

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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| In the Matter of |) | |
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| Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems |) | CC Docket No. 94-102 |
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To: Chief, Wireless Telecommunications Bureau

REQUEST FOR RULE WAIVER

South Central Utah Telephone Association, Inc. ("SCUTA"), by its attorneys, 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 technology required to meet the Commission's rules for implementing E911 Phase II service.

Background

SCUTA is the licensee of station KNLG223 in the Broadband Personal Communications Service (PCS). It acquired this license in the Commission's Broadband PCS D, E, & F Block Auction (Auction 11). The license covers the St. George, Utah, Basic Trading Area. SCUTA uses Nortel's CDMA Equipment for its PCS network.

In its implementation report filed last November, SCUTA notified the Commission of its tentative plans to utilize a network-based technology in implementing E911 Phase II service, but noted that it was concerned about the high cost of a network solution in a rural setting, where towers are widely spaced and may be separated by uneven terrain. SCUTA noted that it was concerned, as well, with the lack of pricing and delivery information for handset ALI

technology. While SCUTA indicated that it planned to adhere to the implementation schedule established in the Commission's *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442 (2000), it stated its financial concerns and that its ability to do so would depend, in large part, on the ability of its equipment suppliers to have their products operational and delivered on time. SCUTA is very concerned that it would suffer an undue financial burden if it is required to adhere strictly to a too-rapid technology deployment. SCUTA is a rural carrier operating in a varied terrain, including mountains, deserts, mesas and forests, all of which raises the cost of deployment to achieve optimal coverage, as more cell sites and equipment are needed to achieve desired service quality. At the same time, however, SCUTA has a smaller base of potential customers to absorb the added costs. In development and deployment of its system, including offering E911 service, SCUTA is quite careful to maintain an appropriate fiscal balance so that it may continue to provide service well into the future. While SCUTA appreciates the need for E911 services, a forced, unduly rapid deployment of the technology could upset the careful balance that SCUTA has worked so hard to achieve.

SCUTA's Commitment to Achieving Compliance

SCUTA has been diligent in pursuing deployment of network-based E911 Phase II technology in a timely manner and has investigated deployment of a handset-based technology as well. SCUTA has maintained a dialogue with handset and network equipment vendors for the past several years. Topics discussed include E911 as well as CALEA and TTY access. SCUTA management has attended trade shows and business forums to keep abreast of equipment development. Its management attends industry and public safety meetings on the subject of E911. However, despite its best efforts and due to circumstances beyond its ability to control (as

more fully described below), SCUTA recognizes that it will not be able to meet the phase-in schedule established in the Commission's *Fourth Memorandum Opinion and Order* and embodied in Section 20.18(g) of the Commission's Rules.

While SCUTA still officially has elected a network-based solution, it continues to investigate deploying a handset-based technology and is awaiting final prices from manufacturers and equipment vendors prior to finalizing its decision. In the meantime, however, SCUTA is taking steps to upgrade its network to make it ready to utilize either a network or handset-based solution. While SCUTA has not received any PSAP requests for Phase II service, it is requesting this waiver in an abundance of caution, pursuant to the Commission's October 19, 2001 Public Notice Mimeo No. DA 01-2459 (released October 19, 2001), especially in the event that it should decide to choose and implement a handset solution.

Waiver Request

Accordingly, SCUTA requests a waiver of Rule Section 20.18(f), to allow it to delay by 18 months the implementation of a network-based technology. Were SCUTA to receive today a request from a PSAP to provide E911 Phase II service, it would not be able to comply within the six months provided in the Commission's rules. SCUTA also requests a waiver of Rule Section 20.18(g)(1), to allow it to delay by 18 months from the extended deadline given the largest national CMRS carriers the handset activation phase-in deadlines therein; and a waiver of rule Section 20.18(g)(2), to similarly defer the requirement for upgrading its infrastructure and begin delivering E911 Phase II service to a requesting PSAP. In the alternative, SCUTA requests that its license be included in any blanket waiver or E911 implementation extension that the Commission grants to small and mid-sized CMRS carriers.

Implementation Details

Switch

The Nortel DMS-100 Dual Load, Wireless on Wireline switch, currently employed by SCUTA in its PCS system is only three years old. The switch is currently operating at software load LWW006 (the equivalent to wireless MTX 8); and when SCUTA contacted Nortel regarding its E911 ALI compliance, it had planned on going to software load LWW008 (the equivalent to wireless MTX 10), which it understood from Nortel would be Phase II compliant. Despite that, Nortel's sales representative informed SCUTA on June 8, 2001 that its current switch would not be upgraded further and that it would be required to change from the current switch configuration to a new switch. Apparently, Nortel had made a business decision, based on the market demand for the DMS-100 Dual Load Wireless on Wireline product, that LWW007 (the equivalent to wireless MTX 9) would be the last DMS-100 Dual Load Wireless on Wireline software load. Since the software load of LWW007 (the equivalent to wireless MTX 9) is not capable of processing a wireless location-based Phase II handset call, SCUTA will be required to transition its infrastructure to separate wireline/wireless switching platforms, and load one of them to the wireless load MTX10, in order to achieve Phase II Compliance. The new Nortel configuration is not complete and SCUTA is still in the process of negotiating its price, delivery, installation and testing. This process is expected to take at least six months and possibly longer than a year.

SCUTA has begun to question whether its decision to deploy network-based technology is in the best interest of the company. To date, SCUTA has received only a tentative quote regarding components for its existing network. However, SCUTA is aware that the tentative

quote is dependent upon the completion of formal onsite engineering work, which has not yet been performed. From the estimates of costs SCUTA has received to date, it appears that implementation costs of a network-based solution will likely be prohibitive.

