

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

In the Matter of the Petition of )  
 )  
New York RSA 2 Cellular )  
Partnership ) CC Docket No. 96-45  
 )  
For Designation as an Eligible )  
Telecommunications Carrier )  
Under 47 U.S.C. § 214(e)(6) )  
In the State of New York )

To: Wireline Competition Bureau

**Petition for Designation as an Eligible Telecommunications Carrier  
In the State of New York**

New York RSA 2 Cellular Partnership (“New York RSA 2”), by its counsel, submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Telecommunications Act of 1934, as amended (“Act”), 47 U.S.C. § 214(e)(6), and Section 54.201 of the Federal Communications Commission’s (“FCC”) rules, 47 C.F.R. § 54.201.<sup>1</sup> New York RSA 2 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 New York RSA 2 Cellular Partnership, c/o U.S. Cellular Corp., 8410 Bryn Mawr, Chicago, IL 60631, telephone number (773) 399-8900.

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<sup>1</sup> New York RSA 2 Cellular Partnership is a New York general partnership that is owned in part by United States Cellular Corporation, which holds indirectly a 57.1423% interest, and by Cellco Partnership d/b/a Verizon Wireless, which is owned by Verizon Communications and Vodafone and holds the remaining 42.8577% interest.

## 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.<sup>2</sup>

## III. AUTHORIZATION AND SERVICE AREA

3. New York RSA 2 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>3</sup> New York RSA 2 is therefore considered a common carrier under the Act.

4. New York RSA 2 is authorized by the FCC as a Cellular Radiotelephone Service provider in the New York - 2 Rural Service Area ("RSA"), an area covering Clinton, Essex, Franklin, Fulton, and Hamilton counties in upstate New York. New York RSA 2 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.<sup>4</sup> In its *First Report and Order*

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<sup>2</sup> On March 17, 2005, the Commission released a *Report and Order* setting forth new rules governing, *inter alia*, the requirements for competitive ETC designations and annual reporting obligations for ETCs. *Federal-State Joint Board on Universal Service, Report and Order*, FCC 05-46 (rel. March 17, 2005) ("*ETC Report and Order*"). The new designation criteria and reporting obligations are contained in newly-adopted sections 54.202 and 54.209 of the Commission's rules. The effective date for Sections 54.202 and 54.209 has not yet been announced. *See* 70 Fed. Reg. No. 100 at 29960 (May 25, 2005) ("Effective June 24, 2005 except for §§ 54.202 and 54.209 which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the Federal Register announcing the effective date of those sections.") Moreover, the Commission has made clear that petitioners filing their petitions prior to the effective date of those rules need not make the relevant filings until October 1, 2006. *See* newly adopted Section 54.202(b) of the Commission's rules, 47 C.F.R. § 54.202(b). Accordingly, we do not believe that this Petition is subject to the additional ETC designation criteria set forth in Section 54.202. If designated, New York RSA 2 understands that it will be required to make the filings required in Section 54.209 (subject to these provisions being approved) on or before October 1, 2006, as part of its annual certification filing.

<sup>3</sup> 47 U.S.C. § 54.1 *et seq.*

<sup>4</sup> *See* 47 U.S.C. § 214(e)(1).

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>5</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>6</sup> Accordingly, subject to the limited exceptions discussed *infra*,<sup>7</sup> New York RSA 2 now requests designation throughout New York RSA 2’s FCC-licensed service area in New York.

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>8</sup> Thus, where New York RSA 2’s proposed ETC service area covers an entire rural ILEC study area, the FCC may designate New York RSA 2 as an ETC without the need to redefine the LEC service areas.

#### **IV. THE NEW YORK PUBLIC SERVICE COMMISSION HAS PROVIDED AN AFFIRMATIVE STATEMENT THAT IT DOES NOT REGULATE CMRS CARRIERS FOR ETC DESIGNATION PURPOSES**

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

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<sup>5</sup> *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8809-25 (1997) (“*First Report and Order*”).

<sup>6</sup> *See* 47 U.S.C. § 214(e)(5).

<sup>7</sup> New York RSA 2’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*”). Specifically, St. New York RSA 2’s licensed service area covers portions of the St. Johnsville, Ft. Plain, Broadalbin, Northville, and North Creek wire centers of Citizens Telecommunications Company of New York d/b/a Frontier Communications (“Citizens”), all of which cross over county lines. As reflected in the map attached as Exhibit A, St. Lawrence Seaway has committed to cover the remaining portions of the St. Johnsville, Broadalbin, and Northville wire center through resale and/or roaming arrangements, and it has excluded the Ft. Plan and North Creek wire centers from its Petition because its licensed service area covers only a small portion of each of those wire centers.

<sup>8</sup> *See* 47 C.F.R. § 54.207(b).

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.”

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>9</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>10</sup>

10. The New York Department of Public Service (“NYDPS”) has affirmatively stated that the state’s Public Service Commission (“NYPSC”) lacks jurisdiction over CMRS providers for purposes of ETC designations. Specifically, in a letter addressed to a CMRS provider seeking ETC status in New York, the NYDPS stated that “a CMRS provider [ . . . ] would not be subject to the application of the [Public Service Law], and consequently the jurisdiction of the New York Public Service Commission, for the purposes of making the Eligible Telecommunications Carrier designation.”<sup>11</sup> The Commission has previously found this letter to be “an affirmative statement from the [NYPSC] stating that requests for designation as eligible telecommunications carriers should be sought from the Commission.”<sup>12</sup> Accordingly, New York RSA 2 requests ETC

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<sup>9</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>10</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).

