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June 27, 1995

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JUN 27 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation
CellCall, Inc.
PR Docket No. 93-144, PP Docket No. 93-253

Dear Mr. Caton:

On behalf of CellCall, Inc. ("CellCall"), and pursuant to Section 1.1206 of the Commission's Rules, we hereby notify the Commission that on June 26, 1995, J.P. Harris, James Wade, Peter Claudy, Carl W. Northrop, and the undersigned met with Ruth Milkman to discuss issues in connection with the above-referenced dockets. A set of the materials provided to Ms. Milkman is attached hereto.

Due to the late hour at which the meeting ended, it was not possible to file this Notice on the day of the meeting.

Respectfully submitted,

E. Ashton Johnston

Enclosures

cc: Ruth Milkman

DC.111890.01

Presentation of CellCall, Inc. on the Licensing Plan for Wide-Area 800 SMR Systems

June 26, 1995

CELLCALL SUPPORTS A WIDE-AREA LICENSING PLAN THAT WILL ALLOW REGIONAL SMR OPERATORS TO COMPETE EFFECTIVELY WITH OTHER WIRELESS SERVICE PROVIDERS

* **Regulatory Parity Requires that SMR Licensees Get Out From Under the Requirement that They License Every Transmitter Site**

* **Contiguous Spectrum Will Provide SMR Licensees with Technology Choices that Will Serve to Level the Playing Field**

* **Auctions Will Help to Assure that Licenses Go To Serious Operators Whose Business Plans Cause Them to Value the Spectrum Most Highly**

* **Emerging Carriers in the Wide-Area SMR Business Such as CellCall Will Be Able to Implement Their Business plans**

* **TIME IS OF THE ESSENCE! The Status Quo Seriously Jeopardizes the Operations of Existing SMR Operators and Exacerbates the Headstart Enjoyed By Cellular and PCS Carriers**

DELAY AND UNCERTAINTY ARE HARMING INCUMBENT SMR LICENSEES

* **In 1993, it Appeared that a Wide-Area Licensing Plan for SMR Systems Would be Adopted in the Near Term. This Fostered Substantial Investment in Regional SMR Companies**

* **Since August 1994, the Application Freeze Has Prevented the Implementation of Critical System Modifications Needed to Sustain and Improve Service to Subscribers (See Maps)**

* **Regulatory Delay and Uncertainty Have Reduced the Supply of Debt and Equity Capital Available to Emerging Regional SMR Carriers**

* **Research and Development by Equipment Manufacturers Has been Inhibited in the SMR Band by the Uncertainty**

* **Regional SMR Operators Who Could Have Become Bona Fide Competitors Are Selling Out Because Regulatory Barriers Have Frustrated the Implementation of Their Business Plans**

* **Mandatory Relocation Now Looms as the Final Blow to Devalue Existing 800 MHz SMR Channels**

MANDATORY RELOCATION OF SMR INCUMBENTS WILL JEOPARDIZE THE WIDE-AREA LICENSING PLAN

* **Auctioning Off Fully Occupied Spectrum Along with Forced Relocation Rights Exceeds the Budget Act Authority Which Is Expressly Limited to "New" Licenses**

* **Serious Competitive Issues Are Raised When One Licensee Has the Right to Relocate the Facilities and Customers of a Direct Competitor**

  - **This is MUCH DIFFERENT From PCS Where Carriers Are Relocating a Link Business Rather than Disrupting a Dispersed Mobile Customer Base**

  - **Must the Relocating Incumbent Give Its Customer List to the Wide-Area Licensee? If Not, What Is the Incumbent Paid for the Time It Takes to Contact and Relocate Its Customers?**

  - **What is the Incumbent Paid for the "Cost" of Churn?**

* **Mandatory Relocation Will Put the Dominant Operator in Each Region at Such an Advantage as to Discourage Other Bidders and Undermine The Prospects for Cooperative Arrangements**

CELLCALL FAVORS A BALANCED RELOCATION PLAN WHERE CARRIERS MUST EARN THE RIGHT TO MOVE INCUMBENTS AND DISRUPTION OF EXISTING SERVICE IS MINIMIZED

* **The Right to Mandate Relocation Would Be Earned When the Wide-Area Licensee Owns, Controls, or Has Reached Voluntary Relocation Agreements with Holders of 90% of the Upper Band Channels Within 25 Miles of the Centerpoint of the Territory**

  - **A 90% Threshold Guarantees that the Wide-Area Licensee Has a Fair Relocation Policy**

  - **Allowing Forced Relocation After the 90% Threshold Has Been Reached Will Encourage Incumbents to Cooperate and Will Protect the Wide-Area Licensee Against Unreasonable Hold-Outs**

