

Mississippi Public Service Commission

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HATTIESBURG--SECOND DISTRICT

September 29, 2005

DOCKET FILE COPY ORIGINAL

Marlene H. Dortch  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: CC Docket No. 96-45; Designation of RCC Holdings, Inc. d/b/a/ Unicel as a rural eligible telecommunications carrier

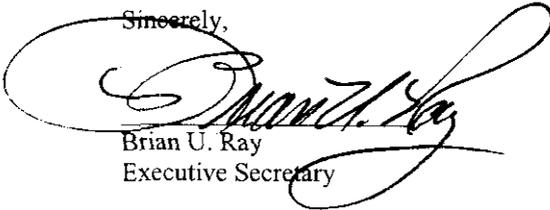
Dear Ms. Dortch:

Pursuant to 47 U.S.C. § 214(e)(2), the Mississippi Public Service Commission ("MPSC") has designated RCC Holdings, Inc. d/b/a/ Unicel ("RCC") as a rural eligible telecommunications carrier. RCC's designated area is defined in Exhibit A of the attached order.

In accordance with the Federal Communications Commission's ("FCC") order issued on September 21, 2005, the MPSC will be filing RCC's use certification for 2006 by the extended deadline of January 26, 2006.

Enclosed is a stamped addressed envelope and an additional copy of this letter for you to use in forwarding a stamped filed copy of this correspondence. Thank you for your assistance in this matter.

Sincerely,

  
Brian U. Ray  
Executive Secretary

Enclosure

Cc: Karen Majcher  
Commissioners  
Bobby Waites  
Vicki Helfrich  
Stan Smith

10/10/05 10:00 AM  
10/10/05 10:00 AM

**BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION**

**2005-UA-0157**

**IN RE: APPLICATION OF RCC HOLDINGS,  
INC. d/b/a UNICEL FOR  
DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER  
UNDER 47 U.S.C. § 214(e)(2)**

**ORDER**

THIS DAY, there came on for consideration the application of RCC Holdings, Inc. d/b/a Unicel ("RCC") for Designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(2) of the Telecommunications Act of 1934, as amended ("the Act"). In this proceeding RCC seeks designation as an ETC in those geographic areas ("Rural Areas") of Mississippi certificated to Calhoun City Telephone Company, Inc., Myrtle Telephone Company, Inc., Delta Telephone Company, Inc., Franklin Telephone Company, Inc., Fulton Telephone Company, Inc., Mound Bayou Telephone Company, Inc., Sledge Telephone Company, Inc., Bruce Telephone Company, Inc., CenturyTel of North Mississippi, Inc., Frontier Communications of Mississippi, Inc. and Smithville Telephone Company, Inc. (collectively, the "Rural Independents"). The Rural Areas are more particularly described in Exhibit A attached hereto and incorporated as part of this Order. The Commission, being sufficiently advised and with the concurrence of the Public Utilities Staff, finds as follows:

(1) The Commission has jurisdiction over the subject matter and the parties to enter this Order and entry hereof is in the public interest.

(2) On March 9, 2005, RCC filed with this Commission its Application for designation as an ETC in the Rural Areas for purposes of receiving Universal Service Funds ("USF") pursuant to Section 214(e) of the Act and Federal Communications Commission ("FCC") Rules 47 C.F.R. §§ 54.201 through 54.207.

(3) Due and proper notice of the Application was given to all interested persons as required by law and the Commission's Public Utilities Rules of Practice and Procedure.

(4) BellSouth Telecommunications, Inc. ("BellSouth") intervened and became a party of record in this matter.

(5) RCC is licensed to provide wireless telecommunications service in Mississippi 1, Mississippi 3, and Mississippi 4 rural service areas, including the areas served by the Rural Independents.

(6) RCC previously sought and was granted ETC status in those areas served by BellSouth in Mississippi by Order of the Commission dated December 2, 2002 in Docket No. 02-UA-533. RCC has been subsequently re-certified as an ETC for the BellSouth service areas on an annual basis on or before October 1<sup>st</sup> of each year.

