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

In the Matter of	)	
	)	
KEY COMMUNICATIONS, LLC, and	)	CC Docket No. 94-102
KEYSTONE WIRELESS, LLC	)	
	)	
For Waiver of Deadlines for Implementation	)	
of Phase II E911	)	

To: The Commission

PETITION FOR WAIVER OF DEADLINES
FOR IMPLEMENTATION OF PHASE II E911

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SUMMARY

Key Communications, LLC ("Key") and Keystone Wireless, LLC ("Keystone") (collectively, "Petitioner-Small Carriers") seek a waiver of their current E911 implementation deadlines for the sale of GSM technology A-GPS handsets in their respective markets, on the ground that no such handsets are currently available. Petitioner-Small Carriers originally had elected to implement a handset-based solution. Subsequently, when it appeared that there was no exclusively-handset-based solution in the offing, Petitioner-Small Carriers shifted their plans, aiming toward a hybrid solution which Nortel Networks is claiming to have in development. All of this is a matter of public record, and was recounted by the Commission in its *Order, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers*, 20 FCC Rcd. 7709, FCC 05-79, released April 1, 2005 ("*Tier III Extension Order*"), at ¶¶ 125-29.

As recently as May 12, 2005, Petitioner-Small Carriers were invited by Nortel to participate in a conference call concerning the status of the "assisted GPS" ("A-GPS") handsets for the hybrid system. However, in fact there are no such handsets on the market, and none currently in development that could replace the current inventory of non-A-GPS handsets. Petitioner-Small Carriers have been whipsawed by the manufacturing community, and cannot meet the looming July 1, 2005 deadline to commence selling these non-existent customer units. Because a network-based solution would not come near the required location accuracy levels demanded by Phase II E911, Petitioner-Small Carriers currently have no viable technology path to Phase II. They must consult with the Commission staff, and likely with their PSAP counterparts, to determine how best to proceed, as once they spend huge sums on one solution, such funds become unavailable to implement any other solution.

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Key Communications, LLC ("Key") and Keystone Wireless, LLC ("Keystone") (collectively, "Petitioner-Small Carriers"), by their attorneys, hereby submit this Petition for Waiver of Deadlines for Implementation of Phase II E911 ("Replacement Petition"). This Replacement Petition replaces and substitutes for Petitioner-Small Carriers' "New Petition for Waiver of Deadlines for Implementation of Phase II E911" filed June 6, 2005 ("June-05 Petition"), which is hereby withdrawn in favor of the instant Replacement Petition.[1/]

In this Replacement Petition, Petitioner-Small Carriers seek relief from the currently applicable deadlines respecting the distribution of assisted GPS ("A-GPS") handsets and from any corollary requirements, such as location accuracy measures that cannot be conducted until after A-GPS handsets are in the hands of at least some subscribers. Petitioner-Small Carriers will show herein that they have explored all possible GSM technology E911 solutions for Phase II, including both network-based and hybrid-based solutions, that they have worked diligently with their respective PSAPs, providing additional location assistance manually, or through

[1/] Because this Replacement Petition provides substantial additional detail to justify the requested relief, the withdrawal of the June-05 Petition and the substitution of the Replacement Petition for it will afford the Commission staff adequate time to assess the merits, as it re-starts the regulatory time clock. Nevertheless, it should be remembered that Petitioner-Small Carriers did first file a request for relief on June 6, 2005, when assessing whether Petitioner-Small Carriers were reasonably diligent in coming to the Commission to request relief.

knowledge of unique propagation characteristics of certain cells or through switch manipulations where required, to locate wireless users in emergencies, and that they have a good working relationship with each of their PSAPs. In addition, Petitioner-Small Carriers will show that there is no cost-recovery mechanism available to them, as neither West Virginia (where Key operates) nor Pennsylvania (where Keystone operates) has any such mechanism in place.

WAIVER STANDARD

As the Commission noted in its *Order, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers*, 20 FCC Rcd. 7709, FCC 05-79, released April 1, 2005 ("*Tier III Extension Order*"), at ¶¶ 9-11, the applicable waiver standards are partly statutory and partly administrative. For the most part, waiver requests pertaining to E911 are measured according to the standards of §§1.3 and 1.925(b)(3) of the Commission's Rules. *See* 47 C.F.R. §1.3 and §1.925(b)(3). Section 1.3 authorizes the Commission to grant a waiver for good cause shown. Good cause exists "where the particular facts make strict compliance inconsistent with the public interest . . . and when the relief requested would not undermine the policy objective of the rule in question..." *Tier III Extension Order, supra,* at ¶ 9 (footnote omitted); *see, also*, 47 C.F.R. §1.925(b)(3). The Commission provides some guidance as to the type of factual demonstration that would support grant of a waiver request in the *Tier III Extension Order* at ¶10; basically, petitioners "must provide clear evidence supporting the grounds they rely upon in seeking relief." Under the facts as set forth herein, Petitioner-Small Carriers have met the standards for grant of the requested waiver

Waiver requests pertaining to the 95% handset penetration requirement of Section 20.18(g)(1)(v) of the rules are to be ruled upon within one hundred days of the filing of the waiver request, and are to be granted if the Commission finds "that strict enforcement of the

requirements of that section would result in consumers having decreased access to emergency services."[2] Those standards have been met in this case.

BACKGROUND

I. Outstanding Phase II PSAP Requests

At this time, Petitioner-Small Carriers have received a total of eleven Phase II E911 PSAP requests, nine by Key and another two by Keystone. They are as follows: (i) Key has received requests from PSAPs in Cabell, Fayette, Kanawha, Mercer, Putnam, Raleigh, Roane, and Wayne Counties (all in West Virginia), and from Boyd County in Kentucky; (ii) Keystone has received requests from PSAPs in Berks and Schuylkill Counties (both in Pennsylvania).

Each of the foregoing has been kept up to date by Petitioner-Small Carriers on the status of their efforts to implement Phase II E911. Each was advised of the original 2003 waiver request and of the Commission's partial grant of that waiver request in the *Tier III Extension Order*, *supra,* at ¶¶ 125-29. Each was advised that Nortel had advised Petitioner-Small Carriers that it was carrying out testing on the A-GPS handsets, and each has recently been apprised that Nortel finally admitted (as detailed both in the June-05 Petition and again, *infra*, at pp. 9-10) in May, 2005, that in fact there are no such handsets currently in development and none have yet been tested.

Each of these PSAPs has been advised that Petitioner-Small Carriers are prosecuting this Replacement Petition, and none has indicated any opposition. Each of them appears satisfied with the sincerity of Petitioner-Small Carriers' efforts to achieve full compliance. Following is a PSAP-by-PSAP summary.

