

9/17/2004

**PUBLIC SERVICE COMMISSION
STATE OF MONTANA**

**Bob, Rowe, Chairman
Thomas J. Schneider, Vice-Chairman
Matt Brainard, Commissioner
Greg Jergeson, Commissioner
Jay Stovall, Commissioner**



1701 Prospect Avenue
PO Box 202601
Helena, MT 59620-2601
Voice: 406.444.6199
Fax #: 406.444.7618
<http://www.psc.state.mt.us>
E-Mail: psc@state.mt.us

September 16, 2004

To Ms. Mary Wright, Montana Consumer Counsel
From Mike Lee, MPSC

Re: Docket D2003.8.105, Mid Rivers Cellular

Please find enclosed data requests in the matter of Cable & Communications Corporation's (CCC) d/b/a Mid-Rivers Cellular application for designation as a competitive eligible telecommunications carrier (ETC). This discovery regards MCC witness Mr. Buckalew's September 15, 2004 testimony and is numbered PSC-024 through PSC-033. When responding, please restate each data request and identify the respondent. Please file an original and ten copies and e-mail your responses to mlee@state.mt.us. Call 444-6185 if you have questions. Thank you.

Cc: service list

Service Date: September 16, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF CABLE & COMMUNICATIONS CORPORATION dba MID-RIVERS CELLULAR, Petition for Designation as an Eligible Telecommunications Carrier throughout its Service Area.)))))	Utility Division Docket No. D2003.8.105
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**COMMISSION STAFF
DATA REQUESTS**

PSC-024

Regarding: public interest policy, benefits and costs
Witness: Buckalew

- a. To what extent is the benefit of improved competitiveness (p. 5) a public interest matter that should be considered consistent with Section 214 (e)(2)?
- b. In regard to "a." above, please explain why it would be beneficial for the PSC to designate CCC as an additional ETC, as filed, in Mid River's Co-op's (MRC's) and Range Telephone's Co-op's (RTC's) service areas.
- c. In regard to "a." above, if CCC was not corporately affiliated, as noted, with MRC, the ILEC, would it be beneficial for the PSC to designate CCC as the second ETC in MRC's wireline service area?
- d. Unless there is a presumption of net benefits, what analysis of benefits and costs underpins the MCC's policy recommendations in this docket?
- e. What circumstances would cause the MCC to have concern about the promotion of competition that would, in turn, lead to a recommendation to not approve of a second or third etc., ETC in either MRC's or RTC's service area? In responding, please assume that CCC meets the 214(e)(1) criteria and agrees to the proposed requirements in Mr. Buckalew's testimony.

PSC-025

Regarding: public interest, policy
Witness: Buckalew

- a. In regard to the public interest, and given there might be, on net, an inflow of revenues into the State of Montana, should the PSC also consider any beneficial economic development impacts in Montana of designating an additional ETC, especially a wireless ETC? Please explain your answer.

- b. To what extent are there cost characteristics, natural monopoly or otherwise, associated with either ILEC (MRC or RTC) such that additional ETC designations may be harmful to the financial well being of the incumbent and how should such concerns be reconciled with Mr. Buckalew's interest in encouraging greater competition (page 5)?
- c. Is the MCC's interest in increased competition ever overshadowed by the concern that an ILEC may lose a source of revenue upon which it depends to provide a high quality service in small rural exchanges?
- d. There is no apparent rural versus nonrural distinction in terms of the appropriateness of Mr. Buckalew's recommendations (at pages 7-10). Does Mr. Buckalew believe that the public interest test that this Commission applies, and any subsequent rules regarding the public interest criteria for ETC designations, that the Commission establishes, should not vary in relation to whether the incumbent is a rural or a non-rural carrier?

PSC-026

Regarding: public interest, policy
 Witness: Buckalew

- a. If the FCC's policies were to change, such that when a competitive carrier is designated an ETC the revenues the ILEC received would shift to the CETC whenever a CETC captured an ILEC's customer, would the MCC's policy testimony in this docket change?
- b. What is meant by an "annual check-up" (p. 7)?
- c. In light of the rights that Commissions have to establish technical and service quality standards, what additional technical and service quality standards ought to be incorporated into a public interest test for any ETC?
- d. Is it the MCC's proposal that a previously designated ETC could have its designation reversed by this Commission if it failed to satisfy any of the proposals that Mr. Buckalew notes?

PSC-027

Regarding: public interest, policy
 Witness: Buckalew

- a. For each of the recommendations noted at pages seven to ten, please provide the statutory authority or rulemaking authority that underpins each suggestion.
- b. On what basis and at what level should the Commission define a minimum percentage of owned facilities and/or leased UNEs to qualify as an ETC (p. 8)?
- c. Is it the MCC's understanding that CCC's petition is strictly to provide cellular service or does it also cover any PCS service that CCC provides or might provide in the future?
- d. In regard to "c" above, should CCC refile to provide PCS service if this docket's petition is limited strictly to Cellular service?
- e. If the MCC has any estimate of the Federal universal service funds that CCC would receive, please provide that evidence.

PSC-028

Regarding: Public interest, policy
 Witness: Buckalew

- a. Please comment on the practical nature of Mr. Buckalew's proposal that "every requirement placed on ILEC ETCs should also be placed on all new ETCs" in relation to a converse proposal (p. 8). For example, wireless CETCs do not have all of the 271 and 272 obligations to which Qwest is subject; conversely, the -104dBm requirement that is imposed on Cellular services is unclearly appropriate for a wireline CLEC.
- b. Also in regard to "a." above, which of the Commission's rules, for example in sub-chapters 33, 34 and 37, should apply to all ETCs regardless of whether they seek ETC designation in a rural or a nonrural ILEC's service area, and regardless of whether the applicant ETC is a Cellular, PCS, VOIP or wireline carrier?
- c. With CCC's petition, is the relevant service area the wire center base rate area or is it the base rate area including all zones outside the wire center (as in Western Wireless' - WW's -- D2003.1.14 proposal)?
- d. In regard to "c." above, and in terms of rules, not just the unique application to CCC in this docket, what physical area does Mr. Buckalew propose the Commission use with rural carriers?
- e. In order to implement the suggested workably competitive demonstration, please list the data or information that on an annual basis must be provided by, we presume, each ETC (p. 9).

