

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Transition from TTY to Real-Time Text Technology)	CG Docket No. 16-145
)	
Petition for Rulemaking to Update the Commission’s Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology)	GN Docket No. 15-178
)	

**PETITION OF APPALACHIAN WIRELESS
FOR TEMPORARY WAIVER OF TTY/RTT TRANSITION RULES
AND COMMENTS IN SUPPORT OF COMPETITIVE CARRIERS ASSOCIATION
REQUEST FOR DECLARATORY RULING**

East Kentucky Network, LLC d/b/a Appalachian Wireless (“Appalachian Wireless”), pursuant to Sections 1.3 and 1.925 of the rules of the Federal Communications Commission (“FCC” or “Commission”) respectfully requests a temporary waiver of the June 30, 2020 deadline to provide TTY technology or Real-Time Text (“RTT”) on its IP-based network. In this document, Appalachian Wireless also states its support for the request of the Competitive Carriers Association (“CCA”) for a Declaratory Ruling acknowledging that compliance with the TTY/RTT accessibility requirements, as applied to IP-based mobile wireless carriers, is not readily achievable by the June 30, 2020 deadline.¹

Appalachian Wireless is a Non-Nationwide Commercial Mobile Radio Service (“CMRS”) Provider as defined by 47 C.F.R. § 9.10(i)(1)(v). Appalachian Wireless’ network

¹ Petition of Certain Members of Competitive Carriers Association for Waiver or, in the Alternative, Declaratory Ruling, CG Docket No. 16-145 and GN Docket No. 15-178, filed June 16, 2020 (“CCA Petition”).

consists of (1) its CDMA network; (2) its participation in the Verizon LTE in Rural America (LRA) program; and (3) its own Voice over Long Term Evolution (“VoLTE”) network, which was deployed on a limited basis in the summer of 2019. At present, only about 6% of Appalachian Wireless’s customers are on its VoLTE network, while 94% are on its CDMA network. Of the 6% on the VoLTE network, a significant number of devices are wearables and tablets, not handsets.

WAIVER REQUEST

Appalachian Wireless seeks a temporary waiver of the June 30, 2020 deadline for non-Tier I CMRS providers to provide TTY technology or Real-Time Text (“RTT”) on its IP-based network for the same reasons as set forth in the CCA Petition, and as summarized below.

Appalachian Wireless requests that the Commission waive the deadline until one year after Appalachian Wireless executes an agreement with a network vendor for an RTT solution that can be implemented on its VoLTE network in full satisfaction of the Commission’s RTT requirements. The one-year period should commence when Appalachian Wireless has executed an agreement or once COVID-19 access restrictions that affect implementation are lifted, whichever comes later. In addition, Appalachian Wireless seeks one additional year after the extended deadline for general RTT compliance to ensure that all new authorized user devices activated on its network support RTT.

Appalachian Wireless is aware that the Commission did not mandate the implementation of RTT by June 30, 2020. Instead, the Commission gave CMRS providers the option to deploy RTT or to implement a legacy TTY solution. As the Commission recognizes and as the CCA

Petition explains, a TTY solution is not viable for an IP-based network.² In practical effect then, CMRS providers are required to implement RTT by June 30, 2020.

Appalachian Wireless expected RTT solutions to be readily available for non-Tier I carriers after being developed for Tier I providers, but this has not been the case.³ Appalachian Wireless is working with its vendor(s) to implement RTT on its nascent VoLTE network, but progress has been slow. In fact, as explained in the CCA Petition, implementation of RTT by non-Tier I carriers is far more difficult than the Commission, or the carriers, envisioned in 2016, when the Commission adopted the June 30, 2020 deadline.⁴

First, implementing RTT will require Appalachian Wireless to make core network changes. Initially, Appalachian Wireless expected that vendors would develop an “over-the-top” solution for RTT. In fact, Appalachian Wireless has not seen any offer of such solutions by its vendors.

Second, carriers opting to implement RTT must ensure that 911 calls placed via RTT reach PSAPs in a usable format. Put simply, PSAPs must be ready to accept 911 calls via RTT. In fact, not one PSAP in the service area of Appalachian Wireless is ready to accept 911 calls via RTT. Thus, implementation of RTT, for the purpose of 911 calls, is premature. Further, the implementation of RTT in the absence of PSAPs able to accept RTT will require carriers to implement a backwards compatible TTY solution. As explained above, TTY is not viable for an IP-based network.

