

**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 WAIVER<sup>1</sup>**

The Law Offices of Hill & Welch, on behalf of Northeast Communications of Wisconsin, Inc. (“NEC”), Nsight Spectrum, LLC,<sup>2</sup> Nsighttel Wireless, LLC,<sup>3</sup> Brown County MSA Cellular Limited Partnership,<sup>4</sup> Wausau Cellular Telephone Company Limited Partnership,<sup>5</sup> Wisconsin RSA No. 4 Limited Partnership,<sup>6</sup> Wisconsin RSA-10 Limited Partnership,<sup>7</sup> Northeast Tower, LLC,<sup>8</sup> and

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<sup>1</sup> 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.”

<sup>2</sup> Nsight Spectrum, LLC is a wholly-owned subsidiary of NEC and it is a license holding entity which received various mobile radio licenses via *pro forma* assignment in March 2011 as described in following footnotes.

<sup>3</sup> Nsighttel Wireless, LLC is a wholly-owned subsidiary of NEC and it is the former licensee of various PCS licenses which were assigned to sister company Nsight Spectrum, LLC via *pro forma* assignment under File No. 0004635397.

<sup>4</sup> Brown County MSA Cellular Limited Partnership is a wholly-owned subsidiary of NEC and it is the former licensee of Cellular Station KNKA547, the license was assigned to sister company Nsight Spectrum, LLC via *pro forma* assignment under File No. 0004634926.

<sup>5</sup> Wausau Cellular Telephone Company Limited Partnership is the licensee of Cellular Station KNKA619 and is under NEC’s control.

<sup>6</sup> Wisconsin RSA No. 4 Limited Partnership is the licensee of Cellular Station KNKN395 and is under NEC’s control.

<sup>7</sup> Wisconsin RSA-10 Limited Partnership is the licensee of Cellular Station KNKN294 and is under NEC’s control.

<sup>8</sup> Northeast Tower, LLC, a wholly-owned subsidiary of NEC, is the former licensee of IG Station WNKX830, the license was assigned to sister company Nsight Spectrum, LLC via *pro forma* assignment under File No. 0004663797. WNKX830 does not provide interconnected service and, therefore, it is not covered by the CMAS rules. *See* 47 C.F.R. § 10.10(d). Accordingly, the “opt in” election filed for Northeast Tower, LLC is hereby withdrawn. Because WNKX830 is not a service covered by the CMAS rules, subscriber notifications regarding CMAS unavailability are not

New-Cell, Inc. dba Cellcom,<sup>9</sup> collectively “Carriers,” 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. In support, the following is respectfully submitted:

1) Carriers began their efforts to support the development and deployment of the CMAS by executing a CMAS service provision Addendum to their long existing (August 2002) service agreement with InterOp Technologies (“InterOp”).<sup>10</sup> Carriers executed the CMAS Service Provision Addendum on December 15, 2011, InterOp executed the Addendum on December 28, 2011, and the Addendum was made effective as of January 1, 2012. Carriers, via New-Cell, Inc., executed the FEMA Memorandum of Agreement on December 22, 2011 and FEMA counter-signed on various dates from December 22, 2011 through January 23, 2012. As of April 7, 2012 Carriers had the necessary hardware and software solutions in place to make a CMAS connection to InterOp.

2) On April 23, 2012 Carriers sent an e-mail to InterOp to inquire about the status of InterOp’s connection with FEMA promptly after learning that FEMA had canceled the scheduled monthly CMAS test for April. InterOp confirmed that FEMA had, in fact, canceled the monthly CMAS test for April.<sup>11</sup> Even after receiving information on or about April 23, 2012 that the InterOp-FEMA CMAS gateway connection was not in place and that FEMA had not yet commenced CMAS test transmissions, Carriers considered that they had substantially complied with the

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required.

<sup>9</sup> New-Cell, Inc. dba Cellcom is a wholly-owned subsidiary of NEC and it acts as the administrative manager for the various licenses under NEC’s control.

<sup>10</sup> InterOp also provides SMS, MMS and OTA services for Carriers.

<sup>11</sup> It is Carriers’ understanding that FEMA also canceled the March 2012 CMAS test and that the first FEMA CMAS test did not occur until Wednesday May 16, 2012.

Commission's CMAS deployment timeline specified at 47 C.F.R. § 10.11.<sup>12</sup> This conclusion was reached because 1) Carriers had the necessary CMAS equipment and software in place on their side and they were ready to provide CMAS service as of the Commission's April 7, 2012 CMAS implementation date,<sup>13</sup> 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,<sup>14</sup> 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.<sup>15</sup>

3) Carriers respectfully submit that they made a good faith effort to implement CMAS transmission capability in a timely manner and they believe that they have substantially complied with the Commission's CMAS deployment rules by having the necessary network equipment and software in place on their side and by offering at least one CMAS capable handset. However, there

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<sup>12</sup> 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 were not in place prior to receipt of FEMA's CMAS gateway interconnection approval.

<sup>13</sup> Prior to April 7, 2012 Carriers were offering a CMAS capable handset, the Motorola Milestone X2, model number MB867.

<sup>14</sup> It is respectfully submitted that Carriers would have encountered similar interconnection delays had they dealt with FEMA directly.

<sup>15</sup> By letter dated May 21, 2012, InterOp informed Carriers that the CMAS connection to FEMA was completed as of May 1, 2012 and the CMAS has been operational since that time and Carriers believe that their CMAS was ready at the time FEMA first became able to transmit CMAS messages.

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.<sup>16</sup>

WHEREFORE, in view of the information presented herein, it is respectfully submitted that Carriers have demonstrated that they made a good faith, diligent effort to implement the voluntary CMAS service, that delay was due to third party actions beyond their 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,  
Northeast Communications of Wisconsin, 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)

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<sup>16</sup> While Carriers consider that they have 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. Carriers are concerned that the Commission might see documentation that they too rely 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 Carriers' 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 cursive script, reading "James W. Lienau". The signature is written in black ink and is positioned above a horizontal line.

James W. Lienau  
Vice President of Technical Services  
Northeast Communications of Wisconsin, Inc.

August 10, 2012