

**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	)	
	)	
E911 Compliance Deadlines for	)	
Non-Nationwide Tier III CMRS Carriers	)	

**Supplement to South No. 5 RSA LP Petition for Waiver  
of Section 20.18(g) of the Commission's Rules**

South No. 5 RSA LP d/b/a Brazos Cellular Communications, LTD (“Brazos”), by its attorneys and pursuant to the Federal Communications Commission’s (“FCC” or “Commission”) *Stay Order*,<sup>1</sup> hereby supplements its August 8, 2003 petition for a temporary waiver of Section 20.18(g) of the Commission’s rules filed in the above-captioned proceeding. In the *Stay Order*, the Commission, *inter alia*, gave Tier III carriers, that like Brazos had requested waivers from the Commission’s E911 Phase II handset deployment deadlines, additional time to supplement their existing waiver requests to provide additional documentation to support their requested waivers. Specifically the Commission requested “substantial evidence that the relief is as narrowly tailored as possible or that the petitioner has put in place a clear path to compliance.”<sup>2</sup> What follows is additional documentation concerning Brazos’ handset investigations and network conversion, and demonstrating Brazos’ clear path to compliance as outlined in its petition for waiver.

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<sup>1</sup> *In re Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems E911 Compliance Deadlines for Non-Nationwide Tier III CMRS Carriers*, CC Docket No. 94-102, Order to Stay, FCC 03-241 (rel. October 10, 2003) (“*Stay Order*”).

<sup>2</sup> *Stay Order* at ¶ 17.

**I. Brazos Has Demonstrated a Path to Compliance And Has Requested Narrowly Tailored Relief Based on the Schedule for its Necessary Network Conversion**

As Brazos discussed in its August 8, 2003 petition for waiver, based on the characteristics of its service area, Brazos, like many carriers that serve rural areas, had to rule out a purely network-based Phase II solution. Brazos provides service throughout most of its coverage area with cells having the minimal measure of overlap needed to permit reliable cellular communications, but far from sufficient to permit the triangulation of a mobile subscriber's geographic position that a network-based E911 solution needs to achieve Section 20.18(h) accuracy. In the Brazos network, an E911 caller is unlikely to be within the range of multiple cells. In addition, many of Brazos' cell sites are spaced in straight lines or a "string-of-pearls" (by roadways, for example), making triangulation a geometric impossibility. Given the constraints posed by this network configuration, Brazos has been unable to find a network solution vendor that could achieve Section 20.18(h) Phase II accuracy in Brazos' service area. Thus, Brazos was forced to employ a handset-based solution to achieve Phase II compliance.

In exploring a handset-based solution, Brazos learned that, as a TDMA-based carrier, handsets were unavailable. Attached as Exhibit 1 are four separate email inquiries from Brazos to handset vendors confirming that no TDMA-based automatic location identification ("ALI") handsets are or will be available. Attached as Exhibit 2 is a letter from Brightpoint, a handset vendor, also confirming that TDMA-based ALI-capable handsets are unavailable. As discussed in more detail below, Brazos must convert its network to a technology that supports ALI-capable handsets. As Brazos noted in its petition for waiver, Brazos made the decision to convert to CDMA based on business and technical factors, and Brazos has begun its network overbuild and its current plans are to finish the transition to CDMA throughout its network by the end of the second quarter of 2004.

Brazos is currently working with Nortel and preparing its network for the CDMA overlay. Nortel will install CDMA equipment and implement a CDMA overlay on the Brazos network, making the Brazos network capable of utilizing ALI-capable CDMA handsets. Nortel has committed to meeting Brazos' timetable for completion of the CDMA overlay. A commitment letter from Nortel is attached as Exhibit 3. Brazos plans to have the network conversion completed no later than April of 2004. Following completion of testing, Brazos will begin selling and activating ALI-capable handsets in accordance with its schedule outlined in its petition for waiver.

