



PUBLIC NOTICE

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DA 01-673
March 15, 2001

WIRELESS TELECOMMUNICATIONS BUREAU EXTENDS CALEA SECTION 107(c) PRELIMINARY DETERMINATION PERIOD FOR WIRELESS CARRIERS UNTIL SEPTEMBER 30, 2001; SEEKS COMMENT ON ADDITIONAL EXTENSION PETITIONS

Report No. CALEA-004

Preliminary determination date. Pursuant to a recommendation from the Federal Bureau of Investigation's CALEA Implementation Section (CIS),¹ and a letter in support filed by the Cellular Telecommunications & Internet Association,² the Wireless Telecommunications Bureau is extending the preliminary determination period for wireless carriers seeking extensions of the deadline for complying with section 103 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. § 1002, from March 31, 2001, to September 30, 2001.

Section 107(c) of CALEA, 47 U.S.C. § 1006(c), provides that the Commission may, after consulting with the Attorney General, who has delegated this consultative responsibility to CIS, grant petitions by telecommunications carriers for extensions of the date for complying with the assistance capability requirements of section 103 of CALEA. Section 107(c)(2) specifies that the only basis for an extension is that compliance "is not reasonably achievable through application of technology available within the compliance period."

The Commission set out procedures the staff will follow in considering such petitions in CALEA Section 103 Compliance and Section 107(c) Petitions, Public Notice, FCC 00-154 (released April 25, 2000), as modified by Public Notice, DA 00-1231 (released June 5, 2000) (hereinafter CALEA Public Notices). The CALEA Public Notices are available on the Internet at www.fcc.gov/Bureaus/Common_Carrier/Public_Notices/2000/fcc00154.doc and www.fcc.gov/Bureaus/Public_Notices/2000/da001231.doc. In order to allow time for CIS consultation and final Commission action on petitions, the procedures provided that where petitioners submitted facially complete documentation, the Commission

¹ Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, from Leslie M. Szwajkowski, Unit Chief, CALEA Implementation Section, Federal Bureau of Investigation, U.S. Department of Justice (Feb. 16, 2001).

² Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, from Michael F. Altschul, Vice President/General Counsel, Cellular Telecommunications & Internet Association (Feb. 23, 2001).

would make a preliminary determination that an extension through March 31, 2001, was warranted, pending further review. Later, a public notice was released listing extension petitions filed by wireless carriers, and making preliminary determinations with respect to most of those listed. Report No. CALEA-001 (released June 30, 2000) (www.fcc.gov/wtb/csinfo/ReportCALEA-001a.doc).

Since that time, it has become clear that the complexity of the hardware and software wireless carriers need to implement CALEA capability requirements has impeded its availability. As a result, until recently many wireless carriers have been unable to accurately project when they will be CALEA compliant, and in turn CIS has been unable to complete its analysis of significant numbers of wireless petitions. CIS has recommended that the Commission extend the preliminary determination period for wireless carriers until September 30, 2001.

The extended preliminary determination period CIS proposes is grounded in circumstances beyond the control of carriers, CIS or the Commission, and is conducive to the orderly implementation of CALEA. CALEA compliance for certain wireless carriers is not reasonably achievable through the application of available technology by March 31, 2001. Accordingly, the preliminary determination period for those petitioners who received a preliminary determination in Report No. CALEA-001 (released June 30, 2000) (*i.e.*, those listed in List 1 of that public notice) is hereby extended from March 31, 2001, to September 30, 2001, unless earlier revoked by the Commission or superseded by a final determination on the underlying extension request, as described in paragraph 10 of the April 25, 2000, CALEA Public Notice.

Extension petitions and supplements received since June 30, 2000. The wireless telecommunications carriers listed in the attached Appendix have filed petitions with the Commission seeking extensions of the deadline for complying with the capability requirements of section 103 of CALEA, or have supplemented earlier petitions.

The petitioners listed in List 1 of the Appendix have satisfied the requirements set out in the CALEA Public Notices for a preliminary determination that their circumstances warrant an extension of the compliance deadline. Accordingly, these petitioners are deemed to have an extension of the deadline for complying with CALEA section 103 until September 30, 2001, unless earlier revoked by the Commission or superseded by a final determination on the underlying extension request, as described in paragraph 10 of the April 25, 2000, CALEA Public Notice.

The petitioners listed in List 2 of the Appendix have not satisfied the requirements for a preliminary determination, but may do so by supplementing their petitions as described in paragraph 10 or 11 of the April 25, 2000, CALEA Public Notice. Petitioners should note that if they failed to comply with section 103 by the June 30, 2000, deadline and have not received either a preliminary or final determination on their extension petitions, they remain subject to enforcement action under section 108 of CALEA.

Comments regarding the merits of the petitions listed in Lists 1 and 2 of the Appendix must be submitted to the Commission by **April 2, 2001**, and carriers may reply by **April 16, 2001**. An original and five copies of comments and replies must be filed with the Commission; in addition, comments must be served on the carrier(s) to whose petition(s) the comments relate, and replies must be served on the commenter.

The petitioners listed in List 3 of the Appendix were originally listed on the June 30, 2000, public

notice of wireless petitions. At that time they did not satisfy the requirements for a preliminary determination, but they have supplemented their petitions and now qualify. Accordingly, these petitioners are deemed to have an extension of the deadline for complying with CALEA section 103 until September 30, 2001, unless earlier revoked by the Commission or superseded by a final determination on the underlying extension request, as described in paragraph 10 of the April 25, 2000, CALEA Public Notice. Because these petitions were subject to public comment upon their listing in Report No. CALEA-001, further comments will not be accepted.

For further information, contact John Spencer or Susan Kimmel, Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310, jspencer@fcc.gov or skimmel@fcc.gov.

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APPENDIX

LIST 1 PETITIONS:

Americell PA-3 Limited Partnership; Sagir, Inc.

Concho Cellular Telephone Company

Glenn Ishihara, NTCH, Inc.; NTCH-CA, Inc.; NTCH-Colorado, Inc.; NTCH-Idaho, Inc.; RIO-TEL, Inc.

Guam Telephone Authority—Cellular Services

Nextel Partners, Inc.

LIST 2 PETITIONS:

Copper Valley Telephone Cooperative, Inc.; Copper Valley Wireless, Inc.

Nevada Wireless

LIST 3 PETITIONS:

Pine Belt Cellular, Inc.; Pine Belt PCS, Inc.

Texas RSA 1 Limited Partnership dba XIT Cellular