

**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 Illinois RSA #1,)	
LLC, USCOC of Illinois RSA #4, LLC,)	
USCOC of Rockford, LLC and USCOC)	
Of Central Illinois, LLC for Commission)	
Agreement in Redefining the Service)	
Areas of Rural Telephone Companies)	
In the State of Illinois Pursuant to)	
47 C.F.R. Section 54.207(c))	

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

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March 24, 2008

TABLE OF CONTENTS

I. BACKGROUND.....	2
II. DISCUSSION	4
A. The Requested Redefinition Is Consistent With Federal Universal Service Policy.....	5
B. The Requested Redefinition Satisfies the Three Joint Board Factors Under Section 214(e)(5) of the Act	9
C. The Proposed Redefinition Along Wire-Center Boundaries Is Consistent With the FCC’s “Minimum Geographic Area” Policy	16
III. CONCLUSION	16

Summary

USCOC of Illinois RSA #1, LLC, USCOC of Illinois RSA #4, LLC, USCOC of Illinois Rockford, LLC, and USCOC of Central Illinois, LLC (collectively, “U.S. Cellular”) requests the Commission’s concurrence with the proposal by the Illinois Commerce Commission (“ICC”) to redefine the service areas of certain Illinois 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 Illinois and was recently designated as an eligible telecommunications carrier (“ETC”) by the ICC pursuant to Section 214(e) of the Act. By granting ETC status to U.S. Cellular, the ICC 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 ICC 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 ICC’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 ICC’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 Illinois RSA #1, LLC, USCOC of Illinois RSA #4, LLC, USCOC of Illinois Rockford, LLC, and USCOC of Central Illinois, LLC (collectively, “U.S. Cellular”) submits this Petition seeking the FCC’s agreement with the decision of the Illinois Commerce Commission (“ICC”) to redefine the service areas of certain rural incumbent local exchange carriers (“ILECs”) doing business in Illinois, so that each of the ILECs’ wire centers constitutes a separate service area. U.S. Cellular provides service in the greater part of Illinois through its cellular and Personal Communications Service (“PCS”) authorizations. U.S. Cellular was recently granted eligible telecommunications carrier (“ETC”) status by the ICC pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”). In its designating

order, the ICC 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 listed in Appendices B and C as a separate service area will foster federal and state goals of encouraging competition in the telecommunications marketplace and extending universal service to consumers in rural Illinois.

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

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").

Therefore, the FCC established a streamlined procedure for the FCC and states to act together to 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

On November 1, 2004, U.S. Cellular petitioned the ICC for ETC status for purposes of receiving high-cost support from the federal universal service fund.⁷ For non-rural ILEC areas and rural ILEC areas falling entirely within the proposed ETC service area, U.S. Cellular requested immediate designation. For rural ILEC areas which were only partially within the proposed ETC service area, U.S. Cellular requested that the ICC 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 Petition listed all of the wire centers in each study area of the relevant ILECs.⁹ As U.S. Cellular's Petition explained, this reclassification of all wire centers

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 Petition of USCOC of Illinois RSA #1, LLC, USCOC of Illinois RSA #4, LLC, USCOC of Illinois Rockford, LLC, and USCOC of Central Illinois, LLC for Designation as an Eligible Telecommunications Carrier, Docket No. 04-0653 ("*Petition*").

⁸ Petition at p. 22.

⁹ See Petition at Exhibit E.

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 area.¹⁰

The ICC granted U.S. Cellular's petition in part on February 27, 2008, for all ILEC areas except one, concluding that a grant of ETC status to U.S. Cellular was in the public interest.¹¹ The sole exception was Verizon South, Inc., where the ICC denied ETC status due to "cream-skimming" concerns.¹² With respect to the remaining rural ILEC areas only partially within U.S. Cellular's proposed ETC service area, the ICC granted U.S. Cellular's request for redefinition of the affected rural ILEC service areas.¹³ U.S. Cellular's ETC designation in those areas was conditioned on FCC concurrence with the proposed service area redefinition pursuant to the process established under Section 54.207(c) of the Act. 47 C.F.R. § 54.207(c).¹⁴ U.S. Cellular now petitions the FCC for concurrence with the redefinition of the affected ILEC service areas set forth in the ICC Order.

II. DISCUSSION

The ICC'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

¹⁰ Petition at p. 22.

¹¹ Order in Docket No. 04-0653 (issued Feb. 27, 2008) ("ICC Order"). A copy of the ICC Order is attached hereto as Appendix A.

