

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)
)
Western Wireless Corporation,)
Transferor, and ALLTEL Corporation,) WT Docket No. 05-50
Transferee,)
) File Nos.: 0002016468, 0002016892,
) 0002016459, 002016476, 0002016889 and
) 0002018539
Applications for Transfer of Control)
Of Licenses and Authorizations)
)
To: The Commission

**COMMENTS IN RESPONSE TO JOINT OPPOSITION TO PETITIONS TO DENY
AND COMMENTS**

Rural Telecommunications Group, Inc. (“RTG”), by its attorneys, hereby replies to the Joint Opposition to Petitions to Deny and Comments (“Opposition”) filed by Western Wireless Corporation (“WWC”) and ALLTEL Corporation (“ALLTEL”) (collectively, “Applicants”) to RTG’s March 9 Petition to Deny.

I. RTG HAS A RIGHT TO BE HEARD

The Applicants vehemently argue that RTG lacks standing to submit a petition to deny to challenge the proposed transaction.¹ However, the Applicants misconstrue the nature of RTG’s filing. Although RTG inadvertently referenced to “petitioning” the Commission on page one of its comments, it was not RTG’s intent to submit a petition to deny, otherwise it would have captioned its pleading as such. RTG filed its “Comments in Opposition” simply to provide the Commission with the most complete record possible. RTG, on behalf of its membership, is merely exercising its right to be heard by submitting its “Comments in Opposition” and the

¹ Opposition at 16.

instant “Comments in Response to Joint Opposition to Petitions to Deny and Comments”.² Interestingly enough, the Applicants did not take issue with or object to any of the other numerous commenters who exercised their right to file in this proceeding.³ The Commission should treat the information contained within the “Comments in Opposition” as it sees fit, but what is of paramount importance is that the Commission carefully considers the information provided to it regarding the transaction’s ramifications and not just rubber stamp its approval.

II. THE COMMISSION SHOULD CONSIDER AUTOMATIC ROAMING IN THIS PROCEEDING.

The Applicants argue that RTG improperly attempts to use this proceeding to address roaming issues which the Applicants believe are better resolved in a rulemaking.⁴ There is nothing improper about RTG or other petitioners and commenters raising this issue in this proceeding. As United States Cellular Corporation correctly states, this proceeding could afford the Commission a platform for a strong pro-competition statement regarding the continuing need

² The First Amendment to the Constitution states that it is the right of the people to assemble and to petition the Government for a redress of grievances. U.S. Const. amend. I.

³ See Comment of E911 Program Manager Iowa Homeland Security and Emergency Management Division, Comment of Comment by Virginia Wireless E-911 Services Board, Comment by speaker, North Carolina House of Representatives, Comment by Nebraska PSC, Comment by AK CMRS Emergency Telephone Services Board, Comment by Richard Taylor, Comment by Assoc. General Contractors of Ohio, Comment by Rosebud Sioux Tribe Utility Commission, Comment by State Sen. Jay Emler, Comment by Alachua County Combined Communications Center, Comment by AK Attorney General Mike Beebe, Comment by Wayne County E-911, Comment by Neb. State Senator Tom Baker, Comment by Martinsville-Henry VA Emergency Communications Center, Comment by Regions Financial Corp., Comment by Nebraska Farm Bureau Federation, Comment by Hot Springs County 911, Comment by State Rep. Daniel McComas, Comment by AGL Resources, Comment by Independence County Office of Emergency Services, Comment by Georgia Chamber of Commerce, Comment by League of Nebraska Municipalities, Comment by Lorain OH County Chamber of Commerce, Comment by City of Searcy Police Dept., Comment by Turtle Mountain Band of Chippewa Indians, Comment by SC State CMRS E 911, Comment of Maricopa Region 911 Office.

⁴ Opposition at 7.

for roaming availability.⁵ Further, the automatic roaming proceeding is well over four years old and significant industry changes have occurred since its release, especially with respect to recent market consolidations and mergers, including the instant proceeding.⁶ It is time to act now. Rural and small carriers, who need to enter into roaming agreements to survive, can not continue to be held hostage at the whim of larger carriers with regard to whether such carriers will or will not enter into a roaming agreement and on what terms. Moreover, if ALLTEL, as it argues in its Opposition,⁷ has no incentive to impose unreasonably high rates or exclude other carriers from roaming arrangements, then ALLTEL should have no problem with the Commission imposing, as a condition to the transaction, language that requires ALLTEL to enter into automatic reciprocal roaming arrangements with small carriers.

⁵ See Comments of United States Cellular Corporation at 2-3.

⁶ See *Cingular/AWS Order, Qwest Wirelless, LLC and Cellco Partnership d/b/a Verizon Wireless Seek Commission Consent for the Assignment of Sixty-Two Broadband Personal Communications Services Licenses*, WT Docket No. 04-264, DA 04-2254, Public Notice (July 22, 2004); *Nextel Communications, Inc. and Sprint Corporation Seek FCC Consent to Transfer of Control of Licenses and Authorizations*, WT Docket No. 05-63, DA 05-502, Public Notice (February 28, 2005).

⁷ Opposition at 12.

III. CONCLUSION

The Applicants have failed to demonstrate that grant of the above-referenced Applications is warranted without having the proper conditions in place with respect to ALLTEL's treatment of roaming arrangements involving small carriers. Grant of the Applications would not serve the public interest and would cause harm to rural wireless competition and thereby rural wireless consumers in the markets served by ALLTEL. Therefore, the Commission should conditionally grant the Applications subject to ALLTEL treating all rural wireless carriers the same as it treats large wireless carriers.

Respectfully submitted,

**RURAL TELECOMMUNICATIONS
GROUP, INC.**

By: _____/s/_____

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March 28, 2005

CERTIFICATE OF SERVICE

I, Colleen von Hollen, with the Law Firm of Bennet & Bennet, PLLC, hereby certify that copies of the foregoing Comments in Response to Joint Opposition to Petitions to Deny and Comments were served this 28th day of March, 2005, by U.S. mail unless otherwise indicated on the following:

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/s/
Colleen von Hollen

**Federal Communications Commission**

The FCC Acknowledges Receipt of Comments From ...
Rural Telecommunications Group, Inc.
...and Thank You for Your Comments

Your Confirmation Number is: '2005328338458 '

Date Received: Mar 28 2005

Docket: 05-50

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