



# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

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December 13, 2005

***Via Electronic Filing and U.S. Mail***

OREGON PUBLIC UTILITY COMMISSION  
ATTENTION: FILING CENTER  
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RE: **Docket No. UM 1217** - In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support.

Enclosed for filing in the above-captioned docket is the Public Utility Commission Staff's Direct Testimony. This document is being filed by electronic mail with the PUC Filing Center.

*/s/ Kay Barnes*

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CASE: UM 1217  
WITNESS: Kay Marinos

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 1**

**Direct Testimony**

**December 13, 2005**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**  
2 **ADDRESS.**

3 A. My name is Kay Marinos. I am a Senior Telecommunications Analyst in the  
4 Telecommunications Division of the Public Utility Commission of Oregon  
5 (Commission). My business address is 550 Capitol Street NE Suite 215,  
6 Salem, Oregon 97301-2551.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**  
8 **EXPERIENCE.**

9 A. As a Senior Telecommunications Analyst at the Commission, my primary  
10 responsibility is to advise the Commission regarding applications for  
11 designation and recertification of carriers to receive federal universal service  
12 support. My Witness Qualification Statement is found in Exhibit Staff/2.

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

14 A. The purpose of my testimony is to address the issues established in this  
15 docket, and in the process recommend adoption of specific requirements for  
16 the initial designation of carriers eligible to receive federal universal service  
17 support (Eligible Telecommunications Carriers or ETCs), as well as  
18 requirements for recertification of ETCs for the continuation of support.

19 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

20 A. My testimony is organized in three parts to correspond with the three main  
21 sections of the issues list. Part 1 addresses the policy objectives that the  
22 Commission should attempt to achieve in this docket. Part II recommends the  
23 requirements that a carrier must meet in order to be initially designated as an

1 ETC and begin receiving support. In this part, I first address basic eligibility  
 2 requirements for ETC status, followed by public interest considerations. Part III  
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- 7 access/common line, low-income) received by the ETC? ..... 92

8 **Q. SUMMARIZE YOUR RECOMMENDATIONS REGARDING POLICY**

9 **OBJECTIVES FOR THIS DOCKET.**

10 A. I recommend that the Commission adopt the following policy objectives to

11 guide its selection of requirements and processes for the initial designation and

12 annual review and recertification of ETCs:

- 13 1) Consistency with the universal service principles in the
- 14 Telecommunications Act of 1996 (the Act) that consumers in all
- 15 regions of the state, including low-income consumers and those in
- 16 rural, insular, and high cost areas, should have access to quality
- 17 telecommunications services, including advanced and information
- 18 services, that are reasonably comparable to those services provided
- 19 in urban areas, and that are available at just, reasonable, and
- 20 affordable rates comparable to those charged for similar services in
- 21 urban areas;
- 22 2) Consistency with the principles of competitive and technological
- 23 neutrality;

- 1           3) Adherence to the mandatory requirements and constraints imposed
- 2                 by the Act and the FCC rules;
- 3           4) Achievement of the most cost-effective and efficient use of support
- 4                 funds possible under the current federal system;
- 5           5) Direction of support into areas with the greatest need based on local
- 6                 characteristics and not on whether the incumbent local exchange
- 7                 carrier (ILEC) in the area is classified as “rural” or “non-rural;”
- 8           6) Encouragement of the growth and expansion of telecommunications
- 9                 platforms capable of providing broadband and advanced services
- 10                into areas where the market economics would not justify deployment
- 11                without support;
- 12           7) Provision of support only to carriers that are able to provide the
- 13                required services and are committed to shouldering the
- 14                responsibilities that accompany support; and
- 15           8) Clear communication to current, and prospective, ETCs of the
- 16                Commission’s expectations regarding their responsibilities
- 17                associated with the receipt and use of support funding.

18           I explain in detail the reasons for recommending these policy objectives  
19           in Part I of my direct testimony.

20   **Q. SUMMARIZE YOUR RECOMMENDATIONS REGARDING THE SPECIFIC**  
21   **BASIC ELIGIBILITY REQUIREMENTS THE COMMISSION SHOULD ADOPT**  
22   **FOR THE INITIAL CERTIFICATION OF ETCs.**

1 A. To meet the policy objectives above, I recommend that the Commission adopt  
2 the following basic eligibility requirements for the initial certification of ETCs:

- 3 1) Demonstration of the applicant's common carrier status;
- 4 2) Commitment to offer all required supported services; descriptions of  
5 each required service, including a demonstration of how the  
6 applicant's local usage offerings compare to those of the ILECs and  
7 a certification acknowledging that the carrier may be required to  
8 provide equal access if it is the only remaining ETC in an area;
- 9 3) Commitment to advertise the supported services throughout the  
10 proposed designated service area, along with a brief advertising  
11 plan;
- 12 4) Explicit commitment to offer supported services throughout the  
13 proposed service area, including a commitment to use the methods  
14 described in FCC 05-46 in cases where the requesting customer is  
15 outside the network coverage area; a definition of the proposed  
16 service area that includes a detailed map of relevant boundaries and  
17 a list of ILEC wire centers included in the proposed service area;
- 18 5) Description of the types of facilities used to provide service, a map  
19 showing extent of current coverage and signal strengths;  
20 identification of any relevant resale or interconnection agreements;
- 21 6) Commitment to offer the required low-income services (Lifeline,  
22 Link Up, and Oregon Telephone Assistance Program (OTAP)), as  
23 well as a plan for offering and advertising of low-income services;



- 1           7) Affidavit certifying that support funds will be used only for the  
2           intended purposes;
- 3           8) Demonstration of ability to remain functional in emergencies, as well  
4           as a description of the current status of E911 deployment;
- 5           9) Commitment to specific, objective measures to protect consumers  
6           and commitment to resolve any complaints received by the PUC;  
7           and
- 8           10) Submission of a formal network improvement plan addressing in  
9           detail how the applicant will use support funds received during the  
10          first two years, as well as a general network improvement plan  
11          spanning a 5-year period.

12           These requirements are explained in greater detail in Part II of my direct  
13          testimony. Generally, the same requirements for initial designation should  
14          apply regardless of whether the applicant is a wireline or wireless carrier or  
15          proposes to serve a rural or non-rural ILEC area. The same requirements  
16          should also apply regardless of the type of high-cost federal universal service  
17          support it will receive.

18          **Q. SUMMARIZE YOUR RECOMMENDATIONS REGARDING THE CRITERIA**  
19          **THE COMMISSION SHOULD ADOPT FOR DETERMINING WHETHER**  
20          **DESIGNATION OF A COMPETITIVE ELIGIBLE TELECOMMUNICATIONS**  
21          **CARRIER (CETC) IS IN THE PUBLIC INTEREST.**

22          A. I recommend that the Commission adopt the cost-benefit analysis proposed by  
23          the FCC in FCC 05-46 to determine whether the designation of a CETC is in

1 the public interest. The FCC's framework is sufficiently flexible to allow the  
2 Commission to also adopt other public interest requirements if it so chooses.  
3 The public interest test, in addition to the basic eligibility requirements that I  
4 propose, will ensure that the Commission's policy objectives are met to the  
5 greatest extent possible. The public interest criteria should not differ between  
6 designations in rural and non-rural ILEC service areas. The Commission  
7 should not conduct a creamskimming test in cases where an applicant  
8 proposes to serve only a portion of a rural ILEC's study area for reasons  
9 explained in Part II of my direct testimony. However, because the FCC  
10 requires this test when it reviews petitions for redefinition of rural ILEC service  
11 areas, I propose that creamskimming tests be required only in cases where the  
12 rural ILEC service area has not yet been redefined by the FCC.

13 Creamskimming concerns would be ameliorated if all ILECs were  
14 required to disaggregate the per-line support amounts that are portable to the  
15 CETCs. Most rural ILECs in Oregon have portable per-line support amounts  
16 that are averaged across their entire study areas. This averaging of support  
17 amounts leads to inefficiencies in the distribution of support to CETCs and  
18 discourages them from expanding into higher cost areas where their services  
19 are needed. Therefore, I recommend that the Commission require all rural  
20 ILECs to disaggregate their per-line support to the wire center level.

21 As another public interest matter, I recommend that the Commission  
22 adopt the FCC's view that it is inconsistent with the public interest to designate  
23 a CETC in only a portion of an ILEC's wire center. Wire centers are the

1 building blocks of the system for per-line portability of support to CETCs. This  
2 is especially true if all per-line support is disaggregated to the wire center level.  
3 While the FCC's recommendation applies only to rural ILEC wire centers, I  
4 recommend that this rule be applied to non-rural ILEC service areas too, as  
5 there is no reason to make a distinction by type of ILEC. CETCs should not be  
6 designated below the wire-center level in any ILEC service area. In cases  
7 where a CETC currently serves only a portion of any ILEC wire center, the  
8 CETC can choose to either serve the entire wire center, or exclude it from the  
9 proposed designated service area for purposes of receiving universal service  
10 support.

11 As a final public interest matter, I do not recommend that the  
12 Commission adopt an upper limit on the number of ETCs that can be  
13 designated in a given area. It would be very difficult to determine the optimal  
14 number of ETCs that should be designated. Such an approach would not  
15 reflect important differences across the various regions and localities. The  
16 public interest ramifications related to the number of ETCs already designated  
17 in any given area are best considered with each new CETC application, on a  
18 case-by-case basis.

19 **Q. SUMMARIZE YOUR RECOMMENDATIONS REGARDING THE**  
20 **REQUIREMENTS THE COMMISSION SHOULD ADOPT FOR THE ANNUAL**  
21 **RECERTIFICATION OF ETCs.**

22 A. I recommend several specific requirements for the annual review and  
23 recertification of ETCs. These annual review requirements correspond to

1 support eligibility requirements and will enable the Commission to ensure that  
2 each and every ETC is meeting its universal service obligations and  
3 commitments on an ongoing basis. The recommended annual review and  
4 recertification requirements are:

- 5 1) A demonstration of availability of local usage offerings that meet  
6 universal service requirements, as well as a report on any required  
7 supported service that a CETC did not provide at the time of  
8 designation (e.g., toll restriction);
- 9 2) Evidence of advertising of supported services throughout the service  
10 area for the prior year;
- 11 3) A report on the number of unfulfilled service requests during the prior  
12 year, and a description of the process that ensures that all such  
13 requests are received and recorded;
- 14 4) A report on the number of customers in low-income programs, a  
15 description of how and where such programs were advertised during  
16 the prior year, and advertised examples of low-income program  
17 offerings;
- 18 5) An affidavit certifying that support funds will be used for the intended  
19 purposes;
- 20 6) A certification of the ETC's ability to remain functional in  
21 emergencies, an annual outage report, and updates on E911  
22 implementation status

1           7) A certification of compliance with specific consumer protection and  
2           service quality commitments, as well as an annual report on

3           consumer complaints or an annual service quality report;

4           8) A report on the CETC's network improvement plan progress during  
5           the past year and updates to the plan for the next period (CETCs

6           only); and,

7           9) A report on any special commitments made, or conditions imposed,  
8           at designation (CETCs only).

9           Further details and the rationale for these recommended requirements  
10          are discussed in Part III of my direct testimony. These requirements generally  
11          reflect the principle of competitive neutrality to the extent possible and  
12          reasonable. In cases where a requirement is already met through some other  
13          comparable report or filing made to the Commission, the carrier can rely on  
14          those other filings or reports by reference. The only significant difference in  
15          reporting requirements between CETCs and ILECs is the need for a network  
16          improvement plan. I recommend that CETCs be required to submit network  
17          improvement plan reports and updates, but ILECs should not be so required.  
18          This difference is based largely on the varying regulatory treatment of the two  
19          types of carriers and the evolution and structure of the current federal universal  
20          service support system.

21          The reporting requirements should generally be the same for all ETCs  
22          regardless of the type of high-cost support they receive, the type of ILEC area

1 (rural or non-rural) they serve, or whether they must be annually recertified by  
2 the Commission or the FCC.

**PART I: OVERALL****ISSUE I. A. Overall: What policy objectives should the Commission attempt to achieve through this docket?****Q. WHAT IS THE PURPOSE OF THIS DOCKET?**

A. At the August 9, 2005, public meeting of the Commission, Staff requested an investigation to establish requirements for initial designation and recertification of telecommunications carriers eligible to receive federal universal service support. The request was prompted by the release of FCC Order No. 05-46, in which the FCC adopted permissive guidelines for the initial designation and subsequent recertification of carriers to receive federal universal service support. Although the FCC did not mandate that state commissions adopt these requirements, the FCC encouraged states to do so. The issues in this investigation relate to whether the Commission should adopt the guidelines proposed by the FCC, in whole or in part, or whether other requirements should be adopted. Ideally, the outcome of the docket will be a set of requirements that will convey to carriers seeking to obtain, and/or retain, federal universal service support, a clear understanding of the Commission's expectations regarding the responsibilities and commitments that must be met as conditions of receiving federal universal service support funding in Oregon.

**Q. ARE THERE FEDERAL LAWS OR REGULATIONS RELATED TO UNIVERSAL SERVICE THAT THE COMMISSION MUST CONSIDER WHEN ADOPTING POLICY OBJECTIVES FOR THIS DOCKET?**

1 A. Yes. There are provisions in the Act that established the current universal  
2 service program and govern its implementation. There are also FCC rules that  
3 implement the requirements in the Act and govern the operation of the  
4 universal service support program. Since policies adopted by the Commission  
5 cannot be inconsistent with the Act or the associated FCC rules, an objective in  
6 this docket should be consistency with the Act and the FCC rules.

7 **Q. WHAT ARE THE RELEVANT PROVISIONS OF THE TELECOM ACT?**

8 A. There are two sections of the Act that are relevant to this docket. The first,  
9 Section 214(e), establishes the responsibilities that a carrier must assume in  
10 order to receive federal support, as well as the requirements for states to use in  
11 designating carriers to receive support. I will discuss Section 214(e) of the Act,  
12 as well as the FCC rules used to implement that section, in further detail in  
13 Parts II and III of my testimony.

14 The second relevant section of the Act, Section 254, establishes the  
15 universal service framework and general support mechanisms. Section 254  
16 also contains “universal service principles” that should be considered in  
17 establishing policy objectives in this docket.

18 **Q. WHAT ARE THE “UNIVERSAL SERVICE PRINCIPLES” IN SECTION 254**  
19 **OF THE ACT?**

20 A. Section 254(b) of the Act sets forth the “universal service principles” on which  
21 the Joint Board and the FCC must base policies for achieving the goal of the  
22 preservation and advancement of universal service. The first three principles  
23 are directly relevant to this docket and must be considered when determining



1 policy objectives. The first principle stated in Section 254(b) of the Act is that  
2 “Quality services should be available at just, reasonable, and affordable rates.”  
3 The second principle states that “Access to advanced telecommunications and  
4 information services should be provided in all regions of the Nation.” The third  
5 principle states that “Consumers in all regions of the Nation, including low-  
6 income consumers and those in rural, insular, and high cost areas, should  
7 have access to telecommunications and information services, that are  
8 reasonably comparable to those services provided in urban areas and that are  
9 available at rates that are reasonably comparable to rates charged for similar  
10 services in urban areas.” In addition, this section also permits “Such other  
11 principles as the Joint Board and the Commission determine are necessary  
12 and appropriate for the protection of the public interest, convenience, and  
13 necessity and are consistent with this Act.”