* **The Wide-Area Licensee Cannot Be Allowed to Disassemble Competitors' Systems on a Piecemeal Basis**

  - **All Upper Band Channels of an Incumbent Carrier Would Have to Be Relocated at One Time**

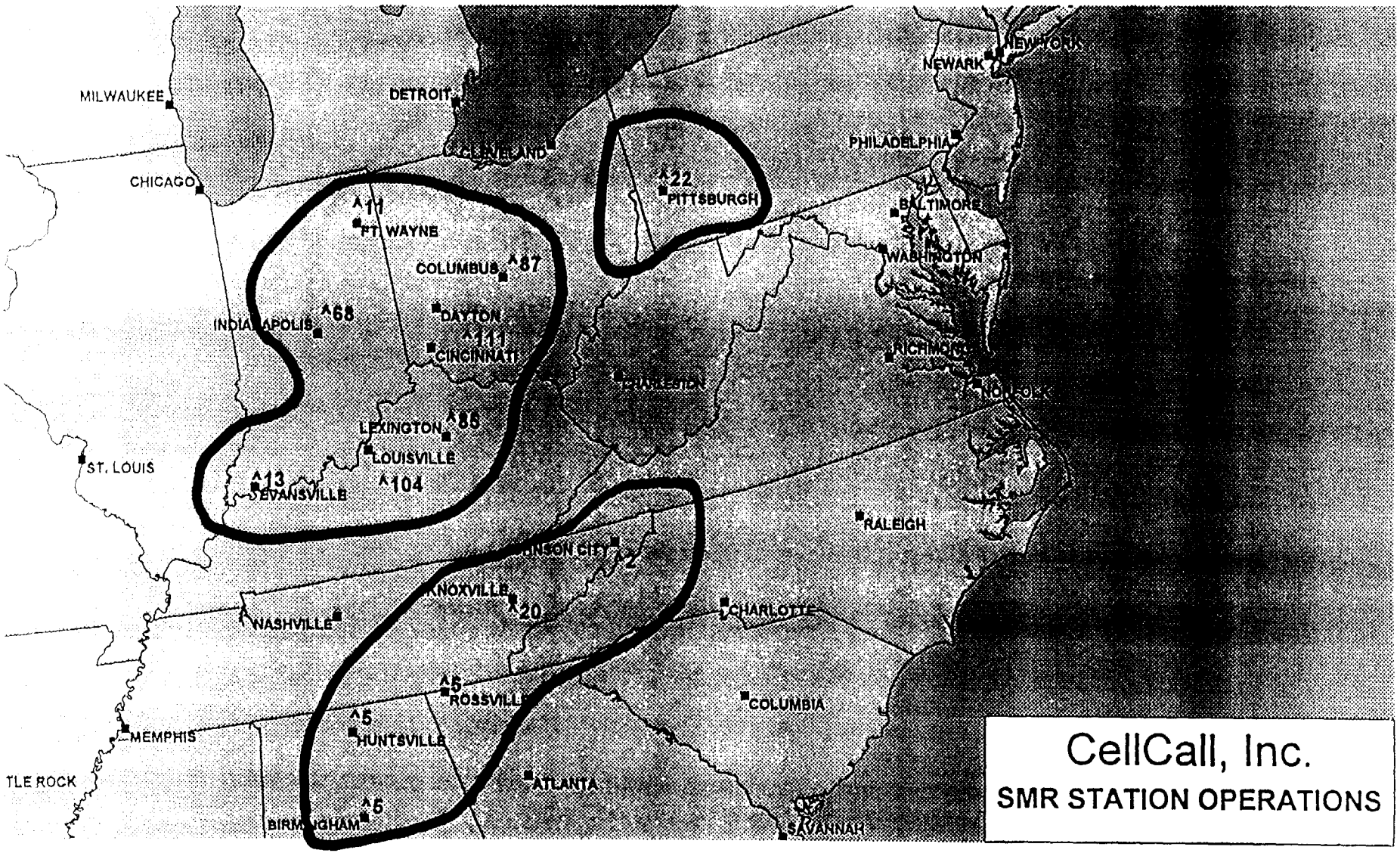
THE CELLCALL PLAN HAS MANY ADVANTAGES

* **Cooperation Between Incumbents and Wide-Area Licensees Will be Encouraged Because They Will Have More Equal Bargaining Power**

* **The Prospects of Interminable Litigation Over the Relocation Policy Will Be Reduced**

