

Dinsmore & Shohl LLP
ATTORNEYS

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March 7, 2005



via Hand Delivery
Ms. Beth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

Re: *Kentucky RSA #3 Cellular General Partnership ("RSA #3") Petition for Designation as Eligible Telecommunications Carrier in the Commonwealth of Kentucky, Case No. 20005-00019*

Dear Ms. O'Donnell:

Enclosed for filing with the Public Service Commission of the Commonwealth of Kentucky (the "Commission") is one original and ten (10) copies of Kentucky RSA #3 Cellular General Partnership's Motion (1) to Certify the Division of the Rural Study Area of Kentucky Alltel, Inc.-London, and (2) to Vacate the Procedural Order and Cause the Case to be Submitted as Ripe for Decision in the above-styled case.

Thank you, and if you have any questions with regard to this matter, please call me.

Very truly yours,

DINSMORE & SHOHL LLP

A handwritten signature in cursive script that reads "Holly C. Wallace".

Holly C. Wallace

HCW/rk
Enclosure

cc: Ron Smith (with enclosure)

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MAR 9 7 2005

PUBLIC SERVICE
COMMISSION

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the matter of:

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

**MOTION (1) TO CERTIFY THE DIVISION OF THE RURAL STUDY AREA OF
KENTUCKY ALLTEL, INC. - LONDON, AND (2) TO VACATE THE PROCEDURAL
ORDER AND CAUSE THE CASE TO BE SUBMITTED AS RIPE FOR DECISION**

Kentucky RSA #3 Cellular General Partnership ("RSA #3"), by counsel, pursuant to 47 C.F.R. §54.207(c) and the December 16, 2004 Order of the Public Service Commission of the Commonwealth of Kentucky (the "Commission") in Case No. 2003-00143, hereby moves the Commission (1) to certify the division of the rural study area of Kentucky Alltel, Inc. - London, and (2) to vacate the procedural order and cause the case to be submitted as ripe for decision. In support of its motions, RSA #3 states as follows.

**(1)
MOTION TO CERTIFY THE DIVISION OF THE RURAL STUDY AREA OF
KENTUCKY ALLTEL, INC. - LONDON**

On January 4, 2005, RSA #3 filed its Petition for Designation as an Eligible Telecommunications Carrier (the "Petition"). RSA #3 specifically requested designation as an eligible telecommunications carrier ("ETC") throughout each of the Designated Areas within the Commonwealth of Kentucky, as set forth in Exhibit A to the Petition. RSA #3 noted that the "Designated Areas consist of study areas of rural telephone companies that RSA #3 or a related cellular telephone carrier serves in their entirety (with one exception) as well as wire centers of non-rural ILECs." (See RSA #3's Petition, p. 7.) The one rural study area that RSA #3, or a

related cellular telephone carrier, does not serve in its entirety is that of Kentucky Alltel, Inc. - London ("Kentucky Alltel").¹

In order to accommodate commercial mobile radio service carriers, such as RSA #3, who have authorized service areas that do not match incumbent local exchange carrier ("ILEC") wire centers, a state commission and the Federal Communications Commission ("FCC") may redefine the competitive ETC's service area along boundaries that are not identical with ILEC wire center boundaries.² To do otherwise would effectively exclude wireless carriers as a class from receiving universal service support and would be contrary to the pro-competition policies articulated by the FCC and the Commission. Accordingly, pursuant to 47 C.F.R. §54.207(c), RSA #3 hereby moves the Commission to certify the division of the rural study area of Kentucky Alltel Inc. - London so that the following wire centers within Kentucky Alltel's study area are deemed a separate rural study area for which RSA #3 may receive ETC status: BESPXYXA, BWVLKYXA, CKSNKYXA, CYVLKYXA, MMCVKYXA, PRCYKYXA, SMGVKYXA. In the alternative, RSA #3 moves the Commission to redefine the study area of Kentucky Alltel, Inc. - London so that each wire center within the study area is a separate rural study area. RSA #3, however, seeks ETC designation only for the wire centers specified above.

(2)
**MOTION TO VACATE THE PROCEDURAL ORDER AND CAUSE
THE CASE TO BE SUBMITTED AS RIPE FOR DECISION**

After filing is Petition on January 4th of this year, RSA #3 served all of the ILECs serving the rural study areas and non-rural wire centers in RSA #3's service area with a copy of the Petition. On January 21, 2005, BellSouth Telecommunications, Inc. ("BellSouth") moved for

¹ Kentucky Alltel, Inc. - London has not intervened in this case.

² See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8839-25 (1997).

full intervention in the case pursuant to 807 KAR 5:001, Section 8. The Commission granted BellSouth's motion on January 31, 2005. No other entities moved to intervene.

Counsel to RSA #3 has conferred with counsel to BellSouth regarding RSA #3's Petition and BellSouth's intervention. During these conversations, BellSouth, by counsel, represented to RSA #3 that BellSouth does not oppose RSA #3's Petition nor intend to exercise any of its rights under the procedural order entered in this matter or under 807 KAR 5:001, Section 8 as an intervener.³ In addition, to the best of RSA #3's knowledge, there is no reason to believe that the Commission would need to exercise any of its rights under the procedural order in this case prior to issuing a final order. RSA #3 has satisfied all of the requirements for petitioning for ETC designation, which the Commission has summarized as follows.

