

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

In the Matter of)	
)	
Comment Sought on Competitive)	WC Docket No. 08-33
Provision of 911 Service Presented by)	WC Docket No. 08-185
Consolidated Arbitration Proceedings)	DA 09-1262
)	

**REPLY COMMENTS OF
SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint”) submits this Reply in response to the comments filed in the above-referenced consolidated arbitration proceedings on the specific issue of how the competitive provision of the 911 network to Public Safety Answering Points (“PSAPs”) and other public safety agencies would impact public safety services in Virginia.¹

I. SUMMARY

Sprint supports competition, including competition for the provision of 911 services. Competition can drive down costs to public safety and improve service quality and efficiency. So long as PSAPs reside behind a single provider, however, the potential remains for abuse of this natural terminating monopoly. Accordingly, the Federal Communications Commission

¹ See *Petition of Intrado Communications of Virginia, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Arbitration of an Interconnection Agreement with Central Telephone Company of Virginia and United Telephone – Southeast, Inc. (collectively, Embarq); Petition of Intrado Communications of Virginia Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Arbitration of an Interconnection Agreement with Verizon South Inc., and Verizon Virginia Inc. (collectively, Verizon)*, WC Docket Nos. 08-33, 08-185, Order, 23 FCC Rcd 17867 (WCB 2008) (consolidating proceedings). The Wireline Competition Bureau asked for comments on this issue in Public Notice DA 09-1262 released June 4, 2009.

(“FCC or “Commission”) should ensure that the market for such services are governed by the appropriate incentives and that no provider, whether a new entrant or an incumbent local exchange carrier, is able to abuse this position of public trust.

Because 911 services are a natural bottleneck within the telecommunications network, many incumbent local exchange carriers (“ILECs”) have used their position as the default 911 service provider to impose unreasonable costs on carriers and create barriers to market entry. In addition, as noted by Intrado, the current 911 infrastructure has failed to keep pace with technology.² Competition for these services could put a check on these anti-competitive practices and spur deployment of a more robust technology platform for 911. It is important, however, that the entity selecting the 911 provider have the appropriate incentives to balance the costs and benefits of any particular service offering. Accordingly, Sprint encourages the FCC to reaffirm that the cost of the Selective Router function is the responsibility of the PSAP and that the provider of 911 services cannot shift these costs to carriers.³

Fostering a competitive environment for the provision of 911 service can be beneficial for all parties involved. Without the appropriate safeguards and incentives, however, there will continue to be a risk that the provider of this bottleneck facility can exploit its position. Sprint urges the Wireline Competition Bureau (“Bureau”) to closely examine and address the possible consequences for all parties involved in the provision of 911 services, including CMRS Providers, as it moves toward a competitive 911 environment in Virginia.

² See Comments of Intrado, Inc. and Intrado Communications of Virginia, Inc. (“Intrado”), page 7-8.

³ *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County, Washington*, Order on Reconsideration, 17 FCC Rcd 14789, ¶ 4 (2002), citing Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Marlys R. Davis, E911 Program Manager, Department of Information and Administrative Services, King County, Washington (May 7, 2001) (“King County Letter”).

II. COMPETITION CAN BE A SIGNIFICANT BENEFIT TO 911, BUT THE COMMISSION MUST PROTECT AGAINST THE “BOTTLENECK” AND ANTI-COMPETITIVE BEHAVIOR INCUMBENT CARRIERS HAVE PERPETUATED IN THE PAST

Where there is a telecommunications bottleneck, as exists today in the provision of 911 services, there is a danger that the party in control – to date the ILEC – will abuse their position by increasing rates and imposing unreasonable terms on CMRS providers. While Sprint strongly supports the introduction of competition into this environment, without Commission oversight and regulation, the result could ultimately be the same even with a “new entrant” providing 911 service.

As highlighted in the Comments filed by Michigan Internet & Telecommunications Alliance and TelNet Worldwide, Inc., to date ILECs have enjoyed a monopoly when it comes to 911 service.⁴ In their Comments, TelNet describes a scenario where it attempted to use a competitive 911 service provider, but was ultimately forced by the ILEC to pay for a service it did not need to avoid disconnection of their interconnection trunks.⁵ This type of monopolistic and anticompetitive behavior is detrimental to the 911 system. CMRS carriers are often in a position similar to that described by TelNet because CMRS carriers are placed in the untenable position of being required to connect to the ILECs’ bottleneck facilities in order to provide 911 service at the price set by the ILEC and under the terms and conditions established by the ILEC.

