



Law Offices of Bennet & Bennet, PLLC

Maryland

4350 East West Highway, Suite 201
Bethesda, Maryland 20814
Tel: (202) 371-1500
Fax: (202) 371-1558

District of Columbia

10 G Street NE, Suite 710
Washington, DC, 20002

Caressa D. Bennet*

Michael R. Bennet

Gregory W. Whiteaker

Marjorie G. Spivak*

Donald L. Herman, Jr. +

Howard S. Shapiro †

Kenneth C. Johnson ‡

Technical Consulting Services

David A. Fritz

Judy Y. Deng

James C. Egyud

*Admitted in DC & PA Only

+Admitted in DC & AL Only

†Admitted in DC, VA & FL Only

‡Admitted in DC & VA Only

December 17, 2007

Via ECFS

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 01-309

**CT Cube, Inc. d/b/a West Central Wireless
Lamar County Cellular, Inc.
Texas RSA 7B3, LP d/b/a Peoples Wireless
TMP Corp. and TMP Jacksonville, LLC d/b/a Simmetry
Communications**

Dear Ms. Dortch:

Pursuant to a December 11, 2007 request by Federal Communications Commission (“FCC” or “Commission”) staff, and on behalf of CT Cube, Inc. d/b/a West Central Wireless (“CT Cube”), Lamar County Cellular, Inc. (“Lamar”), Texas RSA 7B3, LP d/b/a Peoples Wireless (“Texas RSA 7B3”), and TMP Corp. and TMP Jacksonville, LLC d/b/a Simmetry Communications (“TMP Companies”), this letter clarifies certain information provided to the FCC concerning the status of compliance with Section 20.19(d)(2) of the Commission’s hearing aid compatibility (HAC) Rules.¹ CT Cube, Lamar, Texas RSA B3, and the TMP Companies request that any outstanding requests for waiver reflect their respective clarifications contained herein.

**CT Cube, Inc.
 (“CT Cube”)**

In its December 11, 2007 correspondence, FCC staff asked the following:

In its waiver petition and response to the LOI, CT Cube claims it offered the Motorola model V3i handset as of 10/5/06, and the Nokia model 6126h handset as of 10/18/06.

¹ 47 C.F.R. § 20.19(d)(2).

December 17, 2007

Page 2 of 5

The Nov. 2006 status report, however, does not indicate that CT Cube was in compliance with the t-coil handset requirement and includes the Motorola model V3 handset and Nokia model 6126 handset, two handset models that are not t-coil compliant. Please provide an explanation for this apparent discrepancy between these filings.

In its November 17, 2006 report, CT Cube provided a list of handsets that it believed were HAC compliant. At that time, CT Cube was in the habit of referring to certain popular handsets that it offered for sale by their basic model numbers without always providing additional suffixes or FCC ID numbers.²

In its response to the August 13, 2007 LOI requesting the FCC ID numbers of the handsets CT Cube offered for sale, CT Cube discovered that the “Motorola V3” handset and the “Nokia 6126” handsets that it had reported on its November 17, 2006 Report were, based on their FCC ID numbers, the T-rated V3i and 6126(h) handsets.

Lamar County Cellular, Inc.
(“Lamar”)

In its December 11, 2007 correspondence, FCC staff asked the following:

In its waiver petition and response to the LOI, Lamar claims it offered the Motorola model V3i handset as of 9/13/06, and the Nokia model 6126h handset as of 10/26/06. The Nov. 2006 status report, however, does not indicate that Lamar was in compliance with the t-coil handset requirement and includes the Motorola model V3 handset and Nokia model 6126 handset, two handset models that are not t-coil compliant. Please provide an explanation for this apparent discrepancy between these filings.

Like similarly situated companies at the time, when Lamar submitted its November 17, 2006 report, it did not provide the letter suffixes or FCC ID numbers for the Motorola V3 and Nokia 6126 handsets that it listed. Both of these handsets were best sellers and Lamar was in the habit of asking its handset vendors for the latest versions of the “V3” and “6126.”

