

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

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

**To: Chief, Wireless Telecommunications Bureau**

**REQUEST FOR WAIVER OR TEMPORARY STAY**

Copper Valley Wireless, Inc. ("Copper Valley"), pursuant to Section 1.3 of the Commission's Rules, hereby requests a further temporary stay or a waiver, up to and including October 1, 2004, within which to begin selling and activating location-capable Phase II E-911 handsets. Copper Valley was granted a temporary stay of the requirements of Section 20.18(g) of the Rules in the Commission's Order to Stay, FCC 02-210, released July 26, 2002 ("Stay Order"). Under the definitions set forth in the Stay Order, Copper Valley is a Tier III carrier providing non-nationwide Commercial Mobile Radio Service ("CMRS"). Copper Valley intends to implement a handset-based Phase II E-911 Automatic Location Information ("ALI") solution. Under the terms of the relief granted in the Stay Order, Copper Valley is required to: (A) generally provide Phase II E-911 ALI service by September 1, 2003 or the date occurring six months following receipt of a valid Public Safety Answering Point ("PSAP") request, whichever is later;<sup>1</sup> and (B) begin selling and activating location-capable Phase II E-911 handsets by September 1, 2003. In support hereof, the following is shown:

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<sup>1</sup> Because Copper Valley has not received any PSAP requests for Phase II service, no waiver of this particular term of the Stay Order is requested because Copper Valley is not currently subject to any requirement requiring relief.

**I) Background**

1. Copper Valley is the licensee of Cellular Radiotelephone Service Station KNKQ401, the Frequency Block B cellular system serving the B4 Segment of the Alaska 2 – Bethel Rural Service Area. Copper Valley is a wholly-owned subsidiary of Copper Valley Telephone Cooperative, Inc., a telephone cooperative that is owned by its subscribers.

2. In its “E-911 Phase II Status Report,” filed November 9, 2000, Copper Valley stated that it would deploy a handset-based Phase II E-911 ALI technology, subject to and contingent upon the ultimate availability of cost-effective ALI equipment that is compatible with its existing cellular system equipment (equipment that has been discontinued by the manufacturer). As noted in the November 9, 2000 status report, Copper Valley’s system utilizes analog equipment manufactured by Plexsys, equipment that has been discontinued by the manufacturer and that is no longer being supported by the manufacturer. The handset-based proposal set forth in the November 9, 2000 status report remains unchanged.

3. Because Copper Valley’s cellular system equipment has been discontinued by the manufacturer and is no longer being supported by the manufacturer, the system has no digital transmission capability.

4. As reported in Copper Valley’s “E-911 Interim Report,” filed July 30, 2003, there are six PSAPs operating in Copper Valley’s service area, not including the United States Coast Guard (which arguably makes for a seventh PSAP). To date, Copper Valley has not received any PSAP requests for either Phase I or Phase II E-911 service.

5. The July 30, 2003 interim report also stated that Copper Valley has been unable to locate any E-911 equipment and software which is compatible with its cellular system network equipment.

Also as of that date, Copper Valley had been unable to locate ALI-capable handsets that would operate on its system.

6. Since the filing of the July 30, 2003 interim report, Copper Valley has located at least one ALI-capable handset model that may be compatible with its system. Two handsets have been ordered for testing purposes; and, if they function on the system, Copper Valley anticipates that it will be able to begin selling and activating the handsets on a commercial basis by October 1, 2003. Upon information and belief, ALI-capable handsets are only now becoming available to small, Tier III CMRS carriers such as Copper Valley; and, at present, no assurance can be given that the ALI-capable handsets will be available to small CMRS carriers in large quantities, or that the handsets will meet with widespread customer acceptance.

#### **II) Commitment to Achieving Compliance**

7. Since the November 9, 2000 filing of its E-911 status report, Copper Valley has been diligent in pursuing deployment of E-911 Phase II technology in a timely manner. However, as noted by the Commission in the Stay Order, non-nationwide wireless carriers (such as Copper Valley) "have much less ability than nationwide CMRS carriers to obtain the specific vendor commitments necessary to deploy E911 immediately;"<sup>2</sup> and that "handset vendors and network-based location technology vendors give priority to the larger, nationwide carriers."<sup>3</sup> Therefore, despite its best efforts and due to circumstances beyond its ability to control, Copper Valley will not be able to meet the Stay Order's September 1, 2003 deadline for beginning the sale and activation of ALI-capable handsets. As noted above, ALI-capable handsets are only now becoming available to small, Tier III CMRS carriers such as

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<sup>2</sup> Stay Order, Para. 10.

