Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	CC Docket No. 96-45
	)	
Federal-State Joint Board on Universal Service	)	
	)	
Dobson Cellular Systems, Inc., Petition for Agreement with Redefinition of Service Areas of Certain Rural ILECs in the State of Michigan	)	
	)	
	)	
	)	
	)	

To: The Commission

REPLY COMMENTS OF DOBSON CELLULAR SYSTEMS, INC.

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SUMMARY

The only comments filed in response to Dobson's Petition were from the rural ILECs whose service areas the Michigan PSC redefined in granting Dobson ETC status. The Michigan PSC's decision fully addressed these ILECs' concerns in the state proceedings, and the ILECs should not be given a second bite at the apple here.

The Michigan PSC's decision is entirely consistent with the Commission's standards for service area redefinition, and should be allowed to take effect without further delay. As the Petition shows, there is no danger of the effects of cream skimming under the analysis that has been approved and performed by the Commission. Seeking nevertheless to thwart fair competition in their study areas, however, some commenters urge the Commission to adopt new and novel approaches to cream skimming analysis that are supported by neither Commission precedent nor sound policy. The record also shows that the other Joint Board factors for redefinition were considered and satisfied.

In a further attempt to stymie Dobson's petition, CenturyTel argues that Dobson should be required to conform its service areas to the disaggregation zones CenturyTel has chosen. In fact, CenturyTel's decision to disaggregate support at the wire center level will further reduce the potential effects of cream skimming, but there is no legal or policy reason to require Dobson to serve wire centers outside its licensed area simply because CenturyTel has classified them in the same cost category for disaggregation purposes.

Similarly, Upper Peninsula Telephone Company and Hiawatha Telephone Company confuse different steps in the Michigan PSC's process in arguing incorrectly that their study areas were not redefined to the wire center level. The Michigan PSC proceedings make clear that the service areas were redefined from the study area to the wire center basis. Further, requiring Dobson to use resale to serve areas outside its study area would violate universal service law and policy. Finally, as the Commission previously has acknowledged, there is no basis to delay the designation of ETCs under the statute pending the outcome of the larger rulemaking proceeding.

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REPLY COMMENTS OF DOBSON CELLULAR SYSTEMS, INC.

Dobson Cellular Systems, Inc. ("Dobson") submits the following reply to the comments filed in response to its above-captioned petition for agreement with the decision of the Michigan Public Service Commission ("Michigan PSC") to redefine the service area requirement for certain rural incumbent local exchange carriers ("ILECs") in the state of Michigan (the "Petition").[1]

The only comments filed in response to the Petition were from the rural ILECs whose service areas the Michigan PSC redefined in granting Dobson eligible telecommunications carrier ("ETC") status. The Michigan PSC's decisions fully addressed these ILECs' concerns in the state proceedings, and the ILECs should not be given a second bite at the apple here. The

[1] Dobson Cellular Systems, Inc., Petition for Agreement with Redefinition of Service Areas of Certain Rural ILECs in the State of Michigan, CC Docket No. 96-45 (filed Oct. 26, 2004). *See also The Wireline Competition Bureau Seeks Comment on Petition to Refine Rural Telephone Company Service Areas in Michigan,* Public Notice, CC Docket No. 96-45, DA 04-3506 (rel. Nov. 3, 2004).

Michigan PSC's redefinition decision was entirely consistent with the Commission's standards for the redefinition of service areas, and should be permitted to take effect without further delay.

I. THE MICHIGAN PSC'S DECISION IS CONSISTENT WITH THE COMMISSION'S STANDARDS FOR SERVICE AREA REDEFINITION

As Dobson demonstrated in its petition, the redefinition granted by the Michigan PSC meets each of the factors described by the Joint Board for the redefinition of rural ILEC service areas. It involves no intentional cream skimming (as Dobson has requested designation in every rate center for which it is licensed), and also results in none of the effects of cream skimming.[2] Similarly, it does not affect the status of rural ILECs under the Act, and will not create any administrative burdens. The Commission's standards for service area redefinition have been satisfied and the redefinition should be allowed to take effect.

A. Commenters' Unprecedented Approach to the Cream Skimming Analysis Should Be Rejected

Dobson presented a population density analysis to the Michigan PSC consistent with the Commission's cream skimming analysis in *Virginia Cellular* and *Highland Cellular*.[3] The analysis compares the population density in the wire center in which designation is sought to those wire centers where designation is not sought. This analysis demonstrates that no unintended effects of cream skimming will result from the redefinition.[4] Unwilling to accept this precedent, however, TDS proposes a new way to analyze cream skimming based on *ILEC access*

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[2] Petition at 11-13.

[3] Dobson's Supplemental Filing to Michigan PSC is attached as Exhibit D to the Petition.

[4] *Id.*

lines per square mile by wire center and by Census Block Group ("CBG").[5] UPTC/Hiawatha makes a similar proposal.[6] In other words, since Dobson's petition passes the analytical test that the Commission has applied in prior cases, these commenters seek to concoct new proxy metrics in an effort to defeat Dobson's petition.

The Commission should reject the commenters' proposed alternative density analysis. First, it lacks any basis in Commission precedent. The Commission consistently has analyzed cream skimming in terms of actual population density per square mile, and has never used ILEC access line density as a proxy.[7] Moreover, analyzing cream skimming based on ILEC access line density instead of actual population density is ill-suited to the consideration of wireless ETC applications. Wireless carriers serve the populations within geographic areas without regard to the location of components of the wireline network, and the Commission itself generally analyzes wireless carriers' coverage based on "pops" or total population served.[8] There is

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[5] Comments of TDS Telecommunications Corp. ("TDS comments") at 4-5.

