



## 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. RCC 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.<sup>1</sup> RCC is therefore considered a common carrier under the Act.

4. RCC is authorized by the FCC as a Cellular Radiotelephone Service provider in the Alabama Rural Service Area ("RSA") 3 – Lamar, Alabama, Alabama RSA 4 – Bibb, Alabama RSA 5 – Cleburne, Alabama RSA 7 – Butler and Personal Communications Service ("PCS") provider in the Montgomery Alabama Basic Trading Area 305 (C4) and the Atlanta, Georgia Metropolitan Trading Area 011 (A20). In 2002 RCC was granted ETC designation in a majority of their service area in Alabama.<sup>2</sup> Since that time, RCC has obtained additional PCS licenses in Alabama, and, therefore RCC now seeks to extend its ETC designation in Alabama to those newly acquired portions of its service area. A map showing RCC's previously designated ETC areas and RCC's newly proposed service area is attached hereto as Exhibit A. RCC is a commercial mobile radio service ("CMRS") provider pursuant to the definition of "mobile service" provided in 47 U.S.C. § 153(27). RCC 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

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<sup>1</sup> 47 U.S.C. § 54.1 *et seq.*

<sup>2</sup> *RCC Holdings, Inc.*, 17 FCC Rcd 23532 (2002), *review pending* ("RCC Alabama Order")

mechanisms, and (ii) advertise the availability of such services.<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> Accordingly, subject to the limited exceptions discussed *infra*,<sup>6</sup> RCC now requests designation throughout RCC’s FCC-licensed service area in Alabama.

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.<sup>7</sup> Thus, where RCC’s proposed ETC service area covers an entire rural ILEC study area, the FCC may designate RCC as an ETC without the need to redefine the LEC service areas.

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

8. 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

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<sup>3</sup> See 47 U.S.C. § 214(e)(1).

<sup>4</sup> *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8809-25 (1997) (“*First Report and Order*”).

<sup>5</sup> See 47 U.S.C. § 214(e)(5).

<sup>6</sup> RCC’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*”).

<sup>7</sup> See 47 C.F.R. § 54.207(b).

exchange service and exchange access that is not subject to the jurisdiction of a State Commission.”

9. 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.”<sup>8</sup> 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).<sup>9</sup>

10. On October 19, 2001, Administrative Law Judge John A. Garner of the Alabama Public Service Commission (“APSC”) determined that the APSC does not have jurisdiction over CMRS carriers. Judge Garner's letter, a copy of which is attached hereto as Exhibit E stated, “the APSC has no authority to regulate in any respect cellular services, broadband personal communications services and commercial mobile radio services in Alabama.” Judge Garner directed the applicant to file its request for ETC status with the FCC. The PSC has clearly indicated it does not intend to designate CMRS carriers as ETCs. Accordingly, RCC 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. RCC Offers the Supported Services to Qualify for Federal USF Support.**

11. 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

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<sup>8</sup> *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@*).

<sup>9</sup> *Federal-State Joint Board on Universal Service, Promoting Deployment and Subscribership 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).

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).

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

13. Voice Grade Access. RCC provides voice grade access to the public switched network through interconnection arrangements with local telephone companies. RCC 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.

14. Local Usage. RCC 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.<sup>10</sup> 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.<sup>11</sup> Instead, the FCC has determined that when a carrier offers a variety of rate plans containing

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<sup>10</sup> See *First Report and Order*, 12 FCC Rcd at 8813.

<sup>11</sup> See *Federal-State Joint Board on Universal Service, Order and Order on Reconsideration*, FCC 03-170 at ¶ 14 (rel. July 14, 2003).

varying amounts of local usage, it meets that local usage requirement.<sup>12</sup> Other states have similarly declined to impose a specific minimum quantity of local usage.<sup>13</sup>

15. RCC 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 RCC will comply with any and all minimum local usage requirements adopted by the FCC.

