Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board	)	CC Docket No. 96-45
on Universal Service	)	
	)	
	)	
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	)	

To: The Commission

OPPOSITION OF DOBSON CELLULAR SYSTEMS, INC.
TO PETITION FOR RECONSIDERATION OF THE *ETC CRITERIA ORDER*

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August 4, 2005

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SUMMARY

TDS Telecommunications, the Independent Telephone and Telecommunications Alliance, and the Western Telecommunications Alliance (the "ILEC Petitioners") raise no new arguments in their petition for reconsideration ("ILEC Petition") that the Commission has not already rejected. Thus, the ILEC Petition should be denied.

The FCC should reject the ILEC Petitioners' argument that new ETC applicants should not be allowed to use support to extend service within the designated service area. The ILEC Petitioners' position is wholly at odds with the pro-competitive spirit of the Act and is contrary to prior Commission precedent. The ILEC Petitioners seek to impose a standard of "ubiquity" upon wireless ETCs that they could not themselves achieve, and offer no justification for their proposal to "regulate up" to parity by imposing monopoly regulation on competitive ETCs. By challenging a long-standing Commission position, they also effectively seek to overturn an FCC decision that is well beyond the statutory timeframe for reconsideration.

Similarly without merit is the ILEC Petitioners' proposal that the Commission should consider the impact on the overall fund size of individual ETC designations. No individual ETC – whether new or existing – can be held accountable for the overall size of the universal service fund. In fact, the size of the fund and its recent growth can largely be attributed to rural ILECs, and there is no evidence that the increase in ETC designations can or will cause the fund to reach an unsustainable size. Thus, the Commission should affirm its rejection of the various discriminatory vehicles the ILEC Petitioners advocate to minimize support to competitive ETC, including per-line benchmarks, caps on the total number of competitive ETCs in a given high-cost area, and eliminating portability of support mechanisms designed to replace former access revenues deemed necessary to support universal service.

The Commission correctly declined to adopt mandatory state ETC designation criteria. The Commission's permissive approach is more consistent with the structure of Section 214(e) that grants primary authority over ETC designations to the states, and with the Commission's recognition that states have unique expertise regarding universal service decisions that affect carriers operating within their borders. Moreover, there is ample evidence in the record that mandatory criteria are not necessary because the state ETC designation process is already rigorous. The ILEC Petitioners have presented no evidence that states liberally grant ETC designations in order to improve wireless service in the state or, even if they did, why the Commission should find fault with a legitimate use of support. By adopting permissive guidelines, the Commission encourages uniformity among the various states.

The Commission should affirm its grant of pending redefinition concurrence petitions. As a general matter, granting the pending redefinition petitions was appropriately deferential to both the states' expertise and their effort in making the designation and redefinition decisions pursuant to the then-existing standards. It also was a reasonable exercise of Commission discretion. The Commission's specific grant of Dobson affiliate American Cellular Corporation's ("ACC") petition for redefinition concurrence also was correct because the record from the proceeding demonstrates that ACC's petition was compliant with the new standards.

The Commission should similarly process pending ETC designation petitions under the rules in effect at the time they were filed. Applicants, many of whom have had petitions pending

for well over a year before the new rules went into effect, expended substantial resources preparing ETC petitions and should not be required to re-do their work because they have remained pending for so long. Requiring applicants to update petitions in light of the new rules also would be unnecessary since all ETCs will be required to supply virtually the same information pursuant to the new annual reporting obligations.

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OPPOSITION OF DOBSON CELLULAR SYSTEMS, INC.
TO PETITION FOR RECONSIDERATION OF THE *ETC CRITERIA ORDER*

Dobson Cellular Systems, Inc. ("Dobson"), on behalf of itself and its affiliated wireless carriers,[1] hereby opposes the petition for reconsideration of the *ETC Criteria Order*[2] (the "ILEC Petition") filed by TDS Telecommunications, the Independent Telephone and Telecommunications Alliance, and the Western Telecommunications Alliance (the "ILEC Petitioners").[3] The Commission considered and rejected all of the ILEC Petitioners' arguments in the *ETC Criteria Order*, and no basis exists to disturb those determinations.

