

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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|---|---|----------------------|
| 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 |) | |
| Commnet Illinois, 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

**FIFTH SUPPLEMENT TO
PETITION FOR WAIVER OF DEADLINES
FOR IMPLEMENTATION OF PHASE II E911**

Commnet Wireless, LLC (“CWLLC”), on behalf of itself and its captioned affiliated licensees (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, 2003,¹ and supplemented again on December 19, 2003,² February 13, 2006³, and March 23, 2006⁴. This Fifth Supplement provides updated and new information supporting the requested relief specified in the August 15, 2003 Amendment/ Supplement.⁵

UPDATES AND ADDITIONAL SUPPORT

I. General Applicability

As reported in the Fourth Supplement, Petitioners-Small-Carriers are now committed to using a network-based solution for Phase II E-911 in their respective markets, and they are and continue to evaluate traditional network-based Phase II solutions and any new network-based solutions, to determine if or when any of them become viable solutions for a given market. For

¹ 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” (“August 2003 Amendment”) 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.

² 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) (“December 2003 Supplement”). The December 2003 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.

³ 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 (“February 2006 Supplement”). The February 2006 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.

⁴ See March 23, 2006 “Fourth 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 (“Fourth Supplement”). The Fourth Supplement provided new information supporting the requested relief specified in the August 15, 2003 Amendment/Supplement, information which was not available at the time of the filing of the previous supplements.

⁵ The information set forth herein was not available at the time of the filing of the previous supplements. All facts set forth herein are supported by the attached Declaration of John Champagne, the E-911 Compliance Officer for each of the Petitioner-Small-Carriers.

example, Petitioners-Small-Carriers, through their E-911 Compliance Officer, are exploring a new network-based solution developed by GBSD Technologies, Inc. (“GBSD”) called The Compass™ Location System (“The Compass™”), which GBSD claims will meet the Commission’s Phase II requirements in rural and mountainous or otherwise topographically challenged areas. Petitioner-Small-Carriers have entered into discussions with GBSD regarding The Compass™ and have been analyzing this solution with respect to their various markets.

Petitioner-Small-Carriers began discussions with GBSD with respect to suitability of The Compass™ for use in CFL’s market in the Florida Keys as early as January of 2006. They received a project plan and quote for CFL’s market in February 2006, which was revised in March 2006 to include antennas that would meet wind load requirements for the Florida Keys. CFL is still in discussions with GBSD regarding this latest project plan and quote. As previously discussed in the December 2003 Supplement, the Florida Keys consists of a string of very tiny and narrow islands that are less densely populated and CFL’s cells are located along this string of islands, *i.e.*, they are constructed in a classic string-of-pearls arrangement. CFL is currently working with GBSD to develop a solution using The Compass™ that will provide CFL with the maximum accuracy level possible in its market. It appears, thus far however, that even using The Compass™, CFL would never reach a 95% accuracy level on a system-wide basis.

In April 2006, Petitioners-Small-Carriers received communications from GBSD regarding an Assisted GPRS (“A-GPRS”) solution it is developing for another carrier located in Nevada, which GBSD believes might be a viable solution for some of Petitioners-Small-Carriers’ markets. Petitioners-Small-Carriers are currently analyzing GBSD’s A-GPRS solution to determine whether it really will provide a more viable network-based Phase II solution in some if not all of their respective markets.⁶ Additionally, Petitioner-Small-Carriers have entered into more extensive communications with Polaris Wireless, Inc. (“Polaris”), and are beginning a

⁶ A-GPRS is a hybrid solution, which would utilize both network-based and handset-based elements. However, so far as Petitioners-Small-Carriers are aware, no equipment manufacturer has yet agreed to support the handset-based element of this hybrid arrangement.

thorough analysis of its network-based Phase II E-911 solution called Wireless Location Signatures (“Polaris WLS”). Polaris has provided Petitioner-Small-Carriers with a Polaris WLS technology white paper and an extensive product overview document, both of which Petitioner-Small-Carriers are carefully reviewing and analyzing vis-à-vis their various markets.

II. Commnet of Arizona, LLC

This licensee (“CAZ”) has not received any new Phase I or Phase II E-911 PSAP requests since Petitioners-Small-Carriers March 2006 Supplement. Since Petitioners-Small-Carriers’ last update, CAZ is Phase I compliant in Pima County for its GSM and TDMA services, and is currently implementing Phase I for its CDMA service. CAZ is maintaining communications with the Pima County PSAP, and is keeping the PSAP advised of its progress with its Phase I implementation and the current state of affairs regarding implementation of Phase II. To date, the PSAP has not expressed any concerns or dissatisfaction with CAZ’s progress in implementing Phase I and Phase II E-911.