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

17. 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.<sup>14</sup> RCC provides single

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<sup>12</sup> See, e.g., *Farmers Cellular, Inc.*, 18 FCC Rcd 3848, 3852 (2003) (“*Farmers Cellular*”); *RCC Alabama Order*, *supra* at 23539 (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.”).

<sup>13</sup> 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 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*”); *NCPR, Inc. d/b/a Nextel Partners*, Docket No. 8081-T1-101 (Wisc. PSC, Sept. 30, 2003) (“*Nextel Wisconsin Order*”).

party service, as that term is defined in Section 54.101 of the FCC's rules. *See* 47 C.F.R. § 54.101.

18. Access to Emergency Services. RCC currently provides 911 access to emergency services throughout its service area.

19. Access to Operator Services. RCC provides customer access to operator services. Customers can reach operator services in the traditional manner by dialing "0".

20. Access to Interexchange Services. RCC has signed interconnection agreements with interexchange carriers. These arrangements enable RCC to provide its customers access to interexchange services. Customers may also "dial around" to reach their interexchange carrier of choice.

21. Access to Directory Assistance. Subscribers to RCC's services are able to dial "411" or "555-1212" to reach directory assistance from their mobile phones.

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

23. Pursuant to Section 54.201 of the FCC's rules, 47 C.F.R. § 54.201, RCC 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, RCC 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 RCC's Application Would Serve the Public Interest.**

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<sup>14</sup> *See First Report and Order*, 12 FCC Rcd at 8810.

24. In areas served by a rural telephone company, the Commission must find that a grant of ETC status would serve the public interest.<sup>15</sup> In numerous cases decided by the FCC and state commissions, the answer has been in the affirmative.<sup>16</sup> In areas served by non-rural LECs, 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.<sup>17</sup> Although the FCC has clarified that designating a competitive ETC in non-rural areas will not necessarily

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<sup>15</sup> See 47 U.S.C. § 214(e)(2).

<sup>16</sup> 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*; *ADI 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 (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*.

<sup>17</sup> *Cellco Partnership d/b/a Bell Atlantic Mobile*, 16 FCC Rcd 39, 45 (2000).

be in the public interest in every case,<sup>18</sup> RCC 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.<sup>19</sup>

25. 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 enabling orders.<sup>20</sup> 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.”<sup>21</sup> 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.<sup>22</sup>

26. The FCC must determine whether designation of RCC 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,

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<sup>18</sup> *Virginia Cellular, supra*, 19 FCC Rcd at 1575.

<sup>19</sup> 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.

<sup>20</sup> 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).

<sup>21</sup> See 1996 Act (preamble).

<sup>22</sup> *First Report and Order, supra*, 12 FCC Rcd at 8801, 8861-62; *Ninth Report and Order, supra*, 14 FCC Rcd at 20480.

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.”<sup>23</sup>

27. 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 Commission applies all or part of it to RCC’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.<sup>24</sup>

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

28. As an initial matter, RCC believes strongly that any public costs likely to be incurred as a result of RCC’s designation are negligible compared to the benefits specifically articulated below. RCC notes that it is *public* costs that matter, not the cost to individual companies, as the 5<sup>th</sup> Circuit made clear in *Alenco Communications v. FCC*, 201 F.3d 608, 622 (5<sup>th</sup> Cir. 2000). Moreover, RCC believes that the impact of its designation as an ETC in Alabama

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<sup>23</sup> See 47 U.S.C. § 254(b)(3).

<sup>24</sup> *Virginia Cellular, supra*, 19 FCC Rcd at 1575-76.

on the size of the USF would be negligible.<sup>25</sup> This minimal cost is by far outweighed by numerous public interest benefits which will accrue to Alabama consumers as a result of RCC's designation, as follows:

**A. Increased Consumer Choice and Service Quality.**

29. Designation of RCC will advance universal service, promote competition and facilitate the provision of advanced communications services to the residents of rural Alabama. 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.

