

**BEFORE THE
MISSISSIPPI PUBLIC SERVICE COMMISSION**

**APPLICATION OF
CELLULAR SOUTH LICENSES, INC.
FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
UNDER 47 U.S.C. 214(E)(2)**

DOCKET NO. 01-UA-0451

**ORDER DESIGNATING CELLULAR SOUTH LICENSES, INC.
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

THIS DAY this cause came on for consideration before the Public Service Commission of the State of Mississippi ("the Commission") on Application of Cellular South Licenses, Inc. ("CSL"), a wholly owned subsidiary of Telepak, Inc. for designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(2) of the Telecommunications Act of 1934, as amended ("Act"), 47 U.S.C. § 214(e)(2), and Section 54.201 of the Federal Communications Commission's ("FCC") rules, 47 C.F.R. § 54.201. In this proceeding, CSL seeks designation as an ETC in those geographic areas in Mississippi certificated to BellSouth Telecommunications, Inc. ("BST"). CSL has requested, in its Application that it be designated as eligible to receive all available support from the federal Universal Service Fund ("USF") including, but not limited to, support for rural, insular and high cost areas and low income customers.

Due and proper notice of the filing of the Application was given in the manner required by law, including publication of a notice to the public on Monday, July 9, 2001, in the *Clarion Ledger*, a newspaper published at the seat of government at Jackson, Hinds County, Mississippi. Proof of Publication has been filed with the Commission. A "Notice of Filing" was attached to the Application as Exhibit "B" and a copy of this Notice of Filing was mailed by U. S. Mail,

postage prepaid, to all certificated providers of telecommunication services in the State of Mississippi, all as shown by the Affidavit on file among the papers in this cause.

Motions to intervene were timely filed by several independent telephone companies in the State of Mississippi, said companies being referred to collectively hereinbelow as the "Rural Telephone Companies", and by Advanced Tel., Inc., a competitive local exchange carrier holding a certificate of public convenience and necessity to furnish local and long distance telephone services within the State of Mississippi.

The Rural Telephone Companies intervened in the case in order to "... respond to the evidence and information provided by other parties addressing the issue of whether an additional ETC should be designated in the rural service area served by each Rural Independent."

On September 4, 2001, CSL filed a motion for bifurcation. Specifically, CSL requested the Commission to bifurcate the issue of whether CSL should be designated as an ETC in those geographic service areas certificated to BST in the State of Mississippi from the issue of whether CSL should be designated as an ETC in the geographic areas certificated to rural telephone companies in Mississippi, including the Rural Telephone Companies who intervened in this case. At the Commission's September docket call held on September 4, 2001, the attorneys for the Rural Telephone Companies announced that the Rural Telephone Companies did not object to a bifurcation of the issues in the case as sought by CSL in its motion for bifurcation and further advised the Commission that they did not object to the Commission entering an Order designating CSL as an ETC in the geographic area in Mississippi served by BST. It was also announced at the September 4, 2001 docket call that Advanced Tel, Inc. did not object to a bifurcation of the issues in this case as sought by CSL's motion.

On September 19, 2001, the Commission entered its order bifurcating the issues in this case in the manner requested by CSL in its motion. In said order, this Commission continued this case as to the issue of CSL's ETC status in the geographic area served by the rural telephone companies in Mississippi. The Order also provides, however, that an order designating CSL as an ETC can be entered in this case during the regular September 2001 term of this Commission as to the geographic areas in Mississippi certificated to BST, if the Commission determines that such an Order should be issued.

By letter dated September 19, 2001, Advanced Tel., Inc. confirmed to this Commission that it had been advised that the Public Utilities Staff and the Commission anticipated additional proceedings in this case during the month of September and that a final order might be entered during the month of September in this case. Advanced Tel., Inc., in its letter, further advised the Public Utilities Staff and this Commission that it "does not plan to be present at, or participate in any proceeding in this matter and will not submit prefiled testimony. Accordingly, we have no objection to the Commission conducting additional proceedings at a time and place agreeable to the other parties in this case."

On October 16, 2001, BellSouth Telecommunications, Inc. ("BST") filed a Motion to Intervene Out of Time and, on the same day, an Order was entered by the Commission granting the intervention. Said Order authorizing the intervention was entered prior to the time CSL had received notice of the filing of said Motion to Intervene.

