

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 Calling Systems)	CC Docket No. 94-102
)	
Request for Limited Waiver by SouthernLINC Wireless)	

ORDER

Adopted: January 7, 2009

Released: January 7, 2009

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Order, we address a request for relief, as amended, from the Commission’s wireless Enhanced 911 (E911) Phase II requirements filed by Southern Communications Services, Inc. d/b/a SouthernLINC Wireless (SouthernLINC),¹ a Tier III wireless service provider.² In its Initial Request, SouthernLINC asked that, for the limited purpose of determining compliance with its August 15, 2008 deadline for complying with the 95 percent penetration requirement set out in Section 20.18(g)(1)(v) of the Commission’s rules,³ the Commission permit SouthernLINC to exclude high powered handsets (*i.e.*, 1 watt or greater) used by its public safety and emergency first responder subscribers.⁴ Alternatively, SouthernLINC requested that the Commission grant an additional extension, until June 30, 2009, to achieve 95 percent penetration.⁵ In its Amended Request, SouthernLINC reported that it had achieved 95 percent penetration of location capable handsets on September 8, 2008.⁶ SouthernLINC asks

¹ Request for Limited Waiver by SouthernLINC Wireless, CC Docket No. 94-102 (filed Jul. 18, 2008) (Initial Request); Amendment to Request for Limited Waiver by SouthernLINC Wireless, CC Docket No. 94-102 (filed Sept. 29, 2008) (Amended Request). In support of its Initial Request, SouthernLINC submitted certain information under a request for confidential treatment pursuant to Section 0.459 of the Commission’s rules. Because this Order discusses only that information already made public by SouthernLINC, we need not rule on SouthernLINC’s request at this time. Pending any decision on SouthernLINC’s confidentiality request, we will treat this information as confidential. *See* 47 C.F.R. § 0.459(d)(1).

² Tier III carriers are non-nationwide Commercial Mobile Radio Service (CMRS) providers with no more than 500,000 subscribers as of the end of 2001. *See* Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers, CC Docket No. 94-102, *Order to Stay*, 17 FCC Rcd 14841, 14848 ¶ 22 (2002).

³ 47 C.F.R. § 20.18(g)(1)(v) (requiring, under stated conditions, licensees to achieve 95% penetration among their subscribers of location-capable handsets no later than December 31, 2005).

⁴ Initial Request at 1-2. Pursuant to an earlier order, we granted SouthernLINC relief until August 15, 2008 to achieve 95% penetration. *See* Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Request for Further Limited Waiver by SouthernLINC Wireless, CC Docket No. 94-102, *Order*, 23 FCC Rcd 2003, 2009 ¶ 16 (PSHSB 2008) (*Waiver Order*).

⁵ Initial Request at 2.

⁶ Amended Request at 1.

that, as a result, the Commission extend the existing August 15, 2008 deadline only until September 8, 2008, when it achieved compliance.⁷ In light of achieving the 95 percent benchmark, SouthernLINC also seeks relief from the reporting requirements imposed in the *Waiver Order*.⁸

II. DISCUSSION

2. SouthernLINC achieved 94.85 percent compliance as of July 28, 2008,⁹ and full compliance with the 95 percent benchmark approximately three weeks following its August 15th deadline. We find that the 0.15 percent variance from the 95 percent compliance benchmark coupled with the short delay before SouthernLINC achieved 95 percent compliance constitute a *de minimis* exception and, as a result, we grant, *nunc pro tunc*, SouthernLINC's Amended Request for an extension until September 8, 2008.

3. In light of SouthernLINC's achievement of 95% penetration of location-capable handsets, we also amend the previously-imposed reporting requirements. Specifically, we will require SouthernLINC to file quarterly reports every February 1, May 1, August 1, and November 1, through August 1, 2009, on: (1) the number and status of Phase II requests from PSAPs, including those requests it may consider invalid; and (2) the dates on which Phase II service has been implemented or will be available to PSAPs served by its network.

III. ORDERING CLAUSE

4. Accordingly, IT IS ORDERED that the Amendment to Request for Limited Waiver filed September 29, 2008 by Southern Communications Services, Inc. d/b/a SouthernLINC Wireless IS GRANTED as described herein.

5. This action is take 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

Derek K. Poarch
Chief,
Public Safety and Homeland Security Bureau

⁷ *See id.*

⁸ *See id.* at 1-2, *citing Waiver Order*, 23 FCC Rcd at 2008-9 ¶ 15.

⁹ *See* SouthernLINC Wireless E911 Phase II Quarterly Report (filed Aug. 1, 2008) at 10.