

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF BLUEGRASS WIRELESS LLC)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN THE) CASE NO. 2005-00017
COMMONWEALTH OF KENTUCKY)

PETITION OF KENTUCKY RSA #4)
CELLULAR GENERAL PARTNERSHIP)
FOR DESIGNATION AS AN ELIGIBLE) CASE NO. 2005-00018
TELECOMMUNICATIONS CARRIER IN THE)
COMMONWEALTH OF KENTUCKY)

PETITION OF KENTUCKY RSA #3)
CELLULAR GENERAL PARTNERSHIP)
FOR DESIGNATION AS AN ELIGIBLE) CASE NO. 2005-00019
TELECOMMUNICATIONS CARRIER IN THE)
COMMONWEALTH OF KENTUCKY)

PETITION OF CUMBERLAND CELLULAR)
PARTNERSHIP FOR DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS) CASE NO. 2005-00020
CARRIER IN THE COMMONWEALTH OF)
KENTUCKY)

O R D E R

On January 4, 2005, Bluegrass Wireless, LLC, RSA #3 Cellular General Partnership, RSA #4 Cellular General Partnership and Cumberland Cellular General Partnership (collectively "Bluegrass Cellular") filed applications seeking Eligible Telecommunications Carrier ("ETC") status within the territory where they are licensed to operate. These companies are all under common ownership by five telephone cooperatives and one investor-owned telephone company.¹ RSA #3, RSA #4 and

¹ South Central Rural Telephone Cooperative Corporation, Inc., Logan Telephone Cooperative, Inc., Duo County Telephone Cooperative Corporation, Inc., North Central Telephone Cooperative, Inc., and Brandenburg Telephone Company.

Cumberland Cellular operate under the name Bluegrass Cellular. Bluegrass Wireless has not yet begun operations and it is yet to be determined if it will operate under the name Bluegrass Cellular, but it will operate under the same management.

BellSouth Telecommunications, Inc. has been granted intervention in all of these proceedings, but has not participated. The Commission set a procedural schedule in this case that allowed for public comments, data requests, and requests for a hearing. No comments on the application and no requests for a hearing were received within the time allowed by the procedural schedule.

Discussion

47 U.S.C. § 254(e) provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.” Pursuant to 47 U.S.C. § 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.

47 U.S.C. § 214(e)(2) provides state commissions with the primary responsibility for performing ETC designations. Pursuant to 47 U.S.C. § 214(e)(6), the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of 47 U.S.C. § 214(e)(1). Before

designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.²

An ETC petition must contain the following: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to 47 U.S.C. § 254(c); (2) a certification that the petitioner offers or intends to offer the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services;” (3) a description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefore using media of general distribution;” and (4) if the petitioner meets the definition of a “rural telephone company” pursuant to 47 U.S.C. § 3(37), the petitioner must identify its study area, or, if the petitioner is not a rural telephone company, it must include a detailed description of the geographic service area for which it requests an ETC designation from the Commission.

Offering the Services Designated for Support

Bluegrass Cellular has demonstrated through the required certifications and related filings that it now offers, or will offer upon designation as an ETC, the services supported by the federal universal service mechanism. As noted in its petition, Bluegrass Cellular is authorized to provide cellular mobile radiotelephone service (“CMRS”). Bluegrass Cellular certifies that it now provides or will provide throughout its designated service area the services and functionalities enumerated in 47 C.F.R. § 54.101(a). Bluegrass Cellular has also certified that, in compliance with 47 C.F.R. §

² 47 U.S.C. § 214(e)(6).

54.405, it will make available and advertise Lifeline service to qualifying low-income consumers.

Offering the Supported Services Using a Carrier's Own Facilities

Bluegrass Cellular states that it intends to provide the supported services using its existing network infrastructure. Bluegrass Cellular currently provides the service using its facilities-based digital network infrastructure and licensed CMRS spectrum in Kentucky.

The Commission finds that Bluegrass Cellular has demonstrated that it satisfies the requirement of 47 U.S.C. § 214(e)(1)(A) that it offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.

