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December 13, 2005

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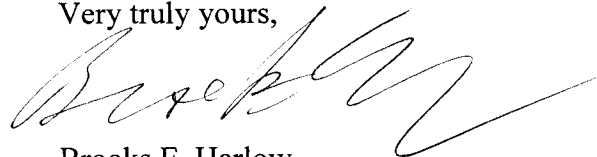
Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol Street NE, Suite 215
Salem, Oregon 97308

Subject: Docket UM 1217

Dear Filing Center:

Enclosed, for filing, are an original and five copies each of the Direct Testimony of Elizabeth Kohler on behalf of RCC Minnesota, Inc., and the Direct Testimony of Don J. Wood on behalf of RCC Minnesota, Inc., and United States Cellular Corporation in the above-referenced docket.

Very truly yours,



Brooks E. Harlow

cc w/enc: All Parties of Record

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BEFORE THE OREGON PUBLIC UTILITIES COMMISSION

In the Matter of

OREGON PUBLIC UTILITY COMMISSION

Staff Investigation to Establish Requirements
for Initial Designation and Recertification of
Telecommunications Carriers Eligible to
Receive Federal Universal Service Support

Docket No. UM 1217

**DIRECT TESTIMONY OF
ELIZABETH KOHLER
ON BEHALF OF
RCC MINNESOTA, INC.**

December 13, 2005

1 **I. INTRODUCTION AND BACKGROUND**

2
3 **Q. PLEASE STATE YOUR NAME FOR THE RECORD.**

4 A. Elizabeth Kohler

5 **Q. WHO IS YOUR EMPLOYER AND WHAT IS YOUR CURRENT POSITION?**

6 A. I am the Vice President of Legal Services of Rural Cellular Corporation (“RCC”), the
7 parent company of RCC Minnesota, Inc. (“RCC” or “Petitioner”). My business address
8 is: 302 Mountain View Drive, Suite 200, Colchester, VT 05446.

9 **Q. WHAT ARE YOUR DUTIES IN THAT POSITION?**

10 A. I oversee the legal and regulatory issues and activities of RCC, including all necessary
11 proceedings with the Federal Communications Commission (“FCC”) and state regulatory
12 agencies. In that capacity, I have participated in, and provided testimony in, proceedings
13 in which RCC, either directly or through its affiliates have applied for and been granted
14 eligible telecommunications carrier (“ETC”) designation, including providing testimony
15 before this Commission. I also participate in or supervise RCC's annual recertification
16 filings with numerous states, including Oregon, and the FCC. In that capacity I have
17 become familiar with the reporting and certification requirements of the FCC and the
18 states in which RCC has been designated as an ETC as well as RCC's capabilities to
19 comply with such requirements.

20 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

21 A. I will state and explain RCC’s positions on many of the issues listed in this docket,
22 including review of the requirements adopted by the FCC earlier this year in *In the*
23 *Matter of Federal-State Joint Board on universal Service*, Report and Order, CC Docket
24 No. 96-45, FCC 05-46 (released March 17, 2005) (hereafter, “2005 USF Order”). RCC
25 is also jointly sponsoring the testimony of Mr. Don Wood, who will provide policy
26 testimony on RCC’s behalf, particularly on the public interest issues in the issues list.

1 The purpose of my testimony is to provide a carrier's perspective on how funds from the
2 Universal Service Fund ("USF") are received and spent, the impact of USF subsidies on
3 our service and the public, how customers and prospective customers are served, how we
4 handle outages, complaints, reports, and other practical implications of the FCC's 2005
5 *USF Order*.

6 **Q. IN THE REPORT AND ORDER, THE FCC ADOPTED NEW SECTION 54.202**
7 **TO SUBPART C, PART 54, TITLE 47 OF THE CODE OF FEDERAL**
8 **REGULATIONS ("CFR") THAT ADDS SEVERAL NEW FILING**
9 **REQUIREMENTS FOR CARRIERS SEEKING ETC DESIGNATION. SHOULD**
10 **THIS COMMISSION ADOPT THOSE ANY OF THOSE NEW**
11 **REQUIREMENTS?**

12 A. The six major new filing requirements are, briefly: 1) a service commitment
13 requirement, including a six-step process for attempting to provide service to prospective
14 customers upon reasonable request and at reasonable cost; 2) a five year build plan for
15 the use of support; 3) demonstration of the ability to function in emergencies; 4)
16 commitment to satisfy applicable consumer protection and service quality standards; 5)
17 offer a local usage plan "comparable" to the incumbent local exchange carrier ("ILEC");
18 and 6) acknowledge it may be required to provide equal access to long distance carriers.
19 Additionally, if the ETC application covers tribal lands, the carrier must provide a copy
20 of the application to affected tribal governments.

21 As RCC understands these new requirements, we support them, with the exception of the
22 five year build plans for use of support.

23 **Q. WOULD YOU PLEASE START WITH THE SERVICE COMMITMENT**
24 **REQUIREMENT?**

25
26

1 A. The service commitment the FCC now requires is one that RCC has made. Indeed, the
2 six-step process is essential the same as what RCC proposed to this Commission in
3 Docket UM 1083. The FCC six-step process requires carriers to:

4 [P]rovide service within a reasonable period of time, if the potential customer is
5 within the applicant's licensed service area but outside its existing network
6 coverage, if service can be provided at reasonable cost by (a) modifying or
7 replacing the requesting customer's equipment; (b) deploying a roof-mounted
8 antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting
9 network or customer facilities; (e) reselling services from another carrier's
10 facilities to provide service; or (f) employing, leasing or constructing an
11 additional cell site, cell extender, repeater, or other similar equipment;

The OPUC's equivalent is set forth at page 10 of Order No. 04-355, from Docket UM
1083.

11 **Q. WHY DO YOU OPPOSE THE FIVE YEAR BUILD-OUT PLAN?**

12 A. We are not opposed to projecting our use of USF support expected to be received in the
13 future. Our problem is with the five year time frame. RCC simply does not plan out that
14 far into the future. Nor can it. Network plans for wireless carriers beyond two years are
15 meaningless and useless because carriers cannot predict market conditions, demands,
16 technological advancements, and the competitive environment much beyond one year.
17 Accordingly, plans longer than one or two years are so imprecise and subject to change
18 that preparing, submitting, and reviewing them would be a waste of time, both for the
19 companies and the Commission. Accordingly, RCC recommends that any projections
20 regarding use of funds be limited to the current year (as in PUC Docket UM 1083, Order
21 03-355 at 16) or the most the next year.

22 **Q. WHAT ABOUT THE THIRD AND FOURTH REQUIREMENTS IN THE**
23 **REPORT AND ORDER?**
24

25 A. RCC supports the requirement that carriers demonstrate the ability to function in
26 emergencies and have adequate back up power. Such capabilities are standard in the

1 industry and responsible carriers should not have any trouble meeting the requirement.

2 RCC also supports the FCC's requirement of a commitment to satisfy applicable
3 consumer protection and service quality standards, including the incorporation of the
4 Cellular Telecommunications and Internet Association's ("CTIA") Consumer Code for
5 Wireless Services. RCC has committed to comply with the CTIA Code.

6
7 **Q. WHAT IS RCC'S POSITION ON THE REQUIREMENT TO OFFER A LOCAL**
8 **USAGE PLAN "COMPARABLE" TO THE ILEC?**

9 A. This requirement is why I qualified our agreement with "as RCC understands" them. The
10 FCC's requirement of a single "comparable" local usage plan should not be interpreted as
11 requiring all ETCs to offer flat-rated unlimited local usage. Without some background
12 and experience with the FCC's process, this requirement could be misconstrued. For
13 example, in the FCC's recent order granting RCC's petition to be designated an ETC in
14 New Hampshire, RCC did not offer an unlimited local usage plan. Rather, RCC offers a
15 variety of rate plans containing varying amounts of local usage. To date, the FCC has
16 determined that when a carrier offers a variety of rate plans containing varying amounts
17 of local usage, it meets that local usage requirement. *See Virginia Cellular, LLC, FCC*
18 *03-338, Memorandum Opinion & Order, released Jan. 22, 2004); Referral Order and*
19 *RCC Washington Order.* I understand that Mr. Wood will also address this issue in his
20 testimony.

21
22 **Q. FINALLY, WHAT ABOUT THE REQUIREMENTS REGARDING EQUAL**
23 **ACCESS AND TRIBAL NOTIFICATION?**

24 A. RCC has always understood that if for some reason the ILEC no longer provides equal
25 access, then RCC might be called upon to do so. The notification of tribes of applications
26 that affect them is reasonable and not a significant burden.

1 Q. ONE OF THE ISSUES IN THIS DOCKET POSES THE QUESTION WHETHER
2 THE COMMISSION SHOULD ADOPT ANY ADDITIONAL BASIC
3 ELIGIBILITY REQUIREMENTS. SHOULD IT?

4
5 A. No. The FCC's new rule strikes a reasonable balance. It is similar to the process that the
6 FCC followed in the *Virginia Cellular* and *Highland Cellular* cases. Since this
7 Commission followed those cases in its first designation of a competitive ETC ("CETC")
8 in Docket UM 1083 and subsequent dockets, it has experience with the requirements.
9 RCC believes that the Oregon experience has been a good one, bringing expanded
10 wireless coverage and better service to rural parts of the state. Additional requirements
11 are not needed to protect the public interest.

12 Q. IN THE REPORT AND ORDER, THE FCC ADOPTED NEW SECTION 54.209
13 TO SUBPART C, PART 54, CFR TITLE 47 THAT ADDS NEW ANNUAL
14 REPORTING REQUIREMENTS FOR ETCS. THE ISSUES LIST POSES THE
15 QUESTION WHETHER THIS COMMISSION SHOULD ADOPT THOSE ANY
16 OF THOSE NEW REQUIREMENTS?

17 A. For the most part, RCC agrees with the FCC's new requirements.

18 Q. LET'S TAKE THEM ONE AT A TIME. FIRST, WHAT IS RCC'S POSITION ON
19 THE REQUIREMENT OF RULE 54. 209(A)(1)?

20 A. In this subsection the FCC requires "a progress report on its five-year service quality"
21 plan. Since RCC opposes plans or forecasts beyond one or two years, RCC does not
22 believe the Commission should adopt the rule as written. Rather, RCC suggests that the
23 Commission require ETCS to report on expected use of USF funds during the reporting
24 calendar years, as the Commission ordered for RCC in UM 1083 (Order No. 04-355 at
25 17). Since recertification is required every year, reporting on use of funds during the past
26 and current year will give the Commission ample information to ensure that funds are

1 being used for lawful purposes. The reason for this is that the Commission must certify
2 to the FCC each year that a carrier is using support funds properly. If a carrier does not
3 satisfy the Commission that it is using support funds properly, the Commission can refuse
4 to certify the company and federal support will cease until the company satisfies the
5 Commission that it has corrected any deficiencies.

6 **Q. WHAT IS RCC'S POSITION ON REPORTING ON OUTAGES REQUIREMENT**
7 **OF RULE 54. 209(A)(2)?**

8 A. RCC does not oppose this requirement, provided that the Commission tracks the Federal
9 requirements. RCC is already subject to reporting outage in other states under the
10 Federal rule. Thus, it would not be difficult to provide the same information to the
11 OPUC for outages affecting 10 percent of customers in Oregon.

12 **Q. DOES RCC SUPPORT THE REQUIREMENT OF RULE 54. 209(A)(3) TO**
13 **REPORT ON REQUESTS FOR SERVICE FROM POTENTIAL CUSTOMERS**
14 **THAT WERE UNFULFILLED?**

15 A. Yes, again assuming the state rule tracks the Federal rule. Since the Federal rule is very
16 similar to the requirements that the Commission has already adopted in UM 1083,
17 following the Federal rule will continue state procedures that are already in place.

18 **Q. WHAT IS RCC'S POSITION ON THE REQUIREMENT TO REPORT ON THE**
19 **NUMBER OF COMPLAINTS, AS PROVIDED IN RULE 54. 209(A)(4)?**

20 A. As the FCC has interpreted and implemented this requirement, it has not been a problem.
21 However, a similar requirement in the order in UM 1083 did cause some confusion and
22 compliance difficulties for RCC earlier this year.

23 **Q. WOULD YOU PLEASE EXPLAIN THE ISSUE THAT AROSE IN OREGON**
24 **THIS YEAR IN CONTRAST TO THE FCC REQUIREMENT?**

25 A. The FCC's rule requires a report on "the number of complaints per 1,000 handsets or
26 lines" 47 C.F.R. § 54.209(a)(4). The FCC has interpreted a "complaint" only to

1 encompass a formal or informal complaint to the FCC or the state commission. Initially,
2 this is how RCC interpreted “complaints” for purposes of the recertification report it filed
3 this year. However, the PUC staff interpreted the PUC’s order more broadly, requesting,
4 “all complaints routed through RCC’s ‘Trouble Ticket’ system” in a data request to RCC.
5 The staff also requested that RCC report complaints by wire center, switch, service
6 center, or some other geographical grouping. This request presents difficulties for RCC,
7 as would a rule that were to take the same approach.

8 **Q. WOULD YOU PLEASE EXPLAIN WHY SUCH AN EXTENSIVE REPORTING**
9 **REQUIREMENT IS A PROBLEM FOR RCC?**

10 A. In order to understand the practical difficulties, some background is needed. RCC has
11 consolidated its customer service functions to better serve customers by maintaining
12 customer service representatives in fewer locations. That way systems, training, and
13 quality control can be managed more efficiently. RCC uses regional call centers. Thus,
14 the call center nearest to the state of Oregon will likely serve several states. However, in
15 some cases, calls from Oregon may be routed to any of the call centers anywhere in the
16 country. For example, if the closest call center is experiencing a long wait time for calls
17 to be answered, the call will be automatically routed to a different call center with shorter
18 wait times. Likewise, calls may be routed to a different call center depending on the type
19 of inquiry. Service inquiries may be better handled at a different call center than billing
20 inquiries. Thus, in case the case of RCC any of its call centers may receive calls from
21 any of its 16 states. Unfortunately, because every call to a call center is a potentially a
22 “complaint” it means that each and every call received by one of RCC’s call centers
23 might have to be handled and tracked in accordance with an Oregon rule that differs from
24 the Federal requirements. The problem grows exponentially if other states adopt other
25 different or conflicting requirements.

1 Q. **WHY DO YOU SAY EVERY CALL TO A CALL CENTER IS “POTENTIALLY”**
2 **A COMPLAINT?**

3 A. RCC’s call centers and trouble ticket system handle thousands of customer inquiries that
4 some might consider to be a complaint or that could escalate into a complaint. Most of
5 these calls do not raise such a significant issue that they merit special tracking and
6 reporting for ETC purposes, as the FCC has recognized. For example, suppose a call
7 center employee receives a call from a customer complaining about the inability to make
8 or receive a call, but it turns out the customer was in a “roaming” mode and failed to take
9 proper steps to authorize additional charges of a roaming call. Should the call center
10 employee categorize this as a “complaint” or merely a customer education issue?
11 Routine calls that are often the result of user error or confusion and other minor, quickly
12 resolved problems should not need to be tracked and reported. Only more serious or
13 difficult problems that require intervention and assistance of a supervisor would be
14 deemed complaints. The vast majority of these are resolved promptly without the need
15 for a complaint to be filed with a state or federal agency. Finally, the rule should cover
16 only complaints regarding voice services, not data, text messaging, or other services,
17 since those services are not supported by the USF.

18 Q. **WHAT DOES RCC RECOMMEND FOR ANNUAL “COMPLAINT”**
19 **REPORTING?**

20 A. The preferred approach would be to simply adopt the FCC’s requirement and
21 interpretation. A number of other states have either adopted rules or have placed in
22 orders granting ETC status consumer complaint reporting requirements that track the
23 FCC, including: Kansas, Kentucky Mississippi, Nebraska, and New Mexico. In the
24 context of a state rule, RCC suggests that the “complaints” that should be covered are
25 formal or informal complaints to the FCC, the OPUC, or any other outside agency in
26 Oregon, including the Better Business Bureau or the Attorney General. Alternatively, if

1 the Commission concludes it must broaden the definition of “complaint” to include
2 complaints to the ETC, RCC requests that the rule be limited to calls that are escalated to
3 a supervisor. Moreover, RCC strongly urges the Commission not to require any specific
4 categorization of complaints (especially categorization based on artificial boundaries that
5 have no meaning in the wireless industry, such as “by wire center”) because it does not
6 have systems in place to do that. If carriers must categorize complaints in any way, they
7 should be allowed to categorize or list the complaints consistent with the capabilities of
8 their existing automated systems. In the case of RCC, this would mean a report that lists
9 every trouble call to a call center based on the telephone number of the originating call to
10 the call center.

