Agenda Date:	June 14, 2002
Item Number:	Utilities 2
Docket:	**UT-023033**
Company Name:	RCC Minnesota, Inc. d/b/a Cellular One
Staff:	Bob Shirley, Telecommunications Policy Analyst

Recommendation:
Designate RCC Minnesota, Inc., d/b/a Cellular One (RCC Minnesota) as an Eligible Telecommunications Carrier (ETC) for the exchanges and parts of exchanges listed in the attachment to the Staff memo.

Discussion:
RCC Minnesota petitioned for designation as an ETC on June 3, 2002, for a geographic service area that is the same as its licensed service areas, known as Cellular Geographic Service Areas (CGSAs) Washington 2, Washington 3, and Washington 8.[1] CGSAs 2 and 3 are contiguous and include Chelan, Douglas, Okanogan, Ferry, Stevens, and Pend Oreille counties. CGSA 8 includes Walla Walla, Columbia, Garfield, Asotin, and Whitman counties. Included within the boundaries of its CGSAs are 35 exchanges served by non-rural companies Qwest and Verizon; parts of nine other exchanges served by Qwest and Verizon; 14 exchanges served by rural incumbent local exchange companies (ILECs); and parts of seven exchanges served by rural ILECs. The rural ILECs are CenturyTel, Pend Oreille, St. John, Pioneer, Inland, and TDS Asotin.[2]

The distinction between rural and non-rural companies is important because the legal standard for designation of ETCs varies depending upon the status of the incumbent carrier in the location. For an area served by a non-rural carrier, a state commission must designate additional ETCs if requested to do so. For an area served by a rural carrier, a state commission must find that it is in the public interest to designate more than one ETC. 47 U.S.C. § 214(e)(2).

Exchange Level Designation – Process and Purpose
Previously, the Commission has designated multiple ETCs for areas served by rural and non-rural carriers.[3] In designations made thus far, the Commission has made the designation at the geographic level of exchange. Initial designations of ETC service areas at the exchange level required the agreement of the Federal Communications Commission (FCC). Agreement has been given and all designations in Washington are at the exchange level.

[1] The FCC auctions Rural Service Areas (RSAs) and, after companies begin service, converts those to CGSAs based on the signals provided by the carrier. There are generally only slight variations between RSAs and CGSAs, with neighboring carriers serving those locations that are moved from the RSA of one carrier to the CGSA of the neighboring carrier.
[2] RCC MINNESOTA did not list the Mt. Hull Exchange of M&L Enterprise, d/b/a Skyline Telephone Company, located northeast of Tonasket in Okanogan County. Staff will add it to the Order.
[3] Docket UT-970333 – 54 and 970356, Order Designating ETCs and Second and Third Supplemental Orders.

The purpose for making designations at the exchange level rather than the study area level is to balance promotion of competitive entry with prevention of "cream skimming." Cream skimming in high-cost locations[4] can occur if a competitor enters the market only in a small town in an otherwise rural exchange and serves only the relatively low-cost customers.[5]

The requirement in Section 214(e) that an ETC offer its services throughout the geographic service area works against cream skimming when service areas include both high-cost and low cost locations. Designations at the study area level, an area that includes all the exchanges operated by a company within a state, prevents cream skimming by requiring a competitor who would seek federal universal service to serve every exchange – high-cost and low-cost of the incumbent, even if the incumbent has 70 exchanges spread around the state.

Competitive entry, on the other hand, is promoted by designations at geographic levels smaller than study areas. Smaller geographic service areas permit a competitor to enter an area served by an incumbent with a smaller investment than would be necessary to enter and compete in an entire study area. Designations at a sub-exchange geographic level could promote the greatest amount of competitive entry.

Commission decisions making designations at the exchange level have had the effect of balancing competitive entry with risk of cream skimming. A would-be competitor is not required to serve in every exchange of an incumbent company, but it may not pick the densely populated part of an exchange and ignore the less densely populated and therefore higher cost locations.

Consistent with previous actions of the Commission when designating ETCs, Staff recommends that RCC Minnesota not be designated at geographic service areas consistent with its three rather large CGSAs, but that it be designated for each exchange wholly contained within its CGSAs.

---

[4] The better phrase might be "high-cost per customer served." Many locations are not more expensive with respect to construction of plant and equipment, however the amount of revenue that will result from construction of plant and equipment may be quite low because there are very few customers.

[5] Cream skimming concerns are related to the requirement that universal service support be sufficient. 47 U.S.C. § 254(e). If a company serves only the low-cost, densely populated portion of an ETC service area but receives support per-line based upon an amount necessary to serve both the high and low-cost portions of the service area, the company serving the low-cost portion of the service area could receive an amount of support that is more than sufficient to provide service to customers, and the company left to serve the higher-cost portion of the service area might receive insufficient support to fulfill its obligations. As is explained later, the FCC has chosen to provide additional support when competitors enter a service area, rather than force two or more companies to divide a set amount. Sufficiency as it relates to disaggregation and, especially, targeting, support, will be discussed in more detail with the item that follows this one on the Open Meeting agenda for June 14, 2002.

RCC Minnesota Requests Designation for Parts of Exchanges

RCC Minnesota's request for ETC designation for those areas of its CGSAs that cover only portions of incumbent exchanges presents a new issue for the Commission. Permitting RCC Minnesota to have these designations would promote competitive entry, however, it also raises the spectre of cream skimming.

