

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

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

To: The Commission

PETITION FOR RECONSIDERATION AND CLARIFICATION

OnStar Corporation ("OnStar") hereby submits this Petition for Reconsideration and Clarification of the Commission's Report and Order ("Order") and its accompanying rules in the above-referenced proceeding.¹ Specifically, OnStar seeks reconsideration and clarification of the Commission's amendment of Section 20.18(c) of the rules, which will require non-licensee resellers of CMRS service to be capable of transmitting 911 calls through the use of Text Telephone Devices ("TTYs"), as of the April 12, 2004 effective date of the new rules.

Background and Summary

As has already been well established on the record in this docket, OnStar is a provider of telematics services,² currently serving some 2.5 million

¹ Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Report and Order and Second Further Notice of Proposed Rulemaking*, FCC 03-290 (rel. Dec. 1, 2003) ("*Order*").

² For a description of OnStar's system and services, *see, e.g.*, Comments of OnStar Corporation, filed in CC Docket No. 94-102 (Feb. 19, 2003) at 2-7; Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency

subscribers. As an adjunct to its core call center-based telematics services, it also offers Personal Calling, a pre-paid, interconnected service that permits users to place and receive in-vehicle, hands-free mobile calls, to or from any point on the PSTN. Personal Calling is provided using the same embedded telematics unit that is used to deliver OnStar's core telematics services. Hands-free dialing is accomplished through the use of voice recognition software; there is no keypad that would enable manual dialing.

OnStar, as a provider of its Personal Calling service, meets the definition of a reseller because OnStar purchases wholesale airtime capacity from CMRS carriers and makes that airtime available to end-users at retail rates. As a CMRS reseller, OnStar would, under the amended rule, be required to make its Personal Calling service accessible to TTY users for the purpose of dialing 911.

OnStar submits that the Commission's adoption of the rule amendment was procedurally flawed because the adopting order did not provide any rationale for applying the TTY requirement to resellers, and does not reflect sound public policy as it relates to providers of vehicle-based calling services. Requiring the conversion of a "hands-free" service into a "hands-on" service in a vehicle environment raises complex "distracted driver" safety (and related legal) issues. Given the complexity of the safety and technical feasibility issues involved, the Commission should exempt CMRS resellers of vehicle-based calling services from the TTY compatibility obligation, or at a minimum, provide for a reasonable transition period before

Calling Systems, CC Docket No. 94-102, *Order*, FCC 03-242 (rel. Oct. 21, 2003) ("*OnStar Order*") at ¶ 2.

compliance is required. Alternatively, the Commission should clarify that the “readily achievable” provision contained in Section 255 applies to this disabilities access-related rule, and that, based on the record, deployment of a TTY compatible telematics device by OnStar is not “readily achievable” at this time.

I. Adoption of the Section 20.18(c) Amendment Without Discussion Was Not Consistent with Established Rulemaking Procedures

In the Final Rules, attached to the Order as Appendix A, Section 20.18(c) was amended by replacing the word “licensees” with “CMRS providers,” a term defined in the new Section 20.18(a) to include CMRS resellers. This amendment for the first time made resellers responsible for being capable of transmitting 911 calls through TTY devices.³ This new regulatory burden was imposed without any mention in the Order or any reasoned explanation. Throughout the discussion of the rule changes affecting providers of resold and pre-paid services, the Order repeatedly referred to the Commission’s decision to apply its *enhanced* 911 rules to resellers,⁴ but contained no indication that the Commission intended to apply any of its *basic* 911 rules, such as the TTY requirement, to resellers.

³ The amended § 20.18(c) reads: “CMRS providers subject to this section must be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY).”

⁴ See *Order* at ¶¶ 91-100. Similarly, there was no discussion in the 28 paragraphs devoted to telematics providers suggesting that those providers offering resold personal calling services would have to enable TTY calling. See *Order* at ¶¶ 64-90.

The adoption of a rule change without comment by an agency is inconsistent with fundamental notions of fairness and administrative procedure. As the D.C. Circuit explained in *Greater Boston* over thirty years ago:

[R]easoned decision-making remains a requirement of our law. . . . An agency's view of what is in the public interest may change . . . [b]ut an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored, and if an agency glosses over or swerves from prior precedents without discussion it may cross the line from the tolerably terse to the intolerably mute.⁵

There can be no question that the Commission was “mute” in changing course with regard to the TTY compatibility obligations of resellers, including resellers offering vehicle-based calling services. Moreover, the Commission cited to no “substantial evidence” in the record that would support such a change.⁶ Indeed, given the lack of discussion in the Order, it is unclear whether the Commission actually intended to make the change to Section 20.18(c) that appeared in the Order's appendix. Because courts disfavor agency decisions that do not contain reasoned explanations,⁷ the

⁵ *Greater Boston Television Corporation v. F.C.C.*, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923 (1971) (“*Greater Boston*”).

