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January 16, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket 96-45; Cingular Wireless's Petition for Designation as an Eligible Telecommunications Carrier

Dear Ms. Dortch:

On behalf of TDS Telecommunications, we write to draw the Commission's attention to the attached December 28 Order from the Idaho Public Utilities Commission (PUC) denying a carrier's petition for designation as an eligible telecommunications carrier (ETC).[1] Although this Order is not precedent in the context of the pending ETC petition of Cingular Wireless, LLC (Cingular),[2] the Idaho PUC's Order should inform the Commission's analysis by illustrating how one state concerned about the future of universal service has addressed an ETC petition. The Idaho Order reflects the type of rigorous public interest analysis that both law and sound policy require.

To summarize, the Idaho PUC Order ruled on a number of ETC petitions filed by Inland Cellular Telephone Company (Inland), a wireless carrier licensed to operate in southern Idaho. Inland had sought ETC designation in various non-rural and rural wire centers (including in *partial* areas of certain rural wire centers). The Idaho PUC granted Inland's petition with respect to the non-rural wire centers, but denied its petitions in the rural wire centers after a careful and exacting public interest analysis.

With respect to Inland's petition to be designated in *parts* of certain rural wire centers, the Idaho PUC ruled that Inland's petition "[did] not adequately address the more stringent ETC requirements applicable to partial wire centers" (*Order*, at 4). The Idaho PUC's primary concern

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[1] Order No. 30212, *Petition of Inland Cellular Telephone Company for Designation as an Eligible Telecommunications Carrier under 47 U.S.C.§ 214(e)(2)* (Dec. 28, 2006).

[2] Cingular Wireless, LLC, Petition of Cingular Wireless, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (filed Nov. 7, 2006).

was the potential for serving only the more lucrative, low-cost customers in a given wire center. For instance, it stressed that "there is no indication that Inland has future plans to serve the entire wire center." (*Id*., at 3). Finally, it noted that Inland's petition was vague, particularly regarding the types of customers Inland planned to serve within the wire center.

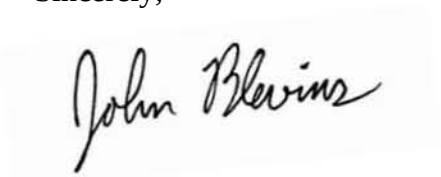
The Idaho PUC also denied Inland's ETC designation petitions regarding *entire* rural wire centers. In reaching this conclusion, the Idaho PUC looked past Inland's boilerplate responses and performed a rigorous analysis of whether designating Inland as an ETC would be in the public interest. Inland's primary "public interest" argument had been that its designation would promote competition and increase the availability of wireless service in the area. The Idaho PUC, however, rejected these arguments, reasoning that "the presumptive benefits of competition alone . . . are not sufficient to satisfy the public interest requirement." (*Order*, at 5). Further, it explained that *"ETC designation is a means to advance universal service and to provide [service] to low-income customers" and is not "a mechanism to promote the use of one telecommunications technology over another."* (*Id*., at 6-7).

In addition, the Idaho PUC carefully reviewed the other ETC regulatory requirements such as providing an adequate two-year network improvement plan and establishing the ability to remain functional in an emergency. With respect to the former, the Idaho PUC found that Inland's two-year plan was "inadequate" and lacked critical detail on a number of important issues. With respect to emergency functionality, the Idaho PUC again found that Inland had not provided sufficient detail, nor had it demonstrated "an understanding of the rural terrain." In particular, the PUC expressed skepticism about Inland's plan to remain functional in an emergency by "relying on another wireless carrier's service." (*Id*., at 7-10).

As the Order illustrates, the Idaho PUC understands the importance of performing a rigorous analysis of ETC designation petitions to ensure that the Universal Service Fund is being used for its intended purpose. As financial and political pressures upon the Fund continue to grow, it is increasingly important that the Commission do the same.

Please contact the undersigned if you have further questions or need additional information.

Sincerely,



Gerard J. Waldron
John Blevins
Counsel to TDS Telecommunications, Inc.