Brazos has requested that the deadlines for Brazos to begin selling and activating handsets, and to ensure that 25 percent of the handsets sold and activated are ALI-capable, be extended to July 1, 2004; that the deadline for ensuring that 50 percent of the handsets sold and activated are ALI-capable be extended to September 1, 2004; and that the deadline for ensuring that 100 percent of the handsets sold and activated are ALI-capable be extended to December 31, 2004. Brazos' waiver request is for a limited period of time and is intended to last only until such time as it is able to complete its planned CDMA overlay, thus carefully heeding the Commission's instruction that waiver requests are "specific, focused and limited in scope, and [show] a clear path to full compliance."<sup>3</sup>

## **II. Brazos' Compliance Schedule Is Consistent with Community Expectations**

Brazos has been in touch with the local public safety answering points ("PSAPs") in its service area through the local Councils of Government ("COGs")<sup>4</sup> in Texas. The COGs are fully aware of Brazos' compliance schedule and Brazos will continue to work with them and their

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<sup>3</sup> *Id.* at ¶ 44.

<sup>4</sup> COGs are the governmental entities in Texas that organize the local PSAPs and coordinate E911 efforts within the state.

respective PSAPs in order to implement Phase II as soon as possible. Attached as Exhibit 4 is a declaration from Lonnie Rue, Assistant Manager and Chief Financial Officer of Brazos, concerning Brazos' contacts with Joe Rogers of the West Central Texas COG and Tommy Keesee of the Nortex Regional Planning Commission COG concerning their respective assurances that they are comfortable with Brazos' Phase II schedule which will achieve Phase II capability prior to the PSAPs.

**III. Conclusion**

Based on the foregoing and its August 8, 2003 petition for waiver, Brazos respectfully requests that the Commission grant Brazos a temporary limited waiver of Section 20.18(g)(1)(i)-(iv) of its rules as requested in its August 8 petition for waiver and permit Brazos to implement its Phase II solution based on the schedule set forth in its petition for waiver.

Respectfully submitted,

**SOUTH NO. 5 RSA LP**

By: \_\_\_\_\_/s/\_\_\_\_\_

Michael R. Bennet  
Bennet & Bennet, PLLC  
1000 Vermont Avenue, NW  
Tenth Floor  
Washington, DC 20005  
202-371-1500

Its Attorneys

Dated: November 10, 2003

**DECLARATION OF LONNIE RUE**

I, Lonnie Rue, do hereby declare under penalty of perjury the following:

1. I am the Assistant Manager and Chief Financial Officer of South No. 5 RSA Limited Partnership d/b/a/ Brazos Cellular Communications, Ltd.
2. I have read the foregoing “Supplement to Petition for Waiver of Section 20.18(g) of the Commission’s Rules.” I have personal knowledge of the facts set forth therein, and believe them to be true and correct.

\_\_\_\_\_/s/\_\_\_\_\_  
Lonnie Rue

\_\_\_\_\_  
November 10, 2003  
Date

## **EXHIBIT 1**

**July 7, 2003 and October 29, 2003 email correspondence between Brazos and Pat Dougher, District Sales Manager at Progressive Concepts, Inc. regarding the unavailability of TDMA-based handsets with location capabilities:**

-----Original Message-----

**From:** Pat Dougher [mailto:PatD@pcicorp.com]  
**Sent:** Monday, July 07, 2003 5:52 PM  
**To:** Kirk Revell  
**Subject:** RE: TDMA Phones capable of GPRS locator for 911 compliance

The CDMA stuff has it with the GPS chip in it. The method used for the positioning using TDMA is with some software that Triangulates between three towers to get the location of the phone. This is software that you can hook up to any system. I do not know where to purchase it. Maybe the FBI.  
patd

-----Original Message-----

**From:** Kirk Revell [mailto:kirk@brazosnet.com]  
**Sent:** Monday, July 07, 2003 5:00 PM  
**To:** 'Macdonald, Drew'; Pat Dougher; Ted Eans  
**Subject:** TDMA Phones capable of GPRS locator for 911 compliance

Are any of you aware of any TDMA phones that have the capability of locating someone in case of a 911 emergency? I know that GSM and CDMA phones generally have this capability, but I was wondering if there were any TDMA phones that could perform this function. If they are not available right now, do you think that they will ever be available for a dying technology? I appreciate any help you can offer me on this issue.

