

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

In the Matter of)	
)	
United States Cellular Corporation)	File No. EB-07-SE-009
)	NAL/Acct. No. 200732100047
)	FRN # 0004372322
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 29, 2007

Released: August 30, 2007

By the Commission: Chairman Martin issuing a statement.

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find United States Cellular Corporation (“USCC”) apparently liable for a forfeiture in the amount of five hundred thousand dollars (\$500,000) for the willful and repeated violation of Section 20.18(g)(1)(v) of the Commission’s Rules (“Rules”).¹ The apparent violation involves USCC’s failure to comply with the Commission’s requirement that wireless carriers employing a handset-based Enhanced 911 (“E911”) Phase II location technology must achieve 95% penetration, among their subscribers, of location-capable handsets by December 31, 2005.²

II. BACKGROUND

2. The Commission’s wireless E911 rules ensure that the important public safety needs of wireless callers requiring emergency assistance are met as quickly as possible. Under Phase II of the E911 rules, wireless licensees are required to provide Public Safety Answering Points (“PSAPs”) with Automatic Location Identification (“ALI”) information for 911 calls.³ Licensees can provide ALI information by deploying location information technology in their networks (a network-based solution),⁴ or Global Positioning System (“GPS”) or other location technology in subscribers’ handsets (a handset-based solution).⁵ The Commission’s rules also establish phased-in schedules for carriers to deploy any necessary network components and begin providing Phase II service.⁶ However, before a wireless licensee’s obligation to provide E911 service is triggered, a PSAP must make a valid request for E911

¹ 47 C.F.R. § 20.18(g)(1)(v).

² *Id.*

³ *See* 47 C.F.R. § 20.18(e).

⁴ Network-based location solutions employ equipment and/or software added to wireless carrier networks to calculate and report the location of handsets dialing 911. These solutions do not require changes or special hardware or software in wireless handsets. *See* 47 C.F.R. § 20.3, *Network-based Location Technology*.

⁵ Handset-based location solutions employ special location-determining hardware and/or software in wireless handsets, often in addition to network upgrades, to identify and report the location of handsets calling 911. *See* 47 C.F.R. § 20.3, *Location-Capable Handsets*.

⁶ *See* 47 C.F.R. § 20.18(f), (g)(2).

service, *i.e.*, the PSAP must be capable of receiving and utilizing the data elements associated with the service and must have a mechanism in place for recovering its costs.⁷

3. In addition to deploying the network facilities necessary to deliver location information, wireless licensees that elect to employ a handset-based solution must meet the handset deployment benchmarks set forth in Section 20.18(g)(1) of the Commission's Rules, independent of any PSAP request for Phase II service.⁸ After ensuring that 100% of all new digital handsets activated are location-capable, licensees were required to achieve 95% penetration, among their subscribers, of location-capable handsets no later than December 31, 2005.⁹

4. On January 5, 2007, the Commission issued an order denying a request for waiver filed by USCC of the December 31, 2005 handset penetration deadline.¹⁰ In the *USCC Waiver Order*, the Commission found that USCC failed to meet the Commission's standards for waiver of the 95% handset penetration requirement because (1) its efforts to encourage subscribers to upgrade non-compliant handsets were insufficient; (2) it "inexcusably delayed, until 2006, instituting more aggressive measures of attaining compliance;" (3) it did not know the compliance status of 7% of its customers; and (4) its uncertainty about how or when it would achieve compliance was evidence of its lack of a clear path to compliance.¹¹ The Commission also found that USCC's conceded failure to meet 95% handset penetration by the December 31, 2005 deadline should be addressed through the enforcement process and referred the matter of the carrier's non-compliance with Section 20.18(g)(1)(v) of the Rules to the Enforcement Bureau.¹² Specifically, USCC achieved an approximate penetration rate of only 88.76% by the December 31, 2005 deadline.¹³

⁷ See 47 C.F.R. § 20.18(j)(1).

⁸ See 47 C.F.R. § 20.18(g)(1).

⁹ See 47 C.F.R. § 20.18(g)(1)(v).

¹⁰ See *Request for a Limited Waiver of United States Cellular Corporation*, Order, 22 FCC Rcd 360 (2007) ("*USCC Waiver Order*"), *recon. pending*.

¹¹ *USCC Waiver Order*, 22 FCC Rcd at 361 ¶ 3, 368 ¶21.