⁶ To avoid being arbitrary and capricious, agency decisions must be supported by “substantial evidence.” *See Ass'n of Data Processing Serv. Orgs. v. Bd. of Governors*, 745 F.2d 677, 683-86 (D.C. Cir. 1984) (arbitrary and capricious standard incorporates substantial evidence test); *see also Reservation Tel. Coop. v. F.C.C.*, 826 F.2d 1129, 1135 n. 4 (D.C.Cir.1987) (“we have held simply that an agency must supply a persuasively reasoned explanation for modifying its earlier position that is itself rationally grounded in the evidence before the agency” (emphasis added; citations omitted)).

⁷ *See, e.g., Public Media Center, et al., v. F.C.C.*, 587 F.2d 1322, 1331 (D.C. Cir. 1978) (“As this court has repeatedly emphasized, ‘the failure of an administrative agency to articulate the reasons for a particular decision makes meaningful review of that decision impossible.’”); *Japan Air Lines Company, Ltd., et al., v. Dole*, 801 F.2d 483 (D.C. Cir. 1986) (“there exists a presumption against unexplained changes in

Commission on reconsideration should take a “hard look” at the material facts and issues,⁸ including the particular difficulties faced by providers of hands-free, vehicle-based calling services such as OnStar, in complying with the TTY rule (see Sections II and III below). If the Commission ultimately decides to retain the amended rule, it should “articulate with reasonable clarity” its decision.⁹

II. Public Interest Considerations Support a Finding that a Mandatory and Immediate 911 TTY Compatibility Requirement for CMRS Resellers Providing Vehicle-Based Calling Services Is Not Needed

A. A Mandatory TTY Compatibility Obligation Could Result in Increased Driver Distraction

The OnStar system is designed around and optimized for use by the driver. The minimization of driver distraction is of paramount concern and serves as the basis for OnStar’s core design principles.¹⁰ Accordingly, a critical design feature of OnStar’s Personal Calling service is its hands-free, voice-controlled operation. To place a call, the user presses a single button located within easy reach of the driver. Dialing is accomplished through the use of voice recognition software – there is no physical keypad – so that the driver can keep his or her eyes on the road and hands

agency interpretations”); *Tex Tin Corp. v. EPA*, 935 F.2d 1321, 1324 (D.C. Cir. 1991) (“Where the agency has failed to . . . explain the path that it has taken, we have no choice but to remand for a reasoned explanation for the conclusion.”).

⁸ *Greater Boston*, 444 F.2d at 851.

⁹ *Id.*

¹⁰ Fundamental design principles for the OnStar system include: minimize eyes-off-the-road, hands-off-the-wheel time; minimize the number of steps required to perform a task; create a common interface for consumer interaction with the system; utilize a lockout protocol to prevent the use of systems that create unnecessary and excessive attention demands on the driver. See OnStar Corporation, *Ex Parte* Filing in WT Docket No. 01-309 (Nov. 22, 2002) at 6.

on the wheel. The Commission’s new rule would require a fundamental re-design of how OnStar’s telematics device is controlled, converting “hands-free” operation into “hands-on” operation, when used with a TTY device.

The public interest objective underlying Section 20.18(c) is to promote public safety.¹¹ That objective may be impaired, however, by the rule’s recent amendment. There is an inherent tension created by a rule that has the potential to increase driver distraction. Statistics show, for example, that 68 percent of all rear-end collisions can be attributed to driver inattention.¹²

In view of the important public safety issues at stake, the Commission should reconsider its decision imposing a TTY compatibility obligation on providers of vehicle-based CMRS. Moreover, as discussed in Section III, *infra*, there are significant technical hurdles to overcome before TTY compatible telematics devices can be deployed. In view of these considerations, and given that these systems already promote access to emergency services by persons with hearing disabilities in several important respects (see *infra* Section II.C), the Commission should conclude on reconsideration that the public interest is not served by imposing a TTY compatibility mandate on resellers that offer vehicle-based calling services.

