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October 15, 2002

BY ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45: Petitions of RCC Holdings, Inc. and Cellular South License, Inc. for Designation as ETCs in the state of Alabama (DA Nos. 02-746 and 02-1465)

EX PARTE FILING

Dear Ms. Dortch:

The Alabama Rural Local Exchange Carriers ("Alabama Rural LECs") submit this *ex parte* letter in response to the October 7, 2002 *ex parte* filing made by Cellular South License, Inc. ("CS") and RCC Holdings, Inc. ("RCC") (collectively, the "Petitioners") (the "October CS/RCC *ex parte* presentation"). In the CS/RCC *ex parte* presentation the Petitioners purport to rebut an *ex parte* filing made by the Alabama Rural LECs on October 2, 2002 (the "October Alabama Rural LECs *ex parte* presentation").

In their most recent *ex parte* letter, the Petitioners make the following statements:

"By providing FCC staff with [sic] M&B article, together with population density maps, the Alabama Rural LECs used the BCPM 3.0 proxy cost model to purportedly demonstrate that costs will increase exponentially in sparsely populated areas. Mr. Wood explained why that cost model produces results that are unfairly skewed toward the ILEC ... The Alabama Rural LECs do not dispute

that the BCPM 3.0 model is an unreliable tool in predicting cost, or that costs do not rise nearly as high as the M&B article would suggest.”¹

While the October Alabama Rural LECs *ex parte* presentation indicated that we would not provide a point-by-point rebuttal of every assertion contained in the *Wood Declaration*, the Alabama Rural LECs did respond as follows:

“The purpose [of the BCPM data] is to illustrate the nature of the density/cost relationship, particularly that costs increase dramatically in sparsely populated areas. As stated in the white paper other proxy models (i.e., HCPM and HAI) ‘show a similar relationship of density to cost’ (M&B white paper at p.4).”²

In light of the October CS/RCC *ex parte* presentation³, the Alabama Rural LECs now present the following additional information in support of our assertion that costs increase dramatically in very sparsely populated areas, and that other proxy models – including the HCPM developed by the Commission, corroborate this relationship.

The HCPM model was adopted by the Commission in 1999, and is the basis for the Commission’s non-rural high-cost universal service support program. The HAI model was sponsored by AT&T and MCI. Because these proxy models were developed for non-rural carriers, there are no publicly available runs for these models for rural study areas.⁴ Nonetheless, the publicly available data from the HAI and HCPM models for the non-rural study areas in Alabama validates the statements of the Alabama Rural LECs in that these models show similar density to cost/density relationships and disprove the allegations that the BCPM overstates the relationship of sparse density to cost. Side-by-side comparisons of the results of these three models for BellSouth in the state of Alabama shows the following:

¹ October CS/RCC *ex parte* presentation at p. 2.

² October Alabama Rural LECs *ex parte* presentation at p. 3.

³ The data shown on Chart 3 is not in any way “deceptive” or “misleading”. October CS/RCC *ex parte* presentation at pp. 2 and 3. First, the specific data points shown on the chart are clearly provided in tabular form next to the chart. Second, the scale is clearly labeled as “Density (Households per Square Mile)”, and the data points along the horizontal axis are clearly labeled (1, 10, 100, 1,000, 10,000 and 100,000).

⁴ It is precisely for this reason that the BCPM results were used in the M&B white paper.

