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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

APR 18 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

**REPLY COMMENTS OF THE RURAL CELLULAR ASSOCIATION**

The Rural Cellular Association ("RCA"),<sup>1</sup> by counsel, hereby responds to the Commission's Public Notice in which it invited comment on petitions by six small, rural wireless carriers for a temporary waiver of the June 30, 2002 deadline for which digital wireless carriers must be capable of transmitting 911 calls using text telephone ("TTY") devices.<sup>2</sup>

RCA joins with commenters in urging the Commission to grant the instant petitions for temporary waiver, and to grant the same relief to all other similarly situated small and rural wireless carriers.<sup>3</sup> RCA agrees that this action is appropriate and would be in the public interest.

<sup>1</sup> RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 135 rural and small metropolitan markets where approximately 14.6 million people reside. RCA was formed in 1993 to address the distinctive issues facing rural wireless service providers.

<sup>2</sup> *Wireless Telecommunications Bureau Seeks Comment on Petitions for Temporary Waiver of Deadline by Which Digital Wireless Systems Must Be Capable of Transmitting 911 Calls From TTY Devices*: Public Notice, CC Docket No. 94-102, DA -02-640 (rel. March 19, 2002) ("Notice"). Petitions for temporary waiver were filed on behalf of Enterprise Wireless PCS, LLC, Public Service Cellular, Inc., Missouri RSA No. 7 Limited Partnership dba Mid-Missouri Cellular, Illinois Valley Cellular RSA2-I Partnership, Illinois Valley Cellular RSA 2-II Partnership, and Illinois Valley Cellular RSA 2-III Partnership ("Petitioners").

<sup>3</sup> Comments supporting Petitioners' requests were submitted on behalf of Rural Cellular Corporation ("RCC's Comments"), Alaska Digitel, LLC and Edge Wireless Licenses, LLC. No commenters opposed the requests.

Reply Comments of the Rural Cellular Association  
CC Docket No. 94-102  
April 18, 2002

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## **I. The Petitions Satisfy the Commission's Waiver Standard**

Grant of waiver of the Commission's Rules is warranted when either

(i) [t]he 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; or (ii) [i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>4</sup>

The instant petitions satisfy this waiver standard.

As demonstrated in the petitions and comments, the affected small and rural carriers confront unique and unusual circumstances that are beyond their control. Decisions made by large carriers to migrate away from TDMA technology have caused manufacturers to abandon the development of new features. Thus, smaller carriers, like Petitioners, are unable to obtain necessary on-going support and enhancements from their infrastructure providers; they too, must migrate to alternative technologies.

It would be inequitable, unduly burdensome and contrary to the public interest to require these small, rural carriers to meet the June 30, 2002 deadline. Small carriers meet both market and regulatory demands working from a finite budget. It is simply wasteful to implement upgrades in a TDMA network that is scheduled for replacement in the near future.<sup>5</sup> Moreover, given that most handset providers have ceased development of new TDMA handsets, it is unknown whether TDMA TTY-compatible handsets will ever be made commercially available. Accordingly, if the carriers were forced to make capital expenditures to meet the June 30, 2002

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<sup>4</sup> 47 C.F.R. § 1.925(b)(3)(i).

<sup>5</sup> Petitioners estimate that it will cost each system nearly two million dollars to make their current TDMA systems TTY-compatible. Notice at 1.

deadline, the upgrades would be extremely costly and unnecessary. These unnecessary costs would then be passed on to consumers in clear contravention of the public interest.

In view of these unique and unusual factual circumstances, presented by the petitioners, application of the June 30, 2002 deadline would be unduly burdensome and contrary to the public interest. Accordingly, the Commission should grant the waiver requests.

**II. The Commission Should Grant Relief to All Other Similarly Situated Small, Rural Wireless Carriers.**

RCA supports the Rural Cellular Corporation in its request that the Commission grant relief to other wireless carriers that are similarly situated, or in the alternative, establish a procedure for the filing and expedited processing of similar temporary waiver petitions.<sup>6</sup> The unique circumstances and unreasonable burdens that face petitioners also exist for several other small and mid-size wireless carriers that currently rely exclusively on TDMA digital technology.<sup>7</sup> The public interest would be served by consistent treatment of the carriers that find themselves in similar circumstances. For efficient use of Commission resources, the Commission should extend the deadline for these similarly-situated carriers until December 31, 2003.

Such relief would be in the public interest in that it would extend the deadline to allow for wireless carriers to migrate to another technology, thus preventing stranded investment and additional costs passed on to consumers.<sup>8</sup> Further, the public would not be harmed by grant of

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<sup>6</sup> RCC's comments at 1.

<sup>7</sup> RCC estimates that there are at least several dozen small and medium sized wireless carriers nationwide that rely exclusively on TDMA technology.

<sup>8</sup> The Commission has previously determined that extension of the deadline for carriers

such relief. As demonstrated by the petitioners, individuals with speech or hearing disabilities could still continue to use TTY devices with wireless telephones in the analog mode.<sup>9</sup>

### III. Conclusion

Accordingly, to prevent stranded investment and additional costs to consumers, the FCC should extend the deadline for Petitioners to comply with the TTY requirements until December 31, 2003, and grant relief to other wireless carriers that are similarly situated, or in the alternative, establish a procedure for the filing and expedited processing of similar temporary waiver petitions.

Respectfully submitted,

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April 18, 2002

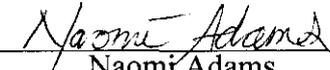
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operating digital wireless systems was in the public interest when it granted over 100 temporary waivers of the TTY requirements. *See Revision of the Commission's Rule to Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Order*, 14 FCC Rcd 1700 (1998).

<sup>9</sup> *See, e.g.*, Comments of Enterprise Wireless PCS, LLC at 7.

## CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Comments of the Rural Cellular Association" was served on this 18<sup>th</sup> day of April 2002, via hand delivery or first class, U.S. Mail, postage prepaid to the following parties:

  
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