

Before the
Federal Communications Commission
Washington, D.C. 20554

Received & Inspected

In the Matter of)
)
Revision of the Commission's Rules to Ensure)
Compatibility with Enhanced 911 Emergency)
Calling Systems)
)
Cable & Communications Corporation)
Petition for Waiver of Section 20.18(g)(1)(v) of)
the Commission's Rules)

CC Docket No. 94-102

MAR 28 2006
FCC Mail Room

ORDER

Adopted: March 23, 2006

Released: March 23, 2006

By the Commission:

I. INTRODUCTION

1. In this *Order*, we address a request for relief from the Commission's wireless Enhanced 911 (E911) Phase II requirements filed by Cable & Communications Corporation (C&CC),¹ a Tier III wireless service provider.² Specifically, C&CC seeks a 30-month extension of time to comply with the requirement in Section 20.18(g)(1)(v) of the Commission's Rules that carriers employing a handset-based E911 Phase II location technology must achieve 95% penetration, among their subscribers, of location-capable handsets by December 31, 2005.³

2. Timely compliance with the Commission's wireless E911 rules ensures that the important public safety needs of wireless callers requiring emergency assistance are met as quickly as possible. In analyzing requests for extensions of the Phase II deadlines, the Commission has afforded relief only when the requesting carrier has met the Commission's standard for waiver of the Commission's rules.⁴ Where carriers have met the standard, the relief granted has required compliance with the Commission's rules and policies within the shortest practicable time.⁵ We are also mindful of Congress' directive in the ENHANCE 911 Act to grant waivers for Tier III carriers of the 95%

¹ See Cable & Communications Corporation Petition for Waiver of Section 20.18(g)(1)(v) of the Commission's Rules, CC Docket No. 94-102, filed Dec. 13, 2005 at 1 (C&CC Petition).

² Tier III carriers are non-nationwide Commercial Mobile Radio Service (CMRS) providers with no more than 500,000 subscribers as of the end of 2001. See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers, CC Docket No. 94-102, *Order to Stay*, 17 FCC Rcd 14841, 14848 ¶ 22 (2002) (*Non-Nationwide Carriers Order*).

³ See 47 C.F.R. § 20.18(g)(1)(v).

⁴ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers, CC Docket No. 94-102, *Order*, 20 FCC Rcd 7709, 7709-7710 ¶ 1 (2005) (*Tier III Carriers Order*).

⁵ See *id.*

penetration benchmark if “strict enforcement . . . would result in consumers having decreased access to emergency services.”⁶

3. Pursuant to the ENHANCE 911 Act, and based on the record before us, we find that some relief from the 95% penetration requirement, until eighteen months following release of this *Order*, is warranted subject to certain conditions described below. Although C&CC presents unique circumstances with respect to its waiver request, we grant limited relief and impose these conditions, because C&CC has failed to demonstrate a “clear path to full compliance” with the Commission’s 95% handset penetration requirement consistent with the Commission’s E911 waiver standards.⁷

II. BACKGROUND

A. Phase II Requirements

4. The Commission’s E911 Phase II rules require wireless licensees to provide Public Safety Answering Points (PSAPs) with Automatic Location Identification (ALI) information for 911 calls.⁸ Licensees can provide ALI information by deploying location information technology in their networks (a network-based solution),⁹ or Global Positioning System (GPS) or other location technology in subscribers’ handsets (a handset-based solution).¹⁰ The Commission’s rules also establish phased-in schedules for carriers to deploy any necessary network components and begin providing Phase II service.¹¹ However, before a wireless licensee’s obligation to provide E911 service is triggered, a PSAP must make a valid request for E911 service, *i.e.*, the PSAP must be capable of receiving and utilizing the data elements associated with the service and must have a mechanism in place for recovering its costs.¹²

5. In addition to deploying the network facilities necessary to deliver location information, wireless licensees that elect to employ a handset-based solution must meet the handset deployment benchmarks set forth in Section 20.18(g)(1) of the Commission’s Rules, independent of any PSAP request for Phase II service.¹³ After ensuring that 100% of all new digital handsets activated are location-

⁶ National Telecommunications and Information Administration Organization Act – Amendment, Pub. L. No. 108-494, 118 Stat. 3986 (2004). *See also infra* ¶ 8.

