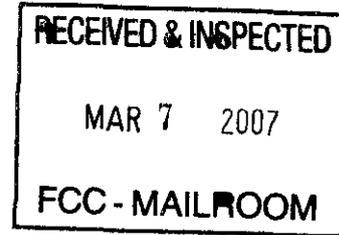


**Interstate Common Line Support (ICLS)  
2006-2007**

Date: March 5, 2007

To: Marlene H. Dortch  
Office of Secretary  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, SW  
Washington, DC 20554



Irene M. Flannery  
Vice President - High Cost and Low Income Division  
Universal Service Administrative Company  
2000 L Street, NW, Suite 200  
Washington, DC 20036

DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 96-45  
**Interstate Common Line Support - ICLS**  
Annual Certification Filing

American Cellular Corporation ("ACC") certified its use of ICLS for 2006-2007 by letter to the Federal Communications Commission ("FCC") and Universal Service Administrative Company ("USAC") dated June 22, 2006. USAC's certification checklist (a printout is enclosed as Attachment A) shows that ACC's ICLS certification was received by USAC on June 23, 2006.

By Order of the Oklahoma Corporation Commission ("OCC") dated January 18, 2007, ACC was designated as an ETC in additional areas in Oklahoma. A copy of the OCC's Order is enclosed as Attachment B. In order to avoid any confusion, ACC hereby submits this supplemental certification as to its use of ICLS for 2006-2007.

This is to certify that American Cellular Corporation will use its **INTERSTATE COMMON LINE SUPPORT - ICLS** only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of the company named above. This certification is for the study area(s) listed below.

ICLS		
Company Name	State	Study Area Code
American Cellular Corporation	Oklahoma	439010

Signed   
\_\_\_\_\_  
[Signature of Authorized Representative]

Date: 3-5-07

Phillip Giachino  
\_\_\_\_\_  
[Printed Name of Authorized Representative]

Vice President  
\_\_\_\_\_  
[Title of Authorized Representative]

No. of Copies rec'd 0+3  
List ABCDE

**Carrier's Name:** American Cellular Corporation  
**Carrier's Address:** 14201 Wireless Way  
Oklahoma City, OK 73134  
**Carrier's Telephone Number:** (405) 529-8333

**Date Received**  
(for official use  
only)

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF DOBSON CELLULAR )  
SYSTEMS, INC. AND AMERICAN )  
CELLULAR CORPORATION APPLICATION )  
FOR DESIGNATION AS A COMPETITIVE ) Cause No. PUD 200500122  
ELIGIBLE TELECOMMUNICATIONS )  
CARRIER AND REDEFINITION OF THE ) ORDER NO. 534334  
STUDY AREA REQUIREMENT PURSUANT )  
TO SECTION 214(e) OF THE )  
TELECOMMUNICATIONS ACT OF 1996 )

**FINAL ORDER**

BY THE COMMISSION:

The Oklahoma Corporation Commission ("Commission"), being regularly in session and the undersigned Commissioners being present and participating, considers the July 5, 2006 Report of the Administrative Law Judge ("ALJ Report").

On July 14, 2006, Dobson Cellular Systems, Inc. ("Dobson") and American Cellular Corporation ("ACC") filed an Appeal and Exceptions to the ALJ Report. The hearing on this appeal was held on August 16, 2006, before the Commission *en banc*.

The ALJ Report contains fifteen Findings of Fact and Conclusions of Law, hereinafter referred to as "numbered findings".

**Finding No. 1:** The ALJ's first numbered finding states that the Commission has the discretion to apply the requirements of the FCC's March 17, 2005 ETC Requirement Order when determining whether to designate Dobson and ACC as an ETC in the exchanges requested. The Commission adopts the ALJ's first numbered finding.

**Finding No. 2:** The ALJ's second numbered finding identifies the criteria that the Commission will use to determine whether ETC designation is in the public interest. The

Commission adopts the ALJ's second numbered finding.

**Finding No. 3:** The ALJ's third numbered finding determines that no public interest conclusion is necessary to designate Dobson or ACC as an ETC in the study areas of Southwestern Bell Telephone Company, d/b/a AT&T Oklahoma, or Windstream Communications, formerly Valor Telecommunications of Oklahoma, LLC. The ALJ recommended that the Commission designate Dobson and ACC as an ETC within the respective exchanges of AT&T Oklahoma and Windstream Communications that are identified by wire center in Exhibit A of the ALJ's Report.

The Commission finds that Dobson should be designated as an ETC in the South Coldwater exchange of the AT&T Oklahoma study area. ACC should be designated as an ETC in the Afton, Alluwe, Bartlesville, South Coffeyville, South Chetopa, Commerce, Corn, Dewey, Delaware, Fairland, Grove, Miami, Nowata, Picher, Quapaw, Tahlequah, Vinita, and Westville exchanges of the AT&T Oklahoma study area and the Ramona exchange of the Windstream Communications study area.

**Finding No. 4:** The ALJ's fourth numbered finding concludes that it would serve the public interest to designate Dobson and ACC as an ETC for the study areas of several Rural Incumbent Telephone Companies. The Commission adopts the ALJ's fourth numbered finding with clarification, as follows:

Dobson is designated as an ETC for the entire study area of South Central Telephone Association, Inc. - KS (Burlington and Byron exchanges). ACC is designated as an ETC for the entire Oklahoma study area of Atlas Telephone Company's Big Cabin, Blue Jacket, and Welch exchanges; CenturyTel of NW Arkansas - Russelville's Colcord and West Maysville exchanges; the Watts exchange of CenturyTel of NW Arkansas - Siloam Springs; Craw-Kan Telephone

Cooperative, Inc. – KS's South Bartlett and South Edna exchanges; Grand Telephone Co., Inc.'s Disney and Jay exchanges; Ozark Telephone Company's Southwest City exchange; Seneca Telephone Company's West Seneca and West Tiff City exchanges; and Wyandotte Telephone Company's Wyandotte exchange.

**Finding No. 5:** The ALJ's fifth numbered finding requires that Dobson and ACC file a 5-year build-out plan for any study areas / exchanges for which they receive ETC designation pursuant to their application in this cause. The ALJ also recommended that Dobson and ACC not be required to file a 5-year build-out plan for those exchanges in which it was previously designated as an ETC in Cause No. 200300239 until the Commission requires all non-ILEC ETCs to periodically file a 5-year build-out plan. The Commission adopts the ALJ's fifth numbered finding.

**Finding Nos. 6 and 7:** The ALJ's sixth and seventh numbered findings describe additional public interest conclusions of the ALJ for the some study areas listed in Finding No. 4, above. The ALJ's seventh numbered finding also contains a recommendation that the Commission require Dobson to provide its customers with local usage plans containing a minimum number of local usage minutes. The Commission adopts the ALJ's public interest conclusions but declines to require Dobson or ACC to provide customers with local usage plans containing a minimum number of local usage minutes. As designated ETCs, Dobson and ACC will be required to provide unlimited local calling for Lifeline subscribers pursuant to OAC 165:55-23-11(a)(1)(K). The Commission finds that the local calling scope is to be equal to or larger than the incumbent local telephone company in whose exchanges the Lifeline service is to be provided.

**Finding No. 8:** The ALJ's eighth numbered finding concludes that it is not in the public

interest to designate Dobson and ACC as an ETC in redefined study areas. The ALJ stated that Dobson and ACC failed to demonstrate the public interest served by designating them as ETCs in only a portion of exchanges contained within a study area. The ALJ also reasoned that granting ETC status in a redefined study area could give Dobson and ACC an unfair competitive advantage over other wireless non-ETCs.