PSC-029

Regarding: public interest, policy
 Witness: Buckalew

- a. In regard to "e." of the last data request, is the demonstration that the ETC area is "competitive" also a demonstration of a workably competitive market?
- b. In regards to the "workably competitive" standard, what is the relation to the MCC's witness Dr. Greer's testimony in Montana (regarding phased de-regulation)?
- c. If the demonstration requirement uses actual rates (p. 7), then which rates must the PSC use as caps given the PSC does not regulate either Co-op (MRC and RTC)?
- d. In D2003.1.14, Mr. Buckalew suggested a cost proceeding to determine Qwest's or WW's costs (p. 9, lines 2- 4). Why is there no similar proposal in this docket? If it is an oversight, then please illustrate how any statewide average rate would be developed to use for USF purposes (see response to PSC -039(d) in D2003.1.14).
- e. In regard to the response to "a." above, what is the theoretical relationship between a workably competitive market and contestable markets?

PSC-030

Regarding: public interest, policy, universal service
 Witness: Buckalew

- a. Please explain the purpose of the proposal to disallow Lifeline service subscribers from getting service from more than one ETC. Please anchor the proposal to any associated statute or rule (p. 10).
- b. In D2003.1.14, Mr. Buckalew proposed a reporting requirement based upon fund use. Is the same proposal made in this docket?

- c. Does the MCC believe that the public interest benefits of a second designated ETC in the service area of MRC or RTC depend upon whether that designated ETC is a wireless or a wire line ETC?
- d. Does the MCC believe that the public interest benefits of designating a third ETC depends upon whether that designated ETC is a wireless or a wire line ETC and, or, whether the second designated ETC is a wireless or wire line ETC?
- e. Although no Lifeline rates have been filed by MRC, is there a requirement to file and, or, offer Lifeline rates prior to designation as an ETC? (p. 11, line 20) If so, cite the source of the requirement(s).

PSC-031

Regarding: public interest, policy

Witness: Buckalew

- a. What amount of free local calling should be made available by a wireless ETC?
- b. Given that the PSC does not regulate what-so-ever the retail rates of either MRC or RTC how should the PSC implement the proposal to constrain the rates that CCC charges to maximum "stand-alone" rates (p. 7, lines 10-12)? Also, please explain what is meant by "stand alone."
- c. In regard to "b." above, why not limit the rates and volumes to the lowest-cost package of unlimited use offered by Verizon, Sprint, Western Wireless or AT&T in urban areas in the U. S.?
- d. In regard to the testimony that to "merely add wireless services to existing services should not be considered..." would the same opinion apply if the candidate CETC is a wireline carrier? (p. 8, line 18)
- e. As opposed to a captured line, if a household has landline service for which the ILEC receives Federal universal service funds and if each family member (for example, assume 2 adults and 3 teenage kids) has its own wireless phone, what is achieved by designating each of the wireless carriers an ETC so that for each line the carrier can receive support? Why should universal service not extend to each person?

PSC-032

Regarding: public interest, policy

Witness: Buckalew

- a. In regard to "e." in the above, question where did the U.S. Congress in its laws or the FCC in its rules limit the concept of universal service to a household as opposed to family members in each household?
- b. In contrast to "a." above and "e." in the above data request, if there is no limit imposed by statute or rule, for what reason should this Commission limit the amount of universal service funds (federal) that a carrier receives for serving secondary lines?
- c. What difference does it make whether CCC provides the services for which it seeks support, in either of MRC's or RTC's service areas, by means of PCS or Cellular?
- d. Aside from whether there is any intent to nurture the economic development of a rural state like Montana, and unless the MCC denies that Federal funds that flow to Montana as a result of the Federal Schools and Libraries program and the Federal high cost fund, why does the MCC appear to not disapprove of the Federal Schools

and Libraries program funding that benefits Montana but does disapprove of the high cost funds that ETCs would receive?

- e. What is the incremental requirement that is imposed in 214(e)(2) by "...convenience and necessity..." that is over and above the requirement that designations be in the "...public interest...?"

PSC-033

Regarding: public interest, policy

Witness: Buckalew

- a. Is it not true that when a wireless carrier (PCS or cellular) is designated an ETC and receives Federal universal service funds that it receives funds to provide access to interexchange service, a service (1+ equal access) that it actually does not provide?
- b. Is it the MCC's proposal that even if CCC offers multiple packages of wireless services (plans) with various pricing and content, that CCC may only seek Federal universal service funds for subscribers to its packaged services that comply with the PSC plans; any other subscribers to non-PSC approved plans would not be supported with federal universal service funds?
- c. In its petition for ETC designation docket with Qwest, WW did not seek ETC designation unless it could serve at least 85 percent of the population. If CCC met all other requirements that the MCC proposed, should it still meet this or a similar requirement to be able to provide service to at least 85 percent of the population?
- d. Are there examples, from other states whereby a state PSC has imposed additional (in addition to 214) requirements upon competitive carriers seeking to be designated ETCs? If so, please provide that evidence
- e. Of what relevance is the Federal-State Joint Boards February 27, 2004 Recommended Decision and the FCC's January 2004 Virginia Cellular Decision (both regarding ETC designations) to this CCC proceeding?