⁷ Because we find that some relief from the 95% handset penetration requirement is warranted pursuant to the ENHANCE 911 Act, we need not determine whether C&CC met the Commission’s waiver standard. Although demonstration of a “clear path to full compliance” is not required to warrant some relief under the ENHANCE 911 Act, this element of our waiver standard provides useful guidance in determining the extent to which such relief should be granted.

⁸ *See* 47 C.F.R. § 20.18(e).

⁹ Network-based location solutions employ equipment and/or software added to wireless carrier networks to calculate and report the location of handsets dialing 911. These solutions do not require changes or special hardware or software in wireless handsets. *See* 47 C.F.R. § 20.3, *Network-based Location Technology*.

¹⁰ Handset-based location solutions employ special location-determining hardware and/or software in wireless handsets, often in addition to network upgrades, to identify and report the location of handsets calling 911. *See* 47 C.F.R. § 20.3, *Location-Capable Handsets*.

¹¹ *See* 47 C.F.R. §§ 20.18(f), (g)(2).

¹² *See* 47 C.F.R. § 20.18(j)(1).

¹³ *See* 47 C.F.R. § 20.18(g)(1).

capable, licensees must achieve 95% penetration, among their subscribers, of location-capable handsets no later than December 31, 2005.¹⁴

B. Waiver Standards

6. The Commission has recognized that smaller carriers may face “extraordinary circumstances” in meeting one or more of the deadlines for Phase II deployment.¹⁵ The Commission previously has stated its expectations for requests for waiver of the E911 Phase II requirements. Waiver requests must be “specific, focused and limited in scope, and with a clear path to full compliance. Further, carriers should undertake concrete steps necessary to come as close as possible to full compliance . . . and should document their efforts aimed at compliance in support of any waiver requests.”¹⁶ To the extent that a carrier bases its request for relief on delays that were beyond its control, it must submit specific evidence substantiating the claim, such as documentation of the carrier’s good faith efforts to meet with outside sources whose equipment or services were necessary to meet the Commission’s benchmarks.¹⁷ When carriers rely on a claim of financial hardship as grounds for a waiver, they must provide sufficient and specific factual information.¹⁸ A carrier’s justification for a waiver on extraordinary financial hardship grounds may be strengthened by documentation demonstrating that it has used its best efforts to obtain financing for the required upgrades from available Federal, state, or local funding sources.¹⁹ The Commission also noted, in considering earlier requests for relief by Tier III carriers, that it

expects all carriers seeking relief to work with the state and local E911 coordinators and with all affected PSAPs in their service area, so that community expectations are consistent with a carrier’s projected compliance deadlines. To the extent that a carrier can provide supporting evidence from the PSAPs or state or local E911 coordinators with whom the carrier is assiduously working to provide E911 services, this would provide evidence of its good faith in requesting relief.²⁰

¹⁴ See 47 C.F.R. § 20.18(g)(1)(v).

¹⁵ See *Tier III Carriers Order*, 20 FCC Rcd at 7714 ¶ 9; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14846 ¶ 20 (“wireless carriers with relatively small customer bases are at a disadvantage as compared with the large nationwide carriers in acquiring location technologies, network components, and handsets needed to comply with our regulations”); Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Compliance Deadlines for Non-Nationwide Tier III CMRS Carriers, CC Docket No. 94-102, *Order to Stay*, 18 FCC Rcd 20987, 20994 ¶ 17 (2003)(*Order to Stay*) (“under certain conditions, small carriers may face extraordinary circumstances in meeting one or more of the deadlines for Phase II deployment and . . . relief may therefore be warranted”).