* **The Commission Will Not Become Embroiled in Relocation Disputes**

* **Regional Carriers Such as CellCall Can Sustain Their Operations and Have a Realistic Opportunity to Become Significant Market Participants**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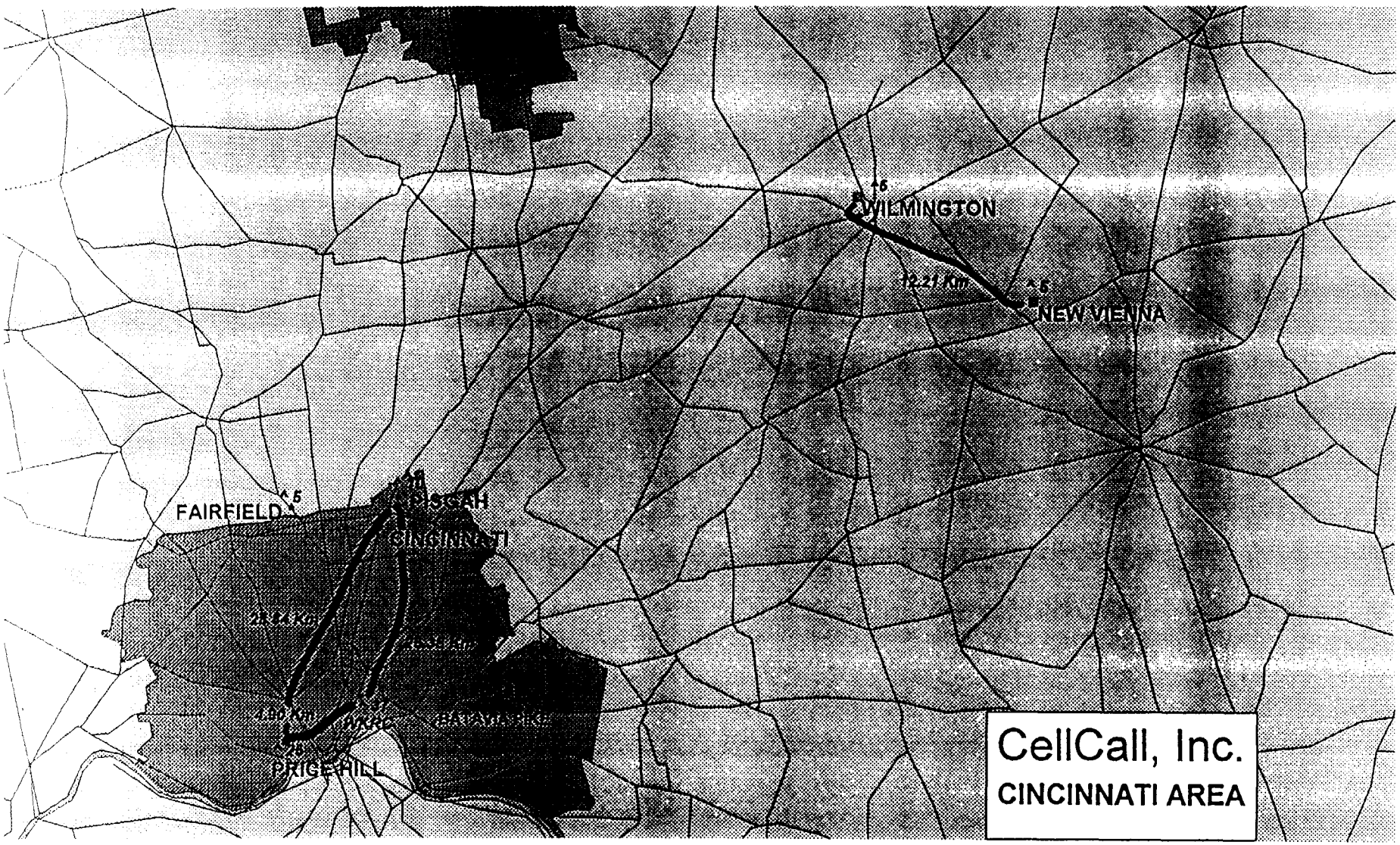
SAVANNAH
CellCall, Inc.
SMR STATION OPERATIONS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