Regards,

Kirk Revell  
Purchasing Agent  
Brazos Cellular, Ltd.

-----Original Message-----

**From:** Pat Dougher [mailto:PatD@pcicorp.com]  
**Sent:** Wednesday, October 29, 2003 1:19 PM  
**To:** kirk@brazosnet.com  
**Subject:** TDMA and GPRS

To the best of my knowledge there are no TDMA handsets that handle GPRS. The closest there is GAIT phones like the Ericsson T62u that can use the WIX network but that is a GSM/TDMA handset and would not be compatible with CDMA at all. This is all I could find on the internet about GPRS location.

<http://www.globetrac.com/newsapril102003.htm>

Let me know what else you need. thank you.

Patrick Dougher  
District Sales Manager  
Progressive Concepts, Inc.

800-245-4411 ext. 6914  
[www.pcimktg.com](http://www.pcimktg.com)  
[www.signalreach.com](http://www.signalreach.com)

**July 7, 2003 email correspondence between Brazos and Drew Macdonald at Progressive Concepts, Inc. regarding the unavailability of TDMA-based handsets with location capabilities:**

-----Original Message-----

**From:** Macdonald, Drew [mailto:drew.macdonald@brightpoint.com]  
**Sent:** Monday, July 07, 2003 4:05 PM  
**To:** 'Kirk Revell'  
**Subject:** RE: TDMA Phones capable of GPRS locator for 911 compliance

No go with Nokia's stuff. You can ask Ted, but I don't believe that Motorola has anything either.

-----Original Message-----

**From:** Kirk Revell [mailto:kirk@brazosnet.com]  
**Sent:** Monday, July 07, 2003 5:00 PM  
**To:** Macdonald, Drew; 'Pat Dougher'; Ted Eans  
**Subject:** TDMA Phones capable of GPRS locator for 911 compliance

Are any of you aware of any TDMA phones that have the capability of locating someone in case of a 911 emergency? I know that GSM and CDMA phones generally have this capability, but I was wondering if there were any TDMA phones that could perform this function. If they are not available right now, do you think that they will ever be available for a dying technology? I appreciate any help you can offer me on this issue.

Regards,

Kirk Revell  
Purchasing Agent  
Brazos Cellular, Ltd.

**July 10, 2003 email correspondence between Brazos and Ted Eans at Cellstar regarding the unavailability of TDMA-based handsets with location capabilities:**

-----Original Message-----

**From:** Ted Eans [mailto:TEans@cellstar.com]  
**Sent:** Thursday, July 10, 2003 10:09 AM  
**To:** Kirk Revell  
**Subject:** Re: TDMA Phones capable of GPRS locator for 911 compliance

Not to my knowledge... You are correct on the CDMA and GSM phones having that capability..

Thanks  
Ted

**From:** Kirk Revell [mailto:kirk@brazosnet.com]  
**Sent:** Monday, July 07, 2003 5:00 PM  
**To:** 'Macdonald, Drew'; Pat Dougher; Ted Eans  
**Subject:** TDMA Phones capable of GPRS locator for 911 compliance

Are any of you aware of any TDMA phones that have the capability of locating someone in case of a 911 emergency? I know that GSM and CDMA phones generally have this capability, but I was wondering if there were any TDMA phones that could perform this function. If they are not available right now, do you think that they will ever be available for a dying technology? I appreciate any help you can offer me on this issue.

Regards,

Kirk Revell  
Purchasing Agent  
Brazos Cellular, Ltd.

