

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45
)	
Petition by Wisconsin RSA #4 Limited)	
Partnership, Wausau Cellular Telephone)	
Limited Partnership, Nsighttel Wireless,)	
LLC, Brown County MSA Cellular)	
Limited Partnership, and Wisconsin)	
RSA #10 Limited Partnership for)	
Commission Agreement in Redefining)	
the Service Areas of Rural Telephone)	
Companies in the State of Wisconsin)	
Pursuant to 47 C.F.R. Section 54.207(c))	

**PETITION FOR COMMISSION AGREEMENT IN REDEFINING THE
SERVICE AREAS OF RURAL TELEPHONE COMPANIES IN WISCONSIN**

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Summary

Wisconsin RSA #4 Limited Partnership, Wausau Cellular Telephone Limited Partnership, Nsighttel Wireless, LLC, Brown County MSA Cellular Limited Partnership, and Wisconsin RSA #10 Limited Partnership (the “Cellcom Companies”), request the Commission’s concurrence with the proposal by the Wisconsin Public Service Commission (“WPSC”) to redefine the service areas of CenturyTel of Central Wisconsin, LLC, CenturyTel of the Midwest-WI/Cencom, CenturyTel of the Midwest-WI/Wayside, CenturyTel of the Midwest-WI/Northwest, CenturyTel of Northern Wisconsin, Marquette-Adams Telephone Cooperative, Inc., Niagara Telephone Company, Northeast Telephone Company, Stockbridge & Sherwood Telephone Company, Inc., and Wittenberg Telephone Company, pursuant to the process set forth in Section 54.207(c) of the Commission’s rules, such that each of their wire centers constitutes a separate service area.

The Cellcom Companies provide PCS and cellular service in Wisconsin and were recently designated as eligible telecommunications carriers (“ETC”) pursuant to Section 214(e) of the Act. By granting ETC status to the Cellcom Companies, the WPSC found that the use of federal high-cost support to develop their competitive operations would serve the public interest. Because the FCC-licensed service territory of each of the Cellcom Companies does not correlate with rural incumbent local exchange carrier (“ILEC”) service areas, the Act provides that the affected ILEC service areas must be redefined before designation in certain areas can take effect.

Accordingly, the WPSC has proposed that each partially-covered rural ILEC service area should be redefined in a manner that permits the designation of the Cellcom Companies to become effective throughout the portions of the ILEC service area in which each is licensed to provide service. Consistent with the WPSC’s order and with previous actions taken by the FCC

and several other states, redefinition is requested such that each wire center of the affected ILECs is reclassified as a separate service area.

The proposed redefinition is warranted under the Commission's competitively neutral universal service policies, and it constitutes precisely the same relief granted to similarly situated carriers by the Commission and several states. Unless the relevant ILEC service areas are redefined, the Cellcom Companies will be unable to use high-cost support to improve and expand service to consumers in many areas of their licensed service territories and consumers will be denied the resulting benefits. As the Commission and several states have consistently held, competitive and technological neutrality demand the removal of these artificial barriers to competitive entry. Moreover, the requested redefinition satisfies the analysis provided by the Federal-State Joint Board on Universal Service ("Joint Board") in that it minimizes or eliminates the potential for uneconomic support or cream-skimming, duly recognizes the special status of rural carriers under the Act, and does not impose undue administrative burdens on ILECs.

The WPSC's proposed redefinition is well-supported by the record at the state level, and all affected parties were provided ample opportunity to ensure that the Joint Board's recommendations were taken into account. Accordingly, the Cellcom Companies request that the Commission grant its concurrence expeditiously and allow the proposed redefinition to become effective without further action.

