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

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In the Matter of)
)
Communications Assistance for)
Law Enforcement Act)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 97-213

To: The Commission

PETITION FOR RECONSIDERATION OF THE RURAL CELLULAR ASSOCIATION

The Rural Cellular Association ("RCA"),¹ pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, hereby submits its Petition for Reconsideration of the Commission's Order on Remand in the above-captioned proceeding.² The Order on Remand requires wireline, cellular and broadband Personal Communications Services ("PCS") telecommunications carriers to provide six "punch list" electronic surveillance capabilities by June 30, 2002, pursuant to the Communications Assistance for Law Enforcement Act ("CALEA"). The establishment of this deadline is an unexplained and arbitrary departure from the Commission's previous finding that carriers require at least six months in which to implement the changes in their networks. Accordingly, to prevent unnecessary burdens on Commission, DoJ/FBI and carrier resources, the Commission must reconsider its Order on Remand and allow at least six months from the release of the Order on Remand, *i.e.*, until October 11, 2002, for carriers to comply with the punch list requirements.

¹ 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.

² 67 Fed. Reg. 21999 (May 2, 2002).

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In its Third Report and Order in this proceeding, the Commission required carriers to implement six of nine punch list capabilities requested by the Department of Justice (“DoJ”)/Federal Bureau of Investigation (“FBI”) by September 30, 2001.³ After four of the six punch list items were vacated and remanded to the FCC by the United States Court of Appeals for the District of Columbia Circuit,⁴ the Commission suspended the compliance deadline while it considered its response.⁵ This response, in the form of the Order on Remand, requires carriers to implement all six punch list items by June 30, 2002, less than three months after the release of its decision. The establishment of this arbitrary compliance deadline is contrary to the Commission’s previous finding that carriers require at least six months to implement the punch list items.

In its Order suspending the September 30, 2001 compliance date, the Commission examined record evidence and concluded that six months is required for carriers to implement the punch list capabilities.⁶ This record evidence includes previous Commission determinations

³ *In the Matter of Communications Assistance for Law Enforcement Act: Third Report and Order*, 14 FCC Rcd 16794, 16795 (1999) (“Third Report and Order”). The Third Report and Order also required carriers to implement all of the capabilities of the industry interim standard J-STD-025 (the “J-Standard”) by June 30, 2000. *Id.*

⁴ *See United States Telecom Ass’n v. FCC*, 227 F.3d 450 (D.C. Cir. 2000). RCA was one of the parties that challenged the Third Report and Order as being arbitrary and capricious. *See Motion to Leave to Intervene of the Rural Cellular Association in Cellular Telecommunications Industry Association and Center for Democracy and Technology v. FCC and United States of America USTA v. FCC*, No. 99-1475 (D.C. Cir. granted December 14, 1999) (consolidated with similar suits and captioned *USTA v. FCC*, No. 99-1442).

⁵ *See In the Matter of Communications Assistance for Law Enforcement Act: Order*, CC Docket No. 97-213, FCC 01-265 (rel. Sept. 21, 2001) (“Order”). RCA was among the majority of commenters that supported the suspension of the September 30, 2001 compliance date. *See* Comments of RCA filed September 15, 2000. *See also* Comments of RCA filed November 16, 2000.

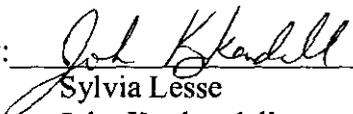
⁶ Order at para. 12.

that carriers need six months to implement CALEA capability requirements as well as recommendations from DoJ/FBI that carriers be permitted six months from the release of the Commission's Order on Remand to comply with the punch list capabilities.⁷

In its Order on Remand, the Commission, ignoring this clear record evidence, instead, without explanation, mandates that carriers must implement the six punch list capabilities within less than three months after the release of its decision. This irrational and inexplicable departure from its prior recognition that carriers need at least six months to purchase, test, and install the equipment necessary to implement fully the six punch list capabilities imposes an impossible burden on wireline, cellular and broadband PCS telecommunications carriers to comply or file requests for waiver of a deadline that is impossible to meet. These waiver requests will place unnecessary and onerous burdens on Commission, DoJ/FBI and carrier resources. Accordingly, the Commission must reconsider its decision and allow for at least six months from the date of the release of its Order on Remand, *i.e.*, until October 11, 2002, for carriers to comply with the punch list requirements.

Respectfully submitted,

RURAL CELLULAR ASSOCIATION

By: 
Sylvia Lesse
John Kuykendall
Its Attorneys

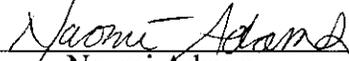
Kraskin, Lesse & Cosson, LLP
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
(202) 296-8890

June 3, 2002

⁷ See Order at para. 9 (Commission citing *Memorandum Opinion and Order*, FCC 98-223, 13 FCC Rcd 17990, 18017 (1998) (six months is sufficient time "for carriers to purchase, test, and install equipment throughout their networks") and Comments filed by DoJ/FBI at 2-4).

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 "Petition for Reconsideration of the Rural Cellular Association" was served on this 3rd day of June 2002, via hand delivery to the following parties:


Naomi Adams

Chairman Michael Powell
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Commissioner Kathleen Abernathy
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

Commissioner Kevin Martin
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, DC 20554

Thomas J. Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Qualex International
445 12th Street, SW
Room CY-B402
Washington, DC 20554