

ORIGINAL

Before the
Federal Communications Commission
Washington, DC 20554

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MAR 26 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Application of)
ALEE CELLULAR COMMUNICATIONS)
)
For Authorization to Construct)
Nonwireline Cellular System in)
Texas RSA 21 Market 672A)

WT Docket No. 02-28

File No. 11025-CL-P-672-A-89

To: The Honorable Arthur I. Steinberg
Administrative Law Judge

DOCKET FILE COPY ORIGINAL

PETITION FOR LEAVE TO INTERVENE

Miller Communications, Inc. and Ranger Cellular ("Petitioners"), by their attorneys, hereby petition the Commission pursuant to Section 1.223 of the rules to intervene in the above-captioned case. Petitioners are both original applicants for the Texas-21 license at issue in this proceeding. The Commission dismissed their applications in 1998 on the grounds that the conversion from a lottery to a competitive bidding method of license assignment required the dismissal of their applications. Petitioners timely sought reconsideration of that action, and that matter remains pending.¹

The captioned Alee Cellular Communications application is mutually exclusive with Petitioners' applications for the same license. Grant of the Alee application would thus have a direct adverse and preclusive effect on the possibility of Petitioners' own applications being

¹ The Commission can presumably take official notice of the pendency of the Petitioners' applications. Nevertheless, there is attached hereto a declaration of counsel attesting to such pendency and the fact that grant of the Alee application will adversely affect Petitioners' interests.

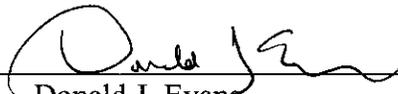
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granted. The Commission has clearly held that competing applicants are parties in interest for purposes of the intervention rules. See, for example, *Algreg Cellular Engineering*, 69 RR 2d 1346 (Rev. Bd. 1991) where another applicant for a cellular RSA (ZDT Partnership) sought to intervene in the Algreg case on the grounds that its interests would necessarily be prejudiced by a grant of the subject applications. After reviewing the authorities, the Review Board held that as a competing mutually exclusive applicant, the proposed intervener had a right to participate. The fact that Petitioners' applications have been provisionally dismissed is immaterial. If their applications are ultimately reinstated by the Commission, they will have suffered irreparable harm if Alee's application here is granted in the meantime. Accordingly, they must be allowed to intervene in order to protect their interests.

The hearing designation order for this case appeared in the Federal Register on March 18, 2002. This petition is therefore timely under the provisions of Section 1.223.

Respectfully submitted,

RANGER CELLULAR AND
MILLER COMMUNICATIONS, INC.

By  _____
Donald J. Evans
Raymond J. Quianzon

Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
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703-812-0400

March 26, 2002

Their Attorneys

DECLARATION

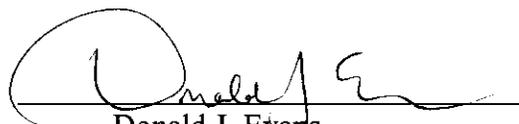
I, Donald J. Evans, hereby declare under penalty of perjury as follow:

1. I have represented Miller Communications, Inc., and Ranger Cellular ("Movants") in connection with the appeal of the dismissal of their applications for cellular licenses for the Texas-21 RSA. Movants each filed applications for this market in 1989 which are mutually exclusive with Alee Cellular Communications' application. These applications were dismissed by the Commission as a result of the conversion to the competitive bidding process, but Movants' appeal of that decision is still pending at the Commission.

2. If the application of Alee is granted, it will preclude Movants from having the opportunity to have their own applications processed and granted, and thus they could be adversely affected by the outcome of this proceeding.

3/25/02

Date


Donald J. Evans

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary with the law firm of Fletcher, Heald & Hildreth, PLC, hereby state that copies of the foregoing PETITION FOR LEAVE TO INTERVENE was sent by first class mail, postage prepaid, on the 26th day of March, to the following:

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Deborah N. Lunt

*By Facsimile