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Wisconsin RSA #4 Limited Partnership (“RSA #4”), Wausau Cellular Telephone Limited Partnership (“Wausau”), Nsighttel Wireless, LLC (“Nsighttel”), Brown County MSA Cellular Limited Partnership (“Brown County”), and Wisconsin RSA #10 Limited Partnership (“RSA #10”) (collectively referred to as the “Cellcom Companies”), hereby submit this Petition seeking the FCC’s agreement with the decision of the Wisconsin Public Service Commission (“WPSC”) to redefine the service areas of CenturyTel of Central Wisconsin, LLC (“CenturyTel-Central”), CenturyTel of the Midwest-WI/Cencom (“CenturyTel-Cencom”), CenturyTel of the Midwest-WI/Wayside (“CenturyTel-Wayside”), CenturyTel of the Midwest-WI/Northwest (“CenturyTel-

Northwest”), CenturyTel of Northern Wisconsin (“CenturyTel-Northern”), Marquette-Adams Telephone Cooperative, Inc. (“Marquette-Adams”), Niagara Telephone Company (“Niagara”), Northeast Telephone Company (“Northeast”), Stockbridge & Sherwood Telephone Company, Inc. (“Stockbridge & Sherwood”), and Wittenberg Telephone Company (“Wittenberg”) (collectively, the “Rural ILECs”), pursuant to the process set forth in Section 54.207(c) of the Commission’s rules, such that each of their wire centers constitutes a separate service area.¹ The Cellcom Companies provide PCS and cellular service to consumers in Wisconsin and were recently granted eligible telecommunications carrier (“ETC”) status by the WPSC pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”). As set forth below, classifying each individual wire center of the Rural ILECs as a separate service area will foster federal and state goals of encouraging competition in the telecommunications marketplace and extending universal service to rural Wisconsin’s consumers. A list of wire centers for which redefinition is requested is attached as Exhibit A.²

¹ Because of the FCC’s concurrence with the proposed redefinition set forth the petition of ALLTEL Communications, Inc. submitted on November 21, 2003, and granted on March 17, 2005, all of the wire centers of CenturyTel-Central, CenturyTel-Cencom, CenturyTel-Wayside, CenturyTel-Northwest, CenturyTel-Northern, Northeast, and Stockbridge & Sherwood have already been redefined as separate service areas. See Petition of ALLTEL Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin, CC Docket No 96-45 at Exhibit B (Nov. 21, 2003), amended Nov. 26, 2003, and supplemented March 26 and May 14, 2004; *Federal-State Joint Board on Universal Service, Report & Order*, 20 FCC Rcd 6371 (2005) (“*ETC Report and Order*”). The Cellcom Companies submit that this previous redefinition makes further redefinition unnecessary with respect to those ILECs. Nonetheless, the Cellcom Companies have included those ILECs in this Petition in the event the FCC believes that such redefinition is necessary in spite of its previous concurrence. By including these ILECs in this Petition, the Cellcom Companies do not relinquish their position that all of those ILECs’ wire centers have already been redefined.

² The list of wire centers in Exhibit A is based on the best information available to the Cellcom Companies, and it is intended to include all wire centers of each listed ILEC. This Petition requests redefinition of all wire centers throughout each ILEC’s study area so that each wire center constitutes a separate service area. Different wire center lists may be relied upon by the Universal Service Administrative Company, the Wisconsin Public Service Commission, or other interested parties. Should any Rural ILEC wire centers have been omitted from this exhibit, the language in this Petition calling for redefinition of all wire centers throughout each affected ILEC’s study area should take precedence, and any wire centers missing from this list are hereby incorporated by reference.

I. BACKGROUND

Pursuant to Section 214(e) of the Communications Act of 1934, as amended (the “Act”), state commissions generally have authority to designate carriers that satisfy the requirements of the federal universal service rules as ETCs and to define their service areas.³ In rural areas, service areas are generally defined as the incumbent local exchange carrier’s (“ILEC”) entire study area. However, the Act explicitly sets forth a process whereby a competitive ETC may be designated for a service area that differs from the ILEC’s study area. Specifically, Section 214(e) of the Act provides:

... “service area” means such company’s “study area” unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under Section 410(c), establish a different definition of service area for such company.⁴

The FCC and the Federal-State Joint Board on Universal Service (“Joint Board”) have recognized that a strict rule requiring a competitive ETC to serve an area exactly matching a rural ILEC’s study area would preclude competitive carriers that fully satisfy ETC requirements from bringing the benefits of competition to consumers throughout their service territory.⁵ Therefore, the FCC established a streamlined procedure for the FCC and states to act together to redefine rural ILEC service areas.⁶ Using this procedure, the FCC and state commissions have applied the analysis contained in Section 214(e) and concluded that it is necessary and

³ 47 U.S.C. § 214(e).

