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Before the
Federal Communications Commission
Washington, DC

MAY 21 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of)
)
Telephone Number Portability)
)
Petition for Waiver of Section 52.31 of the)
Commission's Rules)
)
)

CC Docket No. 95-116

To: Wireless Telecommunications Bureau

**PETITION FOR LIMITED WAIVER
AND EXTENSION OF TIME**

Litchfield County Cellular, Inc. d/b/a Ramcell of Oregon ("Ramcell of Oregon"), pursuant to Sections 1.3 and 52.31(a) and (d) of the Commission's rules, 47 C.F.R. §§ 1.3 and 52.31(a) and (d), hereby requests a limited waiver and an extension of the May 24, 2004 implementation deadline of the Commission's wireless long-term number portability ("WLNP") requirement. As set forth herein, Ramcell of Oregon will be unable to meet the May 24th deadline for reasons that are entirely outside of its control and submits that good cause exists for the Commission to grant the instant request for limited waiver and extend Ramcell of Oregon's WLNP implementation deadline until September 17, 2004.¹

I. BACKGROUND

Ramcell of Oregon is the cellular licensee of Station KNKN393 operating a cellular system which is in the process of constructing its digital overlay to its analog system on the

¹ Ramcell of Oregon additionally requests a waiver, if necessary, of the requirement that a CMRS carrier unable to meet the Commission's deadline for implementing WLNP file a request 60 days prior to the deadline, pursuant to Section 52.31(d) of the Commission's rules, 47 C.F.R. § 52.31(d). Ramcell of Oregon has been diligently pursuing the goal of meeting the May 24th deadline.

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block B1 portion of the Oregon 5 – Coos RSA. Ramcell of Oregon is truly a small wireless carrier. Although Ramcell of Oregon’s cellular system covers an enormous territory in the state of Oregon, the four counties comprising the territory are sparsely populated.² The largest of these counties has a population of little more than 100,399, and the smallest has approximately 21,137 people.³ Most MSAs, and many RSAs, have single cities with populations greater than all of Ramcell of Oregon’s four counties combined, a total of approximately 260,041 people.⁴ Clearly, Ramcell of Oregon provides wireless service outside of the 100 largest MSAs and consequently is required to be WLNP compliant either six months after November 24, 2003, or six months after receiving a bona fide request to port from another carrier whichever is later.⁵ Ramcell of Oregon received bona fide porting requests before November 24, 2003 and is, therefore, currently obligated to provide WLNP by May 24, 2004.⁶ As discussed below, however, Ramcell of Oregon will not be able to meet this deadline and requires a limited extension of this compliance deadline.

II. A LIMITED WAIVER IS WARRANTED

The Commission may waive its rules for “good cause” shown, if “in 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, or the applicant has no reasonable alternative.”⁷ Similarly, Section 52.31(d) of the Commission’s rules authorizes the Commission

² The population per square mile for the 9,904 square miles comprising OR5 is approximately 26 people. See Commercial Atlas and Marketing Guide (Rand McNally, 135th Ed , 2004).

³ *Id*

⁴ *Id*

⁵ *Verizon Wireless’s Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, WT Docket No. 01-184 and CC Docket No. 95-116, *Memorandum Opinion and Order*, 17 FCC Rcd 14972 (2002) (*Verizon Forbearance Order*)

⁶ Ramcell of Oregon received bona fide porting requests from the following carriers: Verizon Wireless, Verizon, Inc., US Cellular and Qwest Corporation.

⁷ 47 C.F.R. §§ 1.3, 1.925; *Northeast Cellular Telephone Co v FCC*, 897 F.2d 1164, 1166 (D.C. Cir 1990); *WAIT Radio v FCC*, 418 F.2d 1153, 1159 (D.C. Cir 1969) *cert. denied*, 409 U.S. 1027 (1972).

to waive the WLNP implementation deadline where the carrier demonstrates that certain factors exist.⁸ As discussed below, economic concerns outside of Ramcell of Oregon's control have slowed the pace at which Ramcell of Oregon could address WLNP. Ramcell of Oregon, therefore, submits that good cause exists for the Commission to grant an extension of the May 24 implementation deadline consistent with Sections 1.3 and 52.31(d) of its rules.

A. The Cost of Regulatory Compliance Has Outstripped Ramcell of Oregon's Ability to Simultaneously Continue Construction Efforts and Roll-Out New Services.

