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RECEIVED

JAN 12 2007

PUBLIC SERVICE  
COMMISSION

January 12, 2007

**VIA HAND DELIVERY**

Hon. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
P. O. Box 615  
Frankfort, KY 40601

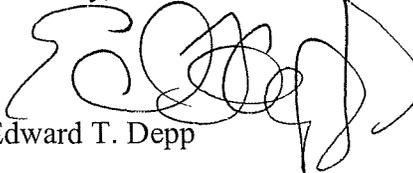
**Re: *Kentucky Public Service Commission Case Nos.***  
**1) 2006-00215; 2) 2006-00217; 3) 2006-00218; 4) 2006-00220;**  
**5) 2006-00252; 6) 2006-00255; 7) 2006-00288; 8) 2006-00292;**  
**9) 2006-00294; 10) 2006-00296; 11) 2006-00298; 12) 2006-00300**

Dear Ms. O'Donnell:

I have enclosed for filing in the above styled cases the original and eleven (11) copies of the RLEC's Motion for Clarification of Single Issue. Please file-stamp one copy and return it to our delivery person.

Thank you, and if you have any questions, please call me.

Sincerely,



Edward T. Depp

ETD/lb  
Enclosures

Hon. Beth O'Donnell

January 12, 2006

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cc: John N. Hughes, Esq.  
Mary Beth Naumann, Esq.  
Bhogan M. Modi  
Mark R. Overstreet, Esq.  
Tom Sams  
Philip R. Schenkenberg, Esq.  
Jeff Yost, Esq.  
Amy E. Dougherty, Esq.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matters of:

JAN 12 2007

PUBLIC SERVICE  
COMMISSION

Petition of Ballard Rural Telephone Cooperative )  
Corporation, Inc. for Arbitration of Certain Terms )  
and Conditions of Proposed Interconnection )  
Agreement with American Cellular Corporation )  
f/k/a ACC Kentucky License LLC, )  
Pursuant to the Communications Act of 1934, )  
as Amended by the Telecommunications )  
Act of 1996 )

Case No. 2006-00215

Petition of Brandenburg Telephone Company )  
For Arbitration of Certain Terms and )  
Conditions of Proposed Interconnection )  
Agreement with Cellco Partnership d/b/a )  
Verizon Wireless, GTE Wireless of the )  
Midwest Incorporated d/b/a Verizon Wireless, and )  
Kentucky RSA No. 1 Partnership d/b/a )  
Verizon Wireless, Pursuant To The )  
Communications Act of 1934, As Amended )  
by the Telecommunications Act of 1996 )

Case No. 2006-00288

Petition of Duo County Telephone Cooperative )  
Corporation, Inc. for Arbitration of Certain )  
Terms and Conditions of Proposed Interconnection )  
Agreement with Cellco Partnership d/b/a )  
Verizon Wireless, GTE Wireless of the Midwest )  
Incorporated d/b/a, and Kentucky RSA No. 1 )  
Partnership d/b/a Verizon Wireless, Pursuant to )  
the Communications Act of 1934, as amended )  
by the Telecommunications Act of 1996 )

Case No. 2006-00217

Petition of Foothills Rural Telephone Cooperative )  
Corporation, Inc., for Arbitration of Certain Terms )  
and Conditions of Proposed Interconnection )  
Agreement with Cellco Partnership d/b/a Verizon )  
Wireless, GTE Wireless of the Midwest )  
Incorporated d/b/a Verizon Wireless, and Kentucky )  
RSA No. 1 Partnership d/b/a Verizon Wireless, )  
Pursuant to the Communications Act of 1934, )  
as Amended by the Telecommunications )  
Act of 1996 )

Case No. 2006-00292

Petition of Gearheart Communications Inc. d/b/a )  
Coalfields Telephone Company, for Arbitration of )  
Certain Terms and Conditions of Proposed )  
Interconnection Agreement with Cellco Partnership )  
d/b/a Verizon Wireless, GTE Wireless of the )  
Midwest Incorporated d/b/a Verizon Wireless, and ) Case No. 2006-00294  
Kentucky RSA No. 1 Partnership d/v/a Verizon )  
Wireless, Pursuant to the Communications Act of )  
1934, as Amended by the Telecommunications )  
Act of 1996 )

Petition of Logan Telephone Cooperative, Inc. )  
For Arbitration of Certain Terms and )  
Conditions of Proposed Interconnection )  
Agreement with American Cellular Corporation ) Case No. 2006-00218  
f/k/a ACC Kentucky License LLC, Pursuant to )  
the Communications Act of 1934, as Amended )  
by the Telecommunications Act of 1996 )

Petition of Mountain Rural Telephone Cooperative )  
Corporation, Inc., for Arbitration of Certain Terms )  
and Conditions of Proposed Interconnection )  
Agreement with Cellco Partnership d/b/a Verizon )  
Wireless, GTE Wireless of the Midwest ) Case No.2006-00296  
Incorporated d/b/a Verizon Wireless, and Kentucky )  
RSA No. 1 Partnership d/b/a Verizon Wireless, )  
Pursuant to the Communications Act of 1934, )  
as Amended by the Telecommunications )  
Act of 1996 )

