



PUBLIC NOTICE

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THE MINNESOTA PUBLIC UTILITIES COMMISSION PETITIONS FOR AGREEMENT TO REDEFINE THE SERVICE AREA OF FRONTIER COMMUNICATIONS OF MINNESOTA, INC.

CC Docket No. 96-45

Release Date: November 29, 2000

The Common Carrier Bureau provides notice that the Minnesota Public Utilities Commission (Minnesota PUC) has filed a petition, pursuant to section 54.207 of the Commission's rules, requesting the Commission's consent to its proposed alternative "service area"¹ definition for Frontier Communications of Minnesota, Inc. (Frontier).² The Minnesota PUC proposes to adopt a definition of service area that differs from Frontier's "study area"³ for the purpose of determining universal service obligations and support mechanisms.⁴ Specifically, the Minnesota PUC proposes to classify each of the 45 individual exchanges served by Frontier as separate service areas.⁵ The Minnesota PUC contends that, without a redefinition of Frontier's service area, the Minnesota PUC will be unable to designate another carrier as an eligible telecommunications carrier (ETC) to serve any portion of Frontier's study area, even if such designation is in the public interest.⁶ The Minnesota PUC contends that it has taken into account the recommendations of the Federal-State Joint Board, as required by the Communications Act

¹ Section 214(e)(5) defines the term "service area" as a "geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms." 47 U.S.C. § 214(e)(5).

² *Petition of the Minnesota Public Utilities Commission for FCC Agreement to Redefine the Service Area of Frontier Communications of Minnesota, Inc.*, filed on Oct. 26, 2000 (Minnesota Petition).

³ Generally, a study area corresponds to an incumbent local exchange carrier's entire service territory within a state. See 47 C.F.R. § 54.207(b).

⁴ Minnesota Petition at 1, 7-10.

⁵ *Id.* at 7.

⁶ *Id.* at 6. An ETC is eligible to receive universal service support in accordance with section 254 of the Act. 47 C.F.R. § 214(e)(2).

of 1934, as amended (the Act), and Commission rules.⁷

Commission Rules: For areas served by a rural telephone company, section 214(e)(5) of the Act provides that the company's service area will be its study area "unless and until the Commission and the States, after taking into account the recommendations of a Federal-State Joint Board instituted under section 410(c) of the Act, establish a different definition of service area for such company."⁸ Section 54.207 of the Commission's rules⁹ and the *Universal Service Order*¹⁰ set forth the procedures for consideration of petitions filed by state commissions seeking to designate service areas for rural telephone companies that are different from such companies' study areas. Specifically, section 54.207(c)(1) provides that such a petition shall contain: (i) the definition proposed by the state commission; and (ii) the state commission's ruling or other official statement presenting the state commission's reason for adopting its proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company.¹¹

The Petition: On October 27, 1999, the Minnesota PUC issued an order granting preliminary approval to Minnesota Cellular Corporation, now known as Western Wireless Corporation (Western Wireless), for designation as an ETC under section 214(e) of the Act.¹² In this order, the Minnesota PUC found that it was in the public interest to designate Western Wireless as an ETC in service areas served by rural telephone companies. At that time, the Minnesota PUC rejected the claim of Frontier that it was a rural telephone company.

On February 10, 2000, the Minnesota PUC issued an order on reconsideration finding, among other things, that Frontier was a rural telephone company under the Act.¹³ As a rural telephone company, section 214(e)(5) defines Frontier's service area as its study area, until and unless the Commission and the state establish a different definition.¹⁴ Accordingly, Frontier's

⁷ *Id.* at 8-10.

⁸ See 47 U.S.C. § 214(e)(5).

⁹ 47 C.F.R. § 54.207.

¹⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8881, para. 188 (1997) (*Universal Service Order*) (subseq. history omitted).

¹¹ 47 C.F.R. § 54.207(c)(1)(i),(ii).

