

STATE OF ALASKA

DEPARTMENT OF COMMERCE
COMMUNITY AND ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

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November 15, 2006

Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20554

Karen Majcher
Vice President - High Cost
& Low Income Division
Universal Service Administrative Company
2000 L Street, N.W., Suite 200
Washington, D.C. 20036

Re: CC Docket No. 96-45
Universal Service Support Certification (47 C.F.R. §§ 54.313-54.314)

Dear Ms. Dortch and Ms. Majcher:

This letter is submitted pursuant to 47 C.F.R. §§ 54.313 and 54.314, both of which require state regulatory commissions to annually certify the use of federal universal service support as a prerequisite for continued receipt of funding by eligible telecommunications carriers ("ETCs"). The Regulatory Commission of Alaska ("RCA") governs local services and rates in Alaska and is the appropriate authority to issue the certification required under Sections 54.313 and 54.314.

By orders dated September 29, 2006, the RCA designated Bristol Bay Cellular Partnership ("BBCP") as an ETC in certain areas in the state of Alaska pursuant to 47 U.S.C. § 214(e)(2). The RCA's orders designating BBCP as an ETC are enclosed. Although BBCP is a non-regulated wireless carrier, the RCA has directed BBCP to file annual certifications with it concerning BBCP's use of universal service support. The RCA will regularly review BBCP's responses in this area.

This letter serves as a supplement to the RCA's 2006 annual certification to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC") dated September 19, 2005. BBCP was designated as an ETC in the Bristol Bay Telephone Cooperative, Inc. and the Nushagak Electric and Telephone Cooperative, Inc. study areas on September 29, 2006 – after the annual certification deadline of October 1, 2005, set forth in 47 C.F.R. §§ 54.313(d) and 54.314(d) to allow BBCP to receive high-cost universal support in 2006.



Letter: Dortch/Majcher
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Pursuant to FCC Rules 54.313(d)(3)(vi) and 54.314(d)(6), the RCA must certify BBTC's use of support to the FCC and USAC within sixty (60) days of the carrier's ETC designation to ensure that BBCP is eligible to receive high-cost universal service support commencing on the date of its ETC designation and for the remainder of 2006.

BBCP has certified to the RCA that all federal high-cost universal service support received by it in Alaska will be used pursuant to 47 U.S.C. § 254(e). We have enclosed the data responses and affidavits submitted to us by BBCP in support of this supplemental certification. Accordingly, the RCA declares that, to the best of its knowledge and belief, all federal high-cost support to be received by BBCP in the State of Alaska in calendar year 2006 will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act. Accordingly, the RCA certifies BBCP's use of support in the state of Alaska for the 2006 calendar year so that BBCP may receive high-cost universal service support effective the date of its ETC designation September 29, 2006.

REGULATORY COMMISSION OF ALASKA



a Kate Giard
Chairman

Enclosures:

- Order U-06-48(2) (15 pages)
- Order U-06-50(3) (8 pages)
- Data Response and Affidavit for Study Area 613018 and Data Response and Affidavit for Study Area 613003; Attachment A (4 pages) to BBCP' Request for Supplement Certification, Oct. 6, 2006

Enclosures:

Order U-06-48(2) (15 pages)

Order U-06-50(3) (8 pages)

**Data Response and Affidavit for Study Area 613018 and Data Response
and Affidavit for Study Area 613003; Attachment A (4 pages) to BBCP'
Request for Supplement Certification, Oct. 6, 2006**

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
Janis W. Wilson

In the Matter of the Request by Bristol Bay
Cellular Partnership for Designation as a Carrier
Eligible to Receive Federal Universal Service
Support Under the Telecommunications Act of
1996)

U-06-48

ORDER NO. 2

ORDER APPROVING PETITION FOR ELIGIBLE TELECOMMUNICATIONS
CARRIER STATUS, REQUIRING FILINGS, AND CLOSING DOCKET

BY THE COMMISSION:

Summary

We approve the petition¹ filed by Bristol Bay Cellular Partnership (BBCP) for designation as an eligible telecommunications carrier (ETC) for purposes of receiving federal and state universal service funding throughout the study area served by Nushagak Electric & Telephone Cooperative, Inc. (NETCI). We require BBCP to file information annually describing its use of universal service funds (USF). We require BBCP to report any instance in which it is incapable of providing service to any customer upon reasonable request. We close this docket.

¹Petition of Bristol Bay Cellular Partnership for Designation as an Eligible Telecommunications Carrier – Nushagak Service Area, filed June 23, 2006 (Petition).

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Background

BBCP submitted a petition for designation as an ETC for purposes of receiving all available support from federal and state universal service funding in the area served by NETCI. We issued a public notice of BBCP's Petition on July 5, 2006, with a comment filing deadline of August 10, 2006. We received no comments.

BBCP amended its petition, by modifying its local usage plans and Lifeline Plan.² We issued a letter order seeking clarification of BBCP's amended proposal.³ BBCP responded to our letter order on September 26, 2006.⁴

Discussion

ETCs are eligible to receive support to provide, maintain, and upgrade facilities and services for which the support is intended.⁵ Under the Telecommunications Act of 1996 (the Act),⁶ state commissions decide whether requests for ETC designation should be granted.⁷ Under federal law, an ETC must provide the supported universal telecommunications services throughout a defined service area.⁸ In addition, the applicant must meet the following criteria for ETC status: (a) demonstrate that it owns some facilities; (b) demonstrate that it is capable and committed to providing the nine basic services required by FCC regulation;⁹ (c)

²*Bristol Bay Cellular Partnership Amendment to its Petition for Designation as an Eligible Telecommunications Carrier Nushagak Service Area*, filed September 20, 2006.

