

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

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	
Enhanced 911 Emergency Calling Systems)	

**Chariton Valley Communication Corporation, Inc. Third Amendment to Petition for
Temporary Limited Waiver of Section 20.18(f) of the Commission's Rules**

Chariton Valley Communication Corporation, Inc. ("CVCC"), by its attorneys and pursuant to Sections 1.3 and 1.925 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"),¹ hereby further amends its pending petition for a temporary limited waiver of Section 20.18(f) of the Commission's rules² that requests additional time to implement Phase II E911 service to at least 50 percent of CVCC's licensed coverage area or population within six months of a Public Safety Answering Point ("PSAP") request and to 100 percent of CVCC's licensed coverage area or population within 18 months of a PSAP request.³ As indicated in prior amendments to its original petition, CVCC has been in active negotiations for the sale of certain of its PCS licenses, or portions thereof, that would include the area of Boone County that is the subject of this waiver request. On May 10, 2006, CVCC and Verizon Wireless entered into an agreement pursuant to which

¹ 47 C.F.R. §§ 1.3 and 1.925.

² 47 C.F.R. § 20.18(f).

³ *Chariton Valley Communication Corporation, Inc. Petition for Temporary Limited Waiver of Section 20.18(f) of the Commission's Rules*, CC Docket No. 94-102 (filed October 12, 2005) ("*Petition*"). The original request sought only a waiver of the 50% benchmark based on the belief that Phase II service would be implemented well before expiration of the 18-month deadline. Subsequent amendments expanded the original request to include both the 50% and 100% benchmarks.

Verizon is acquiring 10 MHz of spectrum in portions of the Columbia Missouri Basic Trading Area (BTA 90) pursuant to a partitioning and disaggregation of broadband PCS spectrum licensed to CVCC under call sign WPOK673. CVCC will be retaining 20 MHz of spectrum in the partitioned areas. On May 17, 2006, an application for FCC consent to the partitioning and disaggregation of that spectrum to Verizon Wireless was submitted to the FCC through its Universal Licensing System.⁴ In connection with the assignment, CVCC will no longer be providing its roaming-only voice service in the areas covered by the PSAP request that is the subject of this waiver request. Accordingly, CVCC will no longer have any obligation to provide E911 service within Boone County.

I. Background

CVCC is a small PCS C Block licensee who offers service in portions of Missouri that are generally rural and contain vast stretches of farmland and few population centers. CVCC's network uses the Global System for Mobile Communications ("GSM") technology. Since no handset-based Phase II solutions exist for GSM, CVCC must use a network-based solution for Phase II E911. The City of Columbia and Boone County, Missouri PSAP ("Boone PSAP") served by CVCC made its request for Phase II service on August 18, 2004.

On April 1, 2005, the Commission granted CVCC additional time, until October 18, 2005, to implement a novel, network-based Phase II E911 solution.⁵ and provide Phase II E911 service to 50 percent of the area or population served by the Boone PSAP.⁶ In its grant of

⁴ See ULS File No. 0002609713.

⁵ See *in re Chariton Valley Communication Corporation, Inc. Petition for Temporary and Limited Waiver of Section 20.18(f) of the Commission's Rules*, CC Docket No. 94-102, Order, DA-05-1002 (April 1, 2005) ("*April 1 Order*").

⁶ Order at ¶ 10.

CVCC's request for waiver, the Commission recognized that there is no "one size fits all" solution for network-based solutions and concluded that it was in the public interest to allow CVCC to work with GBSD Technologies, Inc. ("GBSD"), a company specializing in a relatively new Angle of Arrival ("AOA") location technology especially suited for rural applications.⁷

On October 12, 2005, due to a number of technical difficulties encountered in testing the new technology, CVCC requested additional time, until January 31, 2006, to implement Phase II E911 in the Boone service area.⁸ The *Petition* remains pending. CVCC has twice amended the *Petition* to extend the compliance deadline, first to April 28, 2006, and most recently to September 24, 2006 based upon additional technical difficulties experienced by CVCC and its vendors. In light of the pending partition and disaggregation application and CVCC's plans to discontinue its voice service in Boone County in connection with its partitioning to Verizon, the basis for waiver relief on a going forward basis has changed, and CVCC wishes to amend its pending petition to reflect these new facts. CVCC is not asking for any changes to the time extension (through September 24, 2006) requested in its most recent amendment and anticipates that it will discontinue voice service by that date.