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[2] *Tier III Extension Order*, *supra*, at ¶ 11. *See also* Section 107 of the *Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004*, P.L. 108-494, Title I ("*Enhance 911 Act*").

A. Key

West Virginia PSAP officials have been in regular communication with Key, both indirectly through Intrado and directly. These officials are acutely aware of the challenges facing carriers and PSAPs in the mountainous terrain which characterizes that state, and where each of the 55 counties has its own separate PSAP.[3] The one official who works on wireless E911 implementation from a statewide standpoint is Mr. Dannie L. Walker, Technical Analyst with the West Virginia Public Service Commission. As Mr. Walker recently stated to Key in a June 23, 2005 e-mail (copy attached as Exhibit A-1):

> [P]lease feel free to inform the FCC that I, as the person at the WVPSC most involved in 9-1-1 matters, would, at least until such time as wireless coverage in West Virginia significantly improves (especially along major roadways) prefer to see wireless carriers use their limited infrastructure procurement funds for expanded coverage rather than for Phase II facilities.

Cabell County was the first county to submit a Phase II request to Key. Cabell County had previously extended Key's deadline for implementation of Phase II, and in light of the continued absence of any GSM-technology location-capable handsets, has extended that implementation deadline for another six months, until January 1, 2006. (West Virginia PSAP jurisdictions, including Cabell County, grant extensions in increments of six months.) Attached hereto as Exhibit A-2 is a copy of the June 27, 2005 letter from the Director of the Consolidated Communications Emergency Response Center ("CCERC"), the involved PSAP, confirming the extension and affirming that the PSAP is "convinced the company [Key] is making every effort to comply with the FCC mandate."

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[3] In June of this year, Key invited each PSAP in every county in the State of West Virginia (including those PSAPs that had submitted Phase II E911 requests) and the PSAP in Boyd County, Kentucky, to an informational meeting held to discuss the current status of and Key's future plans for deployment of Phase II E911. *See* attached Exhibit A-4. Only representatives from four West Virginia counties and the West Virginia Public Service Commission attended the meeting. *Id.* Subsequent to the meeting, Key sent written materials containing the information presented at the meeting to all of the PSAPs not in attendance.

Similarly, Mercer County has extended Key's deadline for implementation of Phase II E911 for six months, until January 1, 2006. As the Mercer County 911 Director explained to Key in an e-mail sent June 29, 2005 (copy attached as Exhibit A-3):

> In discussions with the other 911 Directors in the southern part of WV, it is our consensus that we would rather a caller be able to make a 911 Emergency call than to have the exact location of the caller. Due to the extreme mountainous terrain, we have a tremendous amount of area that 911 calls are not possible. It would be more important for a person in trouble to be able to contact 911 without location information than to not be able to summon help in an emergency at all.

The other 911 Directors referred to in the above-referenced e-mail are the 911 Directors for the Fayette County OES and the Raleigh County Emergency Services, the involved PSAPs in southern West Virginia. While each of these two PSAPs submitted Phase II E911 requests, neither of them has actively pursued the Phase II E911 implementation deadline with Key.

Key has attempted to contact the only other PSAP that has actively pursued the implementation deadline for Phase II E911, Metro Emergency Operations in Kanawha County, with respect to extending the deadline. The subject PSAP's director was unable to attend the June meeting (*see* n.3 *supra*) due to illness, but was subsequently provided with the information presented at the meeting. Key's attempts since the meeting to contact this PSAP's director to discuss the matter have, to date, been unsuccessful. Key is continuing its efforts in this regard. *See* attached Declaration of Dennis Bloss. With regard to the remaining PSAPs that made Phase II E911 requests (*i.e.*, Putnam, Roane, and Wayne Counties in WV, and Boyd County in KY), to date none of them have made any inquiries since submission of their requests, much less actively pursued implementation of Phase II E911, they did not attend the June meeting, and they have not responded to any of Key's efforts to contact them since the meeting. *Id.*

B. Keystone

More than six months have passed since Schuykill County made its Phase II request to Keystone. Keystone, both directly and through Intrado, has been in regular communication with Schuylkill and explained why Keystone has been unable to implement Phase II E911. Included in such communications were the facts that Keystone was seeking a waiver with respect to Phase II E911, that this Commission had granted Keystone a partial waiver in the *Tier III Extension Order, supra,* and that notwithstanding the prior assurances from Nortel, there are still no A-GPS handsets for GSM technology systems. Schuylkill County was also apprised of the filing of the June-05 Petition and of the instant Replacement Petition. While Schuylkill desires the best for its residents, including Phase II E911 as soon as possible, it is Keystone's understanding that Schuylkill will not oppose the grant of this Replacement Petition. *See* attached Declarations of James Stec and James Chandler.

The initial six-month deadline with respect to Berks County will expire on July 22, 2005. As with Schuylkill County, Keystone has kept Berks County informed, both directly and through Intrado, including notification that Keystone had a pending request for waiver with respect to Phase II E911, that this Commission had partially granted that request in the *Tier III Extension Order, supra,* that notwithstanding the prior assurances from Nortel there still are no A-GPS handsets for GSM technology systems, that Keystone had filed the June-05 Petition and that Keystone would be filing this Replacement Petition. It is Keystone's understanding that Berks County will not oppose the grant of this Replacement Petition. *Id. See also*, attached Exhibit A-5.

II. Chronology of E911 Compliance Efforts

From the advent of the Commission's rules pertaining to E911, Petitioner-Small Carriers knew that to meet the location accuracy standards in their rural, and partly mountainous, areas, they would have to implement a handset-based solution, and they so notified the Commission. In 1999, numerous vendors were claiming they would be bringing to market such handset-based solutions for GSM infrastructure systems in a timely manner to meet FCC deadlines set forth in

Section 20.18 of the Rules. Therefore, the original decision to pursue a handset-based solution was entirely rationale at the time. As the Commission itself said at the time: "[b]y contrast [to network-based solutions], handset-based solutions seem well-suited to rural areas."[4/]

However, as time went by, new developments affected the evolution of E911 equipment. One of the main influences on equipment development was the effect of choices made by the major wireless carriers. Verizon chose to deploy a hybrid network/handset-based solution for CDMA, while Cingular and AT&T Wireless chose to deploy a network-based solution for GSM. Because these carriers have the largest market shares, they buy the most handsets by far, and drive the handset markets. As a result, handset manufacturers developed A-GPS handsets for CDMA, but not for GSM.[5]

As discussed by Petitioner-Small Carriers in their December 10, 2003 supplemental waiver filing, Petitioner-Small Carriers began to explore alternative E911 solutions, because, as they explained therein at p.2, finding a solution to the rural E911 conundrum is their first priority:

> The Petitioner-Small Carriers believed (and continue to believe) that offering the best E911 technology can be a marketing device, and lead to higher subscriber penetration. Thus, they desire to have the best E911 technology available as soon as practicable.

