

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

In the Matter of _____)
Federal-State Joint Board on Universal Service) CC Docket No. 96-45
_____)

REPLY COMMENTS OF ALLTEL CORPORATION

ALLTEL Corporation (“ALLTEL”) hereby submits the following reply comments on the Commission’s Notice of Proposed Rulemaking¹ issued in the above-captioned proceeding released June 8, 2004. In its comments in this proceeding, ALLTEL stressed that the supreme goal of Section’s 214 and 254 of the Act was to provide consumers with real choice among functionally similar, but alternative service providers. Universal service policy, at least as the Congress envisioned it, was to bring consumers in high cost areas the benefits of a competitive market, including an evolving level of advanced telecommunications and information services. These sentiments were shared by a broad cross section of those (other than rural incumbent ILECs) filing comments including, for example, Hopi Telecommunications, Inc., which provides service to the tribal lands of the Hopi Tribe in northern Arizona.² As has now become typical throughout the course of this proceeding, the entrenched rural ILEC community continues to advocate that regulators isolate subscribers from the benefits of choice and technological alternatives by burdening ETCs with outdated, monopoly-inspired regulation that promotes only the continued provision of “plain old telephone service.” Should the Commission submit to

¹ *Federal State Joint Board on Universal Service*, Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 04-127 (rel. June 8, 2004) (“NPRM”)

² Although focused on opposition to the primary line restriction, the comments of Hopi Telecommunications share the same vision advocated by ALLTEL. See, Comments of Hopi Telecommunications, Inc. at page 4. ALLTEL notes in this connection, that Western Wireless has once again eloquently stated the case that wireless services provide unique benefits to rural subscribers, as has Nextel Partners, Inc. See, Comments of Western Wireless Corporation at page 8; Comments of Nextel Partners, Inc. at pages 5-10.

these arguments, it would be misreading the Act and subverting the true promise of the telecommunications future for consumers residing in high cost areas.

I. Imposing Additional Regulatory Burdens on ETCs Does Not Serve the Goals of Universal Service

Various ILECs recommended in their comments that additional regulatory requirements should be mandatory and applied to all competitive ETCs. Some of the additional requirements ILECs would impose on ETCs include rate affordability, equal access, service quality monitoring and reporting, carrier of last resort obligations and unlimited local usage. Essentially, these ILECs claim that in order for a competing carrier to be granted ETC status, it must comply with all of the same regulatory requirements that apply to ILECs without regard to the competing carrier's regulatory status, technology platform or its plans to provide service to high cost areas.

The Act provides the common denominator of services and functionalities that are to be provided by any carrier in order to be considered for designation as an ETC. These services include³:

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

To the extent that the ILEC community advocates the imposition of additional service requirements on ETCs, they depart not only from the framework intended by Congress, but also from the reality of the evolving telecommunications technology available in the marketplace.

The net result is to deprive consumers in high cost areas of the competitive choices envisioned by the Act. Furthermore, the Commission has already solidified the requirements for ETC status

³ 47 USC §214(e)(1)

in its recent *Virginia Cellular*⁴ and *Highland Cellular*⁵ decisions. The additional regulatory requirements the ILECs seek to impose on competitive ETCs are well beyond the requirements for designation specified by the Act and in the *Virginia Cellular* and *Highland Cellular* decisions and serve to frustrate, rather than facilitate, consumer choice. ALLTEL has advocated that the addition of competitive providers in a market should result in decreased regulatory burdens for all providers, rather than a basis to increase the regulatory requirements for all competitors.

The FCC has wisely refrained from over-regulating wireless providers, and that wisdom has resulted in the robust marketplace recently noted in the Wireless Competition Report.⁶ Those who recommend applying existing ILEC regulatory requirements to all ETCs fail to recognize that consumers benefit from competitive choice. Some consumers prefer the regulated service parameters and unlimited local usage generally associated with wireline services. Other consumers prefer the mobility and expanded calling scopes of wireless service. Both wireline and wireless services meet the requirements of the Act to be designated as an ETC and both types of services should be broadly available to consumers as matter of ETC policy.

ILECs are required to offer equal access to long distance providers under existing regulation as a consequence of the monopoly-based paradigm through which incumbent LECs formerly controlled essential bottleneck facilities. Two-way wireless voice services, on the other hand, have evolved into a robustly competitive market where no single carrier maintains control over the connection to the subscriber. The FCC and the Joint Board have declined on numerous occasions to add equal access to the list of requirements for ETC designation.

