

ORIGINAL



David M. Christian  
Vice President - Regulatory Affairs

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July 15, 2004

Ms. Blanca S. Bayo, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RECEIVED - FPSC  
JUL 16 AM 10:41  
COMMISSION  
CLERK

*undocketed*

Re: Verizon Florida's Response to the 2004 Incumbent Local Exchange Carrier (ILEC) Local Competition Data Request

Dear Ms. Bayo:

Verizon Florida Inc. (Verizon) is pleased to provide the enclosed response to the Commission's June 3, 2004 data request. As in the past, Verizon welcomes the opportunity to assist the Commission in evaluating the status of local competition in Florida.

As requested, responses are being provided electronically, with the responses to the written questions in Word and the completed data tables in Excel. Two CD's are being filed, a redacted version along with a confidential one. Verizon considers information on the CD to be confidential as it contains proprietary information that could be used by competitors to gain an unfair competitive advantage. Therefore, this filing is made under a Claim of Confidentiality pursuant to F.S. 364.183(1) and Rule 25-22.006(5). Verizon understands the information must be kept confidential until returned to Verizon.

Thank you for the opportunity to assist the Commission in its evaluation of Florida's local telecommunications market. If you have any questions or concerns, please feel free to contact me or Demetria Watts at (850) 222-5479.

Sincerely,

*[Signature]*  
David M. Christian  
Vice President - Regulatory Affairs

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This claim of confidentiality was filed by or on behalf of a "telco" for Confidential DN 07733-04. The document is in locked storage pending advice on handling. To access the material, your name must be on the CASR. If undocketed, your division director must obtain written EXD/Tech permission before you can access it.

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DOCUMENT NUMBER-DATE

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**ITEMS ON REDACTED CD**

2004 Cover Letter (PDF)

Questionnaire Responses - redacted version (Word)

Response to Question #2A – Tariff Pages (PDF)

Ex Parte filing – Mass Market Switching (PDF)

Ex Parte filing – High Capacity Services (PDF)

FCC Broadband and Local Competition Reports (PDF)

Articles (PDF)

**ITEMS ON CONFIDENTIAL CD**

Questionnaire Responses - confidential version (Word)

Data Tables (Excel)

DOCUMENT NUMBER-DATE

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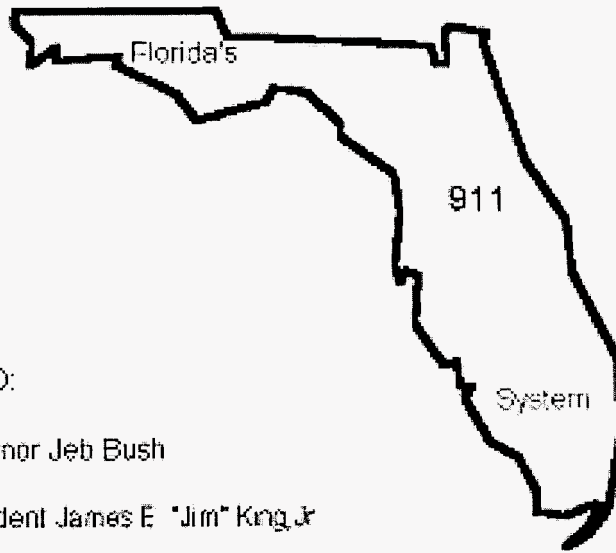
ORIGINAL

WIRELESS 911 BOARD

INITIAL REPORT



February 28, 2003 2004



PRESENTED TO:

Honorable Governor Jeb Bush

Honorable President James E. "Jim" King Jr

Honorable Speaker Johnnie Byrd

Mission Statement: To provide to the residents and visitors of the State of Florida the most technologically efficient and cost effective wireless E9-1-1 services available within the funding allowances.

DOCUMENT NUMBER-DATE

07733 JUL 16 04

FPSC-COMMISSION OF FOLK

**Letters to Governor, Senate President, and House Speaker**

Page Two (2)

Wireless 911 2003 Board Report.doc

- \$1.1 million in extra assistance was provided to the Rural Counties for E911 implementation and maintenance
- \$38 million was reimbursed to the providers for actual costs of implementing wireless E911 in Florida (up from \$4 million last year)
- 10 training classes were funded for 911 professionals on handling wireless 911 calls as a result of the 2003 legislation

This report is submitted to you with the unanimous support of all seven (7) members of the State of Florida Wireless 911 Board. We trust that our efforts have advanced the State of Florida in Public Safety response and improved our overall emergency services. We will continue this effort and responsibility with due diligence in improving Florida's emergency communications.

Sincerely,

Mary B. Anderson

Deborah S. Caruthers

H. Nelson Green, Jr.

Gerald "Norm" Leggett

James "Jim" Smith

**February 27, 2004**

The Honorable Jeb Bush, Governor  
State of Florida  
The Capitol Building  
Tallahassee, Florida 32399-0001

Dear Governor Bush:

As another year comes to a close, the Members of the State of Florida Wireless 911 Board respectfully present the 2003 Annual Report. The 2003 year was very successful with many accomplishments and wireless 911 enhancements within the State.

In the current realm of increased national security and the necessity to provide personal safety to the residents and visitors of Florida, wireless 911 issues are in the forefront of providing emergency and protective services.

Through the foresight of the Governor and Florida Legislature, the Changes made in 2003 to Florida Statute 365.172, have more clearly Defined the role of the Florida Wireless 911 Board. This continuing Support has made the State of Florida an example for other States to Follow in the implementation of Wireless 911 Services.

The attached Annual Report goes into more detail; however, the Florida Wireless 911 Board would like to highlight some of the 2003 Accomplishments:

- 47 Counties have deployed Phase I Wireless E911 with one or more providers
- 26 Counties have deployed Phase II Wireless E911 with one or more providers (up from 6 last year)
- \$49 million was collected from the Wireless 911 Fee to support E911 in Florida (up from \$44 million last year)
- \$21 million was distributed to the Counties to help support operational 911 systems (up from \$19 million last year)

Christine A. Tringali

03 Board Report.doc

Page Two (2)

Wireless 911 2003 Board Report.doc

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H. Nelson Green, Jr.

\_\_\_\_\_  
Gerald "Norm" Leggett

\_\_\_\_\_  
James "Jim" Smith

**February 27, 2004**

The Honorable James E. King, Jr., President  
State of Florida Senate  
404 South Monroe Street, Suite 302  
Tallahassee, Florida 32399-1100

Dear Senator King:

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\_\_\_\_\_  
Christine A. Tringali

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James "Jim" Smith

**February 27, 2004**

The Honorable Johnnie Byrd, Speaker  
State of Florida House of Representatives  
402 South Monroe Street, Suite 420  
Tallahassee, Florida 32399-0001

Dear Senator Byrd:

As another year comes to a close, the Members of the State of Florida Wireless 911 Board respectfully present the 2003 Annual Report. The 2003 year was very successful with many accomplishments and wireless 911 enhancements within the State.

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Christine A. Tringali

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## II. RECEIPTS FOR CALENDAR YEAR 2003

A total of 22 wireless service providers remitted monies derived from the collection of the Wireless 911 Fee to the Board during this year. The total received and deposited into the Wireless Emergency Telephone System Fund by wireless service providers during the year was \$49,007,159. This indicates a growth rate of about 11 percent for calendar year 2003.

The following table presents the collections on a quarterly basis. See Section XI (b), Statement of Cash Receipts and Disbursements for additional detailed information relative to revenue collections by the Board.

<u>QUARTER</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
First	\$11,664,261	\$12,440,023	\$12,939,332
Second	\$ 9,838,253	\$11,829,674	\$12,836,301
Third	\$ 9,838,253	\$ 9,893,398	\$14,130,827
Fourth	\$ 8,851,281	\$10,026,953	\$ 9,100,699
<b>TOTALS</b>	<b>\$40,544,249</b>	<b>\$44,190,048</b>	<b>\$49,007,159</b>

The Board maintains a list showing the total amount of E911 fee revenues collected by each provider. This list contains confidential and proprietary information for each provider and is on file with the State Technology Office.

### **III. DISBURSEMENTS FOR CALENDAR YEAR 2003**

A total of \$60,484,789 was disbursed from the Wireless Emergency Telephone System Fund during the year. This is a 135% increase over last year, attributable in part to the factors below. These funds were disbursed in four categories.

a. Payments to Counties for 911

A total of \$21,163,664 was disbursed from the Fund to Florida counties in calendar year 2003. These distributions represent a 6% increase from the amount distributed to the counties last year. The actual distribution tracks the total collections shown in Section II. See Section XI, Exhibit 1 for monthly and quarterly disbursements.

These funds have allowed the counties to continue the process of upgrading the equipment and systems necessary for enhanced 911 service statewide and to begin implementing wireless enhanced (Phase I and Phase II) 911 service. Phase I provides the call back number and general area of the caller's location. Phase II provides the call back number and more accurate location information. See Section VI for more information about Phase I and Phase II.

b. Payments to Rural Counties for Enhanced 911

A total of \$647,808 was disbursed from the Fund to 8 rural counties in calendar year 2003 in response to grant applications submitted to the Board. See below for a listing of these disbursements.

<u>COUNTY</u>	<u>AMOUNT AWARDED</u>	<u>TYPE GRANT</u>
Bradford	\$267,292.00	Non-Recurring
Desoto	\$ 23,607.00	Non-Recurring
Dixie	\$ 29,335.00	Non-Recurring
Gulf	\$ 42,000.00	Non-Recurring
Hamilton	\$ 64,507.00	Non-Recurring
Madison	\$ 64,427.00	Non-Recurring
Putnam	\$ 86,240.00	Non-Recurring
Walton	\$ 70,400.00	Non-Recurring

**GRAND TOTAL                      \$647,808.00**

c. Payments to Rural Counties for Supplemental Grants

A total of \$487,974 was disbursed from the Fund to 28 rural counties in calendar year 2003. See below for a listing of these disbursements.

<u>COUNTY</u>	<u>AMOUNT AWARDED</u>
Baker	\$20,369.00
Bradford	\$15,150.00
Calhoun	\$30,128.00
Desoto	\$ 7,144.00
Dixie	\$26,723.00
Franklin	\$28,855.00
Gadsden	\$ 985.00
Gilchrist	\$23,854.00
Glades	\$28,751.00
Gulf	\$24,578.00
Hamilton	\$28,373.00
Hardee	\$11,008.00
Hendry	\$ 1,452.00
Holmes	\$26,613.00
Jackson	\$ 1,506.00
Jefferson	\$25,133.00
Lafayette	\$32,491.00
Levy	\$ 8,595.00
Liberty	\$31,939.00
Madison	\$26,416.00
Okeechobee	\$ 2,127.00

<u>COUNTY</u>	<u>AMOUNT AWARDED</u>
Sumter	\$ 299.00
Suwannee	\$ 425.00
Taylor	\$23,267.00
Union	\$27,373.00
Wakulla	\$12,248.00
Walton	\$ 1,944.00
Washington	\$20,228.00
<b>GRAND TOTAL</b>	<b>\$487,974.00</b>

d. Payments to Wireless Carriers for Enhanced 911

A total of \$37,957,846 was disbursed from the Fund to wireless service providers in calendar year 2003. This factor of 8.5 increase indicates a substantial deployment of Wireless Enhanced 911 Service in Florida during calendar year 2003. See Section XI, Exhibit 3 for disbursements.

The Board anticipates a continued substantial requirement for Wireless Service Provider reimbursement in calendar year 2004. See Attachment 2 for requested and pending deployments of Wireless Enhanced 911 Service.

Over the past few years, the disbursements to the wireless service providers have not kept pace with collections. This is now changing and the payments to providers are outpacing the collections as Phase I and II are deployed throughout the State. The really expensive part of wireless enhanced 911 service is Phase II. Phase II invoices are just now starting to be paid for the systems deployed in Florida. These distributions are expected to accelerate during the coming year based on the continuing deployment of Phase I and Phase II service as the deadline (December 31, 2005) set by the FCC approaches.

e. Payments for Board Administration and Operations

A total of \$227,497 was disbursed from the Fund to pay for Board expenses in calendar year 2003. This represents a decrease of \$3,765 from the previous year. The engagement of the accounting firm, Law, Redd, Crona and Munroe, CPA accounted for \$47,727. The Board reimbursed the Department of Management Services and the State Technology Office \$128,930 for necessary staff support and Administrative Assessment Fees. Meeting arrangements, travel and managerial costs accounted for the \$50,840 balance of the Administrative Expenditures. See Section XI, Exhibit 4 for a list of these disbursements.

The Board has contracted with the Attorney General's Office for Board Counsel. The payments to the Attorney General's Office during the year were \$15,453.

#### IV. FUND BALANCE

Beginning Balance 1/1/03	--	\$63,658,248
Receipts in 2003	--	\$49,007,159
Interest Earned	--	\$ 2,925,614
Disbursements in 2003	--	\$60,484,789
FUND BALANCE 12/31/03	--	\$55,106,232

The Fund Balance is broken down as follows:

-- Reserved Funds for Wireless Carriers	\$52,147,161
-- Reserved Funds for Counties	\$ 2,196,746
-- Reserved Funds for Rural Counties	\$ 370,188
-- Designated for Providers/Board Administration and Operations	\$ 392,137
-- <b>TOTAL</b>	<b>\$55,106,232</b>

## V. ACCOMPLISHMENTS

During the 2003 legislative session, the Wireless 911 Board was successful in the passing of its legislative package. The package included collection of the Wireless 911 Fee from prepaid wireless telephone customers, allowing the Board to retain an independent accounting firm through all methods of procurement defined in c. 287,

F. S., expansion of the duties of the Board to allow for technical assistance to counties, educational assistance to the Florida 911 community, advocate for and coordinate with the State Technology Office on issues related to 911 in Florida and at national forums and encouraging local governments to provide for wireless tele-communications facilities to accomplish Phase II wireless enhanced 911 service meeting federal requirements.

During the last half of 2003, the Wireless 911 Board exercised the new duty of providing educational assistance to the Florida 911 community by voting to reimburse counties for their cost of training their staff in "...taking and transferring "911" calls...". The course is offered by the National Emergency Number Association (NENA) at \$3,000 for 20 students and \$25 per additional student to a maximum number of 40 students. A number of Board members attended this training and reported it to be very informative and effective. The Board will review all requests from counties who plan to offer this training course and where appropriate, and funds are available, reimburse the counties for this important training. The Board authorized reimbursement totaling approximately \$30,000 during 2003. These funds are taken from the Wireless 911 Board administration and operation monies.

The Wireless 911 Board actively promoted the increased deployment of Phase I and II throughout Florida during the previous year. First, the Board has worked with the counties to have them submit a valid request to all their wireless service providers operating in their county. One of the ways this was accomplished was a "Wireless 911 Board Update" presentation by the Wireless 911 Board at the semiannual County 911 Coordinators Group meetings in May and October.

Second, the Board has worked with the wireless service providers to implement as many of the requests as possible and to invoice the Board for their actual costs. Each July, the Wireless 911 Board meets with the wireless service providers, on an individual basis, to discuss their specific cost recovery needs and to promote their continued attention to Florida and



our deployments of Phase I and II wireless enhanced 911 services. As can be seen in Section VI, the deployment of Phase I and II has accelerated significantly over the last year. The Wireless 911 Board congratulates the wireless telecommunications industry for their commitment and dedication to implementing Phase I and II in Florida.

Florida is a 911 leader nationally! Florida Public Service Commission Commissioner Charles M. Davidson recently participated in a panel discussion at the Federal Communications Commission (FCC) and indicated to the national audience how Florida was a leader in all aspects of 911 from legislation to operations, standards, cost recovery and rapport between all parties involved in 911 deployment. First, Florida's legislation establishes 911 on a countywide basis with wireline and wireless telephone services receiving comparable treatment. Second, the leadership on 911 issues by the State Technology Office (STO) rather than the regulatory commission provides a consistent message about service levels for all state services and technologies. Third, the excellent rapport between the industry, counties and the STO on 911 issues as a result of the interaction between all parties on many service related issues has helped reduce many service or operational problems. Fourth, the composition of the Wireless 911 Board has promoted an attitude of assistance between the counties, the wireless industry and STO in working toward the goal of statewide wireless enhanced 911 in Florida. And finally, the coordination and support provided by the county 911 coordinators group organization to promote and advance 911 issues in Florida at all forums.

## VI. STATUS OF ENHANCED WIRELESS 911 SERVICES

The Wireless 911 Board conducted a survey for the Calendar Year 2003 Report with respect to the status of E911 Phase I and Phase II service in the State of Florida. Fifty-eight (58) of the 67 counties in Florida have officially requested Phase I service from the wireless service providers operating in their county. Additionally, 38 counties have requested Phase II Wireless Enhanced 911 Service from the Wireless Service Providers. See Attachment 2 for the results of this survey.

### a. Phase I Service

The Federal Communications Commission (FCC) defines Phase I as the carriers' ability to deliver to the emergency call taker the telephone number of the wireless handset originating a 911 call (known as Automatic Number Identification-ANI), as well as the location of the cell site or base station receiving the 911 call. This information provides the caller's general location.

The following 31 counties are fully Phase I compliant with all of the wireless service providers operating in their area.

Alachua	Bay	Brevard
Broward	Charlotte	Citrus
Collier	Columbia	Miami-Dade
Duval	Escambia	Hendry
Hillsborough	Jackson	Manatee
Lake	Lee	Leon
Marion	Martin	Nassau
Okaloosa	Orange	Palm Beach
Pasco	Pinellas	Polk
Sarasota	Seminole	St. Johns
Sumter	Wakulla	

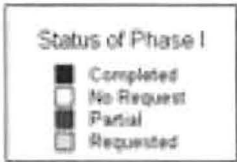
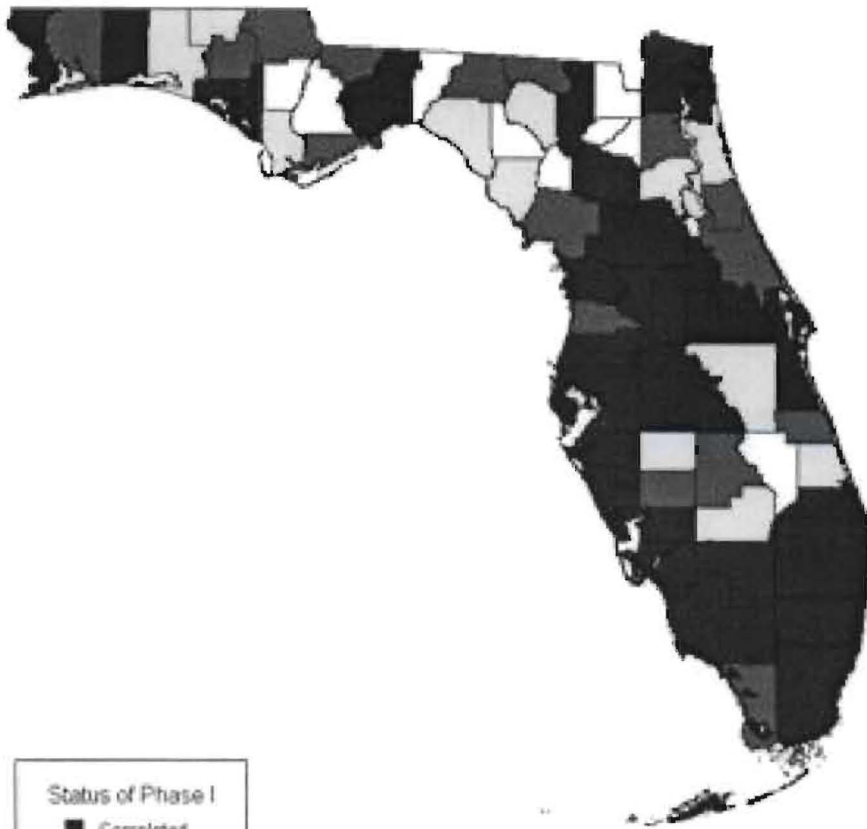
One or more wireless service providers in the following 16 counties have implemented Phase I service:

Citrus	Clay	Desoto
Franklin	Gadsden	Hamilton
Hernando	Highlands	Indian River
Jackson	Levy	Madison
Monroe	Santa Rosa	Volusia
Washington		

As of December 31, 2003, the wireless service providers have completed the implementation of Phase I service within the timeframe required by the Federal Communications Commission. Implementation of Phase I service in Florida proceeded much faster during the past year. There are still 9 counties that have not requested Phase I service due to one or more of the following reasons:

- Uncertainty of available implementation (non-recurring) funding
- Uncertainty of available ongoing/maintenance funding
- Lack of personnel resources to coordinate implementation
- Lack of understanding of the Phase I process
- Lack of understanding of benefits to county resident and visitors

## Status of Wireless Enhanced 9-1-1 Phase I



b. Phase II Service

The FCC defines Phase II as the carriers' ability to deliver latitude and longitude location information also known as Automatic Location Identification (ALI), to the call taker in addition to the Automatic Number Identification (ANI).

Two fundamental technologies have been developed for locating the wireless telephone that dials 911 and both have some limitations that affect accuracy. One is a network-based system that involves the positioning of special sensors at the tower sites. Network-based systems require that the 911 call be certified by multiple cell sites in order to determine position. The other technology is a handset-based system similar to that used in the Global Positioning System (GPS) satellite receivers. Handset-based technology may provide limited reception inside vehicles and buildings without special antennas. A third alternative is Assisted-GPS, which combines the network-based and handset-based technologies.

The FCC is requiring all 6 major nationwide providers to adhere to their implementation plans for Phase II service. The FCC has established December 31, 2005 as the nationwide Phase II completion date. The FCC has instructed the Enforcement Bureau to obtain quarterly status reports from the wireless service providers and to ensure that the providers meet their scheduled rollout plans. The Enforcement Bureau has levied a number of stiff fines on companies that did not meet the requirements of their implementation plans as submitted to the FCC. These providers have also been given a schedule by the FCC Enforcement Bureau to become compliant. Please see the FCC web site at [www.fcc.gov](http://www.fcc.gov) for the complete details of the provider's implementation plans and past FCC actions.

In Florida, the following 38 counties have requested Phase II service:

Alachua	Bay	Brevard	Broward
Charlotte	Citrus	Collier	Miami-Dade
Desoto	Dixie	Escambia	Flagler
Gulf	Hendry	Hillsborough	Jackson
Lake	Lee	Levy	Madison
Manatee	Marion	Martin	Monroe
Nassau	Okaloosa	Orange	Palm Beach
Pasco	Pinellas	Polk	Sarasota
Seminole	St. Johns	Sumter	Volusia
Walton	Washington		

Phase II has been implemented by one or more wireless service providers in the following 26 counties:

Alachua	Bay	Brevard
Charlotte	Citrus	Collier
Miami-Dade	Desoto	Escambia
Hillsborough	Lee	Madison
Marion	Monroe	Nassau
Okaloosa	Orange	Palm Beach
Pasco	Pinellas	Polk
Sarasota	Seminole	St. Johns
Sumter	Walton	

There are 29 counties that have not requested Phase II service for similar reasons as given above for not requesting Phase I service.



c. Implementation Issues

The primary factors delaying implementation of Phase I and II wireless enhanced 911 service in Florida is the need for funding to purchase equipment, mapping systems, etc. and resources (people) to coordinate the projects. The Wireless 911 Board's 2 percent for assisting rural counties is insufficient to fund these counties in a timely way to obtain statewide Phase II by December 31, 2005. The Board is reviewing applications for an engineering position to provide technical assistance (and project management) to the rural counties. At the federal level, H2898 and S1250 are making their way through the United States Congress to provide funding and other coordination assistance for the implementation of 911 systems, both wireline and wireless.

Early last year, the Chairman of the Federal Communications Commission (FCC) asked each governor to name a single point of contact with the state for all 911 issues. At the end of October, a meeting was called to discuss 911 issues with these individuals. Florida's contact is James "Jim" Martin, the Statewide 911 Coordinator and technical advisor to the Wireless 911 Board. This meeting was very informative about the pending legislation in Congress and was the first meeting of this type that brought together the FCC, the Governor's designees and representatives of other federal agencies to address current state and federal issues affecting E911 deployment.

Other meetings will be scheduled by the FCC to discuss the unique challenges posed by wireless phones and the requirement to provide a nationwide seamless communication system for emergency services.

