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December 24, 1997

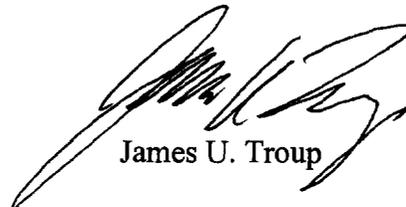
Office of the Secretary  
Federal Communications Commission  
1919 M Street NW, Room 222  
Washington, DC 20554

Re: CC Docket No. 92-237; Administration of the North American Numbering Plan Carrier Identification Codes (CICs)

We have enclosed for filing in the above captioned matter an original and five (5) copies of a Joint Request for Waiver of the January 1, 1998 deadline for supporting the routing of four digit carrier identification codes. Please date-stamp the "Stamp and Return" copy of this filing and return it to the undersigned in the attached self-addressed envelope.

Should there be any questions concerning this filing, please do not hesitate to contact the undersigned.

Sincerely,

  
James U. Troup

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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	)	
In the Matter of	)	
	)	CC Docket No. 92-237
Administration of the	)	
North American Numbering Plan	)	
Carrier Identification Codes (CICs)	)	
	)	

JOINT REQUEST FOR WAIVER

Interstate 35 Telephone Company ("Interstate 35") and Southwest Telephone Exchange Inc ("Southwest") by their attorneys and pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, and the Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking (Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)), CC Dckt. No. 92-237, FCC 97-386, released Oct. 22, 1997 ("CICs Order") hereby request limited waivers of the January 1, 1998 deadline for the provision of four-digit Feature Group D Carrier Identification Code ("CIC") functionality.

The CICs Order created a "two-step" end to the transition to four-digit CICs. In the first phase, all local exchange carriers ("LECs") that provide equal access were required to complete switch replacements or upgrades to recognize four-digit CICs by the end of January 1, 1997. For

the second phase, the Commission extended the period (the "permissive dialing period") during which three-digit and four-digit CICs would be recognized simultaneously to June 30, 1998.

Paragraph 24 of the CICs Order states that "if [the FCC] receives a complaint of LEC noncompliance, infeasibility with [the January 1, 1998] deadline will not relieve a defendant LEC of liability under section 208 of the Commission's rules." The Commission stated that "a LEC that determines that it will not meet the January 1, 1998 conversion deadline must seek relief from the Commission prior to that date." Accordingly, Interstate 35 and Southwest submit this joint request for a temporary waiver of the January 1, 1998 conversion deadline. Interstate 35 requests a waiver of the requirement to support four-digit CICs until February 28, 1998 when the installation of its new switches will be complete. Southwest requests a waiver of the requirement to support four-digit CICs until it replaces its switches, a process that will be complete by the end of 1998.

A. Background

Interstate 35 and Southwest are small, rural Iowa LECs. Both companies participate in centralized equal access provided by Iowa Network Services (INS). The INS centralized equal access network provides presubscription and equal access capabilities through a centralized switching system and not through each end office switch. Participation in INS' network enabled these companies to provide equal access before it was available in many other rural areas. Additionally, Interstate 35 and Southwest have been able to provide quality service without passing on the costs of expensive upgrades or switch replacements to its rural subscribers.

Although Interstate 35 and Southwest have been diligently working to achieve compliance with the requirement to support four digit CICs, they have met with technological and economic setbacks that prohibit them from meeting the January 1, 1998 conversion deadline. Also, neither company has signaling system 7 capability which would have accelerated the ability of these companies to support the 101XXXX dialing pattern. Therefore, for the reasons set forth below, Interstate 35 and Southwest respectfully request a limited waiver of the January 1, 1998 conversion deadline.

B. Commission Precedent Supports the Grant of the Waivers

The Commission may waive any provision of its rules, in whole or in part, if good cause is shown.<sup>1</sup> The applicants for waiver will demonstrate in this petition that their unique circumstances warrant the waivers and such waivers are in the public interest.<sup>2</sup> The Commission has already granted waivers of the four-digit CIC conversion deadlines in previous orders under circumstances similar to those facing Interstate 35 and Southwest.<sup>3</sup> The Commission used the following factors to evaluate each petition: the LEC's diligence in upgrading its switches; the availability from manufacturers of products required to accomplish the upgrade; and the impact

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<sup>1</sup> See 47 C.F.R. § 1.3.

<sup>2</sup> Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990); WAIT Radio v. FCC, 418 F.2d 1153 (D.C. Cir. 1969).

