

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

In the Matter of)	PS Docket No. 07-287
)	
The Commercial Mobile Alert System)	PS Docket No. 08-146

REQUEST FOR WAIVER¹

The Law Offices of Hill & Welch, on behalf of Thumb Cellular, LLC and Agri-Valley Communications, Inc. (“TCLLC”) and pursuant to 47 C.F.R. § 1.925, hereby requests waiver of 47 C.F.R. §10.11 which requires that carriers who voluntarily elected to provide CMAS service deploy that service as of April 7, 2012.² In support, the following is respectfully submitted:

1) TCLLC began its effort to support the development and deployment of the CMAS by executing a CMAS service provision Addendum to its long existing July 3, 2003 service agreement with InterOp Technologies (“InterOp”).³ TCLLC executed the CMAS Service Provision Addendum on July 25, 2011, InterOp executed the Addendum on August 1, 2011, and the Addendum was made effective as of January 1, 2012. TCLLC executed the FEMA Memorandum of Agreement on January 23, 2012 and FEMA counter-signed on various dates from January 23, 2012 through January 31, 2012. As of April 7, 2012 TCLLC had the necessary hardware and software solutions in place to make a CMAS connection to InterOp.

¹ The instant waiver request is prompted by the Commission’s language in the August 3, 2012 *Order*, DA 12-1267, n. 40, which states that “individual carriers may continue to file requests for waiver which we will consider on a case-by-case basis.”

² Agri-Valley is the 100% owner of Thumb Cellular, LLC, licensee of Cellular Station KNKQ268.

³ InterOp also provides SMS, MMS, and WAP services for TCLLC.

2) TCLLC considers that it substantially complied with the Commission's CMAS deployment timeline specified at 47 C.F.R. § 10.11.⁴ This conclusion is made because 1) TCLLC had the necessary CMAS equipment and software in place on its side of the CMAS network and it was ready to provide CMAS service as of the Commission's April 7, 2012 CMAS implementation date,⁵ 2) the delay in provisioning CMAS service was due, in part, to delay involving a third party's effort to meet FEMA's CMAS gateway interconnection requirements,⁶ and 3) the delay in provisioning CMAS service was due, in part, to the fact that FEMA was not in a position to test its CMAS transmission/connection capability.^{7 8}

3) TCLLC respectfully submits that it made a good faith effort to implement CMAS transmission capability in a timely manner and it believes that it has substantially complied with the

⁴ 47 C.F.R. § 10.11 provides:

Notwithstanding anything in this part to the contrary, a participating CMS provider shall begin an 18 month period of development, testing and deployment of the CMAS in a manner consistent with the rules in this part no later than 10 months from the date that the Federal Alert Aggregator and Alert Gateway makes the Government Interface Design specifications available.

While the Commission announced that the Interface Design specifications were available as of December 7, 2009, *see Public Notice*, DA 09-2556, released December 7, 2009, it is Carriers' understanding that refinement, or at least interpretation, of those specifications occurs before interconnection to the FEMA CMAS gateway can occur. Accordingly, it could be reasonably argued that the necessary Interface Design specifications are in not place prior to receipt of FEMA CMAS gateway interconnection approval.

⁵ As of April 7, 2012 TCLLC was offering a CMAS capable handset, Motorola Milestone X2 (MB867).

⁶ It is respectfully submitted that TCLLC would have encountered similar interconnection delays had it dealt with FEMA directly.

⁷ It is TCLLC's understanding that InterOp's CMAS connection to FEMA was completed on or about May 1, 2012 and that the CMAS has been operational since that time.

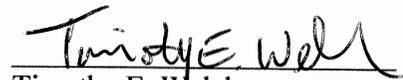
⁸ It is Carriers' understanding that FEMA canceled the March and April 2012 CMAS tests and that the first FEMA CMAS test did not occur until Wednesday May 16, 2012 so TCLLC believes that its CMAS was ready at the time FEMA first became able to transmit CMAS messages.

Commission's CMAS deployment rules by having the necessary network equipment and software in place on its side and by offering at least one CMAS capable handset. However, there was some unanticipated delay with InterOp's connection to FEMA and it is Carriers' understanding that FEMA was not ready with CMAS transmissions until sometime after April 7, 2012.⁹

WHEREFORE, in view of the information presented herein, it is respectfully submitted that TCLLC has demonstrated that it made a good faith, diligent effort to implement the voluntary CMAS service, that delay was due to third party actions beyond its control, that the CMAS service is operational at this time, and that under the unique circumstances attendant with institution of a new emergency alert service in conjunction with two Federal agencies and a TPP, that good cause has been shown for waiver, to the extent necessary, of the April 7, 2012 CMAS implementation deadline.

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August 10, 2012

Respectfully submitted,
Agri-Valley Communications, Inc.


Timothy E. Welch

Copies sent via e-mail to: Thomas Beers, Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau; Timothy May (FCC Staff)

⁹ While TCLLC considers that it has substantially complied with the Commission's CMAS deployment rules, the instant waiver request is being filed out of an abundance of caution in light of the Commission's August 3, 2012, *Order*, DA 12-1267, which discusses that waiver had been granted to at least one other carrier which relied upon InterOp for connectivity to FEMA's CMAS gateway. TCLLC is concerned that the Commission might see documentation that it too relies upon InterOp and questions might arise about rule compliance so it was determined that the best course was to inform the Commission of the facts from TCLLC's point of view and seek waiver to the extent the Commission considered that waiver was necessary.

CERTIFICATION

I hereby certify under penalties of perjury that I have reviewed the foregoing Request for Waiver and that the facts stated therein are true, accurate, and complete to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'Edwin H. Eichler', written over a horizontal line.

Edwin H. Eichler, President
Agri-Valley Communications, Inc.

August 10, 2012