

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

In the Matter of)	
)	
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45
)	
Petition by USCOC of Greater)	
Missouri, LLC d/b/a U.S. Cellular)	
For Commission Agreement in)	
Redefining the Service Areas of Rural)	
Telephone Companies in the)	
State of Missouri Pursuant)	
To 47 C.F.R. Section 54.207(c))	

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

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Summary

USCOC of Greater Missouri, LLC, d/b/a/ U.S. Cellular (“U.S. Cellular”) requests the Commission’s concurrence with the proposal by the Missouri Public Service Commission (“MPSC”) to redefine the service areas of certain Missouri rural incumbent local exchange carriers (“ILECs”) pursuant to the process set forth in Section 54.207(c) of the Commission’s rules.

U.S. Cellular provides PCS and cellular telephone service in rural areas of Missouri and was recently designated as an eligible telecommunications carrier (“ETC”) pursuant to Section 214(e) of the Act. By granting ETC status to U.S. Cellular, the MPSC found that the use of federal high-cost support to develop its competitive operations would serve the public interest. Because U.S. Cellular’s FCC-licensed service territory does not correlate with rural ILEC service areas, the Act provides that the affected rural ILEC service areas must be redefined before designation in certain areas can take effect. Accordingly, the MPSC has proposed that each wire center of each affected rural ILEC should be redefined as a separate service area so that U.S. Cellular’s designation can become effective throughout the portions of the ILEC service area in which it is licensed to provide service. Consistent with the MPSC’s order and with previous actions taken by the FCC and several other states, redefinition is requested such that each wire center of each affected ILECs is reclassified as a separate service area.

The proposed redefinition is warranted under the Commission’s competitively neutral universal service policies, and it constitutes precisely the same relief granted to similarly situated carriers by the Commission and several states. Unless the relevant ILEC service areas are redefined, U.S. Cellular will be unable to use high-cost support to improve and expand service to consumers in many areas of its licensed service territories and consumers will be denied the

corresponding benefits. As the Commission and several states have consistently held, competitive and technological neutrality demand the removal of these artificial barriers to competitive entry. Moreover, the requested redefinition satisfies the analysis provided by the Federal-State Joint Board on Universal Service (“Joint Board”) in that it eliminates the payment of uneconomic support or cream-skimming opportunities, duly recognizes the special status of rural carriers under the Act, and does not impose undue administrative burdens on ILECs.

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

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USCOC of Greater Missouri, LLC, d/b/a/ U.S. Cellular (“U.S. Cellular”) submits this Petition seeking the FCC’s agreement with the decision of the Missouri Public Service Commission (“MPSC”) to redefine the service areas of certain rural incumbent local exchange carriers (“ILECs”) doing business in Missouri, so that each of the ILECs’ wire centers constitutes a separate service area. U.S. Cellular provides service in the greater part of Missouri through its cellular and Personal Communications Service (“PCS”) authorizations. U.S. Cellular was recently granted eligible telecommunications carrier (“ETC”) status by the MPSC pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”). In its designating order, the MPSC proposed to redefine several rural ILEC service areas such that U.S. Cellular’s designation would take effect upon a grant of concurrence by the FCC. As set

forth below, classifying each individual wire center of the affected ILECs as a separate service area will foster federal and state goals of encouraging competition in the telecommunications marketplace and extending universal service to rural Missouri's consumers.

I. BACKGROUND

Pursuant to Section 214(e) of the Communications Act of 1934, as amended (the "Act"), state commissions generally have authority to designate carriers that satisfy the requirements of the federal universal service rules as ETCs and to define their service areas.¹ In rural areas, service areas are generally defined as the ILEC's study area. However, the Act explicitly sets forth a process whereby a competitive ETC may be designated for a service area that differs from that of the ILEC. Specifically, Section 214(e) of the Act provides:

... "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under Section 410(c), establish a different definition of service area for such company.²

The FCC and the Federal-State Joint Board on Universal Service ("Joint Board") have recognized that a strict rule requiring a competitive ETC to serve an area exactly matching a rural LEC's study area would preclude competitive carriers that fully satisfy ETC requirements from bringing the benefits of competition to consumers throughout their service territory.³ Therefore, the FCC established a streamlined procedure for the FCC and states to act together to

¹ 47 U.S.C. § 214(e).

