

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

In re Applications of	)	File Nos. 02601-CL-CP-95
	)	02618-CL-CP-95
EASTERN AIRWAVES, L.L.C.	)	02619-CL-CP-95
)	
For a Phase II Cellular Unserved Area)	
Authorization in the Nevada 5 White Pine Rural)	
Service Area, Market No. 547B)	
)	
)	
)	
In re Applications of	)	02616-CL-CP-95
	)	02617-CL-CP-95
EASTERN AIRWAVES, L.L.C.)	
)	
For a Phase II Cellular Unserved Area)	
Authorization in the Nevada 4 Mineral Rural)	
Service Area, Market No. 546B)	
)	
)	
)	
In re Applications of	)	02596-CL-CP-95
	)	02597-CL-CP-95
DESERT MOBILE, L.L.C.)	
)	
For a Phase II Cellular Unserved Area)	
Authorization in the Nevada 5 White Pine Rural)	
Service Area, Market No. 547B)	
)	
)	
)	
In re Applications of	)	02604-CL-CP-95
	)	02605-CL-CP-95
DESERT MOBILE, L.L.C.	)	02606-CL-CP-95
)	
For a Phase II Cellular Unserved Area)	
Authorization in the Nevada 4 Mineral Rural)	
Service Area, Market No. 546B)	
)	
)	
)	
In re	)	06048-CL-MP-94
)	
AIRTOUCH CELLULAR)	
)	
For Order to Show Cause for Revocation of its)	
Authorization for the Wireline Cellular Telephone)	
System in the Nevada 5 White Pine Rural Service)	
Area, Market No. 547B)	

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)	
)	
In re Application of)	06477-CL-MP-94
)	
MINERAL RSA LIMITED PARTNERSHIP)	
)	
For a Major Modification to its Authorization for)	
the Wireline Cellular Telephone System in the)	
Nevada 4 Mineral Rural Service Area, Market No.)	
546B)	

ORDER

Adopted: March 30, 2001

Released: April 3, 2001

By Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. The Commercial Wireless Division (Division) has before it two Petitions for Reconsideration relating to the above-captioned applications. First, there is a Petition for Reconsideration filed by Eastern Airwaves, L.L.C. (Eastern) and Desert Mobile, L.L.C. (Desert) on July 14, 1999 regarding an Order¹ released on June 14, 1999. Second, there is a Petition for Reconsideration filed by Desert on March 27, 2000 regarding two Orders,² both released on February 25, 2000. Because the two Petitions raise identical issues,³ we will consider both of them together.

2. The *June 14, 1999 Order* took the following actions:

- Dismissed unserved area applications filed by Eastern and Desert in the Nevada 4 and 5 RSAs (File Nos. 02601-CL-CP-95, 02618-CL-CP-95, 02619-CL-CP-95, 02616-CL-CP-95, 02617-CL-CP-95, 02596-CL-CP-95, and 02597-CL-CP-95).

¹ In re Application of Eastern Airwaves, L.L.C., *Order*, DA 99-1164 (1999) (June 14, 1999 Order).

² In re Application of Mineral RSA Limited Partnership, *Order*, 15 FCC Rcd. 4342 (2000) (February 25, 2000 Mineral Order); In re Application of Desert Mobile, L.L.C., *Order*, 15 FCC Rcd. 4370 (2000) (February 25, 2000 Desert Order).

³ We note that Desert admits as much in its March 27, 2000 Petition and specifically cross-references the arguments in its July 14, 1999 Petition. See March 27, 2000 Petition at 2.

- Dismissed as moot Desert's Petition To Revoke Improperly Granted Authorization, filed with respect to the Commission's grant of a major modification application submitted by AirTouch Cellular in the Nevada 5 RSA (File No. 06048-CL-MP-94).⁴
- Granted the major modification application of Mineral RSA Limited Partnership⁵ in the Nevada 4 RSA (File No. 06477-CL-MP-94).
- Determined that it was permissible, under the Commission rules then in effect, for an RSA licensee to file a Form 401 application prior to the end of the licensee's five-year buildout period seeking prior Commission approval and a one-year construction period for sites that could be constructed on a permissive basis subject to a Form 489 notification filing.⁶

The *February 25, 2000 Mineral Order* dismissed Desert's December 30, 1994 petition to deny Mineral RSA Limited Partnership's August 16, 1994 application and denied Desert's motion to accept the late-filed petition to deny. The *February 25, 2000 Desert Order* dismissed Desert's applications to serve unserved area in the Nevada 4 RSA (File Nos. 02604-CL-CP-95, 02605-CL-CP-95, and 02606-CL-CP-95).

3. After reviewing the record, we find that the Petition for Reconsideration of the June 14, 1999 Order filed by Eastern and Desert (Petitioners) raises no new arguments and fails to demonstrate that their arguments had not received full and fair consideration. We reiterate the fact that Mineral's expansion application was properly accepted and granted by the Commission.⁷ Petitioners claim that Mineral filed its applications for the purpose of "warehousing" spectrum in violation of Commission policy.⁸ It is unnecessary for us to reach the merits of this claim because Mineral's filing was clearly permitted by Commission rules, as set forth in the *June 14, 1999 Order*. Accordingly, for the reasons specified in the *June 14, 1999 Order* and the reasons set forth herein, we deny the July 14, 1999 Petition for Reconsideration.

4. After reviewing the record, we find that the Petition for Reconsideration of the February 25, 2000 orders raises no new arguments and fails to demonstrate that their arguments did not receive full and fair consideration. Accordingly, for the reasons specified in the February 25, 2000 orders, we deny the March 27, 2000 Petition for Reconsideration.

⁴ The Commission granted the major modification application on October 14, 1994. See Public Notice, Rpt. No. CL-95-47 (rel. Oct. 14, 1994). We note that, according to the Commission's records, the licensee in this market is now Cellco Partnership.

⁵ We note that, according to the Commission's records, the licensee in this market is now Southwestco Wireless Limited Partnership.

⁶ We note that the *June 14, 1999 Order* pointed out that, because AirTouch did not construct the authorized facilities in Nevada 5, Eastern, Desert, and any other interested parties were free to pursue Phase II unserved area applications in that RSA. As far as the Commission's records reflect, neither Eastern nor Desert have taken advantage of this opportunity.

⁷ See In the Matter of Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, *Memorandum Opinion and Order on Reconsideration*, 8 FCC Rcd. 1363, 1363 n.3 (1993).

⁸ See July 14, 1999 Petition for Reconsideration at 6-7.

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5. Accordingly, IT IS ORDERED, pursuant to authority delegated by section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, that the Petition filed on July 14, 1999, by Eastern Airwaves, L.L.C. and Desert Mobile, L.L.C., IS DENIED.

6. Accordingly, IT IS ORDERED, pursuant to authority delegated by section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, that the Petition filed on March 27, 2000, by Desert Mobile, L.L.C., IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Katherine M. Harris
Deputy Chief, Commercial Wireless Division
Wireless Telecommunications Bureau