



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 205541

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DA-00-2622

Released: November 21, 2000

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING THAT WESTERN WIRELESS' BASIC UNIVERSAL SERVICE IN KANSAS IS SUBJECT TO REGULATION AS LOCAL EXCHANGE SERVICE

WT-00-239

Comment Date: December 21, 2000

Reply comment Date: January 8, 2001

On November 3, 2000, State Independent Alliance and Independent Telecommunications Group (Independents) filed a petition requesting that the Commission issue a declaratory ruling clarifying that Western Wireless' Basic Universal Service (BUS) offering in Kansas is not a Commercial Mobile Radio Service (CMRS) and that federal law does not preempt or preclude the Kansas Corporation Commission (Kansas Commission) from applying to the BUS offering regulations and Universal Service Fund (USF) requirements applicable to all local exchange carriers and to Eligible Telecommunications Carriers (ETCS) in Kansas.

Independents state that Western Wireless' BUS offering of fixed wireless local loop service provided over cellular mobile service facilities is a fixed service intended as a substitute for wireline telephone service, and that BUS is not intended to be a mobile service. Independents state that Western Wireless, on the other hand, claims that it is providing CMRS when it provides BUS and that pursuant to Section 332(c)(3) of the Communications Act, the Kansas Commission is precluded from imposing USF and local exchange carrier regulation on the BUS offering. Independents state that the Kansas Commission has designated Western Wireless as an ETC for non-rural areas and will soon consider whether to make Western Wireless an ETC for rural areas. In order to end confusion and controversy regarding the status of this offering, Independents request that the Commission clarify that USF requirements and local exchange carrier regulations apply to Western Wireless' BUS offering in Kansas.

This matter shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 C.F.R. §§1.200(a), 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules 47 C.F.R. § 1.1206(b).

Comments on the petition must be filed on or before December 21, 2000, and reply comments by January

8. 2001. All documents filed in this proceeding should indicate in the caption that this matter is before the Wireless Telecommunications Bureau, Commercial Wireless Division, Policy and Rules Branch and reference **WT-00-239**. Comments may be filed via the Commission's Electronic Comment Filing System (ECFS) via the internet to <<http://www.fcc.gov/e-file/ecfc.html>>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the reference number **WT-00-239**. Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, including "get form < your e-mail address > " in the body of the message. A sample form and directions will be sent in reply.

Interested parties who choose to file by paper must file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 Twelfth St., S.W. Room TW-A325, Washington, D.C. 20554.

In addition, parties should send: one paper copy to Rose Crellin, Room 4A-160, and one paper copy to Policy and Rules Branch, Room 4-A-207, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth Street, S.W. Washington D.C. 20554; one paper copy to the Public Reference Room, Federal Communications Commission, 445 Twelfth Street, S.W, 20554; and one paper copy and one diskette copy to ITS, Room CYB-400, 445 Twelfth St. S.W., Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rose Crellin at (202) 418-2066 (voice) or (202) 418-7233 (TTY). The fax number is (202) 418-7447.