¹¹ See Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, *Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 18676 (1996) at ¶51 (“911 TTY Order”).

¹² See Ex Parte Presentation of the Short Range Automotive Radar Frequency Allocation Group, filed in Docket No. 98-153 (Feb. 5, 2002) at 5 (citing statistics based on NHTSA data).

Accordingly, OnStar proposes that the Commission further amend Section 20.18(c) to exempt such resellers from this requirement.¹³

B. *If the Commission Nonetheless Concludes that a Vehicle-Based TTY Compatibility Mandate is Necessary, It Should Ensure that Such a Mandate Is Carefully Implemented*

If, despite driver distraction concerns, the Commission adheres to the view that a TTY compatibility requirement for vehicle-based calling services is necessary, it should at a minimum consider the complex issues raised by such a requirement. Careful and proper implementation of such a rule by service providers and vehicle manufacturers will be critical, both to ensure public safety and to minimize potential liability risks.¹⁴

Importantly, OnStar believes that any TTY compatibility requirement should be designed in a way that minimizes, to the greatest extent possible, the likelihood that the driver will use the device while the vehicle is in motion. Moreover, state distracted driving laws, including those regulating the use of screen-based devices in vehicles,¹⁵ must be reviewed and considered to ensure that

¹³ OnStar is seeking an exemption only from the specific mandate contained in Section 20.18(c), not of OnStar's general obligation pursuant to Section 255 to ensure that its service is accessible to persons with disabilities, if readily achievable.

¹⁴ Under the principle of "foreseeable misuse," for example, product providers can be found liable in tort if they fail to consider the ways in which a consumer might attempt to use a product in a manner that it is not designed to be used. OnStar and other providers will need to consider these implications when designing TTY compatibility into their offerings.

¹⁵ See, e.g., CONN. GEN. STAT. § 14-105 (prohibiting the installation in motor vehicles of television screens "or other device[s] of a similar nature" in any position "where it may be visible to the driver or where it may in any other manner interfere with the safe operation and control of the vehicle").

facilitating the use of TTY devices will not run afoul of the letter or spirit of those laws. At the Federal level, the National Highway Transportation Safety Administration (“NHTSA”) may have an interest in the issue, given that agency’s emphasis on reducing driver distractions.¹⁶

Because embedded telematics units are so thoroughly integrated into the vehicle itself, the Commission should also consider that implementation of TTY compatibility could require major changes to vehicle components or software. Thus, the ability to implement any hardware or software changes necessary to enable TTY compatibility will depend in part on coordination with vehicle manufacturers.¹⁷ The Commission should recognize this as an additional complicating factor that providers of vehicle-based calling services would be required to face in implementing TTY capabilities.

Given the complexities involved in implementing a TTY compatibility solution (including the technical challenges discussed in Section III), if the Commission declines to provide an exemption for vehicle-based services, the Commission should, at a minimum, amend the rule to provide for a reasonable transition period before vehicle-based CMRS resellers must comply with the requirement. In the Order, the Commission recognized that resellers would need

¹⁶ See Thomas Ranney, *et al.*, “NHTSA Driver Distraction Research: Past, Present and Future” (July 5, 2000), available at: www-nrd.nhtsa.dot.gov/departments/nrd-13/driver-distraction/PDF/233.PDF (“Driver distraction is a high priority topic for NHTSA.”).

¹⁷ OnStar reminds the Commission that, although it is a subsidiary of General Motors, OnStar also provides service through devices incorporated into vehicles sold by other automotive manufacturers.

time to comply with the Commission's *enhanced* 911 rules, and established a compliance date of December 31, 2006 for these rules.¹⁸ Given that developing a TTY compatible telematics device and deploying it on multiple OEM vehicle fleets is considerably more complex than simply making "necessary changes in . . . handset offerings,"¹⁹ the Commission should provide an appropriate transition period for vehicle-based resellers to comply with the TTY requirement. In doing so, the Commission should recognize that, even once a solution is developed, actual deployment across multiple OEM vehicle lines could take considerable additional time, given the long lead times involved in vehicle design and product cycles.²⁰

C. *The Goals of Section 20.18(c) Are Largely Already Met by the Existing OnStar Services*

The objective underlying Section 20.18(c) is to promote the availability of safety services to persons with hearing and speech disabilities.²¹ OnStar already advances this objective in a number of respects. First, all Personal Calling users²² have access to the OnStar call center by pressing the emergency button, an alternative means of requesting emergency services. Even if the user is unable to speak, the call center advisor is able to contact emergency services and request

¹⁸ See *Order* at ¶ 99.

