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November 13, 2006

Chris Simpson
Maine Public Utilities Commission
242 State Street
State House Station 18
Augusta ME 04333-0018

Re: Prepaid Wireless Stakeholder Group -- Comments of Verizon Wireless

Dear Chris:

On behalf of Verizon Wireless, we are submitting written comments with respect to the issue of collecting E-911 fees for prepaid wireless telephone service. We are providing these comments pursuant to the November 9, 2006 Memorandum requesting that comments be submitted no later than November 13th.

To date, Verizon Wireless has reviewed each of the proposals submitted by other carriers to the Stakeholder Group. There are positives and negatives to each of the proposed methods of collection. By these comments, Verizon Wireless hopes to frame the pluses and minuses of the various options so that the State of Maine can make an informed choice regarding what direction to pursue, if any.

Point of Sale method. If the State does elect to go forward with a plan to collect E-911 surcharges for prepaid wireless service, one option is the "Point of Sale" method. Under this mechanism, retailers located in Maine would be directly responsible for collecting a surcharge whenever a customer purchases minutes of use. For bricks and mortar locations, collections would occur in a face-to-face transaction with the customer. However, as part of implementing collections the State would first need to determine whether the collections should apply to all such transactions occurring in the State, or whether they should apply more narrowly to transactions related to a Maine area code. Likewise, for purchases over the phone or Internet, the State would need to determine how retailers should determine the customer's nexus with the State of Maine, perhaps through the customer's area code or primary address, if known.

Under federal mobile sourcing rules, which were adopted several years ago as part Title 36, primary residence is used as the primary determinant of a customer's nexus with a state. However, pre-paid wireless services are excluded from these rules in part because there is no monthly billing relationship between the provider and the customer. Thus, federal law is silent on the issue of nexus.

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That said, Verizon Wireless currently uses area code as the sourcing method in those states which require the collection of E-911 surcharges for prepaid wireless service. However, there are other bases by which sourcing could occur. For example, should nexus be based on a customer's address or phone number where they happen to be different? Should nexus relate to the location of the store where minutes are purchased, or some other method? No method perfectly captures which customers are "Maine" customers for purposes of collecting surcharges, but regardless, to move forward in this area, Maine would need to adopt system of determining nexus that is both fair and workable.

More broadly, the primary benefit of the Point of Sale Method is that it ensures that prepaid customers themselves pay E-911 fees, just as is the case with post-paid wireless customers. This method also is the most transparent method from the perspective of the customer, i.e. the customer knows at the time of purchase how many minutes they are buying, and the price.

The downside of the Point of Sale method is that it is vigorously opposed by retailers locally and nationally because they logistically cannot, or financially choose not to, collect the surcharge.

Decrement Method. A second method of collection, should the State choose to implement it, would be the "Decrement" method. Like the Point of Sale method, the Decrement method would occur at the point of sale; however, the responsibility for collection would rest with the provider, not the retailer. Under this method, when a card or block of minutes is purchased by the customer, the provider would "decrement" (i.e. deduct) from the minutes purchased an amount equal to the value of the surcharge, based on whatever formula the State determines provides parity with the current E-911 surcharge.

The theoretical advantage of this method is that it would ensure that customers themselves contribute to the surcharge, which provides parity with the post-paid customers. The down side of this approach is the lack of transparency from the perspective of customers who cannot clearly determine at the point of sale whether and how many minutes will be deducted at the time of purchase. Some consumers may even perceive the decrement method to be a misrepresentation of the number of minutes they receive at purchase.

There are also logistical challenges to overcome with the Decrement method before it could be adopted by the State. Specifically, this method assumes that providers will be able to develop systems that allow them to decrement minutes, which at this point is not an obvious assumption. In fact, for carriers like Verizon Wireless who use third parties to perform certain IT functions, we still are not positive that a technical solution exists that would allow the decrementing of customers. Moreover, it is not clear that a decrement method could be applied to an individual state, as opposed to nationwide, nor is it clear that a decrement mechanism could be instituted using a percentage of purchase price as opposed to a flat amount. Without knowing the answer to these technical questions, it is difficult to suggest that Maine should modify its law to allow collections solely using such the Decrement method.

