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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Federal-State Joint Board on Universal)
Service)
)
PETITION OF AT&T WIRELESS)
SERVICES, INC. For Designation as an)
Eligible Telecommunications Carrier Pursuant)
to Section 214(e)(6) of the Communications)
Act, FCC 97-419)

CC Docket No. 96-45

File No. _____

**PETITION OF AT&T WIRELESS SERVICES, INC. FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF FLORIDA**

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To: Chief, Wireline Competition Bureau

**PETITION OF AT&T WIRELESS SERVICES, INC. FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF FLORIDA**

I. INTRODUCTION AND SUMMARY

AT&T Wireless Services, Inc., for itself and on behalf of its subsidiary licensees, AT&T Wireless Services of Florida, Inc., Melbourne Cellular Telephone Company, Sarasota Cellular Telephone Company, AT&T Wireless PCS, LLC, Bradenton Cellular Partnership, and Ocala Cellular Telephone Company, Inc. (collectively, AWS or the Company), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6) (the Act), and the procedures set forth in the Federal Communications Commission's (Commission) *Public Notice* dated December 29, 1997,¹ respectfully petitions the Commission for designation as an additional federal eligible telecommunications carrier (ETC) in each of the wire centers and study areas set forth in **Exhibit C** attached hereto.

¹ *Public Notice, Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket 96-45, 12 FCC Rcd 22947 FCC 97-419, (rel. Dec 29, 1997) (*Public Notice*).

As demonstrated below, AWS meets all of the statutory and regulatory prerequisites for designation as a federal ETC. The Commission should, therefore, grant AWS' Petition within the six month period the Commission previously committed itself to resolving such ETC designation requests.²

II. BACKGROUND

AWS is a Delaware corporation whose principal place of business is located at 7277 164th Avenue N.E., Building 1, Redmond, Washington 98052. All correspondence regarding this proceeding should be directed to the undersigned counsel for AWS:

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AWS is a licensee authorized by the Commission to provide commercial mobile radio services (CMRS) throughout the following licensed service areas within the State of Florida: Miami-Fort Lauderdale-Hollywood, FL MSA 12; Tampa-St. Petersburg, FL MSA 22;

² *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No, 96-45, *Twelfth Report and Order*, *Memorandum Opinion Order*, and *Further Notice of Proposed Rulemaking*, 15 FCC Rcd. 12208, FCC 00-208 ¶ 113 (rel. June 30, 2000) (*Twelfth Report and Order*).

Jacksonville, FL MSA 51; Orlando, FL MSA 60; West Palm Beach-Boca Raton, FL MSA 72; Lakeland-Winter Haven, FL MSA 114; Pensacola, FL MSA 127; Melbourne-Titusville-Palm Bay, FL MSA 137, Daytona Beach, FL MSA 146; Fort Myers, FL MSA 164; Sarasota, FL MSA 167; Tallahassee, FL MSA 168; Gainesville, FL MSA 192; Fort Pierce, FL MSA 208; Panama City, FL MSA 283; Bradenton, FL MSA 211; Ocala, FL MSA 245; Fort Walton Beach, FL MSA 265; Florida 1 – Collier RSA 360; Florida 2 – Glades RSA 361; Florida 3 – Hardee RSA 362; Florida 4 – Citrus RSA 363; Florida 5 – Putnam RSA 364; Florida 6 – Dixie RSA 365; Florida 7 – Hamilton RSA 366; Florida 8 – Jefferson RSA 367; Florida 9 – Calhoun RSA 368; Florida 10 – Walton RSA 369; Lakeland-Winter Haven BTA 239; Daytona Beach, FL BTA 107; Melbourne-Titusville, FL BTA 289; Orlando, FL BTA 336; Miami-Ft. Lauderdale FL BTA 293; W. Palm Beach-Boca Raton FL BTA 469; Ft. Pierce-Vero Beach, FL BTA 152; Fort Walton Beach, FL BTA 154 (collectively, AWS Licensed Service Areas).³

AWS currently provides wireless voice and data services over two separate, overlapping networks. One network uses time division multiple access (TDMA) as its signal transmission technology. AWS also provides voice and enhanced data services over a separate network that uses the signal transmission technology known as global system for mobile communications (GSM) and general packet radio service (GPRS). As of September 30, 2003, these two networks covered an aggregate population of approximately 224 million, or 77% of the U.S. population. AWS also provides voice service over its analog network and its data service over a network

³ On March 18, 2004, AWS and Cingular Corporation filed a series of applications with the FCC seeking approval for the proposed transfer of control of AWS, along with interests in affiliates and other entities in which AWS holds substantial interests, to Cingular. The FCC is considering these applications in WT Docket No. 04-70 and placed the applications on public notice on April 2, 2004.

utilizing packet switched data technology (CDPD). AWS is currently phasing out its CDPD network as it converts to GSM/GPRS service.

AWS supplements its own networks with roaming agreements that allow its subscribers to use other providers' wireless services in regions where AWS does not have existing network coverage. AWS also offers multi-mode handset devices which allow its subscribers to access analog, TDMA and GSM/GPRS networks providing them access to wireless service across the United States.

AWS seeks designation as a federal ETC in Florida to be eligible for receipt of federal high-cost and low-income universal service support. AWS currently provides all of the services and functionalities supported by the federal universal service programs enumerated in 47 C.F.R. § 54.101(a)(1)-(9) throughout its Licensed Service Areas in Florida. Upon designation as a federal ETC, AWS will offer a variety of high-quality universal service offerings in its designated ETC service areas utilizing its wireless network infrastructure, including the same antennae, cell-sites, trunks, mobile switching and interconnection facilities used by AWS to serve its existing wireless customers. AWS will provide service to any requesting customer within its designated ETC service areas upon reasonable request.

AWS will use high-cost support for the provision, maintenance, and upgrading of the facilities and the services for which universal service support is intended. AWS will use low-income universal service support for the provision of Lifeline and Link Up discounted services to qualifying, low-income consumers.

III. FILING REQUIREMENTS FOR DESIGNATION AS A FEDERAL ETC UNDER 47 U.S.C. § 214(e)(6)

A. The Commission's Public Notice

On December 29, 1997, the Commission issued its *Public Notice* establishing the requisite procedures for carriers seeking Commission designation as a federal ETC under 47 U.S.C. § 214(e)(6). In the *Public Notice*, the Commission delegated authority to the Chief of the Common Carrier Bureau⁴ to designate carriers as ETCs pursuant to Section 214(e)(6). The *Public Notice* requires petitioners to: (1) submit a certification and brief statement of supporting facts demonstrating that the petitioner is “not subject to the jurisdiction of a state commission;” (2) submit a certification that the petitioner offers all services designated for support by the Commission pursuant to Section 254(c); (3) provide a certification that the petitioner offers the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services;” (4) offer a description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefore using media of general distribution;” and (5) if the petitioner is not a rural telephone company, it must include a detailed description of the geographic service areas for which it requests an ETC designation from the Commission.⁵

B. The *Twelfth Report and Order*

On June 30, 2000, the Commission released its *Twelfth Report and Order* which, among other things, established how a carrier seeking ETC designation from the Commission must

⁴ *Public Notice*, 12 FCC Rcd. at 22948. The Common Carrier Bureau is now known as the Wireline Competition Bureau.

⁵ *Id.* at 22948-49.

demonstrate that the state commission lacks jurisdiction to perform the ETC designation.⁶ Carriers seeking designation as an ETC for service provided on non-tribal lands must provide the Commission with an “affirmative statement” from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission’s jurisdiction.⁷ The Commission defined an “affirmative statement” as “any duly authorized letter, comment, or state commission order indicating that [the state commission] lacks jurisdiction to perform the designation over a particular carrier.”⁸

In its *Twelfth Report and Order*, the Commission further committed to resolving all Section 214(e)(6) petitions for ETC designation on non-tribal lands within six months of filing.⁹

IV. AWS SATISFIES THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS A FEDERAL ETC

As demonstrated below, AWS satisfies each of the statutory and regulatory prerequisites set forth in the Act, the Commission’s Rules and the *Public Notice* to be designated as a federal ETC in the State of Florida.

A. The Florida Public Service Commission Has Affirmatively Determined that it Does Not Have Jurisdiction over CMRS Providers for the Purpose of Determining ETC Eligibility

On September 23, 2003, the Florida Public Service Commission (FPSC) issued a Declaratory Statement in which it affirmatively determined that it does not have jurisdiction over CMRS providers – like AWS – for purposes of determining eligibility for ETC status pursuant to 47 U.S.C. § 214(e):

⁶ See *Twelfth Report and Order*, ¶¶ 92-114

⁷ *Id.* ¶ 93.

⁸ *Id.* ¶ 113

⁹ *Id.*

[T]his Commission does not have jurisdiction over CMRS carriers for purposes of determining eligibility for ETC status. Indeed, the Florida Legislature has expressly excluded CMRS providers from the jurisdiction of the Commission.¹⁰

In the absence of any basis to assert jurisdiction over CMRS providers, the FPSC properly concluded that the FCC is the appropriate venue for CMRS providers to seek ETC designation pursuant to 47 U.S.C. § 214(e)(6):

Congress, through the enactment of Section 214(e)(6) to the 1996 Act, expressly authorized the FCC to make ETC designations of CMRS providers when states like Alabama, Florida, North Carolina, Virginia, and others lack jurisdiction over such carriers¹¹

AWS is a CMRS provider and, therefore, is not subject to the jurisdiction of the FPSC for purposes of ETC designation. Accordingly, AWS' Petition for ETC designation in the State of Florida is properly before the Commission.

B. AWS is a Common Carrier

To qualify for ETC designation under 47 U.S.C. § 214(e)(1) and 214(e)(6), AWS must certify that it is a "common carrier." A common carrier is defined as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio" 47 U.S.C. § 153(10). The Commission has determined that CMRS constitutes a "common carrier" service. *See* 47 C.F.R. § 20.9. As a CMRS provider, AWS therefore meets the federal definition of common carrier for purposes of ETC designation.

¹⁰ *In re. Petition for Declaratory Statement of NPCR, Inc. d/b/a Nextel Partners*, Docket No. 030346-TP, *In re. Petition for Declaratory Statement of ALLTEL Communications, Inc.*, Docket No. 030413-TP, *Declaratory Statement*, Order No. PSC-03-1063-DS-TP, p. 3 (Sep. 23, 2003) (*FPSC Order*). Attached hereto as **Exhibit A**.

¹¹ *FPSC Order*, p. 5, n.7.

C. AWS Offers the Services and Functionalities Supported By the Federal High-Cost and Low-Income Universal Service Programs

The Commission has identified the following services and functionalities as the core services to be offered by an ETC and supported by the federal universal support mechanisms:

1. voice-grade access to the public switched telephone network;
2. local usage;
3. dual-tone multi-frequency (DTMF) signaling or its functional equivalent;
4. single-party service or its functional equivalent;
5. access to emergency services;
6. access to operator services;
7. access to interexchange service;
8. access to directory assistance; and
9. toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a)(1)-(9).

Pursuant to the Commission's *Public Notice*, a certification that the carrier provides each of the supported services is required.¹² As demonstrated below, and as confirmed in the Declaration of AT&T Wireless Services, Inc. (attached as **Exhibit B** hereto), AWS currently provides CMRS and will provide all of the supported services specified in 47 C.F.R. § 54.101(a)(1)-(9) throughout its requested ETC service areas.

AWS currently provides the nine supported services within its Licensed Service Areas, as follows:

- (a) Voice Grade Access: "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to

¹² *Public Notice*, 12 FCC Rcd. at 22948.

place a call, and to receive voice communications, including receiving a signal that there is an incoming call. 47 C.F.R. § 54.101(a)(1). The Commission has determined that voice grade access to the public switched telephone network means the ability to make and receive calls with a minimum bandwidth of 300 to 3500 Hertz.¹³ Through its interconnection agreements with local exchange carriers (LECs), all of AWS' customers in Florida are currently able to make and receive calls on the public switched telephone network within the specified bandwidth.

(b) Local Usage: "Local usage" is defined as an amount of minutes of use of exchange service, as prescribed by the Commission, provided free of charge to end users. 47 C.F.R. § 54.101(a)(2). To date, the Commission has not prescribed any minimum amount of local usage required to be provided by any ETC, and has declined to require unlimited local usage.¹⁴ AWS will include local usage in all of its universal service qualified offerings within AWS' defined local service areas as part of its monthly service packages. In addition, AWS will comply with any specific local usage requirements adopted by the Commission and required of federal ETCs in the future.

(c) Dual Tone Multi-Frequency Signaling or Its Functional Equivalent: "Dual Tone Multi-Frequency" (DTMF) is a method of signaling that facilitates the transportation of call set-up and call detail information. 47 C.F.R. § 54.101(a)(3). DTMF makes "touchtone" dialing possible by facilitating the transportation of signaling through the network. The Commission has recognized that "wireless carriers use out-of-band signaling mechanisms

¹³ See *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Fourth Order on Reconsideration*, FCC 97-420 (rel. Dec. 30, 1997) (*Fourth Order on Reconsideration*); *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Report and Order*, 12 FCC Rcd. 8776, FCC 97-157, ¶¶ 63-64 (rel. May 8, 1997) (*Universal Service Order*).

¹⁴ *In the Matter of Federal-State Board on Universal Service*, CC Docket 96-45, *Order and Order on Reconsideration*, 18 FCC Rcd. 15090, FCC 03-170, ¶ 15 (rel. July 14, 2003) (*July 14 Order*).

[It] is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling” *Universal Service Order*, ¶ 71. AWS currently uses out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent to DTMF signaling in accordance with the Commission’s requirements.

(d) Single-Party Service or its Functional Equivalent: “Single-party service” permits the exclusive use of a particular subscriber loop or access line by a single subscriber. A CMRS provider meets the requirement of offering single party service when it offers a dedicated message path for the length of a user’s particular transmission. 47 C.F.R. § 54.101(a)(4); *Universal Service Order*, ¶ 62. AWS meets the requirement of single-party service by providing a dedicated message path for the length of a user’s wireless transmission in all of its service offerings.

(e) Access to Emergency Service: “Access to emergency service” means the ability to reach a public safety answering point (PSAP) by dialing “911.” The Commission also requires that a carrier must provide access to enhanced 911 or “E911,” which includes the capability of providing both automatic numbering information (ANI) and automatic location information (ALI), when the PSAP is capable of receiving such information and the service is requested from the carrier. 47 C.F.R. § 20.18(j); *Universal Service Order*, ¶ 73. AWS currently provides all of its customers in Florida with the ability to access emergency services by dialing “911.” AWS is also capable of delivering ANI and ALI information over its existing network and is in compliance with all applicable federal E911 requirements. AWS will continue to work with local PSAPs within its ETC service areas to make E911 service available according to the Commission’s requirements.

(f) Access to Operator Services: “Access to operator services” means any automatic or live assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call. 47 C.F.R. § 54.101(a)(6); *Universal Service Order*, ¶ 75. AWS meets this requirement by providing all of its customers in Florida with access to operator services provided either by AWS or other entities.

(g) Access to Interexchange Service: “Access to interexchange service” means offering a service to customers to make and receive toll or interexchange calls. 47 C.F.R. § 54.101(a)(7). Equal access to interexchange service – *i.e.*, the ability of a customer to access a presubscribed long distance carrier by dialing 1+number – is not a required service or functionality *Universal Service Order*, ¶ 78; *see also July 14 Order*, ¶¶ 33-34.¹⁵ AWS currently meets this requirement by providing all of its customers in Florida with the ability to make and receive interexchange or toll calls.

(h) Access to Directory Assistance: “Access to directory assistance” means the ability to provide access to a service that makes directory listings available. 47 C.F.R. § 54.101(a)(8) White pages directories and listings are not required service offerings. *Universal Service Order*, ¶¶ 80-81. AWS currently meets this requirement by providing all of its customers in Florida with access to directory assistance by dialing “411” or “555-1212.”

(i) Toll Limitation Services: “Toll limitation” includes the offering of either “toll control” or “toll blocking” to qualifying low-income customers, as a means of limiting or blocking the completion of outgoing toll calls. 47 C.F.R. § 54.400(b)-(d); *Universal Service Order*, ¶ 82. An ETC is not required to provide both services if the carrier is incapable of providing both. 47 C.F.R. § 54.400(d). Toll blocking allows consumers to elect not to allow the

¹⁵ A CMRS provider is not required to provide equal access under 47 U.S.C. § 332(c)(8).

completion of outgoing toll calls. Toll control allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle. 47 C.F.R. § 54.500(b)-(c). At this time, AWS is not capable of providing toll control. However, AWS is capable of providing toll blocking and once designated as a federal ETC will provide toll blocking to requesting Lifeline customers at no additional charge.

D. AWS Will Provide the Supported Services Using its Own Facilities Or a Combination of its Own Facilities and Resale of Another Carrier's Services

A carrier requesting designation as a federal ETC must certify that it offers the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services."¹⁶ AWS hereby certifies that it will provide the supported services using its own facilities or a combination of its own facilities and the resale of another carrier's services. AWS will primarily utilize its own network infrastructure, which includes the same antennae, cell-sites, towers, trunking, mobile switching, and interconnection facilities used to serve its existing customers.

E. AWS Will Advertise the Availability Of and Charges for its Universal Service Qualifying Offerings

Pursuant to Section 54.201(d)(2) of the Commission's regulations, AWS will advertise the availability of the supported services and the corresponding rates and charges in a manner designed to inform the general public within its designated ETC service areas.¹⁷ 47 C.F.R. § 201(d)(2). AWS currently advertises its wireless telecommunications services through several different media channels, including television and radio, newspaper, magazine and other print advertisements, as well as outdoor advertising, direct marketing and the Internet. AWS will continue to use the same media channels to advertise its universal service qualifying

¹⁶ *Public Notice*, 12 FCC Rcd at 42298.

¹⁷ *See Public Notice*, 12 FCC Rcd at 42298.

offerings throughout its designated ETC service areas. AWS will comply with all form and content requirements, if any, promulgated by the Commission in the future and required of all designated ETCs.

V. AWS' REQUESTED ETC SERVICE AREAS

AWS is not a "rural telephone company" as defined by 47 U.S.C. § 153(37). Accordingly, AWS is required to describe the geographic area in which it requests designation as a competitive ETC.¹⁸ AWS requests designation as a competitive ETC in each of the non-rural telephone company wire centers and rural telephone company study areas set forth in **Exhibit C** attached hereto

Under Section 54.207(a) of the Commission's Rules, "service area" is defined as a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms." 47 C.F.R. § 54.207(a). In an area served by a non-rural telephone company, a competitive ETC may be designated in an area smaller than the incumbent's service area.¹⁹ AWS is licensed and currently able to meet reasonable requests for service throughout each of the wire centers served by a non-rural telephone company set forth in **Exhibit C**. The Commission may, therefore, designate AWS as an ETC throughout each of these service areas.

In an area served by a rural telephone company, the Act and the Commission's Rules define "service area" to be synonymous with the rural telephone company's "study area," unless and until the Commission and state commission establish a different definition of service area for

¹⁸ See *Public Notice*, 12 FCC Rcd. at 42298; see also 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(a).

¹⁹ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338, ¶ 36 n. 114 (rel. January 22, 2004) (*Virginia Cellular Order*); *Universal Service Order*, ¶¶ 184-85.

such company.²⁰ AWS is licensed and currently able to meet reasonable requests in service throughout each of the rural telephone company study areas set forth in **Exhibit C**. As discussed below, the Commission may, therefore, designate AWS as an ETC throughout each of these study areas upon finding that such designation is in the public interest.²¹

VI. DESIGNATING AWS AS A COMPETITIVE ETC WILL SERVE THE PUBLIC INTEREST

A. Non-Rural Telephone Company Service Areas

For an area served by a non-rural telephone company, the Commission must find that the designation of a competitive ETC is consistent with the public interest, convenience and necessity. This standard is met whenever the applicant satisfies the requirements of 47 U.S.C. § 214(e)(1) and can offer consumers a competitive alternative to the incumbent carrier. As addressed above, AWS fully satisfies each of the requirements of 47 U.S.C. § 214(e)(1). In addition, AWS will provide Florida consumers with a genuine competitive alternative to the incumbent carriers by increasing customer choice and providing access to larger local calling areas, innovative services, new technologies and mobility of service. AWS' Petition for designation as a competitive ETC in non-rural telephone company service areas is, therefore, consistent with the public interest, convenience and necessity.

B. Rural Telephone Company Service Areas

Before designating a competitive ETC in an area served by a rural telephone company, the Commission must also find that the designation satisfies the more rigorous "public interest"

²⁰ See 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b); see, also, *Multi-Association Group (MAG) Plan for Regulation of interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd. 11244, FC 01-157, ¶ 13 ft. n.18 (rel May 23, 2001) (*Fourteenth Report and Order*).

²¹ 47 U.S.C. §§ 214(e)(2) and 214(e)(6).

analysis discussed below. 47 U.S.C. § 214(e)(6). One of the principal goals of the Telecommunications Act of 1996 is to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”²² The Commission has thus observed that “[d]esignation of qualified ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”²³

With respect to CMRS providers such as AWS, the Commission has long recognized the advantages that efficient wireless telecommunications services can bring to the universal service program. In particular, the Commission has found that “imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.”²⁴ Moreover, the Commission recently observed that the designation of CMRS providers in rural areas is particularly beneficial because the “mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations. In addition, the availability of a wireless universal service offering provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.”²⁵ Wireless technology and networks have been rapidly deployed over the past 15 years. This network expansion must

²² Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56 (1996).

²³ See *In the Matter of Federal-State Joint Board on Universal Service Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 16 FCC Rcd. 18133, FCC 01-283, ¶ 12 (rel. Oct. 5, 2001).

²⁴ *Universal Service Order*, ¶ 190.

²⁵ *Virginia Cellular Order*, ¶ 29.

continue if Florida consumers are to have full access to this technology in the future. The use of federal universal service support to provide universal services and extend wireless networks in rural and high-cost areas clearly benefits the public interest by ensuring these networks will be available to deliver basic and advanced services to all telecommunications consumers.

The Commission's established public interest analysis seeks to balance the benefits of increased competition, consumer choice and the applicant's unique qualifications against any demonstrated adverse impacts to the provision of universal service that would justify denying consumers those identified benefits.²⁶ Most recently, in *Virginia Cellular*, the Commission identified several factors that it will weigh in making this determination:

In determining whether designation of a competitive ETC in a rural telephone company's service area is in the public interest, we weigh [1] the benefits of increased competitive choice, [2] the impact of the designation on the universal service fund, [3] the unique advantages and disadvantages of the competitor's service offering, [4] any commitments made regarding quality of telephone service, and [5] the competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame..²⁷

As demonstrated below, because each of the factors weighs heavily in favor of designating AWS as a competitive ETC throughout its requested ETC service areas in Florida, the Commission should grant the Company's Petition for each rural telephone company service area identified in **Exhibit C**.

1. The Benefits of Increased Competitive Choice and the Unique Advantages of AWS' Service Offering

Two factors noted by the Commission in *Virginia Cellular* are the benefits of increased competitive choice and the unique advantages of the applicant's service offerings.²⁸ Benefits and

²⁶ *RCC Order*, ¶¶ 23-25; *Virginia Cellular Order*, ¶ 28.

²⁷ *Virginia Cellular Order*, ¶ 28 (brackets added).

²⁸ *Id.*, ¶ 28.

advantages acknowledged by the Commission include service to customers who do not have access to wireline phone service, mobility of service and an increase in the size of a customer's local calling area.²⁹ AWS' service offerings provide each of these benefits and more.

First, AWS can provide consumers in rural and high-cost areas with a broader choice of service offerings that can be tailored to fit their individual needs. AWS is also able to offer its subscribers a larger local calling area when compared to landline telephone companies, reduced long distance rates, competitive pricing and the benefits of mobility. AWS currently provides the most coverage in North America of any wireless carrier. AWS also offers the broadest coverage worldwide, enabling its subscribers to roam in 115 countries for voice service with a single phone and single number.

In addition, AWS is able to offer its subscribers advanced services and technologies over its state-of-the-art network facilities which are used to provide the supported services. In the past two years alone, AWS has invested more than \$10 billion to optimize its wireless network, including the development of network infrastructure for the provision of next generation voice and data services. And with the implementation its new EDGE technology, AWS has more than tripled the speed of its GPRS wireless data network, making it nearly twice the speed of any other national wireless network.

AWS has also pursued an ongoing company initiative to increase GSM coverage and allow customers to eliminate roaming charges. In the past twelve months, AWS has added or improved 15,000 cell sites nationwide, including those added through roaming agreements with other carriers. With these new hardware and software upgrades, customers with compatible

²⁹ *Id.*, ¶ 29.

devices can use the 850-megahertz band, which generates a stronger signal, increasing reception and coverage.

As AWS continues to develop its wireless network, it has been able to offer consumers in rural and high-cost areas the same advanced features (*e.g.*, voice-mail, caller-ID, call-waiting and call-forwarding) that are now common-place in urban areas. AWS has also worked consistently to expand the availability of such state-of-the-art technical innovations as wireless Internet, email, paging service, text-messaging, digital photography and hand-held computing. Thus, an expanding number of AWS' Florida customers will be able to appropriately combine basic universal service and functionalities with these advanced services if they so desire.³⁰ These unique benefits of AWS' service will be advanced by designating AWS as a competitive ETC.

In addition, AWS can provide essential mobile telecommunications services to first responders within its ETC service areas during emergencies. As discussed below, AWS maintains detailed disaster preparedness training and plans at a national level. The Company makes every effort to respond to emergencies, natural disasters and other civil tragedies when these occur within any of its service areas. AWS has in the past and will continue to respond immediately with offers of temporary loaner phones to federal, state and local emergency relief agencies, as well as supporting accessories such as batteries and chargers.

³⁰ See *In The Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Order and Order on Reconsideration*, FCC 03-170, ¶ 13 (rel. July 14, 2003) (“[W]e continue to support the Commission’s prior conclusion that ‘our universal service policies should not inadvertently create barriers to the provision or access to advanced services, and . . . that our current universal service system does not create such barriers.’ Thus, even though advanced services are not directly supported by federal universal service, ‘Commission policies do not impede the deployment of modern plant capable of providing access to advanced services.’ We recognize that the network is an integrated facility that may be used to provide both supported and non-supported services.”).

More importantly, designating AWS as a competitive ETC in areas served by rural telephone companies will provide the incumbent companies with a competitive incentive to improve their own networks, offer basic and advanced services at competitive prices and improve customer service. Indeed, the Commission has concluded that increased competition can be expected to lead to better service and the provision of new, innovative services for the benefit of all consumers.³¹

C. The Impact of AWS' Designation on the Universal Service Fund

Another factor addressed in *Virginia Cellular* is the impact of a carrier's ETC designation on the Universal Service Fund ("USF").³² In considering this issue, however, the Commission observed that the impact of any one competitive ETC is, at best, inconclusive and that the appropriate forum to address any funding concerns is in the ongoing *Portability* proceeding.³³ In any event, if the Commission grants AWS' Petition, the company estimates that it would be eligible to receive approximately \$3.3 million in high-cost support per quarter in Florida. This estimate represents only approximately .36% of the total quarterly high-cost support available to all ETCs.³⁴ Like *Virginia Cellular*, the grant of AWS' ETC Petition in these rural telephone company service areas would thus have minimal impact on the USF.

³¹ *In the Matter of Federal-State Joint Board, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 16 FCC Rcd. 48, DA 00-2896, ¶¶ 16-22 (rel. Dec. 26, 2000).

³² *Virginia Cellular Order*, ¶ 31.

³³ *Id.*, ¶ 31 n 96.

³⁴ See *Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter of 2004*, Appendix HC01 (Jan. 30, 2004) (total fund \$910,181,029 per quarter). See *Virginia Cellular Order*, ¶ 31 n. 96 (Commission found 0.105% increase in fund inconclusive); *Highland Cellular Order*, ¶ 25 n. 73 (0.04% increase in fund inconclusive).

Further, AWS will utilize the high-cost support it receives from the USF to improve its network facilities and infrastructure. In 2004, for example, AWS estimates it will make capital expenditures in Florida, including the requested services areas, that will amount to many times what it could receive in universal service support. This ensures that AWS' proposed use of federal high-cost support is consistent with the purpose of the USF and serves the public interest. As such, any impact that AWS' designation has on the USF is more than offset by its commitment to use the support to improve and expand service in Florida. AWS will also commit to submitting records and documentation on an annual basis detailing and certifying its use of high-cost support to improve and expand service within its requested ETC service areas if it is designated as an ETC in Florida.³⁵

D. AWS' Commitment to Service Quality

The next factor in *Virginia Cellular* is the applicant's commitments regarding quality of telephone service.³⁶ The Commission has acknowledged that a carrier's adoption of the CTIA Code of Conduct for Wireless Service evidences a genuine commitment to quality service which advances the public interest.³⁷ AWS has already adopted the CTIA Code, and commits to compliance with CTIA Code in areas where it is designated as an ETC. Furthermore, AWS exceeds the 14-day "no-risk" trial period set forth in the CTIA Code by providing the only 30-day trial period in the wireless industry.

The Commission also observed that Virginia Cellular's commitment to provide the Commission with the number of consumer complaints per 1,000 handsets on an annual basis also

³⁵ *Virginia Cellular*, ¶ 46.

³⁶ *Id.*, ¶ 28.

³⁷ *Id.* ¶ 30.

promoted the quality of service.³⁸ AWS will provide the Commission with aggregated FCC complaint data on a company-wide basis (per 1000 handsets) and any Florida-specific complaint information to the extent it is available.

E. AWS' Commitment to Quality Emergency Services

AWS has also made a substantial commitment to providing and maintaining essential telecommunications services in times of emergency. The Company's goal is to build a reliable, sustainable and robust wireless network. AWS designs extensive redundancy into its mobile switching centers (MSCs), including duplication of vital hardware. MSCs are equipped with automatic alarm notification systems for fire protection, extreme temperatures and intrusions. If damage does occur, the network is flexible enough to be quickly reconfigured to bypass damaged equipment.

From a readiness standpoint, there are several key contingency plans in place to respond to outages. For example, to protect against power failure, AWS has backup battery power plants located at Data Centers, MSCs and cell sites. Back-up generators are also located at all Data Centers, MSCs and critical cell sites to provide back-up power and/or recharge onsite batteries. A mobile fleet of more than 600 trailer-mounted generators can be also deployed as needed. All Data Centers, MSCs, and cell sites are alarmed with power-fail alarms and are monitored 24 hours per day by the Company's Data Center Operations group and Wireless Network Control Center (WNCC). To ensure adequate transmission facilities, AWS uses a combination of T-spans, coaxial cable, fiber optics and microwave links for transmission between cell sites and MSCs. The Company's use of dedicated lines for landline links means they will not be affected by heavy non-wireless traffic during emergencies. In addition, AWS can deploy mobile cell sites

³⁸ *Id*

(i.e., cell-on-wheels, or COWs) consisting of base station radios, on-board power generation, a tower structure and antennas to replace or augment wireless services to a location where service has been lost or requires enhancement.

Further augmenting AWS' network capabilities is the fact that within wireless networks the coverage areas of two cell sites may overlap. Thus, when one cell site experiences an outage a customer can still be served by another operating cell site in that area. While not available in all areas, this feature of wireless networks adds internal redundancy at the cell level in many cases. AWS also has extensive "in-market" roaming agreements with other compatible wireless carriers, meaning that if a customer's AWS service is interrupted, the customer is allowed to roam onto another carrier's wireless network and receive seamless service even if a portion of AWS' network is affected by an outage. Even more important and beneficial to the customer, however, the Commission's rules require that a 911 call be accepted by any compatible wireless carrier without regard to customer validation. Thus, an AWS customer placing a 911 call may receive service even when there is an AWS network outage, and other wireless carriers' customers may make 911 calls over the AWS network when the situation is reversed.

F. AWS' Commitment to Provide Service Upon Reasonable Request

AWS has substantially developed its network in Florida and can, today, provide nearly ubiquitous service throughout the state. AWS therefore believes it will immediately be able to provide service to the vast majority of potential customers within its requested ETC service areas without relying on significant future build out such as that required of the applicant in *Virginia Cellular*. This should obviate any concern regarding whether AWS can meet its service obligations as an ETC. Moreover, the receipt of high-cost USF support will enable AWS to continue to upgrade and expand its network within its designated ETC service areas and resolve any "coverage gaps" that may currently exist.

In *Virginia Cellular*, the Commission accepted the applicant's specific commitment to explore a number of alternatives to provide service where the carrier did not have the present capability to provide service using its own facilities.³⁹ Likewise, AWS commits to implement the following procedures to provide service to requesting customers in the service areas where it is designated as an ETC in Florida.

If a request for service is made by a potential customer within the Company's existing network coverage area, AWS will activate service pursuant to its standard business practices in the service area and will timely provide service using standard customer equipment or equipment selected by the customer. Alternatively, if a potential customer is within AWS' designated ETC service area but outside its existing network coverage area, AWS will take the following steps to attempt to provide service:

1. Determine whether the requesting customer's equipment can be modified or replaced to provide the service;
2. Determine whether a roof-mounted antenna or other equipment can be deployed to provide service;
3. Determine whether adjustments can be made to the nearest cell tower to provide service;
4. Determine whether there are any other adjustments that can be made to network or customer facilities to provide service;
5. Determine whether AWS can offer resold services from another carrier's facilities to provide service; and
6. Determine whether an additional cell site, cell extender, or repeater can be employed or can be constructed to provide service.

If after exploring the above alternatives AWS cannot reasonably provide the requested service, it will notify the requesting party. AWS will also file an annual report with the Commission identifying any unfulfilled requests for service in the past year. AWS' commitment

³⁹ *Virginia Cellular Order*, ¶ 15.

to reasonable service extension requests will promote the public interest and supports the grant of its Petition

G. No Harm to the Provision of Universal Service

Finally, AWS' designation as a competitive ETC will not threaten the provision of universal services by the rural telephone companies identified in **Exhibit C**. Under the current funding mechanisms, rural telephone companies will continue to receive funding based on an embedded cost methodology until 2006, and will not lose support if they lose lines to AWS as a competitor.⁴⁰ This extended transition period – as well as their continued receipt of implicit subsidies within intrastate access rates – ensures that rural telephone companies can move successfully to competitive markets. In addition, each of these companies is well-positioned to compete for the provision of universal service within its respective service area and has the financial, managerial and technical competence to improve service and implement competitive efficiencies for the benefit of its local customers.

VII. HIGH-COST CERTIFICATION

Under 47 C.F.R. §§ 54.313 and 54.314, a carrier wishing to obtain high-cost universal service support in an area served by a rural or non-rural telephone company must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the Commission and the Universal Service Administrative Company (USAC) as to its compliance with Section 254(e) of the Act. As set forth above, the FPSC does not exercise jurisdiction over CMRS carriers such as AWS. Therefore, AWS hereby submits its high-cost certification to the Commission. A copy of this certification is attached hereto as **Exhibit D**. AWS respectfully requests that the Commission issue a finding that AWS

⁴⁰ See *Fourteenth Report and Order*, ¶¶ 165- 177.

has met the high-cost certification requirement and that AWS is, therefore, entitled to begin receiving high-cost support as of the date it receives a grant of ETC status in order that funding will not be delayed. The Commission has previously determined that just cause exists for waiver of the high-cost certification deadlines.⁴¹

VIII. ANTI-DRUG ABUSE CERTIFICATION

AWS certifies that no party to this petition is subject to a denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862 *See Exhibit B* hereto.

CONCLUSION

AWS respectfully requests that the Commission designate it as a federal ETC in each of the wire centers and study areas set forth in **Exhibit C** attached hereto.

⁴¹ See *In the Matter of Federal-State Joint Board on Universal Service, Guam Cellular and Paging, Inc. Petition for Waiver of FCC Rule Section 54.314*, CC Docket 96-45, *Order*, 18 FCC Rcd. 7138, DA 03-1169, ¶¶ 6-8 (rel. April 17, 2003).

Dated: April 30, 2004

Respectfully submitted,

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