[6] Opposition of Upper Peninsula Telephone Company and Hiawatha Telephone Company ("UPTC/Hiawatha comments") at 7-10.

[7] *See, e.g., Federal-State Joint Board on Universal Service, Advantage Cellular Systems, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee,* CC Docket No. 96-45, Order, DA 04-3357 at ¶¶ 22-24 (WCB Oct. 22, 2004) *("Advantage Cellular")*; *Federal-State Joint Board on Universal Service, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia,* CC Docket No. 96-45, Memorandum Opinion & Order, 19 FCC Rcd 26097, 26110 (2004) *("Highland Cellular")*; *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 & Order, 19 FCC Rcd 1563, 1579-80 (2004) *("Virginia Cellular")*.

[8] *See, e.g., Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services,* WT Docket No. 04-111, Ninth Report, 19 FCC Rcd 20597, 20608 n.30.

simply no basis for undertaking the new type of cream skimming analysis that these commenters have proposed.

The Commission should similarly reject TDS' data and argument based on population densities in the CBGs within certain of its wire center, purporting to show a cream skimming concern.[9] Like the use of access line density, the use of CBG density in cream skimming analysis is unsupported by any Commission precedent – and with good reason. As TDS is forced to concede, the "densities of the CBGs do not reflect exactly the density within the wire center because the boundaries of the CBGs do not correspond precisely with wire center boundaries."[10] In fact, CBG boundaries have no relation at all to wire center boundaries, and there is no reason to believe that CBG-based analysis would be accurate here.

The cream skimming analysis supporting Dobson's petition is consistent with Commission precedent and appropriate to the wireless ETC context. The approved redefinition of service areas raises no new issues and should be allowed to take effect without further delay.

B. The Population Density Data Show No Danger of Cream Skimming

Commenters also seek to ignore Commission precedent with respect to cream skimming analysis in other ways in order to find an issue where none exists. First, UPTC/Hiawatha and CenturyTel ignore the fact that the overall population density in the wire centers that Dobson serves in their study areas is *lower* than the population density in the wire centers it does not.[11] Second, the commenters seek to distort the population density data by presenting comparisons

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[9] TDS comments at 5-6.

[10] TDS comments at 5.

[11] Petition at 12.

between selected *individual* wire centers that Dobson serves and the *average* density to the entire ILEC study areas. Such distribution is inconsistent with the Commission's framework of analysis and should be rejected.

It is not surprising that some commenters seek to focus on individual wire centers rather than the overall comparison of the areas that Dobson serves. As the Michigan PSC pointed out, "[m]uch of the area covered by [Dobson's] wireless carrier license is in very rural parts of Michigan."[12] The fact that commenters can selectively point out a few higher-density wire centers that Dobson serves has no bearing on whether any effects of cream skimming may be present. As the Commission repeatedly has held, the relevant factor in the analysis is whether the wireless ETC will be "serving only low-cost areas to the exclusion of high-cost areas."[13] Therefore, the correct comparison is between the *average* density in the wire centers served versus the *average* density in the wire centers not served.[14] In fact, for every rural ILEC study area that the Michigan PSC redefined, save three, the population density in the area Dobson serves is substantially *lower* than the population density in the wire centers Dobson does not

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[12] *Application of NPI-Omnipoint Wireless, LLC, for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act of 1934,* Case No. U-13714, Opinion & Order (attached as Exhibit B to Dobson's Michigan ETC application, which is Exhibit B to Dobson's Petition before the FCC). As described in the Petition, Dobson is NPI's successor in interest.

[13] *Virginia Cellular,* 19 FCC Rcd at 1578. *See also Highland Cellular,* 19 FCC Rcd at 26111 (a wireless ETC "should not be allowed to serve *only* the low-cost customers in a rural telephone company's study area.") (emphasis supplied).

[14] The Commission's cream skimming analyses consistently have compared average to average. *See, e.g., Advantage Cellular* at ¶¶ 22-24; *Highland Cellular,* 19 FCC Rcd at 26110-11; *Virginia Cellular,* 19 FCC Rcd at 1579-80.

serve. This chart, reproduced from Dobson's Supplemental Filing before the Michigan PSC, illustrates this point:

POPULATION DENSITY ANALYSIS OF THE RURAL TELEPHONE COMPANY STUDY AREAS WITHIN WHICH DOBSON IS SEEKING REDEFINITION

INCUMBENT TELEPHONE COMPANY	SERVICE AREA	TOTAL POPULATION	TOTAL AREA (Square Miles)	POPULATION DENSITY (per Square Mile)
Hiawatha Telephone Co. Inc.	Requesting Designation	1,243	726.42	1.71
	Not Requesting Designation	7,914	1,250.39	6.33
Pigeon Telephone Company	Requesting Designation	3,943	176.90	22.29
	Not Requesting Designation	2,581	60.76	42.48
Upper Peninsula Telephone Company	Requesting Designation	3,725	494.30	7.54
	Not Requesting Designation	6,244	1,392.63	4.48
Verizon North Inc. – MI (ALLTEL)	Requesting Designation	16,266	455.60	35.70
	Not Requesting Designation	93,108	964.38	96.55
Wolverine Telephone Co.	Requesting Designation	7,766	66.82	116.23
	Not Requesting Designation	13,835	164.91	83.89
CenturyTel Midwest-Michigan, Inc.*	Requesting Designation	12,732	257.27	49.49
	Not Requesting Designation	50,940	491.98	103.54
CenturyTel of Michigan, Inc.*	Requesting Designation	63,473	1,856.42	34.19
	Not Requesting Designation	43,668	661.68	66.00
CenturyTel of Upper Michigan, Inc.*	Requesting Designation	13,520	590.12	22.91
	Not Requesting Designation	9,377	877.66	10.68