As a small rural carrier, Ramcell of Oregon has far fewer resources than do large carriers and its limited money and manpower must be divided between maintaining its present system, so that it continues to provide reliable service, and continuing to upgrade its system by rolling out new services and expanding its existing coverage. Ramcell of Oregon's resources are further depleted due to its on-going build-out of a CDMA overlay to its analog network. These system upgrades and network construction efforts are even more challenging and cost prohibitive when considered in light of Ramcell of Oregon's large territory coupled with its thinly populated customer base. Added to this already herculean balancing act, Ramcell of Oregon has been faced with the additional economic burden of meeting the Commission's important public policy initiatives, including, Communications for Law Enforcement Act ("CALEA"), Text Telephone Devices ("TTY") and Enhanced 911 ("E-911"). Over the past two years Ramcell of Oregon has spent approximately [REDACTED] in its efforts to make its cellular system WLNP, CALEA, TTY and E-911 compliant.⁹ To put this into perspective, Ramcell of Oregon's 2004 annual construction budget is a mere [REDACTED]

⁸ 47 C F R § 52.31(d).

⁹ The true cost would be higher if Ramcell of Oregon had sufficient time to calculate the value of all of the time and resources its employees have expended on these compliance efforts.

At the same time that these regulatory compliance expenses have risen dramatically,

[REDACTED] ¹⁰ [REDACTED]

[REDACTED] As a result of [REDACTED] and increased expenses, Ramcell of Oregon has been compelled to reallocate capital from its construction budget to fund its compliance obligations. This belt tightening has forced Ramcell of Oregon to decrease its network build-out and delay the roll-out of new service. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Delaying build-out of facilities and introduction of new services not only deprives subscribers of the full benefits of wireless service, it has the unintended result of lessening competition¹¹

B. Ramcell of Oregon Worked Diligently and Responsibly to Meet the May 24th WLNP Implementation Deadline But Was Hamstrung by Economics

Ramcell of Oregon is, and has been, diligent in pursuing full compliance with its WLNP obligations. Prior to February 2004, Ramcell of Oregon investigated what it needed to do in order to become WLNP compliant, surveyed its in-house capabilities and laid the foundation for obtaining the requisite expertise and software to become WLNP compliant. Ramcell of Oregon determined that it required implementation assistance and explored the matter with Syniverse Technologies (f/k/a Telecommunications Service Incorporated) (“Syniverse”). In addition, as a

¹⁰ [REDACTED]

¹¹ [REDACTED]

result of discussions with its switch manufacturer,¹² Ramcell of Oregon planned to acquire the requisite software upgrade at a cost of [REDACTED] as it had purchased its switch, on an installment plan, and Ramcell of Oregon had factored that into its long-term budgeting process.

In February, 2004, Ramcell of Oregon contracted with Syniverse to manage Ramcell of Oregon's implementation of WLNP. In addition, Ramcell of Oregon ordered the requisite software upgrade. Given the estimates that the switch manufacturer gave for activation of the software and testing, this provided Ramcell of Oregon with a reasonable time 'cushion' with which to be compliant before the May 24 deadline.

Unfortunately, it was then that Ramcell of Oregon was given the unexpected news that its switch manufacturer would not allow Ramcell of Oregon to purchase the software upgrade on an installment basis, but rather, was now demanding that the entire amount be paid upfront. In short, the switch manufacturer would not install the software until it had received payment in full from Ramcell of Oregon.

Even with the cutbacks Ramcell of Oregon instituted on its construction efforts and roll-out of new services, Ramcell of Oregon was unable to fund, in the short term, this unanticipated upfront expenditure out of operating revenue. Because Ramcell of Oregon simply has no further internal funds to reallocate in February, Ramcell of Oregon began pursuing a cash infusion from outside sources. [REDACTED]

[REDACTED] While Ramcell of Oregon was hopeful to have received a loan from the investor at the beginning of this week, Ramcell of Oregon was told that it would not receive the loan for another ninety days. Based on discussions with its switch manufacturer, Ramcell of

¹² Ramcell of Oregon utilizes a Lucent 5E switch.

