

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
E911 Requirements for IP-Enabled) WC Docket No. 05-196
Service Providers)

To: The Commission

COMMENTS OF CINGULAR WIRELESS LLC

Cingular Wireless LLC (“Cingular”) hereby submits its comments in response to the *Notice of Proposed Rulemaking* in the captioned proceeding.¹

Cingular, a provider of commercial mobile radio service, wishes to address only a single issue raised by the *Notice* at this time — whether the Commission should “require *all terminal adapters or other equipment used in the provision of interconnected VoIP service . . .* to be capable of providing location information automatically, whether embedded in other equipment or sold to customers as a separate device?” *Notice* at ¶ 57 (emphasis added).

The Commission appears to be asking whether it should require location capability to be provided for all equipment sold specifically to enable the provision of VoIP, such as Session Initiation Protocol terminal adapters. Cingular takes no position on that issue. The broad framing of the issue, however, raises the possibility that the Commission might require location capability in “all . . . *other equipment used in the provision of interconnected VoIP service.*” *Id.* That phrase is broad enough to sweep in not only terminal adapters and their functional equivalents, but also a plethora of electronic devices that are not specifically intended for the provision of VoIP but might be “used” by a member of the public in the process of placing or

¹ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36 & 05-196, *First Report and Order and Notice of Proposed Rulemaking*, FCC 05-116 (rel. June 3, 2005) (“*Notice*”).

receiving interconnected VoIP calls — equipment such as personal computers, PDAs, cable/DSL modems, and Wi-Fi adapters, as well as advanced 3G data-capable wireless telephones and devices.

Surely the Commission did not intend to subject all of these devices to an E911 location capability requirement any time the device is used by a customer to obtain VoIP service. Any VoIP location capability requirement should be imposed on CMRS carriers, if at all, only on equipment sold or provided specifically to allow placing or receiving VoIP calls. The Commission should not adopt a rule that applies to a 3G cellular or PCS wireless phone without built-in VoIP capability that a customer might combine with separate hardware or software to obtain VoIP service *via* the phone's broadband IP connectivity.

There is no justification for subjecting CMRS carriers to such a requirement when equipment may only incidentally be used by an end user in connection with VoIP calls. Such action would be arbitrary and capricious, as well as unlawful, because CMRS carriers have no control over how this equipment is used.² The Commission should make clear that it does not intend to overreach in this manner.

Respectfully submitted,

CINGULAR WIRELESS LLC

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² See *National Mining Association v Babbitt*, 172 F.3d 906, 913 (D.C. Cir. 1999) (vacating rule as overbroad).