Third, even after RTT is implemented in its core network, Appalachian Wireless will have to ensure that its customers’ handsets are capable of supporting RTT and are compatible

² See CCA Petition at 18.

³ See CCA Petition at 9 – 11.

⁴ Id.

with its network. This may require working with the handset vendors to “turn on” the RTT functionality, and will require comprehensive testing. Such testing cannot commence until the core network is capable of supporting RTT.

Section 1.3 of the Commission’s rules provides that Commission rules may be waived “for good cause shown,”⁵ demonstrating that (1) “special circumstances warrant a deviation from the general rule;” and (2) “such deviation serves the public interest.”⁶ A waiver may be granted when:

- (i) The 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) In 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.⁷

For the reasons set forth above, Appalachian Wireless submits that “special circumstances warrant a deviation from the general rule,” and that “such deviation serves the public interest.” Further, Appalachian Wireless has shown that “unique ... circumstances” would make application of the rule “inequitable [and] unduly burdensome” More precisely, the circumstances described above make compliance with the June 30, 2020 deadline impossible. Further, Appalachian Wireless emphasizes that, at present, only 6% of its customers are served via its VoLTE network. As a result, applying the June 30, 2020 deadline would be particularly burdensome to Appalachian Wireless.

⁵ 47 C.F.R. § 1.3 (“The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter.”).

⁶ *Northeast Cellular Telephone Co. v. FCC*, 418 F. 2d 1164, 1166 (D.C. Circuit 1990), *see WAIT Radio v. FCC*, 418 F. 2d 1153, at 1157-58 (D.C. Circuit 1969).

⁷ 47 C.F.R. § 1.925(b)(3).

COMMENTS IN SUPPORT OF THE CCA PETITION'S REQUEST FOR A DECLARATORY RULING

Appalachian Wireless supports CCA's request that the Commission issue a declaratory ruling recognizing that it is not readily achievable for non-Tier I CMRS carriers to provide RTT or TTY over their VoLTE networks by June 30, 2020. A broad declaratory ruling would obviate the need for the many affected carriers to file separate waiver requests and for the Commission to review and act on each of those requests. Further, such a declaratory ruling should include appropriate language to provide relief to CMRS carriers that plan to implement, but have not yet implemented, VoLTE networks. Under the current rules, a CMRS carrier launching VoLTE after the June 30 deadline would immediately be in violation of the Commission's Rules unless that carrier were able to implement fully compliant RTT capabilities on the day it launches service. Given the difficulties in implementing RTT, and the need in all cases to test handsets after RTT has been implemented in the core network, the Commission should provide broad relief to nascent VoLTE providers.

CONCLUSION

For the foregoing reasons, good cause exists to temporarily waive the June 30, 2020 deadline for non-Tier I CMRS carriers to implement TTY or RTT on their IP-based networks. Alternatively, for the reasons set forth above, the Commission should issue a Declaratory Ruling recognizing that it is not readily achievable for non-Tier I CMRS carriers to provide RTT or TTY over their VoLTE networks by June 30, 2020.

Respectfully submitted,

EAST KENTUCKY NETWORK
D/B/A APPALACHIAN WIRELESS

Cindy D. McCarty
In-House Counsel
101 Technology Trail
Ivel, Kentucky 41642
(606) 339-1006
Email: cmccarty@ekn.com

Robert S. Koppel
Regulatory Counsel to Appalachian Wireless
Lukas, LaFuria, Gutierrez & Sachs, LLP
8300 Greensboro Drive, Suite 1200
Tysons, Virginia 22102
Tel: (703) 584-8669
Email: bkoppel@fcclaw.com

June 29, 2020

DECLARATION

I, Michael Johnson, hereby declare under penalty of perjury as follows:

I am Technical Operations Director of East Kentucky Network, LLC d/b/a Appalachian Wireless.

This Declaration is submitted in support of the foregoing Petition for Temporary Waiver.

I declare under penalty of perjury, pursuant to Sections 502 and 503(b) of the Communications Act of 1934 and Section 1001 of Title 18, United States Code, that the facts and information contained in the foregoing Petition are true and correct to the best of my knowledge.

Signed: 
Michael Johnson

Date: June 29, 2020