¹⁶ Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442, 17458 ¶ 44 (2000) (*Fourth MO&O*).

¹⁷ See *Order to Stay*, 18 FCC Rcd at 20996-97 ¶ 25.

¹⁸ See *id.* at 20997 ¶ 29. We note that the Commission generally is disinclined to find that financial hardship alone is a sufficient reason for an extension of the E911 implementation deadlines. *Id.*

¹⁹ See *id.*

²⁰ See *id.*, 18 FCC Rcd at 20997 ¶ 28.

7. In applying the above criteria, the Commission has in the past recognized that special circumstances particular to smaller carriers may warrant limited relief from E911 requirements. For example, the Commission has noted that some Tier III carriers face unique hurdles such as significant financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural or characterized by difficult terrain (such as dense forest or mountains), along with a corresponding reduced customer willingness to forgo existing handsets that may provide expanded range, but are not location-capable.²¹ In evaluating requests for waiver from Tier III carriers, the Commission, therefore, has considered challenges unique to smaller carriers facing these circumstances.

8. Finally, distinct from the Commission's rules and established precedent regarding waivers of the E911 requirements, in December 2004 Congress enacted the Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004 (ENHANCE 911 Act).²² The ENHANCE 911 Act, *inter alia*, directs the Commission to act on any petition filed by a qualified Tier III carrier requesting a waiver of Section 20.18(g)(1)(v) within 100 days of receipt, and grant such request for waiver if "strict enforcement of the requirements of that section would result in consumers having decreased access to emergency services."²³

C. Petition for Waiver

9. C&CC is a Tier III carrier operating in sparsely populated areas of rural Montana and North Dakota, and serves, on average, less than one subscriber per square mile.²⁴ Competitive wireless service is available only in 10% of its 10,000 square mile service area.²⁵ Initially, C&CC elected a network-based E911 Phase II solution, but it later decided to overlay its analog cellular network with Code Division Multiple Access (CDMA) technology, which it states was completed November 11, 2005.²⁶ As a result, C&CC announces that it now will "alter its originally proposed network-based ALI solution and, instead, implement a handset-based solution."²⁷ C&CC started selling tri-mode handsets before completion of the overlay, which it reports was due, in part, "to the demand of many of its subscribers who had encountered difficulties roaming with analog phones outside of the C&CC service area. . . ."²⁸ Additionally, for approximately one year prior to its filing, C&CC states it has sold only

²¹ See *Tier III Carriers Order*, 20 FCC Rcd at 7718, 7719, 7726, 7732, 7736-7737 ¶¶ 17, 19, 37, 57, 70.

²² National Telecommunications and Information Administration Organization Act – Amendment, Pub. L. No. 108-494, 118 Stat. 3986 (2004).

²³ *Id.* at § 107(a), 118 Stat. 3986, 3991. The ENHANCE 911 Act defines a "qualified Tier III carrier" as "a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)) that had 500,000 or fewer subscribers as of December 31, 2001." *Id.* at § 107(b), 118 Stat. 3986, 3991.

²⁴ C&CC Petition at 2.

²⁵ *Id.*

²⁶ See Notice of *Ex Parte* Presentation, CC Docket No. 94-102 (filed Mar. 15, 2006) (in attached Second Quarterly Report & Semi-Annual Report required by Montana Public Service Commission). C&CC states that its CDMA overlay was delayed, in part, by the "lengthy" state eligible telecommunications carrier proceeding it undertook to "receive and utilize available federal funding for its continued and improved provision of universal service offerings." See C&CC Petition at 6. C&CC was designated by the Montana Public Service Commission as an eligible telecommunications carrier in April 2005. *Id.* at 6.

²⁷ C&CC Petition at 4.