(7) RCC has entered into the public interest stipulation attached as Exhibit C to its Application in this docket ("Stipulation").

#### **PURPOSES OF THE ACT**

(8) The Telecommunications Act of 1934, as amended ("Act") has as its purpose the goal of making available to all Americans rapid and efficient radio and wire communication service.<sup>1</sup> Rural consumers are a specifically designated concern of the Act, in recognition of the reality that providing service in low population density areas is an expensive proposition to a provider with very little, if any, profit margin. Congress explicitly stated rural, insular and high cost areas should have access to reasonably comparable services as those available in more profitable urban areas.<sup>2</sup>

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<sup>1</sup> 47 U.S.C. § 151.

<sup>2</sup> 47 U.S.C. § 254(1)(b).

(9) The 1996 amendments to the Act were intended to fully open the telecommunications market to competition. Specifically, "to provide for a pro-competitive, de-regulatory national policy framework designated to accelerate rapidly the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition. . . ."<sup>3</sup> The Universal Service Fund was created as an explicit subsidy to assist in defraying the costs associated with achieving the Act's goals.<sup>4</sup>

(10) The focus of the Act is on consumers, not companies. Rural telephone companies have not been granted protection from competitive forces, but Congress did recognize the unique position of rural carriers and consumers. In particular, Congress was concerned about the continuation of adequate service to rural consumers in the event a rural incumbent elected to relinquish its ETC designation.<sup>5</sup> To that end, upon consideration of an ETC petition in rural areas, it is not sufficient that a telecommunications carrier is able to provide the necessary services. The Commission must also be persuaded that such a designation serves the public interest.<sup>6</sup>

(11) The importance of the public interest analysis has drawn much attention lately as part of a larger debate. The growth of the USF in recent years has drawn the future sustainability of the Fund into question. The FCC has received recommendations from the Federal-State Joint

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<sup>3</sup> *Joint Explanatory Statement of the Committee of the Conference*, H.R. Conf. Rep. No. 458, 104<sup>th</sup> Cong., 2d Sess. At 131.

<sup>4</sup> 47 U.S.C. § 254(e).

<sup>5</sup> *FCC Memorandum Opinion and Order in Re: Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45 (¶ 18)(December 26, 2000).

<sup>6</sup> 47 U.S.C. § 214(e)(2).

Board on Universal Service and has taken steps to implement certain changes in the applicable rules. Recent decisions of the FCC on ETC designation petitions have encouraged state Commissions to conduct thorough, fact-intensive reviews of ETC petitions for rural areas.<sup>7</sup>

(12) On August 10, 2004, the Commission entered its Order in Docket No. 2003-UA-0234, styled *In Re: Application of Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Telecommunications Act of 1937* (hereinafter, "Centennial Order"). In the Centennial Order, the Commission announced the following policy considerations to be applied to applications for ETC designations in rural areas:

- (1) Benefits of increased competition.
- (2) Impact of designation upon the Universal Service Fund.
- (3) Commitment to quality of service by the competitive provider and ability to provide the supported services in a timely manner.
- (4) Unique advantages and disadvantages of a competitor's service offering.
- (5) Cream skimming analysis.

(13) Applying these considerations, the Commission finds that the granting of RCC's application for designation as an ETC in the geographic areas certificated to the Rural Independents serves the public interest as set forth below.

Benefits of increased competition

(14) The public benefits of competition are well-known. A competitive marketplace encourages innovation in products and services, produces incentives for efficiencies and increases the service options available to consumers. Competition alone is not sufficient to justify the granting of an ETC designation. It is, however, the articulated purpose of the 1996 amendments to the Act and is thus an important consideration. It is particularly important in the

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<sup>7</sup> NCPR, Inc. d/b/a Nextel Partners, DA 04-2667 Order, (released Aug. 25, 2004) (designating Nextel as an ETC in seven states); *FCC Memorandum Opinion and Order in Re: Virginia Cellular, LLC, Petition for Designation as*

rural setting where the cost of deploying new services is high. Cellular service, while ubiquitous in urban areas, is less competitive in rural ones and the distance between cellular towers makes service less predictable. Providing funds for cellular services to build and maintain the necessary infrastructure to serve rural areas meets the dual goals of the Act in providing rural Americans with comparable services and encouraging a pro-competitive environment.