¹² *See* ICC Order at pp. 3, 29-30, 65.

¹³ *See id.* at pp. 29-30, 53, 65.

¹⁴ *Id.* at pp. 27-30, 65.

those available in urban areas.¹⁵ The proceedings at the state level provided all affected parties with an opportunity to comment on the proposed redefinition, and the ICC fully considered and addressed the parties' arguments on this subject. The record at the state level, including U.S. Cellular's Petition and the ICC Order, demonstrates that the requested redefinition fully comports with federal requirements and provides the FCC with ample justification to concur.

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.”¹⁶ 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.¹⁷ 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.¹⁸

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.¹⁹ In

¹⁵ See 47 U.S.C. § 254(b)(3).

¹⁶ Pub. L. No. 104-104, 110 Stat. 56 (1996) (preamble).

¹⁷ See 47 U.S.C. § 214(e)(2).

¹⁸ 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*”).

¹⁹ 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*”).

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.²⁰ In support of redefining CenturyTel’s service area along wire-center boundaries, the CPUC emphasized that “in CenturyTel’s service area, no company could receive a designation as a competitive ETC unless it is able to provide service in 53 separate, non-contiguous wire centers located across the entirety of Colorado . . . [T]his constitutes a significant barrier to entry.”²¹ The FCC agreed and, by declining to open a proceeding, allowed the requested redefinition to take effect.²² 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.²³

²⁰ See CPUC Petition at p. 5 (“Petitioner requests agreement to redefine CenturyTel’s service area to the wire center level”).

²¹ CPUC Petition at p. 4.

²² CenturyTel has petitioned the FCC to reconsider its decision. However, as of this date CenturyTel’s service area redefinition is effective.

²³ *Washington Redefinition Order, supra*, 15 FCC Rcd at 9927-28 (footnotes omitted).

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.²⁴

Other state commissions have similarly concluded that redefining rural ILEC service areas along wire center boundaries is fully justified by the pro-competitive goals of the 1996 Act. For example, the Minnesota Public Utilities Commission ("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.²⁵ 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.²⁶ The FCC agreed, and allowed the proposed redefinition to enter into effect. Similar conclusions were reached by regulators in other states, including Arizona, Colorado, New Mexico, Kansas, Maine, Michigan, the Dakotas, Oklahoma, Oregon, Kentucky, Nebraska, Mississippi, and West Virginia.²⁷ The ICC and the FCC have also acted together previously to redefine rural ILEC service areas in Illinois.²⁸

²⁴ Sprint Corp. d/b/a Sprint PCS et al., Docket No. UT-043120 at p. 11 (Wash. Util. & Transp. Commn., 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.").

²⁵ 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).

²⁶ *Id.* at p. 9.

²⁷ *See, e.g.*, 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.

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 rural Illinoisans, who will begin to see a variety in pricing packages and service options on par with those available in urban and suburban areas.²⁹ 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.³⁰ Redefinition will also remove a major obstacle to competition, consistent with federal telecommunications policy.³¹

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 granted May 23, 2005) (“RCC Kansas Order”); RCC Minnesota, Inc. et al., Docket No. 2002-344 (Maine PUC May 13, 2003) (FCC concurrence granted March 17, 2005) (“RCC Maine Order”); Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless et al., Case No. PU-1226-03-597 et al. (N.D. PSC, Feb. 25, 2004) (FCC concurrence granted Sept. 15, 2004) (“Northwest Dakota Order”); RCC Minnesota, Inc. and Wireless Alliance, L.L.C. d/b/a UniceL, TC 03-193 (S.C. PUC June 6, 2005) (FCC concurrence granted Nov. 14, 2005), 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 granted May 23, 2005).

²⁸ 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”).

²⁹ See 47 U.S.C. § 254(b)(3).

³⁰ See ICC Order at pp. 18-19.

³¹ 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).

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.”³² 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.³³

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.³⁴ 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 ICC 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.³⁵

The FCC has clarified that cream-skimming opportunities arise when an ETC seeks designation in a “disproportionate share of the higher-density wire centers” in an ILEC’s service area.³⁶ However, opportunities for receiving uneconomic levels of support are further diminished

³² 47 C.F.R. § 54.207(c)(1).

³³ *Joint Board Recommended Decision, supra.*

³⁴ *See Joint Board Recommended Decision, 12 FCC Rcd at 180.*

³⁵ *See* Petition at p. 23.

