



Homeland  
Security

February 14, 2018

VIA ELECTRONIC FILING

Marlene H. Dortch,  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**STATEMENT IN SUPPORT OF WAIVER**

Petition of T-Mobile USA, Inc. for Clarification or, in the  
Alternative, Waiver of Wireless Priority Service Rules; PS  
Docket No. 18-40

Dear Ms. Dortch:

The Department of Homeland Security, Office of Emergency Communications (OEC)<sup>1</sup> hereby provides this statement in support of the captioned petition for waiver<sup>2</sup>.

T-Mobile USA, Inc.<sup>3</sup> has petitioned the Federal Communications Commission for an expedited waiver of applicable Commission Rules and Regulations to permit it to provide wireless priority access service (PAS<sup>4</sup>) at all times to registered users, rather than being activated on a per-call basis. T-Mobile is asking the Commission to grant it a waiver of the per-call activation requirement for Wireless Priority Service (WPS) over Long Term Evolution (LTE).

The Commission recognized the need for PAS in its Report and Order adopting PAS rules<sup>5</sup>. Since 2002, WPS priority features have been implemented on all nationwide and several regional cellular service provider networks. In more than 15 years of service, WPS has supported response and recovery operations during hurricanes, tornados and floods, and provided critical communications capabilities during the Boston Marathon Bombing. The implemented WPS capabilities track those set forth in the Commission's PAS Order.

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<sup>1</sup> Executive Order 13618, "Assignment of National Security and Emergency Preparedness Communications Functions", July 6, 2012 (3 CFR 13618), establishes specific Department and Agency responsibilities for national security and emergency preparedness (NS/EP) communications policies, programs and capabilities. Section 5.2 (h) of E.O. 13618 identifies the Department of Homeland Security as being responsible for the Wireless Priority Service.

<sup>2</sup> T-Mobile, USA, Inc. to Federal Communications Commission, "Petition of T-Mobile USA, Inc. for Clarification or, in the Alternative, Waiver of Wireless Priority Service Rules", September 29, 2017.

<sup>3</sup> T-Mobile, USA, Inc. is a wholly owned subsidiary of T-Mobile US, Inc., a publically traded corporation.

<sup>4</sup> Priority Access Service (PAS) is now commonly referred to as the Wireless Priority Service (WPS) to be more reflective of the service's end-to-end priority treatment capability.

<sup>5</sup> "Establishment of Rules and Requirements for Priority Access Service", FCC 00-242, WT Docket No. 96-86, July 13, 2000. (The "PAS Order")

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The OEC is presently engaged in the technical evolution of WPS capabilities from circuit-switched technology to packet-switched technology. T-Mobile, among other nationwide commercial mobile radio service (CMRS) providers, have been contracted by the OEC to develop, test and implement priority voice features in their fourth generation (4G) Long Term Evolution (LTE) networks. These contractual efforts are established and funded in segmented phases; CMRS providers are expected to achieve agreed to incremental capabilities, e.g., Initial Operational Capability (IOC) and Full Operational Capability (FOC), as individual phases are completed.

As T-Mobile states in its petition, the OEC has only contracted with T-Mobile for deployment of an initial (IOC) WPS over LTE capability, with this initial service beginning to roll out in the second quarter of 2018, and nationwide implementation completing by the third quarter of 2018. T-Mobile expects to complete WPS over LTE (FOC) - including the Commission's requirement for per-call activation - no sooner than two years after the OEC provides funding for the necessary network development.

T-Mobile has identified that the two-year development time required to deploy per-call activated WPS over LTE will be substantially longer than that needed to deploy "always on" WPS, and that the OEC has currently not provided funding to support development work on that capability. Therefore, if T-Mobile is not allowed to initially deploy an "always on" WPS over LTE capability, some WPS users would not have access to WPS during times of emergency if those users were in an area served only by T-Mobile's LTE network.

The Commission may waive specific requirements of its rules where granting a waiver would be in the public interest and the underlying purpose of the rule would not be served or would be frustrated by application to the instant case<sup>6</sup>. It is in the public's interest for WPS users to have access to T-Mobile's initial WPS on VoLTE "always on" capability while T-Mobile completes its multi-year development and implementation effort of WPS on VoLTE FOC.

In addition, the Commission may waive a rule in view of unique or unusual factual circumstances, if application of the rule would be inequitable, unduly burdensome or contrary to public interest, or if the applicant has no reasonable alternative<sup>7</sup>. The factual circumstance of WPS on VoLTE efforts is that they are contracted and funded as segmented phases adhering to federal government fiscal year budget cycle mandates. T-Mobile has no reasonable alternative to this funding circumstance, and cannot be expected to satisfy all of the technical requirements of the PAS Order when only provided a partial amount of the full-effort funding.

T-Mobile identifies that the Commission has granted a similar request for waiver to the PAS Rules in the past. T-Mobile sought<sup>8</sup> and received a substantially similar waiver<sup>9</sup> in 2001. At that time, T-Mobile explained to the Commission that it would not be able to initially provide WPS on a per-call basis, though it would be able to offer WPS on an "always on" basis for any registered users. The Commission agreed that a "waiver of the requirement that each NSEP subscriber invoke

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<sup>6</sup> See 47 C.F.R. 1.925 § (b)(3)(i); see also id. § 1.3 (rule may be waived for good cause shown).

<sup>7</sup> Id. § 1.925(b)(ii).

<sup>8</sup> Petition for Partial Waiver of VoiceStream Wireless Corporation, WT Docket No. 96-86 (filed Nov. 28, 2001). T-Mobile was formerly known as VoiceStream.

<sup>9</sup> VoiceStream Wireless Corporation Petition for Waiver of Section 64.402 of the Commission's Rules, Memorandum Opinion and Order, WT Docket No. 01-333, April 3, 2002.

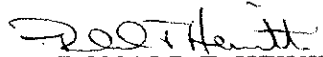
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or activate PAS on a per call basis would be consistent with the underlying purposes of the Commission's PAS Rules and would be in the public interest." The same rationale supports grant of a waiver today.

Wherefore, in view of the foregoing, the Department of Homeland Security, Office of Emergency Communications urges the Commission to grant the waiver sought by T-Mobile.

Respectfully submitted,



RONALD T. HEWITT

Director

Office of Emergency Communications

Department of Homeland Security