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April 12, 2004

**PUBLIC DOCUMENT**

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

**RE: PUBLIC Supplemental Comments of the Minnesota Department of Commerce**  
Docket No. P5695/M-04-226

Dear Dr. Haar:

Attached are the PUBLIC supplemental comments of the Department of Commerce in the following matter:

Petition by WWC Holding Co., Inc. d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Areas.

The Department is available to answer any questions the Commission may have.

Sincerely,

KATHERINE DOHERTY  
Rates Analyst

KD/sm  
Attachment

**MAY 14 2004**

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

PUBLIC SUPPLEMENTAL COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P5695/M-04-226

**I. BACKGROUND**

On February 13, 2004, WWC Holding Company, Inc. d/b/a/ CellularOne (Western Wireless) filed a petition requesting to expand its eligible telecommunications carrier (ETC) service area and to redefine the study areas of certain rural telephone companies in whose territory it proposes to serve. Western Wireless proposed to serve the study areas of five rural incumbent carriers in their entirety, and requested that the Minnesota Public Utilities Commission (Commission) redefine the service areas of seven rural incumbent local exchange carriers (ILECs) at the wire center level.<sup>1</sup>

On March 3, 2004, the Minnesota Independent Coalition filed comments opposing the petition.

The Department of Commerce (Department) and Western Wireless filed reply comments on March 25, 2004. The Department recommended, among other things, that prior to further consideration of the merits of the petition by the Commission, Western Wireless be required to submit supplemental information, including the following:

- Supplemental information regarding Western Wireless' licensed service area in Minnesota, and the current cellular coverage it provides within its proposed service area.
- Detailed information as to how, upon a reasonable request from a customer, it will provide service in the areas in which it does not currently have adequate coverage.

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<sup>1</sup> Western Wireless proposes to serve the entire study areas of Christensen Communications Company dba Madelia Telephone Company; Dunnell Telephone Company, Inc.; New Ulm Telecom, Inc.; Red River Rural Telephone Association; and Winsted Telephone Company. Western Wireless proposes that the study areas of the following companies be redefined at the wire center level: CenturyTel of Minnesota; Federated Telephone Cooperative; Loretel Systems, Inc.; Mid-State Telephone Company (includes KMP Telephone Company study area); Sleepy Eye Telephone Company; Twin Valley-Ulen Telephone Company, Inc.; and Sprint Minnesota, Inc.

- A list of facilities used to provide service in the service area in which Western Wireless seeks ETC certification.

On April 16, 2004, Western Wireless submitted a supplemental filing.

On April 29, 2004, the Commission met to consider the matter. The Commission determined, among other things, to allow parties to file additional comments regarding Western Wireless' supplemental filing within 21 days of its Order. In addition, with regard to the redefinition of certain ILECs' study areas, the Commission requested that the Department file supplemental comments incorporating its analysis comparing per-line costs in the exchanges that Western Wireless proposes to serve, versus the per-line costs to provide service in the exchanges that Western Wireless will not serve.

The Department therefore submits the requested analysis, attached as exhibit A, and the following supplementary explanatory comments. The Department will submit, pursuant to the Commission's Order, comments regarding Western Wireless' April 16, 2004 supplemental filing and other issues raised at the Commission's April 29, 2004 meeting within 21 days of the Commission's Order.<sup>2</sup>

## II. ANALYSIS

### *WWC'S PROPOSED REDEFINITION OF RURAL LEC SERVICE AREAS*

Section 214(e) of the Act requires a designated ETC to offer the required services throughout the service area for which the designation is received. Section 214(e)(5) defines the term "service area" as a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms." Pursuant to Minnesota Rules, 7812.0100, subpt. 51, the term "universal service area" is defined as follows:

- A. with respect to a rural telephone company, the local exchange carrier's study area or any other area designated jointly by the commission and the FCC pursuant to Code of Federal Regulations, title 47, section 54.203, paragraphs (c) and (d); or
- B. the exchange area, or a different geographic unit identified by the commission under part 7812.1400 subpart 3, of a local exchange carrier unless the commission has found the local exchange carrier to be a rural telephone company.

Minn. Rule 7812.1400 subpart 3 states:

A decision on a petition for designation to receive universal service support under this part must include a determination of the applicable universal service area. The commission shall determine

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<sup>2</sup> The Department notes that as of May 10, 2004, the Order has not yet been issued.

whether the LEC serving the area for which the CLEC seeks designation to receive universal service support is a rural telephone company if the competitive local exchange carrier's petition or another party's initial comments under subpart 8 assert that the LEC is a rural telephone company. If the applicable LEC has 50,000 or more subscribers and is not found by the commission to be a rural telephone company, the commission shall designate the local exchange carrier's exchange area as the universal service area unless the commission finds that a smaller geographic unit would be more appropriate, based on consideration of the relevant high-cost areas designated by the FCC and the public interest.

