

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of American Cellular  
Corporation's Petition for Designation as an  
Eligible Telecommunications Carrier and  
Redefinition of Rural Telephone Company  
Service Area Requirement

ISSUE DATE: June 14, 2006

DOCKET NO. PT-6458/M-05-1122

ORDER CLARIFYING PRIOR ORDERS

**PROCEDURAL HISTORY**

On February 3, 2006, the Commission issued its ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND REDEFINING SERVICE AREA REQUIREMENT. In that Order, the Commission gave its approval for ACC to assume the rights and duties of an Eligible Telecommunications Carrier (ETC) in various parts of Minnesota, including parts of the service area of some rural telephone companies. ETCs are eligible to receive subsidies from the federal Universal Service Fund to provide affordable telecommunications service to "low-income consumers and those in rural, insular, and high cost areas."<sup>1</sup>

On February 6, ACC filed a letter with the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) informing them of the Commission's decision and of ACC's eligibility to receive universal service funds. But USAC has declined to provide subsidies with respect to ACC's operations in 72 wire centers that no other competitive ETC has sought to serve.

On May 16, 2006, ACC asked the Commission to clarify its prior Orders with respect to the 72 wire centers in question.

The Commission met on June 1, 2006, to consider this matter.

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<sup>1</sup> 47 U.S.C. § 254(b)(3).

## FINDINGS AND CONCLUSIONS

### **I. Background**

#### **A. Telecommunications Act of 1996**

The federal Telecommunications Act of 1996 (the Act)<sup>2</sup> was designed to open the nation's telecommunications markets to competition. Its universal service provisions were designed to keep competition from driving rates to unaffordable levels for low-income consumers and those in rural, insular, and high cost areas by subsidizing carriers identified as serving such customers.

Congress directed the FCC to work with the states through a Federal-State Joint Board to overhaul existing universal service support systems.<sup>3</sup> The Act authorized the states to determine which carriers qualified for universal service funding. The Act's term for these carriers was "eligible telecommunications carriers" (ETCs).<sup>4</sup> Only carriers that have been designated ETCs are eligible to receive these subsidies.<sup>5</sup>

#### **B. Service Areas and Disaggregation**

A carrier must offer and advertise certain basic services throughout any "service area" for which the carrier is designated an ETC.<sup>6</sup> The Act defines "service area" as:

a geographic area established ... for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the [FCC] and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of this title, establish a different definition of service area for such company.<sup>7</sup>

For rural telephone companies,<sup>8</sup> the Act established a default definition of "study area" that comprises the company's entire service area within a state. This default definition excludes a carrier from being designated to serve as an ETC in part, but not all, of a rural company's service area.

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<sup>2</sup> Pub. L. No 104-104, 110 Stat. 56, codified throughout title 47, United States Code.

<sup>3</sup> 47 U.S.C. § 254.

<sup>4</sup> 47 U.S.C. § 214(e).

<sup>5</sup> 47 C.F.R. § 54.201(a)(1).

<sup>6</sup> 47 U.S.C. § 214(e)(1).

<sup>7</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207.

<sup>8</sup> 47 U.S.C. § 251(f).

But the Act provides a remedy for a carrier that seeks ETC designation within part but not all of a rural company's service area. The carrier may ask to change the default definition and "redefine" the service area into multiple smaller areas; the ETC may then seek ETC designation throughout one or more of the smaller areas.<sup>9</sup>

## **II. ACC's Request for Clarification**

USAC is withholding from ACC the universal service funds to serve 72 wire centers served by seven rural telephone companies, even though the Commission's February 3 Order approved ACC's request to be designated an ETC in these areas. These 72 wire centers are served by seven rural telephone companies that were the subject of prior redefinition Orders: Citizens Telecommunications of Minnesota, Inc. (Citizens), Federated Telephone Cooperative (Federated Telephone), Loretel Systems, Inc. (Loretel), Melrose Telephone Co. (Melrose), Mid-State Telephone Co. (Mid-State), Sprint-Minnesota, Inc. (Sprint) and Twin Valley-Ulen Telephone Co., Inc. (Twin Valley-Ulen).

