end of the six-month implementation period (ninety days after day 150) to complete the deployment. This is the only rational and non-arbitrary interpretation of new Section 20.18(j)(4) available to the Commission.

2. The Commission Should Clarify That Certification Procedures Apply to All PSAP Failures to Complete Steps Necessary to an E911 Deployment

Nextel's petition draws attention to the fact that E911 deployment is a highly complex endeavor that requires the timely collaboration of parties outside a carrier's control.¹⁶ Clearly, the certification process should be available to protect carriers when their inability to deploy stems from the PSAP's failure to provide necessary information in a timely fashion. However, the express language of Section 20.18(j)(4) creates ambiguity insofar as it states that a wireless carrier may file a certification regarding PSAP readiness if the PSAP "is not capable of receiving and utilizing the data elements associated with the service requested." It is unclear whether a PSAP's failure to provide information necessary for a wireless carrier to complete its

¹⁶ See Nextel Communications, Inc. Petition at 6-7.

deployment falls within the scope of the certification procedures. The Commission should clarify that failure to provide necessary information is an appropriate subject for wireless carrier certifications.

In order for a wireless carrier to provide E911 service, the PSAP must provide certain information. A PSAP first must provide the location of the selective router.¹⁷ After the wireless carrier supplies the PSAP with coverage maps and cell site datafiles, the PSAP must return instructions for the proper routing of E911 calls. Absent routing instructions, the carrier does not know which PSAP has jurisdiction to send emergency responders to a particular cell site or (x, y) location. This is not an insignificant problem. In T-Mobile's experience, some delays in receiving routing instructions have stretched out over many months despite its good faith efforts to obtain this information.

A PSAP's failure to provide this essential information is an appropriate basis for certification. A PSAP is not truly ready to receive and utilize E911 data if it has not told the wireless carrier how it wants that data to be routed in order to be usable. Moreover, this information is solely within the PSAP's control, and not within the wireless carrier's control.

3. Certification Should Not Require Completion of Implementation Steps That Would Have to Be Redone After a PSAP Is Ready

As Cingular and Nextel both point out, the purpose of the validity test was to allow carriers to target implementation efforts effectively, not to require duplicative or wasteful actions that benefit no one. To minimize unnecessary and nonproductive expenditures of resources, the Commission should clarify that, before a carrier may avail itself of the certification procedure, it must have completed all steps that are both possible and would not later have to be redone in its

¹⁷ Third party information sources provide locations for some selective routers, although they are not always accurate.

implementation, *given the state of PSAP preparedness at the time of the certification filing.*

Certainly, actions that are physically dependent upon additional action by the PSAP cannot be completed (*e.g.*, a carrier cannot provision the gateway mobile location center (“GMLC”) with cell site routing data and Phase I location descriptions until the PSAP provides routing instructions). But the rule provides that, in order “to be eligible to make a certification, the wireless carrier must have completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness.”¹⁸ Depending on how the Commission interprets “dependent,” this could force carriers to engage in unnecessary and wasteful actions, with no offsetting public benefit.

For example, a carrier is capable of loading cell site data into the GMLC and performing database translations even if a PSAP is not ready to receive and utilize E911 data elements. However, this work is time-sensitive. As a practical matter, if there is a delay of several weeks or more in the PSAP’s readiness, these steps would likely have to be redone before testing and the delivery of service. When cell sites are loaded into the GMLC, they must reflect the network design. In a dynamic network, especially a growing wireless network, the design is in constant flux due to the addition of sites.

Recognition that some steps are not prudently performed until after the PSAP has become ready to receive the E911 data elements will not weaken the wireless carrier’s incentive to do all that is rationally and feasibly possible to implement the request prior to certification. Because Section 20.18(j)(4)(x) sets a ninety-day period for the delivery of service once a PSAP advises the carrier of its readiness after certification, carriers cannot idly sit by, delaying implementation

¹⁸ 47 CFR § 20.18(j)(4)(vi). In addition, the certification must document: (1) “each of the specific steps the carrier has taken to provide the E911 service requested,” and (2) “the reasons why further implementation efforts cannot be made until the PSAP becomes capable of receiving and utilizing the data elements associated with the E911 service requested.” 47 C.F.R. § 20.18(j)(4)(iii)(B), (C).

efforts until a PSAP establishes actual preparedness. The ninety-day period itself assures that carriers and PSAPs will work on implementation in parallel, and in concert. The end game – from everyone’s perspective – is the delivery of E911 service as soon as possible, without unnecessary cost and effort. That objective is best served by allowing carriers to defer implementation steps until after the PSAP is ready if the carrier would otherwise have to perform those implementation steps twice.

