

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Federal-State Joint Board on)
Universal Service)
)
Petition by RCC Minnesota, Inc ,)
Pursuant to 47 C F R Section)
54 207(c), for Commission)
Agreement in Redefining the Service)
Areas of Rural Telephone Companies)
In the State of Maine)

CC Docket No. 96-45

REPLY COMMENTS OF RCC MINNESOTA, INC.

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SUMMARY

The proposal by RCC Minnesota, Inc., to redefine several Maine rural ILEC service areas is a necessary step to ensure that rural consumers are not left behind in the drive to introduce competitive choice in all areas. RCC's Petition has credibly demonstrated that its proposal for service area redefinition meets the applicable criteria established by the FCC and the Federal-State Joint Board on Universal Service. Redefinition along wire-center boundaries is an essential step needed to remove barriers to competitive entry, and it is consistent with prior actions taken by the FCC and numerous state commissions. The record of the proceedings at the state level clearly reflects the Maine Public Utilities Commission's ("MPUC") serious contemplation of the goals expressed by Congress as well as the specific recommendations of the Joint Board with respect to service area redefinition.

The Telephone Association of Maine ("TAM"), the sole filer of initial comments in response to the FCC's *Public Notice*, has failed to raise any significant issue that would warrant a delay of RCC's Petition. TAM does not appear to challenge any particular aspect of the MPUC's determination that RCC's redefinition proposal is warranted, but instead ignores the detailed record at the state level and claims the MPUC "rubber stamped" RCC's proposal. In the state proceeding, TAM did not introduce any facts to support its specious allegations that ILECs will be harmed by redefinition, and its baseless arguments were properly rejected. Similarly, in its Comments here, TAM has alleged nothing new and merely repeated the same anticompetitive statements that failed to sway the MPUC.

Because RCC's proposed service area redefinition would remove barriers to competitive entry, the FCC should grant its concurrence and decline to open a proceeding.

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| |) | |
| Federal-State Joint Board on |) | |
| Universal Service |) | CC Docket No. 96-45 |
| |) | |
| Petition by RCC Minnesota, Inc , |) | DA 03-2226 |
| Pursuant to 47 C.F.R. Section |) | |
| 54 207(c), for Commission |) | |
| Agreement in Redefining the Service |) | |
| Areas of Rural Telephone Companies |) | |
| In the State of Maine |) | |

REPLY COMMENTS OF RCC MINNESOTA, INC.

RCC Minnesota, Inc (“RCC”), by counsel, hereby replies to the comments submitted in response to the Commission’s *Public Notice*¹ regarding RCC’s above-captioned Petition for FCC concurrence with the service area redefinition for several Maine incumbent local exchange carriers (“ILECs”) proposed by the Maine Public Utilities Commission (“MPUC”)² The Telephone Association of Maine (“TAM”) submitted comments in this proceeding. As demonstrated below, TAM has failed to raise any issue that would justify opening a proceeding or otherwise delaying a grant of RCC’s Petition

¹ The Wireline Competition Bureau Seeks Comment on RCC Minnesota’s Petition to Redefine Rural Telephone Company Service Areas in the State of Maine, *Public Notice*, DA 03-2226 (rel July 8, 2003) (“*Public Notice*”)

² Petition of RCC Minnesota, Inc , for Redefinition of Rural Telephone Company Service Areas, CC Docket No 96-45 (filed June 24, 2003) (“Petition”)

I. INTRODUCTION

Following more than a year of litigation, the MPUC granted RCC's petition to become an ETC throughout its service area in Maine.³ As a part of its grant, the MPUC made specific findings that in order to advance universal service and facilitate competitive entry, affected rural ILEC service areas should be redefined along wire center boundaries. The MPUC ruled that RCC credibly demonstrated that its proposal for service area redefinition meets the applicable criteria established by the FCC and the Joint Board. Redefinition along wire-center boundaries is an essential step needed to remove barriers to competitive entry, and it is consistent with prior actions taken by the FCC and numerous state commissions. The record of the proceedings at the state level clearly reflects the MPUC's serious contemplation of the goals expressed by Congress as well as the specific recommendations of the Joint Board with respect to service area redefinition.⁴

