

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE FILING BY JAMES)	ORDER GRANTING
VALLEY WIRELESS, LLC FOR DESIGNATION)	ELIGIBLE
AS AN ELIGIBLE TELECOMMUNICATIONS)	TELECOMMUNICATIONS
CARRIER)	DESIGNATION; ORDER
)	GRANTING CERTIFICATION
)	TC06-077

On July 3, 2006, the Public Utilities Commission (Commission) received a petition from James Valley Wireless, LLC (JVW) for designation as an eligible telecommunications carrier (ETC) for the entire service areas of James Valley Cooperative Telephone Company (JVCT) and the Redfield exchange of Qwest Corporation (Qwest). Qwest is the incumbent non-rural ETC currently serving the Redfield service area. JVCT is an incumbent rural company. JVCT's service areas consist of the following exchanges: Andover and Bristol; Frederick, Hecla, Houghton, Columbia, Claremont, Groton, Ferney, Conde, Turton, Mellete, and Doland.

On July 6, 2006, the Commission electronically transmitted notice of the filing and the intervention deadline of July 21, 2006, to interested individual and entities. No Petitions to Intervene were filed.

Pursuant to 47 U.S.C. section 214(e)(2), the Commission is required to designate a common-carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission. Pursuant to section 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

The Federal Communications Commission (FCC) has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (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). As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

JVW intends to provide the supported services through wireless personal communications services. JVW stated in its Petition that it will provide the following services to all of its customers in the requested service area:

1. Voice grade access to the public switched network;
2. Local exchange service, including a variety of rate plans that provide local usage consistent with 47 C.F.R. § 54.101(a)(2);
3. Dual tone multi-frequency (DTMF) or its functional equivalent – JVW will provide DTMF signaling to facilitate the transportation of signaling throughout its network. JVW will use out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling;
4. Single party service;
5. Access to emergency services -- JVW will provide Phase II E911 access to emergency services throughout its wireless service territory;
6. Access to operator services;
7. Access to interexchange services;
8. Access to directory assistance; and
9. Toll blocking service.

In addition, JVW provided the information required by ARSD 20:10:32:43.01 through 20:10:32:43.07. JVW stated that it will advertise the availability of the supported services by media of general distribution throughout the service areas. JVW further stated that it will advertise the availability of Lifeline and Link Up services.

With respect to whether the designation is in the public interest, JVW stated that the public interest will be served by increasing consumer choice, improving service quality, enhancing health and safety benefits, and enhancing competition. JVW states that it will construct 20 new cell towers which will result in improved wireless service quality, reduce dead spots, and extend telephone service. JVCT, the incumbent rural ETC did not object to the granting of ETC designation to JVW.

JVW also requested that certification be sent to the FCC and the Universal Service Administrative Company (USAC) stating that JVW will use the federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support was intended. No redefinition of JVCT's service areas is required since JVW intends to serve JVCT's entire service areas.

At its October 31, 2006, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 214. Subject to two conditions, the Commission voted to designate JVW as an ETC in the JVCT service areas and the Qwest Redfield exchange, and to provide certification to the FCC and USAC. These conditions are:

1. JVW shall file its service agreements pursuant to which it intends to offer its universal service offerings in South Dakota. The agreements shall be consistent with the Commission's service quality rules and shall also advise customers that they may qualify for financial assistance under the federal Link-Up and Lifeline programs and provide basic information on how to apply.
2. The service agreements shall state that any disputes or claims arising under the service agreements may be subject to the Commission's complaint jurisdiction, at the consumer's option. Thus, JVW's service agreements shall not compel submission of disputes to arbitration which would deprive customers of access to the complaint procedures of SDCL chapter 49-13 and ARSD Chapter 20:10:01.

The Commission finds that JVW will provide the supported services or functionalities throughout these service areas. The Commission finds that JVW has demonstrated its commitment to provide service throughout the service area, has submitted its two year plan, has demonstrated its ability to remain functional in emergency situations, has demonstrated its ability to satisfy consumer protection and service quality standards, will offer a comparable local usage plan, and will be able to provide equal access. The Commission further finds that JVW intends to provide Lifeline and Link Up programs to qualifying customers throughout the designated service areas consistent with state and federal rules and orders and will advertise the availability of its other services. The Commission finds it is in the public interest to designate JVW as an ETC. Thus, the Commission designates JVW as an ETC for JVCT's service areas and the Qwest service area of Redfield. The Commission also approves JVW's request for certification regarding the use of its federal universal service support. It is therefore

ORDERED, that JVW is designated as an ETC for JVCT's service areas and the Qwest service area of Redfield, subject to the conditions as listed above; and it is further

ORDERED, that JVW is eligible to receive federal support as it states it will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended; and it is further

ORDERED, that the Commission approves JVW's request for certification regarding its use of federal universal service support.

Dated at Pierre, South Dakota, this 17th day of November, 2006.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Delaine Kolbs

Date: 11/21/06

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner

Gary Hanson
GARY HANSON, Commissioner