

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of )  
 )  
Amendment of the Commission's Rules ) WT Docket No. 07-250  
Governing Hearing Aid-Compatible )  
Mobile Handsets )

To: Chief, Wireless Telecommunications Bureau

**REQUEST FOR LIMITED WAIVER BY SOUTHERNLINC WIRELESS**

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compatible iDEN handset models that must be offered, and that it is not requesting waiver of any other provision or requirement of the Commission's hearing aid compatibility rules.

For the reasons set forth herein, SouthernLINC Wireless submits that its request for a limited waiver is in the public interest and should be granted.

### **EXECUTIVE SUMMARY**

SouthernLINC Wireless is one of the only CMRS providers currently operating a commercial iDEN network in the United States. SouthernLINC Wireless is currently constructing a "greenfield" LTE network that is scheduled for completion in 2018 and will continue to provide service over and support its iDEN network until the transition of its subscribers to the new LTE network is complete. However, reduced vendor and industry support for the iDEN air interface has made it difficult for SouthernLINC Wireless to obtain new or replacement hearing aid-compatible iDEN handsets, and the company projects that it will soon be unable to offer the minimum percentages of hearing aid-compatible handset models required for the iDEN air interface before the transition to the new LTE network is complete. Although SouthernLINC Wireless will be able to provide equipment to meet its customers' needs throughout the transition to LTE, much of the iDEN equipment that is available is not hearing aid-compatible.

SouthernLINC Wireless has made, and continues to make, every possible effort to obtain and offer to its customers as many unique models as possible of hearing aid-compatible iDEN handsets until these customers can be transitioned to SouthernLINC Wireless' new LTE network. For instance, SouthernLINC Wireless has managed to negotiate an agreement with one licensed iDEN device manufacturer for the purchase of three iDEN handset models and is nearing agreement regarding a fourth model, but overall SouthernLINC Wireless has limited

ability to influence the development, manufacturing, and distribution of new iDEN handset models. In addition, SouthernLINC Wireless continues to diligently seek refurbished and refreshed iDEN handsets from distributors and to search for available new, refreshed, and excess iDEN handsets on the secondary market. However, only a limited number of refurbished and refreshed handsets are available from distributors, and much of the inventory available on the secondary market consists of handsets that were not primarily designed for the general consumer and which typically do not meet the Commission's hearing aid compatibility requirements.

As the available supply of hearing aid-compatible iDEN handsets diminishes even further, strict application of the requirements of Sections 20.19(c)(3) and 20.19(d)(3) would require SouthernLINC Wireless to discontinue offering one or more models of the specialized, non-hearing aid-compatible iDEN handsets primarily utilized and demanded by enterprise, utility, government, and public safety customers – thus limiting the options available to these customers – just to meet the minimum percentages required by the rules.

Accordingly, and as discussed herein, the underlying purpose of Sections 20.19(c)(3) and 20.19(d)(3) would not be served if applied to SouthernLINC Wireless' offering of iDEN handsets during its transition from iDEN to LTE, and grant of the requested limited waiver would be in the public interest. Furthermore, in view of SouthernLINC Wireless' unique and unusual factual circumstances and the lack of any reasonable alternative, the application of the Commission's minimum percentage requirements would be inequitable, unduly burdensome, and contrary to the public interest, thus warranting grant of the requested limited waiver. For these reasons, SouthernLINC Wireless submits that its request for a limited waiver until December 31, 2018, of the minimum percentages of hearing aid-compatible handsets that must be offered for the iDEN air interface is in the public interest and should be granted.

## REQUEST FOR LIMITED WAIVER

### **I. REQUIREMENTS OF THE COMMISSION'S HEARING AID COMPATIBILITY RULES**

Section 20.19(c)(3) of the Commission's Rules specifies, in relevant part, that "For each digital air interface for which it offers wireless handsets to customers, each service provider other than a Tier I carrier must ... [e]nsure that at least fifty (50) percent of the handset models it offers comply with paragraph (b)(1) of this section [requiring a rating of M3 or higher for RF interference], calculated based on the total number of unique digital wireless handset models the service provider offers nationwide."<sup>1</sup> Separately, Section 20.19(d)(3) of the Commission's Rules specifies, in relevant part, that "For each digital air interface for which it offers wireless handsets to customers, each service provider other than a Tier I carrier must ... [e]nsure that at least one-third of the handset models it offers comply with paragraph (b)(2) of this section [requiring a rating of T3 or higher for inductive coupling], calculated based on the total number of unique digital wireless handset models the service provider offers nationwide."<sup>2</sup>

As discussed herein, SouthernLINC Wireless respectfully requests a limited waiver of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission's Rules.