III. Excomm, LLC

Petitioner-Small-Carriers last reported, in the December 2003 Supplement, that Excomm had received one Phase I E-911 request from the Fremont County, WY, PSAP, but that the PSAP’s request was premature because, by its own admission, the PSAP was not ready to receive Phase I. The PSAP has yet to notify Excomm that it is Phase I ready. Excomm is prepared and ready to implement Phase I E-911 in Fremont County upon receipt of notification from the PSAP that it is Phase I ready. Excomm has not received any other Phase I or Phase II requests from any PSAPs in its markets.

IV. Commnet of Florida, LLC

Since Petitioners-Small-Carriers’ Fourth Supplement, CFL received both a Phase I and a Phase II request from each of the PSAPs in Gilchrist County and Holmes, County, FL. CFL advised both PSAPs that CFL does not have any cells located in and is not providing any service within either county, and both PSAPs appeared satisfied with this response. With regard to

Monroe County, FL, where CFL does have cells and is providing service and has received both a Phase I and Phase II request from the local PSAP, CFL is fully Phase I compliant. As discussed in detail in Section I above, CFL is currently working with GBSD to find the most viable network-based Phase II solution for the market. CFL has kept the PSAP informed of its progress, and the PSAP appears satisfied with CFL's efforts.

V. MoCelCo, LLC

MCC has received no new Phase I or Phase II PSAP requests since Petitioners-Small-Carriers' Fourth Supplement. MCC is Phase I compliant in Monroe County, MO, the only county from which it has received a Phase I or Phase II PSAP request. MCC remains in contact with that PSAP and is keeping the PSAP apprised of its efforts to find a viable Phase II solution for that market. The PSAP appears satisfied with MCC's ongoing efforts.

VI. Commnet of Illinois, LLC

CIL has received no new Phase I or Phase II PSP requests since submission of the Fourth Supplement. CIL is currently in the process of implementing Phase I E-911 in Lewis County. Specifically, CIL has installed all of the necessary hardware and software and has ordered land lines from the local exchange carrier ("LEC"), Century Tel. CIL estimates that it is about one month away from completion of its deployment of Phase I in that county. CIL is maintaining communications with the Lewis County PSAP and has kept it apprised of its efforts to find and implement a Phase II solution in the market, and the PSAP appears satisfied with CIL's ongoing efforts.

VII. Commnet Four Corners, LLC

Since Petitioners-Small-Carriers' submission of the Fourth Supplement, CFC has received a new Phase I and Phase II request from the Los Alamos County, NM, PSAP. CFC has opened a dialogue and is maintaining communications with the Los Alamos County PSAP, and has begun addressing the PSAPs' E-911 needs. CFC's contact at the Los Alamos County PSAP

is Wendy Strain, who can be contacted at telephone number (505) 662-8222 or TA69 Building 33, Los Alamos National Labs (LANL), Los Alamos, NM 87544.

CFC has installed all of the equipment and software necessary to meet the Los Alamos County PSAP's Phase I request. Additionally, CFC has ordered and is waiting for the assignment of pANIs, which CFC anticipates receiving in about two months. Upon receipt of the pANIs assignment, CFC will place an order with the LEC to have a landline installed between the switch and the requesting PSAP for Phase I deployment. It could take the LEC several months to install a new landline in the county, given the rural nature of the county.

CFC is waiting until after assignment of the pANIs to order the landline, so that the landline is delivered with the pANI range. CFC is operating as a "carrier's carrier" and, thus, has no subscribers. Therefore, CFC does not have the means to fund any Phase I or Phase II implementation and recurring costs via pass-throughs to subscribers. Thus, CFC is currently exploring whether Los Alamos County or the State of New Mexico has a cost recovery program respecting E-911 implementation. CFC is also currently exploring whether either the GBSD or the Polaris network-based Phase II E-911 solutions would be a viable option for implementation of Phase II in Los Alamos County. Upon completion of implementation of Phase I, CFC will begin discussions with the Los Alamos County PSAP respecting implementation of Phase II.

CFC also received a Phase I/Phase II request from the Cibola County, NM, PSAP. CFC notified the PSAP that CFC does not have any cells located in and is not providing any service within Cibola County, but that CFC would keep the PSAP advised of any future developments in that county. CFC did not receive a response from the PSAP and assumes from the PSAP's silence that it is satisfied with CFC's response to its Phase I/Phase II request.

CONCLUSION

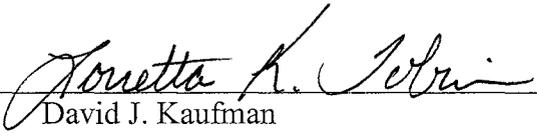
In consideration of the foregoing and in conjunction with Petitioner-Small-Carriers' presentations in their Petition, as amended and supplemented, Petitioner-Small-Carriers

respectfully request that the Commission partially waive Section 20.18(d) and grant Petitioner-Small-Carriers 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, COMMNET OF FLORIDA, LLC, and COMMNET OF ILLINOIS, LLC

September 5, 2006

By: 
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Their Attorneys

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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 "Fifth Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911" to be sent by electronic mail this 5th day of September, 2006, to each of the following:

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