***** Indicates rural telephone companies that have elected to disaggregate support.

These figures show that, rather than creating any danger of cream-skimming rural ILECs' support, *Dobson* will be predominately serving the *low-density, high-cost* areas in Michigan. With the exception of the CenturyTel companies, none of the rural ILECs in Michigan has disaggregated their support. Thus, the per-line support amounts are calculated based on the ILECs' average cost across the entire study area. As the chart above demonstrates, however, Dobson only serves the *low-density, high-cost* portions of most of the study areas. Thus, Dobson's per-line support will be reduced as a result of the lower costs that the ILEC

experiences in the higher-density wire centers that Dobson does not serve. This may negatively affect the sufficiency of the support available to Dobson in the high cost wire centers in its service area.

In the three study areas where the population density of the wire centers served slightly exceeds the density in the areas unserved, the differences do not suggest any danger of cream skimming under Commission precedent.[15] In *Virginia Cellular,* the Commission only declined to grant redefinition in a case where the wireless ETC could serve only one of the four wire centers constituting the rural ILEC study area, and this one wire center happened to be the "sole low-cost, high-density wire center." The Commission found that the "great disparity" in population densities (by a factor of approximately 8 times) warranted a finding that Virginia Cellular could not be designated ETC status in this single wire center.[16] Similarly, in *Highland Cellular,* the Commission denied a redefinition request based on an extreme disparity in relative population density between the served and unserved wire centers, demonstrated because 94 percent of Highland Cellular's potential ETC customers were located in the rural telephone company's four highest-density wire centers.[17]

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[15] A wire center-by-wire center analysis of these study areas was presented to the Michigan PSC in Dobson's Supplemental Filing in the proceeding below. These tables are reproduced in Appendix A to this reply.

[16] *Virginia Cellular*, 19 FCC Rcd at 1579.

[17] *Highland Cellular*, 19 FCC Rcd at 26111-12. In reaching this conclusion, the FCC inexplicably included in its analysis the highest population density wire center, Richlands, despite the fact that this wire center was only partially served and the Commission concluded in the same order that it would not grant ETC status for partially served rural LEC wire centers. *See Highland Cellular Order* at ¶ 33.

These types of circumstances do not exist in these three study areas.[18] In the case of UPTC, the area Dobson serves is less than twice as dense on average as the area it does not serve, and contains many low density wire centers (including wire center SCPTMIXI at 0.51 persons per square mile, wire center MRVRMIXI at 1.46 persons per square mile, and wire center RXTNMIXI at 1.77 persons per square mile). Significantly, Dobson does *not* serve the highest-density wire center in UPTC's study area, LKGOMIXI. In the case of Wolverine Telephone Company, the area Dobson serves is considerably less than twice as dense as the unserved area, and the wire center that Dobson serves, SNFRMIXI, is approximately the same density as another wire center that it does not (MGTNMIXI) and contains a lower total population.

Similarly, in CenturyTel's Michigan study areas, Dobson serves many very low density wire centers, including the lowest-density wire centers in two out of three CenturyTel study areas.[19] Dobson does *not* serve the highest-density wire center in two out of three CenturyTel study areas.[20] Most importantly, however, unlike the other Michigan rural ILECs, CenturyTel has disaggregated and targeted its support to its highest-cost wire centers, thereby eliminating the danger of cream skimming in CenturyTel's study areas.[21]

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[18] *See* Appendix A to this Reply.

[19] Dobson serves wire center CHLKMIXI, the lowest-density wire center in the study area of CenturyTel Midwest – Michigan, Inc., and wire center MSTWMIXI, the lowest-density wire center in the study area of CenturyTel Michigan, Inc. *See* Appendix A hereto.

[20] Dobson does not serve wire center MTRSMIXI, the densest wire center in the study area of CenturyTel Midwest – Michigan, Inc., or wire center NWPTMIXI, the densest wire center in the study area of CenturyTel of Michigan, Inc. *See* Appendix A hereto.

[21] *See infra* section II.

Thus, it cannot be said in any of these cases that Dobson serves the "sole low-cost, high-density wire center" or that the redefinition could "undermine [the ILEC's] ability to serve its entire study area."[22] Thus, the Michigan PSC's redefinition is entirely consistent with Commission precedent and should be allowed to take effect without further delay.[23]

C. The Other Joint Board Factors for Redefinition Are Satisfied

In addition to cream skimming, the remaining two Joint Board factors relevant to a redefinition analysis are the competitive footing of rural telephone companies and administrative burdens. Yet, the Commission has consistently determined that neither factor will be impacted by a service area redefinition.[24] Nevertheless, UPTC/Hiawatha argues that the Michigan PSC's order granting Dobson ETC status does not contain a sufficiently detailed analysis of the redefinition's impact on rural ILECs' competitive footing.[25] Not surprisingly, however, the commenters focus on the Michigan PSC's September 21, 2004 Order granting Dobson's petition for designation as successor in interest to NPI, who had already been designated.[26] The Michigan PSC's August 26, 2003 Order designating NPI, however, evidences considerably

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[22] *Highland Cellular*, 19 FCC Rcd at 26112.

