

**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 May 30, 2004, within which to ensure that at least 25 percent of all new handsets activated on its cellular system are 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 (the "July 26, 2002 Stay Order"). Under the definitions set forth in the July 26, 2002 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. Insofar as relevant here, under the terms of the relief granted in the July 26, 2002 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;¹ and (B) ensure that 25 percent of all new handsets activated are location-capable no later than November 30, 2003. In support hereof, the following is shown:

¹ Because Copper Valley has not received any PSAP requests for Phase II service, no waiver of this particular term of the July 26, 2002 Stay Order is requested because Copper Valley is not

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’s service area is sparsely populated. 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 and software 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.

currently subject to any requirement requiring relief.

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 an ALI-capable handset model that is compatible with the analog RF transmission component of its system. However, to date, because the network equipment and software has been discontinued by the manufacturer and is no longer being supported by the manufacturer, Copper Valley has been unable to locate any network equipment or software that will enable the system to in any manner process the ALI data elements, or transmit those ALI data elements to any PSAP. In addition, it does not appear that Copper Valley's network equipment can be retrofitted to render it capable of processing the ALI data elements and transmitting them to any PSAP. Thus, the further activation of ALI-capable handsets is a vain act at this time since they will not perform as designed on Copper Valley's system. The additional six-month extension of time requested to meet the 25 percent ALI-capable handset activation benchmark will allow Copper Valley adequate time to conduct a feasibility study to determine whether and how, given the state of current technology, the system can be made Phase II E-911 capable.

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 above, Copper Valley's system utilizes network equipment and software which has been discontinued by the manufacturer and which is no longer supported by the manufacturer. To date, Copper Valley has been unable to locate network equipment and software that can process the ALI data elements, or

transmit the ALI data elements to any PSAP. Thus, Copper Valley's efforts to achieve compliance have been stymied by circumstances beyond its ability to control.

III) Temporary Stay Request

8. Accordingly, Copper Valley requests a temporary stay of the requirement that, as of November 30, 2003, 25 percent of all new handsets activated be ALI-capable. Specifically, Copper Valley requests a brief, six-month extension of time, up to and including May 30, 2004, within which to meet the 25 percent benchmark for new handset activations 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.² 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.³ Thus, the Commission provided that its rules may be waived for good cause shown, consistent with Section 1.3 of the Rules.⁴ 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.⁵ 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.⁶ In the July 26,

² 15 FCC Rcd. 17442 at Para. 22.

³ Id. at Paras. 42-45.

⁴ Id.

⁵ Id.

⁶ Id.

2002 Stay Order, 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 November 30, 2003 deadline by which it is required to ensure that 25 percent of all new handsets activated on the system are ALI-capable. 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. Copper Valley, a small Tier III CMRS carrier serving sparsely populated areas in the State of Alaska, is in a seemingly unique position. It's cellular system utilizes network equipment and software which has been discontinued by the manufacturer, and which is no longer being supported by the manufacturer. Thus, the equipment manufacturer does not provide an E-911 Phase II ALI solution. The system is technically incapable of processing ALI data elements, and of transmitting ALI data elements to any PSAP, and it does not appear that the network equipment can be made technically capable of doing so. Therefore, Copper Valley must conduct a feasibility study to determine whether and how, given the current state of technology, the system can be made E-911 Phase II capable. In view of the need to conduct the feasibility study and because the system is not (and cannot be made) capable of processing ALI data elements, the further activation of ALI-capable handsets is a vain act.

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11. Grant of the request for a temporary stay contained herein is in the public interest. Copper Valley has been diligent in pursuing an E-911 Phase II solution. 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.

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.

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

Respectfully submitted,
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By: Tim Rennie
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