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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 21, 1997

COMMONWEALTH OF VIRGINIA, ex rel.,

STATE CORPORATION COMMISSION CASE NO. PUC970135

Ex Parte, in re: Implementation
of Requirements of § 214(e)
of the Telecommunications Act
of 1996

ORDER

Section 214(e) of the Telecommunications Act of 1996,47 U.S.C. § 251 et seq., (the "Act") and associated Federal regulations[1] require the Commission to take actions to implement certain provisions of universal service. These actions include the designation of telecommunications carriers eligible to receive universal service support within a service area established by the Commission. The Act permits the Commission to designate carriers on its own motion or upon request[2]. On September 15, 1997, the Commission entered an Order for Comments, which established this docket and called for comments from interested parties on or before October 15, 1997.

Under the Act, a carrier may be designated as eligible for universal service support by the Commission only upon a sufficient demonstration by the carrier that, throughout the designated service area, it:

[1] 47 C.F.R. § 54.201-.207.
[2] The Virginia Telecommunications Industry Association has filed such a request on behalf of a number of local exchange telephone companies.

> (A) offer[s] the services that are supported by the Federal universal service support mechanisms under section 254(c) [of the Act], either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
>
> (B) advertise[s] the availability of such services and the charges therefor using media of general distribution.[3]

Comments were filed in this docket by Sprint Spectrum, L.P., the Competitive Telecommunications Association, the Virginia Cable Telecommunications Association, Cox Virginia Telcom, Inc., Certain Members of The Virginia Telecommunications Industry Association, Bell Atlantic-Virginia, Inc., MCImetro Access Transmission Services of Virginia, Inc., AT&T Communications of Virginia, Inc., Bell Atlantic Mobile, and GTE South Incorporated. Joint comments on behalf of Central Telephone Company of Virginia, United Telephone-Southeast, Inc., and Sprint Communications Company L.P. were also filed.

The process for designation should be simple and streamlined, imposing no undue regulatory burden on applicants. Accordingly, the Commission will allow applicants to certify that they meet the requirements of the Act for designation, by means of an affidavit filed with the Clerk of the Commission and signed by the appropriate officer of the applicant, attesting that the applicant provides the designated services[4] and describing the manner and means by which the applicant advertises the availability of the services necessary for designation in the service area for which designation is requested.

[3] 47 U.S.C. § 214(e) (1) (A) and (B).

Should any interested party object to another's designation as an eligible carrier, the complaint procedure in the Commission's Rules of Practice and Procedure is available for the resolution of such objections.

Many of the commenting parties recommend the Commission further allow applicants to self-designate the service area for which they seek designation. Other parties have suggested that the Commission designate some minimum service area for which designation may be sought. Section 214(e)(2) of the Act requires the Commission to designate multiple eligible carriers for non-rural areas and permits the Commission to designate multiple eligible carriers for rural areas[5] only if it finds that such designation "is in the public interest."

The Commission has concluded that carriers, with the exception of incumbent carriers, should be allowed to self-designate the service area for which they seek designation, subject to objection from interested parties, at least for calendar year 1998. Incumbent carriers shall initially be required to seek designation of their entire service territory. An incumbent carrier that seeks to relinquish its designation for any portion of its service area served by more than one eligible carrier must petition separately for such authorization. Any carrier, other than the incumbent local

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[4] Any carrier that seeks additional time to complete network upgrades needed to provide certain of these services should file a petition for consideration by the Commission, as permitted under 47 C.F.R. § 54.101(c)

[5] Any carrier seeking designation for any area served by a rural telephone company will be required to designate that company's entire study area, until such time as the FCC and the States issue a new definition of service area pursuant to Section 214(e)(5) of the Act.

exchange carrier currently serving a rural area, that seeks designation for such rural area will bear the burden of proving that such designation is in t he public interest, if challenged. Finally, the Commission may consider whether some additional definition of a minimum designated service area should be adopted during the coming months. All issues related to carrier eligibility may not have been addressed by this Order. However, given the federal administrative deadline of December 31, 1997, for designation of carriers eligible to receive funding beginning January 1, 1998, the Commission has concluded that the abbreviated procedures set out above are sufficient for now. As noted, the Commission will continue its consideration of the issues, study the results of the procedures adopted herein, and will seek additional input from the parties if modification of these procedures appears necessary.

Accordingly, IT IS ORDERED that:

(1) As set out above, any local exchange carrier that seeks to be designated as eligible to receive federal universal service support on January 1, 1998, shall, on or before December 5, 1997, file an affidavit with the Clerk of the Commission and on the same day serve a copy on each local exchange carrier, signed by an appropriate company officer, attesting:

(a) the carrier offers the services required for such designation and advertises the availability of these services to the public; and

(b) the manner and means by which the carrier advertises the availability of such services to the public.

(2) Such affidavit shall also describe with particularity the service area for which designation is sought.

(3) Requests for extension of time to complete network upgrades necessary to provide designated services shall be filed and served as set out in Paragraph (1) on or before December 5, 1997.

(4) Carriers that seek designation, and/or extension of time to complete network facilities, of eligibility beginning on a date other than January 1, 1998, shall file the affidavit or request set out above 21 days before the date the carrier requests for designation or extension.

(5) This matter is continued for further orders of the Commission.