Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C.

In the Matter of	)	
	)	
Application of ALLTEL Communications, Inc.	)	CC Docket No. 96-45
	)	FCC 97-419
	)	
For Designation as an Eligible	)	
Telecommunications Carrier Pursuant To	)	
Section 214(e)(6) of the Communications	)	
Act of 1934	)	

APPLICATION OF ALLTEL COMMUNICATIONS, INC. FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF FLORIDA

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APPLICATION OF ALLTEL COMMUNICATIONS, INC. FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF FLORIDA

ALLTEL Communications, Inc., on behalf of itself and its wholly-owned and controlled licensee affiliates ("ALLTEL" or the "Company"), and pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the "Act"), hereby petitions the Commission for designation as an Eligible Telecommunications Carrier ("ETC") throughout its licensed service area in the State of Florida. As demonstrated below, ALLTEL meets all the statutory and regulatory prerequisites for ETC designation, and ALLTEL's designation will serve the public interest. In order to provide the Commission with maximum flexibility in reviewing this application, ALLTEL also requests, in the alternative, that the Commission consider the issues raised by the non-rural local exchange carrier ("LEC") study areas covered by the application separately from, and in advance of, the issues raised by the rural study areas if bifurcation would facilitate its review.[1]

[1] Although the Commission may separately consider the rural and non-rural aspects of ALLTEL's request for ETC status in Florida, ALLTEL filed one application instead of two to minimize any administrative burdens on the Commission.

I. ALLTEL'S UNIVERSAL SERVICE OFFERING.

ALLTEL is the licensee authorized to provide cellular mobile radio service ("CMRS") in the following Cellular Market Areas: 43, 47, 61, 71, 149, 166, 218, 258, 280, 566, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, and 579. ALLTEL intends to obtain high cost loop support funding in both rural and non-rural areas to speed the delivery of advanced wireless services to the citizens of Florida. As an ETC, ALLTEL also will offer a basic universal service package to subscribers who are eligible for Lifeline support. ALLTEL's service offering will be competitive with those of the incumbent LECs.

ALLTEL currently provides all the services and functionalities supported by the federal universal service program set forth in Section 54.101(a) of the Commission's rules throughout its cellular service area in the state of Florida. Upon designation as an ETC, ALLTEL will make available to consumers a universal service offering over its cellular network infrastructure, using the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing cellular service customers.

II. ALLTEL SATISFIES ALL THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC.

ALLTEL satisfies each of the elements enumerated by the Commission for ETC designation pursuant to Section 214(e)(6) of the Act as set forth in the FCC's *Section 214(e)(6) Public Notice.*[2]

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[2] FCC Public Notice, *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act,* 12 FCC Rcd 22947 (1997) ("*Section 214(e)(6) Public Notice*").

A. The Florida Public Service Commission Has Provided An Affirmative Statement That It Does Not Regulate CMRS Carriers.

As a CMRS carrier, ALLTEL is entitled to seek designation as an ETC.[3] Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific federal universal service support." Pursuant to 47 U.S.C. § 214(e)(6) of the Act, the Commission may, upon request, designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission."

In the *Section 214(e)(6) Public Notice,* the Commission established that a carrier must demonstrate it "is not subject to the jurisdiction of a state commission."[4] In its *Twelfth Report and Order,* the Commission stated that where a carrier provides the Commission with an "affirmative statement" from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation, the Commission would consider requests filed pursuant to Section 214(e)(6).[5]

On April 29, 2003, ALLTEL Communications, Inc. filed a Petition for Declaratory ruling with the Florida Public Service Commission ("FPSC") seeking an affirmative statement from the FPSC that it lacked jurisdiction to grant ALLTEL, a CMRS carrier, ETC status for purposes of receiving federal universal service support. By vote on August 19, 2003, the FPSC concluded that it lacked jurisdiction over CMRS carriers such as ALLTEL and that the FPSC could not

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[3] *See Federal-State Joint Board on Universal Service,* First Report and Order, 12 FCC Rcd 8776, 8858-59 (1997) ("*First Report and Order*").