On October 17, 2001, the day following the Order authorizing BST to intervene in this case, representatives of CSL met with the representatives of the Public Utilities Staff and

furnished the , in writing, information which had been requested by the Staff. Representatives of BST were present at said meeting.

On October 18, 2001, CSL filed its Motion for Reconsideration of the Commission's Order of October 16, 2001 allowing BST to intervene in this case. On October 29, 2001, BST filed its Response to CSL's Motion for Reconsideration. This Commission set arguments on the Motion for Tuesday, November 6, 2001 and, on that day, attorneys for CSL and BST appeared before the Commission and presented arguments in favor of their respective positions. This Commission took said matter under advisement and, on November 13, 2001, entered its Order withdrawing its previous Order of October 16, 2001. In its Order of November 13, 2001, this Commission authorized BST's intervention, but only for the limited purpose of receiving copies of any and all notices, orders or other documents filed in this case. Said Order provides that BST will not be permitted to participate as an interested party with the right to produce and cross examine the witnesses, to seek data requests or other discovery or to file briefs and testimony.

On November 29, 2001, pursuant to a previous request from the Public Utilities Staff, CSL filed its Lifeline rate with the Commission for informational purposes. Said tariff provides that it will become effective immediately upon the Mississippi Public Service Commission designating CSL an Eligible Telecommunications Carrier for Universal Service Fund.

On November 30, 2001, CSL filed with this Commission additional direct testimony of Victor H. (Hu) Meena, Jr. in support of CSL's position in this case.

The Commission, having fully considered the Application and exhibits filed thereto, the lifeline rates filed by CSL with the Commission, the direct prefiled testimony of Victor H. (Hu) Meena, Jr. and the exhibits and information submitted therewith, and upon recommendation of

the after its review, finds that CSL's application is well taken and that an order should be entered designating it an Eligible Telecommunications Carrier for all geographic areas in the State of Mississippi certificated to BST. The Commission further finds as follows:

I.

CSL is a Mississippi corporation and is a wholly owned subsidiary of Telepak, Inc. CSL holds FCC licenses to provide cellular and PCS wireless communications services throughout the State of Mississippi. The cellular and PCS service furnished pursuant to these licenses are provided by Telepak, Inc., also a Mississippi Corporation, under the Service Mark Cellular South Cellular Service.

CSL is a commercial mobile radio station provider pursuant to the definition of "mobile service" contain in 47 U.S.C. § 153(27). CSL provides interstate telecommunications services as defined in 47 U.S.C. § 254(d) and 47 C.F.R. § 54.703(a).

CSL now provides, or will soon provide, wireless service throughout the entire state of Mississippi. A map depicting CSL's service area in Mississippi is attached to CSL's Application heretofore filed in this cause.

Federal high cost loop funding will permit CSL to rapidly expand its facilities-based network and complete its build out in the state's most remote areas. By obtaining designation as an ETC in the geographic areas in Mississippi certificated to BST, CSL will be able to improve the quality of basic telephone service to its customers and introduce advanced services to residential as well as business customers in rural areas much sooner than would be possible without such designation and funding.

II.

Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide that carriers designated as ETCs shall, throughout their service area, (1) offer the services that are supported by federal universal service support mechanisms either using their own facilities or a combination of their own facilities and resale of another carrier's services, and (2) advertise the availability of such services and the charges therefore using media of general distribution. 47 C.F.R. § 54.201(d). The services which are supported by the federal USF are: (1) voice grade access to the public switched network, (2) local usage, (3) dual tone multi-frequency ("DTMF") signaling or its functional equivalent, (4) single-party service or its functional equivalent, (5) access to emergency services, (6) access to operator services, (7) access to interexchange service, (8) access to directory assistance, and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a). This Commission finds that CSL now offers all of these services, as described in detail in the application and in the prefiled testimony of Mr. Meena.

CSL will also offer Lifeline service as defined in Section 54.401 of the FCC rules immediately upon grant of this application for ETC status. CSL's lifeline service rate has been filed with this Commission.

III.

