

Agenda Date: July 26, 2002
Item Number: A4

Docket: UT-023040
Company Name: Inland Cellular Telephone Company

Staff: Bob Shirley, Telecommunications Policy Analyst

Recommendation:

Designate Inland Cellular Telephone Company¹ as an Eligible Telecommunications Carrier (ETC) for the exchanges and parts of exchanges listed in the attachment to the Staff memo and direct Inland Cellular to provide a .shp map of its service areas.

Discussion:

Inland Cellular petitioned for designation as an ETC on July 10, 2002, for a geographic service area that is the same as its licensed service areas, known as Cellular Geographic Service Areas (CGSAs) Washington 5 and Washington 8.² CGSAs 5 and 8 are contiguous (and even overlap in some areas) and include all or parts of Walla Walla, Columbia, Garfield, Asotin, Whitman, Spokane, Stevens, Ferry, Lincoln, Adams, Grant, Douglas and Franklin counties. Included within the boundaries of its CGSAs are 18 exchanges served by non-rural companies Qwest and Verizon; parts of five other exchanges served by Qwest and Verizon; 20 exchanges served by rural incumbent local exchange companies (ILECs); and parts of five exchanges served by rural ILECs. The rural ILECs are CenturyTel, St. John, Pioneer, Inland, and TDS Asotin.

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 Order will, consistent with past practice, name the actual licensees in addition to Inland Cellular Telephone Company, which provides the service under its name for the licensees.

² 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.

³ Docket UT-970333 – 54 and 970356, Order Designating ETCs and Second and Third Supplemental Orders. Docket UT-023033, Order Designating ETC (pending).

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 locations⁴ 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 Inland Cellular 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.

Inland Cellular Requests Designation for Parts of Exchanges

Inland Cellular’s request for ETC designation for those areas of its CGSAs that cover only portions of incumbent exchanges presents the identical issue encountered with RCC

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, is an important issue in disaggregation of state and federal support.

Minnesota when the Commission considered its petition on June 14, 2002. For the same reasons stated in the Staff Memo in Docket UT-023033, Staff recommends designation of Inland Cellular for the areas it serves that correspond to parts of wireline exchanges indicated in the attached list of exchanges.

Public Interest Determination Required

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.

Promotion of Competition and Increased Service

Inland Cellular 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 10.⁶ 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.* It notes that designation may result in a potential solution to health and safety risks associated with geographic isolation. *Id.* at 11.

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.

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 Inland Cellular attracts and no matter which part of an exchange they reside.

Recommendation:

The petition of Inland Cellular promotes competition and customer choice, and the

⁶ Inland's Petition in many instances is identical, word for word, to that of RCC Minnesota.

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 Inland Cellular 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.

Production of a .shp map will aid competitors, incumbents, and the Commission with determinations of customer locations that form the basis for determining the amount of federal universal service funds Inland will receive. Inland should be directed to provide a .shp map of its CGSAs.

Attachment: List of Exchanges and Partial Exchanges