[23] In addition, it bears repeating that the population density in *most* of the Michigan rural ILEC wire centers that Dobson will serve is substantially lower than the population density in the wire centers that Dobson will *not* serve. Because the rural ILECs are not required to disaggregate and target their support, and only CenturyTel has done so, Dobson will receive potentially insufficient support as a result of averaging of costs across the rural ILEC study areas. This broader danger more than outweighs the minor higher densities in the wire centers that Dobson serves, compares to those it does not, in three rural ILEC study areas.

[24] *Virginia Cellular*, 19 FCC Rcd at 1583; *Highland Cellular*, 19 FCC Rcd at 26115.

[25] UPTC/Hiawatha comments at 8-10.

[26] The September 21, 2004 Order is attached as Exhibit A to the Petition.

greater consideration for the public interest factors relevant to its decisionmaking.[27] Moreover, the Michigan PSC decision in this case relies upon and refers back in the NPI Order to its own earlier ETC designation orders, wherein it rejected many of the public interest arguments raised by the rural ILECs in this proceeding.[28] Thus, UPTC/Hiawatha's claim that the Michigan PSC's analysis is inadequate has no merit.

II. CENTURYTEL CONFOUNDS ITS DISAGGREGATION ZONES WITH REDEFINITION OF THE SERVICE AREA REQUIREMENT

CenturyTel points out that it has disaggregated and targeted support within its study area, choosing a "Path 3" plan whereby it has identified two cost categories and allocated each of its study areas to one of these two "zones."[29] CenturyTel urges the FCC to "require Dobson to serve all of the wire centers within [each] zone."[30] In this regard, CenturyTel fundamentally confuses the complimentary but distinct purposes of disaggregation and targeting of support, on the one hand, and redefinition of the study area requirement, on the other.

Disaggregation and targeting of support allows rural ILECs to eliminate the inefficient entry signals that may be created by study area-wide averaging of support, and focus support on the higher-cost wire centers for which it is intended. Redefinition, by contrast, allows the regulator granting an ETC application to designate a service area for a competitive ETC that

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[27] The August 26, 2003 Order is attached as Exhibit C to the Petition.

[28] *See id.*

[29] CenturyTel comments at 3-5.

[30] CenturyTel comments at 4.

differs from the rural ILEC's own study area,[31] generally to conform the competitive ETC's designated service area to its licensed area.

CenturyTel's decision to disaggregate support minimizes or eliminates any danger of cream skimming, because the per-line support available in each wire center is more closely aligned with the ILEC's costs in that wire center. It is thus impossible for a competitive ETC to selectively serve only low-cost wire centers yet receive an averaged per-line support amount that includes less-dense wire centers that the competitive ETC does not serve. Even if the competitive ETC's licensed area includes only the low-cost portions of the rural ILEC's study area, disaggregation of potential support amounts to the rural ILEC's protection because the competitive ETC will receive less support, and the rural ILEC alone will receive higher support levels for the less dense wire centers that it alone serves.

CenturyTel's Path 3 disaggregation plan will have this effect, limiting Dobson's support in low-cost wire centers and reserving for CenturyTel higher support levels in less-dense wire centers that it alone serves. Because CenturyTel has allocated each of its wire centers to one of the two cost zones, the beneficial impact of the disaggregation will obtain in each wire center in which Dobson is designated. There is no basis to require Dobson to serve other wire centers in the same zone simply because the two wire centers share similar cost characteristics.[32]

CenturyTel's proposal is not only legally wrong-headed, it is also administratively unworkable. Dobson's service area, as designated by the Michigan PSC, includes rate centers in

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[31] 47 U.S.C. § 214(e)(5).

[32] Moreover, CenturyTel itself admits that it "was able to calculate relative costs down to the wire center," but "support was established based on two support zones" only. CenturyTel comments at 4. CenturyTel should not be permitted to abuse the Commission's rules by electing a two-zone disaggregation plan simply to thwart competitive entry.

each of CenturyTel's two disaggregation cost zones. It is not clear to Dobson whether CenturyTel seeks to require Dobson to serve *all* of the wire centers in *one* of its two zones, or all of the wire centers in *each* of the zones where it seeks to serve *any* wire center. Both arguments, however, defy logic. If CenturyTel would have Dobson serve all of the wire centers in *one* of the two zones, but not both, it would arbitrarily bar Dobson from being designated as an ETC or receiving support for serving customers in one of the two zones, for reasons that have no basis in any Commission precedent. Further, if Dobson were required to serve only the wire centers in the lower-cost zone, CenturyTel would have succeeded in creating cream skimming concerns by limiting Dobson to the higher-density wire centers. If CenturyTel would have Dobson serve all of the wire centers in *any* zone in which it serves *any* wire center, then CenturyTel would effectively require Dobson to provide service throughout CenturyTel's entire study area, given that Dobson serves some wire centers in each zone. This is plainly contrary to the statute and Commission rules that specifically allow redefinition of study areas when certain conditions are met.

Further, it must be borne in mind that CenturyTel has allocated wire centers between the two "zones" based solely on its embedded costs within the wire centers; thus, there is no geographic cohesiveness to the "zones" it has created. Dobson has received ETC designation for its licensed service area in Michigan, which is a geographically cohesive area defined by Dobson's licenses granted by the Commission. Seeking to define Dobson's designated area based on the patchwork disaggregation plan that CenturyTel has concocted in Michigan would frustrate the entire point of redefinition – which is to conform the competitive ETC's USF designated area to its licensed area.

III. THE MICHIGAN PSC PROPERLY REDEFINED THE SERVICE AREA REQUIREMENT FOR UPPER PENINSULA AND HIAWATHA FROM THE STUDY AREA TO A WIRE CENTER BASIS

UPTC/Hiawatha oppose Dobson's petition claiming that in the August 26, 2003 Order, the Michigan PSC approved only the redefinition of UPTC's Amble and Manistee River exchanges as new service areas. UPTC/Hiawatha's contention must fail, though, because it is based on an inaccurate description of the record in this matter and on a legally incorrect combination of two separate Michigan PSC actions: redefinition and designation.