<sup>11</sup> NPCR, Inc. d/b/a Nextel Partners, Petition for Designation as an Eligible Telecommunications Carrier in the State of New York, CC Docket No. 96-45, Attachment 2 (filed Apr. 3, 2003). A copy of the NYDPS’s letter is attached hereto as Exhibit F.

<sup>12</sup> *Sprint Corporation*, 19 FCC Rcd 22663, 22666-67 (2004).

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. NEW YORK RSA 2 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 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. New York RSA 2 is a full-service wireless carrier which now offers all of these services, as described in detail below and in the Declaration attached as Exhibit D. New York RSA 2 therefore satisfies the requirements of Section 214(e)(1) of the Act.

13. Voice Grade Access. New York RSA 2 provides voice grade access to the public switched network through interconnection arrangements with local telephone companies. New York RSA 2 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. New York RSA 2 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>13</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>14</sup> 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.<sup>15</sup> Other states have similarly declined to impose a specific minimum quantity of local usage.<sup>16</sup>

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<sup>13</sup> See *First Report and Order*, 12 FCC Rcd at 8813.

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

<sup>15</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>16</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*”); *N CPR, Inc. d/b/a Nextel Partners*, Docket No. 8081-T1-101 (Wisc. PSC, Sept. 30, 2003) (“*Nextel Wisconsin Order*”).

15. New York RSA 2 offers dozens of rate plans which provide customers with a variety of local usage included within the flat monthly rate. Any minimum local usage requirement established by the FCC will be applicable to all designated ETCs, and New York RSA 2 will comply with any and all minimum local usage requirements adopted by the FCC.

16. DTMF Signaling. New York RSA 2 provides dual tone multi-frequency (“DTMF”) signaling to facilitate the transportation of signaling throughout its network. New York RSA 2 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>17</sup> New York RSA 2 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.

18. Access to Emergency Services. New York RSA 2 currently provides 911 access to emergency services throughout its service area.

19. Access to Operator Services. New York RSA 2 provides customer access to operator services. Customers can reach operator services in the traditional manner by dialing “0”.

20. Access to Interexchange Services. New York RSA 2 has signed interconnection agreements with interexchange carriers. These arrangements enable New York RSA 2 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 New York RSA 2’s services are able to dial “411” or “555-1212” to reach directory assistance from their mobile phones.

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<sup>17</sup> *See First Report and Order*, 12 FCC Rcd at 8810.

22. Toll Limitation. New York RSA 2 provides toll limitation by utilizing its toll blocking capabilities, enabling New York RSA 2 to provide toll blocking service for Lifeline customers once New York RSA 2 is designated an ETC.

23. Pursuant to Section 54.201 of the FCC's rules, 47 C.F.R. § 54.201, New York RSA 2 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, New York RSA 2 will advertise the availability of Lifeline and Link-Up 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 Link-Up benefits.

## **VI. GRANT OF NEW YORK RSA 2'S PETITION WOULD SERVE THE PUBLIC INTEREST**

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>18</sup> In numerous cases decided by the FCC and state commissions, the answer has been in the affirmative.<sup>19</sup> In areas served by non-rural LECs,

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<sup>18</sup> See 47 U.S.C. § 214(e)(2).

<sup>19</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*; *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 (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,

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>20</sup> 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,<sup>21</sup> New York RSA 2 clearly has demonstrated that its designation in non-rural areas will be in the public interest based on its strong showing pertaining to rural areas set forth below.<sup>22</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>23</sup> The overarching principles embodied in the 1996 Act are to “promote

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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>20</sup> *Cellco Partnership d/b/a Bell Atlantic Mobile*, 16 FCC Rcd 39, 45 (2000).

<sup>21</sup> *Virginia Cellular*, *supra*, 19 FCC Rcd at 1575.

<sup>22</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>23</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*,

competition and reduce regulation...secure lower prices and higher quality services...and encourage the rapid deployment of new telecommunications technologies.”<sup>24</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>25</sup>

26. The FCC must determine whether designation of New York RSA 2 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.”<sup>26</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 New York RSA 2’s petition. In determining the public interest, the FCC considered:

- The benefits of increased competitive choice;

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*twenty-second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244 (2001) (“*Fourteenth Report and Order*”). See also *NAACP v. FPC*, 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>24</sup> See 1996 Act (preamble).

<sup>25</sup> *First Report and Order*, supra, 12 FCC Rcd at 8801, 8861-62; *Ninth Report and Order*, supra, 14 FCC Rcd at 20480.

<sup>26</sup> See 47 U.S.C. § 254(b)(3).

- 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>27</sup>

New York RSA 2 sets forth below specific facts demonstrating how its designation as an ETC in rural areas of New York will advance the public interest under these five factors.

28. As an initial matter, New York RSA 2 believes strongly that any public costs likely to be incurred as a result of New York RSA 2's designation are negligible compared to the benefits specifically articulated below. New York RSA 2 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, New York RSA 2 believes that the impact of its designation as an ETC in New York on the size of the USF would be negligible.<sup>28</sup> This minimal cost is by far outweighed by numerous public interest benefits which will accrue to consumers in upstate New York as a result of New York RSA 2's designation, as follows:

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

29. Designation of New York RSA 2 will advance universal service, promote competition and facilitate the provision of advanced communications services to the residents of rural New York. Residents in many rural areas have long trailed urban areas in receiving

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<sup>27</sup> *Virginia Cellular, supra*, 19 FCC Rcd at 1575-76.