11 **Q. WHAT IS RCC’S POSITION ON THE FCC’S REQUIREMENTS ON THE**
12 **FOLLOWING CERTIFICATIONS SET FORTH IN 47 C.F.R. § 54.209(A)(5)-(8):**
13 **COMPLIANCE WITH APPLICABLE CONSUMER PROTECTION RULES,**
14 **ABILITY TO FUNCTION IN EMERGENCY SITUATIONS, OFFERING A**
15 **LOCAL USAGE PLAN “COMPARABLE” TO THE ILEC, AND**
16 **ACKNOWLEDGING IT MAY BE REQUIRED TO PROVIDE EQUAL ACCESS**
17 **IN A SERVICE AREA IF NO OTHER CARRIER DOES?**

18 **A.** I discussed the same requirements earlier in my testimony regarding initial ETC
19 designation. RCC supports these requirements as it understands them. In particular, this
20 caveat applies to the requirement of a “comparable” local usage plan.

21 **Q. SHOULD THE COMMISSION ADOPT ANY OTHER ANNUAL REPORTING**
22 **REQUIREMENTS?**

23 **A.** Yes. In docket UM 1083, the Commission required that RCC file annual reports
24 containing some of the information set forth in the FCC’s new rule as well as a number of
25 other requirements. Thus, RCC’s filing in 2005 for recertification to receive USF support
26 in 2006 was much more extensive than what was required of the ILECs. ILECs only

1 needed to file a half a page certification, while RCC and other CETCs had to file dozens
2 of pages. RCC understood that this discrepancy was to be short-lived, since the OPUC
3 recognizes that states are not to discriminate among ETCs. This docket presents the
4 Commission with the opportunity to impose the same (or comparable) annual reporting
5 requirements on all ETCs. Thus, if the Commission has found the additional information
6 RCC provided in this year's report to be useful in protecting the public interest and
7 assuring proper use of USF dollars, the same additional requirements should be adopted
8 as to all ETCs. Of course, if the information is not useful, RCC should be relieved of the
9 reporting requirements in future years, as the effort to make the filing is not insignificant,
10 and the requirements should not be extended to other carriers. At the conclusion of this
11 docket, the Commission should amend its order in UM 1083 to eliminate RCC's unique
12 reporting requirements, which should be replaced by the requirements adopted in this
13 docket.

14 **Q. SPECIFICALLY, WHAT REPORTING REQUIREMENTS WOULD BE ADDED**
15 **TO THE FCC'S REQUIREMENTS TO MATCH THE REQUIREMENTS OF**
16 **THE ORDER IN UM 1083?**

17 **A:** The order requires RCC to file the following reports annually:

- 18 a. Line counts for federal USF supported services, itemized by rural ILEC
19 wire center, as of December 31 of the preceding year.
- 20 b. The amount of federal USF support RCC received for operations in
21 Oregon during the period January 1 through December 31 of the
22 preceding year.
- 23 c. A description of how the federal USF support was used in the previous
24 year. For expenses such as maintenance and provisioning, the
25 information should be segregated by major expense category. For
26 investments, this information should be segregated by asset type and
the rural ILEC wire center where the investment was made.
- d. An estimate of the federal USF support to be received during the
current year and a detailed budget of how such support is expected to
be used, as described in (c).

- 1 e. Documentation establishing RCC advertised the supported services
2 throughout the entire designated area.
- 3 f. As to requests for service coming from areas within RCC's designated
4 ETC area, but outside its CGSA, a report listing the number of requests
5 and, for requests where service was not provided, the reason(s) service
6 was not provided.
- 7 g. A description of actions taken to enhance wireless Internet service
8 throughout the ETC area in the past year and plans to enhance such
9 service in the current year;
- 10 h. A description of how many service quality complaints were received,
11 by wire center, and how those complaints were resolved;
- 12 i. An affidavit from an RCC official stating that either:
- 13 i. RCC has resale agreements in place that cover the portions of wire
14 centers that are within its ETC boundary but outside its CGSA; or
- 15 ii. RCC has not received any requests for service in portions of wire
16 centers that are within its ETC boundary but outside its CGSA that are
17 not covered by resale agreements.
- 18 j. If RCC has received requests for service in portions of wire centers that
19 are within its ETC boundary but outside its CGSA, RCC shall provide:
- 20 i. A description of the steps taken by RCC to obtain a resale
21 agreement with other telecommunications service providers in order to
22 provide service to the requesting parties;
- 23 ii. Whether each party requesting service eventually received such
24 service via RCC acting in the capacity of a reseller; and iii. RCC's
25 estimated timeframe for negotiating resale agreements in each wire
26 center where it was unable to accommodate a request for service
because RCC had no existing resale agreement in place.
- k. If certification of a resale agreement is made and someone challenges
the existence of an agreement, Staff will conduct an in camera review
to confirm the accuracy of certification. RCC will be asked to provide
this information with the understanding that such a review would be
covered by a nondisclosure agreement or through the use of
Commission subpoena and protective order to preserve the
confidentiality of the resale agreement.

Order 04-355 at 16-17. Requirement a. would need to be added to the Federal requirements. Requirements b., c., and d. can be incorporated and subsumed into the progress report on service quality improvement, which is 47 C.F.R. § 54.209(a)(1). RCC

1 believes that the approach of this Commission in UM 1083 is actually better than the
2 FCC's similar rule. Requirement e., advertising, would need to be added, as there is no
3 FCC analogue. Requirement f., unfulfilled service requests, can be incorporated and
4 subsumed into the FCC's equivalent, which is 47 C.F.R. § 54.209(a)(3). Requirement g.,
5 actions to enhance internet service, would need to be added. Requirement h., complaints,
6 should be harmonized with the FCC's equivalent, which is 47 C.F.R. § 54.209(a)(4). As
7 discussed above, RCC urges some changes to the existing requirement to better track the
8 FCC's rule on complaint reporting. Requirements i., j., and k., relating to resale
9 agreements to serve areas and customers that cannot be served with existing facilities,
10 would need to be added.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

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13 **A.** Yes, it does.
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BEFORE THE OREGON PUBLIC UTILITIES COMMISSION

In the Matter of
OREGON PUBLIC UTILITY COMMISSION
Staff Investigation to Establish Requirements
for Initial Designation and Recertification of
Telecommunications Carriers Eligible to
Receive Federal Universal Service Support

Docket No. UM 1217

**DIRECT TESTIMONY OF
DON J. WOOD
ON BEHALF OF
RCC MINNESOTA, INC.**

**AND
UNITED STATES CELLULAR CORPORATION**

December 13, 2005

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1 **Background and Qualifications**

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. My name is Don J. Wood. I am a principal in the firm of Wood & Wood, an
4 economic and financial consulting firm. My business address is 30,000 Mill
5 Creek Avenue, Suite 395, Alpharetta, Georgia 30022. I provide to consulting
6 clients economic and regulatory analysis of the telecommunications, cable, and
7 related convergence industries with an emphasis on economic policy, competitive
8 market development, and cost-of-service issues.
9

10 Q. PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE.

11 A. I received a BBA in Finance with distinction from Emory University and an MBA
12 with concentrations in Finance and Microeconomics from the College of William
13 and Mary. My telecommunications experience includes employment at both a
14 Regional Bell Operating Company (“RBOC”) and an Interexchange Carrier
15 (“IXC”).
16

17 Specifically, I was employed in the local exchange industry by BellSouth
18 Services, Inc. in its Pricing and Economics, Service Cost Division. My
19 responsibilities included performing cost analyses of new and existing services,
20 preparing documentation for filings with state regulatory commissions and the
21 Federal Communications Commission (“FCC”), developing methodology and
22 computer models for use by other analysts, and performing special assembly cost
23 studies.
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1 I was employed in the interexchange industry by MCI
2 Telecommunications Corporation, as Manager of Regulatory Analysis for the
3 Southern Division. In this capacity I was responsible for the development and
4 implementation of regulatory policy for operations in the southern U. S. I then
5 served as a Manager in MCI's Economic Analysis and Regulatory Affairs
6 Organization, where I participated in the development of regulatory policy for
7 national issues.
8

9 Q. HAVE YOU PREVIOUSLY PRESENTED TESTIMONY BEFORE STATE
10 REGULATORY COMMISSIONS?

11 A. Yes. I have testified on telecommunications issues before the regulatory
12 commissions of forty-one states, Puerto Rico, and the District of Columbia. I
13 have also presented testimony regarding telecommunications issues in state,
14 federal, and overseas courts, before alternative dispute resolution tribunals, and at
15 the FCC. A listing of my previous testimony is attached to my testimony.
16

17 Q. ARE YOU FAMILIAR WITH THE APPLICATION OF UNIVERSAL
18 SERVICE MECHANISMS AT THE STATE AND FEDERAL LEVELS?

19 A. Yes. In the course of my professional experience, I have addressed issues
20 regarding the design, implementation, and ongoing administration of universal
21 service support mechanisms. I have also performed extensive analyses of the
22 costs of service, including but not limited to network costs, incurred by
23 telecommunications carriers to provide local exchange services and have
24 specifically addressed the issue of how costs may vary among and between
25
26

1 geographic areas. I was involved in the review and analysis of both the
2 Hatfield/HAI cost model and the Benchmark Cost Proxy Model (“BCPM”)
3 considered by the FCC in CC Docket No. 96-45, and have presented testimony
4 regarding the relative merits of both cost models on numerous occasions.
5

6 More recently, I have analyzed the applications of a number of carriers
7 seeking designation as an Eligible Telecommunications Carrier (“ETC”),
8 including applications to be granted ETC status in areas serviced by both non-
9 rural and rural Incumbent Local Exchange Companies (“ILECs”). To date, I have
10 testified regarding such applications for ETC designation in Alabama (decided by
11 the FCC), Alaska, Colorado, Idaho, Illinois, Indiana, Kansas, Kentucky,
12 Minnesota, Missouri, Montana, Nevada, Oklahoma, Oregon, South Dakota,
13 Texas, Vermont, West Virginia, and Wyoming.
14

15 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

16 A. I have been asked by RCC Minnesota, Inc. (“RCC”) and United States Cellular
17 Corporation (“USCC”) to address several of the issues that are to be considered
18 by the Commission in this proceeding. While my focus is on public policy
19 objectives, I will also address specific designation criteria and reporting
20 requirements for ETCs. RCC witness Elizabeth Kohler will also provide the
21 RCC’s position on these issues in her testimony.
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1 **I. Public Policy Objectives**

2 Q. WHAT POLICY OBJECTIVES SHOULD THE COMMISSION ATTEMPT TO
3 ACHIEVE THROUGH THIS DOCKET (ISSUE I(A))?

4 A. Put simply, the objective of this proceeding should be to ensure that the proper
5 framework is in place to permit the federal USF program to operate in Oregon as
6 it is intended to operate: in a way that brings benefits to consumers in high-cost,
7 rural, or insular areas.
8

9 The intent of the 1996 Act is clear. The introduction to the Conference
10 Report begins by stating that the purpose of the bill is to “provide for a pro-
11 competitive, deregulatory national policy framework designed to accelerate
12 rapidly private sector deployment of advanced telecommunications and
13 information technologies and services to *all* Americans by opening *all*
14 telecommunications markets to competition.” §254 (b) goes on to adopt several
15 explicit “universal service principles,” including the following:
16

17 (1) Quality services should be available at just, reasonable, and affordable
18 rates.

19 (2) Access to advanced telecommunications and information services
20 should be provided in all regions of the nation.

21 (3) Consumers in all regions of the nation, including low-income
22 consumers and those in rural, insular, and high cost areas, should have
23 access to telecommunications and information services, including
24 interexchange services and advanced telecommunications and information
25 services, that are reasonably comparable to those services provided in
26 urban areas and that are available at rates that are reasonably comparable
to rates charged for similar services in urban areas.

1 Of course, making services available in rural, insular, and high-cost areas
2 that are “comparable to those services provided in urban areas” – including both
3 basic telephone service and “advanced telecommunications and information
4 services” – cannot happen unless infrastructure investments are made. In order to
5 make such investment economically viable, it is necessary to undertake the action
6 necessary to make competitive entry into these rural, insular, or high-cost areas
7 feasible. The designation of one or more competitive ETCs is often the best, and
8 in many cases the only, means of accomplishing this goal.
9

10 Q. ARE YOU SUGGESTING THAT THE FEDERAL USF PROGRAM SHOULD
11 BE ADMINISTERED IN A WAY THAT PROMOTES “COMPETITION FOR
12 COMPETITION’S SAKE”?
13

14 A. No, but I do believe that competitive entry is often an essential first step before
15 other objectives can be reached.

16 There is no reason to assume that Congress, when establishing a “pro-
17 competitive,” “national policy framework” to open “all telecommunications
18 markets to competition,” including those in rural, insular, and high-cost areas,
19 thought that it was doing so purely as an academic exercise. To the contrary, it is
20 clear from both the language of the Act and the Conference report that Congress
21 believed that by opening these markets to competitive entry, end user customers
22 would receive tangible benefits.
23

24
25
26

1 Q. IS IT REASONABLE TO EXPECT THAT A NON-INCUMBENT CARRIER
2 WILL BE ABLE TO SUCCESSFULLY COMPETE WITH A SUBSIDIZED
3 INCUMBENT?

4 A. In most cases, no, though some possible exceptions exist.
5

6 It is possible that a competitive carrier may utilize a different and
7 inherently more efficient technology and therefore be able to serve throughout an
8 ILEC study area with no support, even if the ILEC receives high-cost support
9 today. A second possibility is that a competitive carrier may use the same or a
10 similar technology to provide service, but may operate far more efficiently than
11 the ILEC and thereby be able to serve the area without the need for high-cost
12 support. However the greater efficiency is derived, once such a carrier can
13 provide service throughout an existing ILEC study area, the public policy
14 question becomes: Why is it in the public interest to continue to subsidize the
15 ILEC, when it is the demonstrably less efficient provider?
16

17 A more likely scenario is that while a competing carrier, even one that
18 uses a lower-cost technology or that has more efficient operations (or both), will
19 nevertheless have higher unit costs for a period of time after its initial entry into a
20 given geographic area. Over time as the volume of usage on its network
21 increases, the new entrant may realize lower unit costs. The FCC has explicitly
22 recognized, however, that in high-cost areas it is unreasonable to expect a
23 competitive carrier to enter the market and to effectively compete with a
24 subsidized incumbent:
25
26

1 We believe that it is unreasonable to expect an unsupported
2 carrier to enter a high-cost market and provide a service
3 that its competitor already provides at a substantially
4 supported price. If new entrants are not provided with the
5 same opportunity to receive universal service support as the
6 incumbent LEC, such carriers will be discouraged from
7 providing service and competition in high-cost areas.
8 Consequently, under an interpretation of section 214(e) that
9 requires new entrants to provide service throughout the
10 service area prior to designation as an ETC, the benefits
11 that may otherwise occur as a result of access to affordable
12 telecommunications services will not be available to
13 consumers in high-cost areas. We believe such a result is
14 inconsistent with the underlying universal service
15 principles set forth in section 254(b) that are designed to
16 preserve and advance universal service by promoting
17 access to telecommunications services in high-cost areas.¹

10
11 Q. IN ITS ORDERS, HAS THE FCC CONSIDERED COMPETITIVE ENTRY AS
12 A MEANS OF PROVIDING BENEFITS TO END USER CUSTOMERS?