In its response to the August 13, 2007 LOI requesting the FCC ID numbers of the handsets Lamar offered for sale, Lamar discovered that the “Motorola V3” handset and

² As the FCC is aware, requiring the use of FCC ID numbers should eliminate the need for clarifications such as this in the future. *See in re Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 07-250, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid Compatible Telephones, WT Docket No. 01-309, *Petition of American National Standards Institute Accredited Standards Committee C63 (EMC) ANSI ASC C63TM*, Second Report and Order and Notice of Proposed Rulemaking, FCC 07-192 at ¶ 67 (November 7, 2007) (“2007 HAC Report and Order and NPRM”).

December 17, 2007

Page 3 of 5

the “Nokia 6126” handsets that it had reported on its November 17, 2006 Report were, based on their FCC ID numbers, the T-rated V3i and 6126(h) handsets.

**Texas RSA 7B3, LP d/b/a Peoples Wireless
 (“Texas RSA 7B3”)**

In its December 11, 2007 correspondence, FCC staff asked the following:

In its waiver petition and response to the LOI, Texas RSA 7B3 claims it offered the Motorola model V3c handset (approved under FCC ID IHDT56FT1) as of 4/1/06. The Nov. 2006 status report, however, does not list the model V3c, but rather the non-compliant model V3. Also, FCC ID IHDT56FT1 first received approval for t-coil compliance on 8/31/06. Please provide explanations for these apparent discrepancies.

Like many small carriers, Texas RSA B3 depends upon the secondary handset market for acquiring popular handsets such as the Motorola V3 and the related RAZR family of handsets. At the time Texas RSA B3 filed its November 15, 2006 Report, it did not refer to its handsets beyond their basic nomenclature, leaving off suffixes and FCC ID numbers.

In its August 23, 2007 response to the August 13, 2007 LOI requesting the FCC ID numbers of the handsets Texas RSA B3 offered for sale, Texas RSA B3 noted that the “Motorola V3 (RAZR)” handset that it had reported on its November 15, 2006 Report was, based on its FCC ID number, the T-rated V3c handset. In its response to the LOI, Texas RSA B3 reported that it had first received the V3c on April 1, 2006 and, at the time of its response, assumed that the V3c was T-rated in April 1, 2006 based on its current status as a T-rated handset.

The Commission is aware that there is no “single clear, current record” associated with the FCC ID number for a particular handset.³ As a result, it can be difficult to ascertain the exact date by which a handset became HAC compliant. While the Motorola V3c handsets that Texas RSA B3 began selling on April 1, 2006 may have been capable of complying with Section 20.19(d)(2) of the Commission’s Rules, in recognition of the fluid and oftentimes confusing nature of HAC ratings, Texas RSA B3 augments the record with an August 23, 2006 invoice (Texas RSA B3 Attachment 1) reflecting Texas RSA B3’s receipt of Motorola V3c handsets on that date that were presumably “T4” rated based on Motorola’s July 18, 2006 Report to that effect submitted to the FCC on August 31, 2006. In addition, Texas RSA B3 has provided an invoice documenting its receipt of additional T4-rated Motorola V3c handsets on October 25, 2006 (Texas RSA B3 Attachment 2).

³ See 2007 HAC Report and Order and NPRM at ¶ 73.

December 17, 2007

Page 4 of 5

Like the FCC, which acknowledges the “shortcomings” of even its own databases,⁴ Texas RSA B3 is unable to ascertain the exact date by which the Motorola V3c handsets it began selling on April 1, 2006 became compliant with Section 20.19(d)(2). However, it is almost certain that the V3c handsets Texas RSA B3 received on August 23, 2006, *after* the date by which Motorola reported that such handsets were T4-rated, were in fact T-rated. Further, the V3c handsets that Texas RSA B3 ordered on October 25, 2006 were undeniably T-rated.

**TMP Corp. and TMP Jacksonville, LLC d/b/a Symmetry Communications
 (“TMP Companies”)**

In its December 11, 2007 correspondence, FCC staff asked the following:

- a. *The Nov. 2006 status report indicates that TMP serves rural Illinois, whereas the Nov. 2007 status report indicates that TMP serves rural Missouri. Please clarify which of these is correct.*
- b. *In its waiver petition and response to the LOI, TMP claims it offered the Nokia model 6126h handset as of 10/11/06. The Nov. 2006 status report, however, does not include the compliant Nokia model 6126h handset, but rather the non-compliant LG model 1400i handset. Please explain why the Nokia model 6126h handset was not claimed on the Nov. 2006 status report.*
- c. *In its waiver petition and response to the LOI, TMP claims it offered the Motorola model V3i handset (approved under FCC ID IHDT56GW1) as of 1/31/06. This FCC ID was not approved for t-coil compliance by the FCC until 8/3/06. Please explain this apparent discrepancy.*

The TMP Companies clarify that they serve both rural Illinois *and* rural Missouri and future filings will reflect this fact.