<sup>28</sup> See Section D, *infra*, for discussion of impacts on the USF.

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>29</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>30</sup> 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.”<sup>31</sup>

31. In addition, with ETC designation, New York RSA 2 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 New York RSA 2 to reach out to those counties in New York that have no choice of service and provide them with quality telephone service.

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<sup>29</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 Digital Order*, *supra*; *Easterbrooke W.V. Rural Order*, *supra*; *RCC Vermont Rural Order*, *supra*.

<sup>30</sup> *WWC Wyoming Order*, *supra*, 16 FCC Rcd at 55.

<sup>31</sup> *First Report and Order*, *supra*, 12 FCC Rcd at 8882-83.

32. New York RSA 2 commits to use high-cost support to improve service in areas it would not otherwise invest in. As New York RSA 2 constructs additional cell sites and makes other improvements 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 New York RSA 2’s service for the first time. Others will see service quality and reliability improvement such that they may choose New York RSA 2’s service instead of ILECs, as opposed to confining their use of New York RSA 2’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, New York RSA 2 will have the obligation to provide service to consumers upon reasonable request.<sup>32</sup> 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, New York RSA 2 will provide service immediately using its standard customer equipment.
2. If a request comes from a customer residing in any area where New York RSA 2 does not provide service, New York RSA 2 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.

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<sup>32</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, 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. . .”)

- 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, New York RSA 2 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, New York RSA 2 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 New York RSA 2 has refused to respond to a reasonable request for service.

New York RSA 2 believes these service provisioning commitments – which have been accepted by the FCC, and other state commissions<sup>33</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>34</sup> Once designated, however, New York RSA 2 commits to use universal service support to expand and improve its network coverage in areas where wireless coverage is poor or nonexistent. New York RSA 2 is currently planning its network development for the coming year and will provide its proposed network improvement plan in a supplemental filing. The proposed network

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<sup>33</sup> See, e.g., USCC Oregon Order, *supra*, at p. 10; ADI 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.

<sup>34</sup> See *South Dakota Preemption Order*, *supra*, 15 FCC Rcd at 15174-75; Nextel Kentucky Order, *supra*, at p. 5.

improvement plan represents New York RSA 2's firm commitment to improve its coverage and service quality in rural areas of New York with its high-cost support.

35. New York RSA 2 also commits to undertake several commitments to ensure high-quality service, responsiveness to customer concerns, and access to relevant information by the PSC. 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>35</sup> New York RSA 2 hereby commits to use high-cost support in its service area to improve coverage and channel capacity to improve system performance when needed. New York RSA 2 also commits to comply with the Cellular Telecommunications Industry Association Consumer Code for Wireless Service.<sup>36</sup>

**B. Health and Safety Benefits.**

36. As the FCC has 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>37</sup> Similarly, in designating the cellular carrier Smith Bagley, Inc.,

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

<sup>36</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).

<sup>37</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>38</sup> Citizens in rural areas depend on mobile phones more and more to provide critical communications needs. It is self-evident that every time New York RSA 2 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 New York RSA 2 constructs, the reliability and performance of New York RSA 2’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.**

37. 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>39</sup> Competition in rural areas increases facilities and spurs development of advanced communications as carriers vie for a consumer’s business.

38. New York RSA 2 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>40</sup> Such a response could include: improved service

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<sup>38</sup> SBI Arizona Order, *supra*, at p. 12.

<sup>39</sup> *See* 1996 Act (preamble).

<sup>40</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. &

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.

39. 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's 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>41</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>42</sup> New York RSA 2 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 New

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

<sup>41</sup> *WWC Wyoming Order, supra*, 16 FCC Red at 57. *See also* RCC Washington Order at pp. 16-17.

<sup>42</sup> *First Report and Order, supra*, 12 FCC Red at 8803.

York's rural consumers, designation of New York RSA 2 as an ETC will provide incumbent LECs with an incentive to introduce new, innovative, or advanced service offerings.

40. 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 New York RSA 2 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 New York.<sup>43</sup>

41. 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. With high-cost support in New York, New York RSA 2 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.**

43. 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,

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<sup>43</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.")

Georgia, New York, Pennsylvania, Tennessee, and Virginia would cause undue strain on the federal high-cost Fund.<sup>44</sup> In making that determination, the FCC used the unlikely 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>45</sup> Based on that analysis, the FCC concluded that Nextel’s designation in Alabama and six other states would not “dramatically burden” the federal high-cost Fund.<sup>46</sup>

44. Here as well, New York RSA 2’s designation will not burden the USF. New York RSA 2 estimates that the funds that it will receive annually if it is designated as an ETC in New York will be approximately \$90,000, less than 0.01 percent of the USF. Even in the implausible event New York RSA 2 captures all of the ILEC subscribers in its New York service area, New York RSA 2 estimates its total support would amount to only 0.11 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 New York RSA 2 proposes to build new cell sites with high-cost support is poor at best and in some areas unavailable.

**E. State and Federal Precedent.**

45. Designation of New York RSA 2 as an ETC is consistent with ETC decisions across the country. There are now dozens of cases at the state and federal level where

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<sup>44</sup> See *Nextel Partners, supra*, 19 FCC Rcd at 16540.

<sup>45</sup> See *id.* at n 69.

<sup>46</sup> *Id.* at 16540.

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>47</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>48</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>49</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>50</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 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

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<sup>47</sup> See *supra* n.16.

