

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of the Petition of)
)
Tennessee RSA No. 3 Limited)
Partnership d/b/a Eloqui Wireless) CC Docket No. 96-45
)
For Designation as an Eligible)
Telecommunications Carrier)
Under 47 U.S.C. § 214(e)(2))
In the State of Tennessee)

To: Wireline Competition Bureau

**Petition for Designation as an Eligible Telecommunications Carrier
in the State of Tennessee**

Tennessee RSA No. 3 Limited Partnership d/b/a Eloqui Wireless (“EW”), by its counsel, submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Telecommunications Act of 1934, as amended (“Act”), 47 U.S.C. § 214(e)(2), and Section 54.201 of the Federal Communications Commission’s (“FCC”) rules, 47 C.F.R. § 54.201. EW requests that it be designated as eligible to receive all available support from the federal Universal Service Fund (“USF”) including, but not limited to, support for rural, insular and high-cost areas and low-income customers. In support of this Petition, the following is respectfully shown:

I. Name and Address of Petitioner.

1. The name and address of Petitioner is Tennessee RSA No. 3 Limited Partnership d/b/a Eloqui Wireless, P.O. Box 31729, Knoxville, TN 37930-1729.

II. Applicable Statutes and Rules.

2. The statutes and rules implicated by the instant Petition area as follows: 47 U.S.C. §§ 153(27), 153(44), 153(46), 214(e), 253(b), 254(e), 332(c)(3); 47 C.F.R. §§ 51.5, 54.5, 54.101, 54.201, 54.207, 54.313 and 54.314.

III. Authorization and Service Area.

3. EW is a telecommunications carrier as defined in 47 U.S.C. § 153(44) and 47 C.F.R. § 51.5, and for the purposes of Part 54 of the FCC's rules.¹ EW is therefore considered a common carrier under the Act.

4. EW is authorized by the FCC as a Cellular Radiotelephone Service provider in the Tennessee Rural Service Area 3 – Macon, Tennessee. A map of EW's proposed service area is attached hereto as Exhibit A. EW is a commercial mobile radio service ("CMRS") provider pursuant to the definition of "mobile service" provided in 47 U.S.C. § 153(27). EW provides interstate telecommunications services as defined in 47 U.S.C. § 254(d) and 47 C.F.R. § 54.5.

5. A telecommunications carrier may be designated as an ETC and receive universal service support throughout its designated service area if it agrees, throughout the proposed ETC service area to: (i) offer services that are supported by federal universal service support mechanisms, and (ii) advertise the availability of such services.² In its *First Report and Order* implementing Sections 214(e) and 254 of the Act, the FCC set forth the services a carrier must provide to be designated as an ETC in order to receive federal universal service support.³

6. Section 214(e)(2) of the Act provides that ETC designations shall be made for a "service area" designated by the FCC. In areas served by a non-rural company, the FCC may establish an ETC service area for a competitor without state concurrence.⁴ Accordingly, subject

¹ 47 U.S.C. § 54.1 *et seq.*

² *See* 47 U.S.C. § 214(e)(1).

³ *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8809-25 (1997) ("*First Report and Order*").

⁴ *See* 47 U.S.C. § 214(e)(5).

to the limited exceptions discussed *infra*,⁵ EW requests designation throughout EW's FCC-licensed service area in Tennessee.

7. In areas served by a rural telephone company, "service area" means the incumbent local exchange carrier ("ILEC") study area unless and until the FCC and the states, taking into account recommendations of the Federal-State Joint Board on Universal Service, establish a different definition of service area for such company.⁶ Thus, where EW's proposed ETC service area covers an entire rural ILEC study area, the FCC may designate EW as an ETC without the need to redefine the LEC service areas.

8. In some cases, EW's licensed service area does not cover a rural ILEC's service area in its entirety, solely because EW is not licensed by the FCC strictly along ILEC boundaries.⁷ In order to accommodate CMRS carriers who have FCC-licensed service areas that do not match ILEC wire centers, a state commission and the FCC may designate an ETC service area for a CETC along boundaries that are not identical with an ILEC study area.⁸ To do otherwise would effectively exclude wireless carriers as a class from receiving universal service support and, as discussed in Section VI, *infra*, would be contrary to the pro-competition policies articulated by the FCC and other states.

9. If EW is designated throughout its FCC-licensed service area, the service area of the rural ILECs mentioned must be redefined pursuant to Section 54.207(c) of the FCC's rules. EW would then seek the Tennessee Regulatory Authority's ("TRA") concurrence with the

⁵ EW's proposed ETC service area differs from its FCC-licensed service area in limited instances to eliminate partially-covered rural LEC wire centers consistent with the FCC policy announced in *Highland Cellular, Inc.*, 19 FCC Rcd 6422 (2004) ("*Highland Cellular*").

⁶ See 47 C.F.R. § 54.207(b).

⁷ Upon information and belief, these carriers are CenturyTel of Clairborne, Inc., Citizens Communications of Tennessee d/b/a Frontier of Tennessee, LLC, North Central Telephone Cooperative, Inc. - Tennessee and Twin Lakes Telephone Cooperative Corp.

⁸ See *First Report and Order, supra*, 12 FCC Rcd at 8879-80 (We... agree with the Joint Board that, if a state adopts a service area that is simply structured to fit the contours of an incumbent's facilities, a new entrant, especially a CMRS-based provider, might find it difficult to conform its signal or service area to the precise contours of the incumbent's area, giving the incumbent an advantage.")

proposed service area redefinition. EW's designation as an ETC in these areas would be conditional pending TRA concurrence with the proposed service area redefinition. Once this concurrence is granted, EW's ETC designation would immediately take effect in the partially covered rural ILEC service areas. Accordingly, for the rural ILEC service areas that are only partially covered by EW's proposed ETC service area, EW hereby requests that the FCC (1) conditionally grant ETC status to EW in the portion of the ILEC service area found within EW's proposed ETC service area; and (2) redefine the affected rural ILECs' service areas so that each wire center constitutes a separate service area.

IV. The Tennessee Public Service Commission Has Provided an Affirmative Statement That It Does Not Regulate CMRS Carriers.

10. Section 254(e) of Act, 47 U.S.C. § 254(e), provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." 47 U.S.C. § 214(e). Pursuant to 47 U.S.C. § 214(e)(6), 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."

11. In the *Section 214(e)(6) Public Notice*, the Commission established that a carrier must demonstrate it "is not subject to the jurisdiction of a state commission."⁹ In its *Twelfth Report and Order* in this docket, the Commission stated that where a carrier provides the Commission with an "affirmative statement" from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation, the Commission would consider requests filed pursuant to Section 214(e)(6).¹⁰

⁹ *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, Public Notice*, 12 FCC Rcd 22947, 29948 (1997) (*Section 214(e)(6) Public Notice@*).

¹⁰ *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, 12264 (2000).

12. On April 11, 2003, the TRA issued an Order dismissing the petition of Advantage Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier for lack of subject matter jurisdiction. In this case, the TRA made an affirmative ruling that it does not have jurisdiction to designate CMRS carriers as ETCs for purposes of receiving federal universal service support. Specifically, the Commission held: “the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. §214(e)(6).”¹¹ The TRA has clearly indicated it does not intend to designate CMRS carriers as ETCs. Accordingly, EW requests ETC designation as “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.” 47 U.S.C. § 214(e)(6).

V. EW Offers the Supported Services to Qualify for Federal USF Support.

13. Section 214(e)(1) of the Act and Section 54.201(d) of the FCC’s rules provide that carriers designated as ETCs shall, throughout their service area, (1) offer the services that are supported by federal universal service support mechanisms either using their own facilities or a combination of their own facilities and resale of another carrier's services, and (2) advertise the availability of such services and the charges therefore using media of general distribution. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d). The services which are supported by the federal USF are:

- 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.

47 C.F.R. § 54.101(a).

¹¹ *Order In Re: Application of Advantage Cellular Systems Cellular, Inc. To Be Designated As An Eligible Telecommunications Carrier*, Docket No. 02-01245 (April 11, 2003). A copy of the Order is attached hereto as Exhibit G.

14. EW is a full-service wireless carrier which now offers all of these services, as described in detail below. EW therefore satisfies the requirements of Section 214(e)(1) of the Act.

15. Voice Grade Access. EW provides voice grade access to the public switched network through interconnection arrangements with local telephone companies. EW offers its subscribers this service at bandwidth between 300 and 3,000 hertz as required by 47 C.F.R. 54.101(a)(1), thereby providing voice grade access.

16. Local Usage. EW has a variety of rate plans that provide local usage consistent with 47 C.F.R. § 54.101(a)(2). In the *First Report and Order*, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide.¹² On July 2003, after considering public comments and the recommendations of the Joint Board, the FCC released an order declining to impose a specific amount of local usage as a condition for ETC status.¹³ Instead, the FCC has determined that when a carrier offers a variety of rate plans containing varying amounts of local usage, it meets that local usage requirement.¹⁴ Other states have similarly declined to impose a specific minimum quantity of local usage.¹⁵

¹² See *First Report and Order*, 12 FCC Rcd at 8813.

¹³ See *Federal-State Joint Board on Universal Service, Order and Order on Reconsideration*, FCC 03-170 at ¶ 14 (rel. July 14, 2003).

