

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

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Virginia Cellular, LLC)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the Commonwealth of Virginia)	
)	

To: Wireline Competition Bureau

**Supplement to Petition for Designation as an Eligible
Telecommunications Carrier**

Virginia Cellular, LLC (“Virginia Cellular”), by counsel, hereby supplements its Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) in the Commonwealth of Virginia (“Petition”)¹. Specifically, in response to a recent inquiry from Wireline Competition Bureau staff, Virginia Cellular specifies the non-rural incumbent local exchange carrier (“ILEC”) wire centers that are only partially covered by the requested ETC service area described in the Petition, as amended.

I. Background

¹ See *Virginia Cellular LLC* Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia, CC Docket No. 96-45, April 12, 2002

Virginia Cellular has requested designation as an ETC in areas served by both rural and non-rural ILECs.² For areas served by rural ILECs, an ETC's "service area" is defined as the ILEC's study area "unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area." 47 U.S.C. § 214(e)(5). Accordingly, for those rural ILECs whose study areas are only partially covered by Virginia Cellular's licensed service territory, Virginia Cellular requested redefinition of the affected ILECs' service areas so that each wire center constitutes a separate service area.³ To aid the FCC in its redefinition analysis, Virginia Cellular provided a list of affected wire centers with notations indicating whether each wire center is fully or partially covered by the proposed ETC service area.

Earlier this year, Virginia Cellular responded to an inquiry from WCB staff regarding whether the partially covered rural ILEC wire centers could result in Virginia Cellular receiving uneconomic levels of support, thereby impacting the redefinition analysis pursuant to the Joint Board's recommendations.⁴ Although Virginia Cellular believed there was no such opportunity for uneconomic support, it submitted an amendment in which it removed two partially covered rural ILEC wire centers from consideration.⁵ As a result, Virginia Cellular's requested service area no

² See Petition at pp. 10-11. A map of the requested ETC service area was provided as Exhibit C to the Petition.

³ See Petition at pp. 10-11; Amendment to Petition for Designation as an Eligible Telecommunications Carrier (filed Oct. 21, 2002) at pp. 1-2.

⁴ See *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87, 180 (Jt. Bd. 1996).

⁵ See Second Amendment to Petition for Designation as an Eligible Telecommunications Carrier (filed April 17, 2003) at pp. 1-2. Specifically, Virginia Cellular committed to serve the entirety of the Williamsville wire center (Mountain Grove Tel. Co.) by finding appropriate means of serving customers in the sliver of territory outside its licensed

longer includes any partially covered rural ILEC wire centers.

Recently, WCB staff asked Virginia Cellular to specify which *non-rural* ILEC wire centers are only partially covered by its requested ETC service area. Staff explained that this inquiry was necessary to permit the WCB to determine whether there was a possibility of “cream skimming” within those non-rural ILEC wire centers.

II. Discussion

Virginia Cellular’s requested ETC service area includes portions of six non-rural ILEC wire centers that are partially contained within the requested area. These six partially-covered wire centers are listed in the table below:

Local Exchange Carrier	Wire Center Code	Locality Name
Verizon South d/b/a Contel of the South (formerly GTE South)	AMHRVAXA	Amherst
Verizon South d/b/a Contel of the South (formerly GTE South)	BRWYVAXA	Broadway
Verizon South d/b/a Contel of the South (formerly GTE South)	EKTNVAXA	Elkton
Verizon South d/b/a Contel of the South (formerly GTE South)	GLDSVAXA	Gladstone
Verizon Virginia, Inc. (formerly Bell Atlantic)	CRVIVACV	Craigsville
Verizon Virginia, Inc.		

service area, and modified its petition to exclude the Schuyler wire center (Central Telephone of Virginia). *See* letter from David A. LaFuria to Marlene H. Dortch (filed April 16, 2003) at pp. 1-2.