Apparently USAC is not persuaded that the Commission has redefined the seven rural telephone companies' *entire* service areas into their component wire centers. Rather, ACC understands USAC to interpret the Commission's Orders to say that when the Commission grants a carrier's petition to redefine a service area, the Commission redefines only that portion of the service area sought to be served by the petitioner. Under this interpretation, any ETC that would seek designation in any other part of the rural telephone company's service area, without serving the company's entire service area, would need to request additional redefinition.

ACC therefore asks the Commission to clarify the following:

- The entire service areas of Citizens, Federated Telephone, Loretel, Melrose, Mid-State, Sprint and Twin Valley-Ulen have been redefined into their component wire centers.
- The Commission's February 3 Order designated ACC an ETC within the 72 wire centers in question.

## **III. Commission Action**

The Commission will grant ACC's request.

The Commission first addressed the redefinition issue in deciding whether to disaggregate the service area of Frontier Communications of Minnesota, Inc. (Frontier). Applying the Joint Board's criteria, the Commission assented to the ETC's redefinition request. Moreover, the Commission concluded that where redefinition was warranted, public policy favored redefining a company's entire service area into its component wire centers or exchanges:

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<sup>9</sup> While the FCC's consent is required to redefine a rural telephone company's service area, that consent is deemed granted unless the FCC acts to suspend the redefinition within a specified time. 47 C.F.R. § 54.207(c). The record provides no evidence that any redefinition petitions at issue here are under suspension.

[T]he goals of increasing competition, customer choice, new technologies and innovative services would be served if [ETCs] could serve all or part of Frontier's territory. The Commission recognizes that Frontier currently receives no federal high-cost subsidies and that CLECs would currently be able to receive only the same high-cost subsidies that Frontier is eligible to receive. However, the Commission believes that disaggregating at this time is appropriate to avoid delays in the ability of [ETCs] to receive any high-cost universal funding for which Frontier may become eligible.

Delaying disaggregation will delay the designation of federal ETC status for parts of the Frontier territory and may delay competitive local exchange services in those exchanges. Without disaggregation only a CLEC willing and able to serve the entire Frontier study area will be eligible to be designated a federal ETC and be eligible for any federal high-cost subsidies that become available. Further, delaying disaggregation causes uncertainty about the ability to receive any universal service funds in the future and may delay or discourage CLECs from providing service at all in Frontier's service area.

The Commission also agrees that *the Frontier service area should be disaggregated on an exchange by exchange basis as this would allow CLECs which are designated a federal ETC to receive future federal high-cost funds, if any, for those exchanges in which they serve. Frontier is currently a multi-exchange rural telephone company. Frontier's current Minnesota study area is comprised of 45 separate exchanges located in the Southwestern, South Central and the Twin Cities areas of the state. The most logical way to disaggregate is by individual exchange areas. Redefining Frontier's service area into 45 separate service areas based on individual exchanges for ETC designation will promote competition by eliminating a barrier to entry into the universal services market.*<sup>10</sup>

This policy had informed the Commission's subsequent redefinition decisions, including its decisions redefining the service areas of Citizens, Federated Telephone, Loretel, Melrose, Mid-State, Sprint and Twin Valley-Ulen.<sup>11</sup> It is instructive that none of these companies objected to ACC's ETC designation on the grounds that ACC sought to serve an inappropriate part of a company's service

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<sup>10</sup> *In the Matter of an Investigation into the Merits of Disaggregating the Service Area of Frontier Communications of Minnesota, Inc.*, Docket No. P-405/CI-00-79, ORDER DETERMINING THAT FRONTIER'S SERVICE AREA SHOULD BE DISAGGREGATED (September 1, 2000) at 8-9 (emphasis added).