³⁶ *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.”)

by the FCC's decision to allow rural ILECs to disaggregate support below the study-area level.³⁷

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.*³⁸

Furthermore, any ILECs that failed to disaggregate support effectively may modify their disaggregation filings subject to state approval.³⁹

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,"⁴⁰ the ICC relied on weighted population density figures prepared by both U.S. Cellular and by ICC Staff in concluding that no cream skimming will result from designation in the proposed areas.⁴¹ Because the population density analysis set forth in U.S.

³⁷ 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*").

³⁸ 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 Pine Ridge Reservation in South Dakota, Memorandum Opinion and Order*, 16 FCC Rcd 18133, 18141 (2001) (emphasis added, footnote omitted).

³⁹ See 47 C.F.R. §§ 54.315(b)(4); 54.315(c)(5), 54.315(d)(5).

⁴⁰ *Virginia Cellular, LLC*, 19 FCC Rcd 1563, 1578-79 (2004) ("*Virginia Cellular*").

⁴¹ "Weighted" population density is calculated by dividing the total population within the portion of the rural ILEC study area that is within the competitor's proposed ETC service area by the total area (in square miles) of that

Cellular's Petition was not weighted, the ICC relied on the weighted population density analysis prepared by Staff witness James Zolnierrek. Mr. Zolnierrek's testimony showed that for all of the affected rural ILECs except Verizon South, Inc. and Wabash Telephone Cooperative, Inc. ("Wabash"), the weighted population density inside the proposed ETC service area was lower than that of the remaining portions of the proposed ETC service area. As discussed *supra*, the ICC denied ETC designation in Verizon South areas due to cream-skimming concerns based on Mr. Zolnierrek's data. The ICC approved redefinition of the Citizens Telecommunications of Illinois d/b/a Frontier Communications of Illinois ("Citizens"), Frontier Communications of Midland ("Frontier"), and Odin Telephone Exchange, Inc. ("Odin") service areas, based on the population density data attached to Mr. Zolnierrek's testimony.⁴²

With respect to Wabash, the ICC had found in an Interim Order that cream-skimming was not a concern, but nonetheless directed U.S. Cellular to submit a revised population density analysis that was properly weighted,⁴³ and U.S. Cellular did so as part of a compliance filing on February 2, 2007.⁴⁴ In the ICC Order, redefinition of the Wabash service area was approved based on U.S. Cellular's weighted population density analysis.⁴⁵ As discussed further below, in

portion of the ILEC's study area. This figure is then compared to the corresponding figure for the portion of the rural ILEC's study area that is outside the proposed ETC service area. *See* ICC Order at p. 28.

⁴² *See id.* at pp. 29-30.

⁴³ *See* Interim Order in Docket No. 04-0653 (Oct. 12, 2006) at p. 29. While the ICC tentatively concluded that cream-skimming in the Wabash study area was not a concern based on Mr. Zolnierrek's data, it found that U.S. Cellular had not provided sufficient evidence to support this conclusion. Accordingly, U.S. Cellular was directed to provide an analysis for Wabash areas that was weighted in a manner similar to Mr. Zolnierrek's data.

⁴⁴ Compliance Filing of USCOC, Docket No. 04-0653 at Exhibit C.

⁴⁵ *See* ICC Order at p. 53. U.S. Cellular notes that the ICC Order reiterated all of the findings from the Interim Order, some of which were reversed in subsequent sections of the ICC Order. The Wabash redefinition issue is one example of this. Specifically, the ICC's decision in the Interim Order to deny U.S. Cellular's request for designation in the Wabash area, restated on p. 29 of the ICC Order, was reversed on p. 53 of the same order based on U.S. Cellular's supplemental information.

order to eliminate any concerns the FCC might have regarding cream-skimming, U.S. Cellular has removed one wire center from the list of Wabash wire centers for which it seeks redefinition.

As indicated in Appendices B (excerpt from Mr. Zolnierек’s population density table relating to Citizens, Frontier and Odin) and C (Wabash population density table submitted by U.S. Cellular, modified to remove Louisville wire center from the proposed ETC service area), U.S. Cellular is not proposing to serve a disproportionate share of the more densely populated rural ILEC wire centers. On the contrary, U.S. Cellular proposes to serve the less densely populated portion with respect to each affected rural ILEC.⁴⁶ A summary of the analysis follows:

- Citizens Telecommunications of Illinois d/b/a Frontier Communications of Illinois (“Citizens”). The average population density of the Citizens wire centers U.S. Cellular proposes to cover is approximately 16.78 psm, while the population density of the wire centers outside of U.S. Cellular’s proposed ETC service area is 31.37 psm. Because U.S. Cellular is proposing to serve a greater proportion of lower-density areas, there is no risk of cream skimming in Citizens’ study area. In addition, Citizens 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 even if it did target higher-density wire centers.

