

ORIGINAL



0000018860

BEFORE THE ARIZONA CORPORATION COMMISSION

2574

COMMISSIONERS

Arizona Corporation Commission

2005 APR - 8 1 A 9 23

DOCKETED

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

APR - 8 2005

DOCKETED BY
RS

IN THE MATTER OF THE APPLICATION OF
WWC LICENSE LLC ("WESTERN WIRELESS
CORPORATION") FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER
AND REDEFINITION OF RURAL TELEPHONE
COMPANY SERVICE AREA.

DOCKET NO. T-04248A-04-0239

PROCEDURAL ORDER

BY THE COMMISSION:

On March 26, 2004, WWC License LLC dba CellularOne ("Western Wireless") filed the above-captioned application with the Arizona Corporation Commission ("Commission").

On August 17, 2004, Western Wireless filed a Request for Procedural Conference to address the timing and conduct of the proceeding in this docket. A procedural conference was held as scheduled on September 2, 2004. Western Wireless, Arizona Local Exchange Carriers Association ("ALECA"), Verizon California Inc. and the Commission's Utilities Division Staff ("Staff") entered appearances through counsel.

On September 3, 2004 a Procedural Order was issued setting procedural deadlines for public notice of the application, intervention, requests for hearing, the filing of a Staff Report and the filing of Responses to the Staff Report.

Western Wireless filed Affidavits of Publication and Mailing on September 22 and October 8, 2004.

ALECA filed a Motion to Intervene on October 14, 2004, which was granted by Procedural Order issued October 27, 2004. No other requests for intervention were filed.

On December 30, 2004, Staff filed its Staff Report in this matter, recommending approval of the application subject to conditions.

Western Wireless filed its Response to Staff Report on February 18, 2005, and ALECA filed its Response on February 22, 2005.

Western Wireless' and ALECA's Responses both request that the Commission modify conditions recommended by Staff in the Staff Report.

By Procedural Order issued March 1, 2005, a procedural conference was set for the purpose

1 of discussing the scope of a hearing on the application and the associated procedural schedule.

2 The procedural conference was convened as scheduled. Western Wireless, ALECA and Staff
3 appeared through counsel.

4 The parties stated that the Federal Communications Commission ("FCC") has recently
5 adopted additional requirements that apply to carriers seeking designation as an ETC from the FCC,
6 but that the Report and Order that includes the additional requirements has not yet been made
7 publicly available.¹

8 ALECA believes that while the additional requirements may not be binding on state
9 Commissions, they would be instructive in this case and should be subject to review in this docket.

10 Western Wireless stated that the new FCC ETC Order, while not binding, may have some
11 potential guidance in it. Western Wireless also stated that Staff's analysis may have already covered
12 some of the issues the new FCC ETC Order may address.

13 Staff proposed to review the new FCC ETC Order, ascertain how it applies to this case, and
14 file a supplemental Staff Report within 30 days of the public release of the new FCC ETC Order.
15 Staff also proposed that the parties be given an opportunity to respond thereto.

16 Western Wireless and ALECA both agreed with the concept of a supplement to the Staff
17 report addressing the new FCC ETC Order. Western Wireless stated that it would notify the Hearing
18 Division when the new FCC ETC Order becomes publicly available, so that another procedural
19 conference can be set to take place shortly after the supplemental Staff Report is filed.

20 IT IS THEREFORE ORDERED that Staff shall file a supplemental Staff Report on the
21 application within 30 days of the date the FCC Report and Order in FCC Docket No. FCC 05-46 is
22 made publicly available.

23 IT IS FURTHER ORDERED that a procedural conference shall be set to take place following
24 the filing of the supplemental Staff Report for the purpose of allowing the parties to discuss
25 remaining procedural issues associated with this proceeding.

26 ...
27 ...
28 ...

¹ On February 28, 2005, the FCC issued a press release titled "FCC Adopts Additional Requirements for Eligible Telecommunications Carrier Proceedings: Action Creates a More Rigorous Eligible Telecommunications Carrier Designation Process for Receiving Federal Universal Service Support" ("new FCC ETC Order"). The press release references a February 25, 2005 FCC action by Report and Order in FCC Docket No. FCC 05-46.

1 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 8th day of April, 2005.

5 
6 TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

7 Copies of the foregoing mailed/delivered
8 this 8 day of April, 2005 to:

9 Philip R. Schenkenberg
10 BRIGGS & MORGAN
11 2200 First National Bank Bldg.
12 St. Paul, MN 55101

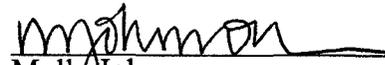
13 Michael W. Patten
14 ROSHKA HEYMAN & DeWULF
15 One Arizona Center
16 400 E. Van Buren Street, Ste. 800
17 Phoenix, AZ 85004

18 Timothy Berg
19 Teresa Dwyer
20 Darcy Renfro
21 FENNEMORE CRAIG
22 3003 North Central Ave., Suite 2600
23 Phoenix, Arizona 85012-2913
24 Attorneys for Qwest Corporation

Jeffrey W. Crockett
Deborah R. Scott
Kimberly A. Grouse
SNELL & WILMER
One Arizona Center
Phoenix AZ 85004-0001
Attorneys for ALECA

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

25 By: 
26 Molly Johnson
27 Secretary to Teena Wolfe
28