

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

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket No. 95-116
)	WT Docket No. 01-184
)	
Pine Belt PCS, Inc, Pine Belt Cellular, Inc. And Kodiak Wireless, LLC Petitions for Extension of the Deadline For Support of Roaming By Wireless End-Users With Ported or Pooled Numbers)	

REPLY COMMENTS OF PINE BELT PCS, INC. AND PINE BELT CELLULAR, INC.

Pine Belt PCS, Inc. and Pine Belt Cellular, Inc. (collectively “Pine Belt Wireless”) by counsel, hereby replies to those parties filing comments on the Pine Belt Wireless petition and other petitions for temporary extension of the November 24, 2002 deadline for Commercial Mobile Wireless Service (“CMRS”) carriers to support roaming for end-users with pooled numbers (the “pooling deadline”).¹

In granting similar requests for extension of the pooling deadline for two small wireless carriers, the Commission determined that the extension requests were “warranted under the particular circumstances.”² The Commission found that, given the difficult and complex changes

¹ *Wireless Telecommunications Bureau Seeks Comment on Petitions for Extension of the Deadline for Support of Roaming By Wireless End-Users with Ported or Pooled Numbers: Public Notice*, CC Docket Nos. 99-200 & 95-116, WT Docket No. 01-184 (rel. January 16, 2003). Pine Belt Wireless and Kodiak Wireless, LLC each seek a temporary extension of the November 24, 2002 deadline.

² Letter to William J. Sill, Esq. from James D. Schlichting, DA 03-165, rel. Jan. 17, 2003 (“Letter to William J. Sill”) at 2 (granting extension requests for Cellular Phone of Kentucky, Inc. and Litchfield County Cellular, Inc. at 3 (collectively, “Other Petitioners”)).

associated with the implementation of MIN/MDN separation and the limited resources available to the carriers, “the *de minimis* nature of the requested extension gives us some assurance that the Petitioners have, as they assert, made diligent, good faith efforts to comply with their regulatory obligations.”³ These attributes are also present in the case of Pine Belt Wireless. Accordingly, the Commission should grant its extension request.

I. The Pine Belt Wireless Petition Should be Granted Because it Satisfies the Commission’s Waiver Standard

Similar to the Other Petitioners, Pine Belt Wireless is a small, rural wireless carrier with limited resources.⁴ As demonstrated in its Petition, Pine Belt Wireless is faced with unusual circumstances that make extension of the deadline necessary. For over two years, Pine Belt Wireless has been diligently seeking funding for necessary software upgrades to comply with a variety of Commission mandates, but to date has been unable to secure such funding.⁵ Pine Belt Wireless estimates that the costs to make the upgrades to separate the Mobile Identification Number (“MIN”) from the Mobile Directory Number (“MDN”) are well in excess of \$500,000, an extreme financial burden for the small rural companies.⁶ Pine Belt Wireless anticipates that

³ *Id.*

⁴ *See* Letter to William J. Sill at 2 (noting that Other Petitioners are small, rural CMRS providers offering cellular phone service in sparsely populated areas outside of the 100 largest MSAs). Pine Belt Wireless likewise serves small communities and sparsely populated rural areas outside of the 100 largest MSAs. Its service area comprises five counties in the western central portion of Alabama.

⁵ Waiver filed by Pine Belt Wireless on November 22, 2002 (“Petition”) at 3. *See* Letter to William J. Sill at 2 (noting that the limited resources of the Other Petitioners have been “strained at the moment because of the need to achieve compliance with a number of other pending regulatory matters”).

⁶ *See* Petition at 3; Letter to William J. Sill at 2 (“noting that Other Petitioners argue that “small rural carriers are uniquely affected by the costs of compliance with the Commission’s roaming obligations because of the limited monetary and non-monetary resources that are available to these carriers”).

by November 23, 2003, it will have obtained the necessary funding and will have installed and tested the switch enhancements.⁷ As demonstrated in its Petition and reflected herein, the particular circumstances faced by Pine Belt Wireless are almost identical to those faced by the Other Petitioners. Because the Commission has determined that such circumstances meet its standard for waiver,⁸ the Commission should also grant Pine Belt Wireless' extension request.

II. The Pine Belt Wireless Extension Request Satisfies Public Interest Concerns

A. Roamers Will Continue to Receive Reliable Wireless Service Upon Grant of the Extension Request

In finding that the Other Petitioners' extension requests met the Commission's waiver standard, the Commission determined that grant of the requests would be consistent with the public interest due to the fact that they were *de minimis* in nature.⁹ Although the time period requested by Pine Belt Wireless for the extension is longer than that requested by the Other Petitioners, Pine Belt Wireless' request will nevertheless have a similar insignificant negative impact on consumers.

