

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF AMERICAN CELLULAR	)	
CORPORATION FOR DESIGNATION AS	)	
AN ELIGIBLE TELECOMMUNICATIONS	)	CASE NO. 2005-00130
CARRIER PURSUANT TO SECTION 214(e)	)	
OF THE TELECOMMUNICATIONS ACT	)	

O R D E R

On September 6, 2005, American Cellular Corporation (“ACC”) filed a petition for rehearing or clarification of the Commission’s Order in this matter dated August 15, 2005. At issue is how the Commission came to the conclusion to redefine the study area of Kentucky ALLTEL, Inc.’s London service area. ACC agrees with the Commission’s determination to redefine the study area but requests clarification of rationale. ACC believes that the Commission must make a finding or conclusion addressing three factors. The Commission herein will grant the motion for clarification and address the matters raised by ACC.

For purposes of federal universal service obligations, a rural telephone company’s study area is presumed to be its service area unless and until the Federal Communications Commission (“FCC”) and state commission cooperatively establish a different service area definition for such company after considering the Federal-State Joint Board on Universal Service’s (“Joint Board”) service area recommendations.<sup>1</sup> Therefore, if a state commission proposes to define a rural telephone company study

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<sup>1</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b).

area as something less than the company's entire service area, the state commission must consider and make findings with respect to each of the three Joint Board factors discussed below.

The first factor to consider is whether redefinition of the study area will present any risk of creamskimming. ACC is not intentionally creamskimming. ACC seeks to be designated within its entire FCC-licensed service area. It has not picked only certain areas within its licensed service area.

Also redefinition of the study area will not produce the unintended effects of creamskimming. The risk of unintentional creamskimming has been virtually eliminated by the FCC's implementation of the disaggregation mechanisms set forth in 47 C.F.R. § 54.315. Rural telephone companies have the option to disaggregate federal universal service support to higher cost portions of their study areas. Kentucky ALLTEL has elected to forgo disaggregation within its study area.

The FCC also endorsed conducting a population density analysis as a proxy to assess the risk of unintended creamskimming. A population density analysis compares the population density of the wire centers where the ETC designation is requested to the wire centers where the ETC designation is not requested. ACC completed a population density survey comparing the two areas, which shows that the area in which it seeks designation contains 57.94 persons per square mile and the area in which it does not seek designation contains 50.49 persons per square mile. The difference in these two results does not present any risk of unintentional creamskimming.

The second Joint Board factor that must be considered is whether redefinition will impact the regulatory status of the rural telephone company under the

Telecommunications Act of 1996. There is nothing that would affect the regulatory treatment of Kentucky ALLTEL. Also, the FCC has made the determination that redefinition of the study area does not affect embedded costs of the company or the amount of universal service support that it receives.<sup>2</sup>

The third Joint Board factor to be considered is whether any administrative burdens will result from the redefinition of the service area. The FCC confirmed in the Virginia Cellular, LLC order the redefinition of the study area does not affect the calculation of support or create any additional burdens for the rural telephone company.<sup>3</sup>

IT IS THEREFORE ORDERED that:

1. ACC's motion for clarification of the August 15, 2005 Order is granted.
2. Redefinition of the study area of Kentucky ALLTEL to permit ACC's designation as a competitive ETC poses no risk of creamskimming.
3. Redefinition of the study area of Kentucky ALLTEL to permit ACC's designation as a competitive ETC will not affect Kentucky ALLTEL's regulatory status under the Telecommunications Act of 1996.
4. Redefinition of the study area of Kentucky ALLTEL to permit ACC's designation as a competitive ETC will not create any additional administrative burdens.

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<sup>2</sup> In the matter of Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, CC Docket No. 96-45, Memorandum and Opinion and Order, FCC 03-338 Paragraph 41 and 43, released January 23, 2004.

<sup>3</sup> Id. at Paragraph 44.

Done at Frankfort, Kentucky, this 21<sup>st</sup> day of September, 2005.

By the Commission

ATTEST:



Executive Director