³Letter Order #: L0600598, dated September 22, 2006.

⁴Letter from Dennis Niedermeyer, filed September 26, 2006.

⁵47 U.S.C. § 254(e).

⁶Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), amending the Communications Act of 1934, 47 U.S.C. §§ 151 *et seq.*

⁷47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.201.

⁸47 C.F.R. § 54.201(d).

⁹47 C.F.R. § 54.101.

1 reasonably show that granting designation as an ETC is in the public interest; and
2 (d) show that upon obtaining ETC status, the applicant will be able to offer and will
3 advertise the availability of the services supported by the federal USF.¹⁰

4 Ownership of Facilities

5 BBCP is currently licensed by the FCC¹¹ to provide cellular service and
6 serves approximately 275 customers in the NETCI study area.¹² BBCP provided the
7 location and status of its currently operational cell sites.¹³

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¹⁰47 U.S.C. § 214(e)(1) and (2) of the Act provides:

(1) A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received –

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

(2) . . . Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

¹¹Petition at 3.

¹²Petition at 4.

¹³Petition at 3.

1 BBCP's service area map¹⁴ shows a tower located in or near Dillingham,
2 which provides coverage to Dillingham, Clarks Point/Ekuk, and a portion of the road to
3 Aleknagik. Coverage does not include Aleknagik, Manokotak, or Portage Creek.¹⁵
4 BBCP's lack of facilities throughout the entire NETCI service area at this time does not,
5 in and of itself, make BBCP ineligible for ETC status. We determine that BBCP has
6 demonstrated that it meets the ownership of facilities test.

7 Capability and Commitment

8 BBCP must demonstrate its ability to provide each of the nine basic
9 services designated by the FCC, including Lifeline and Link Up services,¹⁶ or obtain a
10 waiver.¹⁷ Although section 214(e)(1) of the Act requires an ETC to "offer" the services
11 supported by the federal universal service support mechanisms, this does not require a
12 competitive carrier to actually provide the supported services throughout the designated
13 service area before designation as an ETC.¹⁸ BBCP must demonstrate its commitment
14 and ability to provide the supported services using either its own facilities or a
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17 ¹⁴Petition, Appendix A at 2.

18 ¹⁵Although NETCI is no longer economically regulated, its most recent tariff
19 indicates three exchanges: Dillingham, Clarks Point/Ekuk, and Manokotak. However,
20 NETCI's website, <http://www.nushtel.com/service%20area/servicearea.htm>, lists two
21 other service areas: Aleknagik and Portage Creek.

22 ¹⁶Lifeline and Link Up services are services offered by ETCs to qualifying
23 customers. Link Up is described at 47 C.F.R. § 54.411(a). Lifeline is described at
24 47 C.F.R. § 54.401(a).

25 ¹⁷The FCC allows a state commission to grant a waiver of the requirement to
26 provide single-party access to Enhanced 911 (E911) and toll limitation services to allow
additional time for a carrier to complete network upgrades necessary to provide service.
47 C.F.R. § 54.101(c).

¹⁸*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, CC Docket No. 96-45, 15 FCC Rcd 15168, 15172-73 (2000).*

1 combination of its own facilities and resale upon designation of ETC status and for all
2 customers reasonably requesting service.

3 In its Petition, BBCP stated that it currently offers all nine basic services to
4 its customers and is committed to providing the services, including Lifeline and Link Up
5 services.¹⁹ BBCP stated it provides these services using its own facilities. BBCP
6 certified that it currently provides voice grade access to the public switched network
7 through interconnection arrangements with the local telephone company, offers different
8 rate plans which offer "local usage," provides out-of-band digital signaling and in-band
9 multi-frequency signaling, the functional equivalent of dual tone multi-frequency
10 signaling, single party service, access to operator services, access to interexchange
11 services, access to directory services, access to emergency services²⁰ to the extent the
12 local government has implemented 911 and E-911 systems, and can readily implement
13 toll-limitation for qualifying customers.²¹ BBCP states that it does not anticipate the need
14 to request an FCC waiver in order to provide E911 within required timelines.²²
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17 ¹⁹BBCP stated that for its qualified customers, BBCP will offer a basic Lifeline
18 rate of one dollar while Link Up customers will receive a discount that will enable them
19 to activate service for \$17.50. BBCP stated that for determining eligibility for Lifeline
20 and Link Up assistance to customers it will use 135 percent of the federal poverty
21 guidelines for Alaska and/or participation in a qualified program. Application at 9-10.

22 ²⁰Access to emergency services includes access to services, such as 911 and
23 Enhanced E911 (E911), provided by local governments or other public safety
24 organizations. 47 C.F.R. § 54.101(a)(5). 911 is a service that permits a
25 telecommunications user, by dialing the three-digit code "9-1-1," to call emergency
26 services through a Public Service Access Point operated by the local government.
"E911" is a 911 service that includes the ability to provide automatic number
identification and automatic location information.

²¹Petition at 9.

²²Petition at 8.

