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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Western Wireless Corporation Petition for	)	CC Docket No. 96-45
Preemption of an Order of the South Dakota	)	
Public Utilities Commission	)	
	)	

**ORDER**

Adopted: August 4, 1999

Released: August 4, 1999

Revised Comment Date: September 2, 1999

Revised Reply Comment Date: September 17, 1999

By the Chief, Accounting Policy Division:

**I. INTRODUCTION**

1. In this Order, we grant the request of the South Dakota Public Utilities Commission (South Dakota PUC),<sup>1</sup> for extension of the dates for comments and reply comments on Western Wireless Corporation's Petition for Preemption of the South Dakota Public Utilities Commission's order denying Western Wireless designation as an eligible telecommunications carrier.<sup>2</sup> For the reasons discussed below, we extend the comment date from August 18, 1999 to September 2, 1999, and the reply comment date from September 2, 1999 to September 17, 1999.

**II. BACKGROUND**

2. On June 23, 1999, Western Wireless Corporation and its wholly-owned subsidiary, GCC License Corporation (collectively, "Western Wireless") filed a petition for preemption of

<sup>1</sup> South Dakota Public Utilities Commission's Request For an Extension of Comment Periods (filed July 27, 1999) (*South Dakota Petition*).

<sup>2</sup> *Western Wireless Corporation Petitions for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Public Notice, DA 99-1356 (rel. July 19, 1999) (*Western Wireless Notice*).

an order of the South Dakota PUC.<sup>3</sup> Western Wireless requests that the Commission preempt the decision of the South Dakota PUC denying Western Wireless' request for designation as an eligible telecommunications carrier (ETC) under section 214(e) of the Communications Act of 1934, as amended.<sup>4</sup> Specifically, Western Wireless contends that the South Dakota PUC decision has the effect of precluding competitive entrants from providing universal service in high cost areas, and thus constitutes a barrier to entry that the Commission must preempt under section 253 of the Act.<sup>5</sup>

3. In addition, Western Wireless requests that the Commission find that the South Dakota PUC's conditions for designation as an ETC "thwart and impede" the federal interest in promoting local competition and universal service in high cost areas, as set forth in the Act and Commission precedent. For example, Western Wireless contends that the South Dakota PUC's interpretation of section 214(e) would require a new entrant to provide universal service comparable to that of the incumbent LEC before it can be designated as an ETC. Western Wireless suggests that a carrier should receive ETC designation if it demonstrates that it has the capability to provide facilities-based universal service to customers in a service area and has made a commitment to extend service to additional customers throughout the service area upon request.<sup>6</sup>

4. On July 27, 1999, the South Dakota PUC filed a request to extend the comment date and the reply comment date for the *Western Wireless Notice*.<sup>7</sup> The South Dakota PUC states that, given the diminished size of its staff which has responsibility for filing comments in this docket and the existence of a parallel case involving the same parties in state circuit court in South Dakota, it is unlikely to have adequate time to prepare its comments. Therefore, the South Dakota PUC respectfully requests an extension of the current schedule by an additional fifteen (15) days beyond August 18, 1999, for filing comments in this proceedings.<sup>8</sup>

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<sup>3</sup> See Letter from Michele C. Farquhar, Counsel for Western Wireless, to Magalie Roman Salas, FCC, dated June 23, 1999 (*Western Wireless Petition*).

<sup>4</sup> Western Wireless Petition at 1 (citing 47 U.S.C. § 214(e)).

<sup>5</sup> Western Wireless Petition at 2 (citing 47 U.S.C. § 253).

<sup>6</sup> Western Wireless Petition at 4.

<sup>7</sup> See South Dakota Petition.

<sup>8</sup> South Dakota Petition at 2.

### III. DISCUSSION

5. Section 1.46(a) of the Commission's rules states that "[i]t is the policy of the Commission that extensions of time shall not be routinely granted."<sup>9</sup> Although we regularly adhere to this general policy, we recognize that the issues involved in this proceeding are of high importance to the South Dakota PUC. Moreover, the South Dakota PUC has shown good cause for the granting of its request. For these reasons, we conclude that an extension of the comment date and the reply comment date for the *Western Wireless Notice* would serve the public interest.

### IV. ORDERING CLAUSES

6. IT IS ORDERED that, pursuant to sections 1, 4(i), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 254, and sections 0.91, 0.291, and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.46, that the Request For Extension of Time filed by the South Dakota Public Utilities Commission on July 27, 1999 IS GRANTED.

7. IT IS FURTHER ORDERED that, pursuant to sections 1, 4(i), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 254, and sections 0.91, 0.291, and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.46, the comment date for the *Western Wireless Corporation Petitions for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Public Notice, DA 99-1356 (rel. July 19, 1999) IS EXTENDED from August 18, 1999 to September 2, 1999, and the reply comment date for the same IS EXTENDED from September 2, 1999 to September 17, 1999.

FEDERAL COMMUNICATIONS COMMISSION



Irene M. Flannery  
Chief, Accounting Policy Division

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<sup>9</sup> 47 C.F.R. § 1.46(a).