First, there will be no negative impact on the ability of roamers with pooled numbers to make and receive calls, contrary to AT&T Wireless' unsupported assertion that "the risks to reliable wireless service are considerable" if carriers have not yet made the necessary upgrades in

⁷ See Petition at 3-4. During the temporary extension period, Pine Belt Wireless commits to providing status reports at two-month intervals. *Id.* at 5. The first status report was filed on January 22, 2003.

⁸ See Letter to William J. Sill at 2-3 (citing the Commission's waiver standard and finding that waiver is warranted "under the particular circumstances").

⁹ See Letter to William J. Sill at 3 (noting that the two month delay will have an insignificant impact on the public).

their networks to support roaming of pooled or ported numbers.¹⁰ AT&T Wireless claims that if carriers do not implement switch upgrades to separate the MIN from the MDN, reliable wireless service is placed at risk “because the process requires not only extensive network changes but also thorough interoperability testing.”¹¹ Without further explanation as to what type of network changes or testing are necessary to support roaming of pooled numbers, however, AT&T Wireless cites a number of potential risks associated when wireless carriers must support ported and pooled numbers.¹²

Pine Belt Wireless anticipates having the necessary upgrades installed prior to the November 24, 2003 date on which CMRS carriers are obligated to begin implementing number portability.¹³ Assuming, *arguendo*, that the risks associated with supporting roamers with both ported and pooled numbers cited by AT&T Wireless exist, such considerations are irrelevant to the relief requested because they will not occur during the requested temporary extension period. Further, as evidenced by the record, an end user roaming on systems that do not support the MIN/MDN separation are able to make and receive calls just as they did prior to November 24, 2002 “whether or not its MIN and MDN are the same or different numbers.”¹⁴ Given that record evidence contradicts AT&T Wireless’ unsupported assertions,¹⁵ the notion that systems that

¹⁰ See Comments of AT&T Wireless at 2.

¹¹ *Id.*

¹² See Comments of AT&T Wireless at 2-3.

¹³ Pine Belt Wireless seeks an extension until November 23, 2003. See Petition at 5.

¹⁴ See Comments of Missouri RSA No. 7 Limited Partnership dba Mid-Missouri Cellular (“Mid-Missouri”) at 2-3 (demonstrating that carriers that have not yet implemented the MIN/MDN separation technology will be able to support the ability for roamers with pooled number to make and receive calls).

¹⁵ AT&T Wireless undercuts its argument for denial of the Pine Belt Wireless waiver

cannot support the MIN/MDN separation are a risk to reliable wireless service must be rejected.

B. Impact on the Receipt by PSAPs of Incorrect Call-Back Number Will Be Minimal

In its Petition, Pine Belt Wireless also requests “to the extent necessary,” waiver of the Commission’s requirement for carriers to deliver valid call back numbers to Public Safety Answering Points (“PSAPs”) in the areas where it is providing Phase I enhanced 911 (“E911”) service.¹⁶ According to one theory, a waiver of E911 Rules is not necessary under these circumstances.¹⁷

Out of an abundance of caution, however, Pine Belt Wireless submits that waiver, if required, is appropriate because, in this instance, the instances of incorrect call-back numbers delivered to the PSAPs should be minimal or non-existent. In support of this position, Pine Belt Wireless submits the following data demonstrating the *de minimis* impact on the operations of the four PSAPs in its service areas where Phase I E911 service is being delivered.¹⁸

1. The PSAPs Have Been Alerted to the Possibility that the Call-Back Number May Not be Available

Pine Belt Wireless has contacted the four PSAPs and notified them of the inability to provide a correct call-back number from roamers on their system when the MIN and MDN do

request in recognizing the “substantial and particularly burdensome” costs to small rural carriers seeking to upgrade their networks to support the MIN/MDN separation, and in urging the Commission to “be wary of proceeding with its wireless LNP mandate.” Comments of AT&T Wireless at 3-4.

¹⁶ Petition at n.10.

¹⁷ See Comments of Mid-Missouri at 3-4. Pine Belt Wireless would applaud the Commission’s confirmation of this theory, which would render this portion of the request moot.

¹⁸ The four PSAPs serve the following counties in Alabama: Dallas, Wilcox, Marengo and Choctaw.

not match.¹⁹ All of the PSAPs report that they routinely call-back the wireless subscriber when calls are dropped. They have expressed their willingness to work with Pine Belt Wireless during the temporary extension period and recognize that in some instances, they will not be able to call the subscriber back if the call is dropped.

The Commission has recognized that it is not always possible for carriers to provide the call-back number to PSAPs and has prescribed rules for certain “non-service-initialized” handsets and newly manufactured 911-only phones.²⁰ The actions taken by Pine Belt Wireless to notify the PSAPs that they may encounter situations where they will not be able to call-back roamers is consistent with these requirements. As in the case with “non-service-initialized” phones, these actions will “alert the parties involved in a wireless 911 call of the need for quick information as to the caller’s exact location, thus increasing the likelihood that emergency services can be dispatched quickly to save lives”²¹ In any event, the number of roamers that may lack call-back capability is *de minimis* as demonstrated below.