Enclosure

Office of the Secretary
Service Date
December 28, 2006

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF INLAND CELLULAR TELEPHONE COMPANY FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER UNDER 47 U.S.C. § 214(e)(2)	)	**CASE NO. INC-T-06-02**
	)	**ORDER NO. 30212**

On June 29, 2006, Inland Cellular Telephone Company filed a Petition on behalf of Washington RSA No. 8 Limited Partnership d/b/a Inland Cellular ("Inland" or "Company") for designation as an eligible telecommunications carrier (ETC) for service areas in Idaho that are currently serviced by other carriers. *See Idaho Code* § 61-610A and Order No. 29841. *Also see* 47 U.S.C. § 214(e)(2). A Notice of Application was filed on September 6, 2006. Order No. 30123.

Four entities intervened in this matter: The Idaho Telephone Association (ITA); Citizens Telecommunications of Idaho dba Frontier Communications of Idaho ("Frontier"); Potlatch Telephone Company, Inc. ("Potlatch"); and WWC Holdings Co., Inc. dba Alltel ("Alltel"). Potlatch also filed a Motion for Limited Admission for its out-of-state counsel. No objections were filed to any of the Petitions or to the Motion, and each was granted. Order Nos. 30123, 30144, and 30178. On October 19, 2006, the Commission issued a Notice of Modified Procedure and solicited comments on the Petition. Order No. 30152. Staff, Frontier, ITA and Potlatch timely filed comments. The Company indicated that it may desire to file reply comments and would do so on or before December 18, 2006. The Company did not file any reply comments.

THE PETITION

According to the Petition, Inland is authorized by the Federal Communications Commission (FCC) as the "B Band" cellular carrier in the northern section (within Idaho County) of Idaho 2 (B-2) Rural Service Area (RSA). Petition at ¶4. Inland is also licensed by the FCC as the "B Band" cellular carrier and has the authority to serve the southern section of Idaho 1 (B-2) RSA through a Rural Service Area Service Agreement and Option held by Inland Telephone Company. *Id.* Inland is a commercial mobile radio service (CMRS) provider and provides interstate telecommunications services. *Id.* Through this Petition, Inland sought

designation as an ETC and to receive universal service support in certain rural and non-rural wire centers located in Benewah, Clearwater, Idaho, Latah, Lewis and Nez Perce counties.

The Petition contained certain information related to the Company's local usage plans, customer service and ability to provide service. The Company provided information regarding several pricing options for its customers and provided its two-year plan.

The Company filed two supplements to its Petition, on September 27, 2006 and October 12, 2006 (Supplement No. 1 and Supplement No. 2, respectively). These documents provided further information following inquiry from Staff.

DISCUSSION

Non-Rural Wire Centers

Inland identified two non-rural wire center service areas in its request: (1) Bovil, Deary, Genesee, Moscow, Orofino, Peck, Pierce, Potlatch, and Weippe (Verizon Northwest, Inc.) and (2) Cottonwood, Craigmont, Grangeville, Kamiah, Kooskia, Lapwai, Lewiston, and Nez Perce (Qwest Corporation-ID). The Nez Perce and Coeur d'Alene Tribal reservations are also located in wire centers classified as non-rural service areas.

Staff Comments: Staff noted that the federal Telecommunications Act ("the Act") states that when a carrier meets the service requirements set forth in 47 U.S.C. § 214(e)(1) and requests designation in a non-rural area already served by an incumbent local exchange carrier (ILEC), the Commission shall designate more than one common carrier as an ETC. 47 U.S.C. § 214(e)(2). Staff Comments at 3. Staff further noted that designating more than one ETC in a non-rural service area is consistent with past Commission decisions in which the Commission granted ETC status to wireless carriers in the non-rural wire centers in Idaho. *See* Orders Nos. 29261, 29791 and 29686. Staff believes Inland meets all of the ETC requirements of the Act and Commission Order No. 29841 that address non-rural wire centers. Staff Comments at 4.

Finding: We find that designating Inland as an ETC in the non-rural service areas is consistent with the "public interest, convenience, and necessity" pursuant to 47 U.S.C. §214(e)(2). Granting ETC designation to Inland in the non-rural areas will likely benefit the consumers who are eligible recipients of Idaho Telecommunications Service Assistance Support (ITSAP). This will further serve the public interest of the consumers who live in the Coeur d'Alene and the Nez Perce Tribal territories and are thus eligible for the federal LifeLine and Linkup support. Based upon past Commission decisions, and consistent with the requirements of

Section 214 of the Act, we approve the Petition with regard to the non-rural wire centers set forth above.

