

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

In the Matter of )  
 )  
RCC HOLDINGS, INC. )  
 ) CC Docket No. 96-45  
Petition for Designation as an )  
Eligible Telecommunications Carrier )  
in the State of Alabama )  
  
To: The Commission

**MOTION TO DISMISS**

RCC Holdings, Inc. (“RCC”), by its attorneys, hereby requests that the Commission summarily dismiss the Supplement to the Application for Review of the Alabama Rural Local Exchange Carriers (“Supplement”) filed with respect to the designation of RCC as an eligible telecommunication carrier (“ETC”) by the Wireline Competition Bureau (“Bureau”). *See RCC Holdings, Inc.*, 17 FCC Rcd 23532 (Wireline Comp. Bur. 2002). In support thereof, the following is respectfully submitted:

Section 1.115(d) of the Commission’s rules (“Rules”) provides that an “application for review and any supplement[] thereto shall be filed within 30 days of public notice” of the action of which review is sought. 47 C.F.R. § 1.115(d). Obviously, the Supplement is untimely since it was filed nearly seventeen months after the 30-day period of § 1.115(d) expired. *See generally Citicasters Licenses, Inc.*, 17 FCC Rcd 1997, 1997 n.2 (2002); *BDPCS, Inc.*, 15 FCC Rcd 17590, 17596-97 (2000). Yet, the Alabama Rural Local Exchange Carriers (“ARLECs”) neither requested a waiver of § 1.115(d) of the Rules nor submitted a motion for leave to file their Supplement showing good grounds on which leave may be granted. Therefore, the Supplement should be summarily dismissed as untimely and unauthorized. *See Warren C. Havens*, 17 FCC Rcd 17588,

17593 & n.53 (2002); *Carol Sue Bowman*, 6 FCC Rcd 4723, 4723 n.1 (Mass Media Bur. 1991). *Cf. Charles T. Crawford*, 17 FCC Rcd 2014, 2018 n.44 (2002).

The dismissal of their Supplement will not prejudice the ARLECs. For the most part, the Supplement is a rehash of arguments the ARLECs made in their application for review. Moreover, on May 14, 2004, RCC supplemented its petition for designation as an ETC pursuant to the Bureau's "invitation" to update the record. *See Public Notice, DA 04-999, 2004 WL 770012 (Wireline Comp. Bur. Apr. 12, 2004)*. The ARLECs will have until May 28, 2004 to comment on RCC's supplemented petition. *See Parties Are Invited to Update the Record Pertaining to Pending Petition for ETC Designations*, 69 Fed. Reg. 22029 (Apr. 23, 2004). Thus, the ARLECs will have ample opportunity to be heard once more with respect to RCC's designation as an ETC.

For all the foregoing reasons, RCC respectfully requests that the Commission summarily dismiss the untimely and unauthorized Supplement.

Respectfully submitted,



RUSSELL D. LUKAS  
DAVID A. LAFURIA  
STEVEN M. CHERNOFF

LUKAS, NACE, GUTIERREZ & SACHS, Chartered  
1111 19<sup>th</sup> Street, N.W., Suite 1200  
Washington, D.C. 20036  
(202) 857-3500

*Attorneys for RCC Holdings, Inc.*

May 19, 2004

## CERTIFICATE OF SERVICE

I, Kimberly Verven, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this 19<sup>th</sup> day of May, 2004, placed in the United States mail, first-class postage pre-paid, a copy of the foregoing *Motion to Dismiss* filed today to the following:

William Maher, Esq.  
Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th St., S.W.  
Room 5C-450  
Washington, DC 20554

Jessica Rosenworcel, Esq.  
Legal Advisor to the Chief of the  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th St., S.W.  
Room 5C-433  
Washington, DC 20554

Katherine Schroder, Esq.  
Chief, Telecommunications Access Policy  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Room 5A-423  
Washington, DC 20554

William Scher, Esq.  
Assistant Chief  
Telecommunications Access Policy Div.  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th St., S.W.  
Room 5B-550  
Washington, DC 20554

Mark Seifert, Esq.  
Deputy Chief  
Telecommunications Access Policy Div.  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th St., S.W.  
Room 5A-423  
Washington, DC 20554

Anita Cheng, Esq.  
Acting Deputy Chief  
Telecommunications Access Policy Div.  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th St., S.W.  
Room 5A-445  
Washington, DC 20554

Cara Voth, Esq.  
Telecommunications Access Policy Div.  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th St., S.W.  
Room 5A-640  
Washington, DC 20554

Richard Smith, Esq.  
Telecommunications Access Policy Div.  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Room 5A-660  
Washington, DC 20554

Walter L. Thomas, Jr., Secretary  
Alabama Public Service Commission  
RSA Building  
100 North Union Street  
Suite 850  
Montgomery, AL 36101

Alabama Rural Local Exchange Carriers  
c/o Leah S. Stephens, Esq.  
Mark D. Wilkerson, Esq.  
Brantley, Wilkerson & Bryan, PC  
405 South Hull Street  
Montgomery, Alabama 36104

William W. Jordan, Esq.  
Vice President - Federal Regulatory  
BellSouth Telecom Inc.  
1133 21<sup>st</sup>  
Suite 900  
Washington, D.C. 20036

John M. Wilson, Esq.  
Regional Manager/Legislative Affairs  
Verizon Mid-States/Verizon South, Inc.  
100 N. Union Street  
Suite 132  
Montgomery, AL 36104

Pine Belt Telephone Company, Inc.  
c/o Kraskin, Lesse & Cosson, LLP  
2120 L Street, N.W.  
Suite 520  
Washington, D.C. 20037

Carolyn C. Hill, Esq.  
Vice President/Federal Regulatory Affairs  
Alltel Corporation  
601 Pennsylvania Avenue, N.W.  
Suite 720  
Washington, D.C. 20004

  
Kimberly Verjen