

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Request for Waiver of Location-Capable Handset
Penetration Deadline by Sprint Nextel Corporation
WT Docket No. 05-286

ORDER

Adopted: December 21, 2006

Released: January 5, 2007

By the Commission:

I. INTRODUCTION

1. In this Order, we address a request for relief from the Commission's wireless Enhanced 911 (E911) Phase II requirements filed by Sprint Nextel Corporation (Sprint Nextel), a Tier I wireless service provider. Specifically, Sprint Nextel requests a two-year extension of time to comply with the requirement in Section 20.18(g)(1)(v) of the Commission's Rules that carriers employing a handset-based E911 Phase II location technology must achieve 95% penetration, among their subscribers, of location-capable handsets by December 31, 2005.

2. Timely compliance with the Commission's wireless E911 rules ensures that the important public safety needs of wireless callers requiring emergency assistance are met as quickly as possible. In analyzing requests for extensions of the Phase II deadlines pursuant to our waiver authority, the

1 See Sprint Nextel Corporation Request for Limited Waiver, WT Docket No. 05-286, filed Sept. 29, 2005 (Sprint Nextel Request). In August 2005, the Commission granted applications filed by Nextel Communications, Inc. (Nextel) and Sprint Corporation (Sprint) for consent to transfer control of all licenses and authorizations held directly and indirectly by Nextel to Sprint. See Applications of Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967 (2005) (Sprint Nextel Merger Order). In June 2006, the Commission granted applications filed by Sprint Nextel and Nextel Partners, Inc. (Nextel Partners) for consent to transfer control of all licenses and authorizations held indirectly by Nextel Partners to Sprint Nextel. See Applications of Nextel Partners, Inc., Transferor, and Nextel WIP Corp. and Sprint Nextel Corporation, Transferees, for Consent to Transfer Control of Licenses and Authorizations, File Nos. 0002444650, 0002444656, 0002456809, Memorandum Opinion and Order, 21 FCC Rcd 7358 (2006). The parties consummated this transaction on June 27, 2006. See File No. 0002444650. Nextel Partners also has filed a request for waiver of the 95% handset penetration deadline. See Petition for Limited Waiver of Nextel Partners, Inc., WT Docket No. 05-302, filed Oct. 21, 2005. Because Sprint Nextel and Nextel Partners were separate entities as of the relevant compliance deadline, we address the Sprint Nextel and Nextel Partners waiver requests in separate orders.

2 Tier I carriers are Commercial Mobile Radio Service (CMRS) providers with nationwide footprints. See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers, CC Docket No. 94-102, Order to Stay, 17 FCC Rcd 14841, 14843 ¶ 7 (2002) (Non-Nationwide Carriers Order). In the Non-Nationwide Carriers Order, the Commission found that there were six carriers with national footprints, including Nextel.

3 See 47 C.F.R. § 20.18(g)(1)(v); Sprint Nextel Request at 6.

Commission has afforded relief only when the requesting carrier has met the Commission's standard for waiver of the Commission's rules.⁴ Where carriers have met the standard, the relief granted has required compliance with the Commission's rules and policies within the shortest practicable time.⁵

3. Based on the record before us, we deny Sprint Nextel's waiver request. As we explain more fully below, Sprint Nextel's request fails to satisfy the Commission's waiver standards and thus we decline to grant the requested two-year extension of the Commission's December 31, 2005 95% handset penetration requirement. We find that Sprint Nextel failed to take sufficient efforts in advance of the deadline to assure timely compliance, and has not committed to taking additional steps to ensure that it achieves compliance as quickly as possible. Consequently, we refer the matter of Sprint Nextel's failure to comply with the handset penetration requirement to the Commission's Enforcement Bureau for appropriate enforcement action.

II. BACKGROUND

A. Phase II Requirements

1. General Requirements

4. The Commission's E911 Phase II rules require wireless licensees to provide Public Safety Answering Points (PSAPs) with Automatic Location Identification (ALI) information for 911 calls.⁶ Licensees can provide ALI information by deploying location information technology in their networks (a network-based solution),⁷ or Global Positioning System (GPS) or other location technology in subscribers' handsets (a handset-based solution).⁸ The Commission's rules also establish phased-in schedules for carriers to deploy any necessary network components and begin providing Phase II service.⁹ However, before a wireless licensee's obligation to provide E911 service is triggered, a PSAP must make

⁴ See Wireless E911 Phase II Implementation Plan of Nextel Communications, Inc., CC Docket No. 94-102, *Order*, 16 FCC Rcd 18277, 18281-86 ¶¶ 13-30 (2001) (*Nextel Phase II Waiver Order*); Request for Waiver by Sprint Spectrum L.P. d/b/a Sprint PCS, CC Docket No. 94-102, *Order*, 16 FCC Rcd 18330, 18335-38 ¶¶ 15-26 (2001); Request for Waiver by Verizon Wireless, CC Docket No. 94-102, *Order*, 16 FCC Rcd 18364, 18369-74 ¶¶ 16-26 (2001); Request for Waiver by AT&T Wireless Services, Inc., CC Docket No. 94-102, *Order*, 16 FCC Rcd 18253, 18257-59 ¶¶ 13-19 (2001); Request for Waiver by Cingular Wireless LLC, CC Docket No. 94-102, *Order*, 16 FCC Rcd 18305, 18308-11 ¶¶ 14-20 (2001); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers, CC Docket No. 94-102, *Order*, 20 FCC Rcd 7709, 7709-7710 ¶ 1 (2005) (*Tier III Carriers Order*). Tier III carriers may be entitled to relief pursuant to the Commission's waiver standard or, alternatively, the ENHANCE 911 Act, which directs the Commission to grant waivers for Tier III carriers of the 95% penetration benchmark if "strict enforcement . . . would result in consumers having decreased access to emergency services." National Telecommunications and Information Administration Organization Act – Amendment, Pub. L. No. 108-494, 118 Stat. 3986 (2004) (ENHANCE 911 Act). The ENHANCE 911 Act defines a "qualified Tier III carrier" as "a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)) that had 500,000 or fewer subscribers as of December 31, 2001." *Id.* at § 107(b), 118 Stat. 3986, 3991.