<sup>48</sup> *U.S. Cellular Washington Order, supra*, at ¶ 41.

<sup>49</sup> *Alaska DigiTel Order, supra* at p. 13.

<sup>50</sup> *WWC Wyoming Order, supra* n. 26, 16 FCC Rcd at 55.

life for affected citizens of Wisconsin.<sup>51</sup>

46. 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>52</sup>

**F. New York RSA 2's Designation Will Not Result in Cream-Skimming.**

47. In cases where designation is sought in portions of rural ILEC study areas, the public interest analysis includes consideration of whether there is the potential for cream-skimming, that is, the targeting of lower-cost portions of a rural ILEC's study area at the expense of the higher-cost portions.<sup>53</sup> In this case, New York RSA 2 seeks designation in a proposed service area that includes portions of the study areas of Citizens Telecommunications of New York d/b/a Frontier Communications ("Citizens") and Champlain Telephone Company ("Champlain"). There is no possibility for cream skimming in this case because New York RSA 2 is not picking and choosing among the affected LEC exchanges. On the contrary, New York RSA 2 is subject to the territorial limitations of its FCC authorization; the uncovered rural LEC areas were excluded only because they fall outside of New York RSA 2's licensed service area.

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<sup>51</sup> *Midwest Wisconsin Order, supra*, at p. 8.

<sup>52</sup> *Easterbrooke W.V. Rural Order, supra*, at p. 61.

<sup>53</sup> *See Virginia Cellular, supra*, 19 FCC Rcd at 1578.

Moreover, as of May 2002, all rural ILECs 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 or ability to enter into incumbent LEC service territories in an uneconomic manner.<sup>54</sup>

48. Additionally, New York RSA 2 submits that it meets the FCC's criteria in its analysis of population density as a means of determining the possibility of cream skimming in the service areas of Citizens and Champlain. With regard to both Citizens and Champlain, New York RSA 2's proposed ETC service area covers the less densely populated portions of the respective study areas. The Citizens wire centers within New York RSA 2's proposed ETC service area have an average population density of 58.77 persons per square mile, while the wire centers outside of the proposed ETC service area have an average population density of 91.11 persons per square mile. The two Champlain wire centers within New York RSA 2's proposed ETC service area have an average population density of 62.50 persons per square mile, while the one wire center outside of the proposed ETC service area has a population density of 359 persons per square mile. Population density figures for each of these ILECs' wire centers are provided in Exhibit E hereto.

49. For all of the above reasons, the public interest would be served by the designation of New York RSA 2 as a competitive ETC throughout its requested service area.

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<sup>54</sup> See *Fourteenth Report and Order*, *supra*, 16 FCC Rcd at 11302.

## VII. NEW YORK RSA 2 REQUESTS REDEFINITION OF THE CITIZENS AND CHAMPLAIN SERVICE AREAS ALONG WIRE CENTER BOUNDARIES

50. As noted above, Citizens and Champlain have portions of their study areas that fall outside of New York RSA 2's proposed ETC service area in New York. Therefore, New York RSA 2 requests that the Commission redefine those ILECs' service areas pursuant to Section 54.207(d) of the FCC's rules. Service area redefinition is necessary in order to facilitate competitive entry and advance universal service for those customers of New York RSA 2 living in these LEC service areas.

51. Specifically, New York RSA 2 requests that the Commission classify each of the LEC wire centers listed on Exhibit E as a separate service area and designate New York RSA 2 in each wire center that is within New York RSA 2's proposed ETC service area. Once the Commission establishes redefined service areas for these LECs, either the Commission or New York RSA 2 may file a petition requesting the NYPSC to concur with the state's redefinition. Upon a grant of state concurrence, New York RSA 2's conditional designation in the areas listed in Exhibit E would become effective.

52. In considering the redefinition of a rural LEC service area, the Commission must take into account the recommendations of the Joint Board. In the 1996 *Recommended Decision*<sup>55</sup> that laid the foundation for the FCC's *First Report and Order*, the Joint Board recommended that state commissions consider three issues when redefining a service area.

53. 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 proposed

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<sup>55</sup> *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87 (1996) ("*Recommended Decision*").

to only serve the lowest-cost exchanges.<sup>56</sup> As discussed in Section VI(F), *supra*, there is no possibility for cream skimming in this case.

54. Second, the Joint Board emphasized the special status of rural carriers under the 1996 Act.<sup>57</sup> In deciding whether to designate New York RSA 2 as an ETC, the Commission 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)(6). Accordingly, if the Commission finds that New York RSA 2's ETC designation is in the public interest, the special status of the rural carriers will have been considered for purposes of determining whether New York RSA 2's service area designation should be adopted for federal universal service funding purposes. Further, New York RSA 2 notes that no action in this proceeding will affect or prejudice any future action the Commission or the NYPSC may take with respect to the LECs' status as a rural telephone company, or otherwise disturb the "rural exemption" afforded to rural telephone companies pursuant to Section 251 of the Act.<sup>58</sup>

55. 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. In the instant case, New York RSA 2 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 affected LECs calculate their costs, but it is solely to determine the area in which New York RSA 2 is to be designated as an ETC.<sup>59</sup> Accordingly, redefinition of the

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<sup>56</sup> *Recommended Decision*, 12 FCC Rcd at 179-80.

<sup>57</sup> *See Recommended Decision*, 12 FCC Rcd at 180.

<sup>58</sup> *Id.*

<sup>59</sup> LECs 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.

aforementioned LEC service areas as proposed in this Petition will not impose any additional administrative burdens on the affected LECs.