² *Id.*

³ See *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support, Memorandum Opinion and Order*, 15 FCC Rcd 9924, 9927 n. 40 (1999) ("Washington Redefinition Order"), citing *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87, 181 (1996) ("Joint Board Recommended Decision").

redefine rural ILEC service areas.⁴ Using this procedure, the FCC and state commissions have applied the analysis contained in Section 214(e) and concluded that it is necessary and appropriate to redefine the LEC service areas along wire center boundaries to permit the designation of competitive ETCs in those areas.⁵ This process, as well as the underlying necessity of redefinition, was reaffirmed in the FCC's *ETC Report and Order* released March 17, 2005.⁶

U.S. Cellular petitioned the MPSC for ETC status for purposes of receiving high-cost support from the federal universal service fund.⁷ For rural ILEC areas which were only partially within the proposed ETC service area, U.S. Cellular requested that the MPSC approve the redefinition of those ILECs' service areas such that each of their wire centers constitutes a separate service area.⁸ An attachment to the Application listed all of the wire centers in each study area of the relevant ILECs.⁹ As U.S. Cellular's Application explained, this reclassification of all wire centers throughout each study area as a separate service area would enable U.S. Cellular to be designated in the portion of each study area within its proposed ETC service

⁴ See 47 C.F.R. § 54.207(c). See also *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8881 (1997) ("*First Report and Order*").

⁵ See, e.g., *Public Notice, Smith Bagley, Inc. Petitions for Agreement to Redefine the Service Areas of Navajo Communications Company, Citizens Communications Company of the White Mountains, and CenturyTel of the Southwest, Inc. On Tribal Lands Within the State of Arizona*, DA 01-409 (rel. Feb. 15, 2002) (effective date May 16, 2002); *Washington Redefinition Order, supra*, 15 FCC Rcd at 9927-28.

⁶ *Federal-State Joint Board on Universal Service, Report & Order*, 20 FCC Rcd 6371 (2005) ("*ETC Report and Order*").

⁷ Application of USCOC of Greater Missouri, LLC for Designation as an Eligible Telecommunications Carrier (filed April 22, 2005) ("*Application*").

⁸ Application at p. 22.

⁹ See Application at Exhibit F. We note that U.S. Cellular has agreed to withdraw its eligibility from the following wire centers for purposes of its request for concurrence: Purdy (Windstream Missouri f/k/a ALLTEL); Bevier (Chariton Valley Tel. Corp.); Purcell and Asbury (Craw-Kan Tel. Coop.); Ridgeway (Grand River Mutual Tel. Corp.); High Point and Latham (Mid-Missouri Tel. Co.); and St. Robert (Embarq Missouri f/k/a Sprint).

area.¹⁰ The MPSC granted U.S. Cellular's petition on May 3, 2007 (effective May 13, 2007), concluding that a grant of ETC status was in the public interest.¹¹ The MPSC also granted U.S. Cellular's request for redefinition, conditioning ETC status in rural ILEC areas that are only partially covered by U.S. Cellular's proposed ETC service areas on FCC concurrence with the redefinition of those rural ILEC service areas pursuant to the process established under Section 54.207(c) of the Act. 47 C.F.R. § 54.207(c).¹² The MPSC directed U.S. Cellular to petition the FCC for concurrence with the redefinition of the affected ILEC service areas.¹³

II. DISCUSSION

The MPSC's proposal to redefine rural ILEC service areas is consistent with FCC rules, the recommendations of the Joint Board, and the competitively neutral universal service policies embedded in the Act. Specifically, redefining the affected rural ILEC service areas so that each wire center is a separate service area will promote competition and the ability of rural consumers to have similar choices among telecommunications services and at rates that are comparable to those available in urban areas.¹⁴ The proceedings at the state level provided all affected parties with an opportunity to comment on the proposed redefinition, and the MPSC fully considered and addressed the parties' arguments on this subject. The record at the state level, including U.S. Cellular's Application and the MPSC Order, demonstrates that the requested redefinition fully comports with federal requirements and provides the FCC with ample justification to concur.

¹⁰ Application at p. 21.