13 A. Yes; as it has considered applications for ETC designation that have come before
14 it, the FCC has also clearly viewed competitive entry as an important and
15 sometimes essential tool for creating customer benefit. Early on, the FCC reached
16 the conclusion that the designation of an additional ETC can be expected to create
17 benefits in two ways: (1) by making the services and prices of the competitive
18 entrant available to customers and (2) by creating incentives for the incumbent
19 carrier to act in ways that create additional customer benefit. According to the
20 FCC, competitive entry in a rural area can be expected “[to] provide incentives to
21
22
23

24 ¹ Federal-State Joint Board on Universal Service, Western Wireless Corporation Petition
25 for Preemption of an Order of the South Dakota Public Utilities Commission, Declaratory
26 Ruling, 15 FCC Rcd 15168, 15177-78 (2000) (“*South Dakota Preemption Order*”) (footnote omitted). Throughout my testimony, I have omitted footnotes from citations to FCC orders in order to improve readability.

1 the incumbent to implement new operating efficiencies, lower prices, and offer
2 better service to its customers.”²

3
4 The short-term benefits of competitive entry, including lower prices, new
5 service offerings, the availability of different technology, and the ability to
6 diversify among suppliers, are important. But, while they are important
7 components of any public interest determination, they do not tell the whole story.
8 In my experience, the long-term economic benefits of competition represent an
9 equally important source of potential gain for consumers of telecommunications
10 services in rural areas and for rural economic development. In the *Western*
11 *Wireless Wyoming Order* cited above, the FCC refers specifically to “customer
12 choice, innovative services, and new technologies” as benefits of competitive
13 ETC designation in a rural area, and also explicitly noted that “competition will
14 result not only in the deployment of new facilities and technologies, but will also
15 *provide an incentive to the incumbent rural telephone companies to improve their*
16 *existing network to remain competitive*” (emphasis added).³ The FCC goes on to
17 conclude that “*competition may provide incentives to the incumbent to implement*
18 *new operating efficiencies, lower prices, and offer better service to its customers*”
19 (emphasis added).⁴

22
23 ² *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications*
Carrier in the State of Wyoming, CC Docket No. 96-45, Released December 26, 2000, ¶ 22.

24 ³ *Id.*, ¶ 17. Conversely, the FCC found “no merit” in arguments that the designation of an
25 additional ETC in a rural area will reduce investment incentives, increase prices, or reduce the
service quality of the ILEC.

26 ⁴ *Id.* ¶ 22.

1 Q. THE FCC HAS ALSO ADOPTED A PRINCIPLE OF “COMPETITIVE
2 NEUTRALITY” IN ETC DESIGNATIONS. WHY IS THIS IMPORTANT?

3 A. In its 1997 *First Report and Order*, the FCC defines competitive neutrality as
4 “universal service support mechanisms and rules that neither unfairly advantage
5 nor disadvantage one provider over another, and neither unfairly favor nor
6 disfavor one technology over another.”⁵
7

8 The competitive neutrality principle has two important aspects. First, ETC
9 designations should not be made based on whether the applicant is an incumbent
10 or new entrant, or whether the applicant uses a wireline, wireless, or potentially
11 some other network to provide the supported services. Second, it is the interests
12 of the public – the consumers of telecommunications services – that must be
13 considered. The interests of an individual carrier, a regulatory category of
14 carriers, or of carriers using a given technology to deliver service is a secondary
15 consideration if it is to be considered at all.
16

17 The FCC and Fifth Circuit Court have been clear that the purpose of the
18 federal universal service mechanism is to provide benefits to rural consumers of
19 telecommunications services; its purpose is not to protect incumbent LECs: “The
20 Act does *not* guarantee all local telephone service providers a sufficient return on
21 investment; quite the contrary, it is intended to introduce competition into the
22 market. Competition necessarily brings the risk that some telephone service
23 providers will be unable to compete. The Act only promises universal service,
24

25
26

⁵ *Report and Order*, CC Docket No. 96-45, 12 FCC Rcd 8776, ¶¶45-52.

1 and that is a goal that requires sufficient funding of *customers*, not *providers*. So
2 long as there is sufficient and competitively neutral funding to enable all
3 customers to receive basic telecommunications services, the FCC has satisfied the
4 Act and is not further required to ensure sufficient funding of every local
5 telephone provider as well” (emphasis in original).⁶

6
7 Q. DO YOU HAVE ANY DIRECT EXPERIENCE WITH THE IMPACT OF
8 COMPETITIVE ENTRY IN RURAL AREAS?

9 A. Yes. My direct experience is derived from both personal and professional
10 experience. In terms of personal experience, I grew up in a rural farming
11 community and have experienced first-hand the challenges faced by the people
12 who live and work in rural areas. Over the past few years I have also worked with
13 various organizations operating in rural areas and have assisted with their efforts
14 to attract investment and employment opportunities and to generally improve the
15 quality of life in rural areas. While the kinds of competitive entry made possible
16 by ETC designations is important in urban and suburban areas, in my experience
17 the existence of competitive alternatives in rural areas is even more important for
18 at least two reasons:

19
20
21 **The existence of competitive options for telecommunications services,**
22 **particularly the availability of wireless service, is important for rural**
23 **economic development.** When making investment and relocation decisions,

24
25 ⁶ *Alenco Communications, Inc. v. FCC*, 201 F.3d at 620, cited in *Federal-State Joint Board On*
26 *Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of*
Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth
Report & Order, 16 FCC Rcd. 11,244, 11,257 (2001).

1 companies consider the availability of telecommunications services in an area.
2 Reliable voice services, data services, and mobile wireless services with sufficient
3 coverage all play a role in this process. In order to compete with their urban and
4 suburban counterparts to attract investment and jobs, rural areas need for these
5 services to be available.
6

7 **The availability of affordable and high-quality wireless service is**
8 **extremely important in rural areas for health and safety reasons.** Reliable
9 mobile communications have a level of importance for people who live and work
10 in rural areas that people living in urban areas often fail to appreciate. The
11 availability of even the highest quality wireline service is no substitute for a
12 mobile service with broad geographic coverage, simply because wireline service
13 is often physically not there when needed. In an area where fields being worked
14 are far from the road, and where wireline phones along the roadway are few and
15 far between, the availability of wireless communication can literally save a life.
16

17 Q. YOU HAVE SUGGESTED THAT IT IS IMPORTANT TO RECOGNIZE THE
18 FACT THAT WIRELESS SERVICE CAN BE USED AT MULTIPLE
19 LOCATIONS WITHIN A SERVICE AREA, WHILE WIRELINE SERVICE
20 CANNOT. IS IT YOUR UNDERSTANDING THAT MOBILITY IS A
21 SUPPORTED SERVICE FUNCTIONALITY?
22

23 A. No, but it is an extremely important part of any public interest analysis. Wireless
24 service has public health and safety benefits (benefits that wireline service can
25 never provide) that should not be ignored. The FCC explicitly considered
26

1 mobility in its public interest findings in both the *Virginia Cellular Order* and
2 *Highland Cellular Order*:

3
4 We find that the designation of Virginia Cellular as an ETC
5 in certain areas served by rural telephone companies serves
6 the public interest and furthers the goal of universal service
by providing greater mobility...to consumers in rural and
high cost areas.⁷

7
8 The mobility of Highland Cellular's wireless service will
9 provide other benefits to consumers. For example, the
10 mobility of telecommunications assists consumers in rural
11 areas who often must drive significant distances to places
12 of employment, stores, schools, and other critical
13 community locations. In addition, the availability of a
wireless universal service offering provides access to
emergency services that can mitigate the unique risks of
geographic isolation associated with living in rural
communities.⁸

14 Based on these important factors, it wouldn't make sense to deny ETC
15 designation to a wireless carrier that will provide the supported services to any
16 requesting customer and to nearly all possible customer locations, while granting
17 ETC designation to a wireline carrier that while providing service to any
18 customer, can do so only at a small fraction of potential customer locations.

19
20 It is also important to note that the existence of service functionalities
21 beyond the nine minimum functionality requirements in no way disqualifies the
22 carrier's service from the federal universal service program. In the examples
23 above, the FCC found that services offered by a wireless ETC that include an
24

25 ⁷ *Virginia Cellular Order*, ¶ 12.

26 ⁸ *Highland Cellular Order*, ¶ 23.

1 additional functionality – in this case mobility – represents an important customer
2 benefit and is fully consistent with both the letter and spirit of the federal
3 requirements.

4
5 Q. DO YOU HAVE AN ADDITIONAL EXAMPLE OF WHY THE PRESENCE
6 OF A FUNCTIONALITY BEYOND THE NINE SUPPORTED SERVICE
7 FUNCTIONALITIES DOES NOT DISQUALIFY A CARRIER’S SERVICE
8 OFFERING FROM FEDERAL USF SUPPORT?

9
10 A. Yes. A wireline carrier may provision DSL (or a similar data service) over a
11 twisted copper pair that was originally installed to provide only voice
12 communications. Providing such an enhanced service over a loop previously used
13 to provide only POTS does not disqualify the ILEC from receiving support for
14 that line or for that customer.

15
16 Q. THE 1996 ACT ALSO REFERS, AS A UNIVERSAL SERVICE PRINCIPLE,
17 TO MAKING “ADVANCED TELECOMMUNICATIONS AND
18 INFORMATION SERVICES” AVAILABLE TO CONSUMERS IN ALL
19 REGIONS OF THE NATION, INCLUDING LOW-INCOME CONSUMERS
20 AND THOSE IN RURAL, INSULAR, AND HIGH COST AREAS.” SHOULD
21 THE POTENTIAL OF A CARRIER TO PROVIDE “ADVANCED
22 TELECOMMUNICATIONS AND INFORMATION SERVICES” BE
23 CONSIDERED WHEN EITHER DESIGNATING OR RECERTIFYING THAT
24 CARRIER?
25
26

1 A. Yes. Mobile wireless service as one example of an advanced telecommunications
2 service that can and should be considered as a part of a public interest test (even
3 if, as explained above, the advanced service itself is not one of the nine supported
4 service functionalities).⁹ New advanced services such as text messaging, multi-
5 media messaging, picture messaging, and high speed Internet access all have
6 significant potential to deliver both business and consumer benefits. These
7 benefits can only be delivered if the basic infrastructure used to deliver the nine
8 supported service functionalities are put in place. In the case of mobile wireless,
9 once the cell site is constructed and the backhaul facilities are in place to
10 communicate back to the switch, high-speed data services can be deployed with
11 enhancements to existing facilities. Such a capability can provide a benefit to
12 individual customers and can deliver significant economic benefits to
13 communities as businesses make decisions to locate or operate within an area. As
14 the FCC has made clear, these kinds of benefits can and should be considered in
15 the public interest analysis.

18 Q. IN WHAT CONTEXT SHOULD THE COMMISSION EVALUATE THE
19 MERITS OF A REQUEST FOR ETC DESIGNATION?
20

21 A. When evaluating a request for ETC designation, the Commission should consider
22 the details of that petition with a focus on the question “How will a decision to
23 designate (or not to designate) this carrier as an ETC impact end user customers in
24

25 ⁹ In terms of §54.101, the mobility of wireless service can be viewed as a means of providing the
26 nine supported service functionalities at locations or times where they would not be available if
provided via a wireline network.

1 the area in question? This potential impact should be considered in both the short
2 run and over a longer period of time.

3 Carriers, of course – both those requesting designation and those who
4 might be opposing a given designation – will have their own agenda and can be
5 expected to attempt to rephrase the question in various ways. The question before
6 the Commission will *not* be “Is the introduction of competition in rural areas in
7 the public interest?” or “Is it an appropriate use of federal USF to make entry into
8 – and the expansion of service throughout – these areas feasible?” These
9 questions have both been answered in the affirmative and the policy direction has
10 been set by both Congress and the FCC.
11
12

13 **II. Initial Designation of ETCs**

14 *Basic eligibility requirements for initial certification of ETCs*

15 Q. SHOULD THE COMMISSION ADOPT ANY, OR ALL, OF THE
16 REQUIREMENTS PROPOSED BY THE FCC (ISSUE II(A)(1))?

17 A. The Commission should adopt most of the FCC’s requirements set forth in FCC
18 05-46,¹⁰ though an understanding of the limitations of some of these requirements
19 is essential.
20

21 Q. ARE THERE PORTIONS OF THE FCC’S 2005 USF ORDER THAT PROVIDE
22 USEFUL GUIDANCE AND SHOULD BE ADOPTED?

23 A. Yes. While the FCC did not make significant changes to the policy that it had
24 previously adopted in the *Virginia Cellular Order* and *Highland Cellular Order*,
25

26 ¹⁰ *Report and Order*, FCC 05-46 (rel. March 17, 2005) (hereafter “2005 USF Order”).

1 the 2005 *USF Order* does make some important clarifications regarding issues
2 that, at least according to many ILECs, were in need of clarification.

3 **Definition of “commitment and ability to provide the supported**
4 **services.”** While ILECs have often argued that a carrier seeking ETC designation
5 must show that it has, prior to designation, the ability to serve all customers
6 within the designated area, the FCC made it clear that the ILECs’ fictitious
7 (“already serve throughout”) hurdle is not the correct one. Instead, the FCC
8 referred to its previous decisions regarding Virginia Cellular and Highland
9 Cellular regarding the required demonstration of “capability and commitment,”
10 based on “customers who make a reasonable request for service”:
11

12 [w]e require that an ETC applicant make specific commitments to
13 provide service to requesting customers in the service areas for
14 which it is designated as an ETC. If the ETC’s network already
15 passes or covers the potential customers’ premises, the ETC should
16 provide service immediately. In those instances where a request
17 comes from a potential customer within the applicant’s licensed
18 service area but outside its existing network coverage, the ETC
19 applicant should provide service within a reasonable period of time
20 if service can be provided at reasonable cost.¹¹

21 The FCC went on to again memorialize its previously-established six-step
22 process that will “ensure that an ETC applicant is committed to serving customers
23 within the entire area for which it is designated: “(1) modifying or replacing the
24 requesting customer’s equipment, (2) deploying a roof-mounted antenna or other
25 equipment, (3) adjusting the nearest cell tower, (4) adjusting network or customer
26 facilities, (5) reselling services from another carrier’s facilities to provide service,

¹¹ 2005 *USF Order*, ¶22.

1 or (6) employing leasing, or constructing additional cell site, cell extender,
2 repeater, or similar equipment.”¹² Adoption of the FCC’s six-step process as the
3 standard will avoid needless debates regarding a carrier’s ability to “serve
4 throughout an area” at the time of designation or recertification.
5

6 **Requirement to demonstrate the “ability to remain functional in**
7 **emergency situations.”** After concluding that “functionality during emergency
8 situations is an important consideration of the public interest,” the FCC created a
9 specific requirement that “in order to be designated as an ETC, an applicant must
10 demonstrate it has a reasonable amount of backup power to ensure functionality
11 without an external power source, is able to reroute traffic around damaged
12 facilities, and is capable of managing traffic spikes resulting from emergency
13 situations.”¹³ This requirement has, to date, proven to be relatively non-
14 controversial and it should be adopted. It is also important to note the FCC’s
15 explicit statement that any requirements adopted by a state regulator regarding an
16 ETC’s ability to remain functional in emergency situations should be “consistent
17 with the universal service principle of competitive neutrality.”¹⁴
18

19 **Requirements regarding consumer protection.** The FCC states that it
20 will “require a carrier seeking ETC designation to demonstrate its commitment to
21 meeting consumer protection and service quality standards,” and concluded that
22 “consistent with the designation framework established in the *Virginia Cellular*
23

24 ¹² *Id.*

25 ¹³ *Id.*, ¶25.

26 ¹⁴ *Id.*

1 *ETC Designation Order and Highland Cellular ETC Designation Order ... a*
2 commitment to comply with the Cellular Telecommunications and Internet
3 Association's Consumer Code for Wireless Service will satisfy this requirement
4 for a wireless ETC applicant."¹⁵ Compliance with the CTIA Code of Conduct
5 should be adopted as a means of demonstrating the required commitment to
6 consumer protection and service quality standards.