⁵ See *Tier III Carriers Order*, 20 FCC Rcd at 7709-7710 ¶ 1.

⁶ See 47 C.F.R. § 20.18(e).

⁷ Network-based location solutions employ equipment and/or software added to wireless carrier networks to calculate and report the location of handsets dialing 911. These solutions do not require changes or special hardware or software in wireless handsets. See 47 C.F.R. § 20.3, *Network-based Location Technology*.

⁸ Handset-based location solutions employ special location-determining hardware and/or software in wireless handsets, often in addition to network upgrades, to identify and report the location of handsets calling 911. See 47 C.F.R. § 20.3, *Location-Capable Handsets*.

⁹ See 47 C.F.R. § 20.18(f), (g)(2).

a valid request for E911 service, *i.e.*, the PSAP must be capable of receiving and utilizing the data elements associated with the service and must have a mechanism in place for recovering its costs.¹⁰

5. In addition to deploying the network facilities necessary to deliver location information, wireless licensees that elect to employ a handset-based solution must meet the handset deployment benchmarks set forth in Section 20.18(g)(1) of the Commission's Rules, independent of any PSAP request for Phase II service.¹¹ After ensuring that 100% of all new digital handsets activated are location-capable, licensees must achieve 95% penetration, among their subscribers, of location-capable handsets no later than December 31, 2005.¹²

2. E911 Waiver Standards and the Nextel Phase II Waiver Order

6. On September 8, 2000, the Commission released the *Fourth MO&O*, in which it recognized that "special circumstances" may warrant a waiver of the E911 Phase II requirements.¹³ The Commission's general waiver standards require a waiver proponent to show that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant would be in the public interest, or, in view of unique or unusual factual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹⁴ With respect to waiver of the E911 Phase II requirements, the Commission required that waiver requests must be "specific, focused and limited in scope, and with a clear path to full compliance,"¹⁵ and that requesting carriers "should undertake concrete steps necessary to come as close as possible to full compliance . . . and should document their efforts aimed at compliance in support of any waiver requests."¹⁶ The requirement that carriers present a "clear path to full compliance" dictates that we grant relief only when sufficiently justified and limit any extension of the handset penetration deadline to the shortest practicable time.¹⁷ We otherwise continue to expect carriers to achieve full compliance with the E911 Phase II requirements as soon as possible.¹⁸

7. In October 2001, Nextel and Nextel Partners sought waiver of the E911 handset sale and activation deadlines because delayed availability of suitable handsets was hindering its compliance with the Commission's Rules.¹⁹ In response, the Commission adopted a Phase II compliance plan jointly proposed by Nextel and Nextel Partners finding that extension of those deadlines was justified, in part, because Motorola, Inc. (Motorola) was the sole source for the specific network technology used by Nextel and Nextel Partners and Motorola had not yet completed development of a location-capable handset for

¹⁰ See 47 C.F.R. § 20.18(j)(1).

¹¹ See 47 C.F.R. § 20.18(g)(1).

¹² See 47 C.F.R. § 20.18(g)(1)(v).

¹³ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442, 17457 ¶ 43 (2000) (*Fourth MO&O*).

¹⁴ See 47 C.F.R. § 1.925(b)(3). See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990); 47 C.F.R. § 1.3.

¹⁵ *Fourth MO&O*, 15 FCC Rcd at 17458 ¶ 44.

¹⁶ *Id.*

¹⁷ See *Tier III Carriers Order*, 20 FCC Rcd at 7709-7710 ¶ 1; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14842-14843 ¶ 6.

¹⁸ See *Fourth MO&O*, 15 FCC Rcd at 17458 ¶ 45.

¹⁹ See *Nextel Phase II Waiver Order*.

that technology.²⁰ Pursuant to the adopted plan, the Commission extended the deadlines for Nextel and Nextel Partners with respect to the sale and activation of location-capable handsets.²¹ For example, the deadline for ensuring that 100% of all new digital handsets activated are location-capable was extended for both carriers from December 31, 2002 to December 1, 2004.²²

8. However, the Commission did not extend the December 31, 2005 deadline for achieving 95% penetration of location-capable handsets.²³ In accepting their plan, the Commission recognized that meeting the December 31, 2005 deadline for 95% penetration would “require rapid replacement of old, non-A-GPS handsets with A-GPS handsets.”²⁴ Although the Commission took note of Nextel’s and Nextel Partners’ assertions that the 95% penetration deadline would be met because (1) commercial features and 3G services to be introduced with A-GPS handsets would provide an incentive for customers to upgrade their handsets, and (2) customer churn and growth should ensure compliance by December 31, 2005,²⁵ the Commission expected Nextel and Nextel Partners to comply with the December 31, 2005 compliance date even if Nextel’s and Nextel Partners’ estimates of churn, customer acceptance of new features, and system growth proved inaccurate.²⁶

9. In its 2003 *Order to Stay*,²⁷ the Commission put carriers on notice that any claim based on factors beyond a carrier’s control would be credited only if the carrier submitted specific evidence substantiating the claim, *e.g.*, documentation that, despite a carrier’s good faith efforts to conclude agreements with outside sources whose equipment or services were necessary to meet the Commission’s benchmarks, it was unable to do so.²⁸ Carriers claiming that financial hardship prevented compliance with the December 31, 2005 95% penetration deadline were advised that a waiver was unwarranted unless the carrier provided sufficient and specific factual information,²⁹ and that a carrier seeking a waiver based on extraordinary financial hardship could strengthen its justification by submitting documentation demonstrating that it has used its best efforts to obtain financing for the required upgrades from available Federal, state, or local funding sources.³⁰ Finally, the Commission stated that it:

expects all carriers seeking relief to work with the state and local E911 coordinators and with all affected PSAPs in their service area, so that community expectations are consistent with a carrier’s projected compliance deadlines. To the extent that a carrier can provide supporting evidence from the PSAPs or state or local E911 coordinators with

²⁰ *See id.* at 18279 ¶¶ 8, 9, 18283-84 ¶ 19.

²¹ *See id.* at 18289 ¶ 37.

²² *See id.*

²³ *See id.* at 18284 ¶ 20, 18289 ¶ 37.

²⁴ *Id.* at 18284 ¶ 22.

²⁵ *Id.*

²⁶ *Id.* at 18285 ¶ 23.

²⁷ *See* Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Compliance Deadlines for Non-Nationwide Tier III CMRS Carriers, CC Docket No. 94-102, *Order to Stay*, 18 FCC Rcd 20987 (2003) (*Order to Stay*).

²⁸ *Id.* at 20996-20997 ¶ 25.

²⁹ *See id.* at 20997 ¶ 29. The Commission noted that it generally is disinclined to find that financial hardship alone is a sufficient reason for an extension of the E911 implementation deadlines. *Id.*

³⁰ *See id.*

whom the carrier is assiduously working to provide E911 services, this would provide evidence of its good faith in requesting relief.³¹

3. Sprint Nextel Merger Order

10. The Commission next addressed Nextel's obligation to meet the December 31, 2005 95% penetration deadline when it consented to the merger of Sprint and Nextel. In granting consent, the Commission stated that it was "particularly concerned about the merged entity's progress toward E911 compliance."³² It noted Nextel's assertion that it "'anticipate[d] that Sprint Nextel [would] likely not achieve the Commission's 95 percent A-GPS handset penetration requirement until December 31, 2007,'" and deemed that result unacceptable.³³ The Commission "confirm[ed] [its] commitment to the E911 rules and remind[ed] the Applicants that they, like all carriers, are obligated to comply with [the] E911 rules, including the requirement that carriers electing a handset-based E911 solution achieve 95 percent penetration by the end of [2005]."³⁴

B. Sprint Nextel Request and Comments

1. Summary of Request

11. Sprint Nextel, a nationwide CMRS provider, is the product of a merger between Sprint and Nextel.³⁵ Prior to the merger, Nextel provided digital wireless voice and data communications services over a network based on Motorola's Integrated Digital Enhanced Network (iDEN) technology.³⁶ Sprint Nextel continues to use iDEN technology as part of its network, in addition to the Code Division Multiple Access (CDMA) air interface used by Sprint prior to the merger.³⁷ Both Sprint and Nextel adopted a handset-based solution to satisfy their E911 Phase II obligations.

12. In its request, Sprint Nextel represents that only 80% of its customers would have location-capable phones by the December 31, 2005 deadline for achieving 95% penetration of location capable handsets among its customers.³⁸ Sprint Nextel subsequently reported that it reached a compliance rate of 81.3% as of December 31, 2005³⁹ and, most recently exceeded 86% as of May 31, 2006.⁴⁰ It

³¹ See *id.* at 20997 ¶ 28.

³² *Sprint Nextel Merger Order*, 20 FCC Rcd at 14019-20 ¶ 144.

³³ See *id.* at 14020 ¶ 144; see also Letter from Laura L. Holloway, Nextel Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 94-102, filed July 11, 2005, at 1 ("Nextel has placed the Federal Communications Commission ('Commission') on notice that it likely will not be able to comply with the 95% benchmark, primarily due to the GPS software glitch that affected millions of A-GPS-capable Nextel handsets last summer.").

³⁴ *Sprint Nextel Merger Order*, 20 FCC Rcd at 14020 ¶ 144.

³⁵ Sprint Nextel Request at 1 n.1.

³⁶ See *Sprint Nextel Merger Order*, 20 FCC Rcd at 13970 ¶ 5.

³⁷ See *id.* at 13971 ¶ 8.

³⁸ Sprint Nextel Request at 5. Sprint Nextel indicates that, although it expected to reach 95% penetration among those customers served by the CDMA network inherited from Sprint, it anticipated that it would fall short of the benchmark for those customers served by the iDEN network formerly used by Nextel. *Id.* at 2.

³⁹ See Written *Ex Parte* Communication of Sprint Nextel Corporation, WT Docket No. 05-286, at 1 (filed Mar. 2, 2006) (Sprint Nextel March 2nd *Ex Parte*).

⁴⁰ See Sprint Nextel Corporation E911 Deployment Status Report, CC Docket No. 94-102, filed August 1, 2006 (Sprint Nextel August 1, 2006 Report), at 1.

asserts that its inability to meet the December 31, 2005 deadline “is the result of events beyond its control.”⁴¹ First, it states that Nextel lost “approximately one quarter of the time” that it had to meet the December 31, 2005 deadline⁴² because location-capable iDEN handsets were not available until a year after location-capable CDMA handsets were introduced in October 2001.⁴³

13. Second, Sprint Nextel points to the continued existence of defective iDEN handsets that have not yet been upgraded or replaced. On July 18, 2004, a latent software defect disabled the GPS functionality of its location-capable iDEN handsets. As a result, approximately 4.7 million handsets became incapable of providing location information to Nextel’s network, reducing Nextel’s location-capable handset penetration percentage to zero.⁴⁴ The handset defect can be remedied by “reflashing,” *i.e.*, installing corrective software in the handset.⁴⁵ Accordingly, Nextel and Motorola, the manufacturer of the defective handsets, engaged in what Sprint Nextel characterizes as “an unprecedented campaign to upgrade handset software as quickly as possible.”⁴⁶ Sprint Nextel also states that, after the handsets manifested the defect, Nextel and Motorola “undert[ook] unprecedented efforts to encourage Nextel’s customers to upgrade their handsets’ software.”⁴⁷ These efforts consisted of Nextel distributing free self-reflashing kits to 2.14 million customers, making at least two direct mailings to each affected customer to encourage reflashing, and providing free upgrading service at any Nextel store or authorized dealership.⁴⁸ Sprint Nextel states that, notwithstanding these efforts, as of October 31, 2005, “most affected customers ha[d] yet to upgrade or return these handsets and regain GPS capability.”⁴⁹

14. Third, Sprint Nextel cites reduced customer churn as a reason for not complying with the December 31, 2005 95% penetration deadline.⁵⁰ Specifically, Sprint Nextel asserts that the Commission erred when it established the penetration deadline because the deadline was premised on a churn rate higher than Sprint Nextel has experienced.⁵¹ Sprint Nextel adds that its lower churn rate is attributable to its efforts at improving customer service and network quality.⁵² It also asserts that it had attracted a large and “unique” customer base of small, medium, and large businesses and government organizations that have “the highest customer loyalty rate”⁵³

⁴¹ Sprint Nextel Request at 3; *see* Sprint Nextel Reply at 6.

⁴² Sprint Nextel Request at 10; *see* Sprint Nextel Reply at 7.

⁴³ Sprint Nextel Request at 3.

⁴⁴ *Id.* at 3, 11, 12. Sprint Nextel asserts that, as of July 2005, approximately 3.5 million active customers possessed defective handsets. *Id.* at 26 n.54. Sprint Nextel subsequently reported that, but for the latent handset defect, its penetration level would have been 88% by December 31, 2005, and over 91% by May 31, 2006. *See* Sprint Nextel March 2nd *Ex Parte* at 1; Sprint Nextel August 1, 2006 Report at 1.

⁴⁵ Sprint Nextel Request at 13-14.

⁴⁶ *Id.* at 14.

⁴⁷ *Id.*

⁴⁸ *Id.* at 25-27. Sprint Nextel notes that in one case, Nextel offered to replace, at no cost to the customer, 37,000 phones held by certain large customer groups; of those, only 3,095 requests for handsets were made. *Id.* at 26.

⁴⁹ Sprint Nextel Reply at 8.

⁵⁰ *See* Sprint Nextel Request at 14-15.

⁵¹ *Id.* at 14-15, 17-18.

⁵² *See id.* at 15-18.

⁵³ *See id.* at 18.

15. Fourth, Sprint Nextel states that a significant percentage of its customers “do not want to upgrade their handsets,” either because of the inconvenience of having to reprogram speed dial lists and learn new features, the prospect of losing their investment in accessories used with the non-compliant phones, the greater coverage provided by older phones in rural areas, or simply because subscribers are “otherwise satisfied with their current handset[s]”⁵⁴ Resistance is particularly common, Sprint Nextel contends, among its business and government customers described above who upgrade their handsets less frequently than do individuals.⁵⁵

16. Sprint Nextel argues that these four factors justify its failure to meet the December 31, 2005 deadline and that the Commission should not strictly enforce the deadline because, to do so “would require that potentially millions of [Sprint Nextel’s] subscribers – using handsets that are exactly what they want and need to effectively communicate – trade in their handsets for a new GPS-equipped phone.”⁵⁶ Sprint Nextel also submits that the Commission should not strictly enforce the deadline because “[f]or a substantial percentage, this forced handset replacement will not provide any added E911 safety value because Phase II services have not been installed by the majority of [PSAPs].”⁵⁷ Sprint Nextel argues that if “customers are satisfied with their current service, have no desire to acquire a GPS handset, and potentially gain no benefit from such an upgrade, the Commission should not force them” to upgrade to a new phone.⁵⁸

17. Finally, with respect to actions to ensure timely compliance, Sprint Nextel asserts that it has taken and will continue to take measures in addition to its efforts to reflash defective handsets, to increase adoption of location-capable handsets by existing customers.⁵⁹ For example the carrier states that it implemented marketing and promotional campaigns to encourage such adoption, and that, in 2004, it doubled the marketing budget for these efforts.⁶⁰ It also mentions several additional steps that it is either considering or in the course of implementing to further encourage handset upgrades.⁶¹ Finally, Sprint Nextel argues that the public interest will not be harmed by its requested extension because “at most, 44% of Nextel subscribers would be living in an area covered by a Phase II-capable PSAP by the [December 31, 2005] date” and that, “[w]ithout a ready PSAP, the safety benefits of having a GPS handset are not realized.”⁶²

2. Summary of Comments

18. The Wireless Telecommunications Bureau sought comment on the Sprint Nextel Request on October 7, 2005.⁶³ Motorola and CTIA filed comments supporting the request. Motorola argued that it was “not appropriate or fair to adhere to a penetration deadline that was based on an incorrect estimate

⁵⁴ *Id.* at 19-20; *see* Sprint Nextel Reply at 8.

⁵⁵ *See* Sprint Nextel Request at 18-19; Sprint Nextel Reply at 8.

⁵⁶ Sprint Nextel Request at 21.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *See id.* at 24-25.

⁶⁰ *Id.* at 24.

⁶¹ *See id.* at 35-36 (describing various marketing activities and incentives, and new handset features and services).

⁶² *Id.* at 32.

⁶³ *See* Wireless Telecommunications Bureau Requests Comment on Sprint Nextel Request for Limited Waiver of the December 31, 2005 Deadline to Achieve Ninety-Five Percent Penetration of Location-Capable Handsets Among Its Subscribers, WT Docket No. 05-286, *Public Notice*, 20 FCC Rcd 15859 (Wireless. Tel. Bur. 2005).

[by the Commission] of the rate of churn,” particularly if the cause is that “customers *like their phones so much* that they do not want to exchange them.”⁶⁴ It asserted that both Sprint Nextel and Motorola had “done everything reasonable to achieve the E-911 location capability goal.”⁶⁵ It added that “all of these phones (whether they have been reflashed or not) should be included as compliant phones in calculating achievement of the 95 percent goal” because (1) the phones “have GPS E-911 location capability in them and simply need to be reflashed in order to again communicate 911 location information,” and (2) “every user has readily available to him the ability to reflash his phone and turn the GPS E-911 location capability of his phone on.”⁶⁶ CTIA generally endorsed Sprint Nextel’s points and argued that the Commission should not enforce its deadlines “in a manner that forces consumers to give up their phones unwillingly.”⁶⁷

19. However, two public safety organizations, APCO and NENA, filed comments that, although not explicitly opposing the request, did express reservations.⁶⁸ With respect to the Sprint Nextel iDEN network, APCO stated that “these results for the iDEN network are extremely troubling, and require close scrutiny by the Commission.”⁶⁹ APCO also noted that the various factors mentioned by Sprint Nextel “may be valid considerations” but should be examined carefully to determine whether they were beyond Sprint Nextel’s control and thus justify its low penetration level relative to other major carriers.⁷⁰ APCO also urged the Commission to determine whether Sprint Nextel has taken “*all* reasonable steps” to offset these factors.⁷¹ Finally, APCO submitted that, “regardless whether a waiver is granted, or whether sanctions are imposed, Sprint Nextel should be subject to an aggressive revised deadline and rigid reporting requirements to ensure full compliance at the earliest possible date.”⁷²

