

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications)	PS Docket No. 11-153
)	
Framework for Next Generation 911 Deployment)	PS Docket No. 10-255
)	
Petition of United Wireless Communications, Inc., and WestLink Communications, L.L.C. , for a Limited Waiver of Section 20.18(n)(7) of the Commission’s Rules.)	
_____)	

PETITION FOR LIMITED WAIVER

United Wireless Communications, Inc. (“UWC”), and WestLink Communications, L.L.C. (“Westlink”) (together, “Petitioners”), by their undersigned attorneys, and pursuant to Section 1.3 of the Federal Communications Commission’s (“FCC” or “Commission”) rules,¹ respectfully request a limited waiver of Section 20.18(n)² of the Commission’s regarding the provision of bounce-back messages to wireless customers sending text messages to 911. Specifically, Petitioners request a waiver only of Section 20.18(n)(7),³ which requires them to provide an automatic bounce-back message to any customer roaming on their networks.

As further explained below, although Petitioners can provide bounce-back messages to their own subscribers, they cannot reliably provide bounce-back messages to roaming customers. The requirement to provide bounce-back messages to roamers would impose an unduly burdensome obligation on Petitioners, who serves primarily rural areas. Moreover, any attempt

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 20.18(n).

³ 47 C.F.R. § 20.18.(n)(7).

to implement a solution would not work consistently, as there are industry-wide technical standards that must be deployed before bounce-back messages can be sent to roamers. Accordingly, a waiver of Section 20.18(n)(7) is warranted. In support hereof, the following is respectfully shown:

I. BACKGROUND

UWC is a wholly-owned subsidiary of United Telephone Association, Inc., which was organized in 1951 to provide telephone service in the rural area surrounding Dodge City, Kansas. UWC was formed in 2005 for the purpose of providing advanced wireless telecommunications services in Kansas. WestLink is a GSM wireless carrier serving western, central and northeastern Kansas. WestLink is a wholly-owned subsidiary of UWC. The counties served by Petitioners are sparsely populated, with many areas far removed from any towns or other population centers of any significance.

On May 17, 2013, the FCC released its Report Order in the above-captioned dockets in which it promulgated rules that require all Commercial Mobile Radio Service (“CMRS”) providers, and providers of interconnected text messaging services, to provide an automatic “bounce-back” text message in situations where a consumer attempts to send a text message to 911 in a location where text-to-911 is not available.⁴ The new rule goes into effect on September 30, 2013. New Section 20.18(n)(7) requires CMRS carriers to provide bounce-back messages to roamers. Specifically, that section states as follows:

⁴ See *In the Matter of Facilitating the Development of Text-to-911 and Other Next Generation 911 Applications; In the Matter of Framework for Next Generation 911 Deployment*, Report and Order, 28 FCC Rcd 7556 (2013) (“Report and Order”).

A CMRS provider subject to § 20.12 shall provide an automatic bounce-back message to any consumer roaming on its network who sends a text message to 911 when (a) the consumer is located in an area where text-to-911 service is unavailable or (b) the CMRS provider does not support text-to-911 service at the time.

The Commission's Report and Order recognized that waivers of the bounce-back requirement may be necessary.⁵ The parties are able to comply with all other sections of Section 20.18(n) with respect to their own subscribers. If an UWC or a WestLink subscriber attempts to send a text message to 911, Petitioners are able to either route the text message to the appropriate 911 call center, or send an automatic bounce-back message to the subscriber that text-to-911 service is not available. However, Petitioners are currently unable to send text-to-911 bounce-back messages to users that roam on their networks.

Petitioners' networks do not support text-to-911 bounce-back messages for roamers due to the way text-to-911 messages are currently handled by the industry. Petitioners use a third-party vendor to process and route calls and text messages to 911. The vendor has informed Petitioners that that bounce-back messages cannot be sent reliably to roamers, and this situation will continue to exist until industry-wide standards have been adopted regarding the handling of text-to-911 messages. Because text-to-911 bounce-back messages cannot be sent to roamers until new standards are adopted and tested by the wireless industry, Petitioners now file the instant Petition for a Limited Waiver of Section 20.18(n)(7).

II. DISCUSSION

A. Standard for Waiver

Beginning on September 30, 2013, Petitioners will be required to provide text-to-911 bounce-back messages to all users on their networks. As discussed above, the parties are able to

⁵ *Id.* at 7579, ¶ 62.

do so for their own subscribers, but not for roaming customers that subscribe to other carriers. Generally, the Commission's rules may be waived only for good cause shown.⁶ The FCC has consistently ruled that a waiver is appropriate only if the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and that such deviation will serve the public interest.⁷ As demonstrated below, all of these requirements are met.

