

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

In the Matter of )  
)  
Revision of the Commission's Rules to Ensure )  
Compatibility with Enhanced 911 Emergency ) CC Docket No. 94-102  
Calling Systems )  
)  
Pine Belt Cellular, Inc. & Pine Belt PCS, Inc. )  
Petition for Waiver of Section 20.18(c) )  
of the Commission's Rules and the )  
Deadlines Established in the )  
Fourth Report and Order )

**To: Chief, Wireless Telecommunications Bureau**

**AMENDED PETITION FOR WAIVER AND QUARTERLY REPORT**

Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively "Pine Belt Wireless"), by its attorneys, and pursuant to Sections 1.3 and 1.925 of the Commission's Rules,<sup>1</sup> hereby amend the pending request for waiver or temporary extension<sup>2</sup> of Section 20.18(c) of the Commission's Rules and the June 30, 2002 deadline for compliance with 911 text telephone ("TTY") obligations for digital wireless carriers.<sup>3</sup> An additional six month extension of the deadline, *i.e.*, until May 23, 2004, is appropriate in light of the

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

<sup>2</sup> See Pine Belt Cellular, Inc. Petition for Waiver of Section 20.18(c) of the Commission's Rules and the Deadlines Established in the Fourth Report and Order, CC Docket No. 94-102, filed June 28, 2002 ("Petition"). The Petition was amended on January 15, 2003 to seek extension of the deadline until November 23, 2003 ("Amended Petition") and remains pending at the Commission. In its Petition, Pine Belt Wireless committed to providing the Commission with quarterly reports during the extension period. This Amended Petition serves as the Company's Third Quarter 2003 TTY Status Report.

<sup>3</sup> 47 C.F.R. § 20.18(c) (the "TTY Rule"); *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, FCC 00-436 (rel. Dec. 14, 2000) ("Fourth Report and Order").

specific circumstances facing Pine Belt Wireless.<sup>4</sup> Because good cause exists for grant of the instant waiver request, it should be granted.

## **I. Background**

Pine Belt Wireless provides cellular service in the RSA 3B2 market and PCS service in the Selma, AL BTA. Pine Belt Wireless has chosen to implement CDMA technology in its network and has selected Lucent Networks as its infrastructure vendor. Currently, Pine Belt Wireless has Lucent release 5E-13 installed in its network.

## **II. Waiver is Warranted**

The relevant standard for grant of a waiver of the Commission's Rules is that "[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."<sup>5</sup> Pine Belt Wireless' waiver request satisfies this standard.

### **A. Waiver is Appropriate in Light of the Circumstances**

Pine Belt Wireless is faced with unusual circumstances that make extension of the compliance deadline necessary. Pine Belt Wireless depends on Lucent, as well as handset manufacturers, to make its network TTY-compatible. Currently, Pine Belt Wireless has the Lucent release 5E-13 installed in its network. In order to make its network TTY-compliant, Pine Belt Wireless must upgrade its system to release 5E-16. This requires expensive hardware and software upgrades. These costly upgrades impact

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<sup>4</sup> Pine Belt Cellular provides analog service within its licensed service area and other cellular carriers provide analog service within Pine Belt PCS's licensed service area. Accordingly, the public would not be harmed by a temporary waiver because alternative access to TTY exists.

<sup>5</sup> 47 C.F.R. § 1.925(b)(3)(ii).

Pine Belt Wireless, a small rural carrier, in a much greater degree than mid-size or larger carriers due to the small customer base over which the costs can be distributed.

For the past two years, Pine Belt Wireless has been diligently seeking to obtain funding for the necessary software upgrades to comply with a variety of Commission mandates. In April 2003, Pine Belt Wireless reported that the company had received notice of approval for a Rural Utilities Service (“RUS”) loan and that approval of the loan was contingent on several factors.<sup>6</sup> These factors included the submission of various guarantees, financial information and other documents, internal reorganization of the company and satisfaction of several financial and organizational benchmarks.<sup>7</sup> The company hereby reports that as of the date of this filing, it has submitted all necessary documentation to RUS, including information regarding the switch upgrade, and has completed a major transaction necessary for the internal reorganization.<sup>8</sup> RUS has approved the initial advance of funds to be used for discharging outstanding debt and will release additional funds upon proof that the debt has been discharged. Even if RUS were to immediately provide all the requisite funds, however, Pine Belt Wireless would be unable to be in compliance by November 23, 2003. According to RUS procedures, RUS

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<sup>6</sup> See Pine Belt PCS, Inc. and Pine Belt Cellular, Inc., Update of First Quarter 2003 TTY Status Report - CC Docket No. 94-102, filed April 25, 2003.