¹² *USCC Waiver Order*, 22 FCC Rcd at 369 ¶ 23. The Commission previously has placed carriers on notice that referrals may be made to the Enforcement Bureau for failure to comply with an applicable Phase II deadline, even when requests for relief are submitted in advance of deadlines set forth in the Commission's Rules or orders. See *Revision of Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Order, 18 FCC Rcd 21838, 21844 ¶ 12 (2003) ("A carrier may seek a waiver in advance of a deadline in the Phase II rules or its compliance plan. However, the carrier always becomes liable for possible enforcement action if it fails to comply with an applicable Phase II deadline. Referral to the Enforcement Bureau when such an apparent violation is reported, or otherwise appears likely, is a normal and familiar exercise of the Commission's authority and discretion").

¹³ In the *USCC Waiver Order*, the Commission found that USCC had achieved an approximate penetration rate of only 85% by the December 31, 2005 deadline. *USCC Waiver Order*, 22 FCC Rcd at 363 ¶ 8. This figure was USCC's estimate of a "worst case scenario" based on the assumption that all of the unidentified 7% of its subscribers lack location-capable handsets. *Id.* USCC subsequently amended its estimate to 88.76%. See Letter from Thomas P. Van Wazer, Counsel for United States Cellular Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 94-102 (May 23, 2007) ("*Supplement to USCC Petition for Reconsideration*" or "*Supplement*"); see also Declaration of Steven T. Campbell, Executive Vice President – Finance and Chief Financial Officer, United States Cellular Corporation (June 25, 2007) ("*USCC Declaration*"). USCC requested confidential treatment of the June 25, 2007 Declaration. See Letter from Thomas P. Van Wazer, Counsel for United States Cellular Corporation, to Federal Communications Commission (June 26, 2007). Although USCC sought confidential treatment of its June 25, 2007 Declaration, it had already made the 88.76% figure publicly available in its May 23, 2007 *Supplement*. Although we do not rule on USCC's request for (continued...)

5. On July 12, 2007, the Enforcement Bureau issued a letter of inquiry requesting that USCC provide certain supplemental information related to its efforts to meet the E911 handset requirements.¹⁴ Specifically, the letter requested that USCC provide, among other things, a timeline of all actions taken, both before and after the December 31, 2005 deadline, to encourage customers to upgrade to E911 compliant handsets, including any incentives and special promotions, information concerning the costs and expenditures of these actions and incentives, and information concerning the “take rate” or effect these actions and incentives had on USCC’s overall compliance rate. USCC submitted its response on July 25, 2007.¹⁵

III. DISCUSSION

A. Failure to Comply with E911 Handset Penetration Requirement

6. The Commission has determined based on the record established in the waiver proceeding that USCC failed to comply with the handset penetration deadline.¹⁶ USCC does not dispute that it achieved an approximate penetration rate of only 88.76% by the December 31, 2005 deadline. Accordingly, we conclude that USCC apparently willfully¹⁷ and repeatedly¹⁸ failed to comply with the 95% handset penetration requirement by the December 31, 2005 deadline in violation of Section 20.18(g)(1)(v) of the Rules.

B. Proposed Forfeiture

7. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.¹⁹ To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.²⁰ The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.²¹ We conclude under this

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confidentiality at this time, we will accord confidential treatment of the Declaration’s contents that are not otherwise publicly available for purposes of this *NAL*. See 47 C.F.R. § 0.495(d).

¹⁴ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Thomas P. Van Wazer, Counsel for United States Cellular Corporation (July 12, 2007).

¹⁵ Letter from Thomas P. Van Wazer, Counsel for United States Cellular Corporation, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (July 25, 2007) (“LOI Response”).

¹⁶ See *supra* ¶ 4.

¹⁷ Section 312(f)(1) of the Act defines “willful” as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context. See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (“*Southern California*”).

¹⁸ Section 312(f)(2) of the Act, which also applies to forfeitures assessed pursuant to Section 503(b) of the Act, provides that “[t]he term ‘repeated,’ ... means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2). See *Callais Cablevision, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 1359, 1362 ¶ 9 (2001); *Southern California*, 6 FCC Rcd at 4388.

