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April 11, 2002

RECEIVED

APR 11 2002

William F. Caton, Acting Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Attn: Patrick Forster, Policy Division, Wireless Telecommunications Bureau

Re: Coleman County Telecommunications, Ltd.
Amended Petition for Waiver of the Phase II E911 Obligations Set Forth
in Section 20.18 of the Commission's Rules - CC Docket No. 94-102

Dear Mr. Caton:

Coleman County Telecommunications, Ltd. ("Coleman"),¹ by counsel, hereby submits the attached amended petition for waiver of the Phase II enhanced 911 ("E911") obligations set forth in Section 20.18 of the Commission's Rules ("Waiver Request").²

Due to a miscommunication between Coleman and counsel, the initial Waiver Request specified that Coleman had chosen a CDMA technology. Coleman hereby amends the Waiver Request to specify that the Company has chosen a GSM technology. Although the technology differs from that specified in the initial Waiver Request, the effect remains the same. In its initial Waiver Request, Coleman demonstrated that implementation of the FCC's E911 Phase II requirements are neither technically nor financially feasible and requested a fifteen-month deferral of each of the penetration benchmarks in Section 20.18(g)(1)(i)-(iv). As demonstrated in the attached amended Waiver Request, imposition of a network-based E911 Phase II solution continues to be financially infeasible for Coleman County. Additionally, imposition of the Commission's implementation schedule for a handset-based solution continues to be technically infeasible given

A notification of a name change from Coleman County Telecommunications, Inc. to Coleman County Telecommunications, Ltd. was filed with the Commission on April 1, 2002.

The initial Waiver Request was filed with the Commission on November 30, 2001 and remains pending at the FCC.

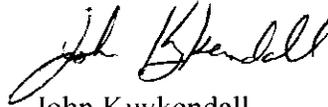
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William F. Caton, Acting Secretary
Page 2

that GSM handsets will not be available until later this year; therefore, a fifteen-month deferral of the penetration benchmarks is still necessary. Further, because Coleman has not yet begun to offer service, it is not yet obligated to provide E911 services. Accordingly, no harm is caused by amending the pending waiver request.

Please contact the undersigned with any questions regarding this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Kuykendall". The signature is written in a cursive style with a large, looping initial "J".

John Kuykendall

Its Attorney

Attachment

cc: Qualex International (diskette)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of the Commission's Rules to Ensure)
Compatibility with Enhanced 911 Emergency)
Calling Systems)
)
Coleman County Telecommunications, Ltd.)
dba TransTexas PCS)
Petition for Waiver of Sections 20.18)
of the Commission's Rules)

CC Docket No. 94-102

To: Chief, Wireless Telecommunications Bureau

AMENDED PETITION FOR WAIVER

Coleman County Telecommunications, Ltd. dba TransTexas PCS ("Coleman"),¹ by its attorneys, and pursuant to Section 1.3 and 1.925 of the Commission's Rules,² hereby amends its request for waiver of the Phase II enhanced 911 ("E911") obligations set forth in Section 20.18 of the Commission's Rules.³ Waiver is warranted due to the fact that the underlying purpose of the Rule would be frustrated by application to Coleman and grant of the waiver

A notification of a name change from Coleman County Telecommunications, Inc. to Coleman County Telecommunications, Ltd. was filed with the Commission on April 1, 2002.

² 47 C.F.R. §§ 1.3 and 1.925. The initial waiver request which was filed on November 30, 2001, specified that Coleman had chosen a CDMA technology. Coleman hereby amends the request for waiver to specify that the Company has chosen a GSM technology. Although the technology differs from that specified in the initial waiver request, the effect remains the same. Further, because Coleman has not yet begun to offer service, it is not yet obligated to provide E911 services. Accordingly, no harm is caused by amending the pending waiver request.

³ 47 C.F.R. § 20.18. A Declaration by an authorized company representative attesting to the accuracy of this amended petition is attached.

would be in the public interest. To further the public interest, Coleman proposes a specific deployment schedule based upon representations made by handset-based solution vendors.