¹¹ Report and Order in Case No. TO-2005-0384 (adopted May 3, 2007, effective May 13, 2007) ("MPSC Order"). Applications for Rehearing and/or Clarification were denied on grounds unrelated to this Petition. Judicial appeals of the MPSC Order are currently pending, also on grounds unrelated to this Petition. A copy of the MPSC Order is attached hereto as Appendix B for the Commission's reference.

¹² *Id.* at p. 38.

¹³ *Id.* at p. 39.

¹⁴ *See* 47 U.S.C. § 254(b)(3).

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

Congress, in passing the 1996 amendments to the Act, declared its intent to “promote competition and reduce regulation” and to “encourage the rapid deployment of new telecommunications technologies.”¹⁵ As part of its effort to further these pro-competitive goals, Congress enacted new universal service provisions that, for the first time, envision multiple ETCs in the same market.¹⁶ In furtherance of this statutory mandate, the FCC has adopted the principle that universal service mechanisms be administered in a competitively neutral manner, meaning that no particular type of carrier or technology should be unfairly advantaged or disadvantaged.¹⁷

Consistent with this policy, the FCC and many state commissions have affirmed that ETC service areas should be defined in a manner that removes obstacles to competitive entry.¹⁸ In 2002, for example, the FCC granted a petition of the Colorado Public Utilities Commission (“CPUC”) for a service area redefinition identical in all material respects to the redefinition proposed in this Petition.¹⁹ In support of redefining CenturyTel’s service area along wire-center boundaries, the CPUC emphasized that “in CenturyTel’s service area, no company could receive

¹⁵ Pub. L. No. 104-104, 110 Stat. 56 (1996) (preamble).

¹⁶ See 47 U.S.C. § 214(e)(2).

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

¹⁸ See, e.g., *First Report and Order*, supra, 12 FCC Rcd at 8880-81; Petition by the Public Utilities Commission of the State of Colorado to Redefine the Service Area of CenturyTel of Eagle, Inc., Pursuant to 47 C.F.R. § 54.207(c) at p. 4 (filed with the FCC Aug. 1, 2002) (“*CPUC Petition*”).

¹⁹ See CPUC Petition at p. 5 (“Petitioner requests agreement to redefine CenturyTel’s service area to the wire center level”).

a designation as a competitive ETC unless it is able to provide service in 53 separate, non-contiguous wire centers located across the entirety of Colorado . . . [T]his constitutes a significant barrier to entry.”²⁰ The FCC agreed and, by declining to open a proceeding, allowed the requested redefinition to take effect.²¹ The FCC similarly approved a petition by the Washington Utilities and Transportation Commission (“WUTC”) and about 20 rural ILECs for the redefinition of the ILECs’ service areas along wire center boundaries, finding that:

[O]ur concurrence with rural LEC petitioners’ request for designation of their individual exchanges as service areas is warranted in order to promote competition. The Washington Commission is particularly concerned that rural areas . . . are not left behind in the move to greater competition. Petitioners also state that designating eligible telecommunications carriers at the exchange level, rather than at the study area level, will promote competitive entry by permitting new entrants to provide service in relatively small areas . . . We conclude that this effort to facilitate local competition justifies our concurrence with the proposed service area redefinition.²²

In Washington, several competitive ETCs have been designated in various service areas without any apparent adverse consequences to date. No ILEC in Washington has ever introduced any evidence that they, or consumers, have been harmed by the WUTC’s service area redefinition.²³

Other state commissions have similarly concluded that redefining rural ILEC service areas along wire center boundaries is fully justified by the pro-competitive goals of the 1996 Act.

²⁰ CPUC Petition at p. 4.

²¹ CenturyTel has petitioned the FCC to reconsider its decision. However, as of this date CenturyTel’s service area redefinition is effective.

²² *Washington Redefinition Order, supra*, 15 FCC Rcd at 9927-28 (footnotes omitted).

²³ Sprint Corp. d/b/a Sprint PCS et al., Docket No. UT-043120 at p. 11 (Wash. Util. & Transp. Comm., Jan. 13, 2005) (stating that the WUTC’s designation of multiple competitive ETCs, “if not benefiting customers (which it does), certainly is not failing customers. In the five years since we first designated an additional ETC in areas served by rural telephone companies, the Commission has received only two customer complaints in which the consumers alleged that a *non-rural*, wireline ETC was not providing service. No Rural ILEC has requested an increase in revenue requirements based on need occasioned by competition from wireless or other ETCs. This record supports our practice of not seeking commitments or adding requirements as part of the ETC designation process.”).

For example, the Minnesota Public Utilities Commission (“PUC”) approved the proposal by WWC Holding Co., Inc. d/b/a CellularOne to redefine certain rural ILEC service areas to the wire center level.²⁴ Addressing the concerns expressed by ILEC commenters, the PUC concluded that the proposed redefinition would neither harm the affected rural ILECs nor create significant cream-skimming opportunities.²⁵ The FCC agreed, and allowed the proposed redefinition to enter into effect. Similar conclusions were reached by regulators in other states, including Arizona, Colorado, Illinois, New Mexico, Kansas, Maine, Michigan, the Dakotas, Oklahoma, Oregon, Kentucky, Nebraska, Mississippi, and West Virginia.²⁶

²⁴ WWC Holding Co., Inc. d/b/a CellularOne, MPUC Docket No. P-5695/M-04-226, Order Approving ETC Designation (Minn. PUC, Aug. 19, 2004) (FCC concurrence granted Dec. 28, 2004).

²⁵ *Id.* at p. 9.

²⁶ *See, e.g.*, Illinois Valley Cellular RSA 2-I Partnership et al., Docket Nos. 04-0454 et al. (Ill. Commerce Comm’n, Apr. 19, 2006) (FCC concurrence granted Nov. 27, 2006) (“IVC Illinois Order”); Bluegrass Wireless, LLC, et al., Case Nos. 2005-00017 et al. (Ky. PSC, July 8, 2005) (FCC concurrence granted Feb. 15, 2006) (“Bluegrass Kentucky Order”); N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless, Application No. C-3324 (Neb. PSC, Oct. 18, 2005) (FCC concurrence granted April 11, 2006) (“Viaero Nebraska Order”); Centennial Tri-State Operating Partnership et al., Case No. 2003-UA-0234 (Miss. PSC, Aug. 10, 2004) (FCC concurrence granted Sept. 21, 2005) (“Centennial Mississippi Order”); NPI-Omnipoint Wireless, LLC, Case No. U-13714 (Mich. PSC, Aug. 26, 2003) (FCC concurrence granted Feb. 1, 2005) (“NPI-Omnipoint Order”); Brookings Municipal Utilities d/b/a Swiftel, TCO4-213 (S.D. PSC, Feb. 10, 2006) (FCC concurrence granted June 8, 2006) (“Swiftel S.D. Order”); Highland Cellular, Inc., Case No. 02-1453-T-PC, Recommended Decision (W.V. PSC Sept. 15, 2003), *aff’d* by Final Order Aug. 27, 2004 (FCC concurrence granted Jan. 24, 2005) (“Highland W.V. Order”); Cellular Mobile Systems of St. Cloud, Docket No. PT6201/M-03-1618 (Minn. PUC, May 16, 2004) (FCC concurrence granted Oct. 7, 2004) (“CMS Minnesota Order”); United States Cellular Corp., Docket 1084 (Oregon PUC, June 24, 2004) (FCC concurrence granted Oct. 11, 2004) (“USCC Oregon Order”); Smith Bagley, Inc., Docket No. T-02556A-99-0207 (Ariz. Corp. Comm’n Dec. 15, 2000) (FCC concurrence granted May 16 and July 1, 2001) (“SBI Arizona Order”); Smith Bagley, Inc., Utility Case No. 3026, Recommended Decision of the Hearing Examiner and Certification of Stipulation (N.M. Pub. Reg. Comm’n Aug. 14, 2001, adopted by Final Order (Feb. 19, 2002) (FCC concurrence granted June 11, 2002) (“SBI N.M. Order”); RCC Minnesota, Inc., Docket No. 04-RCCT-338-ETC (Kansas Corp. Comm’n, Sept. 30, 2004) (FCC concurrence pending) (“RCC Kansas Order”); RCC Minnesota, Inc. et al., Docket No. 2002-344 (Maine PUC May 13, 2003) (FCC concurrence granted March 17, 2005) (“RCC Maine Order”); Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless et al., Case No. PU-1226-03-597 et al. (N.D. PSC, Feb. 25, 2004) (FCC concurrence pending) (“Northwest Dakota Order”); In the Matter of Dobson Cellular Systems, Inc. and American Cellular Corp., Cause No. PUD 200500122 (July 5, 2006), approved with modifications by Final Order dated January 18, 2007 (FCC concurrence granted Sept. 3, 2007) (“Dobson Oklahoma Order”); In the Matter of the Application of N.E. Colorado Cellular, Inc., to Re-define the Service Area of Eastern Slope Rural Telephone Association, Inc.; Great Plains Communications, Inc.; Plains Cooperative Telephone Association, Inc.; and Sunflower Telephone Co., Inc., Docket No. 02A-444T (ALJ, May 23, 2003), *aff’d* by Colo. PUC Oct. 2, 2003 (FCC concurrence pending) (“Colorado Redefinition Order”).