U:\Docs2\Clients\Brazos Cellular\E911\2003 Waiver Supplement\2003 Brazos Supplement Final\Exhibit 1 - Brazos Emails.doc

## **EXHIBIT 2**



*BRIGHTPOINT*

**Brightpoint North America L.P.**

Howard Shapiro  
Bennet & Bennet, PLLC  
Tenth Floor  
1000 Vermont Avenue, N.W.  
Washington, DC 20005

Dear Mr. Shapiro:

Brightpoint is a wholesaler of wireless equipment. Our clients include smaller wireless carriers that do not purchase equipment, such as handsets, in large enough quantities to obtain volume discounts directly from equipment manufacturers. As a wholesaler, Brightpoint makes equipment available from a number of different manufacturers.

In response to your inquiry, this letter will confirm that Brightpoint does not currently have any TDMA handsets containing handset-based location technology in its inventory of products.

Please let me know if you have any questions.

Sincerely,

*David C. McKenna*

David McKenna  
Sr. Director of Purchasing

## **EXHIBIT 3**



*Presents a Proposal for*  
**CDMA Family Equipment**

Prepared for: **Brazos Communications**

Switching Center Location: **Olney, TX**

Office Type: **CDMA Overlay**

Nortel Reference Number: **Issue 1**

**Nortel Networks Confidential**

This proposal constitutes confidential and proprietary information of Nortel Networks, and is subject to the terms of the Non-Disclosure Agreement between Nortel Networks and [name of customer]. You may use this proposal solely for the purpose of evaluating Nortel Networks' bid. This proposal is not to be disclosed to any persons other than your employees with a bona fide need to know.

Oct 30, 2003

Mr. Lonnie Rue  
Brazos Communications  
109 North Avenue D

Subject: **CDMA Family Equipment proposal**  
**Brazos Communications**  
Olney, TX  
Nortel Reference #: Issue 1

Dear Mr. Rue :

Nortel Networks is pleased to confirm the proposed schedule for this CDMA Overlay.

This proposal is based on our understanding of your request and remains valid for 90 days from this date. This purchase shall be governed by the terms and conditions of the existing sales agreement for the products quoted hereunder between Brazos Communications and Nortel Networks Inc. If no such sales agreement exists, this purchase shall be governed by the terms and conditions of the purchase agreement to be executed by the parties prior to shipment.

Nortel Networks is committed to meeting your company's telecommunication needs by developing and furnishing the highest quality products and services. Your selection of the CDMA Family of products will provide you with the latest in technology, increase revenue generating capabilities, as well as enhance cost reduction.

Nortel Networks has committed to an installation completion date for your CDMA equipment of 120 days from receipt of a PO for the equipment and services.

As always, it is our desire to be of service to you and contribute to the success of the project. Please do not hesitate to contact me if you require any further information. We appreciate the opportunity to work with you in this endeavor.

Sincerely,

Phil Cox  
Senior Sales Executive  
Southwest Region, IOC

## **EXHIBIT 4**

## DECLARATION OF LONNIE RUE

I, Lonnie Rue, do hereby declare under penalty of perjury the following:

1. I am the Assistant Manager and Chief Financial Officer of South No. 5 RSA Limited Partnership d/b/a/ Brazos Cellular Communications, Ltd.
2. In the first week of November 2003, I spoke with the 911 directors at the Councils of Governments ("COGs") in the Brazos service area. I informed them of Brazos' expected Phase II capability date of July 1, 2004. The director for the Nortex Regional Planning Commission COG that has one PSAP in the Brazos area stated he is not including *any* Phase II costs in his six year budget. The director for the West Central Texas COG that has two PSAPs in the Brazos area stated it would be at least a year before he requested Phase II, if not longer. Both directors stated that no money had been allocated to them by the State for Phase II. Based on the PSAPs' expected Phase II deployment schedules, the directors indicated that they were comfortable with Brazos' compliance timetable.

\_\_\_\_\_/s/\_\_\_\_\_  
Lonnie Rue

\_\_\_\_\_/11/10/2003\_\_\_\_\_  
Date