4. Carriers Should Be Permitted to Serve the Requesting Entity Rather Than the “Affected PSAP” When a PSAP Has Designated a Representative

Section 20.18(j)(4)(i) requires a carrier intending to file a certification to give written notice of its intent to file to “the affected PSAP.”¹⁹ The Commission should clarify that carriers meet this requirement when they notify the requesting entity, which may or may not be the affected PSAP.

Frequently, E911 implementation is coordinated on a state- or countywide basis. For example, the Tarrant County, Texas 911 District has administered E911 implementation for 38 PSAPs. Rhode Island, Delaware, Minnesota and Oregon have been coordinated statewide. In these cases, the requesting entity is the responsible entity, and T-Mobile interacts with that entity, rather than with individual PSAPs. Indeed, where implementation is managed this way, personnel at the individual PSAP may not know the status of implementation or the source of delay, and direct contact by carriers may cause confusion. For precisely these reasons, some requesting entities have explicitly asked that carriers *not* have direct interaction with the PSAPs. Where a PSAP has chosen to have a central agency coordinate implementation, and to have

¹⁹ 47 C.F.R. § 20.18(j)(4)(i).

carriers work through that agency, T-Mobile believes that it is most appropriate and effective to respect that choice.

In addition, as a practical matter, T-Mobile and similarly situated carriers do not necessarily know the identity of all of the PSAPs associated with a request until the requesting entity provides routing instructions, which may not occur prior to the end of the six-month period. Even at that point, T-Mobile does not receive contact information for every PSAP as a matter of course. For this reason alone, wireless carriers should be required to serve only the PSAP or other entity actually making the request.

5. The Notice of Intent to File and the Three-Week Pre-Filing Objection Period Serve No Purpose Because PSAPs May Object After Certification Is Filed

Cingular claims that the 21 day notification rule promulgated under the *Richardson Recon Order* is unworkable.²⁰ This rule mandates that whichever entity is served – the PSAP or the requesting entity – must be given notice of the intended certification and three weeks to respond. Cingular argues that, as a practical matter, the rule limits carriers from taking advantage of the certification process insofar as carriers often need the full six months provided by the rules to complete their deployment obligations.²¹

Beyond pragmatic considerations, the rule itself raises several questions about the rationale for the advance notice requirement. As an initial matter, there is a discrepancy between the text of the order and the rules concerning the content of the notice. Although the text of the order specifies that the wireless carrier must notify the affected PSAP of its intent to file the

²⁰ See Cingular Wireless Petition at 16.

²¹ See *id.*

certification “and simultaneously provide the PSAP with the text of the certification to be filed with the Commission,”²² the rule requires notification only of the carrier’s intent.²³

Furthermore, it is unclear why the three-week pre-filing objection period is necessary at all. The rule provides that a PSAP may object to the certification after it has been filed with the Commission, and the rule renders tolling unavailable to any carrier whose certification is inaccurate. The Commission should either allow PSAPs to object after receiving a draft, or permit post-certification challenges, but not both.

Again, while it is wise for carriers to work closely with the requesting entity whenever a certification may be necessary, the responsibility of the carrier for accurate certification and the potential loss of the tolling protection provides the carrier with sufficient incentive to use the certification process judiciously and, where possible, to work closely with the PSAP to verify details prior to filing any certification. Thus the PSAP will have ample opportunity for input prior to certification filing in any event. Intricate rules mandating the content of a notice, and establishing both pre- and post-filing objection periods, unnecessarily interfere with established and cooperative working relationships between carriers and PSAPs. The Commission has not established the need for these additional procedures and paperwork.