(15) RCC is licensed to provide cellular service throughout Rural Service Areas 1, 3, and 4 of the State of Mississippi and does in fact already provide coverage throughout much of the State. With ETC designation in the areas certificated to the Rural Independents, RCC would be able to expand its coverage area, increase the quality of service available to its customers and make available to more rural consumers comparable technology as is available in urban locations. Designation of RCC as an ETC in the areas certificated to the Rural Independents under this consideration is therefore in the public interest.

Impact of designation on the Universal Service Fund

(16) A great deal of concern has been expressed regarding the sustainability of the USF due to the tremendous increase in the number of ETC designations granted.<sup>8</sup> A number of suggestions have been made which, if adopted by the FCC, would directly impact future ETC designations by this Commission.

(17) The importance of sustaining the USF cannot be overstated. At present, however, there is no meaningful measurement of any given designation upon the USF. While one may reach a mathematical calculation which states what percentage of the USF as a whole a company

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*Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45 (¶ 28)  
(December 31, 2003).

<sup>8</sup> See, e.g., *In re Federal-State Joint Board on Universal Service Recommended Decision*, CC Docket No. 96-45  
(February 27, 2004).

receives, as a practical matter in state proceedings, that number will almost always be insignificantly small. The concern is not how much of the Fund an individual provider would receive but the effect of many companies upon the Fund.<sup>9</sup> While each provider only receives a small amount in comparison to the total Fund, the aggregate directly affects future Fund viability. Thus, as we said with respect to Centennial in the Centennial Order, a statement, if it were made by RCC, that RCC would receive only a tiny portion of the USF budget is meaningless and, to a degree, would be misleading as it would not address the actual perils facing the Fund.

(18) We acknowledge that granting an ETC designation to any company will impact the USF. In this instance, however, that alone is insufficient to deny RCC's ETC petition. At present, only Centennial and Cellular South have been granted an ETC designation in the areas certificated to the Rural Independents, which may create a disadvantage to the rural residents of this state. Designation of RCC as an ETC in the areas certificated to the Rural Independents under this consideration is therefore in the public interest. As the FCC offers guidance in the future on this matter, we will accordingly amend the manner in which we review this particular concern.

Commitment to quality of service by the competitive provider and the ability to provide the supported services in a timely fashion

(19) The concern of the Commission under this consideration is to ensure rural consumers receive high quality, reliable service, particularly in the event a rural incumbent relinquishes its own ETC designation. In addition, the ability to provide quality service furthers

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<sup>9</sup> *FCC Memorandum Opinion and Order in Re: Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, ¶ 31.

the goal of making available to rural consumers technology comparable to that of urban locations.

(20) Before a provider may be granted ETC status, it must establish it is able to provide certain services:

- a. Voice grade access to the public switched network;
- b. Access to tree-of-charge "local usage" defined as an amount of minutes of use of exchange service;
- c. Dual-tone multi-frequency signaling or its functional equivalent;
- d. Single-party service or its functional equivalent;
- e. Access to emergency services;
- f. Access to operator services;
- g. Access to directory assistance;
- h. Access to interexchange services;
- i. Toll limitations services for qualifying low-income customers.<sup>10</sup>

(21) In addition to these basic service requirements, the Commission prescribes the following requirements in order to assure quality, quantity and timeliness of service:

- a. Mandatory compliance with the CTIA Consumer Code for Wireless Service;
- b. Submission to the Commission the number of consumer complaints per 1000 handsets on a quarterly basis;
- c. Designation of a representative for addressing customer service or quality of service complaints received by the Commission. The company representative should have the authority to resolve all complaint issues.
- d. In providing supported services, the competitive provider shall provide immediate service to prospective customers within its existing network. When the prospective customer lies within the carrier's service area but outside of its existing network coverage, the ETC shall take the following steps in descending order:
  1. Determine whether the requesting customer's equipment can be modified or replaced to provide service;
  2. Determine whether a roof-mounted antenna or other equipment can be deployed to provide service;
  3. Determine whether adjustments can be made at the nearest cell tower to provide service;
  4. Determine whether a cell-extender or repeater can be employed to provide service;

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<sup>10</sup> 47 U.S.C. § 214(e) and C.F.R. § 54.201.

5. Determine whether there are any other adjustments to network or customer facilities that can be made to provide service;
6. Determine whether it can offer resold services from another carrier's facilities to provide service;
7. Determine whether an additional cell site can be constructed to provide service and evaluate the costs and benefits of using high-cost support to serve the number of customers requesting service through such additional cell sites. If there is no possibility of providing service short of construction of a new cell site, the ETC will report this fact to the Commission along with the projected costs of construction and the ETC's determination as to whether the request for service is reasonable and whether high-cost funds should be expended on the request.
8. Steps 1-6 of this procedure must be completed by the provider within thirty days of receiving a request for service. Should the provider find it necessary to proceed to Step 7, the provider will promptly notify the Commission and complete the analysis within an additional fifteen days.

(22) Financial stability of a company is also an inherent requirement of determining that company's ability to provide service. In addition to the disclosures submitted with an initial filing of an application, a competitive ETC shall file annual reports with the Commission as required under Rule 3(F) of the Commission Rules and Regulations Governing Public Utility Service.

(23) All of these requirements are mandatory for all rural ETCs in the State of Mississippi. Failure to agree to them will result in the denial of an ETC designation petition regardless of any other considerations. Failure to abide by them after designation will result in an immediate inquiry into whether or not a designation should be suspended or withdrawn.

(24) RCC has previously established its financial health in the review of its initial Application. RCC has also established its ability to provide the services set forth in paragraph 20 above, as recognized by the Commission in its Order designating RCC as an ETC in the areas served by BellSouth. RCC has further demonstrated its capability to provide such services in the areas certificated to the Rural Independents as set forth in the Testimony of Richard Schultz. Pursuant to the Stipulation, RCC has voluntarily assumed all other requirements set forth in the

Centennial Order. Designation of RCC as an ETC in the areas certificated to the Rural Independents under this consideration therefore serves the public interest.

Unique advantages or disadvantages of a competitor's service offering

(25) Wireline and wireless services each have their own advantages and disadvantages. With wireless service the greatest and most obvious advantage is mobility. "The mobility of telecommunications assists customers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations."<sup>11</sup> It is also invaluable in summoning emergency services in rural areas where public access telephones are few and far between. Wireless networks also tend to have broader local calling areas than wireline providers which assists in "leveling the field" between rural and urban areas and provides a direct benefit to the individual consumer.

(26) The disadvantages of wireless include the common requirement by providers that a customer agree to a service contract, often for multiple years. The rural ILECs have no such binding service requirements.

(27) This Commission also has no authority to regulate the rates of wireless providers.<sup>12</sup> The incumbent carriers' rates are regulated and these companies must seek approval by this Commission before amending them. A wireless provider may alter its rates with no explanation or regulatory oversight. While this is certainly a competitive advantage in the marketplace, it raises for this Commission the concern of predatory pricing behavior. This will be of even greater concern in the future if the FCC adopts the recommendation to limit support to

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<sup>11</sup> *Virginia Cellular Memorandum Opinion and Order* (¶ 29).

<sup>12</sup> 47 U.S.C. § 332(c)(3).

a single, primary line per household.<sup>13</sup> In the far more fiercely competitive atmosphere for Universal Service dollars such a decision would create, predatory pricing is not an insignificant possibility.