14 **Q. HAVE THE JOINT BOARD AND THE FCC ADOPTED ADDITIONAL**  
15 **PRINCIPLES AS PERMITTED BY THE ACT? IF SO, WHAT ARE THEY?**

16 A. Yes. The FCC adopted an additional principle, “competitive neutrality,” in its  
17 *First Report and Order*, 12 FCC Rcd at 8801, paragraphs 46-48. This principle  
18 states that federal support mechanisms should be competitively neutral, neither  
19 unfairly advantaging nor disadvantaging particular service providers or  
20 technologies. Based on this principle and the Joint Board’s recommendation,  
21 the FCC determined that federal universal service support should be made  
22 available to all ETCs that provide the supported services, regardless of the  
23 technology used. This decision permitted the “portability” of support to eligible

1 carriers other than the incumbent carriers. The Commission should consider  
2 this principle of competitive neutrality along with the other three principles from  
3 the Telecom Act when deciding which requirements it should adopt in this  
4 docket.

5 **Q. HAS THE COMMISSION ESPOUSED OTHER UNIVERSAL SERVICE**  
6 **PRINCIPLES THAT MAY BE RELEVANT TO THIS DOCKET?**

7 A. Yes. The Commission has supported additional universal service principles in  
8 recommending reforms for the federal universal service program. (See OPUC  
9 Comments in Response to the Public Notice released August 17, 2005, on  
10 behalf of the Federal-State Joint Board on Universal Service (FCC 05J-1).) In  
11 its comments regarding universal service reform, the Commission advocated  
12 the adoption of two additional principles relevant to this docket.

13 The first principle is as follows: "Universal service funding should be  
14 technology neutral. Funding should be based on the most cost effective and  
15 efficient way to provide supported services. The technology employed must be  
16 capable of evolving to provide broadband services and must not constitute a  
17 barrier to providing advanced services." Several policy objectives for this  
18 docket are implied in this principle. First, support should be granted to the  
19 carrier that provides the supported services using the most cost effective and  
20 efficient means, regardless of the technology employed to do so. Such an  
21 objective would also help to minimize the funds needed to achieve universal  
22 service objectives. Second, the growth of platforms that will enable the offering  
23 of advanced services, particularly broadband services, should be encouraged.

1 The Commission believes that the growth of broadband networks is essential,  
2 particularly in rural areas where the availability of alternatives is most limited.  
3 Another overriding objective is woven into these arguments. That objective is  
4 that support funds should be spent in a way that produces the greatest value for  
5 rural customers. The Commission has argued that each state should be allowed  
6 to target funding distributions to areas where it is needed most based on local  
7 assessments.

8 The second principle that the Commission advocated for universal  
9 service reform is that “support provided to high cost rural areas should not be  
10 based on whether that area is served by a “rural” or a “non-rural” carrier.”  
11 Support should be based on the characteristics of the rural area, not the  
12 arbitrary distinctions made to classify the incumbents. The distinctions stem  
13 from the definition of a “rural telephone company” in Section 3 of the Act. The  
14 Act defines a “rural” telephone company as a local exchange carrier operating  
15 entity that: a) has a study area that does not include any incorporated place  
16 with 10,000 or more inhabitants, or a territory in an urbanized area as defined  
17 by the Census Bureau as of August 1993; b) provides telephone exchange  
18 service to fewer than 50,000 access lines; or c) provides telephone exchange  
19 service to any local exchange carrier study area with fewer than 100,000  
20 access lines; or d) has less than 15% of its access lines in communities of  
21 more than 50,000 on the enactment date of the Act. In Oregon, many of the  
22 poorest, most rural areas are served by ILECs classified as “non-rural”

1 companies, i.e., Qwest Corporation (Qwest) and Verizon Northwest Inc.  
2 (Verizon).

3 Although these comments were made in the context of the universal  
4 service reform proceedings, they are also relevant to this docket which  
5 addresses the responsibilities of ETCs and the use of universal service funds  
6 by carriers operating in Oregon.

7 **Q. WHAT POLICY OBJECTIVES UNDERLIE THE FCC'S DECISION TO**  
8 **ADOPT THE ADDITIONAL ETC REQUIREMENTS IN FCC 05-46?**

9 A. In FCC 05-46, the FCC adopted the additional ETC requirements, in large part,  
10 as an attempt to improve the long term sustainability of the universal service  
11 fund, which has been steadily increasing in size. The FCC reasoned that a  
12 more predictable and rigorous designation process would aid in reaching this  
13 objective by ensuring that only fully qualified carriers capable of, and  
14 committed to, providing universal service would be approved for support. In  
15 addition, they argued that more stringent annual reporting requirements would  
16 ensure proper use of the funds. Although the FCC did not require states to  
17 adopt the same requirements, they reasoned that if all the states did impose  
18 the same requirements, the processes would be predictable across the states,  
19 and the sustainability of the fund would be improved.

20 **Q. SHOULD THE COMMISSION ALSO ADOPT THESE POLICY OBJECTIVES?**

21 A. The FCC'S objective of increasing the long-term sustainability of the fund  
22 cannot be achieved by any single state Commission. Therefore, the  
23 Commission should not adopt sustaining the viability of the federal funds as a

1 primary policy objective in this proceeding. Viability of the federal universal  
2 service support fund is not a state commission's direct responsibility. Rather,  
3 on a state level, the Commission's objective should be to ensure that any funds  
4 given to ETCs in Oregon are used in the most cost-effective and efficient ways  
5 to achieve the goals of the program and to serve the best interests of the  
6 telecommunications customers living in high cost areas, irrespective of which  
7 company serves them.

8 The Commission has pointed out in its comments in response to the  
9 Notice addressing the Joint Board's Recommended Decision regarding ETC  
10 designation requirements (Federal-State Joint Board on Universal Service,  
11 Recommended Decision, CC Docket No. 96-45, 19 FCC Rcd 4257 (2004)) that  
12 the Oregon Commission takes seriously its job of designating new ETCs and  
13 has used strict standards. As the FCC has changed its ETC requirements over  
14 several years, the Commission has followed suit. Adoption of specific  
15 requirements in this docket will aid in establishing a more predictable process for  
16 designating and recertifying ETCs. Establishing a specific set of requirements  
17 will aid prospective ETCs in making better decisions as to whether to apply for  
18 ETC status. A clear set of designation and annual reporting requirements will  
19 also help all ETCs understand the Commission's views regarding the  
20 responsibilities and obligations that come with the receipt of federal support  
21 funds.

22 The Commission is not required to adopt any or all of the FCC proposed  
23 requirements. The Commission should recognize the FCC's objective of having

1 standard requirements across all the states. However, there are, and will  
2 continue to be, many states that have not adopted the FCC's requirements. The  
3 Commission should adopt policy objectives and requirements that best suit the  
4 needs of Oregon in a manner consistent with the Act and FCC implementing  
5 rules.

6 **Q. GIVEN ALL THESE CONSIDERATIONS, CAN YOU STATE BRIEFLY THE**  
7 **KEY POINTS RELEVANT TO SETTING POLICY OBJECTIVES FOR THIS**  
8 **DOCKET?**

9 A. The Commission should attempt to establish requirements and processes for  
10 the initial designation and annual recertification of ETCs that:

- 11 1) Are consistent with the universal service principles in the Act that  
12 consumers in all regions of the state, including low-income  
13 consumers and those in rural, insular, and high cost areas, should  
14 have access to quality telecommunications services, including  
15 advanced and information services, that are reasonably comparable  
16 to those services provided in urban areas, and that are available at  
17 just, reasonable, and affordable rates comparable to those charged  
18 for similar services in urban areas;
- 19 2) Incorporate the principles of competitive and technological neutrality  
20 to the greatest extent possible;
- 21 3) Reflect the mandatory requirements and constraints imposed by the  
22 Act and the FCC rules;

- 1           4) Result in the most cost-effective and efficient use of support funds
- 2           possible under the current federal system;
- 3           5) Direct support into areas with the greatest need based on local
- 4           characteristics and not on whether the ILEC in the area is classified
- 5           as “rural” or “non-rural;”
- 6           6) Encourage the growth and expansion of telecommunications
- 7           platforms capable of providing broadband and advanced services
- 8           into areas where the market economics would not justify deployment
- 9           without support;
- 10          7) Provide support only to carriers that are able to provide the required
- 11          services and are committed to shouldering the responsibilities that
- 12          accompany support; and
- 13          8) Make clear to current and prospective ETCs the Commission’s
- 14          expectations regarding their responsibilities associated with the
- 15          receipt and use of support funding.

**PART II: INITIAL DESIGNATION OF ETCs****ISSUE II.A. What specific basic eligibility requirements should the****Commission adopt for the initial certification of ETCs?****Q. WHAT ARE THE MINIMUM BASIC ELIGIBILITY REQUIREMENTS FOR ETC DESIGNATION SET FORTH IN THE ACT?**

A. The minimum basic eligibility requirements for ETC status are set forth in Section 214(e)(1) of the Act. This section requires that an ETC must: 1) be a common carrier; 2) must offer; and 3) advertise; 4) throughout its designated service area; 5) the services that are supported by Federal universal service support mechanisms; 6) using either its own facilities or a combination of its own facilities and resale of another carrier's services.

Section 254(a)(2) of the Act instructs the FCC to define the services that are supported by the federal universal service support mechanisms. In addition, Section 254(e) requires that a carrier that receives support "shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

**Q. ARE THERE ALSO MINIMUM BASIC REQUIREMENTS FOR ETC DESIGNATION IN THE FCC RULES?**

A. Yes. In general, sections in Part 54, Subpart C of the FCC rules implement and mirror the basic designation requirements as specified in the Act. As directed by the Act, the FCC, in Section 54.101(a) of its rules defines the services supported by universal service funds. They are: 1) voice grade access to the public switched network; 2) local usage; 3) dual tone multi-



1 frequency signaling or its functional equivalent; 4) single-party service or its  
2 functional equivalent; 5) access to emergency services; 6) access to operator  
3 services; 7) access to interexchange service; 8) access to directory assistance;  
4 and 9) toll limitation for qualifying low-income consumers.

5 In addition, the FCC rules in Section 54.405 and 54.411 require all  
6 ETCs to make available Lifeline and Link Up services, respectively, to  
7 qualifying low-income consumers and to publicize the availability of those  
8 services “in a manner reasonably designed to reach those likely to qualify for  
9 the service.”

10 Lastly, the FCC has interpreted Section 214(e)(1) of the Act to mean  
11 that pure resellers cannot receive ETC designation. Accordingly, Section  
12 54.201(i) of the FCC rules prohibit designation of a carrier that offers supported  
13 services “exclusively through the resale of another carrier’s services.”

14 **Q. CAN THE COMMISSION ADOPT ADDITIONAL BASIC REQUIREMENTS**  
15 **NOT STATED IN THE ACT?**

16 A. Yes. Section 214(e) of the Act empowers the state commissions to designate  
17 carriers as eligible to receive federal universal service support. The U.S. Court  
18 of Appeals for the Fifth Circuit held that nothing in section 214(e) of the Act  
19 prohibits the states from imposing their own eligibility requirements beyond the  
20 statutory requirements described in section 214(e)(1). *See Texas Office of*  
21 *Public Utility Counsel v. FCC*, 183 F. 3d 393, 418 (5<sup>th</sup> Cir. 1999) (*TOPUC v.*  
22 *FCC*). Of course any additional requirements must be consistent with the Act.

1 **Q. WHAT TYPES OF CARRIERS ARE LIKELY TO RECEIVE INITIAL**  
2 **DESIGNATION AFTER THE COMMISSION ADOPTS NEW REQUIREMENTS**  
3 **AS A RESULT OF THIS DOCKET AND WHY IS THAT RELEVANT?**

4 A. All the incumbent LECs in Oregon have already received ETC designation. To  
5 date, the Commission has also designated three wireless carriers (RCC  
6 Minnesota, Inc. in Order No. 04-355, United States Cellular Corporation in  
7 Order No. 04-356, and Edge Wireless in Order No. 05-956) and two  
8 competitive local exchange carriers (Stan Efferding dba Vilaire in Order  
9 No. 03-749 and Wantel, Inc. in Order No. 05-856) as ETCs. Any carriers  
10 seeking designation in the future will be either wireless carriers or wireline  
11 competitive local exchange carriers (CLECs) desiring to receive federal  
12 universal service funding in areas already served by ILEC ETCs. These  
13 carriers are generally not subject to the same degree of state or federal  
14 regulation that incumbents are for matters not related to requirements of the  
15 federal universal service support programs.

16 **Q. SHOULD THE SAME ELIGIBILITY REQUIREMENTS APPLY TO BOTH**  
17 **WIRELESS AND WIRELINE CARRIERS?**

18 A. Yes, to the extent possible and reasonable, any requirements adopted should  
19 apply to both types of carrier to achieve competitive and technological  
20 neutrality objectives. The FCC's requirements are stated in terms that apply to  
21 wireless carriers, because those are the only type of carriers that the FCC  
22 designates. However, the FCC believes that its framework can apply to  
23 wireline applicants and that is generally true.

- 1     **Q. SHOULD CETCS THAT HAVE ALREADY RECEIVED DESIGNATION BE**  
2     **SUBJECT TO ANY NEW INITIAL ELIGIBILITY REQUIREMENTS ADOPTED**  
3     **IN THIS DOCKET?**
- 4     A. No. A previously designated CETC should not be required to reapply under the  
5     new requirements. However, to the extent that a new eligibility requirement is  
6     reflected in new annual recertification requirements, e.g., a network  
7     improvement plan, all ETCs should be required to submit to such requirements  
8     during the next annual recertification period.

1        **ISSUE II.A.1. Should the Commission adopt any, or all, of the**  
2        **requirements proposed by the FCC in Order 05-46?**

3        **Q. WHAT BASIC ELIGIBILITY REQUIREMENTS DID THE FCC ADOPT IN**  
4        **ORDER 05-46?**

5        A. In Order 05-46, the FCC adopted new, more stringent requirements for  
6        granting ETC status, based largely on recommendations from the Joint Board  
7        on Universal Service. Although the FCC adopted these requirements for use in  
8        designating ETCs within its purview, it did not require state commissions to  
9        employ them. The FCC encouraged states to adopt them for use as well,  
10        terming them “permissive guidelines.” Under the additional eligibility  
11        requirements proposed by the FCC in Order 05-46, an ETC applicant must  
12        demonstrate: 1) commitment and ability to provide supported services  
13        throughout the proposed service area, including submission of a 5-year service  
14        quality/network improvement plan; 2) ability to remain functional in emergency  
15        situations; 3) commitment to meeting consumer protection and service quality  
16        standards; 4) offering of a local usage plan comparable to the ILEC in the  
17        serving area; and 5) acknowledgement that it may be required to offer equal  
18        access to long distance carriers in the event that no other ETC is providing  
19        equal access within the service area.

20        **Q. WHY DID THE FCC ADOPT THESE NEW REQUIREMENTS?**

21        A. The Joint Board recommended, and the FCC adopted, these new  
22        requirements largely as an attempt to improve the long-term sustainability of  
23        the federal universal service fund. These parties believe that this goal could be

1 accomplished by creating a more predictable and rigorous process to ensure  
2 that only fully qualified carriers that are capable of, and committed to, providing  
3 universal service would receive support. To the extent that more states adopt  
4 the requirements, the benefits could be expected to be greater than if the FCC  
5 were the only party employing them.