6. The Commission Must Rule on Disputed Certifications

Cingular registers substantial concern over the fact that the rules apparently provide PSAPs with *de facto* veto power in the certification process.²⁴ T-Mobile presumes that the Commission did not intend for PSAPs to enjoy such blanket authority, but that the intent was for

²² *Richardson Recon Order*, 17 FCC Rcd. at 24,286.

²³ As a matter of practice, it may be most effective to serve the requesting entity with the exact language of the proposed certification. Nonetheless, there is no need for a rule governing administrative matters best left for carriers, such as whether the draft certification or a letter containing information on the carrier’s understanding of the PSAP’s status would be most instructive.

²⁴ *See Cingular Wireless LLC Petition* at 16.

the Commission, or the Wireless Telecommunications Bureau on delegated authority, to rule on the legitimacy of any contested certification. Accordingly, the Commission should clarify that an objection by a PSAP does not nullify a certification, but rather that the certification, and therefore tolling of the deadline, will not be automatically granted.²⁵

Both Nextel and Cingular further recommend the establishment of an expedited process for resolving disputes over deployment issues.²⁶ T-Mobile supports their recommendations and encourages the Commission to establish a conflict resolution mechanism to ensure the smooth deployment of E911 services.

B. The Commission Should Clarify the Following Issues Regarding the Initial Tolling Process

As adopted in the *Richardson Recon Order*, the new tolling rule provides as follows:

Where a wireless carrier has served a written request for documentation on the PSAP within 15 days of receiving the PSAP's request for Phase I or Phase II enhanced 911 service, and the PSAP fails to respond to such request within 15 days of such service, the six-month period for carrier implementation specified in paragraphs (d), (f), and (g) of this section will be tolled until the PSAP provides the carrier with such documentation.²⁷

Cingular correctly perceives a significant omission in the guidance provided by the new rule. The rule does not speak to the situation involving a dispute between the carrier and the PSAP regarding readiness (such as, for example, when the PSAP provides readiness documentation that the carrier believes to be insufficient).²⁸ Cingular's proposal – to toll the six month period for responding to valid PSAP requests during readiness disputes – is one that

²⁵ The order states: “If a carrier receives an objection from the PSAP, *the carrier is unable to avail itself of the certification process. . . .*” *Richardson Recon Order* at ¶16 (emphasis added). This misleadingly suggests that a PSAP's objection acts as an absolute veto.

²⁶ See Nextel Communications, Inc. Petition at 11; Cingular Wireless LLC Petition at 17.

²⁷ 47 C.F.R. § 20.18(j)(3) (2003).

²⁸ See Cingular Wireless LLC Petition at 17.

T-Mobile embraces as a fair and sensible solution, permitting limited carrier resources to be directed at those PSAPs most capable of deployment. In addition, T-Mobile urges the Commission to issue the following related clarifications to fill other outstanding holes in the scope of the rule's guidance.

1. The Commission Should Permit Tolling for Current Pending Requests

Although the Commission adopted tolling where a PSAP fails to respond to a wireless carrier's request for *Richardson* documentation made within 15 days of the wireless carrier's receipt of the PSAP's request for E911 service, the Commission did not address whether tolling would be available for currently *pending* PSAP requests for which wireless carriers have requested *Richardson* documentation but have not received a complete response. The Commission should clarify that tolling is available where PSAPs have failed to provide complete documentation in response to an outstanding wireless carrier request within fifteen days of the effective date of the *Richardson Recon Order*. Alternatively, the Commission should permit wireless carriers to renew existing requests for *Richardson* documentation and apply tolling to any requests for which a PSAP fails to provide a complete response within fifteen days, retroactive to the date the carrier initially requested *Richardson* documentation.

There is no rational basis for the Commission to apply tolling only to new PSAP requests. The purpose of the Commission adopting the *Richardson* criteria was to "help ensure that none of the parties expends resources unnecessarily."²⁹ Yet when a wireless carrier must move forward to implement a pending PSAP request where a PSAP has failed to provide documentation, that is exactly what will occur.

²⁹ *Richardson Order*, 16 FCC Rcd. at 18,985.