UPTC/Hiawatha first assert that NPI's supplemental filing established NPI's redefined service areas. They assert that because the only UPTC exchanges listed on NPI's supplemental filing were Amble and Manistee River, and because there were no HIAWATHA exchanges listed on the supplemental filing, the redefinition granted in the August 26, 2003 Order extends only to the Amble and Manistee River exchanges.[33] This is incorrect. In the August 26, 2003 Order, NPI was merely directed to file "a listing of the exchanges where it currently provides service or intends to provide service under its license and for which it wishes to receive universal service support and is able to meet universal service obligations."[34] This is what NPI did. The listing provided by NPI is not a listing of the exchanges that will comprise its ETC service areas upon redefinition; instead, it is simply a list of the exchanges in its licensed service area. Not only is it not controlling as to the redefinition of UPTC's and Hiawatha's study areas, it is not even directly relevant to redefinition.

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[33] UPTC/Hiawatha Comments at 2-5.

[34] August 26, 2003 Order at 16.

In asserting some limitation on the redefinition granted by the Michigan PSC, UPTC/Hiawatha have confused and collapsed two separate steps taken by the Michigan PSC – redefinition of the service area requirement and designation of the applicant in its specifically identified licensed service area. The Michigan PSC granted redefinition of the service area requirement from the study area to the individual wire center level in the August 26, 2003 Order itself: "NPI-Omnipoint Wireless, LLC's service area for purposes of determining universal service obligations and support mechanisms is to be coterminous with established exchanges."[35] This order established a different definition of "service area" for NPI, pursuant to 47 U.S.C. § 214(e)(5), and thus redefined the requirement that NPI serve the entirety of UPTC's and Hiawatha's respective study areas. This is true regardless of which of UPTC's or Hiawatha's exchanges NPI then provided service in.

In a separate and unrelated step, the Michigan PSC directed NPI to submit a list of the exchanges where it was providing service, apparently because NPI's Application did not provide detailed descriptions of exchanges. If NPI had included such a list with its Application, the Michigan PSC would have had the option to conditionally designate NPI as an ETC in those UPTC/Hiawatha exchanges where NPI was currently serving, subject to the Commission's assent to the redefinition of the service area. This step, designation within a specific service area, is separate from the step of redefinition of the service area requirement.

To accept UPTC/Hiawatha's argument that NPI's supplemental listing establishes the scope of the redefinition is to believe that the Michigan PSC redefined UPTC into two service areas – the Amble and Manistee River exchanges constituting one service area and the rest of

[35] August 26, 2003 Order at 17; *see also* August 26, 2003 Order at 15.

UPTC's study area constituting the other. Likewise, UPTC/Hiawatha's argument requires one to believe that the Michigan PSC took no action to redefine Hiawatha's study area at all. The illogic of this claim is apparent: if NPI would have expanded its coverage into another UPTC exchange or into a Hiawatha exchange, UPTC/Hiawatha's approach would require that NPI then submit a separate application to again redefine UPTC's and Hiawatha's study area. Depending on the circumstances of NPI's licensed coverage, this process might need to be repeated many times. This is clearly contrary to the accepted practice by state commissions and this Commission, contrary to the words of the Michigan PSC, and contrary to the words of Section 214(e)(5), which requires only that the state commission redefine the requirement that the ETC serve the entire study area, and does not contemplate or even allow state commissions to divide study areas, as UPTC and HIAWATHA seem to assume the Michigan PSC did here.

Finally, UPTC/Hiawatha's argument ignores the most important and directly relevant aspect of the Michigan PSC's action regarding Dobson. In its own Application, Dobson asked the Michigan PSC not only to redefine the service area requirement, but also for ETC designation based on its own provision of the supported services. In Exhibit D to its Application, Dobson provided a detailed list of the exchanges where it provided service and the rural telephone company study areas, including UPTC and Hiawatha, for which it asked the Michigan PSC to grant ETC designation based on the redefined service area requirement. In the September 21, 2004 Order, the Michigan PSC granted Dobson's Application in full – it did not limit that Order to only the relief previously granted in the August 26, 2003 NPI Order and imposed no other limitations upon Dobson. Thus, even if the August 26, 2003 Order and subsequent NPI filing were somehow inadequate to redefine the service area requirement as to

UPTC and Hiawatha, redefinition (subject to the Commission's assent) was granted in the September 21, 2004 Order.[36]

For these reasons, UPTC/Hiawatha's assertion that the exclusion of certain exchanges from the NPI supplemental filing causes the Michigan PSC's redefinition to be limited to the Amble and Manistee River exchanges is incorrect and must be disregarded.

IV. REQUIRING DOBSON TO USE RESALE TO SERVE CENTURYTEL'S ENTIRE STUDY AREA WOULD BE CONTRARY TO THE GOALS OF THE ACT

CenturyTel's attempt to convince the Commission that Dobson should be required to serve CenturyTel's entire study area is merely a rehash of an argument that failed before the Michigan PSC.[37] The Commission should reject it.

First, CenturyTel mischaracterizes section 214(e) when it states that the statute *requires* Dobson to serve CenturyTel's entire study area through a combination of its own facilities or resale.[38] Section 214(e)(1) requires an ETC to serve the entirety of "the service area for which the designation is received."[39] Per section 214(e)(5), the service area is a rural telephone company's study area, *unless* the area is redefined – which it has been in this case.[40] In short, section 214(e) does not *require* an ETC to serve the entirety of a rural ILEC's study area using a combination of its own facilities and resale; it simply *allows* an ETC applicant to expand the area

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[36] September 21, 2004 Order at 2.