6 **Q. HAS THE COMMISSION FOLLOWED THE FCC APPROACHES TO ETC**  
7 **DESIGNATION IN THE PAST?**

8 A. Yes. The Commission has generally looked to FCC cases in designating  
9 ETCs in the past. Prior to the release of the latest FCC permissive guidelines,  
10 the Commission considered the approaches set out by the FCC in the *Virginia*  
11 *Cellular Order (Virginia Cellular, LLC Petition for Designation as an Eligible*  
12 *Telecommunications Carrier for the Commonwealth of Virginia, MO&O, CC*  
13 *Docket No. 96-45, 19 FCC Rcd 1563)* and the *Highland Cellular Order*  
14 *(Highland Cellular, Inc. Petition for Designation as an Eligible*  
15 *Telecommunications Carrier for the Commonwealth of Virginia, MO&O, CC*  
16 *Docket No. 96-45, 19 FCC Rcd 6438)*. After release of the FCC guidelines, the  
17 two most recent applicants for ETC status, Edge Wireless and Wantel, agreed  
18 to meet the FCC requirements, although they were not formally adopted by this  
19 Commission at the time of the carriers' designations. As "test cases" of a sort,  
20 those applications offered excellent opportunities to determine how the new  
21 rules would actually work for both wireless and wireline carriers, and potential  
22 implementation difficulties associated with them.

1 **Q. SINCE THE COMMISSION FOLLOWED THE FCC FOR PAST**  
2 **DESIGNATIONS, DOES THAT MEAN THAT THE COMMISSION SHOULD**  
3 **NOW ADOPT ALL OF THE NEW REQUIREMENTS?**

4 A. Not necessarily. Each requirement should be evaluated and assessed to  
5 determine whether it is necessary to meet the policy objectives established for  
6 this docket. I will now address each new FCC basic eligibility requirement in  
7 turn.

8 **Q. WHAT IS THE FIRST PROPOSED BASIC ELIGIBILITY REQUIREMENT?**

9 A. The first basic eligibility requirement is a demonstration of the applicant's  
10 "commitment and ability to provide services, including providing service to all  
11 customers within its proposed service area." (FCC 05-46, para. 20) There are  
12 two parts to this demonstration. The first is a demonstration that the applicant  
13 will provide services to all requesting customers within its designated service  
14 area. The second is submission of a formal network improvement plan (also  
15 commonly referred to as a build-out plan) that demonstrates how universal  
16 service funds will be used by the ETC to improve service throughout its  
17 proposed designated service area.

18 **Q. HOW IS AN APPLICANT TO DEMONSTRATE THAT IT WILL PROVIDE**  
19 **SERVICE TO ALL REQUESTING CUSTOMERS IN ITS SERVICE AREA?**

20 A. The applicant must make specific commitments to provide service to  
21 requesting customers in the service area for which it is designated. The  
22 commitments are described as follows in paragraph 22 of FCC 05-46. "If an  
23 ETC's network already passes or covers the potential customer's premises, the

1 ETC should provide service immediately.” If the ETC receives a request for  
2 service within its licensed service area but outside its existing network  
3 coverage, the applicant should provide service “within a reasonable period of  
4 time if service can be provided at reasonable cost by: 1) modifying or replacing  
5 the requesting customer’s equipment, 2) deploying a roof-mounted antenna or  
6 other equipment, 3) adjusting the nearest cell tower, 4) adjusting network or  
7 customer facilities, 5) reselling services from another carrier’s facilities or  
8 6) employing, leasing, or constructing an additional cell site, cell extender,  
9 repeater, or other similar equipment.” If the carrier cannot serve the requesting  
10 customer using these methods, then it must report the unfulfilled request to the  
11 Commission within 30 days after making that determination.

12 **Q. SHOULD THE COMMISSION ADOPT THIS REQUIREMENT REGARDING A**  
13 **DEMONSTRATION THAT THE APPLICANT WILL SERVE ALL**  
14 **REQUESTING CUSTOMERS IN ITS DESIGNATED SERVICE AREA?**

15 A. For the most part, yes. The Act requires that an ETC offer supported services  
16 *throughout* its designated service area. Since the FCC determined that an  
17 applicant does not have to be able to serve all prospective customers at the  
18 time of designation, it is essential that the applicant meet the requirements of  
19 the Act by making commitments as to how it will fulfill its obligations to provide  
20 service in cases where its network does not currently reach all potential  
21 customers. However, the Commission should not require that unfulfilled  
22 service requests be reported within 30 days, but rather reporting should be

1 done as part of the annual recertification process. Reporting requirements are  
2 discussed further in Part III of my testimony.

3 **Q. HOW DOES THE SECOND PART OF THE FIRST REQUIREMENT --**  
4 **SUBMISSION OF A NETWORK IMPROVEMENT PLAN -- RELATE TO A**  
5 **DEMONSTRATION OF A CARRIER'S COMMITMENT AND ABILITY TO**  
6 **PROVIDE SUPPORTED SERVICES THROUGHOUT ITS DESIGNATED**  
7 **SERVICE AREA?**

8 A. As described by the FCC in paragraphs 21 and 23 of FCC 05-46, the network  
9 improvement plan, also referred to as a "build-out" plan, is a formal plan  
10 describing with specificity how the applicant will use universal service support  
11 to improve and upgrade its service throughout the area for which it seeks  
12 designation. The plan is to cover a 5-year period. To demonstrate that support  
13 will be used to make improvements throughout the service area, the plan must  
14 specify the proposed upgrades or improvements for each wire center in which  
15 support will be received, or an explanation of why improvements in a particular  
16 wire center are not needed and how funding will otherwise be used. The  
17 service quality improvements do not necessarily require construction of  
18 network facilities, but the support is supposed to be used for service  
19 improvements that would not occur *absent receipt of support funds*. It is  
20 important that funds be used for service improvements that would not  
21 otherwise be made by the ETC without subsidization. The support funds are  
22 not intended to benefit the ETC in cases where it would have made  
23 improvements or expanded into new areas without receiving support to do so.



1 The FCC also suggests that build-out commitments take into account any  
2 existing state policies regarding line extensions and carrier of last resort  
3 obligations.

4 **Q. WHAT OTHER SPECIFIC DETAILS DOES THE FCC REQUIRE IN THE 5-**  
5 **YEAR PLAN?**

6 A. As described in paragraph 23 of FCC 05-46, the 5-year plan showing must  
7 include: “(1) how signal quality, coverage, or capacity will improve due to the  
8 receipt of high-cost support throughout the area for which the ETC seeks  
9 designation; (2) the projected start date and completion date for each  
10 improvement and the estimated amount of investment for each project that is  
11 funded by high-cost support; (3) the specific geographic areas where the  
12 improvements will be made; and (4) the estimated population that will be  
13 served as a result of the improvements.”

14 In addition, as part of the annual report process, the applicant must  
15 submit “coverage maps detailing the amount of high-cost support received for  
16 the past year, how these monies were used to improve its network, and  
17 specifically where signal strength, coverage, or capacity has been improved in  
18 each wire center in each service area for which funding was received” (FCC  
19 05-46, paragraph 23). An ETC applicant must also submit annually a detailed  
20 explanation regarding why any targets established in the plan were not met.

21 **Q. SHOULD THE COMMISSION ADOPT THE 5-YEAR NETWORK**  
22 **IMPROVEMENT PLAN AS PROPOSED BY THE FCC?**

1 A. The plan should be adopted in concept, but not in every detail. The intent of  
2 the plan requirement is consistent with the goals of selecting only responsible  
3 carriers and making the most efficient use of support funding. There are two  
4 major aspects of the FCC plan requirements that have been widely criticized by  
5 wireless carriers -- the length of the plan (5 years) and the wire center level  
6 detail required. Their criticisms do have some merit.

7 **Q. WHAT ARE THE CONCERNS REGARDING THE PLAN PERIOD OF FIVE**  
8 **YEARS?**

9 A. Wireless carriers have argued that a five-year planning horizon is too long in  
10 their fast-moving and competitive business environment. As a result, the plans  
11 would be unduly burdensome, unrealistic and unreliable. See, e.g., *Petition for*  
12 *Reconsideration of Dobson Cellular Systems, Inc.*, and *Petition for*  
13 *Reconsideration of CTIA – The Wireless Association*, both filed in  
14 CC Docket No. 96-45 on June 24, 2005. One could counter this argument,  
15 however, by noting that 5-year periods are required for build-out plans that  
16 wireless licensees must submit as conditions of obtaining their cellular  
17 licenses. Cellular licensees must construct their authorized systems and meet  
18 specific coverage requirements within 5-year increments, and report results to  
19 the FCC in order to retain their licenses. In addition, cell tower construction  
20 may take several years, starting from site acquisition to full completion. The  
21 possibility of linking the ETC plans with the license-related plans could be  
22 explored in further detail to see if that would be useful and more efficient.

1           The wireless carriers have also registered objections to the wire-center  
2 level detail required in the FCC plan. See, e.g., *Petition for Reconsideration of*  
3 *CTIA – The Wireless Association*, CC Docket No. 96-45 (June 24, 2005). The  
4 length of the plan, combined with the amount of wire-center-level detail  
5 required by the FCC, does raise issues regarding the value and necessity of a  
6 plan that would meet FCC requirements.

7           Another factor relevant to the length of the plan is the uncertainty  
8 surrounding when, and how, the entire universal service support system may  
9 be changed. The FCC is discussing significant reform of the system, which  
10 could substantially change the amount of support that is available. A reliable  
11 estimate of funding that a CETC may reasonably expect to receive is critical to  
12 its decisions to apply for ETC status. As it is, it appears that applicants have  
13 difficulty determining the amount of support they are likely to receive now under  
14 current rules. There is no reason to require detailed plans for the use of  
15 support extending out five years if the amount of support is likely to change  
16 significantly in the near future. Such an exercise would be a waste of  
17 everyone's time and resources.

18 **Q. CAN YOU SUGGEST AN ALTERNATIVE APPROACH?**

19 A. A suggested alternative is a 5-year plan in three parts. The first part describes  
20 the current network and quality of coverage – a baseline starting view. This  
21 should consist largely of a map, or maps, of the applicant's proposed service  
22 area overlaid on the ILEC service areas and wire centers. The map should  
23 show the carrier's current network coverage and varying signal strengths

1 across its proposed service area. It should also include a baseline count of  
2 support-eligible customer lines or handsets by wire center, and by the  
3 residence, single-line business and multi-line business categories that  
4 determine per-line support amounts. This baseline view should be required as  
5 a prerequisite in the application, and not necessarily as part of a “plan.” It is  
6 needed regardless of any other network improvement plan that would be  
7 adopted.

8 The second part would be a short-term plan, for each of the coming two  
9 years, that would include details of the sort required by the FCC 5-year plan. It  
10 would demonstrate where the support money will be spent and the resulting  
11 improvements in service.

12 The third part would be a longer-term plan that would cover the  
13 subsequent third, fourth, and fifth years, but it would not be as detailed as the  
14 plan for years one and two. Its main focus would be to share the carrier’s  
15 vision as to how services will be expanded during that time and which new  
16 areas would be served, and to demonstrate the seriousness of the applicant’s  
17 commitment to offering supported services throughout its designated service  
18 area. As important as how the carrier will improve service with universal  
19 service support money is how the carrier will improve service with its own  
20 money. The longer term plan would enable the Commission to know in overall  
21 terms how the carrier plans to improve service without support money, and  
22 then, how it can do even more with support money. If a carrier is not prepared  
23 to share general plans for the next five years, there is good reason to be

1 concerned that the carrier is applying for ETC status only to obtain quick  
2 dollars on its existing customer base – a base which it is already able to serve  
3 without subsidy.

4 **Q. WHAT TYPE OF DETAILED INFORMATION SHOULD BE INCLUDED IN**  
5 **THE 2-YEAR PLAN?**

6 A. The information would be at the level of detail similar to what is required in the  
7 FCC's 5-year plan, with some differences, however. For the first two years of  
8 the plan, the following detailed information would be submitted for each year:  
9 1) a forecast of the support amount, by type, and by ILEC service area, that the  
10 applicant expects to receive, as well as an explanation of how the forecast was  
11 derived; 2) detailed information regarding how the support money will be used;  
12 and 3) other improvements that will be made without support funds. The detail  
13 for how the support money will be used would include: a) a description of each  
14 project, its location, and its purpose; b) the project's start date and estimated  
15 completion date (in quarter-years); c) the amount of support money allocated  
16 to the project, in total and broken down by investment and expense types;  
17 d) how much of the carrier's own money will go into the project; e) a brief  
18 explanation of why the carrier would not make these improvements without the  
19 availability of support funding; and f) quantification of the resulting  
20 improvements by type (increased coverage, signal strength, capacity, etc.),  
21 population benefited, and geographic area benefited (shown over the baseline  
22 map). The 2-year span of the plan will allow for substitution or shifting of  
23 projects from the second year to the first if circumstances warrant, thereby

1 allowing some flexibility in implementation. This detailed 2-year plan would  
2 serve as the basis for review in the annual reporting process. It would be  
3 updated each year and shifted forward to add a new second year.

4 **Q. SHOULD THE PLAN INCLUDE WIRE CENTER LEVEL DETAIL AS**  
5 **REQUIRED BY THE FCC?**

6 A. Wireless carriers have argued that their networks are not engineered or built  
7 based on ILEC wire center areas and therefore they should not be required to  
8 include wire center level detail in their plans. While this may be true to some  
9 extent, the ILEC wire centers are the building blocks of the federal universal  
10 service support system. The portable support amounts are determined by, and  
11 vary by, ILEC wire center for non-rural ILECs, and for rural ILECs where the  
12 ILEC has disaggregated per-line support. Since the current support system is  
13 such that CETCs do not receive support based on their own costs, but rather  
14 on ILEC costs, the support received by CETCs depends heavily on their  
15 customers' locations relative to areas defined by ILEC wire centers. For the  
16 initial plan, the applicant must develop a forecast of the amount of support that  
17 it expects, by type of support. To do this, it needs to determine how many lines  
18 or handsets it has in each wire center of ILECs that have disaggregated  
19 support.

20 For ILEC areas where support has not yet been disaggregated, the  
21 applicant can use line/handset counts aggregated at the ILEC study area level  
22 to forecast support. Under Issue II.B.4, I am recommending that all ILECs be  
23 required to disaggregate support to the wire center level. If the Commission

1 adopts my recommendation, CETC wire center counts for all ILEC areas will  
2 become very important. The Commission should require a year-end count of  
3 actual support-eligible lines/handsets by wire center, and by single-line and  
4 multi-line categories, as part of the annual update of each CETC's plan.  
5 Line/handset counts would be the only measure that should be reported at the  
6 wire center level.

7 **Q. IS WIRE CENTER LEVEL DETAIL NEEDED FOR PURPOSES OF**  
8 **EXPLAINING HOW SUPPORT WILL ACTUALLY BE USED?**

9 A. In paragraph 23 of FCC 05-46, the FCC explained that it requires wire center  
10 level detail in the 5-year plan in order to demonstrate that supported  
11 improvements will be made throughout the service area. However, requiring  
12 such details for every wire center is a needlessly onerous way to achieve that  
13 objective. Wire center detail is not useful or necessary with regard to the  
14 planned service improvement projects unless the Commission decides that  
15 support funds should be used in, or near, the same wire centers that generated  
16 the support. Most potential new applicants will already provide coverage in  
17 some areas and will receive support for those areas almost immediately.  
18 However, these are areas where the carrier has already entered the market  
19 without universal service subsidies. Requiring the ETC to use the support  
20 money within those areas would not allow the ETC to expand coverage into  
21 new areas, which is the goal of universal service. Such a restriction would  
22 force the ETC to invest its own money in a new area first, and then receive  
23 support after it gains customers. This would be counter to objectives to

1 advance universal service to areas where it is needed most because it would  
2 prohibit CETCs from expanding into new service areas. For these reasons, I  
3 do not recommend that the Commission place such restrictions on geographic  
4 spending of support funds. Either way, the Commission should decide this  
5 issue so that applicants are aware of any restrictions on where support money  
6 can be spent before they apply for designation.

