

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 4, 2008

IN RE:

**PETITION BY U.S. CELLULAR FOR THE
AUTHORITY'S CONCURRENCE TO PROPOSED
REDEFINITION OF RURAL SERVICE AREA**

)
)
)
)
)

**DOCKET NO.
08-00152**

ORDER CONCURRING WITH FEDERAL COMMUNICATIONS COMMISSION

This matter came before Director Eddie Roberson, Director Sara Kyle and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on November 10, 2008, for consideration of the *Petition for Concurrence to Proposed Redefinition of Rural Service Area* ("Petition") filed on August 21, 2008 by United States Cellular Corporation on behalf of its subsidiary licensees, Tennessee RSA No. 3 Limited Partnership, United States Telephone Company (Greater Knoxville), L.P., and United States Cellular Operating Company of Knoxville d/b/a U.S. Cellular (collectively, "U.S. Cellular").

BACKGROUND

The matter before the Authority is in regard to the Authority's concurrence with the redefinition of the study area of North Central Telephone Cooperative, Inc. ("North Central") by the Federal Communications Commission ("FCC") for the purpose of designating U.S. Cellular as an eligible telecommunications carrier ("ETC") pursuant to 47 C.F.R. 54.207(d). U.S. Cellular filed its request for ETC designation with the FCC rather than the Authority in light of

the Authority's determination in Docket No. 02-1245 that it lacked jurisdiction over CMSR providers regarding federal universal service ETC-designation.¹

U.S. Cellular filed an amended petition with the FCC regarding its designation as an ETC on June 7, 2007.² U.S. Cellular sought to include the service areas of North Central, Citizens Telecommunications Company of Tennessee, LLC d/b/a Frontier Communications of Tennessee, Citizens Telecommunications Company of the Volunteer State, LLC d/b/a Frontier Communications of the Volunteer State (collectively "Frontier") and Twin Lakes Telephone Cooperative Corporation ("Twin Lakes").³ The original petition filed with the FCC in 2005 included the BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee wire centers within U.S. Cellular's licensed service area. Since U.S. Cellular's licensed service area did not allow for complete coverage of the study areas of some of the rural company exchanges, in its *Amended Petition* U.S. Cellular requested the FCC to redefine certain service areas to allow for ETC designation.

On May 1, 2008, the FCC released its *Order*⁴ and in Appendix B⁵ of that *Order* granted in part and denied in part U.S. Cellular's petition to be designated as an ETC. The FCC concluded that "designating U.S. Cellular an ETC in CenturyTel of Claiborne, Inc., Citizens Communications Company Tennessee [sic.] d/b/a Frontier Communications of Tennessee, LLC

¹ *In re: Application of Advantage Cellular Systems Cellular, Inc. To Be Designated As An Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order*, pp. 1 & 2 (April 11, 2003).

² The original petition, *In re: Tennessee RSA No. 3 d/b/a Eloqui Wireless, Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, was filed on June 23, 2005. In 2006, U.S. Cellular acquired control of Eloqui. Subsequently, U.S. Cellular filed an amended petition, *In the Matter of the Petition of United States Cellular Corporation For Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. § 214(e)(2) In the State of Tennessee*, Docket No. 96-45, *Amended Petition for Designation as an Eligible Telecommunications Carrier in Additional Areas in the State of Tennessee* (hereinafter "*Amended Petition*") in CC Docket No. 96-45 on June 7, 2007.

³ *Amended Petition*, ¶ 10, fn. 9.

⁴ *In re: In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc. et al, Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ET Designation Amendment*, WC Docket No. 05-337, CC Docket No. 96-45 (May 1, 2008).

⁵ *Id.*, Appendix B, *Alltel Communications, Inc., et al., Petitions for Designation as Eligible Telecommunications Carriers*.

and Twin Lakes Telephone Cooperative Corp. study areas would not be in the public interest.”⁶ The FCC further concluded that U.S Cellular had met the statutory eligibility requirements of section 214(e)(1) to be designated as an ETC in the requested non-rural study areas as well as in certain study areas of North Central and redefined the requested wire centers in North Central’s study area as a separate service area.⁷ Having redefined the North Central study area wire centers, the FCC designated U.S. Cellular as an ETC in Tennessee.⁸

Subsequent to the release of the FCC’s *Order* granting U.S. Cellular ETC designation and in accordance with 47 C.F.R. § 54.207(d),⁹ U.S. Cellular filed this *Petition* seeking Authority concurrence with the FCC’s redefinition the study area of North Central.

FINDINGS AND CONCLUSIONS

At the November 10, 2008 Authority Conference, the panel voted unanimously to concur with the FCC’s decision to redefine the study areas of North Central’s study area for the purpose of permitting the FCC’s designation of U.S. Cellular as an ETC for this area. The panel concurred with the FCC that North Central would not be harmed by redefining its study area to the wire center level and granting U.S. Cellular ETC status in that area.¹⁰ Because U.S. Cellular would not be providing service in only the lucrative, low cost, high revenue exchange areas within the new study area definition, North Central would not be placed at a competitive disadvantage. Additionally, redefining the study area would not create a significant impact on North Central or its high-cost support because U.S. Cellular’s ETC-designation would not

⁶ *Id.*, ¶ 21.

⁷ *Id.*, ¶ 28. The North Central wire centers specifically identified are Bethpage, Defeated, Green Grove, Hillsdale, Lafayette, Oak Grove, Pleasant Shade, Red Boiling Springs and Westmoreland. One wire center that was not included in the redefinition is Scottsville Rural (KY).

⁸ *Id.*, ¶ 43.

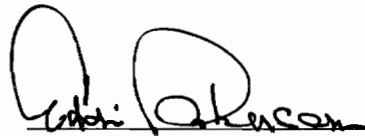
⁹ 47 C.F.R. 54.207(d) states: “The Commission may, on its own motion, initiate a proceeding to consider a definition of a service area served by a rural telephone company that is different from that company’s study area. If it proposes such different definition, the Commission shall seek the agreement of the state commission according to this paragraph.”

¹⁰ The population figures North Central provided to the FCC are a strong indication that cream skimming is not an issue in its service area.

change the amount of universal service support available to North Central.

IT IS THEREFORE ORDERED THAT:

The Tennessee Regulatory Authority concurs with the Federal Communications Commission's May 1, 2008 Order redefining the study area of North Central Telephone Cooperative, Inc. for the purpose of permitting the designation of U.S. Cellular Corporation, on behalf of its subsidiary licensees Tennessee RSA No. 3 Limited Partnership, United States Telephone Company (Greater Knoxville), L.P., and United States Cellular Operating Company of Knoxville d/b/a/ U.S.Cellular, as an Eligible Telecommunications Carrier to become effective.


Eddie Roberson, Director


Sara Kyle, Director


Mary W. Freeman, Director