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 Section 254(c) [of the Telecommunications Act of 1996]; (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 advertises the availability of supported services and the charges therefore using media of general distribution; and (4) identification of its study area if the petitioner meets the definition of a rural telephone company pursuant to Section 3(37) of the Act, or, if the petitioner is not a rural telephone company, a detailed description of the geographic service area for which it requests an ETC designation from the Commission.⁴

RSA #3 satisfied all of the foregoing requirements in its Petition and the attached Declaration of Ron Smith, the authorized representative of RSA #3. Accordingly, there is nothing to prevent the Commission from vacating the procedural order and causing the case to be submitted as ripe for decision.

³ These conversations took place between Dorothy J. Chambers, counsel to BellSouth, and John E. Selent, counsel to RSA #3.

⁴ Order, In the Matter of: Petition of NPCR, Inc. d/b/a Nextel partners for Designation as an Eligible Telecommunications Carrier in the State of Kentucky, Case No. 2003-00143, December 16, 2004.

In addition, the Commission should grant RSA #3's motion because it would be in the best interest of Kentucky consumers. Upon receiving designation as an ETC, RSA #3 will be eligible to receive substantial funds from the Universal Service Fund that will be used exclusively for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act of 1996.⁵ Thus, Kentucky consumers will reap the benefits of RSA #3's increased ability to provide advanced communications services to rural Kentucky as a result of its ETC status. The sooner the Commission designates RSA #3 as an ETC, the sooner RSA #3 can expand its provision of improved wireless services to rural Kentucky consumers. Accordingly, the Commission should grant RSA #3's motion to vacate the procedural order and cause the case to be submitted as ripe for decision.

CONCLUSION

For the foregoing reasons, RSA #3 respectfully requests that the Commission grant its motions (1) to certify the division of the rural study area of Kentucky Alltel, Inc. - London, and (2) to vacate the procedural order and cause the case to be submitted as ripe for decision.

⁵ In anticipation of the Commission granting RSA #3's Petition to receive ETC status, RSA #3 hereby submits the attached certification that all high-cost support provided to RSA #3 will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended as provided in 47 U.S.C. § 254(e). (*See* High-Cost Certification, attached as Exhibit 1.) Said certification is provided pursuant to 47 C.F.R. §§54.313 and 54.314 so that RSA #3 may begin receiving high-cost support in its designated ETC areas.

Respectfully submitted,



John E. Selent
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**Counsel to Kentucky RSA #3
Cellular General Partnership**

CERTIFICATE OF SERVICE

It is hereby certified that a true and accurate copy of the foregoing was served, via United States mail, first class, postage pre-paid, this 7th day of March, on the following:

Brian Harman
Alltel Kentucky, Inc.
229 Lees Valley Road
Shepherdsville, Kentucky 40165

J. D. Tobin, Jr.
Brandenburg Telephone Company, Inc.
200 Telco Drive
Brandenburg, Kentucky 40108

William W. Magruder
Duo County Telephone
Cooperative Corporation, Inc.
1021 W. Cumberland Avenue
Jamestown, Kentucky 42629

F. L. Terry
Highland Telephone Cooperative, Inc.
7840 Morgan County Highway
Sunbright, Tennessee 37872

Steve Mowery
Kentucky Alltel, Inc. - London
Kentucky Alltel, Inc. - Lexington
230 Lexington Green Circle
Lexington, Kentucky 40588-1650

Michael A. Pandow
Lewisport Telephone Company, Inc.
30 Pell Street
Lewisport, Kentucky 42351-0439

Greg Hale
Logan Telephone Cooperative, Inc.
10725 Bowling Green Road
Auburn, Kentucky 42206

F. Thomas Rowland
North Central Telephone Cooperative, Inc.
872 Highway 52 By-Pass
Lafayette, Tennessee 37083-0070

Forrest Wilson
South Central Rural Telephone
Cooperative Corporation, Inc.
1399 Happy Valley Road
Louisville, Kentucky 40232

Steve Mowery
230 Lexington Green Circle
Lexington, Kentucky 40588-1650

Dorothy Chambers
BellSouth Telecommunications, Inc.
601 West Chestnut Street
Glasgow, Kentucky 42141-0159



**Counsel to Kentucky RSA #3
Cellular General Partnership**

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**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the matter of:

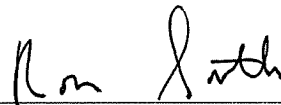
**KENTUCKY RSA #3 CELLULAR GENERAL)
PARTNERSHIP PETITION FOR DESIGNATION AS)
AN ELIGIBLE TELECOMMUNICATIONS CARRIER) Case No. 2005-00019
IN THE COMMONWEALTH OF KENTUCKY)**

HIGH-COST CERTIFICATION

Kentucky RSA #3 Cellular General Partnership, pursuant to 47 C.F.R. §§54.313 and 54.314, hereby submits the following high-cost certification in support of its Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky (the "Petition"), and in order to begin receiving high-cost support in its designated eligible telecommunications carrier area.

I, the undersigned Ron Smith, do hereby declare under penalty of perjury as follows.

1. I am the authorized representative of Kentucky RSA #3 Cellular General Partnership ("RSA #3").
2. RSA #3 filed its Petition with the Public Service Commission of the Commonwealth of Kentucky on January 4, 2005.
3. All high-cost support provided to RSA #3 will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act of 1996, codified at 47 U.S.C. § 254(e).



Ron Smith
Authorized Representative
Kentucky RSA #3 Cellular General Partnership

