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December 4, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
Office of the Secretary  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Upstate Cellular Network and its Affiliated Entities  
Petition for Waiver of Section 20.18(c) of the Commission's Rules

Dear Ms. Salas:

Transmitted herewith, on behalf of Upstate Cellular Network and its ten affiliates, are an original and four copies of a Petition for Waiver of Section 20.18(c) of the Commission's Rules.

Please contact the undersigned with any questions.

Sincerely,

William J. Sill, Esq.

Daniel P. Meyer, Esq.

Counsel to Upstate Cellular Network and  
its Affiliated Entities

Enclosures

cc: John Cimko, Jr.; Chief, Policy Division (WTB)  
Nancy Booker; Deputy Chief, Policy Division (WTB)

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ATTORNEYS AND COUNSELORS AT LAW

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
	)	
Revision of the Commission's Rules	)	CC Docket No. 94-102
To Ensure Compatibility with	)	RM-8143
Enhanced 911 Emergency	)	
Calling Systems	)	
	)	
	)	
	)	

**UPSTATE CELLULAR NETWORK  
PETITION FOR WAIVER**

Pursuant to Section 1.3 of the Commission's Rules, Upstate Cellular Network ("UCN") and the ten affiliates listed below (collectively "Petitioner"), by its attorneys, hereby petitions the Commission for a waiver, if necessary, of the provisions of Section 20.18 (c) of the Commission's Rules requiring that Petitioner be capable of transmitting 911 calls from individuals with speech and hearing disabilities by means other than mobile handsets. See Section 20.18(c) of the Commission's Rules, 47 C.F.R. § 20.18(c) (1997). This Petition for Waiver is submitted in accordance with the procedures established in the Commission's November 13, 1998 Order in Common Carrier Docket No. 94-102.

UCN files this Waiver Request on behalf of itself, the licensee of the Buffalo, New York MSA and the Utica-Rome, New York MSA and the following licensees: (1) NYNEX Mobile of New York LP ("NYNEX"),<sup>1</sup> the licensee of the Elmira, New York MSA, (2) Binghamton MSA Limited Partnership, the licensee of the Binghamton MSA,

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<sup>1</sup> UCN is the general partner of NYNEX. NYNEX is the general partner of Binghamton MSA Limited Partnership, Pennsylvania 3 Sector 2 Limited Partnership and Pennsylvania 4 Sector 2 Limited Partnership.

(3) Pennsylvania 3 Sector 2 Limited Partnership, the licensee of Pennsylvania RSA No. 3; (4) Pennsylvania 4 Sector 2 Limited Partnership, the licensee of Pennsylvania RSA No. 4; (5) Rochester Telephone Mobile Communications,<sup>2</sup> the licensee of the Rochester, New York MSA; (6) Syracuse SMSA Limited Partnership, the licensee of Syracuse, New York MSA; (7) St. Lawrence Seaway RSA Cellular Partnership,<sup>3</sup> the licensee of New York RSA No. 1; (8) New York RSA 2 Cellular Partnership, the licensee of New York RSA No. 2; (9) New York RSA No. 3 Cellular Partnership, the licensee of New York RSA No. 3; and (10) Ithaca Wireline Cellular Limited Partnership, the licensee of New York RSA No. 4.

Petitioner utilizes a CDMA based digital platform which overlays the analog system. This configuration permits subscribers to utilize the Petitioner's systems on either a digital or analog basis. UCN and its affiliates make available to subscribers' "dual mode" cellular telephones, and dual mode telephones are widely available from equipment vendors.<sup>4</sup>

Today, TTY service can be supported only on an analog basis. Unfortunately, there are neither the necessary technical standards nor the proper equipment for UCN and its affiliates to provide TTY service in a digital mode. While Petitioner would like to provide TTY service on a digital basis, it cannot do so without the occurrence of several key events. First, a workable CDMA technical standard must be finalized. Once a standard is in place, network equipment manufacturers will design and make commercially available software and hardware necessary to bring digital networks into

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<sup>2</sup> UCN is the general partner of Rochester Telephone Mobile Communications and Syracuse SMSA Limited Partnership.

<sup>3</sup> UCN is the managing general partner of St. Lawrence Seaway RSA Cellular Partnership, New York RSA 2 Cellular Partnership, New York RSA No. 3 Cellular Partnership and Ithaca Wireline Cellular Limited Partnership.

<sup>4</sup> It is clear that currently, Petitioner is providing TTY service on an analog basis. What is not clear is whether, in light of this provision of TTY service, it is necessary to request a waiver. However, out of an abundance of caution, Petitioner is filing this waiver request.

compliance with the standard. In turn, that action will prompt TTY device manufacturers to design and produce standard-compliant TTY devices.

Petitioner is committed to the principles of the Americans With Disabilities Act of 1990 underlying Section 20.18(c) of the Commission's Rules.<sup>5</sup> Integrating TTY service into the digital wireless environment will bring us all one step closer to a society where all Americans have equal access to communications services. Unfortunately, this goal is temporarily unattainable as the Commission-designated industry forum developing the technological solution to TTY provision in the digital environment has yet to produce a workable standard. In Orders issued on September 30th<sup>6</sup> and November 13th<sup>7</sup> of this year, the FCC recognized that the process of bringing TTY-compatible 911 Service into the digital cellular environment was exceedingly complex. The designated industry group did produce a plan on October 30th. That plan, however, projects that service would not be provided until a year beyond FCC expectations. The Commission granted an extension until January 1, 1999 and required carriers that would be unable to meet the deadline to file a Petition for Waiver.