<sup>3</sup> Stay Order, Para. 11.

Copper Valley; and, at present, no assurance can be given that the handsets will be available to small CMRS carriers in large quantities, or that the handsets will meet with widespread customer acceptance.

### **III) Temporary Stay Request**

8. Accordingly, Copper Valley requests a temporary stay of the September 1, 2003 ALI-capable handset sale and activation deadline. Specifically, Copper Valley requests a brief, one-month extension of time, up to and including October 1, 2003, to begin selling and activating ALI-capable handsets on its system.

### **IV) Waiver Standards**

9. In its Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000), the Commission indicated that the Phase II rules are intended to be applied in a manner that takes into account the practical and technical realities.<sup>4</sup> Recognizing that practical and technical realities might delay Phase II implementation, the Commission established a general approach to dealing with possible requests for waiver of the Phase II requirements.<sup>5</sup> Thus, the Commission provided that its rules may be waived for good cause shown, consistent with Section 1.3 of the Rules.<sup>6</sup> It recognized, in the case of E-911, that there could be instances where technology-related issues or exceptional circumstances may mean that deployment of Phase II may not be possible by the established deployment deadlines.<sup>7</sup> The Commission cautioned that waiver requests should be specific, focused and limited in scope, with a clear path to full compliance and should document the efforts aimed at compliance.<sup>8</sup> In the Stay Order,

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<sup>4</sup> 15 FCC Rcd. 17442 at Para. 22.

<sup>5</sup> Id. at Paras. 42-45.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

the Commission temporarily stayed Sections 20.18(f) and (g) of the Rules in lieu of granting waivers, although the showings of the various petitioners were made under the waiver standard.

**V) Copper Valley Has Met The Waiver Standards**

10. As shown above, Copper Valley has met the Commission's standards for obtaining the requested temporary stay (or waiver) of the September 1, 2003 deadline by which it is required to begin selling and activating ALI-capable handsets on its system. While the Commission's Rules impose E-911 Phase II obligations only on Commission licensees (by reason of limitations on the Commission's statutory authority), the Commission has repeatedly acknowledged the obvious, *i.e.*, that achieving full compliance requires the cooperative efforts of carriers, equipment manufacturers and suppliers, and government officials responsible for public safety activities. As a service provider only, Copper Valley is unable to achieve compliance with the September 1, 2003 ALI-capable handset sale and activation deadline without the availability of the necessary handsets; and, as a small carrier, Copper Valley lacks the economic leverage to influence the decisions of equipment and handset manufacturers, a fact acknowledged by the Commission in the Stay Order as applicable to all Tier II and Tier III non-nationwide CMRS carriers. As noted above, Copper Valley has an analog-only cellular system, and has only recently located a single ALI-capable handset model that may be compatible with its system. And as also demonstrated above, Copper Valley has been diligent in its attempts to locate a supplier of ALI-capable handsets that will operate on its system. The ALI-capable handsets are only now becoming available to small, Tier III CMRS carriers such as Copper Valley; and it is reasonable to test the handsets on the system to determine whether they will function properly prior to selling and activating them on a commercial basis.

11. Grant of the request for a temporary stay contained herein is in the public interest. Copper

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CMRS carriers such as Copper Valley; and it is reasonable to test the handsets on the system to determine whether they will function properly prior to selling and activating them on a commercial basis.

11. Grant of the request for a temporary stay contained herein is in the public interest. Copper Valley has been diligent in pursuing a source for location-capable handsets. The instant request for a temporary stay is specific and focused. It notes the unavoidable delays that Copper Valley has encountered through no fault of its own. It sets out a clear path to compliance once the necessary equipment becomes available.

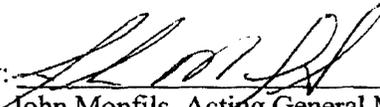
12. It should also be emphasized that the public will not be prejudiced by grant of the relief requested herein. As noted above, Copper Valley has not received any PSAP requests for Phase II E-911 ALI service. Stated another, no PSAP will be receiving and processing any of the ALI data elements that the handsets provide anytime in the near future.

**WHEREFORE**, good cause shown, Copper Valley requests that the instant request be granted.

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Dated: 8/28/03

Respectfully submitted,  
**Copper Valley Wireless, Inc.**

By:   
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