8 The FCC also reached an extremely important conclusion regarding
9 suggestions that a CETC should be subject to the same consumer protection
10 requirements as the ILECs. When rejecting this notion, the FCC urged states to
11 adopt only those requirements that are actually needed to protect consumers:

12 In determining whether any additional consumer protection
13 requirement should apply as a prerequisite for obtaining ETC
14 designation from the state – i.e., where such a requirement would
15 not otherwise apply to the ETC applicant – we encourage states to
16 consider, among other things, the extent to which a particular
17 regulation is necessary to protect consumers in the ETC context, as
18 well as the extent to which it may disadvantage an ETC
19 specifically because it is not the incumbent LEC. *We agree with*
 the Joint Board's assertion that 'states should not require
 regulatory parity for parity's sake.' *We therefore encourage states*
 that impose requirements on an ETC to do so only to the extent
 necessary to further universal service goals (emphasis added).¹⁶

20 The Commission should adopt a similar principle that requirements should
21 be imposed only they are “necessary to protect consumers,” are “necessary to
22 further universal service goals,” and do not serve to “disadvantage an ETC
23 specifically because it is not the incumbent LEC.”
24

25 ¹⁵ *Id.*, ¶28.

26 ¹⁶ *Id.*, ¶30.

1 **Requirements regarding local usage.** As it had consistently done in
2 previous orders, the FCC “declined to adopt a specific local usage threshold”¹⁷
3 and instead established a requirement that an ETC offer at least one rate plan with
4 local usage that is “comparable to the one offered by the incumbent LEC.”¹⁸
5 When considering whether the local usage component of a given rate plan is
6 “comparable,” the FCC explicitly noted that the offerings of a CETC, and
7 particularly a wireless ETC, are often fundamentally different than the service
8 offerings of the ILEC the wireless carrier may have a much larger “local” calling
9 area, for example), and that these fundamental differences must be considered.
10 The FCC advocates such a “case-by-case” analysis because “for example, an ETC
11 applicant may offer a local calling plan that has a different calling area than the
12 local exchange area provided by the LECs in the same region, or the applicant
13 may propose a local calling plan that offers a specified number of free minutes of
14 service within the local service area. We also can envision circumstances in
15 which an ETC is offering an unlimited calling plan that bundles local minutes
16 with long distance minutes.”¹⁹ In the end, the FCC decision is important in two
17 respects that should be reflected in any state requirements adopted: (1) the FCC
18 rejected, as it has consistently done, suggestions that it establish a “specific local
19 usage threshold,” and (2) the FCC has instead determined that CETC rate plans
20 should be considered on a case-by-case basis, with due consideration given to the
21
22
23

24 ¹⁷ *Id.*, ¶32.

25 ¹⁸ *Id.*, ¶33.

26 ¹⁹ *Id.*

1 differences in geographic scope of the “local” callings areas offered by various
2 carriers and to other fundamental differences in service offerings.

3 **Requirements regarding equal access.** The FCC also rejected, as it had
4 consistently done in previous orders, proposals that it require CETCs to provide
5 equal access as a condition of designation. Instead, the FCC decided to require
6 ETC applicants to “acknowledge that we may require them to provide equal
7 access to long distance carriers in their designated service area” in the event that
8 “all other ETCs in that service area relinquish their designations pursuant to
9 section 214(e)(4) of the Act.” While such a scenario is extremely unlikely, it is
10 reasonable for a CETC to acknowledge that in the unlikely event that the ILEC
11 relinquishes its ETC designation, it may be required to implement equal access.
12 The Commission should adopt the requirement for such an acknowledgement,
13 although as I understand it the CETC would have such an obligation under such a
14 scenario whether or not it makes such an acknowledgement up front.
15

16
17 Q. ARE THERE PORTIONS OF THE FCC’S 2005 USF ORDER THAT DO NOT
18 PROVIDE USEFUL INFORMATION TO THE COMMISSION AND
19 THEREFORE SHOULD NOT BE ADOPTED?

20
21 A. Yes. The objective of this proceeding should be to establish a set of requirements
22 and guidelines that provide the information necessary for the Commission to
23 ensure that ETC applicants meet the requirements for designation and to annually
24 ensure that all ETCs – both ILECs and CETCs – continue to meet their
25 obligations. While some information is important and necessary for these tasks,
26

1 not all information is useful or meaningful. If the information in this latter
2 category is not difficult or expensive to collect, then it may increase the
3 information “clutter” faced by the Commission but have little detrimental impact
4 beyond that. If the information is difficult or expensive to collect, however, then
5 the requirement for its production will have more serious consequences: an
6 artificially high hurdle for designation or annual recertification may be set
7 (thereby depriving end user customers of a potentially important service option),
8 and capital that may otherwise have been invested in network infrastructure to
9 improve or expand service coverage may be instead wasted in an expensive (and
10 largely meaningless) data-collection exercise.

12 Q. DOES THE FCC’S *2005 USF ORDER* CONTAIN AN EXAMPLE OF AN
13 EXPENSIVE DATA-COLLECTION EFFORT THAT ULTIMATELY WOULD
14 BE OF LITTLE VALUE TO THE COMMISSION?
15

16 A. Yes. The FCC established a requirement, for ETC applications that it considers, for
17 the applicant “to submit a formal plan detailing how it will use universal service
18 support to improve service within the areas for which it seeks designation.”²⁰ I
19 have no problem with a requirement that a carrier seeking ETC designation must
20 provide a plan for how it will “use universal service support to improve service,”
21 and believe that the Commission should adopt such a requirement for Oregon. Two
22 problems have been created by the language of the *2005 USF Order*, though. One
23 problem is created by the FCC’s decision to require such a detailed plan for a five-
24

25
26 ²⁰ *Id.*, ¶23.

1 year period. The second is created by the requirement to provide this information
2 for the area served by each ILEC wire center.

3
4 Q. WHY SHOULD THE COMMISSION NOT ADOPT A REQUIREMENT FOR
5 ETC APPLICANTS TO PRODUCE A FIVE YEAR PLAN?

6 A. There are two primary reasons why a requirement for a five-year projection – the
7 development of which represents an extremely time-consuming and costly
8 exercise – would be counterproductive. First, the capital planning cycles of most
9 carriers do not extend to a five-year horizon. In many cases, changes in the
10 availability of capital, market conditions, and customer demands can make even
11 an annual planning cycle subject to frequent revision. This level of uncertainty is
12 a fact of life in competitive markets and largely reflects carriers’ ongoing efforts
13 to be as responsive as possible to customers and potential customers.
14

15
16 Second, this kind of long-range projection, that after the first twelve
17 months often represents little more than expensive guesswork, is not the most
18 effective means available for the Commission to ensure that a carrier maintains
19 the “capability and commitment” to “respond to reasonable requests for service,”
20 and that federal USF support is being used for the intended purposes. Instead, it
21 would be much more effective for the Commission to require all ETCs (both
22 CETCs and ILECs) to provide one-year plans and to carefully review the ETC’s
23 progress toward reaching these stated objectives in the context of the annual
24 recertification process. At that point, the Commission would have the opportunity
25 both to review the carrier’s progress and evaluate the carrier’s plan for the
26

1 upcoming year. Such a process would represent a much more meaningful method
2 for monitoring the use of federal USF than an up-front five year plan.²¹

3
4 My recommendation is that while the Commission should certainly require
5 an ETC applicant “to submit a formal plan detailing how it will use universal
6 service support to improve service within the areas for which it seeks designation,”
7 that an equally effective – and far more efficient – process would be to require an
8 applicant to provide a one or two year projection, and that all ETCs (both CETCs
9 and ILECs) be required: (1) to show the Commission and Staff, during the annual
10 recertification process, how funds were used to meet the previous years projection
11 (and to fully explain any variations from the previously-supplied plan), and (2) to
12 provide a detailed plan showing how the funds the carrier expects to receive in the
13 upcoming year will be used for the purposes intended.

15 Q. WHY SHOULD THE COMMISSION NOT ADOPT A REQUIREMENT FOR
16 CETCS TO PROVIDE NETWORK PLANNING INFORMATION BY ILEC
17 WIRE CENTER?
18

19 A. There are three basic reasons why such a requirement makes no sense. First, it is
20 my understanding that introducing a requirement for ILEC wire center-specific
21 information takes a time-consuming and expensive process and turns it into an
22

23 ²¹ It is important to note that the plans that have been required by the FCC to date, and those that
24 would be required pursuant to the *2005 USF Order*, are not binding and are explicitly subject to
25 revision based on changes in market conditions and the carrier’s response to changing customer
26 needs. Since all ETCs are recertified on an annual basis, it is difficult to understand how a five
 year projection that is subject to an annual revision provides more meaningful information than
 would be provided by a one or two year plan.

1 absurdly time-consuming and expensive process. Wireless CETCs do not plan,
2 operate, or maintain their networks based on the artificial geographic boundaries
3 of ILEC wire centers.
4

5 Second, the process of requiring network investment to be identified with
6 what may be hundreds of small geographic areas ultimately produces meaningless
7 information. Unlike wireline networks, wireless network facilities need not be
8 physically located within the boundaries of a given ILEC wire center in order to
9 serve the customers within that wire center. A cell tower that is located just
10 beyond a wire center boundary may provide substantial benefits, in terms of
11 quality and coverage, to customers that live with an ILEC wire center even though
12 no investment may be reported by the CETC for that specific wire center.
13

14 Third, this expensive process of producing largely meaningless
15 information is (fortunately for all concerned) not necessary in order to meet the
16 FCC's stated objective. The FCC states that it has introduced such a requirement
17 to ensure that "supported improvements in service will be made throughout the
18 service area." This is a reasonable objective and one that should be met over
19 time, but I am aware of no reason that an ETC applicant (or existing ETCs in the
20 context of an annual recertification) cannot show how proposed network
21 enhancements will improve service in various areas without a report that is
22 specific to ILEC wire centers.
23
24

25 For these reasons, while the Commission should require a carrier seeking
26 designation (or recertification) as an ETC to provide "a formal plan detailing how

1 it will use universal service support to improve service within the areas for which
2 it seeks designation,” it should not require that such a plan extend longer than
3 meaningful network planning can be conducted²² and should not require the
4 information to be provided based on small and arbitrary geographic areas such as
5 ILEC wire centers.
6

7 Q. SHOULD THE COMMISSION ADOPT OTHER BASIC ELIGIBILITY
8 CRITERIA (ISSUE II(A)(2))?

9 A. No. The requirements that the FCC developed for ETC applications that it will
10 review are thorough and cover all of the applicable eligibility criteria set forth in
11 the Act.
12

13 Q. SHOULD THE SAME REQUIREMENTS APPLY TO APPLICATIONS FOR
14 DESIGNATIONS IN RURAL AND NON-RURAL ILEC SERVICE AREAS
15 (ISSUE II(A)(3))?
16

17 A. This is ultimately a legal issue that should be addressed in briefing by the parties.
18 While I am not an attorney, my reading of the §214(e) of the Act certainly
19 suggests that the requirement for a determination that a requested ETC
20 designation is in the public interest is limited to requests for designation in areas
21 “served by a rural telephone company,” although I understand that the FCC has
22

23
24
25 ²² In my experience, a one-year projection is meaningful, and two-year projection represents an
26 educated guess, and anything beyond a two-year projection is an expensive exercise in essentially
pure speculation.

1 recently decided to apply the public interest requirement to areas not served by
2 rural telephone companies.

3
4 Q. SHOULD THE SAME REQUIREMENTS APPLY REGARDLESS OF THE
5 TYPE OF SUPPORT THAT THE ETC WILL RECEIVE (ISSUE II(A)(4))?

6 A. Yes. The requirements for designation as an ETC are independent of the type of
7 support (high-cost, interstate access/common line, low income) received. A
8 CETC is eligible for the same amount of per-line support as is being received by
9 the ILEC serving that area. A potential CETC's eligibility for designation as an
10 ETC depends on that carrier's demonstration that it can and will meet the
11 requirements for designation, but is unrelated to the amount of per-line support.
12

13 *Criteria for determining whether a request for designation is in the public interest*
14

15 Q. SHOULD THE COMMISSION ADOPT THE CRITERIA PROPOSED BY THE
16 FCC IN ORDER 05-46 (ISSUE II(B)(1))?

17 A. In part, although a specific limitation must be recognized.

18 The FCC adopted a two-part approach to a determination of the public
19 interest.²³ First, as it had done in previous orders, the FCC set forth a cost-benefit
20 analysis and identified two primary factors to be considered:
21

22 _____
23 ²³ In the *2005 USF Order*, the FCC also addressed the impact of a ETC designation on the size of
24 the overall fund, but declined to adopt any specific test because, as it correctly noted, "it is
25 unlikely that any individual ETC designation would have a substantial impact on the overall size
26 of the fund" (§54). The FCC also declined to adopt any proposed "per-line support benchmark,"
because any concerns regarding the size of the fund should be balanced against "other objectives,
including giving consumers throughout the country access to services comparable to services in
urban areas and ensuring competitive neutrality" (§56).

1 **Increases in consumer choice.** The FCC stated that it will consider “the
2 benefits of increased consumer choice when conducting its public interest
3 analysis. In particular, granting an ETC designation may serve the public interest
4 by providing a choice of service offerings in rural and high-cost areas.”²⁴
5

6 **Advantages and disadvantages of a particular service offering.** The
7 FCC stated that it will “consider the particular advantages and disadvantages of an
8 ETC’s service offering. For instance, the Commission has examined the benefits
9 of mobility that wireless carriers provide in geographically isolated areas, the
10 possibility that an ETC designation will allow customers to be subject to fewer
11 toll charges, and the potential for customers to obtain services comparable to
12 those provided in urban areas, such as voicemail, numeric paging, call
13 forwarding, three-way calling, call waiting, and other premium services. The
14 Commission also examines disadvantages such as dropped call rates and poor
15 coverage.”²⁵
16

17 This kind of balanced approach, with its focus on how end user customers
18 will be impacted by the designation of a carrier as an ETC (or by a refusal to
19 designate that carrier) should be adopted by the Commission.
20

21 Q. WHAT IS THE SECOND PART OF THE FCC’S PUBLIC INTEREST
22 ANALYSIS?

23 A. After adopting its cost-benefit analysis, the FCC goes on to devote an inordinate
24 amount of attention to the potential for so-called “creamskimming.” This

25 ²⁴ 2005 USF Order, ¶44.

26 ²⁵ *Id.*

1 potential, according to the FCC, is created if (1) a carrier requests ETC
2 designation for an area less than the ILEC study area²⁶ and (2) an ETC applicant
3 “seeks designation in a disproportionate share of the high-density portion of a
4 service area” such that it “may receive more support than is reflective of the rural
5 incumbent LEC’s costs of serving that wire center because support for each line is
6 based on the rural telephone company’s average costs for serving the entire
7 service area unless the incumbent LEC has disaggregated its support.”²⁷

9 When defining the theoretical potential for “creamskimming,” the FCC
10 initially acknowledges that it has created an effective mechanism to prevent any
11 possibility of “creamskimming”: 47 CFR §54.315 permits ILECs to disaggregate
12 their universal service support to reflect geographic cost differences so that the
13 per-line support available to a CETC serving a given area is *not* “based on the
14 rural telephone company’s average costs for serving the entire service area.”
15 Rural ILECs had the opportunity to choose one of three paths for disaggregation
16 and the rules permit ILECs to change paths as events warrant. To the extent that
17 “creamskimming” opportunities exist even as a theoretical matter, this mechanism
18 provides an effective method to prevent it and the FCC has previously
19
20
21
22
23

24 ²⁶ “When a competitive carrier requests designation for an entire rural service area, it does *not*
25 create creamskiimming concerns because the affected ETC is required to serve all wire centers in
the designated service area” (emphasis added). *2005 USF Order*, ¶49.

26 ²⁷ *Id.*

1 acknowledged that the disaggregation rule effectively eliminates the
2 creamskimming issue.²⁸

3 The FCC's more recent pronouncements encourage states to "examine the
4 potential for creamskimming in wire centers served by rural incumbent LECs,"
5 and to do so by "examining the degree of population density disparities among
6 wire centers within rural service areas, the extent to which an ETC applicant
7 would be serving only the most densely concentrated areas within a rural service
8 area, and whether the incumbent LEC has disaggregated its support at a smaller
9 level than the service area (e.g., at the wire center level)."²⁹ To the extent that the
10 Commission has any concerns regarding the possibility of "creamskimming," this
11 basic approach makes sense.
12

13
14 Q. YOU SUGGESTED THAT "CREAMSKIMMING" IS LARGELY A
15 THEORETICAL CONCERN. WHY IS THIS THE CASE?