[37] CenturyTel comments at 5-6.

[38] CenturyTel comments at 6.

[39] 47 U.S.C. § 214(e)(1).

[40] CenturyTel also attacks the sufficiency of the Michigan PSC's analysis to do so, but this is spurious. As noted above, the Michigan PSC's order contained a thorough analysis of the public interest factors relevant to the redefinition decision. *See supra* sections I.C. and III.

it may seek to be designated through the use of resale, if it chooses to do so. Dobson has not chosen to do so here.

Not only does section 214(e) not support a requirement that Dobson use resale to serve the remainder of CenturyTel's service area, there are important policy reasons not to do so. There is no guarantee that Dobson could locate a CMRS resale partner to provide service in the relevant areas. The Commission's CMRS resale requirements have sunset. Even if Dobson could find a willing partner, Dobson could not guarantee that the same level of service quality would be provided and network build-out commitments would be met by the facilities-based carriers in the areas Dobson is not licensed to serve. This is particularly troublesome given the service quality and network build-out commitments that carriers are presently required to make in the ETC context. Finally, a resale requirement would be bad policy because it is not competitively neutral. No ILEC ETC has ever been required to use resale to serve an area outside its certificated study area in order to receive universal service support, and it is unfair to impose such a requirement on a CMRS carrier.

V. THERE IS NO BASIS TO DELAY THIS REDEFINITION CONCURRENCE PENDING THE LARGER RULEMAKING PROCEEDING

CenturyTel and TDS both urge the Commission to withhold its concurrence in this redefinition of service areas pending the outcome of the larger Joint Board proceeding considering the universal service support and portability rules.[41] Prior orders have rejected such claims, however, and the Commission should again reject them here.[42] The Communications

[41] CenturyTel comments at 6-7; TDS comments at 7-9.

[42] *See, e.g., Federal-State Joint Board on Universal Service, NPCR, Inc. d/b/a Nextel Partners, Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama et al.,* CC Docket No. 96-45, Order, 19 FCC Rcd 16530, 16540 (WCB 2004).

Act *requires* designation of competitive ETCs if the requirements of the Commission's rules are met.[43] The Commission has valid ETC designation rules in place. Further delay in processing pending ETC-related petitions would be contrary to law.

CONCLUSION

The Michigan PSC's decision to redefine certain rural ILEC service areas was entirely consistent with Commission precedent, and should be allowed to take effect without further delay.

Respectfully submitted,

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December 1, 2004

[43] 47 U.S.C. § 214(e) (specifically contemplating the designation of ETCs provided the relevant criteria are satisfied).

APPENDIX A
WIRE CENTER DENSITY ANALYSIS OF UPPER PENINSULA TELEPHONE COMPANY, WOLVERINE TELEPHONE CO., AND CENTURYTEL COMPANIES

POPULATION DENSITY INFORMATION FOR THE RURAL TELEPHONE COMPANY STUDY AREAS WITHIN WHICH DOBSON IS SEEKING REDEFINITION (CONTINUED)

UPPER PENINSULA TELEPHONE COMPANY

WC Code	SAC	SAC NAME	Population	Area SqMi	Pop Density	Application
AMBLMIXJ	310732	Upper Peninsula Telephone Company	725	15.4552	46.9099	Y
CRNYMIXJ	310732	Upper Peninsula Telephone Company	1472	139.723	10.5351	
CTPOMIXJ	310732	Upper Peninsula Telephone Company	1488	70.0794	21.2331	Y
DNKNMIXI	310732	Upper Peninsula Telephone Company	575	95.2196	6.03867	
DRISMIXI	310732	Upper Peninsula Telephone Company	993	129.367	7.67586	Y
FLCHMIXI	310732	Upper Peninsula Telephone Company	969	208.814	4.64049	
FNRVMIXI	310732	Upper Peninsula Telephone Company	231	191.754	1.20467	
FTHRMIXI	310732	Upper Peninsula Telephone Company	343	72.5496	4.7278	
GRHRMIXI	310732	Upper Peninsula Telephone Company	175	26.5106	6.60114	Y
LKGOMIXI	310732	Upper Peninsula Telephone Company	216	186.928	1.15553	
MHGFMIXI	310732	Upper Peninsula Telephone Company	146	61.1924	2.38592	
MRNSMIXI	310732	Upper Peninsula Telephone Company	862	146.403	5.88785	
MRVRMIXI	310732	Upper Peninsula Telephone Company	73	50.0966	1.45718	Y
NLNDMIXI	310732	Upper Peninsula Telephone Company	148	11.2395	13.1679	
RXTNMIXI	310732	Upper Peninsula Telephone Company	235	132.427	1.77457	Y
SCPTMIXI	310732	Upper Peninsula Telephone Company	36	70.3664	0.511608	Y
SMLKMIXI	310732	Upper Peninsula Telephone Company	31	43.8133	0.707548	
WLLCMIXA	310732	Upper Peninsula Telephone Company	829	21.8095	38.011	
WTMQMIXI	310732	Upper Peninsula Telephone Company	422	213.181	1.97954	
Not Requesting Designation		Pops	6244			
		Area		1392.63		
		Density			4.48	
Designated Area		Pops	3725			
		Area		494.30		