The certification process adopted in the *Richardson Recon Order* is not an adequate substitute. Certification addresses the situation in which a PSAP meets the (relaxed) criteria to trigger the running of the six-month implementation period, but still is not able to receive and utilize E911 data elements in time for the wireless carrier to complete the deployment within the six-month period. Once the PSAP triggers the implementation period, the wireless carrier may be required to undertake pointless implementation steps, such as ordering trunks that will simply lie idle while the wireless carrier incurs unnecessary charges.

PSAP failure to return *Richardson* documentation means that the six-month period should be tolled, regardless of whether the PSAP request is new or pending. To hold otherwise eviscerates *Richardson*, essentially erasing it from the rules for all pending requests. The Commission has not provided a rational basis for such action, which in any event would constitute impermissible retroactive rulemaking. To give effect to the *Richardson Order*, the Commission should toll the running of the six-month period for all pending requests for which a PSAP did not provide *Richardson* documentation within fifteen days of the effective date of the *Richardson Recon Order*. Alternatively, it should allow the wireless carrier to renew pending requests for *Richardson* documentation, and then toll the running of the six-month implementation period for all PSAP requests for which complete *Richardson* documentation is not supplied fifteen days thereafter, retroactive to the date the carrier initially requested *Richardson* documentation.

2. The Commission Should Permit Tolling Regardless of When the Wireless Carrier Requests the *Richardson* Documentation

As adopted, the tolling rule bears no resemblance to the proposals initially offered by Cingular and Sprint in their petitions for reconsideration of the *Richardson Order*.³⁰ The proposals for initial tolling stemmed from a desire not to penalize a carrier with a reduced implementation period simply “because a PSAP requires additional time to provide documentation that the FCC has determined is appropriate.”³¹ The changes wrought by the Commission on reconsideration are so significant that they gut the original *Richardson* rule, redirecting its focus away from assuring that a PSAP will be ready to receive the carrier’s location data at the end of the six-month implementation period. Instead, in the guise of “procedural guidelines for requesting documentation predictive of readiness,” the changes substantially limit a carrier’s ability to respond efficiently (by redirecting resources) when it believes, in good faith, that a PSAP has not made a “valid request.”

For example, the rule forecloses a carrier’s request for documentation – or, more precisely, any meaningful response to a lack of such documentation – after the first 15 days following a request. If a PSAP’s request is not valid – for example, because it does not have a commitment on delivery of necessary CPE – that request is invalid regardless of whether the carrier requested documentation on day 14 or day 17. Yet, if the latter, the rule requires the

³⁰ See Cingular Wireless LLC, Petition for Reconsideration, CC Docket No. 94-102 (filed Dec. 3, 2001); Sprint PCS, Petition for Expedited Reconsideration and Clarification, CC Docket No. 94-102 (filed Nov. 30, 2001) (“Sprint Recon Petition”). Cingular sought a process for resolving disputes relating to the validity of a request. It requested two things – that the PSAP be required to submit its documentation simultaneously with its request, and that the six-month period for responding to a valid PSAP request be tolled pending resolution of any dispute. Both requirements were geared toward protecting the integrity of the six-month implementation period by ensuring that the clock started only with the substantiation of a valid request. Thus, Cingular’s proposed 14-day period for a carrier to dispute a PSAP’s preparedness was responsive to a presumed production of the necessary documentation at the time of request. The 14-day period had nothing to do with limiting a wireless carrier’s right to ask for the documentation or to have its implementation tolled during PSAP delay in producing the documentation.

³¹ See *Sprint Recon Petition* at i.

carrier to take “all necessary steps” to fully implement the E911 service, potentially arriving at day 180 prepared to deliver service to a PSAP with no ability to receive it.³² This dovetails with Cingular’s concern over efficiency and creates an absurd prioritization of the carrier’s resources, quite contrary to the Commission’s intent “to ensure ‘that carriers are not required to make unnecessary expenditures in response to a PSAP that is not ready to use the E911 information.’”³³

There is no need to cut off a carrier’s ability to request documentation to which it is entitled. And by allowing a carrier to respond to issues of validity when warranted by the facts, the Commission need not excuse any perceived delay on the part of the wireless carrier. Tolling would not be granted retroactively to day 1, but only for the period beyond 15 days taken by the PSAP to produce the required documentation. Accordingly, if a carrier requests documentation on day 60, and the PSAP responds on day 120, the clock would re-start at day 75. In such a case, it is reasonable for the wireless carrier to bear the burden of having delayed its request, but it is irrational to ignore the PSAP’s delay in producing documentation that the Commission has made requisite to validity and to which the carrier is entitled. Arbitrarily limiting availability of tolling appears punitive and serves no function related to its stated purpose.