²⁸ *Id.*

location-capable handsets and that “all new handsets activated . . . are ALI-compliant.”²⁹ C&CC asserts that it has received no PSAP requests for either Phase I or Phase II E911 service.³⁰

10. At the time of its filing, C&CC reported that approximately 30.5% of the handsets currently utilized by its subscribers are location-capable.³¹ As of March 14, 2006, C&CC reports that the penetration rate had increased to 44.8%.³² C&CC attributes its low penetration rate as a “direct and predictable result” of the fact that it “has only recently finalized the launch of its digital CDMA interface” and that “handset conversion is not an attractive option for most subscribers until the system supports the digital functionality offered by the CDMA interface.”³³ C&CC seeks a 30-month extension of the December 31, 2005 deadline to reach 95% penetration, to June 30, 2008.³⁴ It proposes to reach 50% penetration by December 31, 2006, and 75% by December 31, 2007. It further states that, “[i]f the 95% benchmark appears to be unobtainable by June 30, 2008, C&CC shall, no later than March 31, 2008, file a detailed report and request for further extension of the existing waiver.”³⁵

11. C&CC states that a “large proportion” of its subscriber base utilizes three-watt analog “bag phones” that “provide broader geographic access to C&CC’s system than lower-powered hand-held mobile telephones.”³⁶ C&CC argues that “subscribers will be extremely reluctant to trade a high-powered analog telephone for a compliant digital handset, given the decreased reliability and coverage which will result.”³⁷ C&CC adds that its most rural subscribers reside in isolated areas, with driving patterns typically involving long journeys over largely vacant roads.³⁸ Further, 58% of its customers subscribe to its “lower-cost ‘safety plans,’ minimal-use plans designed primarily to provide emergency communications capabilities.”³⁹

12. Having completed the launch of its new CDMA technology, C&CC plans to initiate “a series of subscriber outreach efforts,” including plans to “educate subscribers regarding the benefits of digital handsets,” including the E911 benefits of location-capable phones, inducements to encourage handset upgrades through financial incentives including free and discounted handsets, and

²⁹ *Id.*

³⁰ *Id.* at 2, 10.

³¹ *Id.* at 4. C&CC notes that the percentage of subscribers with access to compliant digital phones is likely greater than 30.5% because at least 7% of its subscribers use both analog and compliant digital phones. See Supplement to E-911 Waiver Request, CC Docket No. 94-102, filed Mar. 2, 2006 at 2 n. 6 (reporting the results of a survey taken of its subscribers, with 13% of the 55% who responded reporting use of both types of phones).

³² C&CC E-911 Waiver Request First Quarterly Report, CC Docket No. 94-102, filed Mar. 14, 2006 at 1 (C&CC First Quarterly Report).

³³ See C&CC Petition at 6.

³⁴ *Id.* at 11-12.

³⁵ *Id.* at 12.

³⁶ *Id.* at 3.

³⁷ *Id.* at 7.

³⁸ See *id.* at 2.

³⁹ *Id.* at 2.

advertisements in customers' newsletters and local media.⁴⁰ C&CC also points to "system expansion and improvement plans [that] will generate stronger digital signals, gradually reducing dependence on analog technology . . .," including, over the next five years, plans for seven additional cell sites and four cell extender sites.⁴¹ In its report indicating that it had reached a penetration level of 44.8% as of March 14, 2006, C&CC attributes this increase to the following measures: (1) offers of free external antennas and connectors (a \$34 value) or \$50 off of a 3-watt cellular booster with a two-year service commitment, and (2) an education campaign including information on cellular strength and its 2006 service enhancement and improvement plans.⁴² C&CC also pledges, during the second quarter of this year, to "promote the use of a digital signal booster, which minimizes the difference in handset reception capability between analog and digital phones," and "provide financial incentives to make its purchase more economical."⁴³

13. C&CC argues that, if it is required to implement a network-based solution to accommodate its analog users, it "could well bankrupt the company" and would jeopardize "[c]ontinuation of existing operations, let alone continued expansion" into "additional, unserved, sparsely populated areas."⁴⁴ In addition, C&CC argues that terminating analog service in order to meet the penetration requirement "would be anathema to the public interest and disserve every resident and roamer within its 10,000 square-mile service area."⁴⁵ For these reasons, C&CC submits that the requested waiver should be granted under the Commission's waiver standards, as well as under the ENHANCE 911 Act.⁴⁶