### **VIII. HIGH-COST CERTIFICATION**

56. 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. New York RSA 2 attaches its high-cost certification letter as Exhibit G hereto. New York RSA 2 respectfully requests that the FCC issue a finding that New York RSA 2 has met the high-cost certification requirement and that New York RSA 2 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.

### **IX. ANTI-DRUG ABUSE ACT CERTIFICATION**

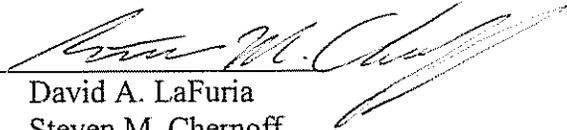
57. New York RSA 2 certifies that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862. *See* Exhibit H hereto.

WHEREFORE, pursuant to Section 214(e)(6) of the Act, New York RSA 2 respectfully requests that the FCC: (1) enter an Order designating New York RSA 2 as an ETC for its requested ETC service area as shown on Exhibit A hereto; (2) find that the proposed redefinition of the rural ILEC service areas listed on Exhibit E hereto should be granted; and (3) petition, or direct New York RSA 2 to petition, the New York PSC for concurrence in such redefinition.

Respectfully submitted,

**New York RSA 2 Cellular Partnership, a New York general partnership**

**By: Crown Point Cellular, Inc.  
Champlain Cellular, Inc.  
Newport Cellular, Inc.  
Westelcom Cellular, Inc., general partners**

By: 

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Lukas, Nace, Gutierrez & Sachs, Chtd  
1650 Tysons Blvd.  
Suite 1500  
McLean, VA 22102

Its Attorneys

June 23, 2005

**EXHIBIT A**

**MAP OF PROPOSED SERVICE AREA**

[attached in separate document]

**EXHIBIT B – NON-RURAL LECS FOR IMMEDIATE DESIGNATION**

Verizon New York, Inc.

**EXHIBIT C – RURAL LECS FOR IMMEDIATE DESIGNATION**

Chazy & Westport Telephone Corp.

Crown Point Telephone Corp.

Frontier Communications of Ausable Valley, Inc.

**EXHIBIT D**

**DECLARATION REGARDING SUPPORTED SERVICES**

## DECLARATION UNDER PENALTY OF PERJURY

I, Thomas S. Weber, do hereby declare under penalty of perjury as follows:

1. I am the Vice President of Crown Point Cellular, Inc., Champlain Cellular, Inc., Newport Cellular, Inc., and Westelcom Cellular, Inc., the general partners in New York RSA 2 Cellular Partnership, a New York general partnership (hereinafter referred to as "New York RSA 2", or the "Company").

2. This Declaration is submitted in support of New York RSA 2's Petition for Designation as an Eligible Telecommunications Carrier ("ETC") in the State of New York.

3. New York RSA 2 currently provides cellular service in the New York – 2 Rural Service Area ("RSA"), an area covering Clinton, Essex, Franklin, Fulton, and Hamilton counties in upstate New York.

4. As a carrier not subject to state commission jurisdiction in the State of New York, New York RSA 2 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. New York RSA 2 meets the criteria for ETC designation as explained herein.

6. New York RSA 2 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. New York RSA 2 currently offers and is able to provide, within its proposed ETC service area, 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*"). New York RSA 2 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 New York RSA 2 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. New York RSA 2

will meet the local usage requirements by offering a variety of rate plans with varying levels of local usage to meet consumers' needs.

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. New York RSA 2 will comply with any and all minimum local usage requirements adopted by the FCC.

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). New York RSA 2 currently uses out-of-band digital signaling and in-band multi-frequency (“MF”) signaling that is functionally equivalent to DTMF signaling. New York RSA 2 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.* New York RSA 2 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. New York RSA 2 currently provides all of its customers with access to emergency service by dialing 911 in satisfaction of this requirement. New York RSA 2 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. New York RSA 2 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. New York RSA 2 currently 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. New York RSA 2 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. New York RSA 2 currently has no Lifeline customers in New York because only carriers designated as an ETC can participate in Lifeline. *See* 47 C.F.R. §§ 54.400-415. Once designated as an ETC, New York RSA 2 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, New York RSA 2 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.

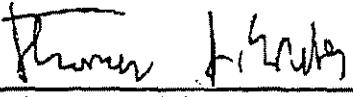
8. New York RSA 2 will provide the supported services using its existing network infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing conventional mobile cellular service customers.

9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 22, 2005.

New York RSA 2 Cellular Partnership, a New York general partnership

By: Crown Point Cellular, Inc.  
Champlain Cellular, Inc.  
Newport Cellular, Inc.  
Westelcom Cellular, Inc., general partners

