

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
United States Cellular Corporation)	
)	
Petition to Amend Designation as an)	
Eligible Telecommunications Carrier in the)	
State of Tennessee)	

ORDER

Adopted: April 27, 2010

Released: April 27, 2010

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant the request of United States Cellular Corporation, on behalf of its subsidiary licensees, Tennessee RSA No. 3 Limited Partnership, United States Cellular Telephone Company (Greater Knoxville), L.P., and United States Cellular Operating Company of Knoxville d/b/a U.S. Cellular (U.S. Cellular), to amend its eligible telecommunications carrier (ETC) designation in the state of Tennessee.¹ In so doing, we designate U.S. Cellular as an ETC in portions of the rural study areas of Citizens Communications Company Tennessee d/b/a Frontier Communications of Tennessee, LLC (Frontier) and Twin Lakes Telephone Cooperative Corp. (Twin Lakes).

II. BACKGROUND

2. Section 254(e) of the Communications Act of 1934, as amended (the Act), provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.”² Pursuant to section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.³

3. Section 214(e)(6) of the Act directs the Commission, upon request, to designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to

¹ Petition of United States Cellular Corporation to Amend Designation as an Eligible Telecommunications Carrier in the State of Tennessee, CC Docket No. 96-45 (filed Aug. 6, 2008) (U. S. Cellular Amendment Petition).

² 47 U.S.C. § 254(e).

³ 47 U.S.C. § 214(e)(1).

the jurisdiction of a State commission.”⁴ Under section 214(e)(6), the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of section 214(e)(1).⁵ In the *Section 214(e)(6) Public Notice*, the Commission established procedures for designating ETCs.⁶ In the *ETC Designation Order*, the Commission adopted additional requirements for ETC designation proceedings in which the Commission acts pursuant to section 214(e)(6).⁷

4. Prior to designating an ETC, the Commission must determine if the designation is in the public interest.⁸ In the *ETC Designation Order*, the Commission adopted one set of criteria for evaluating the public interest for ETC designations in both rural and non-rural areas.⁹ A creamskimming analysis,

⁴ 47 U.S.C. § 214(e)(6). Section 214(e)(2) of the Act gives state commissions the primary responsibility for performing ETC designations. 47 U.S.C. § 214(e)(2); see *Promoting Deployment and Subscriberhip in Unserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12255, para. 93 (2000).

⁵ 47 U.S.C. § 214(e)(6).

⁶ See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997) (*Section 214(e)(6) Public Notice*). An ETC petition must contain the following: (1) a certification and brief statement of supporting facts demonstrating that the petitioner is not subject to the jurisdiction of a state commission; (2) 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 Act; (3) 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;” (4) a description of how the petitioner “advertise[s] the availability of the [supported] services and the charges therefor using media of general distribution;” and (5) if the petitioner meets the definition of a “rural telephone company” under section 3(37) of the Act, the identity of its study area, 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. *Id.*

⁷ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005) (*ETC Designation Order*). Specifically, the Commission found that an ETC applicant must demonstrate: (1) a commitment and ability to provide services, including providing service to all customers within its proposed service area; (2) how it will remain functional in emergency situations; (3) that it will satisfy consumer protection and service quality standards; (4) that it offers local usage comparable to that offered by the incumbent local exchange carrier (LEC); and (5) an understanding that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to section 214(e)(4) of the Act. *Id.* at 6380, para 20. See also *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1564, 1565, 1575-76, 1584-85, paras. 1, 4, 27, 28, 46 (2004) (*Virginia Cellular Order*); *Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6422, 6438, paras. 1, 33 (2004) (*Highland Cellular Order*).

⁸ 47 U.S.C. § 214(e)(6); 47 C.F.R. § 54.202(c); see also *ETC Designation Order*, 20 FCC Rcd at 6388-96, paras. 40-57; *Virginia Cellular Order*, 19 FCC Rcd at 1575, para. 27; *Highland Cellular Order*, 19 FCC Rcd at 6431-32, para. 21. The Commission places the burden on the ETC applicant to demonstrate that the public interest is served. *ETC Designation Order*, 20 FCC Rcd at 6390, para. 44.

