

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

In the Matter of)	
)	
Section 68.4 of the Commission's Rules)	WT Docket No. 01-309
Governing Hearing Aid-Compatible)	
Telephones)	
)	
Petition for Temporary and Limited)	
Waiver of Section 20.19(d)(2))	
of the Commission's Rules)	

**Amendment to Petition for Temporary and Limited Waiver
of Section 20.19(d)(2) of the Commission's Rules**

Long Lines Wireless LLC d/b/a Long Lines Wireless (“Long Lines”), 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 amends its September 18, 2006 Petition for Temporary and Limited Waiver (“Petition”) of Section 20.19(d)(2) of the Federal Communications Commission’s (“FCC” or “Commission”) rules.² In its September 18, 2006 Petition, Long Lines requested a limited waiver of the deadline requirement that Long Lines offer at least two T-rated handsets by September 18, 2006, and requested additional time to obtain the handsets until January 1, 2007, to meet that requirement. Long Lines hereby amends its Petition to seek relief for an additional three weeks (25 days), or until January 26, 2007, the date when Long Lines was able to acquire and offer for sale two T-rated GSM handsets, thereby meeting the FCC’s requirement.

¹ 47 C.F.R. §§ 1.3 and 1.925.
² 47 C.F.R. § 20.19(d)(2).

I. Long Lines Was Unable to Obtain Two T-rated Handsets until January 26, 2007.

As noted in a June 1, 2007 and a June 27, 2007 letter to the FCC, Long Lines acquired and offered for sale the T-rated Motorola V3i (FCC ID# IHDT56GW1) on November 1, 2006. On January 26, 2007, Long Lines acquired and offered for sale the Sony Ericsson W710 (FCC ID# PY7AF052041) thereby meeting the FCC's requirement that Long Lines offer for sale at least two T-rated handsets. Unfortunately, as explained below, Long Lines was unable to acquire the second handset prior to January 1, 2007, the date by which it originally anticipated being able to acquire the two handsets, due to the continued unavailability of the handsets from the manufacturer. Accordingly, Long Lines seeks limited additional waiver and extension relief, *nunc pro tunc*, from Section 20.19(d)(2) to cover the three weeks until January 26, 2007, the time when Long Lines was able to acquire the second T-rated handset and meet the FCC requirement that Long Lines offer for sale two T-rated GSM handsets.³

As Long Lines pointed out in its September 18, 2006 Petition, Long Lines is a small, rural commercial mobile radio service ("CMRS") provider that depends upon secondary market handset wholesalers for access to new handsets. Long Lines relies on Brightpoint, Brightstar US, Inc. ("Brightstar"), and similar handset vendors who sell a wide array of handsets from different manufacturers. As the FCC is aware, even large, nationwide wireless carriers acknowledge that they can only indirectly affect the availability of HAC phones from vendors.⁴ Long Lines, as a small rural carrier is given low priority by wireless handset vendors in fulfilling wireless handset

³ While Long Lines already notified the FCC of its compliance with the two T-rated GSM handset requirements by letter of June 1, 2007, and June 27, 2007, Long Lines submits this Amendment out of an abundance of caution to ensure that the record before the FCC is complete. The FCC has granted waivers *nunc pro tunc* where special circumstances particular to smaller carriers may warrant relief. See *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petitions for Waiver of Enhanced 911 Phase II Requirements*, DA 07-1217(March 09, 2007).

⁴ Cingular Wireless LLC Petition for Waiver of Section 20.19(c)(3)(i)(A) of the Commission's Rules, WT Docket 01-309 (August 5, 2005) ("*Cingular Petition*").

orders.⁵ In spite of this fact, Long Lines was able to acquire and sell T-rated handsets just four months after the September 18, 2006 deadline.⁶

II. Long Lines Satisfies the Relevant Standards for Waiver of the Commission's Rules.

As set forth in its Petition of September 18, 2006, Long Lines satisfies the FCC's standard for grant of a waiver. Under Section 1.3 of its rules, the Commission may waive any provision of its rules if good cause is shown.⁷ The FCC has previously recognized that waiver grant is in the public interest where, as here, compliance with a particular regulation is dependent on the availability of equipment from manufacturers.⁸ Long Lines consistently worked with its vendors to obtain the handsets and believed it could obtain them within its originally requested time frame, *i.e.*, by January 1, 2007. However, Long Lines was not able to obtain the handsets any earlier than the date Long Lines actually received them. Thus, Long Lines acquired its second T-rated handset as soon as its vendor made them available. The Commission has previously recognized that HAC-compliant handsets are not delivered to smaller carriers as quickly as they are delivered to larger carriers.⁹ Therefore, for the same reasons Long Lines set forth in its Petition, Long Line's requested waiver as amended is consistent with the Commission's recognition that compliance deadlines should be linked to the availability of manufacturer equipment.¹⁰

⁵ 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 ¶¶ 17-21 (2002).

