

**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 14, 2001, Cellular Mobile Systems of St. Cloud ("St. Cloud") 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. Footnote 15 incorrectly cites to AT&T's waiver petition.
2. 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 6 and 7 of St. Cloud'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, and apologize for any inconvenience this has caused the Commission.

Respectfully submitted,

**CELLULAR MOBILE SYSTEMS OF
ST. CLOUD, LLC**

By: _____/s/_____

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Its Attorneys

Dated: September 26, 2001

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

CMS, like many carriers that serve rural areas, has ruled out a purely network-based Phase II solution.¹⁵ CMS'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 CMS face in implementing Phase II requirements.¹⁶ CMS will use TDOA and AOA where it can,¹⁷ but must rely heavily on ALI-capable handsets to meet the FCC's Phase II accuracy standards. In the CMS network, an E911 caller is not always within the range of multiple cells. In addition, many of CMS's cell sites are spaced in straight lines (by roadways, for example), making triangulation a geometric impossibility.¹⁸ CMS 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. CMS 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.¹⁹ The Commission must take a "hard look"²⁰ and then

¹⁴ See, e.g., Inland Cellular Petition for Waiver at 6.

¹⁵ See, e.g., Verizon Wireless Petition for Waiver at 33.

¹⁶ 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*").

¹⁷ As discussed above, CMS hopes to use a network-based solution where cell site density in CMS's rural network makes TDOA and AOA possible.

¹⁸ 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*").

¹⁹ 47 C.F.R. § 1.3.

decide if such a waiver is in the public interest.²¹ 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*"),²² 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.²³ 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."²⁴ 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.²⁵

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."²⁶ CMS's waiver

²⁰ *Wait Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

²¹ *Northeast Cellular Telephone Company, L.P., et al v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²² *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*").

²³ *Id.* at ¶ 43.

²⁴ GARMIN International, Inc., *Order on Reconsideration*, DA 01-851 at ¶ 5.

²⁵ *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).

²⁶ *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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