



# PUBLIC NOTICE

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December 23, 2002

## WIRELESS TELECOMMUNICATIONS BUREAU APPROVES SETTLEMENT AGREEMENT BETWEEN WWC LICENSE L.L.C. AND WWC HOLDING CO., INC. AND N.E. COLORADO CELLULAR INC.

Pursuant to section 4(i) of the Communications Act, 47 U.S.C. § 154(i), and sections 0.331 and 1.935 of the Commission's rules, 47 C.F.R. § 0.331 and 1.935, the Policy and Rules Branch ("Branch") of the Commercial Wireless Division, Wireless Telecommunications Bureau hereby approves the Joint Motion for Dismissal and Approval of Settlement ("Settlement Agreement") filed by WWC License L.L.C. and WWC Holding Co, Inc., both wholly-owned subsidiaries of Western Wireless Corporation (collectively referred to as "Western") and N.E. Colorado Cellular, Inc. ("NECC") on December 16, 2002.<sup>1</sup>

Western and NECC filed, collectively, 22 cellular Phase II unserved area applications for several markets<sup>2</sup>, which after review of the applications, were determined to be mutually exclusive.<sup>3</sup> As indicated in the *Competitive Bidding Ninth Report and Order*, all pending mutually exclusive applications for unserved area licenses in the Cellular Radiotelephone Service must be resolved through a system of competitive bidding.<sup>4</sup> Accordingly, an auction was scheduled to begin February 12, 2003.<sup>5</sup>

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<sup>1</sup> See Joint Request for Approval of Settlement and Request for Dismissal filed by WWC License L.L.C. and WWC Holding Co, Inc., and N.E. Colorado Cellular, Inc. (December 16, 2002).

<sup>2</sup> See File Nos. 0000426517; 0000635239; 0000309185; 0000309191; 0000309179; 0000309502; 0000616447; 0000653987; 0000654024; 0000015947; 0000386747; 0000386833; 000059154; 0000017401; 0000017402; 0000017408; 0000017409; 0000017410; 0000263827; 0000264486; 0000264636; 0000262666.

<sup>3</sup> See Closed Auction of Licenses for Cellular Unserved Service Areas Scheduled for December 4, 2002, *DA 02-2217* (rel. September 16, 2002); Revised Inventory and Auction Start Date for Closed Auction of Licenses for Cellular Unserved Service Areas, *DA 02-2797* (rel. October 25, 2002).

<sup>4</sup> See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Amendment of Part 22 of the Commission's Rules to Provide for the Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, Ninth Report and Order, 11 FCC Rcd 14769, 14770, ¶ 2 (1996) ("*Competitive Bidding Ninth Report and Order*").

<sup>5</sup> See Closed Auction of Licenses for Cellular Unserved Area Service Areas Scheduled for February 12, 2003, *DA 02-3153* (rel. November 15, 2002).

On December 9, 2002, Western and NECC entered into the instant Settlement Agreement. Pursuant to the Settlement Agreement, the parties have requested that the Commission dismiss 12 of the pending applications in order to resolve the mutual exclusivity of the subject applications.<sup>6</sup>

The Branch has reviewed the record and finds that the Settlement Agreement complies with section 1.935 of the Commission's rules, and that it is in the public interest to approve the Settlement Agreement. The Division concludes that the Settlement Agreement will resolve the mutual exclusivity of the subject applications filed by the two parties as well as ensure cellular coverage to previously unserved areas. Accordingly, the Settlement Agreement is approved and the associated applications are dismissed with prejudice.<sup>7</sup>

Action by Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau.

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<sup>6</sup> See File Nos. 0000426517; 0000635239; 0000309185; 0000309191; 0000309179; 0000309502 ("Western Applications") and 0000616447; 0000017401; 0000017402; 0000017408; 0000017409; 0000017410 ("NECC Applications").

<sup>7</sup> The Auctions and Industry Analysis Division of the Wireless Telecommunications Bureau will release a separate public notice regarding the cancellation of the auction scheduled for February 12, 2003.