¹⁹ *Order* at ¶ 95.

²⁰ See *Opposition of American Honda Motor Co., Inc. et al.*, filed in WT Docket 01-108 (Apr. 1, 2003) at 21-22 (explaining the lengthy nature of vehicle design, product and life cycles).

²¹ See *911 TTY Order* at ¶ 51.

²² Personal Calling is not available as a stand-alone offering, but can only be used by subscribers to OnStar's core telematics information service.

assistance without any action on the part of the subscriber. Similarly, the OnStar call center is able to automatically request the dispatch of emergency service in the event of an accident, as triggered by Automatic Crash Notification (“ACN”) sensors in the vehicle. Again, no occupant response is required. These features provide an important measure of protection to deaf and hard of hearing users, especially in situations, such as after an accident, where an occupant may be physically unable to use a TTY device.

Second, the OnStar system facilitates calls by hard of hearing users. Because the OnStar system utilizes the vehicle’s audio system, vehicle occupants have the ability to take advantage of the full range of speaker volume to enhance their ability to hear, and thus to conduct a conversation. The user can also control the treble/bass balance on some systems to optimize further the incoming audio. Moreover, the system contains visual indicators that show connectivity status.²³

Finally, subscribers with hearing aids should be able to use new OnStar digital units²⁴ without interference to their hearing aids because of the remote placement of the antenna and transceiver for the system. This is significant, as many hearing aid users are currently unable to use traditional digital wireless handsets due to interference problems. Thus, even without a Commission mandate,

²³ Anytime the OnStar unit is engaged in a call, a green indicator light on the three-button control panel flashes. On selected vehicle models, the radio or a driver information center provides visual cues/messages as to the system being in use, such as providing a read-out of the phone number dialed.

²⁴ As the Commission is aware, OnStar is in the midst of implementing a transition to digital-capable devices. See *OnStar Order* at ¶ 26.

OnStar service significantly enhances the accessibility to emergency services for persons with speech and hearing disabilities.²⁵

III. Any TTY Compatibility Requirement Is Subject to Section 255’s “Readily Achievable” Exception; TTY Compatible Telematics Devices Are Not Readily Achievable

A. Section 255 Limits the Commission’s Ability to Impose Unconditional Disabilities Access Requirements

Section 255(c) of the Communications Act of 1934 establishes that providers of telecommunications service are to “ensure that the service is accessible to and usable by individuals with disabilities, *if readily achievable*,” or to ensure that the “service is compatible with existing peripheral devices . . . commonly used by individuals with disabilities to achieve access, *if readily achievable*.”²⁶ Pursuant to this statutory provision, added by the Telecommunications Act of 1996 (“96 Act”), any regulation promulgated by the Commission that requires telecommunications service providers to make services accessible to individuals with disabilities is subject to the requirement that such accessibility must be “readily achievable” for the provider.

The Commission promulgated Section 20.18(c) in its 1996 *TTY 911 Order*. Released just a few months after the passage of the 96 Act, the *TTY 911*

²⁵ OnStar is committed to providing access to individuals with disabilities. As a General Motors subsidiary, OnStar has the advantage of the GM Mobility program, a key component of GM’s ongoing commitment to providing access to automotive transportation to individuals with disabilities. As part of that program, a committee of GM employees with hearing disabilities has provided counsel to OnStar as the service is evolving and as future generations of hardware are being developed.

²⁶ 47 U.S.C. § 255(c) & (d) (emphasis added). Although there is a difference between direct “accessibility” of a device and “compatibility” with other equipment, the readily achievable standard applies to both. For ease of discussion OnStar will use the terms interchangeably.

Order resulted from an NPRM released in 1994. In imposing the mandate, the Commission relied on pre-existing Communications Act general authority provisions (e.g., §§ 151, 154(i), 303 and 309). However, the Commission recognized that Section 255 would be relevant to future proceedings relating to TTY access to 911.²⁷ Specifically, the Commission stated that it would use the guidelines, required by Section 255 to be developed by the Architectural and Transportation Barriers Compliance Board (“Board”), “as a basis for establishing further [TTY] requirements.”²⁸ Notably, the Board’s guidelines contain the same “readily achievable” provision as the statute itself.²⁹

As a matter of statutory interpretation, Section 255, including its “readily achievable” provision, must govern the Commission’s regulations relating to access to telecommunications services by persons with disabilities. It is a well-settled interpretative principle that “a specific statute will not be controlled or nullified by a general one.”³⁰ This principle:

reflect[s] the proposition that when Congress has focused on a particular subject, a court can reasonably rely on that expression of congressional

²⁷ See *TTY 911 Order* at ¶ 52 (“In light of . . . our new statutory mandate to ensure accessibility to telecommunications services by persons with disabilities, if readily achievable, we may initiate a further proceeding [to consider additional TTY access to 911 issues] after we have obtained additional information.”).

²⁸ *Id.* at ¶ 53.

²⁹ See 36 C.F.R. § 1193.21; 1193.51.

³⁰ *Crawford Fitting Co. v. J.T. Gibbons*, 482 U.S. 437, 445 (1987); see also *Strawberry v. Albright*, 111 F.3d 943, 945 (D.C. Cir. 1997) (noting that this “is particularly so when the specific statute is enacted at the same time as, or after, a more general provision”).

intent, by contrast with a generally worded statute where it is unclear whether Congress focused on the particular matter at issue.³¹

The Commission's Order cites a number of its more general statutory authority provisions (*e.g.*, §§ 151, 154(i), 301, 303, 308 and 310) as authority for the Order. Yet the D.C. Circuit has previously explained that the Commission may not rely on the broad authority provisions in the Communications Act to accomplish something that would not be permitted under a more specific provision of the Act. In *TRAC*, the court stated:

[W]e reject a reading of the 1934 Communications Act which would allow the FCC to evade the express limiting conditions of §309(i). To infuse the general public interest provisions of the 1934 Act with the authority to conduct lotteries at this late date would allow them to control the scope of the more specific 1982 amendment [T]he FCC's general regulatory authority is limited by the subsequent enactment purporting to grant new power but under specified conditions.³²

Similarly, in the instant case, Section 255 contains an “express limiting condition” – the “readily achievable” provision – which the Commission may not avoid by seeking to rely on its broad statutory authority provisions. Accordingly, OnStar requests that the Commission clarify on reconsideration that Section 255's “readily achievable” provision applies to any requirement that CMRS resellers ensure TTY accessibility to 911 calls.³³

³¹ *United States v. Stewart*, 104 F.3d 1377, 1387 (D.C. Cir. 1997).

³² *Telecommunications Research and Action Center v. F.C.C.*, 836 F.2d 1349, 1361 (D.C. Cir. 1988) (“*TRAC*”).

³³ The Order recognized that Section 255, including its “readily achievable” provision, governs service providers' obligations with regard to the accessibility of their offerings to persons with disabilities. *See Order* at ¶ 17.

B. *The Deployment of TTY Compatible OnStar Telematics Units Is Not Readily Achievable*

The term “readily achievable” means “easily accomplishable and able to be carried out without much difficulty or expense.”³⁴ The Commission has determined that manufacturers and service providers need not install accessibility features where such features would:

fundamentally alter[] the product in such a way as to reduce substantially the functionality of the product, to render some features inoperable, to impede substantially or deter use of the product by individuals without the specific disability the feature is designed to address ³⁵

Although OnStar is working to develop a TTY solution, designing and implementing a TTY compatible telematics unit – on which Personal Calling services rely – has not been “easily accomplishable” to date, even without regard to expense.

It is important to understand that adapting the Personal Calling service so that it is TTY compatible is not as “simple” as adding a 10-digit keypad to permit

³⁴ See 47 U.S.C. § 255(a)(2); see also 42 U.S.C. § 12181(9). Legislative history of the 96 Act confirms that the “readily achievable” standard in Section 255 was taken from the Americans with Disabilities Act of 1990 (“ADA”). See S. Rep. No. 104-23, at 53 (1995). Indications of Congressional intent regarding the interpretation of the standard can be found in the legislative history of the ADA. For example, the Senate Report explains that:

'Readily achievable' . . . focuses on the business operator and addresses the degree of ease or difficulty of the business operator in removing a barrier; if barrier removal cannot be accomplished readily, then it is not required. . . .

The readily achievable standard allows for minimal investment with a potential return of profit from use by disabled patrons, often more than justifying the small expense.

