



PUBLIC NOTICE

Federal Communications Commission
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DA 03-1048

Released: April 1, 2003

WIRELESS TELECOMMUNICATIONS BUREAU ACCORDS “PERMIT-BUT-DISCLOSE” EX PARTE STATUS TO PETITION FOR FORBEARANCE FROM E911 ACCURACY STANDARDS IMPOSED ON TIER III CARRIERS

WT Docket No. 02-377

On November 20, 2002, the Tier III Coalition for Wireless E911 (Tier III Coalition) filed a petition, pursuant to Section 10(c) of the Communications Act of 1934, 47 U.S.C. § 160(c), for temporary forbearance from the application of the E911 accuracy and reliability standards of section 20.18(h) of the Commission’s rules, 47 C.F.R. § 20.18(h), to the Commercial Mobile Radio Service (“CMRS”) service provided by Tier III carriers. The Tier III Coalition seeks relief from the enforcement of only the quantitative requirements of section 20.18(h) for the period up to and including December 31, 2005; petitioners do not seek to delay the schedules for Phase II deployment provided by section 20.18(f)-(g) of the rules, 47 C.F.R. § 20.18(f)-(g).

The Tier III Coalition argues that no commercially available Phase II-compliant E911 location system has been identified that can be deployed economically throughout a Tier III Carrier’s entire rural service area, while meeting the accuracy standards required under section 20.18 of the Commission’s rules. Moreover, the Tier III Coalition asserts that there is no support in the record for imposing the same quantitative accuracy standards in sparsely populated rural areas as in densely populated urban areas. The Tier III Coalition argues that forbearance is warranted because economically and technically achievable accuracy standards will be adequate to locate wireless 911 callers in Tier III carriers’ rural service areas and will allow carriers to roll out Phase II location service more quickly throughout their entire service areas, thereby protecting consumers, promoting competition, and assuring that Tier III carriers are not forced to raise their subscribers’ rates inordinately.

On December 17, 2002, the Wireless Telecommunications Bureau asked for public comment on the Tier III Coalition’s Forbearance Petition. *See* Public Notice DA 02-3470. The comment cycle closed on February 10, 2003.

By this Public Notice and pursuant to section 1.1200(a) of the Commission's rules, 47 C.F.R. § 1.1200(a), we announce that this proceeding is governed by permit-but-disclose ex parte procedures that are applicable to nonrestricted proceedings under section 1.1206 of the

Commission's rules, 47 C.F.R. § 1.1206. We believe the public interest will best be served by applying permit-but-disclose ex parte procedures in this case because this proceeding involves broad public policy and safety issues. Further, we note that this ex parte procedure has been applied in recent forbearance cases.

Permit-but-disclose ex parte procedures permit interested parties to make ex parte presentations to the Commissioners and Commission employees and require that these presentations be disclosed in the record of the relevant proceeding. Persons making a written ex parte presentation to the Commissioners or Commission employees must file two copies of the written presentation with the Commission Secretary, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554 no later than the next business day after the presentation for inclusion in the public record, with a cover letter clearly identifying the proceeding and labeling the communication as an ex parte presentation. 47 C.F.R. § 1206(b)(1). Persons making oral ex parte presentations must file a summary of any new information or arguments contained in the presentation and deliver the original and one copy of the memorandum summarizing the new matters presented to the Commission's Secretary no later than the next business day after the presentation and must also file a copy of the summary with the Commissioner(s) or Commission staff involved in the oral presentation. All ex parte filings must reference this Public Notice, and WT Docket No. 02-377.

The Forbearance Petition and copies of the comments, reply comments, and ex partes filed in this matter may be obtained from Qualex, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202) 863-2893. These documents are also available for public inspection and copying during normal reference room hours at the FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554.

In addition to the filing of the required paper copies, parties are encouraged to file an additional copy using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998). Ex partes filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, parties should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, parties should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street S.W., CY-B402, Washington, D.C. 20554 (telephone 202-863-2893; facsimile 202-863-2898) or via e-mail at qualexint@aol.com. A courtesy copy may also be sent to Eugenie Barton, 445 12th Street, S.W., Room 8-B458, Washington, D.C. 20554 or via e-mail at ebarton@fcc.gov.

For further information, contact Eugenie Barton, Wireless Policy Division, Wireless Telecommunications Bureau, at (202) 418- 1310.

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