Petition of North Central Telephone Cooperative )  
Corporation, for Arbitration of Certain Terms and )  
Conditions of Proposed Interconnection Agreement )  
with American Cellular Corporation f/k/a ACC )  
Kentucky License LLC, Pursuant to the ) Case No. 2006-00252  
Communications Act of 1934, as Amended by )  
The Telecommunications Act of 1996 )

Petition of Peoples Rural Telephone Cooperative )  
for Arbitration of Certain Terms and Conditions )  
of Proposed Interconnection Agreement with )  
Cellco Partnership d/b/a Verizon Wireless, )  
GTE Wireless of the Midwest Incorporated ) Case No. 2006-00298  
d/v/a Verizon Wireless, and Kentucky RSA )  
No. 1 Partnership d/b/a Verizon Wireless )  
Pursuant to the Communications Act of )  
1934, as Amended by the Telecommunications )

Act of 1996	)	
Petition of South Central Rural Telephone	)	
Cooperative Corporation, Inc. for Arbitration	)	
Of Certain Terms and Conditions of Proposed	)	
Interconnection Agreement with Cellco	)	
Partnership d/b/a Verizon Wireless, GTE	)	
Wireless of the Midwest Incorporated d/b/a	)	Case No. 2006-00255
Verizon Wireless, and Kentucky RSA No. 1	)	
Partnership d/b/a Verizon Wireless,	)	
Pursuant to the communications Act of 1934,	)	
As Amended by the Telecommunications	)	
Act of 1996	)	
Petition of Thacker-Grigsby Telephone Company,	)	
Inc., for Arbitration of Certain Terms and	)	
Conditions of Proposed Interconnection Agreement	)	
with Cellco Partnership d/b/a Verizon Wireless,	)	
GTE Wireless of the Midwest Incorporated d/b/a	)	
Verizon Wireless, and Kentucky RSA No. 1	)	Case No. 2006-00300
Partnership d/b/a Verizon Wireless	)	
Pursuant to the Communications Act of 1934,	)	
as Amended by the Telecommunications	)	
Act of 1996	)	
Petition of West Kentucky Rural Telephone	)	
Cooperative Corporation, Inc. for	)	
Arbitration of Certain Terms and	)	
Conditions of Proposed Interconnection	)	
Agreement with American Cellular Corporation	)	Case No. 2006-00220
f/k/a ACC Kentucky License LLC,	)	
Pursuant to the Communications Act of 1934	)	
as Amended by the Telecommunications	)	
Act of 1996	)	

## MOTION FOR CLARIFICATION OF SINGLE ISSUE

Petitioners Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard"); Brandenburg Telephone Company ("Brandenburg"); Duo County Telephone Cooperative Corporation, Inc. ("Duo County"); Foothills Rural Telephone Cooperative Corporation, Inc. ("Foothills"); Gearheart Communications Inc. ("Gearheart"); Logan Telephone Cooperative, Inc. ("Logan"); Mountain Rural Telephone Cooperative Corporation, Inc. ("Mountain"); North Central Telephone Cooperative Corporation ("North Central"); Peoples Rural Telephone Cooperative, Inc. ("Peoples"); South Central Rural Telephone Cooperative Corporation, Inc. ("South Central"); Thacker-Grigsby Telephone Company, Inc. ("Thacker-Grigsby"); and West Kentucky Rural Telephone Cooperative Corporation, Inc. ("West Kentucky") (collectively, the "Petitioners" or "RLECs"), pursuant to KRS 278.400, hereby submit their motion for clarification of the December 22, 2006 order (the "Order") of the Public Service Commission of the Commonwealth of Kentucky (the "Commission") and state as follows.

### **I. Introduction.**

The RLECs seek clarification from the Commission regarding the single issue (Issue 11) of whether they may elect to utilize the Commission-established proxy reciprocal compensation rates in lieu of conducting a TELRIC study. Issue 11 posed the question, "If the RLECs fail to demonstrate rates that meet the requirements of 47 U.S.C. § 252(d)(2)(A) and the FCC's regulations, what rate should the Commission establish for each RLEC?" (Order at 15.)

The RLECs recognize that the Order's third ordering paragraph requires the RLECs to "submit their relevant TELRIC studies" to the Commission within ninety (90) days of the Order's date. The overarching federal scheme for the establishment of reciprocal compensation rates contemplates, however, that proxy rates may be used in lieu of rates developed pursuant to a formal

TELRIC study. *See* 47 C.F.R. § 51.705. Moreover, the conduct and evaluation of TELRIC studies will result in additional, expensive and protracted legal proceedings that – for some of the RLECs – would outweigh any marginal benefit to the Commission or the parties that the performance of such studies could provide.<sup>1</sup> Thus, as a matter of judicial and economic efficiency, the RLECs request that the Commission clarify that its Order permits the RLECs to elect whether to: (i) use the applicable proxy rate; or (ii) file a TELRIC study for review and approval by the Commission.

