

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
)  
**Commnet of Arizona, LLC** )  
**Commnet of Delaware, LLC** )  
**Elbert County Wireless, LLC** )  
**Chama Wireless, LLC** )  
**Excomm, LLC** ) CC Docket No. 94-102  
**MoCelCo, LLC** )  
**Tennessee Cellular Telephone Company** )  
**Commnet Wireless, LLC** )  
**Commnet Four Corners, LLC** )  
**Commnet of Florida, LLC** )  
)  
For Waiver of Deadlines for Implementation )  
of Phase II E911 )  
)  
And for Partial Waiver of Section 20.18(d) to )  
Demarcate Cost Allocation at the Wireless )  
Carrier Mobile Switching Center )

To: The Commission

**FOURTH SUPPLEMENT TO  
PETITION FOR WAIVER OF DEADLINES FOR IMPLEMENTATION  
OF PHASE II E911 AND FOR WAIVER OF *KING COUNTY*  
DEMARCATIION POINT RULING**

Commnet of Arizona, LLC (“CAZ”), Commnet of Delaware, LLC (“CDE”), Elbert County Wireless, LLC (“Elbert”), Chama Wireless, LLC (“Chama”), Excomm, LLC (“Excomm”), MoCelCo, LLC (“MCC”), Tennessee Cellular Telephone Company (“TCTC”), Commnet Wireless, LLC (“CWLLC”), Commnet Four Corners, LLC (“CFC”), and Commnet of Florida, LLC (“Florida”) (collectively, the “Petitioner-Small-Carriers”), by their attorneys, hereby further supplement their September 9, 2002 “Petition for Limited and Temporary Waiver of Deadlines for Implementation of Phase II E911 on the Same Basis as Other Tier III Wireless Carriers, and For Waiver of *King County* Demarcation Point Ruling” (“Petition”), as amended

and supplemented on August 15, 2003,<sup>1</sup> and supplemented again on December 19, 2003,<sup>2</sup> and February 13, 2006<sup>3</sup>. This Fourth Supplement provides new information supporting the requested relief specified in the August 15, 2003 Amendment/Supplement, that was not available at the time the December 19, 2003 Supplement or the February 13, 2006 Further Supplement were filed.<sup>4</sup>

### **ELECTION AMENDMENT BY ALL PETITIONER-SMALL-CARRIERS**

As previously reported in the Petition and amendments and supplements thereto, all of the Petitioner-Small-Carriers operate in remote, rural areas using TDMA or GSM technologies. Their cell sites are spread far apart, with little to no cell overlap. Thus, each of the Petitioner-Small-Carriers elected hand-set based solutions for implementation of Phase II E-911. Petitioner-Small-Carriers have explored all possible TDMA and GSM technology E-911 solutions for Phase II, including not only handset-based solutions, but also network-based and hybrid-based solutions, and continue to do so. There is currently no Phase II-compliant handset-based solution available for TDMA or GSM technology, and it appears from all available market

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<sup>1</sup> See August 15, 2003 “Amendment and Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911 and For Waiver of *King County* Demarcation Point Ruling” submitted in the above-captioned proceeding. The Amendment modified the nature of the relief requested, in light of new developments since the original filing of the Petition.

<sup>2</sup> See December 19, 2003 “Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911 and For Waiver of *King County* Demarcation Point Ruling”, filed in the above-captioned proceeding pursuant to *Order to Stay*, 18 FCC Rcd 20987 (2003). The Supplement provided information regarding changes in the identities of Petitioner-Small Carriers, and additional information and materials supporting the requested relief specified in the Amendment.

<sup>3</sup> See February 13, 2006 “Further Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911 and For Waiver of *King County* Demarcation Point Ruling” submitted in the above-captioned proceeding. The Further Supplement provided information regarding additional changes in the identities of Petitioner-Small Carriers since the filing of the previous Supplement, and revised Exhibit A to the Petition to reflect same and some changes in the licenses they hold.