In addition, assuming the logistics can be worked out, there remains the question of determining which purchases have nexus to the State of Maine for purposes of determining

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which state is entitled to the revenues. As noted above, area code appears to be the best method, but such a method would need to be clarified prior to instituting a policy.

A final note about the Decrement method is that the responsibility for implementing the decrement would fall on the wireless carriers themselves, not on the providers. That is because carriers, whether or not they are also direct providers, are responsible for managing the minutes of use by a customer. Providers, by contrast, are in many cases resellers who are not involved in managing the minutes of use once they are purchased, and therefore providers would not be able to directly decrement minutes of use from a customer. Thus, a potential downside of the decrement method is that the administrative burden of E-911 fee collection would fall on carriers, not providers.

Average Revenue Per User (ARPU) Method. A third assessment method, should the State choose to move in this direction, is the "Average Revenue Per User" or "ARPU" method. Unlike the Decrement method, this mechanism would involve the collection of funds directly from the provider of the prepaid wireless services to cover the cost of E-911 surcharges.

One benefit of this method is administrative simplicity. There would be a formula for determining monthly payments from a provider, and payment would simply come from the provider to the State on a monthly basis. The challenge would be determining whether the charge should relate to minutes purchased, or months of service actually utilized.

The primary negative of this mechanism is that it would not lead to parity with the collection mechanism for post-paid wireless customers, and in fact, might further disadvantage post-paid customers. Specifically, because wireless providers offer a nationwide service with national pricing, the opportunity for providers to offer a second price for Maine to cover the cost of E-911 services would be impossible from a practical business standpoint. In essence, this means that providers would be required to pay any E-911 surcharges directly out of pocket, which would in turn spread the cost of the surcharge across all customers -- including post-paid wireless customers -- within the carrier's basic rates. Given the likelihood of cost-shifting, if a primary goal of assessing E-911 surcharges on prepaid customers is fairness, it is not clear that the ARPU method would actually achieve this goal.

Tracfone proposal. In its most recent comments dated November 1, 2006, Tracfone suggests that the collection method for E-911 surcharges should be limited to direct sales made by carriers of pre-paid wireless services. Practically, since sales for resale account for the great majority of sales of prepaid wireless services, such a method would create a lack of parity within the industry as it relates to E-911 collections. Under Tracfone's proposal, because Tracfone is a reseller whose sales are "indirect," they would not be obligated to collect E-911 surcharges for its sale of Verizon Wireless minutes, but if Verizon Wireless were to sell the minutes directly to a customer, E-911 surcharges would apply. On its face, this does not seem fair.

Conclusion. In light of the foregoing, there remains an open question as to whether the collection of E-911 fees from pre-paid wireless customers is worth the effort. Collection of surcharges may make logistical sense under a traditional customer relationship where the customer receives a monthly bill from the provider, as is the case with landline and post-paid

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wireless customers, but in the case of pre-paid customers where there is no ongoing billing relationship, the surcharge method becomes far more cumbersome.

Specifically, absent a billing relationship, it is impossible to determine at the point of sale how long a customer will remain connected to the system, which is the basis for assessing all other telecommunications customers. In addition, the absence of a billing relationship makes it far more difficult to determine the nexus of a customer to a particular state. For example, just because a customer buys a wireless card in a Maine store does not mean the customer will be a Maine customer. Likewise, a huge percentage of prepaid sales occur over the phone or Internet, meaning that nexus may be unrelated to the physical location of the retailer or the customer at the time of purchase.

These administrative challenges, combined with the relatively small amount of surcharge revenues to be collected from this service, call into question whether such a collection mechanism is truly fair and/or necessary. These challenges also suggest that, if the State does opt to move forward with a collection mechanism, that the following goals should be accomplished: (1) that a "menu" approach for collecting surcharges is adopted to give carriers and/or providers flexibility regarding how E-911 surcharges are collected; and (2) that guidance is provided regarding which customers have sufficient "nexus" to Maine (i.e. "sourcing" rules) such that surcharges should be collected from them.

We hope these comments are helpful and look forward to working with the Maine PUC and other stakeholders on this issue as it moves forward.

Sincerely



James I. Cohen

Counsel for Verizon Wireless

JIC/lgn

cc: Daniel Mullin, Verizon Wireless
Annabelle Canning, Esq., Verizon Wireless
Prepaid Wireless Stakeholder Group