30. To date, a number of wireless carriers have been designated as ETCs in various states.<sup>26</sup> 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."<sup>27</sup> Recognizing these unique advantages, the FCC has found that "imposing additional burdens on wireless entrants would be particularly harmful to competition in rural

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<sup>25</sup> See Section D, *infra*, for discussion of impacts on the USF.

<sup>26</sup> 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*.

<sup>27</sup> *WWC Wyoming Order, supra*, 16 FCC Rcd at 55.

areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.”<sup>28</sup>

31. In addition, with ETC designation, RCC 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 RCC to reach out to those counties in Alabama that have no choice of service and provide them with quality telephone service.

32. RCC commits to use high-cost support to improve service in areas it would not otherwise invest in. As RCC 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 RCC’s service for the first time. Others will see service quality and reliability improvement such that they may choose RCC’s service instead of ILECs, as opposed to confining their use of RCC’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.

33. As an ETC, RCC will have the obligation to provide service to consumers upon reasonable request.<sup>29</sup> Specifically, the company commits to undertake the following steps in response to consumer requests for service:

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<sup>28</sup> *First Report and Order, supra*, 12 FCC Rcd at 8882-83

<sup>29</sup> *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*,

1. If a request comes from a customer within its existing network, RCC will provide service immediately using its standard customer equipment.
2. If a request comes from a customer residing in any area where RCC does not provide service, RCC 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, RCC 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, RCC 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 RCC has refused to respond to a reasonable request for service.

RCC believes these service provisioning commitments – which have been accepted by the FCC, and other state commissions<sup>30</sup> – will ensure that the company is responsive to consumers' needs while acting as a proper steward of available high-cost support funds.

34. 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.<sup>31</sup>

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*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. . .”)

<sup>30</sup> 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.

Once designated, however, RCC commits to use universal service support to expand and improve its network coverage in areas where wireless coverage is poor or nonexistent. Specifically, within the first five years of receiving high-cost support, RCC intends to use a portion of its high-cost support to construct new cell sites that will provide service to the following communities: Newville in Henry County (Century Tel of Alabama, LLC Southern wirecenter - NWVIALXA), Capps and Headland in Henry County (Century Tel of Alabama, LLC Southern Headland wirecenter - \_HDLDALXA), Lawrenceville and Abbeville in Henry County (Century Tel of Alabama, LLC Southern Abbeville wirecenter - ABVLALXA), Southern Union and Oak Bowery in Lee County (Bellsouth Opelika wirecenter - OPLKALMT), Pittsview, Seale and South Pheonix in Russell County (Bellsouth Pheonix City wirecenters – PHCYALFM and PHCYALMA), Lanett and Cusetta in Chambers County (Valley Telephone Co., Inc. Langdale wirecenter - LNDLALXA) and Teresa, Sparks, Eufala and Lake Point in Barbour County (Bellsouth Georgetown wirecenter – EUFLALMA). This commitment is based upon RCC’s estimate of the amount of high-cost support it expects to receive in the first five years as an ETC.

35. Without high-cost universal service support, RCC 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*, RCC 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.<sup>32</sup> However, the proposed construction plan represents

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<sup>31</sup> See *South Dakota Preemption Order*, *supra*, 15 FCC Rcd at 15174-75; *Nextel Kentucky Order*, *supra*, at p. 5.

<sup>32</sup> *Virginia Cellular*, *supra*, 19 FCC Rcd at 15171.

RCC's firm commitment to build facilities out to rural areas of Alabama with its high-cost support.

36. RCC also commits to undertake several commitments to ensure high-quality service, responsiveness to customer concerns, and access to relevant information by the APSC. 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.<sup>33</sup> RCC hereby commits to use high-cost support in its service area to improve coverage and channel capacity to improve system performance when needed. RCC also commits to comply with the Cellular Telecommunications Industry Association Consumer Code for Wireless Service.<sup>34</sup>

37. RCC already provides consumers with a high quality service. The company employs a regional staff of more than 60 people, including an experienced engineering and technical support team that provides on-call emergency support 24 hours a day, seven days a week. RCC's response time to an outage report is normally less than one hour.

