

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 16, 2007

IN RE:

**PETITION OF THE TENNESSEE RURAL INDEPENDENT
COALITION FOR SUSPENSION AND MODIFICATION
PURSUANT TO 47 U.S.C 251(f)(2)**

**DOCKET NO.
06-00228**

**ORDER GRANTING MOTION OF CMRS PROVIDERS
TO PROPOUND ADDITIONAL DISCOVERY REQUESTS
AND BINDING PARTIES TO PROTECTIVE ORDER**

This matter is before the Hearing Officer upon the *Motion Regarding CMRS Providers' Interrogatories and Requests for Production of Documents ("Motion")* filed by Cellco Partnership d/b/a Verizon Wireless, New Cingular Wireless PCS, LLC d/b/a Cingular Wireless¹, Sprint Spectrum L.P. d/b/a Sprint PCS, and T-Mobile USA, Inc. (collectively "CMRS Providers") on March 12, 2007. The *Motion* requests that the Tennessee Regulatory Authority ("TRA" or "Authority") permit the CMRS Providers to propound more than forty discovery requests upon the members of the Rural Coalition.²

¹ Following the December 29, 2006 merger of AT&T, Inc. and BellSouth Corporation, Cingular Wireless became a wholly-owned indirect subsidiary of AT&T, Inc.

² The Tennessee Rural Coalition includes the following rural local exchange carrier members: Ardmore Telephone Company, Ben Lomand Rural Telephone Cooperative, Inc., Bledsoe Telephone Cooperative, Century Telephone Enterprises, Inc. Companies consisting of CenturyTel of Adamsville, Inc., CenturyTel of Claiborne, Inc. and CenturyTel of Ooltewa-Collegedale, Dekalb Telephone Cooperative, Highland Telephone Cooperative, Loretto Telephone Company, Inc., Millington Telephone Company, North Central Telephone Cooperative, TDS Telecom Companies consisting of Concord Telephone Exchange, Inc., Humphreys County Telephone Company, and Tennessee Telephone Company, Inc., Twin Lakes Telephone Cooperative, United Telephone Company, and Yorkville Telephone Cooperative.

TRA Rule 1220-1-2-.11(5)(a) provides:

No party shall serve on any other party more than forty (40) discovery requests including subparts without first having obtained leave of the Authority or a Hearing Officer. Any motion seeking permission to serve more than forty (40) discovery requests shall set forth the additional requests. The motion shall be accompanied by a memorandum establishing good cause for the service of additional interrogatories or requests for production. If a party is served with more than forty (40) discovery requests without an order authorizing the same, such party need only respond to the first forty (40) requests.

In accordance with the above-cited Rule, attached to their *Motion*, the CMRS Providers submitted their proposed discovery requests, which they concede may exceed forty in number including subparts, and a *Memorandum in Support of Motion Regarding CMRS Providers' Interrogatories and Requests for Production of Documents* ("Memorandum").

In their *Memorandum*, the CMRS Providers argue that the additional interrogatories are both reasonable and appropriate, and that there exists good cause to serve them upon the members of the Rural Coalition. Specifically, in order to ease administrative burdens on the TRA and the parties and to foster the efficient operation of the discovery process, the CMRS Providers have chosen to submit discovery requests, jointly, upon the Rural Coalition. The CMRS Providers state that, under the Authority's rules, each provider could have separately submit up to forty requests upon the members of the Rural Coalition, resulting in a total of approximately 160 interrogatories. Such an approach would exceed the number of requests that the CMRS Providers have proposed to propound jointly and would be less efficient in the administration of the discovery process in this docket.

Finally, in further support of their request, the CMRS Providers contend that "the agency [Authority] has a long and common practice of permitting parties to exceed prescribed limits on discovery requests when such requests are submitted jointly" and cite, Docket No. 03-00585, *Order Regarding Discovery*, issued April 15, 2004, wherein the Hearing Officer granted a

similar motion to exceed the Authority's prescribed limits to the number of discovery requests where the requests were submitted jointly. To-date there has no been no response to the CMRS Providers' *Motion* filed with the Authority.

In accordance with the procedural schedule agreed to by the parties at the February 26, 2007 Status Conference, the CMRS Providers propounded timely discovery requests upon the members of the Rural Coalition on March 12, 2007. Responses to these requests are not yet due. The Hearing Officer finds that the CMRS Providers have complied with TRA Rule 1220-1-2-.11(5)(a) in making their *Motion*. The number of discovery requests submitted by the CMRS Providers with their *Motion* does not appear to be unreasonable and the CMRS Providers have provided good cause for allowing them. Therefore, consistent with precedent, the *Motion* is granted.

Additionally, the CMRS Providers have acknowledged and agreed to be bound, in this docket, by the Protective Order previously entered on April 12, 2004 in Docket No. 03-00585. Such acknowledgement and agreement is evidenced in a letter from Melvin Malone, on behalf of the CMRS Providers, to William Ramsey, for the Rural Coalition, dated March 12, 2007, and filed with the Authority on March 13, 2007. Therefore, the Hearing Officer finds that the Protective Order previously agreed to by the parties, entered on April 12, 2004 in Docket No. 03-00585, shall be binding on the parties in Docket No. 06-00228 as well.

IT IS THEREFORE ORDERED THAT:

1. The *Motion Regarding CMRS Providers' Interrogatories and Requests for Production of Documents* to exceed the interrogatory limitation of Tenn. Comp. R. & Regs. 1220-1-2-.11(5)(a) is hereby granted.

2. The Protective Order agreed to by the parties in Docket No. 03-00585, entered on April 12, 2004, shall be binding on the parties in this docket.

A handwritten signature in black ink that reads "PAT Miller". The signature is written in a cursive style with a large, stylized "P" and "M".

Director Pat Miller as Hearing Officer