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[1] Dobson and American Cellular Corporation ("ACC") are wholly-owned subsidiaries of Dobson Communications Corporation. ACC is managed by Dobson pursuant to a management agreement. Both Dobson and ACC hold Cellular Radiotelephone Service and Personal Communications Service licenses.

[2] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report & Order*, 20 FCC Rcd 6371 (2005) ("*ETC Criteria Order*").

[3] Petition for Reconsideration of TDS Telecommunications, the Independent Telephone and Telecommunications Alliance, and the Western Telecommunications Alliance, CC Docket No. 96-45 (filed June 24, 2005) (the "ILEC Petition"). *See Petitions for Reconsideration of Action in Rulemaking Proceeding, Public Notice*, Report No. 2719 (rel. July 8, 2005), 70 F.R. 41756 (July 20, 2005). As noted in the *Public Notice*, Dobson also filed a petition for reconsideration, on different grounds.

I. ETCS MAY USE SUPPORT TO EXTEND SERVICE THROUGHOUT THE DESIGNATED AREA

The ILEC Petition challenges the *ETC Criteria Order's* requirement that applicants for eligible telecommunications carrier ("ETC") status demonstrate their "capability and commitment to provide service throughout [their] designated service area[s] to all customers who make a reasonable request for service."[4] Instead, the ILEC Petitioners would have the Commission require new ETC applicants to extend their networks throughout the service area before they could begin to receive support.[5]

The ILEC Petitioners' position, if adopted, would be contrary to the pro-competitive and deregulatory spirit of the Act; it also represents an untimely challenge to the Commission's long-standing position in this regard.

As the Commission first acknowledged half a decade ago:

> [I]t is unreasonable to expect an unsupported carrier to enter a high-cost market and provide a service that its competitor already provides at a substantially supported price. Moreover, a new entrant cannot reasonably be expected to be able to make the substantial financial investment required to provide the supported services in high-cost areas without some assurance that it will be eligible for federal universal service support.[6]

On this basis, the Commission correctly concluded that a "new entrant can make a reasonable demonstration to the state commission of its capability and commitment to provide universal service without the actual provision of the proposed service."[7] This long-standing

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[4] ILEC Petition at 4; *see also ETC Criteria Order*, 20 FCC Rcd at 6380-81.

[5] ILEC Petition at 3-5.

[6] *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, *Declaratory Ruling*, 15 FCC Rcd 15168, 15173 (2000) ("*Declaratory Ruling*").

[7] *Id.* at 15178.

Commission policy is entirely consistent with the pro-competitive intent of the Telecommunications Act of 1996. The ILEC Petition, if granted, would preclude competitive entry and violate the Act's clear intent that states designate multiple ETCs where the public interest thereby will be served.[8]

The ILEC Petitioners also seek to impose on ETC applicants a standard to which they cannot themselves conform.[9] The ILEC Petitioners would have the Commission believe that they provide service ubiquitously throughout their study areas, but in reality their service is limited to the specific geographic points at the ends of their current subscriber lines. Customers at any other location can receive service from a wireline carrier only by paying a substantial line extension charge and, if the new customer location is not on an existing loop run, by enduring a lengthy construction delay. Many wireless carriers provide service over entire ILEC study areas and, even where they do not, they provide *true* ubiquitous service throughout their coverage areas.[10] Thus, if the Commission grants the ILEC Petition, it must deny support to the ILEC Petitioners and all wireline ETCs unless and until they can provide service at *all* points within their study areas – a standard that wireline technology precludes them from ever attaining.

The ILEC Petitioners present no justification for their proposal that the Commission impose state carrier of last resort ("COLR") requirements on competitive ETCs once they have achieved a hypothetical "100% network coverage," and indeed no justification could be offered. As the Commission has acknowledged, it serves no purpose reflexively to impose monopoly

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[8] 47 U.S.C. § 214(e)(2).

[9] ILEC Petition at 6 (arguing that FCC should require ETCs to "achieve 100% coverage throughout the designated geographic service area within a specified time").

[10] Also, because it often is quicker to construct a cell tower than to extend a copper or fiber loop, wireless carriers are better able to respond to customer requests for service.

regulation on competitive carriers merely because they, like ILECs, receive universal service support.[11] Rather than "regulating up" to parity, the Commission should consider whether ubiquitous coverage by competitive ETCs represents a marketplace environment that justifies a loosening of monopoly regulation on the incumbent ETC.

In addition to being wrong-headed, the ILEC Petition is time-barred. As noted above, the Commission's approach in the *ETC Criteria Order* is not new; rather, it is simply an acknowledgement of a long-standing position, which the *ETC Criteria Order* did not disturb. Thus, the ILEC Petition actually presents an untimely petition for reconsideration of the *Declaratory Ruling* that must be denied.[12]

II. NO INDIVIDUAL ETC APPLICANT CAN BE HELD ACCOUNTABLE FOR THE OVERALL SIZE OF THE FUND

The ILEC Petition wrongly criticizes the *ETC Criteria Order* for declining to consider the overall fund size in any individual ETC designation proceeding (given that no individual designation could measurably affect the fund), and incorrectly asserts that the Commission acted arbitrarily and capriciously by apparently acknowledging, elsewhere in the order, the impact of individual designations on the overall fund size.[13]

The *ETC Criteria Order's* approach is correct; no individual ETC – whether new applicant or existing designee – can be held accountable for the overall size of the universal service fund. As Dobson already has demonstrated in this proceeding, the majority of the growth

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[11] *ETC Criteria Order*, 20 FCC Rcd at 6384.

[12] *See* 47 U.S.C. § 405.

[13] ILEC Petition at 8.

in the universal service fund has come from ballooning support to rural incumbent LECs.[14] Further, the ILEC Petitioners are wrong to suggest that declining to consider the aggregate impact of designations "sacrifices access for the sake of competition."[15] Dobson has shown that, by the rural ILECs' own estimates, even if *every* wireless carrier in the country were granted ETC status, wireless ETCs would still receive only about a third of the total high cost fund, and there is no evidence the fund would reach unsustainable proportions.[16]

To the extent that there is any meaningful inconsistency between the Commission's decision not to consider the impact of individual ETC designations on the overall fund and other statements in the *ETC Criteria Order* suggesting that the aggregate impact is relevant, it is the latter statements that must be reconsidered. There is nothing in the Act that would justify a "pull-up-the-ladders" solution to a growing universal service fund. As Dobson has shown in this proceeding, only competition can effectively fulfill the Section 254 requirement that rural consumers have access to comparable services at reasonably comparable rates.[17] Attributing the size of the fund to new ETC applicants, or holding only new applicants accountable for its growth, would effectively limit support to existing ETCs and close the door to new applicants, irrespective of their relative merit. This result would be arbitrary and capricious as well as contrary to the competitive intent of the Act.

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[14] *See, e.g.*, Dobson Reply Comments on Joint Board Recommended Decision, CC Docket No. 96-45, at 15-16 (filed Sept. 21, 2004).

[15] ILEC Petition at 9-10.

[16] *See, e.g.*, Dobson Reply Comments on Joint Board Recommended Decision, CC Docket No. 96-45, at 15-16 (filed Sept. 21, 2004).

[17] *See, e.g.*, Dobson Comments on Joint Board Recommended Decision, CC Docket No. 96-45, at 18 (filed Aug. 6, 2004).

For all these reasons, the Commission also correctly rejected the specific proposals that the ILEC Petition again presents. The benchmark proposal is self-serving and cannot be justified under the relevant statutory standard.[18] Similarly, capping the total number of competitive ETCs in a given high-cost area would unlawfully limit rural consumers' access to competitive offerings and arbitrarily exclude some ETCs from support without regard to their relative merit. Similarly without merit is the ILEC Petitioners' proposal to deny wireless ETCs' access to support mechanisms designed to replace former access revenues.[19] The sole rationale for moving such access revenues into a universal service support mechanism was that they recovered costs necessary to preserve and advance universal service.[20] The incumbent LECs cannot have it both ways: Either this revenue recovers universal service costs – and therefore is portable – or it does not – in which case it never should have been moved into universal service support mechanisms and thus protected from the forces that may decrease access charge levels over time.