**The Wireless 911 Board, with Mr. Martin and the State Technology Office, would like to volunteer to be the State of Florida organization responsible for coordinating the implementation of Wireless Enhanced Phase I and II Service in Florida.**



## VII. SUBCOMMITTEE FOR PHASE II WIRELESS E911 REPORT

### a. Authority

The 2003 legislature passed CS/HB 1307 and the Governor signed it into law as Chapter 2003-182, Laws of Florida. A copy of CS/HB 1307 is included in Attachment 4. This legislation required the State of Florida Wireless 911 Board to form a Subcommittee if it received any industry reports of “unreasonable delay” within a county or municipality by the September 1, 2003 deadline. Prior to the September 1, 2003 deadline, the Board received 19 reports (9 counties, 9 municipalities and 1 state park) from the wireless telecommunications industry. The Wireless 911 Board requested the Florida Telecommunications Industry Association (FTIA), Florida Association of Counties (FAC) and the Florida League of Cities (FLC) to appoint two members each to serve on the Subcommittee. See section c. Membership of this report for a list of the Subcommittee members. The “Subcommittee for Phase II Wireless E911” was officially formed, and initially met, on September 29 via conference call with the Wireless 911 Board. The Board charged the Subcommittee with reaching recommendations on issues by consensus. Pursuant to the concerned legislation, such recommendations are to be included in the Board’s annual report to the Governor, President of the Senate and Speaker of the House of Representatives. This Report is posted at the Subcommittee for Phase II Wireless E911 web site at:

<http://www.state.fl.us/dms/e911/whb1307members.html>

### b. Purpose

Based on the legislation, the Subcommittee will be “...responsible for developing a balanced approach between the ability of providers to locate wireless facilities necessary to comply with federal Phase II E911 requirements using the carrier's own network and the desire of counties and municipalities to zone and regulate land uses to achieve public welfare goals.” Also, “The subcommittee shall be charged with developing recommendations for the board and any specifically identified municipality or county to consider regarding actions to be taken for compliance for federal Phase II E911 requirements.”

c. Membership

The membership on the Subcommittee for Phase II Wireless E911 consisted of two members each appointed by the Florida Telecommunications Industry Association (FTIA), Florida Association of Counties (FAC) and the Florida League of Cities (FLC). Individual Subcommittee members and the organizations they represent are provided below:

Representing the Florida Telecommunications Industry Association (FTIA)

David E. Ramba, Lewis Longman & Walker, P. A.  
Armando Fernandez, T-Mobile

Representing the Florida Association of Counties (FAC)

Councilwoman Suzanne Jenkins, Duval County  
David Wagner, Alachua County Attorney

Representing the Florida League of Cities (FLC)

Thomas Snelling, Tampa  
Councilmember Gary Resnick, Wilton Manor (9/03-10/03)  
Mayor Gerald Ergle, Ocala (11/03 to present)

d. Reports

The wireless telecommunications industry filed 19 reports with the Wireless 911 Board before the September 1, 2003 deadline. These filings were made pursuant to Chapter 2003-182, Laws of Florida, (enacted as Section (11)(f) of CS/HB 1307). The Subcommittee determined that many of the reports lacked sufficient details to understand the nature of the claimed “unreasonable delays” and requested supplemental information be provided from the industry by October 15, 2003. The Subcommittee also provided each local jurisdiction an electronic copy (or hard copy where necessary) of the report and the supplemental report and requested the local jurisdictions provide a response to these reports for consideration by the Subcommittee.

All the reports, supplemental reports, local responses and other information about the operations of the Subcommittee are located at the Subcommittee for Phase II Wireless E911’s web site at:

e. Summary and Conclusions

Based on the 19 reports and supplemental reports referenced above, local jurisdiction responses and the mini-hearings, the Subcommittee finds that no consistent pattern or single issue was determined to indicate a uniform statewide problem causing “unreasonable delays” for the implementation of telecommunications facilities to meet federal Phase II E911 requirements. Some local jurisdictions do have issues that need to be addressed between the industry and local jurisdiction.

An overwhelming majority of the local jurisdictions wanted to work with the wireless telecommunications industry to help them gain the locations they needed to provide wireless E911. The local jurisdictions want wireless E911 as much as anyone else does. The public safety of their citizens is at stake. The local jurisdictions are willing to balance the need for wireless E911 with their duty to regulate land use—they need more input from the industry to make them aware of the wireless telecommunications industry requirements.

The Subcommittee sincerely appreciates the cooperation and assistance provided by the local jurisdictions and the industry in completing the Subcommittee’s work.

f. E911 Coordinator Testimony

The E911 Coordinator for the county in which each reported jurisdiction is located participated in the hearings or provided information to the subcommittee. The E911 Coordinator is responsible for working with the wireless service providers to integrate the requested E911 service with the County’s E911 facilities.

All of the participating E911 Coordinators<sup>1</sup> reported they had no reports of delays. The E911 Coordinators have no established role in the zoning or permitting review of wireless facility placements.

The industry reported that the E911 Coordinator only has the ability to evaluate the proper functioning of its Phase II equipment and whether or not it is receiving Phase II locational data from each provider. However, each provider must also comply with its own FCC Consent Decree Order which includes compliance with milestones and requirements, such as certain numbers of sites, handset and network based technology, as well as technology and service deployment, all within certain time-frames, or face stiff penalties. In addition, providers must also comply with certain coverage requirements within certain time-frames established by its FCC License.

g. Meetings and Actions

The Subcommittee for Phase II Wireless E911 conducted all meetings by audio teleconference calls. In addition to the inaugural meeting on September 29<sup>th</sup>, the subcommittee met via conference call on October 23<sup>rd</sup> to review the supplemental reports provided by the industry. At this meeting, the Subcommittee scheduled regular meetings for each Thursday afternoon at 1:00 to 3:30 pm starting November 20<sup>th</sup> through January 15<sup>th</sup>. On December 18<sup>th</sup>, the Subcommittee added two additional meetings to complete their work for January 22<sup>nd</sup> and 29<sup>th</sup>. Starting with the December 11<sup>th</sup> meeting, the Subcommittee conducted “mini-hearings” where each side (industry and local jurisdiction) discussed the issues and answered questions from the Subcommittee members. This mini-hearing process continued through the January 29<sup>th</sup> meeting. The January 29<sup>th</sup>, February 5<sup>th</sup> and

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<sup>1</sup> Alachua County 911 Coordinator, Susan Nelson  
Collier County 911 Coordinator, Sandi Chernoff  
Flagler County 911 Coordinator, Doug Wright  
Gadsden County 911 Coordinator, Devane Mason  
Jackson County 911 Coordinator, Christine Daniels  
Lee County 911 Coordinator, Matt Rechkemmer  
Liberty County 911 Coordinator, Ben Guthrie  
Manatee County 911 Coordinator, Paula Kanzler  
Monroe County 911 Coordinator, Gerald N. “Norm” Leggett  
Pasco County 911 Coordinator, John Schroeder  
Pinellas County 911 Coordinator, Chuck Freeman  
Sarasota County 911 Coordinator, William K. “Bill” Stevens  
Seminole County 911 Coordinator, E. Frank Kirk  
Volusia County 911 Coordinator, Paula M. Szabo

12<sup>th</sup> meetings were reserved for completion of the Subcommittee Report for the local jurisdictions and the Wireless 911 Board. On February 18, 2004, the Subcommittee for Phase II Wireless E911 met with the Wireless 911 Board to present and discuss the Subcommittee's report. The report has also been provided to all of the specifically identified municipal or county entities for consideration. All Subcommittee meeting agendas and minutes are presented at the web site:

<http://www.state.fl.us/dms/e911/whb1307members.html>

h. Recommendations

Each of the local jurisdictions receiving a report by the industry will be individually addressed. The reports will be presented in alphabetical order by county then municipality then the State Park.

**Alachua County**

Issues reported by the industry:

- 1) Collocation is discouraged in the ordinance.
- 2) Ordinance encourages multiple short towers rather than a single taller, collocatable tower.
- 3) Applications are required to show need of the proposed wireless telecommunications facility.

Alachua County is currently reviewing their ordinance for telecommunications facilities and will have a draft in January 2004. The wireless telecommunications industry is encouraged to work with the county during this process and has agreed to do so. The county planning personnel have expressed an interest in having input from the industry as they go through this process. Both sides felt that the way to achieve a workable solution is through communications during the updating of the ordinance. It is therefore recommended that the county continue the active review of the telecommunications facilities ordinance, and the current legislation, continue working with the industry on issues raised in the report, continue to receive input from the industry and, if necessary, update the ordinance accordingly.

### **Collier County**

Issue reported by the industry:

- 1) A moratorium was in effect for the Vanderbilt Beach area. No building permits were reviewed or issued for any type construction until January 31, 2004. This constituted a two year moratorium.

The county states that the moratorium inadvertently delayed wireless telecommunications facilities. There are only 43 parcels in this area impacted by the moratorium. The County acknowledged that their moratorium was too inclusive. The Subcommittee recommends that local governments should generally recognize that when enacting complete building moratoriums that provisions should be made to allow for permitting wireless telecommunications facilities needed to provide E911 Services. The wireless telecommunications industry was requested to work with the Community Development & Environmental Services Division, Zoning & Land Development Review Department to resolve the issues relative to the location of towers and antennas in Collier County.

The county agreed to consider the input provided by the industry. It is therefore recommended that the county review the telecommunications facilities ordinance, the current legislation and receive input from the industry and, if necessary, update the ordinance accordingly.

### **Flagler County**

Issue reported by the industry:

- 1) Delays in siting wireless telecommunications facilities are created by the County's legal interpretation that each wireless facility lease area, as well as the subject parcel, must meet the zoning district's minimum lot size, which significantly limits available sites. For the AC zoning district, the minimum lot size (and, therefore, lease size) is five acres, yet the required area for a wireless facility is typically no more than a quarter of one acre. The industry felt that this significantly reduces the number of sites that are available to be leased, delaying the ability of wireless carriers to place towers in the agricultural portions of Flagler County.

The Flagler County, Planning and Zoning Department indicated a willingness to look at the issue of minimum lot size in the AC zoned areas of the county. The county stated that this issue may be able to be handled on an exception basis within the current ordinance. The County made an

affirmative offer to address the issues. The industry is encouraged to submit recommendations to change the County Ordinance to address the issues raised. The county requested the wireless telecommunications industry to work with the department to obtain needed sites for towers and antennas which are required to provide Phase II E911 meeting the federal requirements. It is therefore recommended that the county review the telecommunications facilities ordinance, the current legislation and receive input from the industry and, if necessary, update the ordinance accordingly.

### **Jackson County**

Issues reported by the industry:

- 1) **Delays are created by the** application of an un-adopted ordinance to pending wireless facility applications.
- 2) The County also adopted a resolution to charge new fees for application review before adopting an ordinance regulating wireless facilities.
- 3) The County is also retroactively applying the ordinance, after it was adopted, to any pending applications, creating uncertainty in what regulations were applicable.

Jackson County indicated their willingness to consider the Wireless telecommunications industry's concerns. The planning department asked the industry for specific input for their review of their telecommunications facilities ordinance. The industry has provided suggestions for consideration by the planning department. The County is working very closely now with the industry and the County is currently revamping their ordinance to address the concerns raised by the industry. It is recommended that the industry continue to work with Jackson County personnel and make their concerns known in the process of reviewing and updating the ordinance. The tentative schedule is for Board of County Commissioners to complete the ordinance process in the later part of the first quarter of 2004. It is therefore recommended that the county continue to review the telecommunications facilities ordinance, the current legislation and continue to receive input from the industry and, if necessary, update the ordinance accordingly.

### **Lee County**

Issues reported by the industry:

- 1) Lee County has interpreted the state statute to mean that the antennas and anything placed on an existing structure as a collocation is

- exempt, but that any equipment on the ground must meet the full zoning requirements.
- 2) The County's ordinance groups all types of wireless facilities together and requires the same submittal information whether the request is to add a new equipment shelter, to collocate on a building, or to build a new tower.
  - 3) The County Attorney's office has interpreted the new state statute's time frames to apply only to applications for building permits, leaving the reviews under the land development regulations unaffected by the statutory time frames.
  - 4) The newly adopted Lee County ordinance requires that before any wireless application may be approved, the County must make a finding that the applicant is not already providing "adequate coverage or capacity" in the area.

Lee County indicated that they believe they are following the law. The county 911 coordinator indicated that Lee County was Phase II compliant with all 7 carriers operating in Lee County. Mr. Jerry Murphy addressed each of the 11 points in the Supplemental Report and indicated that Lee County was following the law in all regards. Mr. Nixon, National Regulatory Manager for T-Mobile, indicated that Lee County was not Phase II compliant with his company.

The big disagreement is over the definition and application of the term collocate. Lee County's definition and application is not consistent with what the industry feels is the intent of the statutory provisions addressing collocation. It is therefore recommended that the county review the telecommunications facilities ordinance, the current legislation and receive input from the industry and, if necessary, update the ordinance accordingly. The Subcommittee recommends to the legislature that a definition of collocation and personal wireless facility be included in the statute.

### **Liberty County**

Issues reported by the industry:

- 1) Under the newly adopted ordinance, every application, even collocations, requires a "Special Use Permit." The county does not recognize any exemption from this review process for collocations.
- 2) The new ordinance requires the applicant to demonstrate that the need for the wireless facility is to provide service primarily, for and within Liberty County.



- 3) The County ordinance requires proof of compliance with federal standards (the NEPA and FCC emissions requirements), contrary to the requirements of the State statute.
- 4) The new ordinance requires excessive application and review fees, bonds and insurance.

The county indicated a willingness to work with the industry to amend their ordinance if it contains provisions that are in conflict with the new state statutes. However, the county did not want to create any unsafe conditions within the county for their residents and visitors. The County ordinance, even though newly adopted, does not provide an exemption for collocation. The county has not indicated that they believe there are any outstanding issues, but the subcommittee recommends that a definition of collocation would clarify the issue statewide and clarify the intent of HB 1307. It is therefore recommended that the county review the telecommunications facilities ordinance, the current legislation and receive input from the industry and, if necessary, update the ordinance accordingly.

### **Miami-Dade County**

Issue reported by the industry:

- 1) **Limited or no telecommunications** facilities are allowed in residential areas.

The county states that the BCC does and will continue to use citizen panels to review applications for wireless telecommunications facilities. The Industry does not dispute the county's response. The County should look at how to address the situation unique to Miami-Dade County to provide facilities in large residential areas where commercial, industrial, or tall structures are not available for location or collocation. The county and industry agreed that the county is again reviewing their ordinance. The industry believes that the county may repeal the ordinance requiring all wireless telecommunications facilities to be approved as a special use application. The county states that the county may repeal parts of the ordinance but probably not a total repeal. There was a moratorium on all unusual or special use applications (except wireless telecommunications facilities) due to the Omnipoint case from March 6, 2002 to October 10, 2003. During this time, all seven wireless service providers voluntarily refrained from requesting building permits for wireless facilities while the current ordinance was being developed. The county and the industry are working to address the areas where towers and antennas are allowed.

However, the Citizen Review panels are the key to gaining approval. It is therefore recommended that the county review the telecommunications facilities ordinance, the current legislation, and review input from the industry and, if necessary, update the ordinance accordingly.

### **Pasco County**

Issues reported by the industry:

- 1) **The existing and proposed** ordinances require a showing of need for a new tower.
- 2) Pasco County staff has stated that the statute provides no general exemption from review for collocation. They interpret the statute to say that the carrier may not have to go through zoning review but the tower owner must comply with the zoning requirements before the antennas can be placed.

The county states that only one incidence of delay was cited and that was before the adoption of the new ordinance. The new ordinance complies with the new timeframes of the state statutes.

The Subcommittee recommends to the legislature that a definition of collocation and personal wireless facility be included in the statute. The county also claims that there was no actual delay. What the industry cited was provisions in the old ordinance that could produce delays. The industry commended Pasco County for producing a new ordinance. It is therefore recommended that the county review the telecommunications facilities ordinance, the current legislation, and receive input from the industry and, if necessary, update the ordinance accordingly.

### **Sarasota County**

Issue reported by the industry:

- 1) **The County requires** proof that government property cannot be used before a new tower can be built. Sarasota County now has a consultant to review all requests to locate on County property, but the process is still difficult and much longer than is typical with a private property owner.

The county indicated that they have formed a group to investigate and coordinate the placement of wireless telecommunications facilities. The group is made up of county government department representatives and their consultant for wireless telecommunications facilities review. The

county would like for the industry to consider county property first but understands that other sites may be more beneficial. The county wants to improve their property for this purpose and that is why they want the industry to send a letter explaining why the county property is not suitable. The group is currently being lead by the county 911 coordinator and would like to have industry involvement in their process to improve the situation in Sarasota County. It is therefore recommended that the county continue to review its procedures for leasing County owned land, the current legislation and continue to receive input from the industry and, if necessary, update the ordinance accordingly.

### **City of Anna Maria**

Issues reported by the industry:

- 1) The City of Anna Maria has been under a moratorium since October 2001 while rewriting their telecommunications facilities ordinance. The new ordinance was recently adopted.
- 2) Provisions in the recently adopted ordinance that create delay:
  - a. **The City requires proof of compliance with federal standards** (NEPA and FCC emissions requirements), in violation of the State statute.
  - b. Given the small lot sizes in the city there are virtually no parcels in the city that could meet the ordinance's fall zones and buffer areas.
  - c. The height limitations are financially impractical, given the city's small population. This limitation would mean that ten or more sites would be required by each carrier to serve a city with a permanent population of less than 2,000 people and a seasonal population of approximately 5,500 people.
  - d. The city's new ordinance further discourages the improvement of wireless services in the city by requiring excessive, unreasonable fees.

The City indicated that the commission, on passing the new ordinance for telecommunications facilities, would entertain any "glitch" amendments necessary to this ordinance. The city does not allow any high rise structures within the city. This applies to residences and businesses as well as telecommunications facilities.

The Subcommittee recommends that the city, based on their unique location and lack of commercial structures or buildings available for location of

facilities, amend their ordinance that would allow collocation and coverage for the residents of their City. However, the city does want reliable wireless telephone service for the residents and visitors to the city which includes E911 Phase II that meets the federal requirements. It is requested that the wireless telecommunications industry provide the city with information about signal strength and coverage issues along with recommended solutions. It is recommended that the city review the telecommunications facilities ordinance, the current legislation and review input from the industry and, if necessary, update the ordinance accordingly.

### **City of Deltona**

Issues reported by the industry:

- 1) **The city ordinance prohibits towers in a majority of the city.** Towers can only be of certain heights and must be located in “red, blue or green areas”. The limited number of sites limits the available options, delaying the location of wireless facilities.
- 2) The “blue areas” are the most desirable and are typically city owned property. This forces the carriers to pursue a lease with the city, which usually takes longer than a private landlord.
- 3) The ordinance allows collocation as permitted uses, but only on existing towers in very few areas of the city. In addition, the placement of any other antenna apparently would require a conditional use approval.

The City of Deltona indicated a willingness to work with the industry. They have reviewed their land development code and have adopted some amendments. The city desires to protect the aesthetics of the city and maintain the safety of the citizens. The city asked the industry to present an alternative map showing needed tower locations. They want to balance the public safety, community and industry issues and indicated that if they were unreasonable, they would adjust the ordinances. A personal visit by industry representatives was strongly encouraged. It is therefore recommended that the city review the telecommunications facilities ordinance, the current legislation and receive input from the industry and, if necessary, update the ordinance accordingly.

### **City of Jacksonville**

The report for the City of Jacksonville was withdrawn by the wireless telecommunications industry.

### **City of Key West**

Issue reported by the industry:

- 1) **The City of Key West** requires a Variance Application for antennas and a Conditional Use application for installation on a rooftop regardless of any previously approved installations.

The pending collocation permit that resulted in the report being filed for the City of Key West was issued after the report was filed, thus, resolving the report. The city responded with a request to the industry for a more robust structure for wireless telecommunications facilities than is presently required by the building codes. Due to the unique geography of the keys, the city would like for the industry to build their facilities to withstand the wind loading witnessed in Hurricane Andrew in 1992 and Hurricane Isabel in 2003.

### **City of Lake Mary**

Issues reported by the industry:

- 1) **The delays are created by** the combination of restrictions in the City's ordinances that result in a very small number of sites being available for wireless facilities at optimum heights outside of the western industrial portion of the city.
- 2) The City's ordinance provides that towers must be setback from residential zones as measured from the property boundary, rather than from the tower, and setbacks significantly increase as the height of the tower increases.
- 3) Additionally, the City has a beautification corridor, which includes any parcel that is partially within the corridor width.
- 4) Given the restrictions placed by the City, there is virtually no parcel outside the western portion of the city that would qualify for a tower site.

The City of Lake Mary indicated a willingness to work with the industry to locate available sites for telecommunications facilities. However, the city felt comfortable that their ordinance was fair since a recent court ruling was in their favor. The city agreed that the eastern portion of the city was mainly residential and did not allow optimum height towers. Location of antennas on rooftops requires applications under conditional use applications.

The city is encouraged to look at the setback requirement, camouflage technology and that it create a rational nexus between aesthetic requirements, view corridors, as well as the health, safety and welfare of its citizens. It is therefore recommended that the city review the telecommunications facilities ordinance, the current legislation, and receive input from the industry and, if necessary, update the ordinance accordingly.

### **City of Ormond Beach**

Issues reported by the industry:

- 1) The City of Ormond Beach's ordinance prevents communication towers in all but a few zoning districts. Additionally, the City's setbacks from property lines, certain zoning districts, certain uses, right-of-ways, and from other towers restrict the available sites to a very small number.
- 2) Such restrictions unnecessarily delay the ability for carriers to locate new sites to improve service in the area.

The City of Ormond Beach is aware of their restrictive ordinances but was concerned when they were deemed "prohibitive". They do encourage camouflage antennas and collocation. The city would like to see towers with pleasing designs. In addition, the industry can always request lesser setbacks and other provisions directly in the application but a deviation or exemption process is required. The city is willing to work with the industry and would like the industry to assess the facility needs for all of Volusia County so that all local jurisdictions can work together to achieve Phase II E911. It is therefore recommended that the city review the telecommunications facilities ordinance, the current legislation and receive input from the industry and, if necessary, update the ordinance accordingly.

### **City of Quincy**

Issues reported by the industry:

- 1) Under the City of Quincy's newly adopted ordinance, every application, even a collocation, requires a "Special Use Permit" review. There is no recognition of any exemption from this process for collocations.
- 2) The City conducts an analysis of the need for the proposed wireless service. The ordinance requires the applicant to demonstrate the need for the wireless service. In addition to being required to prove the need for the service, the ordinance requires that the wireless service provider must primarily benefit that jurisdiction. The ordinance

- imposes a review fee to allow the City to retain an “expert” to review the application, including the network and service design.
- 3) The City of Quincy’s ordinance requires excessive Application and Review Fees, Bonds and Insurance. The City’s recently adopted ordinance requires application and review fees as well as bond amounts that have no relationship to any cost the city might incur. The ordinance also includes insurance requirements that cover non-existent interests.
  - 4) The City of Quincy takes an excessive amount of time to review applications. These delays were caused by a collocation having to go through a zoning review for a collocation of an antenna on a previously approved structure. Another factor is the excessive reviews conducted by the outside consultant “expert.”

The City of Quincy indicated a willingness to listen to the concerns of the wireless telecommunications industry related to the ordinance. The industry was requested to provide specific data with a request to review and update the ordinance. The industry indicated that the city requires too much information to be filed with the application. Also, the fees, bonds and insurance are considered excessive. The city indicated that any unused portion of the fee charged is refunded to the applicant. It is therefore recommended that the city review the telecommunications facilities ordinance, the current legislation and input from the industry and, if necessary, update the ordinance accordingly.

### **City of Sarasota**

Issue reported by the industry:

- 1) The City of Sarasota’s requirement that each applicant for a wireless facility site, must first consider using City owned property delays the permitting process. If a carrier selects a site other than City owned property, the alternative site must be justified by the applicant to the satisfaction of staff in order to proceed in the zoning review process. If City property is selected, the carrier must negotiate a lease/license to the satisfaction of the City’s staff and Commission, which also can create delays.

The City of Sarasota indicated that the lease negotiations and the land development review are accomplished concurrently. The last tower structure application in the city was completed from application to commission approval in 9 months. The city indicated that no delays have

been demonstrated and that the industry has no basis for their report relative to the City of Sarasota. It is therefore recommended that the city review the telecommunications facilities ordinance, the current legislation and receive input from the industry and, if necessary, update the ordinance accordingly.

### **City of Tarpon Springs**

Issue reported by the industry:

- 1) **The City of Tarpon Springs'** ordinance prohibits communications towers in all but a few zoning districts. None of these zoning districts exist in the western portion of the city and there are no existing buildings or structures on which antennas can reasonably be placed. An attempt to amend the ordinance to allow camouflaged towers in a neighborhood commercial zoning district was denied.

The City of Tarpon Springs is currently in litigation on the issue of telecommunications facilities and not able to fully discuss their situation as related to this report. However, the city is drafting a new ordinance and it will provide for telecommunications facilities throughout the city. The industry acknowledged that the city was in the process of rewriting their ordinance. The city indicated a willingness to receive input during this process from the industry. It is therefore recommended that the city continue their review of the telecommunications facilities ordinance, the current legislation and continue to receive input from the industry and, if necessary, update the ordinance accordingly.

### **Butler Beach State Park (near St. Augustine)**

Issue reported by the industry:

- 1) **The state is withholding approval of a sub-lease between Earthcom Services, Inc. and St. John's County.** St. John's County leases the property from the State Division of Lands. The county has approved the placement of a camouflaged (flagpole) communications tower in the state park. Earthcom Services has sent packages to the Division of State Lands for approval but to no avail.

The Department of Management Services, Division of Facilities Management has taken the lead in developing a "model lease agreement" and is in the process of promulgating a rule containing the terms and conditions for granting of any such leases. A draft Evaluation Guide has been developed for the process to determine if a parcel of state land is suitable for placement of a telecommunications facility. It is therefore



recommended that the DMS continue to work on the model lease and the administrative rule and consider input from the industry and, if necessary, update the rule, the model lease and the guide, tools and process steps accordingly.

## **VIII. RECOMMENDATIONS TO ADJUST AMOUNT OF FEE AND ALLOCATION OF PAYMENTS**

Section 365.172(6)(d) F.S. requires the Board to address whether the amount of the E911 fee and the allocation percentages should be adjusted to comply with the requirements of the Federal Communications Commission (FCC).

**The Board finds that at this time the amount of the fee and the allocation of funds do not need to be adjusted to meet any requirements of the FCC.** However, the FCC recently decided that the costs of processing wireless 911 calls through the ILEC tandem were PSAP (county) costs rather than wireless service provider cost. The ILEC's will be requesting a tariff for recovery of these costs, which increases the county funding problems.

Due to new additional 911 costs to the counties from ILECs coupled with decreased wireline revenues and the anticipated shortfall in provider reimbursement over the next year, an adjustment in the allocation percentages is not recommended at this time. However, an adjustment will be required in the next two to three years. The adjustment is anticipated to provide a greater percentage of funds to the counties and to the rural county assistance fund and a decreased percentage reserved to reimburse the wireless service providers actual costs for the recurring charges to maintain Phase II service statewide in Florida. These changes are anticipated after E911 is deployed statewide.

