

DOCKET FILE COPY ORIGINAL
Before the
Federal Communications Commission
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
DEC 13 2004
FCC-11/13-ROOM

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
)
North Carolina RSA #4, Inc.)
North Carolina RSA No. 6, Inc.)
USCOC North Carolina RSA #7, Inc.)
North Carolina RSA #9, Inc.)
Jacksonville Cellular Telephone Company)
Wilmington Cellular Telephone Company)
)
Petition for Designation as an Eligible)
Telecommunications Carrier)
In the State of North Carolina)

To: Wireline Competition Bureau

REPLY COMMENTS OF
U.S. CELLULAR

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December 7, 2004

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Summary

The petition for designation as an eligible telecommunications carrier ("ETC") in North Carolina ("Petition") filed by North Carolina RSA #4, Inc., North Carolina RSA No. 6, Inc., USCOC North Carolina RSA #7, Inc., North Carolina RSA #9, Inc., Jacksonville Cellular Telephone Company, and Wilmington Cellular Telephone Company (collectively, "U.S. Cellular") meets all applicable requirements for designation in both rural and non-rural areas under the 1996 Act and the FCC's rules. The two rural ILECs serving most of the requested service area have opted not to oppose U.S. Cellular's designation, and none of the initial comments provide any credible argument for delaying or denying the Petition.

As stated in U.S. Cellular's Petition, the North Carolina Utilities Commission has expressly stated that it lacks jurisdiction over CMRS carriers like U.S. Cellular, so that the FCC has jurisdiction over the Petition. U.S. Cellular has also demonstrated its capability and commitment to offer the supported services throughout its proposed ETC service area. U.S. Cellular has committed to respond to all reasonable requests for service, and to construct facilities that will serve a list of communities in rural, high-cost areas. One commenter's complaint of a lack of "detailed information" ignores that U.S. Cellular has described its service offerings precisely as required under the rules and relevant orders.

The public will benefit from U.S. Cellular's designation, and no party has demonstrated that any harm will result. As the FCC has repeatedly acknowledged, high-cost support can enable wireless carriers to finance the construction of network facilities in areas that are lacking in high-quality telecommunications service. Improved wireless coverage can bring significant benefits to law enforcement and public safety officials, as well as consumers who need to make calls when they have no access to a wireline telephone. The federal high-cost fund will not be significantly burdened by U.S. Cellular's designation, and attempts by ILEC commenters to raise concerns about cream-skimming and "service-area-specific" spending are completely without merit.

Finally, the FCC should reject the demands by certain commenters who seek to suspend all ETC designations until after the FCC "resolves" all outstanding ETC-related issues. The FCC has wisely rejected these demands in acting on multiple ETC petitions during the pendency of its rulemaking proceedings, in accordance with its statutory mandate to designate qualified carriers.

For all of the above reasons, U.S. Cellular requests that the FCC grant its Petition expeditiously so that consumers in North Carolina's high-cost areas may begin to experience the benefits of wireless competition without delay.

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REPLY COMMENTS OF U.S. CELLULAR

North Carolina RSA #4, Inc., North Carolina RSA No. 6, Inc., USCOC North Carolina RSA #7, Inc., North Carolina RSA #9, Inc., Jacksonville Cellular Telephone Company, and Wilmington Cellular Telephone Company (collectively, "U.S. Cellular"), by counsel, hereby submits its Reply Comments pursuant to the Public Notice issued by the Wireline Competition Bureau ("Bureau") seeking comment on U.S. Cellular's petition for designation as an eligible telecommunications carrier ("ETC") in the state of North Carolina ("Petition").¹ The North Carolina Rural Carrier Group ("RCG"), Verizon, and the CTIA – The Wireless Association ("CTIA") filed comments. As explained below, U.S. Cellular satisfies the criteria for designation as an ETC throughout its requested service area, and no commenter has provided any reason

¹ See Public Notice, *Parties are Invited to Comment on U.S. Cellular Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina*, DA 04-3536 (rel. Nov. 9, 2004)("Public Notice").

compelling delay or denial of U.S. Cellular's Petition. Notably, ALLTEL Carolina-North, Inc. and Carolina Telephone & Telegraph d/b/a Sprint, two rural ILECs that together comprise roughly three-quarters of U.S. Cellular's proposed ETC service area, filed no objection.