<sup>4</sup> All facts set forth herein are supported by the attached Declaration of Petr Valkoun, the E-911 Compliance Officer for each of the Petitioner-Small-Carriers.

information that one will not become available any time in the near future. **Therefore, Petitioner-Small-Carriers are now officially committing to using a network-based solution for Phase II E-911 in their respective markets.**

The Petitioner-Small-Carriers continue to add cells to their respective networks, not for the purpose of compliance with the Phase II E-911 requirements, but for the purpose of expanding their coverage in their markets. As each Petitioner-Small-Carrier expands its coverage, it is and will continue to reevaluate the other, traditional network-based Phase II solutions that it previously considered, as well as any new network-based solutions, to determine if or when any of them become viable solutions for a given market.

#### **ADDITIONAL SUPPORT FOR RELIEF SOUGHT**

As reported in the February 13, 2006 Further Supplement, CWLLC acquired some new licenses and constructed systems pursuant to those licenses through a new, wholly-owned subsidiary, Commnet Illinois, LLC (“CIL”). CIL recently received both a Phase I and Phase II E-911 request from the PSAP for Lewis County, Missouri. CIL and Intrado have opened a dialogue with the Lewis County PSAP and have set up a meeting with the PSAP 911 Director, so they can begin addressing the PSAPs’ E-911 needs. CIL’s contact at the Lewis County PSAP is Gretchen Keith, the 911 Director, who can be contacted at telephone number (573) 767-5451 or 100 South Washington, Monticello, MO 63457.

CIL believes that it has all of the equipment and software necessary to meet the Lewis County PSAP’s Phase I request, but will have to work with the local exchange carrier (“LEC”) to have a landline installed between the switch and the requesting PSAP for Phase I deployment. CIL and Intrado will meet with a representative of the LEC during the meeting with the PSAP 911 Director. It could take the LEC as long as 12 or even 18 months to install a new landline in the rural areas of the county where CIL is operating. CIL is operating as a “carrier’s carrier” and, thus, has no subscribers. Therefore, CIL does not have the means to fund any Phase I or Phase II implementation and recurring costs via pass-throughs to subscribers. Notably, neither

the State of Missouri nor Lewis County has a cost recovery program respecting E-911 implementation.

CIL is using GSM technology only in Lewis County. Phase II E-911 is not technically possible in either Lewis County or in this BTA as a whole. The only Phase II-compliant network-based solutions available are based on either triangulation techniques or angle of arrival techniques (“AOA”). CIL has constructed a total of three cells in Lewis County, and the portions of Lewis County being served by CIL’s system, as is the case with the rest of CIL’s market, are remote, rural areas where population density is low. There is a slight overlap between only two of the cells in Lewis county and no overlap among all three cells within the county, and there is only very slight overlap between any cell in Lewis County and any other cell in any other, adjacent county. Thus, only a small portion of CIL’s service area in Lewis County is susceptible to AOA techniques; the bulk of the service area in Lewis County is not susceptible to either triangulation or AOA techniques.

Similarly, in the rest of CIL’s market there is little overlap between two cells and no overlap among three cells; the majority of the cells are stand-alone cell sites. Only a minor portion of the remainder of CIL’s market is susceptible to AOA techniques. Therefore, even if CIL were to implement Phase II E-911, it would never be able to reach the required 95% accuracy level either in Lewis County or on a system-wide basis, as prescribed by §20.18 of the Commission’s rules.

In an effort to find a way to implement Phase II E-911 in its market, CIL is exploring a new network-based solution under development, which the developer claims will meet the Commission’s Phase II requirements in rural and mountainous or otherwise topographically challenged areas. The developer is GBSD Technologies, Inc. (“GBSD”), and its newly developed network-based E-911 solution is The Compass™ Location System (“The Compass™”). CIL has reviewed informational materials provided by GBSD and discussed the

technical aspects of this solution with GBSD, and both CIL and GBSD have determined that The Compass™ solution would not provide the Commission-mandated accuracy levels in CIL's market because CIL's cell sites are too few and too far apart -- The Compass™ solution is effective only within a 5 to 6 mile radius around the transmitter site. CIL is also exploring a network-based solution developed by True Position, but so far that solution appears to be even less accurate than The Compass™.