The Board anticipated a reduction in the growth rate from the 25 to 30 percent in the past few years. However, the actual rate of growth reported showed virtually no growth during the calendar year 2002. While the growth rebounded in 2003 to about 11 percent, it is still not expected to return to the past year's levels. Without the addition of revenue from the "Prepaid Customers", the growth rate is expected to be in the 10 percent range for the next two years. Adding approximately 5 percent for the "Prepaid Customers" gives a total estimated growth of 15 percent in 2004 and 10 percent in 2005. The Board's best estimate of the funds available and the funds necessary to implement Phase I and Phase II wireless enhanced service in Florida for the next two calendar years is presented below:

Anticipated Available Funds

	<u>2004</u>	<u>2005</u>
Beginning balance January 1	\$ 55,106,232	\$ 4,882,889
Revenues	\$ 56,358,233	\$61,994,056
Interest Earnings	<u>\$ 1,000,000</u>	<u>\$ 500,000</u>
Subtotal:	\$112,464,465	\$67,376,945

Anticipated Disbursements

	<u>2004</u>	<u>2005</u>
Allocation to Counties	\$ 24,797,623	\$ 27,277,385
Rural County Assistance	\$ 1,127,165	\$ 1,239,881
Phase I Provider Reimbursement	\$ 9,708,177	\$ 9,029,103
Phase II Provider Reimbursement	\$ 71,339,942	\$ 66,759,721
Board Operations/Administration	<u>\$ 608,669</u>	<u>\$ 669,536</u>
Subtotal:	\$107,581,576	\$104,975,626
<b>TOTAL:</b>	<b>\$ 4,882,889</b>	<b>(\$37,598,681)</b>

**This leaves the Board short approximately \$37,600,000 to pay for the non-recurring and recurring cost of supporting the implementation of Phase I and Phase II. In the next year or two, the Board will (most likely) be forced to pro-rate payment of invoices from wireless service providers if current estimates and timeframes of payments to providers are realized. Because of the coordinated effort between the Board and the industry, this is not expected to adversely impact the statewide implementation of Phase I and Phase II wireless enhanced 911 service in the State of Florida.**

## IX. OTHER OUTSTANDING ISSUES

The Board is considering a number of issues that may require future legislation. These issues are presented below.

a. Non-Traditional Wireless Customers

The Board believes that all devices with access to 911 service should pay the fee to support 911 activities as defined by Florida Statutes.

A non-traditional service that still causes the Board concerns is what is commonly referred to as telematics. How the 911 system should treat these customers and/or the systems is difficult. A number of new products that are being produced today have a button for calling 911. Some of the automobile manufacturers have a button to access 911 from their proprietary service. If the vehicle has a single button for “direct” access to the appropriate 911 PSAP, the owner should be charged the wireless 911 fee and the money remitted to the Board for distribution to the counties and the wireless service providers. The button for proprietary service of the manufacturer (General Motors’ OnStar and Ford Motors’ Vehicle Communications System (VCS), for example) connects the driver with a company-operated customer care center that provides numerous services. The Board feels that customers with vehicles that provide this service should be charged the fee. These centers may relay an emergency call to a response agency in the appropriate county based on the nature of the call and the location of the vehicle. These services not only utilize the existing 911 services but make it necessary for the counties to incur additional costs with the potential of no reimbursement from these types of services today.

Based on automotive industry projections, the number of vehicles that will have this capability will continue to grow. A number of upscale vehicles will include these capabilities as standard equipment very soon. The Board believes Florida will have a significant number of these non-traditional wireless users. The Board believes that efforts should be made to identify methods to collect the wireless 911 fees from these users to support the 911 system they will be calling. The Board will continue to work on this issue and will propose legislation for action in the future. It is anticipated that legislation at the State level will be required to accomplish this objective.

However, the FCC has recently issued an order, specific to OnStar, and issued a second notice of proposed rule making to address the entire telematics issue. How does the customer care center provide the “crash” information received from the vehicle to the emergency responders to improve the response? An example would be that “a car with 3 passengers rolled over 5 times while driving at 83 MPH along the interstate”. With this information, the Emergency Medical Services (EMS) may respond with 3 ambulances and put Life Flight on alert. Without the information, one ambulance would probably be dispatched until additional information is received from the scene.

One issue that seems to be problematic occurs when the 911 PSAP is alerted directly from the vehicle that a situation has occurred that indicates the driver may be in trouble. PSAPs with Phase II capability will dispatch emergency equipment because they are unable to get a response from the customer. Numerous PSAPs have reported that these calls are typically nothing more than a vehicle being serviced at a local dealer location. These types of false alarms have the ability to tie up emergency units and prevent the availability of personnel and equipment from responding to true emergencies.

b. Uninitialized Wireless Telephones

Many 911 PSAPs have reported multiple incidents where callers have repeatedly dialed 911, simply for the purpose of making false police reports, insulting or swearing at the call-taker, often over loading 911 lines and critical emergency response personnel and resources (equipment). Concern over this growing problem has been expressed to this Board by numerous Public Safety Agencies.

In the past FCC rulings required that uninitialized phones be permitted to access 911 without limitation. Recently the FCC changed its ruling and stated the phones that continuously made nuisance calls to 911 could be blocked from making 911 calls by the carrier. This is very problematic because all wireless vendors have historically developed software and other systems that prevented the blocking of 911 on their network for all phones whether initialized or not. With this rule change, the selective blocking of one phone is very difficult if not impossible with the current technology (software, hardware, systems, etc.).

In April 2002, the FCC ordered that the number 123-456-7890 be used as a pseudo-callback number to identify uninitialized phones. They did not realize that the wireless industry, through joint ATIS/TIA standard J-STD-036, had previously recommended a more flexible alternative – to use the digits 911 followed by the last 7-digits of the ESN or IMEI. This does not provide a completely unique identifier, but makes it highly unlikely that two emergency callers using uninitialized phones would transmit the same identifier. This type of callback number has two related purposes. The first is to program phones that are explicitly designed for emergency-calling only, whether sold directly to consumers or donated by carriers to charities, such as women’s shelters. The second use is to be transmitted to a PSAP by an MSC when a phone is recognized as uninitialized. PSAP personnel and equipment can recognize this type of number and will know that callback is not possible. However, the unique nature of the identifier makes it possible to distinguish callers, and may be useful in cases of abuse of the emergency calling system.

On October 21st 2003, the FCC repealed its decision and recommended the adoption of the industry’s solution. This new order, released on November 3rd 2003, can be found at:

[hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-03-262A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-03-262A1.pdf)

and is also included in Attachment 3.

There are a number of varieties of uninitialized phones and each carries its own unique set of issues. The first and typically the most problematic is the used phone that has been replaced with a more up to date model. These phones are often sold at garage sales, flea markets, traded in or in many cases simply thrown in the garbage. The phone number programmed in the old phone is still assigned to the original customer. The customer retains the same number and the carrier simply reprograms the system to recognize the new equipment. The used phone is no longer able to access the network because of the reprogramming in the carrier’s system with the exception of 911. When a call is placed to the PSAP from the used phone, the PSAPs see the original customer’s number and are often directed to the customer of record by the carrier. Carriers can only determine if a call was made by different equipment by validating the Electronic Serial

Number (ESN) of the current customer with the ESN of the phone which placed the call to 911. This often times results in incorrect information being provided to the PSAP because the carrier may not be able to immediately access the call record to determine the ESN that actually placed the call.

The second type of uninitialized phone is the phone that is purchased simply for emergencies and never has a number installed. The carriers have no record of these phones in their database and are unable to provide PSAPs with any information on the caller because the equipment has never been registered with a carrier. Again, based on current technology, providers advise they are unable to deny service to these uninitialized phones, even though there may be a clear pattern of 911 abuse, and potential public endangerment.

A third type of uninitialized phone is the phone that has been disconnected, either temporarily or permanently, for non-payment. In these cases, the carrier is still able to provide customer information providing the customer has not simply thrown the phone away or given it to someone else to use.

Virtually all of the above types of uninitialized wireless phones have been donated to many humanitarian and human service agencies such as battered women's shelters, senior citizens and crime prevention associations. The objectives of these organizations are laudable; however, the capability of uninitialized phones to access 911 has also been mis-used and abused.

PSAPs have expressed an interest in establishing a "registry" of uninitialized phones provided for humanitarian purposes. These phones would be permitted to access 911 and would present to the call taker a provider determined service number. This would only be feasible if all phones were donated by carriers and they could track those phones by ESN. Unfortunately, these types of phones can be donated to these organizations by any number of corporations or even individuals and since there is no need to contact the carrier to access 911, there is no way to insure a true and accurate accounting of those phones would exist. Additionally, this would impose more of a burden on carriers because current billing systems are designed to track telephone numbers and as discussed above, many of these phones may

not have numbers at all and if they do have numbers, those same numbers have most likely been reassigned to other customers. Legislation at the federal level or actions by the FCC would be required to correct this issue.

A related issue is that of unintentional 911 calls, generated by one button dialers on some models of phones. These phones are able to call 911 with the touch of a button. These phones can dial 911 when the owner sits on them, bumps them or jostles them in pocket or purse. Again, the concern is that these unintentional 911 calls are tying up valuable emergency service resources and personnel. Insisting that phones not be preprogrammed at the manufacturer with this feature would eliminate some of these nuisance calls because there are many cases where the customer is not aware that this feature even exists on his/her phone.

c. Subscriber Based Provider Reimbursements

The Board reviews the Cost Recovery Plans submitted by the wireless service providers to determine if the practice by some of the providers of using a per subscriber cost is a fair and accurate method of cost recovery. The Board at this time feels that the cost of implementing wireless enhanced 911 service may be more related to tower sites, antenna faces, or other factors rather than subscriber count. Because some Carriers do use the subscriber based provider reimbursement, the Board seeks to determine if there is a clear relationship between subscriber count and cost.

If it is determined that a clear relationship between cost and subscribers can not be developed, the Board will notify the providers well in advance of their due date that this methodology will not be acceptable for submittal of the Cost Recovery Plans for next year.

d. Local Number Portability and Number Pooling

The ever increasing demand for telephone numbers over the past few years has required a number of measures to be adopted to conserve the available telephone numbers. One of the first dramatic steps was number pooling. For years, carriers (both wireline and wireless) purchased blocks of 10,000 numbers and utilized the numbers as they were needed. As the communications business grew and numbers became less plentiful, a plan known as number pooling was



developed. Number pooling required carriers to return all thousand blocks of numbers that were not being used so that they could be reassigned to other carriers as needed. This process changed the way PSAPs and other emergency personnel looked at numbers dialing into their call centers. Previously, emergency personnel only had to look at the Area Code and the first three digits of the number (NPA/NXX) in order to identify the carrier. Experienced call takers could usually identify the carrier from memory without using any other resources. Number pooling now requires that emergency personnel consider the entire number in a Phase 0 or Phase I environment in order to determine which carrier can provide information on the calling number. Additionally, this list is no longer static as carriers are required to regularly return numbers they are no longer using so that they can and will be reassigned to other carriers as needed.

On the heels of number pooling came Local Number Portability (LNP). This concept allows a customer to change from one wireless carrier to another and keep the same telephone number.

The initial implementation of LNP allowed a customer to change their wireline telephone company and keep their number. On November 24, 2003, wireless LNP was implemented in the top 100 markets in the USA. This capability is scheduled to be nationwide during 2004.

LNP brings a host of E-911 issues to the table. When a customer decides to change carriers and keep the same number, both carriers must work together to make this change. There is typically a delay that can last from a few hours to more than a day while this change takes place. During this time, the customer should be able to make outgoing calls (typically from the previous carrier's system) but is not able to receive incoming calls. PSAPs may receive conflicting information depending on which carrier they contact for assistance. The initial carrier will show that the customer has disconnected and will have no way to reach the customer. The new carrier may not yet have all of the customer's information and will also be unable to reach the customer. There is definitely a gap that exists between the time a customer requests a carrier change and the change is complete. This could result in problems if a customer needs to contact emergency personnel during the time the number is being ported.

NeuStar, Inc. was chosen by the FCC to administer and operate both the North American Numbering Plan (NANP), oversee local number portability efforts via the Number Portability Administration Center (NPAC): and manage national number pooling. NeuStar can provide information to emergency personnel in certain circumstances, however, PSAPs do need to register in advance in order to obtain access to the NeuStar site. More information on NeuStar can be obtained at: [www.neustar.biz/](http://www.neustar.biz/).

e. Statewide and/or Regional Database and/or Wireless 911 Call Router(s)

With the overlapping of wireless telephone antenna coverage areas, the need for a scaleable, dynamic routing system for wireless 911 calls to the proper PSAP is advantageous. This concept was originally explored a few years ago for wireline and wireless 911 calls. The current review limiting the scope to consideration for wireless 911 calls can provide significant technical advantages while having the potential of greatly reducing costs. Some counties in Florida are currently investigating the merits of implementing a regional or statewide system.

f. Wireline Decrease – County Loss of Revenue

Many counties have reported a decrease in revenues derived from the local surcharge due to a decrease in the number of wireline subscribers. This is consistent with industry reports of the first decrease in the number of wireline customers since the Great Depression. The decrease appears to be contributed to three major reasons. These are the increase in “broad band” Internet services, the recent economic situation, and the increase in the number of wireless customers.

The increase in “broadband” or DSL services to residential subscribers has resulted in the decrease of revenue to counties for providing 9-1-1 services. For the past several years, most Internet users depended on traditional residential telephone services in order to connect to the Internet Service Provider (ISP) and in turn access the Internet. With the providing of alternative Internet connections, traditional wireline services are no longer needed; thus reducing revenues derived from these customers. The problem may be further exacerbated with an increase in the use of IP telephony.

The recent economic situation appears to have resulted in a decrease in revenue derived from counties' 9-1-1 surcharge. The declining revenue appears to be the result of a decrease in the number of new subscribers and the decrease in the need for additional lines as existing companies face economic uncertainty. Further, with increased unemployment, second or "non-essential" residential lines are eliminated.

Many traditional subscribers have opted to replace wireline service with wireless service as their primary source of communications. Information indicates that single member households, including college students, have found that wireless telephones are more convenient and cost effective. The funds received from the wireless fees will not offset the loss in wireline revenue.

These factors, when coupled with the anticipated costs of reimbursing the wireless service providers, present a revenue problem that must be addressed in the future. The Board will continue to monitor the situation and provide a recommendation. Legislation at the State level will most likely be needed to address the needed revenue.

**X. LEGISLATIVE RECOMMENDATIONS**

The Wireless 911 Board supports the Subcommittee for Phase II Wireless E911's recommendations that the legislature adopt a definition of collocation and personal wireless facility in the statute.

There are a number of other complex issues that the Board has been addressing. The Board will work with the 911 stakeholders in Florida to reach consensus on the issues and provide legislative proposals, if necessary, in future years. Some of these issues are discussed in Section IX of this report.

## **XI. FINANCIAL REPORT**

The Auditor General notified the Wireless 911 Board that, because of other commitments, their annual audit of the Wireless Emergency Telephone System Fund for the Fiscal Year 2002-03 would not be performed. However, since that time the Wireless 911 Board has been notified that the 2002/03 and 2003/04 annual audits would be conducted at the same time during the 2004 calendar year.

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY  
TELEPHONE SYSTEM FUND**



**FINANCIAL REPORT  
(REVIEWED)  
FOR THE TWELVE MONTHS ENDED DECEMBER 31,2003**

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## ACCOUNTANT'S REVIEW REPORT

February 5, 2004

Members of the Board  
State of Florida, Department of Management Services  
Wireless Emergency Telephone System Fund  
Tallahassee, Florida

We have reviewed the accompanying statement of cash receipts and disbursements and change in cash and investments of the State of Florida, Department of Management Services, Wireless Emergency Telephone System Fund (a Special Revenue Fund) for the four quarters and twelve months ended December 31, 2003 and the accompanying supplementary information contained in Exhibits 1 to 4, which are presented only for supplementary analysis purposes, in accordance with *Statements on Standards for Accounting and Review Services* issued by the American Institute of Certified Public Accountants. The financial statement has been prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. All information included in the financial statement is the representation of management of the State of Florida, Department of Management Services, Wireless Emergency Telephone System Fund.

A review consists principally of inquiries of the State of Florida, Department of Management Services, Wireless Emergency Telephone System Fund personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with auditing standards generally accepted in the United States of America, the objective of which is the expression of an opinion regarding the financial statement taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statement in order for it to be in conformity with the cash basis of accounting.

Our review was made for the purpose of expressing limited assurance that there are no material modifications that should be made to the financial statement in order for it to be in conformity with the cash basis of accounting. The information in the accompanying Exhibits 1 to 4 is presented only for supplementary analysis purposes. Such information has been subjected to the inquiry and analytical procedures applied in the review of the basic financial statement. This information is presented on the cash basis of accounting, and we are not aware of any material modifications that should be made thereto.

**Law, Redd, Crona & Munroe, P.A.**



**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND**

**STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS  
AND CHANGE IN CASH AND INVESTMENTS  
(REVIEWED)**

**For the Twelve Months Ended December 31, 2003**

	Quarter Ended 3/31/02	Quarter Ended 6/30/02	Quarter Ended 9/30/02	Quarter Ended 12/31/02	Total
<b>RECEIPTS:</b>					
Wireless 911 fees	\$ 12,939,332	\$ 12,836,301	\$ 14,130,827	\$ 9,100,699	\$ 49,007,159
Interest income	859,753	895,421	575,352	595,088	2,925,614
<b>Total</b>	<b>13,799,085</b>	<b>13,731,722</b>	<b>14,706,179</b>	<b>9,695,787</b>	<b>51,932,773</b>
<b>DISBURSEMENTS:</b>					
Disbursements to counties - Exhibit 1	5,013,719	5,191,705	5,465,108	5,493,132	21,163,664
Grants to rural counties - Exhibit 2			647,808		647,808
Supplemental grants to rural counties - Exhibit 2	122,080	124,815	116,769	124,310	487,974
Provider reimbursements - Exhibit 3	1,946,359	6,510,173	7,866,784	21,634,530	37,957,846
General and administrative - Exhibit 4	28,911	134,423	26,783	37,380	227,497
<b>Total</b>	<b>\$ 7,111,069</b>	<b>\$ 11,961,116</b>	<b>\$ 14,123,252</b>	<b>\$ 27,289,352</b>	<b>60,484,789</b>
<b>DECREASE IN CASH AND INVESTMENTS</b>					<b>(8,552,016)</b>
Cash and investments at January 1, 2003					63,658,248
Cash and investments at December 31, 2003					<u>\$ 55,106,232</u>

See Accompanying Notes and  
Accountant's Review Report.

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND  
NOTES TO FINANCIAL STATEMENT – CASH BASIS  
(REVIEWED)  
DECEMBER 31, 2003**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The Wireless Emergency Telephone System Fund (Wireless 911 Fund) was established during 1999 pursuant to the "Wireless Emergency Communications Act", *Florida Statutes*, Chapters 365.172 and 173 for the purpose of implementing a cohesive statewide emergency telephone number "911" program. The program provides citizens with rapid direct access to public safety agencies by dialing "911" with the objective of reducing response time to situations requiring emergency services.

The following summary of the Wireless Emergency Telephone System Fund's significant accounting policies is presented to assist the reader in interpreting the accompanying statement of cash receipts and disbursements and change in cash and investments. These policies should be viewed as an integral part of the accompanying financial statement.

**Reporting Entity**

Financial statements of the Wireless 911 Fund are an integral part of the financial statements of the State of Florida (the primary government). The Wireless 911 Fund financial statements are included as a Special Revenue Fund in the financial statements of the State of Florida. The

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND  
NOTES TO FINANCIAL STATEMENT – CASH BASIS  
(REVIEWED)  
DECEMBER 31, 2003**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)**

*Wireless E911 Fees*

The Wireless E911 fee was established to provide funds to local governments to pay for the cost of installing and operating wireless 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or enhanced 911 services. The 911 fees (50 cents per month per each service number) are collected from subscribers by providers and are remitted to the Wireless 911 Board for deposit into the Wireless Emergency Telephone System Fund. Providers may retain a one percent reimbursement amount for the administrative costs incurred by the provider to bill, collect and remit the fee. Providers must remit the fee within 60 days after the end of the month in which the fee was billed. The fees are reported as collected.

*Investment Income* – Investment income is comprised of interest received on pooled investments with the State Treasury.

**Reservations of Fund Balance**

Reserves are established to indicate that a portion of fund balance is legally segregated for specific future use. The types of reserves are described as follows:

*Reserved for Encumbrances* – represents outstanding purchase orders, contracts, and other commitments.

*Reserved for Providers* – represents fund assets restricted for reimbursements to wireless telephone providers for costs incurred to provide 911 or enhanced 911 services under the provisions of Chapter 365.173, *Florida Statutes*.

*Reserved for Assistance to Rural Counties* – represents fund assets restricted for reimbursements to rural counties for upgrading 911 systems and for the provision of reimbursable loans and grants by the Department of Management Services to rural counties under the provisions of Chapter 365.173, *Florida Statutes*.

**STATE OF FLORIDA**  
**DEPARTMENT OF MANAGEMENT SERVICES**  
**WIRELESS EMERGENCY TELEPHONE SYSTEM FUND**  
**NOTES TO FINANCIAL STATEMENT – CASH BASIS**  
**(REVIEWED)**  
**DECEMBER 31, 2003**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)**

*Designation of Fund Balance*

*Designated for Providers and Administration* – Chapter 365.173, *Florida Statutes* provides that up to two percent of funds allocated to telephone providers may be retained by the Board for administrative costs. The Board has designated that any excess over such administrative costs be allocated to telephone providers.

At December 31, 2003, net assets of the fund on a cash basis equal the cash and investments (\$55,106,232). Reservations and designations of the net assets – cash basis was as follows:

Reserved for Wireless Carriers	\$52,147,161
Reserved for Counties	2,196,746
Reserved for Rural Counties	370,188
	<hr/>
	54,714,095
Designated for Providers and Administration	392,137
Total Net Assets – Cash Basis	<hr/> <u>\$55,106,232</u>

**2. DEPOSITS WITH STATE TREASURY**

Deposits are made through the Office of the Treasurer, State of Florida and are included in the pooled investments with the State Treasury, an internal investment pool of the State of Florida. Pooled investments are reported at fair value. Pooled investments are not categorized by level of risk under GASB 3 guidelines because they are not evidenced by securities that exist in physical or book entry form. The Auditor General, State of Florida performs the operational audit of the activities and investments of the Office of the Treasurer.

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND  
NOTES TO FINANCIAL STATEMENT – CASH BASIS  
(REVIEWED)  
DECEMBER 31, 2003**

**3. DISTRIBUTION OF FEES**

Chapter 365.173, *Florida Statutes* requires that 911 fees be distributed as follows:

*Distributions to counties* - Forty-four percent of the 911 fees collected shall be distributed monthly to counties, based on the total number of wireless subscriber billing addresses in each county.

*Provider reimbursements* – Fifty-four percent of the 911 fees collected shall be distributed to telephone providers for the actual costs incurred to provide 911 or enhanced 911 service. Up to two percent of the funds allocated to providers shall be retained by the Board to be applied to administrative costs and expenses.

*Assistance to rural counties* – Two percent of the 911 fees collected shall be used to assist rural counties in providing facilities, network and service enhancements for the 911 or E911 systems and the provision of reimbursable loans and grants to rural counties for upgrading 911 systems.

## Exhibits



**EXHIBIT 1**

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND**

**DISBURSEMENTS TO COUNTIES - CASH BASIS  
(REVIEWED)**

**For the Twelve Months Ended December 31, 2003**

<b>Month</b>	<b>Amount</b>	<b>Quarter Ended</b>
January	\$ 1,625,888	\$ -
February	1,684,723	-
March	1,703,108	5,013,719
April	1,695,390	-
May	-	-
June	3,496,315	5,191,705
July	1,835,979	-
August	1,607,930	-
September	2,021,199	5,465,108
October	1,783,880	-
November	-	-
December	3,709,252	5,493,132
<b>Total</b>	<b>\$ 21,163,664</b>	<b>\$ 21,163,664</b>

The above distributions are calculated at 44% of net wireless fees collected pursuant to *Florida Statute 365.173 (a)*.

See Accountant's Review Report.



**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND**

**ASSISTANCE TO RURAL COUNTIES - CASH BASIS  
(REVIEWED)**

For the Twelve Months Ended December 31, 2003

	<u>Grants</u>	<u>Supplemental Grants</u>	<u>Total</u>
Baker	\$ -	\$ 20,369	\$ 20,369
Bradford	267,292	15,150	282,442
Calhoun	-	30,128	30,128
Columbia	-	-	-
Desoto	23,607	7,144	30,751
Dixie	29,335	26,723	56,058
Flagler	-	-	-
Franklin	-	28,855	28,855
Gadsden	-	985	985
Gilchrist	-	23,854	23,854
Glades	-	28,751	28,751
Gulf	42,000	24,578	66,578
Hamilton	64,507	28,373	92,880
Hardee	-	11,008	11,008
Hendry	-	1,453	1,453
Holmes	-	26,613	26,613
Jackson	-	1,505	1,505
Jefferson	-	25,134	25,134
Lafayette	-	32,491	32,491
Levy	-	8,595	8,595
Liberty	-	31,939	31,939
Madison	64,427	26,415	90,842
Monroe	-	-	-
Okeechobee	-	2,127	2,127
Putnam	86,240	-	86,240
Sumter	-	299	299
Suwannee	-	425	425
Taylor	-	23,267	23,267
Union	-	27,373	27,373
Wakulla	-	12,248	12,248
Walton	70,400	1,944	72,344
Washington	-	20,228	20,228
	<u>\$ 647,808</u>	<u>\$ 487,974</u>	<u>\$ 1,135,782</u>

"Rural County" is defined under *Florida Statutes*, Chapter 365.172 (3) as any county that has a population of fewer than 75,000.