⁶ Long Lines instant request for relief covers only three weeks. Such requests have been granted in the past. *See in re Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones*, WT Docket No. 01-309, *Petitions for Waiver of Section 20.19 of the Commission's Rules*, Memorandum Opinion and Order, FCC 07-51 at ¶ 21 (April 11, 2007) ("*2007 HAC Waiver Order*").

⁷ 47 C.F.R. § 1.3.

⁸ *See, e.g., 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 (2000) ("*E911 Fourth MO&O*"); *Telephone Number Portability, Petitions for Extension of the Deployment Schedule for Long-Term Database Methods for Local Number Portability, Phase II*, 13 FCC Rcd 9564 (1998); *Policies and Rules Concerning Operator Service Providers*, 5 FCC Rcd 4630 (1990).

⁹ *2007 HAC Waiver Order* at ¶ 21.

¹⁰ *See, e.g., Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992; Compatibility Between Cable Systems and Consumer Electronics Equipment*, 9 FCC Rcd 1981 ¶¶ 76-77 (1994) (modifying a proposed compliance deadline to account for the unavailability of necessary equipment).

Section 1.925(b)(3) of the Commission's rules sets out the general standards for determining when a waiver should be granted in Wireless Telecommunications Bureau proceedings:

The Commission may grant a request for waiver if it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.¹¹

Under both of these standards, grant of the amended waiver is warranted. The Commission in the past has concluded that, in certain instances, the public interest is served by granting a carrier a *de minimis* extension of the general rule.¹² As Long Lines seeks only an additional three week extension of the relief originally requested, application of the Section 20.19(d)(2) handset deadline to Long Lines would be inequitable in light of the lack of availability of T-rated HAC compliant handsets, a factor outside of Long Lines' control. Moreover, in evaluating waiver requests, the FCC has consistently considered challenges unique to small carriers.¹³ Thus, for the reasons set forth in its Petition, and as set forth herein, Long Lines' request is consistent with past precedent, an accommodation to marketplace realities, and in accord with the FCC's Section 1.925(b)(3)(ii) waiver standard.¹⁴

¹¹ 47 C.F.R. § 1.925(b)(3).

¹² 2007 HAC Waiver Order at ¶¶ 9 and 55 (finding that granting a short extension of a HAC deadline would serve the public interest and not "unduly deprive" wireless subscribers of access to HAC-compatible handsets).

¹³ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Request for Additional Limited Waiver and Extension of the Handset Penetration Deadline of the Commission's Phase II E911 Rules, 22 FCC Rcd 1049 (2007).

¹⁴ 2007 HAC Waiver Order at ¶ 21.

III. Conclusion

Based on the foregoing, Long Lines amends its September 18, 2006 Petition to request a temporary and limited waiver of Section 20.19(d)(2) until January 26, 2007, the date Long Lines was able to acquire the second T-rated handset and become compliant, as set forth herein.

Respectfully submitted,

Long Lines Wireless LLC
d/b/a Long Lines Wireless

By: _____/s/_____

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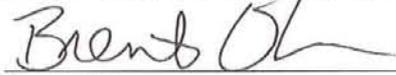
Dated: September 20, 2007

Its Attorneys

DECLARATION OF BRENT OLSON

I, Brent Olson, do hereby declare under penalty of perjury, the following:

1. I am the Chief Financial Officer of Long Lines Wireless LLC d/b/a Long Lines Wireless.
2. I have read the foregoing "Amendment to Petition for Temporary and Limited Waiver of Section 20.19(d)(2) of the Commission's Rules." I have personal knowledge of the facts set forth herein, and believe them to be true and correct.



Brent Olson

9-20-2007

Date