Advertising Supported Services

Bluegrass Cellular has demonstrated that it satisfies the requirement of 47 U.S.C. § 214(e)(1)(B) to advertise the availability of the supported services and the charges therefore using media of general distribution. In its petition, Bluegrass Cellular states that it currently advertises the availability of its services, and will do so for each of the supported services on a regular basis in newspapers, magazines, television, and radio, in accordance with 47 C.F.R. § 54.201(d)(2).

Non-Rural Study Areas

The Federal Communications Commission ("FCC") previously has found designation of additional ETCs in areas served by non-rural telephone companies to be *per se* in the public interest based upon a demonstration that the requesting carrier

complies with the statutory eligibility obligations of 47 U.S.C. § 214(e)(1).³ The Commission finds that Bluegrass Cellular's public interest showing here is sufficient, based on the detailed commitments Bluegrass Cellular has made to ensure that it provides high quality service throughout the proposed rural and non-rural service areas; that is, if Bluegrass Cellular has satisfied the more rigorous public interest analysis for the rural study areas, it follows that its commitments satisfy the public interest requirements for non-rural areas.

Rural Study Areas

In considering whether designation of Bluegrass Cellular as an ETC in areas served by rural telephone companies will serve the public interest, the Commission must consider whether the benefits of an additional ETC in such study areas outweigh any potential harm. In determining whether designation of a competitive ETC in a rural telephone company's service area is in the public interest, the Commission must weigh: the benefits of increased competitive choice; the impact of the designation on the universal service fund; the unique advantages and disadvantages of the competitor's service offering; any commitments made regarding quality of telephone service; and the competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.

The Commission finds that Bluegrass Cellular's universal service offering will provide a variety of benefits to customers. For example, Bluegrass Cellular has

³ See, e.g., Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 39 (2000).

committed to provide customers access to telecommunications and data services where they do not have access to a wireline telephone. In addition, the mobility of Bluegrass Cellular's wireless service will provide benefits such as access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities. Moreover, Bluegrass Cellular states that it offers larger local calling areas than those of the incumbent LECs against which it competes, which could result in fewer toll charges for Bluegrass Cellular's customers.

Public Interest Analysis

In determining whether the public interest is served, the burden of proof is upon the ETC applicant.⁴ Bluegrass Cellular asserts that granting ETC designation to Bluegrass Cellular will provide rural consumers the benefits of competition through increased choices and further the deployment of new telecommunications services. It also asserts that granting the request will not harm consumers. Bluegrass Cellular has satisfied the burden of proof in establishing that its universal service offering in this area will provide benefits to rural consumers.

Designated Service Areas

The Commission finds that Bluegrass Cellular should be certified as an ETC in the requested service areas served by non-rural telephone companies, as listed in application. The Commission also finds that Bluegrass Cellular should be certified as an ETC in the requested service areas served by rural telephone companies, as listed in the application. However, Bluegrass Cellular's service area for each rural telephone

⁴ See Highland Cellular Order, 19 FCC Rcd at 6431, para. 20; Virginia Cellular Order, 19 FCC Rcd at 1574-75, para. 26.

company does not encompass the entire study area of each rural telephone company. Therefore, the study areas of the affected rural carriers must be redefined to smaller study areas such that they will correspond to the wireless carrier's service area. The Commission finds that the study areas of the affected rural telephone companies should be redefined as necessary to match the licensed service area of the applicant. Bluegrass Cellular should petition the FCC for concurrence.

Regulatory Oversight

In the Nextel case,⁵ Nextel committed to, and the Commission required that Nextel, separate and in addition to its annual certification filing under 47 C.F.R. §§ 54.513 and 54.314, submit records and documentation on an annual basis detailing: (1) its progress toward meeting its build-out plans; (2) the number of complaints per 1,000 handsets; and (3) information detailing how many requests for service from potential customers were unfilled for the past year. The Commission finds that Bluegrass Cellular shall be required to file this information and make any other information as it relates to service available to the Commission.

