

DOCKET FILE COPY ORIGINAL

RECEIVED

JUL 16 1996

Federal Communications Commission  
Office of Secretary

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of:	§	
	§	
Cellular Priority Access for	§	WT 96-86
National Security and Emergency	§	
Preparedness Telecommunications	§	

**REPLY COMMENTS OF  
SOUTHWESTERN BELL MOBILE SYSTEMS, INC.**

Southwestern Bell Mobile Systems, Inc. ("SBMS") files these reply comments in response to the Petition for Rulemaking ("Petition") filed by the National Communications System ("NCS"). The NCS requests the Federal Communications Commission ("Commission") to establish rules whereby cellular companies would be allowed to provide "priority access" to the cellular spectrum to authorized users for National Security/Emergency Preparedness ("NS/EP") responsiveness.<sup>1</sup> The NCS notes that such rules would ensure that the provision of such Cellular Priority Access Service ("CPAS") does not violate the rules and regulations barring unlawful discrimination or undue preference and to assure that any contractual provisions inconsistent with the rules adopted are overridden.<sup>2</sup>

In its comments, SBMS agrees that existing rules must be modified to allow for the provision of CPAS. SBMS strongly disagrees however with the NCS suggestion that the CPAS

---

<sup>1</sup>In the Matter of Cellular Priority Access for National Security and Emergency Preparedness Telecommunications, WT Docket No. 96-86, Petition for Rulemaking of the National Communications System, p. 2 (filed October 19, 1995) ("Petition").

<sup>2</sup>Petition, p. 2.

024

rules be made applicable only to cellular carriers.<sup>3</sup> Requiring cellular carriers wishing to offer "any form of cellular priority access service" to follow the CPAS rules<sup>4</sup> while allowing any other wireless provider, including competing Personal Communication Service ("PCS") providers, the freedom to craft customized solutions without regard to the CPAS requirements, places cellular carriers at a distinct competitive disadvantage. SBMS also believes that limitation of liability provisions for CPAS services should be expressly stated and that all carriers be allowed to provide "customized" solutions for priority access to state, county and/or local government entities.

In order to encourage greater deployment, certain provisions of the proposed rules should be deleted and a cost recovery method should be examined. SBMS also agrees that the CPAS issues should be examined as part of the pending public safety rulemaking proceeding. CPAS cannot be viewed as replacing the need for an allocation of spectrum for public safety purposes. CPAS is not and should not be considered as a replacement alternative for police radio service, fire radio service, emergency radio service and the other public safety radio services discussed in the Public Safety NPRM. Misuse of CPAS in less than true national security/emergency preparedness ("NS/EP") situations will discourage implementation by the carriers. Thus, the CPAS rules should include provisions which preclude its use as an agency's primary wireless communications service or otherwise limit its use to significant emergency situations.

---

<sup>3</sup>Petition, fn. 4. See Also, Appendix B--Proposed Rules, B(2)(d)(2) (definitions) Service Provider: **An FCC-licensed cellular carrier**. The Term does not include agents of the licensed cellular carrier or resellers of cellular service. (emphasis added).

<sup>4</sup>Petition, Appendix B--Proposed Rules B(3)(e).

## **I. NUMEROUS COMMENTATORS AGREE WITH SBMS' POSITIONS**

There is agreement with SBMS' position that any CPAS provisions must be made applicable to all CMRS providers.<sup>5</sup> None of the commenting parties requested that CPAS be limited to only cellular providers. In order to assure fair and equitable competition, it is critical that CPAS rules apply to all CMRS providers equally.

Further, several commentators agree that a limitation of liability must be afforded to CMRS carriers offering CPAS.<sup>6</sup> The very nature of CPAS lends itself to exposure to emergencies and tragedies and, therefore, if providers are uncertain as to the potential liability they may be subject to, they may choose not to offer CPAS. Accordingly, it is imperative that CPAS rules contain explicit provisions limiting the liabilities of CMRS carriers.

## **II. SBMS' REPLIES TO SPECIFIC COMMENTS**

SBMS agrees with Vanguard Cellular that the use of CPAS must be governed by explicit definitions of emergencies as well as those individuals who may invoke CPAS.<sup>7</sup> Clear and succinct definitions would assure that CPAS-use is limited to true national emergencies and thereby avoid the depletion of cellular spectrum unnecessarily. However, SBMS is not in a position to agree or disagree with the National Emergency Number Association's (NENA) suggestion that CPAS assign a permanent priority level to 911 calls.<sup>8</sup> Although SBMS agrees that a policy and methodology for handling 911 calls must be developed before implementation of CPAS, it is

---

<sup>5</sup>CTIA p. 4; GTE MobiNet p. 4.

<sup>6</sup>CTIA p. 6; GTE MobiNet p. 5; BellSouth p. 9; Vanguard Cellular p. 7.

<sup>7</sup>Vanguard Cellular p. 6.