[4] *Section 214(e)(6) Public Notice*, 12 FCC Rcd at 22948.

[5] *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas,* Twelfth Report and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 (2000) ("*Twelfth Report and Order*").

determine whether ALLTEL was eligible for ETC status under Section 214(e) of the Act and the Commission's rules. Copies of the FPSC Agenda Conference Vote Sheet and a Declaratory Statement dated September 9, 2003 explaining the FPSC's decision are attached to this application as Exhibit B.

B. ALLTEL Offers All Of The Services Supported By The Federal High-Cost Universal Service Program.

In order to be designated as an ETC, a carrier must be a common carrier and both offer and advertise the supported services throughout the designated service area.[6] The FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms:[7]

1. Voice-grade access to the public switched telephone network;
2. Local Usage;
3. Dual-tone, multi-frequency ("DTMF") signaling, or it functional equivalent;
4. Single-party service or its functional equivalent;
5. Access to emergency services;
6. Access to operator services;
7. Access to interexchange service;
8. Access to directory assistance; and
9. Toll limitation for qualifying low-income consumers.

The *Section 214(e)(6) Public Notice* requires a carrier to certify that it provides each of the supported services, or where appropriate, functionally equivalent services.[8] As shown below

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[6] 47 U.S.C. § 214(e)(1).

[7] *See* 47 C.F.R. § 54.101(a).

[8] *Section 214(e)(6) Public Notice*, 12 FCC Rcd at 22948.

and in the Declaration attached as Exhibit A hereto, ALLTEL currently provides, or will provide upon designation, each of the required services.

1. Voice-grade access to the public switched telephone network:

The FCC concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth.[9] ALLTEL meets this requirement by providing voice-grade access to the public switched telephone network. Through its interconnection arrangements with LECs, each of ALLTEL's subscribers is able to make and receive calls on the public switched telephone network within the specified bandwidth.

2. Local Usage:

ETCs must include local usage beyond providing simple access to the public switched network as part of a universal service offering. The FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue.[10] As it relates to local usage, the NPRM sought comments on a definition of the public service package that must be offered by all ETCs. Specifically, the FCC sought comments on how much, if any, local usage should be required to be provided to customers as part of a universal service offering.[11] In the *First Report and Order,* the FCC deferred a determination on the amount of local usage that a carrier would be required to provide.[12] Any minimum local usage requirement established by the FCC as a result of the

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[9] *First Report and Order,* 12 FCC Rcd at 8810-11.

[10] *See Federal and State Joint Board on Universal Service,* Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252 (1998) ("*October 1998 NPRM*").

[11] *Id.* at 21277-81.

[12] *First Report and Order*, 12 FCC Rcd at 8812. *See also, Western Wireless Corporation,* 16 FCC Rcd 48, 52-53 (CCB 2000), *aff'd*, 16 FCC Rcd 19144 (2001) ("*Western*

October 1998 NPRM will be applicable to all designated ETCs, not simply wireless service providers. ALLTEL will comply with any and all minimum local usage requirements adopted by the FCC. ALLTEL will meet the local usage requirements by including local usage plans as part of a universal service offering.

3. Dual-tone, multi-frequency ("DTMF") signaling, or its functional equivalent:

DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement.[13] ALLTEL currently uses out-of-band digital signaling, and therefore meets this requirement.

4. Single-party service or its functional equivalent:

"Single-party service" means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line.[14] The FCC concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user's particular transmission.[15] ALLTEL meets the requirement of single-party service in this manner.

5. Access to emergency services:

The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Phase I E911 includes the capability of providing both

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Wireless"); *Cellco Partnership d/b/a Bell Atlantic Mobile*, Memorandum Opinion and Order, 16 FCC Rcd 39, 42 (CCB 2000) ("*Cellco Partnership*").

[13] 47 C.F.R. § 54.101(a)(3).

[14] *First Report and Order,* 12 FCC Rcd at 8810.

