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August 4, 2006

RECEIVED

AUG 04 2006

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

Ms. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

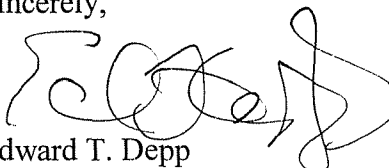
Re: *Petition of Ballard Rural Telephone Cooperative Corporation, Inc. for Arbitration of Certain Terms and Conditions of Proposed Interconnection Agreement with American Cellular Corporation f/k/a ACC Kentucky License LLC; Case No. 2006-00215*

Dear Ms. O'Donnell:

I have enclosed for filing in the above-styled case the original and eleven (11) copies of the Petition for Suspension and/or Modification of Ballard Rural Telephone Cooperative Corporation, Inc. in the above-referenced matter. Please file stamp one (1) copy of the motion and return them our deliveryperson.

Thank you, and if you have any questions, please contact me at (502) 540-2300.

Sincerely,



Edward T. Depp

ETD/lb
Enclosures

cc: Harlon Parker(w/encl.)

Ms. Beth O'Donnell

August 4, 2006

Page 2 of 2

Steven E. Watkins (w/o encl.)
John E. Selent, Esq. (w/o encl.)
Holly C. Wallace, Esq. (w/o encl.)

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 04 2006

In the Matter of:

PUBLIC SERVICE
COMMISSION

Petition of Ballard Rural Telephone)
Cooperative Corporation, Inc. for Arbitration of)
Certain Terms and Conditions of Proposed)
Interconnection Agreement with American)
Cellular f/k/a ACC Kentucky License LLC,)
Partnership Pursuant to the to the Communications)
Act of 1934, as Amended by the)
Telecommunications Act of 1996)

Case No. 2006-00215

**PETITION OF BALLARD RURAL TELEPHONE COOPERATIVE
CORPORATION, INC. FOR SUSPENSION OF, OR MODIFICATION TO, ANY
REQUIREMENT TO CONDUCT TELRIC STUDIES**

Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard Rural"), by counsel, pursuant to the Telecommunications Act of 1996 ("the Act"), KRS Chapter 278, and 807 KAR 5:001, hereby requests that the Public Service Commission of the Commonwealth of Kentucky (the "Commission") grant Ballard Rural's request for suspension of, or modification to, any requirement for Ballard Rural to conduct and file TELRIC studies and related testimony. In support of its petition, Ballard Rural states as follows.

In its July 25, 2006 Order (the "Order"), the Commission required Ballard Rural to prepare and file TELRIC studies and related testimony by August 16, 2006. Because the Commission's Order did not provide any rationale for requiring Ballard Rural (and the other RLECs with similar arbitration proceedings) to conduct TELRIC studies, Ballard Rural can only assume that the requirement was based upon a misinterpretation of its continuing exemption from TELRIC study requirements under 47 U.S.C. § 251(f)(1). Therefore, to the extent that the Commission believes that Ballard Rural is subject to the Act's Section 251(c) TELRIC requirements, the Commission should now suspend and/or modify this requirement for the following reasons. First, as a rural

telephone company, Ballard Rural has never previously conducted TELRIC studies. Second, if Ballard Rural is forced to conduct TELRIC studies, it will cause either a significant adverse economic impact on its customers or an undue economic burden on Ballard Rural. Finally, third, Ballard Rural cannot conduct, complete, and review TELRIC studies during the course of this proceeding. Furthermore, the Commission should suspend enforcement of its TELRIC studies requirement pending its ultimate disposition of this petition.

ARGUMENT

I. The Commission Should Grant Ballard Rural's Petition for Suspension of, or Modification to, the Requirement to Conduct TELRIC Studies.

Section 251(f)(2) of the Act provides that, upon petition, a state commission may suspend or modify application of a requirement of the Act for local exchange carriers ("LECs") with less than two percent of the nation's lines in the following circumstances:

. . . The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

(A) is necessary--

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

(iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience, and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the

petition applies with respect to the petitioning carrier or carriers.

