

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

In the Matter of)	
)	
Petition for Rulemaking to Amend)	RM No: 11355
Rule Section 22.901(b) to Extend)	
Analog Sunset Date)	

To: The Commission

**ACS WIRELESS, INC.’S RESPONSE TO PUBLIC NOTICE CONCERNING
NEED FOR NEW RULES EXTENDING ANALOG SUNSET DATE**

ACS Wireless, Inc. (“ASCW”), by and through its attorneys, hereby submits its comments in response the Public Notice in the above captioned proceeding.¹

I. Introduction

The Alarm Industry Communications Committee and ADT Security Services, Inc. (“Petitioners”) filed a petition for rulemaking with the Federal Communications Commission (“FCC” or “Commission”) seeking an extension of the cellular analog sunset date.² A full rulemaking is neither necessary nor in the public interest. Extending the analog mandate is contrary to the Commission’s well-grounded public interest finding that requiring carriers to retain obsolete, poorly functioning analog equipment hinders competition and no longer provides benefits to consumers. The Petitioners’ concerns can be addressed through redoubling efforts to transition the few remaining customers who use analog back-up alarm radios. If necessary, alarm companies can use other solutions, such as contracting with third parties that supply GSM back-up radios to alarm

¹ *Wireless Telecommunications Bureau Seeks Comment on Petition for Rulemaking to Extend Cellular Analog Sunset Date*, Public Notice, DA 06-2559 (rel. December 20, 2006).

² Petition for Rulemaking, Alarm Industry Communications Committee and ADT Security Services, Inc., RM No. 11355, filed November 30, 2006 (“Petition”).

companies just for this purpose. Companies have already entered the marketplace to fill this need.

Petitioners fail to justify granting their petition:

- Petitioners fail to demonstrate a need for a rulemaking. They have other means to address their issue, and it is not in the public interest to reinstate an industry-wide mandate that the Commission has already found hinders competition, impedes spectral efficiencies, and imposes unnecessary costs on cellular carriers upgrading to improved digital networks;
- Extending the requirement would harm cellular consumers industry-wide by unreasonably prolonging use of a network that provides inadequate public safety protections (e.g., lack of E-911 and CALEA capabilities) and delaying deployment of advanced services;
- Carriers will face substantial costs and operational challenges if they must continue to operate poorly functioning analog equipment, especially since replacement parts are difficult to locate and expensive to purchase; Petitioners seek to shift their upgrade costs to cellular carriers and consumers who would bear the entire burden of an analog extension with no offsetting benefits.
- For example, ACSW would incur \$4.7 million in operations costs annually to maintain analog just to support very few customers on the network who still use back-up analog radios for their alarm systems.

For all these reasons, the Commission should deny the Petition for Rulemaking.

II. The Petitioners Have Not Demonstrated That Extending the Analog Requirement is in the Overall Public Interest

The Petitioners have not met their burden of showing that extending the analog requirement is in the overall public interest. The Commission has already found that requiring cellular carriers to continue to operate antiquated analog equipment causes a number of harms to carriers and consumers. Petitioners could have been, and still can be with more effort, in a position to deploy digital alarm radios by the cut-off date.

The Commission already decided four years ago that requiring cellular carriers to operate and maintain antiquated analog networks is no longer in the overall public

interest.³ In its 2002 Biennial Review, the Commission found that continuing the analog requirement would have serious negative effects on competition.⁴ The analog requirement had substantially achieved its purpose, and extending it would cause carriers to incur unnecessary operations and repair costs to maintain duplicative networks.⁵ Also, the requirement hindered (and still hinders) competition by creating spectral inefficiencies and imposing increased costs on carriers upgrading to digital networks.⁶ Bottom line, analog is inefficient and does not support the advanced services (including CALEA and E-911) that digital does. Thus, maintaining two networks prevents carriers from utilizing their spectrum to consumers' greatest benefit.

For their part, Petitioners have not addressed any of the substantial consumer and competition harms the FCC identified. Instead, they claimed that carriers did not inform them of the analog cut-off, that they only learned of the cut-off in 2005, and that they will not be ready to transition all customers to alternative systems by the deadline.⁷ Petitioners' notice claims have no merit. First, Petitioners ignored all official and published notice of the deadline, including the Commission's formal rulemaking public notice and comment period, its official publication of revised rules and multiple carrier reports filed publicly regarding the analog shutoff. ADT even acknowledged that it received notice from a major alarm manufacturer in 2004 regarding digital replacement

³ *Year 2000 Biennial Regulatory Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting Cellular Radiotelephone Service and Other Commercial Mobile Radio Services*, Report and Order, FCC 02-229, (rel. Sept. 24, 2002) (“*Analog Sunset Order*”).

⁴ *Id.* at ¶ 10.