As in those cases, the redefinition requested in the instant proceeding will enable U.S. Cellular to make the network investments necessary to bring competitive service to people throughout its licensed service areas. Redefinition will therefore benefit Missouri's rural consumers, who will begin to see a variety in pricing packages and service options on par with those available in urban and suburban areas.²⁷ They will see infrastructure investment in areas formerly controlled solely by ILECs, which will bring improved wireless service and important health and safety benefits associated with increased levels of radiofrequency coverage.²⁸ Redefinition will also remove a major obstacle to competition, consistent with federal telecommunications policy.²⁹

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

A petition to redefine an ILEC's service area must contain "an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company."³⁰ In the *Recommended Decision* that laid the foundation for the FCC's *First Report and Order*, the Joint Board enumerated three factors to be considered when reviewing a request to redefine a LEC's service area.³¹

²⁷ See 47 U.S.C. § 254(b)(3).

²⁸ See MPSC Order at p. 12.

²⁹ See Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. at 113 (stating that the 1996 Act was designed to create "a pro-competitive, de-regulatory national policy framework" aimed at fostering rapid deployment of telecommunications services to all Americans "by opening *all telecommunications markets* to competition....")(emphasis added).

³⁰ 47 C.F.R. § 54.207(c)(1).

³¹ *Joint Board Recommended Decision, supra*.

First, the Joint Board expressed concern as to whether the competitive carrier is attempting to “cream skim” by only proposing to serve the lowest cost exchanges.³² As a wireless carrier, U.S. Cellular is restricted to providing service in those areas where it is licensed by the FCC. U.S. Cellular is not picking and choosing the lowest-cost exchanges. On the contrary, the MPSC designated U.S. Cellular for an ETC service area that is based on the geographic limitations of its licensed service territory, not based on support levels.³³

The FCC has clarified that creamskimming opportunities arise when an ETC seeks designation in a “disproportionate share of the higher-density wire centers” in an ILEC’s service area.³⁴ However, opportunities for receiving uneconomic levels of support are further diminished by the FCC’s decision to allow rural ILECs to disaggregate support below the study-area level.³⁵ The FCC has concluded that the availability of disaggregation enables ILECs to protect themselves and substantially removes the ability of competitors to cream-skim:

We ... also note that rural telephone companies now have the option of disaggregating and targeting high-cost support below the study area level so that support will be distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service. ***Therefore, any concern regarding “cream-skimming” of customers that may arise in designating a service area that does not encompass the entire study area of the rural telephone company has been substantially eliminated.***³⁶

³² See *Joint Board Recommended Decision*, 12 FCC Rcd at 180.

³³ See MPSC Order at pp. 32-33.

³⁴ *ETC Report and Order*, *supra*, 20 FCC Rcd at 6392 (“By serving a disproportionate share of the high-density portion of a service area, an ETC may receive more support than is reflective of the rural incumbent LEC’s costs of serving that wire center because support for each line is based on the rural telephone company’s average costs for serving the entire service area unless the incumbent LEC has disaggregated its support.”)

³⁵ See *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, twenty-second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244, 11302-09 (2001) (“*Fourteenth Report and Order*”).