⁹ *ETC Designation Order*, 20 FCC Rcd at 6390 at 6389-90, paras. 42-43. Specifically, in determining the public interest, the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant’s service offering are considered. See 47 C.F.R. § 54.202(c). As the Commission noted in the *ETC Designation Order*, however, the same factors may be analyzed differently or may warrant a different outcome depending on the specifics of the proposed service area and whether it is rural or non-rural. See *ETC Designation Order*, 20 FCC Rcd at 6390, para. 43.

however, is limited to designations in rural service areas.¹⁰ Thus, when an ETC applicant seeks designation below the study area level of a rural telephone company, the Commission conducts a creamskimming analysis to compare the population density of the wire centers in which the ETC applicant seeks designation against that of the wire centers in the study area in which the ETC applicant does not seek designation.¹¹ The Commission has also determined that making designations for a portion of a rural telephone company's wire center would be inconsistent with the public interest.¹² Therefore, prior to designating an additional ETC in a rural telephone company's service area, the competitor must commit to provide the supported services to customers throughout the rural telephone company's wire center, which the Commission has concluded to be an appropriate minimum geographic area for ETC designation.¹³

5. US Cellular Petition. On May 1, 2008, the Commission designated U.S. Cellular as an ETC in certain portions of its licensed service area in the state of Tennessee.¹⁴ Because U.S. Cellular's service area differs from the study area of several of the rural telephone companies in which U.S. Cellular sought designation, the Commission performed a creamskimming analysis for those service areas.¹⁵ Based on its creamskimming analysis, the Commission concluded that designating U.S. Cellular as an ETC in the rural study areas of Frontier and Twin Lakes would not be in the public interest.¹⁶ The Commission also determined that U.S. Cellular had not provided sufficient data to perform a creamskimming analysis in the study area of Tennessee Telephone Co.¹⁷

6. On August 6, 2008, U.S. Cellular filed a petition seeking to amend its ETC designation in the state of Tennessee to include portions of the study areas of Frontier and Twin Lakes.¹⁸ As part of its petition, U.S. Cellular deleted certain wire centers from its proposed ETC designated area.¹⁹ Specifically, U.S. Cellular is no longer seeking ETC designation in the Cookeville wire center in Frontier's study area, and is also no longer seeking ETC designation in the Cookeville South wire center in Twin Lake's study area.²⁰ U.S. Cellular states that the elimination of these wire centers should alleviate any creamskimming concerns.²¹ U.S. Cellular also notes that its licensed service area only partially serves the Baxter and Highland wire centers in Twin Lake's study area, but it commits to serve these entire wire centers through

¹⁰ *ETC Designation Order*, 20 FCC Rcd at 6389-90, paras. 42-43. A carrier "creamskims" when it serves only the least expensive customers, thereby undermining the ability of the incumbent LEC to provide service to the entire study area. See *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8881-82, para. 189 (1997) (subsequent history omitted).

¹¹ *ETC Designation Order*, 20 FCC Rcd at 6392-95, paras. 48-53.

¹² *Id.* at 6378, para. 15; *Highland Cellular Order*, 19 FCC Rcd at 6438, para. 33.

¹³ *Highland Cellular Order*, 19 FCC Rcd at 6438, para. 33.

¹⁴ *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc. et al., Petitions for Designation as Eligible Telecommunications Carriers*, WC Docket Nos. 05-337, 96-45, Order, 23 FCC Rcd 8834, 8866 (2008).

¹⁵ *Id.* at 8863.

¹⁶ *Id.* at 8863, para. 21.

¹⁷ *Id.*

¹⁸ See U. S. Cellular Amendment Petition at 1.

¹⁹ *Id.* at 4.

²⁰ *Id.*

²¹ *Id.*

roaming or resale of another carrier's service.²² Finally, U.S. Cellular states that it is not seeking ETC designation in the study area of Tennessee Telephone Co.²³

III. DISCUSSION

7. We grant U.S. Cellular's petition to amend its ETC designation in the state of Tennessee. In its petition, U.S. Cellular has agreed that it will not seek ETC designation in the Cookeville wire center in Frontier's study area and in the Cookeville South wire center in the Twin Lakes study area.²⁴ U.S. Cellular has, therefore, agreed not to seek designation in two of the higher density wire centers in the subject rural study areas in order to alleviate any creamskimming concerns.