3. The Commission Should Clarify Treatment of Partial and Insufficient Responses

Cingular’s petition explicitly discusses the problematic situation in which there is a dispute over the sufficiency of a PSAP’s readiness documentation.³⁴ To remove any potential

³² Unable to receive tolling under the rule, the carrier’s only resort would be to seek certification at the end of the six-month period. One condition of certification is the completion of “all necessary steps” that are not dependent on PSAP readiness. 47 C.F.R. § 20.18(j)(4)(vi).

³³ *Richardson Order*, 16 FCC Rcd. at 18,983, citing *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Second Memorandum Opinion and Order, 14 FCC Rcd. 20,850, 20,879 (1999).

³⁴ See Cingular Wireless LLC Petition at 17.

for ambiguity, the Commission should clarify that a response that does not fully document a PSAP's satisfaction of the applicable *Richardson* criteria is not sufficient to avoid tolling. In order to implement the *Richardson* criteria and to have those criteria perform their intended function of screening requests that are likely to be ready from those that are not, the rule cannot permit a partial response (*i.e.*, one addressing some, but not all, of the *Richardson* criteria) or an insufficient response (*i.e.*, one that responds to each of the *Richardson* criteria, but does not clearly document the PSAP's ability to receive and utilize E911 data elements) to avoid tolling. Accordingly, a partial response should be treated as a failure to respond and the request deemed invalid. If a PSAP has filed a complete response that the carrier believes to be inadequate, the carrier should be required to inform the PSAP and implementation should be tolled. Pending clarification of validity, it serves no purpose to require the wireless carrier to commit its resources to active deployment.

C. The Commission Should Toll Implementation When the Carrier Cannot Complete Implementation Within Six Months Due to Third Party Implementation Issues

The Commission has limited certification to redress only those sources of delay falling on the PSAP's side of the demarcation point. Nonetheless, the Commission has routinely remarked that successful implementation depends on the efforts of multiple parties – not only the carrier and PSAP, but also equipment manufacturers, the LEC and in some cases, an independent emergency services provider (*i.e.*, the entity running the ALI database on behalf of the LEC, such as Intrado) and possibly an IXC. Nextel discusses this problem at length in its petition, noting that it has experienced extensive and unexpected problems caused by the actions of third parties outside of Nextel's control.³⁵ Such challenges, compounded by variations in equipment,

³⁵ See Nextel Communications, Inc. Petition at 5.

technology, and standards, invariably prevent E911 deployment from becoming a “plug and play” process.³⁶ Nextel’s views and experiences are shared by T-Mobile, which must constantly navigate the complex interdependencies involved in E911 deployment and negotiate the universe of variables that leave true “plug and play” a distant aspiration.

Despite the need for a more flexible approach for dealing with interparty coordination issues, the Commission to date has failed to address the need for tolling when an impediment to implementation lies on the carrier’s side of the demarcation point, but responsibility rests with a third party outside of the wireless carrier’s control.

Whether or not it uses a parallel certification process, the Commission should acknowledge, as it has with respect to delays caused by PSAP unreadiness, that carriers are put in a similarly “impossible position” if their implementation is disrupted by the failure of an essential third party to provide necessary services or equipment.³⁷ LEC issues can fall on either side of the demarcation point, not just the PSAP’s side, as would be covered by the certification process. For example, T-Mobile has encountered substantial delays in the provisioning of trunks, with completion of trunk orders sometimes consuming fully half of the six-month implementation period. When a wireless carrier promptly orders a trunk from a LEC under tariff, it should not be held liable for failure to meet the six-month implementation period where that failure is attributable to a substantial delay in trunk delivery. Similarly, the certification process in the *Richardson Recon Order* does not encompass the situation where T-Mobile cannot complete a deployment because it cannot obtain telephone numbers to be used as pANIs from the LEC (such as when T-Mobile is not entitled to obtain numbers in its own right because it offers roaming coverage, but not retail service, in that LEC’s area).