16 A. While I have reviewed numerous claims of "creamskimming" by ILECs in many
17 different contexts, I have yet to see a demonstration of an actual attempt by a
18 competing carrier to engage in such a strategy. In the current context (as in most
19 others), any attempt to engage in so-called "creamskimming" would represent a
20

21 _____
22 ²⁸ See, *Petitions for Reconsideration of Western Wireless Corporation's Designation as an*
23 *Eligible Telecommunications Carrier in the State of Wyoming, Order on Reconsideration*, FCC
24 01-311, at para. 12 ("Rural telephone companies, however, now have the option of disaggregating
25 and targeting high-cost support below the study area level so that support will be distributed in a
manner that ensures that the per-line level of support is more closely associated with the cost of
providing service. Therefore, any concern regarding "cream-skimming" of customers that may
arise in designating a service area that does not encompass the entire study area of the rural
telephone company has been substantially eliminated.")

26 ²⁹ *Id.*, ¶49.

1 very poor business plan for any carrier. As a practical matter, even a carrier that
2 diverts considerable resources away from its business operation in order to
3 attempt to exploit opportunities for geographic “creamskimming” would find it
4 almost impossible to successfully accomplish its objective. In order to be
5 successful, the new entrant would need to incur costs in the same way as the
6 ILEC; it is only if the “high cost” and “low cost” areas of the ILEC and new
7 entrant match that “creamskimming” is even theoretically possible. Because
8 wireline and wireless carriers have fundamentally different cost structures, they
9 simply do not experience “high cost” and “low cost” areas in the same way or in
10 the same locations. An additional practical problem is that – when examined
11 closely – network costs do not vary in a geographically predictable way. My
12 review of hundreds of network costs studies reveals an inescapable truth: it is
13 impossible to conclude that network costs vary based on any set of broad criteria.
14 Costs vary on a very discrete geographic scale, making it difficult (if not
15 impossible) to identify individual customers that are “low cost” and thereby
16 represent a “creamskimming” opportunity. A carrier seeking to somehow
17 “creamskim” would be unable to accurately identify the location of these “low
18 cost” customers, and utterly unable to limit its service offerings to them.

19
20
21
22 Q. IN THE 2005 USF ORDER, THE FCC SUGGESTS THAT THE
23 DISAGGREGATION OF SUPPORT MAY NOT FULLY ELIMINATE
24 “CREAMSKIMMING OPPORTUNITIES.” DO YOU AGREE WITH ITS
25 REASONING?
26

1 A. No. After previously recognizing that the disaggregation of support eliminates
2 even the theoretical possibility, the FCC has – based on no record evidence –
3 qualified this conclusion somewhat. It concluded that “creamskimming may
4 remain a concern where a competitive ETC seeks designation in a service area
5 where the incumbent rural LEC has disaggregated high-cost support to the higher-
6 cost portions of its service area.”³⁰ This conclusion doesn’t make much sense; if a
7 rural ILEC has indeed “disaggregated high-cost support to the higher-cost
8 portions of its service area,” then a CETC seeking to enter low-cost areas will
9 receive little or no support (as would be appropriate), and a CETC seeking to
10 enter high-cost areas would receive a level of per-line support that reflects those
11 higher costs (as would also be appropriate).
12

13
14 The FCC then goes on to reach the opposite conclusion regarding areas
15 served by non-rural ILECs:

16 We find that a creamskimming analysis is unnecessary for ETC
17 applicants seeking designation below the service area level of non-
18 rural incumbent LECs. Unlike the rural mechanism, which uses
19 embedded costs to distribute support on a service area-wide basis,
20 the non-rural mechanism uses a forward-looking cost model to
21 distribute support to individual wire centers ... under the non-rural
methodology, high-density, low-cost wire centers receive little or
no high-cost support, thereby protecting against the potential for
creamskimming.³¹

22 The FCC goes on to conclude that “even in a non-rural study area where
23 an incumbent LEC receives high-cost support, creamskimming concerns would
24

25 ³⁰ *Id.*, ¶51.

26 ³¹ *Id.*, ¶52.

1 not be present because support is targeted at the wire center level based on
2 relative cost, thereby calculating high-cost support on a more granular basis and
3 significantly reducing the possibility that carriers would receive a windfall from
4 support for that wire center.”³²

5
6 While I fully agree with the FCC’s conclusion that the disaggregation of
7 support at the wire center level effectively eliminates even the potential for
8 creamskimming in areas served by non-rural ILECs, it is unclear why the
9 disaggregation of support in rural ILEC areas would not achieve the same result.
10 The FCC has identified two distinctions that it believes are important: (1) in non-
11 rural areas, support “is targeted at the wire center level based on relative cost,
12 thereby calculating high-cost support on a more granular basis,” and (2) the non-
13 rural mechanism “uses a forward-looking cost model to distribute support to
14 individual wire centers.” These distinctions exist if, but only if, the rural ILEC
15 has *not* chosen to disaggregate support. There is absolutely no reason that an
16 ILEC cannot disaggregate support at the wire center level based on geographic
17 differences in cost (in fact, as I explain later in my testimony, the Commission
18 should require such disaggregation), and absolutely no reason that rural ILECs
19 cannot use an analysis of forward-looking costs “to distribute support to
20 individual wire centers” (in fact, such an approach would be the most
21 meaningful). If a rural ILEC has “targeted [support] at the wire center level based
22 on relative cost,” then such disaggregation can be expected to “significantly
23
24
25

26 ³² *Id.*, fn. 151.

1 reduce the possibility that carriers would receive a windfall from support for that
2 wire center.”

3 Q. THE FCC ALSO ADOPTED A “POPULATION DENSITY ANALYSIS” THAT
4 IT HAD RELIED UPON IN PREVIOUS CASES. DOES THE FCC
5 METHODOLOGY PRODUCE ACCURATE AND MEANINGFUL
6 INFORMATION?
7

8 A. No. In its *2005 USF Order*,³³ the FCC referenced a population density test that is
9 used when making a decision in the *Virginia Cellular Order*. In that order, the
10 FCC examined and compared the population densities (measured in terms of
11 persons per square mile) of the wire centers where designation was sought with
12 that of the wire centers where designation was not sought by the potential
13 CETC.³⁴ If the wire centers where ETC designation is sought have a significantly
14 higher (approximately an 8:1 ratio, in the FCC’s Virginia Cellular example)
15 population density than the rest of the study area, the FCC reasoned that it is
16 likely that costs are lower in the requested area and it is possible that the CETC
17 may receive some financial benefit, however inadvertent.
18

19 It is important to understand that the FCC’s population density analysis is
20 only a rough approximation whose results should be considered in light of the
21 significant amount of potential error that is almost certain to be present. This
22 error comes from multiple sources:
23

24

25 ³³ *Id.*, ¶¶ 48-53

26 ³⁴ *Virginia Cellular Order*, ¶¶ 34-35.

- 1 1. A measure of persons per square mile, while readily available, is
2 a poor proxy for telephone lines per square mile and therefore is
3 often a poor predictor of the costs of serving an area.
- 4 2. Measuring density at the level of the total wire center or
5 exchange area, rather than the subset of this area within which
6 telephone plant is actually built, understates density and overstates
7 cost.
- 8 3. The resulting error is biased; that is, it is not equally likely to
9 occur in both directions. This approach will often cause a given
10 exchange area to be shown as an area of lower density (and
11 presumed higher cost) than it actually is, and the lower the density
12 of the area being considered, the greater the magnitude of the
13 resulting error. The same error does not occur in the opposite
14 direction: the FCC's approach cannot cause a given area to be
15 reported as having higher density (and presumed lower cost) than it
16 actually does. This bias causes the FCC's approach to exaggerate
17 the density (and presumed cost) differences between ILEC
18 exchanges.

13 The FCC has previously recognized this potential error in the way that it
14 interpreted the results of such an analysis. In its *Virginia Cellular Order*, the FCC
15 concluded that if there is "a great disparity" in population density (and presumed
16 costs) between the served and unserved exchanges or wire centers, it is possible
17 that "granting a carrier ETC designation for only its licensed portion of the rural
18 study area may have the same effect on the ILEC as rural creamskimming."³⁵

20 Q. WHAT "GREAT DISPARITY" DID THE FCC OBSERVE IN ITS *VIRGINIA*
21 *CELLULAR ORDER*?

23 A. In the Virginia Cellular case, the great disparity observed by the FCC was
24 between an area (for which ETC designation was sought) with a population

25 _____
26 ³⁵ ¶¶33-35

1 density of 273 persons per square mile and an area (for which ETC designation
2 was not sought) with a density of 33 persons per square mile: a ratio of more than
3 8:1. By utilizing its results only in a situation in which such a “great disparity”
4 exists, the FCC avoided having its conclusions undermined by the inherent error –
5 and inherent bias of that error – in its analysis.
6

7 In other state proceedings, rural ILECs have asserted that a significantly
8 lesser disparity calculated using this methodology – a 2:1 ratio, for example – also
9 indicates the potential for “creamskimming.” Such a conclusion underscores the
10 danger in the FCC methodology and its inherent error. A 2:1 ratio is well within
11 the amount of error that can be expected from the FCC’s approach, and
12 underscores why a “great disparity” should be required before much weight is put
13 on the results of this kind of analysis.
14

15 It is important to remember that the usefulness of population density
16 (measured as persons per square mile of the entire ILEC wire center or exchange
17 area) depends on an implicit – but extremely important – assumption that the
18 percentage of the total area actually served by the ILEC’s wireline network is the
19 same for each exchange. In practice this almost never true. In an exchange with a
20 low reported population density, the area actually served by the ILEC’s wireline
21 network is more likely to be less than the total geographic area of the exchange.
22 As a result, the denominator in the FCC’s analysis is wrong. The FCC divides
23 population by the number of square miles of the entire exchange area, when it
24 should divide by the number of square miles actually served by telephone plant.
25
26

1 Use of the “area actually served” as the denominator results in a higher reported
2 population density and in a number that is much more comparable with reported
3 population density of another of the ILEC’s exchanges.

4 Q. HAS THE FCC EXPLICITLY RECOGNIZED THIS EFFECT?

5 A. Yes. In its *Fourteenth Report and Order*,³⁶ the FCC considered this issue and
6 concluded that the total geographic area of a wire center or exchange will always
7 be greater than the area actually served; that is, the area to which telephone plant
8 is actually built. The reason, the FCC noted, is that the geographic area of a wire
9 center can contain unserved areas, such as “lakes, mountains, and deserts.”³⁷
10

11 In state ETC designation proceedings in which I participated, I have been
12 able to determine that such unserved areas do in fact exist, and that their presence
13 does distort the results of the FCC’s analysis.
14

15 Q. HOW SHOULD THE COMMISSION TREAT THE POTENTIAL FOR
16 “CREAMSKIMMING” IN ITS PUBLIC INTEREST ANALYSIS?

17 A. To the extent that the Commission has concerns about “creamskimming,” it
18 should adopt the disaggregation of support at the wire center level as the most
19 direct and effect effective method to prevent “creamskimming” even as a
20 theoretical possibility. Requiring ILECs to target support “at the wire center level
21 based on relative cost” will “significantly reduce the possibility that carriers
22 would receive a windfall from support for that wire center” and make
23

24 ³⁶ *Fourteenth Report and Order and Twenty-Second Order on Reconsideration and Further*
25 *Notice of Proposed Rulemaking*, CC Docket No. 96-45, Released May 23, 2001 (*Fourteenth*
Report and Order).

26 ³⁷ *Fourteenth Report and Order*, ¶175.

1 “creamskimming” a non-issue. Of course, the FCC’s rules permit carriers who
2 have previously chosen one of the three disaggregation paths to file a request to
3 modify its plan of disaggregation. If the Commission does elect to rely on some
4 form of the FCC’s population density analysis, it should do so only with a
5 complete awareness of the inherent error in this methodology and with the
6 recognition that a “great disparity” in density should be demonstrated before these
7 results are relied upon.
8

9 Q. SHOULD THE CRITERIA DIFFER BETWEEN DESIGNATIONS IN RURAL
10 AND NON-RURAL ILEC SERVICE AREAS (ISSUE II(B)(2))?

11 A. As explained above in response to Issue II(A)(3), it is not clear that a public
12 interest analysis is required in order to designate an ETC in an area served by a
13 non-rural ILEC. If such an analysis is to be conducted for a non-rural area, then
14 the factors identified by the FCC in its cost-benefit test appear to be reasonable.
15 Of course, in non-rural areas the “creamskimming” issue is moot because support
16 is already “targeted at the wire center level based on relative cost,” thereby
17 eliminating the need for a “creamskimming” analysis.
18

19 Q. SHOULD THE COMMISSION REQUIRE AN ETC TO INCLUDE ENTIRE
20 ILEC WIRE CENTERS IN ITS SERVICE AREA, REGARDLESS OF THE
21 BOUNDARIES OF ITS LICENSED AREA (ISSUE II(B)(3))?

22 A. While the creation of a CETC’s service area based on whole rather than partial
23 ILEC wire center areas is simpler administratively, the Commission should not
24 rule out partial wire centers, especially in a situation where an ILEC chooses to
25
26

1 disaggregate support into multiple zones within a wire center. This is the primary
2 reason why no such rule exists for non-rural carriers that have support
3 disaggregated into appropriate cost zones. To date, the Commission has not ruled
4 on any applications that proposed partial wire centers. Thus, as a practical matter
5 there is no pressing need to predetermine the outcome of such a hypothetical
6 application. Because the Commission has never determined this issue, there is no
7 record to develop the public interest issues. It is conceivable that one day an ETC
8 applicant will present a strong case that a grant of ETC status in a partial wire
9 center or partial wire centers is not only in the public interest but also presents no
10 creamskimming issues. The Commission should leave this question open to be
11 determined on a case-by-case basis.
12

13
14 Q. SHOULD THE COMMISSION REQUIRE ILECS TO DISAGGREGATE AND
15 TARGET SUPPORT IN A DIFFERENT MANNER, AS PERMITTED BY 47
16 CFR §54.315(c)(5) (ISSUE II(B)(4))?

17 A. Yes. As explained in detail above, the disaggregation of support at the wire
18 center level – if properly based on demonstrated differences in cost – can serve as
19 an effective mechanism for preventing even inadvertent “creamskimming” from
20 occurring. Matching the level of per-line support with cost will also permit the
21 USF program to have the maximum beneficial impact on those customers who
22 live or work in high-cost areas because high-cost support will not be available to
23 carriers for serving low-cost areas, but instead will be targeted to the high-cost
24 areas where it is needed most.
25
26

1 Q. SHOULD THE COMMISSION ADOPT AN UPPER LIMIT ON THE NUMBER
2 OF ETCs THAT CAN BE DESIGNATED IN ANY GIVEN AREA (ISSUE
3 II(B)(5))?

4 A. No. Such a cap would be duplicative of effective market forces and could
5 artificially limit competitive entry that would be beneficial to end user customers.
6 A carrier considering entry as an ETC into an area must consider the market share
7 that it expects to capture (based on the number of providers already present), the
8 resulting unit costs to serve the area, and the amount of support available.
9 Because market share and the resulting number of subscribers is a primary driver
10 of unit costs (particularly for wireless carriers), the existing mechanism is self-
11 regulating to a significant degree. The first carrier seeking ETC designation may
12 find that entry into the area makes good business sense, but the next carrier (as a
13 potential ETC) is less likely to find the area economically viable. The viability
14 diminishes quickly in high-cost areas where there may be only a few customers to
15 capture – thus minimizing the availability of high-cost support in those areas.
16 Because the likelihood that a given carrier will seek ETC designation diminishes
17 as additional ETCs are designated, the market can be expected to limit the number
18 of ETCs to the number that can be viable given the rural ILECs’ cost structure.
19 Of course, the answer may be “one provider,” in which case no rational carrier
20 would seek CETC status and the incumbent would remain a monopoly provider.
21 In sum, if an area would only support one competitive ETC, designation of many
22 ETCs in that area will only result in a single facilities-based system being
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1 constructed as there are not enough customer and universal service dollars to
2 support construction of additional facilities. Since ETCs who serve through resale
3 do not receive support, there is a de facto cap on support available to competitors,
4 which makes it all the more important to target support to the ILECs' high-cost
5 areas. This also has the additional benefit of ensuring that CETCs are not
6 subsidized for entering into a rural ILEC's low-cost areas.
7

8 **III. Annual Certification of ETCs**

9 *Requirements for the annual recertification of ETCs*

10
11 Q. SHOULD THE COMMISSION ADOPT ANY, OR ALL, OF THE FCC
12 REPORTING REQUIREMENTS PROPOSED IN ORDER 05-46 (ISSUE
13 III(A)(1))?
14

15 A. In the *2005 USF Order*, the FCC established a set of annual reporting
16 requirements intended to “ensure that ETCs continue to comply with the
17 conditions of the ETC designation and that universal service funds are used for
18 their intended purposes.”³⁸ The FCC then lists (§69) eight specific categories of
19 information. The Commission should adopt items 2-8 on the FCC's list, but
20 should modify item 1 in two ways. In item 1, the FCC requires
21

22 Progress reports on the ETC's five-year service quality
23 improvement plan, including maps detailing progress toward
24 meeting its plan targets, an explanation of how much universal
25 service support was received and how the support was used to
26 improve signal quality, coverage, or capacity; and an explanation

26 ³⁸ *2005 USF Order*, §68.