Initially, Petitioner-Small Carriers then decided to move to a hybrid network/handset-based GSM solution called TA/NMR, being developed by Nortel Networks, a major infrastructure vendor. *Id.* TA/NMR stands for Timing Advance/Network Measurement Report.

[4/] *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Third Report and Order*, 14 FCC Rcd. 17388, 17400 (1999) ("*Third Report and Order*").

[5/] The Commission has previously recognized that equipment vendors focus on the needs of the larger nationwide carriers to the detriment of the small and mid-sized carriers. *See, e.g., Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Order to Stay*, 17 FCC Rcd. 14841, 14844-45. (2002) ("*2002 Order to Stay*").

Although officially committed to TA/NMR, Petitioner-Small Carriers continued to explore alternatives, both because the TA/NMR system is so exceedingly expensive that they could not afford it without vendor or government financing, and because no system is a sure thing while it remains in development. Therefore, all during 2004, Petitioner-Small Carriers met with and reviewed proposals from a variety of vendors of network-based E911 solutions claiming to have developed new features that would enable these systems to work in more rural areas than before. Exhibit B-1 is a copy of a proposal to Key from TruePosition, and Exhibit B-2 is a copy of a proposal to Keystone from TruePosition.[6/] At no time did TruePosition state that its equipment could enable Petitioner-Small Carriers to come anywhere close to meeting the Phase II E911 location accuracy standards set forth in Section 20.18 of the Commission's Rules, even if Petitioner-Small Carriers spent the huge sums quoted by TruePosition. Their systems are just too rural, and not susceptible to a network-based Phase II solution, at least using the TruePosition technology.

Petitioner-Small Carriers had previously explored the network-based system developed by Andrew Corporation, and had reviewed materials provided by Andrew (copy attached to the Confidential Materials Filing as Exhibit B-3). However, after reviewing the locations of Petitioner-Small Carriers' cell sites in conjunction with the involved topography, Andrew never came forward with a price quote. As Andrew apparently concluded, the Andrew technology cannot be designed to achieve Phase II E911 accuracy levels, given the rural nature of Petitioner-Small Carriers' networks.

While exploring all these different technical avenues, Petitioner-Small Carriers also pursued multiple financing possibilities. Every equipment vendor was asked about vendor

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[6/] These exhibits are only attached to the separate "Confidential Materials Submitted in Support of Petition for Waiver of Deadlines for Implementation of Phase II E911" filed manually of even date herewith ("Confidential Materials Filing"). As set forth in that pleading, these particular exhibits contain confidential and proprietary commercially-sensitive material belonging to TruePosition, which Petitioner-Small Carriers have agreed to keep confidential, and which therefore cannot be made part of the public record.

financing, but none was willing to provide Petitioner-Small Carriers with such financing. The possibility of cost-recovery financing was explored, but was found to be a dead end. West Virginia made the policy decision not to provide cost recovery to carriers under any circumstances – all wireless subscriber 911 contributions are to be spent solely on and by the PSAPs. Pennsylvania has decided in principle that some portion of E911 collections from wireless subscribers should be used for carrier cost recovery in rural areas, as well as for PSAP funding, but only at such time as Pennsylvania establishes a mechanism for carriers to apply for and standards for carriers to qualify for such cost recovery. Both those mechanisms and those standards are years away, and in the meantime, there is no cost recovery funding available in Pennsylvania.

Petitioner-Small Carriers also explored the possibility of obtaining debt funding from the Rural Telephone Bank and the Rural Utility Service (collectively, "RUS"), but this funding appears not to be feasible. Aside from the fact that one would first have to identify infrastructure equipment capable of satisfying Section 20.18 of the Rules (which equipment does not exist), such funding would require complete cross-collateralization and a first priority RUS lien on every asset owned by the borrower (not merely assets acquired using loan funds), including all pre-existing or after-acquired assets, and including any existing infrastructure that might already be subject to any lien to secure pre-existing debt.[7/] Such a loan proposal was not and is not a realistic possibility.

Nortel advised Petitioner-Small Carriers that testing was moving forward on the TA/NMR system, and that although exceedingly expensive, that system would work.[8/] (Nortel

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[7/] A copy of the proposed term sheet put forth by RUS is attached to the Confidential Materials Filing as Exhibit C-1.

[8/] Petitioner-Small Carriers continued to press Nortel not only for updates on technical developments, but also on the pricing and financing fronts. Nortel provided updated price quotes, but they are not significantly different than the earlier Nortel price quotes, and remain beyond Petitioner-Small Carriers' means, unless outside financing is provided. Copies of these updated price quotes are attached to the Confidential Materials Filing as Exhibits B-4 and B-5.

never specifically promised that TA/NMR would meet the location accuracy requirements of Section 20.18 of the Commission's Rules, but neither had any other vendor.) Based upon the advice they were given by Nortel, Petitioner-Small Carriers filed a second supplement with the Commission on January 3, 2005, stating, at p.2, that:

> Nortel has advised Petitioner-Small Carriers that it did not begin testing the TA/NMR technology and the A-GPS handsets until the latter part of 2004 (as opposed to the first quarter of this year, as projected), and that it has not yet completed its tests of the A-GPS handsets. *See* attached Exhibit A, Declaration of James Williams, and attached Exhibit B, Declaration of Jim Stec. Nortel anticipates that A-GPS handsets will be available to large carriers within the first quarter of 2005, and to Tier II and Tier III carriers in the second quarter of 2005.

In fact, there were no A-GPS handsets, not even prototypes in testing, contrary to what Petitioner-Small Carriers were then being told. The Commission then proceeded, on the basis of the above-referenced supplemental filings, to grant Petitioner-Small Carriers partial relief. *Tier III Extension Order, supra.* However, that relief only extended Petitioner-Small Carriers' deadline to start distributing A-GPS handsets until July 1, 2005.

Petitioner-Small Carriers desperately began searching for these handsets, but both Motorola and Nokia denied having any such handsets for sale, or even in development. Then came good news. On May 12, 2005, Nortel invited Petitioner-Small Carriers to participate in "a conference call to review the status of Motorola AGPS handsets. Greg Burdett of Nortel will present the latest information from Motorola on AGPS handsets, and Nortel's involvement in interop testing, etc." (Copy of invitation attached as Exhibit C-2.) In the conference call, Petitioner-Small Carriers confronted Nortel with the information they recently had received from Motorola and Nokia stating that there were no such handsets in development, hoping that Nortel's technical representative had more knowledge of the situation than the Motorola or Nokia sales departments. However, Nortel simply confirmed that there were no A-GPS handsets in development, and its prior statements about testing taking place had been inaccurate. This, in turn, prompted first the June-05 Petition, and now this Replacement Petition.