(formerly Bell Atlantic)	GNWDVAGW	Greenwood
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The extent to which these wire centers are covered by Virginia Cellular’s proposed ETC service area is evident from the Petition as originally filed. Specifically, the Petition states that “Virginia Cellular requests ETC designation for its entire licensed service area in Virginia, which is the boundary for the Virginia-6 Rural Service Area. A map of Virginia Cellular’s proposed ETC service area is attached hereto as Exhibit C.”⁶ The map attached as Exhibit C to the Petition shows Virginia Cellular’s licensed Virginia service area, superimposed onto the wire centers of all of the affected ILECs. Because the map makes clear which wire centers are only partially covered, Virginia Cellular has been advised by staff that no amendment to the Petition is necessary.

The fact that Virginia Cellular proposes to serve a portion of a non-rural ILEC wire center does not trigger “cream skimming” or any other additional issues for review under the Act or the FCC’s rules. For areas served by non-rural ILECs, a competitive ETC may be designated for an ETC service area smaller than the entire study area without the need for service area redefinition.⁷

⁶ Petition at p. 10.

⁷ See *id.* See also *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket No. 96-45, DA 02-3181 (WCB rel. Nov. 27, 2002) (“*RCC Holdings*”) at ¶ 33 n.115, citing *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8879-80 (1997).

Accordingly, there is no basis under the Act for engaging in redefinition – with the attendant analysis of “cream skimming”, administrative burdens, and the special status of rural ILECs – with respect to the non-rural ILEC wire centers listed above.

To the extent the Bureau has included “cream skimming” within the Section 214(e)(6) “public interest” analysis for areas served by *rural* ILECs, Virginia Cellular notes that the Act does not impose a “public interest” requirement with respect to areas served by *non-rural* ILECs. Under prevailing law and precedent, the FCC “shall” designate an ETC in areas served by non-rural ILECs, so long as it satisfies the requirement to offer and advertise the supported services under Section 214(e)(1).⁸ As the FCC has consistently ruled, the designation of an additional carrier that satisfies the requirements of Section 214(e)(1) “is consistent *per se* with the public interest” in areas served by non-rural ILECs.⁹ Thus, even if “cream skimming” is included within the “public interest” analysis applicable to areas served by rural ILECs, such analysis does not apply to non-rural ILECs such as those listed above.

In sum, neither the Act nor the FCC’s rules provide a basis for conducting a “cream skimming” analysis or other layer of review in non-rural ILEC areas.¹⁰

⁸ See 47 U.S.C. § 214(e)(6). See also *RCC Holdings, supra*, at ¶¶ 5, 11; *Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, DA 02-2855 (WCB rel. Oct. 31, 2002) at ¶ 12.

⁹ *Farmers Cellular Telephone, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, DA 03-754 (WCB rel. Mar. 12, 2003) at ¶ 12; *Corr Wireless, supra*, at ¶ 12; *Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier*, 16 FCC Rcd 39, 45 (2000).

¹⁰ As a practical matter, Virginia Cellular notes that the likelihood of “cream skimming” within those wire centers would be negligible given the small amount of support Virginia Cellular will receive for those areas. Virginia Cellular will not receive any high-cost loop support for lines it serves in those wire centers, nor will it receive any local switching

III. Conclusion

Virginia Cellular hereby supplements its Petition, as amended, as set forth herein.

Respectfully submitted,

Virginia Cellular, LLC

By _____ /s/ _____
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support, long-term support or interstate common line support. According to the Universal Service Administrative Company's projections for Fourth Quarter 2003, Virginia Cellular's monthly interstate access support for wire centers served by Verizon Virginia, Inc., will be \$0.39 (multi-line businesses) and \$0.68 (residential and single-line business). In wire centers served by Verizon South d/b/a Contel of the South, Virginia Cellular's interstate access support will be \$1.64 (multi-line businesses) and \$2.37 (residential and single-line business).

CERTIFICATE OF SERVICE

I, Janelle Wood, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this 5th day of September, 2003, placed in the United States mail, first-class postage pre-paid, a copy of the foregoing Supplement to Petition For Designation as an Eligible Telecommunications Carrier filed today to the following:

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