For the reasons discussed above pertaining to the absence of any available Phase II E-911 GSM handsets and the impossibility of employing a network-based solution, both of which are beyond CIL's control, CIL does not anticipate that full Phase II service will be available in its network any time in the near future. CIL is continuing to monitor the marketplace for new technology that will provide adequate Phase II E-911 service to rural markets.

Accordingly, CIL, like the other Petitioner-Small Carriers, needs a long-term waiver, because there is not going to be any feasible way for it to meet Phase II E-911 for incoming roamer traffic, either now or in the foreseeable future.<sup>5</sup> Alternatively, CIL requests that, as it does not and will not have any subscribers, it be declared in compliance with all E-911 obligations, which are drafted to apply to a carrier's local subscribers and essentially do not apply in the context of "carriers' carrier" systems.

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<sup>5</sup> If the Commission were disinclined to grant a permanent waiver, CIL requests a three-year waiver, with the thought that the matter could be revisited at that time if there were still no viable technical solution for this remote, rural area.

**CONCLUSION**

In consideration of the foregoing, in conjunction with Petitioner-Small Carriers' presentations in their Petition, as amended and supplemented, Petitioner-Small Carriers respectfully request that the Commission partially waive Section 20.18(d), as applied to CIL, and grant CIL the relief requested in the Petition, as subsequently amended and supplemented.

Respectfully submitted,

**COMMNET OF ARIZONA, LLC, COMMNET OF DELAWARE, LLC, ELBERT COUNTY WIRELESS, LLC, CHAMA WIRELESS LLC, EXCOMM, LLC, MOCELCO, LLC, TENNESSEE CELLULAR TELEPHONE COMPANY, COMMNET WIRELESS, LLC, COMMNET FOUR CORNERS, LLC, and COMMNET OF FLORIDA, LLC**



By: \_\_\_\_\_

David J. Kaufman  
Lorretta K. Tobin

March 23, 2006

Their Attorneys

Brown Nietert & Kaufman, Chartered  
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**DECLARATION OF PETR VALKOUN**

I, Petr Valkoun, hereby state, under penalty of perjury, as follows:

1. I am the E-911/CALEA Liaison Officer for each of Commnet Wireless, LLC, and its affiliates, Commnet of Arizona, LLC, Commnet of Delaware, LLC, Elbert County Wireless, LLC, Chama Wireless LLC, Excomm, LLC, MoCelCo, LLC, Tennessee Cellular Telephone Company, Commnet Four Corners, LLC, Commnet of Florida, LLC, and Commnet Illinois, LLC. (collectively, the "Petitioner-Small-Carriers"). The Petitioner-Small-Carriers are small carriers who employ me on a collective basis to be responsible for compliance with E-911 and CALEA requirements.

2. I have reviewed the Petitioner-Small-Carriers' "Fourth Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911 and for Waiver of *King County* Demarcation Point Ruling" ("Fourth Supplement"). All facts set forth in the Fourth Supplement are true and correct, to the best of my knowledge, information and belief.

Executed March 23, 2006.

  
\_\_\_\_\_  
Petr Valkoun

**CERTIFICATE OF SERVICE**

I, Steve Denison, a paralegal at the law firm of Brown Nietert & Kaufman, Chartered, hereby certify that I have caused a copy of the foregoing “Fourth Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911 and For Waiver of *King County* Demarcation Point Ruling” to be sent by electronic mail this 23rd day of March, 2006, to each of the following:

Katherine Seidel, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
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Steve Denison