The TMP Companies listed the handsets that they believed were HAC compliant on their November 15, 2006 Report. At that time, based on a lack of reliable information concerning HAC ratings,⁵ the TMP Companies were under the impression that the LG 1400i was HAC compliant and were unaware that the 6126(h) that they carried was indeed HAC compliant.

Although the TMP Companies began offering for sale the Motorola V3i on January 31, 2006, they understand that Motorola did not certify that the V3i was T-rated until August 3, 2006. The earliest that the TMP Companies received T-rated Motorola V3i handsets for sale (after August 3, 2006) was on October 12, 2006 when they received 65 Motorola V3i handsets with FCC ID IHDT56GW1.

⁴ *Id.* at ¶ 74.

⁵ *Id.* at ¶ 73.

December 17, 2007

Page 5 of 5

In order to further prove that they were offering for sale certified T-rated Motorola V3i handsets after August 3, 2006, the TMP companies went to great effort to track down a customer who was using a Motorola V3i that the TMP Companies received on October 26, 2006 (TMP Companies Attachment 1). The IMEI number of that customer's handset (351538011228479) was entered into the TMP Companies "Invoice for Physical Inventory." (TMP Companies Attachment 2) on October 26, 2006. Attached is a photocopy of the customer's handset from the V3i handset inventory received on October 26, 2006 with the IMEI number and FCC ID IHDT56GW1 (TMP Companies Attachment 3).⁶

Should you have any questions regarding this matter, please contact the undersigned counsel.

Respectfully submitted,

/s/

Kenneth C. Johnson

cc: Aaron Goldschmidt
Joseph Levin
Kathryn Berthot

U:\HAC FCC Request 2007\December07\HAC_Clarifications07.Dec17kj.doc

⁶ TMP Companies counsel has the original photocopy on file.



PACKING LIST
 601 S. Royal Lane
 Coppell, TX 75019
 1-800-622-9110

SALES ORDER NO.	12678620-000 80
DOCUMENT DATE	08/23/06
PAGE NO.	
BRANCH/PLANT	CARROLLTON
CUSTOMER NO.	2426
SALESPERSON	ALASJ 00008061

B TEXAS RSA 7B3, INC
I P.O. BOX 1206
L DBA PEOPLES WIRELESS
L ATTN: AMBER PECKHAM
 QUITMAN TX 75783
T
O

S PEOPLES CELLULAR
H 102 N. STEVENS
I QUITMAN TX 75783
P
T
O

DATE SHIPPED	CUSTOMER ORDER NO.	F.O.B.	U/A	SHIPPING INSTRUCTIONS
8/22/06	2426			Deliver Economy PPD&ADD

LN	DESCRIPTION	ITEM NUMBER	UM	SHIPPED	B/O	UNIT PRICE	EXTENDED AMOUNT
1	PEO MOT HHP CDMA V2C PEOMOTV3C SERIAL# 05215151087 05215150939 05215151042 05215151129 05215149902 05215149915	144757 05215150881 05215151130	EA	10 05215150948 05215151121			JPC: 000000000000000
2	FREIGHT Freight INSURANCE	FRT INS	EA EA	1 1			JPC: 000000000000000 JPC: 000000000000000
TERMS		COPY CODE		TOTAL			
Net 30		NP					

Rec 8-23-06
ASJ

THIS SALE IS SUBJECT TO ALL THE TERMS AND CONDITIONS APPEARING ON THE REVERSE SIDE HEREOF. ACCEPTANCE OF ANY OF THE CORRESPONDING GOODS CONSTITUTES AGREEMENT TO ALL OF SUCH TERMS AND CONDITIONS.

MERCHANDISE CANNOT BE RETURNED WITHOUT OUR PRIOR AUTHORIZATION
 Any shortages or discrepancies concerning this order must be reported to CellStar, Ltd. within 3 days.