### **II. SOUTHERNLINC WIRELESS' EFFORTS TO ENSURE THE AVAILABILITY OF HEARING AID-COMPATIBLE iDEN HANDSETS DURING ITS TRANSITION TO A NEW LTE NETWORK**

#### **A. SouthernLINC Wireless**

SouthernLINC Wireless, a wholly owned subsidiary of Southern Company, operates a commercial digital 800 MHz ESMR system utilizing the iDEN air interface technology to provide interconnected voice, dispatch, push-to-talk, text and picture messaging, internet access,

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<sup>1</sup> / 47 C.F.R. § 20.19(c)(3).

<sup>2</sup> / 47 C.F.R. § 20.19(d)(3).

and data transmission services over the same handset. SouthernLINC Wireless provides these services over a 127,000 square mile service territory covering Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida. SouthernLINC Wireless offers comprehensive geographic coverage, serving the extensive rural territory within its footprint as well as major metropolitan areas and highway corridors. Because of its expansive and reliable coverage within the region, SouthernLINC Wireless' service is widely used by local and statewide public safety agencies, school districts, rural local governments, public utilities, and other emergency responders. It is also utilized by other commercial entities in both urban and rural areas.

**B. SouthernLINC Wireless' Transition from iDEN to LTE**

SouthernLINC Wireless is one of the only CMRS providers currently operating a commercial iDEN network in the United States. In 2013, soon after the Commission amended its technical rules for the 800 MHz ESMR band to allow the deployment of wideband technologies,<sup>3</sup> SouthernLINC Wireless initiated the planning and design for a "greenfield" LTE network. Construction of the new LTE network commenced in 2015 and is scheduled for completion in 2018. SouthernLINC Wireless will continue to provide service over and support its iDEN network until the transition of its subscribers to the new LTE network is complete. As part of its network planning, SouthernLINC Wireless has included in its equipment procurement process a requirement that the handsets for its LTE network meet the Commission's requirements for hearing aid compatibility. SouthernLINC Wireless will thus be able to offer its

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<sup>3</sup> / *See Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees, Request for Declaratory Ruling that the Commission's Rules Authorize Greater than 25 kHz Operations in the 817-824/862-869 MHz Band*, WT Docket Nos. 12-64, 11-110, Report and Order, 27 FCC Rcd 6489 (2012).

customers a range of hearing aid-compatible handset options as they transition to the new LTE network.

However, as discussed below, reduced vendor and industry support for the iDEN air interface has made it difficult for SouthernLINC Wireless to obtain new or replacement hearing aid-compatible iDEN handsets, and the company projects that it will soon be unable to offer the minimum percentages of hearing aid-compatible handset models required for the iDEN air interface before the transition to the new LTE network is complete. To be clear, SouthernLINC Wireless will be able to provide equipment to meet its customers' needs throughout the transition to LTE; but, as discussed below, much of the iDEN equipment that is available is not hearing aid-compatible.

### **C. Challenges in Procuring Hearing Aid-Compatible iDEN Handsets**

As the Commission's own records demonstrate, the phase-out of iDEN in the United States has significantly reduced the availability of iDEN handsets that comply with the Commission's hearing aid compatibility requirements for acoustic (M-rated) and inductive (T-rated) coupling.<sup>4</sup> For the period between July 1, 2012, and June 30, 2013, device manufacturers responding to the Commission's annual reporting requirement under Section 20.19(i) of the Commission's Rules<sup>5</sup> reported offering 18 different iDEN handset models, of which 14 were rated M3 or better and/or T3 or better.<sup>6</sup> The following year, for the period from July 1, 2013 through June 30, 2014, manufacturers reported offering a total of only six iDEN handset models,

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<sup>4</sup> / Hearing Aid Compatibility Reports for Device Manufacturers are posted on the Commission's website at [http://wireless.fcc.gov/hac/index.htm?job=reports\\_dm](http://wireless.fcc.gov/hac/index.htm?job=reports_dm) (last visited June 6, 2016).

<sup>5</sup> / 47 C.F.R. § 20.19(i).