¹² *Minnesota Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier*, Order Granting Preliminary Approval and Requesting Further Filings, Docket No. P-5695/M-98-1285 (Minn. PUC 1999).

¹³ *Minnesota Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier*, Order Acting on Petitions for Reconsideration and Opening Investigation, Docket No. P-5695/M-98-1285 (Minn. PUC 2000) (*Minnesota PUC Reconsideration Order*). See also 47 U.S.C. § 153(37).

¹⁴ 47 U.S.C. § 214(e)(5).

study area would include all of Frontier's 45 existing exchanges in Minnesota.¹⁵ Pursuant to section 214(e)(1) of the Commission's rules, a carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanism throughout the entire service area.¹⁶ Because Western Wireless is licensed to serve only 29 of the 45 exchanges comprising Frontier's Minnesota study area, the Minnesota PUC rescinded its preliminary designation of Western Wireless as an ETC in areas served by Frontier.¹⁷

On September 1, 2000, the Minnesota PUC issued an order concluding that Frontier's service area should be "disaggregated on an exchange by exchange basis as this would allow CLECs [competitive local exchange carriers] which are designated a federal ETC to receive future federal high-cost funds, if any, for those exchanges in which they serve."¹⁸ The Minnesota PUC noted that Frontier's study area is comprised of 45 non-contiguous exchanges located throughout Minnesota and concluded that Frontier's service area should be redefined into 45 separate service areas based on those individual exchanges. The Minnesota PUC reasoned that this redefinition would promote competition by allowing CLECs that are designated ETCs to receive federal high-cost funds to provide service in part or all of Frontier's current service area.¹⁹ The Minnesota PUC therefore authorized a petition to be filed with the Commission requesting consent to its proposed alternative service area definition for Frontier's Minnesota service territory.

Status: Section 54.207(c)(3) of the Commission's rules provides that the Commission may initiate a proceeding to consider a petition to redefine the service area of a rural telephone company within ninety days of the release date of a Public Notice.²⁰ If the Commission initiates a proceeding to consider the petition, the proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in

¹⁵ Minnesota Petition at 6; 47 C.F.R. § 54.207(b).

¹⁶ See 47 U.S.C. § 214(e)(1).

¹⁷ *Minnesota PUC Reconsideration Order* at 4. In addition, the Minnesota PUC initiated a proceeding to investigate the merits of redefining Frontier's service area.

¹⁸ *An Investigation into the Merits of Disaggregating the Service Area of Frontier Communications of Minnesota, Inc.*, Order Determining That Frontier's Service Area be Disaggregated, Docket No. P-405/CI-00-79 (Minn. PUC 2000). Western Wireless supported the redefinition of Frontier's service area in proceedings before the Minnesota PUC.

¹⁹ *Id.* at 8. The Minnesota PUC rejected Frontier's request that, if its service area is to be redefined, it should consist of two service areas, one to cover the exchanges that Western Wireless can serve, and one for all other exchanges. The Minnesota PUC concluded that while this proposed definition would address Western Wireless' concerns, it would not meet the needs of future requests for ETC designation in Frontier's service area. See Minnesota Petition at 7-8.

²⁰ 47 C.F.R. § 54.207(c)(3). The rules require the Commission to issue a Public Notice of any state petition to define a service area served by a rural telephone company to be other than such company's study area. 47 C.F.R. § 54.207(c)(2).

accordance with section 214(e)(5).²¹ If the Commission does not act on the petition within 90 days of the release date of the Public Notice, the definition proposed by the state commission will be deemed approved by the Commission and shall take effect in accordance with state procedures.²² Under section 54.207(e) of the Commission's rules, the Commission delegates its authority under section 54.207(c) to the Chief of the Common Carrier Bureau.²³

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

²¹ See 47 C.F.R. § 54.207(c)(3)(i).

²² See 47 C.F.R. § 54.207(c)(3)(ii).

²³ 47 C.F.R. § 54.207(e).