Although competitive entry should reduce the ILECs’ ability to exploit their current market power in the provision of 911 service rates to impose unreasonable rates, terms and

⁴ See Comments of Michigan Internet & Telecommunications Alliance and TelNet Worldwide, Inc. (“TelNet”), page 3.

⁵ *Id.*

conditions, Sprint is concerned that one monopoly could be replaced by another. CMRS Providers are required to connect to the Selective Router designated by the PSAP and are required to cover equipment costs up to the 911 Selective Router. In a May 2001 decision letter sent to the E911 Program Manager for King County, Washington (the “King County Letter”), the Wireless Telecommunications Bureau (“Bureau”) identified the 911 Selective Router as the demarcation point for allocating implementation costs between wireless carriers and PSAPs, in those instances where the parties cannot agree on a demarcation point.⁶ In the King County Letter, the Bureau stated:

Thus, under section 20.18(d) of the Commission's regulations governing Enhanced 911 Service (E911), wireless carriers are responsible for the costs of all hardware and software components and functionalities that precede the 911 Selective Router, including the trunk from the carrier's Mobile Switching Center (MSC) to the 911 Selective Router, and the particular databases, interface devices, and trunk lines that may be needed to implement the Non-Call Path Associated Signaling and Hybrid Call Path Associated Signaling methodologies for delivering E911 Phase I data to the PSAP.⁷

The CMRS Providers' costs to connect to the Selective Router can be significantly impacted by the choice of Selective Router provider, which is made by the PSAP. In the King County Letter, the Bureau also clarified that PSAPs, “...must bear the costs of maintaining and/or upgrading the E911 components and functionalities beyond the input to the 911 Selective Router, including the 911 Selective Router itself, the trunks between the 911 Selective Router and the PSAP, the

⁶ Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Marlys R. Davis, E911 Program Manager, Department of Information and Administrative Services, King County, Washington (May 7, 2001).

⁷ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County, Washington, Order on Reconsideration*, 17 FCC Rcd 14789, ¶ 4 (2002), citing King County Letter.

Automatic Location Identification (ALI) database, and the PSAP customer premises equipment (CPE).”⁸

In a competitive 911 service environment, the PSAP would have a choice of Selective Router providers, but the CMRS provider would have no decision-making power. So long as the PSAP continues to bear the full cost of the Selective Router, it would have the appropriate incentive to choose the best service offering, lowest price, etc. The provider of the Selective Router, whether the ILEC or a new competitive entrant, should not be permitted to shift costs of the Selective Router onto the carriers that must connect to it through inflated connection fees or other practices in order to offer lower cost services to the PSAP.⁹

It should be noted, however, that the PSAP will make its choice based on the portion of the service that is their responsibility without weighing the costs associated with the service up to the demarcation point. CMRS Providers would then be bound by the PSAP’s choice, even if this imposed significantly higher transport costs. Accordingly, the Commission should address the manner in which transport costs are recovered. For example, the Commission could consider requiring a new entrant to demonstrate that the cost of transport will not be significantly increased for existing carriers. Therefore, as the Commission takes action to foster a competitive market for the provision of 911 service, it should address these potential impacts on the larger telecommunications market.

In their Comments, TelNet explains that efforts to move forward with technological advances in the provision of 911 service have, “been thwarted by incumbents that seek to protect

⁸ *Id.*

⁹ *See* Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Kathleen B. Levitz, Vice President - Federal Regulatory, BellSouth Corporation; Luisa Lancetti, Vice President, Regulatory Affairs, PCS, Sprint PCS; and John T. Scott, III, Vice President & Deputy General Counsel, Verizon Wireless (October 28, 2002).

their monopoly positions by exploiting their control over the emergency telecommunications network.”¹⁰ The monopolist practices of the incumbent carriers have, indeed, stalled the advancement of technology in this area. In their unchallenged role, incumbent providers have had little incentive to upgrade their technology. Indeed, as Intrado pointed out in its Comments, “The competitive provision of 911/E911 network and services, especially those based on IP technology, promise to bridge the gap between wireline, wireless and Internet-based telecommunications, and offer specialized solutions to specific technical needs.”¹¹ Sprint supports this premise, in principle, but also cautions that without Commission guidance, competitive carriers could ultimately fall into the same practices as the ILEC. The danger is that once the 911 provider is chosen, the provider is in a comfortable position, with little incentive to upgrade facilities on a going-forward basis.