PACKING LIST
 601 S. Royal Lane
 Coppell, TX 75019
 1-800-622-9110



SALES ORDER NO.	12974367-001 SO
DOCUMENT DATE	10/24/06
PAGE NO.	
BRANCH/PLANT	CARROLLTON
CUSTOMER NO.	2435
SALESPERSON	ALASJ 00008061

B TEXAS RSA 7B1, INC
I P.O. BOX 1206
L DBA PEOPLES WIRELESS
L ATTN: AMBER PECKHAM
 QUITMAN TX 75783
T
O

S PEOPLES CELLULAR
H 102 N. STEVENS
I QUITMAN TX 75783
P
T
O

DATE SHIPPED	CUSTOMER ORDER NO.	F.O.B.	U/A	SHIPPING INSTRUCTIONS
10/24/06	2435			Deliver Economy PPD&ADD

LN	DESCRIPTION	ITEM NUMBER	UM	SHIPPED	B/O	UNIT PRICE	EXTENDED AMOUNT
1	PEO MOT HHP CDMA V3C PEOMOTV3C SERIAL# 02712210834 02712209933	144757 02712210863	EA	3			UPC: 00000000000000
2	PEO MOT HHP CDMA V323 PEOMOTV323 SERIAL# 02711537913 02711578018 02711578191 02711548686 02711577235 02711577262 02711577619 02711577175 02711576082 02711577538	144983 02711579411 02711577887 02711577602 02711574923 02711579538	EA	20			UPC: 00000000000000
6	FREIGHT Freight	FRT	EA	1			UPC: 00000000000000
7	INSURANCE	INS	EA	1			UPC: 00000000000000

Handwritten:
 Rec'd
 10/24/06
 [Signature]

Net 30	TERMS	COPY CODE	NP	TOTAL
--------	-------	-----------	----	-------

MERCHANDISE CANNOT BE RETURNED WITHOUT OUR PRIOR AUTHORIZATION

TMP Companies Attachment 1



BRIGHTSTAR US, Inc.
 1001 Technology Way
 Libertyville, IL 60048
 Phone: (877) 727-4448
 Fax: (847) 573-1041

INVOICE

Shipper ID OPS0300645
 Customer ID TMP10004
 Invoice No. OPI0291862
 Date 10/25/2006
 Sales Order No. OPO0285115

BILL TO:		SHIP TO:	
ANDREW HOWE TMP Corp. 529 Hampshire St Suite 200 Quincy, IL 62301		TMP CORP 529 Hampshire St Suite 200 Quincy, IL 62301	
F.O.B. POINT	SHIP VIA	ORDERED BY	P.O. NO.
Ex-Works 1	FedEx Ground	A. HOWE	7-00709
ORDER DATE	TERMS	SALES PERSON	WHSE
10/20/2006	NET 30	Michael Pidde	000 Main Warehouse

Notes:

TrackingNo.

00057326001002515355 253374235489931
 253374235489924 253374235489917

Page 1 of 1

Qty Shipped	Qty BackOrd	Model/Item No.	Description	Date Shipped	Unit Price	Extended Price
10.00	0	NV3—GS915DSMM-10	EACH	10/25/2006	179.85	1,798.50
			MOT V3 SIMMETRY - BLACK W/ETCHING	120.1079		
25.00	0	NV3I—GS915DSMM-00	EACH	10/25/2006	229.85	5,746.25
			MOT V3I SIMMETRY- COSMIC BLUE	120.1082		
0	10	NV3—GS915DSMM-00	EACH			
			MOT V3 SIMMETRY - COSMIC BLUE W/ETCHING			
0	20	NU6—GS915DSMM-10	EACH			
			MOT U6 PEBL SIMMETRY - TEAL			
**	INSURANC	Insurance			22.63	

Material Received		Sales Total	7,544.75
Quantity Checked		Shipping & Handling	22.82
Prices Approved		Misc. Charges **	22.63
Extensions Checked		Tax Total	0.00
Payments Approved			7,590.20
		Less Paid Amount	0.00
		TOTAL	7,590.20