<sup>11</sup> See, for example, *In the Matter of the Petition of Midwest Wireless Communications, LLC, for Designation as an Eligible Telecommunications Carrier (ETC) Under 47 U.S.C. § 214(e)(2)*, Docket No. PT-6153/AM-02-686, ORDER GRANTING APPROVAL AND REQUIRING FURTHER FILING (March 19, 2003); *In the Matter of the Petition of WWC Holding Co., Inc. d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. P-5695/M-04-226, ORDER APPROVING PETITION FOR ETC DESIGNATION (August 19, 2004).

area.

The Commission's February 3 Order acknowledged that –

ACC sought immediate ETC designation for the entire study areas or redefined wire centers served by Qwest, Arrowhead, Arvig, Benton, Blackduck, Callaway, CenturyTel of Minnesota, CenturyTel of Northwest Wisconsin, *Citizens/Frontier*, Consolidated, Crosslake, Eagle Valley, East Otter Tail, Emily, *Federated Telephone*, Federated Utilities, Gardonville, Johnson, *Loretel*, Lowry, *Melrose*, *Mid-State*, *Midwest*, Northern, Osakis, Park Region, Peoples, Rothsay, Runestone, Starbuck, *Twin Valley - Ulen*, United, Upsala, Valley, West Central, Wilderness, and Wolverton.<sup>12</sup>

Having granted ACC's petition, the Commission confirms that it has designated ACC as an ETC serving the requested wire centers in each of these company's service areas, including the 72 in dispute.

In the interest of clarity, the Commission attaches to this Order a list of 72 wire centers which it affirms have been redefined as distinct service areas, and for which ACC had been designated an ETC.

### **ORDER**

1. The Commission hereby clarifies its Orders as follows:

- The entire service areas of Citizens Telecommunications of Minnesota, Inc., Federated Telephone Cooperative, Loretel Systems, Inc., Melrose Telephone Co., Mid-State Telephone Co., Sprint-Minnesota, Inc., and Twin Valley-Ulen Telephone Co., Inc., have been redefined into their component wire centers.
- The Commission's February 3 Order in this docket designates ACC an ETC within the 72 wire centers served by these companies identified in the attached list.

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<sup>12</sup> ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND REDEFINING SERVICE AREA REQUIREMENT at 4 (emphasis added).

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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Seventy-Two Wire Centers in which American Cellular Corporation is Designated  
an Eligible Telecommunication Carrier Pursuant to 47 U.S.C. § 214(e)

| Wire Center Code | Wire Center Name       | Rural Telephone Company's Name        | SAC    |
|------------------|------------------------|---------------------------------------|--------|
| ALBOMNXB         | ALBORN                 | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| ASKVMNXA         | ASKOV                  | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| AURRMNXA         | AURORA                 | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| BBTTMNXB         | BABBITT                | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| BGFSMNXB         | BIG FALLS              | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| BKTNMNXB         | BROOKSTON              | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| BRRVMNXB         | BEAR RIVER             | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| BRSNMNXB         | BRIMSON                | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| CNLKMNXB         | CRANE LAKE             | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| CRWLMNXC         | CROMWELL               | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| DNHMMNXD         | DENHAM                 | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| ELY MNXE         | ELY                    | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| EMBRMNXE         | EMBARRASS              | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| ERBGMNXE         | ERICSBURG              | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| FLWDMNXF         | FLOODWOOD              | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| FNSNMNXF         | FINLAYSON              | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| GRNYMNXG         | GREANEY                | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| GRSNMNXG         | GARRISON               | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| GTWYMNXG         | GATEWAY                | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| HRMNMNXA         | HERMAN                 | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| HYLKMNXH         | HOYT LAKES             | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| INFLMNXI         | INTERNATIONAL<br>FALLS | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| ISBLMNXI         | ISABELLA               | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| ISLEMNXI         | ISLE                   | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| JCBSMNXJ         | JACOBSON               | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| KBTGMNXN         | KABETOGAMA             | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| KMBRMNXK         | KIMBERLY               | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| KTRVMNXK         | KETTLE RIVER           | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| LTFKMNXL         | LITTLEFORK             | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| MALMMNXM         | MALMO                  | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| MCGRMNXM         | MCGREGOR               | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| MDLDMNXA         | MEADOWLANDS            | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| MGRTMNXM         | MCGRATH                | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| MILCMNXM         | MILACA                 | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| NCSNMNXN         | NICKERSON              | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |

| Wire Center Code | Wire Center Name | Rural Telephone Company's Name        | SAC    |
|------------------|------------------|---------------------------------------|--------|
| ONAMMNXO         | ONAMIA           | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| PALOMNXP         | PALO             | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| PEASMNXP         | PEASE            | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| PLSDMNXP         | PALISADE         | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| RANRMNXR         | RANIER           | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| SGLKMNXS         | STURGEON LAKE    | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| TOWRMNXA         | TOWER            | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| TWHRMNXA         | TWO HARBORS      | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| WARBMNXA         | WARBA            | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| WHKNMNXW         | WAHKON           | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| WHTNMNXW         | WHEATON          | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| WRGHMNXW         | WRIGHT           | CITIZENS TELECOMM. OF MN, INC. -LAKES | 361123 |
| CHOKMNXC         | CHOKIO           | FEDERATED TEL. COOP.                  | 361390 |
| CRRLMNXA         | CORRELL          | FEDERATED TEL. COOP.                  | 361390 |
| DNVSMNXD         | DANVERS          | FEDERATED TEL. COOP.                  | 361390 |
| HLWYMNXA         | HOLLOWAY         | FEDERATED TEL. COOP.                  | 361390 |
| ODSSMNXO         | ODESSA           | FEDERATED TEL. COOP.                  | 361390 |
| ADBNMNXA         | AUDUBON          | LORETEL SYSTEMS, INC.                 | 361443 |
| CRMRMNXC         | CORMORANT        | LORETEL SYSTEMS, INC.                 | 361443 |
| FRAZMNXF         | FRAZEE           | LORETEL SYSTEMS, INC.                 | 361443 |
| LKPKMNXL         | LAKE PARK        | LORETEL SYSTEMS, INC.                 | 361443 |
| GRYEMNXG         | GREY EAGLE       | MELROSE TEL. CO.                      | 361430 |
| SEDNMNXS         | SEDAN            | MID STATE TEL. CO. DBA TDS TELECOM    | 361433 |
| TRRCMNXT         | TERRACE          | MID STATE TEL. CO. DBA TDS TELECOM    | 361433 |
| ALXNMNXA         | ALEXANDRIA       | SPRINT- MINNESOTA, INC.               | 361456 |
| ALXNMNXL         | ALEXANDRIA       | SPRINT- MINNESOTA, INC.               | 361456 |
| ATKNMNXA         | AITKIN           | SPRINT- MINNESOTA, INC.               | 361456 |
| BNVLMNXB         | BENNETTVILLE     | SPRINT- MINNESOTA, INC.               | 361456 |
| BOVLMNXB         | BROWERVILLE      | SPRINT- MINNESOTA, INC.               | 361456 |
| CARLMNXC         | CARLOS           | SPRINT- MINNESOTA, INC.               | 361456 |
| CRSBMNXC         | CROSBY           | SPRINT- MINNESOTA, INC.               | 361456 |
| DRWDMNXD         | DEERWOOD         | SPRINT- MINNESOTA, INC.               | 361456 |
| HMCYMNXH         | HOLMES CITY      | SPRINT- MINNESOTA, INC.               | 361456 |
| LNPRMNXL         | LONG PRAIRIE     | SPRINT- MINNESOTA, INC.               | 361456 |
| VLRDMNXV         | VILLARD          | SPRINT- MINNESOTA, INC.               | 361456 |
| ULENMNXU         | ULEN             | TWIN VALLEY-ULEN TEL. CO. INC.        | 361491 |
| WHERMNWX         | WHITE EARTH      | TWIN VALLEY-ULEN TEL. CO. INC.        | 361491 |