47 U.S.C. 251(f)(2).¹

The FCC's First Report and Order implementing the Act clearly indicates that TELRIC studies should not be applicable to rural telephone companies. *See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, FCC 96-325, at ¶¶697, 706, 783, 934, 957, 1059, 1068, 1088, 1115 ("First Report and Order"). The First Report and Order further specifically indicates that a Section 251(f)(2) suspension and/or modification would also be an appropriate relief method for any LEC with less than two percent of the nation's lines seeking suspension from, or modification to, the Section 251(c) TELRIC study requirement. *Id.* Ballard Rural meets the substantive requirements necessary to secure a suspension and/or modification pursuant to that section.

First, TELRIC studies are undeniably expensive and time-consuming. Someone has to bear the time and cost of such a study, and the only available options to bear that burden are Ballard Rural or its customers. Neither option is desirable because, regardless of whether the Commission would order Ballard Rural or its customers to pay for the studies, in either case such an order would cause "a significant adverse economic impact" on Ballard Rural's customers or be "unduly economically burdensome" for a small rural carrier with limited resources like Ballard Rural. *Id.* at 251(f)(2)(A)(i)-(ii). Moreover, such studies are also "technically infeasible" in the course of this proceeding because

¹ A rural telephone company such as Ballard Rural already possesses an exemption pursuant to Section 251(f)(1) of the Act which relieves rural telephone companies from the interconnection requirements that arise under the Section 251(c) requirements. Because the FCC's pricing rules, including the FCC's rules regarding so-called TELRIC pricing methods, arise under the requirements of Section 251(c), rural telephone companies are not subject to these pricing rules until and unless a proceeding is conducted and (if even possible) there is a conclusive evidentiary demonstration that requiring a rural telephone company to comply with Section 251(c) requirements would not result in undue economic burden for the company or its customers, and that forcing a rural telephone company to comply with those requirements would be consistent with Universal Service principles. Ballard Rural notes that the filing of this petition should not be construed as a waiver of its position that it is a rural telephone company, as defined pursuant to the Act, and that it possesses a Section 251(f)(1) exemption from Section 251(c) requirements, including those related to TELRIC studies.

of Ballard Rural's unfamiliarity with TELRIC studies, the general complexity of conducting such studies, and the extensive amount of time required to complete and review them. *Id.* at 251(f)(2)(A)(iii). Such studies simply cannot be completed, reviewed, and filed by August 16, 2006.

Second, granting Ballard Rural's petition for suspension and/or modification is "consistent with the public interest, convenience, and necessity." *Id.* at 251(f)(2)(B). If Ballard Rural must conduct TELRIC studies, it will expend such time and money as will jeopardize its ability to continue to provide telecommunications service to Kentucky customers at the same quality and rates as it presently provides. In sum, the FCC has already indicated that rural telephone companies such as Ballard Rural should be entitled to the opportunity for a suspension and/or modification under Section 251(f)(2) from the requirement of TELRIC studies. Moreover, Ballard Rural meets the substantive requirements for a Section 251(f)(2) suspension and/or modification. For these reasons, the Commission should grant Ballard Rural's petition.

II. The Commission Should Suspend the Requirement of TELRIC Studies Pending a Decision on this Petition for Suspension and/or Modification.

Section 251(f)(2) also provides that the Commission may suspend enforcement of the TELRIC requirement while it considers Ballard Rural's petition for suspension and/or modification of that requirement.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

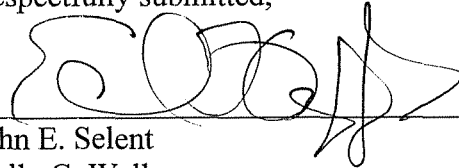
Id. Suspension of the TELRIC requirement is especially appropriate in this case, where the requirement imposes an August 16, 2006 deadline that Ballard Rural simply cannot meet. As noted in its motion for rehearing, Ballard Rural certainly has no desire to miss Commission-imposed deadlines, and suspending the TELRIC study requirement will enable Ballard Rural to avoid missing

that deadline. Thus, in the interest of justice and fairness, the Commission should suspend the requirement of TELRIC studies while it considers this petition.

CONCLUSION

For the foregoing reasons, the Commission should suspend the TELRIC studies requirement pending resolution of this petition, and grant Ballard Rural's petition for suspension of, or modification to, the requirement to conduct TELRIC studies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John E. Selent', written over a horizontal line.

John E. Selent

Holly C. Wallace

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**COUNSEL TO BALLARD RURAL
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by Federal Express and electronic mail on this 4th day of August, 2006, to the following individual(s):

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A handwritten signature in black ink, appearing to be "E. M. Modi", written over a horizontal line.

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