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Density			7.54

POPULATION DENSITY INFORMATION FOR THE RURAL TELEPHONE COMPANY STUDY AREAS WITHIN WHICH DOBSON IS SEEKING REDEFINITION (CONTINUED)

VERIZON NORTH INC. – MI (ALLTEL)

WC Code	SAC	SAC NAME	Population	Area Sq.Mi.	Pop. Density	Application
ADSNMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	7021	97.7803	71.8038	
ALGRMIXJ	313033	VERIZON NORTH INC - MI (ALLTEL)	2054	70.0395	29.3263	Y
BRDAMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	4099	30.3297	135.148	
BRDGMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	5897	21.6718	272.105	
BURLMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	1445	30.1538	47.921	
FTBGMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	836	16.5812	50.4187	
GLNNMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	1340	16.4976	81.224	
GRGRMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	3022	26.8753	112.445	
HOMRMIXJ	313033	VERIZON NORTH INC - MI (ALLTEL)	4755	94.2559	50.4478	
LCTAMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	792	7.65499	103.462	
LMVLMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	19440	76.6033	253.775	
LPTNMIXJ	313033	VERIZON NORTH INC - MI (ALLTEL)	2156	75.6222	28.5101	Y
LWRNMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	4289	56.9809	75.2708	
MNTHMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	2694	36.578	73.6508	
MRNCMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	4303	60.6037	71.0023	
ONDGMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	3419	38.1727	89.5666	
PARMMIXJ	313033	VERIZON NORTH INC - MI (ALLTEL)	5916	65.1099	90.8618	
PLMNMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	4300	43.1667	99.6138	
PRSCMIXP	313033	VERIZON NORTH INC - MI (ALLTEL)	6164	115.415	53.4072	Y
RSCYMIXJ	313033	VERIZON NORTH INC - MI (ALLTEL)	2934	117.76	24.915	Y
RVJTMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	4523	51.2059	88.3296	
STBRMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	5139	72.596	70.789	
STNGMIXJ	313033	VERIZON NORTH INC - MI (ALLTEL)	2958	76.7603	38.5356	Y

SWYRMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	3074	19.9929	153.754	
TKNSMIXI	313033	VERIZON NORTH INC - MI (ALLTEL)	2190	51.9436	42.1611	
WBVLMIXJ	313033	VERIZON NORTH INC - MI (ALLTEL)	4614	49.6295	92.9688	

Not Requesting Designation	Pops	93108		
	Area		964.38	
	Density			96.55
Designated Area	Pops	16266		
	Area		455.60	
	Density			35.70

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POPULATION DENSITY INFORMATION FOR THE RURAL TELEPHONE COMPANY STUDY AREAS WITHIN WHICH DOBSON IS SEEKING REDEFINITION (CONTINUED)

WOLVERINE TEL. CO.

WC Code	SAC	SAC NAME	Population	Area Sq Mi	Pop Density	Application
FSTRMIXI	310738	Wolverine Tel. Co.	2162	29.6501	72.9172	
MGTNMIXI	310738	Wolverine Tel. Co.	10144	101.093	100.343	
MNGRMIXJ	310738	Wolverine Tel. Co.	1529	34.1655	44.7527	
SNFRMIXI	310738	Wolverine Tel. Co.	7766	66.8152	116.231	Y
Not Requesting Designation		Pops	13835			
		Area		164.91		
		Density			83.89	
Designated Area		Pops	7766			
		Area		66.82		
		Density			116.23	

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POPULATION DENSITY INFORMATION FOR THE RURAL TELEPHONE COMPANY STUDY AREAS WITHIN WHICH DOBSON IS SEEKING REDEFINITION (CONTINUED)

CENTURYTEL MIDWEST – MICHIGAN, INC.

WC Code	SAC	SAC NAME	Population	Area Sq Mi	Pop Density	Application
AUGRMIXJ	310671	CenturyTel Midwest-Michigan, Inc.	3951	79.5534	49.6647	Y
BRCLMIXI	310671	CenturyTel Midwest-Michigan, Inc.	6585	53.0598	124.105	
BRNTMIXI	310671	CenturyTel Midwest-Michigan, Inc.	2166	44.743	48.4098	
CHLKMIXI	310671	CenturyTel Midwest-Michigan, Inc.	1750	43.675	40.0687	Y
CHSNMIXI	310671	CenturyTel Midwest-Michigan, Inc.	8832	98.3676	89.7857	
GDRCMIXJ	310671	CenturyTel Midwest-Michigan, Inc.	6072	29.6384	204.869	
HDLYMIXI	310671	CenturyTel Midwest-Michigan, Inc.	5150	32.4934	158.494	
LTFDMIXJ	310671	CenturyTel Midwest-Michigan, Inc.	2949	49.971	59.0142	
MCSTMIXI	310671	CenturyTel Midwest-Michigan, Inc.	5446	78.6904	69.2079	Y
MSHVMIXI	310671	CenturyTel Midwest-Michigan, Inc.	659	7.09204	92.921	
MTRSMIXI	310671	CenturyTel Midwest-Michigan, Inc.	10427	48.6414	214.365	
NLTHMIXJ	310671	CenturyTel Midwest-Michigan, Inc.	2655	38.0228	69.8265	
OMERMIXJ	310671	CenturyTel Midwest-Michigan, Inc.	1585	55.3475	28.6373	Y
ORLNMIXI	310671	CenturyTel Midwest-Michigan, Inc.	2507	38.3881	65.3067	
SNFDMIXI	310671	CenturyTel Midwest-Michigan, Inc.	2938	51.5576	56.9848	

Not Requesting Designation	Pops	50940		
	Area		491.98	
	Density			103.54
Designated Area	Pops	12732		
	Area		257.27	
	Density			49.49

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POPULATION DENSITY INFORMATION FOR THE RURAL TELEPHONE COMPANY STUDY AREAS WITHIN WHICH DOBSON IS SEEKING REDEFINITION (CONTINUED)

CENTURYTEL OF MICHIGAN, INC.