<sup>6</sup> / See [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-324383A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-324383A1.pdf) (last visited June 6, 2016).

of which five were rated M3 or better and only one was rated T3 or better.<sup>7</sup> For the most recent reporting period, from July 1, 2014 through June 30, 2015, manufacturers did not report the offering of any iDEN handsets.<sup>8</sup>

In order to address the lack of new iDEN handset models being offered or imported into the United States, SouthernLINC Wireless has actively and diligently pursued three parallel sourcing channels: (1) purchasing newly-manufactured handsets from device manufacturers who maintain license agreements with Motorola Mobility LLC (“Motorola Mobility”) to produce iDEN handsets; (2) purchasing refreshed handsets from distributors who have available handsets and/or components; and (3) purchasing used or excess inventory from other iDEN operators on the secondary market. These channels are described in more detail below.

#### **1. Acquisition of Newly-Manufactured iDEN Handsets**

The iDEN platform is a technology that is proprietary to Motorola Mobility. Thus, the only handsets available to iDEN network operators have been those manufactured either by Motorola Mobility or by another manufacturer under a license agreement with Motorola Mobility. As indicated in its most recent manufacturers’ report, Motorola Mobility no longer offers or imports iDEN handsets into the United States for use on commercial networks.<sup>9</sup> SouthernLINC Wireless therefore must individually negotiate with other manufacturers who maintain a license agreement with Motorola Mobility for the acquisition of new iDEN handsets.

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<sup>7</sup> / See [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2014/db1017/DOC-330001A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db1017/DOC-330001A1.pdf) (last visited June 6, 2016).

<sup>8</sup> / See [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-334860A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-334860A1.pdf) (last visited June 6, 2016).

<sup>9</sup> / Hearing Aid Compatibility Status Report for Motorola Mobility LLC (FCC Form 655), filed July 8, 2015, available at [http://wireless.fcc.gov/hac\\_documents/150813/9102934\\_17.PDF](http://wireless.fcc.gov/hac_documents/150813/9102934_17.PDF) (last visited June 6, 2016).

In 2015 SouthernLINC Wireless successfully reached an agreement with Hi-P (Singapore) Technology (“Hi-P”), a licensed iDEN device manufacturer, for the purchase of three existing, hearing aid-compatible iDEN handset models: the i460 (M3/T4-rated), the i418 (M3-rated), and the H375i (M4-rated). However, SouthernLINC Wireless has limited buying power relative to the international iDEN market and, accordingly, limited influence on the manufacturing volumes and schedules of licensed iDEN device manufacturers such as Hi-P, as well as on the development and production of new iDEN handset models. Moreover, the carrier customer base for licensed iDEN handset manufacturers consists primarily of service providers operating in non-US markets that do not have any hearing aid compatibility requirements or obligations. Thus, as the only iDEN carrier subject to the Commission’s hearing aid compatibility rules, SouthernLINC Wireless has limited leverage with licensed device manufacturers to ensure that any new iDEN handset models they may produce are compliant with the Commission’s hearing aid compatibility requirements.

## **2. Acquisition of Refreshed iDEN Handsets from Distributors**

In parallel to its efforts to purchase new iDEN handsets, SouthernLINC Wireless continues to diligently seek refurbished and refreshed handsets from distributors who have been able to source used iDEN handsets and/or components and provide SouthernLINC Wireless with completely refreshed handsets. Currently, there is one such distributor who is able to provide SouthernLINC Wireless with two hearing aid-compatible iDEN handset models: the i365 (M3-rated) and the i686 (M3/T4-rated). However, there are a limited number of these handsets available, and SouthernLINC Wireless has not yet found any alternative distributors who can provide hearing aid-compatible iDEN handsets that are compatible with SouthernLINC Wireless’ network after this source is exhausted.

### **3. Acquisition of iDEN Handsets on the Secondary Market**

Finally, SouthernLINC Wireless continues to diligently search for available new, refreshed, and excess iDEN handsets from other distributors or iDEN operators on the secondary market, but has found only limited success. Much of the inventory available on the secondary market consists of handsets that are designed primarily for public safety and enterprise users rather than for the general consumer, and such handsets typically do not meet the Commission's hearing aid compatibility requirements. Nevertheless, SouthernLINC Wireless will continue to pursue this channel – as well as those discussed above – until the transition to its new LTE network is complete.