Recent actions by the FCC and rural ILECs in Washington have lessened the concern with regard to the potential for cream skimming. FCC rules for distribution of federal universal service support in areas served by rural ILECS are no longer a zero sum game. Because of FCC rule changes, when a competitor enters an area served by an incumbent company, the total amount of federal support is increased; it is not divided between the competitors.[6]

In filings with the Commission in May, 2002, all rural ILECs in Washington chose disaggregation and targeting of federal universal service funds in a way that, if left to stand, would replace the existing disaggregation of their federal universal service fund support at the sub-exchange level with disaggregation at the study area level. The reason rural companies asked for sub-exchange level disaggregation of federal support in 1997 was to prevent cream skimming, thus this abandonment of that level of disaggregation seems a clear indication that rural ILECs are not concerned about a competitor entering an exchange and marketing mostly to customers in town and leaving those in less densely populated areas to be served by the incumbent.

In the case of RCC Minnesota, its boundaries were set by the FCC licensing process; where it has a license to serve only in parts of exchanges, it cannot serve the remainder of an exchange that is outside the area covered by its license. It cannot, therefore, choose to go to the high-cost or low-cost, densely populated, or not densely populated part of the exchange, but must serve only the portion of the exchange for which it is licensed. To the extent *intentional* cream skimming has been a concern, RCC Minnesota cannot engage in intentional cream skimming because it cannot pick and choose parts of exchanges in a way that gives it an advantage, but must serve licensed areas that are parts of a wireline exchanges. If by geographic accident[7] the parts of exchanges for which it

---

[6] The result of this federal policy is to continue supporting every access line used by customers. In areas served by companies, rural and non-rural, that receive support, whether federal, state or both, customers pay the same rate for basic service for each access line no matter how many. For example, a real estate agent with 10 telephone lines in the Mansfield exchange of Verizon receives service supported by federal and state mechanisms in excess of $4,535.00 (approximately $4,470 of state support and approximately $65.00 of federal support). If that business were to add two RCC (radio) access lines, those lines, just like its 10 wirelines, would also be supported, but at a lower amount because radio communications service companies cannot charge interexchange companies for terminating and originating access, and thus cannot take advantage of the state mechanism for supporting service in high-cost and low-revenue locations.

[7] The FCC established license areas in the 1980s based on county boundaries for defining most rural service areas. Staff has found no information to lead it to believe that any consideration was given to the relationship of county boundaries to parts of wireline exchange boundaries, let alone to what development

seeks ETC designation are the portions that are most appealing for a competitor, RCC Minnesota is not responsible for that because it did not establish the boundaries of its license.

Staff's recommendation is that designation of the partial exchange areas served by RCC Minnesota under its license should be designated as service areas because no recipient of federal universal service funds will lose any support where two serve the same area, rural ILECs have shown through the May, 2002 disaggregation choices that cream skimming within exchanges is no longer the concern it was in 1997, and because the benefits of competition should not be denied inhabitants of those areas because decades-old wireline exchange boundaries are different than FCC-determined CGSA boundaries.

<u>Public Interest Determination Required</u>
In order to designate more than one ETC for an area served by a rural telephone company, the Commission must find that it is consistent with public interest, convenience, and necessity to make the additional designation. 47 U.S.C. §214(e)(2). The Commission has previously determined that the benefits of competition that would result are sufficient to make a determination that designation of an additional ETC in an exchange served by an incumbent rural telephone company is in the public interest.

<u>Promotion of Competition and Increased Service</u>
RCC Minnesota states in its petition that it is in the public interest to designate it as an ETC in areas served by incumbent rural telephone companies because designation supports the efforts of wireless carriers to provide advanced communications services to rural residents and meaningful choices of service providers. Petition at 10. It quotes the FCC to the effect that designation of additional ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies. Id. at 11. It notes that designation may result in a potential solution to health and safety risks associated with geographic isolation. Id.

These statements are consistent with the decision of the Commission when, in 1999, it designated an additional ETC for approximately 70 exchanges served by rural ILECs. *See* Docket UT-970345. There are, however, contrary arguments.

In the past, rural companies have expressed concern that competition in low-revenue exchanges may result in neither carrier earning sufficient funds to be profitable. If this should occur, and neither carrier could sustain service, the burden that could fall on customers would be the complete absence of service. In the alternative, there was the concern that to remain profitable both carriers would have to increase local service rates.

---

patterns might have been then and what has actually happened with respect to road construction and population density.

These concerns have been eliminated by the FCC decision to provide support to all competitors based on the costs of the incumbent rural telephone company in any given area. Accordingly, these arguments that a majority of the Commission did not find persuasive in 1999, do not even raise an issue today when ILECs will not lose any support no matter how many customers RCC Minnesota attracts and no matter which part of an exchange they reside.

Recommendation:

The petition of RCC Minnesota promotes competition and customer choice, and the benefits that result. This is consistent with efforts to insure that all customers, no matter where located, receive all the benefits that competition in the telecommunications sector can provide. Similarly, granting ETC designation for parts of exchanges will promote the benefits of competition in those locations without resulting in cream skimming. Designation of RCC Minnesota as an ETC will also preserve and advance universal telecommunications service consistent with federal and state law. Granting the petition would be in the public interest.

Attachment: List of Exchanges and Partial Exchanges