Vendor No.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

Invoice #	Invoice Date	Customer Account #	Payment Due	Invoice Total
OPI0291862	10/25/2006	TMP10004	11/24/2006	7,590.20

PLEASE PUT YOUR CUSTOMER ACCOUNT NO. AND INVOICE NO. ON YOUR CHECK FOR PROMPT PROCESSING

ANDREW HOWE
 TMP Corp.
 529 Hampshire St Suite 200
 Quincy, IL 62301

PLEASE REMIT PAYMENT TO:
 BRIGHTSTAR US INC.
 P.O. BOX 534204
 ATLANTA, GA 30353-4204

Brightstar's acceptance of your order is expressly limited to the terms and conditions contained in the Brightstar Confidential Credit Application & Sales Agreement that you signed. Brightstar specifically rejects any additional or conflicting terms contained in your documents. The Confidential Credit Application & Sales Agreement is the exclusive statement of terms and conditions between the parties with respect to this order.



BRIGHTSTAR US
 1001 Technology Way
 Libertyville, IL 60048
 Phone: (877) 727-4448
 Fax: (847) 573-1041

PACKING LIST

Shipper ID OPS0300645
 Sales Order No OPO0285115
 Order Type Sales Order
 Customer ID TMP10004

58

BILL TO:	SHIP TO:
TMP Corp. 529 Hampshire St Suite 200 Quincy, IL 62301 United States	TMP CORP 529 Hampshire St Suite 200 Quincy, IL 62301 United States

Page 1 of 1

F.O.B. POINT	SHIP VIA	ORDERED BY	CUSTOMER P.O. NO.		
Ex-Works 1	FEDEX GROUND	A. HOWE	7-00709		
ORDER DATE	TERMS	SALES PERSON	SITE	SHIP COMPLETE	
10/20/2006	30-NET 30	MPI	000	N	
LINE	PART NUMBER	QUANTITY	UNITS	QTY SHIPPED	QTY BO
00001	NV3---GS915DSMM-10 MOT V3 SIMMETRY - BLACK W/ETCHING	10	EACH	10	0
00002	NV3I---GS915DSMM-00 MOT V3I SIMMETRY- COSMIC BLUE	25	EACH	25	0

Thank you for placing your order with Brightstar! We are committed to ensuring your Brightstar experience exceeds your expectations. This document provides you with your purchase order number, product model numbers and serial numbers. If you have any questions about this or anything else regarding your order, please do not hesitate to contact your account representative at 1-877-7BRIGHT. We look forward to working with you again soon!

10/20/06

<u>Part Number</u>	<u>Barcode</u>	<u>Quantity</u>	<u>Total Cost</u>
97RAZRBL	351970011812368	1	179.85
97RAZRBL	351970011812384	1	179.85
97RAZRBL	351970011813101	1	179.85
97RAZRBL	351970011813580	1	179.85
97RAZRBL	351970011813606	1	179.85
97RAZRBL	351970011813614	1	179.85
97RAZRBL	351970011813622	1	179.85
97RAZRBL	351970011813630	1	179.85
97RAZRBL	351970011813648	1	179.85
97RAZRBL	351970011814083	1	179.85
97V3i	351538011228446	1	229.85
97V3i	351538011228479	1	229.85
97V3i	351538011228610	1	229.85
97V3i	351538011228628	1	229.85
97V3i	351538011228636	1	229.85
97V3i	351538011228685	1	229.85
97V3i	351538011228743	1	229.85
97V3i	351538011228800	1	229.85
97V3i	351538011228818	1	229.85
97V3i	351538011228826	1	229.85
97V3i	351538011230483	1	229.85
97V3i	351538011230491	1	229.85
97V3i	351538011230640	1	229.85
97V3i	351538011230665	1	229.85
97V3i	351538011231218	1	229.85
97V3i	351538011231283	1	229.85
97V3i	351538011231325	1	229.85
97V3i	351538011231333	1	229.85
97V3i	351538011231341	1	229.85
97V3i	351538011231770	1	229.85
97V3i	351538011231788	1	229.85
97V3i	351538011231820	1	229.85
97V3i	351538011231838	1	229.85
97V3i	351538011231879	1	229.85
97V3i	351538011231903	1	229.85

Grand Total: 7544.75

24441

TMP Companies Attachment 3

