

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

In the Matter of)	
)	
Revision of the Commission's Rules to Ensure)	
Compatibility with Enhanced 911 Emergency)	CC Docket No. 94-102
Calling Systems)	
)	
Petition for Enhanced 911 Phase II Waiver)	
by Zefcom LLC d/b/a Telispire PCS)	

ORDER

Adopted: January 31, 2007

Released: January 31, 2007

By the Deputy Chief, Policy Division, Public Safety and Homeland Security Bureau:

1. On December 28, 2006, Zefcom LLC d/b/a Telispire PCS (Telispire) filed a petition seeking a temporary waiver of Section 20.18(g)(1)(v) of the Commission's rules, which requires carriers employing a handset-based E911 Phase II location technology to have achieved 95% penetration, among their subscribers, of location-capable handsets by December 31, 2005, as that requirement may apply to resellers.¹ By this *Order*, we dismiss Telispire's petition as moot.

2. Telispire is a reseller of wireless services.² Telispire states it believes that Section 20.18(m) of the Commission's rules and the *Scope Order*³ do not require resellers to achieve the 95% location-capable handset penetration benchmark.⁴ Telispire nonetheless requests an extension of time to comply with that benchmark because "the Commission may have a different interpretation of a reseller's obligations" and "out of an abundance of caution."⁵

3. Section 20.18(g)(1)(v) does not apply to resellers. Indeed, Section 20.18(g)(1)(v) applies only to "licensees." This subsection is to be distinguished from other subsections of Section 20.18 that apply to "CMRS providers," defined as including "those entities that offer voice service to consumers by purchasing airtime or capacity at wholesale rates."⁶ Furthermore, Section 20.18(m) ("Reseller obligation")

¹ Zefcom LLC d/b/a Telispire PCS Petition for Temporary Waiver of Section 20.18(m)(1) of the Commission's Rules, CC Docket No. 94-102 (filed Dec. 28, 2006) (Petition).

² Petition at 3.

³ 47 C.F.R. § 20.18(m); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, IB Docket No. 99-67, *Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 25340 (2003) (*Scope Order*) (adopting, *inter alia*, Section 20.18(m)).

⁴ Petition at 1-2.

⁵ *Id.* at 2 n.9.

⁶ 47 C.F.R. § 20.18(a).

requires resellers to provide “access” to E911 and “ensure that all handsets . . . offered to their customers for voice communication and sold after December 31, 2006 are capable of transmitting enhanced 911 information to the appropriate PSAP.” Section 20.18(m) does not otherwise impose a 95% handset penetration requirement.

4. The *Scope Order* also makes clear that the Commission did not impose a handset penetration requirement on resellers. After deciding that resellers will be required to offer access to E911 service, the Commission stated, with respect to resale of services offered by a handset-based carrier, that the December 31, 2006 requirement related to handsets offered by resellers “will only apply to new handset sales, not replacement of existing handsets.”⁷ Accordingly, the 95% location-capable handset penetration requirement is inapplicable to Telispire. Therefore, no rule waiver or extension of time is necessary.

5. ACCORDINGLY, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), that the Zefcom LLC d/b/a Telispire PCS Petition for Temporary Waiver of Section 20.18(m)(1) of the Commission’s Rules, filed on December 28, 2006, IS DISMISSED AS MOOT.

6. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission’s rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey S. Cohen
Deputy Chief, Policy Division
Public Safety and Homeland Security Bureau

⁷ *Scope Order*, 18 FCC Rcd at 25381 ¶ 100.