The Commission declines to adopt the ALJ's eighth numbered finding. The Commission finds no evidence that creamskimming would result from granting the redefinition request of Dobson and ACC. The Commission finds no evidence that Dobson and ACC would gain an unfair competitive advantage if they are granted ETC designations with redefined study areas. The Commission finds that it is in the public interest to redefine the study area requirement for the rural telephone companies identified in Exhibit B to the ALJ Report.

Accordingly, Dobson is designated as an ETC in the Ashland, Burns Flat, Butler, Canute, Corn, Dill City, Foss, Gotebo, Gerty, Hammon, Kiowa, Mountain View, Roosevelt, Snyder, and Savanna exchanges of Alltel Oklahoma; the Boley and Castle exchanges of Central Oklahoma Telephone Co.; the Arpelar, Atwood, and Stuart exchanges of Cherokee Telephone Co.; the Keefton, Porum, Webbers Falls, and Warner exchanges of Cross Telephone Co.; the Colony, Eakly, Hinton, and Lookeba exchanges of Hinton Telephone Co.; the Cyril, Gracemont, and Verden exchanges of Oklahoma Communication Systems, Inc.; the Laverne exchange of Panhandle Telephone Cooperative, Inc.; the Aline, Ames, Apache, Arnett, Buffalo, Chester, Cleo Springs, Carmen, Carter, Castle, Covington, Dacoma, Douglas, Drummond, Fargo, Freedom, Fort Supply, Gage, Garber, Helena, Hinton, Hopeton, Harmon, Lahoma, May, Meno, Mooreland, Mutual, Quinlan, Ringwood, Sharon, Shattuck, Selman, Sentinal, and Waynoka exchanges of Pioneer Telephone Cooperative, Inc.; and the Bowlegs and Sasakwa exchanges of

of Pottawatomie Telephone Co. ACC is designated as an ETC in the Flint and Kansas, OK exchanges of Salina-Spavinaw Telephone Co., Inc.; the Lenapah exchange of Totah Communications, Inc.; and the Baron and Stillwell exchanges of Oklahoma Alltel, Inc.

ETC designation for a redefined study area carries all the same obligations as ETC designation for a complete study area. Redefinition will not affect the ILECs' rural telephone company exemption under 47 U.S.C. § 251(f). Redefinition is conditional on the FCC's concurrence. Dobson and ACC shall be required to file a petition for redefinition with the FCC.

**Finding No. 9:** The ALJ's ninth numbered finding recommends that the Commission designate Dobson and ACC as ETCs on an interim basis for twelve months and require that Dobson and ACC file a five-year build-out plan consistent with the FCC's March 17, 2005 Order in Docket No. 96-45, demonstrate their ability to remain functional in emergency situations, and acknowledge that the FCC may require Dobson and ACC to provide equal access to long distance carriers in the event no other ETC carrier is providing equal access within the study area.

The Commission finds that it retains jurisdiction over ETCs designated by it and therefore has jurisdiction to request special reports and other information to give assurance that the conditions placed by the Commission on such ETCs are complied with. The Commission retains jurisdiction to assess fines under its contempt authority and to revoke or modify an ETC designation under its continuing jurisdiction. Therefore, the Commission rejects the ALJ's recommendation to make the ETC designation interim.

**Finding No. 10:** The ALJ's tenth numbered finding concludes that the Commission should issue a protective order to protect the confidentiality of market sensitive information. The Commission declines to adopt the ALJ's tenth numbered finding. The Commission need not

issue a separate protective order. Rather, the confidentiality of Dobson's and ACC's market sensitive information, including the contents of their five-year build-out plans, will be protected by the March 18, 2005 Protective Order in this Cause (Order No. 502826).

**Finding No. 11 and 12:** The ALJ's eleventh and twelfth numbered findings relate to the recommended interim designation of Dobson and ACC. Since the Commission has declined to adopt the ALJ's recommendation to issue an interim ETC designation for Dobson and ACC, the eleventh and twelfth numbered findings are inapplicable. The Commission declines to adopt the ALJ's eleventh and twelfth numbered findings.

**Finding No. 13:** The ALJ's thirteenth numbered finding recommends that Dobson and ACC be required to advertise the availability of Lifeline and Link-Up services using media of general distribution within their designated territory and to provide brochures to the Oklahoma Department of Human Services and the Federal Housing Authority. The ALJ's thirteenth numbered finding is adopted in part. Dobson and ACC shall be required to advertise the availability of Lifeline and Link-Up services using media of general distribution throughout the areas in which they are designated as an ETC. Dobson and ACC shall not be required to provide brochures to the Oklahoma Department of Human Services and the Federal Housing Authority.

**Finding No. 14:** The ALJ's fourteenth numbered finding recommends that Dobson and ACC be required accept Carrier of Last Resort (COLR) obligations if the ILEC in the study area relinquishes its federal Universal Service Fund eligibility. The Commission adopts the ALJ's fourteenth numbered finding.

**Finding No. 15:** The ALJ's fifteenth numbered finding states that Dobson and ACC have certified that they will use all federal high-cost universal service support for the provision, maintenance and upgrade of facilities for which the support is intended. The Commission adopts

the ALJ's fifteenth numbered finding.

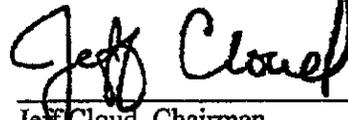
### ORDER

IT IS ORDERED BY THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA that the foregoing findings of fact and conclusions of law be adopted as fair, just and reasonable.

IT IS FURTHER ORDERED that the Report of the Administrative Law Judge is adopted as modified by the preceding provisions in this order.

IT IS FURTHER ORDERED that Dobson Cellular Systems, Inc. and American Cellular Corporation are designated as Eligible Telecommunications Carriers within the study areas identified in this order for the purposes of receiving federal universal service support. In those areas requiring redefinition of the study area requirement, Dobson and ACC are designated as ETCs subject to the FCC's concurrence with redefinition of the study area requirement.

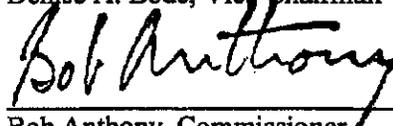
OKLAHOMA CORPORATION COMMISSION



Jeff Cloud, Chairman

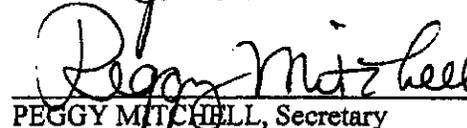


Denise A. Bode, Vice Chairman



Bob Anthony, Commissioner

DONE AND PERFORMED THIS 18 DAY OF Jan, 2007, BY ORDER OF THE COMMISSION.

