

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Section 309(j))
of the Communications Act) PP Docket No. 93-253
Competitive Bidding)
)

To: The Commission

REPLY COMMENTS OF DEKALB TELEPHONE COOPERATIVE, INC.

DeKalb Telephone Cooperative, Inc. (DeKalb), by its attorney, hereby files its reply comments in PP Docket No. 93-253. DeKalb supports a definition of "rural telephone company" consistent with those advocated by the Rocky Mountain Telecommunications Association and the Western Rural Telephone Association (collectively, the "Western Alliance"), US Intelco Networks, and others. DeKalb also supports changes to the proposed definition of "small business", as advocated by the Office of Advocacy of the United States Small Business Administration (SBA). Finally, DeKalb supports adoption of the protections for rural telephone companies advocated by the Western Alliance and others.

In support of these reply comments, the following is shown:

I. Statement of Interest

DeKalb is a small telephone cooperative providing local exchange and other telecommunications services to the counties of DeKalb, Cannon, Rutherford, Wilson and Smith in the State of Tennessee. DeKalb currently serves approximately 15,000 access

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lines, with annual revenues of \$11-12 million and a net worth of \$45 million. It has 87 employees. DeKalb believes that these figures are typical of rural telephone companies throughout the United States.

As a cooperative, DeKalb is owned directly by its telephone customers. This integration between ownership and end users keeps DeKalb and other telephone cooperatives responsive to the needs of their customers. Thus, despite its relatively small size, DeKalb is licensed to provide cellular service to its customers in rural Tennessee. DeKalb is likewise interested in ensuring that its customers will have available to them the many benefits to be ushered in by personal communications services (PCS) and other emerging technologies. These benefits could include the extension of advanced medical, educational, and other services to rural areas where they were previously unavailable. Therefore, DeKalb wishes to ensure that it will not be precluded by the auction rules adopted in this proceeding from providing such services in the future.

II. The Commission Should Adopt A More Realistic Definition of Rural Telephone Company.

The Commission has requested comments on the definition of the term "rural telephone company", for purposes of determining which entities are entitled to the benefits and protections to be accorded to rural telephone companies pursuant to the mandate of Congress in the Omnibus Budget Reconciliation Act of 1993 (Budget Act). The Commission's proposed definition based on the cable/telephone cross-ownership exemption standard in Rule

Section 63.58 (population of less than 2500 inhabitants and no portion of an urbanized area) is unduly restrictive. The SBA correctly observes (at p. 13) that the cable/telephone cross-ownership classification "has little to do with the provision of infrastructure to residents in non-metropolitan areas." DeKalb agrees that a more realistic definition is needed, based on expediting service to those rural Americans that have traditionally experienced delays in obtaining telephone, cellular, and other communications services.

In its November 10, 1993 comments, the Western Alliance proposes a definition that would include any common carrier providing telephone exchange service (1) to 20,000 or fewer access lines, or (2) to a "rural area;" the term "rural area" would be defined as any Part 36 telephone study area which encompassed neither a place of 10,000 inhabitants or more (or any substantial part thereof) nor any Census Bureau-defined "urbanized area".¹ See Western Alliance comments at pp. 19-20. Similarly, US Intelco proposes to define rural telephone company as a carrier serving 50,000 or fewer access lines, or serving rural populations of less than 10,000. See comments of US

¹ The Western Alliance proposes to allow telephone carriers whose study area extends on a de minimis basis into an urbanized area or population center of 10,000+ to retain their status as rural telephone companies, if less than 10% of their access lines serve this de minimis extension. See Western Alliance comments at p. 20.

Intelco at pp. 14-15.² The SBA proposes to define a rural telephone company as a carrier serving less than 50,000 access lines, and proposes an alternative definition of less than 20,000 inhabitants served (with no portion of a metropolitan area).

