

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Parts 1 and 22 of) **WT Docket No. 12-40**
the Commission's Rules with)
Regard to the Cellular Service,) **RM 11510**
Including Changes in Licensing of)
Unserved Area)
)
Amendment of the Commission's)
Rules with Regard to Relocation)
of Part 24 to Part 27)
)
Interim Restrictions and)
Procedures for Cellular Service)
Applications)

To: The Commission

Comments

Copper Valley Wireless, Inc. ("Copper Valley"), by its attorney and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, hereby submits its comments in response to the Commission's *Notice of Proposed Rulemaking and Order*, FCC 12-20, released February 15, 2012 ("NPRM") in this proceeding. In support hereof the following is shown:

Statement of Interest

1. Copper Valley is the licensee of Cellular Radiotelephone Service Station KNKQ401, a Frequency Block B cellular carrier serving a Cellular Geographic Service Area ("CGSA") within the Alaska 2 – Bethel Rural Service Area (CMA 316) ("the Alaska 2 RSA"). As such, Copper Valley has a direct economic interest in any changes proposed to the Commission's cellular rules.

Argument

2. The Commission proposes to change the Cellular Radiotelephone Service from the current unserved area, site-based licensing regime to a new geographic area-based licensing regime using the old Cellular Market Area (“CMA”) boundaries for the award of the geographic area Overlay Licenses. The Overlay Licenses will be awarded through competitive bidding procedures. The existing CGSAs of incumbent licensees will be protected under the Commission’s proposal.

3. The Alaska 2 RSA is categorized by the NPRM as an area that “has not been substantially built out.” Accordingly, this RSA is at least tentatively slated by the NPRM for Stage II of the proposed transition. Under the proposed Stage II transition procedures, the RSA will remain under the current unserved area, site-based licensing regime for a period of seven years, as measured from the date upon which the rules as revised in this proceeding take effect.¹ At the end of the seven-year period, Overlay Licenses would be awarded by auction. However, the Commission expressly recognizes that it “is likely to be many years before the Alaskan CMA Blocks are substantially built out,” and seeks comment on “whether we should simply retain the *status quo* site-based scheme for Alaska indefinitely, rather than including it with other Blocks in Stage II.”² Comment has also been requested on the costs and benefits of including Alaska in the Stage II transition.³

4. As an initial matter, the administrative and regulatory costs to carriers associated with the current unserved area, site-based licensing regime are in fact rather modest, while the cost of securing an Overlay License would likely be prohibitively high.

¹ NPRM, Para. Nos. 2, 24, and 37.

² NPRM, Para. No. 38.

³ NPRM, Para. 38.

The administrative and regulatory costs associated with the current system are known and predictable and easily affordable, lend themselves well to financial planning, and have been no impediment to the roll-out of service. The benefits of the current unserved area, site-based regime are well known and easily demonstrated, as evidenced by the number of carriers providing cellular service in Alaska and by the areas they serve. In pointed contrast, the so-called benefits of a geographic area-based licensing regime in Alaska are at best speculative, and at worst the proposal is counterproductive. The use of the new regime likely would be counterproductive because of the diversion of financial resources from the construction of facilities (where resources belong) to the securing of Overlay Licenses (where resources are diverted); and, in the event a given applicant is unsuccessful in securing an Overlay License, due to the practicalities associated with securing necessary agreements with third-party Overlay Licensees to secure the right to build facilities to serve a given area. In practice, these considerations will mean that, under a geographic area-based regime, service to unserved areas likely will be substantially slowed down, if not brought to a complete halt. Thus, for the reasons stated, the costs of the present system are low and the benefits are high. The costs of a geographic area-based licensing regime would be high, and the benefits (if any) at best speculative.

5. Copper Valley respectfully submits that the Alaska CMA Blocks should remain under the current unserved area, site-based regime indefinitely. Alaska is truly unique when it comes to geographic area and population size and distribution, and this uniqueness warrants retention of the current licensing regime. Comparisons are instructive.

6. In many respects, the State of Alaska bears a striking similarity to the Western Frontier during the post-Civil War years of the Nineteenth Century. It is characterized by large geographic areas, sparse population densities, communities (mostly small) located infernally large distances apart from one another, and an over-abundance of unpaved roads. Demographically, Alaska is truly the Last Frontier.

7. The State of Alaska is geographically extensive, but lightly populated. It has a total land area of 571,936 square miles but a 2010 Census population of only 710,231 persons. It is the largest state in the Union in terms of land area. By comparison, with a total land area of 261,867 square miles, the State of Texas is only 45.8 percent as large or, stated another way, Alaska covers a land area approximately 2.2 times as large as Texas. For further comparison, the Washington, D.C. suburb of Montgomery County, Maryland has a 2010 Census population of 971,777 persons and a land area of 496 square miles. Thus, the *entire* State of Alaska has a population that is *only* 73 percent the size of Montgomery County, but Alaska has a geographic land area *more than 1,153 times larger*.