Since receiving this new information, Petitioner-Small Carriers have continued their prior practice of discussing the situation with their respective PSAPs and soliciting their views and suggestions as well. As Key's General Manager has repeatedly asked his PSAP counterparts, by e-mail and in face-to-face sessions: "If AT&T [Wireless] has a GSM customer out in rural Cabell or Kanawha County and they can get you within 100 ft, then I would like to know how. None of our vendors have a solution that would meet that requirement." Unfortunately, no GSM carrier can achieve such accuracy in those areas.

DISCUSSION

As previously discussed (p.2 *supra*), the facts of this case warrant grant of the requested waiver under §§1.3 and 1.925(b)(3) of the Commission's rules and §107 of the *Enhance 911 Act.*

I. The Underlying Purpose of Section 20.18 Is Not Served by Applying It Here

The underlying purpose of section 20.18 of the Commission's Rules is to enhance the safety of mobile telephone users, by enhancing their ability to obtain emergency relief through their mobile phones. Thus, where imposition of the time deadlines of that rule would detract from the safety of mobile phone users, the underlying purpose of the rule is frustrated, and waiver is appropriate.

Section 20.18 contemplates various degrees of enhanced 911 service to mobile phones. Indeed, the greatest increase in safety is provided by the move from ordinary 911 service to Phase I E911. Phase I allows a user to telephone 911, and have his/her call-back number and the cell in which the caller is located automatically transmitted to the PSAP. Since most callers know where they are and can tell the PSAP operator, the main benefit comes from delivery of the caller's phone number, which enables the PSAP operator to call the mobile phone back if the call is dropped. This is a huge benefit to the public over not having the ability to maintain contact with the PSAP in emergencies.

Phase II represents an improvement over Phase I, in that with Phase II, even that small minority of callers who do not know or cannot relay their location can nonetheless have their

location relayed automatically to the PSAP. However, for the majority of mobile phone users, Phase II represents at most only a slightly incremental benefit over Phase I (as opposed to the vast benefit of Phase I over nothing), because the automatic location capability becomes relevant only in that small minority of cases where the caller cannot manually report his/her location.

In major urban areas, there are no "unserved areas" without reliable wireless service – the carrier's footprint covers everything, and the demand for new cell sites is to "fill-in" dead spots, not to expand footprint. That is why there are so many cells so densely constructed in major urban areas, and why network-based E911 solutions make such good sense there, both economically and operationally. Conversely, in more rural areas, there do remain unserved areas outside the carrier footprint but within the authorized geographic market. In such cases, public safety is best served by the carrier placing new cell sites in new areas, *i.e.*, increasing its footprint into previously unserved areas, because there is more benefit to providing *some* sort of 911 service to areas that otherwise have none at all, than there is to incrementally enhancing the 911 service already available in central core areas. Accordingly, carriers large and small will spend their limited capital resources on putting additional cell sites in outlying areas in rural markets, rather than duplicating existing coverage via construction of multiple "fill-in" cells.

As discussed above, the only possible way for Petitioner-Small Carriers to meet the requirements of the rule at this time would be to construct multiple "fill-in" cells within their existing coverage footprints for the sole purpose of achieving the cell density to support triangulation and a network-based solution. Such new fill-in cells would carry virtually no revenue-generating traffic, as Petitioner-Small Carriers do not have any current capacity constraints or significant dead spots. Petitioner-Small Carriers would be spending capital resources for non-revenue cell site infrastructure, as well as working capital for monthly site rent, all for no reason other than to aid the tiny minority of E911 users that cannot manually relay their location to PSAP operators. As a result, Petitioner-Small Carriers would have no resources

available to construct cell sites in areas currently unserved, and users traveling in these unserved areas would continue to have no 911 service available whatsoever.[9/]

In 1999, the Commission revised its newly-adopted E911 rules to acknowledge advancements in location technology involving handsets. *See Third Report and Order,* 14 FCC Rcd. at p. 17391. The revised rules were premised on vendor promises that the equipment would be available by 2001.[10/] That turned out not to be true, so the factual predicate for the deadlines – that they are needed to force carriers to spend the money on available equipment[11/] – has ceased to exist.

Thus, the underlying purpose of the rule, to enhance public safety, is undermined by strict enforcement of the rule in this instance. Additionally, enforcement of the requirements of the rule in the case would only serve to decrease consumers' access to emergency services.

II. Strict Enforcement of the Rule Would Be Unduly Burdensome and Inequitable

Patently, where, as here, there simply are no A-GPS handsets being manufactured, and none are available to Petitioner-Small Carriers, it would be "unduly burdensome" to require Petitioner-Small Carriers to do the impossible. This is not an instance where Petitioner-Small Carriers have made some sort of business decision, or had any control over the situation. Rather, they were assured repeatedly by Nortel that A-GPS handsets would be available timely for them to acquire and distribute to their subscribers, and those assurances have turned out to be false. Accordingly, a waiver of the rule would be appropriate for this reason alone.

[9/] Notably, it is precisely these more remote areas that generate a higher percentage of 911 calls (as a percentage of overall cell minutes), because there is less likely to be police patrols or other assistance capabilities in the absence of 911 service. In contrast, where an emergency develops in a central core area, it is often noted by authorities even in advance of any 911 call.

[10/] *See, e.g., Third Report and Order,* 14 FCC Rcd. at p.17406.

[11/] *See, Third Report and Order*, 14 FCC Rcd. at p.17409; *see, also, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Fourth Memorandum Opinion and Order*, 15 FCC Rcd. 17442, 17457 ¶44 (2000) ("*Fourth MO&O*").

Aside from being unduly burdensome, enforcement of the rule here would be inequitable. Petitioner-Small Carriers are doing everything that larger carriers do to comply with §20.18(h) of the rules. A large nationwide carrier serves both densely populated areas and rural areas. Such a carrier can always exceed the 67% and 95% accuracy thresholds in the more densely populated areas, while achieving much lower accuracy in the rural areas it serves because of low population density, topography and cell spacing (*i.e.*, absence of triangulation ability). Unlike Tier III rural carriers, however, a large nationwide carrier would be able to claim compliance with the requirements of §20.18(h). On a blended average, given the higher 911 call volume in dense urban areas, a nationwide carrier can meet the 67% and 95% accuracy levels, even if its accuracy in rural areas is far less.

To deny the requested waiver is tantamount to unduly discriminating against Petitioner-Small Carriers just because they are not nationwide carriers, and therefore inequitable.