³⁶ See *id.*

³⁷ See *Richardson Recon Order*, 17 FCC Rcd. at 24,285 (discussing delays caused by PSAP unreadiness).

Unfortunately, the *Richardson Recon Order* suggests a form of strict liability in these cases: “a carrier’s certification cannot be based, either directly or indirectly, on circumstances *attributable to its own failure to comply* with the Commission’s E911 rules, *such as nonperformance or delays attributable to its own vendors, manufacturers, or third party service providers.*”³⁸ The Commission should clarify that tolling is available for at least some third party failures – those beyond the wireless carrier’s control – and should establish an appropriate procedure whereby carriers can notify the Commission and PSAPs of such events.

IV. CINGULAR CORRECTLY POINTS OUT THAT THE *RICHARDSON* RULES WERE ADOPTED IN VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, WHICH FURTHER MILITATES IN FAVOR OF RECONSIDERATION

In its petition, Cingular lays out a compelling argument articulating why the Commission violated the Administrative Procedure Act (APA) in promulgating the rules under *Richardson I* and *II*.³⁹ T-Mobile agrees with Cingular’s argument and conclusions in their entirety, and sets forth its own parallel analysis of this matter below.

A. Because the New Rules Affect Rights and Obligations, They Cannot Be Deemed “Clarifications” Merely Illustrative of Original Intent

The Administrative Procedure Act requires that, when an agency undertakes to adopt or substantively amend its rules, “general notice of proposed rulemaking shall be published in the Federal Register,” and “the notice shall include either the terms or substance of the proposed rule or a description of the subjects and issues involved.”⁴⁰ In addition, the agency must provide interested persons an opportunity to comment on the proposed rules.⁴¹ Adequate notice and comment is essential to the integrity of the administrative process. Notice promotes fairness,

³⁸ *Richardson Recon Order*, 17 FCC Rcd. at 24,287 (emphasis added).

³⁹ *See* Cingular Wireless LLC Petition at 6-14.

⁴⁰ 5 U.S.C. § 553(b)(3).

⁴¹ *See* 5 U.S.C. § 553(c).

comment in response to notice improves the quality of reasoning and decision making, and the development of a full record enhances judicial review.

The Commission has characterized its rule amendments in the *Richardson Recon Order* as “additional clarification” and “procedural guidelines.”⁴² T-Mobile disagrees. Classifying the amendments as such, the Commission invokes a line of cases distinguishing rulemaking, which is subject to the APA procedures, and mere “clarification,” which is not. Indicating that agencies have the authority, in some instances, to clarify rules without issuing a new notice of proposed rulemaking and engaging in a new round of notice and comment, the D.C. Court of Appeals recently illuminated the distinction for the Commission: “Whereas a clarification may be embodied in an interpretive rule that is exempt from notice and comment requirements, new rules that work substantive changes in prior regulations are subject to the APA’s procedures.”⁴³ Elaborating on the distinction between clarification and rulemaking, the court stated that “an agency’s imposition of requirements that affect subsequent agency acts and have a future effect on a party before the agency triggers the APA notice requirement.”⁴⁴

While dressed as procedural guidelines, the rule amendments adopted in the *Richardson Recon Order* mandate precise procedures with significant consequences. They impose new obligations and change potential liabilities, working “substantive changes in prior regulations.” If a carrier does not request documentation of the PSAP’s preparedness within fifteen days, it loses eligibility for initial tolling, even if the PSAP does not, in fact, have a “valid request” within the meaning of the rule. For tolling of the six-month deadline, a carrier must certify that

⁴² *Richardson Recon Order*, 17 FCC Rcd. at 24,282. Although the Commission addressed the sufficiency of notice for the rule amendments adopted in the *Richardson Order*, it did not consider whether it provided sufficient notice of the changes adopted in the *Richardson Recon Order*.