1 regarding any network improvement targets that have not been
2 fulfilled.

3 While *all* ETCs, as a part of their annual recertification, should be required
4 to report to the Commission “how much universal service support was received
5 and how the support was used,” for all of the reasons set forth in my response to
6 Issue II(A)(1) above the requirements for five year plan and for reporting
7 investment at the level of ILEC wire centers represent expensive, time-consuming
8 tasks that provide little or no useful information to the Commission. Based on a
9 detailed one year plan that is updated annually, the Commission will be able to
10 review the ETC’s progress (including, if desired, “maps detailing progress toward
11 meeting [the ETC’s] plan targets”) and can require the ETC to provide an
12 “explanation regarding any network improvement targets that have not been
13 fulfilled.” During an ETC’s annual recertification, the Commission is reviewing
14 (1) that ETC’s performance over the preceding year in meeting its objectives, and
15 (2) that ETC’s plans for the coming year. Detailed and meaningful one year
16 projections meet both of these needs, without creating a financial burden that
17 could divert resources away from needed investments.
18
19

20 Q. SHOULD THE SAME REPORTING REQUIREMENTS APPLY TO ALL
21 TYPES OF ETCS – ILEC ETCS AND COMPETITIVE ETCS (ISSUE III(A)(3)?
22

23 A. Yes. The Commission’s ability to monitor whether any ETC (ILEC or CETC)
24 continues to comply “with the conditions of the ETC designation and that
25 universal service funds are used for their intended purposes” depends on the
26

1 information in these annual filings. Both ILECs and CETCs should be required to
2 provide the same information as a part of the recertification process.

3 Q. SHOULD THE SAME REPORTING REQUIREMENTS APPLY
4 REGARDLESS OF THE TYPE OF SUPPORT RECEIVED BY THE ETC
5 (ISSUE III(A)(4))?
6

7 A. Yes. As explained in response to Issue II(A)(4) above, the requirements for
8 designation and recertification as an ETC are independent of the type of support
9 (high-cost, interstate access/common line, low income) received. An ETC's
10 eligibility for recertification depends on that carrier's demonstration that it has
11 complied with the applicable requirements regarding operation as an ETC and
12 that all funds received have been used for the intended purposes. However, if the
13 annual reporting requirements the Commissioner adopts are extensive, the
14 Commission could consider relaxing the requirements somewhat for ETCs that do
15 not receive any high cost funds.
16

17 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?
18

19 A. Yes.
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CURRENT EMPLOYMENT

Don J. Wood is a principal in the firm of Wood & Wood. He provides economic, financial, and regulatory analysis services in telecommunications and related convergence industries, specializing in economic policy related to the development of competitive markets, inter-carrier compensation, and cost of service issues. In addition, Mr. Wood advises industry associations on regulatory and economic policy and assists investors in their evaluation of investment opportunities in the telecommunications industry. The scope of his work has included wireline and wireless communications, data services, and emerging technologies.

As a consultant, Mr. Wood has assisted his clients in responding to the challenges and business opportunities of the industry both before and subsequent to the Telecommunications Act of 1996. Prior to his work as a consultant, Mr. Wood was employed in a management capacity at a major Local Exchange Company and an Interexchange Carrier. He has been directly involved in both the development and implementation of regulatory policy and business strategy.

In the area of administrative law, Mr. Wood has presented testimony before the regulatory bodies of forty-one states, the District of Columbia, and Puerto Rico, and has prepared comments and testimony for filing with the Federal Communications Commission. The subject matter of his testimony has ranged from broad policy issues to detailed cost and rate analysis.

Mr. Wood has also presented testimony in state, federal, and overseas courts regarding business plans and strategies, competition policy, inter-carrier compensation, and cost of service issues. He has presented studies of the damages incurred by plaintiffs and has provided rebuttal testimony to damage calculations performed by others. Mr. Wood has also testified in alternative dispute resolution proceedings conducted pursuant to both AAA and CPR rules.

Mr. Wood is an experienced commercial mediator and is registered as a neutral with the Georgia Office of Dispute Resolution.

PREVIOUS INDUSTRY EMPLOYMENT

Klick, Kent & Allen/FTI Consulting, Inc.

Regional Director.

GDS Associates, Inc.

Senior Project Manager.

MCI Telecommunications Corporation

Manager of Regulatory Analysis, Southeast Division.

Manager, Corporate Economic Analysis and Regulatory Affairs.

BellSouth Services, Inc.

Staff Manager.

EDUCATION

Emory University, Atlanta, Ga.

BBA in Finance, with Distinction.

College of William and Mary, Williamsburg, Va.

MBA, with concentrations in Finance and Microeconomics.

TESTIMONY - STATE REGULATORY COMMISSIONS:

Alabama Public Service Commission

Docket No. 19356, Phase III: Alabama Public Service Commission vs. All Telephone Companies Operating in Alabama, and Docket 21455: AT&T Communications of the South Central States, Inc., Applicant, Application for a Certificate of Public Convenience and Necessity to Provide Limited IntraLATA Telecommunications Service in the State of Alabama.

Docket No. 20895: In Re: Petition for Approval to Introduce Business Line Termination for MCI's 800 Service.

Docket No. 21071: In Re: Petition by South Central Bell for Introduction of Bidirectional Measured Service.

Docket No. 21067: In Re: Petition by South Central Bell to Offer Dial Back-Up Service and 2400 BPS Central Office Data Set for Use with PulseLink Public Packet Switching Network Service.

Docket No. 21378: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. 21865: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Introduce Network Services to be Offered as a Part of Open Network Architecture.

Docket No. 25703: In Re: In the Matter of the Interconnection Agreement Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 25704: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated and CONTEL of the South, Inc. Concerning Interconnection and Resale under the Telecommunications Act of 1996.

Docket No. 25835: In Re: Petition for Approval of a Statement of Generally Available Terms and Conditions Pursuant to §252(f) of the Telecommunications Act of 1996 and Notification of Intention to File a §271 Petition for In-Region InterLATA Authority with the Federal Communications Commission Pursuant to the Telecommunications Act of 1996.

Docket No. 26029: In Re: Generic Proceeding - Consideration of TELRIC Studies.

Docket No. 25980: Implementation of the Universal Support Requirements of Section 254 of the Telecommunications Act of 1996.

Docket No. 27091: Petition for Arbitration by ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 27821: Generic Proceeding to Establish Prices for Interconnection Services and Unbundled Network Elements.

Docket Nos. 27989 and 15957: BellSouth "Full Circle" Promotion and Generic Proceeding Considering the Promulgation of Telephone Rules Governing Promotions.

Docket No. 28841: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 29075: Petition of CenturyTel to Establish Wholesale Avoidable Cost Discount Rates for Resale of Local Exchange Service.

Docket No. 29054: IN RE: Implementation of the Federal Communications Commission's Triennial Review Order (Phase II – Local Switching for Mass Market Customers).

Docket No. 29172: Southern Public Communication Association, Complainant, and BellSouth Telecommunications, Inc., Defendant.

The Regulatory Commission of Alaska

Case No. U-02-039: In the Matter of Request by Alaska Digitel, LLC for Designation as a Carrier Eligible To Receive Federal Universal Service Support Under the Telecommunications Act of 1996.

Arkansas Public Service Commission

Docket No. 92-337-R: In the Matter of the Application for a Rule Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Public Utilities Commission of the State of California

Rulemaking 00-02-005: Order Instituting Rulemaking on the Commission's Own Motion into Reciprocal Compensation for Telephone Traffic Transmitted to Internet Service Provider Modems.

Application Nos. 01-02-024, 01-02-035, 02-02-031, 02-02-032, 02-02-034, 02-03-002: Applications for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application No. 05-02-027: In the Matter of the Joint Application of SBC Communications Inc. ("SBC") and AT&T Corp. ("AT&T") for Authorization to Transfer Control of AT&T Communications of California (U-5002), TCG Los Angeles, Inc. (U-5462), TCG San Diego (U-5389), and TCG San Francisco (U-5454) to SBC, Which Will Occur Indirectly as a Result of AT&T's Merger With a Wholly-Owned Subsidiary of SBC, Tau Merger Sub Corporation.

Application No. 05-04-020: In the Matter of the Joint Application of Verizon Communications Inc. ("Verizon") and MCI, Inc. ("MCI") to Transfer Control of MCI's California Utility Subsidiaries to Verizon, Which Will Occur Indirectly as a Result of Verizon's Acquisition of MCI.

Public Utilities Commission of the State of Colorado

Docket No. 96A-345T: In the Matter of the Interconnection Contract Negotiations Between AT&T Communications of the Mountain States, Inc., and US West Communications, Inc., Pursuant to 47 U.S.C. Section 252. Docket No. 96A-366T: In the Matter of the Petition of MCIMetro Access Transmission Services, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with US West Communications, Inc. (consolidated).

Docket No. 96S-257T: In Re: The Investigation and Suspension of Tariff Sheets Filed by US West Communications, Inc., with Advice Letter No. 2608 Regarding Proposed Rate Changes.

Docket No. 98F-146T: Colorado Payphone Association, Complainant, v. US West Communications, Inc., Respondent.

Docket No. 02A-276T: In the Matter of the Application of Wiggins Telephone Association for Approval of its Disaggregation Plan

Docket No. 02A-444T: In the Matter of NECC's Application to Redefine the Service Area of Eastern Slope Rural Telephone Association, Inc., Great Plains Communications, Inc., Plains Coop Telephone Association, Inc., and Sunflower Telephone Co., Inc.

State of Connecticut, Department of Utility Control

Docket 91-12-19: DPUC Review of Intrastate Telecommunications Services Open to Competition (Comments).

Docket No. 94-07-02: Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the Eight Criteria Set Forth in Section 6 of Public Act 94-83 (Comments).

Docket No. 03-11-16: Petition of Tel Comm Technologies, et. al., for Review and Amendment of Southern New England Telephone Company's Charges for Pay Telephone Access Services.

Delaware Public Service Commission

Docket No. 93-31T: In the Matter of the Application of The Diamond State Telephone Company for Establishment of Rules and Rates for the Provision of IntelliLinQ-PRI and IntelliLinQ-BRI.

Docket No. 41: In the Matter of the Development of Regulations for the Implementation of the Telecommunications Technology Investment Act.

Docket No. 96-324: In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of its Statement of Terms and Conditions Under Section 252(f) of the Telecommunications Act of 1996 (Phase II).

Docket No. 02-001: In the Matter of the Inquiry into Verizon Delaware Inc.'s Compliance with the Conditions Set Forth in 47 U.S.C. § 271(c).

Florida Public Service Commission

Docket No. 881257-TL: In Re: Proposed Tariff by Southern Bell to Introduce New Features for Digital ESSX Service, and to Provide Structural Changes for both ESSX Service and Digital ESSX Service.

Docket No. 880812-TP: In Re: Investigation into Equal Access Exchange Areas (EAEAs), Toll Monopoly Areas (TMAs), 1+ Restriction to the Local Exchange Companies (LECs), and Elimination of the Access Discount.

Docket No. 890183-TL: In Re: Generic Investigation into the Operations of Alternate Access Vendors.

Docket No. 870347-TI: In Re: Petition of AT&T Communications of the Southern States for Commission Forbearance from Earnings Regulation and Waiver of Rule 25-4.495(1) and 25-24.480 (1) (b), F.A.C., for a trial period.

Docket No. 900708-TL: In Re: Investigation of Methodology to Account for Access Charges in Local Exchange Company (LEC) Toll Pricing.

Docket No. 900633-TL: In Re: Development of Local Exchange Company Cost of Service Study Methodology.

Docket No. 910757-TP: In Re: Investigation into the Regulatory Safeguards Required to Prevent Cross-Subsidization by Telephone Companies.

Docket No. 920260-TL: In Re: Petition of Southern Bell Telephone and Telegraph Company for Rate Stabilization, Implementation Orders, and Other Relief.

Docket No. 950985-TP: In Re: Resolution of Petitions to establish 1995 rates, terms, and conditions for interconnection involving local exchange companies and alternative local exchange companies pursuant to Section 364.162, Florida Statutes.

Docket No. 960846-TP: In Re: Petition by MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. for Arbitration of Certain Terms and Conditions of a proposed agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 and Docket No. 960833-TP: In Re: Petition by AT&T Communications of the Southern States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 960847-TP and 960980-TP: In Re: Petition by AT&T Communications of the Southern States, Inc., MCI Telecommunications Corporation, MCI Metro Access Transmission Service, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE Florida Incorporated Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 961230-TP: In Re: Petition by MCI Telecommunications Corporation for Arbitration with United Telephone Company of Florida and Central Telephone Company of Florida Concerning Interconnection Rates, Terms, and Conditions, Pursuant to the Federal Telecommunications Act of 1996.

Docket No. 960786-TL: In Re: Consideration of BellSouth Telecommunications, Inc.'s Entry Into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996.

Docket Nos. 960833-TP, 960846-TP, 960757-TP, and 971140-TP: Investigation to develop permanent rates for certain unbundled network elements.

Docket No. 980696-TP: In Re: Determination of the cost of basic local telecommunications service, pursuant to Section 364.025 Florida Statutes.

Docket No. 990750-TP: Petition by ITC^DeltaCom Communications, Inc., d/b/a/ ITC^DeltaCom, for arbitration of certain unresolved issues in interconnection negotiations between ITC^DeltaCom and BellSouth Telecommunications, Inc.

Docket No. 991605-TP: Petition of BellSouth Telecommunications, Inc. for Arbitration of the Interconnection Agreement Between Time Warner Telecom of Florida, L.P., pursuant to Section 252 (b) of the Telecommunications Act of 1996.

Docket No. 030137-TP: In re: Petition for Arbitration of Unresolved Issues in Negotiation of Interconnection Agreement with BellSouth Telecommunications, Inc. by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom.

Docket No. 030300-TP: In re: Petition for expedited review of BellSouth Telecommunications, Inc.'s intrastate tariffs for pay telephone access services (PTAS) rate with respect to rates for payphone line access, usage, and features, by Florida Public Telecommunications Association.

Docket No. 030851-TP: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Docket No. 040353-TP: In Re: Petition of Supra Telecommunications and Information Systems, Inc. to Review and Cancel BellSouth's Promotional Offering Tariffs Offered In Conjunction with its New Flat Rate Service Known as PreferredPack.

Docket No. 040604-TL: In Re: Adoption of the National School Lunch Program and an Income-based Criterion at or Below 135% of the Federal Poverty Guidelines as Eligibility Criteria for the Lifeline and Linkup Programs.

Georgia Public Service Commission

Docket No. 3882-U: In Re: Investigation into Incentive Telephone Regulation in Georgia.

Docket No. 3883-U: In Re: Investigation into the Level and Structure of Intrastate Access Charges.

Docket No. 3921-U: In Re: Compliance and Implementation of Senate Bill 524.

Docket No. 3905-U: In Re: Southern Bell Rule Nisi.