<sup>7</sup> See Pine Belt PCS, Inc. and Pine Belt Cellular, Inc., Second Quarter 2003 TTY Status Report – CC Docket No. 94-102, filed July 15, 2003.

<sup>8</sup> In fulfillment of one of the conditions of the loan, Pine Belt Wireless filed an application to assign the PCS license held by Pine Belt PCS, Inc. to Pine Belt Cellular, Inc. The Commission conditionally granted the application and on June 30, 2003, the application was consummated. See Notification of Consummation of Assignment of Authorization (FCC Form 603) filed July 9, 2003 (file number 0001377035). Additionally, on June 30, 2003, articles of merger were filed with the Secretary of the State of Alabama providing for the merger of Pine Belt PCS, Inc. into Pine Belt Cellular, Inc.

must now review and approve the information regarding the switch upgrade before Lucent can issue a finalized price for the upgrade.<sup>9</sup> Next, the contract between the company and Lucent must be finalized and approved by RUS. Depending upon the satisfaction of other loan conditions, a purchase order then can be issued, funds released and installation of the equipment completed and tested. Because these steps are contingent upon the approval by RUS, the company is unable, at this time, to estimate when the upgrades will be completed but anticipates that it will take place prior to May 23, 2004.<sup>10</sup>

**B. Grant of the Waiver Would Further the Public Interest**

Pine Belt Wireless is not requesting a blanket waiver of the Commission's TTY Rule but, rather, it is requesting waiver only to the extent that these requirements could not be accomplished in a technically and economically feasible way. Accordingly, Pine Belt Wireless seeks an extension of the deadline, until May 23, 2004, to allow it to implement the necessary upgrades.<sup>11</sup> During the temporary extension period, Pine Belt

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<sup>9</sup> Pine Belt Wireless estimates the capital expenditure to be well in excess of \$500,000. *See* Petition at 3.

<sup>10</sup> *See FCC Proposes Current Spectrum Regulations in Order to Promote Wireless Services in Rural America: News Release*, WT Docket No. 03-202 (rel. Sept. 10, 2003) Statement of Commissioner Jonathan S. Adelstein ("It is so worthwhile to explore how the Commission can support the wireless applications of [the RUS] program, as I truly believe that spectrum-based services offer great potential to Rural America.")

<sup>11</sup> The switch upgrade also is required for Pine Belt Wireless to support roaming for customers with pooled and ported numbers. The Commission recently granted Pine Belt Wireless' petition for temporary extension of that requirement until May 23, 2004. *See In the Matter of Telephone Number Portability – Carrier Requests for Clarification of Wireline-Wireless Porting Issues: Memorandum Opinion and Order*, CC Docket No. 95-116, FCC 03-237 (rel. Oct. 7, 2003) at paras. 35-37. Further, the public would not be harmed by grant of such relief due to the fact that individuals with speech or hearing disabilities could continue to use TTY devices with wireless telephones in an analog mode.

Wireless would continue to provide the Commission with quarterly progress reports to keep the Commission apprised of progress towards compliance.

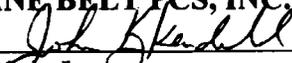
**III. Conclusion**

Grant of this temporary extension request is appropriate in light of the circumstances. To advance the public interest, Pine Belt Wireless will provide the Commission with periodic status reports during the temporary extension period. Accordingly, the Commission should grant the instant waiver request.

Respectfully submitted,

**PINE BELT CELLULAR, INC.  
PINE BELT PCS, INC.**

By:

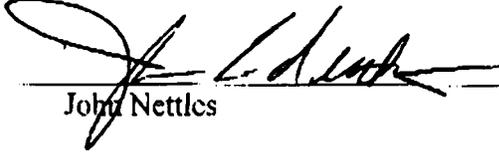
  
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October 15, 2003

## DECLARATION OF JOHN NETTLES

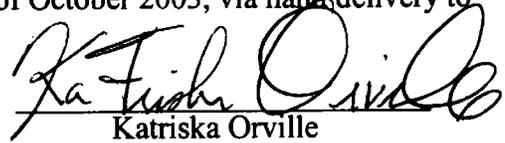
I, John Nettles, President of Pine Belt Cellular, Inc. and Pine Belt PCS, Inc., do hereby declare under penalty of perjury that I have read the foregoing "Amended Petition for Waiver and Quarterly Report" and that the facts stated therein are true and correct, to the best of my knowledge, information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

  
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John Nettles

Dated: 10/15/2023

**CERTIFICATE OF SERVICE**

I, Katriska Orville, of Kraskin, Lesse & Cosson, LLC, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Amended Petition for Waiver and Quarterly Report" was served on this 15<sup>th</sup> day of October 2003, via hand delivery to the following parties:

  
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