AL - BellSouth

	BCPM 3.0	HAI 5.0	HCPM 2.6
0 - 5	\$ 116.86	\$ 127.73	\$ 149.18
5 - 100	\$ 45.83	\$ 46.36	\$ 58.14
100 - 200	\$ 30.73	\$ 25.50	\$ 29.34
200 - 650	\$ 27.42	\$ 20.26	\$ 23.50
650 - 850	\$ 26.09	\$ 17.34	\$ 21.17
850 - 2,550	\$ 23.70	\$ 15.43	\$ 18.92
2,550 - 5,000	\$ 22.20	\$ 13.34	\$ 15.96
5,000 - 10,000	\$ 20.07	\$ 11.68	\$ 15.02
> 10,000	\$ 17.92	\$ 9.70	\$ 11.26
Weighted	\$ 30.56	\$ 18.36	\$ 28.86

The Alabama Rural LECs do not believe that the Commission would adopt a model for the non-rural universal service program that is “unfairly skewed toward ILECs”⁵. Similarly, it is unlikely that AT&T and MCI would do so. What is notable in this data is that, contrary to the assertion of Petitioners that “costs do not rise nearly as high as the M&B article would suggest”⁶, the Commission’s own HCPM would suggest that they actually rise more.

The faulty conclusions regarding the BCPM data as stated in the *Wood Declaration* are partially due to two fundamentally wrong assumptions. First, the *Wood Declaration* provides that “[i]f BCPM default values were used for some of the inputs (as would almost certainly have to be done in this case), the reported results are certainly too high”.⁷ This statement is incorrect. The data was produced using “FCC Common Inputs”.⁸ During the final stages of the FCC’s proxy model proceeding, the FCC gave both model sponsors a common set of input data so that a side-by-side comparison of the two models could be made. The HAI model data shown on the chart above was also made using the common input values. The second incorrect assumption is that “BCPM 3.0 also defaults to a per-dollar allocation of most operating expenses. Unless McLean & Brown changed this default, the results they generated will be doubly inflated for the less dense areas: first through the overstatement of investment, and second through the excessive allocation of expenses based on this overstatement”.⁹ The BCPM results in the “FCC Common Inputs” run include a constant dollar amount of expenses in each of the density zones, and thus this concern is also invalid.

⁵ October CS/RCC *ex parte* presentation at p. 2.

⁶ *Id.* at p. 3.

⁷ *Wood Declaration* at p. 11.

⁸ M&B white paper, p. 4 (see labeling on Chart 3).

⁹ *Id.*

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What remains un-refuted by any factual showing on the part of CS/RCC are the major points made by the Alabama Rural LECs in their original *ex parte* presentation on September 4, 2002:

- For an ETC application for an area served by a rural telephone company to be in the public interest it must be clearly demonstrated that the public benefits exceed the public costs.
- In sparsely populated rural areas, publicly available data from the Commission's proxy model proceeding indicates that the cost of basic telephone service is high, and increases geometrically as density reaches very low levels.
- Data from the 2000 Census indicates that in many of the rural study areas for which CS/RCC seeks ETC status the population density is very low.
- Petitioners are currently providing service in portions of these study areas and competing for and winning customers without receiving any universal service support.
- Petitioners have not demonstrated that approval of their application will generate sufficient public benefits to overcome the substantial public costs that it will create.

The Alabama Rural LECs would respectfully assert that the Petitioners still have not met their burden, and thus their Petitions are due to be denied. Alternatively, as previously requested, the Commission should delay a decision on these Petitions pending the more complete review of the entire subject of USF portability in the upcoming rulemaking as described in the Motion to Suspend Procedural Dates filed by the Alabama Rural LECs on September 16, 2002.

The Alabama Rural LECs do not wish to provide barriers to competition but rather wish to insure that the public interest test as described in Section 214(e)(2) for ETC designation in rural areas is appropriately applied and that ETCs are not encouraged to design business strategies that are based on unsound economic principles that may ultimately harm rural customers. The Alabama Rural LECs agree with Chairman Powell: "We must insist on market fundamentals that provide proper incentives for long term, sustainable competition."¹⁰

Consistent with Commission rules, we are filing one electronic copy of this *ex parte* letter and request that you place it in the record of the above-referenced proceedings.

Sincerely,


Mark D. Wilkerson

cc: Matthew Brill

¹⁰ Remarks of Michael K. Powell, Chairman, FCC, at the Goldman Sachs Communicopia XI Conference, New York, NY (October 2, 2002).

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