⁴ *Id.*

⁵ See *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support, Memorandum Opinion and Order*, 15 FCC Rcd 9924, 9927 n. 40 (1999) (“*Washington Redefinition Order*”), citing *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87, 181 (1996) (“*Joint Board Recommended Decision*”).

⁶ See 47 C.F.R. § 54.207(c). See also *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8881 (1997) (“*First Report and Order*”).

appropriate to redefine the ILEC service areas along wire center boundaries to permit the designation of competitive ETCs in those areas.⁷

The Cellcom Companies are subsidiaries of Northeast Communications of Wisconsin, Inc. d/b/a Nsight Telservices, a closely held company based in Green Bay, Wisconsin. Nsight Telservices has majority ownership in all of the Cellcom Companies except for RSA #4, in which it has a 25% stake and is the managing partner. The Cellcom Companies comprise a single communications network, offering service under the Cellcom name with similar home calling areas, calling plans, and service agreements throughout the combined licensee service areas of the constituent companies. On November 21, 2002, the Cellcom Companies petitioned the WPSC for ETC status for purposes of receiving high-cost support from the federal universal service fund. The WPSC granted their petitions on September 30, 2003, concluding that each of

⁷ See, e.g., NPI-Omnipoint Wireless, LLC, Case No. U-13714 (Mich. PSC, Aug. 26, 2003) (FCC concurrence granted Feb. 1, 2005) ("NPI-Omnipoint Order"); Highland Cellular, Inc., Case No. 02-1453-T-PC, Recommended Decision (W.V. PSC Sept. 15, 2003), *aff'd* by Final Order Aug. 27, 2004 (FCC concurrence granted Jan. 24, 2005) ("Highland W.V. Order"); RCC Minnesota, Inc. and Wireless Alliance, L.L.C. d/b/a Unicel, TC03-193 (S.D. PUC, June 6, 2005) (FCC concurrence granted Nov. 14, 2005) ("RCC South Dakota Order"); Cellular Mobile Systems of St. Cloud, Docket No. PT6201/M-03-1618 (Minn. PUC, May 16, 2004) (FCC concurrence granted Oct. 7, 2004) ("CMS Minnesota Order"); United States Cellular Corp., Docket 1084 (Oregon PUC, June 24, 2004) (FCC concurrence granted Oct. 11, 2004) ("USCC Oregon Order"); Smith Bagley, Inc., Docket No. T-02556A-99-0207 (Ariz. Corp. Comm'n Dec. 15, 2000) (FCC concurrence granted May 16 and July 1, 2001) ("SBI Arizona Order"); Smith Bagley, Inc., Utility Case No. 3026, Recommended Decision of the Hearing Examiner and Certification of Stipulation (N.M. Pub. Reg. Comm'n Aug. 14, 2001, adopted by Final Order (Feb. 19, 2002) (FCC concurrence granted June 11, 2002) ("SBI N.M. Order"); RCC Minnesota, Inc., Docket No. 04-RCCT-338-ETC (Kansas Corp. Comm'n, Sept. 30, 2004) (FCC concurrence granted May 23, 2005) ("RCC Kansas Order"); RCC Minnesota, Inc. et al., Docket No. 2002-344 (Maine PUC May 13, 2003) (FCC concurrence granted March 17, 2005) ("RCC Maine Order"); 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) (FCC concurrence pending) ("Northwest Dakota Order"); In the Matter of the Application of N.E. Colorado Cellular, Inc., to Re-define the Service Area of Eastern Slope Rural Telephone Association, Inc.; Great Plains Communications, Inc.; Plains Cooperative Telephone Association, Inc.; and Sunflower Telephone Co., Inc., Docket No. 02A-444T (ALJ, May 23, 2003), *aff'd* by Colo. PUC Oct. 2, 2003 (FCC concurrence granted May 23, 2005) ("Colorado Redefinition Order"). See also *Public Notice, Smith Bagley, Inc. Petitions for Agreement to Redefine the Service Areas of Navajo Communications Company, Citizens Communications Company of the White Mountains, and CenturyTel of the Southwest, Inc. On Tribal Lands Within the State of Arizona*, DA 01-409 (rel. Feb. 15, 2002) (FCC concurrence granted May 16, 2002); *Washington Redefinition Order*, *supra*, 15 FCC Rcd at 9927-28.