38. RCC'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

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<sup>33</sup> *Id.* at 1584-85; Nextel Kentucky Order, *supra*, at pp. 8-10.

<sup>34</sup> The CTIA Code is available on the Web at [http://files.ctia.org/pdf/The\\_Code.pdf](http://files.ctia.org/pdf/The_Code.pdf).

sites to supplement back-up batteries. Back-up batteries at RCC'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.

39. RCC'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 Alabama; (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.rccwireless.com](http://www.rccwireless.com).

**B. Health and Safety Benefits.**

40. 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."<sup>35</sup> Similarly, in designating the cellular carrier Smith Bagley, Inc.,

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<sup>35</sup> *Virginia Cellular, supra*, 19 FCC Rcd at 1576.

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.”<sup>36</sup> Citizens in rural areas depend on mobile phones more and more to provide critical communications needs. It is self-evident that every time RCC 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 RCC constructs, the reliability and performance of RCC’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.**

41. 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 technologies.”<sup>37</sup> Competition in rural areas increases facilities and spurs development of advanced communications as carriers vie for a consumer’s business.

42. RCC 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.<sup>38</sup> Such a response could include: improved service quality and

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<sup>36</sup> SBI Arizona Order, *supra*, at p. 12.

<sup>37</sup> See 1996 Act (preamble).

<sup>38</sup> 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. &

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.

43. 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.<sup>39</sup>

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 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.”<sup>40</sup> RCC 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 Alabama’s rural

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Transp. Comm’n, Apr. 13, 2004) (“AT&T Washington Order”); Midwest Wisconsin Order, *supra*, at pp. 8-9.

<sup>39</sup> *WWC Wyoming Order, supra*, 16 FCC Rcd at 57. *See also* RCC Washington Order at pp. 16-17.

<sup>40</sup> *First Report and Order, supra*, 12 FCC Rcd at 8803.

consumers, designation of RCC as an ETC will provide incumbent LECs with an incentive to introduce new, innovative, or advanced service offerings.

44. 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 RCC 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 Alabama.<sup>41</sup>

45. 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.

46. With high-cost support in Alabama, RCC 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.**

47. 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

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<sup>41</sup> 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.”)

federal high-cost Fund.<sup>42</sup> 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.<sup>43</sup> Based on that analysis, the FCC concluded that Nextel’s designation in all seven states would not “dramatically burden” the federal high-cost Fund.<sup>44</sup>

48. Here as well, RCC’s designation will not burden the USF. RCC currently receives approximately \$3.1 million annually for its currently eligible ETC areas in Alabama. Once the pending redefinition areas are granted RCC estimates that it will receive approximately \$3.5 million annually for ETC eligible areas in Alabama. RCC estimates that the funds that it will receive annually if it is designated as an ETC in these additional areas of Alabama will be approximately an additional \$120,000, bringing RCC’s estimated annual total of high cost support in Alabama to \$3.5 million, less than 0.08 percent of the USF. Even in the implausible event RCC captures all of the ILEC subscribers in its Alabama service area, RCC 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 RCC proposes to build new cell sites with high cost support is poor at best and in some areas unavailable.

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<sup>42</sup> See *Nextel Partners*, *supra*, 19 FCC Rcd at 16540.

<sup>43</sup> See *id.* at n.69.

<sup>44</sup> *Id.* at 16540.

**E. State and Federal Precedent.**

49. Designation of RCC 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.<sup>45</sup> 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.”<sup>46</sup> 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.....”<sup>47</sup> 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.”<sup>48</sup> In a 2003 order 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

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<sup>45</sup> See *supra* n 16.

<sup>46</sup> *U.S. Cellular Washington Order, supra*, at ¶ 41.

<sup>47</sup> *Alaska DigiTel Order, supra* at p. 13.

<sup>48</sup> *WWC Wyoming Order, supra* n. 26, 16 FCC Rcd at 55.