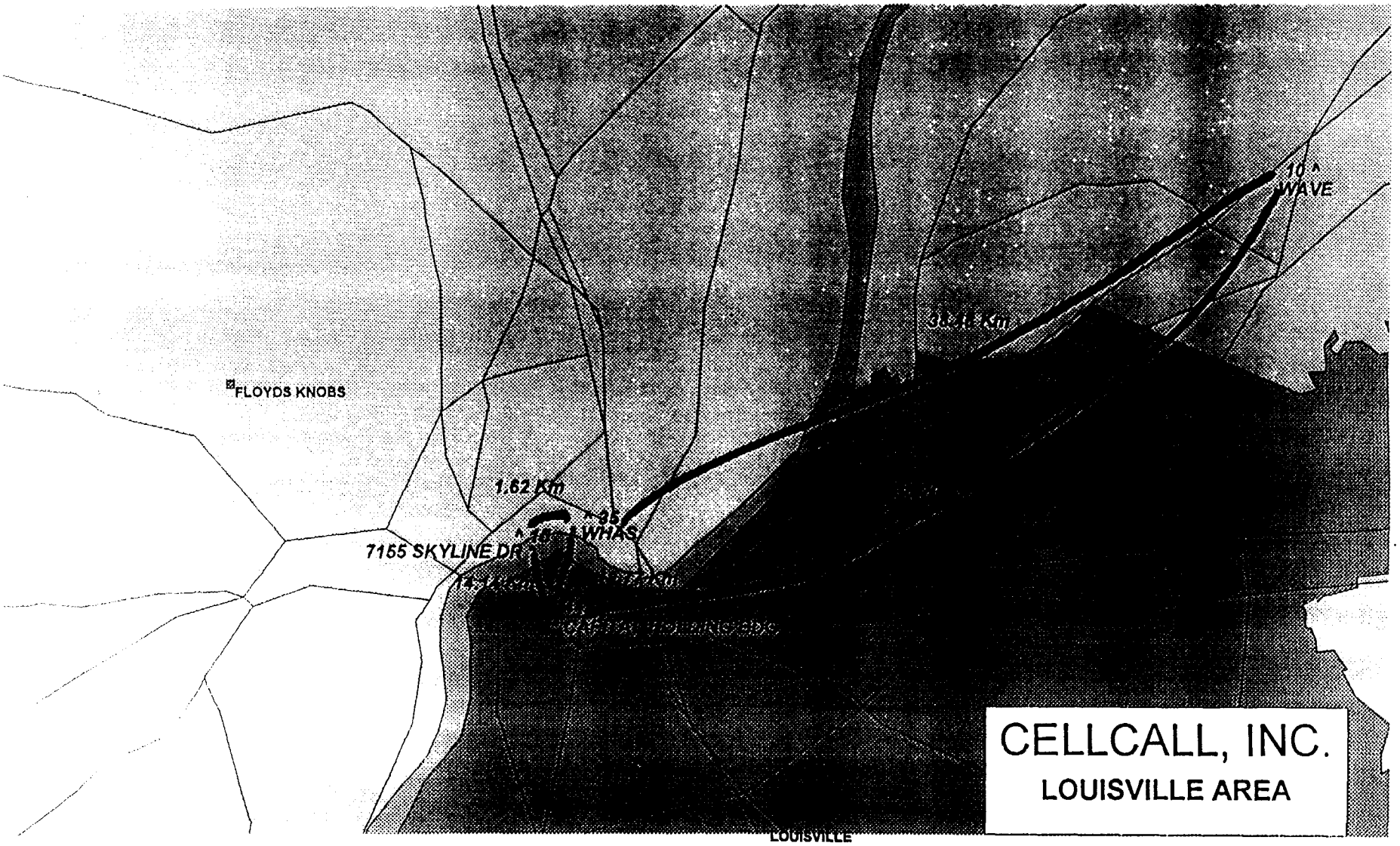
CINCINNATI AREA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WAVE
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