#### **D. SouthernLINC Wireless May Not Be Able to Maintain the Required Percentage of Hearing Aid-Compatible iDEN Handsets**

As described in its most recent Hearing Aid Compatibility Status Report, during the period from January 1 through December 31, 2015, SouthernLINC Wireless offered a total of nine iDEN handset models.<sup>10</sup> Of these, seven models (78% of the total number of models offered) were rated M3 or better, and four of these models (44% of the total number of models offered) were also rated T3 or better. Since the filing of its most recent report, SouthernLINC Wireless has reduced the number of iDEN handset models it offers to six.<sup>11</sup> Of these, four models (67% of the total number of models offered) are rated M3 or better, and two of these models (33% of the total number of models offered) are also rated T3 or better.

SouthernLINC Wireless notes, however, that of the six iDEN models it currently offers, only three of these models are made available on its website and at its physical retail locations

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<sup>10</sup> / Hearing Aid Compatibility Status Report for Southern Communications Services, Inc. (FCC Form 655), filed January 12, 2016, available at [http://wireless.fcc.gov/hac\\_documents/160223/9397344\\_75.PDF](http://wireless.fcc.gov/hac_documents/160223/9397344_75.PDF) (last visited June 6, 2016).

<sup>11</sup> / All remaining inventory of the three handset models that are no longer being offered has been reserved to be used as warranty replacements for existing subscribers.

for purchase by the general consumer population. All three of these models are rated M3 or better, and two of them are also rated T4. The other three iDEN handset models offered by SouthernLINC Wireless are specialized, rugged, “mil-spec” handsets designed and intended for use in challenging environments by enterprise (e.g., construction, transportation), utility, and public safety users; sales of these handsets are restricted to enterprise, utility, government, and public safety entities on a contract basis.<sup>12</sup> Of these three “restricted sale” handset models, one model is rated M3 and the other two models are not hearing aid-compatible.

However, based on its currently available inventory levels – including those handsets already in stock and those potentially available through the sourcing channels described above – SouthernLINC Wireless projects that it will deplete its inventory of one of its T-rated handsets by approximately mid-September 2016, if not sooner, and the company has been unsuccessful in obtaining a T-rated replacement. This means that, despite its ongoing and diligent efforts, SouthernLINC Wireless’ portfolio of handsets as of the fourth quarter of 2016 may include only one iDEN handset model that is T-rated. At that point, if the Commission were to consider only those handset models that the company offers to the general consumer for purposes of determining compliance with Section 20.19(d)(3) of the Commission’s Rules regarding the

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<sup>12</sup> / The handsets offered to (and required by) these customers are specialized devices that are substantially similar to the devices used on public safety and private enterprise networks. In its recent *Fourth Report & Order and NPRM*, the Commission declined to extend the hearing aid compatibility rules to such devices, observing that “the typical weight, shape, and other aspects of the physical design of public safety and private enterprise devices are such that the radios conventionally are not held up to the ear but rather used with audio that emanates from a loudspeaker with adjustable volume control rather than from a telephone earpiece. As such, we find that these devices are generally not comparable in their typical use to the wireless handsets covered by the hearing aid compatibility obligations.” *Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets, Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket Nos. 15-258, 07-250, Fourth Report and Order and Notice of Proposed Rulemaking, 30 FCC Rcd 13845, 13864-65 ¶ 40 (“*Fourth Report & Order and NPRM*”).

offering of handsets with inductive coupling capability, SouthernLINC Wireless would still be in compliance because one out of the two iDEN handset models that it projects to be offering to the general consumer population – or 50 percent – would be rated T3 or better (and both would be rated M3 or better). However, if the Commission were to also consider those handset models that the company offers only on a “restricted sale” basis to enterprise, utility, government, and public safety entities as part of a broader services contract, SouthernLINC Wireless would not be able to comply with Section 20.19(d)(3) because only one out of a total of four iDEN handset models that it projects to be offering both to the general consumer population and on a restricted basis would be rated T3 or better.

