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March 26, 2004

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## EX PARTE NOTICE

### *Electronic Filing*

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204A  
Washington, D.C. 20554

Re: ALLTEL Communications Inc., Petition for Consent to Redefine Rural  
Telephone Company Service Areas in Michigan  
CC Docket No. 96-45, DA No. 04-686

Dear Ms. Dortch:

Pursuant to the requirements of *Virginia Cellular*,<sup>1</sup> ALLTEL Communications, Inc. ("ALLTEL") supplements the record in the above-referenced proceeding in support of its request for Commission approval of the service area redefinition decision of the Michigan Public Service Commission ("MPSC"). In designating Virginia Cellular, LLC an eligible telecommunications carrier ("ETC") in Virginia, this Commission elaborated on its rural service area redefinition criteria by relying on population density data that was submitted to demonstrate a lack of cream skimming opportunities.<sup>2</sup> *Virginia Cellular* also endorsed state commission ETC and service area redefinition judgments.<sup>3</sup> Attached to this supplement are a population density chart and maps supporting a similar showing for the Michigan rural incumbent local exchange carrier ("ILEC") study areas partially served by ALLTEL's cellular service. As discussed

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<sup>1</sup> *Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, FCC 03-338, CC Docket No. 96-45 (Jan. 22, 2004) ("*Virginia Cellular*").

<sup>2</sup> *Id.* ¶ 42.

<sup>3</sup> *Id.* ¶ 45.

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below, this data demonstrates that, in the partially served rural ILEC study areas, the wire centers that ALLTEL serves have a lower average population density than the wire centers it does not serve. The Commission therefore should immediately consent to the MPSC's service area redefinition decision.

## I. Background

The MPSC, on September 11, 2003, granted ALLTEL's application for competitive ETC status as a cellular telecommunications service provider in Michigan as in the public interest and redefined the rural ILEC service areas partially served by ALLTEL by "exchanges," or wire centers ("*MPSC Decision*").<sup>4</sup> The MPSC based its redefinition decision on its finding that "[m]uch of the area covered by ALLTEL's wireless carrier license is in very rural parts of Michigan" and that "'cream-skimming' concerns are alleviated because ALLTEL has not specifically picked the areas in which it will serve, but instead the areas were defined in the FCC's wireless licensing process."<sup>5</sup> ALLTEL filed its petition for Commission approval of the MPSC's service area redefinition decision on December 17, 2003 ("*Petition*").<sup>6</sup>

## II. *Virginia Cellular's Application Of The Redefinition Criteria*

In redefining certain rural ILEC service areas at the wire center level, *Virginia Cellular* further elaborated upon the required showing, originally highlighted in the Joint Board's *1996 Recommended Decision*, that rural ILEC service area redefinition not result in opportunities for cream skimming.<sup>7</sup> The Commission made that finding in *Virginia Cellular* based on the relative "population densities of the wire centers Virginia Cellular can and cannot serve" in the partially served study areas.<sup>8</sup> The Commission's

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<sup>4</sup> *Application of ALLTEL Communications, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Case No. U-13765 (Mich. PSC Sept. 11, 2003) ("*MPSC Decision*").

<sup>5</sup> *Id.* at 15.

<sup>6</sup> See *Petition of ALLTEL Communications, Inc. For Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Michigan, Federal-State Joint Board on Universal Service; Petition of ALLTEL Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Michigan*, CC Docket No. 96-45 (filed Dec. 17, 2003) ("*Petition*"). All other filings made by ALLTEL in this proceeding will be cited in an abbreviated manner.

<sup>7</sup> *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87, 179-80 (Jt. Bd. 1996) ("*1996 Recommended Decision*").

<sup>8</sup> *Virginia Cellular* ¶ 42.

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reference to relative population densities relied upon an analysis that it had provided in determining whether to grant ETC status to Virginia Cellular.<sup>9</sup> It noted that a low population density typically indicates a high-cost area and vice-versa and found that for the rural service areas for which ETC status was granted, Virginia Cellular “will not be serving only low-cost areas to the exclusion of high-cost areas.”<sup>10</sup> *Virginia Cellular* accordingly granted the requested redefinition, subject to the agreement of the Virginia State Corporation Commission (“Virginia Commission”). In submitting its order to the Virginia Commission, this Commission found the states to be “uniquely qualified” to review redefinition requests based upon their familiarity with rural service areas.<sup>11</sup>

### III. The Application Of *Virginia Cellular* Confirms The Absence Of Cream Skimming Opportunities

The MPSC found that redefining rural ILEC service areas at the exchange, or wire center, level is in the public interest, based on its familiarity with their service areas and its findings that much of the area covered by ALLTEL’s wireless service license is in “very rural parts of Michigan” and that “‘cream-skimming’ concerns are alleviated” by ALLTEL’s commitment to serve the entire area covered by its cellular service license.<sup>12</sup> ALLTEL, pursuant to *Virginia Cellular*, further supports this finding with additional evidence that the redefinition of rural Michigan ILEC service areas will not encourage cream skimming. The attached population density chart and maps demonstrate that, of the partially served rural Michigan study areas, the average population density of the wire centers served by ALLTEL is *lower* than the average density of the wire centers it does not serve.

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<sup>9</sup> *Id.* & n.128.

<sup>10</sup> *Id.* ¶ 34.