The residents of Mississippi will benefit from the availability of advanced telecommunications services and access to a competitive telecommunications services provider. Currently, the state ranks near the bottom of the nation in overall telephone penetration and this

Commission finds that there are good reasons to try new approaches and make available service offerings that may appeal both to those without any basic telephone service and to those who desire a different complement of services than is currently available.

As a wireless carrier licensed to serve the entire state, CSL is capable of providing a wide range of telecommunications services to any resident of the state. CSL seeks to offer citizens of Mississippi its service either as a supplement to, or as an alternative to, traditional wireline service. In order for CSL's network to expand and introduce advanced digital services into underserved areas, federal high cost loop funding must be provided so that infrastructure needed to serve remote areas can be fully deployed and competitive service can be delivered.

By granting ETC status to CSL, this Commission will expedite the provision of high quality, competitive telephone service to everyone in the state, including people living in remote areas. CSL's offering will provide a meaningful choice for many persons who have access to only one service provider.

IV.

The Commission finds that CSL is a common carrier that meets the requirements of Section 214(e)(1) (A) and (B) of the Act and further finds that designation of CSL as an ETC is consistent with the public interest.

One of the principal goals of the Telecommunications Act of 1996 is to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." See, P.L. 104-104, 110 Stat. 56 (1996). Competition drives down prices and promotes the development of advanced communications as carriers vie for a

consumer's business. In a competitive market, rural consumers will be able to choose services from a carrier that best meets their communications needs. A mobile communications package will be an additional choice for consumers. By designating CSL as an ETC, the Commission will foster competition and provide a meaningful choice of service providers and service alternatives to Mississippi residents.

The failure to designate CSL as an ETC would deprive consumers of the benefits of competition, including increased choices, higher quality services, and lower rates. Without a choice of service providers, the consumer is unable to select a provider based on service quality, service availability, and rates. In addition, without competition the incumbent provider has little or no incentive to introduce new, innovative, or advanced service offerings.

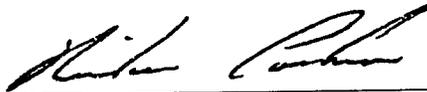
CSL is a qualified competitive telecommunications carrier, and the designation of CSL as an ETC in the geographic areas in Mississippi certificated to BST consistent with the public interest.

IT IS THEREFORE, ORDERED AND ADJUDGED that Cellular South Licenses, Inc. should be and it is hereby designated as an Eligible Telecommunications Carrier in all of the geographic areas in Mississippi certificated by this Commission to BellSouth Telecommunications, Inc.

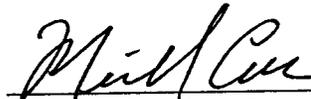
Chairman Nielsen Cochran votes ; Vice Chairman Michael Callahan votes 
and Commissioner Bo Robinson votes 

SO ORDERED this the 15th day of December, 2001.

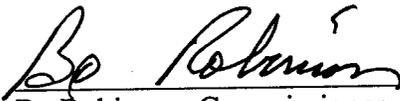
MISSISSIPPI PUBLIC SERVICE COMMISSION



Nielsen Cochran, Chairman



Michael Callahan, Vice Chairman

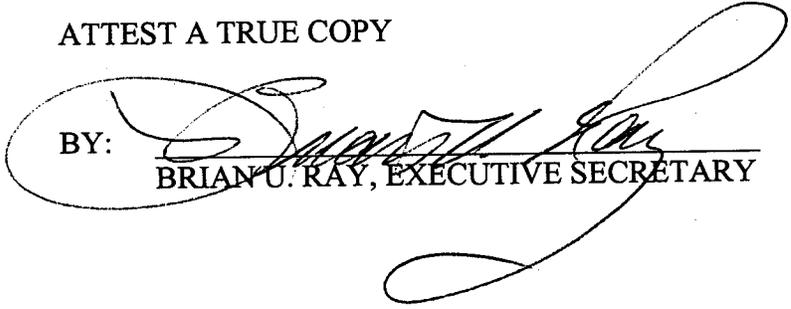


Bo Robinson, Commissioner



ATTEST A TRUE COPY

BY:



BRIAN U. RAY, EXECUTIVE SECRETARY