SCUTA has also investigated and continues to investigate deploying a handset-solution. SCUTA management has contacted, via telephone, voicemail and email, various handset manufacturers, inquiring as to handset price and availability, but has received minimal correspondence in return. SCUTA sells Motorola, Nokia and Kyocera handsets. Each manufacturer has stated that the earliest availability for E911 compliant handsets would be the third quarter of 2002, possibly first quarter 2003. None of the manufacturers would provide pricing data.

SCUTA has delayed making a final decision regarding the E911 technology it implements for several reasons. Specifically, SCUTA management has observed through various trade journal articles that large companies are moving away from the network technology choice, but is unaware of their reasons for doing so. While SCUTA is concerned about this, its management does not feel that it is prudent for SCUTA to make a technology switch until it has some concrete information and details on pricing and availability for handset technologies. SCUTA also lacks facilities to test technologies, but rather depends on the marketplace to "prove" a product before implementing it within its network.

To date, SCUTA has received no quote from Nortel regarding all the necessary switching upgrades. As noted above, SCUTA has recently received a tentative price quote for network-based equipment, but expects that price to be adjusted as the system is engineered and deployed. SCUTA is also aware that the coverage provided by each station within the system might not be fully determined until its buildout is completed. This concern is based on uncertain factors, such

as RF performance over the terrain in its service area and whether the rural nature of the system will require more base stations using a more expensive add-on solution. The number of additional base stations that may be required for optimum coverage is uncertain at this time; hence, the cost for implementing a network solution is likewise uncertain.

Similarly, SCUTA does not have sufficient information about the final costs for a handset solution to make a commitment to invest in that technology. It is not clear whether SCUTA would initially be able to get handsets in reasonable quantities to give customers a good selection of models to choose from and still meet the activation percentages required by the Commission. SCUTA does not expect good choice and reliability in handset availability to be a reality for small companies until many months after the orders of the largest carriers are filled.

SCUTA has very limited funding to allow it to survive and compete with larger carriers. It could prove financially burdensome to SCUTA to upgrade its current facilities too quickly or to roll out one technology and then have to change to another. The lack of pricing details causes SCUTA great concern; without specific information, SCUTA is being asked to commit to a technology when it does not know how much that commitment will cost, and whether that choice will have the desired result of providing effective E911 Phase II service.

SCUTA has pursued the information necessary to implement both types of E911 solutions, but has been frustrated in its efforts by the equipment manufacturers' apparent inability to respond to the huge demand as well as the fiscal uncertainties generated by the Commission's looming deadlines.

Waiver Standards

In its *Fourth Memorandum Opinion and Order*, the Commission indicated that the Phase II rules are intended to be applied in a manner that takes into account practical and technical realities.¹ Recognizing that practical and technical realities might delay Phase II implementation, the Commission established a general approach in dealing with possible requests for waiver of the Phase II requirements.² Thus, the Commission provided that its rules may be waived for good cause shown, consistent with Rule Section 1.3.³ It recognized, in the case of E911, that there could be instances where technology-related issues or exceptional circumstances may mean that deployment of Phase II might not be possible in a timely fashion. 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.⁴

SCUTA Has Met the Waiver Standards

As shown above, SCUTA has met the Commission's standards for obtaining the requested waiver of Rule Section 20.18(f) and (g). While Section 20.18 of the Commission's Rules imposes E911 Phase II obligations only on Commission licensees (by reason of limitations on the Commission's statutory authority), the Commission has repeatedly acknowledged the obvious, namely, 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, SCUTA would be unable to achieve compliance with the

¹ 15 FCC Rcd 17442, at ¶ 22.

² *Id.* at ¶¶ 42-45.

³ *Id.*

⁴ *Id.*

Commission's Phase II requirements without the availability of necessary equipment and the readiness of the public safety answering points in its area. The simple truth is that there is no technology available to SCUTA that will satisfy the Commission's Phase II accuracy requirements. It is only recently that automatic location technology has advanced to the point where Phase II compliance can become a reality. However, once compliant equipment hits the market, it will undoubtedly be at least several more months before SCUTA will be able to afford, order and obtain delivery of this equipment. As a small market carrier, SCUTA simply does not have the buying power of the national carriers, let alone the clout to influence equipment design and development. If the past is prologue, SCUTA will have to wait until the initial requirements of the national carriers are satisfied before it will be able to obtain Phase II compliant equipment. In addition, SCUTA could not have anticipated the problems and delays with having to acquire, install and test a new switch because its switch manufacturer has decided not to upgrade a switch, due to economic issues that are apparently unrelated to E911 Phase II.

The deadline extensions herein requested are in the public interest. They will afford SCUTA the additional time needed to upgrade and test its equipment, once the equipment is available, in an orderly manner that is likely to lead to a successful result in providing Phase II service. They will not adversely affect the PSAPs in the area or the public served. SCUTA has not received any request for Phase I service.

It is, therefore, clear that SCUTA has been diligent in pursuing implementation of Phase II but that it is unable to do so entirely due to matters that are beyond its ability to control. The instant waiver request is specific and focused. It details the unavoidable obstacles SCUTA has encounters through no fault of its own. It sets out a clear path to compliance once the necessary funding and equipment becomes available.

DECLARATION

Brant B. Barton, hereby declares, under penalty of perjury, under the laws of the United States, that he is the Assistant General Manager of South Central Utah Telephone Association, Inc., that he has read the foregoing Request for Rule Waiver to the Federal Communications Commission; and that, except for those facts of which the Commission may take official notice, all of the facts stated therein are true and correct to the best of his knowledge, information and belief.

Dated, this 30th day of November, 2001.



Brant B. Barton
Assistant General Manager
South Central Utah Telephone Association, Inc.