Redefinition of the service area of a rural telephone company requires the state Commission's approval. Once approved by the state, a petition must be submitted to the FCC, detailing the proposed service area definition and the State Commission's ruling or official statement outlining the reasons for the proposed definition.

In the rural study areas that WWC does not serve in their entirety, WWC proposes that the Commission approve redefinition at the wire center level.

In its 1996 Recommended Decision, which laid the foundation for the FCC's First Report and Order, the Federal-State Joint Board on Universal Service identified three factors to be considered when redefining a service area.<sup>3</sup>

First, the Joint Board advised state commissions to consider whether the competitive carrier is attempting to "cream skim" by proposing to serve only the lowest cost customers. Secondly, the Commission should consider the regulatory status given to rural local exchange carriers under the Telecommunications Act. Finally, the Joint Board directed the states to consider the administrative burden a LEC would face by calculating its costs on a basis other than its entire study area.

On February 26, 2004, in its recently released Recommended Decision, the Joint Board "continue[d] to endorse the procedures established by the Federal Communications Commission in 1997 for redefinition of rural service areas."<sup>4</sup>

The Joint Board acknowledged that:

The provisions contained in the *Rural Task Force Order*<sup>5</sup> for disaggregation and targeting of universal service support may help alleviate some concerns regarding cream-skimming. Permitting

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<sup>3</sup> Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, 12 FCC Rcd 87, paras 172-174, (1996).

<sup>4</sup> Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 04J-1, para.55, February 27, 2004.

<sup>5</sup> In the Matter of Federal-State Joint Board on Universal Service, *Fourteenth Report and Order*, CC Docket No. 96-45, FCC 01-157, May 23, 2001.

rural carriers to disaggregate and target universal service support allows them to direct universal service support to those zones within the study area where support is most needed. Targeting support in this manner also promotes a better matching of per-line support to the rural carriers' costs of providing service, and helps reduce the economic distortions that could lead to cream skimming. In a study area with disaggregated support, a competitive ETC designated for a service area smaller than the study area will be limited to receiving only the per-line support established for that area.<sup>6</sup>

The Joint Board "hesitated," however, to state that disaggregation of support "addresses all concerns," noting that "[f]or instance, the [Federal Communications] Commission has recognized that cream skimming may still be a concern where a competitor proposes to serve only the low-cost areas of a rural carrier's study area to the exclusion of high-cost areas. (See e.g., RCC Holdings Order, 17 FCC Rcd at 23546, para. 35; Virginia Cellular ETC Order, FCC 03-338 at paras. 32-33.)"<sup>7</sup>

In the Virginia Cellular Order to which the Joint Board refers above, the FCC recognized that in addition to deliberate cream-skimming, which occurs when "competitors seek to serve only the low-cost high-revenue customers in a rural telephone company's study area," there may exist situations in which "for reasons beyond a competitive carrier's control, the lowest cost portion of a rural study area may be the only portion of the study area that a wireless carrier's license covers. Under these circumstances, granting a rural carrier ETC designation for only its licensed portion of the rural study area may have the same *effect* on the ILEC as rural cream-skimming."<sup>8</sup>

The FCC analyzed the population densities of the affected wire centers in order to ensure that designating Virginia Cellular as an ETC for only its licensed portion of the incumbent rural carriers' study areas would not result in the *unintended effect* of cream-skimming. The FCC reasoned that "although there are other factors that define high-cost areas, a low population density typically indicates a high-cost area."<sup>9</sup>

The Department has conducted a similar analysis in the areas in which WWC requests study area redefinition at the wire center level. (See Attachment A.)<sup>10</sup> The Department finds no evidence that the costs to serve customers in the wire centers in which WWC proposes to serve as an ETC,

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<sup>6</sup> Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 04J-1, para.54, February 27, 2004.

<sup>7</sup> Id.

<sup>8</sup> In the Matter of Virginia Cellular LLC Petition for Designation as Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338, January 22, 2004, para. 32-33.

<sup>9</sup> *In the Matter of Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Memorandum Opinion and Order in CC Docket No. (6-45, FCC-03-338, released January 22, 2004, paras 32-35.