1 BBCP proposed a seven-step approach,²³ to meet its ETC obligations to
2 offer services, upon reasonable request, throughout the proposed service areas,
3 including areas where it does not currently have facilities.²⁴ If there is no possibility of
4 providing service short of constructing a new cell site, BBCP stated it will report to us
5 the proposed cost of construction, BBCP's position on whether the request for service is
6 reasonable, and whether high-cost funds should be expended on the request.²⁵

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11 ²³The seven-step plan for serving customers:

12 If the requesting customer is in an area BBCP can serve with its
13 existing facilities, BBCP will provide service immediately. If the requesting
14 customer is outside the area where BBCP currently provides service,
15 BBCP will:

16 Step 1: determine whether the customer's equipment can be
17 modified or replaced to provide acceptable service;

18 Step 2: determine whether a roof-mounted antenna or other
19 network equipment can be deployed at the premises to provide service;

20 Step 3: determine whether adjustments at the nearest cell site can
21 be made to provide service;

22 Step 4: determine whether a cell-extender or repeater can be
23 employed to provide service;

24 Step 5: determine whether there are any other adjustments to
25 network or customer facilities that can be made to provide service;

26 Step 6: explore the possibility of offering the resold services of
carriers with facilities available to that location;

Step 7: determine whether an additional cell site 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.

Petition at 5.

²⁴We have accepted the seven-step approach in other ETC application cases:
U-02-39 Alaska Digital, U-05-41 Dobson, U-03-16 Alaska Wireless, and others.

²⁵Petition at 5.

1 Local Usage Plan

2 In its Petition, BBCP presented eight local usage plans. These plans are
 3 summarized in the table below along with the residential calling plan of the incumbent
 4 local exchange carrier (ILEC), NETCI:

5 **Bristol Bay Cellular Partnership (ETC Applicant)**

Single Phone Calling Plans	Annual Cost	Monthly Cost (approx.)	Monthly Minutes	Bonus Minutes	Additional Minute Charge		
SOS	\$ 119.00	\$ 9.92	0	20	\$ 0.75		
Economy	\$ 150.00	\$ 12.50	15	75	\$ 0.65		
Basic	\$ 300.00	\$ 25.00	50	150	\$ 0.35		
VIP	\$ 690.00	\$ 57.50	150	350	\$ 0.25		
						Secondary Phone	
						Primary Phone	
Multiple Phone Calling Plans	Annual Cost	Monthly Cost (approx.)	Monthly Minutes	Bonus Minutes	Additional Minute Charge	Annual Cost	Per Minute
SOS	\$ 119.00	\$ 9.92	0	20	\$ 0.75	\$ 75.00	\$ 0.80
Economy	\$ 150.00	\$ 12.50	15	75	\$ 0.65	\$ 75.00	\$ 0.70
Basic	\$ 300.00	\$ 25.00	50	150	\$ 0.35	\$ 75.00	\$ 0.40
VIP	\$ 690.00	\$ 57.50	150	350	\$ 0.25	\$ 75.00	\$ 0.30

15 **Nushagak Electric & Telephone Cooperative (ILEC)**

	Annual Cost	Monthly Cost (approx.)	Monthly Minutes	Bonus Minutes	Additional Minute Charge	Annual Cost	Per Minute
Residential (Dillingham)	\$250.52	\$ 20.86	unlimited	N/A	\$0.00	N/A	N/A
Residential (Manokotak, Clarks Point/Ekuk)	\$324.84	\$ 27.07	Unlimited	N/A	\$0.00	N/A	N/A

1 In a similar proceeding we found that BBCP had not offered a local usage
2 plan comparable to the one offered by the incumbent local exchange carrier, Bristol Bay
3 Telephone Company.²⁶ While noting that comparability does not imply equivalence we
4 questioned whether BBCP's 50 minutes per month was a reasonable level of local
5 usage:

6 Comparability does not imply equivalence as that would be
7 impossible to show given the difference between the two different
8 services: wireless and wireline. Nevertheless comparability is possible by
9 examining the features of each type of service and noting the relative
10 advantages and disadvantages of each. In terms of comparability,
11 wireless service would appear to have two advantages over the ILEC's
12 wireline service: mobility and the absence of long distance charges for
13 calls to the other local exchanges in the incumbent's service area. In this
14 case, a BBCP customer can make a wireless call to a local exchange
15 subscriber in another BBTC local exchange without incurring a toll charge.

16 However, when one compares the BBCP basic plan with the BBTC
17 residential plan, there is a drastic difference between the two in terms of
18 local call minutes. BBCP offers 50 minutes per month while the BBTC
19 local calling plan is unlimited (for local calls). On average, the BBCP plan
20 provides less than two free minutes of local calling per day. We question
21 whether such a low level of local usage is reasonable.²⁷

22 In its amended petition, BBCP submitted the basic calling plan shown in the bottom row
23 of the table below:

24 ²⁶Order U-06-50(2). *Order Requiring Filing*, dated September 19, 2006 (Order
25 U-06-50(2)). Docket U-06-50 is titled *In the Matter of the Application by Bristol Bay
26 Cellular Partnership for Designation as a Carrier Eligible to Receive Federal Universal
Service Support Under the Telecommunications Act of 1996*. The local usage and
Lifeline plans proposed by BBCP for the BBTC service area are the same as the
corresponding plans for the NETCI area in this proceeding.

²⁷Order U-06-50(2) at 10-11.

Calling Plan	Monthly Payment	Monthly Minutes	Annual Rate	Bonus Monthly Minutes	Add'l Minute Rate	Other
Basic (current)	\$ 25.00	50	\$ 300	200	\$.35	Call waiting and Call Forwarding ²⁸
Basic (amended)	\$ 24.99	500	N/A	N/A	\$.20	Custom Calling and Voice Messaging

The amended basic plan improves on the number of free call minutes (500 v. 50), the per minute rate for additional minutes (\$0.20 v \$0.35), and the addition of voice messaging (and perhaps some additional custom calling features). However, the plan does not provide toll free calling between exchanges within the wireless carrier's local service area,²⁹ one of the features we noted in OrderU-06-50(2) that tends to offset unlimited local calling associated with the ILEC's local usage plan. BBCP has also limited its revision to just one of its eight calling plans.