³⁶ See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6393-94. See also *Federal-State Joint Board on Universal Service, Western Wireless Petition for Designation as an Eligible Telecommunications Carrier for the*

Furthermore, any ILECs that failed to disaggregate support effectively may modify their disaggregation filings subject to state approval.³⁷

The facts in this case meet the FCC's criteria in its analysis of population density as a means of determining the likelihood of U.S. Cellular receiving uneconomic levels of support. Based upon the FCC's assumption in *Virginia Cellular* that "a low population density typically indicates a high-cost area,"³⁸ U.S. Cellular's provides population density figures to demonstrate that no cream skimming will result from designation in the proposed areas. As indicated in the table attached as Appendix A, U.S. Cellular is not proposing to serve a disproportionate share of the more densely populated rural ILEC wire centers. A summary of the analysis follows:

- Windstream Missouri f/k/a ALLTEL. The average population density of the Windstream wire centers U.S. Cellular proposes to cover is approximately 21.52 psm, while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is 21.87 psm. Because U.S. Cellular is proposing to serve a greater proportion of lower-density areas, there is no risk of cream skimming in Windstream's study area.³⁹ In addition, this carrier has disaggregated its support

Pine Ridge Reservation in South Dakota, Memorandum Opinion and Order, 16 FCC Rcd 18133, 18141 (2001) (emphasis added, footnote omitted).

³⁷ See 47 C.F.R. §§ 54.315(b)(4); 54.315(c)(5), 54.315(d)(5).

³⁸ *Virginia Cellular, LLC*, 19 FCC Rcd 1563, 1578-79 (2004) ("*Virginia Cellular*").

³⁹ See *id.* at 1579. The FCC has recently concluded that opportunities for creamskimming do not exist where the areas to be served have "approximately the same population density" as the remaining portions of an ILEC's service area. *North Carolina RSA 3 Cellular Tel. Co.*, 21 FCC Rcd 9151, 9158 (2006) ("*Carolina West*"). In *Carolina West*, the FCC concluded that no creamskimming opportunities existed where the competitor proposed to serve areas with slightly higher population densities than the portions outside of its proposed ETC service area with respect to Central Tel. Co. (69.21 persons per square mile inside the proposed ETC service area versus 68.54 persons per square mile in the remaining portions of the study area) and Surry Tel. Membership Corp. (157.00 persons per square mile inside the proposed ETC service area versus 156.77 persons per square mile in the remaining portions of the study area).

pursuant to 47 C.F.R. § 54.315, eliminating any possibility that U.S. Cellular would receive uneconomic levels of support.

- BPS Telephone Company. The average population density of the BPS wire centers U.S. Cellular proposes to cover is approximately 37.18 psm, while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is 54.32 psm. Because U.S. Cellular is proposing to serve a greater proportion of lower-density areas, there is no risk of cream skimming in BPS's study area.⁴⁰
- Chariton Valley Telephone Corporation. The average population density of the Chariton wire centers U.S. Cellular proposes to cover is approximately 12.09 psm, while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is approximately 13.62 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream skimming in Chariton's study area. In addition, this carrier has disaggregated its support pursuant to 47 C.F.R. § 54.315, eliminating any possibility that U.S. Cellular would receive uneconomic levels of support.
- Goodman Telephone Company. The average population density of the Goodman wire centers U.S. Cellular proposes to cover is approximately 42.76 psm, while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is approximately 47.50 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream skimming in Goodman's study area.
- Grand River Mutual Telephone Corporation. The average population density of the Grand River wire centers U.S. Cellular proposes to cover is approximately 9.36 psm,

⁴⁰ See *Virginia Cellular, supra*, 19 FCC Rcd at 1579.

while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is approximately 9.39 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream skimming in Grand River's study area.⁴¹ In addition, this carrier has disaggregated its support pursuant to 47 C.F.R. § 54.315, eliminating any possibility that U.S. Cellular would receive uneconomic levels of support.

- Mid-Missouri Telephone Company. The average population density of the Mid-Missouri wire centers U.S. Cellular proposes to cover is approximately 13.23 psm, while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is approximately 13.41 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream skimming in Mid-Missouri's study area.⁴²
- Spectra Communications Group, LLC. The average population density of the Spectra wire centers U.S. Cellular proposes to cover is approximately 20.47 psm, while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is approximately 25.54 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream skimming in Spectra's study area.⁴³ In addition, this carrier has disaggregated its support pursuant to 47 C.F.R. § 54.315, eliminating any possibility that U.S. Cellular would receive uneconomic levels of support.