SouthernLINC Wireless is concerned that if the requirements of Section 20.19(d)(3) were to be applied strictly to its entire handset portfolio even as the available supply of new or replacement hearing aid-compatible iDEN handsets is depleted, the only way that SouthernLINC Wireless would be able to maintain compliance would be to discontinue offering one or more models of the non-hearing aid-compatible, “mil-spec” handsets that are demanded and required by the company’s substantial base of enterprise, utility, government, and public safety customers, which would limit the choices for these customers of handsets that meet their specialized communications needs.<sup>13</sup>

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<sup>13</sup> / For example, one of the handset models that SouthernLINC Wireless currently offers such customers is a non-hearing aid-compatible, high-powered 1 Watt handset that provides extended range and coverage, which is of vital importance to workers and public safety agencies who often operate in rural or remote areas. As another example, many of these customers – particularly those who often work in hazardous conditions or environments (such as utilities and public safety) – want or require a “man down” feature on the handset for immediate emergency communications. Currently, this “man down” feature is only available on two handset models, neither of which is hearing aid-compatible and neither of which is offered to the general consumer population.

In addition, SouthernLINC Wireless is working with a licensed iDEN manufacturer for the production of a new “Intrinsically Safe” iDEN handset that is intended to replace a currently-offered Intrinsically Safe handset model as available inventory of the current model is depleted.<sup>14</sup> However, because neither the current IS-rated model nor the replacement IS-rated model are hearing aid-compatible, the addition of this new handset to SouthernLINC Wireless’ portfolio would result in a total number of models that would place the company out of compliance with Section 20.19(d)(3). Furthermore, if SouthernLINC Wireless were to make the new IS-rated handset model available to its customers while continuing to sell the remaining inventory of the current model, SouthernLINC Wireless would also be out of compliance with Section 20.19(c)(3) of the Commission’s Rules regarding acoustic coupling capability, as only three of a potential total of seven models would be rated M3 or better. Thus, as discussed above, SouthernLINC Wireless would be compelled to limit the total number of handset models it offers by discontinuing one or more of its non-hearing aid-compatible, restricted-sale models intended for enterprise, utility, government, and public safety users and/or by declining to offer them the new replacement Intrinsically Safe model. Either way, SouthernLINC Wireless would be limiting the choices available to these customers for the sole purpose of complying with a regulatory benchmark.

Accordingly, and as discussed in detail below, SouthernLINC Wireless hereby requests a limited waiver of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission’s Rules.

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<sup>14</sup> / An “Intrinsically Safe” (or “IS-rated”) handset is one that has been certified as safe for operation in areas in which flammable and/or explosive gases, vapors, or materials may be present in sufficient quantities to be explosive or ignitable.

### **III. SOUTHERNLINC WIRELESS SATISFIES THE COMMISSION'S WAIVER STANDARDS AND GRANT OF THE REQUESTED LIMITED WAIVER IS IN THE PUBLIC INTEREST**

Pursuant to Section 1.925(b)(3) of the Commission's Rules, SouthernLINC Wireless respectfully requests a limited waiver until December 31, 2018, of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission's Rules with respect to the minimum percentages of handset models offered for the iDEN air interface that must be rated M3 or better for RF interference and that must be rated T3 or better for inductive coupling capability. Grant of the requested limited waiver would enable SouthernLINC Wireless to continue to offer a variety of iDEN handset model options to enterprise, utility, government, and public safety users that meet these users' specialized communications needs – even though these models are not hearing aid-compatible – until these customers can be transitioned to SouthernLINC Wireless' new LTE network.

SouthernLINC Wireless emphasizes that the scope of the requested waiver would be limited to its offering of handsets for the iDEN air interface and would not apply to its offering of handsets for the LTE air interface. SouthernLINC Wireless further emphasizes that it is requesting a waiver only with respect to the Commission's requirements regarding the minimum percentage of hearing aid compatible iDEN handset models that must be offered and that it is not requesting waiver of any other provision or requirement of the Commission's hearing aid compatibility rules.

#### **A. The Commission's Waiver Standard**

Section 1.925(b)(3) of the Commission's Rules states that the Commission may grant a request for waiver if the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant of the waiver would be in the public interest, or, in view of unique or unusual factual circumstances, application of the rule(s) would

be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>15</sup>

For the reasons set forth herein, SouthernLINC Wireless' request for a limited waiver of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission's Rules satisfies these criteria and should be granted.

