

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Implementation of Section 6002(b) of the	)	
Omnibus Budget Reconciliation Act of 1993	)	WT Docket No. 02-379
	)	
Annual Report and Analysis of Competitive	)	
Market Conditions With Respect to Commercial	)	
Mobile Services	)	

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS OF  
SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION**

South Dakota Telecommunications Association (“SDTA”), by its attorneys, hereby submits these reply comments concerning the Commission’s *Notice of Inquiry* (“NOI”) in the above-captioned proceeding. In brief, SDTA agrees with the National Telecommunications Cooperative Association (“NTCA”) that attaining comparable quality of wireless service in rural and urban areas should be the Commission’s primary goal in establishing policies for Commercial Mobile Radio Services (“CMRS”) and other wireless radio services. Moreover, SDTA supports the call for smaller license sizes in future spectrum auctions, and other reforms that would foster realistic opportunities for rural carriers that seek to compete in the provision of CMRS.

**I. STATEMENT OF INTEREST**

SDTA is an association of more than 30 independent, cooperative and municipal incumbent local exchange carriers (ILECs) and affiliates that serve rural areas in South Dakota. These rural telephone companies are striving to bring advanced telecommunications services to their rural communities. Most have participated in spectrum auctions, with mixed success. All are expending significant resources trying to determine the best way to make use of wireless technologies for the benefit of the rural communities they serve. Members of SDTA include the following:

- Armour Independent Telephone Company
- Baltic Telecom Cooperative
- Beresford Municipal Telephone Company
- Bridgewater-Canistota Independent Telephone
- Cheyenne River Sioux Tribe Telephone Authority
- Dakota Community Telephone
- East Plains Telecom, Inc.
- Faith Municipal Telephone Company
- Fort Randall Telephone Company
- Golden West Telecommunications Cooperative
- Interstate Telecommunications Cooperative
- James Valley Telecommunications
- Kadoka Telephone Company
- Kennebec Telephone Company
- Long Lines
- McCook Cooperative Telephone Company
- Midstate Communications
- Mt. Rushmore Telephone Company
- RC Communications, Inc.
- Roberts County Telephone Cooperative
- Santel Communications
- Sioux Valley Telephone Company
- Splitrock Properties, Inc.
- Splitrock Telecom Cooperative
- Stockholm-Strandburg Telephone Company
- Sully Buttes Telephone Cooperative
- Swiftel Communications
- Tri-County Telcom, Inc.
- Union Telephone Company
- Valley Telecommunications Cooperative
- West River Cooperative Telephone Company
- West River Telecommunications Cooperative
- Western Telephone Company

**II. A MEANINGFUL OPPORTUNITY FOR RURAL CARRIERS TO COMPETE IS MORE IMPORTANT THAN THE EXISTENCE OF “MEANINGFUL COMPETITION” IN RURAL AMERICA**

The Commission’s NOI seeks comment on how best to determine whether competition has developed successfully in rural areas, and whether meaningful competition exists among mobile telephone providers in rural areas.<sup>1</sup> In this regard, SDTA believes that the existence of a meaningful opportunity for rural carriers to compete in the provision of wireless telecommunications services is far more important than whether the Commission can demonstrate the existence of “meaningful competition” in rural America. While large carriers may provide a signal over key portions of a rural interstate highway, or a downtown business district, they generally make little or no effort to provide service to the rest of the rural community, especially to remote farms, ranches and homes. This type of “cream skimming” coverage, a problem noted in comments filed by Rural Telecommunications Group (“RTG”),<sup>2</sup> only hurts the viability of wireless services that are designed to reach the entire rural community.

One of the best ways that the Commission can create meaningful opportunities for rural carriers to compete is by licensing at least a portion of virtually all future spectrum allocations on the basis of the Metropolitan Statistical Area (MSA)-Rural Service Area (RSA) assignment model. The Commission has already taken a positive first step by assigning MSA/RSA licenses to the 12 MHz C-block in the Lower 700 MHz Band (710-716 MHz/740-746 MHz), a decision that resulted in sixty NTCA member companies among the winning bidders.<sup>3</sup>

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<sup>1</sup> NOI at ¶ 38.