See Accountant's Review Report.

STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND

DISBURSEMENTS TO  
WIRELESS TELEPHONE SERVICE PROVIDERS - CASH BASIS  
(REVIEWED)

For the Twelve Months Ended December 31, 2003

Month	Alltel	AT&T	Cellular South	Cingular	Nextel	Southern	Sprint	U. S. Cellular	Verizon	Total
January	\$ 114,428	\$ -	\$ 6,189	\$ 122,565	\$ -	\$ 30,546	\$ -	\$ 11,138	\$ 56,145	\$ 341,011
February	33,516	417,858	-	150,548	-	-	211,363	-	57,530	870,815
March	39,975	551,702	6,132	114,447	-	-	-	22,277	-	734,533
April	151,314	298,897	-	164,898	-	22,388	-	-	57,025	694,522
May	-	-	-	-	-	-	-	-	-	-
June	258,943	103,202	10,047	5,192,264	-	-	203,693	47,502	-	5,815,651
July	61,980	133,796	3,443	3,005,908	1,445,498	-	-	13,644	141,200	4,805,469
August	-	204,314	-	-	-	17,046	-	-	-	221,360
September	161,518	-	3,221	528,719	-	-	-	13,644	2,132,853	2,839,955
October	232,321	14,011,480	5,477	271,392	254,215	-	362,639	-	-	15,137,524
November	-	-	-	-	1,202	-	-	-	-	1,202
December	460,200	5,366,305	9,267	355,411	-	-	-	-	304,621	6,495,804
	<u>\$ 1,514,195</u>	<u>\$ 21,087,554</u>	<u>\$ 43,776</u>	<u>\$ 9,906,152</u>	<u>\$ 1,700,915</u>	<u>\$ 69,980</u>	<u>\$ 777,695</u>	<u>\$ 108,205</u>	<u>\$ 2,749,374</u>	<u>\$ 37,957,846</u>

See Accountant's Review Report.

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES  
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND**

**GENERAL AND ADMINISTRATIVE EXPENDITURES - CASH BASIS  
(REVIEWED)**

**For the Twelve Months Ended December 31, 2003**

Accounting	\$ 47,727
Advertising	215
FDMS Administrative Charges	120,323
Legal	15,453
Office Supplies	481
Postage and Communications	1,252
Other	543
Rent	8,607
Travel	<u>32,896</u>
 Total	 <u>\$ 227,497</u>

See Accountant's Review Report.

**ATTACHMENT 1**

**911 LEGISLATION SECTION 365.171-174, FLORIDA STATUTES**

# The 2003 Florida Statutes

## CHAPTER 365

### USE OF TELEPHONES AND FACSIMILE MACHINES

365.16 Obscene or harassing telephone calls.

365.161 Prohibition of certain obscene telephone communications; penalty.

365.1657 Intrastate use of facsimile machine for unsolicited advertising; prohibition; penalties; injunctive relief.

365.171 Emergency telephone number "911."

365.172 Wireless emergency telephone number "E911."

365.173 Wireless Emergency Telephone System Fund.

365.174 Proprietary confidential business information.

365.175 Emergency telephone number 911 private branch exchange-private switch automatic location identification.

#### **365.16 Obscene or harassing telephone calls.--**

(1) Whoever:

(a) Makes a telephone call to a location at which the person receiving the call has a reasonable expectation of privacy; during such call makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, vulgar, or indecent; and by such call or such language intends to offend, annoy, abuse, threaten, or harass any person at the called number;

(b) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to annoy, abuse, threaten, or harass any person at the called number;

(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(d) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number,

is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Whoever knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Each telephone directory hereafter published for distribution to the members of the general public shall contain a notice which explains this law; such notice shall be printed in type which is no smaller than the smallest type on the same page and shall be preceded by the word "warning." The provisions of this section

shall not apply to directories solely for business advertising purposes, commonly known as classified directories.

(4) Each telephone company in this state shall cooperate with the law enforcement agencies of this state in using its facilities and personnel to detect and prevent violations of this section.

(5) Nothing contained in this section shall apply to telephone calls made in good faith in the ordinary course of business or commerce.

**History.**--ss. 1, 2, ch. 63-51; s. 1, ch. 69-25; s. 276, ch. 71-136; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 1, 2, ch. 79-270; ss. 2, 4, ch. 80-275; s. 550, ch. 95-148.

**365.161 Prohibition of certain obscene telephone communications; penalty.--**

(1) For purposes of this section, the term:

(a) "Obscene" means that status of a communication which:

1. The average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interests;
2. Describes, in a patently offensive way, deviate sexual intercourse, sadomasochistic abuse, sexual battery, bestiality, sexual conduct, or sexual excitement; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value.

(b) "Deviate sexual intercourse" means sexual conduct between persons consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(c) "Sadomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(d) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.

(e) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(f) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; or any act or conduct which constitutes sexual battery.

(g) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(2)(a) A subscriber of a telephone service who makes any obscene or indecent communication by means of a telephone, in person or through an electronic recording device, in exchange for remuneration is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, regardless of whether he or she placed, initiated, or received the telephone call.

(b) A subscriber of telephone service who knowingly permits the use of a telephone or a telephone facility under his or her control to make any obscene or indecent communication prohibited under paragraph (a) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if the telephone or telephone facility is connected to a local exchange telephone.

(c) For purposes of this subsection, each day of a violation constitutes a separate offense.

(d) Any telephone company which transmits any public announcement service over the telephone network and bills for such service on its regular telephone bills to its subscribers shall have the right (but not the obligation) to approve any and all advertising, by whatever means, of such public announcement service. Failure of any public announcement service provider to obtain the approval of the telephone company for its advertising of any public announcement service transmitted over the telephone network shall be full and sufficient grounds for immediate disconnection by the telephone company of the public announcement service provider's telephone service. No telephone company shall be liable for any damages, penalty, or forfeiture, whether civil or criminal, for disconnecting such public announcement service subscriber who violates this subsection.

(3) This section does not apply to a telephone communication that crosses state lines.

**History.**--s. 23, ch. 88-381; s. 551, ch. 95-148.

**365.1657 Intrastate use of facsimile machine for unsolicited advertising; prohibition; penalties; injunctive relief.--**

(1) It is unlawful for any person to use a machine that electronically transmits facsimiles of documents through connection with a telephone network to transmit within this state unsolicited advertising material for the sale of any real property, goods, or services.

(2) The Attorney General may bring an action to impose a civil penalty and to seek injunctive relief. The civil penalty shall not exceed \$500 per violation. Each transmission shall be considered a separate violation.

**History.**--s. 1, ch. 89-95.

**365.171 Emergency telephone number "911."--**

(1) SHORT TITLE.--This section shall be known and cited as the "Florida Emergency Telephone Act."

(2) LEGISLATIVE INTENT.--It is the intent of the Legislature to establish and implement a cohesive statewide emergency telephone number "911" plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(3) DEFINITIONS.--As used in this section:

(a) "Office" means the State Technology Office.

(b) "Local government" means any city, county, or political subdivision of the state and its agencies.

(c) "Public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

(d) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(4) STATE PLAN.--The office shall develop a statewide emergency telephone number "911" system plan. The plan shall provide for:

(a) The establishment of the public agency emergency telephone communications requirements for each entity of local government in the state.

(b) A system to meet specific local government requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and emergency management services.

(c) Identification of the mutual aid agreements necessary to obtain an effective "911" system.

(d) A funding provision which shall identify the cost necessary to implement the "911" system.

(e) A firm implementation schedule which shall include the installation of the "911" system in a local community within 24 months after the designated agency of the local government gives a firm order to the telephone utility for a "911" system.

The office shall be responsible for the implementation and coordination of such plan. The office shall adopt any necessary rules and schedules related to public agencies for implementing and coordinating such plan, pursuant to chapter 120. The public agency designated in the plan shall order such system within 6 months after publication date of the plan if the public agency is in receipt of funds appropriated by the Legislature for the implementation and maintenance of the "911" system. Any jurisdiction which has utilized local funding as of July 1, 1976, to begin the implementation of the state plan as set forth in this section shall be eligible for at least a partial reimbursement of its direct cost when, and if, state funds are available for such reimbursement.

(5) SYSTEM DIRECTOR.--The director of the office or his or her designee is designated as the director of the statewide emergency telephone number "911" system and, for the purpose of carrying out the provisions of this section, is authorized to coordinate the activities of the system with state, county, local, and private agencies. The director is authorized to employ not less than five persons, three of whom will be at the professional level, one at the secretarial level, and one to fill a fiscal position, for the purpose of carrying out the provisions of this section. The director in implementing the system shall consult, cooperate, and coordinate with local law enforcement agencies.

(6) REGIONAL SYSTEMS.--Nothing in this section shall be construed to prohibit or discourage the formation of multijurisdictional or regional systems; and any system established pursuant to this section may include the jurisdiction, or any portion thereof, of more than one public agency.

(7) TELEPHONE INDUSTRY COORDINATION.--The office shall coordinate with the Florida Public Service Commission which shall encourage the Florida telephone industry to activate facility modification plans for a timely "911" implementation.

(8) COIN TELEPHONES.--The Florida Public Service Commission shall establish rules to be followed by the telephone utilities in this state designed toward encouraging the provision of coin-free dialing of "911" calls wherever economically practicable and in the public interest.

(9) SYSTEM APPROVAL.--No emergency telephone number "911" system shall be established and no present system shall be expanded without prior approval of the office.

(10) COMPLIANCE.--All public agencies shall assist the office in their efforts to carry out the intent of this section, and such agencies shall comply with the developed plan.

(11) EXISTING EMERGENCY TELEPHONE SERVICE.--Any emergency telephone number established by any local government or state agency prior to July 1, 1974, using a number other than "911" shall be changed to "911" on the same implementation schedule provided in paragraph (4)(e).

(12) FEDERAL ASSISTANCE.--The secretary of the office or his or her designee may apply for and accept federal funding assistance in the development and implementation of a statewide emergency telephone



number "911" system.

(13) "911" FEE.--

(a) Following approval by referendum as set forth in paragraph (b), or following approval by a majority vote of its board of county commissioners, a county may impose a "911" fee to be paid by the local exchange subscribers within its boundaries served by the "911" service. Proceeds from the "911" fee shall be used only for "911" expenditures as set forth in subparagraph 6. The manner of imposing and collecting said payment shall be as follows:

1. At the request of the county subscribing to "911" service, the telephone company shall, insofar as is practicable, bill the "911" fee to the local exchange subscribers served by the "911" service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered). However, the fee may not be assessed on any pay telephone in this state. A county collecting the fee for the first time may collect the fee for no longer than 36 months without initiating the acquisition of its "911" equipment.
2. Fees collected by the telephone company pursuant to subparagraph 1. shall be returned to the county, less the costs of administration retained pursuant to paragraph (c). The county shall provide a minimum of 90 days' written notice to the telephone company prior to the collection of any "911" fees.
3. Any county that currently has an operational "911" system or that is actively pursuing the implementation of a "911" system shall establish a fund to be used exclusively for receipt and expenditure of "911" fee revenues collected pursuant to this section. All fees placed in said fund, and any interest accrued thereupon, shall be used solely for "911" costs described in subparagraph 6. The money collected and interest earned in this fund shall be appropriated for "911" purposes by the county commissioners and incorporated into the annual county budget. Such fund shall be included within the financial audit performed in accordance with s. 218.39. A report of the audit shall be forwarded to the office within 60 days of its completion. A county may carry forward on an annual basis unspent moneys in the fund for expenditures allowed by this section, or it may reduce its fee. However, in no event shall a county carry forward more than 10 percent of the "911" fee billed for the prior year. The amount of moneys carried forward each year may be accumulated in order to allow for capital improvements described in this subsection. The carryover shall be documented by resolution of the board of county commissioners expressing the purpose of the carryover or by an adopted capital improvement program identifying projected expansion or replacement expenditures for "911" equipment and service features, or both. In no event shall the "911" fee carryover surplus moneys be used for any purpose other than for the "911" equipment, service features, and installation charges authorized in subparagraph 6. Nothing in this section shall prohibit a county from using other sources of revenue for improvements, replacements, or expansions of its "911" system. A county may increase its fee for purposes authorized in this section. However, in no case shall the fee exceed 50 cents per month per line. All current "911" fees shall be reported to the office within 30 days of the start of each county's fiscal period. Any fee adjustment made by a county shall be reported to the office. A county shall give the telephone company a 90-day written notice of such fee adjustment.
4. The telephone company shall have no obligation to take any legal action to enforce collection of the "911" fee. The telephone company shall provide quarterly to the county a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee.
5. The county subscribing to "911" service shall remain liable to the telephone company for any "911" service, equipment, operation, or maintenance charge owed by the county to the telephone company.

As used in this paragraph, "telephone company" means an exchange telephone service provider of "911" service or equipment to any county within its certificated area.

6. It is the intent of the Legislature that the "911" fee authorized by this section to be imposed by counties will not necessarily provide the total funding required for establishing or providing the "911" service. For purposes of this section, "911" service includes the functions of database management, call taking, location verification, and call transfer. The following costs directly attributable to the establishment and/or provision of "911" service are eligible for expenditure of moneys derived from imposition of the "911" fee authorized by this section: the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and "911" service features, as defined in the Florida Public Service Commission's lawfully approved "911" and related tariffs and/or the acquisition, installation, and maintenance of other "911" equipment, including call answering equipment, call transfer equipment, ANI controllers, ALI controllers, ANI displays, ALI displays, station instruments, "911" telecommunications systems, teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf (TDD) used in the "911" system, PSAP backup power systems, consoles, automatic call distributors, and interfaces (hardware and software) for computer-aided dispatch (CAD) systems; salary and associated expenses for "911" call takers for that portion of their time spent taking and transferring "911" calls; salary and associated expenses for a county to employ a full-time equivalent "911" coordinator position and a full-time equivalent staff assistant position per county for the portion of their time spent administrating the "911" system; training costs for PSAP call takers in the proper methods and techniques used in taking and transferring "911" calls; expenses required to develop and maintain all information (ALI and ANI databases and other information source repositories) necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the "911" call-taking and transferring function; and, in a county defined in s. 125.011(1), such expenses related to a nonemergency "311" system, or similar nonemergency system, which improves the overall efficiency of an existing "911" system or reduces "911" emergency response time for a 2-year pilot project that ends June 30, 2003. However, no wireless telephone service provider shall be required to participate in this pilot project or to otherwise implement a nonemergency "311" system or similar nonemergency system. The "911" fee revenues shall not be used to pay for any item not listed, including, but not limited to, any capital or operational costs for emergency responses which occur after the call transfer to the responding public safety entity and the costs for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and "911" equipment rooms.

7. It is the goal of the Legislature that enhanced "911" service be available throughout the state. Expenditure by counties of the "911" fees authorized by this section should support this goal to the greatest extent feasible within the context of local service needs and fiscal capability. Nothing in this section shall be construed to prohibit two or more counties from establishing a combined emergency "911" telephone service by interlocal agreement and utilizing the "911" fees authorized by this section for such combined "911" service.

(b) If a county elects to obtain approval of a "911" fee by referendum, it shall arrange to place a question on the ballot at the next regular or special election to be held within the county, substantially as follows:

\_\_\_\_\_ I am in favor of the "911" emergency telephone system fee.

\_\_\_\_\_ I am against the "911" emergency telephone system fee.

If a majority of the electors voting on the question approve the fee, it may be imposed by the county.

(c) Any county imposing a "911" fee in accordance with the provisions of this subsection shall allow the telephone company to retain as an administrative fee an amount equal to 1 percent of the total "911" fee

collected by the telephone company.

(14) INDEMNIFICATION AND LIMITATION OF LIABILITY.--All local governments are authorized to undertake to indemnify the telephone company against liability in accordance with the telephone company's lawfully filed tariffs. Regardless of any indemnification agreement, a telephone company or commercial mobile radio service provider as defined in s. 364.02 shall not be liable for damages resulting from or in connection with "911" service or identification of the telephone number, address, or name associated with any person accessing "911" service, unless the telephone company or commercial radio service provider acted with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property in providing such services.

(15) CONFIDENTIALITY OF RECORDS.--Any record, recording, or information, or portions thereof, obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency by accessing an emergency telephone number "911" system is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that such record or information may be disclosed to a public safety agency. The exemption applies only to the name, address, telephone number or personal information about, or information which may identify any person requesting emergency services or reporting an emergency while such information is in the custody of the public agency or public safety agency providing emergency services. A telephone company or commercial mobile radio service provider shall not be liable for damages to any person resulting from or in connection with such telephone company's or commercial mobile radio service provider's provision of any lawful assistance to any investigative or law enforcement officer of the State of Florida or political subdivisions thereof, of the United States, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer unless the telephone company or commercial mobile radio service provider acted in a wanton and willful manner.

(16) FALSE "911" CALLS.--Whoever accesses the number "911" for the purpose of making a false alarm or complaint or reporting false information which could result in the emergency response of any public safety agency is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**--ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, ch. 74-357; s. 3, ch. 76-168; ss. 1, 2, ch. 76-272; s. 1, ch. 77-457; ss. 3, 4, ch. 80-275; s. 38, ch. 83-334; ss. 1, 2, ch. 85-317; s. 24, ch. 87-225; s. 1, ch. 87-259; s. 1, ch. 88-231; s. 1, ch. 89-264; s. 3, ch. 90-305; s. 110, ch. 90-360; s. 1, ch. 91-100; s. 297, ch. 92-279; s. 55, ch. 92-326; s. 1, ch. 93-171; s. 1, ch. 96-229; s. 168, ch. 96-406; s. 1, ch. 98-276; s. 97, ch. 98-279; s. 50, ch. 99-399; s. 10, ch. 2000-334; s. 1, ch. 2001-71; s. 1, ch. 2001-133; s. 106, ch. 2001-266.

### **365.172 Wireless emergency telephone number "E911."**--

(1) SHORT TITLE.--This section may be cited as the "Wireless Emergency Communications Act."

(2) FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.--The Legislature finds and declares that:

(a) The mobile nature of wireless communications service creates complexities for providing 911 emergency services.

(b) Wireless telephone service providers are required by the Federal Communications Commission to provide wireless enhanced 911 (E911) service in the form of automatic location identification and automatic number identification pursuant to the terms and conditions set forth in an order issued by the Federal Communications Commission.

(c) Wireless telephone service providers and counties that operate 911 and E911 systems require adequate

funding to recover the costs of designing, purchasing, installing, testing, and operating enhanced facilities, systems, and services necessary to comply with the requirements for E911 services mandated by the Federal Communications Commission and to maximize the availability of E911 services throughout this state.

(d) The revenues generated by the E911 fee imposed under this section are required to fund the efforts of the counties, the Wireless 911 Board under the State Technology Office, and commercial mobile radio service providers to improve the public health, safety, and welfare and serve a public purpose by providing emergency telephone assistance through wireless communications.

(e) It is necessary and beneficial to levy a fee on wireless services and to create the Wireless 911 Board to administer fee proceeds as provided in this section.

(f) It is the intent of the Legislature to:

1. Establish and implement a comprehensive statewide emergency telephone number system that will provide wireless telephone users with rapid direct access to public safety agencies by dialing the telephone number "911."

2. Provide funds to local governments to pay the cost of installing and operating wireless 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or enhanced 911 services.

3. Levy a reasonable fee on subscribers of wireless telephone service to accomplish these purposes.

(3) DEFINITIONS.--As used in this section and ss. 365.173 and 365.174, the term:

(a) "Active prepaid wireless telephone" means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which the customer's card or balance was decremented.

(b) "Answering point" means the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to such calls.

(c) "Automatic location identification" means the capability of the E911 service which enables the automatic display of information that defines the approximate geographic location of the wireless telephone used to place a 911 call.

(d) "Automatic number identification" means the capability of the E911 service which enables the automatic display of the 10-digit service number used to place a 911 call.

(e) "Board" means the board of directors of the Wireless 911 Board.

(f) "Office" means the State Technology Office.

(g) "E911" is the designation for a wireless enhanced 911 system or wireless enhanced 911 service that is an emergency telephone system or service that provides a subscriber with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, or as otherwise provided in the state plan under s. 365.171, and that provides for automatic number identification and automatic location-identification features in accordance with the requirements of the order.

(h) "Fee" means the E911 fee imposed under subsection (8).

(i) "Fund" means the Wireless Emergency Telephone System Fund established in s. 365.173 and maintained under this section for the purpose of recovering the costs associated with providing 911 service or E911

service, including the costs of implementing the order.

(j) "Local exchange carrier" means a "competitive local exchange telecommunications company" or a "local exchange telecommunications company" as defined in s. 364.02.

(k) "Local government" means any municipality, county, or political subdivision or agency of a municipality, county, or political subdivision.

(l) "Mobile telephone number" or "MTN" means the telephone number assigned to a wireless telephone at the time of initial activation.

(m) "Order" means:

1. The following orders and rules of the Federal Communications Commission issued in FCC Docket No. 94-102:

a. Order adopted on June 12, 1996, with an effective date of October 1, 1996, the amendments to s. 20.03 and the creation of s. 20.18 of Title 47 of the Code of Federal Regulations adopted by the Federal Communications Commission pursuant to such order.

b. Memorandum and Order No. FCC 97-402 adopted on December 23, 1997

c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

d. Order No. FCC 98-345 adopted December 31, 1998.

2. Orders and rules subsequently adopted by the Federal Communications Commission relating to the provision of wireless 911 services.

(n) "Provider" means a person or entity who provides service and either:

1. Is subject to the requirements of the order; or

2. Elects to provide wireless 911 service or E911 service in this state.

(o) "Prepaid wireless telephone service" means wireless telephone service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminate either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless additional payments are made.

(p) "Public agency" means the state and any municipality, county, municipal corporation, or other governmental entity, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

(q) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(r) "Rural county" means any county that has a population of fewer than 75,000.

(s) "Service" means "commercial mobile radio service" as provided under ss. 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, August 10, 1993, 107 Stat. 312. The term "service" includes the term "wireless" and service provided by any wireless real-time two-way wire communication device, including radio-

telephone communications used in cellular telephone service; personal communications service; or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line. The term does not include wireless providers that offer mainly dispatch service in a more localized, noncellular configuration; providers offering only data, one-way, or stored-voice services on an interconnected basis; providers of air-to-ground services; or public coast stations.

(t) "Service number" means the unique 10-digit wireless telephone number assigned to a service subscriber.

(u) "Sufficient positive balance" means a dollar amount greater than or equal to the monthly wireless surcharge amount.

(v) "Wireless 911 system" or "wireless 911 service" means an emergency telephone system or service that provides a subscriber with the ability to reach an answering point by dialing the digits "911." A wireless 911 system is complementary to a wired 911 system as provided for in s. 365.171.

(4) POWERS AND DUTIES OF THE OFFICE.--The office shall oversee the administration of the fee imposed on subscribers of statewide E911 service under subsection (8).

(5) THE WIRELESS 911 BOARD.--

(a) The Wireless 911 Board is established to administer, with oversight by the office, the fee imposed under subsection (8), including receiving revenues derived from the fee; distributing portions of such revenues to providers, counties, and the office; accounting for receipts, distributions, and income derived by the funds maintained in the fund; and providing annual reports to the Governor and the Legislature for submission by the office on amounts collected and expended, the purposes for which expenditures have been made, and the status of wireless E911 service in this state. In order to advise and assist the office in carrying out the purposes of this section, the board, which shall have the power of a body corporate, shall have the powers enumerated in subsection (6).

(b) The board shall consist of seven members, one of whom must be the system director designated under s. 365.171(5), or his or her designee, who shall serve as the chair of the board. The remaining six members of the board shall be appointed by the Governor and must be composed of three county 911 coordinators recommended by the Florida Association of Counties and three members from the wireless telecommunications industry. Not more than one member may be appointed to represent any single provider on the board.

(c) The system director, or his or her designee, must be a permanent member of the board. Each of the remaining six members of the board shall be appointed to a 4-year term and may not be appointed to more than two successive terms. However, for the purpose of staggering terms, two of the original board members shall be appointed to terms of 4 years, two shall be appointed to terms of 3 years, and two shall be appointed to terms of 2 years, as designated by the Governor. A vacancy on the board shall be filled in the same manner as the original appointment.

(6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--

(a) The board shall:

1. Administer the E911 fee.

2. Implement, maintain, and oversee the fund.

3. Review and oversee the disbursement of the revenues deposited into the fund as provided in s. 365.173. The board may establish a schedule for implementing wireless E911 service by service area, and prioritize

disbursements of revenues from the fund to providers and rural counties as provided in s. 365.173(2)(b) and (c) pursuant to the schedule, in order to implement E911 services in the most efficient and cost-effective manner.

