

ORIGINAL

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL  
HAROLD A. MCLEAN  
GENERAL COUNSEL  
(850) 413-6199

Public Service Commission

May 6, 2003

Mr. Carroll Webb  
Joint Administrative Procedures  
Committee  
Room 120 Holland Building  
Tallahassee, Florida 32399-1300

Re: PSC Docket No. 030413-TP

Dear Mr. Webb:

The Commission has received a Petition for Declaratory Statement from ALLTEL Communications, Inc. on April 28, 2003. A copy of the petition is enclosed. A notice will be published in the Florida Administrative Weekly on May 16, 2003.

Sincerely,

Christiana T. Moore  
Senior Attorney

cc: Division of the Commission Clerk  
and Administrative Services

Enclosure

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
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- SEC
- OTH \_\_\_\_\_

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

ALLTEL COMMUNICATIONS, INC.  
One Allied Drive  
Little Rock, AR 72202



03 MAY -5 AM 10:30

FLA. PUB. SERVICE COM. CLERK  
OFFICE OF THE  
GENERAL COUNSEL  
April 28, 2003

030413-JP

Ms. Blanca S. Bayo  
Director, Division of Commission Clerk  
And Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, Florida 32399-0850

Re: Petition for Declaratory Statement Concerning Jurisdiction for Eligible  
Telecommunications Carrier Status

Dear Ms. Bayo:

Enclosed for filing with the Florida Public Service Commission is ALLTEL Communications, Inc.'s ("ALLTEL") Petition for Declaratory Statement requesting the Commission to issue a declaratory statement that ALLTEL, a Commercial Mobile Radio Service provider in Florida, is not subject to the jurisdiction of the State of Florida for purposes of determining eligibility for Eligible Telecommunications Carrier status pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6) and the Universal Service eligibility rules set forth in Part 54, Subpart C of the Rules of the Federal Communications Commission, 47 C.F.C § 54.201 *et seq.*

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning it to me.

Sincerely,

Stephen B. Rowell

Enclosure

DOCUMENT NUMBER 1771  
03897 APR 29 8  
FPSC-COMMISSION CLERK

**Before the Florida Public Service Commission**

In Re: Petition of ALLTEL Communications, Inc. for ) Docket No:  
Declaratory Statement with Respect to Jurisdiction )  
Regarding CMRS Eligible Telecommunications Carrier )  
Applications ) Filed: April 28, 2003

**PETITION OF ALLTEL COMMUNICATIONS INC.  
FOR DECLARATORY STATEMENT  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Petitioners ALLTEL Wireless Holdings, L.L.C and New York NEWCO Subsidiary, Inc. subsidiaries of ALLTEL Communications, Inc., ("ALLTEL"), pursuant to Section 120.565 of the Florida Statutes and Rule 28-105.001, *et seq.*, of the Florida Administrative Code, hereby request that the Florida Public Service Commission (the "Commission") issue a declaratory statement affirming that ALLTEL is not subject to the jurisdiction of the Commission for purposes of determining eligibility for Eligible Telecommunications Carrier ("ETC") status pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. §214(e)(6) and the Universal Service eligibility rules set forth in Part 54, Subpart C of the Rules of the Federal Communications Commission, 47 C.F.R. § 54.201 *et seq.* In support of this Petition, ALLTEL states as follows:

1. ALLTEL's principal place of business in Florida is Tampa, Florida. Pleadings, orders, notices and other papers filed or served in this matter should be served upon:

Bettye Willis  
ALLTEL Communications  
One Allied Drive, B4F4ND  
Little Rock, AR 72203-2177  
Phone: (501) 905-5692  
Fax: (501) 905-5679

Stephen B. Rowell, esq.  
ALLTEL Communications  
One Allied Drive  
Little Rock, AR 72203-2177  
Phone: (501) 905-8460

2. ALLTEL is a licensee authorized to provide commercial mobile radiotelephone service ("CMRS") in Florida Cellular Market Areas ("CMAs") 22, 51, 114, 127, 164, 167, 168, 192, 211, 245, 265, 283, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, and 370.
3. As a CMRS carrier, ALLTEL is entitled to seek designation as an ETC<sup>1</sup>. Section 254(e) of the Telecommunications Act, 47 U.S.C. §254(e), provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." 47 U.S.C. §214(e). Pursuant to 47 U.S.C. §214(e)(6), the Federal Communications Commission ("FCC") may, upon request, designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission."
4. In the Section 214(e)(6) Public Notice, the FCC established that a carrier must demonstrate it "is not subject to the jurisdiction of a state commission."<sup>2</sup> In its Twelfth Report and Order in this docket, the FCC stated that where a carrier provides the FCC with an "affirmative statement" from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation, the FCC would consider requests filed pursuant to 214(e)(6).<sup>3</sup>

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<sup>1</sup> See *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776, 8858-59 (1997) ("First Report and Order")*.

<sup>2</sup> *Section 214(e)(6) Public Notice, at 22948*

<sup>3</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment of Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 (2000)*.

5. Many state commissions have either issued orders stating a lack of jurisdiction or commissions have declined to exercise jurisdiction over ETC applications involving CMRS carriers, thereby, leaving the task to the FCC. <sup>4</sup>
6. The Florida Public Service Commission's jurisdiction is by statute, with respect to "telecommunications companies". Section 364.01(2), F.S. ALLTEL is a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. § 153(n) and 332(d). As such, ALLTEL is expressly excluded from the definition of "telecommunications company" as defined in F.S. 364.02(12)(c) over which the Commission has jurisdiction to regulate. Therefore, the Commission has no jurisdiction with respect to ALLTEL including, for purposes of granting Eligible Telecommunications Carrier status.
7. Accordingly, ALLTEL respectfully request the Commission issue an affirmative statement that it lacks jurisdiction to grant ALLTEL designation as an Eligible Telecommunications Carrier throughout its cellular service area in Florida.

Respectfully submitted this 28<sup>th</sup> day of April, 2003.

ALLTEL Communications, Inc.



Stephen B. Rowell

ALLTEL Communications

One Allied Drive, B5F11

Little Rock, AR 72203-2177

(501) 905-8460

Florida Bar No. 789917

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<sup>4</sup> Alabama, Delaware, New York, Pennsylvania, Virginia and Wyoming among others