

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

In the Matter of )  
 )  
Petition for Emergency Relief ) WT Docket No. \_\_\_\_\_  
Due to COVID-Related Delays in )  
3G Sunset Transition for Central )  
Station Alarm Subscribers )

**To: The Commission**

**PETITION FOR EMERGENCY RELIEF**

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## Summary

The Alarm Industry Communications Committee and its constituent members (collectively “AICC”), petitions the Commission for emergency relief, in the form of an extension of the 3G data service termination of AT&T Mobility LLC and its affiliates. The requested relief is necessary to avoid the harmful, even deadly, impact this sunset would have on tens of millions of people in millions of homes, businesses and government installations due to a loss of central station alarm protection service. This harm would be brought about because the COVID-19 pandemic has caused significant delays in being able to replace 3G alarm signaling radios in customer premises for more than one year. AICC requests that AT&T be directed to extend its 3G data service to ensure the continuation of alarm signal transmission from existing subscriber radios until December 31, 2022. Millions of 3G alarm radios utilize AT&T’s cellular network to transmit warnings of fire, home invasions, medical emergencies and dangerous carbon monoxide levels. AT&T has announced it will sunset its 3G network as of February 22, 2022. Unfortunately, it has become clear that the AT&T-imposed deadline cannot be met by the alarm industry due to the time lost during the ongoing COVID pandemic. The alarm industry has had great difficulty over the past fourteen months accessing protected premises in order to replace the 3G alarm radios, because most consumers and businesses are fearful of letting strangers into their homes or offices during COVID. Other obstacles:

1. Installer unavailability due to illness with COVID, quarantine after COVID exposure, or the need to take care of loved ones.
2. Pandemic-related alarm resource drain, as alarm companies must task available personnel with more urgent situations related to COVID issues.
3. Staffing issues: It has proven difficult to hire and retain the necessary number of installers for the 3G upgrade during the pandemic.
4. Travel restrictions and confusion on the part of facility managers make it difficult to perform alarm maintenance work.
5. The global microchip shortage and supply chain issues further hinder alarm radio replacement efforts

Fortunately, the obstacles created by the pandemic and world-wide chip set shortage can be addressed by a reasonable extension of AT&T’s 3G service. Emergency relief in the form of an extension order is authorized and warranted under Sections 1 and 4(i) of the Communications Act. Per Section 1, one of the most foundational purposes of the Communications Act is “for the purpose of promoting safety of life and property through the use of wire and radio communications.” Section 301 of the Act provides the Commission with plenary authority over use of spectrum. And AT&T is a common carrier that is subject to the “just and reasonable” terms of service provisions of Sections

201 and 202 of the Act, pursuant to Section 332(c) of the Act. The Commission has made it clear that it can order a common carrier to delay a discontinuance of service when necessary to prevent a harmful impact on customers that need more time to make alternative service arrangements. It is hard to think of a more critical time for the Commission to ensure safety of life and property than during a global pandemic.

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The Alarm Industry Communications Committee and its constituent members (collectively “AICC”), pursuant to Rule Section 1.41, hereby petitions the Commission for emergency relief, in the form of an extension of the 3G data service termination of AT&T Mobility LLC and its affiliates. The requested relief is necessary to avoid the harmful, even deadly, impact this sunset would have on tens of millions of people in millions of homes, businesses and government installations due to a loss of central station alarm protection service. Lives will very likely be lost (including many elderly lives) if connectivity is lost. This harm would be brought about because the COVID-19 pandemic has caused significant delays in being able to replace 3G alarm signaling radios in customer premises for more than one year. As described below, AICC requests that AT&T be directed to extend its 3G data service to ensure the continuation of alarm signal transmission from existing subscriber radios until December 31, 2022.

## **I. Statement of Interest**

The Monitoring Association (TMA) (formerly the Central Station Alarm Association) was created in 1950 and formed AICC as a committee to address alarm industry issues through input from the industry's stakeholders. AICC represents the vast majority of entities providing central station alarm security protection services approved by Underwriters Laboratories, Factory Mutual, Intertek and similar agencies. AICC's members fulfill a fundamental spectrum use goal articulated by the Communications Act of 1934, as amended (the "Act"). These companies and associations are dedicated solely to "promoting the safety of life and property through the use of wire and radio communication." Central station alarm operations protect tens of millions of families in their homes; and they protect a wide range of businesses and government facilities.