IT IS THEREFORE ORDERED that:

1. Bluegrass Cellular shall be designated an ETC in the geographic areas requested and as listed in Appendix A, attached hereto and incorporated herein.
2. Bluegrass Cellular shall offer universal support services to consumers in its service area.

⁵ Case No. 2003-00143, Petition of NPCR, Inc. d/b/a Nextel Partners for Designation as an Eligible Telecommunications Carrier in the State of Kentucky (Ky. PSC Dec. 16, 2004).

3. Bluegrass Cellular shall offer these services using its own facilities or a combination of its own facilities and resale of another carrier's services, including services offered by another.

4. Bluegrass Cellular shall advertise the availability of and charges for these services using media of general distribution.

5. Bluegrass Cellular is hereby certified as complying with the FCC's criteria, in accordance with 47 U.S.C. § 254(e), and therefore eligible to receive Universal Service Fund support for the current certification period.

6. By September 1, 2006, and by each September 1 thereafter, Bluegrass Cellular shall make its annual certification filing in Administrative Case No. 381⁶ and shall submit additional records as described herein.

7. A copy of this Order shall be served upon the Federal Communications Commission and the Universal Service Administration Company.

Done at Frankfort, Kentucky, this 8th day of July, 2005.

By the Commission

ATTEST:


Executive Director

⁶ Administrative Case No. 381, A Certification of the Carriers Receiving Federal Universal Service High-Cost Support.

Case No. 2005-00017
Case No. 2005-00018
Case No. 2005-00019
Case No. 2005-00020

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NOS. 2005-00017, 2005-00018, 2005-00019, AND 2005-00020 DATED July 8, 2005

Areas for which Bluegrass Wireless LLC is granted ETC Designation

1. Rural Telephone Company Study Areas

260402	Alltel Kentucky, Inc.
260398	Brandenburg Telephone Company, Inc.
264002	Highland Telephone Cooperative, Inc.
269691	Kentucky Alltel, Inc. - London ¹
260412	Lewisport Telephone Company
260413	Logan County Telephone Company
264001	North Central Telephone Cooperative, Inc.
260418	South Central Rural Telephone Cooperative Corporation, Inc.

2. Non-Rural ILEC Wire Centers

265182 BellSouth – KY

BLFSKYMA	CNTWKYMA	HANSKYMA	MRGPKYMA	SHGVKYMA
BLSPKYMA	COTNKYMA	HPVLKYMA	MTEDKYMA	SLGHKYMA
BRMNKYMA	DRBOKYES	HRBGKYES	NEBOKYMA	SPFDKYMA
BRTWKYES	DWSPKYMA	HRFRKYMA	NRVLKYMA	SRGHKYMA
BVDMKYMA	EKTNKYMA	HWVLKYMA	NWHNKYMA	STCHKYMA
BWLGKYMA	ENSRKYMA	ISLDKYMA	OKGVKYES	STNLKYMA
BWLGKYRV	ERTNKYMA	JLLCTNMA	OWBOKYMA	TRENKYMA
CADZKYMA	FDVLKYMA	LBJTKYMA	PMBRKYMA	TYVLKYMA
CBRNKYMA	FKLNKYMA	LFYTKYMA	PLRGKYMA	UTICKYMA
CHPLKYMA	FRDNKYMA	LVMRKYMA	PNTHKYMA	WDDYKYMA
CLHNKYMA	GNVLKYMA	MACEKYMA	PRTNKYES	WHVLKYMA
CLPTKYMA	GRACKYMA	MCDNKYMA	RLVLKYMA	WLBGKYMA
CNCYKYMA	GTHRKYMA	MDVLKYMA	RSTRKYES	WLVLYMA

¹ RSA#3 Cellular General Partnership only requests designation as an ETC in the wire centers: BBVLKYXA, BESPXYXA, BWVLKYXA, CKSNKYXA, CYVLKYXA, EBNKKYXA, EBRNKYAC, FBSHKYXA, FLLCKYXA, LONDKYXA, MMCVKYXA, MNCHKYXA, ONEDKYXA, PRCYKYXA, SCHLKYXA, SMGVKYXA, SOVLKYXA, AND WHLLKYXA. Subject to concurrence of the FCC, the request is granted.