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.<sup>49</sup>

50. 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.<sup>50</sup>

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

## **VII. High-Cost Certification.**

52. 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

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<sup>49</sup> *Midwest Wisconsin Order, supra*, at p. 8.

<sup>50</sup> *Easterbrooke W.V. Rural Order, supra*, at p. 61.

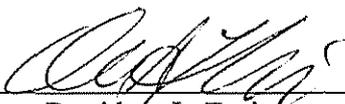
Telecommunications Act of 1996. 47 C.F.R. §§ 54.313, 54.314. RCC attaches its high-cost certification letter as Exhibit E hereto. RCC respectfully requests that the FCC issue a finding that RCC has met the high-cost certification requirement and that RCC is, therefore, entitled to begin receiving high-cost support as of the date it receives a grant of ETC status in order that funding will not be delayed.<sup>51</sup>

### VIII. Anti-drug Abuse Certification

53. RCC 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 G hereto.

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

Respectfully submitted,  
RCC Holdings, Inc.

By:   
David A. LaFuria  
B. Lynn F. Ratnavale  
Lukas, Nace, Gutierrez & Sachs, Chtd  
1650 Tysons Blvd.  
Suite 1500  
McLean, VA 22102

June 23, 2005

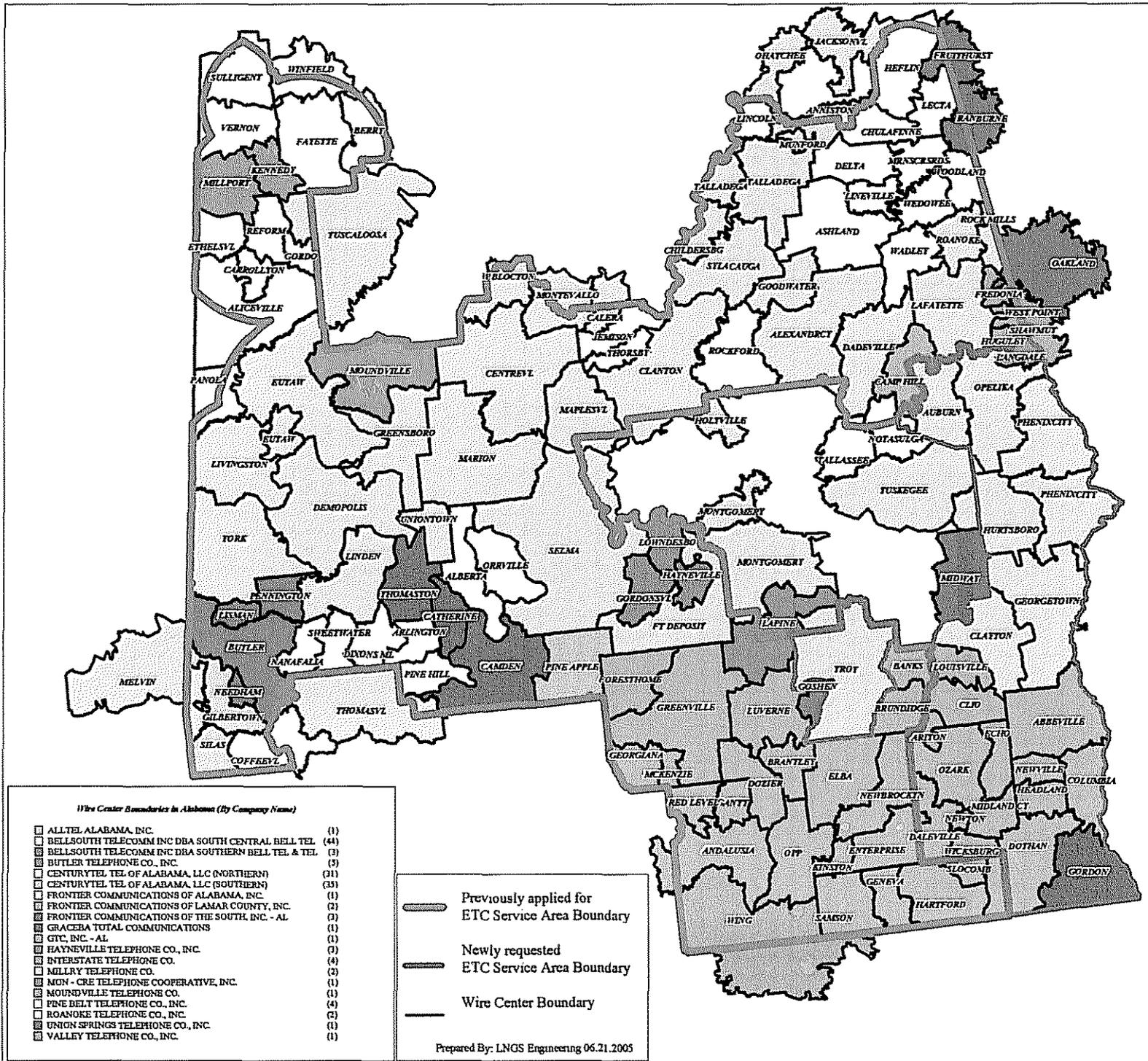
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<sup>51</sup> See, e.g., *Centennial Cellular Tri-State Operating Partnership, Centennial Claiborne Cellular Corp., Petition for Waiver of Section 54.313(d) of the Commission's Rules and Regulations*, 19 FCC Rcd 15587 (2004); *Grande Communications, Inc., Petition for Waiver of Sections 54.307 and 54.314 of the Commission's Rules and Regulations*, 19 FCC Rcd 15580 (2004).

