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**Filed Electronically Via ECFS**

September 27, 2001

Ms. Magalie Roman Salas, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554

Attn: Patrick Forster, Senior Engineer – Room 3-A104  
Wireless Telecommunications Bureau / Policy Division

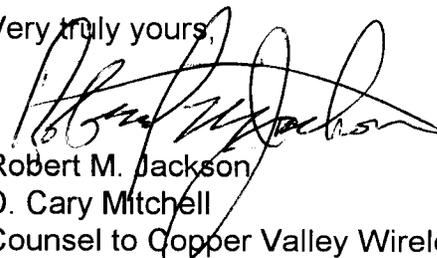
**Re: *Copper Valley Wireless, Inc.***  
***Request for Temporary Waiver of Rule Section 20.18(g)***  
***CC Docket No. 94-102***

Dear Ms. Salas:

Attached below is a request for temporary waiver of the Commission's Rules for implementing E911 Phase II Service which we are filing on behalf of Copper Valley Wireless, Inc. ("Copper Valley").

Please direct any questions or correspondence regarding this filing to the undersigned counsel.

Very truly yours,



Robert M. Jackson  
D. Cary Mitchell  
Counsel to Copper Valley Wireless, Inc.

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: Chief, Wireless Telecommunications Bureau

**REQUEST FOR RULE WAIVER**

Copper Valley Wireless, Inc. ("Copper Valley") (TRS Number 812393), by its attorney, hereby requests a temporary waiver of Section 20.18(g) of the Commission's Rules to allow it to delay the phase-in of its deployment of a handset-based technology in meeting the Commission's requirement for implementing E-911 Phase II service.

**I) Background**

1. Copper Valley is the licensee of Cellular Radiotelephone Service Station KNKQ401, the Frequency Block B cellular system serving the B4 Segment of the Alaska 2 - Bethel Rural Service Area.

2. In its E-911 implementation report filed with the Commission in November 2000, Copper Valley stated that it would deploy a handset-based Automatic Location Information ("ALI") technology, subject to and contingent upon the ultimate availability of cost-effective ALI equipment that is compatible with its existing cellular system equipment (equipment which has been discontinued by the manufacturer). As noted in the November 2000 implementation report, Copper Valley's system utilizes analog equipment manufactured by Plexsys, equipment which has been

discontinued by the manufacturer and is no longer being supported by the manufacturer. As stated by Copper Valley:

IWS (the parent company of Plexsys) has advised us that it has no plans to develop network-based ALI solutions for our system's Plexsys D series analog cellular system equipment. When pressed, IWS estimated that to Commission a special software development project would require between six and twelve months to complete and cost a very large sum of money (exclusive of the additional costs associated with equipment, installation and testing). In view of these considerations and others, IWS recommended handset-based solutions as our only practical means of achieving compliance with the Commission's Phase 2 E-911 requirements.

We labor under an additional constraint as well. The existing Plexsys cellular system equipment is only approximately 50% into its useful life. With the very small customer base that we have (which is attributable to the sparse population of our service areas) it is not economically possible to upgrade or replace the equipment at our twelve cellular base station locations and at our four Mobile Telephone Switching offices ("MTSOs") due to the ruinous debt load that we would be forced to incur. It is doubtful that we could survive financially if forced to replace or upgrade all of this equipment.

In addition, the November 2000 implementation report noted that Copper Valley had received "no E-911 implementation requests from PSAPs;" and that, after contacting three public safety departments in its service area, Copper Valley had been advised that "none of them have plans to upgrade their own equipment for ALI capability, and that none of them plan to request ALI capability from [Copper Valley] at any time in the near future."

## **II) Commitment to Achieving Compliance**

3. Since November 2000, Copper Valley has been diligent in pursuing deployment of E-911 Phase II technology in a timely manner. However, Copper Valley has been advised by prospective equipment manufacturers that the handsets are not yet commercially

available for handset-based ALI applications. Therefore, despite its best efforts and due to circumstances beyond its ability to control, Copper Valley recognizes that it will not be able to meet the phase-in schedule established in the Commission's Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000) and embodied in Section 20.18(g) of the Rules.