[15] *Id.*

automatic numbering information ("ANI") and automatic location information ("ALI"), but is only required if a public emergency service provider is capable of both receiving and utilizing the data and has made arrangements with the carrier for the delivery of the data.[16] ALLTEL currently provides its subscribers with access to emergency services by dialing 911 in accord with this requirement. It either provides, or will provide Phase I (and Phase II) E911 services in accord with the E911 deployment schedules agreed to by ALLTEL and the local or other governmental emergency service providers.

6. Access to operator services:

Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.[17] ALLTEL meets this requirement by providing all of its subscribers with access to operator services provided by either the Company or other entities (*e.g.* LECs, IXCs, etc.)

7. Access to interexchange service:

A universal service provider must offer consumers access to interexchange service to make and receive toll or interexchange calls. Equal access, however, is not required. The FCC "do[es] not include equal access to interexchange service among the services supported by universal service mechanisms."[18] ALLTEL presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements between the Company and several IXCs. Additionally, customers are able to reach their IXC of choice by dialing the appropriate access code or dial-around number.

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[16] *Id.* at 8815-17.

[17] *Id.* at 8817-18.

[18] *Id.* at 8819 (citation omitted).

8. Access to directory assistance:

The ability to place a call to directory assistance is a required service offering.[19] ALLTEL meets this requirement by providing all of is customers with access to directory assistance by dialing "411" or "555-1212."

9. Toll limitation for qualifying low-income consumers:

An ETC must offer either "toll control" or "toll blocking" services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under 47 C.F.R § 54.101(a)(9).[20] In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls.[21] ALLTEL currently has no Lifeline customers because only carriers designated as an ETC can participate in Lifeline.[22] Once designated as an ETC, ALLTEL will participate in Lifeline as required, and will provide toll blocking capability in satisfaction of the FCC's requirement. ALLTEL currently has the technology to provide toll blocking and will implement this technology to provide the service at no charge to its Lifeline customers.

C. ALLTEL Will Offer Supported Services Through Its Own Facilities.

The Commission's *Section 214(e)(6) Public Notice* established that a carrier requesting designation must certify that it offers the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services."[23] ALLTEL will

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[19] *Id.* at 8821.

[20] *See Federal-State Joint Board on Universal Service,* Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5388 (1997).

[21] *First Report and Order,* 12 FCC Rcd at 8825, 8978-79.

[22] *See* 47 C.F.R.§§ 54.400 – 54.415.

[23] *Section 214 Public Notice,* 12 FCC Rcd at 22949.

provide the supported services using its existing network infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the Company to serve its existing cellular service customers. *See also* Exhibit A hereto.

D. ALLTEL Will Advertise Its Universal Service Offering.

ALLTEL will advertise the availability of the supported services and the corresponding charges in a manner that fully informs the general public within the designated service area of both the available services and the corresponding charges.[24] ALLTEL currently advertises its wireless services through several different media. ALLTEL will use the same media of general distribution used for its cellular service to advertise its universal service offerings throughout the service areas designated by the Commission. ALLTEL will comply with all form and content requirements, if any, promulgated by the Commission in the future and required of all designated ETCs.

III. ALLTEL REQUESTS DESIGNATION THROUGHOUT ITS LICENSED SERVICE AREA IN THE STATE OF FLORIDA.

ALLTEL, in its capacity as a provider of cellular services, is not a "rural telephone company" as that term is defined by 47 U.S.C. § 153(37). Accordingly, ALLTEL is required to describe the geographic area in which it requests designation.[25] ALLTEL requests ETC designation for its entire licensed service area in the State of Florida as depicted on the map attached hereto as Exhibit C.

Pursuant to Section 54.207 of the Commission's rules, a "service area" is a "geographic area established by a state commission for the purpose of determining universal service

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[24] *Id.*

[25] *Id.*

obligations and support mechanisms."[26] For non-rural service areas, there are no restrictions on how a state commission defines the "service area" for purposes of designating a competitive ETC. Therefore, the Commission may designate ALLTEL as an ETC in the non-rural wire centers set forth at Exhibit D attached hereto.

