

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
)	
Cingular Wireless, LLC Petition for)	
Designation as an Eligible)	
Telecommunications Carrier in the)	
State of Georgia)	

**COMMENTS OF THE
CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association® ("CTIA")¹ hereby submits these comments in support of the Petition for Eligible Telecommunications Carrier ("ETC") designation in the State of Georgia filed by Cingular Wireless, LLC ("Cingular").²

INTRODUCTION

On December 13, 2006, Cingular filed an application ("Cingular Petition") seeking ETC designation on behalf of itself and its subsidiary licensees in twenty-one non-rural BellSouth wire centers and twenty-three rural study areas in Georgia.³ Consistent with CTIA's position in

¹ CTIA – The Wireless Association® (formally known as the Cellular Telecommunications & Internet Association) is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, Advanced Wirreless Service, as well as providers and manufacturers of wireless data services and products.

² See *The Wireline Competition Bureau Invites Parties to Comment on the Petition of Cingular Wireless, LLC for Designation as an Eligible Telecommunications Carrier in the State of Georgia*, Public Notice, CC Docket 96-45, DA 07-158 (rel. Jan.. 23, 2007).

³ *Petition of Cingular Wireless, LCC for Designation as an Eligible Telecommunications Carrier in the State of Georgia*, CC Docket 95-45 (December 7, 2006) ("Cingular Petition"), requesting designation on behalf of itself and the following subsidiary licensees: Orange Licenses Holding, LLC; New Cingular

earlier comments, CTIA supports the Cingular Petition, which demonstrates that Cingular meets the requirements for designation as an ETC. Section 214(e)(6) provides for ETC designation of carriers not subject to state commission jurisdiction. Specifically, Section 214(e)(6) states, in relevant part:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable federal and State law.⁴

Since Cingular is a commercial mobile radio service (“CMRS”) provider not subject to the authority of the Georgia Public Service Commission (“Georgia Commission”), the FCC has the authority to grant ETC status to Cingular pursuant to 47 U.S.C. § 214(e)(6).

DISCUSSION

A. **Cingular Is Not Subject To the Jurisdiction of the Georgia Public Service Commission**

Pursuant to Section 214(e)(6), the Commission shall designate as an ETC a common carrier providing telephone exchange service and exchange access service that is not subject to the jurisdiction of a State commission, so long as the carrier otherwise meets the Act’s requirements. The Commission has held that, for this purpose: “[M]any CMRS providers (specifically cellular, broadband PCS and covered SMR) also provide telephone exchange

Wireless PCS, LLC; Chattanooga MSA Limited Partnership; Northeastern Georgia RSA Limited Partnership; Georgia RSA No. 3 Limited Partnership.

⁴ 47 U.S.C. § 214(e)(6). *See also Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947 (1997).

service and exchange access as defined by the 1996 Act.”⁵ The Commission has also stated that a carrier may demonstrate that it “is not subject to the jurisdiction of a state commission” by providing an “affirmative statement” from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation.⁶ In this case, the Georgia Commission has issued an affirmative statement that they lack jurisdiction over Cingular’s ETC designations.⁷ Specifically, the Georgia Commission has stated that “the State of Georgia does not exercise jurisdiction over Commercial Mobile Radio Service providers for purposes of making determinations concerning eligibility for Eligible Telecommunications Carrier designations....”⁸

B. Cingular Offers All of the Services Supported by Universal Service Support Mechanisms

Cingular addressed the nine services and functionalities identified in the Commission’s rules, 47 C.F.R. §54.101(a), that are the core services to be offered by an ETC and supported by federal universal service support mechanisms.⁹ Cingular’s universal service offering will be provided in its requested service area in Georgia primarily over its cellular network infrastructure and spectrum.¹⁰ Cingular further states that it will advertise its

⁵ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket 96-98, 11 FCC Rcd 15,499, 15,998-999, at ¶1012 (1996). *See also id.* at ¶1004 (“Congress recognized that some CMRS providers offer telephone exchange and exchange access services”).

⁶ *See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, CC Docket 96-45, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 (2000).

⁷ Cingular Petition at Exhibit H.

⁸ *Id.*

⁹ *See* Cingular Petition at 4-8.

¹⁰ *See id.* at 8.

new universal service offering to ensure that consumers within the designated service areas in Georgia are aware of the service.¹¹ Accordingly, Cingular has satisfied the requirements of Sections 254 and 214(e)(1)(A) of the Communications Act of 1934 and Section 54.101(a) of the Commission's rules regarding ETC eligibility.

C. Designating Cingular as an ETC Will Advance The Public Interest

CTIA agrees with Cingular that grant of the Cingular Petition will serve the public interest by bringing the benefits of competition and to an underserved marketplace.¹² In addition, designation of CMRS providers, such as Cingular, is consistent with the principal goals of the universal service program and provides unique benefits associated with wireless service, such as mobility, to consumers.

It is now well established that wireless carriers can bring significant benefits to the universal service program. With over 250 million wireless subscribers, there is no question that consumers in both rural and non-rural areas see significant benefits in mobile wireless services. One of the principal goals of the Telecommunications Act of 1996 was to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”¹³ In granting ETC status to CMRS carriers, the Commission has found that

¹¹ *See id.* at 8-9.

¹² *See id.* at 14-15.

¹³ Telecommunications Act of 1996, Public Law No. 104-104, 100 Stat. 56 (1996).

“[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”¹⁴

The Commission has also found that CMRS ETC designations provide substantial benefits to “consumers in cases where they do not have access to a wireline telephone.”¹⁵ In the *Virginia Cellular Order*, the Commission stated that “the mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations.”¹⁶ Furthermore, the Commission also recognized the critical public safety role that wireless services can play in rural and insular areas by noting that “the availability of a wireless universal service offering provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.”¹⁷

In this case, Cingular has committed to use available federal high-cost support for its intended purposes – the construction, maintenance and upgrading of facilities serving the high-cost and rural areas for which support is intended. Cingular has established a five-year plan of increased capital expenditures that correspond to increases in coverage that Georgia residents in high-cost areas will enjoy if the Commission grants Cingular ETC status.¹⁸ Furthermore,

¹⁴ *Western Wireless Corporation, Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, CC Docket 96-45, 16 FCC Rcd 48, 55 (2000) (“*Wyoming Order*”), *aff’d*, 16 FCC Rcd 19144, 19151 (2001).

¹⁵ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338, at ¶ 29 (2004) (“*Virginia Cellular Order*”).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *See* Cingular Petition at 10.

Cingular has met the additional eligibility criteria adopted in the ETC Report and Order:¹⁹ (1) to provide service to all potential customers within its requested ETC service area upon reasonable request; (2) to maintain essential telecommunications services in times of emergency; (3) to comply with all applicable consumer protection and service quality standards;²⁰ (4) to provide local usage comparable to the incumbent LEC; and (5) to certify that they may be required to provide equal access to long distance carriers, if no other ETC is doing so.²¹ Accordingly, designating Cingular as an ETC in covered areas in the State of Georgia would serve the public interest by increasing the availability of new, competitively-priced services and technologies in Georgia communities.

¹⁹ *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket 96-45, FCC 05-46 (March 17, 2005) (“*ETC Report and Order*”).

²⁰ Available at http://www.ctia.org/wireless_consumers/consumer_code/index.cfm (last accessed Jan. 30, 2007).

²¹ See Cingular Petition at 9-13.

CONCLUSION

For the foregoing reasons, the Commission should exercise its authority to grant ETC status to Cingular for its requested service territories in the State of Georgia.

Respectfully submitted,

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