8. We conclude that U.S. Cellular's petition addresses the Commission's previous creamskimming concerns. Specifically, absent the higher density wire centers in question, our analysis of the population density of the remaining wire centers for which U.S. Cellular seeks designation reveals that U.S. Cellular will not be serving only low-cost areas to the exclusion of high-cost areas. The average population density for the Frontier wire centers for which we grant U.S. Cellular ETC designation is 77 people per square mile, and the average population density for Frontier's remaining wire centers is 124 people per square mile.²⁵ The average population density for the Twin Lakes wire centers for which we grant U.S. Cellular ETC designation is 37 people per square mile and the average population density for Frontier's remaining wire centers is 93 people per square mile.²⁶ In addition, with respect to the Baxter and Highland wire centers in the Twin Lakes study area, U.S. Cellular has committed to serve these wire centers in their entirety through roaming or resale of another carrier's services.²⁷ Moreover, U.S. Cellular is no longer seeking ETC designation in any Tennessee Telephone Co. wire center.²⁸ Accordingly, we find that designating U.S. Cellular in the requested wire centers is unlikely to have the effect of creamskimming, and is therefore in the public interest. We, therefore, amend U.S. Cellular's ETC designation in Tennessee to include the additional wire centers listed in the appendix of this order.

IV. ORDERING CLAUSES

9. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in section 214(e)(6) of the Communications Act, 47 U.S.C. § 214(e)(6), and the authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the ETC designation of United States Cellular Corporation in the state of Tennessee IS AMENDED as described herein.

10. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. §1.102(b)(1), this order SHALL BE effective upon release.

²² *Id.* at 9.

²³ *Id.* at 2, n.4.

²⁴ *Id.* at 4.

²⁵ *Id.* at Exh. D.

²⁶ *Id.*

²⁷ *Id.* at 9.

²⁸ *Id.* at 2, n.4.

11. IT IS FURTHER ORDERED that a copy of this order SHALL BE transmitted to the Tennessee Public Service Commission and the Universal Service Administrative Company.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau

APPENDIX

**Additional Rural Wire Centers for Inclusion in U.S. Cellular's Tennessee
ETC Service Area**

LEC NAME	WIRE CENTER	CLLI
Citizens Telecommunications Co. of TN d/b/a Frontier Communications	ALGOOD	ALGDTNXA
Citizens Telecommunications Co. of TN d/b/a Frontier Communications	CROSSVILLE	CSVLTNXA
Citizens Telecommunications Co. of TN d/b/a Frontier Communications	MONTEREY	MTRYTNXA
Citizens Telecommunications Co. of TN d/b/a Frontier Communications	PLEASANTHL	PLHLTNXA
Citizens Telecommunications Co. of TN d/b/a Frontier Communications	TANSI	TANSTNXA
Twin Lakes Telephone Cooperative Corp.	BAXTER	BXTRTNXA
Twin Lakes Telephone Cooperative Corp.	BYRDSTOWN	BYTWTNXA
Twin Lakes Telephone Cooperative Corp.	CELINA	CELNTNXA
Twin Lakes Telephone Cooperative Corp.	CLARKRANGE	CLRKTNXA
Twin Lakes Telephone Cooperative Corp.	CRAWFORD	CRFRTNXA
Twin Lakes Telephone Cooperative Corp.	GAINESBORO	GNBOTNXA
Twin Lakes Telephone Cooperative Corp.	GRANVILLE	GRVITNXA
Twin Lakes Telephone Cooperative Corp.	HIGHLAND	HGLDTNXA
Twin Lakes Telephone Cooperative Corp.	JAMESTOWN	JMTWTNXA
Twin Lakes Telephone Cooperative Corp.	LIVINGSTON	LVTNTNXA
Twin Lakes Telephone Cooperative Corp.	MOSS	MOSSTNXA
Twin Lakes Telephone Cooperative Corp.	NORTH SPG	NRSPTNXA
Twin Lakes Telephone Cooperative Corp.	RICKMAN	RKMNTNXA