A. The Policy Objectives of Section 20.18(n)(7) Would Not Be Undermined by Grant of the Requested Limited Waiver

Section 20.18(n) requires all CMRS providers to provide an automatic bounce-back text message to wireless users attempting to send texts to 911. The purpose of the rule is to reduce the risk of a person sending a text message to 911 in an emergency and mistakenly believing that 911 authorities have received it.⁸ Petitioners will be able to comply with the requirement to send bounce-back messages to their own subscribers, and they only seek a limited waiver of the requirement in Section 20.18(n)(7) to send such messages to roamers. Petitioners do not seek an unrestricted waiver of Section 20.18(n)(7). Rather, they seek a waiver of limited duration that is sufficient for the responsible wireless industry organizations to develop standards for text-to-911 messaging, and for the Tier I carriers to test and implement those standards.

Petitioners are small Tier III wireless carriers, and they do not have the necessary influence to dictate industry standards for text-to-911 messaging for roamers. The deployment of text-to-911 bounce-back messaging capabilities requires a coordinated industry effort. It is impossible for Petitioners to comply with Section 20.18(n)(7) unless and until the industry

⁶ 47 C.F.R. § 1.3.

⁷ See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

⁸ Report and Order, 28 FCC Rcd at 7557, ¶ 1.

standards-setting organizations and the Tier I carriers ensure that text-to-911 for roaming customers is properly and successfully implemented first.

B. Special Circumstances Exist Warranting a Limited Waiver Because No Solution is Available to Enable UWC to Comply with Section 20.18(n)(7)

Petitioners have proactively sought to comply with the FCC's bounce-back rule by configuring their networks to implement the text-to-911 requirements for their own subscribers, and contacting their 911 service vendor to discuss the provision of bounce-back messages to roaming customers. As set forth above, the parties' vendor informed them that text-to-911 bounce-back messages cannot be reliably sent to roamers due to how text messages are handled by current wireless network architectures.

A pending Petition for Reconsideration⁹ filed by CTIA confirms Petitioners' understanding that the transmission of bounce-back messages to roamers cannot be done without a coordinate industry effort. In its Petition for Reconsideration, CTIA asserted that the Report and Order imposes technically infeasible obligations on CMRS providers. CTIA noted that both the Joint ATIS/TIA Native SMS to 9-1-1- non-proprietary technical standard and the Commission's Emergency Access Advisory Committee reports have emphasized that the technical feasibility of providing an automatic bounce-back message to a roaming subscriber has not yet been determined.¹⁰ Furthermore, CTIA stated, and the parties have confirmed in their discussions with their 911 service vendor, that current wireless network architectures do not permit serving carriers to provide roamers with an automatic bounce-back message because only the home carrier is capable of generating a bounce-back message for roamers.¹¹

⁹ See Petition for Reconsideration, or in the Alternative, For Clarification of CTIA – The Wireless Association, PS Docket Nos. 11-153 and 10-255, filed June 28, 2013.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 4.

In light of the lack of technical standards for text-to-911 messaging for roaming customer, special circumstances exist warranting a limited waiver of Section 20.18(n)(7) for UWC and WestLink.

C. Grant of a Limited Waiver is in the Public Interest

Rural subscribers have few choices for wireless service providers that focus on their unique needs due to the low population densities and associated low returns on investment for the wireless service provider. It would make no sense to require Petitioner to invest in text-to-911 bounce-back solutions of dubious utility as ATIS and TIA have not yet issued standards to implement text-to-911 for roaming customers. Moreover, Petitioners' 911 service vendor cannot reliably provide text-to-911 bounce-back messages to roamers given that only the home carrier, and not the service carrier, is capable of generating a bounce-back message for roamers.

The public interest is not served by requiring Petitioners to attempt to implement a text-to-911 bounce-back solution that would not work. Rather, the public interest is better served by granting a limited waiver of Section 20.18(n)(7) until such time as the wireless industry has adopted appropriate standards, and Tier I carriers have deployed the necessary infrastructure to ensure that text-to-911 bounce-back capabilities for roaming customers can be successfully deployed for all carriers.

III. CONCLUSION

In its Report and Order, the Commission recognized that waivers may be necessary for carriers that are unable to implement the bounce-back requirement by the September 30, 2013 deadline.¹² UWC and WestLink are able to meet all the requirements of the bounce-back rule, with the exception of the requirement to provide automated bounce-back messages to roaming

¹² Report and Order, 28 FCC Rcd at 7579, ¶ 62.

customers. Given that Petitioners' deployment of bounce-back messages for roamers is necessarily dependent on factors outside of their control, they cannot provide a date certain by which they will be able to comply with Section 20.18(n)(7). Accordingly, Petitioners request a waiver of Section 20.18(n)(7) until six months after the Tier I carriers have all declared that they have successfully deployed automatic text-to-911 bounce-back messages for roaming customers in accordance with standards established by ATIS and/or TIA, or such other industry standards-setting body responsible for the Native SMS to 9-1-1- non-proprietary technical standard or its equivalent. Petitioners further request that the Commission grant such other relief as is necessary and in the public interest.

Respectfully submitted,



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