⁴⁶ 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). In light of the FCC’s previous approval of redefinition where a competitor chose to serve areas with a slightly *higher* population density than the remaining portions of the study area, there is absolutely no possibility of cream-skimming here, where the areas U.S. Cellular proposes to serve have a significantly *lower* population density compared to the remaining areas of each affected rural ILEC study area.

- Frontier Communications of Midland (“Frontier”). The average population density of the Frontier wire centers U.S. Cellular proposes to cover is approximately 19.91 psm, while the population density of the wire centers outside of U.S. Cellular’s proposed ETC service area is 47.21 psm. Because U.S. Cellular is proposing to serve a greater proportion of lower-density areas, there is no risk of cream skimming in Frontier’s study area.⁴⁷
- Odin Telephone Exchange, Inc. (“Odin”). The average population density of the Odin wire centers U.S. Cellular proposes to cover is approximately 26.10 psm, while the population density of the wire centers outside of U.S. Cellular’s proposed ETC service area is approximately 32.86 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream skimming in Odin’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.
- Wabash Telephone Cooperative, Inc. (“Wabash”). The ICC approved designation in, and redefinition of, Wabash areas based on U.S. Cellular’s demonstration that the overall population density of the Wabash wire centers U.S. Cellular proposes to cover is approximately 19.15 psm, versus 18.14 for the remaining portions of the study area. In order to remove any possible concerns about cream-skimming, U.S. Cellular now withdraws the Louisville wire center from its request for FCC concurrence and will therefore not report lines, receive support, or serve as an ETC in that wire

⁴⁷ See *Virginia Cellular, supra*, 19 FCC Rcd at 1579.

center.⁴⁸ As shown in the modified population density analysis attached as Appendix C, the overall population density of the Wabash wire centers U.S. Cellular proposes to cover is approximately 14.89 psm, while the population density of the wire centers outside of U.S. Cellular's proposed ETC service area is approximately 19.41 psm. Because U.S. Cellular is proposing to serve the lower-density areas, there is no risk of cream-skimming in Wabash's study area.

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."⁴⁹ 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.⁵⁰ In reviewing U.S. Cellular's Petition, the ICC 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.⁵¹ No action in this proceeding will affect or prejudice any future action the ICC or the FCC may take with respect to any ILEC's

⁴⁸ The FCC has previously approved at least one petition for concurrence where the petitioner had removed selected wire centers or exchanges in order to eliminate cream-skimming concerns on the FCC's part. *See* Dobson Cellular Systems, Inc. and American Cellular Corporation Petition for Agreement with Redefinition of the Service Areas of Certain Rural Incumbent Local Exchange Carriers in the State of Oklahoma, CC Docket No. 96-45 (filed May 21, 2007) at Exhibit F ("Revised Population Density Analysis"). The petition was announced by *Public Notice*, DA 07-2320 (June 4, 2007), and became effective on September 3, 2007.

⁴⁹ *See Virginia Cellular, supra*, 19 FCC Rcd at 1578.

⁵⁰ *See Joint Board Recommended Decision, supra*, 12 FCC Rcd at 180.

⁵¹ *See id.*

status as a rural telephone company, and nothing about service area redefinition will diminish an ILEC's status as such.⁵²

Third, the Joint Board recommended that the FCC and the States consider the administrative burden a rural ILEC would face.⁵³ 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. In any event, 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.

⁵² See ICC Order at pp. 27-30.

⁵³ See *Joint Board Recommended Decision*, 12 FCC Rcd at 180.

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”.⁵⁴ The FCC reiterated this finding in its *ETC Report and Order*.⁵⁵ As set forth in the attached ICC 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 consumers in rural Illinois 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 ICC has found that U.S. Cellular’s use of high-cost support will increase the availability of additional services and increase investment in rural Illinois 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 requested ETC service area in Illinois.

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

⁵⁴ *Highland Cellular, Inc.*, 19 FCC Rcd 6422, 6438 (2004) (“*Highland Cellular*”).

⁵⁵ *See ETC Report and Order, supra*, 20 FCC Rcd at 6405.

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 grant its concurrence with the ICC's decision to redefine the rural ILEC service areas so that each of the wire centers listed in Appendices B and C hereto constitutes a separate service area.

Respectfully submitted,

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March 24, 2008