III. THE COMMISSION CORRECTLY REJECTED CALLS FOR MANDATORY ETC DESIGNATION CRITERIA IN FAVOR OF PERMISSIVE GUIDELINES

The Commission correctly declined to adopt mandatory state ETC designation criteria.[21] The FCC's permissive approach is more consistent with the structure of Section 214(e) granting primary authority over ETC designations to the states and balancing carriers' need for uniformity

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[18] *ETC Criteria Order*, 20 FCC Rcd at 6395-96; Dobson Reply Comments on Joint Board Recommended Decision, CC Docket No. 96-45, at 11-15 (filed Sept. 21, 2004).

[19] ILEC Petition at 11-12.

[20] Dobson supports a long-term goal of replacing the existing system, which bases all ETCs' support on the incumbent's costs, with a system that *objectively* determines the appropriate cost of providing service in a given high-cost area. *See* Dobson Comments on High-Cost Support Rules, CC Docket No. 96-45, at 5-8 (filed Dec. 14, 2004).

[21] *See* ILEC Petition at 12-15.

of process with the state commission's statutory role.[22] In implementing Section 214(e), the Commission has found that the unique expertise of the states requires that they be the primary arbiter regarding not only ETC designations, but also certification in subsequent years that designated ETCs are using support in accordance with the requirements of Section 254(e).[23] The Commission steps in to fill the role of the states only after the state commission makes an affirmative ruling that it does not have jurisdiction over the particular ETC applicant.[24] At the same time, by adopting permissive guidelines, the Commission encourages uniformity among the various states, which is of value to ETC applicants in multiple states.

The ILEC Petitioners' argument that mandatory guidelines are needed because states are designating ETCs simply to maximize the support flowing to that state[25] is, in Dobson's experience, factually incorrect; even if it were true, the ILEC Petitioners have not shown that it would disserve the public interest. Several wireless carriers have documented in the past the rigorous process that ETC applicants, particularly wireless ETC applicants, face at the state

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[22] 47 U.S.C. § 214(e)(2).

[23] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd 8776, 9190 (1997) (noting the states' historical role and expertise regarding universal service).

[24] 47 U.S.C. § 214(e)(6). In the *Twelfth Report and Order*, the Commission found that only in those instances 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 will the Commission consider Section 214(e)(6) designation requests from carriers. The Commission defined an "affirmative statement" as "any duly authorized letter, comment, or state commission order indicating that [the state commission] lacks jurisdiction to perform the designation over a particular carrier." *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, 12264 (2000).

[25] ILEC Petition at 13-15.

level.[26] Although Dobson notes the state designation process is sometimes overly rigorous or not competitively neutral, there is ample evidence before the FCC that states are conducting a thorough analysis to determine if a designation should be made.

Moreover, even if it were true that states liberally grant wireless ETC designations in order to improve wireless service in the state, the ILEC Petitioners have presented no reason why mandatory standards are needed to deter this practice. Better wireless service benefits consumers and serves the goals of section 254. Wireless services bring unique advantages to underserved areas, as the Commission has recognized on numerous occasions,[27] and denial of the public interest benefits served by providing universal service funding to wireless ETCs runs counter to Congress's goal that "[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services … that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charges for similar services

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[26] In its comments in this proceeding, Dobson detailed the extensive nature of the state ETC proceedings in which it is involved, noting how in Texas its application is being considered in three different parts. Dobson Comments on Joint Board Recommended Decision, CC Docket No. 96-45, at n.5 (filed Aug. 6, 2004); *see also* Nextel Partners, Inc. Comments, CC Docket No. 96-45, at 15 (filed Aug. 6, 2004) ("[T]he *Recommended Decision* is not proposing anything that states are not already doing."); Sprint Corporation Comments on the Joint Board Recommended Decision, CC Docket No. 96-45, at 21 (filed Aug. 6, 2004) (ETC designation process being conducted by the states and the FCC is "amply rigorous").

[27] *See, e.g.*, *Federal-State Joint Board on Universal Service, Virginia Cellular LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd 1563, 1576 (2004) ("*Virginia Cellular*") (noting that Virginia Cellular's wireless offering "will provide benefits to customers in situations where they do not have access to a wireline telephone"); *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd 6422, 6432-33 (2004) ("*Highland Cellular*").

in urban areas."[28] In fact, in granting ETC status to Dobson affiliate ACC, the Wisconsin Public Service Commission ("Wisconsin PSC") took note of the benefits that the state would receive by granting ACC's designation and redefinition. The Wisconsin PSC stated that, "like for wireline companies, access to high-cost assistance is what helps ensure that service is provided. For ACC, access to high-cost assistance is exactly what will make expanding service to customers requesting service in the areas for which it is designated as an ETC 'commercially reasonable' or 'economically feasible.'"[29] As the Wisconsin PSC recognized, the receipt of universal service support by wireless carriers will permit such carriers to provide the unique benefits of wireless service to more customers in underserved areas.