14. Twelve Montana emergency service providers "affected by C&CC's petition" filed letters supporting the waiver request, each noting that it had not requested Phase I or Phase II capabilities from C&CC.⁴⁷ Each states that, since it currently is not able to utilize Phase II information, it believes that "broad access to mobile communications, regardless of location technology, is the most important public health and safety feature in our community."⁴⁸ The McCone County Sheriff's Office adds that it has "four analog bag phones that give us service in almost all areas of our county. The digital phones fall

⁴⁰ *Id.* at 6-7. C&CC also intends to "promote a digital signal booster system designed to extend the signal strength ordinarily available through digital handsets" but that, even after "significant mark-downs," the cost to subscribers would be just under \$300. *See id.* at 7-8.

⁴¹ *Id.* at 8.

⁴² *See* C&CC First Quarterly Report at 1.

⁴³ *See id.* at 2.

⁴⁴ *See* C&CC Petition at 8, 10.

⁴⁵ *Id.* at 8-9.

⁴⁶ *See id.* at 9-11.

⁴⁷ *See* C&CC First Quarterly Report (containing letters of support from: Powder River County Sheriff's Office; Richland County Sheriff's Office; Carter County Sheriff's Office; Fallon County Dispatch Center; Wibaux County Sheriff's Office; Glendive Police Department; McCone County Sheriff's Office; Garfield County Sheriff's Office; Petroleum County Sheriff's Office; Rosebud County Sheriff's Office; Prairie County Sheriff's Office; Miles City Police Department).

⁴⁸ *Id.*

way short of this capability at this time. . . . These bag phones are our lifeline in remote areas of the county.”⁴⁹

III. DISCUSSION

15. We believe that it was critical for all handset-based carriers to have met the final implementation deadline of December 31, 2005 for 95% location-capable handset penetration, if at all possible, in order to allow all stakeholders (including carriers, technology vendors, public safety entities, and consumers) to have greater certainty about when Phase II would be implemented and ensure that Phase II would be fully implemented as quickly as possible.⁵⁰ Absent Phase II location data, emergency call takers and responders must expend critical time and resources questioning wireless 911 callers to determine their location, and/or searching for those callers when the callers cannot provide this information. At the same time, however, the Commission has recognized that requests for waiver of E911 requirements may be justified, but only if appropriately limited, properly supported, and consistent with established waiver standards.⁵¹ Accordingly, when addressing requests for waiver of the 95% handset penetration deadline, we remain mindful that delay in achieving the required handset penetration level could impair the delivery of safety-of-life services to the public. We must also remain mindful, however, of Congress’ directive in the ENHANCE 911 Act to grant Tier III waivers if strict enforcement would result in consumers having decreased access to emergency services.⁵²

16. Consistent with that directive, we find that C&CC is entitled to some relief pursuant to the ENHANCE 911 Act. C&CC indicates that certain of its subscribers use higher-power, analog bag phones that afford greater range than can be obtained with digital, location-capable handsets.⁵³ Therefore, we find that certain of C&CC’s customers would likely find it more difficult, and, at times, impossible to contact a PSAP in parts of its service area if those customers were forced to convert to digital CDMA handsets. It thus appears likely that strict enforcement of the December 31, 2005 deadline under these circumstances would impair the ability of certain 911 callers to reach emergency assistance, and thus “would result in consumers having decreased access to emergency services,” within the meaning of the ENHANCE 911 Act,⁵⁴ at least in some cases. We therefore conclude that a limited waiver of the December 31, 2005 deadline is warranted, subject to certain conditions and reporting requirements to permit effective monitoring of C&CC’s progress towards full compliance with the Commission’s location-capable handset penetration requirement.