III. Grant of the Requested Waiver Is in the Public Interest

If the requested waiver is not granted, Petitioner-Small Carriers will have no way to comply as of July 1, 2005, since their failure to comply is due entirely to circumstances beyond their control. For the Commission to try to impose a forfeiture in such circumstances would be a waste of resources for both the Commission and Petitioner-Small Carriers, and would have no effect whatsoever on the likelihood of Commission licensees obeying Commission rules in the future. Where, as here, the licensees are doing everything they can to obey the rules and there is nothing more they can do, attempting to punish them will not change their future behavior, or serve as a warning to others (except to the extent it encourages others not to enter the industry).

Moreover, if and to the extent the Commission wanted to change the capital plans of Petitioners-Small Carriers or other smaller licensees to require them to construct totally redundant fill-in cells at the expense of all other capital projects, such would run counter to the public interest. Petitioner-Small Carriers serve a valuable public function by preventing undue concentration and market power in the areas they serve, enhancing the quality of mobile

telephone service and acting as a downward force in the pricing of that service, all to the benefit of the public. Petitioner-Small Carriers also provide service to rural, less densely populated areas that might not otherwise receive service, as these are areas that larger carriers elected not to serve. To require Petitioner-Small Carriers to build redundant, non-revenue generating cells in their central core areas for the sole purpose of supporting triangulation and a network-based Phase II E911 solution would likely drive them into insolvency, and eliminate their valuable presence as viable competitors.

Even if Petitioner-Small Carriers could survive such a financial drain, it would eliminate their plans (and their ability) to extend their coverage footprint into the outlying portions of their licensed geographic areas, and thereby limit the areas where 911 service is available at all. As the Commission has noted, "[f]or many Americans, the ability to call for help in an emergency is the principal reason they own a wireless phone." *See 2002 Order to Stay*, 7 FCC Rcd at p.14842. As the West Virginia PSC staff has said, it "would, at least until such time as wireless coverage in West Virginia significantly improves (especially along major roadways) prefer to see wireless carriers use their limited infrastructure procurement funds for expanded coverage rather than for Phase II facilities." Exhibit A-1, *supra*.

If a mobile phone user has no service at all in an outlying portion of Petitioner-Small Carrier's markets, then having a mobile phone is of no benefit at all during an emergency occurring in an outlying area. This would cause more harm to mobile phone users than such users would gain from the incremental benefit of having Phase II in central core areas of the market.

CONCLUSION

The Commission recognized, when adopting the E911 rules, that there will be exceptional circumstances where deployment of E911 by the deadline will not be technologically or economically feasible, warranting waiver of the deadline. *See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, First Report and*

Order, 11 FCC Rcd. 18676, 18718 ¶84 (1996). The Commission further noted that a waiver is also warranted "where cost recovery mechanisms for E911 services uniquely disadvantage a particular carrier." *Id.* As demonstrated by Petitioner-Small Carriers herein, technological and economic infeasibility warrant grant of the requested waiver of §20.18(g)(1)(v) of the rules in this case.

Petitioner-Small Carriers have amply documented, herein and in their Confidential Materials Filing of even date herewith, their extensive efforts to find a solution for deployment of Phase II E911 in their respective markets. As demonstrated, when it became apparent that a network-based solution would be technologically and economically impracticable, Petitioner-Small Carriers elected to utilize a handset-based solution and aggressively sought alternatives, including a hybrid network/handset-based solution being offered by Nortel. Although the cost of the hybrid solution is excessive, Petitioner-Small Carriers committed to and aggressively pursued the hybrid solution, while still exploring other options (none of which have proved to be technologically feasible in Petitioner-Small Carriers' markets). Petitioner-Small Carriers were misled by Nortel into believing that A-GPS GMS handsets, which are an integral component of the hybrid solution, would become available in the near future. It was not until recently that Nortel finally admitted to Petitioner-Small Carriers that there were no A-GPS in development. Thus, for reasons beyond their control, Petitioner-Small Carriers are unable to comply with the July 1, 2005 deadline prescribed by the *Tier III Extension Order, supra*. Petitioner-Small Carriers are continuing to press Nortel for development of the A-GPS handsets.

Additionally, as amply documented in Petitioner-Small Carriers' Confidential Materials Filing of even date herewith, Petitioner-Small Carriers have actively pursued financing for deployment of a Phase II E911 solution in their markets, but with little success. They have been unable to secure vendor financing. Obtaining government debt financing has proven to be an unrealistic alternative, given the onerous cross-collateralization and lien requirements. Also, neither the states of West Virginia nor Pennsylvania currently provide carriers with any E911

cost recovery programs and will not be providing any such programs in the near future. Petitioner-Small Carriers are continuing to pursue financing with Nortel, and continue to search for other sources of outside financing.

Finally, as documented herein, Petitioner-Small Carriers have regularly communicated with PSAP officials and kept them apprised of the status of their efforts to implement Phase II E911, and of the recent revelation that Nortel is not developing A-GPS handsets. Petitioner-Small Carriers have also apprised PSAP officials of this Replacement Petition, and none have expressed any opposition. Petitioner-Small Carriers are continuing to work with PSAP officials.

As previously discussed, the underlying purpose of §20.18 of the Commission's rules -- to enhance public safety -- will be undermined by strict application of the rule in this case, as enforcement of the requirements of the rule would only serve to decrease consumers' access to emergency services. Additionally, strict enforcement of the rule would unduly burden Petitioner-Small Carriers and treat them in an inequitable manner vis-à-vis large nationwide carriers. Strict enforcement of the rule will negatively impact public safety. Thus, grant of the requested waiver is in the public interest.

Petitioner-Small Carriers remain committed to implementing E911 Phase II capability as soon as practicable. However, Petitioner-Small Carriers cannot control the pace of equipment development. The timetable proposed herein for implementation of E911 Phase II is reasonable under the circumstances, and will serve the public interest.

Respectfully submitted,
KEY COMMUNICATIONS, LLC and
KEYSTONE WIRELESS, LLC

July 15, 2005

By: _____
David J. Kaufman
Lorretta K. Tobin
Their Attorneys

Brown Nietert & Kaufman, Chartered
1301 Connecticut Ave., N.W., Suite 450
Washington, D.C. 20036
(202) 887-0600

DECLARATION OF DENNIS BLOSS

I, Dennis Bloss, hereby declare under penalty of perjury, as follows:

1. I am the general manager of Key Communications, LLC ("Key"). I, along with my counterpart James Stec, have now been given responsibilities for implementation and operation of emergency services for both Key and Keystone Wireless, LLC dba Immix Wireless ("Keystone") (collectively, "Petitioner-Small Carriers"). This declaration is being submitted in support of Petitioner-Small Carriers "Petition for Waiver of Deadlines for Implementation of Phase II E911" ("Replacement Petition"), which replaces and substitutes for Petitioner-Small Carriers' "New Petition for Waiver of Deadlines for Implementation of Phase II E911" filed June 6, 2005 ("June-05 Petition"). I have read the Replacement Petition. All facts set forth therein and not susceptible to official notice are true and correct. Without limiting the foregoing, I add the following details.