Partial Rural Wire Centers

Inland's Petition also requests designation as an ETC in partial areas of the wire centers of Elk River and White Bird. These areas are served by Frontier, and both wire centers cover a very rural and large geographic area. According to the Petition, these cities have an estimated population of 156 and 106, respectively. Supplement No. 2, Exhibit A at 1. It is unknown how many of these are year-around versus seasonal residents.

Staff Comments: Staff noted that the FCC and the Commission have raised concerns about any petition that requests to serve only part of a wire center as it may lead to "cream skimming" of customers within that area. *See* Order No. 29541 at 16. Inland's Petition provided only population estimates, and no other data regarding the exact demographics of the customers to be served in the partial wire centers. Without this information, it is difficult to determine that "cream skimming" of customers would not occur. Staff Comments at 4. Staff also commented that there is no indication that Inland has future plans to serve the entire wire center. *Id.* Further, Staff pointed to Commission precedent denying a similar petition from another wireless carrier due to a concern about that company "cream skimming" customers in partial wire centers. *See* Order No. 29541.

Frontier Comments: Frontier expressed its similar concern about the potential for the Company to engage in cream skimming in these partial wire centers. It cited the FCC's decision in the *Highland Cellular Order* in which the FCC concluded that a rural carrier may not be competitive in anything less than an entire wire center, and "the competitor must commit to provide the supported services to customers throughout a minimum geographic area." Frontier Comments at 4 (*citing Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004)). Frontier requested that the Commission deny Inland's Petition as to these partial wire centers.

ITA Comments: The ITA also expressed concern that the Petition sought to cover only parts of Frontier's service territory, noting the possibility of cream skimming. ITA

Comments at 2. ITA requested that the Commission deny the Petition as to areas serviced by rural telephone companies. *Id.* at 4.

Finding: We find that the Petition does not adequately address the more stringent ETC requirements applicable to partial wire centers and that granting ETC designation in these partial rural wire centers will pose an undue burden on the ILEC. The Petition does not identify the areas within these wire centers that will be served, nor the potential consumer base that they plan to serve. In addition, the map provided in the Petition to illustrate the requested areas does not provide any illuminating information as to the population or boundaries of these areas. All of this information is important to conduct an analysis as to whether cream skimming may occur as rural wire centers often contain pockets of lower-cost, more profitable customers. We find that the Company has not set forth a public interest benefit such that it would warrant an exception to past Commission decisions. Granting ETC status in these partial wire centers may have the effect of leaving the ILEC as the carrier of last resort for the highest cost customer and could result in cream skimming of the population. We deny the Petition as to its request for ETC designation in the partial wire centers of Elk River and White Bird.

Rural Wire Centers

The Petition also included the rural wire centers of Juliaetta, Kendrick and Troy, in the Potlatch Telephone Company, Inc. service area, and Leon and Lenore in the Inland Telephone Company service area. When considering a petition for ETC designation in rural areas, an evaluation of whether the designation is in the public interest is a key factor. Order No. 29841 at 15. We have also directed applicants for ETC designation to provide other information that is vital for determining whether the company could provide reliable, adequate service to customers for whom it would receive USF support. *See* Order No. 29841.

Public Interest Analysis

We previously denied the ETC petitions of two wireless carriers, IAT Communications, Inc. dba NTCH-Idaho, Inc. and Clear Talk and NPCR, Inc. dba Nextel Partners (Case No. GNR-T-03-8), because each applicant failed to carry its burden demonstrating that its petition, which applied to areas served by rural telephone companies, was in the public interest. *See* Order No. 29541. We have found that those seeking ETC designation in rural areas have the burden of proof to demonstrate that the public interest would be served by

granting their petitions. *Id.* at 6 (*citing Virginia Cellular, LLC Petition for Designation as an ETC,* 19 F.C.C.R. 1563, 1574 (2004)).