⁴³ *Sprint v. FCC*, 315 F.3d 369, 374 (D.C. Cir. 2003) (internal citations omitted).

⁴⁴ *Id.* at 373.

the PSAP is unable to receive and utilize the E911 data and ascertain the reason, at risk of personal penalty to the officer signing the certification.⁴⁵ These rules do not “merely illustrate the Commission’s original intent” regarding appropriate documentation for a “valid request,” but rather “change the rules of the game”⁴⁶ by carefully delineating circumstances in which a carrier’s obligation will or will not be tolled. As such, the Commission was required to provide notice and opportunity for comment on the “terms or substance of the proposed rule.”⁴⁷

B. The Commission Gave No Notice of the Changes Ultimately Adopted

The Commission did nothing more than put the Sprint and Cingular petitions on public notice.⁴⁸ The informality of this act is apparent from the fact that the document at issue was a public notice, not a notice of proposed rulemaking, and it was issued by the Wireless Telecommunications Bureau, not the Commission. Under the Commission’s delegation of authority, the Bureau cannot adopt rules or initiate rulemakings.⁴⁹ In *Sprint v. FCC*, the court addressed similar circumstances in which the Commission “purported to act through the Common Carrier Bureau.”⁵⁰ Noting that the Bureau “lacks the authority under the Commission’s regulations to issue notices of proposed rulemaking,” the court concluded that “Sprint, therefore, was not on notice that the Commission was proposing to ‘revise’ its initial rule.”⁵¹

⁴⁵ See 47 C.F.R. § 20.18(j)(4)(iii)-(iv).

⁴⁶ *Sprint v. FCC*, 315 F.3d at 374.

⁴⁷ 5 U.S.C. § 553(b)(3).

⁴⁸ The Commission summarized the petitions and indicated that “interested parties may file comments or oppositions.” It did not analyze any of the requests or propose to adopt, dismiss or modify them.

⁴⁹ See 47 C.F.R. § 0.331(d).

⁵⁰ *Sprint v. FCC*, 315 F.3d at 376.

⁵¹ *Id.*

Nor were the Commission's actions in the *Richardson Recon Order* within the scope of any initial notice of proposed rulemaking, because no such NPRM was ever issued. The Commission adopted the rules in the *Richardson Order* on the basis of a bureau-issued public notice, which, although published in the Federal Register, was not an NPRM. The Bureau lacked the authority to issue a NPRM, and the Commission never did so.

Nor were the Sprint and Cingular petitions themselves adequate to support the changes adopted.⁵² As discussed above, Cingular's proposed fourteen-day period for disputing readiness was to follow the carrier's receipt and review of the PSAP's readiness documentation at the time of the request, and the limitation pertained only to the carrier's ability to challenge the sufficiency of the documentation. Cingular contemplated resolution of any disagreement over the sufficiency of the PSAP's documentation in an expedited procedure before the Commission. Its tolling proposal, in turn, was to toll the six-month clock while the parties resolved the dispute. This bears only coincidental resemblance to a fifteen-day limitation on the carrier's ability to (meaningfully) ask for required documentation, and a tolling of the clock where a PSAP requires more than fifteen days to produce the documentation. While Sprint's petition included a request for tolling while a PSAP assembles its documentation, nowhere did it suggest that the right to tolling should be restricted to those requesting documentation in the first fifteen days. Neither petition discussed a certification procedure to address a PSAP's actual inability to receive and utilize the data at the end of the six-month period.

Nor can the follow-on public notice issued after comments were filed on the City of Richardson's petition and before adoption of the *Richardson Order* be deemed sufficient notice to support the rule changes adopted in the *Richardson Recon Order*. The bureau sought

⁵² The Commission cannot "bootstrap" notice from the comments of others. *See, e.g., MCI Telecomm. Corp. v. FCC*, 57 F.3d 1136 (D.C. Cir. 1995).

comment only on what criteria a PSAP might satisfy to demonstrate that it would be ready to receive and utilize E911 data at the end of the six-month implementation period. It did not seek comment on whether it should limit a carrier's right to seek documentation or to respond appropriately if the documentation did not validate the request. Nor did it propose or seek comment on tolling a carrier's obligation at the end of the six-month period.