  
PEGGY MITCHELL, Secretary

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF DOBSON CELLULAR )  
SYSTEMS, INC. AND AMERICAN )  
CELLULAR CORPORATION APPLICATION )  
FOR DESIGNATION AS A COMPETITIVE )  
ELIGIBLE TELECOMMUNICATIONS )  
CARRIER AND REDEFINITION OF THE )  
SERVICE AREA REQUIREMENT PURSUANT )  
TO SECTION 214(e) OF THE )  
TELECOMMUNICATIONS ACT OF 1996 )

CAUSE NO. PUD 200500122

**FILED**  
JUL 05 2005

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

HEARING: July 12-13, 2005  
Before Maribeth D. Snapp, Administrative Law Judge

APPEARANCES: David Dykeman, Deputy General Counsel  
Bennett Abbott, Assistant General Counsel for Public Utility Division  
Oklahoma Corporation Commission  
Marc Edwards and Mark J. Ayotte, Attorneys for Dobson Cellular  
Systems, Inc. and American Cellular Corporation  
Ron Comingdeer, Attorney for Atlas Telephone Company, Central  
Oklahoma Telephone Company, Cherokee Telephone Company,  
Cross Telephone Company, Grand Telephone Company, Hinton  
Telephone Company, Ozark Telephone Company, Panhandle  
Telephone Cooperative, Inc., Pioneer Telephone Cooperative, Inc.,  
Seneca Telephone Company, and South Central Telephone  
Association, Inc.  
Sandra Benischek Harrison, Attorney for Pottawatomie Telephone  
Company and Salina-Spavinaw Telephone Company  
Cody B. Waddell, Attorney for Oklahoma Communication Systems, Inc.  
and Wyandotte Telephone Company  
Kimberly K. Brown, Attorney for Chouteau Telephone Company, Totah  
Telephone Company, Inc., and Pine Telephone Company, Inc.

**REPORT OF THE ADMINISTRATIVE LAW JUDGE**

**PROCEDURAL HISTORY**

On March 2, 2005, Dobson Cellular Systems, Inc., for itself and on behalf of its subsidiary licensees, Oklahoma Independent RSA 5 Partnership and Oklahoma Independent RSA 7 Partnership ("Dobson"), and its affiliate, American Cellular Corporation ("ACC"), filed an Application for Designation as a Competitive Eligible Telecommunications Carrier and Redefinition of the Service Area Requirement Pursuant to Section 214(e) of the Telecommunications Act of 1996 (the "Application"). Specifically, Dobson and ACC sought an

Order from the Commission designating each of them as a competitive federal eligible telecommunications carrier (“ETC”) in the non-rural telephone company wire centers and rural telephone company study areas identified in Exhibit A to the Application for the purposes of receiving federal universal support and conditionally designating Dobson and ACC in the wire centers identified in Exhibit B to the Application subject to FCC approval to redefine the service area requirement from the study area to the individual wire center level. ACC also requested that the Commission certify its use of federal universal service support, pursuant to 47 U.S.C. § 254(e) and 47 C.F.R. §§ 54.313 and 54.414, effective as of the date of designation. Neither Dobson nor ACC sought designation as a State ETC for purposes of receiving support from the Oklahoma Universal Service Fund (“OUSF”). Dobson and ACC also filed a Motion for Procedural Schedule and Motion for Protective Order along with the Application on March 2, 2005. On March 18, 2005, the Commission entered Order No. 502826 granting the Motion for Protective Order, and on April 21, 2005, the Commission entered its Procedural Order, Order No. 504258.

The prepared testimony of Thomas A. Coates (“Mr. Coates”) and Don J. Wood (“Mr. Wood”) was filed on behalf of Dobson and ACC in support of the Application on April 20, 2005. On June 3, 2006, the prepared testimony of Wesley Robinson (“Mr. Robinson”) on behalf of Atlas Telephone Company, *et al.*, and Glenn Brown (“Mr. Brown”) on behalf of Oklahoma Communications Systems, Inc. (“OCSI”) and Wyandotte Telephone Company (“Wyandotte”) was filed in response to the Dobson and ACC testimony. The rebuttal testimony of Mr. Coates and Mr. Wood was filed on June 10, 2005 to address issues in both Mr. Robinson and Mr. Brown’s responsive testimony. Mr. Coates’ rebuttal testimony included Exhibit TC-4, an amended list detailing the identification of each wire center and study area where Dobson and ACC were seeking designation. On June 30, 2005, the testimony of Barbara L. Mallett (“Ms. Mallett”) was filed on behalf of Commission Staff. Exhibit lists and testimony summaries were filed by the parties on July 7, 2005. Supplemental rebuttal testimony of Mr. Coates and Mr. Woods was filed on July 8, 2005 to address concerns raised by Ms. Mallett. On July 13, 2005, the prefiled testimony of Ms. Mallett containing Staff’s formal recommendations was filed.

After hearing the matter on the merits on July 12-13, 2005, the Administrative Law Judge (“ALJ”) requested post-hearing briefing on two issues: (1) whether the new federal ETC designation requirements established by the FCC in the Report and Order issued March 17, 2005, were applicable to the proceeding and (2) whether a public interest finding to grant designation in certain wire centers of a redefined study area necessitates a finding that it is in the public interest to designate subsequent competitive ETC applicants in other wire centers of the redefined study area. On August 19, 2005, the parties filed post-hearing briefs on those two issues.

On December 29, 2005, a Motion to Substitute Counsel was filed on behalf of Pottawatomie Telephone and Salina-Spavinaw Telephone. The Motion was granted pursuant to Commission Order No. 518018 on January 13, 2006, and Sandra Benischek Harrison was substituted as attorney for Pottawatomie Telephone and Salina-Spavinaw Telephone.

**SUMMARY OF THE EVIDENCE**

**1. Testimony Summary of Thomas A. Coates and Don J. Wood on Behalf of Dobson and ACC**

Mr. Coates provided direct and rebuttal testimony on behalf of Dobson and ACC. Mr. Coates testified that he is currently employed by Dobson as Vice President, Corporate Development and provides strategic analytical services for Dobson and its affiliated entities.

Mr. Wood also provided direct and rebuttal testimony on behalf of Dobson and ACC. Mr. Wood testified he is a principal in the economic and financial consulting firm of Wood & Wood and provides economic and regulatory analysis of the telecommunications, cable, and related convergence industries with an emphasis on economic policy, competitive market development, and cost-of-service issues. Mr. Wood has previously testified on telecommunications issues before the regulatory commissions of 39 states, Puerto Rico and the District of Columbia. Mr. Wood is familiar with the application of universal service mechanisms at both the state and federal level. He has analyzed applications of carriers seeking designation as an ETC and has presented testimony regarding such applications in a number of states.

In their direct testimony, Mr. Coates and Mr. Wood testified that Dobson and ACC meet the basic criteria for designation as an ETC and (with regard to areas served by rural telephone companies, where a public interest standard applies), the designation of Dobson and ACC as an ETC is in the public interest. Mr. Coates explained that Dobson was previously designated as an ETC by the Commission in Cause PUD No. 200300239 ("*Oklahoma I*"), and that decision should serve as guidance in this Cause. Mr. Coates' and Mr. Wood's direct testimony further explains that the request for redefinition of the service area requirement should be granted. In their rebuttal testimony, Mr. Coates and Mr. Wood responded to testimony filed by Mr. Robinson on behalf of Atlas Telephone Co. *et al.*, Mr. Brown on behalf of Oklahoma Communications Systems, Inc. and Wyandotte Telephone Company, and Staff witness Ms. Mallett.

Mr. Coates explained in his direct testimony that to be designated as an ETC, a telecommunications carrier must show it is a common carrier. Mr. Coates testified that Dobson and ACC, as providers of CMRS, are common carriers under federal law. In his rebuttal testimony, Mr. Coates noted that satisfaction of this requirement is undisputed.

Mr. Coates also explained that to be designated as an ETC, a carrier must also show that it offers the nine supported services or functionalities identified by the FCC. Mr. Coates testified that Dobson and ACC currently provide all of the nine supported services using their existing networks in Oklahoma. In his rebuttal testimony, Mr. Coates explained that there are only a few specific challenges to the provision of aspects of the nine supported services.