**B. The Underlying Purpose of Sections 20.19(c)(3) and 20.19(d)(3) Would Not Be Served by Application to the Offering of iDEN Handsets, and Grant of the Requested Limited Waiver Would Be In the Public Interest**

The Commission's hearing aid compatibility rules "have sought to ensure that Americans with hearing loss have access to telephone service through a wide array of wireless handsets used for voice communications."<sup>16</sup> The Commission has further stated, however, "[a]t the same time, it is also important that our rules create a regulatory environment in which accessibility and innovation and investment in new technology are not competing objectives but complementary ones," thus creating better accessibility options.<sup>17</sup>

The minimum percentage benchmarks set forth in Sections 20.19(c)(3) and 20.19(d)(3) were adopted on the assumption that a sufficient number of handset models meeting the M3 and T3 rating requirements would be made available by manufacturers to enable carriers to offer their customers a "wide array" of hearing aid-compatible handsets. However, the annual manufacturers' reports filed with the Commission pursuant to Section 20.19(i) make clear that there has been a significant reduction in the availability of iDEN handset models in general (and of hearing aid-compatible iDEN handset models in particular), with manufacturers subject to the

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<sup>15</sup> / 47 C.F.R. § 1.925(b)(3); *See also CTC Telecom, Inc. d/b/a Mosaic Telecom Petition for Temporary Waiver*, WT Docket No. 07-250, Order, 26 FCC Rcd 9227 (2011) ("*Mosaic Waiver Order*").

<sup>16</sup> / *Fourth Report & Order and NPRM*, 30 FCC Rcd at 13846 ¶ 1.

<sup>17</sup> / *Id.*

reporting requirement stating that they did not offer *any* iDEN handset models in the United States during the most recent reporting period (July 1, 2014 through June 30, 2015).<sup>18</sup>

As described above in this waiver request, SouthernLINC Wireless has made, and continues to make, every possible effort to obtain and offer to its customers as many unique models as possible of hearing aid-compatible iDEN handsets until these customers can be transitioned to SouthernLINC Wireless' new LTE network, but the company is significantly constrained by the lack of availability of hearing aid-compatible iDEN handsets. As the available supply of new or replacement hearing aid-compatible iDEN handsets diminishes even further, strict application of the requirements of Sections 20.19(c)(3) and 20.19(d)(3) would require SouthernLINC Wireless to discontinue offering one or more models of the non-hearing aid-compatible iDEN handsets primarily utilized and demanded by enterprise, utility, government, and public safety customers in order to meet the minimum percentages required by the rules, thus limiting choices for these customers even though SouthernLINC Wireless has already done all it may reasonably do to maximize the choices it provides to those customers with hearing loss.<sup>19</sup> In other words, because SouthernLINC Wireless would not be able to increase the number of hearing aid-compatible iDEN handset models in its portfolio, its only compliance option would be to restrict not only the options, but also the communications capabilities and features available to other consumers.

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<sup>18</sup> / See [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-334860A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-334860A1.pdf) (last visited June 6, 2016).

<sup>19</sup> / See *Mosaic Waiver Order*, 26 FCC Rcd at 9229-30 ¶ 8 (“[G]iven that Mosaic could not reasonably have offered additional hearing aid-compatible handsets, we find that it would not have served the underlying purpose of the hearing aid compatibility rules for Mosaic to have to meet the one-half and one-third requirements by limiting its selection of handsets that were not hearing aid-compatible. Those rules are designed to enhance the ability of consumers with hearing loss to access digital wireless communications. Where the service provider has already maximized the choice it provides those consumers, we see no benefit in limiting choice for consumers who do not use hearing aids.”).

Accordingly, the underlying purpose of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission's Rules would not be served if applied to SouthernLINC Wireless' offering of iDEN handsets during its transition from iDEN to LTE because the lack of availability of hearing aid-compatible iDEN handsets necessarily limits SouthernLINC Wireless' ability to offer such handsets to its customers.<sup>20</sup> Furthermore, grant of the requested limited waiver would be in the public interest because it would allow SouthernLINC Wireless to continue to make a variety of specialized, non-hearing aid-compatible iDEN handset models available to customers with specific communications needs, many of whom themselves rely on the specialized capabilities of such handsets when carrying out vital public functions, such as the operation, maintenance, and restoration of public utility service and the provision of public safety and government services.<sup>21</sup>

**C. SouthernLINC Wireless' Unique Factual Circumstances Warrant the Grant of the Requested Limited Waiver**

In addition to the foregoing, SouthernLINC Wireless submits that the grant of the requested limited waiver is warranted due to the company's unique factual circumstances as one of the only CMRS providers currently operating a commercial iDEN network in the United States.<sup>22</sup> As described above, reduced vendor and industry support for the iDEN air interface has made it difficult for SouthernLINC Wireless to obtain new or replacement hearing aid-

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<sup>20</sup> / *Id.*

<sup>21</sup> / As noted previously, the handsets relied on by these customers are substantially similar to and serve the same function as the devices used on public safety and private enterprise networks. In its 2015 *Fourth Report & Order and NPRM*, the Commission found "that the public interest requires that we proceed with caution in order to avoid requirements that may discourage, delay, or increase the cost of equipment where public safety or critical infrastructure operations are at stake." *Fourth Report & Order and NPRM*, 30 FCC Rcd at 13864-65 ¶ 40.