S. Rep. No. 101-116 (1989) at 65-66.

³⁵ Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, *Report and Order and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 6417 (1999) at ¶ 62.

manual dialing,³⁶ and a 2.5mm headphone jack³⁷ somewhere in the vehicle's interior as a TTY connection point into the embedded telematics unit. The fundamental design challenge relates to the fact that all vehicle communications are provided over one 30 kHz radio channel which is used for both data and voice transmissions. In order for all of the core telematics information services, including emergency services, and Personal Calling features to function, the unit must be able to switch back and forth between data transmissions and voice transmissions at the appropriate times.³⁸

TTY signals severely complicate this process because TTY signals operate on frequencies similar to those used by the modem contained within the telematics unit (as well as the modems located at the call center). In other words, the two devices can interfere with each other because their signals are “confusingly similar.”³⁹ For example, if the TTY device is transmitting while the OnStar unit is

³⁶ A keypad is necessary as TTY devices do not include internal dialers. Although not the “main” problem, even the addition of the keypad presents significant design challenges. OnStar has experimented with a limited number of systems installed in SAAB vehicles where a keypad was integrated into the system and used to control an optional radio package. This implementation has proven extraordinarily difficult.

³⁷ Traditional use of a 2.5mm jack on a portable device reroutes the audio path from the speaker and microphone to the TTY device. That same audio path on an OnStar unit is used for both voice and data.

³⁸ For example, whenever a connection to the call center is made, certain vehicle data is transmitted first, and then the connection switches to carrying audio signals to enable voice communications. If more data is needed during the session (*e.g.*, to update location information or obtain vehicle diagnostics), the link will be switched back to data mode again.

³⁹ Another problem is that the hands-free audio processing feature of the OnStar telematics unit cannot be readily switched off. This may cause severe attenuation of

signaling the Call Center, critical data at the Call Center could be corrupted and lost. Additionally, signaling from the TTY device could be interpreted falsely at the Call Center and result in a dropped call. This would obviously be an unacceptable result and have particularly serious consequences if ACN or other emergency calls were affected.

In continuing its work on the TTY compatibility issue, OnStar is currently evaluating a new generation of digital modems that, with additional engineering to the telematics unit, theoretically could bring OnStar closer to resolving this fundamental incompatibility. To date, however, this theoretical concept has not been successfully tested. Moreover, even if the successful test of a prototype unit were accomplished, the solution would not be ready for deployment until after a “validation” process for each vehicle line is completed. This process ensures that the component satisfies the rigorous motor vehicle standards for operation in the wide range of climatic and road conditions that might be experienced by a vehicle over its life; for electromagnetic compatibility; and for life-of-the-vehicle durability and reliability. Typically, the development cycle for a new vehicle-based capability takes about three years, while implementing a change over an entire fleet may take longer as all vehicles are not redesigned each year.

In sum, the challenges described above establish that TTY compatibility for vehicle-based calling is not “readily achievable.” Accordingly, OnStar requests that, if the Commission declines to provide a blanket exemption from the TTY

either the Tx (transmit) or Rx (receive) audio paths, disrupting the TTY signals that pass through to an audio port.

requirement for vehicle-based CMRS resellers, the Commission clarify that OnStar is not currently required to comply with the provision because it is not “readily achievable” for OnStar to do so.

Finally, even if the Commission determines that the Section 255 readily achievable provision is not relevant to this issue, the Commission should follow its prior precedent in applying Section 20.18(c) and grant providers of vehicle-based calling additional time to satisfy the mandate. After Section 20.18(c) was promulgated, petitions for reconsideration were filed explaining that adequate technology did not yet exist that would permit TTY compatibility for digital handsets. In response, the Commission in its reconsideration order recognized “the present existence of technical barriers” in implementing digital handset TTY compatibility and granted an extension of the compliance deadline.⁴⁰ Thus, even if the Commission determines that Section 255’s “readily achievable” language is not relevant to this issue, it should nonetheless follow a similar course. Specifically, it should recognize the additional time required to deploy in-vehicle embedded devices across multiple vehicle lines, and provide an appropriate extension of Section 20.18(c)’s requirement for providers of vehicle-based calling services.

⁴⁰ Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, *Memorandum Opinion and Order*, 12 FCC Rcd 22,665 (1997) at ¶¶ 55, 59.

CONCLUSION

For the reasons explained above, the Commission should reconsider its amendment of Section 20.18(c), and exempt CMRS resellers offering vehicle-based calling services from the rule's TTY compatibility requirement. Alternatively, the Commission should either: (1) determine that compliance by such resellers is currently not "readily achievable" pursuant to Section 255 and is therefore excused at this time, or (2) provide a reasonable transition period prior to requiring compliance by such resellers.

Respectfully submitted,

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