⁷ *Id.*

⁸ *See Petition.*

II. Good Cause Exists for Grant of the Requested Waiver

The Commission may waive any provision of its rules if good cause is shown.⁹ The Commission has consistently recognized that wireless carriers may face difficulties in meeting the FCC's E911 deadlines. In the FCC's *Fourth Memorandum Opinion and Order* ("Fourth MO&O"), the Commission recognized that there would be instances when "technology-related issues" would cause a delay in a wireless carrier's ability to become Phase II compliant.¹⁰ The Commission has also extended the compliance deadlines of rural-based GSM carriers that "have stayed abreast of technological developments and modified their plans accordingly in an effort to achieve compliance."¹¹

In the instant case, CVCC has encountered more than its share of technology-related issues, has stayed abreast of the latest technological developments for rural-based carriers, and has modified its implementation plan as it attempted to work with GBSB and other vendors on its new Phase II solution. However, in light of the pending sale and partition, and its decision to discontinue voice services in Boone County, circumstances have now changed in Boone County, the subject of this underlying waiver request. CVCC has been operating in Boone County on a roam-only basis and is now planning to discontinue that service entirely. Pursuant to section 20.18(a) of the Commission's rules, the requirement to provide Phase II E911 service only applies to Broadband Personal Communications Services licensees "*solely to the extent that they offer real-time, two way switched voice service that is interconnected with the*

⁹ See 47 C.F.R. § 1.3.

¹⁰ *In re 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 at ¶ 43 (2000) ("Fourth MO&O").

¹¹ *April 1 Order* at ¶¶ 127-128.

public switched network and utilize an in-network switching facility which enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls."¹² Upon cessation of its roam-only service, CVCC will no longer be operating facilities that offer real time, interconnected, two-way switched voice services within Boone County and will no longer be subject to E911 requirements in that county. Accordingly, grant of the requested waiver is entirely consistent with the Commission's E911 rules, while requiring CVCC to provide Phase II E911 service when it will cease providing voice service would be unduly burdensome and inequitable.

III. Conclusion

Based on the foregoing, as well as on its *Petition* and subsequent amendments, CVCC respectfully requests that the Commission grant CVCC a temporary limited waiver of the 50 percent and 100 percent requirements of Section 20.18(f) of its rules as requested therein.

Respectfully submitted,

**CHARITON VALLEY COMMUNICATION
CORPORATION, INC.**

By: Michael R. Bennet
Michael R. Bennet
Howard Shapiro
Bennet & Bennet, PLLC
10 G Street, NE , Seventh Floor
Washington, DC 20002
202-371-1500

Its Attorneys

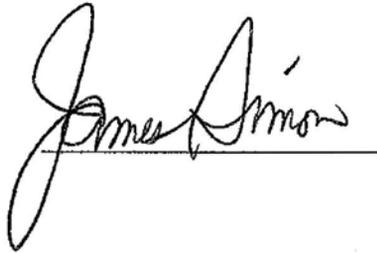
Dated: May 26, 2006

¹² 47 C.F.R. §20.18(a)(emphasis supplied).

DECLARATION OF JAMES SIMON

I, James Simon, do hereby declare under penalty of perjury the following:

1. I am the General Manager of Chariton Valley Communication Corporation, Inc.
2. I have read the foregoing "Third Amendment to Petition for Temporary Limited Waiver of Section 20.18(f) of the Commission's Rules," I have personal knowledge of the facts set forth therein, and believe them to be true and correct.

A handwritten signature in black ink, reading "James Simon", is written over a horizontal line. The signature is cursive and stylized.