**Exhibit A**

**MAP OF PROPOSED SERVICE AREA**

# RCC Holdings, Inc. - Alabama ETC Service Area



**Exhibit B**  
**Non-Rural Wirecenters for Immediate Designation**

Company Name	Wirecenter Code	Locality
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	AUBNALMA	AUBURN
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	CLANALMA	CLANTON
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	EUFLALMA	GEORGETOWN
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	HRBOALOM	HURTSBORO
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	OPLKALMT	OPELIKA
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	PHCYALFM	PHENIXCITY
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	PHCYALMA	PHENIXCITY
BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL BELL TEL	TROYALMA	TROY
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	ABVLALXA	ABBEVILLE
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	ARITALXA	ARITON
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	CLIOALXA	CLIO
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	CLMAALXA	COLUMBIA
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	DLVLALXA	DALEVILLE
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	DTHNALXA	DOTHAN
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	ECHOALXA	ECHO
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	HDLDALXA	HEADLAND
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	LSVLALXA	LOUISVILLE
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	MLCYALXA	MIDLAND CY
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	NWTNALXA	NEWTON
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	NWVIALXA	NEWVILLE
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	OZRKALXA	OZARK
CENTURYTEL TEL OF ALABAMA, LLC (SOUTHERN)	WCBGALXA	WICKSBURG

**Exhibit C**  
**Rural Wirecenters for Immediate Designation**

Company Name	Wirecenter Code	Locality	Covers In Entirety
GRACEBA TOTAL COMMUNICATIONS	ASFRALXA	GORDON	Yes
VALLEY TELEPHONE CO., INC.	LNDLALXA	LANGDALE	Yes

**Exhibit D**

**DECLARATION**

## DECLARATION UNDER PENALTY OF PERJURY

I, Elizabeth L. Kohler, do hereby declare under penalty of perjury as follows:

1. I am the Vice President, Legal Services of RCC Holdings, Inc. ("RCC")
2. This Affidavit is submitted in support of RCC's Petition for Designation as an Eligible Telecommunications Carrier ("ETC").
3. RCC currently provides cellular service in the Alabama 3 Rural Service Area ("RSA") – Lamar, Alabama RSA 4 – Bibb, Alabama RSA 5 – Cleburne, Alabama RSA 7 – Butler and Personal Communications Service in the Montgomery, Alabama Basic Trading Area 305 (C4) and the Atlanta, Georgia Metropolitan Trading Area 011 (A20).
4. As a carrier not subject to state commission jurisdiction in the State of Alabama, RCC 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. RCC meets the criteria for ETC designation as explained herein.
6. RCC 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. RCC 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*"). RCC 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 RCC 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. RCC will comply with any and all minimum local usage requirements adopted by the FCC. RCC 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). RCC currently uses out-of-band digital signaling and in-band multi-frequency (“MF”) signaling that is functionally equivalent to DTMF signaling. RCC 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.* RCC 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. RCC currently provides all of its customers with access to emergency service by dialing 911 in satisfaction of this requirement. RCC 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. RCC 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, IXCs, etc.)

g. Access to interexchange service. A universal service provider must offer

consumers access to interexchange service to make and receive toll or interexchange calls. Equal access, however, is not required. "The FCC do[es] not include equal access to interexchange service among the services supported by universal service mechanisms." *Id.* at 8819. RCC 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. RCC 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. RCC currently has no Lifeline customers in Alabama because only carriers designated as an ETC can participate in Lifeline. *See* 47 C.F.R. § 54.400-415. Once designated as an ETC, RCC 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, RCC 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. RCC 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.

<sup>9</sup><sub>23</sub> I declare under penalty of perjury that the foregoing is true and correct. Executed on June 23, 2005.

  
Elizabeth L. Kohler, Vice President, Legal Services  
RCC Holdings, Inc.

**Exhibit E**

**HIGH-COST CERTIFICATION LETTER**

*Rural Cellular Corporation  
P.O. Box 2000 3905 Dakota Street SW  
Alexandria, MN 56308  
Phone: 320-762-2000  
Facsimile: 320-808-2102*

June 22, 2005

Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

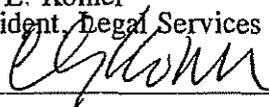
**Re: RCC Holdings, Inc.  
High-Cost Certification**

To the Commission:

RCC Holdings, Inc. ("RCC" and/or "Company") has submitted a Petition for ETC designation in the State of Alabama 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), RCC hereby submits the certification below in order to begin receiving high-cost support in its designated ETC area.

Accordingly, as Vice President, Legal Services of RCC, 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.

Elizabeth L. Kohler  
Vice President, Legal Services

  
Date

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

  
NOTARY PUBLIC

My Commission Expires: February 10, 2007

Carol A. Fox  
Notary Public  
Commission expires 2/10/2007

**Exhibit F**

**STATE ORDER**



STATE OF ALABAMA  
ALABAMA PUBLIC SERVICE COMMISSION  
P.O. BOX 991  
MONTGOMERY, ALABAMA 36101-0991

October 19, 2001

JIM SULLIVAN, PRESIDENT  
JAN COOK, ASSOCIATE COMMISSIONER  
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.  
SECRETARY

Phyllis A. Whitten  
Swidler Berlin, Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007-5116

Dear Ms. Whitten:

I am in receipt of the Application for ETC Status and Request for Clarification Regarding Jurisdiction which you filed with the Alabama Public Service Commission (the "APSC") on September 11, 2001, on behalf of your clients Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively "Pine Belt" or the "Pine Belt companies"). As noted in your filing, both Pine Belt companies are affiliated with Pine Belt Telephone Company, a provider of wireline telephone service in Alabama.

I understand from your filing that the Pine Belt companies provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services within Alabama in accordance with licenses granted by the Federal Communications Commission (the "FCC"). According to your representations, the service territories of the Pine Belt companies in Alabama include Alabama Rural Service Area 3B3 for cellular services and the Selma basic trading area (FCC market B415) for personal communications services. 3 B 2

As recognized in your filing, state commissions have primary responsibility under 47 USC §214(e) for the designation of eligible telecommunications carriers ("ETCs") in their respective jurisdictions for universal service purposes. The APSC established the guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997. As a threshold matter, your filing seeks clarification as to whether the APSC will assert jurisdiction over each Pine Belt company's request to be designated as a universal service eligible telecommunications carrier to provide wireless ETC service in the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. and Verizon South, Inc.