In response to Mr. Robinson's testimony concerning the provision of access to emergency services, Mr. Coates explained that Mr. Robinson's analysis of the E911 obligations of a wireless ETC is meritless. Mr. Coates testified that Phase II E911 service is being timely deployed in Grady County, Oklahoma. Mr. Coates explained that reporting requirements concerning the provision of Phase II E911 service in Grady County are unnecessary because the

deployment of Phase II E911 in Grady County in the next few months will very likely pre-date the Commission's final Order in this Cause.

Mr. Coates also responded to Mr. Brown's and Ms. Mallett's argument that a specific minimum amount of local usage minutes should be included in the Dobson and ACC service offerings. There is no applicable requirement, either in federal law or in Oklahoma-specific orders or rules, that an ETC applicant must provide a specific minimum amount of local usage. Ms. Mallett's statement that the *Oklahoma I* order required Dobson to include a minimum of 500 local usage minutes in its supported service offerings is incorrect. Mr. Brown's argument concerning local usage appears to be based on the FCC's March 17, 2005 *Federal ETC Order*, which is not applicable in this Cause (as set forth below). Even if the comparability requirement imposed in the *Federal ETC Order* were relevant, Dobson's and ACC's larger local calling areas and bundled long distance offset the "unlimited local usage" offered by the ILEC. In his rebuttal testimony, Mr. Wood also explained that a requirement to provide "unlimited local usage" is at odds with the competitive benefit of consumer choice that will result from the designation of Dobson and ACC.

Mr. Coates explained in his direct testimony that a telecommunications carrier seeking ETC designation must also advertise the availability of the supported services and charges through media of general distribution. Mr. Coates testified that Dobson and ACC currently advertise in Oklahoma under the "Dobson" and "CellularOne" brand names through newspaper, radio, television, billboard, print advertising, point-of-sale marketing and over the Internet. Dobson and ACC will use the same media that they currently employ to advertise the supported services throughout their requested service areas. In his rebuttal testimony, Mr. Coates refuted Robinson's arguments concerning the advertising of Lifeline service, testifying that Dobson's Lifeline advertising efforts are consistent with applicable requirements and generally exceed those of the ILECs.

In his direct testimony, Mr. Coates testified that Dobson and ACC can offer and provide the supported services throughout the areas where they seek designation as an ETC using their own facilities. Mr. Coates testified that these areas consist of certain wire centers served by non-rural telephone companies, the full study areas of certain rural telephone companies, and individual wire centers of other rural telephone companies. Coverage already extends substantially throughout the areas where Dobson and ACC seek designation in this proceeding, demonstrating that they have the capability to offer and provide service as required of an ETC. In his rebuttal testimony, Mr. Coates explained that Dobson has withdrawn its request for ETC designation in a few wire centers, and provided Exhibit TC-4, an amended list of the areas where Dobson and ACC are seeking ETC designation.

Mr. Coates' rebuttal testimony responded to Mr. Brown's arguments concerning Dobson's and ACC's ability to provide service throughout the requested service areas. Mr. Coates demonstrated that Mr. Brown's coverage maps are faulty because they incorrectly represent the licensed areas, they include only about one-third of the cell sites Dobson and ACC use to propagate signal coverage in the areas where they seek designation, and they are based on erroneous assumptions about the level of signal coverage necessary.

Mr. Coates also refuted Mr. Brown's and Ms. Mallett's suggestion that the Commission should require Dobson and ACC to provide a build-out plan as a condition for ETC designation – no such requirement is applicable and a build-out plan is unnecessary because Dobson's and ACC's signal coverage already extends substantially throughout the areas where Dobson and ACC seek ETC designation. Mr. Coates noted that a requirement to submit a five-year plan is essentially duplicative of obligations with which Dobson and ACC will have to comply pursuant to the Subchapter 23 Rules: the five-year plan is a tool for identifying projected and actual uses for support, yet OAC 165:55-23-3(g) already provides the Commission a detailed mechanism for doing so. In his rebuttal testimony, Mr. Wood further testified that the utility of such a plan is hindered by the fact that changes in the availability of capital, market conditions, and demand can make even a 12-month network improvement plan subject to frequent revisions. Mr. Wood further testified that submission of such a plan will not be as effective as using the certification process to monitor ETCs' use of federal universal service support. Finally, Mr. Coates explained that if any ETC conditions, such as a build-out plan requirement, are imposed, the Commission should not grant an "interim" ETC designation as Ms. Mallett suggests, because such a designation would obligate Dobson and ACC to provide service as an ETC without assurance that they will be eligible for the commensurate funding.

Mr. Coates explained in his direct testimony that the FCC's March 17, 2005 *Federal ETC Order* is not applicable in this Cause because it applies only to proceedings in which the FCC is making an ETC designation pursuant to 47 U.S.C. § 214(e)(6). Mr. Wood's rebuttal testimony provided further reasons why the *Federal ETC Order* is not applicable in this Cause – it was issued after Dobson and ACC initiated this Cause, it does not represent a substantial change from the FCC's previous approach to ETC designation, and the Commission already has the Subchapter 23 Rules in place to govern ETC proceedings. Mr. Coates' and Mr. Wood's rebuttal testimony argued that the Commission should disregard Mr. Robinson's, Mr. Brown's, and Ms. Mallett's arguments that assume applicability of the *Federal ETC Order*. For example, Ms. Mallett's suggestion that Dobson and ACC must certify that they will provide equal access if the Commission orders it to do so is unfounded (such a condition would be impossible in any case, because only the FCC, not the Commission, has authority to order a wireless carrier to provide equal access).

Mr. Coates' direct testimony further explained that Dobson and ACC will comply with the applicable requirements of OAC 165:55-23-1 *et seq.* (the "Subchapter 23 Rules"), which impose requirements on wireless ETCs designated in Oklahoma. Dobson is already subject to the Subchapter 23 Rules for the areas in which it was designated as an ETC in *Oklahoma I*. Upon designation as an ETC in this Cause, Dobson and ACC will continue to comply with the Subchapter 23 Rules and will do so for the areas for which they seek ETC designation in this Cause.

In his rebuttal testimony, Mr. Coates testified that contrary to Mr. Robinson's assertion, Dobson has filed the 2005 annual report required by the Subchapter 23 Rules. Mr. Coates also testified that Dobson and ACC provide access to Telecommunications Relay Service, in compliance with the Subchapter 23 Rules. Mr. Coates also addressed Mr. Robinson's and Ms. Mallett's arguments concerning the imposition of a Carrier of Last Resort ("COLR") obligation. Dobson has not rejected or disavowed its agreement to meet a COLR obligation in the *Oklahoma I* designated areas. Nevertheless, the Commission should not impose a COLR

obligation on Dobson or ACC in this Cause. Doing so would be inconsistent with the Subchapter 23 Rules. In addition, the COLR obligations imposed on ILECs by the Oklahoma regulations cited by Ms. Mallett are inapplicable to Dobson and ACC because they are not seeking eligibility for OUSF. In response to Ms. Mallett's argument that imposition of a COLR obligation is important because of concerns about ETC relinquishment, Mr. Coates noted that any risk of ETC relinquishment resulting from the designation of a competitive ETC is extremely small, highly speculative, and ultimately manageable by the Commission pursuant to the process set forth in 47 U.S.C. § 214(e)(4).

