

ISSUE DATE: January 25, 1999

DOCKET NO. P-5695/M-98-1285

ORDER INITIATING EXPEDITED PROCEEDING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey  
Joel Jacobs  
Marshall Johnson  
LeRoy Koppendrayner  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Minnesota Cellular  
Corporation's Petition to Become an Eligible  
Telecommunications Carrier

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**PROCEDURAL HISTORY**

On September 1, 1998, Minnesota Cellular Corporation (Minnesota Cellular or the Company) filed a petition for designation as an eligible telecommunications carrier (ETC) for the receipt of support from i) the federal universal service program with respect to all areas served by Minnesota Cellular in Minnesota and ii) any state universal service fund to be established under Minn. Stat. §237.16, subd. 9. The Company also requested the Commission for permanent partial variance of Minn. Rule 7811.1400, subp. 2 restricting an ETC designation to either a "telecommunications carrier" or a "telephone company."

On September 22, 1998, U S WEST Communications, Inc. (USWC) filed Comments and Motion to Intervene.

On September 23, 1998, the Commission issued a notice seeking initial comments by September 25 and reply comments by October 15.

On September 25, 1998, the Minnesota Independent Coalition (MIC) and Frontier filed comments and motions to intervene.

On October 15, 1998, the Minnesota Department of Public Service (the Department) and the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed Reply Comments and Minnesota Cellular filed reply comments on October 16, 1998.

The Commission met to consider this matter on January 5, 1999.

## FINDINGS AND CONCLUSIONS

### **I. PETITIONS TO INTERVENE**

USWC, Frontier, and the MIC filed petitions to intervene. Pursuant to Minn. Rules, Part 7829.0800, subp. 5, therefore, these petitions are considered granted since no one has objected to these petitions and the matter has not been referred to the office of Administrative Hearings for contested case proceedings within the 15 day period specified in the cited subpart.

### **II. ETC DESIGNATION FOR PURPOSES OF THE STATE UNIVERSAL SERVICE FUND**

Initially, Minnesota Cellular requested ETC designation for purposes of both the federal **and** state universal service funding. Subsequently, the Company agreed with comments by USWC and the MIC that the Commission should postpone consideration of the Company's ETC eligibility for purposes of the **state** universal service fund until the Commission has determined what services it will require for ETC designation. The Company asked the Commission to stay its request for ETC designation for the purpose of state universal service funding pending Commission action related to commercial mobile radio services (CMRS) providers and the state universal service fund in Docket No. P-999/R-97-609.

The Commission finds that the Company's request is reasonable and will, therefore, limit its consideration at this time to whether the Company should be granted ETC designation for purposes of the **federal** universal service fund.

### **III. EXPEDITED PROCEEDING TO RESOLVE OUTSTANDING ISSUES**

Having reviewed the written and oral comments of the parties, the Commission believes that further development of the issues is required. Because the issues to be resolved appear to involve factual as well as legal and policy matters, the Commission is inclined to initiate an expedited proceeding under Minn. Stat. § 237.61, as recommended by Minnesota Cellular, the MIC, and the Department. No party opposed an expedited proceeding.

An outline of the Commission's expedited proceeding is as follows:

The issues to be resolved in this proceeding will include but not be limited to:

- a. whether Minnesota Cellular provides all the requisite services, own facilities needed to provide those services, and in what study areas served by the rural LECs;
- b. whether designating Minnesota Cellular is in the public interest, particularly in rural telephone company areas; and
- c. whether and to what extent the Commission should vary its rules.

The expedited proceeding will be conducted consistent with the following general guidelines:

1. The Commission will allow discovery pursuant to applicable rules.
2. The Commission will enter an appropriate Order to protect confidential information.
3. The Commission will conduct a procedural conference on February 2, 1999 at 1:30 p.m. in the Commission's Small Hearing Room.
4. Within 30 days of the procedural conference, Minnesota Cellular would submit a verified statement and testimony relating to factual and other issues, including
  - appropriate study area for areas served by rural LECs;
  - whether Minnesota Cellular adequately offers all required universal services;
  - owned facilities used to provide the required services;
  - other issues related to the public interest and eligibility of Minnesota Cellular as an ETC;
5. Within 30 days thereafter, intervening parties will submit statements and testimony.
6. Within 15 days thereafter, Minnesota Cellular will submit a reply statement and supplemental written testimony;
7. Each party may submit an initial brief summarizing the evidence and addressing the legal issues based on the record.
8. The Commission will retain discretion to allow depositions and limited cross examination of witnesses.

### **ORDER**

1. The petitions to intervene filed by USWC, Frontier and the MIC are hereby deemed granted, pursuant to Minn. Rules, Part 7829.0800, subp. 5.
2. Minnesota Cellular's request that the Commission stay consideration of the Company's request for ETC designation for purposes of the **state** universal service fund is granted. Such consideration is stayed pending the Commission's final action in Docket No. P-999/R-97-609.

3. An expedited proceeding to resolve outstanding issues regarding Minnesota Cellular's eligibility as an ETC for purposes of the **federal** universal service fund is hereby initiated. The Commission's expedited proceeding will be conducted consistent with the general outline appearing in the text of this Order.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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