By:   
\_\_\_\_\_  
Thomas S. Weber  
Vice President

**EXHIBIT E**

**POPULATION DENSITY ANALYSIS FOR RURAL ILEC  
WIRE CENTERS FOR WHICH REDEFINITION IS SOUGHT**

WIRE CENTER	COMPANY NAME	POPULATION	POP. DENSITY	COVERED (Y/N)
CHAMPLAIN	CHAMPLAIN TELEPHONE CO.	3,010	76	Y
MOOERS	CHAMPLAIN TELEPHONE CO.	5,182	49	Y
ROUSES POINT	CHAMPLAIN TELEPHONE CO.	2,512	359	N
<b>Average pop. density of covered wire centers:</b>			<b>62.50</b>	
Average pop. density of remaining wire centers:			359.00	
ADAMS	CITIZENS TELECOMM CO OF NY DBA F	5,210	37	N
ADAMS CENTER	CITIZENS TELECOMM CO OF NY DBA F	2,678	80	N
ALFRED	CITIZENS TELECOMM CO OF NY DBA F	5,159	151	N
ALMOND	CITIZENS TELECOMM CO OF NY DBA F	1,461	34	N
ANDOVER	CITIZENS TELECOMM CO OF NY DBA F	2,250	35	N
APALACHIN	CITIZENS TELECOMM CO OF NY DBA F	8,146	278	N
BAINBRIDGE	CITIZENS TELECOMM CO OF NY DBA F	3,908	72	N
BARRYVILLE	CITIZENS TELECOMM CO OF NY DBA F	2,871	52	N
BELLEVILLE	CITIZENS TELECOMM CO OF NY DBA F	1,614	39	N
BERKSHIRE	CITIZENS TELECOMM CO OF NY DBA F	2,185	39	N
BLOOMINGBURG	CITIZENS TELECOMM CO OF NY DBA F	5,984	198	N
BLUE MOUNTAIN LAKE	CITIZENS TELECOMM CO OF NY DBA F	239	2	Y
BOONVILLE	CITIZENS TELECOMM CO OF NY DBA F	5,348	49	N
BRANCHPORT	CITIZENS TELECOMM CO OF NY DBA F	987	43	N
BROADALBIN	CITIZENS TELECOMM CO OF NY DBA F	7,501	141	Y
BROOKFIELD	CITIZENS TELECOMM CO OF NY DBA F	161	417	N
CANAJOHARIE	CITIZENS TELECOMM CO OF NY DBA F	6,362	64	N
CANDOR	CITIZENS TELECOMM CO OF NY DBA F	4,887	54	N
CAROGA LAKE	CITIZENS TELECOMM CO OF NY DBA F	1,608	11	Y
CATO	CITIZENS TELECOMM CO OF NY DBA F	5,136	64	N
CHEMUNG	CITIZENS TELECOMM CO OF NY DBA F	1,471	47	N
CHENANGO BRIDGE	CITIZENS TELECOMM CO OF NY DBA F	15,024	175	N
CHESTERTOWN	CITIZENS TELECOMM CO OF NY DBA F	4,691	33	N
CINCINNATUS	CITIZENS TELECOMM CO OF NY DBA F	3,394	30	N
CLAYVILLE	CITIZENS TELECOMM CO OF NY DBA F	2,563	103	N
CONSTABLEVILLE	CITIZENS TELECOMM CO OF NY DBA F	2,731	8	N
CORFU	CITIZENS TELECOMM CO OF NY DBA F	3,043	101	N
CORINTH	CITIZENS TELECOMM CO OF NY DBA F	6,508	91	N

CROGHAN	CITIZENS TELECOMM CO OF NY DBA F	4,954	23	N
DALTON	CITIZENS TELECOMM CO OF NY DBA F	1,476	30	N
DARIEN	CITIZENS TELECOMM CO OF NY DBA F	2,310	63	N
DE RUYTER	CITIZENS TELECOMM CO OF NY DBA F	1,764	41	N
DENTON	CITIZENS TELECOMM CO OF NY DBA F	2,340	103	N
DOWNSVILLE	CITIZENS TELECOMM CO OF NY DBA F	1,894	13	N
DRYDEN	CITIZENS TELECOMM CO OF NY DBA F	7,537	97	N
DUNDEE	CITIZENS TELECOMM CO OF NY DBA F	5,330	75	N
EAGLE BAY	CITIZENS TELECOMM CO OF NY DBA F	247	1	N
EARLVILLE	CITIZENS TELECOMM CO OF NY DBA F	2,779	55	N
ELIZAVILLE	CITIZENS TELECOMM CO OF NY DBA F	2,266	125	N
ETNA	CITIZENS TELECOMM CO OF NY DBA F	2,008	147	N
FAIR HAVEN (CAYUGA)	CITIZENS TELECOMM CO OF NY DBA F	1,905	82	N
FONDA	CITIZENS TELECOMM CO OF NY DBA F	4,021	107	N
FORESTPORT	CITIZENS TELECOMM CO OF NY DBA F	1,345	18	N
FORT PLAIN	CITIZENS TELECOMM CO OF NY DBA F	5,885	85	N
FRANKLIN	CITIZENS TELECOMM CO OF NY DBA F	2,512	32	N
GEORGETOWN	CITIZENS TELECOMM CO OF NY DBA F	2,135	26	N
GILBERTSVILLE	CITIZENS TELECOMM CO OF NY DBA F	1,323	36	N
GLEN	CITIZENS TELECOMM CO OF NY DBA F	2,207	36	N
<b>GLOVERSVILLE</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>21,159</b>	<b>212</b>	<b>Y</b>
GREENE	CITIZENS TELECOMM CO OF NY DBA F	7,293	58	N
GREENWOOD	CITIZENS TELECOMM CO OF NY DBA F	956	19	N
GUILFORD	CITIZENS TELECOMM CO OF NY DBA F	1,140	41	N
HAMMONDSPORT	CITIZENS TELECOMM CO OF NY DBA F	2,530	52	N
HANNIBAL	CITIZENS TELECOMM CO OF NY DBA F	6,367	95	N
HAWLEYTON	CITIZENS TELECOMM CO OF NY DBA F	1,489	92	N
HENDERSON	CITIZENS TELECOMM CO OF NY DBA F	1,130	28	N
<b>INDIAN LAKE</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>1,234</b>	<b>4</b>	<b>Y</b>
JASPER	CITIZENS TELECOMM CO OF NY DBA F	1,398	28	N
<b>JOHNSTOWN</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>12,803</b>	<b>226</b>	
LAKE LUZERNE	CITIZENS TELECOMM CO OF NY DBA F	5,496	21	N
<b>LAKE PLEASANT</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>1,292</b>	<b>3</b>	<b>Y</b>
LEONARDSVILLE	CITIZENS TELECOMM CO OF NY DBA F	1,899	32	N
LOCKWOOD	CITIZENS TELECOMM CO OF NY DBA F	1,377	36	N
LONG LAKE (HAMILTON)	CITIZENS TELECOMM CO OF NY DBA F	635	4	N
LOWVILLE	CITIZENS TELECOMM CO OF NY DBA F	10,106	35	N