**III) Waiver Request**

4. Accordingly, Copper Valley requests a waiver of Section 20.18(g) (1), to allow it to delay the handset activation deadlines therein; and a waiver of Section 20.18(g) (2) of the Rules, to defer the requirement for upgrading its infrastructure and begin delivering E-911 Phase II service to a requesting Public Safety Answering Point ("PSAP"), until such time as the necessary equipment is available from the manufacturers and can be obtained.

**IV) Waiver Standards**

5. In its Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000), the Commission indicated that the Phase II rules are intended to be applied in a manner that takes into account the practical and technical realities.<sup>1</sup> Recognizing that practical and technical realities might delay Phase II implementation, the Commission established a general approach to dealing with possible requests for waiver of the Phase II requirements.<sup>2</sup> Thus, the Commission provided that its rules may be waived for good cause shown, consistent with Section 1.3 of the Rules.<sup>3</sup> It recognized,

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<sup>1</sup> 15 FCC Rcd. 17442 at Para. 22.

<sup>2</sup> Id. at Paras. 42-45.

<sup>3</sup> Id.

in the case of E-911, that there could be instances where technology-related issues or exceptional circumstances may mean that deployment of phase II may not be possible by October 1, 2001.<sup>4</sup> The Commission cautioned that waiver requests should be specific, focused and limited in scope, with a clear path to full compliance and should document the efforts aimed at compliance.<sup>5</sup>

**V) Copper Valley Has Met The Waiver Standards**

6. As shown above, Copper Valley has met the Commission's standards for obtaining the requested waiver of Section 20.18(g) of the Commission's Rules. While Section 20.18 of the Rules imposes E-911 Phase II obligations only on Commission licensees (by reason of limitations on the Commission's statutory authority), the Commission has repeatedly acknowledged the obvious, i.e., that achieving full compliance requires the cooperative efforts of carriers, equipment manufacturers and suppliers, and government officials responsible for public safety activities. As a service provider only, Copper Valley would be unable to achieve compliance with the Commission's Phase II requirements without the availability of necessary equipment and the readiness of the PSAPs in this area; and, as a small carrier, Copper Valley lacks the economic leverage to influence the decisions of equipment manufacturers. The simple truth is that there is no technology currently available that will satisfy the Commission's Phase II

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<sup>4</sup> Id.

<sup>5</sup> Id.

accuracy requirements within the established deadlines.<sup>6</sup> It is only recently that ALI technology has advanced to the point where Phase II compliance can become a reality. However, once compliant equipment is available in the marketplace, it will undoubtedly be several more months before Copper Valley will be able to obtain delivery of this equipment.

7. Grant of the limited request for waiver contained herein is in the public interest. Copper valley has been diligent in pursuing implementation of Phase II but is unable to do so entirely because of matters that are beyond its ability to control. The instant waiver request is specific and focused. It details the unavoidable delays that Copper Valley has encountered through no fault of its own. It sets out a clear path to compliance once the necessary equipment becomes available. In addition, the public interest will not be prejudiced by grant of the requested waiver. As noted above, Copper Valley has received no E-911 implementation requests from PSAPs in its service area; and has been advised by the public safety departments in its service area that they have no plans to upgrade their own equipment for ALI capability, and that none of them plan to request ALI capability from Copper Valley at any time in the near future.

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<sup>6</sup> See "Petition for Waiver" in this docket filed August 31, 2001 by Triton PCS License Company, L.L.C., pp. 4-5.

WHEREFORE, good cause shown, Copper Valley requests that the requested waiver be granted.

Respectfully submitted,  
Copper Valley Wireless, Inc.

Dated: 1/9/27/01

By: *Amanda Hale*  
Amanda Hale, General Manager

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