DeKalb agrees that any of the above definitions more accurately describe rural telephone companies, for purposes of determining eligibility for PCS/emerging technologies licensing. These benchmarks are reasonably related to the provision of infrastructure to rural residents. Service over 20,000, or even 50,000 access lines represents a minuscule market position, considering the millions of Americans that receive telephone service and are to be served by PCS. And the SBA correctly notes that 20,000, or even 25,000 inhabitants are benchmarks used by other Federal agencies in defining rural populations. See SBA comments at p. 13, n. 22. The SBA's position should be given much weight, since it is a Federal agency with no pecuniary interest in this matter.

DeKalb urges the Commission to formulate a definition within the population/access line ranges reflected in the above described comments. Such definition would allow DeKalb (15,000

² The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) advocates a definition of 10,000 access lines or up to 10,000 study area population. DeKalb believes that this 10,000 access line benchmark excludes enough small telephone companies serving rural areas that it is unduly restrictive. However, even OPASTCO recognizes that the Commission has found companies with fewer than 50,000 access lines to be "small telephone companies" under Rule Section 61.39, and indicates that it will support a definition which included this benchmark. See comments of OPASTCO at p. 6, n. 6.

access lines) and other carriers serving rural areas to ensure that the citizens within their certificated service areas are not left in the backwater of this next telecommunications revolution.

III. The Commission Should Modify Its Proposed Definition of Small Business as Suggested by the SBA.

The Commission proposes to define the term "small business" for purposes of determining eligibility for Congressionally mandated licensing advantages, by using some variation of the existing SBA definition for small telecommunications firms. This definition would include a business that does not have a net worth in excess of \$6 million or a net income after Federal taxes of \$2 million; or a business that has fewer than 1500 employees. The Commission notes in its Notice of Proposed Rulemaking (at pp. 24-25) that this standard may not be appropriate in the telecommunications industry, which is capital-intensive rather than labor-intensive.

DeKalb agrees with the SBA that neither of the above tests is suitable, since the net worth test "will not include businesses of sufficient size to survive, much less succeed, in the competitive wireless communication marketplace." SBA comments at pp. 8-9. And the 1500 employee size standard "may permit some firms to obtain special treatment in the competitive bidding process that do not need any help in obtaining spectrum or constructing a PCS network." Id. DeKalb therefore urges the Commission to adopt the definition proposed by the SBA in its comments: A small business is one that has revenues of less than \$40 million. The Commission should also adopt the suggested

policy that a consortium composed of small businesses will be eligible for small business benefits, even if their combined revenues are more than \$40 million. This policy will help ensure participation by small businesses which together can submit a bid that will be competitive with large firms, but which separately have no realistic opportunity to assemble the necessary capital for such bid.

IV. The Commission Should Adopt Significant Protections for Rural Telephone Companies and Other Protected Groups.

DeKalb urges the Commission to adopt the protective measures for Congressionally designated groups advocated by the SBA, the Western Alliance, and others. These protections include an installment payment plan, royalty payment plan, availability of tax certificates, bid multipliers, distress sale procedures, and simplified financial certification requirements. See e.g., Western Alliance comments at pp. 16-18; SBA comments at pp. 18-30. More importantly, DeKalb agrees that the cellular ownership restrictions recently adopted by the Commission should not apply to PCS Blocks C and D, which have been set aside for the protected groups. If this cellular ownership restriction is applied to this spectrum, it will act as a de facto barrier to participation for many of the groups that Congress intended to protect, especially rural telephone companies.

DeKalb also encourages the Commission to adopt the proposal of the Western Alliance to give larger PCS applicants financial incentives to include rural telephone companies in their consortium, so that these rural telephone companies can extend

PCS to their telephone exchange areas within the proposed PCS service area. See Western Alliance comments at pp. 14-16.

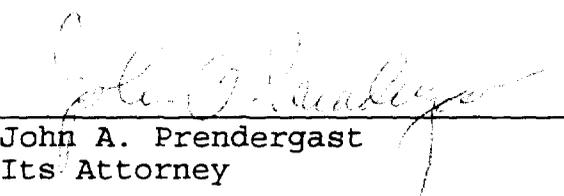
Conclusion

In light of the foregoing, it is respectfully requested that the Commission adopt the protections for rural telephone companies and other protected groups set forth above.

Respectfully submitted,

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