20. NENA conceded Nextel’s “dilemma” in having to rely on a sole handset supplier “whose handsets, even when delivered late, betrayed in mid-2004 a software glitch.”⁷³ NENA also argued, however, that the Commission placed a “special burden” on Nextel to meet its handset penetration commitments “even if market conditions prove less than favorable.”⁷⁴ Without concluding whether Sprint Nextel’s efforts met this burden, NENA submitted that the Commission should measure Sprint Nextel’s efforts against the efforts of other carriers seeking relief from the handset deadline.⁷⁵ It stated

⁶⁴ Motorola Comments on Sprint Nextel Request at 2 (emphasis in original).

⁶⁵ *Id.*

⁶⁶ *Id.* at 4.

⁶⁷ CTIA Comments on Sprint Nextel Request at 4. In addition, the North Carolina Wireless 911 Board filed comments supporting Sprint Nextel’s request, asserting that strict enforcement “would unnecessarily inconvenience customers and could undermine public safety in some cases by preventing access to 911.” North Carolina Wireless 911 Board Comments on Sprint Nextel Request at 1. Seven other public safety entities, including a law enforcement association, several local PSAPs, and one statewide PSAP, also filed *ex parte* letters, all in support of Sprint Nextel’s request. *See* App. A. An additional letter from a public safety entity supporting the request was filed as an exhibit to the request. *See* Sprint Nextel Request, Ex. 1 (Letter from Sheriff Wendell Hall, Santa Rosa County Sheriff’s Office, Florida, to Marlene Dortch, Secretary, Federal Communications Commission, dated Oct. 12, 2005).

⁶⁸ APCO Comments on Sprint Nextel Request at 5-6; NENA Comments on Sprint Nextel Request at 7-9.

⁶⁹ APCO Comments on Sprint Nextel Request at 5.

⁷⁰ *See id.* at 5-6.

⁷¹ *See id.* at 6 (emphasis in original).

⁷² *Id.*

⁷³ NENA Comments on Sprint Nextel Request at 3.

⁷⁴ *See id.* at 8 (citing *Nextel Phase II Waiver Order*, 16 FCC Rcd at 18285 ¶ 23).

⁷⁵ *See id.* at 8.

that it was “not much inclined to credit” the efforts to “re-flash” handsets affected by the software glitch because “Motorola (and Nextel, by its necessary reliance on Motorola) brought on itself the related problems of a late start in handset manufacture and the software glitch.”⁷⁶ Finally, NENA advocated that any extension should be no greater than one year, to December 31, 2006, and conditioned on submission of quarterly progress reports.⁷⁷

III. DISCUSSION

21. We believe that it was critical for all handset-based carriers to have met the final implementation deadline of December 31, 2005 for 95% location-capable handset penetration, if at all possible, in order to allow all stakeholders (including carriers, technology vendors, public safety entities, and consumers) to have greater certainty about when Phase II would be implemented and ensure that Phase II would be fully implemented as quickly as possible.⁷⁸ Absent Phase II location data, emergency call takers and responders must expend critical time and resources questioning wireless 911 callers to determine their location, searching for those callers when the callers cannot provide this information, or both.⁷⁹ Accordingly, when addressing requests for waiver of the 95% handset penetration deadline, we remain mindful that delay in achieving the required handset penetration level could impair the delivery of safety-of-life services to the public. At the same time, however, the Commission has recognized that requests for waiver of E911 requirements may be justified, but only if appropriately limited, properly supported, and consistent with established waiver standards.⁸⁰

22. We find that Sprint Nextel has failed to meet the Commission’s standards for waiver of the 95% handset penetration requirement. The steps taken by Sprint Nextel to meet the December 31, 2005 deadline were limited and ultimately ineffective in achieving 95% penetration, as evidenced by the poor penetration levels obtained by Sprint Nextel. Specifically, Sprint Nextel achieved a penetration rate of only 81.3% by the December 31, 2005 deadline, and, as of May 31, 2006, had only reached 86%. Moreover, Sprint Nextel’s filing lacks a clear path to full compliance with the 95% penetration requirement. Sprint Nextel’s proposals for achieving compliance are notably non-specific, equivocal in some instances and rest, in large part, on measures that already have proven unsuccessful.

23. As an initial matter, we reject Sprint Nextel’s *ex parte* argument that the Commission’s orders granting relief of the 95% penetration requirement to Tier III carriers provides a basis for granting Sprint Nextel similar relief due to its claimed circumstances, including the software defect.⁸¹ Sprint Nextel contends that these prior orders are illustrative of “an industry-wide issue” and the Commission’s “willingness to take into consideration the individual circumstances facing each of these Tier III

⁷⁶ See *id.* at 9.

⁷⁷ See *id.*

⁷⁸ See *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14853 ¶ 38.

⁷⁹ Phase I E911 service provides a PSAP with data elements containing the telephone number of the originator of the 911 call and the location of the cell site or base station receiving the 911 call. See 47 C.F.R. § 20.18(d). Thus, the actual location of the caller can be miles distant from the location information provided to the PSAP, with consequent delay in providing the caller with emergency services, assuming that the caller actually can be located. Phase II service, by comparison, has a required location accuracy of 100 meters for 67% of calls and 300 meters for 95% of calls (for a network-based location solution) or 50 meters for 67% of calls and 150 meters for 95% of calls (for a handset-based location solution). See 47 C.F.R. § 20.18(h)(1)-(2).

⁸⁰ See *Tier III Carriers Order*, 20 FCC Rcd at 7709-7710 ¶ 1; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14842-14843 ¶ 6.

