



# PUBLIC NOTICE

Federal Communications Commission  
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DA 02-2285  
September 16, 2002

**WIRELESS TELECOMMUNICATIONS BUREAU  
SEEKS COMMENT ON PETITIONS FOR RECONSIDERATION  
REGARDING ORDER TO STAY E911 PHASE II RULES FOR SMALL CARRIERS**

**Consolidated Pleading Cycle Established**

**CC Docket No. 94-102**

**Comments Due: October 16, 2002**  
**Reply Comments Due: October 30, 2002**

On July 11, 2002, the Commission adopted an Order staying the interim wireless enhanced 911 (E911) Phase II deployment deadlines for Tier II and Tier III carriers, with conditions.<sup>1</sup> On August 26, 2002, ALLTEL Communications, Inc. (ALLTEL), and Dobson Cellular Systems, Inc. (Dobson) and American Cellular Corporation (American Cellular), filed Petitions for Reconsideration (Petitions), seeking limited reconsideration of the Commission's Order.<sup>2</sup>

The Petitioners object to the Commission statements in the Order that, if the revised deployment schedules are not met, the carrier will be deemed noncompliant and face enforcement action, and request that the Commission reconsider this "strict liability" determination.<sup>3</sup> Petitioners argue, for example, that, by this language, the Commission improperly predetermined that it will institute enforcement action in the context of any potential Phase II waiver request without giving a carrier the opportunity to challenge

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<sup>1</sup> See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order to Stay (rel. July 26, 2002) (*E911 Small Carriers Order*). Pursuant to this Order, only carriers requesting relief received a stay. Tier II carriers were defined as non-nationwide carriers that had over 500,000 subscribers as of year-end 2001, and Tier III carriers were defined as all other non-nationwide carriers.

<sup>2</sup> ALLTEL Communications, Inc. Petition for Reconsideration, CC Docket No. 94-102 (filed Aug. 26, 2002)(ALLTEL Petition); Dobson Cellular Systems, Inc. and American Cellular Corporation Joint Petition for Reconsideration, CC Docket No. 94-102 (filed Aug. 26, 2002)(Dobson/American Cellular Petition).

<sup>3</sup> ALLTEL Petition at 1; Dobson/American Cellular Petition at 2. For the language at issue, see para. 36-37 of the E911 Small Carriers Order.

its decision, in violation of due process and Section 503 of the Communications Act.<sup>4</sup> In addition, they argue that the availability of compliant technology from vendors is beyond the carriers' control, and thus, should be a legitimate defense to noncompliance rather than a mitigation factor.<sup>5</sup>

The Petitions are available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. Interested parties may file comments on or before October 16, 2002, and reply comments on or before October 30, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>6</sup>

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the filing to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic copy by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message: "get form <your email address>." A sample form and directions will be sent in reply. Commenters also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. A copy should also be sent to Jennifer Tomchin, 445 12<sup>th</sup> Street, S.W., Room 3-C400, Washington, D.C. 20554.

Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street S.W., CY-B402, Washington, D.C. 20554 (telephone 202-863-2893; facsimile 202-863-2898) or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). In addition, one copy of each submission must be filed with the Chief, Policy Division, Wireless Telecommunications Bureau, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. Documents filed in this proceeding will be available for public inspection during regular business hours in the Commission's Reference Information Center, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, and will be placed on the Commission's Internet site.

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<sup>4</sup> ALLTEL Petition at 4-5; Dobson/American Cellular Petition at 4-5.

<sup>5</sup> ALLTEL Petition at 3-4; Dobson/American Cellular Petition at 3-4.

<sup>6</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, para. 8 (1998).

This proceeding will be governed by “permit-but-disclose” *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission’s rules.<sup>7</sup> Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.<sup>8</sup> Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. In addition, interested parties are to file any written *ex parte* presentations in this proceeding with the Commission’s Secretary, Marlene H. Dortch, 445 12<sup>th</sup> Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies each: Wireless Telecommunications Bureau, Attn: Jennifer Tomchin, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. Parties shall also serve with one copy: Qualx International, Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

For further information concerning this proceeding, contact Jennifer Tomchin, Policy Division, Wireless Telecommunications Bureau at (202) 418-1310, TTY (202) 418-1169.

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<sup>7</sup> 47 C.F.R. § 1.1206.

<sup>8</sup> See 47 C.F.R. § 1.1206(b)(2).