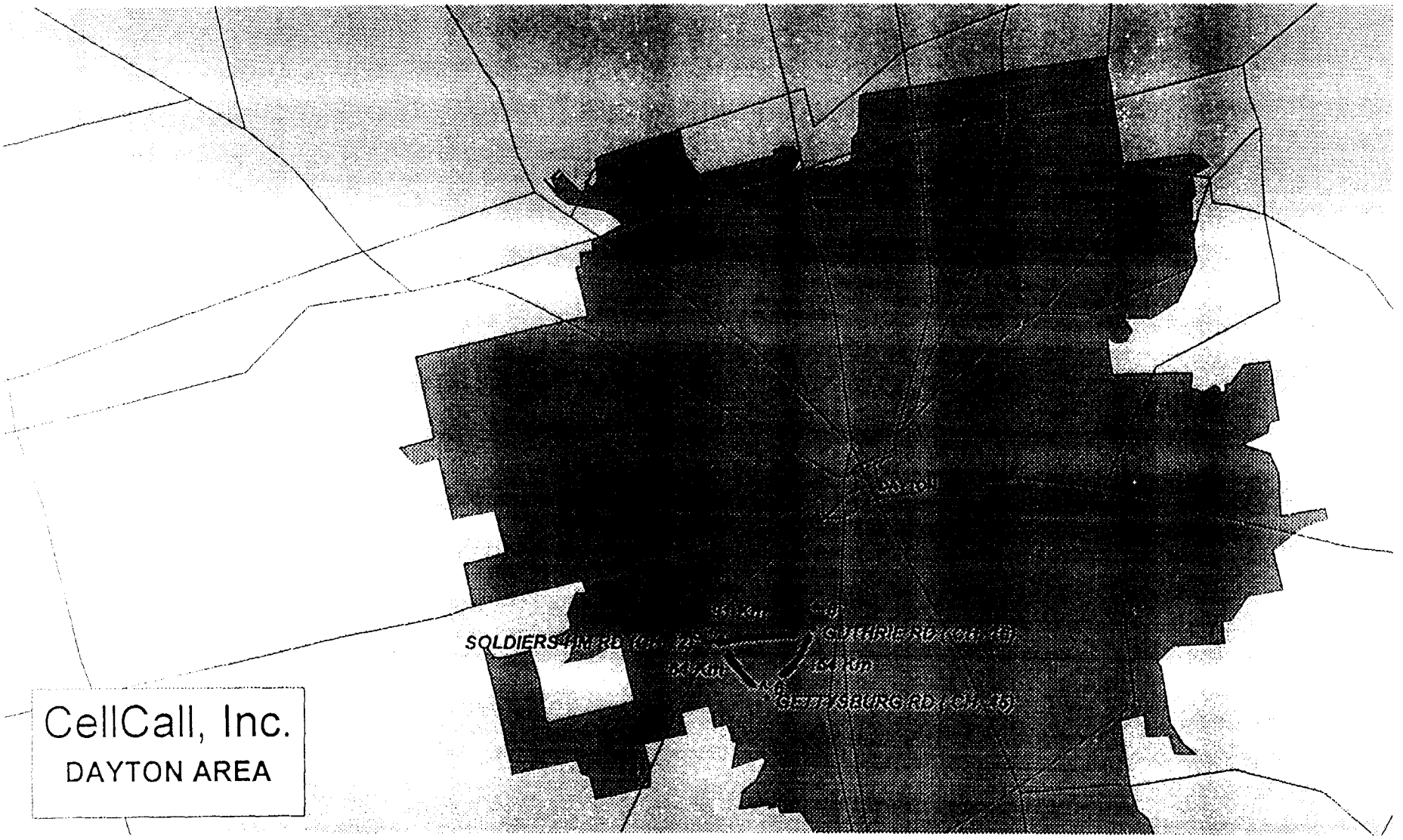
LOUISVILLE AREA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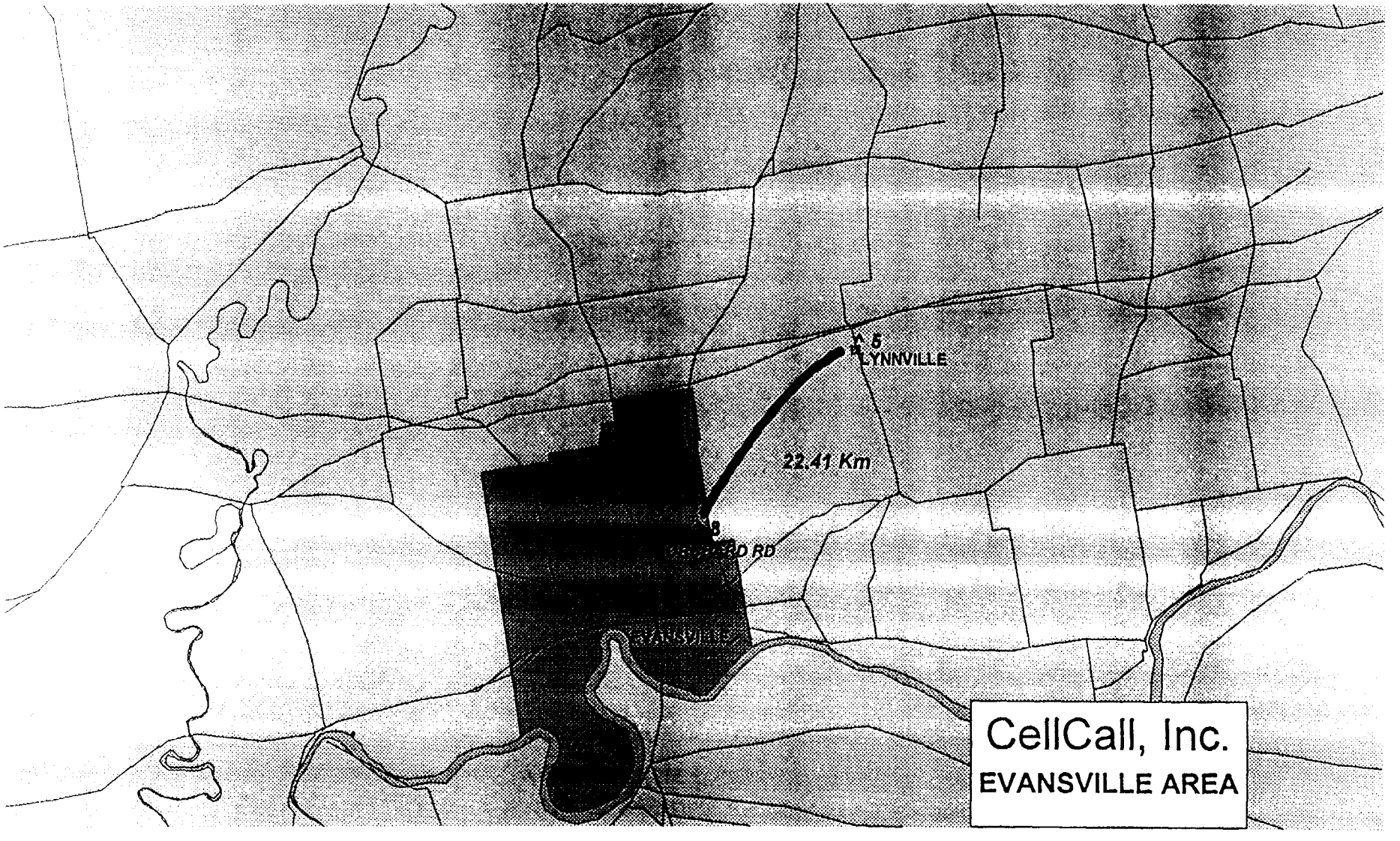
CellCall, Inc.
