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

In the Matter of	)	
	)	
Petition by the Minnesota Public Utilities	)	CC Docket No. 96-45
Commission For Agreement to Redefine	)	DA-04-999
the Service Area of Twelve Minnesota	)	
Rural Telephone Companies	)	

REPLY COMMENTS OF
CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC
AND FRONTIER COMMUNICATIONS OF MINNESOTA, INC.

Citizens Telecommunications Company of Minnesota, LLC ("Citizens") and Frontier Communications of Minnesota, Inc. ("Frontier") submit these Reply Comments in response to comments filed on May 28, 2004 in response to the April 12, 2004 Public Notice of the Federal Communications Commission ("FCC" or "Commission") regarding pending petitions for Eligible Telecommunications Carrier ("ETC") designations in DA 04-999. One of the pending petitions identified in the Notice was the August 7, 2003 petition of the Minnesota Public Utilities Commission ("Minnesota Commission") seeking to redefine the service areas of twelve rural telephone companies in Minnesota in the context of its designation of Midwest Wireless Communications, LLC ("Midwest Wireless") as an ETC in Minnesota.[1] Citizens and Frontier filed Additional Comments in this Proceeding on May 28, 2004. In these Reply Comments, Citizens and Frontier specifically respond to the Comments of Midwest Wireless filed on May 28, 2004 regarding the disaggregation of service areas proposed by the Minnesota Commission.

[1] Midwest Wireless is a commercial mobile radio service (CMRS) provider. See Minnesota Commission Docket P6153/M-02-686, *In the Matter of the Petition of Midwest Wireless Communications, LLC for Designation as an Eligible Telecommunications Carrier Under 47U.S.C. §214(e)(2).*

Citizens and Frontier continue to recommend that the Commission reject the Minnesota Commission's proposed disaggregation plan for Midwest Wireless.

I. Comments of Midwest Wireless Communications, LLC

In its May 28, 2004 Comments, Midwest Wireless noted that the designation of Midwest Wireless as an ETC in Minnesota is not at issue. As Midwest Wireless indicates, the Minnesota Commission has designated Midwest Wireless as an ETC throughout Midwest Wireless' CMRS licensed service area and no FCC action is needed with respect to that ETC designation. What is at issue, however, is the redefinition of the service areas for a number of rural telephone companies, including Citizens and Frontier, that are within the licensed service area of Midwest Wireless. The Minnesota Commission's petition from August 7, 2003, proposed to redefine the ETC service areas of twelve rural companies, including Citizens and Frontier. FCC approval of that proposed redefinition is required before it can become effective.[2]

As Citizens and Frontier noted in their May 28, 2004 Additional Comments, the redefinition plan proposed by the Minnesota Commission is in conflict with the FCC's determinations in the *Highland Cellular Order*, which granted in part and denied in part the petition of Highland Cellular, Inc. to be designated as an ETC in portions of its licensed service area in the Commonwealth of Virginia.[3] In the *Highland Cellular Order*, the Commission concluded, among other things, that a carrier in a rural study area may not be designated as a competitive ETC below the wire center level.[4] The Minnesota Commission proposes to

[2] 47 C.F.R. § 54.207

[3] *See Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004) (*Highland Cellular Order*).

[4] *See Highland Cellular Order* at para. 33.

designate Midwest Wireless as a competitive ETC below the wire center level for eleven rural telephone companies. Specifically with respect to Citizens and Frontier, the proposed disaggregation plan submitted by the Minnesota Commission seeks to split two Citizens' wire centers and two Frontier wire centers. Midwest Wireless requests that the FCC concur with the redefinition proposal of the Minnesota Commission.