the companies met the qualifications to receive federal high-cost support and that a grant of ETC status throughout each of the companies' licensed service areas was in the public interest.⁸

Because the companies are authorized to serve along licensed boundaries that do not match the service areas of the affected ILECs, the WPSC invoked a Wisconsin Administrative Code provision requiring federal-state concurrence in the definition of a service area as something other than a rural ILEC's entire study area. Wisc. Admin. Code § PSC 160.13(2).⁹ In accordance with that rule, the WPSC conditioned ETC status in Rural ILEC areas that are only partially covered by the licensed areas of individual companies on FCC concurrence with the redefinition of those Rural ILEC service areas pursuant to the process established under Section 54.207(c) of the Act. 47 C.F.R. § 54.207(c). The WPSC directed the companies to petition the FCC for concurrence with the redefinition of the affected Rural ILEC service areas.¹⁰

II. DISCUSSION

A. The Requested Redefinition Is Consistent With Federal Universal Service Policy.

Congress, in passing the 1996 amendments to the Act, declared its intent to “promote competition and reduce regulation” and to “encourage the rapid deployment of new telecommunications technologies.”¹¹ As part of its effort to further these pro-competitive goals, Congress enacted new universal service provisions that, for the first time, envision multiple

⁸ Copies of the orders are attached hereto as Exhibits B-G for the Commission's reference. The attached orders include the order designating Metro Southwest PCS, L.L.P, which was recently merged into Nsighttel and therefore does not appear as a separate petitioner herein

⁹ This provision tracks the redefinition language found in Section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5).

¹⁰ *Id.* at p. 18.

¹¹ Pub. L. No. 104-104, 110 Stat. 56 (1996) (preamble)

ETCs in the same market.¹² In furtherance of this statutory mandate, the FCC has adopted the principle that universal service mechanisms be administered in a competitively neutral manner, meaning that no particular type of carrier or technology should be unfairly advantaged or disadvantaged.¹³

Consistent with this policy, the FCC and many state commissions have affirmed that ETC service areas should be defined in a manner that removes obstacles to competitive entry.¹⁴ Last year, for example, the FCC granted a petition of the Colorado Public Utilities Commission (“CPUC”) for a service area redefinition identical in all material respects to the redefinition proposed in this Petition.¹⁵ In support of redefining CenturyTel’s service area along wire-center boundaries, the CPUC emphasized that “in CenturyTel’s service area, no company could receive a designation as a competitive ETC unless it is able to provide service in 53 separate, non-contiguous wire centers located across the entirety of Colorado . . . [T]his constitutes a significant barrier to entry.”¹⁶ The FCC agreed and, by declining to open a proceeding, allowed the requested redefinition to take effect.¹⁷ The FCC similarly approved a petition by the

¹² See 47 U.S.C. § 214(e)(2).

¹³ See *First Report and Order*, *supra*, 12 FCC Rcd at 8801. Competitive neutrality is a “fundamental principle” of the FCC’s universal service policies. *Guam Cellular and Paging, Inc., Petition for Waiver of Section 54.314 of the Commission’s Rules and Regulations*, CC Docket No. 96-45, DA 03-1169 at ¶ 7 (Tel. Acc. Pol. Div. rel. April 17, 2003). Moreover, competitive neutrality was not among the issues referred by the FCC to the Joint Board. See *Federal-State Joint Board on Universal Service*, FCC 02-307 (rel. Nov. 7, 2002) (“*Referral Order*”).

¹⁴ See, e.g., *First Report and Order*, *supra*, 12 FCC Rcd at 8880-81; Petition by the Public Utilities Commission of the State of Colorado to Redefine the Service Area of CenturyTel of Eagle, Inc., Pursuant to 47 C.F.R. § 54.207(c) at p. 4 (filed with the FCC Aug. 1, 2002) (“CPUC Petition”).

¹⁵ See CPUC Petition at p. 5 (“Petitioner requests agreement to redefine CenturyTel’s service area to the wire center level”).

¹⁶ *Id.* at p. 4.

¹⁷ CenturyTel has petitioned the FCC to reconsider its decision. However, as of this date CenturyTel’s service area redefinition is effective.

