

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
WWC Holding Co., Inc.
Applications to extend CGSA into unserved area
within Block A portion of the Colorado 9-Costilla
RSA, the Pueblo, Colorado MSA, the Colorado 7
- Saguache RSA, the Colorado 8 - Kiowa RSA,
the New Mexico 2 - Colfax RSA, and the
Colorado 4 - Park RSA
Call Sign: KNKN409
File No. 0000015947

ORDER

Adopted: December 22, 2000

Released: December 26, 2000

By the Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. The Commercial Wireless Division (Division) has before it a late-filed Petition to Deny (Petition), filed on October 13, 1999, by Northeast Colorado Cellular, Inc. (NECC or Petitioner). The Petition seeks the dismissal of a Phase II Cellular Unserved Area application filed by WWC Holding Co., Inc. (WWC or Applicant) seeking Commission approval of an extension of its Cellular Geographic Service Area (CGSA). For the reasons discussed below, we dismiss NECC's Petition.

2. The WWC application appeared on Public Notice as accepted for filing on June 30, 1999. The WWC application proposes an alternative method for calculating its CGSA, pursuant to Section 22.911(b) of the Commission's rules. On July 30, 1999, the Petitioner filed five Phase II Cellular Unserved Area applications which Petitioner asserts are mutually-exclusive with WWC's application. On August 26, 1999, the Division released a Public Notice stating that NECC's five applications and WWC's application appeared to be mutually-exclusive and designating the six applications for auction. On October 13, 1999, more than 30 days after WWC's application appeared on public notice as accepted for filing, the Petitioner filed its Petition.

1 NECC Petition to Deny, filed Oct. 13, 1999.

2 File No. 0000015947.

3 See Public Notice, Report No. 260 (rel. Jun. 30, 1999).

4 47 C.F.R. §22.911(b).

5 File Nos. 0000017401, 0000017402, 0000017408, 0000017409, and 0000017410.

6 See Public Notice, Report No. CWD-99-59 (rel. Aug. 26, 1999).

3. Section 1.939 of the Commission's rules requires that a petition to deny be filed within 30 days of the date that an application is listed on Public Notice as accepted for filing.⁷ In this case, NECC's Petition was filed more than two months after the filing deadline.⁸ We note that NECC was clearly aware of the filing deadline, and that NECC's applications, filed just before the deadline for mutually exclusive applications, declared themselves to be mutually exclusive with WWC's application. Because the Petition was untimely filed, and NECC offers no reasonable excuse for its lateness, we dismiss the Petition.

4. Although the Petition is untimely, we may still consider the Petition as an informal objection, pursuant to §1.41 of the Commission's rules.⁹ We are not persuaded, however, that NECC has raised any substantive reasons that would cause us to dismiss WWC's application.¹⁰ Nevertheless, we seek clarification of WWC's alternative CGSA determination under Section 22.911(b) of the Commission's rules. Therefore, the Licensing and Technical Analysis Branch of the Commercial Wireless Division will submit a letter to WWC directing it to provide additional information regarding its alternative CGSA determination within 60 days of the date of that letter.

5. Accordingly, IT IS ORDERED that pursuant to authority delegated by section 4(i) of the Communications Act, as amended, 47 C.F.R. § 154(i), and by sections 0.331 and 1.939 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.939, the Petition filed on October 13, 1999, by Northeast Colorado Cellular, Inc., IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William W. Kunze
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

⁷ 47 C.F.R. §1.939.

⁸ We note that NECC concedes the lateness of its Petition. *See* NECC's Petition to Deny, at n. 2. We also note that NECC never filed a request for an extension of time in which to file its Petition, nor did it request leave to submit its late-filed Petition.

⁹ 47 C.F.R. §1.41.

¹⁰ 47 C.F.R. §22.911(b).