2. Petitioner-Small Carriers are committed to providing the maximum in enhanced 911 services to their subscribers and incoming roamers. Even were this not required under commission regulations, it would be necessary from a competitive standpoint. Petitioner-Small Carriers cannot provide an inferior 911 service and expect to successfully compete. Fortunately, in the real world, their quality of 911 service is comparable to that of the other carriers in their markets.

3. Petitioner-Small Carriers had been working with Nortel and following the development of Nortel's hybrid "TA/NMR" approach for almost two years. According to Nortel, that approach was going to produce substantial quality enhancements from both the network and the handset side. However, based upon the material and information provided to Petitioner-Small Carriers to date, the network side of the TA/NMR system is only a marginal improvement over ordinary Phase I E911. Therefore, TA/NMR remains little more than a glorified handset-based concept, contrary to what Nortel had led Petitioner-Small Carriers to believe when it provided the marketing and technical materials which Petitioner-Small Carriers submitted to the Commission (under cover of a confidentiality request) on December 10, 2003.

4. The shortcomings of the network side of the Nortel hybrid approach would be irrelevant if Nortel, in cooperation with handset manufacturers, succeeded in developing a special "assisted-GPS" ("A-GPS") handset which would provide enhanced location capability, something which Nortel has continually assured Petitioner-Small Carriers to be the case. Nortel had repeatedly advised Petitioner-Small Carriers that Nortel was working with Nokia and Motorola to develop the A-GPS handset. Initially, neither Motorola nor Nokia denied that assertion. (To the extent that those manufacturers declined to confirm the assertion, Petitioner-Small Carriers reasonably assumed that the silence was a function of confidentiality concerns while the product was in development.)

5. Following the release of the Commission's *Tier III Order* on April 1, 2005, Petitioner-Small Carriers continued to press Nortel, Motorola and Nokia for answers and for phones to be able to distribute by the July 1, 2005 deadline. I had gone to Schaumberg, Illinois April 18-19, 2005, to attend a Motorola "GSM Summit" on new technical developments in GSM, including but not limited to E911. At that conference, I met on the morning of April 19 with Scott Albright, Allyse Dockery and Timothy Ryan of Motorola, and asked again about the status of

Petitioner-Small Carriers request for A-GPS GSM technology units, reminding the Motorola personnel that we needed the units immediately to meet our FCC deadline. The Motorola personnel told me there and then that Motorola is not working to develop any standard GSM phone with A-GPS capability, and that the only potentially A-GPS GSM handset on the horizon would possibly be a "do-everything" model with Blackberry, video, etc., that would sell wholesale for $700. (To understand how expensive that is, most phones wholesale for under $200, and even the new "Razor" phones wholesale for about $400.) Even as to this "do-everything" model, the Motorola personnel were unable to give me any potential timing on either its initial release (to the national carriers), much less its initial release (usually three months later) to the smaller rural carriers. This was the first indication Petitioner-Small Carriers had that the information they had consistently been receiving from Nortel was inaccurate.

6. On May 12, 2005, I, along with other representatives of Key and Keystone, was invited to participate in a Nortel conference call where, according to the invitation e-mail (copy attached hereto as Exhibit 1) Greg Burdett of Nortel would provide an update on the Motorola A-GPS handsets which would be part of the TA/NMR system. In the conference call the next day, Nortel representatives started out by assuring Key and Keystone again that both Nokia and Motorola were bringing out A-GPS handsets. In the conference call the next day, Nortel representatives started out by assuring Key and Keystone again that both Nokia and Motorola were bringing out A-GPS handsets. I then confronted them with the contrary statements I had received from Messrs. Albright and Ryan and Ms. Dockery at the Motorola GSM seminar. The Nortel personnel responded that this information is inconsistent with the information they were being given, and promised to take the matter up immediately with Nortel's liaison with Motorola on the project. They promised to get back to us immediately with more information – I am still waiting.

7. Additionally, Key has been maintaining regular communications with PSAP officials in an effort to keep them apprised of Key's efforts to implement Phase II E911 in the market. PSAPs in only three counties -- Cabell, Kanawha and Mercer Counties -- have aggressively pursued implementation of Phase II E911. To date, the remaining PSAPs have made no inquiries about, much less actively pursued implementation of Phase II E911 since submission of their requests. In June of this year, Key invited all of the PSAP's in the state of West Virginia, and the Boyd County, KY PSAP to an informational meeting regarding Key's progress in implementing Phase II E911. Only a small number of PSAP officials attended the meeting, including officials from the Cabell and Mercer PSAPs who have aggressively pursued Phase II E911. (The PSAP official from Kanawha County advised she was unable to attend due to illness.) Subsequent to the meeting, Key sent written materials to all of the PSAPs providing the information presented at the meeting. Additionally, I personally attempted to contact the officials from the PSAPs that submitted Phase II E911 requests who did not attend the meeting, including the Kanawha County PSAP official, to provide them with updates, but none have returned my calls or responded to my e-mails. I am continuing my efforts in this regard.

Executed July 15, 2005.

Dennis Bloss

DECLARATION OF
DENNIS BLOSS

EXHIBIT 1

Dennis Bloss

From: Steve McCraney [mccraney@nortel.com]

Sent: Thursday, May 12, 2005 10:57 AM

To: Greg Burdett; Anabella Arosemena; Dennis Bloss; James Williams; PCMgt_Jim_Chandler (jchandler@immix.com); Robert C Martin

Subject: Motorola AGPS Handset Update

When: Friday, May 13, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 866 382-4848 passcode 4558488# or 919 997-8152 (ESN 350)

~~*~*~*~*~*~*~*~*

You are invited to attend a conference call to review the status of Motorola AGPS handsets. Greg Burdett of Nortel will present the latest information from Motorola on AGPS handsets, and Nortel's involvement in interop testing, etc.

Regards,

Steve McCraney
Sales - Independent & Emerging Service Providers
Tel 919 380-8488
Mobile 919 280-3100

DECLARATION OF JAMES STEC

I, James (Jim) Stec, declare under penalty of perjury as follows:

1. I am the general manager of Keystone Wireless, LLC d/b/a Immix Wireless ("Keystone"). I, along with my counterpart Dennis Bloss, have now been given responsibilities for implementation and operation of emergency services for both Keystone and Key Communications, LLC ("Key") (collectively, "Petitioner-Small Carriers"). This declaration is being submitted in support of Petitioner-Small Carriers "Petition for Waiver of Deadlines for Implementation of Phase II E911" ("Replacement Petition"), which replaces and substitutes for Petitioner-Small Carriers' "New Petition for Waiver of Deadlines for Implementation of Phase II E911" filed June 6, 2005 ("June-05 Petition"). I have read the Replacement Petition. All facts set forth therein and not susceptible to official notice are true and correct. Without limiting the foregoing, I add the following details.