17. We find, however, that C&CC has not provided sufficient information to warrant the full 30-month extension it seeks, because it has failed to demonstrate a “clear path to full compliance” with the 95% handset penetration requirement. While, as we explain below, C&CC presents unique circumstances justifying an extended period of time to achieve a 95% penetration level, until eighteen

⁴⁹ See Letter from Dave I. Harris, Sheriff, McCone County, Montana, to Marlene Dortch, Secretary, FCC, CC Docket No. 94-102 (Dec. 19, 2005) (McCone County Sheriff Letter).

⁵⁰ See *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14853 ¶ 38.

⁵¹ See *Tier III Carriers Order*, 20 FCC Rcd at 7709-7710 ¶ 1; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14842-14843 ¶ 6.

⁵² See *supra* ¶ 8.

⁵³ See C&CC Petition at 7.

⁵⁴ Pub. L. No. 108-494, § 107(a), 118 Stat. 3986, 3991.

months following release of this *Order*, we nevertheless find C&CC's proposed schedule to be too *lengthy and open-ended* - allowing an entire year to increase its handset penetration rate from 30.5% to 50%, an additional year to reach 75%, and then six more months to achieve 95%⁵⁵ - in light of evidence that it can reach compliance more quickly. In fact, C&CC expresses uncertainty in reaching its interim milestones and states that it may not be able to achieve compliance even by June 30, 2008, the revised compliance date it proposes.⁵⁶ We find it difficult to reconcile the requested lengthy extension period with the measures C&CC promises to take to improve penetration of location-capable phones, for example, providing additional sites and cell extenders to make its CDMA coverage more comparable to its analog coverage and offering incentives for subscribers to upgrade to location-capable handsets.⁵⁷ Given prompt and aggressive implementation of these measures, we believe C&CC could reach 95% penetration in less time than it requests. Indeed, C&CC has shown that by March 14, 2006, it already had achieved a 44.8% penetration level. This indicates that C&CC's proposed schedule may not accurately reflect how much more quickly it can achieve full compliance.

18. Additionally, although we credit C&CC's statements about the greater prevalence of higher-power analog phones in its subscriber base, we note that compliance with Section 20.18(g)(1)(v) requires only 95% penetration of location-capable handsets, not 100%. Thus, if C&CC implements the coverage improvements it proposes, thereby reducing the need for analog phones, it still can accommodate the needs of up to 5% of its subscribers with higher-power analog phones. For these reasons, we find that C&CC's uncertainty about whether it can reach 95% penetration even within the 30 months it requests, and its inadequate justification for such a lengthy extension, are inconsistent with the Commission's requirement that waiver requests must be "specific, focused and limited in scope, and with a clear path to full compliance."⁵⁸

19. We recognize that C&CC recently completed its CDMA overlay, and thus has not had much time to convert its subscribers to location-capable phones, despite having even begun offering and activating location-capable phones in advance of completing this overlay. We also note in particular that C&CC is the only service provider in 90% of its 10,000 square-mile service area, and that its service area is very isolated and sparsely populated. Furthermore, C&CC's plans for expanding digital service should improve its ability to mitigate the need for the continued use by some of its customers for higher-power analog bag phones, including by the McCone County Sheriff's office. We also observe that C&CC reports some recent success in obtaining higher penetration levels, having improved from approximately 30.5% as of December 13, 2005, to 44.8% as of March 14, 2006.

20. In sum, taking into account the totality of the circumstances affecting C&CC, including its status as a Tier III carrier, the extreme remoteness of its service area, and consistent with the ENHANCE 911 Act, we are granting C&CC a limited extension of eighteen months from the release of this *Order* to achieve a 95% handset penetration level among its subscribers, and are imposing certain

⁵⁵ See C&CC Petition at 11-12.

⁵⁶ See *id.* at 7 ("C&CC recognizes that its 50% penetration projection may be overly optimistic"), 12 ("If the 95% benchmark appears to be unobtainable by June 30, 2008, C&CC shall . . . file a detailed report and request for further extension of the existing waiver").