The Public Notice indicated that the FCC's policy decisions in the *Virginia Cellular Order*[5] and the *Highland Cellular Order* set out "new standards and requirements" that would apply to petitions for ETC designation and redefinitions of service areas. The FCC clearly intended that these "new standards and requirements" would apply to all pending petitions for ETC designation and redefinitions of service areas, and allowed parties to those pending petitions to supplement the records with demonstrations that the proposals met the FCC's "new standards and requirements."[6] Midwest Wireless' comments highlight the fact that the Minnesota Commission redefinition proposal fails to comply with the "new standards and requirements" as a result of the requested disaggregation below the wire center level. Midwest Wireless's comments, however, attempt to sidestep the fact that the Commission was clear that the wire center, not a sub-wire center, is the appropriate "minimum geographic area" that a competitive ETC must serve. Midwest Wireless also suggests that disaggregation of high-cost support pursuant to 47 CFR Section 54.315 "is sufficient to protect rural ILECs from competitors receiving uneconomic support levels."[7] The Commission in the *Highland Cellular* Order acknowledged and rejected this very argument raised by Midwest Wireless. The Commission

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[5] *See Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (rel. Jan. 22, 2004) (*Virginia Cellular Order*).

[6] *See also Highland Cellular Order* at para. 37.

[7] Midwest Wireless Comments at p. 4.

explained: "We therefore reject arguments that incumbents can, in every instance, protect against creamskimming by disaggregating high-cost support to the higher –cost portions of the incumbent's study area."[8] In summary, Midwest Wireless simply argues that the "new standards and requirements" should not apply in its case, and that the FCC should just acquiesce to the Minnesota Commission proposal to disaggregate service areas below the wire center and to the sub-wire center level. Essentially, Midwest Wireless asks the FCC to disregard its policy decision in the *Highland Cellular Order*, released only seven weeks ago. Such an action by the FCC would be arbitrary and unreasonable.

Frontier and Citizens recommend that the FCC apply the standards and requirements set forth in the *Virginia Cellular Order* and the *Highland Cellular Order* to all petitions before the FCC regarding ETC designations and redefinition of service areas, including the pending Minnesota Commission redefinition petition for Midwest Wireless. The Minnesota Commission's redefinition petition should be denied, to the extent that it would redefine ETC service areas below the wire center level.

II. Comments of CenturyTel and TDS Telecommunications.

In their Comments, CenturyTel of Alabama, LLC, CenturyTel of Eagle, Inc., and CenturyTel, Inc. (collectively, "CenturyTel") and TDS Telecommunications Corp., Mid-State Telephone Company and Winsted Telephone Company (collectively, "TDS") address the issue of making ETC designations for areas below the wire center level. As CenturyTel correctly explains, the Minnesota Commission's assertion that the *Highland Cellular Order* does not constitute "absolute ban on redefinition below the wire center level" is not defensible. TDS also

[8] *Highland Cellular Order* at para. 32.

accurately points out that the Minnesota Commission's decision to redefine a service area to include only a portion of a wire center misapprehends the FCC's rational and categorical conclusion that allowing a competitive ETC to only serve a portion of a rural telephone company's wire center would be inconsistent with the public interest. TDS further explains that the Minnesota Commission misconstrues the issue of an ETC relinquishing its ETC status based on the fact that there is no evidence today that a carrier will relinquish its ETC designation. As TDS points out, it is irrelevant whether immediate relinquishment of ETC status is anticipated. The more important public policy consideration, which this Commission has already affirmatively addressed, is whether allowing an competitive ETC to receive universal service support in a service area that only includes a portion of a rural telephone company's wire center exchange makes ETC relinquishment more likely. CenturyTel and TDS urge that the Commission reject the Minnesota Commission's petition to define Midwest Wireless' ETC service area below the wire center level of rural telephone companies. Frontier and Citizens agree with the comments of CenturyTel and TDS regarding the disaggregation of ETC service areas below the wire center level.

III. CONCLUSION

Citizens and Frontier urge the FCC to reject the disaggregation plan proposed by the Minnesota Commission, in accordance with the findings in the *Highland Cellular Order*. Instead the Commission should refer the disaggregation plan back to the Minnesota Commission and ask the Minnesota Commission to submit an alternative plan that does not split rural telephone company wire centers.

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Respectfully Submitted,

Kevin Saville
2378 Wilshire Blvd.
Mound, MN 55364
(952) 491-5564 Telephone
(952) 491-5515 Facsimile
ksaville @czn.com

Attorney for:
Citizens Telecommunications Company of Minnesota, LLC
Frontier Communications of Minnesota, Inc.