In the Matter of: )
)
Petition of Farmers Cellular ) CC Docket No. 09-197
Telephone, Inc. to Relinquish ETC Status )
)

PETITION OF FARMERS CELLULAR TELEPHONE, INC.,
TO RELINQUISH ETC STATUS IN DESIGNATED CERTAIN AREAS OF ALABAMA

Farmers Cellular Telephone, Inc., (hereinafter “Farmers”)¹ by and through the undersigned counsel, hereby requests approval for the relinquishment of its designation as an eligible telecommunications carrier (“ETC”) for purposes of receiving federal and state universal service support available to a certain portion of Farmers’ designated service area in Alabama and as grounds therefore states the following:

1. By order released March 12, 2003 in CC Docket No. 96-45, Farmers received its ETC designation by the Federal Communications Commission (“FCC”). The designated service area included only a portion of Farmers’ licensed service area, i.e., the areas of Bridgeport, Fort Payne, Piedmont and Stevenson, Alabama. Farmer’s application was filed with the FCC, instead of the Alabama Public Service Commission (“APSC”), due to the APSC’s lack of authority to consider wireless ETC applications. Public Notice, Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section (Section 214(e)(6) of the Communications Act, FCC 97-419, 12 FCC Red 22497, 22948 (1997); see also Exhibit 1, Letter from Administrative Law

¹ Farmers was originally assigned DAC # 259006.
Judge, John A. Garner to Azita Sparano, dated January 15, 2002 which was attached to Famers’ Petition for Designation filed on September 6, 2002.

2. On or about June 13, 2008, the FCC approved the transfer of Farmer’s wireless licenses and assets to AT&T Mobility, II, LLC (“AT&T”), pursuant to an Asset Purchase Agreement dated November 29, 2007.\(^2\) Public Notice, Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer of Lease Applications and Spectrum Manager Lease Notifications, Designated Entity Reportable Eligibility Event Applications, and Designated Entity Annual Reports Actions, 2008 WL 2444742 (F.C.C. June 18, 2008). The aforementioned asset purchase was completed on or about May 13, 2008. As a result of the transaction, Farmers discontinued the provision of all services to customers in its designated service area, while AT&T’s coverage area was extended to include much of its newly acquired licenses. Farmers has not sought or obtained ETC funding for any period after May 13, 2008.

3. This request is due to be granted and is in the best public interest in that Farmers has discontinued services as a result of a transaction previously approved by the FCC. There remain multiple carriers providing wireless and wireline telephone services in Farmer’s designated service area; thus the relinquishment shall not compromise the availability of supported services.

\(^2\) KNKN960, CMA308B2, Alabama 2 – Jackson, Rural Service Area (a partitioned RSA), WPYX472, BTA198, Huntsville, AL Basic Trading Area. Also two Point-to-Point Microwave licenses, WPRT226 and WPRT227.
RESPECTFULLY SUBMITTED, this the 23rd day of December, 2009.

Farmers Cellular Telephone, Inc.

By: ________________________________
Mark D. Wilkerson
As Its: Attorney

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January 15, 2002

Azita Sparano  
Director - Regulatory and Policy  
John Staurulakis Incorporated  
Brookside Court, Suite 135  
4625 Alexander Drive  
Alpharetta, Georgia 30022

Dear Ms. Sparano:

I am in receipt of your Request for Clarification Regarding the Alabama Public Service Commission's Jurisdiction for Designation of Commercial Mobile Radio Service Providers as Eligible Telecommunications Carriers (the “filing”) which you submitted to the Alabama Public Service Commission (the “APSC”) on January 14, 2002, on behalf of your client Farmers Cellular Telephone, Inc. (“FCT”). I understand from your filing that FCT is a Commercial Mobile Radio Service (“CMRS”) provider licensed by the Federal Communications Commission (“FCC”) to provide cellular telecommunications services.

According to your representations, the service territory of FCT encompasses Rural Service Area 308B2. Said territory covers the northeastern portion of Alabama, including DeKalb, Cherokee, and part of Jackson counties. I understand from your filing that FCT is seeking designation as an ETC in a portion of its service territory that includes both rural and non-rural Alabama wireline service areas.

As recognized in your filing, state commissions have primary responsibility under 47 USC §214(e) for the designation of eligible telecommunications carriers (“ETCs”) in their respective jurisdictions for universal service purposes. The APSC established the guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997. As a threshold matter, your filing seeks clarification as to whether the APSC has jurisdiction over FCT’s request to be designated as a universal service eligible telecommunications carrier in a portion of its service territory that includes both rural and non-rural Alabama wireline service areas.

The issue concerning the APSC’s jurisdiction over providers of cellular services, broadband personal communications services and commercial mobile radio services is one that was rather recently addressed by the APSC. The APSC indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June
of 1999, the APSC has no authority to regulate *in any respect* cellular services, broadband personal communications services and commercial mobile radio services in Alabama.

Given the above conclusion by the APSC, it seems rather clear that the APSC has no jurisdiction to take action on any request by FCT for ETC status in this jurisdiction to provide wireless ETC service. FCT should instead pursue its ETC designation with the FCC as provided by 47 USC §214(e)(6).

Although the views expressed herein are those of your writer and do not necessarily constitute an official action of the APSC, I am confident that this writing provides the clarification you requested concerning the ETC designation of your client. Should you need further clarification in order to pursue an ETC designation for FCT at the FCC, please do not hesitate to contact me at (334) 242-5200.

Sincerely,

John A. Garner
Administrative Law Judge

JAG:kIr