Based upon the improvements in the BBCP basic calling plan we find it reasonably comparable to BBTC's residential calling plan. However, we encourage BBCP to develop and introduce additional calling plans for its customers, including plans that offer a greater local calling area, greater monthly free minutes allowance, and discounted off-peak calling.

²⁸Based upon information contained on BBCP's website: <http://www.bristolbay.com/bbcp.html>.

²⁹BBCP noted one exception, however this exception will be phased out as BBCP upgrades its facilities to digital: "Currently, where individual wireless cell site coverage extends into an adjacent exchange, we have limited ability to restrict and or distinguish wireless inter-exchange calling and phone use to and from these neighboring exchanges. With the deployment of digital cell sites and base station controllers within each local exchanges [sic] within the proposed service area, the local wireless calling area will generally correspond to the existing BBTC's exchange boundaries and result in the ability of BBCP to limit local calling to the exchange level." Letter from Dennis Niedermeyer, filed September 26, 2006 at 2.

1 Lifeline

2 In Docket U-06-50, we required BBCP to introduce a Lifeline plan that
3 included no less than 500 free minutes of local usage per month.³⁰ BBCP responded by
4 amending its Lifeline plan in both Docket U-06-50 and in this proceeding. The changes
5 are reflected in the table below. BBCP's Lifeline plan is the same as its amended Basic
6 local usage plan except that the additional minute rate has been reduced to \$0.10 per
7 minute. We accept BBCP's revised Lifeline plan. However, as BBCP develops and
8 introduces additional local usage plans we encourage BBCP to also consider providing
9 Lifeline customers additional calling options.

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11 Calling Plan	Monthly Payment	Monthly Minutes	Add'l Minute Rate	Other
12 Lifeline (original)	\$ 1.00	50	\$.35	Not specified
13 Lifeline (amended)	\$ 1.00	500	\$.10	Custom Calling and Voice Messaging

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15 We find that BBCP's strategy for providing service throughout its proposed
16 ETC service area is reasonable. We require BBCP to report to us if it is unable to
17 provide service to a customer in response to a reasonable request. The report must
18 state the reason service cannot be provided, possible solutions for providing service,
19 estimated cost of any needed construction, BBCP's position on whether the request for
20 service is reasonable, and whether high-cost funds should be expended on the request.
21 We have imposed this requirement on other ETCs.³¹ We will address any BBCP

22 ³⁰Order U-06-50(2) at 13.

23 ³¹Order U-06-40(1), *Order Approving Application for Eligible Telecommunications*
24 *Carrier Status, Requiring Filings, and Closing Docket*, dated August 2, 2006; Order
25 *U-05-89(2), Order Affirming Electronic Rulings, Requiring Filings, and Finding Petitions*
26 *to Intervene Moot*, dated April 11, 2006; and Order U-04-110(1), *Order Granting Eligible*
Telecommunications Carrier Status and Requiring Filings, dated November 18, 2005.

1 requests to deny service on a case-by-case basis. If BBCP unreasonably fails to serve
2 customers throughout its designated service area, we may have cause to consider
3 revoking its ETC status.

4 Public Interest Determination

5 We agree with the FCC's statement in its *Virginia Cellular* Order that
6 evaluation of the public interest requires review of a variety of factors and cannot simply
7 rest on "increased competition."³² We have evaluated factors such as the availability of
8 higher quality service, mobility, new service choices, affordable service, service to
9 underserved and unserved customers and improved public safety. BBCP stated that its
10 designation as an ETC would promote these public interest factors; more specifically
11 BBCP stated that as the sole facilities-based wireless ETC in the NETCI service area it
12 would be able to:

- 13 • increase the capacity of and improve the coverage of its system;
- 14 • make available a number of additional telecommunications service
15 options and service plans;
- 16 • provide ubiquitous coverage within the proposed service area;
- 17 • lower its cost to consumers and make wireless service more
18 accessible to those who otherwise might not be able to afford it;
- 19 • provide qualifying customers with discounts under the Link-up and
20 Lifeline programs;
- 21 • maintain a high level of service quality by maintaining, expanding, and
22 upgrading its network;

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24 ³²*Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition*
25 *for Designation as an Eligible Telecommunications Carrier in the Commonwealth of*
26 *Virginia, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (rel.*
January 22, 2004) (Virginia Cellular).

- 1 • provide service to unserved customers, including those working aboard
2 vessels; and
3 • provide access to emergency assistance to those away from their
4 residences or landline telephones.³³

5 We find that it is in the public interest to designate BBCP as an ETC.

6 Advertising Services

7 Section 214(e)(1)(B) of the Act requires an ETC to advertise the
8 availability of the nine basic services, including Link Up and Lifeline and the charges for
9 the services using “media of general distribution.” BBCP agreed to perform the
10 following advertising and outreach efforts:³⁴

- 11 1. once every two years, perform community outreach programs to all
12 local governments including Dillingham City, Southwest Region School
13 District, Bristol Bay Area Housing, Bristol Bay Native Association,
14 Bristol Bay Area Health, Village Councils, and Village Corporations by
15 notifying them of BBCP’s service and Link-up and Lifeline programs;
16 2. once every two years, post a list of its services on post office, school
17 and community center bulletin board at every community in the
18 proposed service area;
19 3. once a year, provide a bill stuffer indicating its available services; and
20 4. once a year, advertise its services through the Bristol Bay Times, a
21 newspaper of general circulation throughout the proposed service
22 area.