I. Background

Coleman's PCS license covers the Brownwood, Texas (BTA057) market. Coleman has not yet begun to offer service. Coleman has chosen to implement GSM technology in its network. To date, Coleman has not received a Phase I or a Phase II request from a PSAP that is capable of receiving and utilizing the data elements and has a mechanism in place for recovering the PSAP's costs.

II. Waiver is Warranted

The standard for grant of a waiver of the Commission's Rules is that "the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest."⁴ Coleman's waiver request meets these standards.

A. The Underlying Purpose of the Commission's E911 Rule Would be Frustrated by Application to the Instant Case

Requiring Coleman to begin delivering E911 Phase II information immediately upon commencement of service would frustrate the underlying purpose of the FCC's E911 Rules by jeopardizing the provision of service through imposition of financially burdensome and technically infeasible requirements. The FCC adopted its E911 Rules with the goal of

⁴ 47 C.F.R. § 1.925(b)(3)(i).

“stimulat[ing] the application of wireless technology to improv[e] emergency 911 systems.”⁵

The Commission recognized that this goal could not be accomplished without “research, testing and development requiring coordinated efforts by public safety organizations, wireless carriers, location technology vendors and equipment manufacturers.”⁶ Due to concerns expressed by the carriers, vendors and manufacturers regarding the technical and financial feasibility of implementing E911 services, the FCC adopted a phased-in approach that is “rigorous without being impossible or commercially self-defeating.”⁷ Further, the Commission provided for waivers of its Rule in situations in which it is not economically or technologically feasible for a carrier to meet the phased-in deployment timetable.⁸

1. Imposition of a Network-Based E911 Phase II Solution is Not Financially Feasible for Coleman

In the Matter of Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, 17458 (2000) (“Fourth MO&O”).

Id.

In the Matter of Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676, 18707 (1996) (“R&O”). See *Notice of Proposed Rulemaking* 9 FCC Rcd 6170, 6178 (1994) (FCC proposed a phased-in approach due to concerns about “technical and financial feasibility expressed by manufacturers and communications service providers”).

See, e.g., R&O at 18718 (noting that there may be exceptional circumstances where deployment of E911 may not be technically or economically feasible within the timetable allowed and stating that these cases can be dealt with through individual waivers); *U.S. Cellular, et al. v. FCC*, Case No. 00-1072, D.C. Cir., FCC Brief at 33 (“If a small or rural carrier can show that, in fact, it is uniquely disadvantaged by the technological or economic demands imposed on it by the FCC’s E911 implementation schedule, the waiver procedure is available for it to seek appropriate individualized relief”).

Coleman is not presently providing service and to date has not received a Phase II request from a PSAP that is capable of receiving and utilizing the data elements and has a mechanism in place for recovering the PSAP's costs. Accordingly, Coleman is not currently required to provide a network-based Phase II E911 solution. However, as it anticipates turning up service, Coleman has been investigating various types of E911 solutions.

This investigation has revealed that network-based solutions are not financially feasible. Without the ability to spread the high costs of a network-based solution over a large subscriber base, the cost of deploying a network-based solution would be prohibitively expensive.⁹ By eliminating a critical precondition for implementation of E911 service, that a carrier cost recovery mechanism be in place, the Commission placed a heavy financial burden on small and rural carriers which diverts the limited financial resources away from system build-out and improved services. Accordingly, a network-based solution is neither technically nor financially feasible.

2. Imposition of the Commission's Implementation Schedule for a Handset-Based Solution is Not Technically Feasible for Coleman

To require Coleman to sell ALI-capable handsets to new customers according to the FCC's timetable would frustrate the FCC's goal that the imposition of E911 requirements be technically feasible. Coleman has not been able to identify any location technology vendors or

⁹ See, e.g., the Phase II Implementation Report for North Carolina RSA 3 Cellular Telephone Company, Inc. dba Carolina West Wireless filed November 9, 2000 containing information regarding Grayson Wireless' network-based solution and estimating that the cost of deployment of Grayson's solution is estimated to be approximately \$25,000 per cell site plus a \$65,000 central control system. The Commission has previously cited United States Cellular Corporation's estimate that it would cost about \$90 million to upgrade its more than 2,500 cell sites to employ TruePosition's network-based solution, *i.e.*, approximately \$36,000 per cell site.

equipment manufacturers that currently produce ALI-capable phones for GSM systems or will have them available by the anticipated turn up date. Accordingly, Coleman cannot meet the FCC's handset-based implementation schedule.