<sup>8</sup>NENA p. 5.

impossible to predict at this early stage what policies/methodologies will be technically and financially feasible. Further, many parties emphasize that CPAS will not substitute for public safety spectrum requirements, but will only serve as an adjunct to the public safety radio communications spectrum,<sup>9</sup> which will likely necessitate technical manipulations and accommodations that cannot be fully appreciated at this stage of the process.

SBMS disagrees with NENA's suggestion that the Commission limit a carrier's ability to refuse to provide CPAS.<sup>10</sup> From the outset of the meetings of the CPAS subgroup (which is the driving force behind the implementation of CPAS and contains a wide cross-section of government, industry and public safety groups), it has promoted voluntary rather than mandatory participation in CPAS. Although SBMS supports CPAS and encourages the FCC to adopt rules which encourage rather than discourage the deployment of the service, it prefers that the provision of CPAS remain a voluntary endeavor.

### **III. Conclusion.**

For the reasons stated herein and as more fully discussed in its previously-filed comments, SBMS requests that the Commission (1) make the CPAS rules apply to all CMRS providers, (2) set reasonable limits on the liability of CMRS carriers that offer CPAS, (3) clearly define "emergency" situations for which CPAS will be invoked and (4) encourage and promote the provision of CPAS as a voluntary endeavor.

---

<sup>9</sup>APCO p. 4; Los Angeles Sheriff's Department p. 4; UTC p. 4; Vanguard Cellular p. 6.

<sup>10</sup>NENA p. 4.

Respectfully submitted,

**SOUTHWESTERN BELL MOBILE SYSTEMS, INC.**

By: \_\_\_\_\_

*Ken Judd*  
Carol L. Tacker, General Attorney

Bruce E. Beard, Attorney

Ken Judd, Attorney

17330 Preston Road, Suite 100A

Dallas, Texas 75252

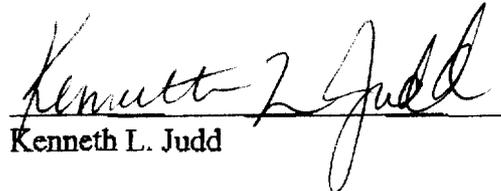
(214) 733-2000

July 16, 1996

F:\KEN\MISC\CPAS\REPLY.COM

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply Comments of Southwestern Bell Mobile Systems, Inc. will be mailed via first class mail, postage prepaid to the following parties on July 16, 1996.

  
Kenneth L. Judd

Association of Public Safety Communications  
Official (APCO)  
Robert M Gurs  
Wilkes, Artis, Hedrick & Lane, Chartered  
1666 K Street, N.W. #1100  
Washington, D.C. 20006

Cellular Telecommunications Industry Assoc.  
Michael F. Altschul  
Vice Pres. and General Counsel  
1250 Connecticut Ave. N.W.  
Suite 200  
Washington, D.C. 20036

AT&T Wireless Services, Inc.  
Cathleen A. Massey  
Vice-President - External affairs  
Myron Proefrock  
Director of Government Operations  
1150 Connecticut Ave. N. W.  
4th Floor  
Washington, D.C. 20036

GTE Mobilnet  
Andre J. Lachance  
1850 M. Street, N.W.  
Suite 1200  
Washington, D.C. 20036

Bell Atlantic Nynex Mobile, Inc.  
John T. Scott, III  
Crowell & Moring  
1001 Pennsylvania Ave. N.W.  
Washington, D.C. 20554

National Association of State  
Telecommunications Directors  
Benjamin J. Griffin  
Reed, Smith Shaw & McClay  
1301 K. St. N.W.  
Suite 1100 - East Tower  
Washington, D. C. 20005

Bell Communications Research, Inc  
Louise L.M. Tucker  
2101 L. Street, N.W.  
Suite 600  
Washington, D.C, 20037

National Emergency Number Association  
James R. Hobson  
Donelan, Cleary, WOOD & Maser, P.C.  
1100 New York Ave., N.W., Suite 750  
Washington, D.C. 20005-3934

BellSouth  
John F. Beasley  
1155 Peachtree St. N.E., Suite 1800  
Atlanta, GA 30309-2641

The Los Angeles Sheriff's Department and  
County of Los Angeles, Internal Services  
Department  
Robert M. Gurs  
Wilkes, Artis, Hedrick & Lane, Chartered  
1666 K St. N. W. Suite 1100  
Washington, D.C. 20006

UTC, The Telecommunications Association  
Jeffrey L. Sheldon  
General Counsel  
1140 Connecticut Ave. N.W.  
Suite 1140  
Washington, D.C. 20036

Vanguard Cellular Systems, Inc.  
Paul C. Besozzi  
Patton, Boggs, L.L.P.  
2550 M. Street, N.W.  
Washington, D.C. 20037

Washington State Emergency Management  
Robert G. Oenning  
E9-1 -1 Administrator  
Post Office Box 40955  
Olympia, Washington 98504-0955