Washington Utilities and Transportation Commission (“WUTC”) and about 20 rural ILECs for the redefinition of the ILECs’ service areas along wire center boundaries, finding that:

[O]ur concurrence with rural LEC petitioners’ request for designation of their individual exchanges as service areas is warranted in order to promote competition. The Washington Commission is particularly concerned that rural areas . . . are not left behind in the move to greater competition. Petitioners also state that designating eligible telecommunications carriers at the exchange level, rather than at the study area level, will promote competitive entry by permitting new entrants to provide service in relatively small areas . . . We conclude that this effort to facilitate local competition justifies our concurrence with the proposed service area redefinition.¹⁸

In Washington, several competitive ETCs have been designated in various service areas without any apparent adverse consequences to date.¹⁹

Other state commissions have similarly concluded that redefining rural ILEC service areas along wire center boundaries is fully justified by the pro-competitive goals of the 1996 Act. For example, the Minnesota Public Utilities Commission (“MPUC”) approved the proposal by WWC Holding Co., Inc. d/b/a CellularOne to redefine certain rural ILEC service areas to the wire center level.²⁰ Addressing the concerns expressed by ILEC commenters, the MPUC concluded that the proposed redefinition would neither harm the affected rural ILECs nor create significant cream-skimming opportunities.²¹ The FCC agreed, and allowed the proposed

¹⁸ *Washington Redefinition Order, supra*, 15 FCC Rcd at 9927-28 (footnotes omitted).

¹⁹ Sprint Corp. d/b/a Sprint PCS et al., Docket No. UT-043120 at p. 11 (Wash. Util. & Transp. Comm’n., Jan. 13, 2005) (stating that the WUTC’s designation of multiple competitive ETCs, “if not benefiting customers (which it does), certainly is not failing customers. In the five years since we first designated an additional ETC in areas served by rural telephone companies, the Commission has received only two customer complaints in which the consumers alleged that a *non*-rural, wireline ETC was not providing service. No Rural ILEC has requested an increase in revenue requirements based on need occasioned by competition from wireless or other ETCs. This record supports our practice of not seeking commitments or adding requirements as part of the ETC designation process.”).

²⁰ WWC Holding Co., Inc. d/b/a CellularOne, MPUC Docket No. P-5695/M-04-226, Order Approving ETC Designation (Minn. PUC, Aug. 19, 2004) (FCC concurrence granted Dec. 28, 2004).

²¹ *Id.* at p. 9.

redefinition to enter into effect. Similar conclusions were reached by state regulators in Arizona, Colorado, New Mexico, Kansas, Maine, Michigan, Minnesota, North Dakota, Oregon, South Dakota, and West Virginia.²²

As in those cases, the redefinition requested in the instant proceeding will enable the Cellcom Companies to make the network investments necessary to bring competitive service to people in nearly all of their licensed service areas. Redefinition will therefore benefit Wisconsin's rural consumers, who will begin to see a variety in pricing packages and service options on par with those available in urban and suburban areas.²³ They will see infrastructure investment in areas formerly controlled solely by ILECs, which will bring improved wireless service and important health and safety benefits associated with increased levels of radiofrequency coverage.²⁴ Redefinition will also remove a significant obstacle to competition, consistent with federal telecommunications policy.²⁵

B. The Requested Redefinition Satisfies the Three Joint Board Factors Under Section 54.207(c)(1) of the Commission's Rules.

A petition to redefine an ILEC's service area must contain "an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company."²⁶ In the *Recommended Decision* that laid the foundation for the FCC's *First Report*

²² See *supra* n 7.

²³ See 47 U.S.C. § 254(b)(3).

²⁴ See, e.g., RSA #4 Order (attached hereto as Exhibit B) at pp. 8-9.

²⁵ See Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. at 113 (stating that the 1996 Act was designed to create "a pro-competitive, de-regulatory national policy framework" aimed at fostering rapid deployment of telecommunications services to all Americans "by opening *all telecommunications markets* to competition...")(emphasis added).

²⁶ 47 C.F.R. § 54.207(c)(1)

and Order, the Joint Board enumerated three factors to be considered when reviewing a request to redefine a LEC's service area.²⁷

I. Cream-skimming

First, the Joint Board expressed concern as to whether the competitive carrier is attempting to "cream-skin" by only proposing to serve the lowest-cost exchanges.²⁸ In the case of Niagara, Northeast, Stockbridge & Sherwood, and Wittenberg, cream-skimming is not possible because the Cellcom Companies together cover the entirety of these study areas.²⁹

With respect to CenturyTel-Northern, CenturyTel-Cencom, CenturyTel-Northwest, and Marquette-Adams, the Cellcom Companies propose to serve areas that are lower in population density than the average for all wire centers in the study area, dispelling any concerns about potential cream-skimming under the FCC's *Virginia Cellular* analysis.³⁰

With respect to CenturyTel of Central Wisconsin and CenturyTel of the Midwest-Wisconsin/Wayside, the average population density of the wire centers in which the Cellcom Companies have been designated is somewhat higher than the overall average, but the difference is not sufficient to raise cream-skimming concerns. Specifically, the average population density of the CenturyTel-Central wire centers in which the Cellcom Companies were designated is 45.1 persons per square mile, versus 39.7 for all wire centers in the study area. Additionally, the

²⁷ *Joint Board Recommended Decision, supra*.

²⁸ *See id.*, 12 FCC Rcd at 180.

²⁹ *See* Exhibit H. We note that Niagara, Northeast, and Wittenberg have elected to disaggregate support to one or two cost zones per wire center under Path 3 by self-certifying disaggregation plans that went into effect immediately upon being filed. *See* <http://www.universalservice.org/hc/disaggregation>. Accordingly, there can be no cream skinning concerns in this case. *See Highland Cellular, supra*, 19 FCC Rcd at 6437 n 96 ("There are fewer issues regarding inequitable universal service support and concerns regarding the incumbent's ability to serve its entire study area when there is in place a disaggregation plan for which the per-line support available to a competitive ETC in the wire centers located in 'low-cost' zones is less than the amount a competitive ETC could receive if its served in one of the wire centers located in the 'high-cost' zones.")

³⁰ *See Virginia Cellular, supra*, 19 FCC Rcd at 1578-80.

relatively high-density wire centers in the portion of study area the Cellcom Companies propose to cover represent only a small percentage of the Cellcom Companies' potential subscribers within that study area. In the *Highland Cellular* order, the FCC declined to designate a competitive ETC in Verizon South's study area where 94% of Highland's potential customers resided in the highest-density wire centers.³¹ Here, by contrast, approximately 57% of the Cellcom Companies' potential customers live in the higher-density wire centers (*i.e.*, those with a population density of more than 50 persons per square mile) within its proposed ETC service area, in contrast to the 94% figure that led to partial denial in the FCC's *Highland Cellular* order. Because a large percentage of the Cellcom Companies' potential subscribers in that study area are in sparsely populated wire centers, it is evident that the Cellcom Companies do not seek to serve only, or even primarily, densely populated wire centers. Accordingly, there is no risk of cream-skimming in CenturyTel of Central Wisconsin's study area. As for CenturyTel of the Midwest-Wisconsin/Wayside, the population density of the single wire center in which the Cellcom Companies were designated is somewhat higher than the average for the remaining wire centers, but the difference is not so significant as to raise cream-skimming concerns.³²

2. *Rural Telephone Company Status.*

The Joint Board also recommended that the FCC and the States consider the rural carrier's special status under the 1996 Act.³³ In reviewing the Cellcom Companies' petitions for

³¹ See *Highland Cellular*, *supra*, 19 FCC Rcd at 6436-37.

³² See *Virginia Cellular*, *supra*, 19 FCC Rcd at 1579 and n.110 ("The average population density for the MGW wire centers for which Virginia Cellular seeks ETC designation is approximately 2.30 persons per square mile and the average population density for MGW's remaining wire centers is approximately 2.18 persons per square mile. . . . Although the average population density of the MGW wire centers which Virginia Cellular proposes to serve is slightly higher than the average population density of MGW's remaining wire centers, the amount of this difference is not significant enough to raise cream skimming concerns.")

³³ See *Joint Board Recommended Decision*, 12 FCC Rcd at 180

ETC designation, the WPSC weighed numerous factors in ultimately determining that such designation was in the public interest. Congress mandated this public-interest analysis in order to protect the special status of rural carriers in the same way it established special considerations for rural carriers with regard to interconnection, unbundling, and resale requirements.³⁴ No action in this proceeding will affect or prejudice any future action the WPSC or the FCC may take with respect to any ILEC's status as a rural telephone company, and nothing about service area redefinition will diminish an ILEC's status as such.