The Commission was correct to reject mandatory standards, and instead adopt permissive guidelines for states making ETC determinations.

IV. THE COMMISSION WAS CORRECT TO GRANT THE PENDING REDEFINITION PETITIONS, INCLUDING THAT OF DOBSON AFFILIATE ACC

The Commission's decision to grant pending redefinition concurrence petitions under the criteria applicable at the time they were filed was a reasonable exercise of the Commission's discretion, as a general matter of policy. It also was appropriate on the merits with respect to Dobson affiliate ACC's petition.

As a matter of policy, the decision to grant the pending redefinition petitions was appropriately deferential to both the states' expertise and their efforts in making the designation

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[28] 47 U.S.C. § 254(b)(3).

[29] *Application of American Cellular Corporation for Designation as an Eligible Telecommunication Carrier in Wisconsin, Final Decision*, 8206-T1-100, at 7 (Public Service Commission of Wisconsin June 18, 2004) ("*PSC Final Decision*").

and redefinition decisions. The Commission noted in *Highland Cellular* that a state commission's "first-hand knowledge of the rural areas in question uniquely qualifies it to examine the redefinition proposal and determine whether it should be approved."[30] As ACC noted in its petition for redefinition before the FCC, "[t]here is nothing in the record to suggest that the [state commission] erred in its evaluation of the appropriate service areas for the [state's] telecommunications market."[31] Using its expertise, the state commission determined that redefinition would benefit consumers while at the same time not harming rural LECs.[32] This conclusion stands, even if the timing prevented the Wisconsin PSC from fully taking into consideration *Virginia Cellular* and *Highland Cellular*.[33]

In addition to its expertise, the Wisconsin PSC also invested its precious time and resources in granting ACC's Petition. The Commission has recognized the efforts states must undertake to rule on these petitions. In the *ETC Designation Order*, the Commission specifically noted that "both state commissions and the Commission employ rigorous and fact-intensive analyses of requests for service area redefinitions that examine the impact of any redefinition on the affected rural incumbent LEC's ability to serve the entire study area, including the potential for creamskimming that may result from the redefinition."[34] ETC applicants and state

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[30] *Highland Cellular*, 19 FCC Rcd at 6423.

[31] Petition for Agreement with Redefinition of Service Area Requirement for Certain Rural Telephone Company Study Areas in the State of Wisconsin, CC Docket No. 96-45, at 9 (filed July 16, 2004) ("Petition").

[32] *PSC Final Decision* at 8-9, 11-12.

[33] ACC's petition for ETC designation and redefinition before the Wisconsin PSC was filed the same day that the *Virginia Cellular* petition was released (January 22, 2004) and the proceedings were well under way at the time that the *Highland Cellular* petition was released.

[34] *ETC Criteria Order*, 20 FCC Rcd at 6403-04.

commissions should not be required to re-do previous analysis just because unfortunate timing meant a decision was made close in time to a rule change.

Moreover, as ACC noted in its Petition, the Wisconsin PSC's redefinition decision took into account the creamskimming concerns raised in *Virginia Cellular* and *Highland Cellular*. In reviewing the record, the Wisconsin PSC stated that "'nothing indicates that [Petitioner] is requesting ETC status only in certain wire centers or portions of wire centers in an effort to obtain high-level subsidies for low-cost areas.'"[35] Not only did the Wisconsin PSC find no evidence of intentional creamskimming, the PSC also found that no actual creamskimming would occur as a result of the redefinition. "'Annual report data filed with the Commission show that the requested exchanges and wire centers do no show any pattern of being lower cost than other wire centers and exchanges served by the rural providers.'"[36]

The Commission's decision to grant the pending redefinition petitions was correct as a matter of policy and a valid exercise of the Commission's discretion. As to ACC's petition, it also was unassailable on the merits, because ACC's petition was compliant with the new standards in any event.