Staff Comments: Staff evaluated Inland's five primary public interest arguments promoted in its Petition. The Company first argued in its Petition that "... an ETC designation will promote competition and facilitate provision of advanced communications services to the residents of rural Idaho... ." Petition at ¶ 32. Staff noted that Inland does not provide any further information regarding which "advanced communications services" are referenced nor does the Company's two-year plan provide additional information. Staff Comments at 6.

Second, the Company asserted that designating it as an ETC in these areas was in the public interest because "[o]ne of the principal goals of the Telecommunications Act of 1996, was to 'promote competition and reduce regulation in order to secure lower prices and high-quality services for American telecommunications consumers...'." Petition at ¶ 33. Staff commented that the presumptive benefits of competition alone, as presented in the Petition, are not sufficient to satisfy the public interest requirement. Staff believes that the bald assertion, without evidence or data to show how competition will address the wants and needs of the service area, is not enough to find that competition would be promoted or that there will be benefits to the areas' customers. Staff Comments at 7.

Third, the Company referenced the granting of ETC petitions in Wyoming, Arizona, and South Dakota to other wireless companies. Petition at ¶¶ 34, 35, and 37. Staff contends that this argument is not strong enough to meet the standard of demonstrating a public benefit to the customers in these areas. Staff Comments at 7. Staff points out that Inland's Petition must stand on its own merits and not rely on the grant of ETC status to other companies in other jurisdictions. *Id.*

Fourth, the Company asserted that, "[i]n most rural areas wireless telephone service is today a convenience, but it will not emerge as a potential alternative to wireline service unless high-cost support is made available to drive infrastructure investment." Petition at ¶ 36. While this may be valid, Staff did not believe it constitutes a compelling public interest statement with regard to ETC designation. Staff Comments at 7. Staff commented that the Company provided no specific data or evidence regarding the needs of the customers in the wire centers or that infrastructure improvements will not occur without high cost support. *Id.*

Last, the Company stated, "[w]ith high cost support, Inland Cellular will have an opportunity to create a network that is capable of convincing customers to rely on wireless service as their primary phone." Petition at ¶ 38. Staff believes this statement is invalid with regard to the meaning of the Petition. Staff Comments at 7. Staff commented that the purpose of ETC designation is not to create an environment that will encourage customers to rely on wireless service as their primary service provider. *Id.*

Staff further noted that the wire centers of Leon and Lenore are in the service area of Inland Telephone Company, a Company affiliate. Inland Telephone Company currently qualifies for and receives federal high cost Universal Service Support (USF), as well as Idaho USF support. *See* Order No. 23838. Staff commented that if an ETC designation were to be granted to the Applicant, both Inland Telephone Company and Inland Cellular could potentially receive USF support in Leon and Lenore wire centers. This creates the possibility of cross-subsidy issues and does not serve the public interest. *Id.* at 8.

Potlatch Comments: Potlatch asserted that public interest standards arising from the FCC certification rules require a cost-benefit analysis that takes into account "the impact of the designation on the universal service fund." Potlatch Comments at 13. Potlatch commented that the Petition does not include any information or analysis of this impact, and thus the cost-benefit analysis cannot, by definition, be performed to complete the evaluation as to whether the Company meets the public interest standard. *Id.*

Finding: We find that the Company has not presented sufficient argument or evidence to demonstrate that it would be in the public interest to grant the Petition as to the rural service areas. General statements regarding the concept of competition and its assumed benefits are not persuasive. No evidence is presented by the Company to demonstrate how it will specifically provide a benefit to the consumers in the requested wire centers. It cannot be presumed that benefits associated with different companies in different states are applicable to the Company or the customers in its requested service areas.

In addition, ETC designation is a means to advance universal service and to provide for secure and reliable telephone service to low-income consumers who may otherwise have difficulty affording the monthly rates. It is not meant as a mechanism to promote the use of one telecommunications technology over another. The proliferation of wireless may be a result of an

ETC entering the area, but it is not a compelling argument as to how the public interest is advanced.

Two-Year Network Improvement Plan

Each company desiring ETC designation in a rural area must provide a two-year network improvement plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire-center-by-wire-center basis throughout its proposed designated service area. Order No. 29841. Order No. 29841 does not specify the timing of the two-year plan.