In this regard, central station alarm services often act as the "front line" in dispatching municipal police, fire units and emergency medical services whose radio operations are part of the Public Safety Radio Service. Silent sentinels located on a customer's premises sense fire, home invasions, medical emergencies, carbon monoxide and other threats, and instantly transmit this data to a central station. The central station in turn screens the alarm and alerts the dispatch office of municipal authorities, usually police, fire or medical/rescue departments, which then dispatch police officers, fire fighters, EMTs/paramedics and other first responders.

Among the wireless alarm services offered are personal emergency response systems (PERS), which include pendants or watches that allow the user to summon help with the press of a button (such as “I’ve fallen and can’t get up” situations). Nearly 80% of those who use PERS are over 80 years old. For the elderly, many of whom are homebound, reliance on PERS two-way radio communications means the difference between being able to live independently or having to move out of their home. PERS is also often used by domestic violence victims for protection from an abuser.

AICC member companies use radio units installed at the customer premises as either the primary or secondary medium for the transmission of signals to the central station alarm monitoring center. Wireless devices are intended to allow fire alarms to go through even if the hard-wired connection has been damaged by fire, or the telephone or broadband connection has been severed or is otherwise unavailable. In many instances, insurance companies require alarm companies to utilize two communications methods to monitor protected premises, especially in the case of businesses and sensitive facilities that could become the target of terrorist attacks or other life-threatening events. For commercial fire installations, Underwriters Laboratories and the National Fire Code (NFPA 72) now allows cellular service to be the primary or sole communication path for commercial fire systems. Cellular primary paths in commercial fire are being utilized extensively and have grown significantly in the past seven years. Landlines can be damaged or rendered inoperable due to fire, vandalism, weather, construction, or any other

type of telecommunication failure, so cellular has become a more reliable and higher quality solution with more frequent and consistent supervision of the fire system communication path.

A survey of alarm equipment manufacturers indicates that there are currently nearly six million 3G cellular devices installed and operating in protected homes and businesses. These cellular radios are configured for 3G data operation only. A substantial number of alarm providers have indicated to AICC that they use cellular-based 3G alarm radios to transmit medical alert signals as well.

After a central station receives a signal indicating a fire, break-in, carbon monoxide or medical emergency, trained central station personnel follow specific screening and action procedures dependent upon the nature of the emergency, including contacting the appropriate local emergency responders; thus, AICC member companies are engaged in the provision of public safety support services.

## **II. Factual Background**

As described above, the alarm industry is heavily dependent on existing 3G cellular data service to transmit alarms for nearly six million alarm systems. Of these wireless alarm connections to the central station, approximately 60 percent of the 3G radios utilize AT&T's network, while approximately 40 percent utilize

Verizon's network. Verizon has announced a 3G sunset of December 31, 2022,<sup>1</sup> which the alarm industry is fighting to meet. However, AT&T has announced it will sunset its 3G network as of February 22, 2022.<sup>2</sup> Unfortunately, it has become clear that the AT&T-imposed deadline cannot be met by the alarm industry due to the time lost during the ongoing COVID pandemic.

When analog cellular service was sunset, the Commission required a five-year transition period.<sup>3</sup> At the time, the alarm industry operated approximately one million cellular-based radios. When the 2G network was sunset, service providers announced a 4-year transition period.<sup>4</sup> At the time, the alarm industry operated approximately 2.4 million cellular-based radios. For the 3G sunset, AT&T has provided a three-year transition period for an industry that has two and a half times as many 3G radios in service today as it did for the 2G sunset. At this point, more than fourteen months and counting of that already tight transition period have been severely compromised because of COVID-19 and the industry's inability to access customer homes and businesses.

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<sup>1</sup> See <https://www.verizonconnect.com/resources/article/3g-sunset/>; <https://www.cnet.com/news/verizon-will-shut-down-its-3g-network-at-the-end-of-2022/>

<sup>2</sup> See <https://www.att.com/support/article/wireless/KM1324171/>.

<sup>3</sup> Year 2000 Biennial Review – Amendment of Part 22 (AMPS Sunset Order), WT Dkt. No. 01-108, 17 FCC Rcd. 18401 (2002), para. nos. 6, 8, 18-20, 22-24, 28-9.

<sup>4</sup> [https://about.att.com/innovationblog/2g\\_sunset](https://about.att.com/innovationblog/2g_sunset).

