COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy to establish a surcharge to recover prudently incurred costs associated with the provision of wireline Enhanced 911 services, relay services for TDD/TTY users, Communications equipment distribution for people with Disabilities, and amplified handsets at pay telephones.	)	D.T.E. 03-63

COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint") respectfully submits the following comments in the above-captioned matter in response to the Notice of Investigation, Public Hearing and Intervention; Request for Data and Surcharge Proposals; and Request for Comments by the Department of Telecommunications and Energy ("Notice") issued in the above-captioned docket on May 29, 2003.

INTRODUCTION AND SUMMARY

Acts of 2002, c. 291, § 1 requires the Department to promulgate rules providing for the recovery by telecommunications companies of expenses that have been, or will be, incurred by the statewide Emergency Telecommunications Board (SETB) and by the four programs noted in the caption of this proceeding.[1] This matter has now progressed

[1] D.T.E. 03-24, *Rulemaking by the Department of Telecommunications and Energy, pursuant to 220 C.M.R. §§ 2.00 et. seq., to promulgate regulations to establish a funding mechanism for wireline Enhanced 911 services, relay services for TDD/TTY users, communications equipment distribution for people with disabilities, and amplified handsets at pay telephones, as 220 C.M.R. §§ 16.00 et. seq.*, March 13, 2003 (*hereinafter* "Order Instituting Rulemaking") at 2.

from the rulemaking stage to development of the proposed interim surcharge (Phase I) that will become permanent in Phase II.[2] The funding mechanism developed by the Department is to consist of a surcharge on each voice-grade local line of business and residential customers in Massachusetts.[3] On June 13, 2003, Verizon and the SETB jointly proposed an interim surcharge of $.85. As a provider of local exchange services in Massachusetts, this funding mechanism could have a substantial impact on Sprint and its customers.

Sprint supports the laudable goal of promoting enhanced 911 ("E 911") service,[4] relay services for TDD/TYY users, communications equipment distribution for people with disabilities, and amplified handsets at pay telephones. Sprint urges the Department of Telecommunications and Energy ("Department") to proceed cautiously in implementing a surcharge to recover costs associated with the provision of these services. Many volatile factors impact E911 funding, including federal funding, reliable cost estimates, and the prudent use of funds. For example, under legislation that Sens. Conrad Burns (R-Mont.) and Hillary Clinton (D-N.Y.) introduced this month, the federal government would grant $500 million to help deploy E-911.[5] The Commerce Department's National Telecom & Information Administration (NTIA) would distribute E-911 grants to state, local and tribal governments, which could be used for planning infrastructure improvements, equipment purchases, and personnel training and acquisition.[6] Local governments would have to provide a 50% match to federal grants. A

[2] Notice at 1.
[3] Order Instituting Rulemaking at 2.
[4] E-911 service allows users of the public telephone system to reach a public safety answering point by dialing 911. Order Instituting Rulemaking at 1.
[5] Warren Communications News, Vol. 9, No. 114, Friday, June 13, 2003 at1-2.
[6] *Id*. at 2.

similar measure is expected to be introduced in the House in a few weeks.[7] A cautious review will be needed to properly match the ultimate expense with the estimated surcharge revenue.

The wire line E911 surcharge should be appropriately targeted to address the need, and it should also be very clear as to its duration, what carriers are subject to the surcharge and which ones are exempted from it. For example, the surcharge should exclude wireless carriers, whose customers already pay a 30 cent wireless E911 surcharge in Massachusetts. The Department should closely scrutinize the accuracy of the data that Verizon and the SETB submitted in support of the $.85 surcharge, and adjust the surcharge to correct any deficiencies in the data.

A) The E911 Surcharge Should Be Explicit, Targeted and Limited

Any surcharge resulting from this docket should be explicit, targeted and limited. That is, the Order adopting and implementing a wire line E911 surcharge should clearly identify its intended purpose, to whom it applies, how it should be applied, and its duration. This will help to ensure that consumers are well-informed as to the purpose of the surcharge, its application and duration.