(28) At the present time, the advantages of deploying wireless service on the broadest possible scale outweigh the disadvantages, as well as furthering the goals of the Act. However, in order to assure that the competitive goals of the Act are met but not abused, we shall require wireless ETCs to make all service offerings available on their respective internet web sites, make available to the Commission all documentation to support the retail rates offered in areas in which the carrier receives federal universal service funds, and to file and update Lifeline/Linkup tariffs for Commission approval. RCC has also agreed to these requirements as set forth in the Stipulation.

(29) In view of RCC's agreement to meet these requirements, we find designation of RCC as an ETC in the areas certificated to the Rural Independents under this consideration is in the public interest.

Cream skimming analysis

(30) Another concern of designating competitive ETCs is that a competitor shall solicit and serve only in the high density, low cost areas of a rural telephone company's study area.<sup>14</sup> Mississippi is an overwhelmingly rural state. According to the 2000 Federal Census, only three Mississippi cities are classified as non-rural in this context, having populations of 50,000 or more residents.<sup>15</sup> As a practical reality, there are no high density, low cost areas by traditional

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<sup>13</sup> *In re Federal-State Joint Board on Universal Service Recommended Decision*, CC Docket No. 96-45, ¶ 3.

<sup>14</sup> *Virginia Cellular Memorandum Opinion and Order* (¶ 32).

<sup>15</sup> Biloxi-50,644  
Gulfport-71,127  
Jackson-184,256.

definition outside of these three population centers, none of which are located within the areas served by the Rural Independents, and thus there is no cream to skim.

(31) However, there are areas of higher population concentrations than others even within an officially rural area. We must closely review applications which seek to serve only in those RSAs of *higher* population where a rural telephone company maintains several wire centers in different RSAs. We must also be concerned about competitive wireless providers who only advertise and make available its services in the most heavily populated portions of a rural incumbent's study area despite licensure to serve an entire study area.

(32) The FCC has made our analysis infinitely more manageable by their method of issuing cellular service licenses with clearly defined geographical boundaries. These boundaries are static and apply to all providers licensed in a particular market or rural area.

(33) All competitive ETCs shall be required to advertise and make service available throughout the entirety of their FCC-licensed area. Failure to do so is more often than not an after-the-fact discovery rather than a problem which may be avoided in advance. However, in order to avoid noncompliance as much as is feasible, we shall also require the following reporting obligations of rural competitive ETCs:

1. Submission of quarterly reports detailing the number of service requests in the licensed area which go unfulfilled and the basis for the refusal of service.
2. Submission of an initial build-out plan for areas where facilities do not yet exist upon designation as an eligible carrier.
3. Submission of maps showing existing facilities, coverage area, and planned sites of new facilities upon designation as an eligible carrier and updated annually.
4. Submission of a yearly Universal Service Plan on June 1st of each year for the Commission's use in complying with the October 1st certification deadline set forth by the FCC. The plan shall include the amount of universal service funds the company expects to receive the following year and the company's proposed use of those funds.

5. The company shall file quarterly reports of the amount of universal funds received for the quarter and updates of the progress of the projects previously approved by the Commission.

(34) RCC has agreed to these reporting obligations as set forth in the Stipulation.

(35) Upon consideration of all available facts and policy considerations, we find designation of RCC as an ETC in the areas certificated to the Rural Independents serves the public interest.

IT IS, THEREFORE, ORDERED:

(1) The Stipulation, as adopted and approved by RCC in Exhibit C to its Application, is approved and adopted by the Commission as RCC's written commitment to meet the requirements and obligations of Rural ETCs as set forth herein. Nothing herein or in the Stipulation is deemed to affect in any way the rights of any party under the Act.

