



**May 2008**

## **PSAP-based E-911 Rules Stayed** **“Procedural irregularities” cited**

*Patrick Murck*  
*murck@fhhlaw.com*  
*703-812-0476*

Wireless carriers have upped the ante in their struggle against PSAP-based E-911 requirements by filing suit in the DC Circuit challenging the Commission’s rulemaking and seeking a stay of the order. Sprint Nextel, T-Mobile and Verizon Wireless filed suit despite the fact that the FCC already had decided to postpone the first benchmark date from September 11, 2008 to March 11, 2009.

The DC Circuit granted the carriers motion for a stay pending judicial review of the Commission’s rulemaking. The Court cited “procedural irregularities” as being sufficient to justify a stay. Commissioner Adelstein weighed in on the issue, stating his displeasure that the Commission is “plowing forward with compliance benchmarks without a full record, rather than conducting this proceeding in a more thoughtful and deliberate manner.”

As you might recall from our previous reporting on this issue, the Commission instituted a timeline for reporting and compliance requirements. By September 11, 2012 carriers must be in full compliance with the Commission’s rules. In the interim the Commission has set up benchmark dates beginning with the filing of an annual progress report within each economic area the carrier serves on September 11, 2008 (as mentioned above the Commission subsequently stayed this deadline until March 11, 2009).

Performance benchmark dates would begin on September 11, 2010. By this date carriers must meet Phase II E-911 requirements within each of their metropolitan statistical areas and/or rural service areas. Also, carriers must meet their accuracy requirements for at least 75% of the phase II ready PSAPs within the carrier’s coverage area. By September 11, 2012 the carrier’s will be required to meet these requirements for 100% of the PSAPs within their coverage area.

The effect of the Court’s stay on these deadlines is uncertain even if the court upholds the FCC’s order. It is possible the delay caused by the Court’s action will force the FCC to adjust all of these deadlines.

*© 2008 Fletcher, Heald & Hildreth, P.L.C. All rights reserved. This article appeared in the May, 2008, issue of the FHH Telecom Law. To view that issue, [click here](#). This article contains general legal information which is not legal advice or solicitation of clients. This information may not be current. Readers should not rely on information presented here without first obtaining professional legal advice. Distribution of this publication does not create or extend an attorney-client relationship.*

The wireless carriers are challenging not only the deadline for reporting but the requirement that compliance with Phase II E-911 be measured at the PSAP-level as opposed to statewide coverage. Prior to the latest FCC order, carriers were required to identify the location of a 911 caller within a certain distance over an entire region. For providers employing a GPS-based solution the required accuracy was within 50 meters for 65% of their customers and 150-300 meters for 95% of their customers. For providers employing a network-based (*i.e.*, triangulation) approach the required accuracy was 100 meters for 65% of their customers and 300 meters for 95% of their customers. The new rules won't allow carriers to boost their averages by aggregating areas with low-percentage results and areas with high-percentage results; instead they must meet these accuracy goals at the PSAP level.