In his direct testimony, Mr. Coates addressed the "public interest" standard that applies to designating an additional ETC in an area served by a rural telephone company. He explained that a public interest analysis should look to whether consumer benefits will be outweighed by any demonstrated adverse impacts on consumers resulting from the designation. He noted that in the *Oklahoma I* proceeding, the Commission found that designation of Dobson as an ETC was in the public interest so long as Dobson complied with certain conditions, which now have generally been incorporated into the Subchapter 23 Rules. Designating Dobson and ACC as an additional ETC in the requested service areas will promote competition and provide general and specific benefits to consumers. These benefits include customer choice and the availability of innovative services in rural areas where competitive service providers are hard to find. Additional factors demonstrating that Dobson's and ACC's designation as an ETC is in the public interest include larger local calling areas, wireless access to emergency services, and a commitment to quality service. Mr. Coates stated that designation of Dobson and ACC as a federal ETC in this Cause will have a *de minimis* effect on the federal universal service fund. Accordingly, designating Dobson and ACC as an ETC will preserve and promote universal service consistent with the public interest.

Mr. Wood's direct testimony also provided extensive information about how designation of Dobson and ACC as an ETC will provide both short-term and long-term competitive benefits, showing that the requested designations are in the public interest. In the short term, end user consumers will benefit from a choice of communications suppliers, technologies, pricing plans, and service options. Over the long term, competitive market forces will force all communications providers, including the ILECs, to become more efficient and responsive to consumer needs. Competitive entry is especially important in rural areas because of the key role telecommunications play in rural economic development – companies making investment and relocation decisions consider the availability of reliable voice services, data services, and wireless services, so rural areas need these services to be available in order to attract investment and jobs. Competitive entry is also very important in rural areas because in an area where fields being worked are far from the road, and where wireline phones along the roadway are few and far between, the availability of wireless communication can save a life.

In his rebuttal testimony, Mr. Coates noted that no witness has specifically challenged Dobson's or ACC's designation in those areas served by non-rural telephone companies, or asserted that the Commission must make a public interest finding before designating Dobson and ACC as an ETC in those areas. In addition, Mr. Coates noted that Staff found Dobson's and ACC's designation as an ETC in this Cause to be in the public interest.

Mr. Coates further explained in his rebuttal testimony that Mr. Robinson's and Mr. Brown's public interest analyses are inconsistent and that the designation requirements set forth in the *Federal ETC Order* should not be made into public interest factors. Mr. Coates stated that in the *Oklahoma I* proceeding, the Commission set forth a four-part public interest analysis, which should be read in a manner consistent with the purposes of the 1996 Telecommunications Act: advancing universal service, ensuring the availability of quality telecommunications services, and promoting the deployment of advanced telecommunications to rural and high-cost areas. Mr. Coates demonstrated that designation of Dobson and ACC as an ETC is in the public interest under the Commission's public interest analysis, because it will 1) result in numerous benefits to consumers; 2) serve the goals of universal service; 3) increase the opportunity for currently unserved customers to receive service; and 4) not result in any adverse effect on the public.

Mr. Wood noted in his rebuttal testimony that Mr. Brown sought to assess Dobson's and ACC's ETC designation using the public interest factors set forth in *Virginia Cellular*. Mr. Wood demonstrated that contrary to Mr. Brown's conclusion, application of the *Virginia Cellular* analysis leads to the conclusion that designation of Dobson and ACC as an ETC is in the public interest. First, the designations will lead to the benefits of competitive choice (such as competitive alternatives, new services, lower prices, and competitive market incentives). Second, the impact of Dobson's and ACC's designation on the federal universal service fund will be negligible, and is far outweighed by the universal service funding received by ILECs. Third, Dobson's and ACC's service provides unique advantages; the best proof of this is the customers who subscribe to the service. Fourth, Dobson and ACC will provide high quality customer service, as evidenced by their commitments to comply with the CTIA Consumer Code. Finally, Dobson and ACC are able to provide the supported services throughout the requested service areas within a reasonable time frame because their coverage already extends substantially throughout its requested service areas.

In their rebuttal testimony, Mr. Coates and Mr. Wood testified that Mr. Robinson's and Mr. Brown's testimony regarding the public interest analysis is fatally flawed because both fail to consider most of the public interest benefits that will arise from designation of Dobson and ACC as ETCs. Also, Mr. Brown and Mr. Robinson both mischaracterize the impact of the designation on the federal universal service fund and other speculative and over-generalized costs as adverse effects on the public. Mr. Wood testified that although Mr. Brown and Mr. Robinson emphasize that this proceeding should be "fact-intensive," they do not provide any specific facts related to any ILEC service area in which Dobson or ACC seek designation that would justify a rejection of the Application.

Mr. Coates' rebuttal testimony explained that benefits of Dobson's and ACC's services include the commitment to consumer protection and high quality service as evidenced by their adoption of the CTIA Code and the ability to remain functional in emergency situations. Contrary to Ms. Mallett's assertion, Dobson and ACC have provided detailed and substantial evidence of their ability to remain functional in emergency situations. Mr. Coates noted some Oklahoma consumers are currently without telephone service, and that designation of Dobson and ACC as an ETC may result in increased opportunities for them to receive telecommunications service.

In his direct testimony, Mr. Wood stated that ILECs opposing competitive ETC designations often try to improperly broaden the scope of the proceeding, asking regulators to consider broad policy questions such as the benefits and costs of competitive entry in rural areas and of granting ETC status to more than one carrier in such areas. Indeed, in his rebuttal testimony, Mr. Wood explained that Mr. Brown's and Mr. Robinson's testimony raised these very issues. The Commission should recognize that the FCC and the Fifth Circuit Court of Appeals have held that the purpose of the federal universal service system is to protect rural consumers, not the ILECs, and should resist the temptation to second-guess the FCC's policy decisions.

Mr. Wood rebutted many of Mr. Brown's policy arguments. Mr. Wood demonstrated in his rebuttal testimony that the Commission should ignore Mr. Brown's "argument by innuendo" strategy – the allegedly improper use of funds by another carrier in another state provides no relevant information to the Commission for use in this Cause. In rebuttal to Mr. Brown's testimony that receipt of universal service support could provide a "windfall" to Dobson and ACC, Mr. Wood first explained that even Mr. Brown acknowledges that this issue is "well beyond the scope of this proceeding." Mr. Wood further testified that no windfall can occur because of the limitations on Dobson's and ACC's use of universal service funds.

Mr. Wood explained in his rebuttal testimony that Mr. Brown's allegation that Dobson and ACC will use federal universal service support in an improper manner is without factual support and simply reflects Mr. Brown's misunderstanding of the federal universal service mechanism. Contrary to Mr. Brown's assumption, Dobson and ACC are not obliged to use federal universal service support only for the construction of new towers, but instead must use support for "the provision, maintenance, and upgrading of facilities and services for which the support is intended" pursuant to 47 U.S.C. § 254(e). Mr. Wood demonstrated that Mr. Brown's allegation also ignores the checks and balances, such as USAC's audit power and the Commission's certification process, which ensure that Dobson and ACC use federal universal service support appropriately.

Mr. Wood's rebuttal testimony also refuted Mr. Brown's suggestion that Dobson and ACC have an incentive to avoid extending service. Again, this is based on Mr. Brown's assumption that tower construction is the only means by which Dobson and ACC may extend service. Further, disaggregation prevents a competitive ETC from receiving high levels of support for customers in low cost areas. Most of all, the "service upon reasonable request" standard, which is based on both the FCC's decisions and the Subchapter 23 Rules, constitutes an enforceable commitment to extension of service with which Dobson and ACC must comply.

In rebuttal to Mr. Brown's argument that Dobson and ACC should be denied ETC designation because they are already providing service in the areas where they are seeking designation, Mr. Wood testified that just as the rural ILECs received implicit or explicit support while providing service and expanding their facilities, so should Dobson and ACC. Mr. Wood further demonstrated that Mr. Brown's argument that Dobson and ACC should be denied ETC designation because they already provide service is fundamentally inconsistent with Mr. Brown's other argument that Dobson and ACC should be denied ETC designation because their service does not extend to 100% of the geographic areas where they are seeking designation. In addition, the FCC has repeatedly made it clear that the existence of "dead spots" does not

preclude designation as a wireless ETC. Moreover, wireline carriers themselves do not provide service to 100% of the areas where they serve – instead they only provide service at locations where customers can be attached to their networks. Dobson's and ACC's service provides the potential for much wider service throughout the requested service areas. As the FCC has recognized, the mobile service provided by Dobson and ACC, although not a supported service, represents a key public benefit of Dobson's ETC designation.

Mr. Wood rebutted Mr. Brown's argument that designation of Dobson and ACC as an ETC will cause other wireless carriers in Oklahoma to seek ETC status. Mr. Wood testified that this has not happened in other states, because not all wireless carriers follow the same business model, and because market forces limit the number of competitive ETCs.

Mr. Wood testified on rebuttal that Mr. Brown's assertions regarding the possible impact of Dobson's and ACC's designation on the size of the federal universal service fund are incorrect and beyond the scope of this Cause. First, Mr. Wood explained that growth in the size of the federal universal service fund has been caused more by the extended transition period granted by the FCC to rural ILECs than by the increase in support to competitive ETCs. Second, in order to identify the most efficient network configuration, and thus minimize the size of the federal universal service fund in the long term, the fund may grow in the short term.

Mr. Wood's rebuttal testimony also included a detailed analysis of the flaws in Mr. Brown's network inefficiency analysis. Mr. Wood testified that the first significant flaw is that Mr. Brown failed to precisely define the variables (such as "fixed costs") he relies on, so that his analysis is over-generalized. Second, Mr. Brown assumed that the density of households in a rural wire center or service area can be used to predict per-line network costs in that area. This assumption is incorrect because in rural areas, households are not evenly distributed, but are instead clustered. Thus, the average number of households in a given service area is not likely to provide a meaningful approximation of the average per-line investment needed to provide telephone service there. Third, Mr. Brown's testimony is based on a misunderstanding of the Benchmark Cost Proxy Model ("BCPM"), resulting in an overstatement of the cost per line to serve a given area. Fourth, Mr. Brown incorrectly assumed that telephone investment is engineered at the wire center level. Mr. Wood's rebuttal testimony demonstrated that because of these analytical errors, Mr. Brown's network efficiency analysis is inaccurate.

Finally, Mr. Wood testified in his rebuttal testimony that Mr. Brown's charts are misleading and provide no useful information. Mr. Brown's Chart II and III vary in scale and omit units, creating a misrepresentation of the relationship between costs and density. In addition, the charts are based on information from the BCPM, which is flawed because it overstates the necessary investment in network facilities and relies on false assumptions concerning where telephone network facilities can be built. In addition, Mr. Brown's charts fail to consider long term impacts on efficiency and cost resulting from competitive entry.

Mr. Coates' direct testimony explained that in order to be designated as an ETC in wire centers in rural telephone company study areas that Dobson or ACC cannot serve in their entirety, Dobson and ACC seek redefinition of the service area requirement. Mr. Coates noted in his rebuttal testimony that no parties have opposed Dobson's and ACC's request for redefinition of the service area requirement.

Mr. Wood's direct testimony set forth the basis for Dobson's and ACC's redefinition request. An ETC applicant must demonstrate its ability to serve the incumbent ETC's entire "service area." For a rural telephone company, "service area" means the company's entire study area, unless and until the FCC and state commission act in concert to redefine the service area requirement. Redefinition is necessary in this Cause because the areas in which Dobson and ACC can serve do not encompass the entirety of some of the rural telephone company study areas in which Dobson and ACC seek to provide service as an ETC. Thus, absent redefinition, Dobson and ACC will not be able to be designated as an ETC in those areas. Mr. Wood noted that the FCC has found that redefinition facilitates competition and serves the universal service policy objectives of the 1996 Telecommunications Act.

In his direct testimony, Mr. Wood explained that in considering a redefinition request, the Commission must consider three factors set forth by the Federal-State Joint Board on Universal Service ("Joint Board"): 1) the risk that a competitive provider may try to target service to only low-cost high-support areas (referred to as "creamskimming"); 2) any potential impact on the ILEC's regulatory status as a rural telephone company; and 3) the possibility that redefinition could create administrative costs for the ILEC.

Mr. Wood explained in his direct testimony that creamskimming is not present because Dobson and ACC seek to serve all possible areas within their respective FCC-licensed service areas, and because the ILECs have had the opportunity to disaggregate support (*i.e.*, target support to specific parts of their service areas to reflect geographic cost differences). Mr. Wood further explained that as a practical matter, creamskimming is nearly impossible for a competitive ETC applicant because the economic incentive to creamskim exists only in the rare case where the high-cost and low-cost portions of the ILEC's and wireless carrier's service areas match.

Mr. Wood's direct testimony further explained that in its *Virginia Cellular* decision, the FCC endorsed the use of a population density analysis to determine whether the effects of creamskimming were present. The population density analysis for the areas where Dobson and ACC seek redefinition was introduced in Mr. Coates' direct testimony. Mr. Wood testified that the population density analysis for Dobson's and ACC's requested service areas shows that the population densities of most of the areas in which designation is sought are lower than or equal to the population densities for those areas where they are not seeking designation. This means no effects of creamskimming are present.

Mr. Wood and Mr. Coates responded to Staff's concern about redefinition of the Hinton Telephone Company ("Hinton Telephone") study area. Mr. Coates explained that Staff correctly analyzed the redefinition issue, but was apparently concerned with Dobson's ability to serve the entire Hinton wire center. He testified that pursuant to Service Area Boundary extension agreements, Dobson's coverage extends throughout the Hinton wire center and Dobson is willing and able to accept all obligations of an ETC there. He also noted that Hinton Telephone did not oppose redefinition. Mr. Wood analyzed the population density disparity in the Hinton Telephone study area, showing that the "substantial disparity" in population density the FCC was concerned with in *Virginia Cellular* is not present in this Cause and thus argued redefinition is appropriate pursuant to the applicable federal requirements.

In his direct testimony, Mr. Wood further explained that redefinition will have no effect on the ILECs in whose study areas Dobson and ACC seek designation. It will not change the area they have to serve, it will not impair or affect their unique treatment as rural telephone companies under Section 251(f) of the 1996 Telecommunications Act, and it will not affect the way their costs are calculated or affect the amount of per-line support they receive. Finally, Mr. Wood testified that there is no reason to expect that redefinition will result in any administrative burden on the ILECs. He argued that redefinition of the service area requirement is in the public interest because it will allow Dobson and ACC to bring new services and competition to customers in these areas.

In his direct testimony, Mr. Coates explained that unless the service area requirement is redefined, Dobson and ACC will be precluded from being designated as an ETC in any of those companies' study areas, and accordingly the Commission should grant conditional ETC designation in the wire centers where Dobson and ACC seek designation in those companies' study areas subject to the FCC's concurrence in the redefinition.

Mr. Coates concluded his rebuttal testimony by noting that ACC requested that the Commission include a certification regarding ACC's use of high-cost support in 2005 as part of its ETC order.