Docket No. 3995-U: In Re: IntraLATA Toll Competition.

Docket No. 4018-U: In Re: Review of Open Network Architecture (ONA) (Comments).

Docket No. 5258-U: In Re: Petition of BellSouth Telecommunications for Consideration and Approval of its "Georgians FIRST" (Price Caps) Proposal.

Docket No. 5825-U: In Re: The Creation of a Universal Access Fund as Required by the Telecommunications Competition and Development Act of 1995.

Docket No. 6801-U: In Re: Interconnection Negotiations Between BellSouth Telecommunications, Inc. and AT&T Communications of the Southern States, Inc., Pursuant to Sections 251-252 and 271 of the Telecommunications Act of 1996.

Docket No. 6865-U: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Docket No. 7253-U: In Re: BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions Under Section 252 (f) of the Telecommunications Act of 1996.

Docket No. 7061-U: In Re: Review of Cost Studies and Methodologies for Interconnection and Unbundling of BellSouth Telecommunications Services.

Docket No. 10692-U: In Re: Generic Proceeding to Establish Long-Term Pricing Policies for Unbundled Network Elements.

Docket No. 10854-U: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 16583-U: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 17749-U: Re: FCC's Triennial Review Order Regarding the Impairment of Local Switching for Mass Market Customers.

Public Utilities Commission of Hawaii

Docket No. 7702: In the Matter of Instituting a Proceeding on Communications, Including an Investigation of the Communications Infrastructure of the State of Hawaii.

Idaho Public Utilities Commission

Case No. GNR-T-03-08: In the Matter of the Petition of IAT Communications, Inc., d/b/a NTCDIdaho, Inc., or ClearTalk, for Designation as an Eligible Telecommunications Carrier, and Case No. GNR-T-03-16: In the Matter of the Application of NCPR, Inc., d/b/a Nextel Partners, seeking designation as an Eligible Telecommunications Carrier.

Illinois Commerce Commission

Docket No. 04-0653: USCOC of Illinois RSA #1, LLC., USCOC of Illinois RSA #4 LLC., USCOC of Illinois Rockford, LLC., and USCOC of Central Illinois, LLC. Petition for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. Section 214(e)(2).

Indiana Utility Regulatory Commission

Cause No. 42303: In the Matter of the Complaint of the Indiana Payphone Association for a Commission Determination of Just and Reasonable Rates and Charges and Compliance with Federal Regulations.

Cause No. 41052-ETC-43: In the Matter of the Designation of Eligible Telecommunications Carriers by the Indiana Utility Regulatory Commission Pursuant to the Telecommunications Act of 1996 and Related FCC Orders. In Particular, the Application of NPCR, Inc. d/b/a Nextel Partners to be Designated.

Cause No. 42530: In the Matter of the Indiana Utility Regulatory Commission's Investigation of Matters Related to Competition in the State of Indiana Pursuant to Ind. Code 8-1-2 *et seq.*

Iowa Utilities Board

Docket No. RPU-95-10.

Docket No. RPU-95-11.

State Corporation Commission of the State of Kansas

Docket No. 00-GIMT-1054-GIT: In the Matter of a General Investigation to Determine Whether Reciprocal Compensation Should Be Paid for Traffic to an Internet Service Provider.

Docket No. 04-RCCT-338-ETC: In the Matter of Petition of RCC Minnesota, Inc. for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2).

Kentucky Public Service Commission

Administrative Case No. 10321: In the Matter of the Tariff Filing of South Central Bell Telephone Company to Establish and Offer Pulselink Service.

Administrative Case No. 323: In the Matter of An Inquiry into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

- Phase IA: Determination of whether intraLATA toll competition is in the public interest.
- Phase IB: Determination of a method of implementing intraLATA competition.
- Rehearing on issue of Imputation.

Administrative Case No. 90-256, Phase II: In the Matter of A Review of the Rates and Charges and Incentive Regulation Plan of South Central Bell Telephone Company.

Administrative Case No. 336: In the Matter of an Investigation into the Elimination of Switched Access Service Discounts and Adoption of Time of Day Switch Access Service Rates.

Administrative Case No. 91-250: In the Matter of South Central Bell Telephone Company's Proposed Area Calling Service Tariff.

Administrative Case No. 96-431: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Administrative Case No. 96-478: In Re: The Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Administrative Case No. 96-482: In Re: The Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Administrative Case No. 360: In the Matter of: An Inquiry into Universal Service and Funding Issues.

Administrative Case No. 96-608: In the Matter of: Investigation Concerning the Provision of InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Administrative Case No. 382: An Inquiry into the Development of Deaveraged Rates for Unbundled Network Elements.

Case No. 2003-00143: In the matter of: Petition of NCPR, Inc., d/b/a Nextel Partners for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky.

Case No. 2003-00397: Review of Federal Communications Commission's Triennial Review Order Regarding Unbundling Requirements for Individual Network Elements.

Louisiana Public Service Commission

Docket No. 17970: In Re: Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of AT&T Communications of the South Central States, Inc., in its Louisiana Operations.

Docket No. U-17949: In the Matter of an Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of South Central Bell Telephone Company, Its Louisiana Intrastate Operations, The Appropriate Level of Access Charges, and All Matters Relevant to the Rates and Service Rendered by the Company.

- Subdocket A (SCB Earnings Phase)
- Subdocket B (Generic Competition Phase)

Docket No. 18913-U: In Re: South Central Bell's Request for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. U-18851: In Re: Petition for Elimination of Disparity in Access Tariff Rates.

Docket No. U-22022: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s TSLRIC and LRIC Cost Studies Submitted Pursuant to Sections 901(C) and 1001(E) of the Regulations for Competition in the Local Telecommunications Market as Adopted by General Order Dated March 15, 1996 in Order to Determine the Cost of Interconnection Services and Unbundled Network Components to Establish Reasonable, Non-Discriminatory, Cost Based Tariffed Rates and Docket No. U-22093: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s Tariff Filing of April 1, 1996, Filed Pursuant to Section 901 and 1001 of the Regulations for Competition in the Local Telecommunications Market Which Tariff Introduces Interconnection and Unbundled Services and Establishes the Rates, Terms and Conditions for Such Service Offerings (consolidated).

Docket No. U-22145: In the Matter of Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. U-22252: In Re: Consideration and Review of BST's Preapplication Compliance with Section 271 of the Telecommunications Act of 1996, including but not limited to the fourteen requirements set forth in Section 271 (c) (2) (b) in order to verify compliance with section 271 and provide a recommendation to the FCC regarding BST's application to provide interLATA services originating in-region.

Docket No. U-20883 Subdocket A: In Re: Submission of the Louisiana Public Service Commission's Forward Looking Cost Study to the FCC for Purposes of Calculating Federal Universal Service Support.

Docket No. U-24206: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. U-22632: In Re: BellSouth Telecommunications, Inc. Filing of New Cost Studies for Providing Access Line Service for Customer Provided Public Telephones and Smartline Service for Public Telephone Access.

Docket No. Docket No. U-24714-A: In Re: Final Deaveraging of BellSouth Telecommunications, Inc. UNE Rates Pursuant to FCC 96-45 Ninth Report and Order and Order on Eighteenth Order on Reconsideration Released November 2, 1999.

Docket No. U-27571: In Re: Louisiana Public Service Commission Implementation of the Requirements Arising from The Federal Communications Commission's Triennial Review Order, Order 03-36: Unbundled Local Circuit Switching for Mass Market Customers and Establishment of a Batch Cut Migration Process.

Public Service Commission of Maryland

Case 8584, Phase II: In the Matter of the Application of MFS Intelenet of Maryland, Inc. for Authority to Provide and Resell Local Exchange and Intrastate Telecommunications Services in Areas Served by C&P Telephone Company of Maryland.

Case 8715: In the Matter of the Inquiry into Alternative Forms of Regulating Telephone Companies.

Case 8731: In the Matter of the Petitions for Approval of Agreements and Arbitration of Unresolved Issues Arising Under Section 252 of the Telecommunications Act of 1996.

Massachusetts Department of Telecommunications and Energy

D.P.U./D.T.E. 97088/97-18 (Phase II): Investigation by the Department of Telecommunications & Energy on its own motion regarding (1) implementation of section 276 of the Telecommunications Act of 1996 relative to public interest payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Company d/b/a NYNEX's Public Access Smart-Pay Service, and (4) the rate policy for operator service providers.

Minnesota Public Utilities Commission

PUC Docket No. PT6153/AM-02-686, OAH Docket No. 3-2500-14980-2: In the Matter of Petition of Midwest Wireless Communications, LLC for Designation as an Eligible Communications carrier under 47 U.S.C. § 214(e)(2).

PUC Docket No. PT-6182, 6181/M-02-1503: In the Matter of RCC Minnesota, Inc. and Wireless Alliance, LLC for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2).

Mississippi Public Service Commission

Docket No. U-5086: In Re: MCI Telecommunications Corporation's Metered Use Service Option D (Prism I) and Option E (Prism II).

Docket No. U-5112: In Re: MCI Telecommunications Corporation's Metered Use Option H (800 Service).

Docket No. U-5318: In Re: Petition of MCI for Approval of MCI's Provision of Service to a Specific Commercial Banking Customers for Intrastate Interexchange Telecommunications Service.

Docket 89-UN-5453: In Re: Notice and Application of South Central Bell Telephone Company for Adoption and Implementation of a Rate Stabilization Plan for its Mississippi Operations.

Docket No. 90-UA-0280: In Re: Order of the Mississippi Public Service Commission Initiating Hearings Concerning (1) IntraLATA Competition in the Telecommunications Industry and (2) Payment of Compensation by Interexchange Carriers and Resellers to Local Exchange Companies in Addition to Access Charges.

Docket No. 92-UA-0227: In Re: Order Implementing IntraLATA Competition.

Docket No. 96-AD-0559: In Re: In the Matter of the Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 98-AD-035: Universal Service.

Docket No. 97-AD-544: In Re: Generic Proceeding to Establish Permanent Prices for BellSouth Interconnection and Unbundled Network Elements.

Docket No. 2003-AD-714: Generic Proceeding to Review the Federal Communications Commission's Triennial Review Order.

Public Service Commission of the State of Missouri

Case No. TO-2004-0527: In the Matter of the Application of WWC License, LLC, d/b/a CellularOne, for Designation as an Eligible Telecommunications Carrier, and Petition for Redefinition of Rural Telephone Company Areas.

Public Service Commission of the State of Montana

Docket No. D2000.8.124: In the Matter of Touch America, Inc.'s Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 of the Terms and Conditions of Interconnection with Qwest Corporation, f/k/a US West Communications, Inc.

Docket No. D2000.6.89: In the Matter of Qwest Corporation's Application to Establish Rates for Interconnection, Unbundled Network Elements, Transport and Termination, and Resale Services.

Docket No. D2003.1.14: In the Matter of WWC Holding Co. Application for Designation as an Eligible Telecommunications Carrier in Montana Areas Served by Qwest Corporation.

Nebraska Public Service Commission

Docket No. C-1385: In the Matter of a Petition for Arbitration of an Interconnection Agreement Between AT&T Communications of the Midwest, Inc., and US West Communications, Inc.

Public Utilities Commission of Nevada

Docket No. 04-3030: In re: Application of WWD License LLC, d/b/a CellularOne, for redefinition of its service area as a designated Eligible Telecommunications Carrier.

New Jersey Board of Public Utilities

Docket No. TM0530189: In the Matter of the Joint Petition of Verizon Communications Inc., and MCI, Inc. for Approval of Merger.

New York Public Service Commission

Case No. 28425: Proceeding on Motion of the Commission as to the Impact of the Modification of Final Judgement and the Federal Communications Commission's Docket 78-72 on the Provision of Toll Service in New York State.

North Carolina Public Utilities Commission

Docket No. P-100, Sub 72: In the Matter of the Petition of AT&T to Amend Commission Rules Governing Regulation of Interexchange Carriers (Comments).

Docket No. P-141, Sub 19: In the Matter of the Application of MCI Telecommunications Corporation to Provide InterLATA Facilities-Based Telecommunications Services (Comments).

Docket No. P-55, Sub 1013: In the Matter of Application of BellSouth Telecommunications, Inc. for, and Election of, Price Regulation.

Docket Nos. P-7, Sub 825 and P-10, Sub 479: In the Matter of Petition of Carolina Telephone and Telegraph and Central Telephone Company for Approval of a Price Regulation Plan Pursuant to G.S. 62-133.5.

Docket No. P-19, Sub 277: In the Matter of Application of GTE South Incorporated for and Election of, Price Regulation.

Docket No. P-141, Sub 29: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with BellSouth Telecommunications, Inc. (consolidated).

Docket No. P-141, Sub 30: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc. (consolidated).

Docket No. P-100, Sub 133b: Re: In the Matter of Establishment of Universal Support Mechanisms Pursuant to Section 254 of the Telecommunications Act of 1996.

Docket No. P-100, Sub 133d: Re: Proceeding to Determine Permanent Pricing for Unbundled Network Elements.

Docket No. P-100, Sub 84b: Re: In the Matter of Petition of North Carolina Payphone Association for Review of Local Exchange Company Tariffs for Basic Payphone Services (Comments).

Docket No. P-561, Sub 10: BellSouth Telecommunications, Inc., Complainant, v. US LEC of North Carolina, LLC, and Metacomm, LLC, Respondents.

Docket No. P-472, Sub 15: In the Matter of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Time Warner Telecom of North Carolina, L.P. Pursuant to Section 252(b) of the Telecommunications Act of 1996.

Docket Nos. P-7, Sub 995; P-10, Sub 633: ALEC., Inc. v. Carolina Telephone and Telegraph Company and Central Telephone Company.

Docket No. P-500, Sub 18: In the Matter of: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. P-118, Sub 30: In the matter of: Petition of Cellco Partnership d/b/a Verizon Wireless for Arbitration Pursuant to Section 252 of the Telecommunications Act of 1996.

Docket No. P-100, Sub 133q: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Public Utilities Commission of Ohio

Case No. 93-487-TP-ALT: In the Matter of the Application of The Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation.

Case No. 05-0269-TP-ACO: In the matter of the Joint Application of SBC COMMUNICATIONS INC. and AT&T CORP. for Consent and Approval of a Change of Control.

Oklahoma Corporation Commission

Cause No. PUD 01448: In the Matter of the Application for an Order Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Cause No. PUD 200300195: Application of United States Cellular Corporation for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Cause No. PUD 200300239: Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Cause No. PUD 200500122: In the matter of Dobson Cellular Systems, Inc., and American Cellular Corporation application for designation as a competitive eligible telecommunications carrier and redefinition of the service area requirement pursuant to Section 214(e) of the Telecommunications Act of 1996

Public Utility Commission of Oregon

Docket No. UT 119: In the Matter of an Investigation into Tariffs Filed by US West Communications, Inc., United Telephone of the Northwest, Pacific Telecom, Inc., and GTE Northwest, Inc. in Accordance with ORS 759.185(4).

Docket No. ARB 3: In the Matter of the Petition of AT&T Communications of the Pacific Northwest, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47

U.S.C. § 252(b) of the Telecommunications Act of 1996. Docket No. ARB 6: In the Matter of the Petition of MCIMetro Access Transmission Services, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 (consolidated).

Docket No. ARB 9: In the Matter of the Petition of an Interconnection Agreement Between MCIMetro Access Transportation Services, Inc. and GTE Northwest Incorporated, Pursuant to 47 U.S.C. Section 252.

Docket No. UT-125: In the Matter of the Application of US West Communications, Inc. for an Increase in Revenues.

Docket No. UM 1083: RCC Minnesota, Inc. Application for Designation as an Eligible Telecommunications Carrier, Pursuant to the Telecommunications Act of 1996.

Docket No. UM 1084: United States Cellular Corporation Application for Designation as an Eligible Telecommunications Carrier, Pursuant to the Telecommunications Act of 1996.

Pennsylvania Public Utilities Commission

Docket No. I-00910010: In Re: Generic Investigation into the Current Provision of InterLATA Toll Service.

Docket No. P-00930715: In Re: The Bell Telephone Company of Pennsylvania's Petition and Plan for Alternative Form of Regulation under Chapter 30.