4. Review documentation submitted by providers which reflects current and projected funds derived from the E911 fee, and the expenses incurred and expected to be incurred, in order to comply with the E911 service requirements contained in the order for the purposes of:
  - a. Ensuring that providers receive fair and equitable distributions of funds from the fund.
  - b. Ensuring that providers are not provided disbursements from the fund which exceed the costs of providing E911 service, including the costs of complying with the order.
  - c. Ascertaining the projected costs of compliance with the requirements of the order and projected collections of the E911 fee.
  - d. Implementing changes to the allocation percentages or reducing the E911 fee under paragraph (8)(c).
5. Review and approve or reject, in whole or in part, applications submitted by providers for recovery of moneys deposited into the fund.
6. Hire and retain employees for the purposes of performing the technical and administrative functions for the board.
7. Make and enter into contracts, pursuant to chapter 287, and execute other instruments necessary or convenient for the exercise of the powers and functions of the board.
8. Take all necessary and reasonable steps by July 1, 2000, to secure appropriate information and reports from providers and otherwise perform all of the functions that would be performed by an independent accounting firm prior to completing the request-for-proposals process under subsection (7).
9. Sue and be sued, and appear and defend in all actions and proceedings, in its corporate name to the same extent as a natural person.
10. Adopt, use, and alter a common corporate seal.
11. Elect or appoint the officers and agents that are required by the affairs of the board.
12. The board may adopt rules under ss. 120.536(1) and 120.54 to implement this section and ss. 365.173 and 365.174.
13. Provide coordination, support, and technical assistance to counties to promote the deployment of advanced 911 and E911 systems in the state.
14. Provide coordination and support for educational opportunities related to 911 issues for the 911 community in this state.
15. Act as an advocate for issues related to 911 system functions, features, and operations to improve the delivery of 911 services to the residents of and visitors to this state.
16. Coordinate input from this state at national forums and associations, to ensure that policies related to 911 systems and services are consistent with the policies of the 911 community in this state.
17. Work cooperatively with the system director established in s. 365.171(5) to enhance the state of 911 services in this state and to provide unified leadership for all 911 issues through planning and coordination.

18. Do all acts and things necessary or convenient to carry out the powers granted in this section, including but not limited to, consideration of emerging technology and related cost savings.

(b) Board members shall serve without compensation; however, members are entitled to per diem and travel expenses as provided in s. 112.061.

(c) By February 28 of each year, the board shall prepare a report for submission by the office to the Governor, the President of the Senate, and the Speaker of the House of Representatives which reflects, for the immediately preceding calendar year, the quarterly and annual receipts and disbursements of moneys in the fund, the purposes for which disbursements of moneys from the fund have been made, and the availability and status of implementation of E911 service in this state.

(d) By February 28, 2001, the board shall undertake and complete a study for submission by the office to the Governor, the President of the Senate, and the Speaker of the House of Representatives which addresses:

1. The total amount of E911 fee revenues collected by each provider, the total amount of expenses incurred by each provider to comply with the order, and the amount of moneys on deposit in the fund, all as of December 1, 2000.

2. Whether the amount of the E911 fee and the allocation percentages set forth in s. 365.173 should be adjusted to comply with the requirements of the order, and, if so, a recommended adjustment to the E911 fee.

3. Any other issues related to providing wireless E911 services.

#### (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING FIRM.--

(a) The board shall issue a request for proposals as provided in chapter 287 for the purpose of retaining an independent accounting firm. The independent accounting firm shall perform all material administrative and accounting tasks and functions required for administering the E911 fee. The request for proposals must include, but need not be limited to:

1. A description of the scope and general requirements of the services requested.

2. A description of the specific accounting and reporting services required for administering the fund, including processing checks and distributing funds as directed by the board under s. 365.173.

3. A description of information to be provided by the proposer, including the proposer's background and qualifications and the proposed cost of the services to be provided.

(b) The board shall establish a committee to review requests for proposals which must include the statewide 911 system director, or his or her designee, and two members of the board, one of whom is a county 911 coordinator and one of whom represents the wireless telecommunications industry. The review committee shall review the proposals received by the board and recommend an independent accounting firm to the board for final selection. By agreeing to serve on the review committee, each member of the review committee shall verify that he or she does not have any interest or employment, directly or indirectly, with potential proposers which conflicts in any manner or degree with his or her performance on the committee.

(c) After July 1, 2004, the board may secure the services of an independent accounting firm via invitation to bid, request for proposals, invitation to negotiate, or professional contracts already established at the Division of Purchasing, Department of Management Services, for certified public accounting firms, or the board may hire and retain professional accounting staff to accomplish these functions.

#### (8) WIRELESS E911 FEE.--



(a) Each home service provider shall collect a monthly fee imposed on each customer whose place of primary use is within this state. The rate of the fee shall be 50 cents per month per each service number, beginning August 1, 1999. The fee shall apply uniformly and be imposed throughout the state.

(b) The fee is established to ensure full recovery for providers and for counties, over a reasonable period, of the costs associated with developing and maintaining an E911 system on a technologically and competitively neutral basis.

(c) After July 1, 2001, the board may adjust the allocation percentages provided in s. 365.173 or reduce the amount of the fee, or both, if necessary to ensure full cost recovery or prevent overrecovery of costs incurred in the provision of E911 service, including costs incurred or projected to be incurred to comply with the order. Any new allocation percentages or reduced fee may not be adjusted for 2 years. The fee may not exceed 50 cents per month per each service number.

(d) State and local taxes do not apply to the fee.

(e) A local government may not levy any additional fee on wireless providers or subscribers for the provision of E911 service.

#### (9) MANAGEMENT OF FUNDS.--

(a) Each provider, as a part of its monthly billing process, shall collect the fee imposed under subsection (8). The provider may list the fee as a separate entry on each bill, in which case the fee must be identified as a fee for E911 services. A provider shall remit the fee only if the fee is paid by the subscriber. If a provider receives a partial payment for a monthly bill from a subscriber, the amount received shall first be applied to the payment due the provider for the provision of telecommunications service.

(b) In the case of prepaid wireless telephone service, the monthly wireless 911 surcharge imposed by subsection (8) shall be remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that has a sufficient positive balance as of the last day of each month. The surcharge shall be remitted in any manner consistent with the wireless provider's existing operating or technological abilities, such as customer address, location associated with the MTN, or reasonable allocation method based upon other comparable relevant data. The surcharge amount or an equivalent number of minutes may be reduced from the prepaid subscriber's account since a direct billing may not be possible. However, collection of the wireless 911 surcharge in the manner of a reduction of value or minutes from the prepaid subscriber's account does not constitute a reduction in the sales price for purposes of taxes that are collected at the point of sale.

(c) A provider is not obligated to take any legal action to enforce collection of the fees for which any subscriber is billed. The provider shall provide to the board each quarter a list of the names, addresses, and service numbers of all subscribers who have indicated to the provider their refusal to pay the fee.

(d) Each provider may retain 1 percent of the amount of the fees collected as reimbursement for the administrative costs incurred by the provider to bill, collect, and remit the fee. The remainder shall be delivered to the board and deposited in the fund. The board shall distribute the remainder pursuant to s. 365.173.

(e) Each provider shall deliver revenues from the fee to the board within 60 days after the end of the month in which the fee was billed, together with a monthly report of the number of wireless customers whose place of primary use is in each county. A provider may apply to the board for a refund of, or may take a credit for, any fees remitted to the board which are not collected by the provider within 6 months following the month in which the fees are charged off for federal income tax purposes as bad debt. The board may waive the

requirement that the fees and number of customers whose place of primary use is in each county be submitted to the board each month and authorize a provider to submit the fees and number of customers quarterly if the provider demonstrates that such waiver is necessary and justified.

(f) For purposes of this section, the definitions contained in s. 202.11 and the provisions of s. 202.155 apply in the same manner and to the same extent as such definitions and provisions apply to the taxes levied pursuant to chapter 202 on mobile communications services.

(g) As used in this subsection, the term "provider" includes any person or entity that resells wireless service and was not assessed the fee by its resale supplier.

(10) PROVISION OF SERVICES.--In accordance with the order, a provider is not required to provide E911 service until:

(a) The provider receives a request in writing for such service from the county 911 coordinator and the affected answering point is capable of receiving and using the data elements associated with the service.

(b) Funds are available under s. 365.173(2)(b).

(c) The local exchange carrier is able to support the E911 system.

(d) The service area has been scheduled for implementation of E911 service by the board pursuant to subparagraph (6)(a)3. If a county's 911 coordinator requests E911 service from a provider, the coordinator shall also request E911 service from all other providers in the area in a nondiscriminatory and fair manner.

(11) FACILITATING E911 SERVICE IMPLEMENTATION.--Notwithstanding any other law or local ordinance to the contrary:

(a) Colocation among wireless telephone service providers is encouraged by the state. To further facilitate agreements among providers for colocation of their facilities, any antennae and related equipment to service the antennae that is being colocated on an existing above-ground structure is not subject to land development regulation pursuant to s. 163.3202, provided the height of the existing structure is not increased. However, construction of the antennae and related equipment is subject to local building regulations and any existing permits or agreements for such property, buildings, or structures. Nothing herein shall relieve the permit holder for or owner of the existing structure of compliance with any applicable condition or requirement of a permit, agreement, or land development regulation, including any aesthetic requirements, or law.

(b) Local governments shall not require providers to provide evidence of a wireless communications facility's compliance with federal regulations. However, local governments shall receive evidence of proper Federal Communications Commission licensure from a provider and may request the Federal Communications Commission to provide information as to a provider's compliance with federal regulations, as authorized by federal law.

(c)1. A local government shall grant or deny a properly completed application for a permit, including permits under paragraph (a), for the colocation of a wireless communications facility on property, buildings, or structures within the local government's jurisdiction within 45 business days after the date the properly completed application is initially submitted in accordance with the applicable local government application procedures, provided that such permit complies with applicable federal regulations and applicable local zoning or land development regulations, including any aesthetic requirements. Local building regulations shall apply.

2. A local government shall grant or deny a properly completed application for a permit for the siting of a new wireless tower or antenna on property, buildings, or structures within the local government's jurisdiction within 90 business days after the date the properly completed application is initially submitted in accordance

with the applicable local government application procedures, provided that such permit complies with applicable federal regulations and applicable local zoning or land development regulations, including any aesthetic requirements. Local building regulations shall apply.

3.a. The local government shall notify the permit applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, shall make the application properly completed.

b. If the local government fails to grant or deny a properly completed application for a permit which has been properly submitted within the timeframes set forth in this paragraph, the permit shall be deemed automatically approved and the provider may proceed with placement of such facilities without interference or penalty. The timeframes specified in subparagraphs 1. and 2. shall be extended only to the extent that the permit has not been granted or denied because the local government's procedures generally applicable to all permits, require action by the governing body and such action has not taken place within the timeframes specified in subparagraphs 1. and 2. Under such circumstances, the local government must act to either grant or deny the permit at its next regularly scheduled meeting or, otherwise, the permit shall be deemed to be automatically approved.

c. To be effective, a waiver of the timeframes set forth herein must be voluntarily agreed to by the applicant and the local government. A local government may request, but not require, a waiver of the timeframes by an entity seeking a permit, except that, with respect to a specific permit, a one-time waiver may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government.

(d) Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity. Local building and land development regulations, including any aesthetic requirements, shall apply.

(e) Any other provision of law to the contrary notwithstanding, the Department of Management Services shall negotiate, in the name of the state, leases for wireless communications facilities that provide access to state government-owned property not acquired for transportation purposes, and the Department of Transportation shall negotiate, in the name of the state, leases for wireless communications facilities that provide access to property acquired for state rights-of-way. On property acquired for transportation purposes, leases shall be granted in accordance with s. 337.251. On other state government-owned property, leases shall be granted on a space available, first-come, first-served basis. Payments required by state government under a lease must be reasonable and must reflect the market rate for the use of the state government-owned property. The Department of Management Services and the Department of Transportation are authorized to adopt rules for the terms and conditions and granting of any such leases.

(f) Any wireless telephone service provider may report to the board no later than September 1, 2003, the specific locations or general areas within a county or municipality where the provider has experienced unreasonable delay to locate wireless telecommunications facilities necessary to provide the needed coverage for compliance with federal Phase II E911 requirements using its own network. The provider shall also provide this information to the specifically identified county or municipality no later than September 1, 2003. Unless the board receives no report that unreasonable delays have occurred, the board shall, no later than September 30, 2003, establish a subcommittee responsible for developing a balanced approach between the ability of providers to locate wireless facilities necessary to comply with federal Phase II E911 requirements using the carrier's own network and the desire of counties and municipalities to zone and regulate land uses to

achieve public welfare goals. If a subcommittee is established, it shall include representatives from the Florida Telecommunications Industry Association, the Florida Association of Counties, and the Florida League of Cities. The subcommittee shall be charged with developing recommendations for the board and any specifically identified municipality or county to consider regarding actions to be taken for compliance for federal Phase II E911 requirements. In the annual report due to the Governor and the Legislature by February 28, 2004, the board shall include any recommendations developed by the subcommittee to address compliance with federal Phase II E911 requirements.

(12) MISUSE OF WIRELESS 911 SYSTEM; PENALTY.--E911 service must be used solely for emergency communications by the public. Any person who knowingly uses or attempts to use such service for a purpose other than obtaining public safety assistance, or who knowingly uses or attempts to use such service in an effort to avoid any charge for service, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. After being convicted of unauthorized use of such service four times, a person who continues to engage in such unauthorized use commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, if the value of the service or the service charge obtained in a manner prohibited by this subsection exceeds \$100, the person committing the offense commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(13) STATE LAW NOT PREEMPTED.--This section and ss. 365.173 and 365.174 do not alter any state law that otherwise regulates providers of telecommunications service.

**History.**--s. 1, ch. 99-367; s. 2, ch. 2001-133; s. 7, ch. 2002-48; s. 19, ch. 2003-32; s. 1, ch. 2003-182.

### **365.173 Wireless Emergency Telephone System Fund.--**

(1) All revenues derived from the E911 fee levied on subscribers under s. 365.172 must be paid into the State Treasury on or before the 15th day of each month. Such moneys must be accounted for in a special fund to be designated as the Wireless Emergency Telephone System Fund, a fund created in the State Technology Office and must be invested by the Chief Financial Officer pursuant to s. 17.61. All moneys in such fund are to be expended by the State Technology Office for the purposes provided in this section and s. 365.172. These funds are not subject to s. 215.20.

(2) Subject to any modifications approved by the board pursuant to s. 365.172(8)(c), the moneys in the fund shall be distributed and used only as follows:

(a) Forty-four percent of the moneys shall be distributed each month to counties, based on the total number of wireless subscriber billing addresses in each county, for payment of:

1. Recurring costs of providing 911 or E911 service, as provided by s. 365.171(13)(a)6.
2. Costs to comply with the requirements for E911 service contained in the order and any future rules related to the order.

A county may carry forward, for up to 3 successive calendar years, up to 30 percent of the total funds disbursed to the county by the board during a calendar year for expenditures for capital outlay, capital improvements, or equipment replacement, if such expenditures are made for the purposes specified in this paragraph.

(b) Fifty-four percent of the moneys shall be distributed in response to sworn invoices submitted to the board by providers to reimburse such providers for the actual costs incurred to provide 911 or E911 service, including the costs of complying with the order. Such costs include costs and expenses incurred by providers to design, purchase, lease, program, install, test, upgrade, operate, and maintain all necessary data, hardware, and software required to provide E911 service. Up to 2 percent of the funds allocated to providers shall be

retained by the board to be applied to costs and expenses incurred for the purposes of managing, administering, and overseeing the receipts and disbursements from the fund and other activities as defined in s. 365.172(6). Any funds retained for such purposes in a calendar year which are not applied to such costs and expenses by March 31 of the following year shall be distributed to providers pursuant to this paragraph. Beginning in state fiscal year 2000-2001, each provider shall submit to the board, by August 1 of each year, a detailed estimate of the capital and operating expenses for which it anticipates that it will seek reimbursement under this paragraph during the ensuing state fiscal year. By September 15 of each year, the board shall submit to the Legislature its legislative budget request for funds to be allocated to providers under this paragraph during the ensuing state fiscal year. The budget request shall be based on the information submitted by the providers and estimated surcharge revenues. Distributions of moneys in the fund by the board to providers must be fair and nondiscriminatory. If the total amount of moneys requested by providers pursuant to invoices submitted to the board and approved for payment exceeds the amount in the fund in any month, providers that have invoices approved for payment shall receive a pro rata share of moneys in the fund and the balance of the payments shall be carried over to the following month or months until all of the approved payments are made. The board may adopt rules necessary to address the manner in which pro rata distributions are made when the total amount of funds requested by providers pursuant to invoices submitted to the board exceeds the total amount of moneys on deposit in the fund.

(c) Two percent of the moneys shall be used to make monthly distributions to rural counties for the purpose of providing facilities and network and service enhancements and assistance for the 911 or E911 systems operated by rural counties and for the provision of reimbursable loans and grants by the office to rural counties for upgrading 911 systems.

The Legislature recognizes that the wireless E911 fee authorized under s. 365.172 will not necessarily provide the total funding required for establishing or providing the 911 service. It is the intent of the Legislature that all revenue from the fee be used as specified in s. 365.171(13)(a)6.

(3) The Auditor General shall annually audit the fund to ensure that moneys in the fund are being managed in accordance with this section and s. 365.172. The Auditor General shall provide a report of the annual audit to the board.

**History.**--s. 1, ch. 99-203; s. 50, ch. 2000-158; s. 3, ch. 2001-133; s. 2, ch. 2003-182; s. 379, ch. 2003-261.

### **365.174 Proprietary confidential business information.--**

(1) All proprietary confidential business information submitted by a provider to the board or the office, including the name and billing or service addresses of service subscribers, and trade secrets as defined by s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Statistical abstracts of information collected by the board or the office may be released or published, but only in a manner that does not identify or allow identification of subscribers or their service numbers or of revenues attributable to any provider.

(2) As used in this section, "proprietary confidential business information" means customer lists, customer numbers, and other related information, technology descriptions, technical information, or trade secrets, including trade secrets as defined in s. 812.081, and the actual or developmental costs of E911 systems that are developed, produced, or received internally by a provider or by a provider's employees, directors, officers, or agents.

(3) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 1, 2004, unless reviewed and saved from repeal through reenactment by the Legislature.

**History.**--s. 1, ch. 99-202; s. 4, ch. 2001-133.

**365.175 Emergency telephone number 911 private branch exchange-private switch automatic location identification.**--

(1) DEFINITIONS.--As used in this section, the term:

(a) "Automatic location identification" or "ALI" means the automatic display at the Public Safety Answering Point (PSAP) of the caller's telephone number, the address or location of the telephone, and supplementary emergency services information.

(b) "Automatic location identification retrieval" or "ALI retrieval" means the process of querying the 911 database for ALI records.

(c) "Automatic number identification" or "ANI" means the telephone number associated with the access line from which a call originates.

(d) "Private branch exchange" or "PBX" means a private telephone system that is connected to the Public Switched Telephone Network (PSTN).

(e) "Private switch ALI" or "PSA" means a service option which provides enhanced 911 features for telephone stations behind private switches, e.g., PBX's.

(2) REQUIRED ALI CAPABILITY.--Each PBX system installed after January 1, 2004, must be capable of providing automatic location identification to the station level.

**History.**--s. 3, ch. 2003-182.

## **ATTACHMENT 2**

### **PHASE I AND PHASE II IMPLEMENTATION**

COUNTY	Requested Phase I	Date Requested	Requested From?	Phase I Installed By:	Requested Phase II	Date Requested	Requested From?	Phase II Installed By:
Alachua	Yes	5/31/2000	Alltel, Nextel, Powertel, BS Mobility(Cingular), PrimeCo, US Cellular, Sprint	Completed (AT&T acquired US Cellular)	Yes	3/24/2003	Sprint, Verizon, Nextel, Alltel, T-Mobile, Cingular, AT&T	Alltel=9/03, Sprint=8/03, Verizon=10/03, Nextel=10/03 Others testing Cingular=1/04, T-Mobile and AT&T=4 Qtr 04
Baker	No	N/A	N/A	N/A	No	N/A	N/A	N/A
Bay	Yes	3/13/2001	GTE Wireless, Voicestream, Louisiana Unwired/US Unwired, Larson, Price, Verizon, Sprint PCS, Southern LINC, Cingular, Alltel, AT&T,	Completed	Yes	2/25/2003	Southern Linc, AT&T, Voicestream, Cingular, Alltel, Nextel, US Cellular, Verizon	All completed 12/23/03 except T-Mobile
Bradford*	No	N/A	N/A	No	No	N/A	N/A	No
Brevard	Yes	4/27/00(Nextel-10/27/00)	AT&T, Cingular, Voicestream(Aerial), Nextel, Verizon(PrimeCo), Sprint PCS	Completed	Yes	10/8/2001	AT&T, Cingular, Voicestream, Verizon, Nextel, Sprint PCS	AT&T=3/27/03, Verizon=7/18/03, Nextel=12/19/03. Cingular and Sprint are testing. T-Mobile=3rd or 4th Qtr.
Broward*	Yes	Initially in February 1997 & latest in February 2000	AT&T, Cingular, Nextel, Omnipoint-Voicestream, PrimeCo-Verizon, Sprint PCS	Completed	Yes	1/23/01 and 1/24/01	1/23/01-AT&T, Nextel, Verizon-- 1/24/01-Cingular, Sprint, Voicestream	No
Calhoun*	No	N/A	N/A	N/A	No	N/A	N/A	N/A
Charlotte	Yes	10/1/2000	Alltel, AT&T, Cingular, Metro PCS, Nextel, Sprint PCS, T-Mobile, Verizon	Completed 1/03	Yes	Jan-03	Alltel, AT&T, Cingular, Nextel, Sprint PCS, T-Mobile, Verizon, Metro PCS=12/23/03	Alltel=1/21/03, AT&T=11/19/03, Cingular=2/03, Verizon=12/16/02, Sprint=3/04. T-Mobile is scheduled for 4th Qtr.
Citrus	Yes	10/1/1999	Alltel, AT&T, Nextel, Sprint PCS, Cingular, Verizon	Completed	Yes	N. A.	Alltel, AT&T, Cingular, Nextel, Sprint, Verizon	Verizon=12/3/03, Alltel=12/31/03, Sprint=3/1/04. Cingular, AT&T, Nextel scheduled for 5/1/04 and T-Mobile for 4th Qtr.
Clay*				Cingular	No	N/A	N/A	N/A
Collier	Yes	Jun-00	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, Voicestream	Completed	Yes	Aug-03	Alltel, Cingular, Sprint PCS, AT&T, Nextel, Verizon, T-Mobile	Alltel=2/11/04, Verizon=12/5/03. AT&T, Cingular, Sprint and Metro PCS are testing and T-Mobile is scheduled for 4th Qtr.



