

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Wireless E911 Location Accuracy	)	PS Docket No. 07-114
Requirements	)	
	)	

**MANTI TELE COMMUNICATIONS COMPANY, INC.  
PETITION FOR TEMPORARY WAIVER**

Manti Tele Communications Company, Inc. d/b/a Breakaway Wireless (“Manti” or “the Company”), by its attorneys and pursuant to Sections 1.3 and 1.925 of the Rules of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> and Paragraph 157 of the Commission’s *Fourth Report and Order*,<sup>2</sup> hereby seeks a temporary waiver of Section 20.18(i) of the FCC’s rules (Indoor location accuracy for 911 and testing requirements). In particular, Manti requests that the Commission waive the indoor accuracy requirements and various reporting requirements, because no public safety answering points (“PSAPs”) with responsibility for Manti’s service area have yet requested that it provide them with Phase II Enhanced 911 (“E911”) service or deliver Phase II location or indoor location data. Manti operates its system as part of a coalition of rural providers, and its shared switch facilities are already compliant with E911 Phase II and are able to support Phase II and indoor location data service. Manti therefore is in a position to enter into agreements with the appropriate vendors, to order the appropriate facilities to the PSAP selective router and to begin delivering Phase II and indoor location data to the PSAP without significant delay, upon receiving a request. However, it would be a

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<sup>1</sup> 47 C.F.R. §§ 1.3 and 1.925.

<sup>2</sup> *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd 1259, at ¶ 157 (2015) (discussing the applicable waiver standards) (“*Fourth Report and Order*”).

meaningless waste of scarce resources with no public interest benefit for the Company to comply with indoor location standards and reporting requirements of Rule Section 20.18(i) in the absence of a PSAP request. Accordingly, Manti respectfully requests a temporary waiver of the Commission's indoor accuracy provisions and reporting rules up to and until a PSAP served by the Company is capable of receiving and using Phase II E911 and indoor location data and the Company has received a valid request for such data.

## **I. BACKGROUND**

Manti is a very small wireless carrier and affiliate of the Manti Telephone Company that provides service in portions of Sanpete County, Utah, a remote and sparsely populated area consisting of 1,588 square miles south of Salt Lake City and bounded along its eastern side by the Wasatch Plateau (sometimes known as the Manti Mountains). The Sanpete County Sheriff's Office serves as the state-designated PSAP for the county, and Manti currently transmits all wireless 911 calls to the PSAP in accordance with its obligations under Section 20.18(b) of the Commission's Rules. However, as of the date of this waiver request, the Company has not received a valid PSAP request for Phase II service. As a result, the Company has not had any practical reason to spend its limited resources on implementing solutions to provide indoor location and Phase II E911 data that cannot be received, processed or used by the local PSAP.

In 2015, the Commission adopted amendments to its E911 rules which established new indoor location accuracy requirements at Section 20.18 (i). The requirements as initially adopted included an exemption for service providers that did not have a PSAP partner capable of receiving and utilizing indoor location data. The exemption specified:

The requirements set forth in paragraphs (d) through (n) of this section shall be applicable only to the extent that the administrator of the applicable designated PSAP has requested the services required under those paragraphs and such PSAP

is capable of receiving and utilizing the requested data elements and has a mechanism for recovering the PSAP's costs associated with them.

However, the Commission subsequently issued an *Erratum* that removed this condition without explanation. In the *Erratum*, the limitation of 911 accuracy rules (*i.e.*, to the extent that the PSAP has requested and is capable of receiving and utilizing the requested data) was changed to apply only to paragraphs (d) through (h)(2) and paragraph (j) of Section 20.18. Paragraphs (d) through (h)(2) address Phase I (call back number and cell site) and Phase II (location of 911 calls by longitude and latitude. Paragraph (j) covers delivery of confidence and uncertainty (c/u) data. Therefore, the “no capable PSAP” exception was changed by the *Erratum* to apply only to Phase I, to Phase II outdoor rules, and to the c/u requirements. Left missing from the no capable PSAP exception – without any explanation – was paragraph (i) – indoor location accuracy for 911 and testing requirements. This change is all the more curious because the same rule will only allow a PSAP to request FCC enforcement of the indoor location requirements if it has “implemented policies that are designed to obtain all location information made available by CMRS providers when initiating and delivering 911 calls to the PSAP.”

## **II. APPLICABLE WAIVER STANDARDS**

In general, the FCC's rules may be waived for good cause shown.<sup>3</sup> Waiver is appropriate where the “particular facts would make strict compliance inconsistent with the public interest.”<sup>4</sup> The FCC may grant a waiver of its rules where the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the

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<sup>3</sup> 47 C.F.R. § 1.3.

<sup>4</sup> See *AT&T Wireless Services, Inc. et al. v. Federal Communications Commission*, No. 00-1304 (D.C. Cir. 2001), citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

general rule, and such deviation will serve the public interest.<sup>5</sup> Section 1.925(b)(3) of the Rules provides that the Commission may grant a waiver of its rules pertaining to wireless radio services if it is shown that: (i) [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) [i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.” Under WAIT Radio and Northeast Cellular Telephone Company, a rule waiver “may be granted in instances where the particular facts make strict compliance inconsistent with the public interest if applied to the petitioner and when the relief requested would not undermine the policy objective of the rule in question.”

In the context of the E911 location accuracy *Fourth Report and Order*, the Commission has clarified that any CMRS provider that is unable to comply with the E911 indoor location rules may seek waiver relief pursuant to Sections 1.3 and 1.925 of the Rules.<sup>6</sup> As shown herein, Manti meets the criteria for a temporary waiver of requirements to submit to the FCC live 911 call data reports, indoor location accuracy certifications, implementation plans and progress reports required by FCC Rule Sections 20.18(i)(3)(ii)(E), 20.18(i)(3)(iii), 20.18(i)(4)(i), and 20.18(i)(4)(ii).