⁵ *Id.* at ¶ 12.

⁶ *Id.* The Commission allowed a transition to shut-off for two limited purposes: to ensure that hearing-impaired and emergency only consumers reliant on analog phones would continue to have access while digital service developed across the country. *Id.* at 22. The market has well met these needs. Today, consumers use HAC digital handsets, and have access to digital emergency-only handsets.

⁷ Petition at 24-25.

alarm radios.⁸ This statement contradicts Petitioners' claims that the industry was in the dark until 2005.

Further, many CMRS carriers indirectly notified alarm customers that analog was on its way out, even though they were not obligated to do so, by providing broad notice that they were upgrading networks to support location-capable handsets. Like many carriers, ACSW engaged in an aggressive campaign to inform its customers that it was transitioning its network from analog/TDMA to an upgraded CDMA system. ACSW sent direct mail, notified customers by telephone, SMS, and broadcast messages, and published ads multiple times, over many months. Certainly, alarm companies should have realized that analog was being left behind, or at minimum, raised questions.

Additionally, Petitioners have not demonstrated sufficient need for an industry-wide analog extension. Some carriers have very few alarm customers still using analog back-up radios. For example, based on ACSW's initial research, one of the largest security companies in Alaska, an ACSW customer, has only 25 analog back-up units in use. Another ACSW security company customer serving Anchorage uses satellite service rather than wireless for its back-up services. Another customer is already transitioning its alarm customers to GSM for back-up. Therefore, ACSW's research shows: few customers need the service, other options such as satellite are available, and the GSM transition is moving forward. Under these types of circumstances, the alarm companies should certainly be able to transition customers to digital by the deadline.

Clearly, digital back-up alarm radios are now a viable alternative because digital networks have largely duplicated AMPS coverage.⁹ Based on the FCC's own reports,

⁸ Petition at 12.

⁹ *See contra*, Petition at 13.

nearly the entire U.S. population lives in counties covered by digital service.¹⁰ CDMA networks cover 99% of the population of the United States and GSM covers 98%. Therefore, alarm companies can now reasonably rely on digital back-up for alarm systems.

If an alarm company really cannot transition all of its customers over the next year on its own, it can use other alternatives to meet this need. For example, at least one national company has entered this market niche specifically to provide a solution for alarm companies using analog radios for back-up. AlarmNet, a Honeywell subsidiary, offers a new line of products (digital as well as IP-based) to security companies designed to provide redundant service during the transition from analog to digital.¹¹ AlarmNet's coverage area includes Cingular's GSM network.¹² A Honeywell sales representative has confirmed that the alarms are available within 3-4 days of ordering. Further, AlarmNet-G, a service utilizing GSM, combines GPRS and SMS services to provide digital alarm back-up as well as additional safety features.¹³ Security companies having difficulty upgrading their few remaining analog customers can work with AlarmNet to maintain service during the transition. This is a viable, cost effective solution that does not require maintenance of a wide-spread analog network for a small percentage of end-users. The marketplace has already provided a solution (as well as new advanced digital safety features) for the alarm industry's need, and the FCC need not intervene.

¹⁰ *Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, Eleventh Report, FCC 06-142, para. 115 (rel. Sept 29, 2006) ("*11th CMRS Report*").

¹¹ <http://www.security.honeywell.com/hsce/solutions/alarmnet/index.html>.

¹² AlarmNet's digital coverage map is available at:
<http://services.alarmnet.com/coverage/CoverageMain.aspx>.

¹³ AlarmNet-G combines GPRS and SMS technology, which allows for advanced features such as alarm notifications sent directly to a customer's handset. Available at
<http://www.security.honeywell.com/hsce/solutions/alarmnet/coverage/alarmnetg/index.html>.

ACSW is very sympathetic to ensuring protection for those who most need it. However, Petitioners should address their customers' personal protection needs with more vigor and seek readily available solutions. They should not shift this responsibility to the entire cellular industry and its customers.

III. Carriers Will Face Substantial Costs and Challenges if the FCC Extends the Analog Sunset Date

If the FCC extends the sunset date for analog, cellular licensees will face substantial costs and other challenges to continue to operate and maintain their old analog networks. Carriers would have to cover these substantial burdens and cope with major operational challenges almost solely for the alarm industry.

First, carriers will certainly face substantial costs to operate and maintain such old systems. Analog equipment is antiquated, and no upgrades are available to improve functionality. Consequently, analog systems break down more often and require significantly more repair visits. Analog repair and replacement parts are becoming more difficult to locate and expensive to purchase, because analog equipment has been discontinued by manufacturers. ACSW spends approximately \$4.7 million annually in operational costs, including circuit costs, space and power and maintenance/repair costs, to operate these systems across its vast network. This cost represents a sizeable 40% of its annual operations budget.