<sup>11</sup> *Id.* ¶ 45. The *1996 Recommended Decision* expressed two other concerns regarding the redefinition of rural ILEC service areas, in addition to minimizing cream skimming: (1) recognizing that the Telecommunications Act of 1996 places rural ILECs on a different competitive footing from other LECs; and (2) recognizing the administrative burden of requiring rural ILECs to calculate costs at something other than a study area level. *Id.* at 180. In *Virginia Cellular*, the Commission applied those criteria by finding that redefinition would not harm rural ILECs, because receipt of high-cost support by Virginia Cellular will not affect the high-cost support received by the rural ILECs, and would not impose additional administrative burdens, because service area redefinition will not require the rural ILECs to determine their costs on a basis other than the study area level. *Id.* at ¶¶ 43-44. ALLTEL demonstrated compliance with those criteria in its Petition, and none of the oppositions challenged the factual bases for ALLTEL’s showings as to those criteria. *See* Petition at 10-12. *See also MPSC Decision* at 15.

<sup>12</sup> *MPSC Decision* at 15.

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Attached as Exhibit A is a list of all of the wire centers in the partially served rural ILEC study areas in Michigan within the coverage of ALLTEL's wireless service license, showing the population density, in households per square mile, for each wire center and indicating whether ALLTEL serves the wire center.<sup>13</sup> As indicated at the end of Exhibit A, for the partially served study areas, the average population density of the wire centers that ALLTEL serves is 19 households per square mile, while the average density of the wire centers it does not serve is 31 households per square mile. Accordingly, ALLTEL is not serving the higher-density, lower-cost wire centers to the exclusion of the lower-density, higher-cost wire centers in the partially served study areas, and the redefinition of those service areas by wire center therefore will not undercut the ILECs' abilities to serve their entire study areas. If anything, ALLTEL disproportionately serves the lower-density, higher-cost portions of the partially served study areas.

A closer examination of Exhibit A underscores that conclusion. For example, ALLTEL serves 10 of the 11 wire centers in the partially served study areas with the lowest population density -- 10 or fewer households per square mile -- and serves 26 of the 30 wire centers with a population density of 20 or fewer households per square mile. Moreover, ALLTEL serves only one of the four wire centers in the partially served study areas with a density of 50 or more households per square mile. It is notable in this regard that the average density of all rural Michigan wire centers served by ALLTEL -- in both partially served and entirely served study areas -- is only 10 households per square mile.

The relative densities of the served and unserved wire centers in the partially served study areas is illustrated by Exhibit B, a map of Michigan showing the wireless Metropolitan Statistical Area ("MSA") and Rural Service Area ("RSA") boundaries for the entire state and the boundaries of the wire centers in rural ILEC study areas partially served by ALLTEL. The wire centers in those study areas that are served by ALLTEL are shown in thin black boundaries, and the wire centers not served or partially served by ALLTEL are shown in heavier dark blue boundaries.<sup>14</sup> It is apparent that the served wire centers are in areas no more densely populated, and in many cases, less populated areas, than the wire centers that ALLTEL does not serve.

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<sup>13</sup> ALLTEL filed an amendment to its Petition correcting an exhibit setting forth the wire centers that it serves and does not serve in partially served rural ILEC study areas. See ALLTEL Amendment (filed Jan. 29, 2004).

<sup>14</sup> ALLTEL did not seek ETC status for any partially served wire centers.

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The sparsely populated nature of ALLTEL's wireless service area also is illustrated by Exhibit C, a map that is similar to Exhibit B, except that it includes all of the rural wire centers served by ALLTEL in Michigan, both in study areas partially served and in study areas entirely served by ALLTEL. It is apparent that the served wire centers, especially in the Upper Peninsula, are generally in less populated areas than the wire centers that ALLTEL does not serve. The population density data displayed in Exhibits A through C thus confirm the absence of opportunities for cream skimming resulting from the requested service area redefinition.

#### IV. Conclusion

An examination of relative population density data of the type analyzed in *Virginia Cellular* confirms that the redefinition of certain rural Michigan ILEC service areas sought by ALLTEL does not raise any of the concerns outlined in the *1996 Recommended Decision*. The requested redefinition, in conjunction with the ETC designation granted in the *MPSC Decision*, will not undercut the affected ILECs' abilities to serve their entire study areas or harm them in any other way. The MPSC is as "uniquely qualified to examine" ALLTEL's redefinition proposal as the Virginia Commission was to examine Virginia Cellular's requested redefinition, and the MPSC's redefinition decision accordingly should be approved. Now that the Joint Board's recent *Recommended Decision* has concluded that no changes in the Commission's redefinition rules or procedures are necessary, there is no justification for any further delay in resolving the issues raised by the Petition.<sup>15</sup> The Commission therefore should immediately consent to the MPSC's redefinition decision.

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<sup>15</sup> *Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, FCC 04J-1 (Feb. 27, 2004) ("*Recommended Decision*") ¶ 55. The opposing carriers had argued that any action on the Petition be postponed until the Joint Board acted. See ALLTEL Reply Comments at 4-9 (filed Jan. 29, 2004).

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In accordance with Section 1.1206 of the Commission's rules, this letter and attachments are filed with your office for inclusion in the public record of the above referenced proceeding. If you have any questions regarding this *ex parte* notice, please contact the undersigned.

Yours truly,

/s/ Cheryl A. Tritt

Cheryl A. Tritt  
Counsel for ALLTEL Communications, Inc.

cc: William Maher  
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