Consumers prefer the broad calling scopes available from wireless providers and have little

⁴ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the State of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (rel. January 22, 2004) (“*Virginia Cellular*”)

⁵ *Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the State of Virginia*, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004) (“*Highland Cellular*”)

⁶ See *Ninth Annual Report to Congress on the State of Competition in the Wireless Services*, FCC 04- 216 (rel. September 9, 2004.)

interest in having a choice of toll providers because they prefer wireless plans that eliminate the distance banding typically associated with wireline calling. The additional requirement to offer equal access serves no purpose other than to add regulatory compliance costs, which are ultimately born by the consumer, and to essentially discourage wireless carriers from seeking ETC status in the first instance because such requirement dilutes the value of the differentiated services wireless carriers currently offer to their customers.⁷

The addition of ILEC service quality compliance and reporting standards yield the same result of adding unnecessary regulatory compliance costs where such regulation is unnecessary. Consumers who are dissatisfied with the service quality of a competitive ETC can readily choose to obtain service from another provider – the wireline or other wireless carrier -- resulting in loss of the customer and associated revenue as well as the USF support to the competitive ETC. Competitive ETCs must provide satisfactory service quality to retain customers. Again, ALLTEL advocates that consumers are best situated to decide whether they more highly value the quality of service provided by the local wireline provider, or whether they prefer the service quality and mobility of the wireless provider.

The suggestion that providers seeking ETC designation be required to accept carrier of last resort obligations to be designated as an ETC has been rejected by the FCC and should be rejected once again as nothing more than an effort to discourage non-ILECs from seeking ETC status. Carrier of last resort responsibilities stem from traditional ILEC regulation regardless of whether the ILEC receives universal service support. In addition, as GCI noted in its comments,

⁷ ALLTEL also notes the myriad of regulatory issues that an equal access regime would engender. Wireless carriers are essentially deregulated and are not required to file tariffs, yet the Commission has noted that nothing in the Act nor its regulations bar wireless carriers from assessing access charges to the long distance carriers. Any equal access requirements placed on wireless ETC will clearly require that the FCC once again address this issue with greater clarity as part of any decision on intercarrier compensation. Further, as a practical matter, the continued existence of a separated long distance market may in fact be suspect, as evidenced by the unwillingness of certain long distance carriers to continue to serve the residential market which is now a matter of public record.

the carrier of last resort obligation is illusory⁸. ILEC line extension tariffs generally require consumers to pay construction charges to extend ILEC facilities beyond a specified distance from the ILECs existing network. No carrier is in fact required to bring service to the doorstep of each and every requesting subscriber within the geographic boundaries of their service territory, nor should they be required to do so where it would otherwise be unreasonable even under current high cost support policies.

ALLTEL notes, as do others, that many states have been both thoughtful and progressive in their approach to ETC designations, and some have expressly refused to burden wireless ETCs with ILEC type regulation. For example, the Michigan Public Service Commission (“MPSC”), in its September 11, 2003 Order approving ALLTEL’s application for ETC designation in Michigan, rejected the argument that ALLTEL should be subject to the same regulations as ILECs by stating:

“In response to the argument that wireless service providers are not subject to the same regulations designed to protect customers, the Commission finds sufficient protection for customers in their right to choose not to use wireless service and to choose from whom to take service. To the extent that the opposing parties are concerned about the effects on themselves of competition from wireless carriers, the Commission does not agree that the public interest requires that they be protected from competition.⁹”

The FCC should similarly reject ILECs attempts to preclude bona fide competition in their markets by requiring all ETCs to comply with ILEC regulations to the detriment of consumers. The approval of multiple ETCs in a territory and the resulting competitive environment should trigger the elimination of traditional regulation for all carriers in the market,

⁸ These types of ILEC requirements are not uncommon, and are perpetuated by the very ILECs that continue to harp incessantly on their purported carrier of last resort obligations.

including the ILEC. The requirements of the Act, coupled with the additional requirements adopted in the *Virginia Cellular* and *Highland Cellular* decisions provide the necessary controls to ensure ETC designations meet the necessary public interest requirements.

II. Rescissions or Re-Designations of Existing ETC Designations Are Not in the Public Interest.

Several parties recommended rescinding existing ETC designations should they fail to satisfy the new federal guidelines or requirements to be promulgated in this proceeding.¹⁰ None of these parties provide an adequate analysis to support their position other than the blatant desire to preclude additional competition. ALLTEL objects to any rescission or re-certification requirements to the extent that ETCs continue to meet the requirements set forth in Section 214(e) of the Act and any other conditions imposed at the time of designation.¹¹ ALLTEL reiterates, as do other ETCs, that any attempt to rescind existing designations or impose any requirements to embark in another re-designation process will suppress capital investment in rural and high-cost areas. ETCs are expanding and improving their networks with the expectation that support will be forthcoming to fund the investment and operation of those network improvements. To the extent ETC designations can be rescinded or can be subject to re-designation, ETCs will no longer have the certainty necessary to make the capital improvements required to expand and improve services in rural and high-cost areas. Accordingly, the Commission must not require ETCs to undergo another re-designation proceeding nor should it permit existing designations be rescinded

⁹ *In the Matter of the Application of ALLTEL Communications, Inc., for Designation as an Eligible Telecommunications Carrier* pursuant to Section 214(e) of the Communications Act of 1996, Case No. U-13765, Opinion and Order (Rel. September 11, 2003) at 12.