¹⁹ 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

²⁰ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

²¹ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 ¶ 4 (2002).

standard that USCC is apparently liable for forfeiture for its apparent willful and repeated violation of Section 20.18(g)(1)(v) of the Rules.

8. Under Section 503(b)(2)(B) of the Act,²² we may assess a common carrier a forfeiture of up to \$130,000 for each violation, or for each day of a continuing violation up to a maximum of \$1,325,000 for a single act or failure to act. In exercising such authority, we are required to take into account “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”²³

9. The Commission’s *Forfeiture Policy Statement*²⁴ and Section 1.80 of the Rules do not establish a base forfeiture for violation of Section 20.18(g)(1)(v). Nevertheless, the Commission has stated that the “omission of a specific rule violation from the list ... [establishing base forfeiture amounts] should not signal that the Commission considers any unlisted violation as nonexistent or unimportant. The Commission expects, and it is each licensee’s obligation, to know and comply with all of the Commission’s rules.”²⁵ Thus, the Commission retains its discretion to issue forfeitures on a case-by-case basis,²⁶ and has assessed forfeiture liability,²⁷ for rule violations irrespective of whether corresponding base forfeiture amounts have been established.

10. Having considered the statutory factors enumerated above in conjunction with the entire record in this proceeding, including the supplemental information provided by USCC,²⁸ we conclude that a substantial proposed forfeiture is warranted. First, we find that the violations here are egregious. Violations of E911 requirements are extremely serious, given the critical function these requirements

²² 47 U.S.C. § 503(b)(2)(B). The Commission twice amended Section 1.80(b)(3) of the Rules, 47 C.F.R. § 1.80(b)(3), to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. *See Amendment of Section 1.80 of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 15 FCC Rcd 18221 (2000) (adjusting the maximum statutory amounts from \$100,000/\$1,000,000 to \$120,000/\$1,200,000); *Amendment of Section 1.80 of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 19 FCC Rcd 10945 (2004) (adjusting the maximum statutory amounts from \$120,000/\$1,200,000 to \$130,000/\$1,325,000); *see also* 47 C.F.R. § 1.80(c).

²³ 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

²⁴ *See The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17115 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

²⁵ 12 FCC Rcd at 17099 ¶ 22.

²⁶ *Id.*

²⁷ *See Callais Cablevision, Inc.*, Forfeiture Order, 17 FCC Rcd 22626, 22630 ¶¶ 19-20 (2002) (assessing an aggregate \$133,000 forfeiture irrespective of the absence of an established base forfeiture for violations of the cable signal leakage standards); *Midwest Television, Inc.*, 20 FCC Rcd 3959 (Enf. Bur. 2005) (assessing a \$20,000 proposed forfeiture irrespective of the absence of an established base forfeiture for failure to broadcast emergency information accessible to hearing impaired viewers); *A-O Broadcasting Corp.*, 31 Communications Reg. (P&F) 411 ¶ 22 (2003), *forfeiture ordered*, 20 FCC Rcd 756 (2005) (assessing a \$28,000 forfeiture, *inter alia*, irrespective of the absence of an established base forfeiture for violations of radio frequency exposure limits).

²⁸ USCC requested confidential treatment of its July 25, 2007 LOI Response. *See* Letter from Thomas P. Van Wazer, Counsel for United States Cellular Corporation, to Federal Communications Commission (July 25, 2007). Although we do not rule on USCC’s request for confidentiality at this time, we will accord confidential treatment of the LOI Response for purposes of this *NAL* except where the information contained therein is otherwise publicly available. *See* 47 C.F.R. § 0.495(d).

serve in promoting and safeguarding life and property.²⁹ As the Commission has previously stated, it is critical for all handset-based carriers to have met the final implementation deadline of December 31, 2005 for 95% location-capable handset penetration in order to allow all stakeholders (including carriers, technology vendors, public safety entities, and consumers) to have greater certainty about when Phase II would be implemented and ensure that Phase II would be fully implemented as quickly as possible.³⁰ Absent Phase II location data, emergency call takers and responders must expend critical time and resources questioning wireless 911 callers to determine their location, searching for those callers when the callers cannot provide this information, or both.³¹ In this regard, we take into account the substantial percentage of noncompliance at the deadline (6.24%) and the significant number of customers affected by USCC's noncompliance. We observe that USCC had nearly 5.5 million wireless customers at the end of 2005.³²