## **II. Argument & Analysis.**

The Order's third ordering paragraph provides that "[w]ithin 90 days of the date of this Order, the RLECs must submit their relevant TELRIC studies as specified herein." (Order at 24 (emphasis added).) As specified therein, the Order provides that the Commission is bound by 47 C.F.R. § 51.705(a), which provides:

- (a) An incumbent LEC's rates for transport and termination of telecommunications traffic shall be established, at the election of the state commission, on the basis of:
  - (1) The forward-looking economic costs of such offerings, using a cost study pursuant to §§ 51.505 and 51.511;
  - (2) Default proxies, as provided in § 51.707; or
  - (3) A bill-and-keep arrangement, as provided in § 51.713.

*Id.* The Order then notes that "[t]he Commission will require that these [proxy] rates be used until TELRIC cost studies are filed with and approved by the Commission." (Order at 17.) Because the express language of the federal regulation quoted above does not require reciprocal compensation rates to be based upon formal TELRIC studies, the RLECs seek clarification regarding whether the

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<sup>1</sup> The RLECs are currently evaluating this issue to determine the most efficient means of completing TELRIC studies and to determine, on an individual basis, whether the costs of such a study will outweigh any benefits it may bring for the particular RLEC.

Commission intended that the RLECs must conduct TELRIC studies or whether, as the federal scheme contemplates, TELRIC studies are optional.

This question is particularly salient in light of the extensive resources that will be required if TELRIC studies are conducted and filed with the Commission. At the prehearing conference in these arbitrations, the RLECs noted that the conduct and defense of TELRIC studies would be very costly. (*See* September 14, 2006 Intra-Agency Memorandum at 1; *see also* September 21, 2006 Ltr. from Edward T. Depp.) In addition to these substantial monetary costs, the review and approval of TELRIC studies would thrust the Commission and the parties back into legal dispute for easily another year, and quite possibly the entire two (2) year period of the agreement, if not longer.<sup>2</sup> The fact-intensive nature of TELRIC studies would also make it significantly more difficult (if not impossible) for the Commission to conduct TELRIC proceedings in the essentially consolidated manner that these arbitration cases have, thus far, been conducted. Instead, the Commission would be conducting twelve truly separate proceedings: one per RLEC. In short, administrative and private monetary costs incurred will be extraordinary if all twelve RLECs are required to conduct TELRIC studies and submit them for review and approval by the Commission.

And, in exchange for these extraordinary costs, the new rate may only change by a fraction of a cent. Even then, the Order contemplates that such rates will be effective on a prospective basis only. Of course, by the time such a study is completed, reviewed, and approved, the two-year term of the interconnection agreement could be nearly or already expired, thereby severely mitigating (if not eviscerating) the impact that any new TELRIC rate would create. Moreover, given the FCC's ongoing consideration of the intercarrier compensation regime<sup>3</sup>, it is quite possible that the study requirement could be vacated altogether or (at least) substantially modified before the RLECs' own

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<sup>2</sup> This has been the typical timeframe for such proceedings in Kentucky and at other state public utility commissions.

<sup>3</sup> *See In the Matter of Developing a Unified Intercarrier Compensation Scheme*, CC Docket No. 01-92.

studies are complete, thereby mooted the value of the TELRIC studies themselves. Granted, the FCC's ultimate course of action on the intercarrier compensation scheme is left to speculation at this time, but it nevertheless underscores yet one more reason why the impact of TELRIC studies for some of the RLECs should be devalued. For some of the RLECs, it is quite possible that there will be simply very little (if anything) to gain by conducting TELRIC studies.

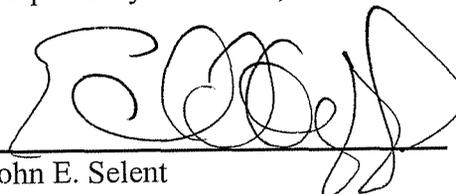
### **III. Conclusion.**

In the end, each of the RLECs endeavors to provide the highest-quality telecommunications services at the lowest reasonable costs, and the Order goes a long way to ensuring that they may continue meeting that goal. For these reasons, the RLECs have sought clarification of only this single issue of whether they should be required to conduct expensive TELRIC studies and defend them in extended proceedings.

For certain RLECs, the costs simply outweigh the benefits. Rather than conducting and defending a TELRIC study, then, these RLECs might prefer to abide by the applicable Commission-ordered proxy rate set forth in the Order. This approach does not harm the CMRS Providers (who advocated the rates adopted by the Commission), while it ensures that those RLECs who believe their transport and termination costs are significantly higher than the proxy rates may prove their entitlement to such higher rates through an appropriate TELRIC study. Accordingly, the Commission should clarify that its language requiring the submission of TELRIC studies means that

the RLECs may elect whether to: (i) use the applicable proxy rate set forth in the Order; or (ii) file a TELRIC study for review and approval by the Commission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John E. Selent", written over a horizontal line.

John E. Selent

Holly C. Wallace

Edward T. Depp

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by first-class United States mail and electronic mail on this 12th day of January, 2007, to the following individual(s):

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