

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

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APR 13 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of)
)
 TELEPHONE AND DATA)
 SYSTEMS, INC.)
)
 For facilities in the)
 Domestic Public Cellular)
 Telecommunications Radio)
 Service on Frequency Block B)
 in Market 715, Wisconsin 8)
 (Vernon), Rural Service Area)
 Market No. 715)

CC Docket No. 94-11

File No.
10209-CL-P-715-B-88

To: Honorable Joseph P. Gonzalez
Administrative Law Judge

RESPONSE TO SUPPLEMENT TO
MOTION FOR LEAVE TO INTERVENE

THE SETTLEMENT GROUP,¹ by its attorney and pursuant to the Order of the Presiding Judge released March 31, 1994,² respectfully reaffirms and supplements its previous opposition to the Motion for Leave to Intervene filed by Wisconsin RSA #8, Inc. (WRI) under date of March 17, 1994. In the Settlement Group's view, neither the original motion nor the supplement filed under date of April 7, 1994, justifies the intervention of Wisconsin RSA #8, Inc. herein, and its motion to do so accordingly should be denied. As its re-

¹ Century Cellunet, Inc., Contel Cellular, Inc., Coon Valley Farmers Telephone Company, Inc., Farmers Telephone Company, Hillsboro Telephone Company, LaValle Telephone Cooperative, Monroe County Telephone Company, Mount Horeb Telephone Company, North-West Cellular, Inc., Richland-Grant Telephone Cooperative, Inc., Vernon Telephone Cooperative and Viroqua Telephone Company.

² Order FCC 94M-210, issued March 30, 1994 and released March 31, 1994.

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sponse to the supplement, the Settlement Group respectfully shows:

WRI originally based its intervention motion on the claim that it, "not Telephone and Data Systems, Inc., is the applicant for the above captioned facilities". (Motion at p. 1). Contrary to WRI's claim, however, the Settlement Group pointed out in its initial opposition herein that the Hearing Designation Order in this case rescinded WRI's license and restored the status quo ante the staff's grant of an authorization to TDS. As a result, TDS and not WRI remains the applicant at this time. Moreover, TDS and not WRI holds the interim authorization issued by the Commission in the Hearing Designation Order.

In his Order requesting additional information from WRI, the Presiding Judge stated that he would find WRI's intervention acceptable "[i]f its intention is to assist TDS and USCC in going forward on the designated issue and in meeting its burden of proof". (Order at p. 1). Nonetheless, in its supplement WRI makes no attempt to so justify its intervention. Instead, wholly undercutting the Presiding Judge's suggestion, WRI responded only in relevant part that it "has no intention of participating in any manner separate and/or distinct from USCC, of being represented separately from USCC, or of filing motions, including proposed findings of fact and conclusion, separately from USCC." (Supplement at p. 2).

In short, even with its supplement WSI has made no showing whatsoever that it qualifies as a party in interest within the meaning of Section 1.223(a) of the rules; it similarly has made no showing whatsoever that it should be allowed to intervene under the principles of Section 1.223(b) of the rules; and it has wholly failed to show, despite the Presiding Judge's suggestion, that its intention in seeking to intervene is "to assist TDS and USCC in going forward on the designated issue and in meeting its burden of proof".

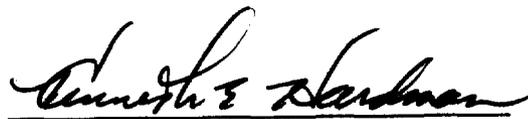
What WRI does do in its supplement is to launch an extended and inappropriate discussion of its view that the results of this proceeding can have no collateral effect outside of Wisconsin 8. In the Settlement Group's view, this discussion highlights the potential for mischief if WRI is permitted to intervene. That is, given TDS/USCC's demonstrated penchant for unreasonably narrow and hypertechnical interpretations of rules and decisions, permitting the intervention of WRI herein potentially could provide the opportunity for TDS/USCC ultimately to argue that the adverse character findings in this case apply only to WRI and not to any other member of the TDS corporate family. Avoiding the potential for just such mischief is reason enough to deny the requested intervention.

Respectfully submitted,

CENTURY CELLUNET, INC.
CONTEL CELLULAR, INC.

COON VALLEY FARMERS TELEPHONE
COMPANY, INC.
FARMERS TELEPHONE COMPANY
HILLSBORO TELEPHONE COMPANY
LAVALLE TELEPHONE COOPERATIVE
MONROE COUNTY TELEPHONE COMPANY
MOUNT HOREB TELEPHONE COMPANY
NORTH-WEST CELLULAR, INC.
RICHLAND-GRANT TELEPHONE
COOPERATIVE, INC.
VERNON TELEPHONE COOPERATIVE
VIROQUA TELEPHONE COMPANY

By



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April 13, 1994

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of April, 1994, served the foregoing RESPONSE TO SUPPLEMENT TO MOTION FOR LEAVE TO INTERVENE upon Administrative Law Judge Joseph P. Gonzalez and upon all parties of record and applicants for intervention by hand delivery or by mailing a true copy thereof, first class postage prepaid, to all such parties or their attorneys, as shown on the following list:

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