23 We find that BBCP’s proposed advertising and outreach efforts are compliant
24 with Section 214(e)(1)(B) of the Act.

25 ³³Petition at 12 - 15.

26 ³⁴Petition at 11.

1 Conditions on ETC Status

2 Annual Certification

3 We monitor the continued appropriate use of universal service funding in
4 our rural markets by requiring annual certification by all designated ETCs, including
5 wireless carriers. Accordingly, we require BBCP to file the same information required of
6 all other rural ETCs in Alaska through our annual use-of-funds certification process.

7 Build-out Plans

8 BBCP provided its build-out and service improvement plans in its
9 proposed service areas. BBCP stated that its build-out and service improvement plans
10 will be made possible by the receipt of federal high-cost universal service support. We
11 will monitor BBCP's progress in its network expansion and upgrade based on the build-
12 out schedule provided in this Petition. We require BBCP to notify us if it is unable to
13 provide service to a customer upon reasonable request as discussed in greater detail
14 elsewhere in this order.

15 Rulemaking Docket for ETC Designation

16 We opened a rulemaking docket to investigate the adoption of rules
17 pertaining to applications for ETC status.³⁵ Among other things, we will evaluate for use
18 in our own proceedings the possible adoption of some or all of the minimum eligibility
19 criteria adopted by the FCC for designation of an ETC.³⁶ For instance, the FCC stated
20 that it would require an ETC applicant to submit a formal network improvement plan that
21 demonstrates how universal service funds will be used to improve its service coverage,
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23 ³⁵Order U-06-3(1), *Order Opening Docket and Seeking Comments*, dated
24 May 31, 2006. Docket R-06-3 is titled *In the Matter of the Consideration of Regulations
Regarding the Designation of Eligible Telecommunications Carriers*.

25 ³⁶See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45,
26 *Report and Order*, FCC 05-46 (rel. March 17, 2005) (FCC Order).

1 signal strength, or capacity.³⁷ The FCC determined that an ETC applicant should
2 demonstrate its ability to remain functional in emergency situations, that it offer a local
3 usage plan comparable to the one offered by the ILEC in the service area.³⁸
4 Additionally, the FCC set the analytical framework it would use to determine whether the
5 applicant's ETC designation serves the public interest. We take notice that BBCP has
6 agreed to comply with many of these FCC criteria even though we have not required it.
7 We advise BBCP that we may require existing ETCs to comply with the standards we
8 adopt in our rulemaking docket.

9 Final Order

10 This order constitutes the final decision in this proceeding. This decision
11 may be appealed within thirty days of the date of this order in accordance with
12 AS 22.10.020(d) and the Alaska Rules of Court, Rule of Appellate Procedure
13 (Ak. R. App. P.) 602(a)(2). In addition to the appellate rights afforded by
14 AS 22.10.020(d), a party has the right to file a petition for reconsideration as permitted
15 by 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is then
16 calculated under Ak. R. App. P. 602(a)(2).

17 Closing Docket

18 With this determination, no substantive or procedural issues remain in this
19 proceeding and there are no allocable costs under AS 42.05.651 and 3 AAC 48.157.
20 Therefore, we close this docket.
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24 ³⁷FCC Order at ¶ 21.

25 ³⁸FCC Order at ¶¶ 68-72.
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ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Petition of Bristol Bay Cellular Partnership for Designation as an Eligible Telecommunications Carrier – Nushagak Service Area* as amended, for designation as a carrier eligible to receive federal and state universal service support under the Telecommunications Act of 1996 in the study areas of Nushagak Electric & Telephone Cooperative, Inc., is approved with conditions.

2. Bristol Bay Cellular Partnership shall file a report, as described in the body of this order, if it is unable to provide service to a customer upon reasonable request.

3. Bristol Bay Cellular Partnership shall advertise the supported services including Lifeline and Link Up services, as described in its supplemental filing.

4. Bristol Bay Cellular Partnership shall file as if it were a regulated carrier in response to our requests for information for the annual use-of-funds certification to the Federal Communications Commission.

5. Docket U-06-50 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 29th day of September, 2006.

BY DIRECTION OF THE COMMISSION
(Commissioners Kate Giard and
Dave Harbour, not participating.)

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
Janis W. Wilson

In the Matter of the Application by Bristol Bay
Cellular Partnership for Designation as a Carrier
Eligible to Receive Federal Universal Service
Support Under the Telecommunications Act of
1996)

U-06-50

ORDER NO. 3

**ORDER APPROVING PETITION FOR ELIGIBLE TELECOMMUNICATIONS
CARRIER STATUS, REQUIRING FILINGS, AND CLOSING DOCKET**

BY THE COMMISSION:

Summary

We approve the petition¹ filed by Bristol Bay Cellular Partnership (BBCP) for designation as an eligible telecommunications carrier (ETC) for purposes of receiving federal and state universal service funding in the study area served by Bristol Bay Telephone Cooperative, Inc. (BBTC). We require BBCP to file information annually describing its use of universal service funds (USF). We require BBCP to report any instance in which it is incapable of providing service to any customer upon reasonable request. We close this docket.

¹*Petition of Bristol Bay Cellular Partnership for Designation as an Eligible Telecommunications Carrier*, filed May 10, 2006 (Petition).