CNTNKYMA	HABTKYMA	MGTWKYMA	SCRMKYMA	WSPNKYMA
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269690 Kentucky ALLTEL, Inc. - Lexington

ALBYKYXA	CLMAKYXA	GNBGKYXB	LBRTKYXA	SCVLKYXA
BRSDKYXA	CMVLKYXA	HGVLKYXA	LTFDKYXA	SHDNKYXA
BRVLKYXA	EZTWKYXA	HTVLKYXE	MNTIKYXA	SMTRKYXA
CECLKYXA	GLSGKYXA	LBNNKYXA	NANCKYXA	TMVLKYXA

Areas for which Kentucky RSA #4 Cellular General Partnership is granted ETC Designation

1. Rural Telephone Company Study Areas

260402 Alltel Kentucky, Inc.²
 260398 Brandenburg Telephone Company, Inc.
 260418 South Central Rural Telephone Cooperative Corporation, Inc.

2. Non-Rural ILEC Wire Centers

265182 BellSouth – KY

BLFDKYMA	CHPLKYMA	LRBGKYMA	RSTRKYES	TYVLKYMA
BRGNKYMA	HDBGKYMA	MTEDKYMA	SLVSKYMA	WDDYKYMA
BRTWKYES	LBJTKYMA	NWHNKYMA	SPFDKYMA	WSPNKYMA

269690 Kentucky ALLTEL, Inc. - Lexington

BRVLKYXA	CMVLKYXA	GNBGKYXB	LBNNKYXA	SHDNKYXA
CECLKYXA	EZTWKYXA	HGVLKYXA	LRTTKYXA	

² RSA#4 Cellular General Partnership only requests designation as an ETC in the wire center SHPVKYXA. Subject to concurrence of the FCC the request is granted.

Areas for which Kentucky RSA#3 Cellular General Partnership is granted ETC Designation

1. Rural Telephone Company Study Areas

260398 Brandenburg Telephone Company, Inc.
 269691 Kentucky Alltel, Inc. - London³
 260412 Lewisport Telephone Company
 260413 Logan County Telephone Company
 264001 North Central Telephone Cooperative, Inc.

2. Non-Rural ILEC Wire Centers

265182 BellSouth – KY

BLSPKYMA	CLPTKYMA	FKLNKYMA	ISLDKYMA	SCRMKYMA
BRMNKYMA	CNCYKYMA	GNVLKYMA	LVMRKYMA	SHGVKYMA
BVDMKYMA	CNTWKYMA	GTHRKYMA	MCDNKYMA	TRENKYMA
BWLGKYMA	DRBOKYES	HRBGKYES	MGTWKYMA	WHVLKYMA
BWLGKYRV	EKTNKYMA	HRFRKYMA	PLRGKYMA	
CLHNKYMA	FDVLKYMA	HWVLKYMA	RLVLKYMA	

269690 Kentucky ALLTEL, Inc. - Lexington

LTFDKYXA				
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³ RSA#3 Cellular General Partnership only requests designation as an ETC in the wire centers: BESPXYA, BWVLKYXA, CKSNKYXA, CYVLKYXA, MMCVKYXA, PRCYKYXA, and SMGVKYXA. Subject to concurrence of the FCC, the request is granted.

Areas for which Cumberland Cellular Partnership is granted ETC Designation

1. Rural Telephone Company Study Areas

- 260401 Duo County Telephone Cooperative, Corporation, Inc.
- 264002 Highland Telephone Cooperative, Inc.
- 269691 Kentucky Alltel, Inc. - London⁴
- 260418 South Central Rural Telephone Cooperative Corporation, Inc.

2. Non-Rural ILEC Wire Centers

- 269690 Kentucky ALLTEL, Inc. - Lexington

ALBYKYXA	CLMAKYXA	MNTIKYXA	TMVLKYXA	
BSVLKYXA	GLSGKYXA	SHDNKYXA		

⁴ Cumberland Cellular only requests designation as an ETC in the wire center PRCYKYXA. Subject to concurrence of the FCC, the request is granted.