

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 1st day of March, 2007.

In the Matter of the Application of Missouri RSA No. 5)
Partnership for Designation as a Telecommunications)
Company Carrier Eligible for Federal Universal Service) **Case No. TO-2006-0172**
Support Pursuant to § 254 of the Telecommunications)
Act of 1996,)

ORDER GRANTING MOTION TO AMEND REPORT AND ORDER

Issue Date: March 1, 2007

Effective Date: March 11, 2007

On January 25, 2007, Missouri RSA No. 5 Partnership (MO 5) filed a motion requesting that the Commission amend its Report and Order issued on September 21, 2006, to include language that will clarify the service area for which it designated MO 5 as an eligible telecommunications carrier for federal Universal Service Fund purposes. No response to the motion was received.

Because MO 5 sought eligible telecommunications carrier status in an area served by a rural telephone company, and seeks that status for an area other than the rural carrier's entire study area, 47 CFR 54.207 requires that the service area of Alltel Missouri, Inc., Grand River Mutual Telephone Corporation, Mark Twain Rural Telephone Company, and Spectra Communications Group, LLC, d/b/a CenturyTel, be redefined in order for MO 5 to be eligible to receive federal universal service support. The Commission intended for its order to specify the service areas in which MO 5 was designated as an ETC and make the redefinitions as necessary. The order, however, was not clear on

these points. Therefore, the Commission hereby clarifies and amends its Report and Order to include the following findings and conclusions.

Cream Skimming

Although not specifically included within any of the disputed issues in this case, the issue of “cream skimming” must be addressed because of MO 5’s request to redefine the Alltel,¹ Grand River Mutual,² Mark Twain,³ and Spectra⁴ service areas for the purpose of the competitive ETC designation.⁵ Cream skimming occurs when a competitive ETC serves only the lower cost portions of an incumbent local exchange carrier’s study area but receives support calculated in relation to unserved, higher-cost portions of the study area. In its *Virginia Cellular*⁶ and *Highland Cellular*⁷ orders, the FCC held that where the population densities of the entire ILEC study area are significantly lower than the population density within the ETC service area, cream skimming has occurred. In the present case, no cream skimming has occurred.

¹ MO 5 proposes to redefine the Alltel service area to allow MO 5 to be designated as an ETC in only the Laclede, Mendon, Rothville, and Sumner wire centers. (Application ¶¶11.)

² MO 5 proposes to redefine the Grand River Mutual service area to allow MO 5 to be designated as an ETC in the Linneus, Meadville, Purdin, and Browning wire centers. (Application ¶¶12.)

³ MO 5 proposes to include the Mark Twain Bethel and Leonard wire centers within its proposed ETC service area. (Application ¶¶13.)

⁴ MO 5 proposes to include the following Spectra wire centers within its proposed ETC service area: Brunswick, Clarence, Dalton, Elmer, Hunnewell, Keytesville, LaPlata, Macon, Shelbina, and Shelbyville. (Application ¶¶13 and Appendix C).

⁵ As explained in detail in the Application, MO 5 is not seeking to redefine the study area for any rural LEC; MO 5 is merely seeking to redefine several LEC service areas for the limited purpose of designating a competitive ETC. (Application ¶¶13.)

⁶ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Application for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338 (rel. January 22, 2004).

⁷ *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004).

Specifically, witness Jonathan Reeves established that:

In the case of the proposed redefinition of the Alltel service area in Zone 1, the population density in the proposed MO 5 service area is 9.56 people per mile as compared to Alltel's Zone 1 study-wide average population density of 28.89 people per square mile;

The two wirecenters proposed for inclusion in MO 5's service area from Alltel's Zone 2 study area are the two most rural wire centers in that entire study area, having population densities of 6.98 and 7.14 persons per square mile as compared to the population density of 20.2 persons per square mile for the entire Zone 2 study area;

The average population density for the wirecenters proposed for inclusion in MO 5's service area from Grand River's zone 2 is 8.83 persons per square mile, nearly identical to the overall population density of Grand River's Zone 2 which is 8.48 persons per square mile;