¹⁴ See, e.g., *Farmers Cellular, Inc.*, 18 FCC Rcd 3848, 3852 (2003) ("*Farmers Cellular*"); *RCC Holdings, Inc.*, 17 FCC Rcd 23532, 23539 (2002), *review pending* ("*RCC Alabama Order*") (holding that "ETCs should provide some minimum amount of local usage as part of their 'basic service' package of supported services." and that RCC meets "the local usage requirement by including a variety of local usage plans . . .") (emphasis added); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, 17 FCC Rcd. 9589, 9593 (2002) ("*Pine Belt Order*") (holding that Pine Belt met the local usage requirement by offering "several service options including varying amounts of local usage . . ."); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48, 52 (2000) ("*WWC Wyoming Order*"), *recon. denied*, 16 FCC Rcd 19144 (2001) ("*WWC Wyoming Recon. Order*") ("although the Commission has not set a minimum local usage requirement, Western Wireless currently offers varying amounts of local usage in its monthly service plans").

¹⁵ See, e.g., *United States Cellular Corp.*, Docket 1084 (Oregon PUC, June 24, 2004) ("*U.S. Cellular Oregon Order*") ("USCC has committed to complying with any local usage requirements as may be established by the FCC in the future. . . This commitment has satisfied other jurisdictions. . . and we also find it satisfactory."); *RCC Minnesota, Inc.*, Docket No. UT-023033 at pp. 14-15 (WUTC Aug. 14, 2002) ("*RCC Washington Order*") ("We have declined to make a determination of a particular amount of local usage that is acceptable. Customers can

17. EW offers dozens of rate plans which provide customers with a variety of local usage included within the flat monthly rate, ranging from a set number of minutes to unlimited local calling. Any minimum local usage requirement established by the FCC will be applicable to all designated ETCs, and EW will comply with any and all minimum local usage requirements adopted by the FCC.

18. DTMF Signaling. EW provides dual tone multi-frequency (“DTMF”) signaling to facilitate the transportation of signaling throughout its network. EW currently uses out-of-band digital signaling and in-band multi-frequency (“MF”) signaling that is functionally equivalent to DTMF signaling.

19. 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.¹⁶ EW provides single party service, as that term is defined in Section 54.101 of the FCC’s rules. *See* 47 C.F.R. § 54.101.

20. Access to Emergency Services. EW currently provides 911 access to emergency services throughout its service area.

21. Access to Operator Services. EW provides customer access to operator services. Customers can reach operator services in the traditional manner by dialing “0”.

22. Access to Interexchange Services. EW has signed interconnection agreements with interexchange carriers. These arrangements enable EW to provide its customers access to

choose for themselves if the amount of local usage is worth the price.”); Alaska DigiTel, LLC, Docket U-02-39, Order No. 10 at pp. 1-2 (Reg. Comm’n of Alaska, Aug. 28, 2003) (“ADT Alaska Order”); Smith Bagley, Inc., Docket No. T-02556A-99-0207 at p. 12 (Ariz. Corp. Comm’n Dec. 15, 2000) (“SBI Arizona Order”); NPCR, Inc. d/b/a Nextel Partners, Inc., Docket No. U-27289 (La. PSC, June 29, 2004) (“Nextel Louisiana Order”); Smith Bagley, Inc., Utility Case No. 3026, Recommended Decision of the Hearing Examiner and Certification of Stipulation at 21 (Aug. 14, 2001) *aff’d*, Final Order (N.M. Pub. Reg. Comm. Feb. 19, 2002) (“SBI N.M. Order”); RCC Minnesota, Inc. et al., Docket No. 2002-344 at p. 9 (Maine PUC May 13, 2003) (“RCC Maine Order”); *RCC Atlantic, Inc.*, Order, Docket No. 5918 (Vt. Pub. Serv. Bd., Nov. 14, 2003) (“RCC Vermont Nonrural Order”); Highland Cellular, Inc., Case No. 01-1604-T-PC (W.V. PSC May 10, 2002) (“Highland W.V. Order”); NCPRI, Inc. d/b/a Nextel Partners, Docket No. 8081-T1-101 (Wisc. PSC, Sept. 30, 2003) (“Nextel Wisconsin Order”)

¹⁶ *See First Report and Order*, 12 FCC Rcd at 8810.

interexchange services. Customers may also “dial around” to reach their interexchange carrier of choice.

23. Access to Directory Assistance. Subscribers to EW’s services are able to dial “411” or “555-1212” to reach directory assistance from their mobile phones.

24. Toll Limitation. EW provides toll limitation by utilizing its toll blocking capabilities, enabling EW to provide toll blocking service for Lifeline customers once EW is designated an ETC.

25. Pursuant to Section 54.201 of the FCC’s rules, 47 C.F.R. § 54.201, EW will advertise the availability of each of the supported services detailed above, throughout its licensed service area, by media of general distribution. The methods of advertising utilized may include newspaper, magazine, direct mailings, public exhibits and displays, bill inserts, and telephone directory advertising. In addition, EW will advertise the availability of Lifeline and Linkup benefits throughout its service area by including mention of such benefits in advertising and reaching out to community health, welfare, and employment offices to provide information to those people most likely to qualify for Lifeline and Linkup benefits.

VI. Grant of EW’s Application Would Serve the Public Interest.

26. In areas served by a rural telephone company, the Commission must find that a grant of ETC status would serve the public interest.¹⁷ In numerous cases decided by the FCC and state commissions, the answer has been in the affirmative.¹⁸ In areas served by non-rural LECs,

¹⁷ See 47 U.S.C. § 214(e)(2).

¹⁸ See, e.g., *Virginia Cellular, LLC*, 19 FCC Rcd 1563 (2004) (“*Virginia Cellular*”), *Highland Cellular, supra*; *Guam Cellular and Paging, Inc. d/b/a Saipancell*, 19 FCC Rcd 13872 (2004) (“*Saipancell*”); *Cellular South License, Inc.*, 17 FCC Rcd 24393 (2002), *recon. pending* (“*Cellular South*”); *RCC Alabama Order, supra*; *NPCR, Inc. d/b/a Nextel Partners*, 19 FCC Rcd 16530 (2004) (designating wireless carrier as an ETC in both rural and non-rural areas of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee and Virginia) (“*Nextel Partners*”); *WWC Wyoming Order, supra*; *ADT Alaska Order, supra*; *RCC Minnesota, Inc.*, Docket No. OAH Docket No. 3-2500-15169-2, PUC Docket No. PT6182,6181/M-02-1503 (Minn. PUC, June 30, 2003) (“*RCC Minnesota Order*”); *Midwest Wireless Communications, LLC*, OAH Docket No. 3-2500-4980-2, PUC Docket No. PT6153/AM-02686

the Act does not require a separate public interest finding. The FCC has previously held that designating a competitor as an ETC in non-rural areas is per se in the public interest.¹⁹ Although the FCC has clarified that designating a competitive ETC in non-rural areas will not necessarily be in the public interest in every case,²⁰ EW clearly has demonstrated that its designation in nonrural areas will be in the public interest based on its strong showing pertaining to rural areas set forth below.²¹

27. The public interest is to be determined by following guidance provided by Congress in adopting the Telecommunications Act of 1996 (“1996 Act”) and the FCC in its

(March 19, 2003) (“Midwest Minnesota Order”); RCC Minnesota, Inc., Docket No. 04-RCCT-338-ETC (Kansas Corp. Comm’n, Sept. 30, 2004) (“RCC Kansas Order”); GCC License Corporation, Docket No. 99-GCCZ-156-ETC (Kansas Corp. Comm’n Oct. 15, 2001) (“GCC Kansas ETC Order”), *recon. denied* (Nov. 30, 2001); SBI N.M. Order, *supra*; SBI Arizona Order, *supra*; Midwest Wireless Iowa, L.L.C., Docket No. 199 IAC 39.2(4) (Iowa Util. Bd. July 12, 2002) (“Midwest Iowa Order”); United States Cellular Corp. et al., Docket No. 199 IAC 39.2(4) (Iowa Util. Bd. Jan. 15, 2002) (“U.S. Cellular Iowa Order”); ALLTEL Communications, Inc., Case No. U-13765 (Mich. P.S.C. Sept. 11, 2003) (“ALLTEL Michigan Order”); RFB Cellular, Inc., Case No. U-13145 (Mich. PSC Nov. 20, 2001) (“RFB Michigan Order”); N.E. Colorado Cellular, Inc., Docket No. 00A-315T (Colo. PUC Dec. 21, 2001) (“NECC Colorado Order”); Western Wireless Holding Co., Decision on Exceptions, Docket No. 00A-174T (Colo. PUC May 4, 2001) (“Western Colorado Order”); RCC Minnesota, Inc. et al., Docket No. 2002-344 (Maine PUC, May 13, 2003) (“RCC Maine Order”); Centennial Cellular Tri-State Operating Partnership et al., Docket No. 2003-UA-0234 (Miss. PSC, Aug. 10, 2004) (“Centennial Mississippi Order”); GCC License Corp., App. No. C-1889 (Neb. PSC Nov. 21, 2000) (“GCC Nebraska Order”), *aff’d*, 264 Neb. 167 (2002); Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless et al., Case No. PU-1226-03-597 et al. (N.D. PSC, Feb. 25, 2004) (“Verizon Wireless N. D. Order”); Western Wireless Corp., Case No. PU-1564-98-428, Order on Remand (N.D. PSC Oct. 3, 2001) (Western N.D. Order”); RCC Atlantic, Inc., Docket No. 6394 (Vt. Pub. Serv. Bd., Sept. 29, 2004) (“RCC Vermont Rural Order”); GCC License Corp., Docket No. TC98-146 (S.D. PUC Oct. 18, 2001) (“GCC S.D. Order”), *aff’d*, 623 N.W.2d 474 (2001); Easterbrooke Cellular Corp., Docket No. 03-0935-T-PC (W. Va. PSC, May 14, 2004) (“Easterbrooke W.V. Rural Order”); Highland W.V. Order, *supra*; Centennial Lafayette Communications, LLC et al., Order on Reconsideration, Docket No. U-27174 (La. PSC May 26, 2004) (“Centennial Louisiana Order”); Nextel Louisiana Order, *supra*; RCC Minnesota, Inc., Docket No. 1084 (Oregon PUC, June 24, 2004) (“RCC Oregon Order”); U.S. Cellular Oregon Order, *supra*; United States Cellular Corp., et al., Docket No. UT-970345, Third Supplemental Order Granting Petition for Designation as Eligible Telecommunications Carriers (Wash. Util. & Transp. Comm’n Jan. 27, 2000) (“U.S. Cellular Washington Order”), *aff’d. sub nom. Wash. Indep. Tel. Assn. v. WUTC*, 65P.3d, 319 (2003); RCC Washington Order, *supra*; Nextel Wisconsin Order, *supra*; U.S. Cellular Wisconsin Order, *supra*.