<sup>3</sup> See Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule, Order, DA 97-2528, NSD File Nos. 97-53; 97-56; 97-46; 97-51; 97-54; 97-55; 97-47; 97-48; 97-49; 97-50 (Dec. 3, 1997) ("CICs Waiver Order"); see also Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule, Order, NSD File Nos. 97-52; 97-58; 97-57; 97-62; 97-61 (Dec. 15, 1997) ("Hager Waiver Order").

of an extension of the conversion deadline on the interexchange carriers ("IXCs") served by the LEC's switches and on customers' ability to reach IXCs through carrier access code ("CAC") dialing.<sup>4</sup>

In addition, the Commission has granted waivers on a number of other occasions where LECs were unable to replace switches in time to meet a deadline to offer a new feature. The Commission may choose to take a company's business plan into account, especially if it is more efficient than trying to meet a deadline to provide a new feature that does not contemplate the specific characteristics of each LEC's network. For example, the Commission granted Pacific Bell a waiver of the January 1, 1997 deadline for the provision of \*82 caller ID unblocking until June 1, 1997. Pacific Bell had planned to replace its switches in the first half of 1997, and upgrading switches that it would only replace in a matter of months would be inefficient.<sup>5</sup>

The FCC has also granted waivers of requirements to offer new features for reasons of technical infeasibility. An example is when the FCC temporarily extended the October 7, 1997 deadline by which LECs and other payphone service providers had to provide payphone-specific coding digits to IXCs until March 9, 1998.<sup>6</sup> Not all payphone calls carry the specific payphone coding digits as part of their automatic number identification ("ANI") to assist in identifying

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<sup>4</sup> CICs Waiver Order, para. 15.

<sup>5</sup> See Rules and Policies Regarding Calling Number Identification Service, Memorandum Opinion and Order, 11 FCC Rcd. 12756 (1996). Pacific Bell stated that only 18,400 customers would be affected by the waiver. *Id.* para 6.

<sup>6</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act, Order, CC Dckt. No. 96-128 (Oct. 7, 1997).

payphones for IXCs that must pay compensation to payphone owners. The coding digits are necessary to identify the calls as payphone calls.<sup>7</sup>

C. Interstate 35's Request for Extension of the January 1, 1997 Deadline

Interstate 35 Telephone Company, a small telephone company in Truro, Iowa, serves parts of three counties in the rural south central portion of the state. Interstate 35 owns three exchanges which serve a total of 1100 access lines. The Truro exchange serves 320 access lines; the St. Charles exchange serves 600 access lines; and, the St. Marys exchange serves 180 access lines. Currently, the Truro and St. Charles exchanges operate a Northern Telecom Inc. ("Nortel") DMS 10 switch and the St. Marys exchange operates a remote switch; all use 302.1 software which does not have four digit CIC capability.

Interstate 35 is "striving, and will continue to strive, to achieve compliance with the four-digit CIC requirement by January 1, 1998."<sup>8</sup> Interstate 35 is in its final stages of conversion to four-digit CIC functionality, a conversion which Interstate 35 states has imposed a tremendous financial burden. Interstate 35 and Southwest are jointly owned. It will cost the companies approximately \$600,000 each to replace their switches for a total of \$1,200,000 combined.

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<sup>7</sup> The payphone must transmit coding digits specifically identifying it as a payphone, and not only as a restricted line. The inability to transmit the coding digits makes per-call tracking and blocking more difficult but nonetheless, the IXCs have been obligated to compensate payphone service providers for subscriber 800 and access code calls since October 7, 1997. *Id.* The Commission determined that once any LEC or payphone service provider is technically able to transmit the required digits, it is required to do so. *Id.*

<sup>8</sup> CICs Order, para. 24

Interstate 35 purchased a new switch, the Mitel GX 5000, for each of its exchanges. All three switches were delivered in November 1997 and according to the manufacturer, installation will not be complete until shortly after the January 1, 1998 conversion deadline. Thus, Interstate 35 requests an extension of the deadline until February 28, 1998 when full conversion to four-digit CICs functionality will be complete. Although Interstate 35 is diligently working to achieve compliance, it cannot do anything about the timetable necessary for the cut over to the new service.

The only IXCs that may be affected are those that have been issued new four-digit CICs; currently, these carriers are not able to receive access code calls originated from Interstate 35 subscribers. IXCs will be able to continue to rely on their three-digit CICs until June 30, 1997 and Interstate 35 will be in compliance with the four-digit CIC requirement long before this time. Interstate 35 serves only 1100 access lines and when balanced, the absence of four-digit CIC dialing for the small number of access lines affected is not as detrimental as the burden that would be imposed on Interstate 35 to upgrade its current switches which will be fully replaced in only two months. Accordingly, the impact of an extension of the conversion deadline on the IXCs served by Interstate 35, and on the ability of Interstate 35's customers to reach IXCs through four-digit CIC dialing, does not outweigh the burden that would be imposed on Interstate 35 if it were forced to comply by January 1, 1998.