8. The Alaska 2 RSA embraces a land area of 144,031 square miles, and has a 2010 Census population of 199,182 persons.⁴ Copper Valley's CGSA is wholly-contained within that portion of the Alaska 2 RSA denominated as the Valdez-Cordova Census Area. The Valdez-Cordova Census Area embraces a hefty 34,319 square miles in land area, but has a 2010 Census population of only a paltry 9,636 persons, of whom 3,976 reside in the City of Valdez. By way of comparison, the Valdez-Cordova Census Area is only slightly smaller in square miles than the State of Virginia, which has a land

⁴ See Attachment A hereto for full details. All land area computations in these Comments exclude areas over water. All population figures are from the 2010 Census.

area of 39,545 square miles; but is more than twice the size of Switzerland, which has a land area of 15,271 square miles. Furthermore, the Valdez-Cordova Census area is more than 3.5 times the size of the State of Maryland, which has a land area of 9,707 square miles. Copper Valley's CGSA covers only a small portion of the area of the Valdez-Cordova Census Area, but covers substantially all of its population. Copper Valley presently has 34 cellular base stations in commercial service to serve this small number of persons.

9. Most communities in Alaska are small. Many consist of 50 people or fewer. Communities can be separated by a distance of 100 miles or more, and communities are often connected with each other by dirt roads. Copper Valley serves some areas that have no road access at all, dirt or paved (*e.g.*, Tatitlek and Cordova). In these areas, access is available only by boat and small aircraft. A number of Copper Valley's cellular base stations, and the associated communities which they serve, have no commercial electricity sources. In these areas, the local population lives completely off the electrical grid (*e.g.*, McCarthy). The cellular base stations serving these areas require on-site generators, such as solar energy generators, wind energy generators and propane generators, to produce the electricity necessary to operate the transmitter equipment, all of which adds significant costs to the provision of service. Additionally, the severe winter weather conditions that characterize Alaska produce short construction seasons, and, once again, the lack of a developed local road system requires the use of helicopters to reach a number of the cellular base station locations. All of these factors contribute to lengthy planning, engineering and development time lines, and substantially higher costs, than would be experienced in the remainder of the country. Copper Valley is not unique

among Alaska wireless carriers in this regard. Upon information and belief, the other Alaska wireless carriers serving rural areas face similar challenges attributable to time lines, costs, weather, vast distances, lack of developed road systems, sparse population, and isolated (and very small) pockets of population.

10. These stark demographic facts demonstrate that Alaska is radically different than the remainder of the United States when it comes to cellular licensing, and is a foundation for Copper Valley's position that Alaska is truly unique and that the current unserved area, site-based licensing regime should be preserved indefinitely. Given the sheer geographic size of Alaska and its modest population, large portions of the State are either very sparsely populated or outright unpopulated. This state of affairs likewise characterizes the Valdez-Cordova Census Area portion of the Alaska 2 – RSA, with its 34,319 square miles in land area and population of only 9,636 persons, of whom 3,976 (*i.e.*, 41.2 percent) live in the City of Valdez. Stated another way, 3,976 persons live within the 222 square miles that comprise Valdez, and the remaining 5,660 persons live within the 34,097 square miles (an area more than *twice* the size of Switzerland, and 3.5 *times* the size of Maryland) comprising the remainder of the Valdez-Cordova Census Area. With more than 30 cellular base stations in service, Copper Valley's commitment to providing service to the largest number of people in the Valdez-Cordova Census Area cannot be rationally questioned.

11. In Copper Valley's view, it is readily apparent that a geographic area-based licensing regime with Overlay Licenses awarded by auction will do nothing to enhance (and, indeed, will actively frustrate) attempts to extend cellular service to areas that are presently unserved. This is because areas in need of service are best served either by

incumbent carriers extending service to new areas, or by new entrants, selecting targeted communities as it becomes financially viable to do so. An Overlay License for a given Alaska CMA would encompass an enormous land area with a severe dearth of population, and a single Overlay Licensee would have little, if any, incentive to extend service to the small, remaining unserved communities in Alaska. This is because the investment required to construct facilities would be enormous in comparison to the revenues to be derived. As a matter of economic necessity, service to smaller communities often requires the carrier to underwrite the service, with revenues derived from service to more densely populated areas, for a significant period of time. This is a commitment of time and money that few, if any, Overlay Licensees would be willing to undertake, but which the incumbent carriers have been more than willing to undertake. If an incumbent carrier or a new carrier desiring to provide service to a discrete unserved area must deal with an Overlay Licensee to secure rights to serve the area, that carrier will likely encounter "greenmail-type" demands or other financial concessions which could render the project economically infeasible. Stated another way, the presence of Overlay Licensees in Alaska could block the extension of service to unserved areas, but would do little, if anything, to extend service to those areas.