2. Testimony Summary of Wesley W. Robinson on Behalf of Atlas Telephone Company, et al.

In his Direct Testimony, Mr. Robinson testified that Dobson has not met the standards for designation as an ETC, as established by the Commission. These standards include 47 U.S.C. §§ 214(e) and 47 C.F.R. §§ 54.1-54904, the requirements contained in OAC 165-55-23, as well as the requirements imposed on Dobson's ETC designation in *Oklahoma I*. Additionally, he stated that his testimony shows that Dobson's designation as an ETC is not in the "public interest" under 47 U.S.C. § 214(e)(2) nor does it meet the minimum standards released by the FCC on March 17, 2005, which the FCC encouraged states to utilize in considering applications for ETC designation.<sup>1</sup>

In the event the commission decides to grant Dobson ETC designation in the RTC's service areas, Mr. Robinson provided recommendations regarding ways for the Commission to preserve the public interest by ensuring that customers of universal service are the ultimate beneficiaries of the universal service support that Dobson receives.

Mr. Robison testified that Dobson does not currently provide "access to emergency services," as that term is defined in 47 C.F.R. § 54.101(a)(5), throughout the area for which it seeks ETC designation in this proceeding because it has yet to provide Phase II enhanced 911 service to customers of Dobson's Supported Services within Grady County. The Public Safety Answering Point (PSAP) that administers the 911 program within Grady County sought Phase II enhanced 911 service from Dobson on March 10, 2005. Under current federal rules regarding ETC designation as well as the Federal Telecommunications Act ("Act"), Dobson is required to

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<sup>1</sup> See WR-3. (*In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 05-46, "ETC Designation Report and Order" (rel. Mar. 17, 2005).)

provide “access to emergency services” “throughout the service area for which designation is received.”<sup>2</sup> Additionally, under the Commission’s minimum service standards for wireless ETCs, Dobson is required to offer the supported services “to all end-users of wireless ETCs,” of which Phase II enhanced 911 service is a component where the service has been requested by the local government’s PSAP.<sup>3</sup> Mr. Robinson further testified that at the time of hearing in this proceeding, Dobson had not demonstrated its ability to provide Phase II enhanced 911 service to customers throughout the area for which it seeks ETC designation within Grady County. If the Commission were to approve Dobson’s application for ETC designation in this proceeding, because of the important public safety issues associated with emergency services, Mr. Robinson recommended that the Commission require Dobson to file monthly status reports regarding its efforts to deploy enhanced 911 service within Grady County, as well as monthly reports for any future requests from PSAPs within Dobson’s designated ETC service area that seek enhanced 911 services from Dobson. Should Dobson fail to implement enhanced 911 services within six months of a valid PSAP request within Dobson’s ETC designated area, Mr. Robinson recommended that the Commission suspend Dobson’s ETC designation within the wire centers that are not receiving enhanced 911 services pursuant to valid PSAP requests. Additionally, in order to ensure that Dobson’s Phase II enhanced 911 services meet the FCC’s location accuracy requirements, Mr. Robinson recommended that the Commission require Dobson to file detailed location accuracy maps for each wireless technology used to provide the supported services (both projected prior to implementation and actual post implementation) with the Commission and in addition, require affidavits attesting to the completion of enhanced 911 service deployments when requested by PSAPs within Dobson’s ETC designated areas.

Mr. Robinson testified that Dobson has failed to adequately advertise its Lifeline Service in Oklahoma and, with the exception of the compliance tariffs filed with the Commission, Dobson has not notified potential Lifeline Service customers that they would not be required to pay usage charges for minutes of use that exceed those included in their regular monthly service plan. Mr. Robinson also testified that Dobson has failed to notify customers that, if they qualify for Lifeline Service, they may elect the cheapest monthly service plan and not incur any overage charges for calls within their local calling area. Mr. Robinson testified that this failure to disclose important terms and conditions of Dobson’s Lifeline Service to potential Lifeline Service customers represents Dobson’s failure to adequately advertise its Lifeline Service, as demonstrated by the fact that Dobson only has one Lifeline Customer within Oklahoma.

Mr. Robinson testified that Dobson’s Direct Testimony and discovery responses reject the imposition of Carrier of Last Resort (COLR) obligations on Dobson as a condition of ETC designation in Oklahoma. Specifically, in response to discovery requests on this issue, Dobson states that “Dobson believes imposition of COLR status as part of federal ETC designation in the Designated Areas would be improper and *unlawful* and Dobson is *not* willing to accept such COLR obligations.”<sup>4</sup> (Emphasis added.) Dobson’s position on this issue appears to not have changed, as Dobson has not made any changes to this discovery response.

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<sup>2</sup> 47 C.F.R. 54.201(d) and FTA Section 214(e)(1).

<sup>3</sup> OAC 165:55-23-11(a)(1)(D) and (E).

<sup>4</sup> See WR-15. (RTC Int. 1.46.)

Mr. Robinson testified that Dobson is not licensed to provide service throughout the Longtown and Quinton wire centers of Cross Telephone Company, nor is it licensed to provide service throughout the Hinton wire center of Hinton Telephone Company. Therefore, he recommended Dobson not be granted ETC designation within these three wire centers.

Mr. Robinson testified that Dobson's designation as an ETC within the service areas in this proceeding is not in the public interest, as the Commission has applied its public interest test in *Oklahoma I*. As approved by the Commission in *Oklahoma I*, the following public interest criteria were used to determine whether or not granting ETC designation in a rural telephone company's study area was in the public interest:

1. Will the public receive a benefit from the designation of another carrier as an ETC in this service area? (e.g. will competition lower the cost of basic local service or encourage the provision of advanced services?)
2. Will the goal of universal service be advanced by the designation of another carrier as an ETC in this service area? (e.g. will more customers be connected to the telecommunications network as a result of designating another ETC in this service area?)
3. Will customers who do not have telephone service from the ILEC be able to obtain telephone service as a result of the designation of the carrier as an ETC? (e.g. will the customer have the ability to get telephone service in a location not currently served by the wireline company[?])
4. Will there be any adverse effect upon the public by the designation of another carrier as an ETC in this service area? (e.g. will the additional cost to the federal universal service fund be sufficiently offset by the benefits realized by the public as a result of designating a second ETC within the service area?)<sup>5</sup>

Mr. Robinson testified that Dobson's designation as an ETC within the rural telephone company service areas will not advance these public interest goals. According to Mr. Coates, Dobson is already offering and is able to provide the supported services throughout the entirety of the areas for which it seeks ETC designation.<sup>6</sup> Dobson has failed to identify any new service that it will make available as a result of ETC designation in this proceeding, with the limited exception of Lifeline Service. Dobson is not capable of providing "advanced services," as those services have been defined by the FCC. Further, Dobson has failed to identify any additional improvements it will make within the designated areas if its designation as an ETC is granted, despite the fact that Dobson projects to receive an additional \$313,644 per month (\$3,763,728 annually) if the Commission approves its designation as an ETC in this proceeding. Dobson has not indicated that it intends to extend service into any new areas that are not currently served by Dobson nor has Dobson committed to use universal service support to make its services more affordable through reduced prices to customers. Such a result contradicts the goals of the federal universal service support program to make quality services available at just, reasonable, and

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<sup>5</sup> *Oklahoma I* at pages 25-26.