LYONS FALLS	CITIZENS TELECOMM CO OF NY DBA F	4,105	31	N
LYSANDER	CITIZENS TELECOMM CO OF NY DBA F	1,894	88	N
MADISON	CITIZENS TELECOMM CO OF NY DBA F	2,060	63	N
MANNSVILLE	CITIZENS TELECOMM CO OF NY DBA F	1,090	35	N
MARATHON	CITIZENS TELECOMM CO OF NY DBA F	5,519	47	N
MASONVILLE	CITIZENS TELECOMM CO OF NY DBA F	1,044	31	N
<b>MAYFIELD</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>3,644</b>	<b>80</b>	<b>Y</b>
MCDONOUGH	CITIZENS TELECOMM CO OF NY DBA F	1,024	18	N
MIDDLETOWN	CITIZENS TELECOMM CO OF NY DBA F	36,023	1,304	N
MORRIS	CITIZENS TELECOMM CO OF NY DBA F	2,517	39	N
MORRISVILLE	CITIZENS TELECOMM CO OF NY DBA F	4,784	104	N
MOUNT UPTON	CITIZENS TELECOMM CO OF NY DBA F	1,467	49	N
NARROWSBURG	CITIZENS TELECOMM CO OF NY DBA F	1,701	28	N
NEW BERLIN	CITIZENS TELECOMM CO OF NY DBA F	3,824	45	N
NEW WOODSTOCK	CITIZENS TELECOMM CO OF NY DBA F	2,492	45	N
NEWARK VALLEY	CITIZENS TELECOMM CO OF NY DBA F	4,296	84	N
<b>NEWCOMB</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>501</b>	<b>2</b>	<b>Y</b>
NORTH BROOKFIELD	CITIZENS TELECOMM CO OF NY DBA F	1,018	27	N
NORTH CREEK	CITIZENS TELECOMM CO OF NY DBA F	3,663	14	N
<b>NORTHVILLE</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>4,734</b>	<b>28</b>	<b>Y</b>
NORWICH	CITIZENS TELECOMM CO OF NY DBA F	15,692	110	N
OLD FORGE	CITIZENS TELECOMM CO OF NY DBA F	1,864	5	N
OTISVILLE	CITIZENS TELECOMM CO OF NY DBA F	8,394	256	N
OXFORD	CITIZENS TELECOMM CO OF NY DBA F	4,624	52	N
PORT JERVIS	CITIZENS TELECOMM CO OF NY DBA F	20,894	121	N
PULASKI	CITIZENS TELECOMM CO OF NY DBA F	9,177	64	N
<b>RAQUETTE LAKE</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>624</b>	<b>1</b>	<b>Y</b>
RED HOOK	CITIZENS TELECOMM CO OF NY DBA F	11,933	215	N
REMSEN	CITIZENS TELECOMM CO OF NY DBA F	3,501	43	N
RHINEBECK	CITIZENS TELECOMM CO OF NY DBA F	8,968	194	N
ROSCOE	CITIZENS TELECOMM CO OF NY DBA F	2,400	22	N
SANBORN	CITIZENS TELECOMM CO OF NY DBA F	11,040	321	N
SANDY CREEK	CITIZENS TELECOMM CO OF NY DBA F	4,655	35	N
SCOTCHTOWN	CITIZENS TELECOMM CO OF NY DBA F	10,955	589	N
SHERBURNE	CITIZENS TELECOMM CO OF NY DBA F	4,140	74	N
SIDNEY	CITIZENS TELECOMM CO OF NY DBA F	6,066	206	N
SLATE HILL	CITIZENS TELECOMM CO OF NY DBA F	5,839	201	N