3. *Administrative Burden.*

Lastly, the Joint Board recommended that the FCC and the States consider the administrative burden a rural ILEC would face.³⁵ In the instant case, the Cellcom Companies' request to redefine the affected rural ILECs' service areas along wire center boundaries is made solely for ETC designation purposes. Defining the service area in this manner will in no way impact the way the affected rural ILECs calculate their costs, but is solely to enable the Cellcom Companies to begin receiving high-cost support in those areas in the same manner as the Rural ILECs. The Rural ILECs may continue to calculate costs and submit data for purposes of collecting high-cost support in the same manner as they do now.

Should any affected Rural ILEC now choose to disaggregate support out of concerns about cream-skimming by any carrier, this disaggregation of support will not represent an undue administrative burden. The FCC did not find that any undue burdens would result when it adopted its disaggregation rules in the *Fourteenth Report and Order*; in fact, it concluded that, "as a general matter, support should be disaggregated and targeted below the study area level so

³⁴ *See id.*

³⁵ *See id.*

that support will be distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service.”³⁶ To the extent any Rural ILEC may find this process burdensome, the benefit of preventing cream-skimming and the importance of promoting competitive neutrality will outweigh any claimed administrative burden involved.

In sum, the proposed redefinition fully satisfies both the Joint Board’s recommendations and the FCC’s analysis set forth in *Virginia Cellular* and *Highland Cellular*.

C. The Proposed Redefinition Along Wire-Center Boundaries Is Consistent With the FCC’s “Minimum Geographic Area” Policy.

In its April 2004 *Highland Cellular* decision, the FCC declared that an entire rural ILEC wire center “is an appropriate minimum geographic area for ETC designation”.³⁷ As set forth in the orders attached as Exhibits B-G hereto, the Cellcom Companies’ designated ETC service areas do not include any partial Rural ILEC wire centers. Accordingly, the instant request for concurrence with redefinition to the wire-center level, and not below the wire center, is consistent with FCC policy.

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³⁶ *Federal-State Joint Board on Universal Service, Fourteenth Report and Order, Twenty-second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244, 11302 (2001) (“*Fourteenth Report and Order*”).

³⁷ *Highland Cellular*, *supra*, 19 FCC Rcd at 6438.

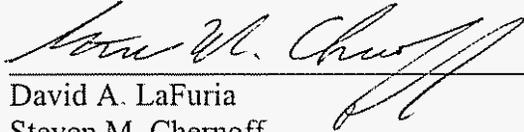
III. CONCLUSION

The Cellcom Companies stand ready to provide reliable, high-quality telecommunications service to Wisconsin's rural consumers by investing federal high-cost support in building, maintaining and upgrading wireless infrastructure throughout their licensed service territories, thereby providing facilities-based competition in many of those areas for the very first time. The WPSC has found that the Cellcom Companies' use of high-cost support will increase the availability of additional services and increase investment in rural Wisconsin and therefore serve the public interest. Yet, without the FCC's concurrence with the rural ILEC service area redefinition proposed herein, the Cellcom Companies will not be able to bring those benefits to consumers in many areas in which they are authorized by the FCC to provide service. The redefinition requested in this Petition will enable the Cellcom Companies' ETC designations to take effect throughout their licensed service territories in Wisconsin.

The relief proposed herein is exactly the same in all material respects as that granted by the FCC and state commissions to numerous other carriers throughout the country, and the FCC is well within its authority to grant its prompt concurrence. The Cellcom Companies submit that the benefits of permitting their ETC designations to take effect throughout their proposed service areas are substantial, and those benefits will inure to rural consumers who desire the Cellcom Companies' service, particularly those consumers who are eligible for Lifeline and Link-Up benefits and currently have no choice of service provider. Accordingly, the Cellcom Companies request that the Commission grant its concurrence with the WPSC's decision to redefine the Rural ILECs' service areas so that each of their wire centers constitutes a separate service area,

and allow the proposed redefinition to take effect without further action.

Respectfully submitted,



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