B) The E911 Surcharge Should Exclude Wireless Carriers and Their Subscribers

As noted in the caption of this docket, this is a Department investigation to establish a surcharge to recover prudently incurred costs associated with the provision of *wire line* Enhanced 911 services, relay services for TDD/TTY users, communications equipment distribution for people with disabilities, and amplified handsets at pay

[7] *Id*.

telephones. Any surcharge resulting from this docket should apply to wire line subscribers, not wireless providers or their subscribers.

By statute, a 30 cent per month surcharge per wireless mobile telephone number is already imposed on each paying telecommunication service subscriber whose telecommunication service is capable of directly accessing and utilizing a 911 emergency telephone system.[8] Specifically, each wireless carrier or reseller

> shall remit the surcharge revenues collected from its subscribers to the state treasurer for deposit in the Wireless Enhanced 911 Fund. The surcharge revenues shall be expended solely for the activities of the board, the creation and maintenance of public safety answering points and the recovery of costs by wireless carriers incurred in providing wireless enhanced 911 service in compliance with provisions required by the Federal Communications Commission. All costs incurred by telephone companies in assisting with the delivery of enhanced 911 service shall only be recovered pursuant to the directory assistance charging plan authorized by section 19A of chapter 159.[9]

Because wireless carriers are already subject to a 30 cent wireless E911 surcharge in Massachusetts, the interim and final surcharges that are under consideration in this proceeding should not apply to wireless carriers including Sprint PCS. Applying the interim or final E911 surcharge that is the product of this proceeding to subscribers of wireless services would be excessive and burdensome on subscribers of wireless services.

C) The Department Should Closely Scrutinize the Estimated Data, and Require Verizon and SETB to Correct Any Deficiencies and Revise the Surcharge Accordingly

The Department requested estimated data from the SETB and Verizon in order to set the interim surcharge.[10] In particular, the Department requested estimated program

[8] ALM GL ch. 6A, § 18H(a) (2003).
[9] ALM GL ch. 6A, § 18H(b) (2003).
[10] Notice at 2.

costs, estimated line count data, and estimated total of the deficit to be recovered through the surcharge for each year of the five-year program.

In response to this request, Verizon and the SETB submitted historical and forecasted cost data and a cost/revenue analysis for the five-year planning period.[11] The Line by Line Explanation of Exhibit 1 (Attachment A) of Verizon's and SETB's submission states in relevant part with respect to Line 6 of the Massachusetts 9-1-1/Disability Access Fee Projected Costs and Surcharge ("Projected Costs") that "[t]he costs are based on an estimate of $85,000 for each of the approximately 800 call answering positions at the 274 PSAP locations."[12] Line 6 of the Projected Costs in turn includes a grand total of $18,222,325 Capital Upgrade Estimate.[13]

$85,000 for each PSAP location seems excessive, and is likely unnecessarily inflated by wireless E911 charges. As noted above, this E911 wire line surcharge should not apply to wireless carriers and their subscribers. To the extent that the $85,000 for each PSAP location includes wireless E911 costs, those wireless E911 costs should be identified and removed from the calculations. The resulting surcharge for wire line purposes should be substantially lower than $.85.

In addition, Verizon used the updated Massachusetts Competitive Profile provided in February 2003 (DTE 01-31 Phase I) to estimate the total number of access lines for all carriers.[14] Not only are these figures already outdated, but "the access line counts were not adjusted for positive or negative growth."[15] Not adjusting access line counts for positive or negative growth over a five year period (2003-2008) could produce

[11] D.T.E. 03-63, Letter dated June 13, 2003 from Barbara Anne Sousa to Mary L. Cottrell at 1.
[12] *Id*., Attachment A at 1.
[13] Massachusetts 9-1-1/Disability Access Fee Projected Costs and Surcharge, Line 6.
[14] Attachment A to Barbara Anne Sousa letter dated June 13, 2003, *supra* n.11, at 2.
[15] *Id*.

an extremely inaccurate and static analysis. Access line counts should be updated at least annually, and the surcharge should be adjusted accordingly.

CONCLUSION

For the forgoing reasons, the surcharge should exclude wireless carriers, whose customers already pay a 30 cent wireless surcharge in Massachusetts. The Department should closely scrutinize the accuracy of the data that Verizon and the SETB submitted in support of the $.85 surcharge, and adjust the surcharge to correct any deficiencies in the data.

June 20, 2003

Respectfully submitted,

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