TAM's comments do nothing to call this reasoned proposal into question. TAM does not appear to challenge any particular aspect of the MPUC's determination that RCC's redefinition proposal is warranted, but instead appears to be simply requesting a delay without providing any justification. TAM's unsupported statement that the MPUC "rubber stamped" RCC's proposal ignores the substantial proceedings undertaken by the MPUC, as well as its specific findings and conclusions on the redefinition issue. TAM makes no reference to the Joint Board's recommendations,⁵ which form the basis of any redefinition decision and were addressed in detail in the MPUC's designation order, the Examiner's Report, and RCC's briefing papers. TAM instead reaches deep into its anticompetitive syllabary to produce such terms as "forced

³ RCC Minnesota, Inc. et al. Docket No. 2002-344 (May 13, 2003) ("MPUC Order")

⁴ *See id.* at pp. 9-11

gerrymandering”, “twisting” and “forcibly redraw” — hyperbole that is not helpful in understanding the merits of RCC’s proposal under Section 214(e)(5). In sum, TAM introduced no facts in the proceeding below. Thus, there was no basis for the MPUC to reach a contrary result. Likewise, TAM has introduced no facts in this proceeding, leaving this Commission no basis on which to conclude that the proposed service area redefinition proposed by the MPUC is unreasonable and should not be adopted. Accordingly, TAM’s arguments must be summarily dismissed.

II. THE PROPOSED REDEFINITION WILL PROMOTE THE DUAL OBJECTIVES OF COMPETITION AND UNIVERSAL SERVICE

In evaluating petitions for concurrence with service area redefinition, the FCC must follow the congressional mandate to promote new technologies and facilitate competitive entry “in all telecommunications markets.”⁶ When Congress enacted the Telecommunications Act of 1996 (the “Act”),⁷ it specifically commanded the FCC to establish a “pro-competitive, deregulatory national policy framework” designed to accelerate the deployment of advanced telecommunications to all Americans. Congress recognized that the existing system of universal service subsidies — under which incumbent local exchange carriers (“ILECs”) had exclusive access to implicit and explicit universal service subsidies — could not be justified in a regulatory environment that sought to foster competition.⁸ Therefore, Congress directed the FCC to reform

⁵ *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87, 180 (1996) (“*Recommended Decision*”).

⁶ See Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. at 113.

Pub. L. No. 104-104, 110 Stat. 56 (1996). The Act amends the Communications Act of 1934, 47 U.S.C. §§ 151 *et seq.*

⁸ See *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 406 (5th Cir. 1999) (“*TOPUC*”) (“Because opening local telephone markets to competition is a principal objective of the Act, Congress recognized that the universal service system of implicit subsidies would have to be re-examined.”)

the system to ensure that universal service subsidies become explicit, predictable, and sufficient to achieve the purposes of the Act⁹

Soon after the passage of the Act, the FCC reaffirmed Congress's assessment of the necessity of making universal service subsidies transparent and accessible to competitors. In the *Local Competition Order*, the FCC stated

The present universal service system is incompatible with the statutory mandate to introduce efficient competition into local markets, because the current system distorts competition in those markets. For example, without universal service reform, facilities-based entrants would be forced to compete against monopoly providers that enjoy not only the technical, economic, and marketing advantages of incumbency, but also subsidies that are provided only to the incumbents¹⁰

To remedy this competitive disparity, the FCC ruled that the principle of competitive and technological neutrality would guide the formulation of its universal service policies¹¹. Specifically, the FCC declared

Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another¹²

⁹ 47 U.S.C. §§ 253(b)(5), 254(e)

¹⁰ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499, 15506-07 (1996) ("*Local Competition Order*")

¹¹ See generally, CC Docket No. 96-45, see also, *Notice of Proposed Rulemaking and Order Establishing Joint Board*, 11 FCC Rcd 18092 (1996), *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776 (1997) ("*First Report and Order*"), *Ninth Report and Order and Eighteenth Order on Reconsideration*, 14 FCC Rcd 20432 (1999) ("*Ninth Report and Order*"), *Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244 (2001) ("*Fourteenth Report and Order*")

¹² *First Report and Order supra*, 12 FCC Rcd at 8801

The FCC has consistently reaffirmed the pro-competitive goals of its universal service and ETC designation policies,¹³ and it recently confirmed that “[c]ompetitive neutrality is a fundamental principle of the Commission’s universal service policies”¹⁴

The service area redefinition provisions of the Act and the FCC’s rules ensure that the principle of competitive neutrality is served when new ETCs seek to serve an area that differs from an ILEC’s study area. Specifically, Section 214(e)(5) of the Act states.

In the case of an area served by a rural telephone company, “service area” means such company’s “study area” unless and until the Commission and the States, after taking into account recommendations of the Federal-State Joint Board instituted under Section 410(c), establish a different definition of service area for such company.¹⁵

To ensure that the Joint Board’s recommendations are properly considered while minimizing administrative delay that would hinder competitive entry, the FCC adopted a streamlined federal-state process for redefining service areas pursuant to Section 214(e)(5) of the Act.¹⁶ Specifically, after being subjected to notice and comment, a state’s proposal to redefine a LEC service area automatically becomes effective 90 days after the proposal is placed on public notice, unless there are unusual circumstances that require further consideration in a new notice-and-comment

¹³ See e.g., *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, 16 FCC Rcd 18133, 18137 (2001) (“Designation of qualified ETCs promotes competition and benefits consumers by increasing customer choice, innovative services, and new technologies”), *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48 (2000) (“[C]ompetition will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers by creating incentives to ensure that quality services are available at just, reasonable, and affordable rates”) (footnote omitted)

¹⁴ *Guam Cellular and Paging, Inc., Petition for Waiver of Section 54.314 of the Commission’s Rules and Regulations*, CC Docket No. 96-45, DA 03-1169 at ¶ 7 (Tel. Acc. Pol. Div. rel. April 17, 2003)

¹⁵ 47 U.S.C. § 214(e)(5)

¹⁶ See 47 C.F.R. § 54.207(c)(3)(ii). See also *First Report and Order*, *supra*, 12 FCC Rcd at 8881

proceeding. On multiple occasions, the Commission has utilized this procedure to consider requests for concurrence with proposed rural ILEC service area redefinitions, granting its concurrence and allowing the redefinition to take effect.¹⁷

Consistent with federal universal service objectives, the service area redefinition proposed in RCC's Petition appropriately seeks to redefine rural ILEC service areas in a competitively neutral manner. Commercial mobile radio service ("CMRS") providers like RCC are restricted to serving those areas within their FCC-authorized Cellular Geographic Service Area ("CGSA"), which generally does not correspond to the rural LEC study area boundaries. Thus, when a CMRS carrier serving customers within a rural LEC study area seeks designation as an ETC, it cannot be designated, and therefore cannot receive any high-cost support, unless the state and the FCC agree to redefine the affected rural LEC's service area. In fact, if such service area redefinition does not occur, CMRS carriers will be effectively precluded from competing in those areas solely because of the technology they use. In order to address this potential barrier to competitive entry, the Act envisions the designation of a competitive ETC's service area along boundaries that are not identical to LEC wire center boundaries.¹⁸

By redefining the service area along wire center boundaries, the proposed redefinition will thus remove the last obstacle facing competitive carriers seeking to provide consumers in the

¹⁷ See, e.g., *Smith Bagley, Inc. Petitions for Agreement to Redefine the Service Areas of Navajo Communications Company, Citizens Communications Company of the White Mountains, and CenturyTel of the Southwest, Inc. on Tribal Lands within the State of Arizona*, DA 01-409 (WCB rel. Feb. 15, 2001) ("*CenturyTel Arizona Notice*"), *Smith Bagley, Inc. Petitions to Redefine the Service Area of Table Top Telephone Company on Tribal Lands within the State of Arizona*, DA 01-814 (WCB rel. April 2, 2001) ("*Table Top Notice*"), *Smith Bagley, Inc. Petitions to Redefine the Service Area of CenturyTel of the Southwest, Inc. in the State of New Mexico*, DA 02-602 (WCB rel. March 13, 2002) ("*Century NM Notice*").

¹⁸ See *First Report and Order* *supra*, 12 FCC Rcd at 8879-80 ("if a state adopts a service area that is simply structured to fit the contours of an incumbent's facilities, a new entrant, especially a CMRS-based provider, might find it difficult to conform its signal or service area to the precise contours of the incumbent's area, giving the incumbent an advantage.")

affected ILECs' service areas with high-quality service and an array of pricing plans as a real competitive alternative to LEC service

III. THE PETITION AND THE RECORD AT THE STATE LEVEL PROVIDE AMPLE EVIDENCE THAT RCC'S PROPOSAL TAKES THE JOINT BOARD'S RECOMMENDATIONS INTO ACCOUNT

The requirements for redefining a rural ILEC service area are straightforward. Specifically, under Section 214(c)(5), a service area may be redefined as something other than an ILEC's study area if "the Commission and the States, after taking into account recommendations of a Federal-State Joint Board . . . establish a different definition of service area for such company"¹⁹ After a state has conducted its own analysis and concluded that redefinition is justified, the state commission or another party²⁰ must seek the FCC's concurrence by submitting a petition that includes: (1) a description of the proposed redefinition; and (2) the state commission's ruling or other statement presenting the reasons for the proposed redefinition, including an analysis that takes the Joint Board's recommendations into account²¹

Consistent with this requirement, the Petition provided both a description of the proposed redefinition²² and an analysis of the proposed redefinition under the framework provided in the Joint Board's recommendations. Specifically, with regard to the Joint Board's recommendations, the Petition explains that (1) the Joint Board's concerns regarding uneconomic receipt of high levels of support in low-cost areas (commonly referred to as "cream skimming") are minimized, if not eliminated, by the rural ILECs' ability to disaggregate and target support on a more

¹⁹ 47 U.S.C. § 214(e)(5)

²⁰ The MPUC Order specified that "RCC should petition the FCC for concurrence in the new service area definitions." MPUC Order at p. 11

²¹ 47 C.F.R. § 54.207(c)(1)

²² See Petition at p. 1

granular level than the entire study area,²³ (2) the proposed redefinition takes into account the special status of rural carriers under the Act;²⁴ and (3) the proposed redefinition will not impose any undue administrative burden on the affected rural ILECs, since they already have the ability to calculate support down to the wire-center level (and many in fact have already done so).²⁵ The Petition also provides a detailed account of the proceedings below, which laid the groundwork and provided a sound basis for the MPUC's adoption of RCC's service area redefinition proposal.²⁶

TAM largely ignores the Joint Board's recommendations that lie at the heart of the redefinition analysis under Section 214(e)(5) of the Act, making oblique remarks that the proposal does not create "any actual economically responsible service areas"²⁷ and that it will "erode the ability of the underlying carrier to form study areas and service territories based on economically sound principles."²⁸ TAM's statements do not describe any specific situation or set of facts which permits either the MPUC or the FCC to conclude that the vaguely described harm is reasonably likely to occur. After well over a year of litigation, TAM has yet to describe a specific harm, much less one for which there is regulatory redress.

To the extent these remarks may reflect a concern about the possibility of "cream skimming", that concern is dispelled by a review of the Petition and the underlying record. Attempts by TAM and other ILEC participants to block RCC's designation with cream

²³ See Petition at pp. 9-10.

²⁴ See *id.* at p. 11.

²⁵ See *id.* at pp. 11-12.

²⁶ See *id.* at pp. 2-5.

²⁷ TAM Comments at p. 1.

²⁸ TAM Comments at pp. 1-2.

skimming allegations were soundly rejected by the Hearing Examiner and the MPUC. First, the MPUC concluded that cream skimming was unlikely because RCC had committed to serve its entire licensed service area. As the MPUC explained:

We find that cream-skimming concerns are alleviated by the fact that RCC has not specifically picked the exchanges or partial exchanges that it will serve but instead the area was defined by the FCC in its wireless licensing process. We are not concerned that RCC is targeting any specific areas or that any of the partial exchanges would result in a windfall due to service to a highly populated area. Indeed, all of the partial exchanges are located in very rural areas of Maine.²⁹

Second, the MPUC concluded that, even if RCC had the ability or intent to target specific areas in order to receive uneconomic levels of support, *any cream skimming concerns that might have existed before are now fully addressed by the FCC's disaggregation rules:*

We further find that these companies . . . have the option of disaggregating their USF support beyond just wire center boundaries, thereby lessening the opportunity for a windfall for RCC should only customers in less rural areas subscribe to RCC's service.³⁰

TAM also makes the specious claim that its arguments regarding potential harm to ILECs were rejected simply because MPUC found that "the [TAM's members] had not produced cost data"³¹ Not true. In addressing the portion of the Joint Board analysis dealing with administrative burdens, the Hearing Examiner correctly concluded that neither TAM nor any other party provided any detailed analysis of the costs or burdens associated with disaggregating support.³² TAM, in its Exceptions, argued that, even though it could not produce cost data, its members nonetheless should not be required to "cater" to RCC. The MPUC found this argument

²⁹ MPUC Order at p. 11.

³⁰ *Id.*

³¹ TAM Comments at p. 1.

³² See Examiner's Report at p. 16.

unavailing and concluded that *any administrative costs associated with disaggregation, even if TAM could demonstrate them, are outweighed by the importance of properly targeting support*. “While disaggregation may impose some administrative burden, the benefit of preventing ‘cream skimming’ by any future CLEC ETCs is generally desirable[.]”³³ The MPUC also questioned TAM’s assertion that disaggregation costs are significant, noting that Community Service Telephone (“CST”), an ILEC intervenor, had acknowledged that “disaggregation itself did not impact [its] bottom line.”³⁴ The MPUC based its ultimate rejection of TAM’s arguments upon a carefully considered record and TAM’s own refusal to provide the MPUC with any evidence that would support a different result.³⁵ TAM has stated no facts in its Comments that could enable this Commission to conclude that the MPUC has failed to carefully consider all record evidence or that the wrong conclusion was reached.³⁶

In short, RCC’s Petition clearly satisfies the requirements under the FCC’s rules for requesting service area redefinition concurrence, and the record at the state level contains ample evidence that the Joint Board’s recommendations were properly taken into account.

IV. FCC CONCURRENCE WITH THE PROPOSED REDEFINITION WILL NOT AMOUNT TO ESTABLISHING “PRECEDENT”

TAM wrongly states that a grant of the proposed redefinition would “establish the clear precedent that would allow any and all potential competitors, especially competing wireless

³³ MPUC Order at p. 10.

³⁴ *Id.*

³⁵ Given the substantial record below, TAM’s oblique allegation that the MPUC has not properly considered the “needs of the underlying rural carrier” (TAM Comments at p. 2) is disingenuous, especially in view of the fact that TAM never introduced any evidence describing just what those needs are.

³⁶ TAM incorrectly states that the MPUC improperly shifted the burden of proof away from RCC. TAM Comments at p. 1. In fact, RCC made a credible demonstration as to why its proposed service area redefinition should be adopted and TAM did not introduce any documentary evidence, or place a witness on the stand, to rebut RCC’s showing, nor did it appeal the MPUC’s decision.

providers, to forcibly redraw [a TAM member's] service territory in the name of obtaining ETC status."³⁷ To the contrary, the precedent for the service area redefinition proposed by RCC and approved by the MPUC has been in place for several years. On numerous occasions since the adoption of Section 214(e)(5) and the FCC's rules implementing that section, the FCC and several states have arrived at exactly the same solution to the competitive obstacles faced by wireless ETCs that are unable to cover an entire rural ILEC study area: redefining ILEC service areas so that each wire center constitutes a separate service area.

For example, in 1999, the FCC concurred with a proposal by the Washington Utilities and Transportation and roughly 20 rural ILECs both to disaggregate support and to redefine each of the ILECs' wire centers along wire center boundaries. In that case, the FCC concluded:

[O]ur concurrence with rural LEC petitioners' request for designation of their individual exchanges as service areas *is warranted in order to promote competition*. The Washington Commission is *particularly concerned that rural areas . . . are not left behind in the move to greater competition*. Petitioners also state that designating eligible telecommunications carriers at the exchange level, rather than at the study area level, will promote competitive entry by permitting new entrants to provide service in relatively small areas . . . *We conclude that this effort to facilitate local competition justifies our concurrence with the proposed service area redefinition*.³⁸

Last year, the FCC granted its concurrence with a proposal by the Colorado Public Utilities Commission ("COPUC") to redefine the service area of CenturyTel of Eagle, Inc., also along wire center boundaries. In its petition seeking FCC concurrence, COPUC explained that, as in the Washington case, redefinition was necessary to permit competitive entry in rural areas where consumers lack choices.

³⁷ IAM Comments at p. 2.

³⁸ *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support, Memorandum Opinion and Order*, 15 FCC Rcd 9924, 9927-28 (1999).