### **A. The Replacement of All 3G Alarm Radios is an Enormous Undertaking.**

The nearly six million 3G radio alarm systems that need to be switched out protect life, safety, property and health by transmitting alarm signals reporting fires, home invasions, medical emergencies, and dangerous levels of carbon monoxide. These alarm radios are permanently installed at the protected premise, often in an attic, crawlspace or other shielded location that prevents fire damage and easy access by an intruder trying to disable the alarm. Currently, in most cases an upgrade of such radios from 3G to another technology requires the alarm service provider to dispatch a trained and licensed alarm technician to the premises (i.e., a “truck roll”), and for the technician to enter the premise, find and switch out the existing radio, and upgrade the alarm panel.<sup>5</sup> On average, this procedure takes up to 3.0 hours, as well as the time needed to schedule and coordinate the appointment.<sup>6</sup> To complicate matters, the alarm industry has historically found that even during the best of times approximately 25 percent of these appointments end without access to the premises, because the customer has forgotten about the appointment or had a last-minute conflict arise.

Recognizing that upgrading so many radios will be a massive job, the alarm industry has engaged in a dialog with AT&T and Verizon regarding the transition

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<sup>5</sup> The exception would be customer installation of a CellBounce device as discussed below.

<sup>6</sup> As part of the installation process, the technician must take the time to ensure that the wireless carrier has activated service to the new unit, and that communications with the central station are successfully taking place.

of alarm radios from the 3G platform. Due to AT&T's shorter sunset deadline, negotiating an agreement with AT&T has been a higher priority. Moreover, elements of the alarm industry began working on a proactive 3G upgrade solution before the COVID pandemic existed. This effort has recently led to the design of an alarm device by a company named CellBounce that can be installed by the customer, thus avoiding the need for an alarm technician to enter the protected home.<sup>7</sup>

In particular, CellBounce has developed an alarm radio unit that can be mailed to the customer, who can self-install the unit by simply plugging it into a wall socket in close proximity to the alarm panel and taking certain other minor steps. The unit then relays alarm signals to the central station. CellBounce and the alarm industry have worked extensively with AT&T on the technical issues affecting compatibility of the CellBounce solution with the AT&T network and reliability standards. However, it was not until February of 2021 that AT&T approved the CellBounce unit for use on its network, leaving only 14 months for the industry to order, build, and send those units to its customers. Verizon has determined that CellBounce is incompatible with its network. Accordingly, for the 2.6 million homes and businesses on the Verizon 3G network, CellBounce is not an option. Further limiting its use, the CellBounce system does not meet commercial fire code standards, which rules it out for use in businesses, and is

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<sup>7</sup> Alarm service provider ADT worked closely with CellBounce on development of its technology, and has recently acquired the company, as part of ADT's efforts to proactively address the 3G sunset.

insufficient for PERS use because it does not provide the two-way radio communication that is an essential part of the service home bound seniors rely upon.

CellBounce started producing radio units shortly following AT&T's approval, and projected that it would be able to produce approximately 60,000 units per month. However, the unavailability of the required microchips (discussed below) has throttled this production level. Even if CellBounce proves to be a successful option for 3G alarm radio upgrades, and eventually reaches its maximum production level, it is clear that the company will only be able to produce a small portion (less than ten percent) of the six million radios needed within the coming ten months, meaning, the industry will still need to dispatch technicians to the vast majority of protected homes, and every protected business, to replace their 3G systems.

**B. The COVID Pandemic has Caused Overwhelming Delays in the 3G Transition Process.**

AT&T notified the alarm industry on or about February 2019 that it planned to shut down its 3G service in February 2022. This notice gave alarm carriers and manufacturers approximately three years to develop, produce and distribute replacement radios, and install these replacements at protected premises – a daunting task at any time, but at least plausible. In that regard, AICC does not question AT&T's efforts to give the alarm industry good faith notice and cooperation toward accomplishing its 3G transition.

Members of the alarm industry dutifully began taking the steps necessary to accomplish this transition, by establishing a plan for 3G device replacement; exploring alternative solutions (and moving forward with development of the CellBounce alternative); replacement product testing; verifying LTE availability in their service areas; ordering replacement equipment; and proceeding with the actual replacement process – until the pandemic and related microchip shortage confounded this effort. Many alarm companies proactively implemented a policy of encouraging any customer that contacted them regarding other service issues (e.g., a system maintenance or repair appointment) to also initiate the 3G radio upgrade. Entering a home or business when the customer has requested a visit is a very different interaction than trying to push a replacement visit on a customer during the pandemic.

Unfortunately, COVID-19 cases began appearing in the United States on January 20, 2020, and President Trump soon declared the U.S. outbreak a public health emergency on January 31, 2020. Coronavirus deaths in the country began mounting in February 2020.<sup>8</sup> Thus, even before the President ordered a nationwide shut down on March 13, 2020, consumer fear was growing about this disease and risk of close contact with strangers.