11. Moreover, our finding of an egregious violation is further buttressed by the length of time that carriers have been on notice of the final handset penetration deadline -- since at least 1999³³ -- and the fact that the Commission has affirmed USCC's obligation to meet the handset penetration deadline. For example, in July 2002, the Commission extended the deadlines for Tier II carriers, including USCC, with respect to the sale and activation of location-capable handsets, but did not extend the December 31, 2005 deadline for achieving 95% penetration of location-capable handsets.³⁴

12. We also believe that a substantial proposed forfeiture is warranted based on the continuous and repeated nature of the violations. USCC did not achieve 95% handset penetration among its subscribers until August 31, 2006, eight months after the December 31, 2005 deadline.³⁵ In this context, where every day of a continuing violation has the potential of threatening the delivery of critical, life-saving services, an eight-month delay in compliance compels a significant proposed forfeiture.

²⁹ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Second Memorandum Opinion and Order, 14 FCC Rcd 20850, 20852 ¶ 2 (1999), *clarified*, 16 FCC Rcd 18982 (2001); see also *Dobson Cellular Systems, Inc. and American Cellular Corporation*, 21 FCC Rcd 4684, 4707 ¶ 59 (2006), *consent decree ordered*, 22 FCC Rcd 7968 (2007); *T-Mobile USA, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 3501, 3504 ¶ 7 (2003); *Sprint Spectrum LP d/b/a Sprint PCS*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 19901, 19906 ¶ 12 (Enf. Bur. 2004), *consent decree ordered*, 20 FCC Rcd 12328 (Enf. Bur. 2005).

³⁰ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers*, Order to Stay, 17 FCC Rcd 14841, 14853 ¶ 38 (2002) ("*Non-Nationwide Carriers Order*").

³¹ Phase I E911 service provides a PSAP with data elements containing the telephone number of the originator of the 911 call and the location of the cell site or base station receiving the 911 call. See 47 C.F.R. § 20.18(d). Thus, the actual location of the caller can be miles distant from the location information provided to the PSAP, with consequent delay in providing the caller with emergency services, assuming that the caller actually can be located. Phase II service, by comparison, has a required location accuracy of 100 meters for 67% of calls and 300 meters for 95% of calls (for a network-based location solution) or 50 meters for 67% of calls and 150 meters for 95% of calls (for a handset-based location solution). See 47 C.F.R. § 20.18(h)(1)-(2).

³² See United States Cellular Corporation 2005 Annual Report on Form 10-K (filed July 28, 2006), www.uscellular.com.

³³ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Third Report and Order, 14 FCC Rcd 17388, 17408 ¶ 42 (1999), *modified*, *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, 17445 ¶ 36 (2000).

³⁴ See *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14849 ¶ 27.

³⁵ See USCC Declaration at 3; *Supplement to USCC Petition for Reconsideration* at 2.

13. Further, we take into account USCC's size and ability to pay a forfeiture in determining the appropriate forfeiture amount. USCC is a Tier II wireless service provider,³⁶ serving more than 5.8 million subscribers in 26 states as of the end of 2006.³⁷ USCC generated more than \$3.2 billion in revenues in 2006.³⁸ As the Commission made clear in the *Forfeiture Policy Statement*, large or highly profitable communications entities, such as USCC, could expect forfeitures significantly higher than those reflected in the base amounts.³⁹ In view of USCC's size and ability to pay, we believe that a substantial proposed forfeiture is appropriate to serve as an effective deterrent to future violations of the E911 requirements.

14. Although a substantial forfeiture is warranted, we believe an amount less than the statutory maximum forfeiture is appropriate here. Of the three carriers referred to the Enforcement Bureau, USCC was the first to reach compliance. While USCC did not begin compliance efforts until late 2005, it showed an aggressive and innovative set of efforts, as well as significant expenditures relative to its customer and revenue bases.⁴⁰ While laudable and important, we note that remedial efforts taken after the deadline do not mitigate USCC's violation.⁴¹

15. Accordingly, based on the egregious, continuous and repeated nature of the violations and USCC's ability to pay a forfeiture, we propose a forfeiture in the amount of \$500,000 for USCC's willful and repeated failure to achieve 95% handset penetration among its subscribers by December 31, 2005 in violation of Section 20.18(g)(1)(v) of the Rules.