DAYTON AREA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CellCall, Inc.
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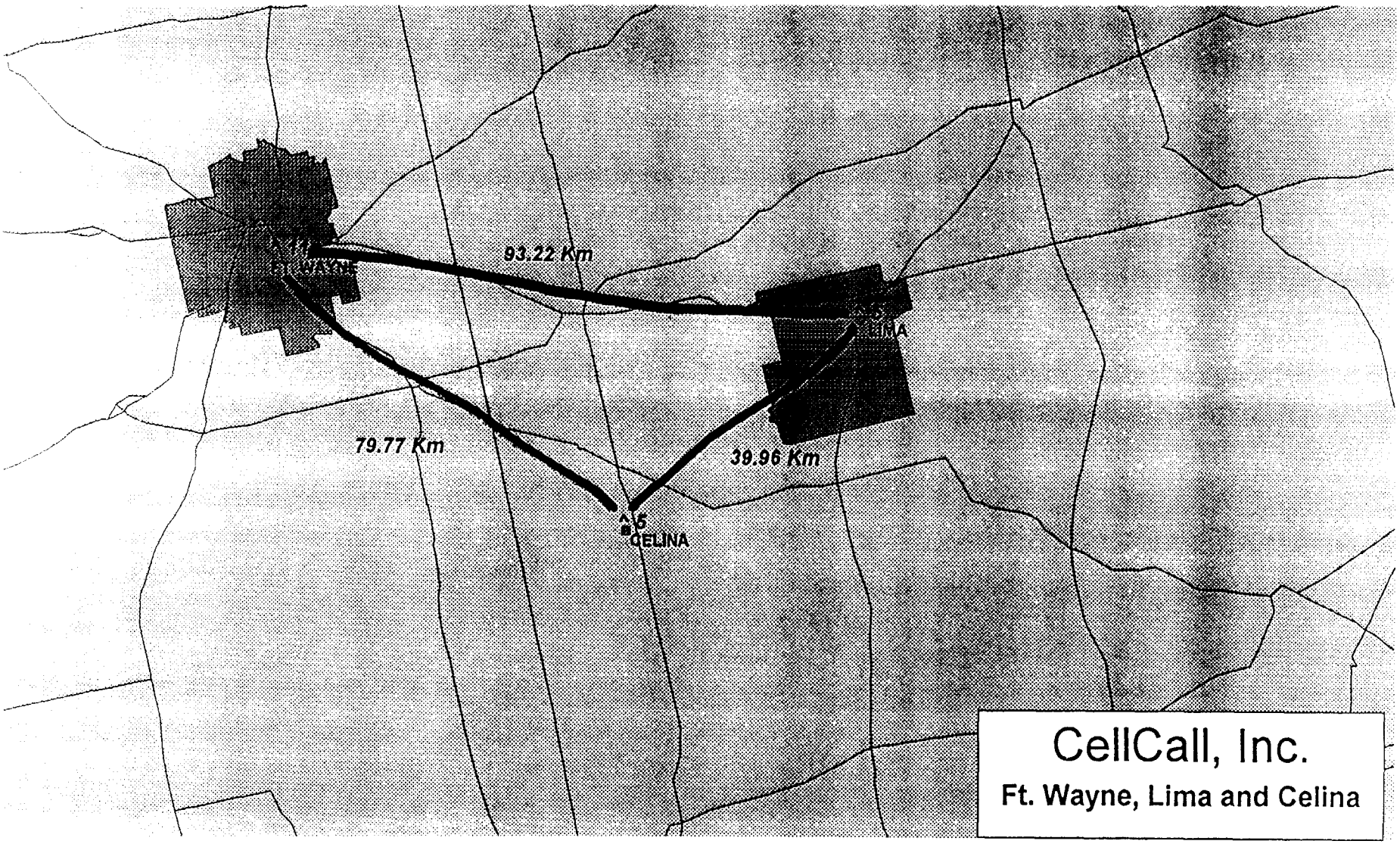
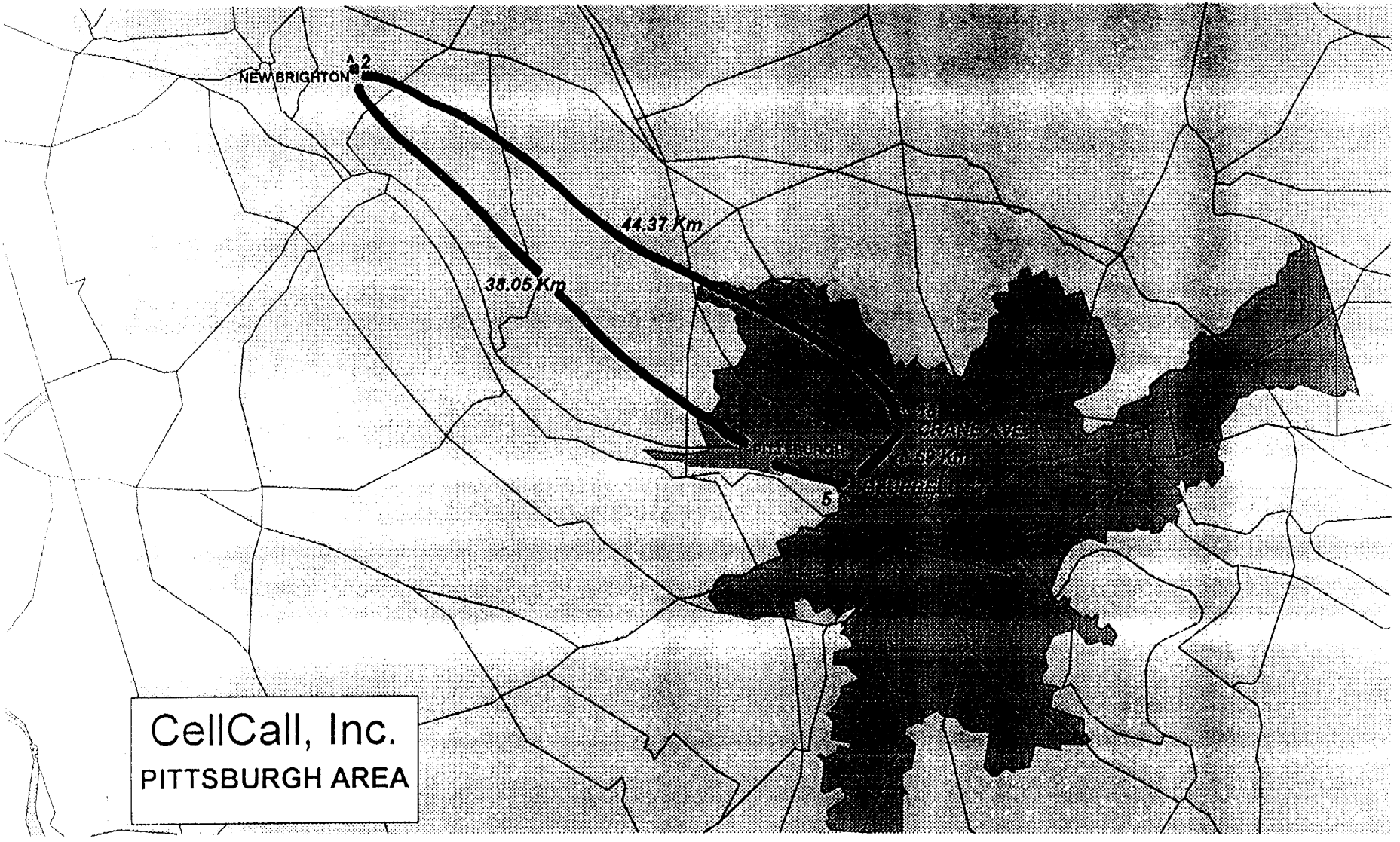


