

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D.C. 20554

In the Matter of	)	
Revision of the Commission's Rules To Ensure	)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency Calling	)	
Systems	)	
	)	
VTel Wireless, Inc. Petition For Further	)	FCC 00-436
Waiver of the June 30, 2002 Deadline Established in	)	
the Fourth Report and Order	)	DA 02-1540
	)	

To: The Wireless Telecommunications Bureau

**VTel WIRELESS INC. PETITION FOR FURTHER WAIVER**  
**OF THE JUNE 30, 2002 DEADLINE**  
**REGARDING TTY ACCESS TO DIGITAL WIRELESS SYSTEMS**

VTel Wireless, Inc. ("VTel"), by its attorneys, pursuant to Sections 1.3 and 1.925 of the Federal Communications Commission's ("Commission") Rules,<sup>1/</sup> hereby requests a further extension of the June 30, 2002 deadline for Commission Rule 20.18(c) up to and including June 30, 2004, to integrate, test and deploy all software upgrades and equipment necessary to make its digital system capable of transmitting basic 911 calls from TTY devices.<sup>2/</sup> VTel is currently operating under Commission grant of waiver of this rule until December 31, 2002.<sup>3/</sup> As set forth in detail below, a further waiver of the rule until June 30, 2004 is appropriate because VTel's switch provider, NPI

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<sup>1/</sup> 47 C.F.R. §§ 1.3, 1.925.

<sup>2/</sup> In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Fourth Report and Order*, CC Docket No. 94-102, 15 FCC Rcd 25216, 65 Red. Reg. 82293 (December 28, 2000), ("*Fourth Report and Order*"). See also 47 C.F.R. § 20.18(c).

<sup>3/</sup> In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Order*, CC Docket No. 94-102, DA 02-1540, (rel. June 28, 2002), ("*Order*").

Omnipoint Wireless LLC (“NPI”),<sup>4/</sup> has thus far not obtained the software necessary to provide compatibility between TTY devices and its digital wireless network.<sup>5/</sup>

## I. BACKGROUND AND INTRODUCTION

As the Commission is aware, VTel only initiated commercial operations to provide PCS CMRS in April of 2002.<sup>6/</sup> In reaching a decision on how to provide the most efficient operations for its customer base, VTel elected not to purchase its own switch, but instead made arrangements to support its market area through NPI’s host switch and base station controller (“BSC”), located in Traverse City, Michigan. The only portion of VTel’s network infrastructure that is owned by VTel is limited to an AirNet Communications Inc. (“AirNet”) AdaptaCell Model BTS3000 located in the Marquette, MI BTA. Before June 30, 2002, AirNet confirmed that V-Tel’s BTS was TTY capable.

When NPI advised VTel that the NPI host switch (manufactured by Nortel Networks “Nortel”) and the NPI BSC (manufactured by AirNet) would not be compliant with Commission Rule 20.18(c) by June 30, 2002, NPI did not indicate the time frame in which that compliance would

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<sup>4/</sup> NOW Licenses, LLC (“NOW Licenses”) is a wholly owned subsidiary of NPI-Omnipoint Wireless LLC (“NPI”). On May 30, 2001, NPI notified the Commission that it has assigned all of its personal communications services (PCS) licenses to NOW Licenses in a *pro forma* transfer. *See*, FCC File Nos. 0000356932 (and related consummation notice at FCC File No. 0000480435) and 0000480439. Accordingly, NOW Licenses is the successor in interest to NPI. (as cited in NOW Licenses, LLC Amended Report on Implementation of Wireless E911 Phase II Automatic Location Information, CC Docket No. 94-102. In this regard, NOW Licenses filed for waiver of Commission Rule 20.18(c) on June 25, 2002. *See*, Request of NOW Licenses, LLC for a Temporary Waiver of Section 20.18(c) of the Commission’s Rules, CC Docket No. 94-102 (filed June 25, 2002) (seeking waiver until June 30, 2004.) (“*Request of NOW Licenses*”).

<sup>5/</sup> *Request of NOW Licenses*, page 1.

<sup>6/</sup> VTel operates under Call Sign KNLH722 and provides service in the Marquette, MI BTA (BTA 292, Block F) (Alger and Marquette counties). *See also*, VTel’s TTY Report for the Second Quarter of 2002 (filed April 15, 2002); VTel’s TTY Report for the Third Quarter of 2002 (filed October 15, 2002).

be achieved. Significantly, all equipment owned by VTel is TTY compatible and has been such since its deployment. However, until such time as the NPI host switch and BSC become TTY compliant, TTY compatible service over the VTel BTS cannot be assured. Accordingly, VTel petitioned the Commission for limited waiver of the rule until December 30, 2002.<sup>7/</sup> The Commission granted VTel a waiver of 20.18(c), until December 31, 2002.<sup>8/</sup> On June 25, 2002, NPI filed its own request for waiver of the rule until June 30, 2004.<sup>9/</sup> The Commission has not yet acted on NPI's request.