<sup>6</sup> Direct Testimony of Thomas A. Coates at page 12.

affordable rates. Dobson's ETC designation will not result in any consumer being able to receive service who is not already able to receive service from the ILEC, as no RTC has had an unfulfilled service request within the past two years. Additionally, Dobson's ETC designation in this proceeding will further increase demands on the federal universal service fund by \$3,763,728, annually, which will be funded through increased surcharges on all telecommunications service customers' bills. Continued growth in the federal universal service fund as a result of the rapid growth in competitive ETC demands threatens the long-term sustainability of the federal fund.

Lastly, Mr. Robinson testified that the Commission should impose the recent requirements established by the FCC for ETC applicants, which Dobson has failed to present evidence of its ability and willingness to follow. Specifically, Mr. Robinson testified that Dobson should be required to submit in this proceeding, prior to receiving ETC designation, the following information demonstrating its ability to meet the requirements adopted by the FCC and recommended to the states:

1. A five-year plan demonstrating how it will use high-cost universal service support to improve its coverage, service quality or capacity in every wire center for which it seeks ETC designation in this proceeding.
2. Information demonstrating that Dobson will offer at least one unlimited local usage rate plan within every wire center for which it seeks ETC designation for a flat monthly rate comparable to the ILEC's rate within the same wire center. Currently, the RTCs on behalf of whom Mr. Robinson testified, offer unlimited local usage for a flat monthly rate between \$13.00 and \$23.48 per month.
3. A commitment by Dobson to offer equal access to interexchange carriers (IXCs) if any other ETC in the designated areas relinquishes their ETC designations. Dobson's position on this issue, as outlined in its discovery response is that, "Dobson would not agree to offer equal access to IXCs" if another ETC within the areas for which Dobson seeks ETC designation were to relinquish its ETC status.<sup>7</sup>

**3. Testimony Summary of Glenn H. Brown on Behalf of OCSI and Wyandotte**

Mr. Brown, President of McLean & Brown, a telecommunications consulting firm specializing in universal service issues, testified on behalf of OCSI and Wyandotte for the purpose of commenting on the public interest criteria that the Commission should apply in its investigation of Dobson's application for ETC status to receive high-cost universal service support in certain rural telephone company study areas in the state of Oklahoma.

The Act is clear that multiple ETCs may only be approved in areas served by rural telephone companies upon a finding by the state Commission that such funding would be in the public interest. While the Act provides no specific guidance on how this public interest

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<sup>7</sup> See WR-27. (RTC Int. 1.10.)

determination should be performed, the FCC has provided evolving guidelines over the past five years that have gone through three distinct phases of evolution.

Mr. Brown testified that the early FCC decisions, characterized by the Wyoming and Alabama orders, were based on the premise that competition was in the public interest, and thus providing high-cost support to additional ETCs would also be in the public interest. The second phase in the evolution of the public interest test came with the adoption of the *Virginia Cellular* Order. Due in part to the rapid growth in funding to competitive ETCs based upon its earlier guidance, the FCC concluded that competition, alone, was not sufficient to satisfy the public interest test. The FCC determined that a more stringent public interest test was necessary to assure that the public benefits of supporting multiple carriers exceeded the public costs of supporting multiple networks in high-cost areas.

Importantly, the FCC required the prospective ETC applicant to demonstrate both its ability and commitment to serve throughout the entire service area in a reasonable period of time.

The most recent of the FCC Orders was issued in March of 2005, in response to recommendations from the Joint Board. It provides specific and detailed factual showings that a prospective carrier must make to demonstrate that its application would be in the public interest. Included in these requirements are a detailed five-year plan demonstrating how high-cost funds would be used to improve signal quality in every wire center for which it seeks high-cost support, and demonstrations that it provides local usage comparable to that provided by the incumbent.

Mr. Brown further testified that the reason why is it so important that the ETC applicant provide up-front documentation of how it intends to spend the high-cost funds that it seeks to receive is because under current FCC rules, a competitive ETC receives high-cost funding not based upon costs that it will incur to expand its network further into rural and high-cost areas, but rather based upon costs that the wireline incumbent has already incurred to build out its network to serve as COLR throughout the entire service area. Mr. Brown testified that without the requirement to enter into an enforceable commitment to spend these funds to expand signal coverage throughout the service area, a carrier could simply flow this support to the bottom line or use it for other purposes that do not benefit consumers in the most rural and high-cost portions of the service area. Also, without such documentation and commitment, the Commission would be unable to determine if the prospective applicant would be able to function as a COLR.

Mr. Brown testified that in making rural ETC designations, the Commission must also be aware that certain rural areas may be economically incapable of supporting more than one COLR. In support, Mr. Brown provided the economic rationale why it may be uneconomical to support two carriers, or even two wireless carriers, in certain high-cost areas by way of analogy. A rural highway intersection may be fully capable of supporting one convenience store, but if a store were to be built on each of the four corners, then it is highly unlikely that any one of them could be economically viable. Likewise, supporting multiple carriers, wireline or wireless, in the more rural areas would result in what FCC Chairman Martin has described as “inefficient and/or stranded investment and a ballooning universal service fund.” The ultimate public harm would occur if in certain areas of rural Oklahoma no carrier was capable of functioning as a viable COLR.

Mr. Brown also testified that the Commission should be aware that there is only a finite amount of public money to support high-cost rural telecommunications infrastructure. Given the dramatic growth in recent quarters in funding to competitive ETCs documented in Mr. Brown's testimony, the public interest demands that the Commission develop and enforce strict criteria by which requests for ETC designation can be evaluated, and applications are approved only when the public benefits clearly exceed the public costs. The criteria established by the FCC in their ETC designation order are a step in the right direction, and Mr. Brown argued the Commission should apply these criteria in this case.

Measured against these criteria, Mr. Brown testified that the Commission has no choice but to deny Dobson's application. Dobson provides absolutely no documentation as to how it proposes to use the significant amount of public funds it requests in its application, let alone, how such funding will result in high-quality signal coverage throughout the service area. Likewise, Dobson provides no demonstration that it will provide local usage comparable to that provided by the wireline incumbent. The Commission has no objective criteria to evaluate the public benefits that would result from approval of Dobson's application, and thus cannot make a factual finding that its approval would be in the public interest.

**4. Testimony Summary of Barbara L. Mallett on Behalf of Commission Staff**

Ms. Mallett testified on behalf of the Commission Staff that Dobson and ACC meet all requirements for designation by the Commission as an ETC for purposes of receiving funding from the USF. Specifically, Ms. Mallett testified that:

- Dobson and ACC, as asserted in the Application, are each a common carrier.
- Dobson has a service area established by the Commission in Cause No. PUD 200300239. Under FCC license Dobson provides wireless digital voice and feature services using its own facilities or a combination of its own facilities and resale of the facilities of other wireless carriers in the following market areas in Oklahoma: the Enid Metropolitan Service Area, Oklahoma 2 – Harper Rural Service Area (RSA), and Oklahoma 6 – Seminole RSA, and as managing general partner of both Oklahoma RSA 5, LP and Oklahoma RSA 7, LP, both of which hold FCC licenses for the provision of CMRS services, in the market areas of Oklahoma 5 – Roger Mills RSA and Oklahoma 7 – Beckman RSA. ACC is licensed to provide CMRS in Adair, Cherokee, Craig, Delaware, Nowata, Ottawa and Washington counties.
- Dobson and ACC have committed to provide the required services throughout the areas where designation is requested, including Dobson's request for designation in the Hinton exchange, although a small portion of that exchange extends beyond Dobson's FCC-licensed territory.
- Dobson and ACC stated in the Application that they own the facilities used to provide the services in Oklahoma.