Understandably, because of COVID-19, people are reluctant to have anyone, let alone alarm technicians, enter their home or business to replace a currently working alarm system. This has dramatically slowed the industry's effort to replace existing 3G

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<sup>8</sup> <https://www.axios.com/first-us-coronavirus-death-earlier-autopsy-dbc72f86-30ed-47e5-b5d8-6811643f9853.html>.

radios used in traditional home and business alarm systems. The alarm industry has also found that the upgrade of PERS systems has been significantly hampered, as elderly customers who are at the greatest risk of dying from COVID are especially reluctant to allow an installer into their home. For customers living in assisted living facilities, installer access has been halted by total shut downs that have even excluded family members trying to visit their elderly relatives.

The effect of the pandemic on the alarm industry is well documented:

*How home security installers are adapting to new COVID-19 norms*, Eifeh Strom, October 12, 2020:<sup>9</sup>

However, not enough was known about the virus, how it was transmitted, or whether security companies would have access to enough personal protective equipment (PPE) for their employees, to ensure [disease protection] practices would guarantee the health and safety of both parties.

*Residential Security COVID Market Report*, Paul Rothman, May 11, 2020:<sup>10</sup>

[M]ost residential customers will not want installers in their homes, and for small commercial customers the same will be true in addition to the fact that many of these businesses will be closed.

*Fire Protection System Maintenance During the COVID-19 Pandemic*, QRFS Team, April 1, 2020:<sup>11</sup>

As the coronavirus pandemic continues to immerse the world in an unprecedented crisis, inspection, testing, and maintenance (ITM) of

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<sup>9</sup> <https://www.asmag.com/showpost/31950.aspx>.

<sup>10</sup> <https://www.securityinfowatch.com/residential-technologies/article/21134939/residential-security-covid-market-report>.

<sup>11</sup> <https://www.qrfs.com/blog/337-fire-protection-system-maintenance-during-covid-19/>

fire protection systems remain vital. “First responders rely on commercial and multi-occupancy residential buildings in their communities to have a full array of fire and life safety systems such as working fire detection, alarms and sprinkler systems.”

Importantly, the cellular industry in general (and AT&T in particular) have recognized the need for deadlines to be extended due to the extraordinarily adverse impact of the pandemic. CTIA’s September 28, 2020 Petition for Reconsideration in PS Docket No. 07-114 (at p. 7) highlighted the overwhelming lack of access to residential and commercial buildings due to COVID, in the context of implementing E911 z-axis location identification technology:

The response to the COVID-19 pandemic has created significant challenges to safely gaining access to test buildings for field collection teams across multiple test cities, including Atlanta, Houston, Philadelphia, Chicago, Minneapolis, New York, San Francisco, and Seattle. Each stage of testing has typically involved access to roughly 50 buildings across multiple regions and morphologies. After several months of effort with outreach to over 450 building managers, only three buildings provided positive feedback. In residential buildings, most building owners are not willing to consider testing at this time, and access to individual tenant units poses a further challenge. In commercial buildings, property managers have been largely unresponsive or expressed similar reservations about testing at this time. The COVID-19 pandemic has literally stalled access to building interiors that are essential to the testing process. As a result, the Test Bed delayed Stage Zb testing and committed to resume Stage Zb when testing can be safely accomplished and property managers agree to provide access to buildings in the test cities. [Footnotes omitted]

Due to this impact, CTIA has requested an extension of the April 2021 deadline for achieving vertical location accuracy requirements, an urgent public safety goal. Similarly, the February 12, 2021 Petition for Waiver of AT&T Services, Inc. in the same docket requested an 18-month extension of the deadline to deploy z-axis solutions, due to

the pandemic. As AT&T notes (at p. 14), “certainly, no one could have foreseen the impact [the pandemic] would have on every aspect of the commercial and social lives of all Americans, and indeed populations across the globe.”

Of course, the negative impact of the pandemic is being felt not just by alarm industry installers and wireless carriers, but also by nearly every segment of American commerce:

*Coronavirus creates Delaware home improvement dilemma: Fix my house, but don't come inside*, Marina Affo, Delaware News Journal, April 6, 2020:<sup>12</sup>

In the 14 years Marcin Jodko has been in the home improvement business, he has never seen something quite like the coronavirus pandemic. He never expected to be turned away by his customers, who fear having someone potentially infecting their family with the virus . . . The home improvement industry and all those who depend on it have been hit hard by the coronavirus pandemic spreading through Delaware. Though these business owners and their employees are deemed essential by the governor's orders, the allowance doesn't necessarily mean home owners are willing to open their doors to the work.

