

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

In the Matter of	)	
	)	
Alltel Corporation	)	File No. EB-07-SE-008
	)	NAL/Acct. No. 200732100046
	)	FRN # 0012284394
	)	

**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 Alltel Corporation (“Alltel”) apparently liable for a forfeiture in the amount of one million dollars (\$1,000,000) for the willful and repeated violation of Section 20.18(g)(1)(v) of the Commission’s Rules (“Rules”).<sup>1</sup> The apparent violation involves Alltel’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.<sup>2</sup>

**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.<sup>3</sup> Licensees can provide ALI information by deploying location information technology in their networks (a network-based solution),<sup>4</sup> or Global Positioning System (“GPS”) or other location technology in subscribers’ handsets (a handset-based solution).<sup>5</sup> The Commission’s rules also establish phased-in schedules for carriers to deploy any necessary network components and begin providing Phase II service.<sup>6</sup> However, before a wireless licensee’s obligation to provide E911 service is triggered, a PSAP must make a valid request for E911

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<sup>1</sup> 47 C.F.R. § 20.18(g)(1)(v).

<sup>2</sup> *Id.*

<sup>3</sup> *See* 47 C.F.R. § 20.18(e).

<sup>4</sup> 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*.

<sup>5</sup> 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*.

<sup>6</sup> *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.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup>

4. On January 5, 2007, the Commission issued an order denying a request for waiver filed by Alltel of the December 31, 2005 handset penetration deadline ("*Waiver Order*").<sup>10</sup> In this *Waiver Order*, the Commission found that Alltel had failed to meet the Commission's standards for waiver because its request was not "specific, focused and limited in scope," failed to articulate a "clear path to full compliance," and lacked evidence that Alltel took the necessary concrete steps to come as close as possible to full compliance by the deadline.<sup>11</sup> The Commission also found that the record did not establish that factors beyond Alltel's control caused its failure to meet the December 31, 2005 95% deadline and that Alltel had failed to adduce facts justifying its non-compliance or warranting its requested waiver.<sup>12</sup> Finally, the Commission found that Alltel'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 Alltel's non-compliance with Section 20.18(g)(1)(v) of the Rules to the Enforcement Bureau.<sup>13</sup> Specifically, Alltel achieved a penetration rate of only 84% by the December 31, 2005 deadline.<sup>14</sup>

5. On July 12, 2007, the Enforcement Bureau issued a letter of inquiry requesting that Alltel provide certain supplemental information related to its efforts to meet the E911 handset requirements.<sup>15</sup> Specifically, the letter requested that Alltel 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

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<sup>7</sup> See 47 C.F.R. § 20.18(j)(1).

<sup>8</sup> See 47 C.F.R. § 20.18(g)(1).

<sup>9</sup> See 47 C.F.R. § 20.18(g)(1)(v).

<sup>10</sup> See *Alltel Corporation Petition for Limited Waiver of Location Capable Handset Penetration Rule*, Order, 22 FCC Rcd 337 (2007) ("*Alltel Waiver Order*"), *recon. pending*.

<sup>11</sup> *Id.* at 338 ¶ 3.

<sup>12</sup> *Id.* at 347 ¶ 26.

<sup>13</sup> *Id.* 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").

<sup>14</sup> See Notice of *Ex Parte* Presentation by Alltel, WT Docket No. 05-287 (filed January 19, 2006) and *Alltel Waiver Order*, 22 FCC Rcd at 340 ¶ 8.

<sup>15</sup> Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Glenn S. Rabin, Vice President – Federal Regulatory Affairs, Alltel Corporation (July 12, 2007).

these actions and incentives had on Alltel's overall compliance rate. Alltel submitted its response on July 26, 2007.<sup>16</sup>

### 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 Alltel failed to comply with the handset penetration deadline.<sup>17</sup> Alltel does not dispute that it achieved a penetration rate of only 84% by the December 31, 2005 deadline. Accordingly, we conclude that Alltel apparently willfully<sup>18</sup> and repeatedly<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> As set forth in detail below, we conclude under this standard that Alltel 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,<sup>23</sup> 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

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<sup>16</sup> Letter from Stephanie Johanns, Senior Vice President – Federal Government Affairs, Alltel Corporation, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (July 26, 2007) ("LOI Response").

<sup>17</sup> See *supra* ¶ 4.

<sup>18</sup> 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, 97<sup>th</sup> 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*").

<sup>19</sup> 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.

<sup>20</sup> 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

<sup>21</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>22</sup> See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 ¶ 4 (2002).

<sup>23</sup> 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 at 4388 (continued....)

\$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.”<sup>24</sup>

9. The Commission’s *Forfeiture Policy Statement*<sup>25</sup> 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.”<sup>26</sup> Thus, the Commission retains its discretion to issue forfeitures on a case-by-case basis,<sup>27</sup> and has assessed forfeiture liability,<sup>28</sup> 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 Alltel,<sup>29</sup> 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 serve in promoting and safeguarding life and property.<sup>30</sup> 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

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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).

<sup>24</sup> 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.

<sup>25</sup> See *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17115 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

<sup>26</sup> 12 FCC Rcd at 17099 ¶ 22.