Docket No. R-00943008: In Re: Pennsylvania Public Utility Commission v. Bell Atlantic-Pennsylvania, Inc. (Investigation of Proposed Promotional Offerings Tariff).

Docket No. M-00940587: In Re: Investigation pursuant to Section 3005 of the Public Utility Code, 66 Pa. C. S. §3005, and the Commission's Opinion and Order at Docket No. P-930715, to establish standards and safeguards for competitive services, with particular emphasis in the areas of cost allocations, cost studies, unbundling, and imputation, and to consider generic issues for future rulemaking.

Docket No. A-310489F7004: Petition of Cellco Partnership d/b/a Verizon Wireless for Arbitration Pursuant to Section 252 of the telecommunications Act of 1996.

Docket Nos. A-310580F9, A-310401F6, A-310407F3, A-312025F5, A-310752F6, A-310364F3: Joint Application of Verizon Communications Inc. and MCI, Inc. For Approval of Agreement and Plan of Merger.

South Carolina Public Service Commission

Docket No. 90-626-C: In Re: Generic Proceeding to Consider Intrastate Incentive Regulation.

Docket No. 90-321-C: In Re: Petition of Southern Bell Telephone and Telegraph Company for Revisions to its Access Service Tariff Nos. E2 and E16.

Docket No. 88-472-C: In Re: Petition of AT&T of the Southern States, Inc., Requesting the Commission to Initiate an Investigation Concerning the Level and Structure of Intrastate Carrier Common Line (CCL) Access Charges.

Docket No. 92-163-C: In Re: Position of Certain Participating South Carolina Local Exchange Companies for Approval of an Expanded Area Calling (EAC) Plan.

Docket No. 92-182-C: In Re: Application of MCI Telecommunications Corporation, AT&T Communications of the Southern States, Inc., and Sprint Communications Company, L.P., to Provide IntraLATA Telecommunications Services.

Docket No. 95-720-C: In Re: Application of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company for Approval of an Alternative Regulation Plan.

Docket No. 96-358-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 96-375-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and GTE South Incorporated Pursuant to 47 U.S.C. § 252.

Docket No. 97-101-C: In Re: Entry of BellSouth Telecommunications, Inc. into the InterLATA Toll Market.

Docket No. 97-374-C: In Re: Proceeding to Review BellSouth Telecommunications, Inc. Cost for Unbundled Network Elements.

Docket No. 97-239-C: Intrastate Universal Service Fund.

Docket No. 97-124-C: BellSouth Telecommunications, Inc. Revisions to its General Subscriber Services Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.

Docket No. 1999-268-C: Petition of Myrtle Beach Telephone, LLC, for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Horry Telephone Cooperative, Inc.

Docket No. 1999-259-C: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 2001-65-C: Generic Proceeding to Establish Prices for BellSouth's Interconnection Services, Unbundled Network Elements and Other Related Elements and Services.

Docket No. 2003-326-C: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

South Dakota Public Utilities Commission

Docket No. TC03-191: In the Matter of the Filing by WWC License, LLC d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Other Rural Areas.

Docket No. TC03-193: In the Matter of the Petition of RCC Minnesota, Inc., and Wireless Alliance, L.L.C., for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. §214(e)(2).

Tennessee Public Service Commission

Docket No. 90-05953: In Re: Earnings Investigation of South Central Bell Telephone Company.

Docket Nos. 89-11065, 89-11735, 89-12677: AT&T Communications of the South Central States, MCI Telecommunications Corporation, US Sprint Communications Company -- Application for Limited IntraLATA Telecommunications Certificate of Public Convenience and Necessity.

Docket No. 91-07501: South Central Bell Telephone Company's Application to Reflect Changes in its Switched Access Service Tariff to Limit Use of the 700 Access Code.

Tennessee Regulatory Authority

Docket No. 96-01152: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration under the Telecommunications Act of 1996 and Docket No. 96-01271: In Re: Petition by MCI Telecommunications Corporation for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 96-01262: In Re: Interconnection Agreement Negotiations Between AT&T of the South Central States, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. § 252.

Docket No. 97-01262: Proceeding to Establish Permanent Prices for Interconnection and Unbundled Network Elements.

Docket No. 97-00888: Universal Service Generic Contested Case.

Docket No. 99-00430: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996.

Docket No. 97-00409: In Re: All Telephone Companies Tariff Filings Regarding Reclassification of Pay Telephone Service as Required by Federal Communications Commission Docket No. 96-128.

Docket No. 03-00119: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc.

Docket No. 03-00491: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Public Utility Commission of Texas

Docket No. 12879: Application of Southwestern Bell Telephone Company for Expanded Interconnection for Special Access Services and Switched Transport Services and Unbundling of Special Access DS1 and DS3 Services Pursuant to P. U. C. Subst. R. 23.26.

Docket No. 18082: Complaint of Time Warner Communications against Southwestern Bell Telephone Company.

Docket No. 21982: Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996.

Docket No. 23396: Joint Petition of CoServ, LLC d/b/a CoServ Communications and Multitechnology Services, LP d/b/a CoServ Broadband Services for Arbitration of Interconnection Rates, Terms, Conditions, and Related Arrangements with Southwestern Bell Telephone Company.

Docket No. 24015: Consolidated Complaints and Requests of Post-Interconnection Dispute Resolution Regarding Inter-Carrier Compensation for FX-Type Traffic Against Southwestern Bell Telephone Company.

PUC Docket No. 27709: Application of NPCR, Inc., dba Nextel Partners for Eligible Telecommunications Carrier Designation (ETC).

PUC Docket No. 28744: Impairment Analysis for Dedicated Transport.

PUC Docket No. 28745: Impairment Analysis for Enterprise Loops.

PUC Docket No. 29144: Application of Dobson Cellular Systems, Inc., for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to 47 U.S.C. 241 (e) and P.U. C. Subst. Rule 26.418.

State of Vermont Public Service Board

Docket No. 6533: Application of Verizon New England Inc. d/b/a Verizon Vermont for a Favorable Recommendation to Offer InterLATA Services Under 47 U.S.C. 271.

Docket No. 6882: Investigation into Public Access Line Rates of Verizon New England, Inc., d/b/a Verizon Vermont.

Docket No. 6934: Petition of RCC Atlantic Inc. for designation as an Eligible Telecommunications Carrier in areas served by rural telephone companies under the Telecommunications Act of 1996.

Virginia State Corporation Commission

Case No. PUC920043: Application of Virginia Metrotel, Inc. for a Certificate of Public Convenience and Necessity to Provide InterLATA Interexchange Telecommunications Services.

Case No. PUC920029: Ex Parte: In the Matter of Evaluating the Experimental Plan for Alternative Regulation of Virginia Telephone Companies.

Case No. PUC930035: Application of Contel of Virginia, Inc. d/b/a GTE Virginia to implement community calling plans in various GTE Virginia exchanges within the Richmond and Lynchburg LATAs.

Case No. PUC930036: Ex Parte: In the Matter of Investigating Telephone Regulatory Methods Pursuant to Virginia Code § 56-235.5, & Etc.

Case No. PUC-200540051: Application of Verizon Communications Inc. and MCI, Inc. for approval of Agreement and Plan of Merger resulting in the indirect transfer of control of MCImetro Access Transmission Services of Virginia, Inc., to Verizon Communications Inc.

Washington Utilities and Transportation Commission

Docket Nos. UT-941464, UT-941465, UT-950146, and UT-950265 (Consolidated): Washington Utilities and Transportation Commission, Complainant, vs. US West Communications, Inc., Respondent; TCG Seattle and Digital Direct of Seattle, Inc., Complainant, vs. US West Communications, Inc., Respondent; TCG Seattle, Complainant, vs. GTE Northwest Inc., Respondent; Electric Lightwave, Inc., vs. GTE Northwest, Inc., Respondent.

Docket No. UT-950200: In the Matter of the Request of US West Communications, Inc. for an Increase in its Rates and Charges.

Docket No. UT-000883: In the Matter of the Petition of U S West Communications, Inc. for Competitive Classification.

Docket No. UT-050814: In the Matter of the Joint Petition of Verizon Communications Inc., and MCI, Inc. for a Declaratory Order Disclaiming Jurisdiction Over or, in the Alternative a Joint Application for Approval of, Agreement and Plan of Merger.

Public Service Commission of West Virginia

Case No. 02-1453-T-PC: Highland Cellular, Inc. Petition for consent and approval to be designated as an eligible telecommunications carrier in the areas served by Citizens Telecommunications Company of West Virginia.

Case No. 03-0935-T-PC: Easterbrooke Cellular Corporation Petition for consent and approval to be designated as an eligible telecommunications carrier in the area served by Citizens Telecommunications Company of West Virginia d/b/a Frontier Communications of West Virginia.

Public Service Commission of Wyoming

Docket No. 70000-TR-95-238: In the Matter of the General Rate/Price Case Application of US West Communications, Inc. (Phase I).

Docket No. PSC-96-32: In the Matter of Proposed Rule Regarding Total Service Long Run Incremental Cost (TSLRIC) Studies.

Docket No. 70000-TR-98-420: In the Matter of the Application of US West Communications, Inc. for authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase III).

Docket No. 70000-TR-99-480: In the Matter of the Application of US West Communications, Inc. for authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase IV).

Docket No. 70000-TR-00-556: In the Matter of the Filing by US West Communications, Inc. for Authority to File its TSLRIC 2000 Annual Input Filing and Docket No. 70000-TR-00-570: In the Matter of the Application of US West Communications, Inc. for Authority to File its 2000 Annual TSLRIC Study Filing.

Docket No. 70042-AT-04-4: In the Matter of the Petition of WWC Holding Co., Inc., d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Areas Served by Qwest Corporation, and Docket No. 70042-AT-04-5: In the Matter of the Petition of WWC Holding Co., Inc., d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Clark, Basin, Frannie, Greybull, Lovell, Meeteetse, Burlington, Hyattville, and Tensleep (consolidated).

Public Service Commission of the District of Columbia

Formal Case No. 814, Phase IV: In the Matter of the Investigation into the Impact of the AT&T Divestiture and Decisions of the Federal Communications Commission on Bell Atlantic - Washington, D. C. Inc.'s Jurisdictional Rates.

Puerto Rico Telecommunications Regulatory Board

Case No. 98-Q-0001: In Re: Payphone Tariffs.

Case No. JRT-2001-AR-0002: In the Matter of Interconnection Rates, Terms and Conditions between WorldNet Telecommunications, Inc. and Puerto Rico Telephone Company.

Case No. JRT-2003-AR-0001: Re: Petition for Arbitration pursuant to Section 252(b) of the Federal Communications Act, and Section 5(b), Chapter II of the Puerto Rico Telecommunications Act, regarding interconnection rates, terms, and conditions.

Case No. JRT-2004-Q-0068: Telefónica Larga Distancia de Puerto Rico, Inc., Complainant, v. Puerto Rico Telephone Company, Defendant.

Case Nos. JRT-2005-Q-0121 and JRT-2005-Q-0218: Telefónica Larga Distancia de Puerto Rico, Inc., and WorldNet Telecommunications, Inc., Plaintiffs, v. Puerto Rico Telephone Company, Inc., Defendant.

COMMENTS/DECLARATIONS - FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-91: In the Matter of Open Network Architecture Tariffs of Bell Operating Companies.

CC Docket No. 93-162: Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access.

CC Docket No. 91-141: Common Carrier Bureau Inquiry into Local Exchange Company Term and Volume Discount Plans for Special Access.

CC Docket No. 94-97: Review of Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 94-128: Open Network Architecture Tariffs of US West Communications, Inc.

CC Docket No. 94-97, Phase II: Investigation of Cost Issues, Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 96-98: In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996.

CC Docket No. 97-231: Application by BellSouth to Provide In-Region InterLATA Services.

CC Docket No. 98-121: Application by BellSouth to Provide In-Region InterLATA Services.

CCB/CPD No. 99-27: In the Matter of Petition of North Carolina Payphone Association for Expedited Review of, and/or Declaratory Ruling Concerning, Local Exchange Company Tariffs for Basic Payphone Services.

CC Docket No. 96-128: In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CCB/CPD No. 99-31: Oklahoma Independent Telephone Companies Petition for Declaratory Ruling (consolidated).

CCB/CPD No. 00-1: In the Matter of the Wisconsin Public Service Commission Order Directing Filings.

CC Docket No. 99-68: In the Matter of Inter-Carrier Compensation for ISP-Bound Traffic.

File No. EB-01-MD-020: In the Matter of Sprint Communications Company, L.P., Complainant v. Time Warner Telecom, Inc. Defendant.

Request by the American Public Communications Council that the Commission Issue a Notice of Proposed Rulemaking to Update the Dial-Around Compensation Rate.

File Nos. EB-02-MD-018-030: In the Matter of Communications Vending Corp. of Arizona, et. al., Complainants, v. Citizens Communications Co. f/k/a Citizens Utilities Co. and Citizens Telecommunications Co., et. al., Defendants.

CC Docket No. 96-45: In the Matter of Federal-State Joint Board on Universal Service, Cellular South License, Inc., RCC Holdings, Inc., Petitions for designation as an Eligible Telecommunications Carrier in the State of Alabama.

CC Docket No. 96-45: In the Matter of Federal-State Joint Board on Universal Service, Declaration in Support of the Comments to the Federal-State Joint Board of the Rural Cellular Association and the Alliance of Rural CMRS Carriers.

REPRESENTATIVE TESTIMONY – STATE, FEDERAL, AND OVERSEAS COURTS

Court of Common Pleas, Philadelphia County, Pennsylvania

Shared Communications Services of 1800-80 JFK Boulevard, Inc., Plaintiff, v. Bell Atlantic Properties, Inc., Defendant.

Texas State Office of Administrative Hearings

SOAH Docket No. 473-00-0731: Office of Customer Protection (OCP) Investigation of Axces, Inc. for Continuing Violations of PUC Substantive Rule §26.130, Selection of Telecommunications Utilities, Pursuant to Procedural Rules 22.246 Administrative Penalties.

SOAH Docket No. 473-03-3673: Application of NPCR, Inc., dba Nextel Partners for Eligible Telecommunications Carrier Designation (ETC).

SOAH Docket No. 473-04-4450: Application of Dobson Cellular Systems, Inc., for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to 47 U.S.C. 241 (e) and P.U. C. Subst. Rule 26.418.

Superior Court for the State of Alaska, First Judicial District

Richard R. Watson, David K. Brown and Ketchikan Internet Services, a partnership of Richard R. Watson and David K. Brown, plaintiffs, v. Karl Amylon and the City of Ketchikan, Defendants.

United States District Court for the District of South Carolina, Columbia Division

Brian Wesley Jeffcoat, on behalf of himself and others similarly situated, Plaintiffs, v. Time Warner Entertainment - Advance/Newhouse Partnership, Defendant.

United States District Court for the Northern District of Texas, Fort Worth Division

Multitechnology Services, L. P. d/b/a CoServ Broadband Services, Plaintiffs, v. Southwestern Bell Telephone Company, Defendant.

Multitechnology Services, L. P. d/b/a CoServ Broadband Services, Plaintiffs, v. Verizon Southwest f/k/a GTE Southwest Incorporated.

High Court of the Hong Kong Special Administrative Region, Court of First Instance

Commercial List No. 229 of 1999: Cable and Wireless HKT International Limited, Plaintiff v. New World Telephone Limited, Defendant.

REPRESENTATIVE TESTIMONY – PRIVATE COMMERCIAL ARBITRATION TRIBUNALS

American Arbitration Association

Southwestern Bell Telephone Company, Claimant vs. Time Warner Telecom, Respondent.

New Access Communications LLC, Choicetel LLC and Emergent Communications LLC,
Claimants vs. Qwest Corporation, Respondent (Case No. 77 Y 1818 0031603).

CPR Institute for Dispute Resolution

Supra Telecommunications and Information Systems, Inc., Claimant vs. BellSouth
Telecommunications, Inc., Respondent.

CERTIFICATE OF SERVICE

UM 1217

I hereby certify that true and correct copies of the Direct Testimonies of Beth Kohler and Don J. Wood were served on the following via e-mail transmission upon the following:

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Dated this ____ day of December, 2005, at Seattle, Washington.

Carol Munnerlyn, Secretary