

FHH Telecom Law
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**Importance of Implementation
of Emergency Service Emphasized
FCC Issues \$750K Fine for Late Delivery of E911**

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Although Voice-Over-IP providers have been taking heat over the deployment of 911 services to VOIP users, a recent decision from the FCC makes it clear that the FCC continues to police the delivery of Enhanced 911 (“E911”) services by wireless carriers with equal vigor. In a Notice of Apparent Liability for Forfeiture (or “NAL”) released in mid-April, the Commission proposed a \$750,000 penalty on two subsidiaries of wireless provider Dobson Communications Corp. for failing to provide E911 services within the time limits provided in the Commission’s rules.

The FCC’s rules provide that wireless carriers must provide E911 “Phase I” service to a particular area within six months of a valid request by the relevant local governmental authority known as the Public Safety Answer Point (or “PSAP”). “Phase I” services require wireless carriers to provide the designated PSAP with both the telephone number of the mobile handset that originated the 911 call and the location of the base station or cell site that received the 911 call. The FCC’s rules further provide that wireless carriers must provide E911 “Phase II” service to a particular area within six months of a valid request by the relevant PSAP. “Phase II” service requires wireless carriers to provide the designated PSAP with the location of wireless 911 callers by longitude and latitude.

A complaint by several Michigan PSAPs, led by the 911 State Administrator for the Michigan State Police, triggered a formal inquiry into Dobson’s compliance with the E911 rules. The facts disclosed in response to that inquiry prompted the FCC to conclude that Dobson had failed to timely provide E911 Phase I services in nine instances and failed to timely provide E911 Phase II services in 41 instances. Some of the PSAP requests, the FCC noted, had been pending for as long as two or three years.

While not denying any of the FCC’s essential findings, Dobson noted that it faced significant unanticipated challenges in rolling out the requested E911 services. These challenges included the integration of several noncompliant systems, failures by equipment vendors, technical difficulties in actually deploying E911 services, and miscommunications between its E911 Project Manager and the PSAP representatives as to the progress of the roll out. The FCC recognized these difficulties but ultimately concluded that Dobson had not shown that it exercised the level of diligence expected of carriers in addressing the deployment of E911. The FCC further criticized Dobson for not devoting sufficient attention, resources, or oversight to the process of complying with the E911 requirements.

Wireless carriers should take note of a couple of points in this case. First, as with the fines we discussed last month, the FCC based the size of the fine, in part, on the size of the company involved. While smaller companies should not expect a break on account of their size, larger companies can expect to be hit with larger fines. Perhaps more significantly, the FCC considered Dobson's violations "egregious" because they involved E911 services, which the FCC characterized as "extremely serious, given the critical function these requirements serve in promoting and safeguarding life and property." Given this re-affirmation of the importance of E911 compliance, wireless carriers would be well advised to re-evaluate their current procedures for implementing E911. Any questions regarding E911 requirements should be directed to communications counsel.