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**FEDERAL COMMUNICATIONS COMMISSION**

[CC Docket No. 96-45; DA 04-998]

**Parties Are Invited to Comment on Supplemented Petitions for Eligible Telecommunications Carrier Designations**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; solicitation of comments.

**SUMMARY:** In this document, interested parties are invited to comment on supplemented petitions by certain wireless telecommunications carriers seeking designation as eligible telecommunications carriers (ETCs) pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act).

**DATES:** Comments are due on or before May 7, 2004. Reply comments are due on or before May 14, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See

**SUPPLEMENTARY INFORMATION** for further filing instructions.

**FOR FURTHER INFORMATION CONTACT:** Thomas Buckley, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400, TTY (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of public notice, CC Docket No. 96-45, DA 04-998, released April 12, 2004. On January 22, 2004, the Commission released the *Virginia Cellular Order*, 69 FR 8958, February 26, 2004, which granted in part and denied in part, the petition of Virginia Cellular, LLC to be designated as an ETC throughout its licensed service area in the Commonwealth of Virginia. In that Order, the Commission utilized a new public interest analysis for ETC designations and imposed ongoing conditions and reporting requirements on Virginia Cellular. The Commission further stated that the framework enunciated in the *Virginia Cellular Order* would apply to all ETC designations for rural areas pending further action by the Commission.

Following the framework established in the *Virginia Cellular Order*, on April 12, 2004, the Commission released the *Highland Cellular Order*, FCC 04-37, April 12, 2004, which granted in part and denied in part the petition of Highland Cellular, Inc. to be designated as an ETC in portions of its licensed service area in the Commonwealth of Virginia. In the *Highland Cellular Order*, the Commission concluded, among other things, that a telephone company in a rural study area may not be designated as a competitive ETC below the wire center level.

In light of the new standards and requirements set forth in the *Virginia Cellular Order*, certain wireless telecommunications carriers have supplemented previously filed ETC petitions. These carriers are listed in the attached appendix. Interested parties are invited to comment on these supplemented petitions.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments as follows: comments are due on or before May 7, 2004, and reply comments are due on or before May 14, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Parties should clearly specify in the caption of all filings the petition(s) and application(s) to which the filing relates.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form

<your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5-B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054.

Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure.

Federal Communications Commission.

**Anita Cheng,**

*Assistant Chief, Wireline Competition Bureau, Telecommunications Access Policy Division.*

**Appendix**

ETC Petitions <sup>1</sup>	Date petition filed	Date supplement filed
Guam Cellular and Paging, Inc. d/b/a Saipancell (CNMI) .....	2/19/02	3/9/04
NCPRI, Inc. d/b/a Nextel Partners (NY) .....	4/03/03	3/24/04

ETC Petitions <sup>1</sup>	Date petition filed	Date supplement filed
NCPN, Inc. d/b/a Nextel Partners (PA) .....	4/03/03	3.24.04
NCPN, Inc. d/b/a Nextel Partners (AL) .....	4/04/03	3/24/04
ALLTEL Communications, Inc. (AL)* .....	4/14/03	3/1/04
ALLTEL Communications, Inc. (VA)* .....	4/14/03	3/1/04
NCPN, Inc. d/b/a Nextel Partners (VA) .....	4/23/03	3/24/04
Advantage Cellular Systems, Inc. (TN) .....	5/9/03	2/17/04
NCPN, Inc. d/b/a Nextel Partners (TN) .....	6/12/03	3/24/04
NCPN, Inc. d/b/a Nextel Partners (GA) .....	7/10/03	3/24/04
ALLTEL Communications, Inc. (GA)* .....	8/26/03	3/1/04
ALLTEL Communications, Inc. (NC)* .....	8/26/03	3/1/04
NCPN, Inc. d/b/a Nextel Partners (FL) .....	9/16/03	3/24/04
ALLTEL Communications, Inc. (FL)* .....	11/20/03	3/1/04

<sup>1</sup> This Public Notice only applies to ALLTEL's pending petitions with respect to ETC designations in areas served by non-rural carriers. ALLTEL previously bifurcated its pending ETC petitions into separate requests for ETC designation in non-rural and rural service areas.

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## FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 04-111; FCC 04-38]

### Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of inquiry.

**SUMMARY:** This document solicits data and information on the status of competition in the CMRS industry for our Ninth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services (Ninth Report). The Ninth Report will provide an assessment of the current state of competition and changes in the CMRS competitive environment.

**DATES:** Comments are due on or before April 26, 2004, and reply comments are due on or before May 10, 2004.

**ADDRESSES:** All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties also should send four (4) paper copies of their filings to Rachel Kazan, Federal Communications Commission, Room 6126, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for comment and reply comment filing instructions.

**FOR FURTHER INFORMATION CONTACT:** Rachel Kazan at (202) 418-0651 or Susan Singer at (202) 418-1340.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Notice of Inquiry* released on March 24, 2004. The complete text of the *Notice of Inquiry*,

including statements, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Notice of Inquiry* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### I. Introduction

1. In 1993, Congress created the statutory classification of Commercial Mobile Services to promote the consistent regulation of similar mobile radio services. At the same time, Congress established the promotion of competition as a fundamental goal for Commercial Mobile Radio Services (CMRS) policy formation and regulation. To measure progress toward this goal, Congress required the Commission to submit annual reports (*CMRS Reports*) that analyze competitive conditions in the industry. The *Notice of Inquiry (NOI)* solicits data and information in order to evaluate the state of competition among providers of CMRS for its Ninth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services (*Ninth Report*). The statute requiring the Commission to submit annual reports providing an analysis of competitive market conditions with respect to CMRS stipulates that this analysis shall include, among other things, "an analysis of whether or not there is effective competition." To this end, previous *CMRS Reports* have presented a variety of standard indicators commonly used for the assessment of competitive market conditions, including the number of market participants, developments in carriers'

pricing plans, service offerings, technology deployment, consumer churn, pricing data, subscriber growth, usage, and the diffusion of product innovations. For the *Ninth Report* the Commission proposes to enhance its analysis by restructuring the presentation of the various indicators of the status of competition to conform to a framework that groups such indicators into four distinct categories (A) Market Structure, (B) Carrier Conduct, (C) Consumer Behavior, and (D) Market Performance. The analysis of market performance will evaluate competitive conditions in the CMRS industry from the consumer's point of view, including both personal and business users. In particular, the analysis of market performance will focus on the benefits to consumers of effective competition such as lower prices, higher quality, greater variety, and more rapid innovation. A key premise of the proposed framework is that market structure, carrier conduct, consumer behavior and the interrelationships among these categories are important determinants of consumer outcomes.

2. Based on an overall assessment of the indicators that the Commission considered, the *Eighth Report*, 68 FR 730, January 7, 2003 concluded that there is effective competition in the CMRS market. These indicators included the nature and number of market participants, the geographic extent of service deployment, technological improvements and upgrades, price competition, investment, usage patterns, churn, subscriber growth, and product innovations, among other things. The *Eighth Report* stated that 95 percent of the U.S. population has three or more different operators offering mobile telephone service in the counties in which they live and 83 percent have a choice of 5 mobile telephone providers. Further, the Commission found that the