### **III. Manti will Deliver Location Data upon Request from a Capable PSAP**

Manti is a member of the Rural Independent Network Alliance, LLC (“RINA”), a Utah limited liability company that provides LTE Core hosting and CDMA switching for member

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<sup>5</sup> See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); see also *Northeast Cellular* (D.C. Cir. 1990).

<sup>6</sup> See *Fourth Report and Order*, 30 FCC Rcd 1259, at ¶ 157.

rural wireless carriers. As discussed above, the RINA switch facilities are already compliant with E911 Phase II and are able to support Phase II and indoor location data service. Manti therefore is in a position to enter into agreements with the appropriate vendors, to order the appropriate facilities to the PSAP selective router and to begin delivering Phase II and indoor location data to the PSAP without significant delay (*e.g.*, in a matter of months), upon receiving a request.

#### **IV. Good Cause Exists to Grant Manti a Temporary Waiver of the Indoor Location Rules**

Good cause exists to grant Manti a temporary waiver of the indoor location rules and related reporting requirements. In Manti's case, it is a provider of CMRS service that has not yet received a PSAP request for E911 Phase II service. In the absence of a PSAP request, it would be futile to require a small Tier III CMRS provider with limited resources to deploy indoor location capability and to submit to the FCC the FCC live 911 call data reports, indoor location accuracy certifications, implementation plans and progress reports required by Section 20.18 (i). The Commission made Phase I and Phase II E911 capability contingent on a CMRS carrier's receipt of a valid PSAP request because it makes little sense to force service providers – and especially smaller carriers like Manti – to divert their limited resources to implementing a capability that emergency responders in their area are unable to use. These limited resources might otherwise be available to extend and maintain voice and data services – as well as access to basic 911 service – to remote communities and vast sparsely populated areas that might not otherwise have access to any emergency calling services.

The Commission recognizes the public interest benefit in granting a waiver when “special

circumstances particular to smaller carriers may warrant limited relief from 911 requirements.”<sup>7</sup> Circumstances such as “financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural, or characterized by difficult terrain (such as dense forest or mountains)” are present with respect to Manti’s rural service area. Significant compliance costs would be wasted in Manti’s case, and it would be unduly burdensome for the Company to devote its limited personnel and resources to preparing periodic reports to the FCC and public safety organizations about E911 call activity and location accuracy that doesn’t exist because no PSAP is in a position to use the data.

Manti further submits that in light of facts and circumstances in its case, has no choice but to request a waiver of the Rule Section 20.18(i) requirements. Because it has not yet deployed all of the necessary hardware and software in its CMRS network to enable the provision of E911 Phase II service, or to generate the location data necessary to comply with the indoor location rules and reporting requirements, it does not have E911 call location data needed to prepare the various reports and certifications required under the indoor location rule. Requiring Manti to implement Phase II capability only so that it has the ability to prepare compliance reports would be contrary to the public interest unduly burdensome for Manti. Until such time as Manti has received a valid PSAP request for the services in question, Manti has no reasonable alternative but to request a waiver of the Rule Section 20.18 (i) requirements. A waiver is also justified because the Commission announced an exemption from the indoor location requirement in a reasoned action in the relevant E911 order, and the exemption was only later removed by what appeared to be a mere editorial erratum that

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<sup>7</sup> *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petitions for Waiver of Section 20.18(g)(1)(v) of the Commission’s Rules*, Order, 22 FCC Rcd 8927, at ¶7 (2007).

contained no announcement of or justification for changing significant substantive requirements. At a minimum, this approach caused confusion among carriers subject to the location information requirement.

## **V. CONCLUSION**

Manti is committed to providing its subscribers and roaming customers with access to high quality voice and data services when traveling through its remote service area, and will implement E911 location services when a PSAP in its service area is capable of receiving, processing and utilizing the location data requests such services. Requiring Manti to expend its limited resources for delivery of accurate location data to a non-capable PSAP makes no sense and would be contrary to the public interest. At the same time, grant of this Petition will help ensure that basic 911 service remains available in areas where callers might not otherwise have access to mobile wireless services. For the reasons stated above, Manti respectfully requests that the Commission grant it a temporary waiver of the location collection, delivery and reporting requirements set forth in Section 20.18(i) of the Commission's Rules.

Respectfully Submitted,

**MANTI TELE COMMUNICATIONS COMPANY, INC.**



By: D. Cary Mitchell  
John A. Prendergast  
Its Attorneys

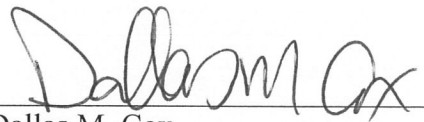
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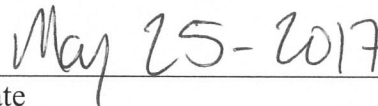
### DECLARATION

I, Dallas Cox, hereby declare under penalty of perjury as follows:

1. I am the Vice President and General Manager of Manti Tele Communications Company, Inc.
2. I have reviewed the foregoing Petition for Temporary Waiver to be filed with the Federal Communications Commission and verify that the factual information and representations therein are true and correct to the best of my knowledge, information and belief.



Dallas M. Cox



Date



## **CERTIFICATE OF SERVICE**

I, Cary Mitchell, hereby certify that on this 25<sup>th</sup> day of May, 2017, copies of the foregoing PETITION FOR TEMPORARY WAIVER were sent by e-mail, in pdf format, to the following:

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