Columbia	Yes	3/5/2000	Voicestream(Powerte l), Sprint PCS, Alltel, Nextel, Verizon(XYPoint)	Completed	No	N/A	N/A	N/A
Miami-Dade	Yes	8/26/1999	Cingular, AT&T, Nextel, Voicestream, Verizon, Sprint PCS	Completed	Yes	N. A.	N/A	Nextel=5/03,AT&T=3/13/03, Cingular=12/27/02, Verizon=6/29/00, Metro PCS=8/03. Sprint PCS is testing and T- Mobile anticipates compliance by March 2004.
Desoto	Yes	8/23/2002	Nextel, Sprint, Alltel, Verizon, AT&T	All complete by 3/03 except Verizon	Yes	10/13/2003	Nextel, Sprint, Alltel, AT&T and will request Verizon when completed Phase I	Nextel=1/5/04. Others by 6/1/04
Dixie	Yes	October-03	Nextel, US Cellular, Alltel	None	Yes	October-03	Nextel, US Cellular, Alltel	None
Duval	Yes	12/98 & 10/01	AT&T, Voicestream, Cingular, Verizon, Sprint PCS, Alltel, Nextel	Completed	No-Duval County is in the process of appropriatin g funds - City of Jacksonville Ordinance 2003-1391 for the purchase of new telephone and network equipment which will achieve Phase II compliance.	N/A	N/A	No-Estimated December 2004
Escambia	Yes	Mar-00	Voicestream, Verizon, Southern LINC, Nextel, Alltel, AT&T, Cingular, Cellular South, Sprint	Completed.	Yes	May-03	All	Complete for 4 carriers (Alltel, Nextel, Southern LINC, AT&T). Cingular, Verizon, Cellular South & Sprint are testing. T- Mobile scheduled for 4th Qtr.
Flagler	Yes	9/22/2000	AT&T, Voicestream(Aerial), Cingular(Bellsouth), Nextel, Verizon(PrimeCo), Sprint	Two are up (Cingular & Sprint)	Yes	3/24/2003	AT&T, T-Mobile, Cingular, Nextel, Verizon, Sprint PCS	None
Franklin	Yes	2/18/2000	GTCOM, Alltel, US Cellular	Some have turned up.	No			
Gadsden*	Yes	10/30/2000	Voicestream, AT&T, GTE Wireless, Price, Verizon, Digital PCS, Cingular, Southern LINC, Alltel, US Cellular, LarsenDigiph PCS	Yes, 1 or 2 have turned up.	No	N/A	N/A	No

Gilchrist*	No				No			
Glades*	Yes	12/21/2000	Nextel, AT&T, Verizon, Sprint PCS, Voicestream, Cingular		No	N/A	N/A	No
Gulf*	Yes	Alltel-4/5/00, 9/8/00, 12/3/00, US Cellular-4/5/008/31/00, 11/1/01, Southern LINC-12/12/01	Alltel, US Cellular, Southern LINC	No	Yes	12/12/2001	Alltel, US Cellular, Southern LINC	No
Hamilton	Yes	3/20/2001	Nextel, Alltel, Sprint PCS, Voicestream, US Cellular	Nextel, Alltel, AT&T, Sprint and T-Mobile.	No	N/A	N/A	No
Hardee*	Yes	11/11/1997	Nextel, GTE, SCC	No	No	N/A	N/A	No
Hendry	Yes	May-July 2000	AT&T, Cingular, Sprint PCS, Nextel, Alltel	Completed.	Yes	N. A.	AT&T, Cingular, Sprint PCS, Nextel, Alltel	Nextel and Sprint are testing. Completion expected by 12/04.
Hernando*	Yes	10/24/2000	AT&T Wireless, Cingular, Sprint PCS, Voicestream, Alltel, Verizon, Nextel	Cingular, Nextel	No	N/A	N/A	No
Highlands*	Yes	4/1/2001	All Carriers listed	Sprint PCS	No	N/A	N/A	No
Hillsborough	Yes	2/10/1997	Alltel, AT&T, Cingular, Nextel, Sprint, T-Mobile, Verizon	Completed	Yes	3/13/2003	Alltel, AT&T, Cingular, Nextel, Sprint, T-Mobile, Verizon	Alltel=8/03, AT&T=9/03, Cingular=9/03, Nextel=8/03, Sprint=12/03, Verizon=9/03 and T-Mobile is estimated for 10/04
Holmes*	Yes	12/15/2000						
Indian River	Yes	11/2/2000	Sprint, Nextel, Verizon, AT&T, Cingular	Sprint, Nextel, Verizon, Voicestream	No	N/A	N/A	N/A
Jackson*	Yes	3/18/1997	US Cellular, Voicestream, Southern LINC, Nextel, Sprint PCS, Alltel	Alltel, Sprint PCS, Voicestream, Nextel	Yes	1/18/2002	US Cellular, Voicestream, Southern LINC, Nextel, Sprint PCS, Alltel	No
Jefferson*	No	N/A	N/A	No	No	N/A	N/A	N/A
Lafayette*	No	N/A	N/A	No	No	N/A	N/A	No
Lake	Yes	5/1/1999	AT&T, T-Mobile, Cingular, Verizon, Sprint PCS	Completed	Yes	September-03	AT&T, T-Mobile, Cingular, Verizon, Sprint PCS	All carriers should be completed by 7/31/04
Lee	Yes	9/28/2001	AT&T, Cingular, Verizon, Sprint PCS, Voicestream, Nextel, Alltel	Completed	Yes	9/28/2001	AT&T, Cingular, Verizon, Sprint PCS, Voicestream, Nextel, Alltel	All complete except T-Mobile=05/04
Leon	Yes	26-Jul-01	Alltel (1/5/01), Cingular (11/14/03), Nextel (7/24/03), Sprint (2/9/01), T-Mobile (8/8/02), US Cellular (2/9/01)	Alltel (1/02), Cingular (not compliant estimated 5/04), Nextel (10/03), Sprint (10/19/01), T-Mobile (1/03), US Cellular (11/01)	No (Will request by 4/1/04)	N/A	N/A	No

Levy	Yes	1/5/2001	All Sprint, Alltel and US Cellular	Sprint, US Cellular. Alltel is testing.	Yes	12/10/2003	Alltel, AT&T, Cingular, Nextel, Sprint, T-Mobile, US Cellular	Estimated completion date 06/04
Liberty	No	N/A	N/A	N/A	No	N/A	N/A	N/A
Madison	Yes	Feb. 2000	Sprint PCS, US Cellular, Nextel, Voicestream(PowerTel), Alltel, Verizon	All complete except Cingular and T-Mobile	Yes	1/28/2003	AT&T, US Cellular, Verizon, Sprint PCS, T-Mobile, Nextel, Alltel, Cingular	Verizon, Sprint PCS, Nextel and Alltel are complete.
Manatee	Yes	Jun-00	All Operating in County	Completed	Yes	Jul-03	All Operating in County	Mar-04
Marion	Yes	2/24/2000	Nextel, AT&T, Alltel, Cingular, Sprint PCS, Voicestream, Verizon	Completed 5/15/02	Yes	6/15/2001	Nextel, AT&T, Alltel, Cingular, Sprint PCS, Voicestream, Verizon	Completed 6/27/03
Martin	Yes	2/16/2000	Bellsouth Mobility, PrimeCo, AT&T Wireless, Nextel, Sprint PCS, Verizon, Compass Telecom Services (12/5/01)	Completed.	Yes	3/5/2003	Nextel, AT&T, US Cellular, Cingular, Sprint PCS, T-Mobile, Verizon, Metro PCS	1st QTR 04 Start Implementation
Monroe*	Yes	10/7/2000	AT&T, Cingular, Nextel, Sprint, Voicestream, Verizon	Cingular, Nextel, Sprint, Verizon, Voicestream	Yes	N. A.	All operating in the county	One carrier up.
Nassau	Yes	6/19/2000	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, Voicestream	Completed.	Yes	4/1/2001	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, T-Mobile	All installed. T-Mobile is not running yet.
Okaloosa	Yes	6/22/2001	Alltel, AT&T, Cellular South, Cingular, Nextel, T-Mobile, Southern LINC, Sprint PCS, Verizon	Completed by 6/03	Yes	9/24/2003	Alltel, AT&T, Cellular South, Cingular, Nextel, T-Mobile, Southern LINC, Sprint PCS, Verizon	Estimated completion 03/04
Okeechobee*	No	N/A	N/A	N/A	No	N/A	N/A	N/A
Orange	Yes	AT&T, Cingular and Nextel-9/27/99 Verizon, Voicestream and Sprint PCS-5/3/00	AT&T, Cingular, Verizon, Voicestream, Sprint PCS, Nextel	Completed	Yes	Sprint PCS-12/19/00 AT&T, Cingular, Verizon, T-Mobile, Nextel-1/12/01	AT&T, Cingular, Verizon, T-Mobile, Sprint PCS, Nextel	AT&T=8/03, Cingular=12/02 (acceptance Form on 3/12/03), Nextel=8/03, Sprint PCS=9/03, Verizon=4/03 and T-Mobile is not complete.
Osceola*	Yes	Sept. 2000	All companies operating in county	No	No	N/A	N/A	No
Palm Beach	Yes	11/4/1999	AT&T, Cingular, Nextel, Voicestream, Verizon, Sprint PCS	Completed	Yes	4/6/2001	AT&T, Cingular, Nextel, Voicestream, Verizon, Sprint PCS	Complete except T-Mobile and Metro PCS
Pasco	Yes	Oct. 2000	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, T-Mobile	Completed	Yes	11/15/2003	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, T-Mobile	Estimated completion May 15, 2004

Pinellas	Yes	5/1/2000	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, Voicestream	Completed	Yes	1/22/2002	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, Voicestream	Alltel, Cingular, Nextel, Sprint PCS, Verizon complete. AT&T=2/28/04, T-Mobile=9/30/04
Polk	Yes	Aug. 1998	Alltel, AT&T, Cingular, Nextel, Sprint, T-Mobile, Verizon	Completed	Yes	Jul-03	Alltel, AT&T, Cingular, Nextel, Sprint, T-Mobile, Verizon	Estimated completion=June 2004 except T-Mobile
Putnam*	Yes	1-Dec	Verizon, US Cellular, Sprint, Alltel, XY Point(?)	No	No	N/A	N/A	No
Santa Rosa*	Yes	Jun-97	Alltel, Cingular, AT&T, Nextel, Voicestream, Southern LINC, Verizon, Cellular South, Sprint	Alltel, Cingular, Nextel, Southern LINC, Verizon, Sprint	No	N/A	N/A	No
Sarasota	Yes	6/19/2001	AT&T, Alltel, Cingular, Nextel, Sprint PCS, Verizon, Voicestream	Completed in 2002	Yes	3/10/2003	Alltel, AT&T, Cingular, Nextel, Sprint PCS, Verizon, T-Mobile	6 of 7 complete as of 12/22/03 T-Mobile=9/04
Seminole	Yes	5/1/2000	Cingular, AT&T, Nextel, T-Mobile, Verizon, Sprint PCS	Completed 12/5/01	Yes	4/14/03 re-requested	Cingular, AT&T, Nextel, T-Mobile, Verizon, Sprint PCS	All compliant 10/15/03 except T-Mobile=Fall 2004
St. Johns	Yes	5/7/2001	AT&T, Sprint, Alltel, T-Mobile, Cingular, Nextel, Verizon	Completed	Yes		AT&T, Sprint, Alltel, T-Mobile, Cingular, Nextel, Verizon	All complete except Nextel
St. Lucie*	Yes	5/7/2000	Verizon, AT&T, Voicestream, Cingular,	No	No	N/A	N/A	No
Sumter	Yes	4/12/2000	Alltel, AT&T, Nextel, Sprint PCS, Verizon, Voicestream	Completed	Yes	9-Jan-02	Alltel, AT&T, Nextel, Sprint PCS, Verizon, Voicestream	Completed 6/13/03
Suwannee*	Yes	1999	All wireless carriers	No	No	N/A	N/A	No
Taylor*	Yes	3/19/2001	AT&T, Nextel, Sprint PCS, Voicestream, US Cellular, Cingular, Verizon, Digiph PCS, Alltel	No	No	N/A	N/A	N/A
Union*	No	N/A	N/A	N/A	No	N/A	N/A	N/A
Volusia	Yes	1/31/2001	AT&T, Cingular, Cellular One, Nextel, Sprint PCS, Verizon, Voicestream	Verizon, Sprint PCS, Nextel, Cingular are all testing.	Yes	6/20/2001	AT&T, Cingular, Nextel, Sprint PCS, Verizon, T-Mobile	No - estimated by 6/2004
Wakulla	Yes	12/31/2001	Alltel, Nextel Partners, Sprint PCS, US Cellular, Verizon	8/19/2003	No	N/A	N/A	N/A
Walton	Yes	10/20/2003	All Wireless Carriers	Estimated 10/20/2004	Yes	10/20/2003	All Wireless Carriers	Sprint PCS=12/23/03 Others estimated by 10/20/04
Washington*	Yes	5/23/2000	Southern Linc, AT&T, Voicestream, Cingular, Alltel, Nextel, US Cellular, Verizon	Nextel, Southern LINC, Alltel, Voicestream	Yes	1/9/2002	Southern Linc, AT&T, Voicestream, Cingular, Alltel, Nextel, US Cellular, Verizon	No

**ATTACHMENT 3**

**FCC 03-262**

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

In the Matter of	)	
	)	
Revision of the Commission's Rules	)	CC Docket No. 94-102
To Ensure Compatibility with	)	RM-8143
Enhanced 911 Emergency	)	
Calling Systems	)	
Non-Initialized Phones	)	
	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: October 21, 2003**

**Released: November 3, 2003**

By the Commission:

## Introduction

1. In this Memorandum Opinion and Order (Order), we grant the *Petition for Reconsideration (Reconsideration Petition)* filed by the Alliance for Telecommunications Industry Solutions (ATIS) on behalf of the Emergency Services Interconnection Forum (ESIF).<sup>2</sup> The Commission's *Report and Order*<sup>3</sup> under reconsideration here required the programming of carrier-donated non-service-initialized phones and newly manufactured non-initialized "911-only" wireless handsets with the number 123-456-7890 as the "telephone number" transmitted to the Public Safety Answering Point (PSAP) receiving the call in order to address the problems created by the lack of call-back capability when 911 calls are dialed from these devices. We now conclude, in light of the new information presented by the ESIF, that the voluntary technical standard developed by the ESIF, which was recently adopted as part of the "Enhanced Wireless 9-1-1 Phase 2" industry consensus standard, provides a more far-reaching and technically superior solution to that contained in the Commission's April 29, 2002, *Report and Order* and therefore better serves the public interest.

2. Accordingly, we lift the Stay<sup>4</sup> currently in effect and modify the Commission's rules by striking the requirement to program the 123-456-7890 sequential number into carrier-donated non-initialized and "911-only" phones. We also relieve carriers of any attendant obligations to complete any network programming necessary to deliver the 123-456-7890 "telephone number" from these devices to

<sup>2</sup> See In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-Initialized Phones, CC Docket No. 94-102, RM-8143, ESIF *Petition for Reconsideration* (filed June 12, 2002) (*Reconsideration Petition*). This Memorandum Opinion and Order (Order) will refer to the Petitioner as the ESIF, rather than ATIS, to maintain consistency with earlier documents pertaining to this matter.

<sup>3</sup> See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-initialized Phones, CC Docket No. 94-102, RM-8143, FCC 02-120, *Report and Order*, 17 FCC Rcd 8481, 8481, 8489-93, 8499 (*Report and Order*); 67 Fed. Reg. 36112 (2002) (to be codified at 47 C.F.R. §§ 20.18(l)(1)(i), (l)(2)(i)).

<sup>4</sup> See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-initialized Phones, CC Docket No. 94-102, RM-8143, DA 02-2423, *Order* (rel. Sept. 30, 2002) (staying §§ 20.18(l)(1)(i) and (l)(2)(i) of the Commission's rules until Commission resolves the *Reconsideration Petition*) (*Stay Order*).

PSAPs.<sup>5</sup> We replace those rules with the requirement to program carrier-donated non-service initialized phones and new “911-only” handsets covered in our original *Report and Order* with a sequential number beginning with “911,” plus seven digits selected in a manner analogous to the way a “telephone number” is generated by Annex C compliant network software, as explained in more detail below. We further require that carriers complete any network programming necessary to deliver this “telephone number” from carrier-donated non-service initialized phones and “911-only” handsets to PSAPs.

## II. BACKGROUND

3. The *Report and Order* amended section 20.18 of the Commission’s rules to address the problems associated with two classes of non-initialized wireless devices<sup>6</sup> that lack call-back capability: (1) carrier-donated phones that have the capability of being service-initialized, but are either no longer, or never have been, service-initialized by a wireless carrier; and (2) recently manufactured 911-only handsets that can only make 911 calls and are technically incapable of receiving any incoming calls. Specifically, the portions of the rule subject to reconsideration here are subsections 20.18(l)(1)(i) and (l)(2)(i), which provided a handset-based solution to enable PSAPs to recognize calls from these types of phones. Subsection (l)(1)(i) required that licensees that donate non-initialized handsets for the purpose of providing access to 911 services must program 123-456-7890 as the “telephone number”<sup>7</sup> or Mobile Directory Number (MDN)<sup>8</sup> of each handset to alert a PSAP that the 911 call is being made from a wireless phone that lacks call-back capability. Subsection (l)(2)(i) required manufacturers of 911-only handsets that lack call-back capacity to program those handsets with the same number. The *Report and Order* also required carriers to complete any network programming necessary to deliver the 123-456-7890 “telephone number” to PSAPs from a non-initialized carrier-donated handset or “911-only” phone. The effective date of these rules was to be October 1, 2002.<sup>9</sup>

<sup>5</sup> However, as discussed in more detail below, we urge all carriers to implement an Annex C compliant solution as soon as possible and encourage PSAPs to make any equipment changes necessary to enable them to recognize, in the first few critical seconds of a 911 call, that a phone lacks call-back capacity.

<sup>6</sup> Non-service-initialized wireless mobile telephones (non-initialized phones) are phones that are not registered for service with any CMRS carrier. Because carriers generally assign a dialable number to a handset only when a customer enters into a service contract, a non-initialized phone lacks a dialable number. We continue to use the term “non-initialized” interchangeably with “unsubscribed” to refer to phones that cannot be called back by a PSAP because they have no dialable number, whether or not the phone may have previously been initialized by a service provider by programming the handset to transmit a mobile identification number (MIN). See *Report and Order*, 17 FCC Rcd 8481, 8482 n.6.

<sup>7</sup> “Telephone number” refers to the language in 47 C.F.R. § 20.18(d)(1), regarding Phase I of enhanced 911 (E911) services, which requires that licensees “must provide the *telephone number* of the originator of a 911 call and the location of the cell site or base station receiving a 911 call from any mobile handset accessing their system to the designated Public Safety Answering Point through the use of ANI and Pseudo-ANI” (emphasis added).

<sup>8</sup> We have changed the nomenclature from the previously used “telephone number/MIN” to “telephone number/MDN” to reflect the fact that, with the advent of wireless thousands-block number pooling and wireless local number portability, the Mobile Identification Number (MIN) and the Mobile Directory Number (MDN), which previously were the same number, now may be different numbers. See *Telephone Number Portability*, CC Docket No. 95-116, 13 FCC Rcd 16315, 16319 (1998); see also *Cellular Telecommunications Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability*, WT Docket No. 98-229, CC Docket No. 95-116, 14 FCC Rcd 3092, 3105 (1999).

<sup>9</sup> See *Report and Order*, 17 FCC Rcd 8481, 8493-94. The requirements now in effect include (1) the labeling of carrier-donated non-initialized phones and 911-only handsets to alert the user to the lack of call-back capability and (2) the creation of public education outreach programs to inform users of the limitations of these non-initialized phones, in particular their lack of call-back capacity and the consequent need for the caller to provide the PSAP with his or her location information immediately upon connection and to redial if the call is disconnected.

4. On May 17, 2002, after the *Report and Order* was released, the Chair of the newly formed ESIF<sup>10</sup> filed an *Ex Parte* letter describing problems with the sequential numbering requirements that Forum participants in the inaugural meeting of the ESIF had identified.<sup>11</sup> The letter also described a potential alternative network solution that was, at that time, an informative annex (Annex C)<sup>12</sup> of J-STD-036-A, the industry-adopted consensus standard for implementation of Phase II E911, published jointly by the Telecommunications Industry Association (TIA) and ATIS, on behalf of its sponsored Committee T1.

5. On June 12, 2002, the ESIF filed its *Reconsideration Petition*, seeking reconsideration of that portion of the Commission's *Report and Order* adopting sections 20.18(1)(1)(i) and (1)(2)(i) of the Commission's rules.<sup>13</sup> Also, on June 12, 2002, the ESIF filed a separate *Stay Request*<sup>14</sup> of the effective date of October 1, 2002 for implementation of sections 20.18(1)(1)(i) and (1)(2)(i) of these rules, until the Commission disposed of the ESIF's *Reconsideration Petition*. On September 30, 2002, the Commission's Wireless Telecommunications Bureau granted the ESIF's Request for Stay, and ordered the effective date of sections 20.18(1)(1)(i) and (1)(2)(i) to be suspended until the Commission had disposed of the ESIF's *Reconsideration Petition*.<sup>15</sup> On July 3, 2002, the Commission's Wireless Telecommunications Bureau released a Public Notice seeking comment on the *Reconsideration Petition* and the *Stay Request*.<sup>16</sup> Five comments and five Reply Comments were received.<sup>17</sup> A number of *Ex Parte* filings were also made in this proceeding.

6. In its filings, the ESIF provided detailed information about the Annex C solution for mobile phones that do not have a valid call-back number. The Annex C solution specifies using 911 followed by the seven least significant digits of the decimal representation of a wireless handset's Electronic Serial Number (ESN) or International Mobile station Equipment Identity (IMEI)<sup>18</sup> to enable network software to create a pseudo ten-digit telephone number/MDN when a non-initialized wireless phone or other similarly programmed wireless device makes a 911 call. When a switch that has been programmed with software that complies with Annex C receives a handset's ESN or IMEI and there is no valid call-back number, it will transmit "911" followed by the decimal representation of the seven least significant digits of the ESN

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<sup>10</sup> The ESIF is a sponsored committee of ATIS and is jointly convened by ATIS and the National Emergency Number Association (NENA) to facilitate the identification and resolution of technical issues related to the interconnection of telephony and emergency service networks. The ESIF is an open, technical forum that includes Commercial Mobile Radio Service (CMRS) carriers, wireless handset vendors, and public safety representatives among its voluntary participants.

<sup>11</sup> See Letter from Megan L. Campbell, General Counsel, ATIS, to Marlene H. Dortch, Secretary, Office of the Secretary, Federal Communications Commission (May 20, 2002) (incl. Letter from James Nixon, ESIF Chair, to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (May 17, 2002)).

<sup>12</sup> The ESIF refers to the solution as the "Annex C" solution because it was originally published as Annex C to J-STD-036-A, "Enhanced Wireless 9-1-1 Phase 2" (June 2002). See *Stay Request* at 4-5.

<sup>13</sup> See 67 Fed. Reg. 36112 (2002) (to be codified at 47 C.F.R. §§ 20.18 (1)(1)(i), (1)(2)(i)).

<sup>14</sup> See Letter from Megan L. Campbell, General Counsel, ATIS, to Marlene H. Dortch, Secretary, Office of Secretary, Federal Communications Commission (June 12, 2002) (incl. In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, RM-8143, Request for Stay of Effective Date (rel. June 12, 2002) (*Stay Request*)).

<sup>15</sup> See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-initialized Phones, CC Docket No. 94-102, RM-8143, DA 02-2423 (rel. Sept. 30, 2002) (*Stay Order*).

<sup>16</sup> See Wireless Telecommunications Bureau Seeks Comment on Petition for Reconsideration on Non-Initialized Phones and Filing of Request for Stay, *Public Notice*, CC Docket No. 94-102, DA 02-1575 (rel. July 3, 2002), 67 Fed. Reg. 46909 (2002).

<sup>17</sup> See Appendix A for list of Commenters and abbreviations used to designate them herein.

<sup>18</sup> The IMEI is generally associated with GSM phones. See *Reconsideration Petition* at 5.



or IMEI as the caller identification number (Caller ID) to equipment used by the PSAP.<sup>19</sup> According to the ESIF, using this pseudo number will thereby provide the PSAP with a distinctive number, likely to be associated only with the specific device used to place the 911 call.

7. The ESIF explained in its filings with the Commission that this solution has a number of advantages over the transmission of the identical 123-456-7890 numerical sequence for donated non-initialized phones and 911-only handsets. First, because the Annex C solution can more accurately identify the particular device making the call, the pseudo number could allow a PSAP to (1) work more effectively with law enforcement agencies to prevent misuse of the 911 system due to repeated harassing calls made on non-initialized phones, and (2) identify legitimate emergency callers making multiple calls because of exigent circumstances.<sup>20</sup>

8. Second, the ESIF forum had identified a potential problem with the use of the sequential number solution that was not addressed in the record on which the *Report and Order* was based. According to the ESIF, the number 123-456-7890 also serves as a valid International Roaming Mobile Identification Number (IRM).<sup>21</sup> Because IRMs are a finite numbering resource where the first number must be a zero (0) or a one (1), the numerical sequence beginning with 1234 might have to be removed from the IRM pool in order to avoid confusion between the number transmitted by non-initialized and 911 only phones pursuant to the Commission's *Report and Order* and an IRM assigned by the International Forum on ANSI-41 Standards Technology (IFAST).<sup>22</sup> As a result, the required use of the 123-456-7890 number sequence has the potential to cause the removal of one million numbers from the IRM assignment pool.

9. The ESIF also asserted that further study of the technical issues was warranted to determine the best way to solve the problems raised by the lack of call-back number availability in donated non-initialized phones and 911-only handsets. The ESIF proposed to form a working group to undertake such a study and to report the ESIF's findings to the Commission by March 2003. The working group would consider the merits of Annex C, along with other possible solutions, for adoption as part of the voluntary technical standard for Phase II E911 implementation. The ESIF proposed that, after its membership reached consensus and made its report to the Commission, the Commission could then seek public comments on the ESIF's report, and decide, based on that record, what solution should be implemented. In the interim, the ESIF requested that the Commission maintain the *Stay* in force.

10. Commenters who responded to the ESIF's *Reconsideration Petition* and *Stay Request* supported the ESIF's position and favored withdrawal of the solution that the Commission had adopted in the *Report and Order*.<sup>23</sup> All commenters agreed with the ESIF on the need for additional technical review

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<sup>19</sup> See *Reconsideration Petition* at 4-5 and n.9. E.g., if a mobile phone with the ESN 029880405 (comprised of a Manufacturer's Code of 029 and a Serial Number of 880405), but without a valid call-back number, is used to call 911, the Annex C solution would program 911, plus the least significant seven digits of the ESN (in decimal form). This would result in 911 988-0405 being sent to the PSAP as the identifier for that phone.

<sup>20</sup> See *id.* at 5.

<sup>21</sup> See *id.* at 5-6. IRMs are MINs with the following format: 0-XXX+6D or 1-XXX+6D, where X can be any digit 0-9, and the last six digits (6D) of the IRM are assigned by the carrier. The 4 digit prefix of an IRM is allocated by the IFAST (International Forum on ANSI-41 Standards Technology). The IFAST is a voluntary organization that attempts to facilitate international roaming by minimizing conflicts with North American MINs (which are generally based on their ten-digit directory number). See Letter from Toni Haddix, Staff Attorney, ATIS, to Marlene H. Dortch, Office of the Secretary, Federal Communications Commission (November 15, 2002). See also *International Forum on ANSI-41 Standards Technology* (visited June 27, 2003) <<http://www.ifast.org>>.

<sup>22</sup> See *Reconsideration Petition* at 5-6.

<sup>23</sup> In its Comments, the Texas 9-1-1 Agencies, who had originally petitioned the Commission to institute the proceeding that culminated in the *Report and Order*, reserved the right to oppose the *Reconsideration Petition* in Reply Comments. See Texas 9-1-1 Agencies Comments at 1. However, no such opposition was received by the Commission. Even Remote MDx, a manufacturer of E-911-only wireless phones, offered "conditional support" for

to determine the precise details of the methodology to ensure that the best overall solution would be deployed. However, while agreeing that further study was warranted, the overwhelming majority of commenters showed a strong preference for the Annex C solution, pointing out a number of its advantages over programming the sequential number 123-456-7890 into non-initialized and 911-only phones to serve as the “telephone number.” Commenters also saw a need to have as distinctive an identifier as possible for each handset to facilitate its identification in order to prevent repeated harassing calls and to identify legitimate repeat calls from a person experiencing a real emergency.<sup>24</sup> A number of commenters also agreed with the ESIF that there are real disadvantages in using the 123-456-7890 code for programming donated non-initialized phones and 911-only handsets.