CellCall, Inc.

Ft. Wayne, Lima and Celina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2
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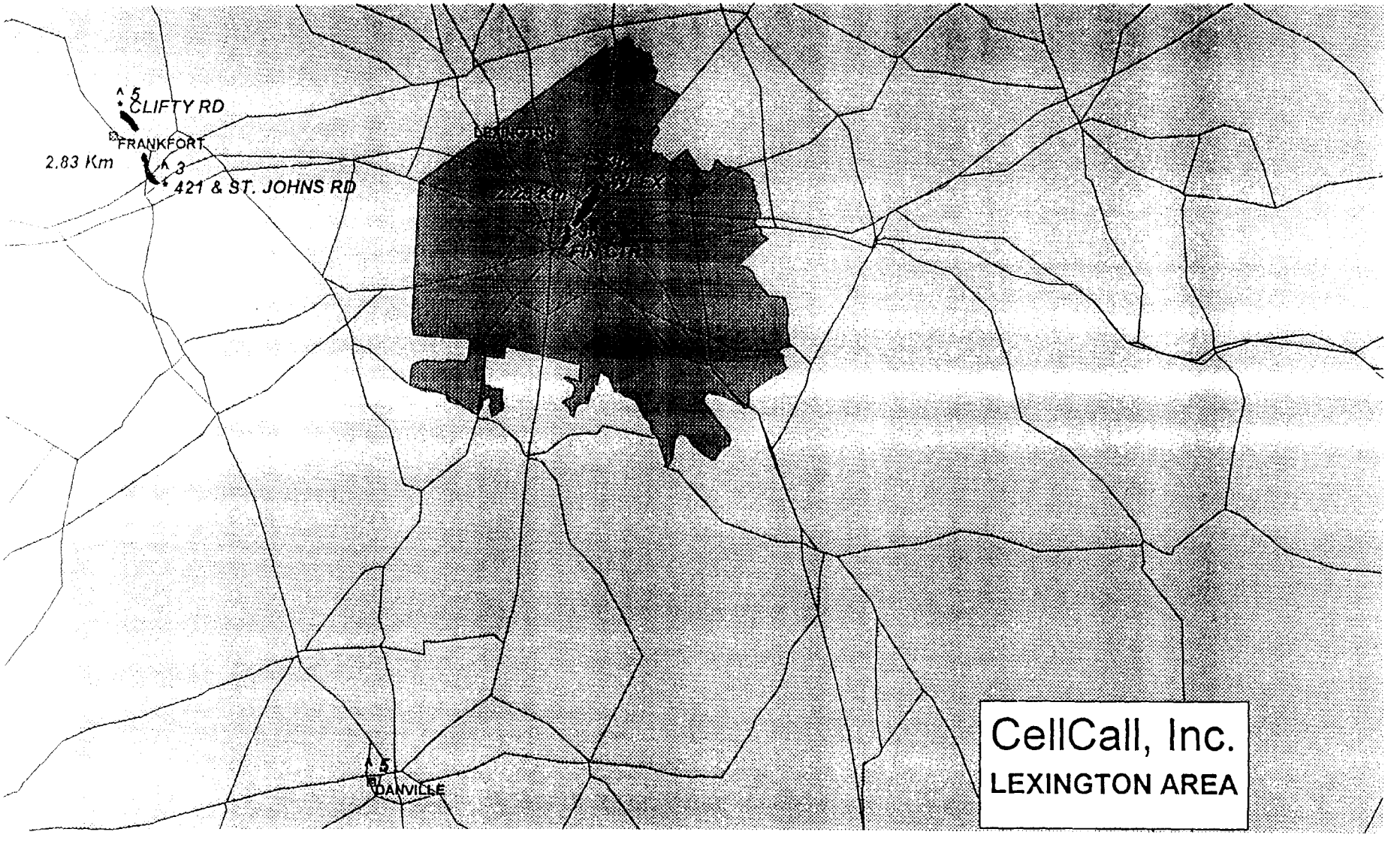
PITTSBURGH
5
CellCall, Inc.
PITTSBURGH AREA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FRANKFORT
2.83 Km
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LEXINGTON
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DANVILLE
CellCall, Inc.
LEXINGTON AREA