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[35] Petition at 13 (citing *PSC Final Decision* at 12) ("Instead, the evidence appears to indicate that ACC chose the areas for which it is requesting ETC status on the basis of the areas in which it was licensed to operate.").

[36] *Id.* In addition to finding no concerns regarding creamskimming, the Wisconsin PSC also noted that many of the 20 rural telephone company service areas in which ACC sought and received conditional ETC designation had already been subject to redefinition by the Wisconsin PSC. In fact, only three of the incumbent rural telephone companies had not yet had their service areas redefined at the time of ACC's filing of its petition for designation and redefinition.

V. THE PRIOR ETC DESIGNATION RULES SHOULD BE APPLIED TO PETITIONS PENDING PRIOR TO THE EFFECTIVE DATE OF THE NEW RULES

The Commission similarly should process pending ETC petitions under the rules in effect at the time they were filed. Applicants expend substantial resources preparing ETC petitions and should not be required to re-do their work because the rules change. Many of the ETC petitions currently pending before the FCC were filed over a year before the effective date of the rules.[37] Already, some applicants who have had petitions pending since before the release of either *Virginia Cellular* or *Highland Cellular* have had to expend additional resources to make their petitions conform to those decisions.[38] The Commission should find that the public interest would be served by acting on those petitions under the then-valid rules and not requiring parties to amend their applications, wasting valuable resources.

A significant reason that the Commission should not require pending applicants to re-do their applications is that the new required annual certification requirement will impose many of the new rules onto all ETCs, even those designated prior to the effective date of the new rules. For example, the annual certification, which must be made October 1 of each year beginning in

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[37] Most of the ETC rules were in effect as of June 24, 2005, unless they were subject to the Paperwork Reduction Act. Dobson and ACC, however, filed ETC petitions with the FCC in May of 2004. Dobson Cellular Systems, Inc. and American Cellular Corporation, Joint Petition for Designation as an Eligible Telecommunications Carrier in the State of New York (No Rural Redefinition Requested) (filed May 3, 2004); Dobson Cellular Systems, Inc. and American Cellular Corporation, Joint Petition for Designation as an Eligible Telecommunications Carrier in the State of New York (Rural Redefinition Requested) (filed May 10, 2004). These petitions are still pending.

[38] For example, AT&T Wireless filed a petition for designation in Alabama on December 31, 2003, prior to the release of *Virginia Cellular*. Petition of AT&T Wireless Services, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Alabama, CC Docket No. 96-45 (filed Dec. 31, 2003). AT&T Wireless updated its petition to conform with *Virginia Cellular* and *Highland Cellular* on May 11, 2004. This petition is still pending.

2006, will require all ETCs, even those designated under the old rules, to submit their five-year build out plans and report on their progress under the plans.[39] Thus, those ETCs not previously required to file a build-out plan will be required to as of 2006. Also of significance, once ETCs are required to make this certification, the Commission has every opportunity to revoke a designation if the ETC is not in compliance with the Commission's new rules. As such, if the Commission decides to apply the old rules to the ETC applications filed prior to the effective date of the new rules, it will have another chance to review that ETC's qualifications in 2006. It would seem a waste of both the Commission's and carriers' valuable resources for the applicants to re-do their applications and for the FCC to start its review process all over again, only to do the same thing again in October of 2006.

VI. CONCLUSION

For the foregoing reasons, Dobson respectfully opposes the ILEC Petition and requests that the Commission deny any of the relief requested by the ILEC Petitioners.

Respectfully submitted,

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By: _____/s/_____

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August 4, 2005

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[39] Dobson, an affiliate of ACC's, has sought reconsideration of the five-year planning requirement. Petition for Reconsideration of Dobson Cellular Systems, Inc., CC Docket No. 96-45 (filed June 24, 2005).

CERTIFICATE OF SERVICE

I, Pervenia P. Brown, hereby certify that on this 4th day of August, 2005, copies of the foregoing "OPPOSITION OF DOBSON CELLULAR SYSTEMS, INC. TO PETITION FOR RECONSIDERATION OF THE *ETC CRITERIA ORDER*" were served via first class U.S. Mail, postage prepaid, on the following:

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