

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

In re Petition of)
)
ALENCO COMMUNICATIONS, INC.) CC Docket No. 96-45
BIG BEND TELEPHONE COMPANY)
DELL TELEPHONE COOPERATIVE, INC.)
RIVIERA TELEPHONE COMPANY)
VALLEY TELEPHONE COOPERATIVE, INC.)
TEXAS STATEWIDE TELEPHONE)
COOPERATIVE, INC.)
TEXAS TELEPHONE ASSOCIATION)
)
For a Declaratory Ruling and Preemption of an)
Order by the Public Utility Commission of Texas)

TO: The Commission

**REPLY COMMENTS OF
THE WESTERN TELECOMMUNICATIONS ALLIANCE**

The Western Telecommunications Alliance (“WTA”) submits its reply comments in support of the petition by Alenco Communications, Inc.; Big Bend Telephone Company; Dell Telephone Cooperative, Inc.; Riviera Telephone Company; Valley Telephone Cooperative, Inc.; Texas Statewide Telephone Cooperative, Inc.; and Texas Telephone Association (collectively, the “Texas ILECs”) for: (a) a declaratory ruling that customer equipment used in connection with fixed or mobile satellite service does not constitute “facilities” under the definition in Section 214(e) of the Communications Act for the purpose of qualifying for eligible telecommunications carrier (“ETC”) designation and the receipt of portable high-cost support; and (b) an order preempting the Public Utility Commission of Texas (“PUCT”) from designating DialToneServices, L.P. (“DTS”) as a competitive ETC (“CETC”) eligible to receive portable high-cost support.

WTA, a trade association representing approximately 250 rural incumbent local exchange carriers (“ILECs”) operating west of the Mississippi River, recently filed comments and reply comments strongly supporting the Joint Board’s Recommended Decision¹ for an interim, emergency cap on the amount of portable high-cost support distributed to CETCs. Portable CETC support is the particular USF program that is growing so explosively (at a projected increase of roughly \$500 million per year) that it threatens the stability and sustainability of the entire Universal Service Fund (“USF”). Liberal designation of CETCs by certain state commissions, in combination with the “identical support rule” that calculates portable support without reference to the actual costs of CETCs, have been the primary causes of the gold rush that has led to excessive growth in portable CETC support.

This DTS proceeding constitutes an extreme example of the problems and absurdities of liberal CETC designations and the identical support rule. DTS appears to be a reseller of satellite telecommunications services that has no switches, lines, towers or other routing and transmission facilities of its own within the rural service areas of any of the Texas ILECs. Rather than constructing, leasing or operating its own network facilities in high-cost rural areas, DTS merely resells the satellite network services of Globalstar USA LLC and (at the very most) appears to operate and utilize minimal customer premises equipment (“CPE”) such as: (1) satellite antennas and dishes mounted on rooftops or poles at subscriber premises for its resold fixed satellite services; and (2) mobile subscriber handsets for its resold mobile satellite services.² As a pure reseller

¹ Recommended Decision (*High-Cost Universal Service Support and Federal-State Joint Board on Universal Service*), WC Docket No. 05-337 and CC Docket No. 96-45, FCC 071-1, released May 1, 2007.

² Satellite antennas, dishes and handsets are types of customer equipment that are very frequently owned or leased by the customers themselves rather than by resellers.

without its own routing and transmission network, DTS does not meet the Section 214(e)(1)(A) requirement for ETC designation that it offer supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”

Rather, the DTS proposal constitutes a transparent and potentially very expensive ploy to “game” the “identical support rule” to obtain a windfall of portable USF dollars. By spending (at the very most) a couple hundred dollars per customer for fixed or mobile customer equipment, DTS is trying to grab approximately \$135-to-\$280 **per month** per customer in portable USF support in the rural service areas of the five petitioning Texas ILECs. In other words, although it will invest absolutely nothing on its own rural networks and spend minimal amounts on customer antennas, dishes and handsets (if it cannot get its customers to buy or lease their own equipment), DTS is attempting to rake in hundreds of portable “identical support rule” dollars per customer per month as if it had built its own rural networks like the Texas ILECs. The utter bankruptcy of the “identical support rule” is highlighted by the fact that DTS can get exactly the same amount of per-line portable USF support as the Texas ILECs even though it clearly plans to construct none (0.0%) of the rural network facilities upon which such support is based. The inanity is further illustrated by the fact that it makes “economic sense” for DTS to give away its resold satellite service in rural ILEC service areas, or even to pay customers to take its service, in order to obtain the substantial portable USF dollars involved.

If DTS is permitted to implement its USF scam, the Commission can expect similar satellite resellers to seek CETC status in other high-cost areas throughout the nation where substantial amounts of portable USF support are available. If a minimal

expenditure for satellite customer equipment is all that is needed to generate hundreds and thousands of dollars of portable USF support, many existing and new satellite “resellers” will join the gold rush and portable CETC support will grow even more explosively than at present. As usual, the losers will be those who contribute to the USF and those who depend upon a sustainable USF to provide the incentives and cost recovery necessary for investment in essential rural telecommunications infrastructure.

WTA strongly supports the request of the Texas ILECs for a declaratory ruling that DTS’s customer equipment does not constitute the Section 214(e)(1) “facilities” necessary to qualify for CETC designation and the receipt of portable USF support; and for an order preempting the PUCT from designating DTS as a CETC.

Respectfully submitted,
**WESTERN TELECOMMUNICATIONS
ALLIANCE**

By 
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