<sup>22</sup> / See *Mosaic Waiver Order*, 26 FCC Rcd at 9229 ¶ 7 ("[W]e conclude that due to its unique and unusual situation as a carrier offering service only over the 1700/2100 MHz AWS bands, Mosaic had no reasonable alternative that would have allowed it to satisfy sections 20.19(c)(3) and 20.19(d)(3) of the Commission's rules.").

compatible iDEN handsets that can be offered to customers until the transition to its new LTE network is complete.

SouthernLINC Wireless has described above in detail the sourcing channels that it has been actively and diligently pursuing in order to address the lack of new iDEN handset models being offered or imported into the United States. For instance, SouthernLINC Wireless has managed to negotiate an agreement with one licensed iDEN device manufacturer for the purchase of three iDEN handset models and is nearing agreement regarding a fourth model.<sup>23</sup> However, as a smaller regional carrier, SouthernLINC Wireless has limited ability to influence the development, manufacturing, and distribution of new iDEN handset models, and, as the only carrier in the global iDEN market that is subject to the Commission's hearing aid compatibility rules, SouthernLINC Wireless has very limited leverage to encourage the production of new iDEN handset models that are compliant with the Commission's hearing aid compatibility requirements.

In addition, SouthernLINC Wireless continues to diligently seek refurbished and refreshed iDEN handsets from distributors and to search for available new, refreshed, and excess iDEN handsets on the secondary market. However, only a limited number of refurbished and refreshed handsets are available from distributors, and much of the inventory available on the secondary market consists of handsets that were not primarily designed for the general consumer and which typically do not meet the Commission's hearing aid compatibility requirements.

Due to these factual circumstances that are unique to the iDEN platform, as SouthernLINC Wireless' current inventory of hearing aid-compatible iDEN handsets is depleted, the company would have no reasonable alternative other than to discontinue offering one or more

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<sup>23</sup> / The fact that device manufacturers require a license from Motorola Mobility in order to produce iDEN handsets significantly limits the pool of potential manufacturers for these devices.

models of the specialized, non-hearing aid-compatible handsets that are demanded and required by its enterprise, utility, government, and public safety customers in order to maintain compliance with Sections 20.19(c)(3) and 20.19(d)(3) absent the requested limited waiver. Such an outcome would be unduly burdensome not just on SouthernLINC Wireless, but also on this significant customer base. Moreover, as discussed above, such an outcome would be contrary to the public interest as it would require SouthernLINC Wireless to discontinue the provision of certain models of specialized, non-hearing aid-compatible iDEN handsets available to customers with specific communications needs, many of whom themselves rely on the specialized capabilities of such handsets when carrying out vital public functions.<sup>24</sup>

In view of SouthernLINC Wireless' unique and unusual factual circumstances and the lack of any reasonable alternative, the application of the Commission's minimum percentage requirements for hearing aid compatibility to SouthernLINC Wireless' offering of iDEN handsets would be inequitable, unduly burdensome, and contrary to the public interest, and the grant of the requested limited waiver of the Commission's hearing aid compatibility rules is therefore warranted.<sup>25</sup>

#### **IV. CONCLUSION**

For all of the reasons set forth herein, SouthernLINC Wireless submits that its request for a limited waiver until December 31, 2018, of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission's Rules with respect to the minimum percentages of hearing aid-compatible handsets offered for the iDEN air interface is in the public interest and should be granted.

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<sup>24</sup> / *See* note 21, *infra*.

<sup>25</sup> / *Mosaic Waiver Order*, 26 FCC Rcd at 9229 ¶ 7.

**WHEREFORE, THE PREMISES CONSIDERED**, SouthernLINC Wireless respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

**SOUTHERNLINC WIRELESS**

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