⁴¹ See *Carolina West*, *supra*, 21 FCC Rcd at 9158.

⁴² See *id.*

⁴³ See *Virginia Cellular*, *supra*, 19 FCC Rcd at 1579.

- United Telephone Company of Missouri f/k/a Sprint. The average population density of the United wire centers U.S. Cellular proposes to cover is approximately 55.27 psm, while the population density of the wire centers outside of U.S. Cellular’s proposed ETC service area is approximately 56.16 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream skimming in United’s study area.⁴⁴

In sum, U.S. Cellular is not proposing to serve “only the low-cost, high revenue customers in a rural telephone company’s study area.”⁴⁵ This fact, in conjunction with the availability of disaggregation to the affected ILECs, demonstrates that cream-skimming will not result from a grant of this Petition.

Second, the Joint Board recommended that the FCC and the States consider the rural carrier’s special status under the 1996 Act.⁴⁶ In reviewing U.S. Cellular’s Petition, the MPSC weighed numerous factors in ultimately determining that such designation was in the public interest. Congress mandated this public-interest analysis in order to protect the special status of rural carriers in the same way it established special considerations for rural carriers with regard to interconnection, unbundling, and resale requirements.⁴⁷ No action in this proceeding will affect or prejudice any future action the MPSC or the FCC may take with respect to any ILEC’s status as a rural telephone company, and nothing about service area redefinition will diminish an ILEC’s status as such.⁴⁸

⁴⁴ See *Carolina West*, *supra*, 21 FCC Rcd at 9158.

⁴⁵ See *id.* at 1578.

⁴⁶ See *Joint Board Recommended Decision*, 12 FCC Rcd at 180.

⁴⁷ See *id.*

⁴⁸ See MPSC Order at p. 33.

Third, the Joint Board recommended that the FCC and the States consider the administrative burden a rural ILEC would face.⁴⁹ In the instant case, U.S. Cellular's request to redefine the affected rural ILECs' service areas along wire center boundaries is made solely for ETC designation purposes. Defining the service area in this manner will in no way impact the way the affected rural ILECs calculate their costs, but is solely to enable U.S. Cellular to begin receiving high-cost support in those areas in the same manner as the ILECs. Rural ILECs may continue to calculate costs and submit data for purposes of collecting high-cost support in the same manner as they do now.

Should any of the affected rural ILECs choose to disaggregate support out of concerns about cream-skimming by U.S. Cellular or any other carrier, this disaggregation of support will not represent an undue administrative burden.⁵⁰ The FCC placed that burden on rural ILECs in its *Fourteenth Report and Order* independent of service area redefinition and made no mention of this process being a factor in service area redefinition requests. To the extent those ILECs may find this process burdensome, the benefit of preventing cream-skimming and the importance of promoting competitive neutrality will outweigh any administrative burden involved.

In sum, the proposed redefinition fully satisfies both the Joint Board's recommendations and the *Virginia Cellular* analysis.

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

In its April 2004 *Highland Cellular* decision, the FCC declared that an entire rural ILEC wire center "is an appropriate minimum geographic area for ETC designation".⁵¹ The FCC

⁴⁹ See *Joint Board Recommended Decision*, 12 FCC Rcd at 180.

⁵⁰ See MPSC Order at p. 33.

⁵¹ *Highland Cellular, supra*, 19 FCC Rcd at 6438.

reiterated this finding in its *ETC Report and Order*.⁵² As set forth in the attached MPSC Order, U.S. Cellular's designated ETC service area does not include any partial rural ILEC wire centers. Accordingly, the instant request for concurrence with redefinition to the wire-center level, and not below the wire center, is consistent with FCC policy.

III. CONCLUSION

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

The relief proposed herein is exactly the same in all material respects as that granted by the FCC and state commissions to numerous other carriers throughout the country, and the FCC is well within its authority to grant its prompt concurrence. U.S. Cellular submits that the benefits of permitting its ETC designation to take effect throughout its proposed service area are substantial, and those benefits will inure to rural consumers who desire U.S. Cellular's service, particularly those consumers who are eligible for Lifeline and Link-Up benefits and currently have no choice of service provider. Accordingly, U.S. Cellular requests that the Commission

⁵² See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6405.