2. Attached hereto as Exhibit A is an exchange of continuing e-mails between my subordinate, Kim Lapp, and Rick Olivares of Nokia respecting the respecting the continuing efforts of Petitioner-Small Carriers to obtain information concerning the status of Nokia's development of development of A-GPS handsets, and to be allowed to place orders for such handsets. Those e-mails begin on December 22, 2004, and continue through May 23, 2005, culminating in an e-mail which attaches a letter to Petitioner-Small Carriers from Nokia dated May 19, 2005 (although, as noted, we did not receive it until May 23), which letter is attached hereto as Exhibit B. It was this letter in which Nokia finally advised Petitioner-Small Carriers that it is not developing any GSM technology A-GPS handset.

Executed July 14, 2005.

James Stec

DECLARATION OF JAMES STEC

EXHIBIT A

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

From: Kim Lapp
Sent: Monday, May 23, 2005 7:05 PM
To: Jim Chandler
Cc: Jerry Sitko; Jim Stec
Subject: FW: GPS Handsets for E911 Phase II

Hey guys,
Let me know if this is good and if there is anyone else this needs to be forwarded to?
Thank you,
Kim

Kim Lapp
Operations Support Manager
Immix Wireless
(610) 898-1828
Fax: (610) 898-1830
Email: klapp@immix.com

-----Original Message-----
From: Rick.Olivares@nokia.com [mailto:Rick.Olivares@nokia.com]
Sent: Monday, May 23, 2005 7:02 PM
To: Kim Lapp
Subject: RE: GPS Handsets for E911 Phase II

FINALLY...attached is a document stating our plans for E911 Phase II.
Thanks for your patience.

Rick

-----Original Message-----
From: ext Kim Lapp [mailto:klapp@immix.com]
Sent: Tuesday, May 17, 2005 2:43 PM
To: Olivares Rick (Nokia-CMO/Dallas)
Cc: Jim Chandler
Subject: FW: GPS Handsets for E911 Phase II

Hey Rick,
It has been quite awhile since we talked regarding this. The last conversation we had with Jim Stec our general manager was that it was imperative that we receive some type of written statement from Nokia regarding their road map for GPS handsets for E911 Phase II. Have you been able to find anything out and if not, who do we need to escalate this to, so that we may get the needed information required by law. Please get back to us as soon as possible.
Thank you,
Kim

Kim Lapp
Operations Support Manager
Immix Wireless
(610) 898-1828
Fax: (610) 898-1830
Email: <mailto:klapp@immix.com> klapp@immix.com
-----Original Message-----
From: Rick.Olivares@nokia.com [mailto:Rick.Olivares@nokia.com]
Sent: Tuesday, April 26, 2005 9:21 AM
To: Kim Lapp
Subject: RE: GPS Handsets for E911 Phase II

Kim,
I'm trying to get something for you...answer, statement, etc. I will forward any information as soon as I receive anything.

Rick
-----Original Message-----
From: ext Kim Lapp [mailto:klapp@immix.com]
Sent: Tuesday, April 26, 2005 8:03 AM
To: Olivares Rick (Nokia-CMO/Dallas)
Subject: RE: GPS Handsets for E911 Phase II
Rick,
Any word on this? This is a hot issue here and we really need a statement from Nokia.
Thank you,
Kim

Kim Lapp
Operations Support Manager
Immix Wireless
(610) 898-1828
Fax: (610) 898-1830
Email: <mailto:klapp@immix.com> klapp@immix.com
-----Original Message-----
From: Rick.Olivares@nokia.com [mailto:Rick.Olivares@nokia.com]
Sent: Friday, April 22, 2005 2:49 PM
To: Kim Lapp
Subject: RE: GPS Handsets for E911 Phase II

I've sent your inquires to several different people, but have yet to get a response. I'm actually in the office the first part of next week and will chase down some information for you.

Rick
-----Original Message-----
From: ext Kim Lapp [mailto:klapp@immix.com]
Sent: Wednesday, April 20, 2005 3:42 PM
To: Olivares Rick (Nokia-CMO/Dallas)
Subject: FW: GPS Handsets for E911 Phase II
Rick,
Have you any information regarding this request. We are getting down to the wire and need something in writing for the FCC.
Thank you,
Kim

Kim Lapp

Operations Support Manager
Immix Wireless
(610) 898-1828
Fax: (610) 898-1830
Email: <mailto:klapp@immix.com> klapp@immix.com
-----Original Message-----
From: Rick.Olivares@nokia.com [mailto:Rick.Olivares@nokia.com]
Sent: Monday, January 03, 2005 4:04 PM
To: Kim Lapp
Subject: RE: GPS Handsets for E911 Phase II

Kim,
Well, I've forwarded your question, but have yet to get a response. I just wanted to let you know that I'm working on an answer and hope to get one to you shortly. Thanks and I hope your holidays went well.

Rick
-----Original Message-----
From: ext Kim Lapp [mailto:klapp@immix.com]
Sent: Wednesday, December 22, 2004 3:47 PM
To: Olivares Rick (Nokia-CMO/Dallas)
Cc: Strasser, Richard L.; Jim Chandler; Jerry Sitko; Jeff Murphy; Jim Stec
Subject: GPS Handsets for E911 Phase II
Rick,
We here at Immix Wireless are looking for Nokia's schedule of roll out plans for Assisted GPS handsets for E911 phase II? Also, when will these models be available in the US and for Tier III carriers? Rick, I look forward to hearing from you in the very near future. I hope that you have a happy and safe holiday.
Thank you,
Kim Lapp

Kim Lapp
Operations Support Manager
Immix Wireless
(610) 898-1828
Fax: (610) 898-1830
Email: <mailto:klapp@immix.com> klapp@immix.com

DECLARATION OF JAMES STEC

EXHIBIT B

Mobile Phone Business Unit
Jana Tate

May 19, 2005

May 19, 2005

Re: Nokia Roadmap for Assisted GPS GSM Handsets

Dear Sir/Madam:

This letter responds to your recent inquiry regarding Nokia's roadmap for Assisted GPS GSM handsets. Specifically, you have asked us for information regarding the availability of such handsets intended to meet the FCC's E911 Phase II requirements. Nokia currently does not have plans to develop A-GPS equipped GSM handsets that would meet the FCC's E911 requirements.