<sup>27</sup> *Id.*

<sup>28</sup> 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).

<sup>29</sup> Alltel requested confidential treatment of its July 26, 2007 LOI Response. See Letter from Glenn S. Rabin, Vice President, Federal Communications Counsel, Alltel Corporation, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (July 26, 2007). Although we do not rule on Alltel’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).

<sup>30</sup> 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).

would be implemented and ensure that Phase II would be fully implemented as quickly as possible.<sup>31</sup> 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.<sup>32</sup> In this regard, we take into account the substantial percentage of non-compliance at the deadline (11%) and the significant number of customers affected by Alltel's non-compliance. We observe that Alltel had more than 10.6 million wireless customers at the end of 2005.<sup>33</sup>

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 1999<sup>34</sup> -- and the fact that the Commission has affirmed Alltel's obligation to meet the handset penetration deadline. In considering the merger of Alltel and Western Wireless, the Commission stated that Alltel, "like all carriers, [is] obligated to comply with our E911 rules, including the requirement that carriers electing a handset-based E911 solution achieve 95 percent penetration by the end of [2005]."<sup>35</sup> The Commission further stated that "[w]e will not hesitate to take enforcement action if this deadline is not met."<sup>36</sup>

12. We also believe that a substantial proposed forfeiture is warranted based on the continuous and repeated nature of the violations. Alltel did not achieve 95% handset penetration until May 31, 2007, 17 months after the December 31, 2005 deadline.<sup>37</sup> In this context, where every day of a continuing violation has the potential of threatening the delivery of critical, life-saving services, a 17-month delay in compliance compels a significant proposed forfeiture.

13. Further, we take into account Alltel's size and ability to pay a forfeiture in determining the appropriate forfeiture amount. Alltel is a Tier II wireless service provider,<sup>38</sup> serving nearly 12 million subscribers as of the end of 2006.<sup>39</sup> Alltel generated \$7.9 billion in revenues in 2006.<sup>40</sup> As the

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<sup>31</sup> See *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14853 ¶ 38.

<sup>32</sup> 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).

<sup>33</sup> See Alltel Corporation 2005 Annual Report on Form 10-K (filed March 20, 2006), www.alltel.com.

<sup>34</sup> 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).

<sup>35</sup> See Applications of Western Wireless Corporation and ALLTEL Corporation, WT Docket No. 05-50, *Memorandum Opinion and Order*, 20 FCC Rcd 13053, 13111 ¶ 157 (2005).

<sup>36</sup> *Id.*

<sup>37</sup> See Alltel Communications, Inc. Twentieth E911 Quarterly Report, CC Docket No. 94-102 (filed August 1, 2007) at 2.

<sup>38</sup> 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 *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, 14843 ¶ 7 (2002) ("*Non-Nationwide Carriers Order*").

<sup>39</sup> Alltel Corporation 2006 Annual Report (February 20, 2007), www.alltel.com.



Commission made clear in the *Forfeiture Policy Statement*, large or highly profitable communications entities, such as Alltel, could expect forfeitures significantly higher than those reflected in the base amounts.<sup>41</sup> In view of Alltel's size and ability to pay, we believe that a substantial proposed forfeiture is appropriate in order for the proposed forfeiture to serve as an effective deterrent to future violations of the E911 requirements.

14. Finally, we recognize that Alltel began its compliance efforts in 2004 and used a variety of methods to encourage customers to upgrade to E911-compliant handsets between 2004 and 2005. We note, however, that it was not until 2006 and 2007, *after* the December 31, 2005 deadline had passed, that Alltel initiated more aggressive and innovative efforts, such as sending out E911-themed contract renewal mailings, initiating specific large market campaigns, offering an E911-compliant bag phone and sending targeted letters to customers with non-compliant analog handsets, and offering discounted handsets with no contract requirement.<sup>42</sup> Such remedial efforts taken after the deadline, while laudable and important, do not mitigate Alltel's violation.<sup>43</sup>

15. Accordingly, based on the egregious, continuous and repeated nature of the violations and Alltel's ability to pay a forfeiture, we propose a forfeiture in the amount of \$1,000,000 for Alltel'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, Alltel Corporation **IS NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one million dollars (\$1,000,000) 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, Alltel Corporation **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

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<sup>40</sup> *Id.*

<sup>41</sup> 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.

<sup>42</sup> See e.g., Alltel Corporation Fourth Monthly Compliance Report, WT Docket No. 05-287 (filed May 1, 2007); Alltel Corporation Third Monthly Compliance Report, WT Docket No. 05-287 (filed April 2, 2007); Alltel Corporation Second Monthly Compliance Report, WT Docket No. 05-287 (filed March 1, 2007); Alltel Corporation First Monthly Compliance Report, WT Docket No. 05-287 (filed February 1, 2007); Alltel Corporation Petition for Limited Waiver, *Ex Parte* Presentation, WT Docket No. 05-287 (filed October 12, 2006).

<sup>43</sup> 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).

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 12<sup>th</sup> Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>44</sup>

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 Alltel Corporation, Stephanie Johanns, Senior Vice President, Federal Government Affairs, 601 Pennsylvania Ave., N.W., Suite 720, Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>44</sup> 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.