I. CALLS FOR DELAY HAVE NO MERIT AND MUST CONTINUE TO BE REJECTED

RCG recycles the argument that ongoing proceedings to consider changes to the Commission's ETC-related rules warrant a suspension of all competitive ETC designations. RCG Comments at pp. 3-4. As a justification for suspending designations, RCG points to the fact that the Federal-State Joint Board on Universal Service ("Joint Board") has recommended permissive guidelines for states to follow in evaluating ETC petitions. However, those guidelines would merely advise states to apply essentially the same framework that the FCC applied in its *Virginia Cellular* and *Highland Cellular* orders.² Thus, for example, the possible adoption of a guideline urging states to consider whether the petitioner is prepared to respond to all reasonable requests for service and is committed to step in as the sole ETC if an ILEC withdraws (RCG Comments at p. 10) merely enunciates the standard that the FCC has consistently applied for several years.³

Additionally, the FCC already applies a rigorous, fact-specific analysis to evaluate the public interest, and there is no reason to believe the analysis will change significantly as a result of the Joint Board's recommendations. RCG's assertion that U.S. Cellular may claim to be "grandfathered" under the old rules (at p. 4) is completely irrelevant to U.S. Cellular's

² *Virginia Cellular, LLC*, 19 FCC Rcd 1563 (2004) ("*Virginia Cellular*"); *Highland Cellular, Inc.*, 19 FCC Rcd 6422 (2004) ("*Highland Cellular*").

³ See, e.g., *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48, 56 (2000) ("*Western Wireless*"), Order on Reconsideration, 16 FCC Rcd 19144; *Guam Cellular and Paging, Inc. d/b/a Guamcell Communications*, CC Docket No. 96-45, DA 02-174 (C.C.B. rel. Jan. 25, 2002) at ¶ 17 ("*Guamcell*"); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, 16 FCC Rcd 18133, 18139 (2001) ("*Pine Ridge*").

qualifications under the current rules. U.S. Cellular is entitled to have its qualifications determined under the rules in force today. Whether any competitive ETC can or should be “grandfathered” is an issue properly addressed in the ongoing rulemaking proceeding in CC Docket 96-45.

The FCC has made clear its intent to continue processing competitive ETC petitions while the possibility of rule changes is being considered.⁴ The FCC released the *Highland Cellular* order *after* the release of the *Recommended Decision*, and the FCC first referred the issues to the Joint Board in November 2002. Other competitive ETC designations have been made since that time. A decision to put all ETC petitions on hold based on the possibility that the applicable rules will be changed would be “similar to a judge dismissing a complaint based on a federal statute because he has been informed that Congress is conducting hearings on whether to change the statute.” *AT&T Co. v. FCC*, 978 F.2d 727, 732 (D.C. Cir. 1992). Clearly, there will always be the possibility that a given rule will be changed. The only lawful response is to apply existing rules and policies until those changes occur.⁵

II. U.S. CELLULAR HAS AMPLY DEMONSTRATED THAT IT IS QUALIFIED TO BE AN ETC AND THAT ITS DESIGNATION IS IN THE PUBLIC INTEREST

A. U.S. Cellular Has Clearly Met the Requirements Regarding State Jurisdiction and Offering the Supported Services.

CTIA correctly pointed out that the North Carolina Utilities Commission previously provided an order stating that it did not have jurisdiction to consider a CMRS carrier’s petition for ETC status. *See* CTIA Comments at pp. 2-3. Because the state commission has provided an

⁴ *See Highland Cellular, supra*, 19 FCC Rcd at 6434.

⁵ *Boston Edison Co. v. Federal Power Comm’n*, 557 F.2d 845, 849 (D.C. Cir. 1977) (agency action was arbitrary and capricious where agency required applicants to submit evidence in accordance with filing requirements that had been proposed but not yet adopted).

While the Board believes that investment in capital construction is a useful indicator of an ETC's progress toward ubiquity of coverage, we do not believe that it is critical to demonstrating compliance with ETC certification. The Board agrees with RCC that it is also important that support be used to expand the volume of calls that the company can manage as customers access the network from their homes, cars or work places. An ETC's investments in service quality and service overall for existing customers are as necessary to serving the public interest as investments in the geographic expansion of coverage. Therefore . . . RCC only will be required to provide evidence that it uses universal service support for the provision, maintenance, and upgrading of facilities and services for which the support was intended, in the same manner as wireline ETCs.⁹

Although U.S. Cellular's commitment is ultimately to use support only for the "provision, maintenance, and upgrading of facilities and services," U.S. Cellular has committed to build new cell sites consistent with the commitments set forth in *Virginia Cellular* to extend or improve service to consumers in rural areas.¹⁰ Similar to Virginia Cellular's plans, U.S. Cellular's plans "may evolve over time as it responds to consumer demand."¹¹ Accordingly, U.S. Cellular has made the requisite build-out showing under *Virginia Cellular*.

3. U.S. Cellular Has Committed Itself to the Reporting and Other Compliance Items Set Forth in *Virginia Cellular* that Will Benefit Consumers.

In its Petition, U.S. Cellular stated its commitment to the conditions outlined in *Virginia Cellular*,¹² including a commitment to adhere to the CTIA Consumer Code for Wireless Service, file annual reports detailing consumer complaints, and report to the Commission on requests for service that could not be fulfilled. Petition at p. 22. In sum, U.S. Cellular has made an ample showing of how it will use support to respond to consumer requests for service and construct

2003) (effective June 22, 2003).

⁹ RCC Atlantic, Inc. d/b/a Unicel, Docket No. 5918 (Vt. Pub. Serv. Bd., Nov. 14, 2003) at p. 48.

¹⁰ See *Virginia Cellular*, *supra*, 19 FCC Rcd at 1571.

¹¹ *Id.*

¹² See *id.* at 1584-85.

facilities to communities lacking in high-quality wireless service. U.S. Cellular is an ETC in other states and as such, it understands how to carry out its obligations as an ETC. Moreover, it is accustomed to operating in a competitive marketplace and will have every incentive to use its support to win and retain customers in high-cost rural areas traditionally lacking in the kinds of choices available in urban areas.

C. RCG's Purported "Service-Area-Specific" Requirement Defies Common Sense and Finds No Basis in the Act or the FCC's Rules.

Contrary to RCG's claim, the USF spending requirement is not "service-area-specific." RCG Comments at p. 7. Indeed, such a requirement would be unlawful and would all but guarantee that there will be insufficient support to build facilities out to the most under-served communities.

The Act and the FCC's rules specifically require a competitive ETC to use all support only for the provision, upgrading and maintenance of services and facilities in the designated ETC service area. 47 U.S.C. § 254(e); 47 C.F.R. § 54.7. However, the FCC has confirmed that not all facilities need to be located within a specific ILEC area.¹³ For example, a carrier using wireless technology may construct a cell site that encompasses portions of multiple rural ILEC service areas. In such a case it would be needlessly burdensome and complicated to parse out expenditures on a study area by study area basis. The Vermont Board recently rejected precisely the same argument when rural ILECs requested the CETC service area be divided into ten subsets, tracking ILEC boundaries, and CETC investment limited to the support generated from each:

¹³ See *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8874-75 (1997) ("First Report and Order") ("we conclude that our determination not to impose restrictions based solely on the location of facilities used to provide the supported services is competitively neutral in that it will accommodate the various technologies and entry strategies that carriers may employ as they seek to compete in high cost areas.").

Ten study areas would be likely to hamper timely and effective investment. Federal support would build up in ten separate bank accounts, and could not be transferred between accounts to meet more pressing needs elsewhere. One area could get a new cell site only when its capital reserve grew sufficiently, possibly a matter of years or even decades. In the interim, large amounts of support would be left unused, providing no benefit to the state. Under the best of circumstances this would delay construction in many areas. At worst, some areas might never get service if they generate little federal support.¹⁴

Moreover, a service-area-specific requirement would be directly antithetical to the Act, which requires that support be “sufficient”,¹⁵ and it would leave competitive ETCs unable to respond to requests for service or follow through on build-out commitments. If a competitive ETC wishes to use high-cost support to increase coverage in a sparsely populated area, it almost certainly cannot build a new cell tower if it is limited to the support it receives from the few subscribers it has in that area -- even if per-line support levels are comparatively high. Rather, the carrier must finance the tower with support it receives based on subscribers in all of its high-cost areas.