7 If the Commission determines that it wants to restrict migration of  
8 support from one area to another, or that it wants to track the migration of  
9 support funds between areas, then it must determine the geographic area that  
10 is relevant. For instance, if the Commission wants to know how much support  
11 money would be flowing from one ILEC's study area to another ILEC's study  
12 area, then the plan could identify the investment locations at the ILEC study  
13 area level, and wire center detail would not be necessary. Some geographic  
14 region smaller than the entire ETC designated service area will generally be  
15 needed, if for no other reason than to summarize where improvements are  
16 being made across the state. While a wire center level is probably too small for  
17 identifying the location of support-funded projects, identifying each project in  
18 the network improvement plan by the ILEC study area affected should be  
19 sufficient. In any event, coverage and signal maps should be provided to  
20 visually demonstrate the impacts of the proposed improvements  
21 geographically.

22 **Q. SHOULD THIS BUILD-OUT PLAN FRAMEWORK ALSO APPLY TO**  
23 **WIRELINE APPLICANTS?**



1 A. Yes, wireline applicants, i.e., CLECs, should also be required to include  
2 build-out plans with similar detail (excluding signal strength) in their  
3 applications for ETC status.

4 **Q. WHAT IS THE PURPOSE OF THE SECOND FCC REQUIREMENT THAT AN**  
5 **APPLICANT DEMONSTRATE ITS ABILITY TO REMAIN FUNCTIONAL IN**  
6 **EMERGENCY SITUATIONS?**

7 A. The FCC believes that requiring an ETC to be able to remain functional in  
8 emergency situations is in the public interest. Additionally, the universal  
9 service principles require that support be used to make “quality” services  
10 available. Quality services are reliable services. In addition, it would be an  
11 inefficient use of public funds to grant support to a carrier that cannot function  
12 in times of emergencies. Also, as access to emergency services is a required  
13 supported service, network reliability is essential, particularly for emergencies.

14 **Q. HOW MUST THE APPLICANT DEMONSTRATE THAT IT CAN REMAIN**  
15 **FUNCTIONAL IN EMERGENCIES?**

16 A. The FCC suggests several requirements in this regard. First, the applicant  
17 must demonstrate that it has a reasonable amount of back-up power to ensure  
18 functionality without an external power source, that it has the ability to reroute  
19 traffic around damaged facilities, and that it can manage traffic spikes that  
20 might result from emergency situations. Second, after designation, the ETC  
21 must certify each year that it is able to remain functional and it must submit  
22 data on outages annually.

1 **Q. SHOULD THE COMMISSION ADOPT THIS BASIC ELIGIBILITY**  
2 **REQUIREMENT FOR ALL ETC APPLICANTS?**

3 A. Yes, for the reasons stated above. The Commission may wish to adopt  
4 specific standards for each item, e.g., a minimum number of hours of back-up  
5 power. If it does, however, it must consider whether to adopt different  
6 standards for wireline and wireless ETCs, based on network and operational  
7 differences. The Commission should also require annual outage reporting to  
8 measure network reliability. That requirement is discussed in more detail  
9 under Issue III.

10 An additional eligibility requirement should be included under this topic  
11 to address the applicant's E911 capabilities and deployment. Access to  
12 emergency services is a required supported service, but many wireless  
13 carriers, unlike wireline carriers, have still not fully deployed E911 services.  
14 Therefore, wireless ETC applicants should demonstrate their level of  
15 compliance with E911 regulations.

16 **Q. WHAT IS THE THIRD ELIGIBILITY REQUIREMENT PROPOSED BY THE**  
17 **FCC?**

18 A. The third requirement is that an ETC applicant demonstrate its commitment to  
19 meeting consumer protection and service quality standards. The commitment  
20 must be made to specific objective measures. The FCC accepts a wireless  
21 carrier's commitment to comply with the CTIA's Consumer Code for Wireless  
22 Service as satisfaction of the requirement for a wireless carrier. Under the  
23 CTIA Code, a wireless carrier agrees to: 1) disclose rates and terms of service

1 to customers; 2) make available maps that show where service is generally  
2 available; 3) provide contract terms to customers and confirm changes in  
3 service; 4) allow a trial period for new service; 5) provide specific disclosures in  
4 advertising; 6) identify carrier charges separately from taxes on billing  
5 statements; 7) allow customers to terminate service for changes to contract  
6 terms; 8) provide ready access to customer service; 9) promptly respond to  
7 consumer inquiries and complaints from government agencies; and 10) abide  
8 by consumer privacy protection policies. The FCC also requires an ETC to  
9 report annually on the number of consumer complaints per 1,000 handsets or  
10 lines.

11 **Q. HOW DOES THIS DIFFER FROM THE TERMS OF THE SETTLEMENT**  
12 **REACHED RECENTLY BETWEEN THE OREGON DEPARTMENT OF**  
13 **JUSTICE (DOJ) AND THE THREE LARGE WIRELESS CARRIERS?**

14 A. The DOJ entered into Assurances of Voluntary Compliance (AVCs) with  
15 Verizon Wireless, Sprint PCS and Cingular Wireless as a result of a multi-state  
16 investigation. The requirements in the AVCs are quite similar to those in the  
17 CTIA Code. If the carrier already abides by the CTIA Code, the Commission  
18 should accept those commitments in fulfillment of consumer service  
19 obligations. For consistency, the Commission should require all wireless  
20 applicants to agree to abide by the requirements of the CTIA code. In  
21 addition, the Commission should require all ETCs to cooperate with the PUC's  
22 Consumer Services Division to resolve any customer complaints that may be

1 received by that division. In this regard, the applicant should designate a  
2 specific contact person to work with the PUC's Consumer Services Division.

3 **Q. THE CTIA CODE APPLIES TO WIRELESS CARRIERS. WOULD IT MAKE**  
4 **SENSE TO APPLY IT TO WIRELINE ETC APPLICANTS?**

5 A. Not directly. Wireline applicants, i.e., CLECs, are already subject to certain  
6 state regulations regarding consumer and service quality standards that  
7 wireless carriers are not. In addition, the state controls the certification of  
8 CLECs, but not of wireless carriers. CLECs that serve more than 1,000 access  
9 lines are also subject to state service quality reporting requirements. Annual  
10 reporting requirements are addressed in Part III. Consumer protection and  
11 service quality are areas in which it is difficult to achieve exact competitive and  
12 technological neutrality as called for under policy objective number 2 in Part I of  
13 my testimony. Wireline and wireless carriers are subject to disparate  
14 consumer and service quality oversight at state and federal levels. Therefore,  
15 wireless carriers should comply with the CTIA Consumer Code, and wireline  
16 ETCs should comply with applicable Oregon state and federal consumer  
17 protection regulations and PUC service quality standards. In addition, as  
18 stated above, all ETCs should commit to cooperate in the resolution of any  
19 consumer complaints that are received by the PUC's Consumer Services  
20 Division. Any current ETC that has not previously submitted the name of a  
21 company contact person to work with the PUC to resolve complaints, should do  
22 so prior to the next annual recertification period.

1 **Q. WHAT IS THE FOURTH REQUIREMENT THAT THE FCC PROPOSES FOR**  
2 **USE BY STATE COMMISSIONS?**

3 A. The fourth requirement relates to local usage. Local usage is one of the  
4 supported services that an ETC must provide in order to be eligible for federal  
5 support. However, the FCC has never adopted a requirement stating how  
6 much local usage, at a minimum, must be provided. Instead, the FCC requires  
7 an ETC applicant to “demonstrate that it offers a local usage plan comparable  
8 to the one offered by the incumbent LEC in the service areas for which the  
9 applicant seeks designation.” (FCC 05-46, para. 32) However, the FCC has  
10 not explained what it means by “comparable.” The FCC also notes that  
11 nothing would limit state commissions from prescribing some amount of local  
12 usage as a condition of ETC status.

13 In Oregon, state law prohibits the Commission from requiring any  
14 telephone customer or class of customers to pay for local exchange telephone  
15 service on a mandatory measured service basis. See ORS 759.235. For this  
16 reason, flat rated, unlimited local calling is the standard for wireline local  
17 exchange service in Oregon. Wireless carriers, however, are not subject to  
18 such state regulations. The FCC urges states to consider as “comparable” the  
19 fact that wireless plans include larger calling areas than the ILEC local  
20 exchange areas, and to view that as a benefit offered by wireless carriers.

21 However, this approach is not consistent with the basis for, or the  
22 calculation of costs underlying, per-line support. Federal universal service is  
23 not intended to support the costs of non-local calling, only access to those

1 services. Since wireless carriers are supported based on ILEC costs, they  
2 should be required to demonstrate that they offer a local calling plan that offers  
3 unlimited local minutes, or includes at least the average number of local calling  
4 minutes made by ILEC customers. The burden should be on the wireless  
5 applicant to demonstrate how its local usage calling plans are comparable to  
6 those offered by each of the ILECs in its proposed service area. Although the  
7 Commission cannot regulate wireless carrier's rates, the rates for the local  
8 usage calling plans should also be included in the demonstration for  
9 comparison purposes. Wireline CLEC applicants should include a similar  
10 description of their unlimited local calling offerings and the rates they charge for  
11 them.

12 **Q. WHAT IS THE FIFTH REQUIREMENT PROPOSED BY THE FCC?**

13 A. The fifth requirement is acknowledgement by the applicant that it may be  
14 required to offer equal access to long distance carriers in the event that no  
15 other ETC is providing equal access within the service area. Although  
16 section 251(g) of the Act requires all local exchange carriers to provide equal  
17 access to long distance carriers, wireless carriers are exempt from this  
18 requirement since they are not defined as local exchange carriers in section  
19 3(26) of the Act. However, the Act allows the Commission to find that wireless  
20 service should be included in the definition and required to provide equal  
21 access. In that case, wireless carriers would also be required to provide dialing  
22 parity under section 251(b)(3), which is a major component of equal access.  
23 Note that dialing parity is a requirement for a carrier to be eligible for Oregon

1 Universal Service support. (See PUC Order No. 00-312 in docket UM 731,  
2 pages 30-32.)

3 The FCC's concern relative to an equal access requirement for ETCs  
4 is that the situation may arise where the ILEC relinquishes its ETC status, and  
5 a wireless carrier would be the only remaining ETC in an area. In that case,  
6 long distance carriers would be prohibited from serving the area because the  
7 remaining (wireless) ETC would not be equipped to offer equal access and  
8 consumers would have no choice of long distance providers. Section 214(e)(4)  
9 of the Act requires that before an ETC can relinquish its ETC designation, the  
10 FCC must examine whether the remaining ETC can serve the customers of the  
11 relinquishing carrier.

12 **Q. SHOULD THE COMMISSION ADOPT THIS LAST BASIC ELIGIBILITY**  
13 **REQUIREMENT FOR ALL ETC APPLICANTS?**

14 A. No. The Commission should adopt this requirement only for wireless  
15 applicants. While this requirement is interesting theoretically, it appears, at  
16 least at this time, that the FCC is the only party that can require a wireless  
17 carrier to provide equal access for federal support purposes. Furthermore, the  
18 FCC requires only an acknowledgement, which is far less meaningful than  
19 requiring a wireless applicant to demonstrate how it would actually implement  
20 equal access if it had to. The Commission should retain this requirement for  
21 wireless applicants, just to ensure that a wireless applicant knows it may have  
22 to provide equal access, albeit under highly unlikely circumstances. This  
23 requirement is unnecessary for wireline CETCs, as CLECs are already

1 required by Section 251(b)(3) of the Act to provide dialing parity, including  
2 equal access.



1        **ISSUE II.A.2. Should the Commission adopt other basic eligibility**  
2        **requirements?**

3        **Q. ARE THERE BASIC ELIGIBILITY REQUIREMENTS THAT ARE NOT**  
4        **ADDRESSED IN THE NEW FCC ADDITIONAL REQUIREMENTS?**

5        A. Yes. The new FCC requirements do not address all the commitments or  
6        demonstrations that the Commission should require in an ETC's application.  
7        There are some basic requirements that should be included in an application in  
8        addition to the larger requirements proposed by the FCC. These requirements  
9        should apply to both wireless and wireline ETC applicants. They are:

- 10            1) A statement demonstrating that the applicant is an authorized  
11            common carrier, and describing the general types of services and  
12            geographic area for which it is authorized in the state of Oregon;
- 13            2) A commitment to offer all required services and a discussion  
14            addressing each one; disclosure of any required services that are  
15            not currently offered, e.g., toll limitation for qualifying low-income  
16            customers, and an explanation of when and how the services not  
17            currently offered will be made available; in addition, the applicant  
18            should identify which of its service offerings (or calling plans) it  
19            believes will qualify for federal support (the name the plan is  
20            marketed under, the number of minutes and included calling area,  
21            and the price);
- 22            3) A commitment to advertise supported services throughout the  
23            service area, including a brief description of advertising plans;

- 1           4) An explicit commitment to offer all supported services throughout  
2           the entire service area;
- 3           5) Explicit identification of the proposed designated service area  
4           consisting of two parts: a) a map showing its licensed area  
5           boundaries, its requested designated service area boundaries, and  
6           the boundaries of all ILEC wire centers it proposes to include in its  
7           designated service area, and b) a list of ILEC wire centers (by ILEC  
8           name, wire center name and CLLI code), with indications for each  
9           wire center, whether it will be fully or partially included in the ETC's  
10          proposed designated service area;
- 11          6) A description of its own and other carriers' facilities that it will use to  
12          provide service, including a map that shows current network  
13          coverage, and disclosure of relevant resale or interconnection  
14          agreements (this may be covered in the "baseline view" discussed  
15          under the network improvement plan section earlier); and
- 16          7) A commitment to offer the required low-income customer services  
17          (Lifeline, Link Up, and OTAP), as well as an explanation of what  
18          specific services will be offered and how they will be advertised in  
19          order to reach the target low-income population.

1     **Q. PLEASE SUMMARIZE THE BASIC ELIGIBILITY REQUIREMENTS THAT**  
2     **YOU RECOMMEND THE COMMISSION ADOPT.**

3     The basic eligibility requirements, and how they are to be demonstrated in an  
4     application for ETC designation, are summarized in the first two columns of the  
5     matrix included as Exhibit Staff/3 (rows #1 - #10).

1        **ISSUE II.A.3. Should the same requirements apply to applications for**  
2        **designation in rural and non-rural ILEC service areas?**

3        **Q. SHOULD THE COMMISSION ADOPT DIFFERENT INITIAL BASIC**  
4        **DESIGNATION REQUIREMENTS FOR RURAL AND NON-RURAL ILEC**  
5        **SERVICE AREAS?**

6        A. No. One of the principles proposed for this docket is that distinctions should  
7        not be made based on whether the ILEC serving the area is classified as “rural”  
8        or “non-rural.” See policy objective number five in Part I of my testimony.  
9        Accordingly, I recommend the same basic eligibility requirements and  
10       demonstrations should apply throughout the service area for which the  
11       applicant is seeking designation, regardless of whether the ILEC serving the  
12       area is classified as “rural” or “non-rural.” Although the types of support  
13       available are calculated differently and the amount of per-line support varies  
14       considerably, the funding source is the same. All ETCs are required to use all  
15       support funds only for the purposes intended by the Act. The Act requires the  
16       same obligations and commitments of all ETCs and makes no distinctions  
17       among types of ETCs in this regard. All applicants for ETC status should be  
18       required to demonstrate that they meet all basic eligibility requirements  
19       regardless of which incumbent already serves the area in which they seek  
20       designation.

1           **ISSUE II.A.4. Should the same requirements apply regardless of the type**  
2           **of support (traditional high-cost, interstate access/common line,**  
3           **low-income) that the ETC will receive?**

4           **Q. WHAT ARE THE DIFFERENT TYPES OF UNIVERSAL SERVICE SUPPORT?**

5           A. There are different types of federal universal service support funds available to  
6           ILEC ETCs that are portable to competitive ETCs. The first is “traditional high-  
7           cost” support. Rural rate-of-return ILECs receive traditional high-cost support  
8           calculated on the basis of each rural ILEC’s fully distributed embedded costs.  
9           There are separate payments for the support of high-cost loop (HCL) and local  
10          switching (LSS) costs in areas that have above-average costs. The equivalent  
11          type of support for non-rural ILECs is called “forward-looking” high cost  
12          support. This type of support is based on forward-looking cost models. Due to  
13          the FCC’s distribution formula, neither of the non-rural ILECs in Oregon (Qwest  
14          and Verizon) receives any forward-looking high cost support.

15                 Another type of high-cost support is access-related support. ILECs  
16          formerly recovered this type of support from long distance carriers through  
17          interstate access charges. The Act requires that all support be made explicit.  
18          Therefore, the FCC directed ILECs to remove local service subsidies from  
19          access charges. Instead of receiving this type of high-cost support through  
20          access charges, the ILECs now receive it from the federal universal service  
21          fund. There are two types of access-related support. One is available to rate-  
22          of-return ILECs – it is called “interstate common line” support or ICLS. The

1 other is available to price cap ILECs – it is called “interstate access support” or  
2 IAS.

3 There can be confusion about the use of the term “high-cost” support as  
4 it is sometimes used to refer to different types of support. The Universal  
5 Service Administration Company (USAC) uses the term inclusive of traditional  
6 high-cost support (HCL and LSS) and access-related support (IAS and ICLS).  
7 Others distinguish between traditional high-cost support and access-related  
8 support. However, all these types of funds have the same purpose -- to  
9 support the costs of local service for ILECs with costs that are higher than  
10 average (as determined by benchmarks selected by the FCC).

11 There is another type of support available to ETCs that is not related to  
12 the carrier’s cost of providing local service. Low-income support provides a  
13 discount to low-income consumers on monthly local service rates (Lifeline  
14 program) and on connection charges (Link Up program). Oregon provides  
15 further discounts through its own OTAP program to consumers that qualify for  
16 the Lifeline discount. A consumer must meet certain income criteria in order to  
17 qualify for the low-income discounts. Unlike high-cost support, which helps to  
18 keep local rates affordable for all consumers, low-income support essentially  
19 reduces the rates that qualified low-income consumers pay for the same  
20 services. Low-income support is essentially passed through to the customer  
21 who effectively pays a lower rate for his/her local service.

22 **Q. IS THERE ANY BASIS FOR APPLYING DIFFERENT REQUIREMENTS**  
23 **DEPENDING UPON THE TYPE OF SUPPORT THE ETC WILL RECEIVE?**

1 A. There is no basis for applying fundamentally different basic ETC eligibility  
2 requirements depending upon the type of support (i.e., traditional high-cost,  
3 access-related or low-income) the applicant will receive. All of these types of  
4 support come from the same federal funding source. All ETCs receiving  
5 support, regardless of the type, have obligations to meet the same  
6 requirements stated in the Telecom Act and FCC rules. This includes offering  
7 and advertising all the supported services, throughout the service area, using  
8 their own facilities or a combination of their own facilities and resale of another  
9 carrier's services.

10 The type of support received by an ETC does make a minor difference  
11 with regard to demonstrating how support funding will be used in a network  
12 improvement plan. The high-cost funds (traditional and access-related)  
13 support local exchange service in high-cost areas, and should be used by  
14 CETCs to improve or maintain service in those areas. The low-income funds,  
15 on the other hand, are to be used to offset rates to qualifying low-income  
16 consumers, and represent a direct flow-through to the end user. Therefore, in  
17 network improvement plans, support funds received from the low-income  
18 programs should not be included for purposes of demonstrating how the  
19 support funds will be used.

1        **ISSUE II.B. What specific criteria should the Commission adopt to**  
2        **determine whether designation of a competitive ETC is in the public**  
3        **interest, as required by Section 214(e)(2) of the Telecom Act?**

4        **Q. WHAT ARE THE REQUIREMENTS OF SECTION 214(e)(2) IN REGARD TO**  
5        **THE PUBLIC INTEREST?**

6        A. Section 214(e)(2) of the Act authorizes a state commission to designate more  
7        than one carrier as an ETC in a service area “upon request, and consistent  
8        with the public interest, convenience and necessity” if the additional carrier  
9        meets the basic eligibility requirements of Section 214(e)(1). Before  
10        designating an additional ETC, i.e., a CETC, in an area already served by a  
11        rural ILEC, a commission must find that the designation is in the public interest.  
12        The Act does not establish specific criteria for determining when a CETC  
13        designation is in the public interest.



1           **ISSUE II.B.1. Should the Commission adopt the criteria proposed by the**  
2           **FCC in Order 05-46?**

3           **Q. WHAT ARE THE PUBLIC INTEREST CRITERIA PROPOSED BY THE FCC?**

4           A. The FCC proposes the use of a cost-benefit analysis that balances two types  
5           of factors in considering whether designation of a CETC would be in the public  
6           interest. Those two factors are 1) the benefits of increased consumer choice  
7           that the designation would bring to an area, and 2) the advantages and  
8           disadvantages of particular service offerings that would be made available by  
9           designation. Additionally, the FCC believes that the additional new basic  
10          eligibility requirements they propose (discussed under Issue II.A. above) will  
11          help to ensure that other public interest benefits will result if the applicant  
12          meets those requirements. That is, those requirements will ensure that an  
13          ETC will be committed to offering quality service to all requesting carriers and  
14          will use support funding to expand and improve the quality of services in rural  
15          and high-cost areas.

16          **Q. SHOULD THE COMMISSION ADOPT THE FCC'S PUBLIC INTEREST**  
17          **CRITERIA?**

18          A. Yes. The FCC's public interest criteria and framework are sufficiently flexible  
19          to enable the Commission to examine each application on its own merits to  
20          determine whether designation would further the Commission's objectives.  
21          The Commission should place the burden of proof squarely on the applicant to  
22          demonstrate in detail in its applications why its designation would be in the  
23          public interest. Further, as the FCC has stated in FCC 05-46, the value of

1 increased competition, by itself, does not satisfy the public interest test. The  
2 applicant must present specific details and examples, including geographical  
3 impacts, to demonstrate the ways in which its designation will benefit Oregon  
4 consumers.

5 **Q. SHOULD THE COMMISSION ADOPT ADDITIONAL PUBLIC INTEREST**  
6 **CRITERIA?**

7 A. Yes, if it has additional public interest factors that it would like considered in  
8 ETC designation decisions. Within the FCC's public interest framework, the  
9 Commission has the ability to state its preferences regarding the types of  
10 services or benefits that it would particularly like to encourage. For instance,  
11 consistent with the universal service principle of improving access to advanced  
12 services, the Commission may indicate that it will give "extra points" in the  
13 public interest analysis to applicants that commit to offering certain advanced  
14 services, in addition to the supported basic local services, in areas where they  
15 are not currently available. The FCC's public interest framework is sufficiently  
16 flexible to enable the Commission to establish additional public interest  
17 considerations to achieve its own specific goals for Oregon designations. I do  
18 not recommend any specific additional public interest criteria, as I prefer to  
19 leave their selection to the Commission's discretion.

1        **ISSUE II.B.2. Should the criteria differ between designations in rural and**  
2        **non-rural ILEC service areas?**

3        **Q. DOES THE FCC USE DIFFERENT CRITERIA FOR RURAL AND NON-**  
4        **RURAL ILEC AREAS IN ITS PUBLIC INTEREST TEST?**

5        A. The FCC generally applies the same public interest factors to designation of  
6        CETCs in both rural and non-rural ILEC areas. However, it does have an  
7        additional criterion, called a creamskimming test, that is used only in cases  
8        where an applicant proposes to include in its service area a portion of a rural  
9        ILEC's service (study) area, rather than the entire ILEC service area. This  
10       distinction stems from the definition of a service area for universal service  
11       purposes stated in Section 214(e)(2) of the Act.

12                Generally, a service area for an ETC is defined as a geographic area  
13       established by a State commission for the purpose of determining universal  
14       service support obligations and support mechanisms. However, this section of  
15       the Act also states that "In the case of an area served by a rural telephone  
16       company, 'service area' means such company's 'study area' unless and until  
17       the Commission and the states, after taking into account recommendations of a  
18       Federal-State Joint Board instituted under section 410 (c), establish a different  
19       definition of service area for such company." The Joint Board has determined  
20       that a creamskimming test should be performed before a rural ILEC study area  
21       is redefined below the study area level. Therefore, the FCC requires that in  
22       cases where a CETC proposes to serve only a portion of a rural ILEC's study  
23       area, it must demonstrate that no creamskimming will result.

1 **Q. WHAT IS A CREAMSKIMMING TEST?**

2 A. A creamskimming test is performed to determine whether designation of a  
3 CETC in only a portion of a rural ILEC's study area will result in the CETC  
4 serving the higher-density, lower-cost portions of the ILEC's total service area,  
5 to the exclusion of lower-density, higher-cost portions. In cases where the ILEC  
6 support is calculated based on average costs across all of its wire centers, i.e.,  
7 it has not disaggregated support amounts, the Joint Board's fear is that a  
8 CETC would aim to serve only the lower-cost areas in order to receive support  
9 payments that are higher than the costs in those areas. The Joint Board  
10 adopted this test to protect the rural ILECs, under the assumption that such  
11 cases would harm a rural ILEC's ability to serve its entire area. The Joint  
12 Board did admit that creamskimming concerns would be lessened in cases  
13 where the rural ILEC had disaggregated its support to reflect differences in  
14 costs among wire centers. Although the FCC recognizes this as well, they still  
15 require a creamskimming test whenever a CETC under their purview seeks to  
16 be designated in only portions of a rural ILEC's study area. In the FCC's view,  
17 the intention of the CETC when it seeks to serve only a portion of the study  
18 area is irrelevant. All that matters is whether the designation in only a part of  
19 the rural ILEC's study area will actually result in creamskimming.

20 **Q. DO YOU AGREE WITH THE FCC'S CREAMSKIMMING ANALYSIS AND ITS**  
21 **RATIONALE FOR REQUIRING THE TEST IN RURAL ILEC AREAS?**

22 A. No, for several reasons. First, the creamskimming test serves as a barrier to  
23 entry, particularly when the CETC must operate within a licensed service area

1 where boundaries have been determined, in large part, by the government.  
2 Serving an entire rural ILEC's study area may be impossible. For instance,  
3 some rural ILECs' study areas in Oregon, such as those of United and  
4 CenturyTel, consist of several distinct groupings of wire centers that are spread  
5 across various parts of the state. This is true for Qwest and Verizon study  
6 areas as well, but the FCC does not require a creamskimming test for non-rural  
7 ILEC areas.

8 Second, the fear that rural ILECs will somehow be harmed if a CETC  
9 serves only a portion of their study area has little basis in reality. If the rural  
10 ILEC is harmed because it has not disaggregated its support by wire center, it  
11 can eliminate that harm by disaggregating its support. The rural ILECs  
12 originally made their own choices regarding whether to disaggregate support,  
13 and they can change those choices if situations, such as the designation of a  
14 CETC, warrant. Even if a rural ILEC does not disaggregate support, however,  
15 there is little financial harm that will come to it under the current support  
16 system. Theoretically, an ILEC would have to actually lose a customer line to a  
17 competitor to lose the associated support. In the majority of cases, however,  
18 customers still keep a landline phone when they obtain cellular service, so the  
19 ILEC does not lose the line or the support. But even this doesn't matter,  
20 because the rural ILECs are not paid support on a per-line basis. They are  
21 rate-of-return regulated carriers whose support is determined based on their  
22 embedded costs of local service, not on the number of customer lines they  
23 serve. The per-line support for traditional high cost support is calculated in

1 order to determine the amount of support CETCs receive, not the amount the  
2 ILECs receive. Under the current support system for rural carriers, it is difficult  
3 to see how a rural ILEC's financial condition would be significantly impacted if  
4 another carrier, a CETC, were also to receive support in the same area. In  
5 short, at least in Oregon, there appear to be no justifiable reasons for  
6 continuing to require a creamskimming test to protect rural ILECs, just as there  
7 are none required to protect non-rural ILECs.

8 **Q. IS THERE ANY REASON WHY THE COMMISSION COULD NOT**  
9 **ELIMINATE A CREAMSKIMMING TEST REQUIREMENT IN A RURAL ILEC**  
10 **AREA?**

11 A. The established views and procedures of the FCC make elimination of a  
12 creamskimming test in rural areas a bit difficult, but not impossible. According  
13 to Section 54.207 of the FCC rules, which implements Section 214(e)(5) of the  
14 Act, if a state commission wishes to designate a CETC in only a portion of a  
15 rural ILEC's study area, that commission, or the ETC applicant, must petition  
16 the FCC to "redefine" the rural ILEC's service (study) area and gain the FCC's  
17 approval. In reviewing such a petition, the FCC considers whether  
18 creamskimming will occur. It requests that the state commission present a  
19 creamskimming analysis in its petition to the FCC to aid in its decision. In  
20 redefinition petitions, then, the Commission would have to defend why it  
21 believes a creamskimming analysis is not necessary. It is important to note in  
22 this regard that a rural ILEC's study area has to be redefined by the FCC only  
23 once. The FCC has previously approved the redefinition of three of the study

1 areas of the largest rural ILECs in Oregon – CenturyTel (55 wire centers),  
2 United/Sprint (30 wire centers), and Cascade (9 wire centers). It has also  
3 approved the redefinition of Oregon Tel (5 wire centers).

4 Of these rural ILECs, only CenturyTel has disaggregated its support,  
5 and then only into two zones. Of the remaining rural ILECs with more than 5  
6 wire centers, Pioneer has already disaggregated its support to the wire center  
7 level, but Citizens, which has 10 wire centers, has not. Of the rural ILECs with  
8 less than 5 wire centers, Malheur has 4 wire centers, Oregon-Idaho and Pine  
9 each have only 3 wire centers, and Midvale, Canby, and Helix each have only  
10 2 wire centers in their study areas. The remaining rural ILECs, 19 in number,  
11 each have study areas comprised of just one wire center, and therefore would  
12 not require redefinition in any case. In sum, the study areas of only eight rural  
13 ILECs have yet to be redefined by the FCC, should a CETC wish to be  
14 designated in only a portion of any of those carrier's study areas.

15 **Q. GIVEN THESE CIRCUMSTANCES, WHAT REQUIREMENTS SHOULD THE**  
16 **COMMISSION ADOPT REGARDING CREAMSKIMMING?**

17 A. The Commission has several choices. It could continue to require a  
18 creamskimming test for any CETC applicant wishing to receive designation in  
19 only a portion of any rural ILEC's service area if it concludes that such a test is  
20 necessary and/or desirable. Or, if the Commission believes that a  
21 creamskimming test is not necessary but is concerned that the FCC will require  
22 the test for future redefinition purposes, the Commission could require a  
23 creamskimming test only if the rural ILEC service area has not already been

1 redefined. Alternatively, it could eliminate the creamskimming requirement in  
2 all cases. Any ILEC that believes it would be harmed by the ETC's designation  
3 in its service area can intervene and demonstrate the ways in which it would be  
4 harmed.

5 I recommend the last choice, eliminating the creamskimming  
6 requirement, which should be considered in conjunction with disaggregation of  
7 support discussed under Issue II.B.4. below. However, in the interim until all  
8 rural ILECs disaggregate per-line support amounts, if a CETC proposes to  
9 serve only a portion of a rural ILEC's service area that has not yet been  
10 redefined by the FCC, the CETC should include a creamskimming analysis in  
11 its application.



1 **ISSUE II.B.3. Should the Commission require an ETC to include entire ILEC**  
2 **wire centers in its service area, regardless of the boundaries of its**  
3 **licensed area?**

4 **Q. DOES THE FCC REQUIRE A CETC TO INCLUDE ENTIRE WIRE CENTERS**  
5 **IN ITS DESIGNATED SERVICE AREA?**

6 A. The FCC has directly addressed this issue only as it relates to rural ILEC wire  
7 centers. It appears to allow partial inclusions of non-rural ILEC wire centers if a  
8 wireless carrier's licensed cellular boundaries do not include the entire wire  
9 center. In the case of a rural ILEC wire center, however, the FCC decided in  
10 the Highland Cellular case (*See Highland Cellular Order*, 19 FCC Rcd at 6435,  
11 para. 33), that it is inconsistent with the public interest to allow a CETC to serve  
12 only a portion of a rural ILEC's wire center. In that case, it established a wire  
13 center as the minimum geographic area for CETC designation in a rural ILEC's  
14 service area. The FCC gave several reasons for this decision. First, that rural  
15 ILEC wire centers typically correspond with county and/or town lines. Second,  
16 that requiring a CETC to serve entire communities will make it less likely that  
17 the CETC will relinquish its designation at a later date.

18 **Q. SHOULD THE COMMISSION FOLLOW THE FCC'S LEAD IN REGARD TO**  
19 **INCLUSION OF ENTIRE WIRE CENTERS IN RURAL ILEC AREAS? WHAT**  
20 **ABOUT IN NON-RURAL ILEC WIRE CENTERS?**

21 A. Once again the FCC appears to have drawn distinctions for designation  
22 between rural and non-rural ILEC service areas. The same general  
23 justifications that it gives for requiring full inclusion of rural ILEC wire centers

1 could just as easily apply to non-rural ILEC wire centers. Whatever  
2 requirements the Commission adopts regarding whether the CETC can, or  
3 cannot, include partial wire centers in its designated service area, those  
4 requirements should be the same for rural and non-rural wire centers.

5 The Commission has two choices regarding whether CETCs must  
6 include entire ILEC wire centers in their designated service areas. First, it  
7 could permit a wireless CETC to define its designated service area consistent  
8 with its licensed boundaries, regardless of whether those boundaries include  
9 only portions of ILEC wire centers. Wireless carriers will surely argue for this  
10 approach on competitive and technological neutrality grounds.

11 A second approach would be to require that a CETC's designated  
12 service area include entire ILEC wire centers, regardless of whether the ILEC  
13 is a rural or non-rural carrier, and regardless of whether the CETC's licensed  
14 boundary cuts through the wire center. If a CETC's licensed boundary cuts  
15 through a portion of an ILEC wire center, the CETC can choose to either serve  
16 the entire wire center, or exclude the entire wire center for purposes of  
17 receiving support. This approach is most consistent with the FCC's approach  
18 regarding inclusion of entire rural ILEC wire centers, but it would apply for non-  
19 rural ILEC wire centers as well. If the applicant believes that serving only a  
20 portion of any wire center in its particular case is in the public interest, it can  
21 demonstrate exactly why an exception should be made.

22 I recommend the latter approach for several reasons. First, it is  
23 consistent with the federal universal service framework that uses ILEC wire

1 centers as the basic building blocks for support, particularly for the portability of  
2 support to CETCs. Second, it does not violate the competitive neutrality  
3 principle to the extent that requiring a CETC to include an entire ILEC study  
4 area would. The wire center is a much smaller area. In that sense, it is less  
5 restrictive than requiring a creamskimming test across each rural ILEC study  
6 area. Third, it provides consistent treatment for wireless and wireline CETCs,  
7 since wireline CETC boundaries generally follow wire center boundaries.  
8 Fourth, it still permits a CETC to make a case for an exception to the rule if the  
9 CETC can demonstrate good cause. The approach would apply to both  
10 wireline and wireless CETCs.

1        **ISSUE II.B.4. Whether and to what extent the Commission should require**  
2        **incumbent local exchange carriers to disaggregate and target support in**  
3        **a different manner, as permitted by 47 CFR Section 54.315(c )(5).**

4        **Q. WHAT TYPE OF SUPPORT IS COVERED UNDER SECTION 54.315 OF THE**  
5        **FCC RULES?**

6        A. Section 54.315 of the FCC rules addresses the disaggregation of traditional  
7        high-cost (high cost loop and local switching) support for rural and rate-of-  
8        return carriers. This section also affects the disaggregation of interstate  
9        common line access support (ICLS) for rural rate-of-return carriers because the  
10       rules in Subpart K require that ICLS disaggregation plans match those chosen  
11       pursuant to Section 54.315. Section 54.315 disaggregation rules do not affect  
12       interstate access support (IAS) for price cap carriers as that support must be  
13       disaggregated by UNE loop zones, per Subpart J of the FCC rules.

14       **Q. WHAT DOES SECTION 54.315 OF THE FCC RULES REQUIRE FOR**  
15       **DISAGGREGATION OF SUPPORT?**

16       A. Section 54.315 of the FCC rules establishes three choices that rural and rate-  
17       of-return carriers have for disaggregating traditional high cost support. By  
18       May 15, 2002, eligible carriers were required to select a “disaggregation path.”  
19       Path 1 is for carriers choosing not to disaggregate and target high-cost support.  
20       Path 2 is for carriers choosing to disaggregate support; such carriers were  
21       required to file a disaggregation and targeting plan for approval by the state  
22       commission. Path 3 is for carriers wishing to file a plan and certify that it has  
23       disaggregated support to the wire center, or into no more than two cost zones

1 per wire center, or in a manner that complies with a prior determination made  
2 by the state commission.

3 **Q. IS SECTION 54.315(c)(5) THE ONLY SECTION THAT ADDRESSES**  
4 **DISAGGREGATION OF SUPPORT AFTER A CARRIER CHOOSES A PATH**  
5 **FOR DISAGGREGATION?**

6 A. No. That section pertains to changing disaggregation paths of carriers that  
7 chose Path 2. Section 54.315(b)(4) pertains to changing disaggregation paths  
8 of carriers that chose Path 1 (no disaggregation). Section 54.315(d)(5) refers  
9 to carriers that chose Path 3. The sections are all similar in that a state  
10 commission may require “on its own motion, upon petition by an interested  
11 party, or upon petition by the rural incumbent local exchange carrier or rate-of-  
12 return carrier, the disaggregation and targeting of support” under a different  
13 path or in a different manner. This means that the Commission could order  
14 carriers that have not disaggregated support to do so, and even direct those  
15 that have already disaggregated support to change to a different  
16 disaggregation scheme.

17 **Q. WHAT ARE THE ARGUMENTS IN FAVOR OF REQUIRING ALL ILECS**  
18 **TO DISAGGREGATE SUPPORT?**

19 A. To the extent that disaggregation of support results in per-line support amounts  
20 that more closely reflect the costs of serving each individual wire center, it  
21 sends the correct economic signals to encourage CETCs to expand into higher  
22 cost areas in able to obtain the higher support amounts. Per-line support  
23 based on averages sends the wrong signals to CETCs, encouraging them to

1 serve the lower cost areas where support payments exceed costs, and  
2 discouraging them from serving the higher cost areas where support is below  
3 cost.

4 The averaging of per-line support over entire study areas produces  
5 results that are counter to nearly every objective proposed for this docket.

6 Support averaging discourages competitors from extending their services into  
7 higher cost areas, resulting in inefficiencies in the universal service system.

8 The lack of disaggregation of support, combined with the creamskimming  
9 requirement, presents barriers to entry that violate the competitive neutrality

10 principle. The FCC has argued that the averaging of support makes the  
11 creamskimming test necessary in rural ILEC areas. Disaggregation of support  
12 to the wire center level would eliminate the need for a creamskimming test.

13 Without a creamskimming test as a barrier, wireless CETCs would be able to  
14 include more of their cellular licensed areas in their designated service areas  
15 for universal service purposes.

16 Washington is one state that has taken the lead in this area by requiring  
17 all ILECs to disaggregate support to the exchange level. Further, the WUTC  
18 does not require a creamskimming test based on the argument that  
19 disaggregation of support removes any significant creamskimming concerns.

20 See *In the Matter of the Petition of RCC Minnesota, Inc.*, Order Granting  
21 Modification, Docket No. UT-023033 (March 2005).

22 **Q. SHOULD THE COMMISSION REQUIRE THE RURAL ILECS TO**  
23 **DISAGGREGATE SUPPORT?**

1 A. Yes, the Commission should require the rural ILECs to disaggregate support  
2 on a wire-center basis. As explained immediately above, there are many  
3 reasons why disaggregation of support is better than support on an average  
4 basis. It appears that under current conditions, ILECs have no incentive to  
5 disaggregate support on their own, without Commission directives to do so.  
6 Further, the creamskimming test gives rural ILECs an additional reason to  
7 retain averaged support amounts because it prohibits CETCs from being  
8 designated in many rural areas.

9 If the Commission directs all rural ILECs to disaggregate support  
10 amounts, each rural multi-wire-center ILEC must develop and submit a  
11 disaggregation plan to the Commission for review and approval. However,  
12 there are only 5 carriers in Oregon that have service areas consisting of  
13 more than 5 wire centers, and one, Pioneer, has already disaggregated  
14 support to the individual wire center level. The remaining four – CenturyTel  
15 (55 wire centers), United (30 wire centers), Citizens (10 wire centers), and  
16 Cascade (9 wire centers) – cover quite a large geographic area and already  
17 have CETCs designated in their service areas. Although CenturyTel did  
18 choose to disaggregate, it has disaggregated its 55 wire centers into only  
19 two zones.

20 Requiring disaggregation of support for just the five largest carriers  
21 would yield significant benefits as explained above. Although CenturyTel  
22 has disaggregated support to some extent, its current plan should be  
23 reviewed. While the development of disaggregation plans may place

1 burdens on the smaller rural carriers, these five larger carriers should have  
2 sufficient resources to devote to such a task. In addition to these larger  
3 carriers, there are only 7 ILECs with 5 or fewer wire centers in their study  
4 areas. Disaggregation for the smaller carriers is not as critical because they  
5 comprise smaller and more compact areas. However, the Commission  
6 could choose to require the smaller carriers to disaggregate as well.

7 To achieve the maximum consumer benefits, the Commission should  
8 order all rural ILECs to disaggregate per-line support to the wire center  
9 level. If the Commission decides not to require disaggregation at this time,  
10 it should still eliminate the creamskimming test for future CETC applicants,  
11 at least in rural ILEC areas that have already been redefined by the FCC.



1 **ISSUE II.B.5. Should the Commission adopt an upper limit on the**  
2 **number of ETCs that can be designated in a given area? Any party**  
3 **proposing adoption of an upper limit should explain its proposal in**  
4 **detail, including the legal basis for its position.**

5 **Q. WHY SHOULD THE COMMISSION CONSIDER PLACING AN UPPER LIMIT**  
6 **ON THE NUMBER OF ETCs THAT CAN BE DESIGNATED IN A GIVEN**  
7 **AREA?**

8 A. Several arguments have been put forth to support the imposition of an  
9 upper limit, or cap, on the number of ETCs that can be designated in a given  
10 area. *See Joint Board Recommended Decision* in CC Docket No. 96-45,  
11 released February 27, 2004, para. 43; also FCC Order 05-46, para. 55.  
12 Most of these arguments are directed toward minimizing growth in the  
13 overall universal service fund. As there are other, better ways to accomplish  
14 that objective, a cap should not be imposed solely for that purpose. Some  
15 parties, including FCC Chairman Martin, are concerned that in areas where  
16 a large amount of per-line support is needed it would be inefficient to  
17 subsidize more than one carrier. (See FCC Chairman Kevin Martin's  
18 remarks at US Telecom Association's Telecom '05 conference in  
19 October 2005.) While there are merits to that argument, it is problematic  
20 from a practical implementation standpoint. It would require a determination  
21 of what the appropriate per-line cut-off amount, or benchmark, should be  
22 and why. In addition, it would require a determination of the appropriate  
23 size of the geographic area for application of such a benchmark, e.g., entire

1 ILEC study area, wire center, or sub-wire center level. It is unlikely that one  
2 per-line support amount could be chosen that adequately reflects the  
3 variations in costs and conditions across the entire state. Other cap-like  
4 proposals include allowing only the ILEC and one wireless CETC in each  
5 area. Cap proposals are discriminatory in that they grant support based on  
6 order of designation and exclude other carriers from consideration.

7 Although the Commission certainly does not want to designate more ETCs  
8 in an area than is economical or necessary to achieve universal service  
9 objectives, putting an arbitrary cap on the number of CETCs is unlikely to  
10 result in optimal benefits for consumers.

11 **Q. DO OTHER PROPOSED REQUIREMENTS REDUCE CONCERNS**  
12 **REGARDING TOO MANY ETCS BEING DESIGNATED IN ANY ONE AREA?**

13 A. Yes. First, requiring new applicants to meet stringent eligibility  
14 requirements will ensure that only qualified and committed carriers will  
15 receive designation and support. Second, the public interest test can be  
16 used to identify when a particular additional carrier may not offer benefits  
17 that will exceed the costs of its designation. The burden is on the applicant  
18 to demonstrate that its designation would be in the public interest. Parties  
19 who believe a particular designation would not be in the public interest can  
20 voice their opposition and concerns during the proceedings addressing the  
21 ETC's application. The number of ETCs that are already receiving support  
22 in an area will be a consideration in the public interest test for each  
23 application and is best evaluated on a case-by-case basis.

1           **PART III: ANNUAL CERTIFICATION OF ETCs**

2           **ISSUE III.A. What specific requirements should the Commission adopt**  
3           **for the annual recertification of ETCs?**

4           **Q. WHAT PROCESS DOES THE COMMISSION CURRENTLY USE FOR THE**  
5           **ANNUAL RECERTIFICATION OF ETCs IN OREGON?**

6           A. Each year the Commission must certify to the FCC that the state's ETCs are  
7           eligible to continue receiving federal universal service traditional high-cost  
8           support funds in the coming year. In so doing, they are vouching for the ETCs'  
9           compliance with federal universal service obligations. Ideally, to grant  
10          recertification to an ETC, the Commission should make sure that the ETC has  
11          met its federal universal service obligations in the past year and is likely to  
12          continue meeting them in the coming year. To accomplish this recertification in  
13          the past, the Commission has required all rural ILEC ETCs, and CETCs  
14          designated in rural ILEC areas, to submit affidavits that they will use support  
15          funds for the purposes intended. In addition, CETCs designated in rural ILEC  
16          areas must submit annual reports that were required as a condition of their  
17          initial designation. Non-rural ILECs (Qwest and Verizon in Oregon) and  
18          CETCs that are designated in only non-rural ILEC areas (Stan Efferding and  
19          Wantel, to date) do not go through a recertification process with the  
20          Commission. They recertify directly to the FCC instead. The issue for  
21          discussion in this regard is whether, and how, the Commission should change  
22          its current procedures.

1 **Q. ON WHAT BASIS SHOULD THE COMMISSION SELECT REPORTING**  
2 **REQUIREMENTS?**

3 A. The Commission should select reporting requirements designed to ensure that  
4 each ETC is fulfilling its universal service obligations as required by the Act and  
5 the FCC rules. In so doing, it should strive for neutrality across carriers for  
6 reporting and minimize reporting burdens to the extent possible. If a  
7 requirement is already being met by some ETCs through reports currently  
8 submitted to the Commission, those ETCs should not have to resubmit or  
9 rework such reports. Instead, they should be able to reference the reports that  
10 meet the corresponding reporting requirements. Reports should not be  
11 required from one set of ETCs merely because another set of ETCs are  
12 already required to submit them to the Commission. Rather, alternative reports  
13 that are most suitable for meeting the same general requirement should be  
14 permitted if appropriate.

1           **ISSUE III.A.1. Should the Commission adopt any, or all, of the FCC**  
2           **reporting requirements proposed in Order 05-46?**

3           **Q. WHAT ARE THE ANNUAL REPORTING REQUIREMENTS PROPOSED BY**  
4           **THE FCC?**

5           A. The FCC proposed nine specific annual reporting requirements for all ETCs it  
6           has or will designate. Each addresses different aspects of commitments the  
7           ETCs have made and/or must abide by on an ongoing basis. I address each  
8           requirement in turn, although not in the order proposed by the FCC. The  
9           FCC's requirements for submitting certifications of compliance are addressed  
10          first because they are the most straightforward.

11          **Q. WHAT IS THE FIRST FCC REPORTING REQUIREMENT? SHOULD THE**  
12          **COMMISSION ADOPT IT?**

13          A. The first requirement is a certification by the ETC that it will use universal  
14          service support for its intended purposes, consistent with section 254(e) of the  
15          Act. The Commission should adopt this certification as it is directly consistent  
16          with requirements of the Act, is currently required of most ETCs, and is also  
17          used by the FCC for ETCs that recertify directly to the FCC for access-related  
18          universal service support. This requirement should apply to all ETCs.

19          **Q. WHAT IS THE SECOND FCC REPORTING REQUIREMENT? SHOULD THE**  
20          **COMMISSION ADOPT IT?**

21          A. The second requirement is a certification by the ETC that it is complying with  
22          applicable service quality standards and consumer protection rules. As this  
23          certification relates to a continuing ETC requirement, the Commission should

1 adopt it. All ETCs should be required to submit this certification annually.  
2 However, wireless CETCs should explicitly identify the service quality  
3 standards and consumer protection rules to which they are certifying  
4 compliance, e.g., the CTIA Consumer Code. CLEC ETCs and ILEC ETCs  
5 should certify that they are in reasonable compliance with all applicable Oregon  
6 service quality standards and consumer protection regulations.

7 The FCC also requires CETCs to report the number of consumer  
8 complaints per 1,000 handsets. Complaint reporting and measurements for  
9 service quality and consumer protection performance for all ETCs are  
10 discussed separately below under the eighth FCC reporting requirement.

11 **Q. WHAT IS THE THIRD FCC REPORTING REQUIREMENT? SHOULD THE**  
12 **COMMISSION ADOPT IT?**

13 A. The third requirement is a certification by the ETC that it is able to function in  
14 emergency situations. All ETCs, including ILEC ETCs, should submit this  
15 annual certification. If the Commission adopts specific standards as eligibility  
16 requirements for emergency preparedness, e.g., a minimum number of hours  
17 of emergency backup power, then it should require such specifics in the annual  
18 certification.

19 Since wireless carriers have not fully deployed E911 services to all  
20 wireless customers, wireless ETCs should submit an update on the status of  
21 E911 deployment in their service area.

22 As an objective measure to determine whether the ETC really is able to  
23 function in emergencies, the Commission should also require annual outage

1 reporting. These reports are discussed separately below under the sixth FCC  
2 reporting requirement.

3 **Q. WHAT IS THE FOURTH FCC REPORTING REQUIREMENT? SHOULD THE**  
4 **COMMISSION ADOPT IT?**

5 A. The fourth requirement is certification by the ETC that it is offering a local  
6 usage plan comparable to that offered by the ILEC in the relevant service  
7 areas. The Commission should not accept a mere certification for this  
8 requirement, but should require a demonstration by CETCs of the existence of  
9 such a comparable plan, a service description that is available to the public,  
10 and an explanation of how the plan compares with specific plans actually  
11 offered by each of the ILECs in its designated service area. This information is  
12 needed to assure the Commission that the requirement is indeed being met.

13 ILEC ETCs should also submit details on their local usage plans for  
14 comparison purposes. If ILEC ETCs file tariffs for their local usage plans, they  
15 can just reference the applicable tariff number and pages. ILEC ETCs that do  
16 not tariff their local service offerings must document their basic local service  
17 offerings, including local usage amounts and rates, in a manner similar to that  
18 required of CETCs.

19 **Q. WHAT IS THE FIFTH FCC REPORTING REQUIREMENT? SHOULD THE**  
20 **COMMISSION ADOPT IT?**

21 A. The fifth, and last, FCC-proposed certification-type requirement is a  
22 certification by the ETC that it acknowledges that the FCC may require it to  
23 provide equal access to long distance carriers in the event that it becomes the

1           only ETC remaining in the service area. The Commission should not adopt this  
2           requirement on an ongoing basis. As discussed previously under Part II, this  
3           requirement is of little real value and is not within the control of the  
4           Commission. An ETC that does not already provide equal access should  
5           submit such a certification only once and thereafter be bound on an ongoing  
6           basis by the original recognition of this possibility. However, if a previously  
7           designated wireless ETC has not submitted such a certification to date, it  
8           should do so during its next annual reporting period.

9           **Q. WHAT IS THE NATURE OF THE REMAINING FCC REPORTING**  
10           **REQUIREMENTS?**

11          A. The remaining four requirements are reports intended to demonstrate and/or  
12          quantify how well the ETC has met service quality, customer service, and  
13          network improvement commitments. I address each of these in turn, with the  
14          most significant requirement addressed last.

15          **Q. WHAT IS THE SIXTH FCC REPORTING REQUIREMENT? SHOULD THE**  
16          **COMMISSION ADOPT IT?**

17          A. The sixth requirement is a report by the ETC providing detailed information on  
18          any outage lasting at least 30 minutes for any ETC service area that potentially  
19          affects at least 10% of the end users served in that area, or a 911 special  
20          facility. This requirement is similar to reporting requirements imposed on all  
21          telecommunications carriers (wireline and wireless), regardless of their size, in  
22          the FCC's Outage Reporting Order (*See New Part 4 of the Commission's*  
23          *Rules Concerning Disruptions to Communications, R&O and FNPRM,*



1 19 FCC Rcd 16830, 16923-25 (2004)), but the threshold measurement (10% of  
2 end users) is lower than the 900,000 user minutes threshold required by the  
3 Order. The FCC felt that a lower threshold measure was needed for ETC  
4 monitoring and reporting because populations can vary between ETC service  
5 areas, and the Outage Report was intended to address larger outages from a  
6 nationwide view. A second difference is that the Order requires reporting of  
7 outages within two hours of the occurrence, but the ETC report will only be  
8 submitted annually.

9 I recommend that all ETCs be required to submit an outage report of  
10 some type annually. The wireless ETCs should submit an annual outage  
11 report using the definitions proposed by the FCC for ETCs (not the definitions  
12 in the Outage Report). If the Commission adopts the changes to its  
13 administrative rules that Staff proposed this December in docket AR 492, all  
14 LECs with more than 1,000 access lines (but excluding cooperatives) will be  
15 required to report to the Commission any significant outages that affect  
16 customer service. Outages will be reported for instances of cable cuts,  
17 electronic outages, or toll or EAS isolation lasting longer than 30 minutes and  
18 addressing 50% or more of associated lines, isolation of a wire center for more  
19 than 15 minutes, and isolation of a central office from the E911 emergency  
20 dialing code or of a Public Safety Answering Position (PSAP). Similar to FCC  
21 requirements, these outages must be reported to the PUC within two hours.  
22 Interim reports must be given to the PUC as significant information changes

1 (e.g., estimated time to restore, impact to customers, cause of interruption,  
2 etc.) until service is restored.

3 ILEC ETCs and CLEC CETCs that are required to follow PUC outage  
4 reporting requirements can reference their PUC outage reports in satisfaction  
5 of an annual ETC outage reporting requirement. Smaller ILEC ETCs and  
6 CLEC ETCs that are not required to submit outage reports to the PUC may  
7 satisfy their annual ETC outage reporting requirement by submitting an annual  
8 outage report using either the outage criteria recommended by the FCC for  
9 ETCs or the outage criteria in the PUC rules. In order to maintain competitive  
10 neutrality, wireless ETCs may also choose to file their annual outage reports  
11 using the PUC reporting standards instead of those recommended by the FCC  
12 in FCC 05-46.

13 All annual ETC outage reports should include: 1) the date and time of  
14 the outage onset; 2) a brief description of the outage and its resolution; 3) the  
15 specific services affected; 4) the geographic areas affected; 5) the number of  
16 customers affected; and 6) steps taken to prevent a similar situation in the  
17 future.

18 **Q. WHAT IS THE SEVENTH FCC REPORTING REQUIREMENT? SHOULD**  
19 **THE COMMISSION ADOPT IT?**

20 A. The seventh FCC ETC requirement is a report on the number of requests for  
21 service from potential customers that were unfulfilled during the past year.  
22 This report reveals the extent to which the ETC is honoring its obligation to  
23 provide services to all requesting customers throughout its designated service

1 area. The Commission should adopt this reporting requirement for all ETCs.  
2 The report should include for each unfulfilled request: a) the customer's  
3 requested service location; b) the date of the request; and c) a detailed  
4 explanation of how the carrier attempted to provide service. In addition, to  
5 strengthen the value of such a report, the Commission should also require the  
6 ETC to describe procedures it uses to ensure that all such requests are  
7 actually received and recorded for reporting. There may be potential  
8 customers who try to request service but cannot reach ETC personnel, or if  
9 they do reach the ETC, their requests may not be recorded in a system for later  
10 reporting. This requirement should apply to all ETCs.

11 **Q. WHAT IS THE EIGHTH FCC REPORTING REQUIREMENT? SHOULD THE**  
12 **COMMISSION ADOPT IT?**

13 A. The eighth reporting requirement is a report of the number of complaints per  
14 1,000 handsets or lines. The Commission should adopt some type of report  
15 that objectively measures service performance for all ETCs to determine if they  
16 are actually meeting their service quality commitments. For wireless ETCs, a  
17 report that quantifies consumer complaints for the previous year, by type and  
18 by switch, would satisfy this objective. Reports categorized by type of  
19 complaint, e.g., dropped calls, no service, poor sound quality, can't place calls,  
20 can't receive calls, roaming problems, etc., will give some indications of the  
21 relative frequency of the different kinds of service quality problems that may be  
22 occurring. Reports categorized by wireless switch will indicate any

1 extraordinary geographical problems. The complaint reports should also  
2 include a count of how many customer complaints, if any, were unresolved.

3 ILECs and CLECs do not currently file customer complaint reports with  
4 the PUC. However, they are subject to service quality standards and must  
5 report certain measurements monthly (unless they serve less than 1,000  
6 access lines or they are cooperatives). To provide neutrality across wireline  
7 and wireless ETCs, I recommend that ILEC and CLEC ETCs that file service  
8 quality reports with the PUC reference those reports in satisfaction of the  
9 service quality reporting requirement for ETC purposes. If a wireless CETC  
10 does not wish to submit customer complaint reports for annual certification  
11 purposes, it can choose instead to submit annual reports for the ILEC service  
12 quality measures required by the PUC. Similarly, ILEC ETCs and CLEC ETCs  
13 that do not currently file monthly service quality reports with the PUC can  
14 choose to submit either annual consumer complaint reports as described  
15 above or annual service quality reports using PUC service quality measures.  
16 This latter group of ETCs would include LEC ETCs serving fewer than 1,000  
17 access lines and cooperatives.

18 All CETCs should also be held responsible for resolving customer  
19 complaints that are received by the PUC Consumer Services Division.

20 **Q. WHAT IS THE NINTH AND FINAL FCC REPORTING REQUIREMENT?**  
21 **SHOULD THE COMMISSION ADOPT IT?**

22 A. The final reporting requirement is the largest, and perhaps the most important.  
23 It is the submission of a progress report on the ETC's build-out plan that, as

1 described by the FCC in paragraph 69 of FCC 05-46, must include “maps  
2 detailing progress towards meeting its plan targets, an explanation of how  
3 much universal service support was received and how the support was used to  
4 improve signal quality, coverage, or capacity; and an explanation regarding any  
5 network improvement targets that have not been fulfilled.” The FCC requires  
6 submission of this information at the wire center level.

7 The Commission’s adoption of this requirement will depend heavily on  
8 how it decides to structure the initial designation requirement for a network  
9 improvement plan. Assuming the Commission adopts my recommendation in  
10 Part II above, the corresponding reporting requirement should consist of the  
11 following elements. First, the report should address, in detail, how the ETC  
12 actually used the support money it received during the past year. To do that,  
13 the ETC should first identify how much support, by type, it received in the  
14 preceding year. Then it should describe the projects for which support was  
15 used, the amount and type of expenditures, and the resulting benefits to  
16 consumers (qualitative and quantitative). Maps should be updated to show  
17 relevant improvements in terms of coverage and signal strength. This portion  
18 of the report should also include the count of lines/handsets in each wire center  
19 at the end of the previous year, by single-line and multi-line categories.

20 Second, the report should explain how and why the actual uses of support  
21 money differed from the first year projections in the plan. Third, the ETC  
22 should provide an updated view of the plan for the next two years, including a  
23 new forecast of support and an explanation of how it was developed. Fourth,

1 the ETC should update information for the new years 3, 4 and 5 of the longer-  
2 term plan. The updated information should be at the same level of  
3 geographical detail (wire centers, ILEC service areas, etc.) as the initial plans.  
4 Both wireless and wireline CETCs should be subject to this reporting  
5 requirement, as both are required to submit network improvement plans for  
6 designation. Any CETCs that did not submit comparable network improvement  
7 plans at the time of their initial designation should submit the required plans for  
8 the next annual recertification period.

1        **ISSUE III.A.2. Should the Commission adopt other reporting**  
2        **requirements?**

3        **Q. ARE THERE OTHER REPORTING REQUIREMENTS THAT THE**  
4        **COMMISSION REQUIRED IN THE PAST THAT SHOULD BE ADDED TO**  
5        **THE LIST OF REQUIREMENTS ADOPTED?**

6        A. Yes. In designating the first two wireless ETCs in Oregon in 2004, prior to the  
7        release of the FCC's Order 05-46, the Commission imposed annual reporting  
8        requirements on RCC Minnesota, Inc. (Order No. 04-355) and United States  
9        Cellular Corporation (Order No. 04-356). The required reports included: 1) line  
10       counts for supported services as of December 31 of the preceding year, by  
11       ILEC wire center; 2) the amount of federal USF support received for Oregon  
12       operations in the preceding calendar year; 3) a description of how USF  
13       support was used in the previous year, with detail on investment and expenses  
14       by type; 4) an estimate of USF support to be received during the current year  
15       and a budget detailing how it will be used; 5) documentation establishing that  
16       the ETC advertised the supported services throughout the service area; 6) a  
17       report of the number of unfulfilled customer requests for service within the  
18       designated service area but outside the wireless licensed territory; 7) a  
19       description of actions taken to enhance wireless internet service in the past  
20       year and plans for the current year; 8) a description of how many service  
21       quality complaints were received, by wire center, and how they were resolved,  
22       and; 9) information regarding resale agreements and requests for service  
23       within the designated service area but outside the wireless license boundaries.