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

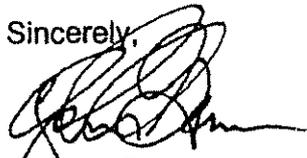
PHYLLIS A. WHITTEN  
OCTOBER 19, 2001  
PAGE #2

of 1999, the APSC has no authority to regulate *in any respect* cellular services, broadband personal communications services and commercial mobile radio services in Alabama.

Given the above conclusion by the APSC, it seems rather clear that the APSC has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction to provide wireless ETC service in the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. and Verizon South, Inc. The Pine Belt companies should instead pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

Although the views expressed herein are those of your writer and do not necessarily constitute an official action of the APSC, I am confident that this writing provides the clarification you requested concerning the ETC designation request of your clients. Should you need further clarification in order to pursue ETC designations for the Pine Belt companies at the FCC, please do not hesitate to contact me at (334) 242-5200.

Sincerely,



John A. Garner  
Administrative Law Judge

JAG:klr



**STATE OF ALABAMA**  
**ALABAMA PUBLIC SERVICE COMMISSION**  
P.O. BOX 681  
MONTGOMERY, ALABAMA 36101-0681

JIM SULLIVAN, PRESIDENT  
JAN COOK, ASSOCIATE COMMISSIONER  
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.  
SECRETARY

**PINE BELT CELLULAR, INC. and PINE  
BELT PCS, INC.,**

**Joint Petitioners**

**PETITION: For ETC status and/or  
clarification regarding the jurisdiction  
of the Commission to grant ETC status  
to wireless carriers.**

**DOCKET U-4400**

**ORDER**

**BY THE COMMISSION:**

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

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

DOCKET U-4400 - #2

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

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

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, in any respect, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

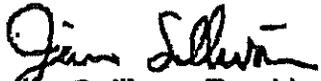
DOCKET U-4400 - #3

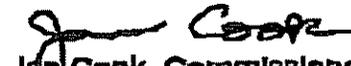
IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's Jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers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

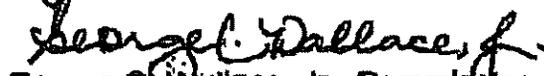
IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12<sup>th</sup> day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

  
Jim Sullivan, President

  
Jan Cook, Commissioner

  
George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

  
Walter L. Thomas, Jr., Secretary

**Exhibit G**

**ANTI-DRUG ABUSE CERTIFICATION**

**DECLARATION UNDER PENALTY OF PERJURY**

I, Elizabeth L. Kohler, do hereby declare under penalty of perjury as follows:

1. I am the Vice President, Legal Services ("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 22, 2005.



Elizabeth L. Kohler, Vice President, Legal Services  
RCC Holdings, Inc.

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 ALABAMA was sent via U.S. Mail to the following persons on this 23<sup>rd</sup> day of June 2005.

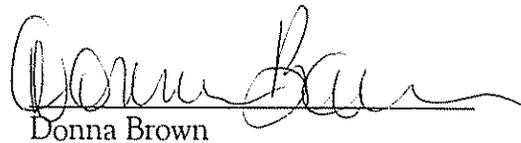
Bell South Telecommunications, Inc.  
600 North 19<sup>th</sup> Street, Suite 28B3  
Birmingham, Alabama 35203

General Manager  
CenturyTel of Alabama, LLC (Southern)  
100 North Union Street  
Suite 132  
Montgomery, Alabama 36104

General Manager  
Graceba Total Communiactions  
401 3<sup>rd</sup> Avenue  
Ashford, Alabama 36312

General Manager  
Valley Telephone Company, Inc.  
415 Gilmer Avenue  
Lanett, Alabama 36863

Jim Sullivan, President  
Alabama Public Service Commission  
P.O. Box 304260  
100 North Union Street  
RSA Union, Suite 850  
Montgomery, Alabama 36130

  
Donna Brown