D. Southwest's Request for Extension of the January 1, 1997 Deadline

Southwest Telephone Exchange Inc., a small telephone company in Emerson, Iowa, serves parts of five counties in the rural southwest portion of the state. Southwest owns three

exchanges which serve a total of only 700 access lines. The Emerson exchange serves 383 access lines; the Henderson exchange serves 212 access lines; and, the Imogene exchange serves 105 access lines. The Emerson and Henderson exchanges each operate a Nortel DMS 10 switch and the Imogene exchange operates a remote switch; all use 302.1 software which does not have four digit CIC capability. Southwest needs to replace all of these switches to meet the four-digit CIC requirement.

Southwest and Interstate 35 are commonly owned and each face a \$600,000 expense in order to comply with the four-digit CIC transition. It was not possible to expend resources on both companies simultaneously without jeopardizing the economic stability of the companies. Thus, although Southwest and Interstate 35 acted in good faith to meet the January 1, 1998 deadline for both companies, their limited resources were devoted first to the conversion by Interstate 35 and then to Southwest's conversion.

Southwest began working with its engineers to meet the January deadline many months ago. Southwest currently possesses the engineers' specifications and is working with the engineers on purchasing new switches. The entire switch conversion process from purchase, to delivery, to completing the installation, will take Southwest until the end of 1998 to finalize.

Southwest's business plan prior to the CICs Order contemplated a switch replacement but at a later date; now the CIC expansion rules have moved this date up considerably. The company has found it financially burdensome to keep up with the deadline set forth in the CICs Order. The CIC capability requirement has placed Southwest in the predicament of choosing whether to struggle to keep up with the deadline and in doing so, disturb its economic stability, or to proceed cautiously and seek a waiver from the Commission to extend the deadline until December 31,

1998. Southwest believes that if it is forced into compliance too quickly, it will impose an unwarranted burden on its rural subscribers as Southwest will have no choice but to pass the substantial costs of compliance onto them.

Further, the only IXCs that may be impacted by a grant of this waiver are those that have been issued new four-digit CICs; currently, these carriers are not able to receive access code calls originated from Southwest subscribers. IXCs will be able to continue to rely on their three-digit CICs until Southwest has completely replaced all of its switches.

Under similar circumstances as that faced by Southwest, the Commission granted Hager Telecom Inc. ("Hager"), a small rural LEC serving approximately 1,950 access lines, an extension of the four-digit CICs requirement until January 1, 1999.<sup>9</sup> The Commission determined that when balanced, the absence of four-digit CIC dialing for the small number of access lines affected was not as detrimental as the burden that would be imposed on Hager to upgrade a switch which it would replace in a year's time anyway.<sup>10</sup> The judgment used by the Commission to justify a grant of Hager's waiver should also apply to Southwest's request, especially since Southwest serves an even smaller number of access lines but must make a much larger expenditure in order to achieve compliance.

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<sup>9</sup> Hager Waiver Order para. 23.

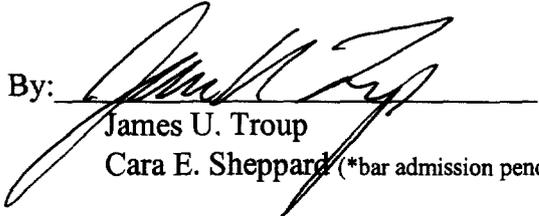
<sup>10</sup> This would have cost Hager an extra \$258,000. *Id.*

E. Conclusion

Although both Interstate 35 and Southwest have been diligently working to achieve compliance with the requirement to convert to four-digit CIC functionality, both have met with substantial financial and technical obstacles which have forced them to file this petition. Grant of the instant petition will serve the public interest and allow the companies to complete their network upgrades in the most reasonably efficient manner possible. The public interest is better served by the limited waiver of the January 1, 1998 deadline requested herein than by forcing the petitioners to suddenly pass on substantial upgrade costs to their rural subscribers, when their switches are scheduled to be replaced in a few months anyway. Because good cause has been shown, Interstate 35 and Southwest respectfully request that the Commission grant this petition.

Respectfully submitted,

INTERSTATE 35 TELEPHONE COMPANY  
SOUTHWEST TELEPHONE EXCHANGE, INC.

By: 

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Cara E. Sheppard (\*bar admission pending)

Their Attorneys

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December 24, 1997

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 24, 1997, a copy of the foregoing JOINT PETITION FOR WAIVER under section 1.3 of the Commission's rules, 47 C.F.R. § 1.3 was hand-delivered to the following:

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