In summary, RCG’s proposed “service-area-specific” rule is legally unsupportable and would accomplish nothing except ensure that the most rural communities never see improved service from a new and potentially lower-cost provider. Accordingly, RCG’s assertions in this regard must be rejected.

D. Grant of U.S. Cellular’s Petition Would Not Significantly Burden the Fund.

Verizon seriously overstates the projected support available in the area for which U.S. Cellular seeks designation. Verizon Comments at pp. 1-2. However, whether one uses Verizon’s

¹⁴ *RCC Atlantic, Inc.*, Docket No. 6934 (Vt. PSB, Sept. 29, 2004) at pp. 54-55.

¹⁵ 47 U.S.C. § 254(e).

inflated figures or the more accurate estimates set forth below, it is clear that U.S. Cellular's designation would have a minimal impact on the size of the Universal Service Fund.

Verizon claims that up to \$54.5 million per year is "at issue." *Id.* at p. 2. However, the annual support available to ILECs *to the extent they are within U.S. Cellular's proposed ETC service area* is approximately \$14 million less than Verizon's estimate. This means that, even under the unlikely scenario of U.S. Cellular capturing each and every ILEC customer within its service area, its total support would not significantly burden the Fund since the total support to all carriers in that area amounts to only 1.05% of that received nationwide. Even using Verizon's grossly inflated estimate, total annual support in the area amounts to only 1.39% of nationwide support. Each of these figures is likely several times lower than those approved in recent FCC decisions granting ETC status in multiple states to Nextel (1.88% in one of seven states), ALLTEL (1.52% in one of five states), and Sprint (1.42% in one of seven states).¹⁶

In response to Verizon's professed concerns about the sustainability of the high-cost fund,¹⁷ U.S. Cellular has no quarrel with the notion that, all else being equal, a smaller fund is better than a larger fund. The problem is Verizon's suggestion that the way to control fund growth is to curtail competitive ETC designations. Rural wireline ILECs continue to receive the vast majority of high-cost universal service funds and that the size of the fund has increased significantly because the rural ILECs requested (and were granted) a higher level of funding

¹⁶ *NPCR, Inc. d/b/a Nextel Partners*, 19 FCC Rcd 16530, 16540 n.69 (2004) (designating wireless carrier as an ETC in both rural and non-rural areas of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee and Virginia); *ALLTEL Communications, Inc.*, DA 04-3046, at ¶ 16 n.56 (W.C.B. rel. Sept. 24, 2004) (designating wireless carrier as an ETC in non-rural areas of Alabama, Florida, Georgia, North Carolina, and Virginia); *Sprint Corp.*, DA 04-3617, at ¶ 17 n.58 (W.T.B. rel. Nov. 18, 2004) (designating wireless carrier as an ETC in non-rural areas of Alabama, Florida, Georgia, New York, North Carolina, Tennessee, and Virginia).

¹⁷ *Verizon Comments* at p. 3.

from the FCC in 2001.¹⁸ The additional funding received by rural ILECs through the “modified embedded cost” funding mechanism far outstrips any impact on the fund caused by CETCs generally or wireless CETCs specifically. The better way to control fund growth is to drive potentially lower-cost providers into rural areas.

Moreover, there is simply no merit to Verizon’s assertion that a grant of U.S. Cellular’s petition could “prejudge” proposals that are on the table to curb fund growth. Verizon Comments at p. 4. There are many reasons for the increasing size of the fund that dwarf the impact of competitive ETCs -- *e.g.*, ILEC study area waivers, irregularities in the Schools & Libraries program, and a USF payment methodology that rewards inefficient investments by rural wireline monopolies. The Commission is currently considering several ways to ensure the sustainability of the fund, including reforming the contribution methodology and changing the manner in which all carriers receive support. With those ongoing proceedings, the FCC is more than adequately equipped to manage fund growth. Meanwhile, the FCC must fulfill its statutory mandate to designate qualified carriers as ETCs and promote competitive entry in accordance with the 1996 Act and the law in effect today.

E. RCG’s Statements Regarding Advanced Services Are Unfounded, and, in Any Event, Irrelevant.

RCG complains of “apparent inaccuracies” in U.S. Cellular’s Petition,¹⁹ and points specifically to U.S. Cellular’s mention of the now-familiar notion that rural areas have long

¹⁸ See *Federal-State Joint Board on Universal Service, Fourteenth Report and Order, Twenty-second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244 (2001) (“*Fourteenth Report and Order*”)(“we estimate that the modified embedded cost mechanism will result in an increase in rural carrier support of approximately \$1.26 billion over the five-year period”).

¹⁹ U.S. Cellular is currently reviewing its proposed ETC service area and underlying wire centers. The company plans to file a supplement in the next several days to address outstanding issues, including the presence of partially-covered rural ILEC wire centers. While the upcoming filing is intended to clarify the requested ETC service area, U.S. Cellular submits that none of these issues affects the overall public interest analysis discussed herein.

trailed urban areas in access to advanced services, which RCG appears to define as high-speed data services.²⁰ RCG Comments at p. 4. RCG's argument, of course, is a red herring, since high-speed data service is not a supported service and thus cannot be required of an ETC applicant. Nonetheless, RCG's statements in this regard are worth addressing because they betray the failure of rural ILECs to provide rural consumers access to a similar array of services available to consumers in urban areas, as envisioned by the 1996 Act. The evidence, in fact, supports U.S. Cellular's position and only underscores the need for increased competition in rural areas.

By every measure, rural consumers continue to trail their urban counter-parts in terms of access to mobile wireless and advanced high-speed data services. Both the FCC and Congress have repeatedly attempted to enact programs or pass legislation to address these problems. RCG cites self-serving reports prepared by NTCA and OPASTCO, while ignoring the FCC's findings that support U.S. Cellular's position that rural America continues to suffer. For example, according to the Bureau's High-Speed Services for Internet Access study released last June, 26.5% of zip codes in areas with a population density of fewer than 6 persons per square mile do not have even one subscriber to high-speed data service,²¹ while the corresponding figure for areas with more than 3,147 persons per square mile is only 1.1%.²² While the gap has shrunk in recent years, it is undeniable that there has been a significant lag dating back to 1999, the earliest year studied in the report.²³

²⁰ RCG fails to mention that mobile wireless service is in many ways an advanced service to consumers who are relegated to fixed wireline telephony.

²¹ According to the NTCA report cited by RCG, the "population density in most member service areas is in the one to five customers per square mile range." NTCA 2003 Broadband Survey Report at p. 5 ("NTCA Report").

²² See "High-Speed Services for Internet Access: Status as of December 31, 2003" (I.A.D., Wireline Comp. Bur., June 2004) at Table 14. The report can be viewed on the FCC's web site at <http://www.fcc.gov/wcb/iatd/recent.html>.

²³ See *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to*

Moreover, the NTCA and OPASTCO reports are unreliable and do not stand for what RCG claims they do. With response rates of only about a third of those polled,²⁴ the reports are likely to be heavily skewed toward those companies that had the ability and inclination to respond positively to a survey about broadband service deployment. Even with this bias, the results are not favorable for RCG's position. OPASTCO defines "advanced services" as providing access at a rate of at least 200 kilobits per second (kbps) in both directions. *See* OPASTCO Press Release at p. 1. According to the NTCA Report, only 8% of customers in the respondents' service areas subscribe to service with speeds of 200 to 500 kbps. NTCA Report at p. 3. The take rates for 1 megabit per second (Mbps) and 3 Mbps service are only 2% each. *See id.* Given these numbers, RCG's assertion that "rural independent customers receive advanced telecommunications services and innovative services at timelines that far exceed urban rates" cannot be believed.

The likely reason for the low take rates for advanced services offered by rural ILECs is their inability or unwillingness to offer high-speed service at prices that are attractive to consumers. According to the NTCA Report, its survey respondents charge an average of \$44.53 per month for DSL service. However, the situation may be much more serious in many of the areas in North Carolina here at issue. As a relevant example identified in research conducted by U.S. Cellular, Ellerbe Telephone Company, Inc., a member of RCG, offers "dedicated dial-up"

Section 706 of the Telecommunications Act of 1996, Third Report, 17 FCC Rcd 2844, 2888 (2002) ("Despite the upward trend in subscription rates for rural communities, we note that a positive correlation persists between population density and the presence of high-speed subscribers. In addition, there continues to be a significant disparity in access to advanced services between those living in rural population centers and those living in sparsely-populated outlying areas. As a result, we believe that it is important to closely monitor the availability of advanced services for rural Americans, especially those living outside of the rural population centers, in order to ensure that they receive timely access to advanced services.")

²⁴ *See* NTCA Report at p. 6; OPASTCO Press Release, "New Survey Shows OPASTCO Rural Telcos Make Advanced Services Widely Available" (rel. May 10, 2004) ("OPASTCO Press Release").

of unspecified speeds for \$75 per month with a \$75 installation charge.²⁵ Citizens Telephone Company's web site advertises ADSL at the relatively slow speeds of approximately 56 kbps downstream and 30 kbps upstream for \$57.90 monthly fee and a \$95 installation charge.²⁶ Randolph Telephone Membership Corporation, whose advanced services are specifically referenced in RCG's comments, offers its highest-speed DSL package (approximately 1.5 Mbps downstream and 512 kbps upstream) for \$99.95 per month and an \$85 installation fee without a one-year contract.²⁷

Meanwhile, consumers in suburban and urban areas appear to get significantly more value. Verizon, for example, is currently offering DSL service with speeds of approximately 1.5 Mbps downstream and 384 kbps upstream for \$29.95 per month and an installation charge of \$39.95 without a long-term commitment.²⁸ BellSouth offers DSL service with speeds of approximately 1.5 Mbps downstream and 256 kbps upstream for \$32.95 per month and an installation charge of \$99.95.²⁹

One reason for this disparity is the absence or near-absence of competition in NTCA and RCG members' service areas. While 76% of NTCA's survey respondents indicated they face competition for high-speed services – likely an unrealistically high number, given the low response rate of the NTCA survey – 61% of those claiming to face competition said they only face competition in cities and towns. *See* NTCA Report at pp. 8-9. Given the lack of competition in more rural areas, rural ILECs could, if they wished, roll out service aggressively in those

²⁵ See <http://www.etinternet.net/rates.htm>.

²⁶ See http://www.citcom.net/content.php?channel_id=1097268204&content_id=1097255910.

²⁷ See http://www.rtmc.net/int_dsl.html.

²⁸ See <http://www22.verizon.com/forhomedsl/channels/dsl/package+price.asp>.

²⁹ See <http://www.fastaccess.com/content/consumer/products.jsp>.

areas. Yet, as indicated by NTCA members' 8% take rate for relatively low-end advanced services, this is clearly not happening.

This is precisely the rural-to-urban disparity the Act was intended to address.³⁰ As the Commission has repeatedly emphasized, the answer is to enable carriers using wireless and other alternative technologies to succeed where wireline has failed.³¹ As CTIA emphasizes, designation of USCC will fulfill this goal by "increasing the availability of new, competitively-priced services and technologies in North Carolina communities." CTIA Comments at p. 6. U.S. Cellular is ready, willing and able to take on this challenge. U.S. Cellular is primarily focused on rural consumers and its technology choice (CDMA) will enable it to deliver high-quality voice and data services over a modern network at competitive prices. In every area where U.S. Cellular expands its service with high-cost support, consumers will benefit from new choices and from the increased pressure placed upon incumbents to roll out services and price those services more aggressively.

³⁰ 47 U.S.C. § 254(b)(3) ("Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.")

³¹ See *id.* at 2891 ("There is evidence that emerging technologies and providers will develop into viable alternatives for segments of the rural community that remain unserved."). See also *In the Matter of Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, Notice of Proposed Rulemaking and Order*, 16 FCC Rcd 596 (2001).

III. CONCLUSION

For the reasons stated above, U.S. Cellular requests that the Commission promptly grant its Petition.

Respectfully submitted,

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December 7, 2004

CERTIFICATE OF SERVICE

I, Donna Brown, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this 7th day of December, 2004, placed in the United States mail, first-class postage pre-paid, a copy of the foregoing *Reply Comments* filed today to the following:

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