⁸¹ See Written *Ex Parte* Communication of Sprint Nextel Corporation, WT Docket No. 05-286, at 1-2 (filed April 3, 2006).

carriers.”⁸² Sprint Nextel itself recognized, as it must, that the relief granted to Tier III carriers was based on the provisions of the ENHANCE 911 Act, which specifically apply only to Tier III carriers.⁸³

24. We also do not credit Sprint Nextel’s reliance on customer churn as justifying its non-compliance with the December 31, 2005 deadline. When the Commission adopted a handset penetration requirement in 1999, it emphasized that, while seeking “largely to rely on market forces, coupled with the requirement that new activations be ALI-capable, to replace or upgrade handsets,” carriers were required to take “additional steps to ensure that the public safety goals of this proceeding are achieved within a reasonable period regardless of normal handset churn.”⁸⁴ The Commission specifically suggested that such efforts could include “lower rates for customers using ALI-capable handsets, rebates or generous allowances to encourage trade-ins of non-capable handsets, or actual handset exchanges or retrofitting.”⁸⁵ Thus, if carriers experience low churn rates, they should then take more aggressive affirmative steps to encourage adoption of location-capable handsets, rather than simply pointing to lower than expected churn levels as a basis for supporting waiver relief.⁸⁶ Furthermore, in accepting, as part of Nextel’s and Nextel Partners’ compliance plan, their commitment to comply with the December 31, 2005 deadline, the Commission made clear that it expected Nextel and Nextel Partners to “do more than simply rely on normal handset churn and market trends” to meet their compliance obligations.⁸⁷

25. We equally discount Sprint Nextel’s argument that lack of Phase II capability in some areas justifies its non-compliance. The lack of PSAP readiness in some areas to receive and utilize wireless caller information does not provide a basis for affording relief from the December 31, 2005 deadline. Handset deployment benchmarks operate independent of PSAP readiness. In this regard, we agree with NENA that location-capable handsets benefit public safety even if the customer’s local PSAP is not ready for Phase II, due to the mobile nature of wireless phones.⁸⁸ When customers travel, a location-capable phone provides Phase II service in the many communities where PSAPs are, in fact, Phase II ready. Accordingly, we find unpersuasive the argument that the state of PSAP readiness for Phase II service is a valid consideration when evaluating requests for extension of the handset penetration deadline.

26. We do find, however, that the handset defect was an event beyond Sprint Nextel’s practical control and one that affected – but nonetheless did not excuse – its failure to achieve 95% penetration by the December 31, 2005 deadline. In this connection, we are persuaded that Sprint Nextel experienced an unforeseen and unprecedented latent defect unique to iDEN handsets that instantly and completely resulted in the handsets’ loss of location capability. The defect affected almost all models of

⁸² *See id.*

⁸³ *See supra* n.4.

⁸⁴ Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Third Report and Order*, 14 FCC Rcd 17388, 17412 ¶ 52 (1999).

⁸⁵ *Id.* at 17413 ¶ 53.

⁸⁶ Sprint Nextel’s generalized assertion that it has a unique customer base, and that certain customers resist upgrading to location-capable handsets, prove only that it should have undertaken more aggressive efforts tailored to its customer base and the measures necessary to overcome any resistance to upgrading to location-capable phones.

⁸⁷ *Nextel Phase II Waiver Order*, 16 FCC Rcd at 18285 ¶ 23. *See* Joint Petition of CTIA and the Rural Cellular Association for Suspension or Waiver of the Location-Capable Handset Penetration Deadline, WT Docket No. 05-288, *Order*, FCC 06-59, ¶ 23 (rel. Jan. 5, 2007) (*CTIA/RCA Order*) (“if carriers experienced low churn rates, . . . they should have then taken “more aggressive affirmative steps” to encourage adoption of location-capable handsets, rather than simply pointing to lower than expected churn levels as a basis for supporting waiver relief.”).

⁸⁸ *See* NENA Comments in WT Docket No. 05-288 (filed Oct. 21, 2005) at 4. *See also CTIA/RCA Order* at ¶ 22.

iDEN handsets including more than 4.7 million subscriber handsets on Sprint Nextel's network.⁸⁹ Although it is true that Nextel and, by extension, Sprint Nextel, was responsible for its choice of technologies, and thus, at least to some extent, for its resulting vulnerability to the software defect,⁹⁰ we find that the defect was so unique and unforeseeable that Sprint Nextel could not reasonably have anticipated the defect when it chose its network technology or at any time thereafter prior to the time the defect suddenly manifested itself. We also credit Sprint Nextel's statement that Motorola is the sole source of handsets for iDEN networks and Sprint Nextel thus had no alternative but to deploy the Motorola product.⁹¹

27. A carrier's obligation in an event such as that encountered by Sprint Nextel is to promptly and aggressively respond once the problem is identified. Sprint Nextel did so.⁹² In addition to reflashing handsets to remedy the defect, it promptly modified its network, within six days, so that the defective handsets could at least provide Phase I E911 information. Moreover, Sprint Nextel quickly informed affected PSAPs when the defect manifested itself and explained to PSAP personnel, to some extent, how it would address the problem.⁹³ These early efforts by Sprint Nextel signify that it did perform commendably immediately after the defect was recognized.

28. Despite our acknowledgment of the software defect, it is not controlling in our analysis of Sprint Nextel's waiver request. An overriding factor is Sprint Nextel's own admission it would have fallen short of the December 31, 2005 benchmark even had it not encountered the software problem. Specifically, even absent the defect, Sprint Nextel would have achieved only 88% penetration by the deadline.⁹⁴ Therefore, the software defect notwithstanding, Sprint Nextel's waiver request had to cite facts sufficient for us to determine: (a) that Sprint Nextel had made sufficient and effective efforts to encourage subscribers to upgrade non-compliant handsets and (b) that Sprint Nextel has shown us the requisite path to full compliance with the 95% penetration requirement. In both respects, Sprint Nextel has failed to do so. As discussed below, Sprint Nextel's efforts were both insufficient and ineffective. The Sprint Nextel Request is devoid of any concrete showings indicative of a path to full compliance. There is no merit in the excuses Sprint Nextel has offered for its non-compliance. We thus are denying its request.

