

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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)
)
Request for Temporary Waiver or)
Temporary Stay of Section 20.18(g)(1)(v) of)
the Commission’s Rules)
To: Chief, Wireless Telecommunications Bureau

**SUPPLEMENT TO PETITION FOR TEMPORARY WAIVER
OR TEMPORARY STAY**

North Dakota Network Company (“NDNC”), by its attorneys and pursuant to Sections 1.3 and 1.925 the Rules of the Federal Communications Commission (“FCC” or “Commission”), hereby provides the Commission with a supplement to its December 8, 2005, request for temporary waiver or temporary stay of the requirements of Section 20.18(g)(1)(v) of the Commission’s Rules, which specifies that the penetration of location-capable handsets among NDNC’s subscribers must reach 95 percent by December 31, 2005 (the “*NDNC Petition*”).

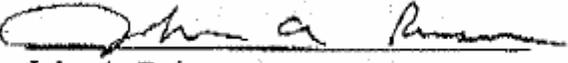
This supplement is to provide the Commission’s staff with comments drafted by the North Dakota Public Service Commission (“NDPSC”) in support of NDNC and its request for a nine-month temporary waiver of the December 31, 2005, deadline to achieve 95% penetration of location-capable handsets among its subscribers.¹ The NDPSC believes that flexibility should be granted in cases when, despite a carrier’s best

¹ See Attachment A – Comments of North Dakota Public Service Commission Regarding North Dakota Network Company’s Request for Temporary Waiver (*dated* December 19, 2005).

efforts (and as in NDNC's case), consumer adoption of location-capable handsets has been slower than expected. The NDPSC cites to NDNC's successes in providing E911 Phase II service to all of the PSAPs in its service area, in timely reaching the 100% ALI-capability benchmark for new handset activations, and in promoting the availability of location-capable handsets to its customers. Finally, the NDPSC agrees that NDNC's limited resources would be better spent in continuing to extend the reach of its wireless network into rural and underserved areas than in tracking down existing customers that have elected to retain their non-ALI-capable handsets.

NDNC respectfully submits that the attached NDPSC comments in support of the *NDNC Petition* should be viewed as strong evidence that the relief requested therein is reasonable and that grant of such relief would be in the public interest.

Respectfully submitted,
North Dakota Network Co.

By: 

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Dated: December 19, 2005

Attachment A

Comments of North Dakota Public Service Commission
in Support of *NDNC Petition*

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Revision of the Commission's Rules To)	
Ensure Compatibility with Enhanced 911)	
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Of the Commission's Rules)	

The following are the comments of the North Dakota Public Service Commission (NDPSC) regarding the North Dakota Network Company's request for a 9-month temporary waiver of the December 31, 2005 deadline to achieve 95 percent penetration of location-capable handsets among its subscribers

The NDPSC is a constitutional office of the State of North Dakota. The NDPSC is comprised of three commissioners who are elected statewide for rotating six-year terms. The NDPSC has varying levels of regulatory jurisdiction over numerous industries including, for purposes of this matter, telecommunications.

The NDPSC expresses its support of North Dakota Network Company's request for a 9-month temporary waiver, up to and including September 30, 2006, of the December 31, 2005 deadline to achieve ninety-five percent penetration of location-capable handsets among its subscribers.

As demonstrated by our support of the National Association of Regulatory Utility Commissioners policy position on the matter, the NDPSC has been supportive of reasonable flexibility with regard to the looming deadline.¹

The viewpoint of North Dakota officials may be particularly helpful in this proceeding. Our experience is instructive, both to the benefits of the FCC push for location-capable handsets, and to the negatives associated with deadline inflexibility.

As a state, North Dakota has shown an impressive commitment to Enhanced-911 and location capable technologies. We were one of the very first states to be 100 percent phase-II compliant. As individual commissioners, we support the technology as well. Obvious consumer public safety benefits will be realized the day all Americans can enjoy ubiquitous location-capable wireless reception.

¹ "Resolution Regarding the Suspension or Waiver of the December 31, 2005 Deadline for 95 Percent Penetration of Location-Capable Handsets," Sponsored by the Telecommunications Committee and the Consumer Affairs Committee and Adopted by the NARUC Board of Directors July 27, 2005.

At the same time, we understand that flexibility should be granted when, despite a carrier's best efforts, consumer adoption of location-capable handsets has been slower than expected. This appears to be the situation occurring with NDNC.

As of October 25, 2005, NDNC provided E-911 Phase II Service to all of the PSAPs in its service area. As of November 1, 2005, approximately 85% of the handsets used by NDNC's customers are automatic location information capable (ALI-capable). Since approximately August 2004, one hundred percent of all new handsets activated on its network are ALI-capable. NDNC has advertised, through various means, the need for its customers to replace non-ALI-capable handsets. NDNC proposed to meet the 95 percent penetration requirement by the end of an extended deadline by promoting location-capable handsets through posters, bill inserts, newsletters, television and newspaper advertising, and advertising on its website.

Despite NDNC's efforts to encourage handset replacement, customers have not been willing to do so. We support NDNC's belief that its limited resources would be better spent in continuing to extend the reach of its wireless network into rural and underserved areas than in tracking down existing customers that have elected to retain their non-ALI-capable handsets.

Technology, the passage of time and natural churn will take care of this issue without undue burdens placed on consumers. We urge the FCC to support reasonable efforts at flexibility with regard to the deadline. We believe North Dakota Network Company's request meets this standard.

Respectfully submitted,

NORTH DAKOTA PUBLIC SERVICE COMMISSION



Tony Clark
President



Susan E. Wefald
Commissioner



Kevin Cramer
Commissioner

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Dated: December 19, 2005