IV. ORDERING CLAUSES

16. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Section 1.80 of the Rules, United States Cellular Corporation is **NOTIFIED** of its **APPARENT LIABILITY**

³⁶ Tier II carriers are Commercial Mobile Radio Service providers that had over 500,000 subscribers as of the end of 2001 but were not designated as nationwide Tier I carriers by the Commission. *See Non-Nationwide Carriers Order*, 17 FCC Rcd at 14847-48 ¶¶ 22-23.

³⁷ *See* United States Cellular Corporation 2006 Annual Report on Form 10-K (filed April 23, 2007), www.uscellular.com.

³⁸ *Id.*

³⁹ Specifically, the Commission stated:

[O]n the other end of the spectrum of potential violations, we recognize that for large or highly profitable communication entities, the base forfeiture amounts ... are generally low. In this regard, we are mindful that, as Congress has stated, for a forfeiture to be an effective deterrent against these entities, the forfeiture must be issued at a high level For this reason, we caution all entities and individuals that, independent from the uniform base forfeiture amounts ..., we intend to take into account the subsequent violator's ability to pay in determining the amount of a forfeiture to guarantee that forfeitures issued against large or highly profitable entities are not considered merely an affordable cost of doing business. Such large or highly profitable entities should expect in this regard that the forfeiture amount set out in a Notice of Apparent Liability against them may in many cases be above, or even well above, the relevant base amount.

Forfeiture Policy Statement, 12 FCC Rcd at 17099-100.

⁴⁰ *See* United States Cellular Corporation Quarterly E911 Implementation Report, CC Docket No. 94-102 (filed August 1, 2007). USCC described its handset offers and its expenditures in its July 25, 2007 LOI Response. *See supra* n. 28.

⁴¹ *See e.g., AT&T Wireless Services, Inc.*, Forfeiture Order, 17 FCC Rcd 21866, 21875-6 ¶¶ 26-28 (2002) (remedial action to correct tower painting violation was not a mitigating factor warranting reduction of forfeiture); *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099, 6099 ¶ 7 (1994) (corrective action taken to comply with the Rules is expected, and does not mitigate any prior forfeitures or violations).

FOR A FORFEITURE in the amount of five hundred thousand dollars (\$500,000) for willful and repeated violation of Section 20.18(g)(1)(v) of the Rules.

17. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, United States Cellular Corporation **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

18. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

19. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption.

20. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

21. Requests for payment of the full amount of the NAL under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁴²

22. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail return receipt requested to United States Cellular Corporation, 8410 W. Bryn Mawr, Suite 700, Chicago, IL 60631 and to Thomas P. Van Wazer, Sidley Austin LLP, 1501 K Street, N.W., Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴² See 47 C.F.R. § 1.1914.

**STATEMENT OF
CHAIRMAN KEVIN J. MARTIN**

Re: In the Matter of Alltel Corporation, Notice of Apparent Liability for Forfeiture, EB-07-SE-008

Re: In the Matter of Sprint Nextel Corporation, Notice of Apparent Liability for Forfeiture, EB-07-SE-006

Re: In the Matter of US Cellular Corporation, Notice of Apparent Liability for Forfeiture, EB-07-SE-009

Ensuring that E911 service meets the needs of public safety and the expectations of the American people is a top priority of mine and of the Commission. I recognize that the public expects us to get these issues right. One of my first actions when I became Chairman was to ensure that all Americans could pick up the phone and dial 911 and connect to emergency services whether they were using a wireline, wireless or Internet phone. On the wireless side, Americans increasingly expect that dialing 911 also means first responders can pinpoint a caller's location, even when the caller is incapacitated or does not know where he or she is. To this end, the FCC required all carriers to ensure that 95% of their subscribers have handsets that are location capable by December 31, 2005.

Alltel, Sprint Nextel, and U.S. Cellular failed to meet this critical deadline by a significant margin, despite the clear requirements of the Commission and the needs of their consumers. While we recognize the efforts undertaken by the carriers, and encourage the continued efforts of all carriers to enhance these life-saving technologies and work with the public safety community, the fines issued today are significant and appropriate. Our actions today underscore the critical importance that 911 services play in the lives of the public. I continue to believe that one of the Commission's highest obligations is facilitating the ability of the public safety community to help those in need. Effective enforcement of our E911 rules is a valuable and necessary tool in achieving this mission.