The experience of the Delaware home improvement industry points to the universality of COVID's adverse impact on any industry needing to access its customers' premises. And there is another significant issue faced by alarm installers, aside from customer reluctance to let strangers in: Many if not most of the alarm industry's commercial, industrial and governmental customers were *closed* for significant periods of

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<sup>12</sup> <https://www.delawareonline.com/story/life/2020/04/06/delaware-home-improvement-businesses-suffer-coronavirus-spreads/5086515002/>:

time over the past year. Several remain closed, frustrating alarm radio replacement efforts further.

Still other issues facing the alarm industry have been identified:

1. **Installer unavailability:** Many alarm installers that are on staff have been unable to work for periods of time due to illness with the COVID-19 virus, the need to care for infected family member, or the need to isolate due to exposure to the virus.<sup>13</sup> Many professionals are also concerned about protecting themselves from COVID-19 exposure when visiting facilities—or exposing others if technicians don't yet realize they are ill.<sup>14</sup> In other cases, installers must take time off to care for children that are out of school or elderly relatives that no longer have care services.

2. **Pandemic-related alarm resource drain:** Those alarm installers and other resources that have remained available have had to be devoted to the many urgent circumstances created by the Pandemic (such as the need to install, repair and maintain fire detection alarm systems), rather than the task of replacing 3G radios:

Stay-at-home orders and travel directives have left many buildings near vacant or dramatically underused, rendering them vulnerable to

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<sup>13</sup> See, e.g., *How home security installers are adapting to new COVID-19 norms*, Eifeh Strom, October 12, 2020: “Additionally, there was also an occasional reduction in availability of installation staff, as some may have had to quarantine following work travel or after they came in contact with someone with confirmed symptoms of COVID-19, according to Anna Sliwon-Stewart, Senior Analyst and Research Manager of Security and Building Technologies at Omdia. This led to delays for some providers in being able to fulfill requests for new system installations.”

<sup>14</sup> Fire Protection System Maintenance During the COVID-19 Pandemic, QRFS Team, April 1, 2020 (<https://www.qrfs.com/blog/337-fire-protection-system-maintenance-during-covid-19/>).

vandalism and arson, NFPA states. Hospitals are overflowing with higher numbers of critically ill patients who can't evacuate easily during a fire. Occupancies like dormitories, schools, and convention centers are being transformed into makeshift field hospitals for the same at-risk population—heightening the need for fire protection systems that work.<sup>15</sup>

It is now more important than ever to ensure fire protection and life safety systems work properly and reliably. Despite the ongoing pandemic, the need for effective security has not waned. When a life safety system malfunctions, customers are more willing to allow access to the site, because they perceive an immediate threat to their life, safety, property and/or health. Customers tend to view routine equipment upgrades, like 3G radio replacements, differently and have demonstrated a reluctance to allow access to the customer's premises. Often they want to know why this can't be done once the pandemic is over. Even if only half of the customers delay until the pandemic has ended (hopefully sometime this summer or fall), the number of units that will have to be replaced by February of 2022 is way beyond the capacity of the industry to do so.

3. **Staffing issues:** It has proven difficult to retain the necessary number of installers for the 3G upgrade during the pandemic. Alarm service providers “are often small businesses struggling to remain viable in the current economic

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<sup>15</sup> *Id.*

climate.”<sup>16</sup> The negative financial impact of COVID forced several alarm service providers to have to lay off installers and other necessary personnel.<sup>17</sup>

4. **Travel restrictions** and confusion on the part of facility managers make it difficult to perform alarm maintenance work. Many property owners, facility managers, and service providers are also confused about what needs to be done, wondering if inspection, testing, and maintenance (ITM) activities conflict with government stay-at-home orders.<sup>18</sup> This confusion impedes 3G replacement even if the owner/manager is not personally concerned about health consequences.

### **C. The Global Microchip Shortage Further Hinders Alarm Radio 3G Upgrade Efforts**

The alarm industry’s efforts to change out customer 3G radios is also being hampered by the worldwide microchip (or “chip set”) shortage. The shortage began as competing demands for microchips for automobiles, gaming consoles and numerous other devices began to put stress on the global supply; but when the COVID pandemic took hold, the demand for computers, home office devices, wireless phones and tablets, etc. skyrocketed, straining the limited ability of microchip manufacturers to make the

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<sup>16</sup> Fire Protection System Maintenance During the COVID-19 Pandemic, QRFS Team, April 1, 2020 (<https://www.qrfs.com/blog/337-fire-protection-system-maintenance-during-covid-19/>).