ACSW will face other challenges to continue these systems that are even more difficult to address. The FCC granted ACSW a waiver of the analog requirement for seven sites that were unduly burdensome to serve.¹⁴ ACSW included only the most extreme cases in its waiver petition, and a number of other sites pose similar challenges.

¹⁴ See *Order, In the Matter of Petition of ACS Wireless, Inc. for Limited Waiver of Analog Service Rule*, File No. 0001764176, p. 4. rel. Dec. 18, 2006

For example, ACSW has sixteen additional analog sites that are *not on the road system*. For these, ACSW must fly or boat in technicians to repair and maintain antiquated equipment as well as to transport diesel fuel for the generator. Technicians can be delayed as long as two weeks before they can access the sites during October – April, when snowfall is heavy. ACSW has twenty-five other sites that technicians can access part-way by a long truck drive, but still require a snow machine or four wheeler to make it to the off-road radio tower sites. The difficulties of operating these sites are compounded by running two networks – the systems never break down at the same time and the analog systems are more prone to failure.

In striking contrast, ACSW's customers' need for analog service is *minimal*. Relying on the FCC's order that it must transition 95% of its customers to location-capable handsets by January 31, 2007, ACSW has already spent substantial funds to build out its CDMA network at a hastened pace.¹⁵ At this point, it has only approximately 1200 analog-only customers left on its system (1% of its customers) and spends approximately \$3900 in operations cost per analog customer annually just to keep the equipment running. ACSW's cost and operational burdens are certainly undue compared to its customers' very minimal need for analog service. ACSW has reasonably relied on the FCC's E-911 orders as well as its analog sunset order in expending millions of dollars to transition customers away from analog. It would be extremely burdensome and inequitable to reverse course in February, 2008. If the FCC extends the requirement, cellular carriers will have to cover the substantial cost of providing analog service almost solely for the alarm industry.

¹⁵ Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petition of ACS Wireless for Limited Waiver, Order, CC Docket No. 94-102 (rel. July 10, 2006).

IV. Extending the Analog Requirement Will Harm Cellular Consumers Industry-wide

Extending the analog requirement will also harm cellular consumers industry-wide. It will unreasonably prolong analog customers' use of a communications network that provides inadequate public safety protections. Moreover, it will delay deployment of advanced services that bring a number of benefits to consumers nationwide.

If the FCC extends analog, it will delay consumers' transition to digital networks that offer more efficient and adaptable communications systems for overall security needs, including E-911 and CALEA capabilities.¹⁶ In particular, the FCC has pushed carriers strongly to transition consumers to digital networks for E-911 capability. Like other small carriers, ACSW has found that its final customer group appears unwilling to move unless absolutely forced to do so, despite its aggressive efforts to transition all analog customers to its digital network.¹⁷ Many of these customers live in remote areas (e.g., wilderness cabins) and could benefit from E-911 capability. This problem is not unique to Alaska. The Commission has recognized that Tier III carriers' customers still desire analog phones for remote areas and are reluctant to switch to digital handsets.¹⁸ Extending the analog sunset date will certainly delay these customers' transition to location capable handsets.

Delay will also harm consumers by slowing deployment of advanced services. For ACSW, maintenance and operation of obsolete analog technology will siphon off

¹⁶ Other examples include wireless priority service (WPS) and Amber Alerts sent by SMS. Both of these services offer benefits to consumers and law enforcement agencies. However, analog networks support neither service.

¹⁷ Like many other carriers, ACSW has offered numerous incentives including free equipment upgrades, free accessories, free contact conversions, free services and even free tours of digital coverage areas to encourage customers to switch.

¹⁸ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Order, CC Docket No. 94-102, pars. 17, 19, 37, 57,70, (rel. April 1, 2005) ("Tier III Carriers Order").

funds which would otherwise go to CDMA build-out or deployment of advanced services and technologies. ACSW plans to expand its CDMA network far beyond its original proposal (from approximately 170 to 220 sites) in order to add coverage and expand E-911 benefits to more remote portions of Alaska. If ACSW must retain its analog equipment until 2010, it will be forced to put more and more funds toward operating and maintaining this poorly functioning network instead of toward adding more CDMA sites and improving features and functions on its expanding digital network.

V. Conclusion

The Petitioners have failed to demonstrate a need for their request and have failed to show that extending the analog sunset is in the public interest. An extension would unduly burden the cellular industry by requiring continued operations and maintenance of obsolete, poorly functioning equipment for a very limited number of end-users. Further, analog retention would harm consumers by delaying deployment of important public safety capabilities and advanced technologies and services. With viable alternatives to an extension available, the Petitioners' request is unnecessary and outside the overall public interest. Therefore, ACSW respectfully requests that the Commission deny the petition of AICC and ADT.

/s/

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