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Background

In Order U-06-50(2)² dated September 19, 2006, we directed BBCP to revise its local usage and Lifeline plans by September 25, 2006. BBCP filed an amended petition on September 20, 2006.³ We issued a Letter Order on September 22, 2006 seeking clarification of BBCP's amended proposal.⁴ BBCP filed a response to our Letter Order on September 26, 2006.⁵

Discussion

We previously discussed BBCP's Petition in detail and concluded that it meets the public interest requirements for approval in all but two respects: local usage plans and Lifeline plan.⁶ We directed BBCP to submit revised local usage plans and demonstrate that they are reasonably comparable to Bristol Bay Telephone Cooperative, Inc.'s (BBTC) local calling plans. We required BBCP to resubmit a Lifeline plan that provides no less than 500 minutes of free local usage per month.

We discuss BBCP revised plans below.

Local Usage Plan

In its Petition, BBCP presented eight local usage plans. These plans are summarized in the table below along with the residential calling plan of the incumbent local exchange carrier (ILEC), Bristol Bay Telephone Company:

²Order U-06-50(2), *Order Requiring Filing*, dated September 19, 2006 (Order U-06-50(2)).

³*Bristol Bay Cellular Partnership Amendment to its Petition for Designation as an Eligible Telecommunications Carrier* (Amendment).

⁴Letter Order # L0600599, dated September 22, 2006.

⁵Letter from Dennis Niedermeyer, filed September 26, 2006.

⁶Order U-06-50(2).

Bristol Bay Cellular Partnership (ETC Applicant)							
Single Phone Calling Plans	Annual Cost	Monthly Cost (approx.)	Monthly Minutes	Bonus Minutes	Additional Minute Charge		
SOS	\$ 119.00	\$ 9.92	0	20	\$ 0.75		
Economy	\$ 150.00	\$ 12.50	15	75	\$ 0.65		
Basic	\$ 300.00	\$ 25.00	50	150	\$ 0.35		
VIP	\$ 690.00	\$ 57.50	150	350	\$ 0.25		
Primary Phone						Secondary Phone	
Multiple Phone Calling Plans	Annual Cost	Monthly Cost (approx.)	Monthly Minutes	Bonus Minutes	Additional Minute Charge	Annual Cost	Per Minute
SOS	\$ 119.00	\$ 9.92	0	20	\$ 0.75	\$ 75.00	\$ 0.80
Economy	\$ 150.00	\$ 12.50	15	75	\$ 0.65	\$ 75.00	\$ 0.70
Basic	\$ 300.00	\$ 25.00	50	150	\$ 0.35	\$ 75.00	\$ 0.40
VIP	\$ 690.00	\$ 57.50	150	350	\$ 0.25	\$ 75.00	\$ 0.30

Bristol Bay Telephone Cooperative (ILEC)							
	Annual Cost	Monthly Cost (approx.)	Monthly Minutes	Bonus Minutes	Additional Minute Charge	Annual Cost	Per Minute
Residential	\$ 312	\$ 26.00	unlimited	N/A	\$0.00	\$26.00	\$0.00

In U-06-50(2), we found that BBCP did not offer a local usage plan comparable to the one offered by the ILEC. While noting that comparability does not imply equivalence we questioned whether BBCP's 50 minutes per month was a reasonable level of local usage:

Comparability does not imply equivalence as that would be impossible to show given the difference between the two different services: wireless and wireline. Nevertheless comparability is possible by examining the features of each type of service and noting the relative advantages and disadvantages of each. In terms of comparability, wireless service would appear to have two advantages over the ILEC's wireline service: mobility and the absence of long distance charges for calls to the other local exchanges in the incumbent's service area. In this case, a BBCP customer can make a wireless call to a local exchange subscriber in another BBTC local exchange without incurring a toll charge.

However, when one compares the BBCP basic plan with the BBTC residential plan, there is a drastic difference between the two in terms of local call minutes. BBCP offers 50 minutes per month while the BBTC local calling plan is unlimited (for local calls). On average, the BBCP plan

1 provides less than two free minutes of local calling per day. We question
2 whether such a low level of local usage is reasonable.⁷

3 In its amended petition, BBCP submitted the basic calling plan shown in the bottom row
4 of the table below:

5

6 Calling Plan	Monthly Payment	Monthly Minutes	Annual Rate	Bonus Monthly Minutes	Add'l Minute Rate	Other
7 Basic (original)	\$ 25.00	50	\$ 300	200	\$.35	Call waiting and Call Forwarding
8 Basic (amended)	\$ 24.99	500	N/A	N/A	\$.20	Custom Calling and Voice Messaging

9

10 The amended basic plan improves on the number of free call minutes (500 v. 50), the
11 per minute rate for additional minutes (\$0.20 v \$0.35), and the addition of voice
12 messaging (and perhaps some additional custom calling features). However, the plan
13 does not provide toll free calling between exchanges within the wireless carrier's local
14 service area,⁸ one of the features we noted in Order U-06-50(2) that tended to offset the
15 unlimited local calling associated with the incumbent's local usage plan. BBCP has also
16 limited its revision to just one of its eight calling plans.

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20 ⁷Order U-06-50(2) at 10-11.

21 ⁸BBCP noted one exception, however this exception will be phased out as BBCP
22 upgrades its facilities to digital: "Currently, where individual wireless cell site coverage
23 extends into an adjacent exchange, we have limited ability to restrict and or distinguish
24 wireless inter-exchange calling and phone use to and from these neighboring
25 exchanges. With the deployment of digital cell sites and base station controllers within
26 each local exchanges [sic] within the proposed service area, the local wireless calling
area will generally correspond to the existing BBTC's exchange boundaries and result in
the ability of BBCP to limit local calling to the exchange level." Letter from Dennis
Niedermeyer, filed September 26, 2006.