<sup>17</sup> *Residential Security COVID Market Report*, Paul Rothman, May 11, 2020 (25% of alarm service providers have had to engage in layoffs/furloughs, and 70% of laid off employees have been installers).

<sup>18</sup> Fire Protection System Maintenance During the COVID-19 Pandemic, QRFS Team, April 1, 2020 (<https://www.qrfs.com/blog/337-fire-protection-system-maintenance-during-covid-19/>).

required semiconductors.<sup>19</sup> To confound matters, a late-March 2021 fire at a plant owned by Japanese chipmaker Renesas, and water supply issues for multiple Taiwan chipmakers, could deepen the ongoing global semiconductor shortage.<sup>20</sup> The shortage is compounded by government action to restrict access to computer chips made in China, which has put an even greater strain on the supply chain of computer chips.<sup>21</sup> In addition, the pandemic itself has contributed to supply chain disruptions. As a result, the industry has experienced a perfect storm that has disrupted what would have originally been a challenging three-year 3G transition. Semiconductor chip sets are needed for 5G devices, and for alarm radios that must be used to replace the 3G devices that must now be deactivated in millions of protected premises. Therefore, aside from the many direct adverse impacts of the pandemic on the alarm industry's 3G transition, the chip set shortage is hindering the ability of alarm service providers to obtain the necessary replacement devices to accomplish the transition. As discussed above, microchip shortages have prevented the manufacture of CellBounce devices at full capacity; and other alarm industry members (such as Vivint) have been experiencing microchip delays, a situation which is expected to worsen in the coming months before it improves (based on manufacturer warnings).

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<sup>19</sup> See, e.g., <https://www.washingtonpost.com/technology/2021/03/01/computer-chip-shortage-explainer-qa/>; <https://www.cnbc.com/2021/02/10/whats-causing-the-chip-shortage-affecting-ps5-cars-and-more.html>.

<sup>20</sup> <https://www.ttnews.com/articles/chip-shortage-worsens-fire-shuts-factory-month>; <https://arstechnica.com/tech-policy/2021/03/taiwan-drought-japanese-fab-fires-snarl-semiconductor-supply-chain/>

<sup>21</sup> Because of concerns about supply chains in general and silicon chips in particular, President Biden has issued an Executive Order to assess the problem and to adopt long term solutions. Executive Order 14017, 86 Fed. Reg. 11849 (March 1, 2021).

A separate but related issue is causing delays in the delivery of microchips and other equipment and materials needed for the 3G transition: There is currently a serious delay in the unloading of cargo ships at West Coast ports. See Business Insider, “*The US is facing a supply-chain crisis as 21 cargo ships float off the coast of LA waiting to dock*”, April 15, 2021 (<https://www.businessinsider.com/cargo-ships-waiting-to-dock-california-contributes-supply-chain-crisis-2021-4>). This unusual and untimely delay is attributed to the geometric increase in online orders, a shortage of shipping containers, and a severe labor shortage due to the pandemic and other factors.

#### **D. AT&T’S 3G Sunset Must be Adjusted to Respond to Changed Circumstances**

AICC understands AT&T’s drive to deploy 5G expeditiously. And the alarm industry supports the transition to 5G. However, the AT&T 3G sunset must be implemented in a way that will not put current users in danger. Researchers have estimated that approximately 13% of Americans rely on legacy 2G or 3G technology.<sup>22</sup> Other estimates have put that number higher.<sup>23</sup> Such users include roadside assistance services such as OnStar, which have an important safety aspect. AICC’s focus is, of course, on the millions of alarm radios that are literally used to transmit alerts concerning

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<sup>22</sup> “The Mobile Economy: North America 2020,” GSMA. [https://www.gsma.com/mobileeconomy/wp-content/uploads/2020/10/GSMA\\_MobileEconomy2020\\_NorthAmerica.pdf](https://www.gsma.com/mobileeconomy/wp-content/uploads/2020/10/GSMA_MobileEconomy2020_NorthAmerica.pdf).

<sup>23</sup> Carl Wienschenk, “Report: Amidst 5G Rush, 17% of U.S. Subscribers Still on 3G,” Telecompetitor, December 19, 2020. <https://www.telecompetitor.com/report-17-of-u-s-subscribers-still-on-3g/>.

life safety situations. It is critical that the transmission of these urgent communications not be interrupted by delays caused by unforeseeable, once in a lifetime catastrophic events as described above.

