

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

To: Wireless Telecommunications Bureau

ERRATA

On September 19, 2001, Mid-Tex Cellular, Ltd. ("Mid-Tex") filed with the Federal Communications Commission ("FCC" or "Commission") a petition for limited waiver of Sections 20.18(e) and (g) of the Commission's rules. The petition contains the following errors:

1. Page 2 of the petition contains factual errors regarding Mid-Tex's Phase II Carrier Implementation Report.
2. Footnote 16 incorrectly cites to AT&T's waiver petition.
3. In quoting the FCC's waiver standard as expressed in its *Fourth Memorandum Opinion and Order*, the petition at page 7 inadvertently omitted the word "clear."

Please find attached replacement pages 2, 6 and 7 of Mid-Tex's Petition for Waiver, which contain the corrected text. We request that these pages be inserted in the document in place of the respective originals. We apologize for any inconvenience this has caused the Commission.

Respectfully submitted,

MID-TEX CELLULAR, LTD.

By: _____/s/_____

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Dated: September 26, 2001

II equipment, Mid-Tex will be unable to meet the October 1, 2001 deadline in most of its service area and respectfully requests an extension as outlined below.³

I. Mid-Tex Is Unable to Meet the FCC's October 1 Handset Availability Deadline Due to Factors Outside of Its Control

Mid-Tex is a small cellular carrier providing service in rural Texas (Runnels, Texas RSA 9). Mid-Tex has been working diligently with its main supplier, Nortel, to develop a Phase II solution for its service area. As Mid-Tex reported in its November 9, 2000 report and December 20, 2000 supplemental report, Mid-Tex has been exploring a handset solution to achieve Phase II compliance. The Nortel TDMA technology, which Mid-tex selected, uses both cell sector identification and Global Positioning System ("GPS") technology. The location technology also uses a locating function within or as an overlay to the wireless network infrastructure using a combination of Time Difference of Arrival ("TDOA") and Angle of Arrival ("AOA") functions. Mid-Tex's Phase II solution will require a new software load in its switch, hardware changes consisting of a new processor for its switch and assorted cell site upgrades, as well as automatic location information ("ALI")-capable handsets. As discussed in detail below, vendor-associated delays in delivery of each of these elements will prevent Mid-Tex from meeting its relevant Phase II deadlines in the vast majority of its service area.

Mid-Tex will order an upgrade to its software in the form of the Nortel MTX10 feature addition when it is available⁴ and will add location center hardware in order to transmit Phase II

³ Mid-Tex plans to use a network-based solution in the few areas of its rural network where cell site density might make a network-based solution technically possible. In such areas, Mid-Tex does not anticipate that a waiver will be necessary. Mid-Tex notes that it has yet to receive, nor does it expect to receive in the near future, a Phase II request from the Public Safety Answering Points ("PSAP") that it serves.

⁴ At this time, Nortel is not accepting orders for the MTX10 upgrade.

find handset vendors with ALI-capable TDMA products, Airbiquity is not a practical solution to Mid-Tex's Phase II handset obligations.

Mid-Tex, like many carriers that serve rural areas, has ruled out a purely network-based Phase II solution.¹⁶ Mid-Tex's investigation of network-based solutions has confirmed that triangulation-based location solutions do not work well in less densely populated rural areas, where cell sites are scarce. In fact, the Commission has confirmed the "distinct challenges" that rural carriers such as Mid-Tex face in implementing Phase II requirements.¹⁷ Mid-Tex will use TDOA and AOA where it can,¹⁸ but must rely heavily on ALI-capable handsets to meet the FCC's Phase II accuracy standards. In the Mid-Tex network, an E911 caller is not always within the range of multiple cells. In addition, many of Mid-Tex's cell sites are spaced in straight lines (by roadways, for example), making triangulation a geometric impossibility.¹⁹ Mid-Tex will continue to work with Nortel on its hybrid solution, but cannot achieve full Phase II compliance in the majority of its service area without ALI-capable handsets.

II. Mid-Tex Satisfies the Relevant Standards for Waiver of the Commission's Rules

Under Section 1.3 of its rules, the Commission may waive any provision of its rules if good cause is shown.²⁰ The Commission must take a "hard look"²¹ and then decide if such a

¹⁶ See, e.g., Verizon Wireless Petition for Waiver at 33.

¹⁷ See, e.g., *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Fifth Memorandum Opinion and Order, 15 FCC Rcd. 22810, ¶ 21 (2000) ("*Fifth MO&O*").

¹⁸ As discussed above, MID-TEX hopes to use a network-based solution where cell site density in Mid-Tex's rural network makes TDOA and AOA possible.

¹⁹ See, e.g., *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Third Report and Order, 14 FCC Rcd. 17388, ¶ 23 (1999) ("*Third R&O*").

²⁰ 47 C.F.R. § 1.3.

²¹ *Wait Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

waiver is in the public interest.²² The Commission has already recognized that wireless carriers may face difficulties in meeting the October 1, 2001 deadline to comply with Sections 20.18 (e) and (g) of its rules. In the FCC's *Fourth Memorandum Opinion and Order* ("*Fourth MO&O*"),²³ the Commission recognized that there would be instances when "technology-related issues" or "exceptional circumstances" would cause a delay in a wireless carrier's ability to meet the October 1, 2001 deadline to become Phase II compliant.²⁴ Such recognition is consistent with the Commission's acknowledgement that "bringing a new product to market requires manufacturers to undertake a time-consuming series of complex steps."²⁵ Manufacturers, although racing to meet carrier demand, have yet to overcome the technological complexities in order to make ALI-capable handsets available in time for carriers to meet the FCC's deadlines. The requested waiver is consistent with the Commission's recognition that compliance deadlines should be linked to the availability of manufacturer equipment.²⁶

The Commission also indicated that a petition for waiver must be "specific, focused and limited in scope, and with a clear path to full compliance."²⁷ Mid-Tex's waiver petition is specific, narrow in scope, and provides the Commission with Mid-Tex's efforts and future plans to satisfy the FCC's Phase II requirements. Moreover, as set forth below, the instant petition satisfies the applicable waiver standards.

²²*Northeast Cellular Telephone Company, L.P., et al v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²³*Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd. 17442 (2000) ("*Fourth MO&O*").

²⁴*Id.* at ¶ 43.

²⁵GARMIN International, Inc., *Order on Reconsideration*, DA 01-851 at ¶ 5.

²⁶*See, e.g., Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992; Compatibility Between Cable Systems and Consumer Electronics Equipment*, 9 FCC Rcd. 1981 ¶¶ 76-77 (1994) (modifying a proposed compliance deadline to account for the unavailability of necessary equipment).

²⁷*Fourth MO&O* at ¶ 44.

CERTIFICATE OF SERVICE

I, Joy Barksdale, do hereby certify that on this 26th day of September 2001, a copy of the foregoing Errata was served by hand delivery to the following parties:

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