Sincerely,
Jana Tate
Operative Product Manger – North America
Mobile Phone Business Group

DECLARATION OF JIMMY CHANDLER

I, Jimmy (Jim) Chandler, declare under penalty of perjury as follows:

I am the operations manager of Keystone Wireless, LLC d/b/a Immix Wireless ("Keystone"). I, along with Jim Stec, Keystone's general manager, have had direct communications with the PSAP contacts for Berks and Schuylkill Counties in Pennsylvania, with respect to their Phase II E911 requests. This declaration is being submitted in support of the "Petition for Waiver of Deadlines for Implementation of Phase II E911" ("Replacement Petition") filed by Keystone and Key Communications, LLC ("Key") (collectively, "Petitioner-Small Carriers"), which replaces and substitutes for Petitioner-Small Carriers' "New Petition for Waiver of Deadlines for Implementation of Phase II E911" filed June 6, 2005 ("June-05 Petition"). I have read the Replacement Petition. All facts set forth therein and not susceptible to official notice are true and correct.

Executed July 14, 2005.

Jimmy Chandler

EXHIBIT A-1

-----Original Message-----
From: Walker, Dannie [mailto:DLWalker@psc.state.wv.us]
Sent: Thursday, June 23, 2005 3:47 PM
To: Dennis Bloss
Subject: PHASE II/EXPANDED WIRELESS COVERAGE

Dennis, please feel free to inform the FCC that I, as the person at the WVPSC most involved in 9-1-1 matters, would, at least until such time as wireless coverage in West Virginia significantly improves (especially along major roadways) prefer to see wireless carriers use their limited infrastructure procurement funds for expanded coverage rather than for Phase II facilities.

Dannie L. Walker
Technical Analyst
Public Service Commission of West Virginia PO Box 812 Charleston, WV 25323
Tel: 304-340-0454 Toll-Free (in WV only): 800-344-5113
Fax: 304-340-0326
dlwalker@psc.state.wv.us

EXHIBIT A-2

Consolidated Communications Emergency Response Center

911

Shirley A. Lawson, Director

830 8th Ave. - Suite 200
Huntington, WV 25701
Office 304-526-8555
Fax 304-523-0320
E-Mail: salcce911@WireFire.com

June 27, 2005

Dennis Bloss
West Virginia Wireless
233 Virginia Street East
Charleston, WV 25301

REFERENCE: Phase II Wireless

Dear Dennis:

Pursuant to our meeting last week, the C.C.E.R.C. will grant West Virginia Wireless a six-month extension to provide Phase II Wireless to our service area. Based on your past dealings with your company, I am convinced the company is making every effort to comply with the FCC mandate. The extension will start this date and terminate on January 1, 2006.

I look forward to working with West Virginia Wireless when Phase II becomes a reality for your customers and to this organization. If you have any questions or concerns feel free to call my office.

Sincerely,

Shirley A. Lawson

Shirley A. Lawson
Director
C.C.E.R.C. E-911

PC: Dannie Walker/West Virginia Public Service Commission
J.R. VanOoteghem/Systems Administrator

EXHIBIT A-3

Dennis Bloss

Subject: FW: 911 Meeting

-----Original Message-----
From: Robert Hoge, Mercer County WV 9-1-1 [mailto:mercer911@citlink.net]
Sent: Wednesday, June 29, 2005 11:52 AM
To: Dennis Bloss
Cc: RALEIGH COUNTY 911; MCDOWELL COUNTY 911; SUMMERS COUNTY 911; Dave Neal; WYOMING CO 911; MONROE CO 911; GREENBRIER COUNTY 911; Dannie Walker
Subject: Re: 911 Meeting

Dennis,

I did receive the data and information form James.

Thank you also for the information in reference to your Phase 2 request. As I stated in the meeting, I am willing to agree to a 6 month extension on Phase 2 Service for Mercer County, pending the further development of the infrastructure necessary to pinpoint the 911 callers.

In discussions with the other 911 Director's in the southern part of WV, it is our consensus that we would rather a caller be able to make a 911 Emergency call than to have the exact location of the caller. Due to the extreme mountainous terrain, we have a tremendous amount of area that 911 calls are not possible. It would be more important for a person in trouble to be able to contact 911 without location information than to not be able to summon help in an emergency at all.

Hope this states my opinion clearly.

Any questions, feel free to contact me.

Bob

EXHIBIT A-4

WEST VIRGINIA
WIRELESS

You are cordially invited to join us for a Luncheon and Information Session to Provide an E911 Phase II Deployment Update

Wednesday, June 22, 2005

12 noon

Charleston Civic Center, Room 207
Charleston, West Virginia

RSVP your attendance by Monday, June 20 to:
Dennis Bloss, General Manager
304-720-4000
Email: dbloss@westvirginiawireless.com

WEST VIRGINIA
WIRELESS

NAME	ORGANIZATION
1. Jim Lambert	Boone CO E-911
2. DANNIE WALKER	WV PSC
3. Shirley Lawson	Cabell CO 911
4. JR VanOosteghem	Cabell 911
5. Angie Wiseman	Cabell 911
6. Rachel Chapman	Jackson 911
7. Robert K. Hoge	Mercer Co 9-1-1
8. Tom Williams	Verizon 344-7833
9.	
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EXHIBIT A-5

Lorretta Tobin

From: Jim Stec [jstec@immix.com]
Sent: Thursday, July 14, 2005 10:13 AM
To: lori@bnkcomlaw.com
Subject: FW: E911 phaseII

FYI

From: DMiller@countyofberks.com [mailto:DMiller@countyofberks.com]
Sent: Thursday, July 14, 2005 9:54 AM
To: Jim Stec
Subject: Re: E911 phaseII

Jim,

Berks County also wants what is best for the residents and a viable solution that provides the required accuracy to locate someone in an emergency. We will work with you to overcome this situation as best as possible. Please keep me posted as to your progress for a network solution and/or acceptable handset solution.

Sincerely,

Daphne Dee Miller
Berks County Deputy Director/911 Coordinator
610-655-4901(office)
610-655-4972 (fax)

EXHIBITS B-1 THROUGH
C-1 ARE BEING FILED
SEPARATELY, UNDER COVER OF
A CONFIDENTIALITY REQUEST.

EXHIBIT C-2

Dennis Bloss

From: Steve McCraney [mccraney@nortel.com]

Sent: Thursday, May 12, 2005 10:57 AM

To: Greg Burdett; Anabella Arosemena; Dennis Bloss; James Williams; PCMgt_Jim_Chandler (jchandler@immix.com); Robert C Martin

Subject: Motorola AGPS Handset Update

When: Friday, May 13, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 866 382-4848 passcode 4558488# or 919 997-8152 (ESN 350)

~~*~*~*~*~*~*~*~*

You are invited to attend a conference call to review the status of Motorola AGPS handsets. Greg Burdett of Nortel will present the latest information from Motorola on AGPS handsets, and Nortel's involvement in interop testing, etc.

Regards,

Steve McCraney
Sales - Independent & Emerging Service Providers
Tel 919 380-8488
Mobile 919 280-3100