[M]aintaining CenturyTel's rural service area in a multiple, non-contiguous exchange configuration, in effect, precludes potential competitive providers from seeking ETC designation even for areas where those companies can provide service, and can meet all other requirements for designation as an ETC. CenturyTel will receive universal service support, but competitive providers will not. This circumstance is a barrier to entry³⁹

After considering COPUC's petition and comments submitted by both ILEC and competitive ETC representatives, the FCC granted its concurrence by allowing the proposed redefinition to go into effect without opening a proceeding. The FCC has concurred with similar proposals in New Mexico and Arizona to permit wireless competitive ETCs to receive high-cost support in rural ILEC study areas they cannot cover completely⁴⁰ Additionally, the FCC has proposed the redefinition of several Alabama rural ILEC service areas along wire center boundaries to permit two newly designated wireless ETCs to begin receiving support throughout their licensed service areas.⁴¹

More recently, other states have, in designating competitive ETCs, approved precisely the same form of service area redefinition proposed in RCC's Petition. Last month, the Minnesota Public Utilities Commission submitted a petition to the FCC for concurrence with its proposal to redefine several rural ILEC service areas along wire center boundaries to permit Midwest Wireless Communications L.L.C. to receive support in those portions it covers⁴² Last week, the

³⁹ Petition by the Public Utilities Commission of the State of Colorado to Redefine the Service Area of CenturyTel of Eagle, Inc., Pursuant to 47 CFR § 207(c) at p. 4 (filed Aug. 1, 2002) at p. 12.

⁴⁰ See *CenturyTel Arizona Notice, supra*, *CenturyTel N.M. Notice, supra*, *Table Top Notice, supra*.

⁴¹ See *RCC Alabama Order, supra*, at ¶¶ 33, 37.

⁴² Petition of the Minnesota Public Utilities Commission for Agreement With Changes in Definition of Service Areas for Exchanges Served by CenturyTel, Citizens Telecommunications Company, Frontier Communications of Minnesota, Inc., Mid-State Telephone Company, Scott-Rice Telephone, United Tel. Co. of Minnesota (UTC of Minnesota), Federated Telephone Company, Melrose Telephone Company, Winsted Telephone Company (TDS Telecom), Eckles Telephone Company (Blue Earth Valley Telephone Company), Lakedale Telephone Company, and Farmers Mutual Telephone Company, CC Docket No. 96-45 (filed July 8, 2003).

Minnesota PUC designated another wireless carrier as an ETC and indicated its intent to file another petition with the FCC for concurrence with the redefinition of additional rural ILEC service areas in the same manner⁴³ In December 2002, the Wisconsin Public Service Commission, in granting ETC status to United States Cellular Corporation, similarly agreed with the applicant's proposal to redefine rural ILEC service areas to the wire center level.⁴⁴

Clearly, RCC's proposed redefinition raises no novel issues and merely proposes what has been approved previously by the FCC and several states. Accordingly, the FCC should reject TAM's unsupported assertion that a concurrence would set a "precedent" of any kind.

V. CONCLUSION

RCC's proposal to redefine rural Maine ILEC service areas along wire center boundaries fully complies with the FCC's rules and properly takes into account the recommendations of the Joint Board. The redefinition requested in the instant proceeding will benefit consumers, who will begin to see a variety in pricing packages and service options on par with those available in urban and suburban areas⁴⁵ They will see infrastructure investment in areas formerly controlled solely by ILECs, which will bring improved wireless service and important health and safety benefits associated with increased levels of radiofrequency coverage. The MPUC has carefully considered the matter and has issued a well-reasoned and legally sound decision. Based on the complete lack of evidence presented by TAM below and in its comments here, there is no basis for the FCC to disagree with the MPUC's decision. Accordingly, the FCC should grant its

⁴³ RCC Minnesota, Inc. and Wireless Alliance, LLC, Docket No. PT-6182,6181/M-02-1503 (Minn. PUC July 31, 2003) at p. 12.

⁴⁴ United States Cellular Corporation, 8225-TI-102 (Wisc. PSC Dec. 20, 2002) at p. 9 (petition for FCC concurrence not yet filed).

⁴⁵ See 47 U.S.C. § 254(b)(3).

concurrence and decline to open a proceeding so that RCC may begin receiving critical support
in all areas it serves without delay

Respectfully submitted,


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August 7, 2003

CERTIFICATE OF SERVICE

I, Janelle F. Wood, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this 7th day of August, 2003, placed in the United States mail, first-class postage pre-paid, a copy of the foregoing *REPLY COMMENTS OF RCC MINNESOTA, INC* filed today to the following

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