<sup>2</sup> See Comments of RTG at p. 3.

<sup>3</sup> See Comments of NTCA, WT Docket 02-379, at p. 8 (Note 11).

### III. DEFINITION OF “RURAL”

In its NOI, the FCC asks for comment on how it should define “rural” for purposes of the *Eighth Report*. The federal government has multiple ways of defining rural, each reflecting the purposes for which the definitions are used,<sup>4</sup> and the FCC has used three different proxy definitions of rural for purposes of analyzing the average number of competitors in rural versus non-rural counties.<sup>5</sup> SDTA agrees with Fred Williamson and Associates, Inc. (“FW&A”) and RTG) that population density is the best way to define ruralness.<sup>6</sup> Under one current definition used by the Commission, population densities below 100 persons per square mile would qualify as rural. Applying this definition to the State of South Dakota, all but one of the sixty-five counties in South Dakota would qualify under this definition as rural.<sup>7</sup> However, many of the counties where SDTA members provide service have population densities far below 100 persons /sq. mile, and a majority of South Dakota’s counties have population densities below 10 persons / sq. mile. In this regard, SDTA would not object if the Commission were to use a population density figure of less than 25 persons / sq. mile to define “rural,” as suggested by FW&A.

When choosing among the various market designations used by the Commission for CMRS (which are not based on population density), SDTA agrees with NTCA that

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<sup>4</sup> NOI at ¶ 41.

<sup>5</sup> *Id.* at ¶ 42.

<sup>6</sup> See Comments of FW&A at p. 5; Comments of RTG at p. 4.

<sup>7</sup> See Population Density Figures for Counties in South Dakota, attached as Appendix A. According to 2000 Census Bureau figures, the State of South Dakota has an average population density of less than 10 persons / sq. mile. Minnehaha County (with a population density of 183.1 persons / sq. mile) is the only county with a population density of greater than 50 persons / sq. mile. One county (Harding County) has a population density of 0.5 person / sq. mile.

RSAs are an appropriate geographic model for the FCC to use in the *Eighth Report*.<sup>8</sup> By definition, an RSA is an area made up of rural territory, without any significant urban or suburban area within its boundaries. This fact would allow the Commission to avoid the definitional quandary discussed in the NOI and various commenters, since operation of any facilities within the RSA would necessarily involve the provision of service to a rural area.<sup>9</sup>

#### **IV. THE FCC SHOULD LOOK TO RURAL TELEPHONE INDUSTRY GROUPS AND PUBLIC SOURCES FOR ADDITIONAL DATA ON RURAL CMRS COMPETITION AND NETWORK DEPLOYMENT**

The FCC has indicated in its NOI that its primary difficulty in examining the state of competition in rural areas is the lack of sub-national data. However, as CTIA notes, a significant amount meaningful data is already available in the FCC's ULS database (*e.g.*, reviewing coverage maps and buildout showings submitted by licensees in RSA and rural BTA markets) and can be obtained by reviewing the web sites of carriers that operate in rural markets.<sup>10</sup> Moreover, the rural telephone industry groups (*e.g.*, NTCA and OPASTCO) already collect a significant amount of data regarding the wireless operations of their members. Indeed, NTCA's most recent wireless survey (completed last fall) shows that consumers in rural America are receiving superior service from those NTCA members who have been able to gain access to spectrum.<sup>11</sup> The Commission should look to these industry sources first and foremost, and consult with rural telephone industry groups if more specific information is needed.

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<sup>8</sup> Comments of NTCA at p. 6.

<sup>9</sup> See Comments of SDTA in WT Docket No. 02-381 (*filed* February 3, 2002) at pp. 4-5, 11-13.

<sup>10</sup> See Comments of CTIA at p. 28

<sup>11</sup> See Comments of NTCA at pp. 4-6

SDTA respectfully disagrees with commenters who suggest that the FCC should consider eliminating its current exemption from competition reporting for carriers having less than 10,000 customers.<sup>12</sup> Sufficient data is already available in the FCC's files and from other public sources, and the FCC should avoid imposing additional regulatory burdens upon small and rural carriers, who are the least able to afford them and who should be encouraged to use these limited resources for improving and expanding upon their provision of wireless services to rural consumers.

**V. WIRELESS-WIRELINE COMPETITION**

The FCC's NOI also seeks comment on the effects that mobile telephone service has had on the provision of other telecommunications services by other service providers. In this regard, SDTA supports the comments of the Montana Telecommunications Association ("MTA") and FW&A, which point out the harmful effects that certain of the FCC's "pro-competitive" CMRS policies are having upon rural ILECs and their continued ability to provide universally available service with just and reasonable rate levels.<sup>13</sup>

SDTA believes that the excessive and unrestrained designation of wireless carriers as Competitive Eligible Telecommunications Carriers in rural telephone company service areas has done virtually nothing to enhance the availability of affordable and reasonably comparable telecommunications services in Rural America. Rather, its principal impact has been to threaten the viability and sustainability of the entire Universal Service Fund (USF) program. The amount of portable USF support provided to wireless CETCs has skyrocketed from nothing in 1998 to \$440 thousand in 1999 to

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<sup>12</sup> See Comments of RTG at pp. 3-4.

\$2.13 million in 2000 to \$11.27 million in 2001 to \$68.68 million in 2002 to a projected \$101.85 million in 2003.<sup>14</sup> Not only is portable support to wireless CETCs the fastest growing segment of the USF, but it may increase by as much as \$2 billion or more during the next few years if the Commission and state commissions do nothing to restrict wireless carriers from seeking the free federal dollars available as portable USF support for customers having or obtaining "billing addresses" in rural telephone company service areas.

Section 214(e)(2) of the Communications Act requires state commissions (and this Commission where state commissions lack jurisdiction over wireless applicants for CETC status) to make a public interest finding before designating CETCs in areas served by rural telephone companies. All too often, this Commission and most state commissions have abdicated this responsibility by granting virtually all requests for CETC status on the ground that "competition" will be "enhanced," without considering the costs and benefits of such designations with respect to rural telecommunications services, service quality, infrastructure investment and rates.

Unfortunately, the major result of these liberal wireless CETC designations has been to give wireless CETCs truckloads of federal dollars for their existing customers that report "billing addresses" in rural telephone company service areas, without any comparable increase in wireless investment or service in the rural areas. SDTA and other rural telephone company representatives have asked both the Commission and the Universal Service Administrative Company ("USAC") to investigate situations where it

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<sup>13</sup> See Comments of MTA at pp. 4-6; Comments of FW&A at pp. 7-11.

<sup>14</sup> Organization for the Promotion and Advancement of Small Telecommunications Companies, Universal Service In Rural America: A Congressional Mandate At Risk (January 2003) at Table 3.

appears that wireless CETCs and/or their customers may be "gaming" the system by obtaining "billing addresses" in rural telephone company service areas (where portable USF support is available) for customers who use the affected wireless phones predominately in other areas. In South Dakota, there have been persistent rumors that many people (both tribal members and non-members) residing in Rapid City and other areas outside the Pine Ridge Reservation have been encouraged to report "billing addresses" on the Reservation in order to obtain wireless service subsidized by the portable USF support available on the Reservation. On December 12, 2002, SDTA asked USAC to investigate entries in its Federal Universal Service Support Mechanisms Fund Size Projection for the First Quarter 2003, dated November 1, 2002, indicating that Western Wireless had sought portable USF support for 30,108 "working loops" in South Dakota during the First Quarter of 2003 (i.e., \$227,197 in portable High Cost Loop Monthly Support during the quarter, or an annualized amount of \$2,726,364). SDTA believes that the Western Wireless claim of 30,108 loops is extremely high in light of the fact that the total 2000 population of the Pine Ridge Reservation (the only portion of South Dakota for which Western Wireless was entitled to receive USF for the First Quarter 2003) was only 14,068 (and contained only 3,922 housing units).<sup>15</sup> To date, SDTA is not aware whether the matter is being investigated actively.