2. The Amount of Roamers that May Lack Call-Back Capability is Minimal

An analysis of four months of roaming data shows that Pine Belt Wireless’ major roaming partners are ALLTEL, Cingular, Sprint PCS, Cellular South, Verizon Wireless and United States Cellular.²² An analysis of roaming traffic from the period October 26, 2002

¹⁹ In situations where the serving carrier does not support MIN/MDN separation, the PSAP receives only the MIN. *See, e.g.*, Comments of Mid-Missouri at 4. Accordingly, PSAPs will be provided with the correct MDN in situations where the MIN and MDN are identical.

²⁰ *See In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Non-Initialized Phones: Report and Order*, CC Docket No. 94-102 (rel. Apr. 29, 2002).

²¹ *Id.* at 1-2.

²² The data reflects the following billing cycles: Cycle 129 (September 26, 2002 – October

through November 26, 2002, reveals that approximately 49 percent of the roaming traffic comes from markets that are outside of the 100 largest MSAs.²³ Of the remaining traffic, the largest portion comes from ALLTEL subscribers in the Mobile, Alabama market (22 percent of all roaming traffic) and Cingular subscribers in the Birmingham, Alabama market (19.6 percent of all roaming traffic). According to reports on Neustar's web page which identify carriers that have been assigned pooled numbers,²⁴ ALLTEL is not participating in number pooling in the Mobile market at this time and Cingular is not participating in number pooling in the Birmingham market at this time.²⁵ Accordingly, with reference to the October 2002 - November 2002 billing cycle, believed to reflect customary traffic patterns, Pine Belt Wireless estimates that for approximately 49 percent of its roamers, a MIN/MDN mismatch will not occur and for another 41.6 percent of its roaming traffic, an MIN/MDN mismatch is highly unlikely to occur within the temporary extension period.²⁶

26, 2002); Cycle 130 (October 26, 2002 - November 26, 2002); Cycle 131 (November 26, 2002 – December 26, 2002); and Cycle 132 (December 26, 2002 – January 26, 2003). The other roaming partners are primarily small wireless carriers that do not provide service in the 100 largest MSAs.

²³ This data was compared with the data from the other three billing cycles which showed that the percentages cited are fairly consistent over the four month period.

²⁴ Neustar's webpage is located at www.nationalpooling.com.

²⁵ Most of the remaining 10 percent of roaming traffic comes from the following markets (each with less than 3 percent roaming traffic): Mobile (Sprint PCS subscribers); Birmingham (Sprint PCS and Verizon Wireless subscribers); Jackson, Mississippi (Cingular and Cellular South subscribers), New Orleans, Louisiana (ALLTEL, Cingular and Sprint PCS subscribers), Pensacola, Florida (ALLTEL, Cingular and Sprint PCS subscribers), Knoxville, Tennessee (U.S. Cellular subscribers), Atlanta, Georgia (Cingular and Sprint PCS subscribers), Nashville, Tennessee (Cingular and Sprint PCS subscribers), San Antonio, Texas (Cingular subscribers), Memphis, Tennessee (Sprint PCS subscribers). A search of Neustar's reports indicates that among these carriers, only Sprint PCS, ALLTEL and Verizon Wireless are currently participating in pooling.

²⁶ Pine Belt Wireless understands that carriers will mirror the MIN and MDN in markets in

III. Conclusion

As demonstrated in its Petition and reflected herein, the particular circumstances faced by Pine Belt Wireless warrant grant of its extension request. As supported by record evidence, roamers with pooled numbers will continue to receive reliable wireless service. Additionally, as demonstrated by data believed to reflect customary traffic patterns, the amount of roamers that may lack call-back capability is *de minimis*. Accordingly, public interest concerns are met by grant of the Pine Belt Wireless request.

Respectfully submitted,

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which they are not participating in number pooling. See North American Numbering Council Risk Assessment Report 2002: Launching Wireless Pooling or Porting Without Ubiquitous Separation of the MIN & MDN at 7 (“By obtaining MBIs that match their MDNs, wireless [service providers] outside of pooling areas will not have to accommodate different values in their provisioning systems for the MIN and MDN”). Accordingly, the only roamers which will have MIN/MDN mismatches will be those with pooled numbers.

DECLARATION OF JOHN NETTLES

I, John Nettles, President of Pine Belt Cellular, Inc. and Pine Belt PCS, Inc., do hereby declare under penalty of perjury that I have read the foregoing Reply Comments of Pine Belt PCS, Inc. and Pine Belt Cellular, Inc. and that the facts stated therein are true and correct, to the best of my knowledge, information and belief.

John Nettles

Dated: February 27, 2003

CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLC, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Comments of Pine Belt PCS, Inc. and Pine Belt Cellular, Inc." was served on this 27th day of February 2003, via first class, U.S. Mail, postage prepaid to the following parties:

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