

reconsideration filed against the *Report and Order* in WT Docket No. 97–112 and CC Docket No. 90–6, in which the Commission modified rules affecting cellular service in the Gulf of Mexico. The Commission reinstates certain co-location applications that were inadvertently dismissed pursuant to the *Gulf Report and Order*, and modifies § 22.912 of the Commission's rules to clarify that land-based cellular carriers are precluded from extending their service area boundaries into any part of the Gulf of Mexico Exclusive Zone without the applicable Gulf carrier's consent. The Commission also affirms that the market boundaries of Personal Communications Service (PCS) licensees adjacent to the Gulf of Mexico are co-extensive with county boundaries.

**DATES:** Effective September 15, 2003.

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**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order on Reconsideration*, in WT Docket 97–112 and CC Docket No. 90–6, FCC 03–130, adopted June 10, 2003, and released June 27, 2003. The full text of the *Order on Reconsideration* is available for public inspection during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com).

## Synopsis of Order on Reconsideration

### I. Background

1. In January 2002, the Commission released a *Report and Order* in WT Docket No. 97–112 and CC Docket 90–6 (*Gulf Report and Order*), in which it established a comprehensive regulatory scheme for the Gulf of Mexico designed to facilitate the provision of cellular service to unserved areas of the Gulf region and resolve operational conflicts between Gulf and land carriers, while minimizing the disturbance to existing operations and contractual relationships. See Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico, WT Docket No. 97–112, Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other

Cellular Rules, CC Docket No. 97–112, *Report and Order*, 67 FR 9596 (March 4, 2002) (*Gulf Report and Order*). As part of this licensing scheme, the Commission adopted a bifurcated approach for the Gulf that reflected the differences in deployment of cellular service in the Eastern Gulf and the Western Gulf. The Commission determined that the entirety of the Western Gulf would be included within the Gulf of Mexico Exclusive Zone (GMEZ) in which the Gulf carriers would not be subject to use-or-lose rules, but would have full flexibility to build, relocate, modify and remove offshore facilities without any impact on their rights to provide service to “unserved” areas. In the Eastern Gulf, the lack of offshore cellular deployment led the Commission to designate a Gulf of Mexico Coastal Zone (GMCZ) extending from the shoreline seaward twelve nautical miles, in which unserved area licensing rules would apply, while the remainder of the Eastern Gulf was included in the GMEZ, giving Gulf carriers full flexibility to operate beyond the twelve nautical mile limit.

2. By using the existing rules as the basis for its decision in the Western Gulf, the Commission reaffirmed the coastline as the legal demarcation line for the Western Gulf separating the service areas of Gulf and land-based cellular carriers. The *Gulf Report and Order* continued to bar land-based carriers from extending their service area boundaries (SABs) over any portion of the Western Gulf without the consent of the relevant Gulf carrier, regardless of whether the Gulf carrier is serving that portion of the Gulf from an offshore site. Conversely, the Gulf carriers are prohibited in the Western Gulf from extending contours over land that would encroach on areas served by land-based carriers, absent consent. The Commission also determined that because of the different propagation characteristics of radio signals transmitted over land and water, it would continue to use different formulas to determine the SABs of land and water-based sites. Accordingly, the Commission retained the rule that determined the reliable service area of Gulf-based sites using a 28 dBμV/m contour, while using a 32 dBμV/m contour to determine the reliable service area of land-based sites.

3. The *Gulf Report and Order* also addressed the issue of non-cellular commercial mobile radio services (CMRS) services in the Gulf. The Commission declined to create a Gulf licensing area for non-cellular services, noting the lack of support for this

alternative in the record. However, the Commission clarified that in CMRS services that do not have a separately licensed Gulf market, licensees serving areas adjacent to the Gulf of Mexico were entitled to extend their coverage offshore. Because most non-cellular services use licensing areas based on county boundaries, which typically extend a specified distance over water pursuant to state law, the *Gulf Report and Order* clarified that such Commission licensing areas were co-extensive with county boundaries. The *Gulf Report and Order* also stated that licensees could extend service further into the Gulf on a secondary basis, provided they did not cause interference to others.

### II. Discussion

#### A. Two-Formula Approach

4. Petroleum Communications, Inc. (PetroCom) contends that the Commission's decision to continue using different formulas to determine the SABs of land and Gulf-based transmitters gives land-based carriers a signal strength advantage over Gulf carriers, thereby enabling land-based carriers to encroach into the Gulf and capture water-based cellular traffic. PetroCom maintains that either Gulf carriers should be entitled to use the 32 dBμV/m land-based formula to determine their predicted signal strength at the coastal boundary, or alternatively that the 28 dBμV/m water-based formula should be used by land-based as well as Gulf carriers. PetroCom also asserts that the Commission's adoption of the two-formula approach lacks adequate basis in the record and is procedurally flawed.

5. The Commission affirms its decision to use the two-formula approach in calculating service area contours for land-based and Gulf carriers. This approach recognizes a basic fact of signal propagation: due to the absence of path obstructions and typically quieter RF environment, a signal transmitted over water is likely to be stronger than a signal transmitted over land at the equivalent distance from the transmitter. The 32 dBμV/m land-based formula incorporates factors that typically affect propagation of signals over land, such as rolling terrain. The land formula also assumes a noisier environment and that the subscriber will be using a mobile handset near ground level. On the other hand, assumptions factored into the 28 dBμV/m water formula are quite different. The water formula assumes that a signal in the Gulf will not have the same path obstructions encountered