29. Efforts taken by Sprint Nextel leading up to the deadline to increase handset penetration levels did not result in sufficient gains in penetration levels. Sprint Nextel lists, among such efforts, the following: (1) marketing and promotional campaigns, including print advertisements promoting location services (but not including Phase II services) available with GPS-enabled handsets; (2) advertisements offering discounted handsets provided that the customer entered into a new two-year service contract, and at least in some cases, listing GPS capability as one of several handset functions, but only with respect to commercial navigation capabilities, rather than E911 purposes;⁹⁵ (3) a promotion in which customers with two-year or older iDEN handsets could replace those handsets at the lowest promotional price offered on

⁸⁹ See Sprint Nextel Request at 3, 11. Sprint Nextel states that the defect reduced the number of location-capable handsets its network to zero. See Sprint Nextel Reply at 8. Sprint Nextel elaborates that two of its location-capable models were not directly affected by the glitch, but that because of the network upgrades necessary to restore location-capability to the other handsets, these handset models also required software upgrades in order to provide Phase II service. See Sprint Nextel Petition at 13 n.30.

⁹⁰ See NENA Comments on Sprint Nextel Request at 9.

⁹¹ See Sprint Nextel Request at 3.

⁹² See *id.* at 25-27.

⁹³ See *id.* at 13.

⁹⁴ See Sprint Nextel March 2nd *Ex Parte* at 1.

⁹⁵ See Sprint Nextel Reply at App. C (including an advertisement that subscribers can "navigate with GPS").

new iDEN handsets; and (4) giving customers who donated non-location capable phones a receipt that the customer could use when claiming a charitable deduction for tax purposes.⁹⁶

30. Given its low penetration levels, Sprint Nextel knew or should have known prior to December 31, 2005 that its modest efforts to meet the deadline were proving inadequate and that more aggressive steps were needed to achieve timely compliance. However, Sprint Nextel has submitted nothing to indicate that it did anything other than continue to rely on those demonstrably insufficient measures as the deadline approached. For example, Sprint Nextel's offer of free or reduced-price location-capable phones as an inducement to its subscribers to upgrade non-location capable handsets was coupled with a condition that subscribers also had to accept a renewed or extended service contract. Elimination of that condition likely would have made its efforts more effective. Indeed, eliminating the condition would have been consistent with the Commission's warning in 2001 -- well before the December 31, 2005 deadline -- that Nextel would have to take "special measures" to assure compliance.⁹⁷ Moreover, Sprint and Nextel knew there was a critical need to reach compliance when the Commission approved their merger in 2005. In the merger application they had represented they would likely not meet the December 31, 2005 deadline. The Commission nevertheless stated that the merged company must meet the deadline.⁹⁸

31. The efforts that Sprint Nextel states will lead to compliance lack specifics and firm commitments. Despite having achieved poor location-capable handset penetration levels, Sprint Nextel fails to delineate specific efforts and firm commitments leading to compliance. Significantly, Sprint Nextel commits to little in the way of additional, more meaningful efforts. For example, Sprint Nextel states that it: (1) is developing a targeted marketing campaign aimed at customers with handsets that are not GPS-capable; (2) is considering favorable price plan offerings for customers who switch handsets; (3) hopes to provide an economic incentive to corporate, small business and government users otherwise unwilling to upgrade; and (4) is discussing with Motorola an upgrade incentive and further pursuing with Motorola the possibility of cash payments to reflash defective handsets.⁹⁹ In light of the fact that Sprint Nextel's penetration rate, as of December 31, 2005, was only 81.3% and, as late as May 31, 2006, was still only at 86%, its proposals leave us particularly unconvinced that it has a clear path to full compliance, much less that it has undertaken "concrete steps necessary to come as close as possible to full compliance."¹⁰⁰

32. Motorola, in comments, claims Sprint Nextel has done "everything reasonably possible to meet this deadline . . ." ¹⁰¹ We disagree. Other carriers already have undertaken or committed to specific efforts beyond those described by Sprint Nextel. For example, Puerto Rico Telephone Company d/b/a Verizon Wireless Puerto Rico (PRTC), a Tier III carrier, indicated that, as the deadline approached, it added to its existing efforts a campaign to call all customers with non-GPS-capable handsets and offer them (1) a choice between two free GPS-compliant handsets with the renewal of the customer's contract; (2) a one-year contract term rather than two years; and (3) 100 free minutes per month for three months.¹⁰² Similarly, Great Lakes of Iowa, another Tier III carrier, stated in a pleading filed with the

⁹⁶ See Sprint Nextel Request at 24-25, 35.

⁹⁷ See *Nextel Phase II Waiver Order*, 16 FCC Rcd at 18285 ¶ 23.

⁹⁸ See *Sprint Nextel Merger Order*, 20 FCC Rcd at 14020 ¶ 144.

⁹⁹ See Sprint Nextel Request at 36.

¹⁰⁰ See *Fourth MO&O*, 15 FCC Rcd at 17458 ¶ 44.

¹⁰¹ Motorola Comments on Sprint Nextel Request at 3.

¹⁰² See Letter from Suzanne Yelen, Wiley Rein & Fielding LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 94-102, filed Dec. 23, 2005, at 1.

Commission that, as part of its efforts to achieve 95% penetration, it “called each TDMA and analog customer and, as an incentive to migrate to the CDMA network, offered them a free location capable phone and a month of free service if they upgraded their phones,” and also “offered to waive its two-year contract term, allowing these customers to upgrade to a free phone before their contracts would normally award another free phone.”¹⁰³ Other Tier III carriers have also permitted handset upgrades without requiring any contract extension, have offered discounts on accessories, and have marketed range extenders to make upgrading more attractive to subscribers in rural areas with marginal service.¹⁰⁴ Although not exhaustive, these examples illustrate more aggressive efforts that Sprint Nextel could have taken to ensure timely compliance with the 95% requirement. Furthermore, these efforts were undertaken by Tier III carriers with presumably fewer resources than Sprint Nextel, a Tier I carrier.¹⁰⁵ We conclude, based on the totality of the circumstances, that, in light of the achieved levels of penetration, Sprint Nextel’s efforts have been so insufficient that we must deny relief. Sprint Nextel’s 81.3% penetration level by the December 31, 2005 penetration deadline, and only 86% as of May 31, 2006, warrant referral of the matter to the Commission’s Enforcement Bureau for appropriate action.