WC Code	SAC	SAC NAME	Population	Area Sq Mi	Pop Density	Application
ALNSMIXJ	310702	CenturyTel of Michigan, Inc.	2904	42.8873	67.7123	Y
BNFLMIXI	310702	CenturyTel of Michigan, Inc.	2162	108.557	19.9158	Y
BRLKMIXI	310702	CenturyTel of Michigan, Inc.	2171	60.9504	35.6191	Y
BRTSMIXI	310702	CenturyTel of Michigan, Inc.	1235	48.6635	25.3784	Y
CAROMIXI	310702	CenturyTel of Michigan, Inc.	13782	163.761	84.1591	
CEDRMIXI	310702	CenturyTel of Michigan, Inc.	4181	94.1996	44.3845	Y
CRYSMIXI	310702	CenturyTel of Michigan, Inc.	4259	64.5119	66.0188	Y
EMIRMIXJ	310702	CenturyTel of Michigan, Inc.	1642	50.4128	32.5711	Y
EMPRMIXI	310702	CenturyTel of Michigan, Inc.	879	28.4021	30.9485	Y
GLARMIXI	310702	CenturyTel of Michigan, Inc.	1521	66.4858	22.8771	Y
GLNEMIXI	310702	CenturyTel of Michigan, Inc.	1596	157.42	10.1385	Y
HALEMIXA	310702	CenturyTel of Michigan, Inc.	3222	108.914	29.5831	Y
HNORMIXI	310702	CenturyTel of Michigan, Inc.	1824	65.5032	27.846	Y
HOPEMIXI	310702	CenturyTel of Michigan, Inc.	4999	79.3544	62.9959	Y
KNDEMIXI	310702	CenturyTel of Michigan, Inc.	2127	92.5879	22.9728	
LKANMIXI	310702	CenturyTel of Michigan, Inc.	7830	91.5103	85.5642	Y
LKCYMIXI	310702	CenturyTel of Michigan, Inc.	6290	146.656	42.8894	Y
LVRGMIXI	310702	CenturyTel of Michigan, Inc.	2684	123.11	21.8016	Y
MRLTMIXI	310702	CenturyTel of Michigan, Inc.	6016	109.155	55.1143	
MRRTMIXI	310702	CenturyTel of Michigan, Inc.	1332	128.967	10.3283	Y
MSTWMIXI	310702	CenturyTel of Michigan, Inc.	1192	139.631	8.53679	Y
NWPTMIXI	310702	CenturyTel of Michigan, Inc.	8987	35.3313	254.364	
PINCMIXJ	310702	CenturyTel of Michigan, Inc.	8959	147.573	60.709	

PTASMIXI	310702	CenturyTel of Michigan, Inc.	2207	35.059	62.951	
PTHPMIXI	310702	CenturyTel of Michigan, Inc.	1590	78.2105	20.3297	
SLKHMIXI	310702	CenturyTel of Michigan, Inc.	1319	34.1981	38.5694	Y
STBYMIXI	310702	CenturyTel of Michigan, Inc.	4840	47.6233	101.631	Y
SXLSMIXI	310702	CenturyTel of Michigan, Inc.	1913	69.5925	27.4886	Y
VCVLMIXI	310702	CenturyTel of Michigan, Inc.	1305	22.0938	59.0663	Y
WHMRMIXI	310702	CenturyTel of Michigan, Inc.	2173	76.7793	28.3019	Y

Not Requesting Designation	Pops	43668		
	Area		661.68	
	Density			66.00
Designated Area	Pops	63473		
	Area		1856.42	
	Density			34.19

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POPULATION DENSITY INFORMATION FOR THE RURAL TELEPHONE COMPANY STUDY AREAS WITHIN WHICH DOBSON IS SEEKING REDEFINITION (CONTINUED)

CENTURYTEL OF UPPER MICHIGAN, INC.

WC Code	SAC	SAC NAME	Population	Area Sq Mi	Pop Density	Application
CDVLMIXG	310689	CenturyTel of Upper Michigan, Inc.	2458	122.289	20.0999	Y
DETRMIXG	310689	CenturyTel of Upper Michigan, Inc.	1410	103.836	13.5791	Y
GLVRMIXG	310689	CenturyTel of Upper Michigan, Inc.	733	95.6146	7.6662	
GRDNMIXG	310689	CenturyTel of Upper Michigan, Inc.	1379	240.561	5.73243	
KNRSMIXG	310689	CenturyTel of Upper Michigan, Inc.	5355	26.9826	198.461	Y
MNTQMIXG	310689	CenturyTel of Upper Michigan, Inc.	7265	541.484	13.4168	
PKFDMIXG	310689	CenturyTel of Upper Michigan, Inc.	2475	186.04	13.3036	Y
RDYRMIXG	310689	CenturyTel of Upper Michigan, Inc.	1822	150.968	12.0688	Y

Not Requesting Designation	Pops	9377		
	Area		877.66	
	Density			10.68
Designated Area	Pops	13520		
	Area		590.12	
	Density			22.91

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CERTIFICATE OF SERVICE

I, Pervenia Brown, hereby certify that a copy of the foregoing Reply Comments of Dobson Cellular Systems, Inc., was served by first-class U.S. mail, postage prepaid, on this first day of December 2004 to the persons listed below:

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