Good cause exists, therefore, for the granting of this waiver, notably in that system-wide industry standards by which a solution can be certified as TTY-compliant are not yet in place. Without applicable standards, Petitioner can not bring TTY service on-line in a digital wireless environment. To comply with Paragraph 11 of the Order released on November 13, 1998, Petitioner submits the following information:

(1) Petitioner is monitoring the activities of the Wireless TTY Forum, and reviewing the availability of equipment that may comply with the emerging technical standard. This effort included closely watching industry efforts to work with

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<sup>5</sup> 42 U.S.C. § 12131-34.

<sup>6</sup> In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Order*, (CC Docket No. 94-102) (Sept. 30, 1998) (September Order).

<sup>7</sup> In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Order*, (CC Docket No. 94-102) (Nov. 13, 1998) (November Order).

manufacturers and the disabled community to develop the appropriate CDMA standards on an industry-wide basis. The Wireless TTY Forum's periodic reports have been reviewed to determine if compliance is possible given the current state of technology in this field. Given the effort expended by the Forum and the results to date, Petitioner must rely on the Wireless TTY Forum's ongoing efforts to move the industry into compliance rather than duplicate the Forum's achievements to date. But when the standard is finalized and compliant equipment is commercially available, Petitioner—through its network—will be able to provide TTY 911 users with both a voice and data solution, simultaneously.

(2) Petitioner has been querying its equipment vendors to determine when they will be able to provide TTY devices that can be used over digital wireless systems. A prominent manufacturer has reported that no industry common TTY 911 compliant equipment will be available by January 1, 1999. Based on information from Lucent Technologies and the CDMA Development Group (CDG), Petitioner understands that no digital TTY 911-compatible software or hardware equipment currently exists, and that no concrete timetable can be provided to determine when that equipment will be available. Petitioner estimates it will take 120 days after the date that all of the following occur, to complete its efforts to support CDMA based provision of TTY: 1) the Wireless TTY Forum finalizes a CDMA standard; 2) network equipment manufacturers design, produce and make commercially available the necessary hardware and software to make the digital network compliant with the CDMA standard; and 3) cellular telephone manufacturers and TTY manufactures design, manufacture and make commercially available CDMA compliant equipment.<sup>8</sup> Petitioner will monitor developments in each of these areas and report significant developments to the Commission in its three-month updates.

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<sup>8</sup> Given the fact that Petitioner utilizes CDMA based digital technology, it could not utilize a TDMA standard. Thus, the TDMA standards work, although important to TDMA based systems, is not relevant to Petitioners.

(3) Petitioner is cognizant of the thirteen (13) consumer points articulated in the September 30th Order,<sup>9</sup> and will be able to meaningfully factor them into its assessment of a TTY solution once the Wireless TTY Forum has produced an actionable CDMA standard. Petitioner will do this by assessing the many technical parameters of commercially-available equipment, including but not limited to: character error rate, TTY caller video monitor characteristics, volume controls, tactile ring signal indicators, Baudot signaling capabilities, compliance with desired error rates, supportability of VCO and HCO services, provision of call information such as ANI and ALI, and AMPS-benchmarked drive conditions.

(4) Petitioner is committed to providing TTY services to the deaf, hard-of-hearing and to those who have speech disabilities. Petitioner is the licensee or managing partner of 12 cellular systems throughout the State of New York and the Commonwealth of Pennsylvania, and, as such, is well acquainted with the needs of the deaf, hard-of-hearing, and those with speech disabilities. For example, one of Petitioner's cellular systems serves the Rochester, New York area where the Rochester Institute of Technology's National Technical Institute for the Deaf ("NTID") is located. With 1,100 deaf and hard-of-hearing students, NTID is the world's largest technical college for deaf students and one of the top technical universities in the United States. Petitioner is actively seeking to provide the students, faculty and alumni of NTID as well as other hearing impaired individuals within its service area with the ability to transmit 911 calls from TTY devices using digital wireless systems.

Upon receipt of a waiver, Petitioner will file updates every three months, beginning on the date of the waiver grant, indicating progress Petitioner is making toward implementation of TTY/digital capability.

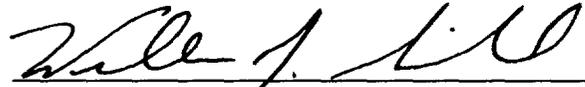
Under Section 22.119 of the Commission's Rules, a request for waiver may be granted upon a showing that the underlying purpose of the rules will not be furthered by application of the Rules in the instant case or if, due to unusual circumstances, application of the rule in question will not be required. Based on the information provided supra, the grant of a Waiver is warranted as: (1) it will advance the

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<sup>9</sup> See Appendix, September Order, CC Docket No. 94-102.

Commission's policy of providing E911 TTY compatible services by providing Petitioner sufficient time to design and implement TTY technology, (2) it is necessary because that TTY policy goal is not attainable at the present, but will be attainable during the time period the Waiver is in effect, and (3) it furthers, rather than frustrates the goal of provision of TTY services in a digital wireless environment.

Wherefore, Petitioner respectfully submits that a waiver of Section 20.18(c) of the Commission's Rules is in the public interest.



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