III. THE COMMISSION MUST ENSURE THERE IS NO SIGNIFICANT IMPACT ON CMRS PROVIDERS’ COSTS WHERE COMPETITION IS INTRODUCED FOR 911 SERVICES

If a PSAP switches from the existing ILEC to a competitive Selective Router provider, the location and distance from the CMRS Provider’s facilities to the Selective Router may change. Such a change could dramatically increase the cost of connecting to the Selective Router. In a competitive 911 environment, without appropriate regulation, CMRS Providers may have to pay increased equipment and transport costs to reach the competitive Selective Router. While the Bureau’s King County Letter referenced above offered clarity with respect to the demarcation point, no parameters were given regarding where the Selective Router should be located.

¹⁰ Comments of TelNet, page 3.

¹¹ Comments of Intrado, page 9.

The lack of any guidance from the FCC in this regard may enable the competitive Selective Router provider to utilize a facility perhaps hundreds, or even thousands of miles away from the CMRS Provider's Mobile Switching Center. In fact, efficient network design might actually suggest a competitive provider would have fewer Selective Routers due to its more centralized design tendencies as compared to multiple ILECs deploying Selective Routers within their own networks, which by definition are more geographically dispersed. While the specific requirements of such a configuration remain to be seen, this could result in a CMRS provider having to pay transport costs to which they would not normally be subject if the Selective Router had originally been located within close proximity. A CMRS provider could also incur other equipment costs associated with the trunks needed to reach a remote Selective Router.

In most cases, CMRS Providers are already connected to Selective Router facilities provided by ILECs in Virginia. Transitioning to another Selective Router facility would generate further costs for CMRS Providers, including costs associated with personnel needed to complete the transition process. The costs would be "new" monthly recurring costs and would also involve non-recurring costs that, in many cases, have already been born by CMRS Providers. In addition, it would be necessary to maintain the current connections to the Selective Router that are already in place for some period of time during any transition to a new Selective Router. It would not be until all new connections have been established and verified through to the appropriate PSAP before any disconnections could occur. As a result, CMRS providers would be responsible for maintaining several different connections to Selective Routers, and all of the costs associated with it, for an indeterminate period of time. Therefore, while most of the work has already been accomplished and the expenses paid to provide 911 service and connectivity to the Selective Router, it would need to be completely removed and reestablished.

These costs must be factored into any decision to change Selective Router providers and must be addressed through some form of cost recovery.

A competitive market for 911 service can bring cost-saving benefits to PSAPs up front, but could then impact carriers by increasing their costs and could ultimately impact consumers. If their costs increase, CMRS Providers will be forced to pass these costs on to consumers and, as it pertains to the instant proceeding, seek additional reimbursement from the Virginia Wireless E911 Fund. This would decrease funds that might have been available to PSAPs for equipment maintenance and upgrades. Ultimately, if left unchecked, this could have a detrimental impact on the provision of public safety services in Virginia. While Sprint supports competition in the provision of 911 services, the Commission must ensure that such competition benefits consumers and public safety by limiting the costs and burdens placed on CMRS providers.

IV. CONCLUSION

Sprint generally supports the concept of competition in the provision of 911 services and recognizes the improvements that can be brought about through competition. Sprint is concerned, however, that many of the problems that have arisen with the existing 911 service are likely to resurface without guidance and regulation in this area by the Commission. Competition in the provision of 911 services, specifically in the provision of competitive Selective Router facilities, will impact CMRS Providers and can ultimately impact consumers and the provision of public safety services in Virginia. The Bureau should closely examine the issue and must take into account the impact of competition on all parties and not look solely at the effect competition will have on PSAPs and public safety agencies. While Sprint applauds the Bureau's efforts to seek comment on this important issue in the context of the consolidated arbitration proceedings

in Virginia now before the Bureau, Sprint agrees with those commenters who have stated it would be in the public interest for the Commission to open a new proceeding to examine it as a larger issue.¹²

Respectfully submitted,

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¹² See Comments of Verizon at page 2; Comments of Central Telephone Company of Virginia d/b/a Embarq & United Telephone Southeast at pages 4-6; Comments of the Independent Telephone and Communications Alliance at page 2; Joint Initial Comments of the Texas Commission on State Emergency Communications, the Texas 9-1-1 Alliance, the Texas Municipal Emergency Communication Districts Association, the National Emergency Number Association, and the Association of Public-Safety Communications Officials International, Inc. at page 12-13; Comments of The Washington State Enhanced 911 Program at page 4.

Certificate of Service

I, Jo-Ann Monroe, hereby certify that a copy of the foregoing Sprint Reply Comments was served on July 21, 2009 by electronic mail to the following parties:

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