

US WEST and the Independents also fail to recognize that every other state that has addressed an application filed by a wireless carrier has designated the wireless carrier as an ETC. In Arkansas and California, the state commissions designated Sprint PCS as an ETC, even though that company was not providing universal service at the time of ETC designation. See Resolution T-16105. All Incumbent Local Exchange Carriers, Sprint PCS, and MGC Communications, Inc. To Designate Eligible Telecommunications Carriers Pursuant To The Federal Communications Commission's Report and Order (FCC 97-157) In The Matter Of Federal-State Joint Board On Universal Service (CC Docket No. 96-45) Public Utilities Commission of the State of California, December 16, 1997; In The Matter Of Determining Eligible Telecommunications Carriers In Arkansas, Docket No. 97-326-U, Arkansas Public Service Commission, November 7, 1997.

In Washington and Wisconsin, the state commissions designated US Cellular Corporation as an ETC, even though the company was not providing universal service at the time of ETC designation. See In The Matter of the Petitions of United States Cellular Corporation, et al., Docket No. UT-970345, Order Designating Eligible Telecommunications Carriers, Washington Utilities and Transportation Commission, December 23, 1997; Designation of Eligible Telecommunications Carriers Under Part 54 of Title 47 of the Code of Federal Regulations, 05-T1-162, Findings of Fact, Conclusions of Law, and Final Order, Public Service Commission of Wisconsin, December 23, 1997.

The Puerto Rico Commission designated Centennial PCS Operations Corporation as an ETC, even though the Company was not providing universal service at the time of ETC designation. See Centennial PCS Operations Corporation, Case No. 97-US-0002, December 3, 1997.

These decisions designating wireless carriers as ETCs are consistent with the law and underlying intent of the new competitive universal service framework established in the Act and the FCC rules. This Commission should not follow the fundamentally flawed and illogical decision of the South Dakota Commission, but instead should designate GCC as an

ETC based upon its compliance with the ETC criteria enumerated in Section 214(e)(1) and because of the public interest benefits to be realized by rural consumers in GCC's designated service areas.

**E. GCC MEETS ALL REQUIREMENTS FOR DESIGNATION AS AN ETC TO RECEIVE FUNDS FROM THE NUSF**

GCC has also demonstrated it meets all requirements for designation as a state ETC for receipt of funds from the NUSF. As previously explained, GCC is a facilities-based carrier having deployed an extensive network in Nebraska. GCC further commits to serving and meeting all demand for the NUSF supported services consistent with its obligation as a common carrier of telecommunication services. (Ex. 3, p. 23.) As previously discussed, GCC satisfies the criteria set forth in Section 214(e) of the Act for purposes of federal ETC designation, including the public interest finding.

The services supported by the NUSF as set forth in the Commission's NPSC Order are virtually identical to the FCC's core service requirements under FCC Rule 54.101(a). The NUSF services include single-party service; touch-tone; standard directory listing; access to directory assistance; access to interchange services; access to emergency services such as 911 or E911; access to operator services; and, toll blocking for qualifying low-income consumers. (Ex. 15, NPSC Order, p. 2.) While the Nebraska and FCC supported services are expressed in different words, there are few substantive differences between them. The only differences are that the NUSF supported services do not include any express requirements for voice-grade access to or local usage on the public switched telephone network, and NUSF also includes a requirement for a standard "white page" or alpha directory listing.

Although GCC believes a requirement to offer a standard white page listing is inconsistent with the Act, the Commission has recently clarified the requirement for purposes of the NUSF. See Motion Denied and Order Clarified In Part, NPSC Application No. C- 1628/NUSF (March 30, 1999). The Commission stated the requirement does not mean that every customer must have a white page listing, only that each customer has the "option" of

having a standard white page listing. (Ex. 15, NPSC Order, pp. 1-2.) GCC can provide a directory listing today for its customers of conventional mobile cellular services, but most customers typically do not request a listing of their telephone number in a white pages directory. (Ex. 3, p. 24.) Nevertheless, GCC can and will provide to its universal service customers the option of having a standard white page listing through necessary arrangements with the applicable LEC. (Ex. 3, p. 24; Tr. 39.)

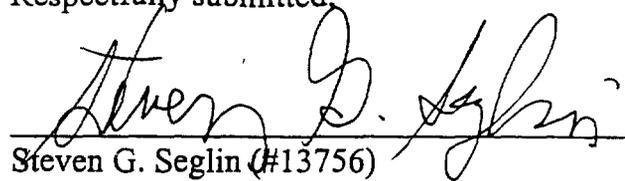
Finally, the public interest test for state ETC designation is served in the same manner as for Section 214(e)(2). Consumers will obtain the benefits of competition, with no demonstrated significant adverse affect on any incumbent LEC which would harm consumers, (Ex. 3, p. 24; supra pp. 30-45.) The Commission has determined the NUSF will support services for all customer access lines whether business or residential. (Ex. 15, NPSC Order, p. 2.) This is consistent with FCC's decision that both rural and non-rural carriers will receive federal universal service support for all lines. Universal Service Order, ¶¶ 275, 296. Similarly, neither the FCC nor the Commission has any requirement that a competing ETC provider capture all lines to be eligible for support. A universal service customer may therefore retain an access line provided by an incumbent LEC and elect to receive service from GCC as well, and both carriers would be eligible for support. The Commission should thus find that the GCC's designation as a state ETC is in the public interest.

### **III. CONCLUSION**

The Act establishes clear, consistent and competitively fair mechanisms for allowing carriers, including a CMRS provider, to be designated as an ETC for the purpose of federal and state universal service support. GCC provides the supported services, satisfies all statutory requirements, and can and will meet the obligations of an ETC. For rural consumers, designation will bring new technology, lower rates, and better service, and so is clearly in the public interest. GCC respectfully requests the Commission to follow the directives and principles of the Act and to grant its Application for designation as an ETC.

Respectfully submitted,

Dated: December 17, 1999



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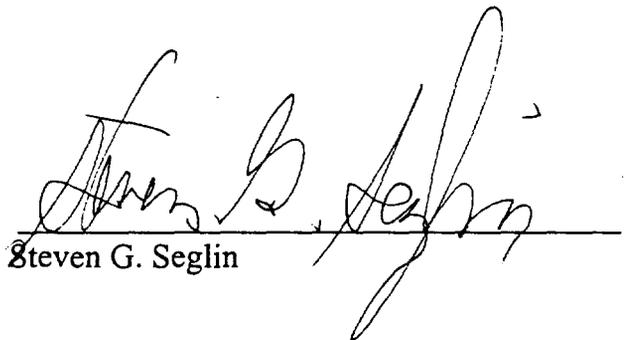
**CERTIFICATE OF SERVICE**

A copy of the foregoing Brief of GCC License Corporation was sent by regular U.S. mail, postage prepaid, to the following on the 17<sup>th</sup> day of December, 1999:

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Steven G. Seglin



**BEFORE THE PUBLIC UTILITIES COMMISSION  
FOR THE STATE OF COLORADO**

DOCKET NO. 00K-255T

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IN THE MATTER OF	)	
WESTERN WIRELESS HOLDING CO., INC.'S	)	
APPLICATION FOR DESIGNATION	)	DOCKET NO. 00A-174T
AS AN ELIGIBLE TELECOMMUNICATIONS	)	
CARRIER PURSUANT TO 4 CCR 723-42-7	)	

IN THE MATTER OF THE APPLICATION	)	
OF WESTERN WIRELESS HOLDING CO.,	)	
INC. FOR DESIGNATION AS AN ELIGIBLE	)	DOCKET NO. 00A-171T
TELECOMMUNICATIONS PROVIDER	)	
PURSUANT TO 4 CCR 723-42-8	)	

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**DIRECT TESTIMONY OF JOSEPH GILLAN, ON BEHALF OF  
WESTERN WIRELESS HOLDING CO., INC.**

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**DIRECT TESTIMONY OF JOSEPH GILLAN**

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1 Separations Reform. I currently serve on the Advisory Council to New Mexico  
2 State University's Center for Regulation that twice annually conducts instructional  
3 programs sponsored by NARUC and targeted to Western Commissions.  
4

5 **Q. On whose behalf are you testifying in this proceeding?**

6 A. I am testifying on behalf of the applicant, Western Wireless Holding Company,  
7 Inc. ("Western").  
8

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of my testimony is to explain why granting Western's request to be  
11 designated an Eligible Provider/Eligible Telecommunications Carrier<sup>1</sup> would  
12 meet the public interest convenience and necessity.  
13

14 In order to be named an Eligible Telecommunications Carrier (ETC) for federal  
15 universal service purposes, Western Wireless must satisfy certain requirements  
16 outlined in the Direct Testimony of Jim Blundell. In addition, to receive support  
17 in those areas served by rural telephone companies, Western must also show that  
18 its designation as an ETC is in the public interest.

---

<sup>1</sup> A carrier that qualifies for support from the Colorado High Cost Support Mechanism is referred to as a Eligible Provider. The interstate term is an Eligible Telecommunications Carrier (ETC). For editorial simplicity, I will use the term "Eligible Provider" to refer to Western's request to be an Eligible Provider for purposes of the intrastate High Cost Support Mechanism, and its request to be designated an Eligible Telecommunications Carrier with respect to the federal Universal Service Fund.

1

2

In contrast, for purposes of qualifying for support from the intrastate High Cost

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Support Mechanism, the Commission must conclude that Western being named

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an Eligible Provider is in the “public convenience and necessity” (as well as

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satisfying the other, more technical, requirements of this designation). Unlike the

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federal designation, however, the Commission must reach this conclusion in both

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the territories of the rural *and* non-rural ILECs.<sup>2</sup> Because of the similarity

8

between these standards, I will refer to both the “public interest” and “public

9

convenience and necessity” as a “public interest standard.”<sup>3</sup>

10

11

**Q. Would granting Western’s request to be named an Eligible Provider be in**

12

**the public interest?**

13

A. Yes. As I explain below, granting Western’s Eligible Provider request – and thus

14

enabling consumers to *choose* their provider of “universal service” – is plainly in

15

the public interest. There are two key reasons. The first is simply that

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<sup>2</sup> This later requirement is perfunctory. Obviously, if it is appropriate to determine that Western should be deemed an Eligible Provider in the territories served by rural telephone companies, a similar finding would apply in the territories served by non-rural incumbent carriers.

<sup>3</sup> I note that the Commission rules themselves call for coordination between the federal and state universal service programs. See Rule 4 CCR 723-41-3 (emphasis added):

Toward the ultimate goal of universal service, the High Cost Support Mechanism is hereby created *and shall be coordinated with the Federal Communications Commission (FCC) Universal Service Fund (USF)...*

*Witness Qualification and Introduction*

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**Q. Please state your name.**

A. My name is Joseph Gillan.

**Q. Please briefly outline your educational background and related experience.**

A. I am a graduate of the University of Wyoming where I received B.A. and M.A. degrees in economics. From 1980 to 1985, I was on the staff of the Illinois Commerce Commission where I had responsibility for the policy analysis of issues created by the emergence of competition in regulated markets, in particular the telecommunications industry. While at the Commission, I served on the staff subcommittee for the NARUC Communications Committee and I was appointed to the Research Advisory Council overseeing NARUC's research arm, the National Regulatory Research Institute.

In 1985, I left the Illinois Commission to join U.S. Switch, a venture firm organized to develop interexchange access networks in partnership with independent local telephone companies. At the end of 1986, I resigned my position of Vice President, Marketing/Strategic-Planning to begin a consulting practice. Over the past decade, I have provided testimony before more than 35 state commissions (including Kansas), four state legislatures, the Commerce Committee of the United States Senate, and the Federal/State Joint Board on

1 competition creates benefits – such as, for instance, lower prices, greater  
2 responsiveness and increased innovation – that do not naturally follow from other  
3 forms of industrial organization.

4  
5 The second reason is that authorizing competition among Eligible Providers  
6 should result in “more” universal service. In other words, competition between  
7 Eligible Providers will not only benefit consumers in conventional terms, but also  
8 one of the benefits from that competition should be an increase in universal  
9 service itself.

10  
11 **Q. Before addressing these issues in more detail, is there a preliminary**  
12 **observation that is appropriate?**

13 A. Yes. A fundamental tenet of this nation’s economic policy is that competition is  
14 the best way to promote consumer welfare. This belief lies at the heart of the  
15 Telecommunications Act, which requires (among other goals) that universal  
16 service be reformed so that it is compatible with a competitive environment. The  
17 goal should be to *extend* the benefits of competition to all consumers, including  
18 consumers in rural areas. After all, we are not discussing the availability of a  
19 dangerous drug or other harmful substance – we are simply addressing whether  
20 rural consumers should have the ability to choose for themselves their provider of  
21 a socially desirable (i.e., universal service) product. In this debate, the  
22 presumption should *favor* entry and competition as in the public interest, with

1 those that would deny fair competition being required to make a compelling  
2 showing that government should deny rural consumers the opportunity to choose  
3 which provider has earned the subsidy instituted on the consumer's behalf.  
4

5 *Competition Between Eligible Providers is in the Public Interest*  
6

7 **Q. Is competition generally in the public interest?**

8 **A.** Yes. It is well recognized that competition is in the public interest because of the  
9 benefits that it brings to consumers. Competition brings choice and, with choice,  
10 it is consumers that become the ultimate arbiters of the products and services that  
11 succeed in the market. Choice provides consumers with the ability to directly  
12 “punish” an unresponsive supplier by taking one’s business elsewhere; or, from  
13 the other perspective, choice provides suppliers the incentive to introduce  
14 innovative new services (or offer lower prices) with the goal of attracting  
15 customers away from a rival.

16  
17 Markets that lack competition, in contrast, do not provide these same incentives.  
18 In markets without competition, consumers can signal dissatisfaction with the  
19 incumbent only by denying a service entirely -- a decision that is more likely to  
20 adversely affect the consumer than the incumbent. Further, an incumbent

1 monopolist may actually *avoid* innovating because many new products reduce the  
2 sales of existing services.<sup>4</sup>

3  
4 The Colorado Legislature has recognized that competition is in the public interest  
5 and made a policy determination that competition in the telecommunications  
6 industry will lead to technological advancements, increased customer choices, and  
7 reduced costs.<sup>5</sup> Furthermore, the legislature determined that the goal of  
8 competition should apply to all Colorado consumers, not simply those in urban  
9 areas:

10 Accordingly, it is the policy of the state of Colorado to encourage  
11 competition in this [the local] market and strive to ensure that all  
12 consumers benefit from such increased competition.<sup>6</sup>  
13  
14

15 **Q. Do you agree that rural (i.e., high cost) consumers are as deserving of**  
16 **competitive benefits as urban customers?**

17 **A.** Absolutely. As noted earlier, I spent part of my career working with small rural  
18 telephone companies that were trying to *attract* competition (albeit, long distance  
19 competition) during the period immediately following the divestiture. One reason  
20 that these companies were interested in attracting long distance competition was

---

<sup>4</sup> In fact, as I explain later in the testimony, an example of this latter point is the decision by Western to offer broader local calling areas as part of its local service. Typically, incumbent local carriers could offer a similarly expanded calling area, but have chosen not to so that they can maintain higher toll rates along affected routes.

<sup>5</sup> See Sections 40-15-101, 40-15-501, C.R.S.

<sup>6</sup> Section 40-15-501(1) C.R.C. (emphasis added).

1           their conclusion that the novelty of long distance choice would quickly become  
2           expectation, and that rural consumers would want the same choices they saw  
3           advertised through national media.<sup>7</sup>

4  
5           If anything, the “national awareness” of rural consumers is far greater today than  
6           in 1984 when long distance competition became routine. Rural consumers today  
7           frequently receive their television signals through satellite systems that bring *local*  
8           stations – and thus *local advertising* – from the nation’s largest media centers. As  
9           a result, subscribers to DirectTV are bombarded by countless advertisements for  
10          the competitive local exchange services that are now available in New York.<sup>8</sup>

11  
12          My point is that rural telephone customers are just as deserving of competitive  
13          choice as any urban customer, and will soon be just as aware of local competition  
14          as consumers in the largest cities. The problem is that competition cannot  
15          develop in high cost areas unless entrants can access high cost subsidies on an  
16          equal footing with incumbents.

17

---

<sup>7</sup>           Of course, the motivation of these companies was not entirely benign – they also hoped to provide competitive long distance services, as well as collect access revenues from other carriers.

<sup>8</sup>           For instance, the “local” network affiliates seen by rural subscribers to DirectTV include WNBC, WCBS and WABC from New York, and KNBC, KCBS and KABC from Los Angeles.

1       **Q.    Is the mere presence of “choice” the principal benefit of competition?**

2

3       **A.    No, of course not. Providing customers with choice is not the end in itself, but**  
4           rather one consequence of choice is that it harnesses a number of incentives that  
5           create consumer benefit. These benefits can include lower prices, the offering of  
6           different services, or the introduction of alternatives that reflect the unique  
7           advantages of the different technologies that will be introduced through  
8           competition.

9

10          For instance, Western’s “wireless local loop” is a perfect solution to a customer  
11          wanting a line in a barn, or in some other location on its property. This  
12          technology is far easier to use in such an application than the wireline technology  
13          used by most incumbent local exchange carriers. Further, subscribers are often  
14          required to first pay some portion of the investment to have facilities extended to  
15          their home or business. If Western can supply these new facilities less  
16          expensively than the incumbent, then *everybody* wins – Western (who got the  
17          business), the incumbent (that saved on investment), and the customer (that paid  
18          less for a service that it chose).

19

20       **Q.    Are there other tangible examples of the benefits from competition in a rural**  
21       **area?**

1 A. Yes. Over the past year, Western has been conducting a market trial of its  
2 wireless local loop service in the small town (approximately 120 households) of  
3 Regent, North Dakota. The wireless local loop service includes each of the  
4 supported services to be included in Western's universal service offerings in  
5 Kansas. To attract customers, Western introduced an expanded local calling area  
6 and gained a substantial (in relative terms) customer base, serving nearly half of  
7 the households. This trial is useful to illustrate a number of points relevant to the  
8 Commission's public interest determination in this proceeding.

9  
10 The first is that the entry by Western provided subscribers a *new* capability  
11 (expanded local calling) that was highly valued by customers. Certainly, such an  
12 innovation *could* have been offered by the incumbent – indeed, after the entry by  
13 Western, the incumbent *did* respond with its own expanded local calling plan –  
14 but in the absence of competition, the incumbent preferred to maintain high toll  
15 rates. This example illustrates one of the principal benefits of competition – i.e.,  
16 the fact that entrants have a greater incentive to innovate to attract customers than  
17 an incumbent that already dominates a market.

18  
19 Second, the wireless local loop service offered by Western was chosen by many  
20 customers to provide an additional line. In other words, the entry by Western not  
21 only introduced a new service, it actually increased substantially the number of  
22 phones in the community overall. This latter point demonstrates a second key

1 benefit from competition – that is, universal service is actually *promoted* when  
2 there is local competition in rural areas.<sup>9</sup>

3  
4 *Competition Will Promote Universal Service*

5  
6 **Q. Why do you conclude that competition will promote universal service?**

7 A. As a general proposition, the Commission should expect lower prices and greater  
8 sales – which is a simple way to *define* universal service – when there is  
9 competition. In other words, competition between Eligible Providers should not  
10 only preserve universal service, it should promote it as well.

11  
12 **Q. Are you saying that competition could actually result in “more” universal  
13 service?**

14 A. Yes. Where *any* product is provided by a monopoly -- the product, in this case,  
15 being “universal service” -- the expectation should be higher prices and reduced  
16 output. When competition is introduced, the entrant must offer lower prices,  
17 higher quality, more features (or some combination thereof) to entice customers to  
18 buy its service. Some of these sales will come from customers that had been

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<sup>9</sup> Although the Colorado High Cost Support Mechanism supports only the consumer’s primary line, the interstate universal service fund provides subsidy for additional lines as well. The important point is that the introduction of Western’s service quantitatively -- as well as qualitatively -- improved service to the consumers of Regent, North Dakota.

1 purchasing service from the incumbent, but other sales will be new in response to  
2 the competitor's lower prices/better service.

3  
4 The premise that competition and universal service conflict ignores the  
5 importance of customer satisfaction to each. The essential result of competition is  
6 greater output and lower prices -- outcomes that are synonymous with universal  
7 service. Competition and universal service are not conflicting goals, they are  
8 instead different ways to define the same end – having as many consumers  
9 connect to, and enjoy the use of, telecommunications service as possible. As the  
10 FCC reasoned:

11 Commenters who express concern about the principle of  
12 competitive neutrality contend that Congress recognized that, in  
13 certain rural areas, competition may not always serve the public  
14 interest and that promoting competition in these areas must be  
15 considered, if at all, secondary to the advancement of universal  
16 service. We believe these commenters present a false choice  
17 between competition and universal service. A principal purpose of  
18 section 254 is to create mechanisms that will sustain universal  
19 service as competition emerges. We expect that applying the  
20 policy of competitive neutrality will promote emerging  
21 technologies that, over time, may provide competitive alternatives  
22 in rural, insular, and high cost areas and thereby benefit rural  
23 consumers.<sup>10</sup>  
24

25 **Q. Are there additional reasons why designating Western as an Eligible**  
26 **Provider will promote universal service?**

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<sup>10</sup> In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, Report and Order, FCC 97-157 (May 8, 1997), ¶ 50 (emphasis added).

1       A.     Yes. Granting Western Eligible Provider status is an important step toward  
2             promoting the type of broad local competition that will benefit average  
3             consumers. In many states, including states with substantial urban markets, there  
4             is the concern that local competition is focusing narrowly on large business  
5             customers and that residential competition is not developing. Here, however, the  
6             Commission is witnessing an entrant that is not only trying to bring competitive  
7             choice to residential customers, they are trying to offer choice to rural residential  
8             customers in high cost areas.

9

10            Western is seeking *precisely* the type of authorization – the ability to compete as  
11            an Eligible Provider – that comes with obligations (such as advertising) intended  
12            to promote broad-scale entry. Western’s application -- the issues that it raises – is  
13            not about focused, limited competition. If that were its business strategy, then  
14            Western could avoid this entire process and simply offer competitive services to a  
15            few customers without seeking Eligible Provider status. By requesting  
16            designation as an Eligible Provider, however, Western is committing to entering  
17            the market more broadly. The result will be an increase in universal service, not a  
18            decline.

19

*Disaggregation of Study Areas*

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**Q. Are you aware that Western Wireless has made a request that the Commission disaggregate various rural LEC study areas for the purposes of federal ETC designation?**

A. Yes. As I understand it, due to limitations on its cellular coverage, Western is not able to serve throughout the entire study areas of CenturyTel of Colorado, Inc., Eagle Telecommunications Inc., Columbine Telephone Co., LTD, Big Sandy Telecom Inc., Rye Telephone Co. Inc., Sunflower Telephone Co. Inc.-CO, Eastern Slope Rural Telephone Assn. Inc., and Plains Coop Telephone Assn. Inc. If these carriers are rural LECs, then a disaggregation proceeding would be required in order to designate Western a federal ETC in the exchanges in which it is able to serve.

**Q. Should the Commission disaggregate the study areas as requested?**

A. Yes. As I have described above, the benefits of competition should flow to all who can receive them. Without a disaggregation proceeding, Western's designated service areas for federal funding will be limited, preventing many rural consumers from obtaining those benefits. Western Wireless is simply attempting to be designated in every exchange where it has coverage, but cannot match the incumbents study areas given its technology. In addition, for state Eligible Providers, the applicable designation area is at the wire center level, so the

1 Commission has already determined that designation on a study area basis is not  
2 the best way to implement universal service. 4 CCR § 723-41-2.10.

3

4

*Conclusion*

5

6 **Q. Please summarize your testimony.**

7 A. The purpose of my testimony is to explain that designating Western as an Eligible  
8 Provider is in the public interest.<sup>11</sup> As explained above, there is no reason that  
9 consumers in high cost areas (whether served by rural or non-rural incumbents)  
10 should not be allowed to decide which provider of universal service best meets  
11 their needs.

12 **Q. Does this conclude your direct testimony?**

13 A. Yes.

---

<sup>11</sup> As I explained at the outset of my testimony, Western is seeking both designation as an Eligible Provider for purposes of the Colorado High Cost Support Mechanism and as an Eligible Telecommunications Carrier for purposes of the interstate Universal Service Fund. Although slightly different, I have addressed the “public interest” standard as though identical for both because these difference are not significant.

CERTIFICATE OF SERVICE

I hereby certify that the original and 8 copies of the foregoing Direct Testimony of Joseph Gillan was hand-delivered on this 21<sup>st</sup> day of June, 2000, addressed to the following:

Mr. Bruce N. Smith, Director  
Colorado Public Utilities Commission  
1580 Logan Street, OL-2  
Denver, CO 80203

and that a true and correct copy of same was sent via regular U.S. Mail, postage pre-paid, facsimile, and/or hand-delivered on this 21<sup>st</sup> day of June, 2000, addressed to the following:

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Jennifer Powers



# WESTERN WIRELESS

SOAH DOCKET NO. 473-00-1167  
PUC DOCKET NO. 22289

APPLICATION OF WWC TEXAS RSA § BEFORE THE STATE OFFICE  
LIMITED PARTNERSHIP FOR §  
DESIGNATION AS AN ELIGIBLE § OF  
TELECOMMUNICATIONS CARRIER §  
PURSUANT TO 47 U.S.C. § 214(e) AND § ADMINISTRATIVE HEARINGS  
PUC SUBST. R. 26.418, AND AS AN §  
ELIGIBLE TELECOMMUNICATIONS §  
PROVIDER PURSUANT TO 47 U.S.C. §  
§ 214(e) AND PUC SUBST. R. 26417 §

**DIRECT TESTIMONY OF JAMES BLUNDELL**  
on behalf of  
WWC Texas RSA Limited Partnership  
(Western Wireless)

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