Fortunately, the obstacles created by the pandemic and world-wide chip set shortage can be addressed by a reasonable extension of AT&T's 3G service; and AICC believes that continuation of the 3G network through the end of 2022 would not unduly impede AT&T's 5G rollout, in light of the following factors:

- As recently as July 23, 2020, Fierce Wireless reported “AT&T today said its 5G network is now available nationwide, covering 205 M consumers with an expansion into 40 new markets.”<sup>24</sup>
- AT&T has acquired sufficient 5G spectrum for immediate purposes in virtually all spectrum bands, through:
  - Spectrum auctions<sup>25</sup>
  - Acquisitions
  - As part of their agreement to build the FirstNet network, they have use of FirstNet's 5G spectrum when there isn't an emergency.
- A recent survey of the phase out of the 3G network around the world indicates that except for Australia, Japan and Singapore, virtually every other 3G provider intends to maintain their 3G network through the middle of this decade, and many will maintain it into the next decade.
- Verizon has announced that it will maintain its 3G service through December 31, 2022, so the sunset delay proposed by AICC would not cause AT&T to fall behind its largest competitor.<sup>26</sup>

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<sup>24</sup> <https://www.fiercewireless.com/5g/at-t-claims-nationwide-5g-40-new-markets>

<sup>25</sup> For example, in Auction 107, AT&T Spectrum Frontiers LLC spent \$23,406,860,839, and won 1,621 licenses, providing 60 to 100 MHz of 5G spectrum throughout most of the United States.

<sup>26</sup> Unfortunately, the availability of Verizon's 3G service does not accommodate those alarm customers currently utilizing the AT&T 3G service, as a cutover to Verizon's network would require a truck roll the same an upgrade to, e.g., AT&T LTE service would.

The alarm industry has maintained an open dialog with AT&T (and Verizon), and continues to do so. AT&T has cooperated in providing information and discussing the transition issue, and working through the details of the CellBounce technology that will at least offer a partial solution (albeit for a small subset of customers that need to be transitioned under the current deadline). The alarm industry continues to have frequent meetings with AT&T to discuss this situation. AICC and the alarm industry still hope to reach a voluntary arrangement with AT&T to adjust its 3G sunset in a way that will protect affected alarm customers nationwide. However, as of the filing of this petition, AT&T has not agreed to do so, and therefore AICC must start the process of seeking appropriate regulatory relief.

### **III. The Commission Should Direct a Delay in the Discontinuance of 3G Data Service**

The United States Government has shown that it has the plenary authority and mandate to take extraordinary steps to prevent the many direct and indirect harms that have been caused by the global pandemic. The most obvious examples are the Government's decision to literally shut down the nation on March 13, 2020, and the mandate to wear masks, socially distance and take other protective measures when dealing with Federal employees, land, property, contracts, etc.<sup>27</sup> Likewise, the Commission has ample authority under Titles I, II and III of the Act, to direct FCC-

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<sup>27</sup> <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-the-federal-workforce-and-requiring-mask-wearing/>

regulated entity AT&T to delay its 3G network sunset for ten (10) months, until December 31, 2022, while the alarm industry completes an expedited upgrade of alarm radios in protected homes and businesses during the pandemic.

First and foremost, emergency relief in the form of an extension order is authorized and warranted under Section 1 of the Act (47 USC §151). This portion of the FCC's enabling legislation explains that one of the most foundational purposes of the Communications Act is "for the purpose of promoting safety of life and property through the use of wire and radio communications." Directing AT&T to temporarily delay its 3G sunset is an appropriate response by the Commission to the historic pandemic, which has killed nearly 600,000 Americans, closed down most of our society for more than a year, and sown legitimate fear in all citizens about the risk of allowing strangers into a home, office or other setting. Because of these circumstances, and the related chipset shortage, the alarm industry has lost nearly half of the already tight timetable it had to upgrade 3G alarm radios so that protected citizens would be protected from fires, attacks, medical crises and a number of other very real hazards.

The Commission also derives authority to take the requested action under Section 4(i) of the Act, which provides that "The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions." And Section 301 of the Act provides the Commission with plenary authority over use of spectrum: "It is the purpose of this chapter, among other things, to maintain the control of the United States over all the channels of radio transmission."