The Mark Twain wire centers included within the proposed MO 5 ETC service area have an average population density of 7.64 persons per square mile as compared to an overall study area population density of 9.57 persons per square mile;

The Spectra wire centers included within the proposed MO 5 ETC service area have an average population density of 50.83 persons per square mile in Zone 1, which is nearly identical to the composite population density of 49.50 persons per square mile in Zone 1, and an average population density of 13.37 persons per square mile in Zone 2, as compared to a composite population density of 16.23 persons per square mile in Zone 2; and

In each and every instance where MO 5 seeks redefinition of the ILEC service area, the population densities within the portions of those study areas sought to be included in the MO 5 ETC service area either fall below or are virtually identical with the overall population densities upon which the LEC level of support has been based.⁸

Thus, the Commission determines that under the population density analysis, there is no cream skimming.

⁸ Direct Testimony of Jonathan D. Reeves ("Reeves Direct") 4:12 – 7:2.

Even if this were not the case, the FCC has formulated a procedure to virtually eliminate the concern of cream skimming, even where the population density might not be as it is in the present case:

[A]s the Commission concluded in Universal Service Order, the primary objective in retaining the rural telephone company's study area as the designated service area of a competitive ETC is to ensure that competitors will not be able to target only the customers that are the least expensive to serve and thus undercut the incumbent carrier's ability to provide service to the high-cost customers. Rural telephone companies now have the option of disaggregating and targeting high-cost support below the study area level so that support will be distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service. Therefore, any concern regarding "creamskimming" of customers that may arise in designating a service area that does not encompass the entire study area of the rural telephone company has been substantially eliminated.⁹

Consequently, even if MO 5 were not able to demonstrate that cream skimming is not an issue based on population density, there would be no basis to find that cream skimming exists.

Redefinition of Service Areas

The Commission has designated MO 5 as an eligible telecommunications carrier in the non-rural study areas of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, and CenturyTel of Missouri, and the complete rural study area of Chariton Valley Telephone Company. Further, the Commission designated MO 5 an ETC in the partial study areas of Alltel, Grand River Mutual, Mark Twain, and Spectra. For these partial rural study areas, pursuant to Section 214(e)(5) of the Communications

⁹ *Petitions for Reconsideration of Western Wireless Corporation's Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 19144, 19149 (2001) (emphasis added, footnotes omitted). See also *Pine Ridge*, *supra*, 16 FCC Rcd at 18141, where the FCC used identical language in designating Western Wireless as an ETC for an area that is less than the ILEC's entire study area.

Act of 1934, *as amended*, and Federal Communications Commission (FCC) Rule 54.207, the Commission designated MO 5 as an ETC in the complete wire centers as follows:

Alltel Missouri

Laclede
Mendon
Rothville
Sumner

Grand River Mutual

Browning
Linneus
Meadville
Purdin

Mark Twain

Bethel
Leonard

Spectra

Brunswick
Clarence
Dalton
Elmer
Hunnewell
Keytesville
La Plata
Macon
Shelbina
Shelbyville

The Commission finds that: (1) MO 5's redefinition will not result in cream skimming; (2) the rural carriers whose service areas MO 5 seeks to redefine will not be harmed by the redefinition of their study areas to conform to MO 5's licensed service area; (3) the rural carriers whose service areas MO 5 seeks to redefine will not be required to recalculate costs as a result of a service area redefinition; and (4) no other administrative burdens have been placed on the rural carriers whose service areas MO 5 seeks to redefine as a result of a service area redefinition. Accordingly, the Commission

approves MO 5's request to redefine the service areas of Alltel, Grand River Mutual, Mark Twain, and Spectra.

IT IS ORDERED THAT:

1. The Motion to Amend Report and Order filed by Missouri RSA No. 5 Partnership on January 25, 2007, is granted.
2. The Report and Order issued on September 21, 2006, is hereby amended as set out above to redefine the service areas of Alltel Missouri, Inc., Grand River Mutual Telephone Corporation, Mark Twain Rural Telephone Corporation, and Spectra Communications Group, LLC, d/b/a CenturyTel.
3. This order shall become effective on March 11, 2007.
4. This case may be closed on March 12, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge