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September 14, 2004

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Federal Communications Commission
Office of Secretary

VIA COURIER

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: **CC Docket No. 96-45, FCC 97-419**: Petition for Designation as an Eligible Telecommunications Carrier

Dear Ms. Dortch:

Enclosed for filing with the Federal Communications Commission, please find an original and 3 copies of the Petition of Southern Communications Services, Inc., d/b/a Southern LINC, for designation as an Eligible Telecommunications Carrier (ETC) in the rural areas of its licensed service territory in the State of Alabama. An electronic copy of this Petition has been filed with the Commission's ECFS in Docket No. 96-45.

Also enclosed is a duplicate copy of this filing for date stamping. Should you have any questions or require any additional information, please contact the undersigned at (202) 955-9766 or via email at eemmott@kelleydrye.com.

Respectfully submitted,

Erin W Emmott

Erin W. Emmott

cc: Qualex (via email)
Alabama Public Service Commission (via UPS)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of	)	
Southern Communications Services, Inc. d/b/a Southern LINC	)	
Petition For Designation as an Eligible Telecommunications Carrier	)	CC Docket No. 96-45 FCC 97-419

To: Chief, Wireline Competition Bureau

PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

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Dated: September 14, 2004

PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

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EXHIBIT 5 HIGH COST CERTIFICATION LETTER

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Southern Communications Services, Inc. d/b/a Southern LINC	)	CC Docket No. 96-45 FCC 97-419
Petition For Designation as an Eligible Telecommunications Carrier in the State of Alabama	)	

PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Southern Communications Services, Inc., d/b/a Southern LINC ("Southern LINC" or the "Company"), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended ("Act"),[1] and the Federal Communications Commission's ("Commission" or "FCC") *Public Notice on Section 214(e)(6) Procedures,*[2] hereby petitions the Wireline Competition Bureau ("WCB") to designate Southern LINC as an eligible telecommunications carrier ("ETC") throughout the rural areas of its licensed service territory in the State of Alabama.[3]

As further explained in Section II.A. *infra,* the Alabama Public Service Commission ("PSC") lacks jurisdiction to consider Southern LINC's request under Section

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1 47 U.S.C. § 214(e)(6).

2 *Public Notice, Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 12 FCC Rcd 22947 (1997) ("*Section 214(e)(6) Procedure Public Notice*"). In the Public Notice, the Commission delegated authority to the WCB's predecessor to designate carriers as ETCs when the state commission lacks jurisdiction.

3 Southern LINC's overall service territories are listed in Exhibit 1. Southern LINC seeks state-wide designation with the exception of Jackson County and Dekalb County. In addition, Southern LINC is filing a separate Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama in the non-rural portions of its service area concurrent with this Petition.

214(e)(1) and (2).[4] Therefore the FCC has jurisdiction under Section 214(e)(6) to grant this Petition for Designation ("Petition"). As demonstrated below, Southern LINC meets all statutory and regulatory requirements for ETC designation to serve Alabama customers in the designated rural areas. Moreover, designating Southern LINC as an ETC will serve the public interest. Therefore, Southern LINC respectfully requests that the FCC grant this Petition promptly.[5]

I. SOUTHERN LINC'S UNIVERSAL SERVICE OFFERINGS

Southern LINC is a commercial mobile radio service ("CMRS") carrier, licensed by the Commission to provide cellular communication services throughout Alabama, as illustrated by the map in Exhibit 1 hereto. As an FCC-licensed CMRS carrier, Southern LINC provides service in accordance with the terms of its FCC licenses. Southern LINC, which has provided service since December 1995, is well positioned to bring competitive universal service to Alabama consumers. Southern LINC seeks to be designated as an ETC to provide wireless ETC service throughout the rural areas within its service area in Alabama as identified in Exhibit 1. Southern LINC is seeking statewide designation with the exception of two counties in Alabama: Jackson County and Dekalb County. Southern LINC does not seek designation for those counties.

Southern LINC, upon its designation as an ETC, will be capable of providing all of the services and functionalities supported by the federal universal service program,

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4 47 U.S.C. § 214 (e) (1) and (2). *See also Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.* Docket U-4400 (rel. Mar. 12, 2002) ("*Pine Belt Order*"), attached as Exhibit 2, hereto.

5 While Southern LINC does not believe it is required to do so under the current rules and regulations, Southern LINC has also included in this Petition, information identified by the Commission in its *Virginia Cellular* decision and the Recommended Decision of the Joint Board on Universal Service. *See 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.* Memorandum and Order, FCC 03-338 (rel. Jan. 22. 2004) ("*Virginia Cellular*"); *see also In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision, FCC04J-1 (rel. Feb. 27, 2004) ("*2004 Recommended Decision*").

enumerated in Section 54.101(a) of the Commission's Rules,[6] throughout its wireless service area in Alabama. Upon grant of this Petition, Southern LINC will make available to consumers in the designated ETC service areas a universal service offering over its existing cellular network infrastructure and spectrum, including the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities Southern LINC uses to serve existing mobile cellular customers. Southern LINC will provide service to any requesting customer within its designated ETC service area, subject to the criteria set forth in Section II.C. *infra,* and will deploy any additional facilities necessary to do so.

II. SOUTHERN LINC SATISFIES ALL THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Southern LINC satisfies each of the five elements required by the Commission for ETC designation, as demonstrated below. In addition, Southern LINC believes it satisfies any additional requirements as may be applicable as a result of the Commission's *Virginia Cellular* decision.

A. Southern LINC is not Subject to the Jurisdiction of the Alabama Public Service Commission

Section 254(e) of the Act[7] provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support."[8] Pursuant to Section 214(e)(6) of the Act, the Commission may, upon request, designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission." [9] The Commission has

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6 47 C.F.R. §54.101(a).

7 47 U.S.C. §254(e).

8 47 U.S.C. §214(e).

9 47 U.S.C. §214(e)(6).

previously recognized that a commercial mobile radio service ("CMRS") provider, such as Southern LINC, may seek designation as an ETC.[10]

The Commission has ruled that an ETC applicant must demonstrate that it "is not subject to the jurisdiction of a state commission."[11] In its *Twelfth Report and Order*, the Commission stated that it will consider requests filed pursuant to Section 214(e)(6) where the carrier provides an affirmative statement from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation.[12] As stated above, The Alabama PSC does not have jurisdiction to perform the designation. Specifically, the Alabama PSC ruled in the *Pine Belt Order* that its "jurisdiction to grant Eligible Telecommunications Carrier status for universal services purposes does not extend to providers of cellular services, broadband personal communications service, and commercial mobile radio services."[13] Therefore, the Alabama PSC concluded, "[p]roviders of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission."[14] The *Pine Belt Order* was based on a Declaratory Ruling the Alabama PSC issued in March 2000, in Docket 26414, which concluded that, as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June 1999, the Alabama PSC has no authority to regulate *in any respect* cellular services, broadband

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10 *See Federal-State Joint Board on Universal Service*, 12 FCC Rcd. 8776, 8858-59, ¶ 145 (1997) ("*Universal Service First Report and Order*"); *See also Federal-State Joint Board on Universal Service; Access Charge Reform*, 14 FCC Rcd 8078, ¶ 72 (1999).

11 *Section 214(e)(6) Procedure Public Notice,* 12 FCC Rcd at 22947.

12 *Federal State Joint Board on Universal Service; Promoting Deployment and Subscribership in Undeserved and Underserved Areas, Including Tribal and Insular Areas*, 15 FCC Rcd 12208, 12264 (2000) (*"Twelfth Report and Order"*).

13 *Pine Belt Order* at 3.

14 *Id.*

personal communications services and commercial mobile radio services in Alabama.[15] As stated above, Section 214(e)(6) of the Act directs the Commission to perform the ETC designation for "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission. Accordingly, consideration of this Petition by the Commission is proper.

B. Southern LINC Provides all of the Services Supported by the Federal High-Cost Universal Service Program.

To be designated an ETC, a petitioner must be a common carrier and must offer and advertise the supported services throughout the designated service area.[16] The Commission requires carriers to certify that they provide each of the supported services.[17] Attached as Exhibit 3 is a sworn declaration that Southern LINC offers, "or will be able to offer, all of the services designated for support by the Commission."[18] Southern LINC currently, and upon designation as an ETC, will be capable of providing a universal service offering that includes all supported services for consumers in its designated ETC service areas in Alabama.[19] Southern LINC is committed to providing quality universal service offerings in Alabama and will commit the

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15 A copy of the *Pine Belt Order* is attached as Exhibit 2.

16 47 U.S.C. §214(e)(1).

17 *See, e.g.*,47 U.S.C. § 254(c).

18 *Designation of Fort Mojave Telecommunications, Inc., at al., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 13 FCC Rcd. 4547, 4552, ¶ 11 (1998) ("*Fort Mojave*"). In *Fort Mojave*, the Commission makes it clear that it will designate carriers as ETCs, pursuant to Section 214(e)(6), upon finding that they "offer or will be able to offer" the supported services throughout the service area. A Declaration attesting to Southern LINC's ability and commitment to offer each of the supported services is attached hereto at Exhibit 3.

19 47 C.F.R. § 54.101(a). The Commission has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms: (1) Voice grade access to the public switched network; (2) Local usage; (3) Dual tone multi- frequency 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.

necessary financial resources in order to ensure the service offering is made available throughout the designated service area to all customers who make a reasonable request for service.

1. Voice-Grade Access to the Public Switched Network. The Commission has concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700-Hertz within 300 to 3000 Hertz frequency range.[20] As an existing cellular service provider in Alabama, Southern LINC provides voice-grade access to the public switched network. Through interconnection agreements with competitive local exchange carriers ("CLECs"), Southern LINC is able to originate and terminate telephone service for all of its subscribers. All customers of Southern LINC are able to make and receive calls on the public switched network within the specified bandwidth.

2. Local Usage. Southern LINC's service includes local usage that allows customers to originate and terminate calls within the local calling area without incurring toll charges. Southern LINC currently offers several service options that include varying amounts of local usage in monthly service plans. Information regarding Southern LINC's service plans is available on Southern LINC's website at www.southernlinc.com. To date, the Commission has not quantified any minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue.[21] Southern LINC will comply with any and all minimum local usage requirements subsequently adopted by the Commission. Therefore, Southern LINC satisfies the local usage criterion for ETC designation.

3. Functional Equivalent of Touch-Tone ("DTMF") Signaling. DTMF is a method of signaling that facilitates the transportation of call set- up and call detail information. Consistent with the principles of competitive and technological neutrality, the Commission

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[20] *See Universal Service First Report and Order*, 12 FCC Rcd at 8810-11.

permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement.[22] Southern LINC currently uses out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling.[23] Southern LINC, therefore, meets the requirements of providing DTMF signaling or its functional equivalent.

4. Single Party Service. "Single-party service" means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line.[24] The Commission has concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user's particular transmission. Southern LINC meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.[25]

5. Access to Emergency Service. The ability to reach a public emergency service provider through dialing 911 is a required universal service offering. Customers can reach an emergency dispatch, or public safety answering point ("PSAP"), by dialing "911." Upon dialing "911," the customer's emergency call will be routed to the appropriate PSAP.

a. Enhanced 911 ("E911"), which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is required only if a public emergency service provider makes arrangements with the local provider for delivery of such information. A wireless carrier such as Southern LINC is not required to provide E911 services until a local emergency provider has made arrangements for

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21 *See Federal-State Joint Board on Universal Service*, 13 FCC Rcd 21252 (1998).

22 47 C.F.R. § 54.101(a)(3).

23 *Universal Service First Report and Order*, 12 FCC Rcd at 8815, ¶ 71.

24 *Id.* at 8810.

delivery of ALI and ANI from carriers.[26] Southern LINC has implemented Phase I of the Commission's requirement for access to emergency services. Southern LINC currently provides all of its customers with access to emergency services by dialing 911. To date, fourteen (14) public emergency service providers in the State of Alabama have requested Phase II service from Southern LINC and have made arrangements for delivery of the Lat/Long of the A-GPS subscriber unit placing a 911 call by ordering extended ALI services through the local exchange company. The Commission has designated other wireless providers as ETCs despite the current unavailability of E911.[27] By providing 911 service and anticipating capability to provide E911 service upon request, Southern LINC meets the Commission's requirement to provide access to emergency service.

6. Access to Operator Services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call. Southern LINC, upon designation as an ETC, will be capable of offering its subscribers access to operator services provided either by Southern LINC or other entities (*e.g.*, LECs, IXCs, etc.). Moreover, Southern LINC will make such services available throughout its designated service area. Therefore, Southern LINC will meet this requirement by providing all of its customers with access to operator services.

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25 *Id.*

26 *Id.* at 8815-17.

27 *See, e.g.*, *Federal-State Joint Board on Universal Service; Guam Cellular and Paging, Inc. d/b/a Guamcell Communications Petition for Designation as an Eligible Telecommunications Carrier in the Territory of Guam*, 17 FCC Rcd 1502 (2002) (designating Guam Cellular and Paging, Inc. ("Guamcell") as an ETC, even though Guamcell provided no E911 service to its subscribers; at the time of the subject ETC Petition, no public emergency service provider had requested that Guamcell provide Phase I or Phase II E911.) *See Guamcell Petition for Designation as an Eligible Telecommunications Carrier in the Territory of Guam*, filed Jul. 26, 2001 at 6.

7. Access to Interexchange Service. An ETC providing universal service must offer consumers access to interexchange service to make or receive toll or interexchange calls. Specifically, customers must have access to live or automatic operator assistance for the placement and billing of telephone calls, including collect calls, calling card calls, credit card calls, person-to-person calls, and third party calls, as well as obtaining related information. Southern LINC's indirect connections with IXCs provide end users with the required access to interexchange services. As a result, Southern LINC meets the requirement to provide all of its customers with the ability to make and receive interexchange or toll calls.

8. Access to Directory Assistance. The ability to place a call to directory assistance is a required service offering of an ETC. Southern LINC meets this requirement by providing all of its customers with access to information contained in directory listings by dialing "411" or "555-1212."

9. Toll Limitation for Qualifying Low-Income Customers (Lifeline and Link-Up Services). An ETC must offer toll restriction, which can be in the form of "toll control" or "toll blocking" services to qualifying Lifeline universal service customers at no charge. Toll blocking allows customers to block the completion of outgoing toll calls. Toll control allows the customer to limit the toll charges a subscriber can incur during a billing period. The Commission's current rules require an ETC to provide either toll control or toll blocking as part of the toll limitation services required under 47 C.F.R. § 54.101(a)(9).[28] Certain low-income consumers will be eligible to pay reduced connect charges and monthly fees under the Federal Link-Up and Lifeline programs, and customers may contact Southern LINC for more information on eligibility criteria. If enrolled in Lifeline, a customer can choose to have

[28] *See Federal-State Joint Board on Universal Service*, 13 FCC Rcd 5318 (1997).

Southern LINC block all attempted toll calls originating from the customer's phone. Upon designation as an ETC, Southern LINC will provide toll limitation for qualifying low- income customers, at no charge, as part of its universal service offerings.

C. Southern LINC is Committed to Provisioning Service in Alabama

In addition to the above identified services, Southern LINC makes the following commitment with respect to requests for service within the designated ETC Service Areas:

In response to requests for service at a residence or business located within the ETC Service Areas, Southern LINC will take the following steps:

1. If a request comes from a customer for service within its ETC Service Areas, Southern LINC will immediately provide service using its standard customer equipment and service offerings where available.
2. If a request comes from a customer residing in any area within the ETC Service Areas where Southern LINC does not provide service at the time of the request, Southern LINC will evaluate the feasibility of a number of means to provide service, including the following:

   -Whether the customer's wireless handset equipment can be modified or replaced to provide acceptable service;

   -Whether a roof-mounted antenna or other network equipment can be deployed at the customer's premises to provide service;

   -Whether adjustments at the nearest Southern LINC cell site can be made to provide service;

   -Whether there are other available adjustments to network or customer equipment/handsets to provide service;

   -Whether an additional cell site, a cell-extender, or repeater can be employed or could be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service; and

   -Whether resold service should be offered to the customer's location in order to provide immediate service.

If, after evaluating the various options described above, Southern LINC determines that it must deny a service request, Southern LINC will notify the customer and provide the Commission with an annual report of how many requests for service were refused following the

foregoing evaluation. Southern LINC agrees that the Commission will retain authority to resolve any customer complaints that may arise from Southern LINC's refusal to respond to a reasonable request for service. Southern LINC believes these service provisioning commitments will ensure that Southern LINC will be responsive to consumers' needs in the ETC Service Areas, while acting as a proper steward of available high-cost support funds.

D. Southern LINC Provides the Supported Services Using its Own Facilities

Southern LINC provides the supported services under Section 214(e)(1)(A) of the Act and Section 54.101(a) of the Commission's rules using Southern LINC's existing cellular network infrastructure, consisting of switching, trunking, cell sites, and network equipment, together with any expansions and enhancements to that network and should it become a requirement, through the resale of another carrier's service. Southern LINC has the technical capability to maintain its facilities in emergencies. Upon designation as an ETC, Southern LINC will report annually any expansions and enhancements to the network at the same time it submits its annual certification required under sections 54.313 and 54.314 of the Commission's rules.

E. Southern LINC will Continue to Enhance and Improve its Facilities

Southern LINC has allocated significant construction funds to improve and expand its coverage in the requested ETC Service Areas. These improvement plans represent substantially greater levels of financial commitment in excess of the amount Southern LINC expects to receive from the high-cost fund. In addition, Southern LINC will continue to incur operation and maintenance expense associated with the upgrading of existing plant in the requested ETC Service Areas that are equally appropriate uses of high-cost funds. As Southern LINC develops construction budget estimates annually for a five year period, actual construction plans are only developed for the first budget year. Thus, Southern LINC is currently just

beginning to develop specific plans for projects to be completed in 2005 and does not currently have specific construction plans in place for implementation after obtaining ETC designation. The priority under which the construction plan is to be undertaken is subject to change depending upon requests for service and other market factors. Southern LINC remains committed to continue to enhance and improve its facilities in Alabama.

F. Southern LINC will Advertise its Universal Service Offering

Southern LINC will advertise the availability of its universal service offering, and the charges associated, using media of general distribution. Southern LINC currently advertises and informs customers of its services through a variety of means, including newspapers, television, radio, its website, and other direct adverting methods. Southern LINC will expand upon these media, as necessary, to insure that consumers within its ETC designated service areas are fully informed of its universal service offering. Southern LINC commits to continue to advertise the availability of its services throughout its ETC Service Areas and will also provide notices at local unemployment, social security and welfare offices. Therefore, consumers can learn about Southern LINC's service and determine that Lifeline and Linkup discounts are available. In addition, Southern LINC commits to locally publicize the construction of new facilities so that consumers are informed when new facilities are added to provide improved service in their specific area of interest. Moreover, given the fact that ETCs receive universal service support only to the extent they serve customers, and given the investment Southern LINC plans to make to enhance its network to fully serve the universal service needs of consumers in Alabama, Southern LINC will have strong economic incentives, reinforcing its statutory obligations, to promote its universal service offering in Alabama.

G. Southern LINC Supports the Commission's Efforts to Collect Service Quality Data

Southern LINC fully supports the Commission's efforts to collect service quality data that will permit it to develop meaningful service quality rules, to the extent necessary. If designated, Southern LINC shall provide the Commission with an annual report providing the number of consumer complaints per 1000 handsets in service.

H. Southern LINC will Comply with CTIA's Consumer Code

Southern LINC has committed to abide by the CTIA Consumer Code for Wireless Services, as it may be amended from time to time. Southern LINC commits that, as an ETC, Southern LINC will abide by the CTIA Consumer Code for Wireless Services with respect to its ETC Service Areas. A copy of the CTIA Consumer Code is attached at Exhibit 4.

I. Designating Southern LINC as an ETC will Advance the Public Interest

Southern LINC requests designation as an ETC in the rural areas of its licensed service area in the State of Alabama, as shown in Exhibit 1. Southern LINC is seeking statewide designation with the exception of two counties in Alabama: Jackson County and Dekalb County. Southern LINC does not seek designation for those counties. Southern LINC will make available its universal service offering, including all of the services and functionalities set forth by the Commission in 47 C.F.R. § 54.101, throughout its ETC designated service areas. Because Southern LINC is seeking designation in areas served by rural LECs, the Commission must consider public-interest factors prior to designating Southern LINC as an ETC.[29]

As a wireless carrier, Southern LINC brings many significant advantages to universal service beneficiaries in Alabama. The FCC has recognized the advantages wireless

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[29] 47 U.S.C. § 214(6)(2). Under Section 214(e)(6), the Commission stands in the place of a state commission for this purpose.

carriers can bring to the universal service program. One of the principal goals of the Telecommunications Act of 1996 was 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."[30] Congress recognized that competition drives down prices and promotes the development of advanced communications as carriers vie for a consumer's business. The Commission has recognized the importance of these benefits to rural areas, finding 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 cost than traditional wireline service."[31] Likewise, the Commission has promoted wireless E911 as an important public policy goal, particularly since many accidents, particularly in rural areas, occur away from home where a wireless service is the only means available to place an emergency call.

The public-interest standard under Section 214(e)(2) for designating ETCs in territories served by rural telephone companies emphasizes competition and consumer benefit, not incumbent protection. In granting the petition of Western Wireless Corporation for ETC designation, the Commission emphasized its belief that "competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better services to its consumers."[32] Congress has mandated that universal service provisions be "competitively neutral" and "necessary to preserve and advance universal service."[33]

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

31 *See Universal Service First Report and Order*, 12 FCC Rcd. at 8881-82.

32 *Western Wireless Corporation*, 16 FCC Rcd. at 57.

33 See 47 U.S.C. § 253(b).

Designating Southern LINC as an ETC would give advanced telecommunications options to those living in Alabama's rural areas. In its *Guamcell* ETC designation decision, the Commission found that the designation of Guamcell as an ETC in the areas served by the rural telephone company in Guam would promote "competition and the provision of new technologies to consumers in high-cost and rural areas of Guam."[34] Southern LINC has already implemented a variety of service offering and rate plans that will be competitive with incumbent service offerings and affordable to Alabama's consumers. Southern LINC commits that its local calling area will be at least as large as that of the ILECs in Southern LINC's designated service territories, identified in Exhibit 1, and in most cases its local calling area will be substantially larger, which will reduce intra-LATA toll charges typically associated with wireline service. Southern LINC has already implemented 911 services in compliance with all state and Federal requirements, which will improve public safety in rural Alabama. Southern LINC will also offer Lifeline services to qualifying low-income consumers consistent with Federal and state rules, regulations and guidelines. Southern LINC will comply with any applicable consumer protection requirements subsequently imposed.

Designation of Southern LINC as an additional ETC is clearly in the public interest. First, designating Southern LINC as an ETC will facilitate competition in the provision of universal service to the benefit of consumers in Alabama.[35] Second, designating Southern LINC as an ETC will advance universal service by bringing consumers in Alabama new telecommunications services. Third, designating Southern LINC as an ETC in the requested

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34 *See Guamcell Order* 17 FCC Rcd 1502, ¶ 15.

35 *See Universal Service First Report and Order*, 12 FCC Rcd. at 8781, ¶ 4 (quoting *Joint Explanatory Statement* recital that goal of 1996 Act is to establish "a pro-competitive . . . framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to *all* Americans by opening *all* telecommunications markets to competition") (*emphasis added*).

areas of Alabama will promote rapid development of new technologies in those areas. With a choice of service providers, the consumer is able to select a provider based on service quality, service availability and rates. The benefits of increased competitive choices afforded consumers by the offerings of wireless ETCs are well known to the Commission and have previously served as the basis for grants of ETC status. As previously stated, these benefits include the additional benefit of mobility and the enhanced utility of a mobile E-911 service offering, as well as the benefits of an alternative technology platform. Southern LINC is well positioned to bring the economies and broader local calling scopes to subscribers in the pending ETC Service Areas. The financial impact of granting Southern LINC's ETC applications for the rural service areas as proposed herein on the universal service fund is minimal. Therefore, Southern LINC's ETC designation should be granted.

III. HIGH COST CERTIFICATIONS

Under Sections 54.313 and 54.314 of the Commission's Rules, carriers seeking high-cost support must either be certified by the appropriate state commission, or where the state commission does not exercise jurisdiction, must self-certify with the FCC and the Universal Service Administration Company ("USAC") their compliance with Section 254(e) of the Act. As previously explained, the Alabama PSC has declined jurisdiction over CMRS carriers like Southern LINC. Therefore, in accordance with Sections 54.313 and 54.314, Southern LINC will make its high-cost certifications with the Commission and with USAC. A copy of the letter being provided to USAC and the Commission is attached as Exhibit 5.

IV. ANTI-DRUG ABUSE CERTIFICATION

Southern LINC certifies that no party to this Petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. § 862.[36]

[36] 21 U.S.C. § 862. *See* attached Certification at Exhibit 6.

V. CONCLUSION

For the foregoing reasons, Southern LINC respectfully requests the Commission to designate it as an ETC for the requested designated rural service territories in Alabama on an expedited basis.

Respectfully Submitted,

SOUTHERN COMMUNICATIONS SERVICES, INC., D/B/A SOUTHERN LINC

Steven A. Augustino
Todd D. Daubert
Erin W. Emmott
Kelley Drye & Warren, LLP
1200 19th Street, N.W., Suite 500
Washington, DC 20036
(202) 955-9600

Its Attorneys

Robert G. Dawson,
President Chief Executive Officer,
Southern Communications Services, Inc.
d/b/a Southern LINC
5555 Glenridge Connector
Suite 500
Atlanta, GA 30342
(678) 443-1500

Dated: September 14, 2004

EXHIBIT 1

ETC DESIGNATION SERVICE AREA MAP

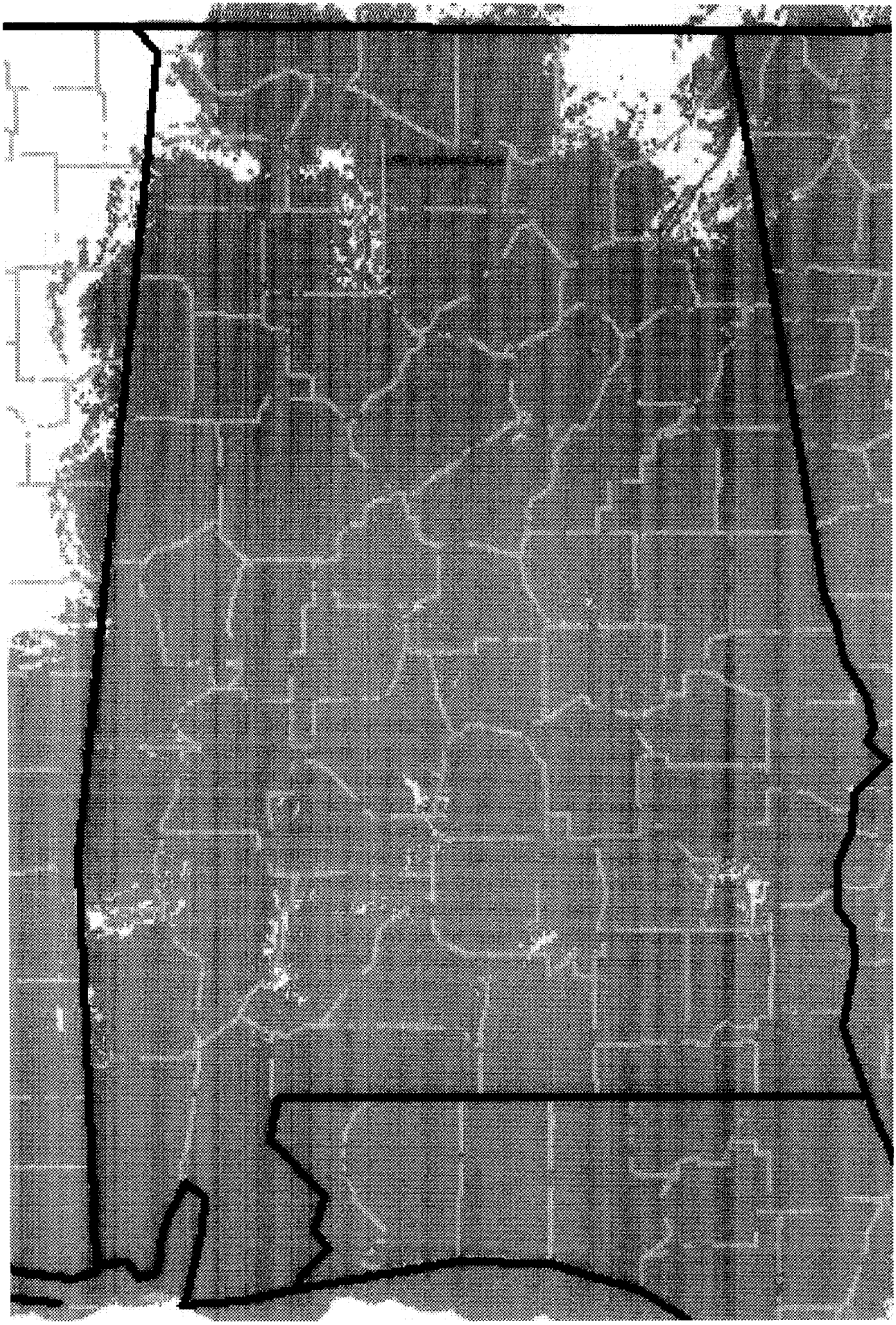

EXHIBIT 2

PINE BELT DECISION
ALABAMA PUBLIC SERVICE COMMISSION

PINE BELT CELLULAR, INC. and PINE BELT PCS, INC., Joint Petitioners
PETITION: For ETC status and/or clarification regarding the jurisdiction of the Commission to grant ETC status to wireless carriers.

DOCKET **U-4400**

Alabama Public Service Commission

2002 Ala. PUC LEXIS 196

March 12, 2002

[*1] Jim Sullivan, President; Jan Cook, Commissioner; George C. Wallace, Jr., Commissioner

OPINION: **ORDER**

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, **Pine Belt Cellular,** Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service **eligible telecommunications carriers** ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the **[*2]** Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of **eligible telecommunications carriers** in their respective jurisdictions for universal service purposes pursuant to *47 USC § 214*(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, § 214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural service territories if said carriers meet the requirements of § 214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of **Eligible Telecommunications Carriers** pursuant to § 214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies **[*3]** enclosed with their joint pleading completed ETC application forms as developed by the Commission. *In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt* request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 § 40-21-120(2) and (1)(a) effectuated

in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt **[*4]** companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by *47 USC § 214*(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant **Eligible Telecommunications Carrier** status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking **Eligible Telecommunications Carrier** status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

EXHIBIT 3

SERVICE COMMITMENT DECLARATION

DECLARATION UNDER PENALTY OF PERJURY

I, Robert G. Dawson, do hereby declare under penalty of perjury as follows:

1. I am the President and Chief Executive Officer of Southern Communications Services, Inc. d/b/a Southern LINC ("Southern LINC").

2. This Affidavit is submitted in support of Southern LINC's Petition for Designation as an Eligible Telecommunications Carrier ("ETC").

3. Southern LINC currently provides cellular services nearly state-wide in Alabama, and is seeking ETC designation throughout the state with the exception of Jackson County and Dekalb County.

4. As a carrier not subject to state commission jurisdiction in the State of Alabama, Southern LINC is seeking designation as an ETC under Section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6).

5. Southern LINC meets the criteria for ETC designation as explained herein.

6. Southern LINC is a "common carrier" for purposes of obtaining ETC designation pursuant to 47 U.S.C. § 214(e)(1). A "common carrier" is generally defined in 47 U.S.C. § 153(10) as a person engaged as a common carrier on a for-hire basis in interstate communications by wire or radio. Section 20.9(a)7 of the Commission's Rules provide that cellular service is a common carrier service. *See* 47.C.F.R § 20.9(a)(7).

7. Southern LINC currently offers and is able to provide, within its designated service areas, the services and functionalities identified in 47 C.F.R. § 54.101(a). Each of these services and functionalities is discussed more fully below.

a. Voice-grade access to the public switched telephone network. The FCC concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700 Hz within the 300 to 3000 Hz frequency range. *See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, First Report and Order*, 12 FCC Red 8776, 8810-11 (1997) ("*Universal Service Order*"). Southern LINC meets this requirement by providing voice-grade access to the public switched telephone network. Through its interconnection arrangements with local telephone companies, all customers of Southern LINC are able to make and receive calls on the public switched telephone network within the specified bandwidth.

b. Local Usage. Beyond providing access to the public switched network, an ETC must include local usage as part of a universal service offering. To date, the FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address the issue. *See Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 13 FCC Rcd 21252 (1998) ("*October 1998 NPRM*"). As it relates to local usage,

the NPRM sought comments on a definition of the public service package that must be offered by all ETCs. Specifically, the FCC sought comments on how much, *if any*, local usage should be required to be provided to customers as part of a universal service offering. *October 1998 NPRM*, 13 FCC Rcd at 21277-21281. In the *Universal Service Order*, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide. *Universal Service Order*, 12 FCC Rcd at 8813. Any minimum local usage requirement established by the FCC as a result of the *October 1998 NPRM* will be applicable to all designated ETCs, not simply wireless service providers. Southern LINC will comply with any and all minimum local usage requirements adopted by the FCC. Southern LINC will meet the local usage requirements by including local usage as part of a universal service offering.

c. Dual-tone, multi-frequency ("DTMF") signaling, or its functional equivalent. DTMF is a method of signaling that facilities the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement. 47 C.F.R § 54.101(a)(3). Southern LINC currently uses out-of-band digital signaling and in-band multi-frequency ("MF") signaling that is functionally equivalent to DTMF signaling. Southern LINC therefore meets the requirement to provide DTMF signaling or its functional equivalent.

d. Single-party service or its functional equivalent. "Single-party service" means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line. *Universal Service Order*, 12 FCC Rcd at 8810. The FCC concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user's particular transmission. *Id.* Southern LINC meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.

e. Access to emergency services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Enhanced 911 or E911, which includes the capability of providing both automatic numbering information("ANI") and automatic location information ("ALI"), is only required if a public emergency service provider makes arrangements with the local provider for delivery of such information. *See id.* at 8815-17. Southern LINC currently provides all of its customers with access to emergency service by dialing 911 in satisfaction of this requirement. Southern LINC will comply with all Phase II E-911 requirements.

f. Access to operator services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call. *Id.* at 8817-18. Southern LINC will meet this requirement by providing all of its customers with access to operator services provided by either Southern LINC or other entities (*e.g.*, LECs, IXCs, etc.).

g. Access to interexchange service. A universal service provider must offer consumers access to interexchange service to make and receive toll or interexchange calls. Equal access, however, is not required. "The FCC do[es] not include equal access to interexchange service among the services supported by universal service mechanisms." *Id.* at

8819. Southern LINC presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements Southern LINC has with several IXCs. Additionally, customers are able to reach their IXC of choice by dialing the appropriate access code.

h. Access to directory assistance. The ability to place a call to directory assistance is a required service offering. *Id.* at 8821. Southern LINC meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212".

i. Toll limitation for qualifying low-income consumers. An ETC must offer either "toll control" or "toll blocking" services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under 47 C.F.R § 54.101(a)(9), *See Universal Service Fourth Order on Reconsideration*, FCC 97-420 (Dec.30, 1997). In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls. *Universal Service Order*, 12 FCC Rcd at 8821-22. Southern LINC currently has no Lifeline customers in Alabama because only carriers designated as an ETC can participate in Lifeline. *See* 47 C.F.R. § 54.400-415. Once designated as an ETC, Southern LINC will participate in Lifeline as required, and will provide its current toll blocking capabilities in satisfaction of the FCC's requirement. Southern LINC currently has the technology to provide toll blocking and will use this technology to provide the service to its Lifeline customers, at no charge, as part of its universal service offering.

8. Southern LINC will provide the supported services using its existing network infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by Southern LINC to serve its existing conventional mobile cellular service customers.

9. I declare under penalty of perjury that the foregoing is true and correct. Executed on September 13, 2004.

Robert G. Dawson, President and Chief Executive Officer
Southern Communications Services, Inc.
d/b/a Southern LINC

EXHIBIT 4

CTIA CONSUMER CODE

CTIA

Consumer Code *for* Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

ONE

DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

For each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

TWO

MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map

usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

THREE

PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE

When a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

FOUR

ALLOW A TRIAL PERIOD FOR NEW SERVICE

When a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

FIVE

PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING

In advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term; (j) whether any additional taxes, fees or surcharges apply; and (k) the amount or range of any such fees or surcharges collected and retained by the carrier.

SIX

SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS

On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

SEVEN

PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE FOR CHANGES TO CONTRACT TERMS

Carriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

EIGHT

PROVIDE READY ACCESS TO CUSTOMER SERVICE

Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

NINE

PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS RECEIVED FROM GOVERNMENT AGENCIES

Wireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

TEN

ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY

Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.

EXHIBIT 5

HIGH COST CERTIFICATION LETTER

Robert G. Dawson
President and
Chief Executive Officer

Southern LINC
5555 Glenridge Connector
Suite 500
Atlanta, Georgia 30342
Tel 678.443.1545

September 13, 2004

SOUTHERN COMPANY
Energy to Serve Your World®

VIA OVERNIGHT MAIL

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Ms. Irene M. Flannery
Vice President – Hugh Cost and Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Re: Southern Communications Services, Inc. d/b/a Southern LINC
Certification for High Cost Loop Support, CC Docket No. 96-45

Dear Ms. Dortch and Ms. Flannery:

This certification is submitted on behalf of Southern Communications Services, Inc. d/b/a Southern LINC ("Southern LINC") in accordance with Federal Communications Rules 54.314 (47 C.F.R §§ 54.313, 54.314). On behalf of Southern LINC, I hereby certify under penalty of perjury that all high-cost support provided to Southern LINC will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act of 1996 (47 U.S.C. § 254(e)).

Southern Communication Services Inc.

Robert G. Dawson
President and Chief Executive Officer

SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED before me this 13th day of September, 2004.

Julie Fenton
NOTARY PUBLIC

My Commission Expires:

NOTARY PUBLIC COBB COUNTY GEORGIA
MY COMMISSION EXPIRES JULY 10TH 2007

DC01/EMMOE/224177.1

EXHIBIT 6

ANTI-DRUG ABUSE ACT DECLARATION

SOUTHERN LINC ETC Designation Declaration

I, Robert G. Dawson, after first being sworn on oath, and pursuant to 47 C.F.R § 1.16, states as follows:

1. I am President and Chief Executive Officer of Southern Communications Services, Inc. d/b/a Southern LINC ("Southern LINC"). My business address is 5555 Glenridge Connector, Suite 500, Atlanta, Georgia 30342.

2. In my capacity as President and Chief Executive Officer of Southern Communications Services, Inc. d/b/a Southern LINC, I am an authorized representative of the Company. I have read Southern LINC's Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama (Petition) and confirm the information contained therein to be true and correct to the best of my present knowledge.

3. To the best of my knowledge, no party to the Petition, nor any of their officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) as specified in Section 1.2002(b) of the Commission's rules, are subject to denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

I hereby certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on September 13, 2004.

Robert G. Dawson
President and Chief Executive Officer

Subscribed and sworn to before me
This the 13th day of September, 2004.

Julie Fenton
Notary Public

NOTARY PUBLIC COBB COUNTY GEORGIA
MY COMMISSION EXPIRES JULY 10TH 2007

CERTIFICATE OF SERVICE

I, Meredith L. Pica, hereby certifies that on this 14th day of September 2004, a true and correct copy of the foregoing "Petition" was sent to the following persons as indicated below:

Marlene H. Dortch, Secretary (Via Hand Delivery)
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Qualex International (Via Electronic Mail)
Portals II
445 12th Street, S.W.
Washington, D.C. 20554

Mr. Walter Thomas, Jr. (Via UPS)
Secretary, Administrative Division
Alabama Public Service Commission
RSA Union, Room 850
100 North Union Street
Montgomery, AL 36104

Meredith L. Pica

Meredith L. Pica