11. NENA, speaking on behalf of several public safety trade associations, was in general agreement with the rest of the commenters. As co-convenor of the ESIF, NENA had actively participated on behalf of public safety in developing the Annex C solution, in its adoption as the industry consensus Phase II standard, and in the formulation of the ESIF’s recommendations to the Commission with regard to Annex C implementation and other issues. On April 28, 2003, NENA’s Operations Issues Director, Rick Jones, met with Commission staff to reiterate NENA’s general support for the ESIF’s position, as set forth in the letter filed on behalf of the ESIF by ATIS on February 24, 2003, recommending voluntary adoption of the solution found in Annex C of the J-STD-036-A Phase II standard.<sup>25</sup> NENA also made clear the importance to the public safety community of a point made in that February 24<sup>th</sup> letter, namely, that “[n]etwork providers should be able to provide, on a timely basis [within minutes], the necessary subscriber information” to PSAPs.<sup>26</sup> NENA took the further position that the FCC should only mandate the use of Annex C if there is sufficient database support to provide the PSAP quickly with “the ESN/IMEI associated with the surrogate 10-digit number,” so that, in cases of threats, harassment, and false reports using 9-1-1, the PSAP has the critical ability to associate the name and address of a present or former user of the phone.<sup>27</sup>

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the ESIF’s filings, *see* MDx Comments at 1, and promised full support for the Annex C solution if the ESIF technical review underway at the time of MDx’s comments resulted in recommending the use of Annex C, *see id.* at 2.

<sup>24</sup> *See, e.g.*, Lucent Comments at 2-3; Intrado Comments at 3.

<sup>25</sup> *See Ex Parte* Letter from James Nixon, ESIF Chair, to John Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Feb. 24, 2003) at 2 (*ESIF Ex Parte* of Feb. 24, 2003).

<sup>26</sup> *See Ex Parte* Letter from James R. Hobson, Counsel for NENA, to Marlene H. Dortch, Secretary, Office of the Secretary, Federal Communications Commission (May 5, 2003) (describing substance discussed at Rick Jones’ meeting with Wireless Bureau Staff on April 28, 2003, and quoting the ESIF’s *Ex Parte* of Feb. 24, 2003).

<sup>27</sup> *See Ex Parte* Letter from James R. Hobson, Counsel for NENA, to Marlene H. Dortch, Secretary, Office of the Secretary, Federal Communications Commission (May 5, 2003) at 1-2.

### III. DISCUSSION

12. The primary goal of the rule that the Commission adopted is to provide a methodology that will alert the PSAP that a caller is using a phone without call-back capability so that the PSAP can obtain location information in the first crucial seconds of the call. In addition, because some commenters report an increasing number of harassing calls from non-initialized devices, which can divert a PSAP's scarce resources from responding to real emergencies, it is also important to select a methodology that will enable the PSAP to identify a phone without a call-back number that is making repeated harassing calls. In order to achieve this latter goal, the number transmitted to alert the PSAP must be as nearly unique as possible. This will also enable a PSAP to identify repeated emergency calls from a person who is having difficulty maintaining a connection on a non-initialized wireless device.

13. Based on the record now before us, we agree with the ESIF and with the commenters that the newly adopted Annex C solution provides greater potential benefits<sup>28</sup> and fewer potential downsides<sup>29</sup> than the solution adopted in the *Report and Order*. A call from a non-initialized phone over an Annex C compliant network is recognizable immediately, because the "telephone number" that is sent to a PSAP's caller ID has 911 as its prefix, which is not used as either an area code (Numbering Plan Area Code or NPA) or an exchange prefix (NXX) in the North American Numbering Plan (NANP), and consequently can only be a pseudo-telephone number. The Annex C network solution, because it appends the seven least significant digits of the unique ESN or IMEI to the 911 prefix, generates a phone number that is likely to be duplicative in only one in ten million cases. It therefore is highly probable that a PSAP receiving harassing calls will be able to recognize that these calls are coming from a phone that cannot be called back, to identify that phone, and to work with the appropriate carrier and law enforcement personnel to trace it and block further harassing calls from the device. Moreover, the PSAP can identify calls that are being repeatedly made by a legitimate caller who is experiencing problems staying connected in an emergency. Finally, because these digits are not used as the initial part of any IRM range, there is no potential for confusion with any IRM that could be assigned.<sup>30</sup>

14. Although the Commission remains technology-neutral with respect to a carrier's Phase II E911 solution (either handset-based or network-based), we recognize that both network and handset

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<sup>28</sup> See, e.g., Intrado Comments at 2-4 (pointing out the potential benefits of the Annex C solution include 1) capacity to identify the broadest range of phones that lack call back capacity including non-initialized telephone sets, phones whose subscriptions have expired or that lack a subscriber identity module; as well as certain international mobiles or mobile phones from a service provider that does not have a roaming agreement with the current service provider; 2) leveraging the current PSAP knowledge base because PSAPs are already trained to recognize that any call delivered with 911 as either the Numbering Plan Area Code (NPA or area code) or the exchange prefix (NXX) cannot be called back and therefore will require special handling; and 3) fewer problems in maintaining 911 system integrity because the system will not receive a host of identical sequential numbers that it cannot easily query. *Id.* In addition, the Annex C solution accommodates important functionalities such as MIN/MDN separation, which is required for wireless local number portability.)

<sup>29</sup> For example, the Commission's methodology allegedly conflicts with the Annex C solution, which some vendors began to incorporate into products developed for compliance with various regulatory requirements, while Annex C was still only an informative annex to the Phase II implementation standard. See VSW Reply Comments at 4. VSW sees other ways in which the proposed sequential 123-456-7890 handset solution would produce serious impediments for some carriers. See VSW Reply Comments at 1, 2-4 (claiming that by treating all non-initialized mobiles alike, the 123-456-7890 requirement would prevent GSM carriers from using x, y coordinates in routing calls originated from non-initialized mobile terminals to the correct PSAP and could render GSM carriers unable to support the "refresh" capability, *i.e.*, the ability to resend location information).

<sup>30</sup> Many commenters believe that the use of the 123-456-7890 code as a MIN could remove resources from the international roaming MIN ("IRM") assignment pool, as the ESIF suggested. See, e.g., VSW Reply Comments at 4. Intrado points out that 123 is a particularly useful "area code" for an IRM because it allows the wireless network to process international roaming calls by utilizing numbers that are not used in the North American Numbering Plan (NANP), in that 123 is not a valid NANP area code. Intrado Comments at 4.

components may be necessary to achieve a successful solution to the problem of identifying emergency calls from different wireless devices that lack call-back capability.<sup>31</sup> A network-based solution is needed to deal with any handsets without call-back capacity that predate the date on which any handset-based solution is implemented. We will term this the retrospective problem. As one commenter points out, any handset solution, alone, has limited application because a handset solution does not reach phones already in the public domain and beyond a carrier's reach, e.g., older, unused non-initialized phones.<sup>32</sup> Those prior generations of non-initialized phones could still be used to make emergency calls and such calls will not be able to be detected without a network solution. Only a network solution can reach any such devices already in circulation. A network solution is also needed to identify distinctly phones already programmed with 123-456-7890 as the telephone number, and to alert PSAPs that such phones cannot be called back. Annex C software is intended to recognize when a phone does not have a valid call-back number (such as 123-456-7890) and to substitute 911 plus the seven least significant digits of the handset's ESN or IMEI as the caller ID for the phone, thereby allowing a PSAP to quickly recognize that the call is coming from a phone that cannot be called back, and to identify distinctly the phone being used to call 911. Moreover, for various reasons, service-initialized phones can fail to deliver their MDN.<sup>33</sup> The Annex C solution provides a ready network solution for existing handsets that lack call-back capability because these handsets have an ESN, as was required under the Commission's rules until the most recent Biennial Review relaxed that requirement.<sup>34</sup>

15. However, because subscribers will continue to replace their wireless handsets as technology develops, there could be what we will term a prospective problem with the Annex C network solution if it is dependent upon continuing use of an ESN. We suggest that an ESN continue to be programmed into the handset, as long as it is necessary to fulfill our public safety objectives. If the ESN is not voluntarily programmed into the handset or if an alternative handset identifier does not evolve to replace it, the Annex C network solution would have to be supported by requiring the use of an ESN or other identifier unique to a particular handset.<sup>35</sup> Thus, the Annex C network solution, to be truly effective, requires some handset identifier that can be used compatibly with this network solution to generate the nearly unique pseudo number transmitted to the PSAP. The handset identifier may change as the technology changes; however, as long as the handset identifier is uniquely associated with a specific handset, in a manner similar to the way that an ESN or IMEI functions today, it should be possible for Annex C compliant software to generate a distinctive pseudo number. That pseudo number will instantly alert the PSAP that the caller is using a device that lacks call-back capacity; provide an effective way of differentiating between repeated hoax calls and true emergencies; and create a means of determining which particular

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<sup>31</sup> The problem is the same with regard to identifying the caller making harassing calls to a PSAP from one of these devices. Further, as one commenter notes, the wireless devices without call-back capacity that are covered in our *Report and Order* are only a subset of the non-initialized phones that are currently in use. See CTIA Comments at 2 and n.6. We note that this problem will continue into the future as subscribers replace their current handsets with new models and pass on their old phones that no longer have a valid service contract, and as new types of wireless devices that could lack call back capacity come into use.

<sup>32</sup> VSW Reply Comments at 4.

<sup>33</sup> See Feb. 24, 2003, ESIF *Ex Parte* at 2 (noting that a valid call-back number may not be available for delivery to a PSAP in various situations, such as when the phone's subscription has lapsed, the service identity module is missing, or when international or domestic roamers place calls from areas where their carrier has no local service agreement).

<sup>34</sup> See In the Matter of Year 2000 Biennial Regulatory Review - Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Radio Services, *Report and Order*, WT Docket No. 01-108, FCC 02-229, *Report and Order* (Released September 24, 2002) at para. 36. However, we specifically noted there that "we do not intend our treatment here to be dispositive of pending consideration of possible application of ESNs for public safety purposes." *Id.* at n.120.

<sup>35</sup> While we cannot predict whether and how such an identifier would be developed, we understand that there continues to be a perceived need to have some such identifier and that the industry is continuing to program an ESN into handsets while the issue is being explored.

device made the call. However, because it appears that the best number to use as an identifier is evolving as the technology evolves, and that we are in a period of transition in which ESNs may be being replaced in certain handset systems with other solutions, we do not wish to impose a requirement that may constrain the development of these new technologies, unless it becomes necessary to preserve public safety.

16. We therefore decline to codify any strict technical requirements with regard to what identifier should be used in handsets at this juncture. We believe that it is in the public interest, now that the Annex C solution has been adopted by consensus as part of the J-STD-036-A industry standard for Phase II E911 and is being implemented voluntarily, to allow that voluntary implementation process to develop as vendors bring the Annex C solution to market in their next generation software. Carriers who are not already Annex C compliant, will, it appears, adopt that solution as they update their software to prepare for Phase II E911 implementation. Moreover, we note that a number of vendors have already implemented Annex C compliant solutions in Phase I E911 software to deal with other technical issues.<sup>36</sup> Thus, certain carriers are already offering Annex C nationally, while others are providing it in switches from certain vendors, but will not phase it into general service until they implement Phase II E911.<sup>37</sup> We believe that it will be most effective to allow carriers to follow the Phase II E911 implementation process, while the Annex C solution evolves to reflect the identifiers used by handset manufacturers offering different technologies and while the diverse types of equipment employed by PSAPS are adjusted to be compatible with the Annex C standard.

17. We therefore urge all parties to ensure that the voluntary standard is compatible with the broadest range of equipment possible and that all carriers perform the network programming and any other work necessary to implement the industry consensus standard as quickly as possible. This standard, we are persuaded, will provide a powerful solution that can, once Phase II E911 is fully implemented, handle the majority of the problems addressed in the *Report and Order*, as well as help to solve broader, related issues, not addressed in that proceeding. We believe that these steps will also further the goal of implementing our E911 rules within the time frame set forth in the Commission's orders.

18. However, permitting voluntary implementation of the Annex C solution as part of the natural process of upgrading equipment and as Phase II E911 is deployed, does not warrant inaction with regard to resolving potentially urgent problems related to emergency calls from non-initialized phones in the interim. Congress has directed the Commission to take all appropriate steps to further the creation of a seamless emergency network of which wireless E911 will play an increasingly significant part.<sup>38</sup> We must continue to move forward to implement E911 service as rapidly as possible. In this context, we note that many of the callers who depend upon the non-initialized devices covered in the Commission's *Report and Order* are of limited economic means and are at high risk, such as victims of domestic violence,

<sup>36</sup> See, e.g., ESIF *Ex Parte* of Feb. 24, 2003 (recommending voluntary implementation as part of the Phase II E911 upgrade process); Letter from James Nixon, ESIF Chair, to John Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (March 5, 2003) (noting that Annex C is part of the Phase II implementation standard and therefore may not be available in all Phase I systems).

<sup>37</sup> Compare, e.g., Verizon Reply Comments at 1-2 (stating that Verizon chose to have its vendors incorporate the Annex C functionality as part of the switch software package it received for implementation of Thousands-Block Number Pooling and Local Number Portability) with Letter from Louisa L. Lancetti, Vice President, PCS Regulatory Affairs, Sprint, to John Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (May 30, 2003) at 4 (noting that Sprint has Annex C functionality in its E911 Phase II switches, which is available to PSAPs which upgrade to Phase II, but that Sprint only provides Annex C functionality in Phase I in markets where Sprint uses Lucent equipment and the PSAP uses non-call associated signaling (NCAS)).

<sup>38</sup> "It is estimated that of the 150 million calls that were made to 911 in 2000, 45 million of them were made by wireless telephone users—that's 30 percent. This is a ten-fold increase from nearly 4.3 million wireless 911 calls just 10 years ago, and the number will more than double to 100 million calls in the next five years. It is anticipated that by 2005, the majority of 911 calls will be from wireless callers." See *Wireless 9-1-1 Overview* (visited June 26, 2003) <<http://www.nena.org/Wireless911/Overview.htm>>.

residents of high-crime neighborhoods, the elderly, or the infirm. In such a situation, when an individual may be relying on a wireless phone in an emergency, the lack of call-back capacity could pose a very serious risk. We therefore believe that this problem must be addressed immediately by the best means technically available at this time.

19. For these reasons, we remove the Commission's previous handset programming requirements and replace that solution with the requirement that carriers who provide non-initialized phones to donation programs and all manufacturers of 911-only phones program those devices with "911" plus the decimal representation of the seven least significant digits of a unique identifier, such as the ESN or IMEI. This will create a transmissible pseudo "telephone number" analogous to the number that Annex C compliant software will generate in the network. We also require carriers to complete any network programming necessary to transmit this pseudo "telephone number" to PSAPs when 911 calls are made from covered devices. We thus continue to follow the "targeted approach" we adopted in the *Report and Order*<sup>39</sup> by addressing regulatory requirements first to those classes of non-initialized phones where it is most likely that emergency calls will be made and by adopting the solution most likely to lead to rapid identification by PSAP personnel that the call is being placed from a phone that lacks call back capacity. As noted above, using the initial code "911" will provide the PSAP with immediate recognition, while the use of the distinctive identifier will aid in preventing the growing number of harassing calls and identifying repeat calls from a handset that is having difficulty maintaining the connection. In addition, as pointed out by one commenter, PSAPs are trained to recognize 911 as a signal that the phone lacks call-back capacity.<sup>40</sup> Moreover, use of this handset solution, which is analogous to the Annex C network solution, will create a consistent system for both handset and network solutions to alert PSAPs that the emergency call comes from a non-initialized handset. The use of this handset solution will also remove whatever potential there may be for confusion with an IRM that uses the 1234 range and thus allow assignment of IRMs using this range, which will help to preserve that limited resource.

20. We recognize that no current approach can solve all problems associated with emergency calls from phones that lack call back capacity and that there may also be situations in which a call-back number is not transmitted due to network error. However, it is in the public interest to minimize this problem, as far as possible, so that all emergency callers can be identified and called back, if necessary. We therefore continue to urge carriers participating in donation programs to provide service activation that will furnish call-back capability for emergency calls. We commend the growing number of carriers who are already providing donated phones with such call-back capacity, rather than non-initialized devices.<sup>41</sup> By doing so, they are further reducing the problem of non-initialized phones through voluntary efforts which may, in fact, be less costly than an imposed regulatory solution. We also suggest that manufacturers of "911-only" devices should continue to explore whether there are any technical options that would incorporate limited call-back capacity into these devices without sacrificing battery life.

21. We also commend the work of the ESIF in creating a successful voluntary standards setting process that quickly adopted the informative Annex C solution by consensus as part of the J-STD-036-A standard. We also commend those vendors who are already providing equipment utilizing Annex C and those carriers who are employing it, and recommend that all consider it as a potential means to solve the non-initialized phone and E911 problem to be deployed as early as possible. We also suggest that the

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<sup>39</sup> See Letter from Sprint to John Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (May 30, 2003) at 2 (agreeing with Commission's regulatory focus on these two types of non-initialized phones: "[b]ased on the record, the Commission properly determined in its *Non-Initialized Phone Order* that a targeted response to the public safety concern was warranted").

<sup>40</sup> Intrado comments at 4.

<sup>41</sup> We note that our *Report and Order* pointed out that CTIA has issued guidelines for the carrier donation programs that it sponsors, which specifically call for each phone to be activated on a wireless network and be given a unique dialable telephone number. See *Report and Order* at 8490. We urge all carriers and all sponsors of donation programs to follow these guidelines.

ESIF examine how to adapt the standard to the requirements of Phase I E911. We believe that it is important, as we achieve full compliance with the identification requirements in Phase I, that PSAPs have a ready means of identifying those callers who may be most in need of their assistance, among whom there may be those who are using non-initialized phones or 911-only devices. Equally, it is important to weed out those callers who are using non-initialized phones or 911-only devices to make harassing calls to PSAPs, which cannot afford to waste their precious time and resources.

22. In addition to requiring that carriers who are donating non-initialized phones and manufacturers of “911-only” wireless devices shift from programming the 123-456-7890 sequential number to programming these devices with 911 plus the seven least significant digits of the decimal representation of the ESN, IMEI, or other unique identifier programmed into the handset, we further recommend that all stakeholders move swiftly to develop the capability of utilizing an Annex C compliant solution. If a carrier’s switch already has the Annex C functionality, then that the carrier should employ the Annex C solution with PSAPs that can receive and accommodate caller ID delivered in such a manner. We encourage vendors and carriers to work together to implement the Annex C solution in carriers’ networks as early as feasible. Certainly, this process should be completed as part of the upgrade for Phase II E911 service. Equally, we urge PSAPs to make any adjustments needed in order to receive the pseudo caller ID number and, if necessary, to train their personnel to recognize and respond appropriately to such a call delivered by Annex C compliant software in the network or programmed into non-initialized handsets.

23. As this process develops, the Commission’s labeling rules<sup>42</sup> which cover all non-initialized carrier-donated devices and all 911-only phones without call-back capacity, will remain in effect. Our educational outreach programs will continue to make clear to consumers that non-initialized phones have limitations in an emergency. Any person using these devices in an emergency should be prepared to provide the PSAP with his or her location information immediately upon connection and to redial if the call is disconnected. We also commend the voluntary efforts of consumer groups to educate the public about E911 service in their particular service area and to help the consumer make an informed choice of wireless provider, given the consumer’s particular priorities for wireless service, his or her economic means, and the available choices.

24. We intend to continue to monitor this issue closely. If the voluntary implementation process is not functioning effectively, we stand ready to consider whether further specific requirements are in the public interest. We commend the ESIF participants for their initiative in resolving this issue in a timely manner and reporting to us on the adoption of the Annex C solution as a voluntary industry standard. We are ready to respond to further hard data on the nature and extent of the problems and the burdens on the public safety community and the industry in resolving them. We will then determine if further action is required.

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<sup>42</sup> See 47 C.F.R. §§ 20.18 (1)(ii)-(iii), (1)(2)(ii)-(iii).

## II. Conclusion

25. In view of the potential importance to public safety to provide PSAPs with a means of identifying emergency calls made by recipients of non-initialized wireless phones donated to provide them with emergency assistance and by purchasers of non-initialized "911-only" phones, we require that, within six months of the issuance of this Order, carriers donating such phones and handset manufacturers of "911-only" phones that were covered under the requirements in our *Report and Order* begin to program 911 plus a seven digit number that is derived by a methodology analogous to that described in Annex C. By striking our earlier programming requirement and replacing it with a requirement that is consistent with the emerging industry standard for network deployment of Phase II E911, we are targeting our regulations to accomplish the greatest benefit with the least burden. If the network solution becomes ubiquitous in the future and is able to provide a means of identifying emergency calls from these handsets, as well, we will revisit the imposition of this limited requirement. However, it provides a necessary bridge at this time to the full implementation of the Annex C solution.

26. In light of the record, the limited scope of our original *Report and Order*, and the need for flexibility in the face of rapidly changing technology, we will give the ESIF consensus standards process time to achieve full implementation voluntarily. However, we expect to see the Annex C solution substantially implemented voluntarily within 18 months of the issuance of this Order. As we have previously stated in the context of the *First Report and Order*, if a need for further action is demonstrated, "especially once E911 Phase I is fully operational and ubiquitous, we will revisit this issue, weigh the evidence presented, and look at the possibility of requiring a technical or other solution at that time."<sup>43</sup> If, within one year from the date this Order issues, considerable progress towards the goal of voluntary implementation of the Annex C solution has not been made, we will consider whether it is in the public interest to impose further specific implementation requirements.

## III. PROCEDURAL MATTERS AND ORDERING CLAUSES

### A. Final Regulatory Flexibility Certification

27. The Regulatory Flexibility Act (RFA) of 1980, as amended,<sup>44</sup> requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have significant economic impact on a substantial number of small entities."<sup>45</sup> The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>46</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>47</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small

<sup>43</sup> *Report and Order*, 17 FCC Rcd 8481, 8495.

<sup>44</sup> See 5 U.S.C. § 603. See 5 U.S.C. §§ 601 *et. seq.*, amended by the Contract with America Advancement Act (CWAA) of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996.

<sup>45</sup> 5 U.S.C. § 605(b).

<sup>46</sup> 5 U.S.C. § 601(6).

<sup>47</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. S § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."



Business Administration (SBA).<sup>48</sup> We continue to use these definitions and to consider the impact of this Order on the entities discussed in the initial *Report and Order*.<sup>49</sup>

28. The RFA analysis adopted in the initial *Report and Order* remains correct because there is no greater burden on carriers who are donating non-initialized phones and manufacturers of “911-only” wireless devices to program these devices with 911 plus the seven least significant digits of the decimal representation of the ESN, IMEI, or other unique identifier programmed into the handset, than to program these devices with the 123-456-7890 sequential number. Also, there is no greater burden on carriers to program their networks to deliver these “telephone numbers” from carrier-donated non-service initialized phones and “911-only” handsets to PSAPs than programming their networks to deliver the 123-456-7890 sequential number from these devices.

### **B. Paperwork Reduction Analysis**

29. The actions ordered in this Memorandum Opinion and Order do not affect the labeling requirement imposed by our previous *Report and Order* and do not create any new information collection requirements within the meaning of the Paperwork Reduction Act of 1995, Public Law No. 104-13.

### **C. Authority**

30. This action is taken pursuant to Sections 1, 4(i), 201, 303, 309, and 332 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 154(i), 201, 303, 309, 332.

### **D. Further Information**

31. For further information, contact Eugenie Barton in the Policy Division of the Wireless Telecommunications Bureau, at (202) 418-1310.

### **E. Ordering Clauses**

32. Accordingly, IT IS ORDERED that the Stay currently in effect with respect to sections 20.18(l)(1)(i) and (l)(2)(i) of the Commission’s rules IS LIFTED and the Petition for Reconsideration filed by the Alliance for Telecommunications Industry Solutions on behalf of the Emergency Services Interconnection Forum, filed June 12, 2002, is GRANTED AS PROVIDED HEREIN.

33. IT IS FURTHER ORDERED that Part 20 of the Commission’s Rules is AMENDED by striking the requirements to program non-initialized and 911-only phones with the sequential number 123-456-7890, contained in sections 20.18(l)(1)(i) and (l)(2)(i), respectively. Sections 20.18(l)(1)(i) and (l)(2)(i), respectively, are amended to require carriers that donate non-initialized wireless phones and manufacturers that produce 911-only wireless phones program these phones with 911 plus the decimal representation of the seven least significant digits of the ESN, IMEI, or any other identifier unique to that handset, as required by the action taken by this Memorandum Opinion and Order. This action SHALL BECOME EFFECTIVE six months after the date on which this Order issues.

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<sup>48</sup> Small Business Act, 15 U.S.C. § 632.

<sup>49</sup> See *Report and Order*, Appendix C (providing analysis of entities qualifying as “small” under applicable standards).

34. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,  
Secretary

## Appendix A

Public Notice issued July 3, 2002AbbreviationComments:

Cellular Telecommunications and Internet Association  
Intrado, Inc.  
Remote MDx  
Sprint Corporation  
Texas Commission on State Emergency Communications and  
Texas Emergency Communication Districts

CTIA  
Intrado  
Remote MDx  
Sprint  
Texas 9-1-1 Agencies

Reply Comments:

Alliance for Telecommunications Industry Solutions (ATIS)  
on behalf of ESIF  
Lucent Technologies  
Sprint Corporation  
Verizon Wireless  
VoiceStream Wireless Corporation

ESIF  
  
Lucent  
Sprint  
Verizon  
VSW<sup>50</sup>

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<sup>50</sup> We retain VoiceStream Wireless Corporation (VSW) as the Commenter was then named, and note that it is now known as T-Mobile USA.

**Appendix B****FINAL RULES**

Part 20 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 251-254, 303, and 332 unless otherwise noted.

2. Sections 20.18(l)(1)(i) and 20.18(l)(2)(i) are amended to read as follows:

**§ 20.18 911 Service.**

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(l) Non-Service-Initialized Handsets.