Staff Comments: Staff recommended, that at a minimum, a two-year plan should be forward-looking and should not include any period prior to the filing date of the application. Staff Comments at 8. Staff commented that in its original filing, the Company provided a two-year plan for 2006 and 2007. Staff then requested an update for 2007 and 2008. In its supplemental filing, Staff observed that Inland moved much of what it originally included in the 2006 plan year to 2007. *Id.* (*citing* Supplement No. 1 at ¶ 13-18). Inland stated this budget adjustment is normal for the Company as it operates practically debt free, and redirecting funds toward other sites that require improvement or expansion, or to new sites that are needed because of demand, is standard operating procedure. Supplement No. 1 at ¶ 15. It also stated that many of the improvements planned for 2006 will not be performed until 2007. *Id.* They further emphasize that cellular is a highly competitive industry and that in order to answer demand, the Company must have flexibility to remain competitive. *Id.* Staff questioned the Company's use of competition to justify ETC designation as a benefit for consumers and an excuse to not provide a firm two-year plan. Staff Comments at 8.

Staff also acknowledged that flexibility may be required in business planning, but believes an ETC-designated company must present a solid plan to satisfy the public interest analysis. *Id.* at 9. Without this requirement, Staff believes that it would be difficult to refute the possibility that the Company may be shifting funds to address the demand to better paying customers or more densely populated areas over the demand in the more rural areas, thus posing the specter of cream skimming. *Id.*

ITA Comments: ITA also commented on the Company's two-year plan. ITA believes that the information presented by the Company comprised a "generalized narrative about budgeted improvements" that mostly described "data and broadband data services, which

are not supported services under current USF rules … ." ITA Comments at 3-4. ITA further stated that the Company did not present a wire-center-by-wire-center plan or how the projects set forth will improve signal quality, coverage or capacity or other pertinent details. *Id.* at 4. ITA also argued that the Company did not provide a solid commitment to improvements in any part of the requested service areas. *Id.*

Potlatch Comments: Potlatch voiced similar concerns in its comments, stating that the Company makes no assertion as to whether the two-year plan sets forth improvements that are part of its ordinary course of business or whether they are additional items that the Company will perform upon the grant of ETC designation. Potlatch Comments at 6. Potlatch asserted that it believes that Inland did not meet the Commission's requirements with regard to the two-year requirement in not stating its intended improvements with specificity on a wire-center-by-wire-center basis. *Id.* at 8. In addition, Potlatch commented that the Company did not describe in its plan how the proposed improvements would improve signal quality, coverage or capacity, nor did it express specificity on any potential project. *Id.* at 8-9.

Findings: We find that the two-year plan presented by the Company in its Petition and supplemental filings is inadequate. We take this as an opportunity to clarify the timing of the plan. The two-year plan submitted as part of an application for ETC designation should begin on January 1 of the year following the date of filing the application.

In addition, the plan should demonstrate a strong commitment to improving the relevant rural areas that the applicant would serve. Most businesses and industries require a certain amount of flexibility to be able to respond to changing circumstances; however, that need does not override a company's ability to forecast probable improvements to be performed within the near future. Being designated an ETC is a privilege and comes with responsibilities including a commitment to provide reliable, adequate service. The current Petition does not present sufficient evidence that the Company would meet this condition.

Ability to Remain Functional in Emergencies

The Commission has stated that it "understands different carriers in different industries and geographic areas will have different technological challenges and opportunities to meet these functional requirements." Order No. 29841 at 10. The ETC applicant must show that it has a "reasonable amount of back-up power to ensure functionality without an external power

source, is able to re-route traffic around damaged facilities, and is capable of managing different traffic spikes resulting from emergency situations." *Id.* at 11.

Staff Comments: Staff believes the Petition minimally satisfied this requirement. Staff Comments at 9. Staff noted that a rural consumer who does not have neighbors in close proximity or who is located far from a health facility, police, fire, and other emergency services is more dependent on reliable telephone service than those located in more densely populated non-rural areas. *Id.*

In the Petition, Inland stated that it has "battery back-up [good for a minimum of four hours] and a standby generator at the central office, as well as at all cell sites." Petition at ¶ 27. It further stated that, "[it] maintains redundant routes to the outside world should a route be cut off. Inland Cellular has technicians on call should trouble develop at any time." *Id.* Inland does not state the number of technicians who are available, where they are located, and how soon they would be on site to begin diagnostics and repair functions. Staff Comments at 9.

Inland asserts that in an outage, its cellular customers could receive service from any of its roaming partners should its service remain intact and a signal can be obtained. Supplement No. 2 at ¶ 8. Staff does not believe a backup plan that relies on a roaming partner's signal constitutes a sound emergency plan. Staff Comments at 10.

Inland further suggested that customers could get into their automobiles with their cellular phone and drive until a signal is attained. Supplement No. 1 at ¶ 21. Once again, Staff does not believe this to be a prudent element of an emergency plan. Staff Comments at 10. Staff believes it is not reasonable for a customer caught in an emergency caused by a natural disaster, such as a wildfire or blizzard, to drive their automobile until a signal is reached. *Id.*

Staff further commented that in neither of these scenarios does Inland explain how the Company would handle the premium per minute billing of the roaming charges that may be incurred. *Id.* Staff believes that these additional costs would likely pose a burden to a low- or fixed-income customer who is an ITSAP or a federal LifeLine recipient. Staff does not believe the Petition adequately conveys the Company's ability to handle a serious emergency. *Id.*

Potlatch Comments: Potlatch expressed doubts about the Company's emergency plan, and commented that the rugged terrain of the proposed service area would make the Company's stated solution of looking for a roaming partner a "dubious proposition at best." Potlatch Comments at 10-11.

Findings: We find the Company provided the required information regarding its back-up power capacity, its ability to re-route wireless traffic and how it manages traffic spikes arising from emergency situations. Taking into account this information and other information supplied by the Company, however, we have concerns about its ability to remain functional in an emergency. We encourage each applicant for ETC designation to address any issues that the relevant rural areas' geography may present in considering its plan to remain functional in emergencies. It is not clear the Company has an understanding of the terrain in the rural areas of this Petition. The rural mountainous terrain in these areas means that service coverage may be spotty, and relying on another wireless carrier's service when the primary carrier's service is inoperable cannot be considered an adequate plan to remain functional in an emergency. Likewise, it is not practical to rely on the customers' ability to travel during or in the aftermath of harsh weather, which is common in these areas. With little indication of how many technicians are on-hand or how long it may take them to reach affected service posts, we cannot make a determination that the Company's back-up power capacity is adequate, or that the Company would be able to address outages and related issues. We understand that some situations make any telecommunications service nearly impossible in some rural areas, especially during rough weather; however, the Petition appears to lack serious planning for the particular challenges that these areas may present.

Local Usage Plan

Potlatch expressed concerns about the Company's local usage plans. Potlatch Comments at 11. Potlatch noted that the Company provided information on two of its existing calling plans as options to meet the local usage plan requirement. *Id.* Potlatch stated that the Company offered no specific basic universal service plan customized for the customer base associated with ETC designation. *Id.* In addition, Potlatch noted, the Petition did not demonstrate that these plans are comparable with the basic service of the ILEC. *Id.* at 12. Potlatch contends that any petitioner for ETC certification in Idaho should be able to establish a specific basic universal service plan comparable to the ILEC. *Id.* It further contends that this plan should be separately identified in marketing materials and advertised on the Company's website. *Id.* Lastly, Potlatch asserted that the Company's plan of $19.95 for 150 minutes should not be found to meet the needs of the customers in the service area. *Id.* Potlatch urged the

Commission to "require a specific basic universal service offering with adequate local usage as a condition of the receipt of ETC designation." *Id.* at 13.

Findings: We appreciate Potlatch's concerns in this regard; however, as noted in Order No. 29841, we do not require that the plan be "comparable" to the ILEC's offerings. Order No. 29841 at 12. We require only that the applicant file its local usage plan to assist in identifying any benefits to consumer choice that the applicant may provide as a part of the public interest analysis.

ORDER

IT IS HEREBY ORDERED that Inland Cellular Telephone Company's Petition for eligible telecommunications carrier designation as to the non-rural wire centers set forth in Exhibit B therein is granted.

IT IF FURTHER ORDERED that the Petition as to the partial rural wire centers and the rural wire centers set forth in Exhibits C and D therein is denied.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28th day of December 2006.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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