¹⁹ *Cellco Partnership d/b/a Bell Atlantic Mobile*, 16 FCC Rcd 39, 45 (2000).

²⁰ *Virginia Cellular*, *supra*, 19 FCC Rcd at 1575.

²¹ See NPCR, Inc. d/b/a Nextel Partners, Inc., Case No. 2003-00143 (KYPSC Dec. 16, 2004) (“Nextel Kentucky Order”) at p. 7. See also Smith Bagley, Inc., Docket No. 04-000289, Recommended Decision at p. 12 (N.M. Nov. 24, 2004) (“SBI Gallup Decision”), *aff’d* by state commission Dec. 7, 2004.

enabling orders.²² The overarching principles embodied in the 1996 Act are to “promote competition and reduce regulation...secure lower prices and higher quality services...and encourage the rapid deployment of new telecommunications technologies.”²³ In its implementing orders, the FCC ruled that the pro-competitive and deregulatory directives from Congress required universal service support mechanisms to be competitively neutral and portable among eligible carriers.²⁴

28. The FCC must determine whether designation of EW as an ETC will promote the principles embodied in the 1996 Act, specifically the goal of ensuring that consumers in rural, insular, and high-cost areas “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 are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”²⁵

29. In designating Virginia Cellular as an ETC, the FCC enunciated an expanded public interest framework for its consideration of future ETC designations. Although the *Virginia Cellular* order is under review, we address the FCC’s analysis in the event this

²² Pub. L. No. 104-104, 110 Stat. 56 (1996). See also *First Report and Order, supra*; *Ninth Report and Order and Eighteenth Order on Reconsideration*, 14 FCC Rcd 20432, 20480 (1999) (“*Ninth Report and Order*”); *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, twenty-second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244 (2001) (“*Fourteenth Report and Order*”). See also *NAACP v. FCC*, 425 U.S. 662, 669 (1976); accord, e.g., *Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413, 1427 (D.C. Cir. 1983); *Bilingual Bicultural Coalition on Mass Media, Inc. v. FCC*, 595 F.2d 621, 628 & n.22 (D.C. Cir. 1978).

²³ See 1996 Act (preamble).

²⁴ *First Report and Order, supra*, 12 FCC Rcd at 8801, 8861-62; *Ninth Report and Order, supra*, 14 FCC Rcd at 20480.

²⁵ See 47 U.S.C. § 254(b)(3).

Commission applies all or part of it to EW's petition. In determining the public interest, the FCC considered:

- The benefits of increased competitive choice;
- The impact of designation on the universal service fund;
- The unique advantages and disadvantages of the competitor's service offering;
- Any commitments made regarding the quality of telephone service; and
- The competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.²⁶

EW sets forth below specific facts demonstrating how its designation as an ETC in rural areas of Tennessee will advance the public interest under these five factors.

30. As an initial matter, EW believes strongly that any public costs likely to be incurred as a result of EW's designation are negligible compared to the benefits specifically articulated below. EW notes that it is *public* costs that matter, not the cost to individual companies, as the 5th Circuit made clear in *Alenco Communications v. FCC*, 201 F.3d 608, 622 (5th Cir. 2000). Moreover, EW believes that the impact of its designation as an ETC in Tennessee on the size of the USF would be negligible.²⁷ This minimal cost is by far outweighed by numerous public interest benefits which will accrue to Tennessee consumers as a result of EW's designation, as follows:

A. Increased Consumer Choice and Service Quality.

31. Designation of EW will advance universal service, promote competition and facilitate the provision of advanced communications services to the residents of rural Tennessee.

²⁶ *Virginia Cellular, supra*, 19 FCC Rcd at 1575-76.

²⁷ See Section D, *infra*, for discussion of impacts on the USF.

Residents in many rural areas have long trailed urban areas in receiving competitive local exchange service and advanced telecommunications services. In many rural areas, no meaningful choice of local exchange carrier exists.

32. To date, a number of wireless carriers have been designated as ETCs in various states.²⁸ In its orders granting ETC status to wireless carriers in rural areas, the FCC has emphasized the advantages wireless carriers can bring to the universal service program. For example, in its order designating Western Wireless as an ETC in the State of Wyoming, the FCC observed: “Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”²⁹ Recognizing these unique advantages, the FCC has found that “imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.”³⁰

33. In addition, with ETC designation, EW will implement its Lifeline and Link-up programs which will offer service to low-income consumers who have not previously had the opportunity to afford any choice in telephone service. Universal Service support will enable EW

²⁸ See, e.g., *Nextel Partners*, *supra*; *Cellular South*, *supra*; *WWC Wyoming Order*, *supra*; *SBI Arizona Order*, *supra*; *Nextel Louisiana Order*, *supra*; *SBI N.M. Order*, *supra*; *U.S. Cellular Washington Order*, *supra*; *Midwest Wireless Wisconsin, LLC*, 8203-TI-100 (mailed Sept. 30, 2003) (“*Midwest Wisconsin Order*”); *RCC Kansas Order*, *supra*; *Centennial Mississippi Order*, *supra*; *U.S. Cellular Iowa Order*, *supra*; *USCC Oregon Order*, *supra*; *Midwest Minnesota Order*, *supra*; *NECC Colorado Order*, *supra*; *ALLTEL Michigan Order*, *supra*; *Midwest Iowa Order*, *supra*; *SBI Arizona Order*, *supra*; *SBI N.M. Order*, *supra*, and *Alaska Digitel Order*, *supra*, *Easterbrooke W.V. Rural Order*, *supra*; *RCC Vermont Rural Order*, *supra*.

²⁹ *WWC Wyoming Order*, *supra*, 16 FCC Rcd at 55

³⁰ *First Report and Order*, *supra*, 12 FCC Rcd at 8882-83.

to reach out to those counties in Tennessee that have no choice of service and provide them with quality telephone service.

34. EW commits to use high-cost support to improve service in areas it would not otherwise invest in. As EW constructs additional cell sites in high-cost areas to improve the quality of its radio frequency (“RF”) signal, its customers will have a greater choice among service providers and will receive more reliable service. Some will have the option to receive EW’s service for the first time. Others will see service quality and reliability improvement such that they may choose EW’s service instead of ILECs, as opposed to confining their use of EW’s service to an ancillary communications tool. The company has every incentive to meet its commitment because use of such funds in this manner will improve its competitive position in the marketplace. Moreover, it has every incentive to maintain or improve reliability and to lower its prices over time because it can only receive high-cost support when it has a customer. With the exception of a single wirecenter in the Citizens Telecommunications Company of Tennessee d/b/a Frontier Communications study area (PLHLTNXA) none of the rural areas served by EW overlap with previous ETC designations in Tennessee.

35. As an ETC, EW will have the obligation to provide service to consumers upon reasonable request.³¹ Specifically, the company commits to undertake the following steps in response to consumer requests for service:

1. If a request comes from a customer within its existing network, EW will provide service immediately using its standard customer equipment.
2. If a request comes from a customer residing in any area where EW does not

³¹ *Federal-State Joint Board on Universal Service, Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission, Declaratory Ruling*, 15 FCC Rcd 15168, 15174-75 (2000) (“*South Dakota Preemption Order*”) (“A new entrant, once designated as an ETC, is required, as the incumbent is required, to extend its network to serve new customers upon reasonable request.”); *Virginia Cellular, supra*, Separate Statement of Chairman Michael K. Powell, 19 FCC Rcd at 1590 (“This decision remains true to the requirement that ETCs must be prepared to serve all customers upon reasonable request. . .”)

provide service, EW will take a series of steps to provide service.

- First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.
- Second, it will determine whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.
- Third, it will determine whether adjustments at the nearest cell site can be made to provide service.
- Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.
- Fifth, it will explore the possibility of offering the resold service of carriers that have facilities available to that location.
- Sixth, EW will determine whether an additional cell site, a cell-extender, or repeater can be employed or can 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. If there is no possibility of providing service short of these measures, EW will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled. The Commission will retain authority to resolve any customer complaints that EW has refused to respond to a reasonable request for service.

EW believes these service provisioning commitments – which have been accepted by the FCC, and other state commissions³² – will ensure that the company is responsive to consumers' needs while acting as a proper steward of available high-cost support funds.

36. The FCC and various state commissions have held that an ETC cannot be required to provide service in every portion of its service area immediately upon designation.³³ Once designated, however, EW commits to use universal service support to expand and improve

³² See, e.g., USCC Oregon Order, *supra*, at p. 10; ADT Alaska Order, *supra*, at pp. 8-9; Nextel Louisiana Order, *supra*, at pp. 7-8; SBI Gallup Decision, *supra*, at p. 14; RCC Vermont Rural Order, *supra*, at pp. 28-29; Easterbrooke W.V. Rural Order, *supra*, at p. 19.

³³ See *South Dakota Preemption Order*, *supra*, 15 FCC Rcd at 15174-75; Nextel Kentucky Order, *supra*, at p. 5.

its network coverage in areas where wireless coverage is poor or nonexistent. Specifically, within the first five years of receiving high-cost support, EW intends to use a portion of its high-cost support to construct new cell sites that will provide service to the following communities: S. Cookeville in Putnam County (Frontier Communications of TN, LLC Cookeville wirecenter - CKVLTNXA), Tansi in Cumberland County (Frontier Communications of TN, LLC Tansi wirecenter - TANSTNXA), Harriman in Roane County (Bellsouth Harriman wirecenter - HIMNTNMA), Harrogate in Claiborne County (Bellsouth Cumberland Gap wirecenter - CLDGTNMA), Elk Valley in Campbell County (Bellsouth Jellico wirecenter – JLLCTNMA), Powell Valley in Claiborne County (Bellsouth Cumberland Gap wirecenter - CLDGTNMA), Robbins and Elgin in Scott County (Highland Telephone Coop. Robbins wirecenter – RBNSTNXA), Hillsdale in Macon County (North Central Telephone Coop. Hillsdale wirecenter – HLDLTNXA), N. Jamestown in Fentress County (Twin Lakes Telephone Coop. Jamestown wirecenter – JMTWTNXA), Allons and Monroe in Overton County (Twin Lakes Telephone Coop. Livingston wirecenter – LVTNTNXA), Hermitage Springs in Clay County (North Central Telephone Coop. Red Boiling Springs wirecenter – RBSPTNXA), Whitleyville in Jackson County (Twin Lakes Telephone Coop. North Spring wirecenter – NRSPTNXA), Coalfield in Morgan County (Bellsouth Oliver Spring wirecenter – OLSPTNMA), Allardt in Fentress County (Twin Lakes Telephone Coop. Jamestown wirecenter – JMTWTNXA), Baxter in Putnam County (Twin Lakes Telephone Coop. Baxter wirecenter – BXTRTNXA), Hilham in Overton County (Twin Lakes Telephone Coop. Livingston wirecenter – LVTNTNXA) and Habersham in Campbell County (Bellsouth Jellico wirecenter – JLLCTNMA). This commitment is based upon EW’s estimate of the amount of high-cost support it expects to receive in the first five years as an ETC.

37. Without high-cost universal service support, EW will not be able to construct facilities that serve these areas in the foreseeable future, if ever. Consistent with the build-out plan accepted by the FCC in *Virginia Cellular*, EW notes that the exact parameters of its construction plan may change as a result of shifts in consumer demand, tower siting review, and other factors that affect cell site placement.³⁴ However, the proposed construction plan represents EW's firm commitment to build facilities out to rural areas of Tennessee with its high-cost support.

38. EW also commits to undertake several commitments to ensure high-quality service, responsiveness to customer concerns, and access to relevant information by the TRA. In recent decisions, both the FCC and other state commissions have credited a wireless ETC applicant's commitments to alleviate dropped calls by using universal support to build new towers and facilities to offer better coverage, comply with the "Cellular Telecommunications Industry Association Consumer Code for Wireless Service," which sets out certain principles, disclosures, and practices for the provision of wireless service," and file data concerning the number of consumer complaints per 1,000 handsets on an annual basis.³⁵ EW hereby commits to use high-cost support in its service area to improve coverage and channel capacity to improve system performance when needed. EW also commits to comply with the Cellular Telecommunications Industry Association Consumer Code for Wireless Service.³⁶

39. EW already provides consumers with a high quality service. The company employs a regional staff of more than 60 people, including an experienced engineering and

³⁴ *Virginia Cellular*, *supra*, 19 FCC Rcd at 15171.

³⁵ *Id.* at 1584-85; Nextel Kentucky Order, *supra*, at pp. 8-10.

³⁶ The CTIA Code is available on the Web at http://files.ctia.org/pdf/The_Code.pdf.

technical support team that provides on-call emergency support 24 hours a day, seven days a week. EW's response time to an outage report is normally less than one hour.

40. EW's system is reinforced by the presence of battery backups installed at its cell sites, accompanied by generators at more remote and key communication sites, along with diesel generators at its switch, which are capable of running indefinitely in the event of a major electrical outage. In addition, the company has generators that can be moved to individual cell sites to supplement back-up batteries. Back-up batteries at EW's primary cell sites provide at least 4 hours of back-up power, along with diesel generators that will run unattended up to several days before refueling is necessary. Because individual cell sites are spread out, it is highly unlikely that an electrical outage would affect more than two sites simultaneously. In the event of power or other types of fault, the cell sites are equipped with alarms that will alert our technicians. Additionally, the sites are monitored remotely by the switch should there be a total communications failure at the site.

41. EW's service has a call completion rate of roughly 98% during the busy hour. Service quality comments are forwarded to the company's operations department to enable it to monitor network performance and improve customer service. The company's customer service representatives may be reached toll- and airtime-free. Customer service representatives may be contacted through a number of convenient methods, including: (1) visiting any of the company's eight locally-owned retail/customer service locations in Tennessee; (2) a 1-800 toll-free number from any phone; (3) by dialing *611, toll and airtime-free, from their wireless handset; or (4) by contacting our customer care center through the e-mail address provided on our web site at www.eloquiwireless.net.

B. Health and Safety Benefits.

42. As the FCC recently emphasized, mobile wireless telecommunications service is invaluable to “consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations” and provides “access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.”³⁷ Similarly, in designating the cellular carrier Smith Bagley, Inc., as an ETC in Arizona, the state commission found competitive entry to provide additional consumer choice and a potential solution to “health and safety risks associated with geographic isolation.”³⁸ Citizens in rural areas depend on mobile phones more and more to provide critical communications needs. It is self-evident that every time EW adds a cell site or increases channel capacity, the number of completed calls, including important health and safety calls, will increase. All wireless carriers are required to implement Phase II E-911 service over the next several years. E-911, which permits a caller to be located and tracked, will be useless in areas where RF is weak or non-existent. Thus, for every cell site that EW constructs, the reliability and performance of EW’s E-911 service will improve. It would be difficult to overstate the important public interest benefit that will be realized by supporting improvement to critical wireless infrastructure.

C. Competitive Response.

43. One of the principal goals of the 1996 Act was to “promote competition and reduce regulation in order to secure lower prices and high-quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications

³⁷ *Virginia Cellular, supra*, 19 FCC Rcd at 1576.

³⁸ SBI Arizona Order, *supra*, at p. 12.

technologies.”³⁹ Competition in rural areas increases facilities and spurs development of advanced communications as carriers vie for a consumer’s business.

44. EW submits that, if it is designated as an ETC and is able to compete for local exchange customers, it will spur a competitive response from affected ILECs as they seek to retain and attract customers.⁴⁰ Such a response could include: improved service quality and customer service; new investments in telecommunications plant; more rapid deployment of high-speed data (DSL) service; wider local calling areas; bundled service offerings; and lower prices overall.

45. 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 considering the impact that Western Wireless’ ETC designation in Wyoming would have on rural telephone companies, the FCC said:

We do not believe that it is self-evident that rural telephone companies cannot survive competition from wireless providers. Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers.⁴¹

Further, Congress has mandated that universal service provisions be “competitively neutral” and “necessary to preserve and advance universal service.” *See* 47 U.S.C. §253(b). The FCC has

³⁹ *See* 1996 Act (preamble).

⁴⁰ *See, e.g.*, ALLTEL Michigan Order, *supra*, at p. 11; Midwest Minnesota Order, *supra*, at p. 8; RCC Oregon Order, *supra*, at p. 13; AT&T Wireless PCS of Cleveland et al., Docket No. UT-043011 at pp. 13-14 (Wash. Util. & Transp. Comm’n, Apr. 13, 2004) (“AT&T Washington Order”); Midwest Wisconsin Order, *supra*, at pp. 8-9.

⁴¹ *WWC Wyoming Order, supra*, 16 FCC Rcd at 57. *See also* RCC Washington Order at pp. 16-17.

stated that “applying the policy of competitive neutrality will promote emerging technologies that, over time, may provide competitive alternatives in rural, insular, and high cost areas and thereby benefit rural consumers.”⁴² EW will provide consumers with wider local calling areas, mobile communications, a variety of service offerings, high-quality service, and competitive rates. By accelerating the deployment of new telecommunications choices to Tennessee’s rural consumers, designation of EW as an ETC will provide incumbent LECs with an incentive to introduce new, innovative, or advanced service offerings.

46. In most rural areas, wireless telephone service is today a convenience, but it will not emerge as a potential alternative to wireline service unless high-cost loop support is made available to drive infrastructure investment. Indeed, without the high-cost program it is doubtful that many rural areas would have wireline telephone service even today. Provision of high-cost support to EW will begin to level the playing field with the incumbent LECs and make available for the first time a potential competitor for primary telephone service in remote areas of Tennessee.⁴³

47. The consumer benefits of designating a competitive ETC are already becoming evident. Competitive carriers in numerous states have earmarked and invested high-cost support funds for additional channel capacity, new cell sites, and expedited upgrading of facilities from analog to digital.

⁴² *First Report and Order, supra*, 12 FCC Rcd at 8803

⁴³ *See, e.g.*, Midwest Wireless Communications, LLC ALJ’s Findings of Fact, Conclusions of Law, and Recommendation, OAH Docket No. 3-2500-14980-2, PUC Docket No. PT6153/AM-02-686 (ALJ Dec. 31, 2002) at ¶ 37 (“although Midwest Wireless has been successful in obtaining conventional cellular customers, it does not currently compete for basic local exchange service. Designation of Midwest as an ETC would provide the support necessary to allow Midwest to provide...service and to enhance its network so that it can compete for basic local exchange service...Competition would benefit consumers in southern Minnesota by increasing customer choice (from no choice in most areas to more than one) and providing services made possible by wireless technologies.”)

48. With high-cost support in Tennessee, EW will have an opportunity to improve its network such that customers may begin to rely on wireless service as their primary phone.

D. Impact on Universal Service Fund.

49. In the recent *Nextel Partners* order, the FCC addressed the question of whether designating NPCR, Inc. d/b/a Nextel Partners (“Nextel”) as an ETC in Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee, and Virginia would cause undue strain on the federal high-cost Fund.⁴⁴ In making that determination, the FCC used the unrealistic scenario of Nextel capturing each and every ILEC subscriber in Alabama – the state in which the affected ILECs receive the largest amount of support – which would result in Nextel receiving support equivalent to 1.88 percent of the total high-cost Fund.⁴⁵ Based on that analysis, the FCC concluded that Nextel’s designation in all seven states would not “dramatically burden” the federal high-cost Fund.⁴⁶

50. Here as well, EW’s designation will not burden the USF. EW estimates that the funds that it will receive annually if it is designated as an ETC in Tennessee will be approximately \$2.9 million, less than 0.07 percent of the USF. Even in the implausible event EW captures all of the ILEC subscribers in its Tennessee service area, EW estimates its total support would amount to only 0.41 percent of the fund, a significantly lower percentage than the 1.88 figure corresponding to just one of the seven states approved in *Nextel Partners*. By any measure, therefore, a grant of the instant Petition will not unduly burden the fund. Furthermore, there are clear economic developmental benefits. Coverage in the areas where EW proposes to

⁴⁴ See *Nextel Partners*, *supra*, 19 FCC Rcd at 16540.

⁴⁵ See *id.* at n.69.

⁴⁶ *Id.* at 16540.

build new cell sites with high cost support is poor at best and in some areas unavailable.

Included as Exhibit J is a map showing a lack of available coverage due to the rural nature of the communities EW serves.

E. State and Federal Precedent.

51. Designation of EW as an ETC is consistent with ETC decisions across the country. There are now dozens of cases at the state and federal level where designation of a wireless carrier as an ETC in a rural area was found to be in the public interest, including many instances of more than one competitive ETC in a state.⁴⁷ Numerous state commissions and the FCC have found that designating wireless carriers as ETCs will promote competition, advance universal service, and further the deployment of advanced services. For example, in its decision to designate U.S. Cellular as an ETC, the Washington Utilities and Transportation Commission stated: “rural customers will benefit from the increased availability of wireless service. These benefits include increased mobility and increased level of service.”⁴⁸ More recently, in designating Alaska DigiTel, L.L.C. as an ETC in Alaska, the Regulatory Commission of Alaska held that, “Granting the application will also provide customers more choices for meeting their communications needs..... customers will also have a choice in local calling areas, including an option for a wider local calling area than offered by the incumbent....”⁴⁹ Similarly, in its decision designating Western Wireless as an ETC in the State of Wyoming, the FCC held: “Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”⁵⁰ In a 2003 order

⁴⁷ See *supra* n. 16.

⁴⁸ *U.S. Cellular Washington Order, supra*, at ¶ 41.

⁴⁹ *Alaska DigiTel Order, supra* at p. 13.

⁵⁰ *WWC Wyoming Order, supra* n. 26, 16 FCC Rcd at 55.

granting ETC status to Midwest Wireless Wisconsin, LLC, the Wisconsin Public Service Commission held:

The Commission finds that designating Midwest as an ETC in areas served by rural companies will increase competition in those areas and, so, will increase consumer choice ... Further, designation of another ETC may spur ILEC infrastructure deployment and encourage further efficiencies and productivity gains. Additional infrastructure deployment, additional consumer choices, the effects of competition, the provision of new technologies, a mobility option and increased local calling areas will benefit consumers and improve the quality of life for affected citizens of Wisconsin.⁵¹

52. It is also evident that the deployment of high-quality wireless telecommunications infrastructure is essential to economic development in rural areas. In 2004, the West Virginia Public Service Commission designated two wireless carriers, Highland Cellular and Easterbrooke Cellular Corp., as competitive ETCs for rural areas that overlapped in places. In the order designating Easterbrooke, the PSC concluded that:

The existence of competitive options for telecommunication service, particularly the availability of wireless service, is important for rural economic development. When making decisions on whether or not to locate their facilities in a given area, businesses consider the availability of reliable voice services, data services and wireless services with sufficient coverage. Rural areas require these services in order to be able to compete with urban and suburban areas in attracting investment and jobs.⁵²

53. For all of the above reasons, the public interest would be served by the designation of EW as a competitive ETC throughout its requested service area.

VI. EW Requests Redefinition of Certain Rural ILECs' Service Areas.

54. CenturyTel of Clairborne, Inc., Citizens Communications Company Tennessee d/b/a Frontier Communications of Tennessee, LLC, North Central Telephone

⁵¹ *Midwest Wisconsin Order, supra*, at p. 8.

⁵² *Easterbrooke W.V. Rural Order, supra*, at p. 61.

Cooperative, Inc. – Tennessee and Twin Lakes Telephone Cooperative Corp. have portions of their service areas located outside of EW’s FCC-licensed territory. Because each is a rural ILEC according to USAC’s filings to the FCC, EW requests redefinition of their respective service areas pursuant to Section 54.207(c) of the FCC’s rules. Service area redefinition is necessary in order to facilitate competitive entry and advance universal service for those customers of EW living in areas served by those companies.

55. EW requests that the FCC reclassify each of the wire centers listed on Exhibit D as a separate service area and designate EW as an ETC in each of the wire centers on Exhibit D within its requested ETC service area.⁵³ Once the FCC establishes redefined service areas, either the FCC or EW may file a petition requesting the TRA to concur with the FCC’s redefinition. Upon a grant of concurrence, EW’s designation would take effect in the wire centers within its proposed ETC service area.

56. In considering the redefinition of a rural LEC service area, the FCC must take into account the recommendations of the Joint Board. In the *Recommended Decision*⁵⁴ that laid the foundation for the FCC’s *First Report and Order*, the Joint Board recommended that the FCC and state commissions consider three issues when redefining a service area.

57. First, the Joint Board noted that redefining ETC service areas below the study area level may create the potential for “cream skimming,” which could occur if a competitor

⁵³ Consistent with the FCC’s policy in *Highland Cellular* and its progeny, EW has eliminated from its petition any rural ILEC wire centers that are only partially covered by EW’s FCC-licensed service area. See *Highland Cellular, supra*, 19 FCC Rcd at 6438. Specifically, EW has excluded the Westmoreland wire center of North Central Telephone Cooperative, Inc. – Tennessee and included the entirety of the Petros wire center of Highland Telephone Cooperative, Inc. – Tennessee.

⁵⁴ *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87 (1996) (“*Recommended Decision*”).

proposed to only serve the lowest-cost exchanges.⁵⁵ There is no possibility for cream skimming in this case because EW is restricted to providing service in those areas where it is licensed by the FCC. EW is not picking and choosing among the rural LECs' exchanges. On the contrary, EW has based its requested ETC area solely on its licensed service area. Moreover, as of May 2002, all rural ILECs, including those referenced above, were required to select among the three paths adopted in the *Fourteenth Report and Order* for the disaggregation and targeting of high-cost support below the study area level. When support is no longer averaged across an incumbent LEC's study area, a competitor no longer has the incentive to enter into incumbent LEC service territories in an uneconomic manner, minimizing or eliminating even unintentional cream skimming.⁵⁶

58. Second, the Joint Board emphasized the special status of rural carriers under the 1996 Act.⁵⁷ In deciding whether to designate EW as an ETC, the FCC will weigh numerous factors and will consider how the public interest is affected by an award of ETC status pursuant to 47 U.S.C. § 214(e)(2). Accordingly, if the FCC finds that EW's ETC designation is in the public interest, the special status of the rural carriers will have been considered for purposes of determining whether EW's service area designation should be adopted for federal universal service funding purposes. Further, EW notes that no action in this proceeding will affect or

⁵⁵ *Recommended Decision*, 12 FCC Rcd at 179-80.

⁵⁶ See *WWC Wyoming Recon. Order*, *supra*, 16 FCC Rcd at 19149 ("[T]he primary objective in retaining the rural telephone company's study area as the designated service area of a competitive ETC is to ensure that competitors will not be able to target only the customers that are the least expensive to serve and thus undercut the incumbent carrier's ability to provide service to high-cost customers. Rural telephone companies, however, now have the option of disaggregating and targeting high-cost support below the study area level so that support will be distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service. Therefore, any concern regarding 'cream-skimming' of customers that may arise in designating a service area that does not encompass the entire study area of the rural telephone company has been substantially eliminated.")(footnotes omitted). See also *Fourteenth Report and Order*, *supra*, 16 FCC Rcd at 11302.

⁵⁷ See *Recommended Decision*, 12 FCC Rcd at 180.

prejudge any future action the PSC or FCC may take with respect to the LECs' status as a rural telephone company, or disturb the "rural exemption" contained in Section 251 of the Act.

59. Finally, the Joint Board recommended that the FCC and state commissions consider whether a rural LEC would face an undue administrative burden as a result of service area redefinition.⁵⁸ In the instant case, EW is proposing to redefine rural LEC service areas solely for ETC designation purposes. Service area redefinition for ETC purposes will in no way impact the way the affected rural ILECs calculate their costs, but it is solely to determine the area in which EW is to be designated as an ETC.⁵⁹ Accordingly, redefinition of rural ILEC service areas as proposed in this Petition will not impose any additional burdens on the affected ILECs.

60. Although EW does not agree with the FCC's findings in *Virginia Cellular*,⁶⁰ EW submits that in this instance it meets the FCC's criteria in its analysis of population density as a means of determining the likelihood of EW receiving uneconomic levels of support. Based upon the FCC's assumption in *Virginia Cellular* that "a low population density typically indicates a high-cost area," EW has provided population density figures to demonstrate that no cream skimming will result from designation in the proposed areas.⁶¹ As indicated in the table attached as Exhibit F, EW is not proposing to serve only, or even primarily, the more densely populated rural ILEC wire centers.

- Citizens Communications Company TN d/b/a Frontier Communications of Tennessee, LLC: The average population density of the Frontier wire centers within

⁵⁸ *Id*

⁵⁹ ILECs may disaggregate their study areas to reallocate high-cost support payments pursuant to the FCC's *Fourteenth Report and Order*. See *Fourteenth Report and Order*, *supra*, 16 FCC Rcd at 11304 n.377.

⁶⁰ See *Virginia Cellular*, *supra*, 19 FCC Rcd at 1578-79.

⁶¹ *Id*

EW's proposed ETC service area is 110.3 persons per square mile ("psm"). The population density for the sole wire center outside of EW's proposed ETC service area is 179.10 psm. Moreover, EW is proposing to cover two of the three lowest-density wire centers in the study area.

- North Central Telephone Cooperative, Inc. – Tennessee: The average population density of the North Central wire centers EW proposes to cover is approximately 47.87 psm, while the population density of the sole wire center outside of EW's proposed ETC service area is 55.22 psm. In these areas, these results show that EW is serving lower density wirecenters. Accordingly, there is no risk of cream skimming in North Central's study area.
- Twin Lakes Telephone Cooperative Corp.: The average population density of the Twin Lakes' wire centers EW proposes to cover is approximately 44.44 psm, while the population density of the sole wire center outside of EW's proposed ETC service area is 49.67 psm. In these areas, these results show that EW is serving, on average, lower density wirecenters. In fact, the difference between these two population densities is so small as to be insignificant for purposes of this analysis.⁶² Accordingly, there is no risk of cream skimming in Twin Lakes' study area.
- CenturyTel of Clairborne, Inc.: The population density of the CenturyTel wire center EW proposes to cover is approximately 76.0 psm, while the population density of the remaining wire center in that study area is 19.2 psm. While the average population

⁶² See *Virginia Cellular, supra*, 19 FCC Rcd at 1579 and n.110 ("The average population density for the MGW wire centers for which Virginia Cellular seeks ETC designation is approximately 2.30 persons per square mile and the average population density for MGW's remaining wire centers is approximately 2.18 persons per square mile. . . . Although the average population density of the MGW wire centers which Virginia Cellular proposes to serve is slightly higher than the average population density of MGW's remaining wire centers, the amount of this

density is higher inside the proposed ETC service area than outside, the disparity is not nearly as great as the more than eightfold differential that led the FCC to disapprove the designation of Virginia Cellular in a portion of its requested service area (approximately 273 psm inside and 33 psm outside).⁶³ The disparity of roughly 4 to 1 is nowhere near the 8 to 1 differential the FCC disapproved of in *Virginia Cellular*.

61. In sum, EW is not proposing to serve the lower-cost, higher-density portions of the affected rural ILECs' service areas

VII. High-Cost Certification.

62. Under FCC Rule Sections 54.313 and 54.314, carriers wishing to obtain high-cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, self-certify with the FCC and the Universal Service Administrative Corporation ("USAC") their compliance with Section 254(e) of the Federal Telecommunications Act of 1996. 47 C.F.R. §§ 54.313, 54.314. EW attaches its high-cost certification letter as Exhibit H hereto. EW respectfully requests that the FCC issue a finding that EW has met the high-cost certification requirement and that EW is, therefore, entitled to begin receiving high-cost support as of the date it receives a grant of ETC status in order that funding will not be delayed.⁶⁴

difference is not significant enough to raise cream skimming concerns.")

⁶³ *Id.* at 1579-80.

⁶⁴ See, e.g., *Centennial Cellular Tri-State Operating Partnership, Centennial Claiborne Cellular Corp., Petition for Waiver of Section 54.313(d) of the Commission's Rules and Regulations*, 19 FCC Rcd 15587 (2004); *Grande Communications, Inc., Petition for Waiver of Sections 54.307 and 54.314 of the Commission's Rules and Regulations*, 19 FCC Rcd 15580 (2004).

VIII. Anti-drug Abuse Certification

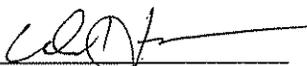
63. EW certifies that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862. *See* Exhibit I hereto.

WHEREFORE, pursuant to Section 214(e)(2) of the Act, EW respectfully requests that the FCC: (1) enter an Order designating EW as an ETC for its requested ETC service area as shown on Exhibit A hereto; and (2) certify to the FCC that EW will use the support for its intended purpose.

Respectfully submitted,
Tennessee RSA No. 3 Limited Partnership
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June 23, 2005

Exhibit A

MAP OF PROPOSED SERVICE AREA

**DUE TO EXHIBIT A's LARGE SIZE IT IS BEING SUBMITTED BY
HAND-DELIVERY SEPARATELY**

Non-Rural Wirecenters
For Immediate Designation

Company Name	Locality	Wirecenter Code	Partial
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	CARTHAGE	CRHTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	CUMBERLDGP	CLDGTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	DECATUR	DCTRNTMT	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	FORK RIDGE	MDBOKYMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	GALLATIN	GALLTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	HARRIMAN	HIMNTNMA	
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	HARTSVILLE	HTVLTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	JELICO	JLLCTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	KINGSTON	KGTNTNMT	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	KNOXVILLE	KNVLTNWH	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	LAFOLLETTE	LFLTNNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	LAKE CITY	LKCYTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	LEBANON	LBNNTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	LENOIRCITY	LNCYTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	LOUDON	LODNTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	MAYNARDVL	MYVLTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	NORRIS	NRRSTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	OAK RIDGE	OKRGTNMT	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	OLIVER SPG	OLSPTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	ROCKWOOD	RKWDTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	ROGERSVL	RRVLTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	SNEEDVILLE	SNVLTNMA	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	SPRINGCITY	SPCYTNMT	p
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	SWEETWATER	SWTWTNMT	p

Rural ILEC Study Areas Served In Their Entirety

Company Name	Locality	Wirecenter Code
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	DEER LODGE	DRLDTNXA
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	HUNTSVILLE	HNVTNXA
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	OAKDALE	OKDLTNXA
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	ONEIDA	ONEDTNXA
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	PETROS	PTRSTNXA
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	ROBBINS	RBNSTNXA
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	SUNBRIGHT	SNBRTNXA
HIGHLAND TELEPHONE COOPERATIVE, INC. - TN	WARTBURG	WABGTNXA