33. As noted above, Sprint Nextel expected to reach 95% penetration by December 31, 2005 among those customers served by the CDMA network inherited from Sprint.¹⁰⁶ Accordingly, but for Sprint’s acquisition of Nextel, Sprint would have been the only major handset-based carrier to have timely achieved compliance with the December 31, 2005 deadline. Although this factor alone is not enough to excuse Sprint Nextel from compliance with the 95% penetration requirement, it does merit consideration in the course of the enforcement proceeding to follow. In fact, because the enforcement process can take into account a wide range of factors in determining an appropriate remedy, including the fact that Sprint would have been the only CDMA carrier to achieve compliance within the applicable deadline, the enforcement process may be the most effective way to fashion a remedy for Sprint Nextel in this case.

34. *Reporting Requirements.* In order to closely monitor and assess the status of Sprint Nextel’s efforts toward compliance with the E911 requirements, including the 95% handset penetration requirement, we require it:

- To submit to the Commission quarterly status reports, beginning February 1, 2007 and until Sprint Nextel achieves 95% handset penetration. These reports must include detailed information that describes and discusses with specificity: (1) Sprint Nextel’s efforts to encourage customers to upgrade to location-capable handsets; and (2) the percentage of Sprint Nextel customers with location-capable handsets. Given that Sprint Nextel has acquired Nextel Partners, these numbers should include Nextel Partners’ subscriber base.

¹⁰³ See Great Lakes of Iowa, Inc. d/b/a CellularOne Petition for Temporary and Limited Waiver of Section 20.18(g)(1)(v) of the Commission’s Rules, CC Docket No. 94-102, filed Nov. 10, 2005, at 2-3.

¹⁰⁴ See, e.g., Cable & Communications Corporation, August 1, 2006 Report, CC Docket No. 94-102, filed July 28, 2006, at 2 (offered free phone, free activation and 10% discount on accessory purchases with two year contract); Washington RSA No. 8 Limited Partnership Quarterly E911 Status Report, CC Docket No. 94-102, filed August 1, 2006, at 2-3 (discount on new phone without contract extension and 500 bonus minutes; marketing external antennas and signal boosters to enhance range of digital phones for rural subscribers with marginal service).

¹⁰⁵ We also note that carriers have a history of upgrading their networks to more advanced air interfaces, such as from analog and TDMA systems to CDMA and GSM, and have been quite successful in convincing customers to change handsets to accommodate the new air interface, effectively requiring current customers to change out their handsets in order to continue receiving service.

¹⁰⁶ See *supra* note 38.

- Within five days of achieving a 95% handset penetration rate, to submit to the Commission a letter certifying Sprint Nextel's full compliance with Section 20.18(g)(1)(v).
- To submit to the Commission quarterly reports (every February 1, May 1, August 1 and November 1), beginning February 1, 2007, which shall include the following information: (1) the number and status of Phase II requests from PSAPs (including those requests it may consider invalid); and (2) the estimated dates on which Phase II service will be available to PSAPs served by Sprint Nextel's network. These quarterly reports must be filed until one year after Sprint Nextel certifies compliance with the 95% handset penetration requirement. Given that Sprint Nextel has acquired Nextel Partners, they may elect to file consolidated reports.

We note that these requirements may be modified by a future action taken by the Enforcement Bureau.

IV. CONCLUSION

35. It is amply clear that the measures Sprint Nextel took in the past or promises for the future fall short of satisfying the Commission's criteria for waiver of the December 31, 2005 deadline. We therefore deny the request of Sprint Nextel for a two-year waiver of its obligation to ensure that 95% of its customers have location-capable handsets. We also find that Sprint Nextel's conceded failure to meet the December 31, 2005 deadline should be addressed through the enforcement process. The Commission previously has placed carriers on notice that referrals may be made to the Enforcement Bureau for failure to comply with an applicable Phase II deadline, even when requests for relief are submitted in advance of deadlines set forth in the Commission's Rules or orders.¹⁰⁷

V. PAPERWORK REDUCTION ACT

36. This document contains a new information collection requirement subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other federal agencies were invited to comment on the new information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

VI. ORDERING CLAUSES

37. Accordingly, IT IS ORDERED, pursuant to Sections 1.3 and 1.925 of the Commission's rules, 47 C.F.R. §§ 1.3 and 1.925, that the foregoing *Order* IS ADOPTED.

38. IT IS FURTHER ORDERED that the Request for Limited Waiver by Sprint Nextel Corporation, filed Sept. 29, 2005, IS DENIED.

¹⁰⁷ See Revision of Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Order*, 18 FCC Rcd 21838, 21844 ¶ 12 (2003) ("A carrier may seek a waiver in advance of a deadline in the Phase II rules or its compliance plan. However, the carrier always becomes liable for possible enforcement action if it fails to comply with an applicable Phase II deadline. Referral to the Enforcement Bureau when such an apparent violation is reported, or otherwise appears likely, is a normal and familiar exercise of the Commission's authority and discretion").

39. IT IS FURTHER ORDERED that Sprint Nextel is subject to the reporting requirements specified herein.

40. IT IS FURTHER ORDERED that the matter of the non-compliance of Sprint Nextel with Section 20.18(g)(1)(v) of the Commission's Rules SHALL BE REFERRED to the Commission's Enforcement Bureau for appropriate actions.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX**Comments, Reply Comments and *Ex Parte* Filings**Comments

Association of Public-Safety Communications Officials-International, Inc. (APCO)
CTIA – The Wireless Association (CTIA)
Motorola, Inc. (Motorola)
National Emergency Number Association (NENA)
North Carolina Wireless 911 Board

Reply Comments

National Emergency Number Association (NENA)
Sprint Nextel Corporation (Sprint Nextel)

Ex Parte Filings

Benton County Emergency Services
Bonneville County Emergency Communications
Dickinson County Administration & Emergency Services
Grady County Sheriff's Office
Grand Lodge, Fraternal Order of Police
Otsego County 911 Center
Sprint Nextel
State of Rhode Island and Providence Plantation