⁵⁷ See *id.* at 6-7.

⁵⁸ See *supra* ¶ 6.

conditions and reporting obligations so that we may monitor C&CC's compliance efforts.⁵⁹ We fully expect C&CC, however, to engage in all necessary efforts to ensure that it meets the 95% handset penetration benchmark as quickly as possible. In particular, we expect that C&CC will take all necessary efforts to avoid any future need to claim that it must resort to service deactivations among consumers using analog handsets to achieve compliance with the 95% handset penetration benchmark. Absent C&CC's undertaking all such necessary efforts on an ongoing basis, C&CC should not assume that the Commission would act favorably on any future request for relief based on these same grounds.

21. *Conditions.* As a condition of the relief granted herein, C&CC has an ongoing obligation, until it achieves a 95% handset penetration rate among its subscribers of location-capable handsets, to (1) notify its customers, such as by billing inserts, when it reasonably expects PSAPs will make valid requests for Phase II service, to the effect that by upgrading their handsets they will have the ability to automatically transmit their location information, and (2) actively work with the PSAPs to keep them informed of its progress in achieving higher location-capable handset penetration rates.

22. *Reporting Requirements.* Finally, in order to monitor compliance in accordance with the relief of the December 31, 2005 95% handset penetration requirement granted herein, we will require C&CC to file status reports every February 1, May 1, August 1, and November 1, beginning May 1, 2006, until two years and six months following release of this *Order*,⁶⁰ which shall include the following information: (1) the number and status of Phase II requests from PSAPs (including those requests it may consider invalid); (2) the estimated dates on which Phase II service will be available to PSAPs served by its network; (3) the status of its coordination efforts with PSAPs for alternative 95% handset penetration dates; (4) its efforts to encourage customers to upgrade to location-capable handsets; (5) the percentage of its customers with location-capable phones; and (6) until it satisfies the 95% penetration rate, detailed information on its status in achieving compliance and whether it is on schedule to meet the revised deadline. We emphasize that irrespective of the relief we grant in this *Order*, we fully expect C&CC to achieve compliance as quickly as possible.

IV. CONCLUSION

23. For the foregoing reasons and pursuant to the ENHANCE 911 Act, we conclude that C&CC is entitled to a limited extension of the December 31, 2005 requirement that it achieve 95% penetration, among its subscribers, of location-capable handsets. Specifically, taking into account the extreme remoteness of its service area and other factors, we extend the date that C&CC must achieve 95% penetration until eighteen months following release of this *Order*, and impose conditions and reporting requirements to ensure that C&CC achieves full compliance with the Commission's E911 requirements. We reiterate that any party seeking a waiver from our E911 rules must demonstrate a clear path to full compliance.

⁵⁹ We note that the Commission has not received any objections from the public safety community with respect to the instant request.

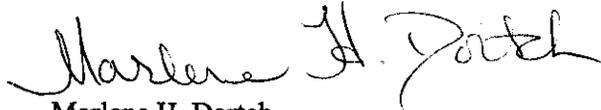
⁶⁰ We are requiring C&CC to file status reports beyond the eighteen months from release of this *Order* by which we otherwise require C&CC to achieve 95% penetration among its subscribers of location-capable handsets. We believe it is important to continue monitoring C&CC's progress for an additional year beyond this revised compliance deadline.

V. ORDERING CLAUSES

24. Accordingly, *IT IS ORDERED*, pursuant to the ENHANCE 911 Act, Pub. L. No. 108-494, 118 Stat. 3986 (2004), and Sections 1.3 and 1.925 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.925, that the foregoing *Order IS ADOPTED*.

25. *IT IS FURTHER ORDERED*, that the Petition for Waiver of Section 20.18(g)(1)(v) filed by Cable & Communications Corporation, *IS GRANTED IN PART* to the extent described above, and subject to the conditions and reporting requirements specified herein. The deadline for compliance with Section 20.18(g)(1)(v) will be eighteen months following release of this *Order*.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary