

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of:	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Centennial Michigan RSA 6 Cellular Group	)	
Centennial Michigan RSA 7 Cellular Group	)	
	)	
Request for Review of Universal Service	)	
Administrative Company Decision Pursuant to	)	
Section 54.722(a) of the Commission's Rules	)	

**ORDER**

**Adopted: June 10, 2009**

**Released: June 10, 2009**

By the Acting Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this order, we deny the request of Centennial Michigan RSA 6 Cellular Corp. and Centennial Michigan RSA 7 Cellular Corp. (Centennial) to reverse a decision by the Universal Service Administrative Company (USAC) to recover universal service high-cost support funds from Centennial.<sup>1</sup> As discussed below, USAC properly recovered high-cost funds that were disbursed prior to the Commission's approval of the rural incumbent local exchange carrier (LEC) service area redefinitions in Centennial's ETC service area.

**II. BACKGROUND**

2. Section 254(e) of the Communications Act of 1934, as amended (the Act), provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.”<sup>2</sup> Section 214(e)(2) provides that a state may designate carriers within its jurisdiction as eligible telecommunications carriers (ETC).<sup>3</sup> Under Commission rules, if a state files an annual certification with USAC and the Commission, then the carriers designated by the state are eligible to receive universal service support.<sup>4</sup> When designating an ETC, if a state commission

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<sup>1</sup> Centennial Michigan RSA 6 Cellular Corp., Centennial Michigan RSA 7 Cellular Corp. Request for Review of Universal Service Administrative Company Decision Pursuant to Section 54.722(a) of the Commission's Rules, CC Docket No. 96-45 (filed Sept. 29, 2005) (Centennial Request for Review); 47 C.F.R. § 54.722(a).

<sup>2</sup> 47 U.S.C. § 254(e).

<sup>3</sup> 47 U.S.C. § 214(e)(2).

<sup>4</sup> See 47 U.S.C. § 214(e)(6); 47 C.F.R. §§ 54.313(a), 54.314(a).

“proposes to define a service area served by a rural telephone company to be other than such company’s study area, the Commission will consider that proposed definition.”<sup>5</sup> The Commission delegated its authority to act on petitions to redefine rural service areas to the Wireline Competition Bureau (Bureau).<sup>6</sup> In response to receiving a redefinition request, the Bureau must issue a public notice,<sup>7</sup> and, within 90 days of its release may initiate a proceeding to consider the petition.<sup>8</sup> If the Bureau does not initiate a proceeding within 90 days, the state’s proposed redefinition takes effect.<sup>9</sup> If the Bureau initiates a proceeding, the redefinition of the service area does not become effective until both the Bureau and the state commission agree to the redefinition.<sup>10</sup>

3. NPI/Dobson Proceeding. On August 26, 2003, prior to granting Centennial’s application for ETC designation, the Michigan Public Service Commission (Michigan PSC), considered an application filed by NPI-Omnipoint Wireless, LLC (NPI) in which NPI sought ETC designation within the study areas of some of the same rural incumbent local exchange carriers (LECs) as Centennial.<sup>11</sup> The Michigan PSC designated NPI as an ETC, but declined to grant NPI’s request to establish a service area for purposes of determining universal service support that was coterminous with NPI’s licensed service area.<sup>12</sup> NPI had requested ETC status in each of the counties covered by its service area and the exchanges of the incumbent local exchange carriers (LEC) located in those counties, but the Michigan PSC instead decided to delineate service areas for purposes of universal service support by exchanges.<sup>13</sup> The Michigan PSC also rejected NPI’s request that the Michigan PSC petition the Commission for agreement with the service area redefinition, finding that the burden should be on NPI to obtain the necessary relief.<sup>14</sup> Subsequently, on June 17, 2004, NPI completed a sale of its assets to Dobson Cellular Systems, Inc. (Dobson) and Dobson began providing service within NPI’s licensed service area in

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<sup>5</sup> See 47 C.F.R. § 54.207(c); see also 47 U.S.C. § 214(e)(5) (“In the case of an area served by a rural telephone company, ‘service area’ means such company’s ‘study area’ unless and until the Commission and the States . . . establish a different definition of service area for such company.”).

<sup>6</sup> 47 C.F.R. § 54.207(e).

<sup>7</sup> 47 C.F.R. § 54.207(c)(2).

<sup>8</sup> 47 C.F.R. § 54.207(c)(3).

<sup>9</sup> 47 C.F.R. § 54.207(c)(3)(ii).

<sup>10</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 20 FCC Rcd 6371, 6403, para. 73 n.205 (2005) (*ETC Designation Order*); *Federal-State Joint Board on Universal Service, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6422, 6441, para. 42 (2004) (“Upon the effective date of the agreement of the Virginia Commission with our redefinition of the service area...our designation...shall take effect.”).

<sup>11</sup> See *NPI-Omnipoint Wireless, LLC*, Case No. U-13714, Opinion and Order, slip op. at 1 (Mich. PSC 2003) (*Michigan PSC NPI Order*). Both NPI’s and Centennial’s service areas contained CenturyTel Midwest-Michigan’s wire centers Au Gres (AUGRMIXJ), Omer (OMERMIXJ), Mecosta (MCSTMIXI), and Chippewa Lake (CHLKMIXI); CenturyTel Michigan’s wire centers Crystal (CRYSMIXI), Hale (HALEMIXA), Six Lakes (SXLSMIXI), Sand Lake Heights (SLKHMIXI), Vickerville (VCVLMIXI), and Whittemore (WHMRMIXI); Pigeon Tel Co’s wire center Twining (TWNGMI01); and Upper Peninsula Tel’s wire center Amble (AMBLMIAA).

<sup>12</sup> *Id.* at 8-9.

<sup>13</sup> *Id.* at 8.

<sup>14</sup> *Id.*

Michigan.<sup>15</sup> Dobson filed an application with the Michigan PSC seeking designation as an ETC throughout the wire centers wholly contained within the service area previously served by NPI, subject to the Commission's approval of the Michigan PSC's prior service area redefinition for NPI.<sup>16</sup> On September 21, 2004, the Michigan PSC granted Dobson's ETC application.<sup>17</sup> On October 26, 2004, Dobson filed a petition with the Commission seeking agreement with the Michigan PSC's service area redefinition.<sup>18</sup> The Bureau released a public notice seeking comment on Dobson's petition on November 3, 2004, and the redefinition was deemed approved and became effective on February 1, 2005.<sup>19</sup>

4. Centennial Request for Review. The Michigan PSC designated Centennial as an ETC on September 11, 2003.<sup>20</sup> As with NPI, the Michigan PSC delineated Centennial's service area for the purpose of universal support by exchanges.<sup>21</sup> Neither Centennial nor the Michigan PSC sought the Commission's agreement with the Michigan PSC's service area redefinition.<sup>22</sup>

5. On November 4, 2003, Centennial filed a petition with the Commission seeking waiver of the state certification deadline in section 54.314(d)(3) of the Commission's rules and asking that it receive high-cost universal service support as of the date of its ETC designation, September 11, 2003.<sup>23</sup> In that petition Centennial did not inform the Commission that the Michigan PSC had redefined Centennial's service area in the September 11, 2003 order.<sup>24</sup> Centennial's petition for waiver of the certification deadline was granted on August 19, 2004.<sup>25</sup>

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<sup>15</sup> See *Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier*, Case No. U-14257, Order, slip op. at 1 (Mich. PSC 2004) (*Michigan PSC Dobson Order*).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See *Dobson Cellular Systems, Inc. Petition for Agreement With Redefinition of Service Areas of Certain Rural Incumbent Local Exchange Carriers in the State of Michigan Pursuant to 47 C.F.R. § 54.207(c)*, CC Docket No. 96-45 (filed Oct. 26, 2004).

<sup>19</sup> See *The Wireline Competition Bureau Seeks Comment on Petition to Redefine Rural Telephone Company Service Areas in Michigan*, CC Docket No. 96-45, Public Notice, 19 FCC Rcd 21987 (Wireline Comp. Bur. 2004). The Bureau did not initiate a proceeding or act on the petition within 90 days of the public notice; therefore the redefinition was deemed approved pursuant to section 54.207(c)(3)(ii) of the Commission's rules. 47 C.F.R. § 54.207(c)(3)(ii).

<sup>20</sup> See *Michiana Metronet, Inc., Centennial Michigan RSA 6 Cellular Corp., and Centennial Michigan RSA 7 Cellular Corp.*, Case No. U-13571, Opinion and Order, 228 P.U.R.4th 537 (Mich. PSC 2003) (*Michigan PSC Centennial Order*).

<sup>21</sup> *Id.*

<sup>22</sup> Centennial Request for Review at 3.

<sup>23</sup> See *Michiana Metronet Inc., Centennial Michigan RSA 6 Cellular Corp., Centennial Michigan RSA 7 Cellular Corp. Petition for Waiver of Section 54.314(d)(3) of the Commission's Rules*, CC Docket No. 96-45 (filed Nov. 4, 2003).

<sup>24</sup> *Id.*

<sup>25</sup> *The Telecommunications Access Policy Division of the Wireline Competition Bureau Grants Petitions Requesting Waiver of Various Filing Deadlines Related to the Universal Service Program*, CC Docket No. 96-45, Public Notice, 19 FCC Rcd 16121 (Wireline Comp. Bur. 2004).

6. On August 1, 2005, Centennial received a remittance statement from USAC reflecting negative numbers as Centennial's support amount for June 2005.<sup>26</sup> Upon contacting USAC, Centennial was informed that USAC offset the high-cost support Centennial would have received for June 2005 by the amount it had received for the areas subject to the NPI/Dobson service area redefinition prior to the effective date of that redefinition, February 1, 2005.<sup>27</sup>

7. On September 29, 2005, Centennial filed a request for review of USAC's adjustment of its high-cost support.<sup>28</sup> Centennial argues that USAC's action lacked notice and transparency regarding the calculation of the recovered funds.<sup>29</sup> Additionally, Centennial asserts that USAC's action to recover the funds involved policy questions that should be resolved by the Commission, not USAC.<sup>30</sup>

### III. DISCUSSION

8. We deny Centennial's request to reverse USAC's decision. Centennial was not entitled to receive high-cost support for service areas prior to the effective date of their redefinition. As Centennial admitted in its petition, neither Centennial nor the Michigan PSC sought redefinition of any rural incumbent LEC study areas in connection with the Michigan PSC's order designating Centennial as an ETC.<sup>31</sup> Centennial argues that section 54.307(d) of the Commission's rules "clearly evinces a Commission policy favoring the provision of USF support to ETCs for a period beginning with the date of the state commission's ETC designation."<sup>32</sup> Section 54.307(d) provides a mechanism by which a properly-designated ETC may receive funds even if the date of its designation would not allow it to file required data pursuant to the schedule outlined in section 54.307(c).<sup>33</sup> Centennial's ETC designation was not effective on the date of the state commission's order because the service area redefinition included in that order was not yet effective pursuant to section 54.207 of the Commission's rules.<sup>34</sup>

9. Centennial relies on the Commission's *Virginia Cellular Order* for the proposition "that issues regarding study area redefinition should not stand in the way of prompt receipt by an ETC of authorized universal service support."<sup>35</sup> The language cited by Centennial, however, expressly states that the Commission adopted the service area redefinition procedures in section 54.207 of its rules to minimize delay; the Commission did not say that an ETC could ignore those requirements and still

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<sup>26</sup> Centennial Request for Review at 4 and Exhibit B.

<sup>27</sup> *Id.* at 4-5.

<sup>28</sup> *See id.* at 10.

<sup>29</sup> *Id.* at 5.

<sup>30</sup> *Id.* at 8-9.

<sup>31</sup> Centennial Request for Review at 3.

<sup>32</sup> *Id.* at 4.

<sup>33</sup> 47 C.F.R. §§ 54.307(c), (d).

<sup>34</sup> 47 C.F.R. § 54.207.

<sup>35</sup> Centennial Request for Review at 3 (citing *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum and Order, 19 FCC Rcd 1563, 1583, para. 45 n.135 (2004) (*Virginia Cellular Order*)).

receive support.<sup>36</sup> In fact, in that order the Commission made clear that an ETC designation is not effective until any required service area redefinitions have been approved by both the Commission and the relevant state commission.<sup>37</sup>

10. Given that Centennial was not entitled to receive support prior to the effective date of the service area redefinitions, USAC acted properly in recovering funds that were improperly disbursed to Centennial in the affected areas for the period prior to February 1, 2005. As discussed above, although the Commission did not consider a request for redefinition from Centennial, it did agree to the redefinition of the relevant service areas by concurring with the Michigan PSC's redefinition in Dobson's request.<sup>38</sup> The effective date of Dobson's service area redefinition was February 1, 2005. Once USAC became aware that it had improperly disbursed funds to Centennial in the area affected by the redefinition prior to that date, it acted properly within its authority to seek recovery of the improperly disbursed funds. We therefore deny Centennial's request for review.

#### IV. ORDERING CLAUSE

11. ACCORDINGLY, IT IS ORDERED that, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), the request for review filed by Centennial Michigan RSA 6 Cellular Group and Centennial Michigan RSA 7 Cellular Group on September 29, 2005, IS DENIED.

12. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. §§ 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach  
Acting Chief  
Wireline Competition Bureau

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<sup>36</sup> *Virginia Cellular Order*, 19 FCC Rcd at 1583, para. 45 n.135.

<sup>37</sup> *Id.* at 1584, para. 45 (“Upon the effective date of the agreement of the Virginia Commission with our redefinition of the service areas of Shenandoah and MGW, our designation of Virginia Cellular as an ETC for these areas as set forth herein shall take effect.”).

<sup>38</sup> *See supra* para. 3.