<sup>10</sup> For the purposes of the Department's analysis, the Department used forward-looking cost estimates from the HAI 5.2 model using Department recommended input factors and model modifications.

are significantly lower or significantly different from, the costs in those wire centers which WWC proposes to exclude from its service area.<sup>11</sup>

In addition, three of the seven rural carriers in whose study areas WWC has proposed redefinition at the exchange level have taken advantage of the opportunity, as of May 15, 2002, to disaggregate and target universal service support at the exchange level within their territories, based on their estimated cost to serve each exchange. (See Attachment A.)

WWC does not appear to be "cream-skimming." WWC is not proposing to serve only the low-cost areas of any carrier's study area to the exclusion of the high-cost areas, nor is WWC proposing to serve only the wire centers within any rural carrier's study area to which a carrier may have targeted a disproportionately high amount of support.

### III. CONCLUSION

The Department concludes that rural carriers would not be harmed by the redefinition of their study areas to conform to licensed service area of WWC. Carriers would not be required to recalculate costs as a result of service area redefinition. The Department is not aware of additional administrative burdens on local exchange carriers that would result from such a redefinition of service area. The Department notes also that, to the extent rural ILECs wish to further disaggregate or alter the way in which they have targeted the available universal service support within their service areas, they may petition the Commission to do so.

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<sup>11</sup> In the Virginia Cellular Case, the FCC concluded that it would not be in the public interest to designate Virginia Cellular as an ETC in the study area of a rural carrier in which Virginia Cellular proposed, based on its licensed service area, to serve only one wire center. The FCC determined that the population density in the affected wire center was approximately 273 persons per square mile, while the average population density of the remaining wire centers in the underlying study area was determined to be approximately 33 persons per square mile. The FCC found that designating Virginia Cellular as an ETC only in one wire center with a population density far higher than the that of the remainder of the underlying study area, could 'significantly undermine the [rural carrier's] ability to serve its entire study area.' Id. para. 35.

**Level of Disaggregation and Cost Analysis for Companies Whose Territories WWC Seeks to Redefine At the Exchange Level  
Public Copy\*\***

Company	Exchange	WWC Proposed Service Area	Level of Disaggregation of Support by ILEC	Monthly Per Line Support Allocated by ILEC	Modeled Cost per line per month*	Weighted Average Cost per Line  (in exchanges WWC has excluded from its proposed service area)	Weighted Average Cost per Line  (in exchanges WWC proposes to serve)
Century Tel			None	Not disaggregated		72.10	56.76
	Beardsley	No			95.17		
	Beaver Creek	No			155.11		
	Campbell	No			117.21		
	Clinton	No			88.09		
	Dundee	No			157.28		
	Graceville	No			78.56		
	Gunflint Trail	No			124.80		
	Hill City	No			66.97		
	Hoviand	No			100.27		
	Itasca State Park	No			101.59		
	Kellogg	No			74.12		
	Lafayette	No			68.17		
	Orr	No			112.04		
	Pierz	No			49.70		
	Preston	No			41.47		
	Spring Valley	No			40.68		
	Wilmont	No			86.68		
	Baudette	Yes			59.63		
	Brewster	Yes			73.15		
	Fairfax	Yes			59.21		
	Fulda	Yes			60.88		
	Gibbon	Yes			58.80		
	Heron Lake	Yes			61.45		

\*Forward looking cost estimates from the HAI 5.2 model using Department recommended input factor and model modifications.

\*\*# of Lines by exchange has been omitted

Shaded cells indicate data in areas which WWC proposes to serve.

Docket N 25695/M-04-226  
PUBLIC ATTACHMENT A

**Level of Disaggregation and Cost Analysis for Companies Whose Territories WWC Seeks to Redefine At the Exchange Level**  
**Public Copy\*\***

Company	Exchange	WWC Proposed Service Area	Level of Disaggregation of Support by ILEC	Monthly Per Line Support Allocated by ILEC	Modeled Cost per line per month*	Weighted Average Cost per Line  (in exchanges WWC has excluded from its proposed service area)	Weighted Average Cost per Line  (in exchanges WWC proposes to serve)
	Humboldt	Yes			190.10		
	Jeffers	Yes			96.98		
	Lamberton	Yes			60.07		
	Minneota	Yes			61.71		
	Renville	Yes			54.88		
	Roseau	Yes			37.66		
	Round Lake	Yes			74.70		
	Rushmore	Yes			99.88		
	Warroad	Yes			44.17		
	Westbrook-Storden	Yes			52.62		
Federated Tel Coop			By exchange			117.71	75.15
	Big Bend	No		\$26.93	128.61		
	Chokio	No		\$18.25	98.10		
	Correll	No		\$26.93	172.74		
	Danvers	No		\$26.93	120.31		
	Holloway	No		\$26.93	131.11		
	Odessa	No		\$26.93	116.22		
	Milan	Yes		\$7.25	75.15		
Loretel System, Inc.				Not disaggregated		38.62	50.14

\*Forward looking cost estimates from the HAI 5.2 model using Department recommended input factor and model modifications.

