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FEDERAL COMMUNICATIONS COMMISSION

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**COMMON CARRIER BUREAU SEEKS COMMENT ON
WESTERN WIRELESS CORPORATION PETITION TO REJECT
RURAL TELEPHONE COMPANY SELF-CERTIFICATION FILED BY
VALOR TELECOMMUNICATIONS SOUTHWEST, LLC**

CC Docket No. 96-45

Released: August 17, 2000

Comment Date: September 18, 2000

Reply Date: October 3, 2000

On October 21, 1999, the Commission required rural carriers serving study areas with more than 100,000 access lines to file certification letters by July 1, 2000.¹ The Commission required such carriers to explain how they meet the criteria set forth in the definition of "rural telephone company" in section 153(37) of the Communications Act (Act), as amended.² Specifically, the Commission required a carrier self-certifying as a rural telephone company as defined in section 153(37)(A) to include a description of the study areas in which it provides service and the basis for its assertion that it meets the requirements of this subsection.³ Similarly, the Commission required a carrier self-certifying as a rural telephone company as defined in section 153(37)(D) to include a list of all communities to which it provides service,

¹ See *Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket Nos. 96-45, 97-160, Tenth Report and Order, 14 FCC Rcd 20156, 20350-58 (1999) (*Tenth Report and Order*).

² See 47 U.S.C. § 153(37). The Commission determined that it could easily determine whether a carrier satisfies the criteria in subsections 153(37)(B) or (C) and only required additional information if the carrier claims rural status under the criteria in subsection 153(37)(A) or (D). Section 153(37)(B) provides that a local exchange carrier operating entity is deemed a rural telephone company to the extent that such entity "provides telephone service, including exchange access, to fewer than 50,000 access lines." Section 153(37)(C) provides that a local exchange carrier operating entity is deemed a rural telephone company to the extent that such entity "provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines. Thus, a carrier serving study areas with more than 100,000 access lines could not, by definition, meet the criteria set forth in section 153(37)(B) or (C). See *Tenth Report and Order*, 14 FCC Rcd at 20354.

³ Section 153(37)(A) provides that a local exchange carrier operating entity is deemed a rural telephone company to the extent that such entity – "provides common carrier service to any local exchange carrier study area that does not include either – (i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993." 47 U.S.C. § 153(37)(A). See also *Tenth Report and Order*, 14 FCC Rcd at 20354-55.

the population of those communities, the number of its access lines serving those communities, and the total number of access lines it serves.⁴ In subsequent years, carriers serving study areas with more than 100,000 access lines need only file certification letters if their status changes.⁵

On June 27, 2000, Valor Telecommunications Southwest, LLC on behalf of Valor Telecommunications of New Mexico and Valor Telecommunications of Texas (collectively, Valor) filed its rural certification letter stating it meets the criteria in section 153(37)(D). On July 27, 2000, Western Wireless Corporation (Western Wireless) filed a Petition to Reject Rural Telephone Company Self-Certification requesting that the Commission reject the self-certification letter filed by Valor requesting to have those carriers certified as rural telephone companies under section 153(37) of the Act. Western Wireless claims that Valor does not qualify as a rural telephone company under section 153(37)(D) because Valor was not a local exchange carrier on the date of enactment of the Telecommunications Act of 1996 (1996 Act),⁶ and Valor did not have "less than 15 percent of its access lines in communities of more than 50,000" on the date the 1996 Act was adopted. Western Wireless further argues that Valor is purchasing exchanges from GTE that have already been disqualified from satisfying the section 153(37)(D) definition because GTE had substantially more than 15 percent of its access lines communities of more than 50,000 on February 8, 1996. Finally, Western Wireless claims that Valor's claimed rural telephone company status would prejudice the eligible telecommunications carrier status of prospective competitive entrants such as Western Wireless.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before **September 18, 2000**, and reply comments on or before **October 3, 2000**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address.>" A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie

⁴ Section 153(37)(D) provides that a local exchange carrier operating entity is deemed a rural telephone company to the extent that such entity – "has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996." 47 U.S.C. § 153(37)(D). *See also Tenth Report and Order*, 14 FCC Rcd at 20358.

⁵ *Tenth Report and Order*, 14 FCC Rcd at 20352, 20355.

⁶ Pub. L. No. 104, 110 Stat. 56 (1996). *See also note 4, supra*.

Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

For further information, contact Katie King, Accounting Policy Division, Common Carrier Bureau, at (202) 418-7400, TTY (202) 418-0484.