1 All requirements above except 5) and 7) are similar to FCC  
2 requirements and have already been recommended, in some form, for  
3 inclusion in annual reports. The Commission should also adopt the remaining  
4 requirements. Under requirement 5), the ETC should provide documentation  
5 that it advertised the supported services throughout the designated service  
6 area. Under requirement 7), the CETC should report progress on any special  
7 commitments or conditions related to its initial designation.

8 **Q. IN ADDITION TO THE FCC REQUIREMENTS AND PAST COMMISSION**  
9 **REQUIREMENTS, ARE THERE OTHER ANNUAL REPORTING**  
10 **REQUIREMENTS THAT SHOULD BE CONSIDERED? IF SO, WHY?**

11 A. For consistency with eligibility requirements, the Commission should adopt one  
12 other reporting requirement related to low-income support. Although the  
13 offering of low-income services under Lifeline and Link Up programs is required  
14 of all ETCs, there appears to be little monitoring regarding whether the ETCs  
15 are fulfilling these obligations. The annual reporting requirement should  
16 include: 1) the number of Lifeline and Link Up customers at the end of the  
17 previous year, by ILEC study area; 2) a description of how and where low-  
18 income services were advertised; and 3) examples of advertised low-income  
19 service offerings. All ETCs should be required to submit a low-income program  
20 report annually.

21 In addition, new ETCs may not have toll restriction capabilities in place  
22 at designation, but they must promise to implement them after designation.



1           The annual reporting process should be used to ensure that the ETC has  
2           implemented toll restriction for Lifeline customers.

3           **Q. CAN YOU SUMMARIZE YOUR RECOMMENDATIONS REGARDING**  
4           **REPORTING REQUIREMENTS FOR ETCs?**

5           A. Yes. The annual reporting requirements that I recommend for ETCs are listed  
6           in Exhibit Staff/3, Marinos/1-2. The reporting requirements are in the third  
7           column of the matrix and have been organized to correspond with the  
8           associated eligibility and application requirements listed in the first and second  
9           columns of the matrix.

1        **ISSUE III.A.3. Should the same reporting requirements apply to all types**  
2        **of ETCs – ILEC ETCs and competitive ETCs?**

3        **Q. DO THE SAME REPORTING REQUIREMENTS APPLY TO ALL ETCS**  
4        **CURRENTLY?**

5        A. No. As explained previously under Issue III.A., ILECs currently submit only an  
6        affidavit certifying that they will use support funds for the intended purposes.  
7        The process varies by the type of support the ILEC receives. ILECs receiving  
8        traditional high cost support, i.e., the rural ILECs in Oregon, submit affidavits to  
9        the Commission. Based on these affidavits, the Commission then certifies  
10       these ILECs annually to the FCC for support purposes. Since the Commission  
11       also certifies CETCs designated in rural ILEC service areas to the FCC, it  
12       requires these CETCs to submit affidavits annually as well. Unlike the ILECs,  
13       however, CETCs designated in rural ILEC areas must also submit certain  
14       reports as part of the annual certification process.

15                Non-rural ILECs in Oregon (Qwest and Verizon) receive only access-  
16       related support. For this type of support, they certify directly to the FCC  
17       annually without Commission involvement. Similarly, CETCs designated in  
18       only non-rural ILEC service areas certify directly to the FCC with no  
19       Commission intervention. These carriers currently have no ETC reporting  
20       requirements imposed by the Commission.

21       **Q. IS THERE JUSTIFICATION FOR ADOPTING DIFFERENT REPORTING**  
22       **REQUIREMENTS FOR ILEC ETCS AND CETCS?**

1 A. Yes, there is in some cases. The FCC proposal that all ETCs, including ILECs,  
2 should be subject to the same specific reporting requirements does not reflect  
3 regulatory realities and other relevant differences between ILECs, CLECs, and  
4 wireless carriers. The FCC developed its reporting requirements specifically  
5 for wireless ETCs, since that is the only type of carrier that the FCC designates  
6 as an ETC. While the competitive neutrality principle should be considered  
7 when selecting annual reporting requirements, it does not mean that all ETCs  
8 must have the exact same annual reporting requirements for universal service  
9 recertification. All ETCs should demonstrate compliance with all ETC  
10 requirements, but not necessarily in exactly the same ways. For instance,  
11 when the Commission already requires certain ILECs to file reports covering an  
12 area of compliance, it should not require them to resubmit those reports for  
13 annual certification purposes. The reporting requirements recommended  
14 above, and displayed in Exhibit Staff/3, have been developed to accommodate  
15 ETC differences while ensuring that all ETCs, in some way, report  
16 commitments and performance in the same key areas.

17 **Q. WHICH REPORTING REQUIREMENTS SHOULD NOT APPLY TO ILEC**  
18 **ETCS AND WHY?**

19 A. The only major differences in the recommended reporting requirements  
20 between ILEC ETCs and CETCs relate to the network improvement plan and  
21 any special commitments made, or requirements imposed, on an individual  
22 CETC applicant as a condition of its designation. ILEC ETCs should not be  
23 required to submit formal network improvement plans. ILECs have been

1 granted federal universal service support based on their costs, or cost proxies,  
2 relative to benchmarks determined by the FCC. They are given support based  
3 on these costs in order to maintain quality service at affordable rate levels,  
4 which is the principal goal of the universal service program. While they are  
5 expected to maintain acceptable service and network quality, they are not  
6 expected to use universal service funds to expand their networks. They are  
7 already subject to carrier of last resort obligations, service quality standards  
8 and, in most cases, to reporting requirements. Furthermore, the ILECs must  
9 submit financial reports to the Commission on an annual basis.

10 In short, because of the evolution and structure of the current system for  
11 support, there is no reasonable basis for requiring ILECs to submit network  
12 improvement plans similar to those required for CETCs. The amount of  
13 support that is given to ILECs has already been determined by the objective  
14 measures used in the universal service framework for their individual  
15 situations. This is different than the case of a competitive carrier that begins by  
16 offering service in profitable areas but needs support to improve service or  
17 expand facilities into areas that would not otherwise be profitable due to the  
18 high costs of operating there. Universal service obligations are mandatory for  
19 ILEC ETCs, but voluntary for CETCs. Therefore, more scrutiny is warranted to  
20 ensure that funds granted to CETCs are used to further universal service  
21 goals.

22 Reports that relate to special follow-ups required as a condition of  
23 designation, e.g., toll restriction implementation, will not, of course, apply to

1 ILECs, or other CETCs, that have already been designated without special  
2 conditions.

1        **ISSUE III.A.4. Should the same reporting requirements apply regardless**  
2        **of the type of support (traditional high-cost, interstate access/common**  
3        **line, low-income) received by the ETC?**

4        **Q. DO THE REPORTING REQUIREMENTS CURRENTLY VARY BY THE TYPE**  
5        **OF SUPPORT THAT AN ETC RECEIVES?**

6        Yes. If an ETC receives only access-related universal service support and/or  
7        low-income support, it is currently not required to report annually to the  
8        Commission for recertification. For these types of support, the ETC bypasses  
9        the Commission because the FCC allows them to directly self-certify annually.

10       **Q. SHOULD THESE CARRIERS BE REQUIRED TO REPORT ANNUALLY**  
11       **EVEN THOUGH THE COMMISSION IS NOT INVOLVED IN THEIR**  
12       **RECERTIFICATION TO THE FCC?**

13       A. Yes. The Commission has an ongoing responsibility to ensure that every ETC  
14       that it has designated continues to fulfill its universal service responsibilities,  
15       regardless of the type of support received. Of special concern is the need to  
16       monitor the performance of CETCs in non-rural ILEC service areas, since they  
17       are subject to little ongoing regulatory oversight. Without reporting, there is no  
18       way for the Commission to know whether the ETC has kept the commitments it  
19       made at designation or is using support funds in ways that best serve the  
20       interests of Oregon rural and low-income consumers. For instance, a CETC  
21       that receives interstate access support, but not traditional high-cost support,  
22       currently does not need to report to the Commission on how it is using those  
23       funds, despite the commitments it may have made for that money in its

1 application. In addition, without periodic reporting, there is also no mechanism  
2 to ensure that such an ETC is meeting its overall universal service  
3 responsibilities. Furthermore, there is a need to ensure that all ETCs are  
4 meeting their low-income support program responsibilities. For these reasons,  
5 the Commission should not relieve ETCs from reporting responsibilities based  
6 purely on the type of universal service support they receive, even if the ETCs  
7 self-certify directly to the FCC. All ETCs should be subject to annual reporting  
8 requirements in order to continue receiving federal universal service support.

9 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

10 A. Yes.

CASE: UM 1217  
WITNESS: Kay Marinos

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 2**

**Witness Qualification Statement**

**December 13, 2005**



**WITNESS QUALIFICATION STATEMENT**

NAME: Kay Marinos

EMPLOYER: Public Utility Commission of Oregon

TITLE: Senior Telecommunications Analyst, Competitive Issues

ADDRESS: 550 Capitol St NE Suite 215  
Salem, Oregon 97301-2551

EDUCATION: PhD/ABD and MA in Economics  
University of Hawaii, 1981

BA in Economics  
Hofstra University, 1975

**PROFESSIONAL EXPERIENCE:**

Senior Telecommunications Analyst, Public Utility Commission of Oregon, 2004 - Present

Senior Consultant, Verizon Communications, 2000 -2003

Managed special project teams to ensure compliance with regulatory and legal requirements in various aspects of national telecommunications business, including new product development, interconnection, proprietary information and billing.

Senior Specialist, Bell Atlantic & NYNEX, 1988 - 2000

As subject matter expert, performed wide range of analytic functions to develop and support company's objectives in federal regulatory proceedings. Major issues included Telecom Act implementation, competitive markets, interconnection, pricing flexibility, price caps, rate restructuring, cost recovery, and cost allocation.

Manager, National Exchange Carrier Association, 1984 -1988

Managed development of telecom industry forecasts of interstate usage and dedicated access services used to determine nationwide carrier pool rates.

Business Research Analyst, GTE Hawaiian Telephone, 1982 - 1983

Developed revenue and demand forecasts for budgeting and network planning.

Economist & Planner, State of Hawaii, 1978 – 1982

Managed energy conservation and emergency planning projects, lectured in economics at the University of Hawaii, and supervised economic and demographic studies for urban redevelopment in industrial area of Honolulu.

CASE: UM 1217  
WITNESS: Kay Marinos

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 3**

**Requirements Matrix**

**December 13, 2005**

REQUIREMENTS MATRIX  
ELIGIBILITY, INITIAL DESIGNATION AND ANNUAL REPORTING REQUIREMENTS

ELIGIBILITY REQUIREMENT	INITIAL DESIGNATION REQUIREMENT	ANNUAL REPORTING REQUIREMENT
1. Common carrier status	<ul style="list-style-type: none"> <li>- Cite carrier authorization</li> <li>- Describe nature of services and licensed geographic area</li> </ul>	None
2. Offer all supported services	<ul style="list-style-type: none"> <li>- Commit to offer and advertise all services</li> <li>- Describe offering of each required service</li> <li>- Identify any required service not currently offered and explain when and how it will be offered</li> <li>- Submit local usage plan information demonstrating comparability with ILEC plans</li> <li>- Submit certification acknowledging carrier may be required to provide equal access</li> </ul>	<p>Report on services not offered at designation (CETCs only)</p> <p>Submit information describing local usage plan offers and rates, or reference tariffs if applicable</p>
3. Advertise all supported services	<ul style="list-style-type: none"> <li>- Commit to advertise services throughout the service area</li> <li>- Provide brief description of advertising plan</li> </ul>	Submit evidence of advertising of supported services throughout service area for prior year
4. Offer all services throughout the designated service area (DSA)	<ul style="list-style-type: none"> <li>- Commit to offer supported services throughout DSA</li> <li>- Define DSA: Supply map overlaying boundaries on ILEC wire centers</li> <li>- List ILEC wire centers by ILEC, CLLI code and indicate any WCs not fully included</li> <li>- Commit to provide service immediately inside network coverage and commit to provide service outside network coverage by employing 6-step plan in FCC 05-46</li> </ul>	<p>Report number of unfulfilled service requests, noting location and describe attempts to provide service</p> <p>Briefly describe process in place to ensure that requests for service outside network coverage are received and recorded</p>
5. Offer services using either own facilities or combination of own facilities and resale of other carriers' facilities	<ul style="list-style-type: none"> <li>- Describe own facilities and current coverage, include map of current network coverage and signal strengths</li> <li>- Identify any existing relevant resale or interconnection agreements</li> </ul>	Update through network improvement plan – CETCs only

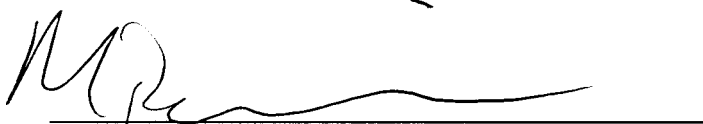
ELIGIBILITY REQUIREMENT	INITIAL DESIGNATION REQUIREMENT	ANNUAL REPORTING REQUIREMENT
6. Offer and advertise Lifeline and Link Up low-income assistance & participate in OTAP	<ul style="list-style-type: none"> <li>- Commit to offering required low-income services</li> <li>- Include plan for implementation, including advertising</li> </ul>	Report on number of customers in program by ILEC study area, describe advertising during past year, submit advertised examples of offerings
7. Use support funds only for intended purposes	Submit affidavit certifying use of support funds	Submit new affidavit certifying use of support funds
8. Ability to remain functional in emergencies	<p>Demonstrate in detail: 1) amount of backup power available, 2) ability to reroute traffic around damaged facilities, 3) ability to manage traffic spikes during emergency periods</p> <p>Describe current status of E911 implementation in detail</p>	<p>Certify ability to remain functional in emergencies</p> <p>Submit annual outage report per FCC specifications, submit annual outage report per PUC specifications, or reference PUC reports</p> <p>Update E911 implementation status – wireless CETCs only</p>
9. Consumer protection and service quality commitments	<p>Commit to specific, objective measures to protect consumers, e.g., CTIA Consumer Code, Oregon consumer protection regulations, PUC service quality standards</p> <p>Commit to resolve complaints received by PUC; designate specific contact person</p>	<p>Certify compliance with specific standards, e.g., CTIA Code, applicable state &amp; federal consumer protection regulations, PUC service quality standards</p> <p>Submit annual consumer complaints report, annual PUC service quality reports or reference monthly PUC service quality reports if filed</p>
10. Formal network improvement plan	Submit network improvement plan addressing all required details (baseline view, 2-year detailed plan, and 5-year overview)	Report on network improvement plan progress in past year and update plan for next period – CETCs only
11. Public interest test	<p>Demonstrate, with specifics, how designation will increase consumer choices</p> <p>Demonstrate, with specifics, the advantages of service offerings</p> <p>Demonstrate absence of creamskimming if proposing to serve only portion of rural ILEC service area that has not been redefined</p>	Report on any special commitments made for designation – CETCs only

# CERTIFICATE OF SERVICE

**UM 1217**

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to all parties or attorneys of parties.

Dated at Salem, Oregon, this 13th day of December, 2005.

A handwritten signature in black ink, appearing to read 'Mike Weirich', is written over a horizontal line.

Mike Weirich

Assistant Attorney General

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**UM 1217**  
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