(1) Licensees subject to this section that donate a non-service-initialized handset for purposes of providing access to 911 services are required to:

- (i) program each handset with 911 plus the decimal representation of the seven least significant digits of the Electronic Serial Number, International Mobile Equipment Identifier, or any other identifier unique to that handset;
- (2) Manufacturers of 911-only handsets that are manufactured on or after [six months after the order is released], are required to:

- (i) program each handset with 911 plus the decimal representation of the seven least significant digits of the Electronic Serial Number, International Mobile Equipment Identifier, or any other identifier unique to that handset;

**ATTACHMENT 4**

**HOUSE BILL 1307**

1. A bill to be entitled
2. An act relating to emergency communications; amending s.
3. 365.172, F.S.; defining the terms "active prepaid wireless
4. telephone," "mobile telephone number," "prepaid wireless
5. telephone service," and "sufficient positive balance" for
6. purposes of wireless emergency communications; revising
7. authority of the board; prescribing additional duties of
8. the board of directors of the Wireless 911 Board with
9. respect to 911 and E911 systems; revising procedures for
10. securing accounting services; prescribing a method of
11. collecting the wireless E911 fee in instances in which the
12. wireless telephone service to which the surcharge applies
13. is prepaid; exempting certain colocated facilities from
14. specified land development regulations under described
15. circumstances; providing for certification to local
16. governments of compliance with certain federal
17. regulations; providing for local government approval of
18. applications for permits for new or colocated wireless
19. communications facilities; providing procedures and
20. timeframes; providing for waiver of timeframes; specifying
21. permitted use and activity for certain additional
22. facilities; providing for the Department of Management
23. Services and the Department of Transportation to negotiate
24. leases of state-owned property for certain wireless
25. telecommunications facilities; authorizing said
26. departments to adopt rules; providing for report to the
27. board and the county of certain delays in locating
28. facilities; providing for a subcommittee to make

29. recommendations to the board and certain identified local  
30. governments regarding compliance with federal Phase II  
31. E911 service requirements; providing for report of such  
32. recommendations to the Governor and the Legislature;  
33. amending s. 365.173, F.S.; authorizing disbursements from  
34. the Wireless Emergency Telephone System Fund for  
35. activities of the board of directors of the Wireless 911  
36. Board; creating s. 365.175, F.S.; providing definitions;  
37. requiring new private branch exchange telephone systems to  
38. have automatic location identification capabilities;  
39. providing an effective date.

40.

41. Be It Enacted by the Legislature of the State of Florida:

42.

43. Section 1. Subsection (3), paragraph (a) of subsection  
44. (6), and subsections (7) and (9) of section 365.172, Florida  
45. Statutes, are amended, present subsections (11) and (12) of that  
46. section are renumbered as subsections (12) and (13),  
47. respectively, and a new subsection (11) is added to that  
48. section, to read:

49. 365.172 Wireless emergency telephone number "E911."--

50. (3) DEFINITIONS.--As used in this section and ss. 365.173  
51. and 365.174, the term:

52. (a) "Active prepaid wireless telephone" means a prepaid  
53. wireless telephone that has been used by the customer during the  
54. month to complete a telephone call for which the customer's card  
55. or balance was decremented.

56. (b) "Answering point" means the public safety agency  
57. that receives incoming 911 calls and dispatches appropriate  
58. public safety agencies to respond to such calls.
59. (c) "Automatic location identification" means the  
60. capability of the E911 service which enables the automatic  
61. display of information that defines the approximate geographic  
62. location of the wireless telephone used to place a 911 call.
63. (d) "Automatic number identification" means the  
64. capability of the E911 service which enables the automatic  
65. display of the 10-digit service number used to place a 911 call.
66. (e) "Board" means the board of directors of the  
67. Wireless 911 Board.
68. (f) "Office" means the State Technology Office.
69. (g) "E911" is the designation for a wireless enhanced  
70. 911 system or wireless enhanced 911 service that is an emergency  
71. telephone system or service that provides a subscriber with  
72. wireless 911 service and, in addition, directs 911 calls to  
73. appropriate public safety answering points by selective routing  
74. based on the geographical location from which the call  
75. originated, or as otherwise provided in the state plan under s.  
76. 365.171, and that provides for automatic number identification  
77. and automatic location-identification features in accordance  
78. with the requirements of the order.
79. (h) "Fee" means the E911 fee imposed under subsection  
80. (8).
81. (i) "Fund" means the Wireless Emergency Telephone  
82. System Fund established in s. 365.173 and maintained under this  
83. section for the purpose of recovering the costs associated with



84. providing 911 service or E911 service, including the costs of  
85. implementing the order.

86. (j) "Local exchange carrier" means an "alternative  
87. local exchange telecommunications company" or a "local exchange  
88. telecommunications company" as defined in s. 364.02.

89. (k) "Local government" means any municipality, county,  
90. or political subdivision or agency of a municipality, county, or  
91. political subdivision.

92. (l) "Mobile telephone number" or "MTN" means the telephone  
93. number assigned to a wireless telephone at the time of initial  
94. activation.

95. (m) "Order" means:

96. 1. The following orders and rules of the Federal  
97. Communications Commission issued in FCC Docket No. 94-102:  
98. a. Order adopted on June 12, 1996, with an effective date  
99. of October 1, 1996, the amendments to s. 20.03 and the creation  
100. of s. 20.18 of Title 47 of the Code of Federal Regulations  
101. adopted by the Federal Communications Commission pursuant to  
102. such order.

103. b. Memorandum and Order No. FCC 97-402 adopted on December  
104. 23, 1997.

105. c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

106. d. Order No. FCC 98-345 adopted December 31, 1998.

107. 2. Orders and rules subsequently adopted by the Federal  
108. Communications Commission relating to the provision of wireless  
109. 911 services.

110. (n) (1) "Provider" means a person or entity who provides  
111. service and either:

112. 1. Is subject to the requirements of the order; or  
113. 2. Elects to provide wireless 911 service or E911 service  
114. in this state.
115. (o) "Prepaid wireless telephone service" means wireless  
116. telephone service that is activated in advance by payment for a  
117. finite dollar amount of service or for a finite set of minutes  
118. that terminate either upon use by a customer and delivery by the  
119. wireless provider of an agreed-upon amount of service  
120. corresponding to the total dollar amount paid in advance or  
121. within a certain period of time following the initial purchase  
122. or activation, unless additional payments are made.
123. (p) "Public agency" means the state and any  
124. municipality, county, municipal corporation, or other  
125. governmental entity, public district, or public authority  
126. located in whole or in part within this state which provides, or  
127. has authority to provide, firefighting, law enforcement,  
128. ambulance, medical, or other emergency services.
129. (q) "Public safety agency" means a functional division  
130. of a public agency which provides firefighting, law enforcement,  
131. medical, or other emergency services.
132. (r) "Rural county" means any county that has a  
133. population of fewer than 75,000.
134. (s) "Service" means "commercial mobile radio service"  
135. as provided under ss. 3(27) and 332(d) of the Federal  
136. Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and  
137. the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-  
138. 66, August 10, 1993, 107 Stat. 312. The term "service" includes  
139. the term "wireless" and service provided by any wireless real-

140. time two-way wire communication device, including radio-  
141. telephone communications used in cellular telephone service;  
142. personal communications service; or the functional or  
143. competitive equivalent of a radio-telephone communications line  
144. used in cellular telephone service, a personal communications  
145. service, or a network radio access line. The term does not  
146. include wireless providers that offer mainly dispatch service in  
147. a more localized, noncellular configuration; providers offering  
148. only data, one-way, or stored-voice services on an  
149. interconnected basis; providers of air-to-ground services; or  
150. public coast stations.

151. (t) "Service number" means the unique 10-digit wireless  
152. telephone number assigned to a service subscriber.

153. (u) "Sufficient positive balance" means a dollar amount  
154. greater than or equal to the monthly wireless surcharge amount.

155. (v) "Wireless 911 system" or "wireless 911 service"  
156. means an emergency telephone system or service that provides a  
157. subscriber with the ability to reach an answering point by  
158. dialing the digits "911." A wireless 911 system is complementary  
159. to a wired 911 system as provided for in s. 365.171.

160. (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--

161. (a) The board shall:

162. 1. Administer the E911 fee.

163. 2. Implement, maintain, and oversee the fund.

164. 3. Review and oversee the disbursement of the revenues  
165. deposited into the fund as provided in s. 365.173. The board may  
166. establish a schedule for implementing wireless E911 service by  
167. service area, and prioritize disbursements of revenues from the

168. fund to providers and rural counties as provided in s.  
169. 365.173(2)(b) and (c) pursuant to the schedule, in order to  
170. implement E911 services in the most efficient and cost-effective  
171. manner.

172. 4. Review documentation submitted by providers which  
173. reflects current and projected funds derived from the E911 fee,  
174. and the expenses incurred and expected to be incurred, in order  
175. to comply with the E911 service requirements contained in the  
176. order for the purposes of:

177. a. Ensuring that providers receive fair and equitable  
178. distributions of funds from the fund.

179. b. Ensuring that providers are not provided disbursements  
180. from the fund which exceed the costs of providing E911 service,  
181. including the costs of complying with the order.

182. c. Ascertaining the projected costs of compliance with the  
183. requirements of the order and projected collections of the E911  
184. fee.

185. d. Implementing changes to the allocation percentages or  
186. reducing the E911 fee under paragraph (8)(c).

187. 5. Review and approve or reject, in whole or in part,  
188. applications submitted by providers for recovery of moneys  
189. deposited into the fund.

190. 6. Hire and retain employees for the purposes of  
191. performing the technical and administrative functions for the  
192. board.

193. 7. Make and enter into contracts, pursuant to chapter 287,  
194. and execute other instruments necessary or convenient for the  
195. exercise of the powers and functions of the board.

196. 8. Take all necessary and reasonable steps by July 1,  
197. 2000, to secure appropriate information and reports from  
198. providers and otherwise perform all of the functions that would  
199. be performed by an independent accounting firm prior to  
200. completing the request-for-proposals process under subsection  
201. (7).
202. 9. Sue and be sued, and appear and defend in all actions  
203. and proceedings, in its corporate name to the same extent as a  
204. natural person.
205. 10. Adopt, use, and alter a common corporate seal.
206. 11. Elect or appoint the officers and agents that are  
207. required by the affairs of the board.
208. 12. The board may adopt rules under ss. 120.536(1) and  
209. 120.54 to implement this section and ss. 365.173 and 365.174.
210. 13. Provide coordination, support, and technical  
211. assistance to counties to promote the deployment of advanced 911  
212. and E911 systems in the state.
213. 14. Provide coordination and support for educational  
214. opportunities related to 911 issues for the 911 community in  
215. this state.
216. 15. Act as an advocate for issues related to 911 system  
217. functions, features, and operations to improve the delivery of  
218. 911 services to the residents of and visitors to this state.
219. 16. Coordinate input from this state at national forums  
220. and associations, to ensure that policies related to 911 systems  
221. and services are consistent with the policies of the 911  
222. community in this state.

223. 17. Work cooperatively with the system director  
224. established in s. 365.171(5) to enhance the state of 911  
225. services in this state and to provide unified leadership for all  
226. 911 issues through planning and coordination.

227. 18. Do all acts and things necessary or convenient to  
228. carry out the powers granted in this section, including but not  
229. limited to, consideration of emerging technology and related  
230. cost savings.

231. (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING  
232. FIRM.--

233. (a) The board shall issue a request for proposals as  
234. provided in chapter 287 for the purpose of retaining an  
235. independent accounting firm. The independent accounting firm  
236. shall perform all material administrative and accounting tasks  
237. and functions required for administering the E911 fee. The  
238. request for proposals must include, but need not be limited to:  
239. 1. A description of the scope and general requirements of  
240. the services requested.  
241. 2. A description of the specific accounting and reporting  
242. services required for administering the fund, including  
243. processing checks and distributing funds as directed by the  
244. board under s. 365.173.  
245. 3. A description of information to be provided by the  
246. proposer, including the proposer's background and qualifications  
247. and the proposed cost of the services to be provided.

248. (b) The board shall establish a committee to review  
249. requests for proposals which must include the statewide 911  
250. system director, or his or her designee, and two members of the

251. board, one of whom is a county 911 coordinator and one of whom  
252. represents the wireless telecommunications industry. The review  
253. committee shall review the proposals received by the board and  
254. recommend an independent accounting firm to the board for final  
255. selection. By agreeing to serve on the review committee, each  
256. member of the review committee shall verify that he or she does  
257. not have any interest or employment, directly or indirectly,  
258. with potential proposers which conflicts in any manner or degree  
259. with his or her performance on the committee.

260. (c) After July 1, 2004, the board may secure the services  
261. of an independent accounting firm via invitation to bid, request  
262. for proposals, invitation to negotiate, or professional  
263. contracts already established at the Division of Purchasing,  
264. Department of Management Services, for certified public  
265. accounting firms, or the board may hire and retain professional  
266. accounting staff to accomplish these functions.

267. (9) MANAGEMENT OF FUNDS.--

268. (a) Each provider, as a part of its monthly billing  
269. process, shall collect the fee imposed under subsection (8). The  
270. provider may list the fee as a separate entry on each bill, in  
271. which case the fee must be identified as a fee for E911  
272. services. A provider shall remit the fee only if the fee is paid  
273. by the subscriber. If a provider receives a partial payment for  
274. a monthly bill from a subscriber, the amount received shall  
275. first be applied to the payment due the provider for the  
276. provision of telecommunications service.

277. (b) In the case of prepaid wireless telephone service, the  
278. monthly wireless 911 surcharge imposed by subsection (8) shall

279. be remitted based upon each prepaid wireless telephone  
280. associated with this state, for each wireless service customer  
281. that has a sufficient positive balance as of the last day of  
282. each month. The surcharge shall be remitted in any manner  
283. consistent with the wireless provider's existing operating or  
284. technological abilities, such as customer address, location  
285. associated with the MTN, or reasonable allocation method based  
286. upon other comparable relevant data. The surcharge amount or an  
287. equivalent number of minutes may be reduced from the prepaid  
288. subscriber's account since a direct billing may not be possible.  
289. However, collection of the wireless 911 surcharge in the manner  
290. of a reduction of value or minutes from the prepaid subscriber's  
291. account does not constitute a reduction in the sales price for  
292. purposes of taxes that are collected at the point of sale.

293. (c) A provider is not obligated to take any legal  
294. action to enforce collection of the fees for which any  
295. subscriber is billed. The provider shall provide to the board  
296. each quarter a list of the names, addresses, and service numbers  
297. of all subscribers who have indicated to the provider their  
298. refusal to pay the fee.

299. (d) Each provider may retain 1 percent of the amount of  
300. the fees collected as reimbursement for the administrative costs  
301. incurred by the provider to bill, collect, and remit the fee.  
302. The remainder shall be delivered to the board and deposited in  
303. the fund. The board shall distribute the remainder pursuant to  
304. s. 365.173.

305. (e) Each provider shall deliver revenues from the fee  
306. to the board within 60 days after the end of the month in which



307. the fee was billed, together with a monthly report of the number  
308. of wireless customers whose place of primary use is in each  
309. county. A provider may apply to the board for a refund of, or  
310. may take a credit for, any fees remitted to the board which are  
311. not collected by the provider within 6 months following the  
312. month in which the fees are charged off for federal income tax  
313. purposes as bad debt. The board may waive the requirement that  
314. the fees and number of customers whose place of primary use is  
315. in each county be submitted to the board each month and  
316. authorize a provider to submit the fees and number of customers  
317. quarterly if the provider demonstrates that such waiver is  
318. necessary and justified.

319. (f) For purposes of this section, the definitions  
320. contained in s. 202.11 and the provisions of s. 202.155 apply in  
321. the same manner and to the same extent as such definitions and  
322. provisions apply to the taxes levied pursuant to chapter 202 on  
323. mobile communications services.

324. (g) As used in this subsection, the term "provider"  
325. includes any person or entity that resells wireless service and  
326. was not assessed the fee by its resale supplier.

327. (11) FACILITATING E911 SERVICE

328. IMPLEMENTATION.--Notwithstanding any other law or local  
329. ordinance to the contrary:

330. (a) Colocation among wireless telephone service providers  
331. is encouraged by the state. To further facilitate agreements  
332. among providers for colocation of their facilities, any antennae  
333. and related equipment to service the antennae that is being  
334. collocated on an existing above-ground structure is not subject

335. to land development regulation pursuant to s. 163.3202, provided  
336. the height of the existing structure is not increased. However,  
337. construction of the antennae and related equipment is subject to  
338. local building regulations and any existing permits or  
339. agreements for such property, buildings, or structures. Nothing  
340. herein shall relieve the permitholder for or owner of the  
341. existing structure of compliance with any applicable condition  
342. or requirement of a permit, agreement, or land development  
343. regulation, including any aesthetic requirements, or law.

344. (b) Local governments shall not require providers to  
345. provide evidence of a wireless communications facility's  
346. compliance with federal regulations. However, local governments  
347. shall receive evidence of proper Federal Communications  
348. Commission licensure from a provider and may request the Federal  
349. Communications Commission to provide information as to a  
350. provider's compliance with federal regulations, as authorized by  
351. federal law.

352. (c)1. A local government shall grant or deny a properly  
353. completed application for a permit, including permits under  
354. paragraph (a), for the colocation of a wireless communications  
355. facility on property, buildings, or structures within the local  
356. government's jurisdiction within 45 business days after the date  
357. the properly completed application is initially submitted in  
358. accordance with the applicable local government application  
359. procedures, provided that such permit complies with applicable  
360. federal regulations and applicable local zoning or land  
361. development regulations, including any aesthetic requirements.  
362. Local building regulations shall apply.

363. 2. A local government shall grant or deny a properly  
364. completed application for a permit for the siting of a new  
365. wireless tower or antenna on property, buildings, or structures  
366. within the local government's jurisdiction within 90 business  
367. days after the date the properly completed application is  
368. initially submitted in accordance with the applicable local  
369. government application procedures, provided that such permit  
370. complies with applicable federal regulations and applicable  
371. local zoning or land development regulations, including any  
372. aesthetic requirements. Local building regulations shall apply.

373. 3.a. The local government shall notify the permit  
374. applicant within 20 business days after the date the application  
375. is submitted as to whether the application is, for  
376. administrative purposes only, properly completed and has been  
377. properly submitted. However, such determination shall not be  
378. deemed as an approval of the application. Such notification  
379. shall indicate with specificity any deficiencies which, if  
380. cured, shall make the application properly completed.

381. b. If the local government fails to grant or deny a  
382. properly completed application for a permit which has been  
383. properly submitted within the timeframes set forth in this  
384. paragraph, the permit shall be deemed automatically approved and  
385. the provider may proceed with placement of such facilities  
386. without interference or penalty. The timeframes specified in  
387. subparagraphs 1. and 2. shall be extended only to the extent  
388. that the permit has not been granted or denied because the local  
389. government's procedures generally applicable to all permits,  
390. require action by the governing body and such action has not

391. taken place within the timeframes specified in subparagraphs 1.  
392. and 2. Under such circumstances, the local government must act  
393. to either grant or deny the permit at its next regularly  
394. scheduled meeting or, otherwise, the permit shall be deemed to  
395. be automatically approved.

396. c. To be effective, a waiver of the timeframes set forth  
397. herein must be voluntarily agreed to by the applicant and the  
398. local government. A local government may request, but not  
399. require, a waiver of the timeframes by an entity seeking a  
400. permit, except that, with respect to a specific permit, a one-  
401. time waiver may be required in the case of a declared local,  
402. state, or federal emergency that directly affects the  
403. administration of all permitting activities of the local  
404. government.

405. (d) Any additional wireless communications facilities,  
406. such as communication cables, adjacent accessory structures, or  
407. adjacent accessory equipment used in the provision of cellular,  
408. enhanced specialized mobile radio, or personal communications  
409. services, required within the existing secured equipment  
410. compound within the existing site shall be deemed a permitted  
411. use or activity. Local building and land development  
412. regulations, including any aesthetic requirements, shall apply.

413. (e) Any other provision of law to the contrary  
414. notwithstanding, the Department of Management Services shall  
415. negotiate, in the name of the state, leases for wireless  
416. communications facilities that provide access to state  
417. government-owned property not acquired for transportation  
418. purposes, and the Department of Transportation shall negotiate,

419. in the name of the state, leases for wireless communications  
420. facilities that provide access to property acquired for state  
421. rights-of-way. On property acquired for transportation purposes,  
422. leases shall be granted in accordance with s. 337.251. On other  
423. state government-owned property, leases shall be granted on a  
424. space available, first-come, first-served basis. Payments  
425. required by state government under a lease must be reasonable  
426. and must reflect the market rate for the use of the state  
427. government-owned property. The Department of Management Services  
428. and the Department of Transportation are authorized to adopt  
429. rules for the terms and conditions and granting of any such  
430. leases.

431. (f) Any wireless telephone service provider may report to  
432. the board no later than September 1, 2003, the specific  
433. locations or general areas within a county or municipality where  
434. the provider has experienced unreasonable delay to locate  
435. wireless telecommunications facilities necessary to provide the  
436. needed coverage for compliance with federal Phase II E911  
437. requirements using its own network. The provider shall also  
438. provide this information to the specifically identified county  
439. or municipality no later than September 1, 2003. Unless the  
440. board receives no report that unreasonable delays have occurred,  
441. the board shall, no later than September 30, 2003, establish a  
442. subcommittee responsible for developing a balanced approach  
443. between the ability of providers to locate wireless facilities  
444. necessary to comply with federal Phase II E911 requirements  
445. using the carrier's own network and the desire of counties and  
446. municipalities to zone and regulate land uses to achieve public

447. welfare goals. If a subcommittee is established, it shall  
448. include representatives from the Florida Telecommunications  
449. Industry Association, the Florida Association of Counties, and  
450. the Florida League of Cities. The subcommittee shall be charged  
451. with developing recommendations for the board and any  
452. specifically identified municipality or county to consider  
453. regarding actions to be taken for compliance for federal Phase  
454. II E911 requirements. In the annual report due to the Governor  
455. and the Legislature by February 28, 2004, the board shall  
456. include any recommendations developed by the subcommittee to  
457. address compliance with federal Phase II E911 requirements.  
458. Section 2. Paragraph (b) of subsection (2) of section  
459. 365.173, Florida Statutes, is amended to read:  
460. 365.173 Wireless Emergency Telephone System Fund.--  
461. (2) Subject to any modifications approved by the board  
462. pursuant to s. 365.172(8)(c), the moneys in the fund shall be  
463. distributed and used only as follows:  
464. (b) Fifty-four percent of the moneys shall be distributed  
465. in response to sworn invoices submitted to the board by  
466. providers to reimburse such providers for the actual costs  
467. incurred to provide 911 or E911 service, including the costs of  
468. complying with the order. Such costs include costs and expenses  
469. incurred by providers to design, purchase, lease, program,  
470. install, test, upgrade, operate, and maintain all necessary  
471. data, hardware, and software required to provide E911 service.  
472. Up to 2 percent of the funds allocated to providers shall be  
473. retained by the board to be applied to costs and expenses  
474. incurred for the purposes of managing, administering, and

475. overseeing the receipts and disbursements from the fund and  
476. other activities as defined in s. 365.172(6). Any funds retained  
477. for such purposes in a calendar year which are not applied to  
478. such costs and expenses by March 31 of the following year shall  
479. be distributed to providers pursuant to this paragraph.  
480. Beginning in state fiscal year 2000-2001, each provider shall  
481. submit to the board, by August 1 of each year, a detailed  
482. estimate of the capital and operating expenses for which it  
483. anticipates that it will seek reimbursement under this paragraph  
484. during the ensuing state fiscal year. By September 15 of each  
485. year, the board shall submit to the Legislature its legislative  
486. budget request for funds to be allocated to providers under this  
487. paragraph during the ensuing state fiscal year. The budget  
488. request shall be based on the information submitted by the  
489. providers and estimated surcharge revenues. Distributions of  
490. moneys in the fund by the board to providers must be fair and  
491. nondiscriminatory. If the total amount of moneys requested by  
492. providers pursuant to invoices submitted to the board and  
493. approved for payment exceeds the amount in the fund in any  
494. month, providers that have invoices approved for payment shall  
495. receive a pro rata share of moneys in the fund and the balance  
496. of the payments shall be carried over to the following month or  
497. months until all of the approved payments are made. The board  
498. may adopt rules necessary to address the manner in which pro  
499. rata distributions are made when the total amount of funds  
500. requested by providers pursuant to invoices submitted to the  
501. board exceeds the total amount of moneys on deposit in the fund.  
502.

503. The Legislature recognizes that the wireless E911 fee authorized  
504. under s. 365.172 will not necessarily provide the total funding  
505. required for establishing or providing the 911 service. It is  
506. the intent of the Legislature that all revenue from the fee be  
507. used as specified in s. 365.171(13)(a)6.  
508. Section 3. Section 365.175, Florida Statutes, is created  
509. to read:  
510. 365.175 Emergency Telephone Number 911 Private Branch  
511. Exchange-Private Switch Automatic Location Identification.--  
512. (1) DEFINITIONS.--As used in this section, the term:  
513. (a) "Automatic location identification" or "ALI" means the  
514. automatic display at the Public Safety Answering Point (PSAP) of  
515. the caller's telephone number, the address or location of the  
516. telephone, and supplementary emergency services information.  
517. (b) "Automatic location identification retrieval" or "ALI  
518. retrieval" means the process of querying the 9-1-1 database for  
519. ALI records.  
520. (c) "Automatic number identification" or "ANI" means the  
521. telephone number associated with the access line from which a  
522. call originates.  
523. (d) "Private branch exchange" or "PBX" means a private  
524. telephone system that is connected to the Public Switched  
525. Telephone Network (PSTN).  
526. (e) "Private switch ALI" or "PSA" means a service option  
527. which provides enhanced 9-1-1 features for telephone stations  
528. behind private switches, e.g., PBX's.



529. (2) REQUIRED ALI CAPABILITY.--Each PBX system installed  
530. after January 1, 2004, must be capable of providing automatic  
531. location identification to the station level.  
532. Section 4. This act shall take effect July 1, 2003.  
533.  
534.