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	Audubon	No	None		40.82		
	Cormorant	No	None		31.70		
	Frazee	No	None		43.38		
	Lake Park	No	None		52.06		
	Pelican Rapids	No	None		36.10		
	Ada	Yes	None		43.78		
	Glyndon	Yes	None		49.26		
	Perley-Hendrum	Yes	None		76.64		
Mid-State Tel.Co.(incl. KMP study area)						66.81	41.72
	Brooten	No	By exchange	\$16.04	63.16		
	Irving	No		\$13.99	54.94		
	Kerkhoven	No		\$10.91	53.94		
	Murdock	No		\$13.98	81.42		
	Sedan	No		\$24.69	87.36		
	Sunburg	No		\$22.70	71.79		
	Terrace	No		\$23.71	88.20		
	Danube	Yes		\$13.70	57.41		
	New London	Yes		\$8.76	38.63		
	Pennock	Yes		\$12.03	59.77		

\*Forward looking cost estimates from the HAI 5.2 model using Department recommended input factor and model modifications.

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**Level of Disaggregation and Cost Analysis for Companies Whose Territories WWC Seeks to Redefine At the Exchange Level**  
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	Spicer	Yes		\$7.04	38.88		
Sleepy Eye Tel. Co.			Sub-exchange level			58.37	38.19
	Goodhue	No		\$8.79	53.9		
	Mazeppa	No		\$8.79	62.27		
	White Rock	No		\$8.79	61.02		
	Hanska	Yes		\$8.79	62.27		
	Sleepy Eye (city portion of exchange)	Yes		\$2.79	32.32		
	Sleepy Eye (rural portion of exchange)	Yes		\$8.79			
Twin Valley-Ulen Tel.Co.Inc.			None	Not disaggregated		76.94	75.96
	Ogema-White Earth	No			78.78		
	Ulen	No			73.25		
	Flom	Yes			117.91		
	Gary	Yes			112.01		
	Twin Valley	Yes			58.93		
	Waubun	Yes			71.98		

\*Forward looking cost estimates from the HAI 5.2 model using Department recommended input factor and model modifications.

\*\*# of Lines by exchange has been omitted

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Sprint Minnesota, Inc.			None	Not disaggregated		22.87	35.03
	Aitkin	No			30.85		
	Alexandria	No			19.72		
	Altura	No			48.36		
	Bennetville	No			46.61		
	Benson	No			34.50		
	Browerville	No			48.74		
	Carlos	No			43.50		
	Chaska	No			18.99		
	Crosby	No			31.44		
	Deerwood	No			49.88		
	Elgin	No			46.58		
	Eyota	No			42.14		
	Hastings	No			20.08		
	Holmes City	No			51.73		
	Lake City	No			23.86		
	Lewiston	No			45.20		
	Long Prairie	No			34.10		
	Millville	No			93.09		
	Osseo	No			16.13		
	Plainview	No			41.71		
	Rogers	No			21.58		

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	Rollingstone	No			41.89		
	St. Michael	No			21.08		
	Victoria	No			26.74		
	Villard	No			60.87		
	Waconia	No			19.28		
	Zumbro Falls	No			54.51		
	Brownton	Yes			46.13		
	Buffalo Lake	Yes			50.35		
	Cokato	Yes			33.17		
	Cologne	Yes			36.99		
	Dassel	Yes			39.01		
	Glencoe	Yes			23.37		
	Granite Falls	Yes			28.46		
	Grove City	Yes			65.20		
	Howard Lake	Yes			35.10		
	Lester Prairie	Yes			36.17		
	New Richland	Yes			63.87		
	Norwood	Yes			31.79		
	Plato	Yes			53.01		
	Silver Lake	Yes			40.52		
	St. James	Yes			26.43		
	Stewart	Yes			50.33		
	Waldorf	Yes			84.63		

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						(in exchanges WWC has excluded from its proposed service area)	(in exchanges WWC proposes to serve)

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**P5695/M-04-226**

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