Rural Wirecenters Requiring Redefintion

Exhibit D
Page 1

Company Name	Locality	Wirecenter Code	Rec
CENTURYTEL OF CLAIRBORNE, INC	NEWTAZWELL	NWTZTNXA	IN
CENTURYTEL OF CLAIRBORNE, INC	SHARPSCHPL	SHCPTNXA	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	ALGOOD	ALGDTNXA	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	COOKEVILLE	CKVLTNXA	IN
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	CROSSVILLE	CSVLTNXA	IN
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	DRSDTNXA	DRESDEN	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	LTHMTNXA	LATHAM	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	MARTTNXA	MARTIN	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	MMVLTNXA	MCMINNVL	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	MONTEREY	MTRYTNXA	IN
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	PLVLTNXA	PALMERSVL	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	PLEASANTHL	PLHLTNXA	IN
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	SHRNTNXA	SHARON	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	SIDNTNXA	SIDONIA	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	SPARTA	SPRTTNXA	OUT
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	TANSI	TANSTNXA	IN
NORTH CENTRAL TELEPHONE COOPERATIVE. INC. - TN	BETHPAGE	BTHPTNXA	OUT
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	DEFEATED	DFDTNXA	OUT
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	GREENGROVE	GNGVTNXA	IN
NORTH CENTRAL TELEPHONE COOPERATIVE. INC. - TN	HILLSDALE	HLDLTNXA	IN
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	LAFAYETTE	LFYTTNXA	IN
NORTH CENTRAL TELEPHONE COOPERATIVE. INC. - TN	OKGVTNXA	OAK GROVE	OUT
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	PLEASASHAD	PLSHTNXA	OUT
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	RDBOLNGSPG	RBSPTNXA	IN
NORTH CENTRAL TELEPHONE COOPERATIVE. INC. - TN	WESTMORELD	WMLDTNXA	OUT
TWIN LAKES TELEPHONE COOPERATIVE CORP	BAXTER	BXTRTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	BYRDSTOWN	BYTWTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	CELINA	CELNTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	CHSTNUMOND	CHMNTNXA	OUT
TWIN LAKES TELEPHONE COOPERATIVE CORP	CLARKRANGE	CLRKTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	COOKEVL SO	CKVLTNXB	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	CRAWFORD	CRFRTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	GAINESBORO	GNBOTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	GRANVILLE	GRVITNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	HIGHLAND	HGLDTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	JAMESTOWN	JMTWTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	LIVINGSTON	LVTNTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	MOSS	MOSSTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	NORTH SPG	NRSPTNXA	IN
TWIN LAKES TELEPHONE COOPERATIVE CORP	RICKMAN	RKMNTNXA	IN

Exhibit E

DECLARATION

DECLARATION UNDER PENALTY OF PERJURY

I, John Miller, do hereby declare under penalty of perjury as follows:

1. I am the Chief Executive Officer of Tennessee RSA No. 3 Limited Partnership d/b/a Eloqui Wireless (“Eloqui”)
2. This Affidavit is submitted in support of Eloqui’s Petition for Designation as an Eligible Telecommunications Carrier (“ETC”).
3. Eloqui currently provides cellular service in the Tennessee 3 Rural Service Area (“R SA”) – Macon.
4. As a carrier not subject to state commission jurisdiction in the State of Tennessee Eloqui 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. Eloqui meets the criteria for ETC designation as explained herein.
6. Eloqui 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. Eloqui 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 Rcd 8776, 8810-11 (1997) (“Universal Service Order”)*. Eloqui 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 Eloqui 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 this 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. Eloqui will comply with any and all minimum local usage requirements adopted by the FCC. Eloqui 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 facilitates 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). Eloqui currently uses out-of-band digital signaling and in-band multi-frequency (“MF”) signaling that is functionally equivalent to DTMF signaling. Eloqui 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.* Eloqui 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 the delivery of such information. *See id.* at 8815-17. Eloqui currently provides all of its customers with access to emergency service by dialing 911 in satisfaction of this requirement. Eloqui 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. Eloqui meets this requirement by providing all of its customers with access to operator services provided by either the Company or other entities (*e.g.*, LECs, IXC, 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. Eloqui 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 the Company 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. Eloqui 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

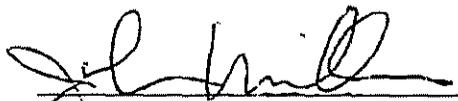
provide toll blocking, which allows customers to block the completion of outgoing toll calls. *Universal Service Order*, 12 FCC Rcd at 8821-22. Eloqui currently has no Lifeline customers in Tennessee because only carriers designated as an ETC can participate in Lifeline. See 47 C.F.R. § 54.400-415. Once designated as an ETC, Eloqui will participate in Lifeline as required, and will provide its current toll blocking capabilities in satisfaction of the FCC's requirement. Today, the Company provides toll-blocking services for all international calls and toll blocking for selected customers. Accordingly, Eloqui 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 offerings.

8. Eloqui 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 the company 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 June 23, 2005.



John Miller, Chief Executive Officer
Tennessee RSA No. 3 Limited Partnership

Exhibit F

POPULATION DENSITY STUDY

Exhibit F
Population Density Study Results

Company Name	Locality	WCtr Code	Partial	In/ Out	Area	Pops	Pop Density	
CENTURYTEL OF CLAIRBORNE, INC.	NEWTAZWELL	NWTZTNXA	p	IN	210.69	16,022	76.0	IN- 76.0
CENTURYTEL OF CLAIRBORNE, INC.	SHARPSCHPL	SHCPTNXA	p	OUT	86.57	1,664	19.2	OUT - 19.2
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	ALGOOD	ALGDTNXA		IN	32.75	6,432	196.4	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	COOKEVILLE	CKVLTNXA	p	IN	116.41	37,818	324.9	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	CROSSVILLE	CSVLTNXA	p	IN	385.55	32,496	84.3	IN - 110.3
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	DRSDTNXA	DRESDEN		OUT	107.92	6,147	57.0	OUT - 179.1
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	LTHMTNXA	LATHAM		OUT	33.70	750	22.3	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	MARTTNXA	MARTIN		OUT	93.43	14,791	158.3	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	MMVLTNXA	MCMINNVL		OUT	11.91	12,238	1,027.8	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	MONTEREY	MTRYTNXA		IN	132.30	5,917	44.7	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	PLVLTNXA	PALMERSVL		OUT	80.81	1,271	15.7	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	PLEASANTHL	PLHLTNXA		IN	66.77	3,753	56.2	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	SHRNTNXA	SHARON		OUT	21.17	1,578	74.6	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	SIDNTNXA	SIDONIA		OUT	31.31	898	28.7	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	SPARTA	SPRTTNXA	p	OUT	177.20	8,592	48.5	
CITIZENS COMM CO TN DBA FRONTIER COMM OF TN, LLC	TANSI	TANSTNXA		IN	125.67	8,245	65.6	
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	BETHPAGE	BTHPTNXA	p	OUT	41.25	1,958	47.5	
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	DEFEATED	DFTDTNXA	p	OUT	45.90	1,659	36.1	
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	GREENGROVE	GNGVTNXA	p	IN	29.42	970	33.0	IN - 47.87
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	HILLSDALE	HLDLTNXA		IN	41.20	1,272	30.9	OUT-55.22
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	LAFAYETTE	LFYTTNXA		IN	158.72	12,829	80.8	
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	OKGVTNXA	OAK GROVE		OUT	51.81	3,351	64.7	
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	PLEASASHAD	PLSHTNXA	p	OUT	24.36	746	30.6	
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	RDBOLNGSPG	RBSPTNXA		IN	103.66	4,852	46.8	
NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN	WESTMORELD	WMLDTNXA	p	OUT	73.06	7,104	97.2	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	BAXTER	BXTRTNXA	p	IN	150.34	7,861	52.3	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	BYRDSTOWN	BYTWTNXA		IN	85.13	3,880	45.6	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	CELINA	CELNTNXA		IN	134.05	4,250	31.7	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	CHSTNUMOND	CHMNTNXA	p	OUT	49.67	1,623	32.7	IN - 44.44
TWIN LAKES TELEPHONE COOPERATIVE CORP.	CLARKRANGE	CLRKTNXA		IN	157.01	4,783	30.5	OUT - 49.67
TWIN LAKES TELEPHONE COOPERATIVE CORP.	COOKEVL SO	CKVLTNXB	p	IN	31.69	5,934	187.3	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	CRAWFORD	CRFRTNXA		IN	104.48	2,177	20.8	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	GAINESBORO	GNBOTNXA		IN	181.14	8,982	49.6	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	GRANVILLE	GRVITNXA		IN	33.46	642	19.2	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	HIGHLAND	HGLDTNXA		IN	43.99	660	15.0	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	JAMESTOWN	JMTWTNXA		IN	413.17	12,461	30.2	
TWIN LAKES TELEPHONE COOPERATIVE CORP.	LIVINGSTON	LVTNTNXA		IN	302.82	14,122	46.6	

Exhibit F
Population Density Study Results

TWIN LAKES TELEPHONE COOPERATIVE CORP.	MOSS	MOSSTNXA	IN	70.19	2,166	30.9
TWIN LAKES TELEPHONE COOPERATIVE CORP.	NORTH SPG	NRSPTNXA	IN	53.43	399	7.5
TWIN LAKES TELEPHONE COOPERATIVE CORP.	RICKMAN	RKMNTNXA	IN	86.24	4,753	55.1

Exhibit G
STATE ORDER

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

APPLICATION OF ADVANTAGE CELLULAR
SYSTEMS, INC. TO BE DESIGNATED AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

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)
)
)
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DOCKET NO.
02-01245

ORDER

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("Application") filed on November 21, 2002.

Background

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

The January 27, 2003 Authority Conference

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.¹

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, “[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission.”

The Authority’s lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission’s jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission (“FCC”) to perform the ETC designation.²

¹ This finding is not inconsistent with the Authority’s decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission’s rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

² 47 U.S.C. § 214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

As a matter of “state-federal comity,” the FCC requires that carriers seeking ETC designation “first consult with the state commission to give the state commission an opportunity to interpret state law.”³ Most carriers that are not subject to a state regulatory commission’s jurisdiction seeking ETC designation must provide the FCC “with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation.”⁴

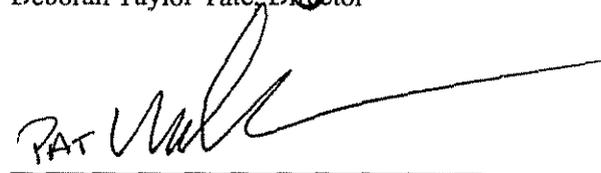
The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

IT IS THEREFORE ORDERED THAT:

The *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* is dismissed for lack of subject matter jurisdiction.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director

³ *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

⁴ *See id.* (The “affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.”)

Exhibit H

HIGH-COST CERTIFICATION LETTER

June 23, 2005

Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

**Re: Tennessee RSA No. 3 Limited Partnership
High-Cost Certification**

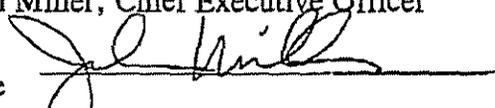
To the Commission:

Tennessee RSA No. 3 Limited Partnership d/b/a Eloqui Wireless ("Eloqui" and/or "Company") has submitted a Petition for ETC designation in the State of Tennessee as required by Sections 54.313(b) and 54.314(b) of the Federal Communications Commission's rules, 47 C.F.R. §§ 54.313(b), 54.313(b), Eloqui hereby submits the certification below in order to begin receiving high-cost support in its designated ETC area.

Accordingly, as Chief Executive Officer of Eloqui, I hereby certify on behalf of the company and under penalty of perjury that all high-cost support provided to the Company 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). I also certify that I am authorized to make this certification on the company's behalf.

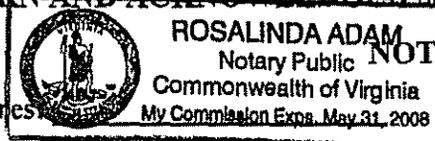
John Miller, Chief Executive Officer

Date

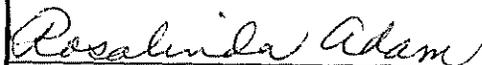


~~SUBSCRIBED, SWORN AND ACKNOWLEDGED~~ before me this 23rd day of June, 2005.

My Commission Expires



NOTARY PUBLIC



Rosalinda Adam

Exhibit I

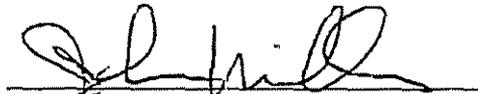
ANTI-DRUG ABUSE CERTIFICATION

DECLARATION UNDER PENALTY OF PERJURY

I, John Miller, do hereby declare under penalty of perjury as follows:

1. I am the Chief Executive Officer of Tennessee RSA No. 3 Limited Partnership d/b/a Eloqui Wireless ("Petitioner").
2. To the best of my knowledge, the Petitioner referred to in the foregoing Petition, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non voting) of the applicant as specified in 1.2002(b) of the Commission's rules are not subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862.
3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 23 2005.



John Miller, Chief Executive Officer
Tennessee RSA No. 3 Limited Partnership
d/b/a Eloqui Wireless

Commonwealth of Virginia
County of Fairfax

Subscribed and sworn to me this
23rd day of June, 2005.



Notary Public - Rosalinda Adam

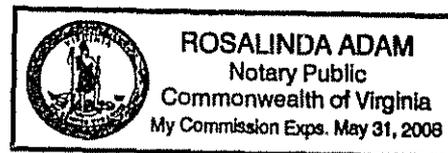
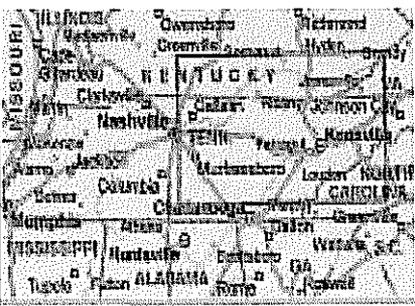


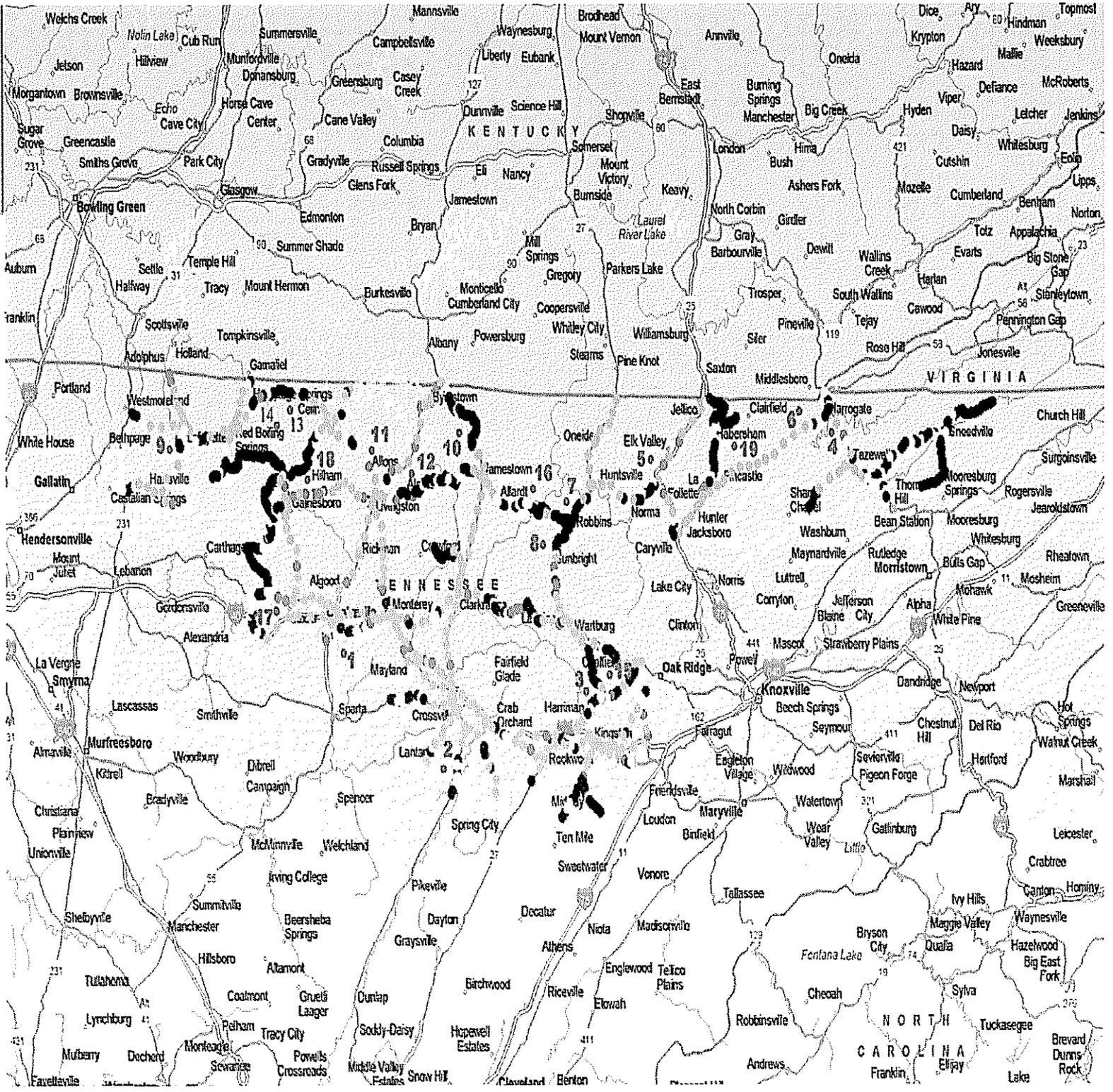
Exhibit J

COVERAGE MAP



CDMA Cell Performance
 ● Completed
 ○ Blocked
 ⊙ Dropped
 ● No Service

Community	County
1 S. Cookeville	Putnam
2 Tansi	Cumberland
3 Harriman	Roane
4 Harrogate	Claiborne
5 Elk Valley	Campbell
6 Powell Valley	Claiborne
7 Robbins	Scott
8 Elgin	Scott
9 Hillsdale	Macon
10 N. Jamestown	Fentress
11 Allons	Overton
12 Monroe	Overton
13 Hermitage Springs	Clay
14 Whitleyville	Jackson
15 Coalfield	Morgan
16 Allardt	Fentress
17 Baxter	Putnam
18 Hilham	Overton
19 Habersham	Campbell



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the AMENDMENT TO THE PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF TENNESSEE was sent via U.S. Mail to the following persons on this 23rd day of June 2005.

Bell South Telecommunications, Inc.
333 Commerce Street
Nashville, Tennessee 37201-3300

Pat Miller, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

General Manager
CenturyTel of Claiborne
P.O. Box 100
507 Main Street
New Tazewell, Tennessee 37825

General Manager
Citizens Telecommunications Company of
Tennessee
P.O. Box 770
300 Bland Street
Bluefield, West Virginia 24701

F. Thomas Rowland
General Manager
North Central Telephone Cooperative, Inc. -
Tennessee
872 Highway 52 Bypass East
P.O. Box 70
Lafayette, Tennessee 37083-0070

General Manager
Twin Lakes Telephone Cooperative Corp.
201 West Gore Avenue
Gainesboro, Tennessee 38562

General Manager
Highland Telephone Cooperative, Inc. – TN
P.O. Box 119
Sunbright, Tennessee 37872


Donna Brown