In an area served by a rural telephone company, the Commission's rules define "service area" to mean the LEC study area unless a different definition of service area is established for such company.[27] The rural incumbent LEC ("ILEC") study areas that ALLTEL serves in their entirety are set forth in Exhibit E attached hereto. The Commission may designate ALLTEL as an ETC in those areas upon a finding that such designation would be in the public interest (see Section V below).[28]

The FPSC does not assert jurisdiction over CMRS carriers, including the designation of a cellular carrier as an ETC. Therefore, the Commission has jurisdiction to consider a redefinition of the ILEC service areas in Florida for ETC purposes, as set forth in Section IV below.

IV. GRANTING THIS APPLICATION WILL SERVE THE PUBLIC INTEREST.

ALLTEL is seeking designation in areas served by rural ILECs. The Commission must therefore consider the public interest factors supporting ALLTEL's application prior to designating it as an ETC pursuant to 47 U.S.C. § 214(e)(6). Designating ALLTEL as an ETC in the State of Florida would further the public interest by bringing the benefits of additional competition and service offerings to an undeserved marketplace.

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[26] 47 C.F.R. § 54.207(a).

[27] *See* 47 C.F.R. § 54.207(b); *See also Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*; Report and Order, 16 FCC Rcd 11244 (2001) ("*MAG Report and Order*").

[28] 47 U.S.C. § 214(e)(2).

The FCC has recognized the advantages wireless carriers can bring to the universal service program. In particular, the Commission has found that "imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service."[29] One of the principal goals of the Telecommunications Act of 1996 was to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."[30] Competition drives down prices and promotes the development of advanced communications as carriers vie for a consumer's business.

In its decision to designate Western Wireless as an ETC in the State of Wyoming, the Commission observed, "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."[31] Similarly, in designating the cellular carrier Smith Bagley, Inc. as an ETC in Arizona, the state commission found competitive entry to provide additional consumer choice and a potential solution to "health and safety risks associated with geographic isolation."[32] More recently, in designating Guam Cellular and Paging, Inc. ("Guamcell") as an ETC in the territory of Guam, the Commission found that the designation of Guamcell as an ETC in the area served by the rural telephone company in Guam would serve the public interest "by promoting competition and the provision of new technologies to consumers in high cost and rural areas in

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[29] *First Report and Order,* 12 FCC Rcd at 8882-8883.

[30] Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56 (1996).

[31] *Western Wireless Corp.,* 16 FCC Rcd at 55.

[32] *Smith Bagley, Inc.,* Order, Decision No. 63269, Docket No. T-02556A-99-0207 at 12 (Arizona, December 15, 2001).

Guam."[33] Designating ALLTEL as an ETC will bring to consumers the benefits of competition, including increased choices, higher quality service, health and safety benefits, and lower rates. In a competitive market, rural consumers will be able to choose the services that best meet their communications needs. With a choice of service providers, the consumer is able to select a provider based on service quality, service availability, and rates.

The public interest standard under Section 214(e)(2) for designating ETCs in territories served by rural ILECs emphasizes competition and consumer benefits, not protection of the incumbent LEC. In considering the impact that Western Wireless' ETC designation would have on rural telephone companies, the Commission said, "we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers."[34] Further, Congress has mandated that universal service provisions be "competitively neutral" and "necessary to preserve and advance universal service."[35] Designating ALLTEL as an ETC would give those in covered rural areas in the State of Florida another choice for advanced telecommunications options.

ALLTEL will implement a variety of service offerings and rate plans that will be both competitive with incumbent service offerings and affordable to Florida consumers. ALLTEL commits that its local calling area will be at least as large as each of the rural ILECs. Indeed, ALLTEL believes that in all cases its local calling area will be substantially larger, thereby affording consumers the opportunity to reduce the intra-LATA toll charge typically associated with the service of rural ILECs.

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[33] *Guam Cellular and Paging, Inc.*, 17 FCC Rcd 1502, 1503 (2002).