(2) The Application of RCC Holdings, Inc. d/b/a Unicef for designation as an eligible telecommunications carrier in geographic areas certificated to the Rural Independents as described in Exhibit B to the Application (which is attached hereto and incorporated as part of this Order), the entirety for which RCC holds valid licensure issued by the Federal Communications Commission, is GRANTED. RCC shall provide service either through its own facilities or through its own facilities in combination with resale to all subscribers upon request in its designated area.

(3) This designation is for federal universal service funds, and is based on federal rules and guidelines as they presently exist. This Commission retains continuing jurisdiction to review, modify or revoke its designation. Additionally, should any substantive information in this docket supplied by RCC prove inaccurate, the designation of RCC as an ETC is subject to revocation.

(4) The entire file of the Commission is specially made part of the record in this matter. All information or documents submitted to the Commission as proprietary or confidential shall remain under seal.

(5) The designation of RCC as a rural ETC shall be effective upon issuance of this Order.

SO ORDERED, this the 28<sup>th</sup> day of September, 2005.

Chairman Bo Robinson voted Aye Vice Chairman Nielsen Cochran voted Aye,

Commissioner Michael Callahan voted Aye.

MISSISSIPPI PUBLIC SERVICE COMMISSION



Bo Robinson  
BO ROBINSON, Chairman

Nielsen Cochran  
NIELSEN COCHRAN, Vice-Chairman

Michael Callahan  
MICHAEL CALLAHAN, Commissioner

ATTEST: A TRUE COPY

Brian U. Ray  
BRIAN U. RAY, Executive Secretary

## EXHIBIT A

### LIST OF RURAL AREAS SERVED BY RCC

BRUCE TELEPHONE CO., INC.	BRUCE	BRUCMSXA
BRUCE TELEPHONE CO., INC.	BRUCE	LONGMSXA
BRUCE TELEPHONE CO., INC.	BRUCE	PRKRMSXA
BRUCE TELEPHONE CO., INC.	BRUCE	PTBOMSXA
CALHOUN CITY TELEPHONE CO., INC.	CALHOUN CY	CLCYMSXA
CALHOUN CITY TELEPHONE CO., INC.	SLATE SPG	SLSPMSXA
CALHOUN CITY TELEPHONE CO., INC.	VARDAMAN	VRDMMSXA
CENTURYTEL OF NORTH MISSISSIPPI, INC.	BYHALIA	BYHLMSXA
CENTURYTEL OF NORTH MISSISSIPPI, INC.	CHULAHOMA	CHLHMSXA
CENTURYTEL OF NORTH MISSISSIPPI, INC.	OLIVE BRCH	OLBRMSXA
DELTA TELEPHONE CO	ACKERMAN	ACKRMSXA
DELTA TELEPHONE CO	CHESTER	CHESMSXA
DELTA TELEPHONE CO., INC.	MERIGOLD	MRGLMSXA
FRANKLIN TELEPHONE CO	ARTESICWFD	ARTSMSXA
FRONTIER COMMUNICATIONS OF MISSISSIPPI	GUNTOWN	GNTWMSXA
FRONTIER COMMUNICATIONS OF MISSISSIPPI	RIENZE	RINZMSXA
FRONTIER COMMUNICATIONS OF MISSISSIPPI	TISHOMINGO	TSMGMSXA
FRONTIER COMMUNICATIONS OF MISSISSIPPI, INC.	HOUKKA	HOLKMSXA
FULTON TELEPHONE CO	FAIRVIEW	FRVWMSXA
FULTON TELEPHONE CO	FULTON	FLTNMSXA
FULTON TELEPHONE CO	MANTACHIE	MNTCMSXA
FULTON TELEPHONE CO	TREMONT	TRMTMSXA
MOUND BAYOU TELEPHONE AND COMMUNICATIONS, INC.	MOUNDBAYOU	MNBYSXA
MYRTLE TELEPHONE CO	MYRTLE	MYRTMSXA
SLEDGE TELEPHONE CO., INC.	SUNFLOWER	SNFLMSXA
SMITHVILLE TELEPHONE CO., INC.	SMITHVILLE	SMVLMSXA