SLATERVILLE SPRINGS	CITIZENS TELECOMM CO OF NY DBA F	4,106	55	N
SMYRNA	CITIZENS TELECOMM CO OF NY DBA F	1,210	31	N
SOUTH NEW BERLIN	CITIZENS TELECOMM CO OF NY DBA F	1,441	39	N
SOUTH OTSELIC	CITIZENS TELECOMM CO OF NY DBA F	1,226	17	N
SPENCER	CITIZENS TELECOMM CO OF NY DBA F	4,672	43	N
<b>ST JOHNSVILLE</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>5,265</b>	<b>49</b>	<b>Y</b>
STAATSBURG	CITIZENS TELECOMM CO OF NY DBA F	2,622	216	N
TIVOLI	CITIZENS TELECOMM CO OF NY DBA F	1,668	226	N
TRIBES HILL	CITIZENS TELECOMM CO OF NY DBA F	1,661	100	N
TRUXTON	CITIZENS TELECOMM CO OF NY DBA F	1,684	24	N
UNADILLA	CITIZENS TELECOMM CO OF NY DBA F	3,866	67	N
UNIONVILLE (ORANGE)	CITIZENS TELECOMM CO OF NY DBA F	3,104	140	N
VIRGIL	CITIZENS TELECOMM CO OF NY DBA F	799	49	N
WALTON	CITIZENS TELECOMM CO OF NY DBA F	6,410	38	N
WATERVILLE	CITIZENS TELECOMM CO OF NY DBA F	4,465	81	N
WAYNE	CITIZENS TELECOMM CO OF NY DBA F	1,396	44	N
<b>WELLS</b>	<b>CITIZENS TELECOMM CO OF NY DBA F</b>	<b>910</b>	<b>5</b>	<b>Y</b>
WEST VALLEY	CITIZENS TELECOMM CO OF NY DBA F	1,725	44	N
WHITNEY POINT	CITIZENS TELECOMM CO OF NY DBA F	5,421	74	N
WILLIAMSTOWN	CITIZENS TELECOMM CO OF NY DBA F	2,825	33	N
WURTSBORO	CITIZENS TELECOMM CO OF NY DBA F	4,901	85	N
FILLMORE	CITIZENS TELECOMM CO OF NY DBA F	5,346	44	N
CIRCLEVILLE	CITIZENS TELECOMM CO OF NY DBA F	6,900	164	N

**Average pop. density of covered wire centers: 58.77**  
Average pop. density of remaining wire centers: 91.11

**EXHIBIT F**

**NEW YORK DEPARTMENT OF PUBLIC SERVICE LETTER**

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

WILLIAM M. FLYNN  
*Chairman*  
THOMAS J. DUNLEAVY  
JAMES D. BENNETT  
LEONARD A. WEISS  
NEAL N. GALVIN



DAWN K. JABLONSKI  
*General Counsel*

JANET HAND DEIXLER  
*Secretary*

March 27, 2003

TO WHOM IT MAY CONCERN:

Re: Nextel CMRS Jurisdiction

We have received a letter request from NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners") for a statement that the State of New York does not exercise jurisdiction over Commercial Mobile Radio Service providers for purposes of making determinations concerning eligibility for Eligible Telecommunications Carrier designations under 47 U.S.C. §214(e) and 47 C.F.R. §54.201 *et seq.* In response to this request, please be advised that the New York State Public Service Law (PSL) §5 provides that:

Applications of the provisions of this chapter [i.e., the PSL] through one-way paging or two-way mobile radio telephone service with the exception of such services provided by means of cellular radio communication is suspended unless the commission [i.e., the NYS Public Service Commission] . . . makes a determination, after notice and hearing, that regulation of such services should be reinstated to the extent found necessary to protect the public interest because of a lack of effective competition.

The New York State Public Service Commission has not made a determination that regulation should be reinstated under PSL §5. Consequently, based on the representation by Nextel Partners that it is a CMRS provider, Nextel Partners would not be subject to the application of the PSL, and consequently the jurisdiction of the New York Public Service Commission, for the purposes of making the Eligible Telecommunications Carrier designation.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Elizabeth H. Liebschutz'.

Elizabeth H. Liebschutz  
Assistant Counsel

**EXHIBIT G**

**HIGH-COST CERTIFICATION LETTER**



June 22, 2005

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

**Re: New York RSA 2 Cellular Partnership  
High-Cost Certification**

To the Commission:

New York RSA 2 Cellular Partnership ("New York RSA 2", the "Company") has submitted a Petition to the FCC for designation as an eligible telecommunications carrier ("ETC") in the State of New York. As required by 47 C.F.R. §§ 54.313(b) and 54.314(b), New York RSA 2 hereby submits the certification below in order for the Company to begin receiving high-cost support in its ETC service area once designated.

Accordingly, 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 47 U.S.C. § 254(e). I also certify that I am authorized to make this certification on the Company's behalf.

**New York RSA 2 Cellular Partnership,  
a New York general partnership**

By: Crown Point Cellular, Inc.  
Champlain Cellular, Inc.  
Newport Cellular, Inc.  
Westelcom Cellular, Inc., general partners

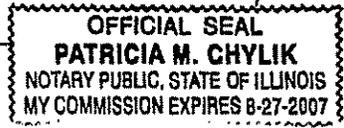
By: Thomas S. Weber  
Thomas S. Weber  
Vice President

Date: 6/22/05

SUBSCRIBED, SWORN AND ACKNOWLEDGED before me this 22<sup>nd</sup> day of June, 2005.

Patricia M. Chyliak  
NOTARY PUBLIC

My Commission Expires: 8/27/07



**EXHIBIT H**

**ANTI-DRUG ABUSE ACT CERTIFICATION**

**DECLARATION UNDER PENALTY OF PERJURY**

I, Thomas S. Weber, do hereby declare under penalty of perjury as follows:

1. I am the Vice President of Crown Point Cellular, Inc., Champlain Cellular, Inc., Newport Cellular, Inc., and Westelcom Cellular, Inc., the general partners in New York RSA 2 Cellular Partnership, a New York general partnership ("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.

New York RSA 2 Cellular Partnership, a New York general partnership

By: Crown Point Cellular, Inc.  
Champlain Cellular, Inc.  
Newport Cellular, Inc.  
Westelcom Cellular, Inc., general partners

By: Thomas S. Weber  
Thomas S. Weber  
Vice President