Moreover, the Commission has already taken several extraordinary actions in light of COVID, as documented at <https://www.fcc.gov/coronavirus>. On June 25, 2020, the FCC issued a Public Notice (DA 20-668), stating that “the Commission may issue emergency authorizations for infrastructure projects critical for responding to emergency situations.” Pursuant to this pandemic relief provision, “FCC licensees may request emergency authorization if a project addresses public safety or critical infrastructure initiatives prioritized by government or public safety authorities, brings coverage to meet the needs of unserved and underserved areas due to COVID-19 effects, or relieves network congestion due to COVID-19 effects.” The emergency relief allows the Commission to temporarily sidestep the usual Section 106 historical preservation/tribal interests consultation as necessary to ensure safety related communications are enabled during the virus shut down. Such relief was granted to AT&T on July 10, 2020 and again on September 14, 2020. The instant Petition asks for a similar form of relief, to ensure that safety related communications are not disrupted because of the harmful effects of the pandemic.

AT&T is also a common carrier that is subject to the “just and reasonable” terms of service provisions of Sections 201 and 202 of the Act. Section 332(c) of the Act provides that “[a] person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this chapter, except for such provisions of subchapter II as the Commission may specify by regulation as inapplicable to that service or person.” This statutory provision expressly limits the Commission’s ability to exercise its Section 332

forbearance authority as to “any provision of section 201, 202 or 208 of this title.” The Commission recognized the significance of this limitation in 1994, in its *Second Report and Order* on the regulatory treatment of mobile services, when it observed in the context of excluding Commercial Mobile Radio Service (CMRS) carriers from tariff requirements that “[c]ompliance with Sections 201, 202 and 208 is sufficient to protect consumers.”<sup>28</sup>

Section 201(a) places a duty on common carriers to furnish communications services subject to Title II “upon reasonable request” where the Commission finds it to be in the public interest. Section 201(b) provides that “[a]ll charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.” It also gives the Commission the authority to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter.”

It is hard to think of a more critical time for the Commission to ensure safety of life and property than during a global pandemic. COVID-19 has put the alarm industry and its customers into a situation where vital alarm monitoring services (used to ensure safety of life and property) would be lost if AT&T is allowed to proceed on its current

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<sup>28</sup> *Implementation of Sections 3(n) and 332 of the Communications Act*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411 at 1479 (Para. 176). Section 202(a) makes it “unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.” Section 208 governs the formal complaint procedure.

timetable for nationwide shutdown of its 3G wireless network, with no adjustment for the significantly changed circumstances the pandemic has caused. The reasonableness of AT&T's original 3G sunset must be re-examined under Section 201 in light of present circumstances.

As a general matter, the Commission has made it clear that it can order a common carrier to delay a discontinuance of service when necessary to prevent a harmful impact on customers that need more time to make alternative service arrangements. See, e.g., *NSD File No. W-P-D-443, Discontinuance - AT&T Toll-Free Directory Assistance Service*, 14 FCC Rcd.19354 (CCB 1999)(FCC can prevent a proposed discontinuance of service if “it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity is otherwise adversely affected.”); “*FCC Temporarily Denies AT&T Request To End Assistance for Toll-Free Numbers*”, Wall Street Journal, December 10, 1999 (<https://www.wsj.com/articles/SB944872474178741998>). Of note, the Commission included in its list of COVID-related actions the February 24, 2021 Public Notice in WC Docket No. 21-66, seeking public comment on the proposal of an AT&T affiliate to retire copper transmission facilities in South Carolina.<sup>29</sup> This action reflects the Commission's sensitivity to the potential impact that a discontinuance of service may have during the pandemic.

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<sup>29</sup> <https://www.fcc.gov/coronavirus>

As part of the order to delay the AT&T 3G sunset until December 31, 2022, the Commission should direct AT&T to maintain its full 3G coverage and capability until that date. At least one AICC member reports that they are already seeing some diminution of 3G service in certain markets, such as Phoenix, in which AT&T is letting sub-contracted towers go offline. While this does not completely eliminate access to the network, it does diminish the network so that alarm radio units may not be able to reach the remaining AT&T cell towers due to a lack of signal strength. This dynamic has also been seen when there is a maintenance issue with an AT&T tower. It appears that, instead of repairing the existing 3G technology, AT&T is at times upgrading the tower with next generation technology.

## **CONCLUSION**

Numerous modifications have been made in government program requirements as well as business plans and practices to accommodate the devastating impact of COVID-19. The alarm industry, which protects the life, safety, property, and health of over 30 million homes, businesses and homebound individuals, urgently requests that the Commission take the emergency measure of directing AT&T to delay its 3G sunset for 10 months, to December 31, 2022. This would provide the industry with the time needed to switch out or upgrade the existing six million radio units that are currently in use. Without this extra time, tens of millions of Americans who rely on these services for protection will be placed at risk as of February 22, 2022. The pandemic is an extraordinary event that needs a commensurate response.

Respectfully submitted,

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