In sum, SDTA believes that the current system of providing portable USF support to wireless CETCs has resulted in much more "gaming" of the "billing addresses" of existing wireless customers than new wireless investment in rural areas. Unfortunately, the major impact has been to increase the size of the USF, and to threaten the continuing

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<sup>15</sup> U.S. Census Bureau, Census 2000 Summary File 1, Table GCT-PH1.

availability of USF support for rural areas and residents that will not have affordable and reasonably comparable telecommunications service without it.

**VI. CONCLUSION**

It is respectfully requested that the Commission take the above concerns into consideration in preparing its *Eighth Report* and in fashioning any revised policies and rules with respect to the provision of CMRS services in rural America.

Respectfully Submitted,  
**South Dakota Telecommunications Association**

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*Population Density Figures for Counties  
in South Dakota  
per 2000 U.S. Census*

<b>Geography</b>	<b>Population</b>	<b>Area in square miles; Land area</b>	<b>Density per square mile of land area; Population</b>
South Dakota	754,844	75,884.64	9.9
Aurora County	3,058	708.18	4.3
Beadle County	17,023	1,258.70	13.5
Bennett County	3,574	1,185.29	3.0
Bon Homme County	7,260	563.34	12.9
Brookings County	28,220	794.46	35.5
Brown County	35,460	1,713.07	20.7
Brule County	5,364	818.96	6.5
Buffalo County	2,032	470.59	4.3
Butte County	9,094	2,248.51	4.0
Campbell County	1,782	735.79	2.4
Charles Mix County	9,350	1,097.57	8.5
Clark County	4,143	957.92	4.3
Clay County	13,537	411.60	32.9
Codington County	25,897	687.67	37.7
Corson County	4,181	2,472.93	1.7
Custer County	7,275	1,557.69	4.7
Davison County	18,741	435.44	43.0
Day County	6,267	1,028.57	6.1
Deuel County	4,498	623.55	7.2
Dewey County	5,972	2,302.64	2.6
Douglas County	3,458	433.53	8.0
Edmunds County	4,367	1,145.58	3.8
Fall River County	7,453	1,739.86	4.3
Faulk County	2,640	1,000.14	2.6
Grant County	7,847	682.51	11.5
Gregory County	4,792	1,015.93	4.7
Haakon County	2,196	1,812.97	1.2
Hamlin County	5,540	506.86	10.9
Hand County	3,741	1,436.58	2.6
Hanson County	3,139	434.76	7.2
Harding County	1,353	2,670.50	0.5
Hughes County	16,481	740.92	22.2
Hutchinson County	8,075	812.82	9.9
Hyde County	1,671	860.97	1.9
Jackson County	2,930	1,869.13	1.6
Jerauld County	2,295	529.91	4.3

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<b>Geography</b>	<b>Population</b>	<b>Area in square miles; Land area</b>	<b>Density per square mile of land area; Population</b>
Jones County	1,193	970.52	1.2
Kingsbury County	5,815	838.37	6.9
Lake County	11,276	563.23	20.0
Lawrence County	21,802	800.04	27.3
Lincoln County	24,131	578.09	41.7
Lyman County	3,895	1,639.96	2.4
McCook County	5,832	574.52	10.2
McPherson County	2,904	1,136.94	2.6
Marshall County	4,576	837.71	5.5
Meade County	24,253	3,470.63	7.0
Mellette County	2,083	1,306.49	1.6
Miner County	2,884	570.34	5.1
Minnehaha County	148,281	809.67	183.1
Moody County	6,595	519.67	12.7
Pennington County	88,565	2,776.15	31.9
Perkins County	3,363	2,871.62	1.2
Potter County	2,693	866.49	3.1
Roberts County	10,016	1,101.28	9.1
Sanborn County	2,675	569.01	4.7
Shannon County	12,466	2,093.88	6.0
Spink County	7,454	1,503.87	5.0
Stanley County	2,772	1,443.28	1.9
Sully County	1,556	1,006.90	1.5
Todd County	9,050	1,388.12	6.5
Tripp County	6,430	1,613.52	4.0
Turner County	8,849	616.82	14.3
Union County	12,584	460.38	27.3
Walworth County	5,974	707.81	8.4
Yankton County	21,652	521.55	41.5
Ziebach County	2,519	1,962.33	1.3