

**Western Wireless on the Rate Comparability Certification
Provisions in the Tenth Circuit Remand Proceeding**

Western Wireless submits that no rate comparability certification requirement should be adopted.

- A rate comparability certification requirement would restrict carriers' ability to offer innovative bundled service offerings – because it would enshrine the standard ILEC local service package and rate structure as the standard against which all others must be measured – and thus could harm consumers and competition in rural areas.
- The certification proposal, as applied to wireless carriers, violates competitive neutrality. It makes no sense to compare mobile wireless ETCs' rates for bundled service packages with rates for ILEC “basic service rate template” offerings.
- Any rate comparability certification requirement should apply only to ILECs, not to CETCs that lack market power and (in the case of wireless) are exempt from state rate regulation.

If, however, a certification requirement is adopted, it should be conditioned as follows:

- Carriers that offer consumers a choice among multiple rate plans may satisfy the rate comparability requirement if any one rate plan available in rural areas satisfies the rate comparability benchmark.
- The Commission should adopt separate rate comparability benchmarks for ETCs offering mobility and ETCs not offering mobility.
 - This would recognize that consumers are willing to, and typically do, pay more for a basic universal service package that includes mobility. (At some point a similar separate set of benchmarks could be developed for basic universal service packages that include high-speed or broadband functionality, as opposed to those that do not.)
 - The Joint Board Recommended Decision suggests that a safe harbor benchmark be set at 135% of the national average ILEC rate as determined in the Bureau's most recent Reference Book. This figure might make sense for ILECs, but not for CMRS carriers, since CMRS carriers' rate structures are different, and rate levels are generally higher, reflecting the added benefits consumers receive from mobility.
 - A similar reference guide for wireless carriers is the *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services* (“*Annual CMRS Report*”). The most recent such report was issued on July 14, 2003, with data as of year end 2002, showing that the national Average Local Monthly Bill is **\$48.40** per month, and that customers used, on average, **427** minutes per month. (Appendix D, Table 9, based on data reported by carriers in CTIA's biannual carrier survey.)

- Applying the same methodology recommended by the Joint Board, the average local monthly bill could be multiplied by 135% to determine a rural safe harbor benchmark of **\$65.34**.
- Thus, a mobile ETC would satisfy this benchmark if, in the rural areas where it is an ETC, it offers at least one rate plan that, on average, yields a monthly rate of **\$65.34** or less. (taking into account both the flat monthly recurring charge, the included bucket of minutes, and the per minute charge, using the assumption that the customer used 427 minutes per month).
- For example, a wireless rate plan that costs \$30.00 per month, includes 300 anytime minutes, and charges 25 cents per additional minute, would satisfy this benchmark. $\$35.00 + (427-300)*(\$0.25) = \$61.75$, which is less than \$65.34.
- A state’s timely compliance with the rate certification filing requirement should *not* be linked to carriers’ ability to receive support.
 - Anomalies relating to state 254(e) certification filings have created difficulties in the past, particularly for CETCs. The Commission should avoid creating the need for a new round of waiver requests, which impose administrative burdens on WCB, USAC, and carriers.
 - Moreover, the fact that a carrier’s rates do not satisfy the rate comparability test should not be held against the carrier. For example, it may be necessary for the state to establish (or modify) an intrastate universal service program, or the state may need to seek additional federal support (per ¶ 56 of the Recommended Decision).