NPI has advised VTel that NPI continues to thus far be unable to obtain from vendors the software necessary to provide compatibility between TTY devices and its digital wireless service. Because VTel continues to operate off of NPI's host switch and base station controller, and will be operating in such manner on December 31, 2002, VTel will not be able to meet the December 31, 2002 deadline. Accordingly, VTel now submits this instant request for further waiver of the TTY compatibility deadline, until June 30, 2004, to bring its waiver request in line with the time frame sought by NPI with respect to the host MSC and BSC.

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<sup>7/</sup> VTel Wireless, Inc. Petition for Waiver of the June 30, 2002 Deadline Regarding TTY Access to Digital Wireless Systems, CC Docket No. 94-102 (filed June 19, 2002) (seeking waiver until December 30, 2002.)

<sup>8/</sup> In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Order*, CC Docket No. 94-102, DA 02-1540, (rel. June 28, 2002), ("*Order*").

<sup>9/</sup> *Request of NOW Licenses.*

## II. DISCUSSION

Basis for a further waiver of the June 30, 2002 deadline until June 30, 2004 is warranted due to the fact that VTel confronts circumstances beyond its control that will render compliance with the deadline impossible. The Commission has previously found these same factors to support waiver from Commission Rule 20.18(c).<sup>10/</sup> VTel understands its compliance obligations as a new provider of digital wireless services in Marquette, MI BTA and has made a good faith effort to meet its obligations by installing equipment which is TTY capable. However, as the Commission acknowledged in granting VTel its initial request for waiver, VTel, as a new small rural carrier, is dependent upon a host switch manufacturer's deployment and installation schedule.<sup>11/</sup> VTel does not own the switch from which it operates and therefore does not have any control over NPI's scheduling with Nortel or AirNet. Nor does VTel have any first-hand knowledge as to any broader issues which may affect NPI's schedule for achieving TTY compatibility. Per NPI's waiver request, filed under NOW Licenses, LLC, VTel is aware that NPI has been working with Nortel to upgrade its MSC/DSM SNSE-100 switch from the GSM10 software to GSM13 software, which NPI has been advised supports TTY devices with digital wireless service.<sup>12/</sup> According to NPI, the upgrade will take place in steps, with NOW Licenses first upgrading to GSM12 in June, 2003, and targeting

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<sup>10/</sup> *Order*, DA 02-1540 (rel. June 28, 2002) (wherein the Commission granted waivers of various length of time to 40 carriers.)

<sup>11/</sup> *Id.*, ¶ 17 (wherein the Commission notes that equipment vendors typically give priority to the larger, nationwide carriers, making it difficult for smaller carriers to obtain, install, and test the system upgrades that are needed to provide TTY capability.)

<sup>12/</sup> *Request of NOW Licenses*, page 2.

June 30, 2004 as the date for the upgrade to GSM13.<sup>13/</sup> The circumstances regarding VTel's dependence upon the NPI BSC to host the VTel cell site have also not changed since the Commission's grant of waiver to VTel.

Under Section 1.3 of its rules, the Commission may waive any provision of its rules if good cause is shown.<sup>14/</sup> The facts by which VTel's grant of waiver were warranted have not changed. VTel continues to have no control over NPI. Moreover, having installed TTY-compatible equipment in its market, VTel has already done all it can to achieve TTY compatibility and can do nothing more on its own to meet this obligation. Even though the Commission granted VTel a six month waiver of the June 30, 2002 deadline,<sup>15/</sup> the Commission has granted extensions beyond December 31, 2002 in this proceeding.<sup>16/</sup> In light of VTel's dependence on NPI for TTY compatibility, VTel respectfully submits that it has no choice but to seek an extension of its waiver until such time as the NPI system is brought into compliance.

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<sup>13/</sup> *Id.*

<sup>14/</sup> 47 C.F.R. § 1.3 (Good cause exists if application of the rules to particular facts produces results that were not anticipated when the rules were adopted, those results impose an undue hardship upon particular persons, and a decision to grant the waiver does not conflict with the purposes and policies of the relevant rules.) *See* WAIT Radio v. FCC, 418 F.2d 1153 (D.C. Cir.1969).

<sup>15/</sup> Per the parameters noted in VTel's initial request for waiver.

<sup>16/</sup> *See, Order, Appendix A.*

### III. CONCLUSION

VTel respectfully submits that good cause has been shown for the grant of a further waiver of Section 20.18(c) sought herein, up to and including June 30, 2004.

Respectfully Submitted,

VTel Wireless, Inc.

*/s/ Michael K. Kurtis*

By: \_\_\_\_\_

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