Oregon anticipates that it can be WLNP compliant within two weeks from the date the software is installed. Thus, Ramcell of Oregon should be WLNP compliant by September 17, 2004.¹³

Nevertheless, Ramcell of Oregon continues to move towards WLNP compliance. For example, Ramcell of Oregon has completed its New User Application and has received its Service Profile Identifier (“SPID”) from Neustar. In addition, concurrent with its acquisition of the switch software, Ramcell of Oregon will continue to work with Syniverse to become WLNP compliant. In sum, Ramcell of Oregon has worked diligently to meet its WLNP obligations and is not seeking a waiver simply to avoid meeting these obligations. Rather, Ramcell of Oregon is making every effort to become compliant as soon as possible given the severe economic conditions it faces. Ramcell of Oregon will provide the Commission with monthly status reports of its progress

C. Remaining Factors Under Section 52.31(d)

As required by Section 52.31(d)(3), Ramcell of Oregon affirms that its switch is assigned Common Language Location Identifier code RSBGORAFECP. Further, as required by Section 52.31(d)(4), Ramcell of Oregon anticipates implementing wireless long-term number portability by September 17, 2004. Unless Ramcell of Oregon encounters an unforeseen delay, Ramcell of Oregon will notify the Commission in writing that it has become WLNP compliant on or before September 17, 2004.

D. Grant of a Limited Waiver Is Consistent with FCC Precedent

Ramcell of Oregon notes that several other carriers have requests for extensions pending and most of these requests are from small rural carriers.¹⁴ This fact should be unsurprising since

¹³ Ramcell of Oregon pledges to conscientiously work to minimize the time it takes to become WLNP compliant. Thus, if Ramcell of Oregon can become compliant prior to September 17, 2004, it will do so

the unique difficulties faced by smaller carriers have been previously recognized by the Commission. For example, the Commission addressed the financial and manpower disparities between large and small carriers in its three-tiered approach to the implementation of E911 regulations¹⁵ The Commission found in the *Non-Nationwide Carriers Order* that because larger carriers had greater access to resources than smaller carriers, it was appropriate to provide relief to smaller carriers through different and less stringent timeframes and conditions than those imposed on the larger (Tier I) carriers. Ramcell of Oregon requests that the Commission continue this reasonable sensitivity to the unique circumstances faced by small carriers, and recognize the adverse impact that the lack of available funds has placed on Ramcell of Oregon's sincere efforts to fulfill its WLNP obligations.

¹⁴ See *Petition of Choice Wireless, LC for Waiver of Section 52 31(a) of the Commission's Rules*, filed March 24, 2004, *Petition of Leaco Rural Telephone Cooperative, Inc for Limited Waiver and Extension of its Porting Obligations*, filed April 2, 2004, *Petition of Yorkville Telephone Cooperative, Inc. and Yorkville Communications, Inc for Limited Waiver and Extension of Section 52 31 of the Commission's Rules*, filed March 18, 2004, *Petition of TMP Corp and TMP Jacksonville, LLC for Waiver of Section 52 31(a) of the Commission's Rules*, filed March 23, 2004.

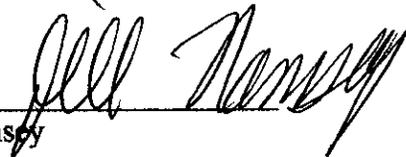
¹⁵ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, CC Docket 94-102, *Order to Stay*, FCC 02-210, 17 FCC Rcd 14841, 14,846 (2002) ("*Non-Nationwide Carriers Order*")

III. CONCLUSION

For the foregoing reasons, we request a temporary waiver and an extension of time as described herein to implement wireless long-term number portability. We respectfully suggest that the grant of the waiver and the limited extension would be in the public interest.

Respectfully submitted,

LITCHFIELD COUNTY CELLULAR, INC. D/B/A
RAMCELL OF OREGON

By: 
Jill Ramsay
Officer
Litchfield County Cellular, Inc. d/b/a
Ramcell of Oregon

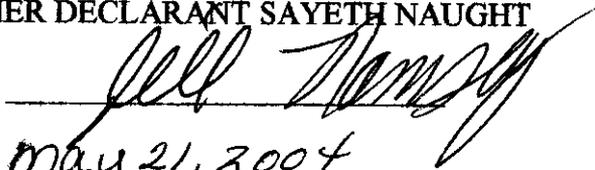
Dated: May 21, 2004

DECLARATION OF JILL RAMSEY

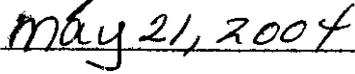
I, Jill Ramsey Ramsey, an officer of Litchfield County Cellular, Inc. d/b/a Ramcell of Oregon, the B1 Block licensee of Oregon 5 – Coos RSA, hereby declare under penalty of perjury that the information contained in the attached document is complete and accurate to the best of my information, knowledge and belief.

FURTHER DECLARANT SAYETH NAUGHT

Signed: _____

A handwritten signature in cursive script that reads "Jill Ramsey". The signature is written over a horizontal line.

Dated: _____

A handwritten date "May 21, 2004" written in cursive script over a horizontal line.