[34] *Western Wireless*, 16 FCC Rcd at 57.

[35] *See* 47 U.S.C. § 253(b).

ALLTEL commits to use available federal high cost support for its intended purposes – the construction, maintenance and upgrading of facilities serving the rural areas for which support is intended. ALLTEL can conceive of no business plan for remote rural areas that can support the deployment of a wireless network sufficiently robust to compete on a level playing field with incumbent LECs in the absence of the subsidy high cost support provides. Indeed, without the high cost program, it is doubtful that many rural areas would have wireline telephone service even today. Provision of high cost support to ALLTEL will begin to level the playing field with the incumbent LECs and make available a potential competitor for primary telephone service in remote areas of Florida.

V. IN THE ALTERNATIVE, ALLTEL REQUESTS CONSIDERATION OF THE ISSUES RAISED BY THE NON-RURAL ILEC STUDY AREAS COVERED BY THIS APPLICATION SEPARATELY FROM AND IN ADVANCE OF THE ISSUES RAISED BY THE RURAL STUDY AREAS.

Because ALLTEL's wireless service area in Florida covers rural ILEC study areas, ALLTEL must make the public interest showing required by Section 214(e)(6) of the Act with regard to those service areas. With regard to those portions of ALLTEL's service area covering non-rural ILEC study areas, however, its compliance with the eligibility obligations of Section 214(e)(1) "is consistent per se with the public interest. The carrier need make no further [public interest] showing to satisfy this requirement."[36] Although ALLTEL has made the public interest showing required under Section 214(e)(6) for the rural study areas covered by its application, the non-rural areas raise fewer issues and thus may lend themselves to an earlier decision than the rural areas.

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[36] *Cellco Partnership*, 16 FCC Rcd at 45 (citation omitted).

In order to provide the Commission with the maximum flexibility in resolving the issues raised by this application, ALLTEL accordingly requests, in the alternative, that the Commission consider the issues raised by the non-rural study areas covered by the application separately from, and in advance of, the issues raised by the rural study areas if bifurcation would facilitate the Commission's review. Thus, if the public interest issues raised by the rural study areas covered by the application will take significantly longer to resolve than the eligibility requirements for the non-rural study areas, ALLTEL requests that the Commission decide the non-rural issues in a separate order pending its consideration of the rural issues. Such bifurcated treatment will raise no additional issues, nor will it pose any administrative or implementation difficulties.[37]

VI. HIGH COST CERTIFICATION.

Under Sections 54.313 and 54.314 of the Commission's rules, carriers wishing to obtain high-cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the FCC and the Universal Service Administration Corporation ("USAC") their compliance with Section 254(e) of the Telecommunications Act of 1996. As explained above, the FPSC does not exercise jurisdiction over CMRS carriers such as ALLTEL. Therefore, in accordance with Sections 54.313(b) and 54.314(b), ALLTEL has submitted its high-cost certification with the FCC and USAC. A copy of this certification is attached hereto as Exhibit F.

ALLTEL respectfully requests that the Commission issue a finding that ALLTEL has met the high-cost certification requirement and that ALLTEL is, therefore, entitled to begin receiving

[37] For example, each covered ILEC study area is either entirely rural or non-rural, so granting an ETC application as to only the non-rural areas will not raise any cream-skimming issues.

high-cost support as of the date it receives a grant of ETC status in order that funding will not be delayed.[38]

VII. ANTI-DRUG ABUSE CERTIFICATION.

ALLTEL certifies that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862. *See* Exhibit G hereto.

VIII. CONCLUSION.

ALLTEL respectfully request the Commission to designate it as an ETC in the State of Florida on an expedited basis.

Respectfully submitted,

ALLTEL Communications, Inc.

By: Glenn S. Rabin

Glenn S. Rabin
Vice President
Federal Communications Counsel

November 20, 2003

[38] *See Guam Cellular and Paging, Inc.*, 18 FCC Rcd 7138 (WCB 2003).