Coleman has determined that for its GSM network, a solution utilizing Enhanced Observed Time Difference ("E-OTD") handsets is the only viable option.¹⁰ According to Cingular's First Quarterly E911 Implementation Report filed with the Commission, "E-OTD handsets are not commercially available from any source at this time."¹¹ Such handsets are not expected to be available to the large carriers until third quarter 2002.¹² Accordingly, as of the anticipated turn up date, the handset component of the E-OTD hybrid solution is not technically feasible. Accordingly, a handset-based solution is not technically feasible for Coleman.

B. Waiver Would be in the Public Interest

Coleman is not requesting a blanket waiver of the Commission's E911 Phase II requirements but rather requests waiver only to the extent that these requirements cannot be accomplished in a technically or economically feasible way. Accordingly, Coleman seeks an extension of the deadline to allow it to implement a handset solution in the most efficient and

See In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, 17461-62 (2000) (Commission noting that the E-OTD approach may be one of the only ALI solutions available in the near term for GSM systems); Request for Waiver made by Cingular Wireless LLC, filed on July 6, 2001 at 17 (Cingular noting that it and "virtually every other GSM carrier has indicated that it plans on deploying E-OTD").

¹⁰ *Cingular Wireless LLC First Quarterly E911 Implementation Report*, CC Docket No. 94-102, filed February 1, 2002 at 1. *See* Comments of Nokia, Inc., CC Docket No. 94-102, filed May 7, 2001; Comments of Motorola, Inc., CC Docket No. 94-102, filed May 7, 2001.

¹² *Id.* at 1-2.

expeditious manner.

Based upon the fact that E-OTD handsets will not be commercially available until later this year, Coleman seeks a waiver for a fifteen-month deferral of each of the penetration benchmarks in Section 20.18(g)(1)(i)-(iv). Such an extension would allow time for manufacturers to complete development for E-OTD handsets and enable Coleman to grow its subscriber base so that it can continue to provide competitive service while incurring the costs of deploying E911 services.

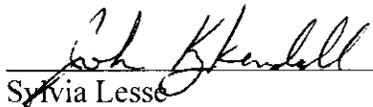
Imposition of financially burdensome and technically infeasible requirements would jeopardize the provision of competitive service. Coleman has not yet begun to provide service. Accordingly, it will have a very small subscriber base for some time. Without the ability to spread the high costs of an E911 solution over a large subscriber base, the cost of deploying the network component would prove to be prohibitively expensive. Additionally, the imposition of costly upgrades at this early stage in the development of the wireless company would place the carrier at a competitive disadvantage. The larger, more established wireless carriers that compete with Coleman are able to spread the costs of E911 compliance into their larger subscriber bases. To impose financially burdensome requirements on Coleman while it is still in its start-up mode would further disadvantage the new competitor and could potentially drive the new company out of business, depriving the public of a wireless competitor in the Brownwood, Texas market.

III. Conclusion

Because implementation of the FCC's E911 Phase II implementation requirements are neither technically nor financially feasible, Coleman requests a waiver of the requirements. The requested waiver would allow for a fifteen-month deferral of each of the penetration benchmarks required for carriers that choose handset-based solutions. Such a waiver would be in the public interest as it would allow time for manufacturers of GSM handsets to fully develop the solutions and allow for the advancement of a newly formed competitive wireless service provider.

Respectfully submitted,

**COLEMAN COUNTY TELECOMMUNICATIONS,
LTD. DBA TRANSTEXAS PCS**

By: 
Sylvia Lesse
John Kuykendall

Its Attorneys

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