T-Mobile has suffered prejudice from the Commission's violation of the APA. Had the Commission given notice of its contemplated proposals, T-Mobile could have raised its concerns with those proposals prior to adoption of the *Richardson Recon Order*. In turn, full airing of those concerns would have helped the Commission draft a less ambiguous and more complete order. T-Mobile therefore joins Cingular in urging the Commission to recognize that the Commission's failure to provide adequate notice undermines the validity of the *Richardson* framework, and that this omission strongly militates in favor of reconsidering the *Richardson* rules to fully incorporate the views of all affected parties.

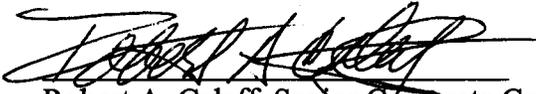
V. CONCLUSION

For the foregoing reasons, the Commission should grant the petitions of Nextel and Cingular for reconsideration of the *Richardson Recon Order*.

Respectfully submitted,

Jim Nixon
Robert A. Calaff
T-MOBILE USA, INC.

John T. Nakahata
Karen L. Gulick
Yul J. Kwon
HARRIS, WILTSHIRE & GRANNIS LLP
1200 18th Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 730-1300
Counsel to T-Mobile USA, Inc.


Robert A. Calaff, Senior Corporate Counsel
Governmental and Industry Affairs
401 9th Street, N.W., Suite 550
Washington, D.C. 20004
(202) 654-5900

CERTIFICATE OF SERVICE

I, Karen R. Stephens, do hereby certify that a copy of the foregoing Comments of T-Mobile USA, Inc. in Support of Petitions for Reconsideration by Cingular Wireless LLC and Nextel Communications, Inc., was served this 24th day of March 2003, via electronic transmission or First-Class mail (*), upon the following parties:

John Muleta, Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
jmuleta@fcc.gov

James D. Schlichting, Deputy Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
jschlich@fcc.gov

Blaise Scinto, Acting Chief
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
bscinto@fcc.gov

Patrick Forster
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
pforster@fcc.gov

Dan Grosh
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
dgrosh@fcc.gov

James R. Hobson*
Miller & Van Eaton, PLLC
Counsel to National Emergency Number
Association
jhobson@millervaneaton.com

Robert M. Gurss*
Shook, Hardy & Bacon, LLP
Counsel to Association of Public-Safety
Communications Officials-International, Inc.
rgurss@shb.com

FCC Secretary
Electronic Comment Filing System
CC Docket No. 94-102

Peter G. Smith*
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Lincoln Plaza
500 North Akard
Dallas, TX 75201

Sylvia Lesse*
Kraskin, Lesse & Cosson, LLP
Counsel to Rural Cellular Association
2120 L Street, NW
Suite 520
Washington, D.C. 20037

John A. Prendergast *
Counsel to North Dakota Network Co.
Blooston, Mordkofsky, Dickens, Duffy &
Prendergast
2120 L Street, N.W.
Suite 300
Washington, D.C. 20037

Sharon J. Devine*
Counsel to Qwest Corporation
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

John T. Scott, III*
Vice President and Deputy General Counsel,
Regulatory Law
Counsel to Verizon Wireless
1300 I Street, N.W.
Suite 400W
Washington, D.C. 20005

J.R. Carbonell*
Counsel to Cingular Wireless, LLC
5565 Glenridge Connector
Suite 1700
Atlanta, GA 30342

Lawrence W. Katz*
Counsel to Verizon Telephone Companies
1515 North Courthouse Road
Suite 500
Arlington, VA 22201

Luisa L. Lancetti*
Vice President
Sprint PCS
401 9th Street, N.W.
Suite 400
Washington, D.C. 20004

Ronald L. Ripley*
Vice President and Senior Corporate Counsel
to Dobson Communications Corporation
14201 Wireless Way
Oklahoma City, OK 73134

Michael F. Altschul*
Senior Vice President and General Counsel
Cellular Telecommunications & Internet
Association
1250 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036

Robert S. Foosaner*
Senior Vice President – Government Affairs
Counsel to Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, VA 20191

* served via First-Class Mail

/s/
Karen R. Stephens