12. Additionally, requiring carriers to secure Overlay Licenses at auction would constitute a wasteful diversion of scarce resources that would be better used in constructing facilities to provide service. Under a geographic area-based licensing regime, at the end of Stage II Copper Valley would be required to secure at auction an Overlay License for the unserved portion of the *entire* Alaska 2 RSA simply to preserve its ability to extend service within the Valdez-Cordova Census Area. No useful purpose

would be achieved by requiring Copper Valley to expend funds to purchase expansion rights for areas that it has *no* plans to serve in order to secure expansion rights for areas that it *does* plan to serve. Indeed, the auction payment would constitute an excessive outlay of funds, funds that could be better utilized in the provision of service. In this regard, the Commission expressed concern over the administrative and regulatory costs (*e.g.*, filing fees, etc.) that licensees incur under the current site-based regime, noting that these costs would be saved under geographic area-based licensing. Thus, the Commission stated in the NPRM that by “reducing the filing burdens on many Cellular providers, we would expect resulting lower costs for the providers, and in turn, we would expect such lower costs to have a positive effect on service to subscribers.”⁵ Yet the administrative and regulatory costs associated with obtaining licenses under the current site-based, unserved area licensing regime would be much lower than the costs associated with securing an Overlay License at auction. From a cost perspective and as noted in Paragraph No. 4 above, the unserved area application process is relatively inexpensive and the costs are easy to absorb, while the cost of securing an Overlay License at auction would be high and difficult to absorb, especially given the sparse populations of the areas to which service would be extended.

13. The Commission notes in the NPRM that its goal in adopting a geographic area-based licensing regime with Overlay Licenses awarded by auction “would be to help ensure that spectrum does not lie fallow where there is a real demand for its use.”⁶

However, to the extent that areas of Alaska remain unserved, it has everything to do with the economics and logistical difficulties unavoidably associated with serving extremely

⁵ NPRM, Para. 25.

⁶ NPRM, Para. 42.

sparsely-populated areas and absolutely nothing at all to do with the licensing mechanism currently used by the Commission. How transition to a geographic area-licensing system in the State of Alaska will change this economic reality is far from clear, and, in point of fact, there is no basis to conclude that any improvement will occur from its use.

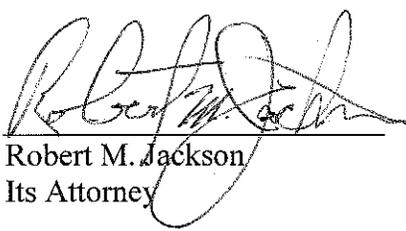
WHEREFORE, Copper Valley requests that the Commission indefinitely preserve the current site-based, unserved area licensing regime in the State of Alaska.

Respectfully submitted,

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Filed: May 15, 2012

Attachment A

**CMA 316, Alaska 2 – Bethel RSA
Area and Population Figures**

<u>Region</u>	<u>Area (Square Miles)</u>	<u>Population</u>
Bethel Census Area	40,633	17,013
Dillingham Census Area	18,675	4,847
Bristol Bay Borough	505	997
Kodiak Island Borough	6,560	13,592
Kenai Peninsula Borough	7,272	55,400
Matanuska-Susitna Borough	24,682	88,995
Valdez-Cordova Census Area	34,319	9,636
Aleutian Islands	<u>11,385</u>	<u>8,702</u>
	Total: 144,031	Total: 199,182
City of Valdez:	222.0	3,976

Source of Population Figures: Alaska Department of Labor and Workforce Development, Research and Analysis:
<http://live.laborstats.alaska.gov/cen/redistrarea.cfm>.

Note 1: Land area computations exclude areas over water.

Note 2: All population figures are from the 2010 Census.

DECLARATION UNDER PENALTY OF PERJURY

I, David Dengel, hereby state the following:

1. I am the Chief Executive Officer and General Manager of Copper Valley Telephone Cooperative, Inc., the parent corporation of Copper Valley Wireless, Inc.

2. I have read the foregoing "Comments" in WT Docket No. 12-40, RM-11510. With the exception of those facts of which official notice can be taken, all facts set forth therein are true and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this _____ day of May, 2012.

David Dengel