¹⁰ See Verizon Comments at 9; see also TDS Comments at 13.

¹¹ See ALLTEL Comments at 6. Again, under both the *Virginia Cellular* and *Highland Cellular* cases, those requirements are substantial.

III. Support Should Not be Limited to Primary Lines

There is virtual unanimity among carriers – if not certain of the state public service commissions¹² -- in opposition to limiting support to a single “primary” line citing the resulting disincentive to rural investments, the difficulty of implementation in a technologically neutral manner, the potential, if not probability, of gaming and fraud. Primary line restrictions would create enormous administrative burdens to carriers, commissions and customers alike.¹³

ALLTEL, despite recognizing that limiting support to a primary line may have merit when considered in a vacuum strictly from the perspective of economic efficiency¹⁴, echoes the views of the majority that support for all eligible lines based upon the ILECs costs should be maintained. ALLTEL opposes the proposals of Century Tel and OPASTCO to limit ETCs either on the basis of the incumbent’s costs or to otherwise limit access to high cost funds, due to their preclusive effect and the absence of competitive neutrality.

CenturyTel’s proposal limits the number of ETCs that can be designated depending on the amount of support per line received by the incumbent ILEC.¹⁵ Essentially, Century Tel would foreclose the designation of additional ETCs in areas receiving at least \$30 per line per month in universal service support (both federal and state). The FCC should not adopt any limitation on ETC designations based on benchmarks referenced to the ILECs historic costs, as such approaches are designed solely to protect the support of the incumbent LECs. The level of support received by the incumbent LEC is but one in a myriad of factors that state commissions should consider in the course of ETC designation proceedings on the public interest determination. Creating a de-facto limitation in the number of ETCs based on arbitrary benchmarks is not in the public interest, and does not comport with Sections 214(e) and 254 of

¹² See Comments of Oregon Public Service Commission at page 7; Comments of the Regulatory Commission of Alaska at pages 3-4.

¹³ See BellSouth Comments at 8-11; CenturyTel Comments at 18-19.

¹⁴ ALLTEL Comments at 8.

¹⁵ See Century Comments at 18.

the Act, which clearly envision the designation of multiple ETCs. The Commission should reject any attempt to limit the number of ETCs based on the level of support received by the incumbent LEC.

OPASTCO's proposal would essentially bar wireless carriers with a national footprint from receiving any USF support. The proposal also provides limited support to wireless carriers having 500,000 or more customers, and would provide larger funding to wireless carriers having less than 100,000 customers. Under this plan, wireless ETCs will never receive the same support per line received by the ILEC.¹⁶ A proposal that specifically precludes wireless carriers from receiving support on the basis of their coverage footprint or the number of customers they serve clearly fails to satisfy the technological neutrality requirement. Furthermore, OPASTCO does not impose the same limitation on large ILECs that are eligible and are receiving universal service support. Wireless carriers are seeking support only for the high cost areas that they serve. Universal service is available to ensure that consumers in high cost areas have access to telecommunications services that are comparable in quality and price for similar services offered in urban areas.¹⁷ Large wireless carriers also provide service in high cost areas and their eligibility to be designated as an ETC should not be influenced on whether they own a national footprint. OPASTCO's proposal is nothing more than an attempt to prevent non-ILECs from receiving universal service support. It is, after all, the character of the territory as a high cost area, and not the character of the carrier attempting to serve it, that is of consequence in the ETC designation process.

IV. CONCLUSION

ALLTEL notes that it too has wireline affiliates providing service to sparsely populated, high cost areas. Rather than rest on its laurels, ALLTEL has chosen to pursue both a public

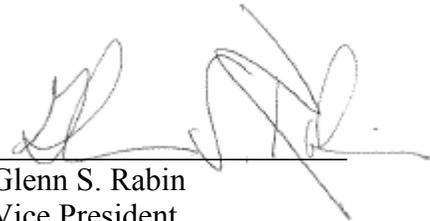
¹⁶ OPASTCO Comments at 12.

¹⁷ 47 USC 254(b)

policy and a business plan through which all carriers, including ALLTEL, can satisfy consumer's demands for new products and services beyond preserving the limited offerings of the status quo – for example, the increasingly prized element of mobility. The Joint Board's recommendations are for the most part, premised upon a preference for the status quo and the creation of disincentives for wireless carriers to pursue ETC status. That result neither comports with the reality of the marketplace nor the Act.

Respectfully submitted

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