1 Based upon the improvements in the BBCP basic calling plan we find it
2 reasonably comparable to BBTC's residential calling plan. We encourage BBCP to
3 develop and introduce additional call plans for its customers, including plans that offer a
4 greater local calling area, greater monthly free minutes allowance, and discounted off-
5 peak calling.

6 Lifeline

7 We required BBCP to introduce a Lifeline plan that included no less than
8 500 free minutes of local usage per month.⁹ BBCP's Lifeline plan is the same as its
9 Basic plan except that the additional minute rate has been reduced to \$0.10 per minute
10 (see table below). We accept BBCP's revised Lifeline plan. However, as BBCP
11 develops and introduces additional local usage plans we encourage BBCP to also
12 consider providing Lifeline customers additional calling options as well.

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14 Calling Plan	Monthly Payment	Monthly Minutes	Add'l Minute Rate	Other
15 Lifeline (original)	\$ 1.00	50	\$.35	Not specified
16 Lifeline (amended)	\$ 1.00	500	\$.10	Custom Calling and Voice Messaging

17
18 With the amendments and clarifications provided by BBCP in the filings
19 discussed above, we grant its petition for designation as a carrier eligible to receive
20 federal universal service support under the Telecommunications Act of 1996, subject to
21 the conditions discussed below.

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25 ⁹Order U-06-50(2) at 13.

1 Conditions on ETC Status

2 Annual Certification

3 We monitor the continued appropriate use of universal service funding in
4 our rural markets by requiring annual certification by all designated ETCs, including
5 wireless carriers. Accordingly, we require BBCP to file the same information required of
6 all other rural ETCs in Alaska through our annual use-of-funds certification process.

7 Build-out Plans

8 BBCP provided its build-out and service improvement plans in its
9 proposed service areas. BBCP stated that its build-out and service improvement plans
10 will be made possible by the receipt of federal high-cost universal service support. We
11 will monitor BBCP's progress in its network expansion and upgrade based on the build-
12 out schedule provided in this Petition. We require BBCP to notify us if it is unable to
13 provide service to a customer upon reasonable request as discussed in greater detail
14 elsewhere in this order.

15 Rulemaking Docket for ETC Designation

16 We opened a rulemaking docket to investigate the adoption of rules
17 pertaining to applications for ETC status.¹⁰ Among other things, we will evaluate for use
18 in our own proceedings the possible adoption of some or all of the minimum eligibility
19 criteria adopted by the FCC for designation of an ETC.¹¹ For instance, the FCC stated
20 that it would require an ETC applicant to submit a formal network improvement plan that
21 demonstrates how universal service funds will be used to improve its service coverage,
22

23 ¹⁰Order U-06-3(1), *Order Opening Docket and Seeking Comments*, dated
24 May 31, 2006. Docket R-06-3 is titled *In the Matter of the Consideration of Regulations
Regarding the Designation of Eligible Telecommunications Carriers*.

25 ¹¹See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45,
26 *Report and Order*, FCC 05-46 (rel. March 17, 2005) (FCC Order).

1 signal strength, or capacity.¹² The FCC determined that an ETC applicant should
2 demonstrate its ability to remain functional in emergency situations, that it offer a local
3 usage plan comparable to the one offered by the ILEC in the service area.¹³
4 Additionally, the FCC set the analytical framework it would use to determine whether the
5 applicant's ETC designation serves the public interest. We take notice that BBCP has
6 agreed to comply with many of these FCC criteria even though we have not required it.
7 We advise BBCP that we may require existing ETCs to comply with the standards we
8 adopt in our rulemaking docket.

9 Final Order

10 This order constitutes the final decision in this proceeding. This decision
11 may be appealed within thirty days of the date of this order in accordance with
12 AS 22.10.020(d) and the Alaska Rules of Court, Rule of Appellate Procedure
13 (Ak. R. App. P.) 602(a)(2). In addition to the appellate rights afforded by
14 AS 22.10.020(d), a party has the right to file a petition for reconsideration as permitted
15 by 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is then
16 calculated under Ak. R. App. P. 602(a)(2).

17 Closing Docket

18 With this determination, no substantive or procedural issues remain in this
19 proceeding and there are no allocable costs under AS 42.05.651 and 3 AAC 48.157.
20 Therefore, we close this docket.
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24 ¹²FCC Order at ¶ 21.

25 ¹³FCC Order at ¶¶ 68-72.
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ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Petition of Bristol Bay Cellular Partnership for Designation as an Eligible Telecommunications Carrier* as amended, for designation as a carrier eligible to receive federal and state universal service support under the Telecommunications Act of 1996 in the study areas of Bristol Bay Telephone Cooperative, Inc., is approved with conditions.

2. Bristol Bay Cellular Partnership shall file a report, as described in the body of this order, if it is unable to provide service to a customer upon reasonable request.

3. Bristol Bay Cellular Partnership shall advertise the supported services including Lifeline and Link Up services, as described in its supplemental filing.

4. Bristol Bay Cellular Partnership shall file as if it were a regulated carrier in response to our requests for information for the annual use-of-funds certification to the Federal Communications Commission.

5. Docket U-06-50 is closed.

DATED AND EFFECTIVE at Anchorage, Alaska, this 29th day of September, 2006.

BY DIRECTION OF THE COMMISSION
(Commissioners Kate Giard and
Dave Harbour, not participating.)

(SEAL)

U-05-58(1) Data Response and Affidavit

Data to be provided by economically regulated Eligible Telecommunications Carriers receiving loop or switch federal universal service support.

Company Name: BRISTOL BAY CELLULAR PARTNERSHIP Date: 10/5/06
Contact Name: DENNIS NIEDERMEYER
Contact Phone Number: (907) 246-6399

DATA IS TO BE PROVIDED BY SEPARATE FORM FOR EACH STUDY AREA SERVED. COMPANIES THAT HAVE RECENTLY PURCHASED GTE EXCHANGES SHOULD FILE SEPARATE FORMS FOR THEIR NON-GTE AND GTE AREAS.

STUDY AREA: 613018

Line	Data	USOA* Title	USOA* Acct. No.	Amount Estimated For 2004
1	Federal Local Loop Support:		<u>5082.13</u>	
2	Federal Local Switching Support:		<u>5082.22</u>	
3	State Local Switching Support		<u>N/A</u>	
4	Total Federal and State Loop and Switching Support			

*For companies not required to follow the Uniformed System of Accounts (USOA), please indicate your account title and number.

Re: RCA Certification of Universal Service Fund Use

U-05-58(1)
APPENDIX
Page 1 of 2

Attachment A 1 of 4

5. Explain how your company employed universal service funds received in 2005.

None received in the last 12 months.

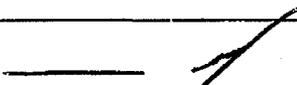
6. Explain how your company plans to employ universal service funds to be received in 2006. For example, indicate how the funds will benefit your company's expansion plans, facilities deployment, or rates charge.

Universal service funds will be used exclusively for the upgrade, maintenance, and operations of facilities serving customers in the Bristol Bay Telephone Cooperative service area. Available funds will be directed toward phase 1 upgrade of MCS Switches and cell sites to provide expanded coverage and digital service.

7. Affidavit:

As an authorized corporate officer of Bristol Bay Cellular Partnership (Utility Name), the holder of Certificate of Public Convenience and Necessity No. 428, issued by the Regulatory Commission of Alaska, I declare under penalty of unsworn falsification that I have examined this form and to the best of my knowledge and belief it is true, correct, and complete.

I hereby affirm familiarity with and understanding of the requirements of the Communications Act of 1934 as Amended by The Telecommunications Act of 1996 with respect to the receipt of Universal Service Funds and affirm that such funds received in 2006 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).

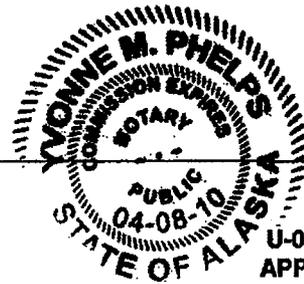
Signature 	Type or Print Name Dennis Niedermeyer	Date 10/5/06
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Subscribed and Sworn to before me this 5th day of October A.D. 2006

NOTARY PUBLIC

Commission Expires


April 8, 2010



Re: RCA Certification of Universal Service Fund Use

U-05-58(1)
APPENDIX
Page 2 of 2

Attachment A 2 of 4

U-05-58(1) Data Response and Affidavit

Data to be provided by economically regulated Eligible Telecommunications Carriers receiving loop or switch federal universal service support.

Company Name: BRISTOL BAY CELLULAR PARTNERSHIP Date: 10/5/06
Contact Name: DENNIS NIEDERMEYER
Contact Phone Number: (907) 246-6399

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STUDY AREA: 613003

Line	Data	USOA* Title	USOA* Acct. No.	Amount Estimated For 2004
1	Federal Local Loop Support:		<u>5082.13</u>	
2	Federal Local Switching Support:		<u>5082.22</u>	
3	State Local Switching Support		<u>N/A</u>	
4	Total Federal and State Loop and Switching Support			

*For companies not required to follow the Uniformed System of Accounts (USOA), please indicate your account title and number.

Re: RCA Certification of Universal Service Fund Use

U-05-58(1)
APPENDIX
Page 1 of 2

Attachment A 3 of 4

5. Explain how your company employed universal service funds received in 2005.

None received in the last 12 months.

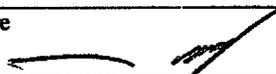
6. Explain how your company plans to employ universal service funds to be received in 2006. For example, indicate how the funds will benefit your company's expansion plans, facilities deployment, or rates charge.

Universal service funds will be used exclusively for the upgrade, maintenance and operation of facilities serving customers in the Nushagak Electric and Telephone, Inc. service area. Available funds will be directed toward phase 1 upgrade of MCS Switches and cell sites to provide expanded coverage and digital service.

7. Affidavit:

As an authorized corporate officer of Bristol Bay Cellular Partnership (Utility Name), the holder of Certificate of Public Convenience and Necessity No. 428 issued by the Regulatory Commission of Alaska, I declare under penalty of unsworn falsification that I have examined this form and to the best of my knowledge and belief it is true, correct, and complete.

I hereby affirm familiarity with and understanding of the requirements of the Communications Act of 1934 as Amended by The Telecommunications Act of 1996 with respect to the receipt of Universal Service Funds and affirm that such funds received in 2006 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).

Signature 	Type or Print Name Dennis Niedermeyer	Date 10/5/06
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Subscribed and Sworn to before me this 5th day of October, A.D. 2006

NOTARY PUBLIC

Yvonne M. Phelps
Commission Expires April 8, 2010



Re: RCA Certification of Universal Service Fund Use

Attachment A 4 of 4