REDACTED- FOR PUBLIC INSPECTION

Petition to Designate CSE Wireless Inc an Eligible Telecommunications Carrier

For Participation in Auction 902

WC Docket No. 09-197

WT Docket No.l0-208

CSE Wireless Inc.
7488 Tiki Avenue
Cincinnati, OH 45243
(513) 235-1836
(866) 986-8465 fax

September 14, 2013

PUBLIC REFERENCE COPY

VIA SPECIAL COURIER

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
Attention: Sayuri Rajapakse
Auction and Spectrum Access Division
Wireless Telecommunications Bureau
445 12th Street, S.W.
Portals I, Room 6503B
Washington D.C. 20554

Re: Petition of CSE Wireless, Inc., for Designation as an Eligible Telecommunications Carrier in Proposed Service Areas in the State of North Carolina for purposes of Eligibility to become a qualified Bidder for the Tribal Mobility Phase I, Auction 902

WC Docket No. 09-197, WT Docket No.10-208

Dear Secretary Dortch:

On behalf of CSE Wireless, ("CSE Wireless Inc." or the "Company"), please find enclosed a redacted public version of CSE Wireless's Petition for Designation as an Eligible Telecommunications Carrier for Participation in Tribal Mobility Fund Phase 1 in the Proposed Service Areas Identified in the State of North Carolina; the

("Petition"), submitted pursuant to the *February* 24 *Public Notice* released by the Commission.* *"February* 24 *Public Notice" Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I,* and further conditioned by the August 7 Public Notice• whose product produce the up to date guidelines reflecting the unique conditions pertaining to the Tribal Mobility Fund Phase I Auction 902 "Auction 902" , requirements.

Please find the enclosed Petition which has been marked∇ "REDACTED -FOR PUBLIC INSPECTION."

CSE Wireless is also submitting to the Commission, by courier delivery, a confidential version of the Petition. The confidential version has been marked∇ "CONFIDENTIAL INFORMATION –SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 09-197, WT DOCKET NO. 10-208 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION," / "CONFIDENTIAL- NOT FOR PUBLIC INSPECTION."

We shall submit to the Secretary's Office one copy of each Stamped Confidential Document we wishes to file, one copy of the Stamped Confidential Document in redacted form, and an accompanying cover letter. In addition, two copies of each Stamped Confidential Document and the accompanying cover letter. An additional copy of the filing also has been provided which you are respectfully requested to date-stamp and return in the prepaid envelope provided.

Please contact the undersigned at 513-235-1836 if any questions arise concerning the above-referenced enclosure or if you require any additional information.

Sincerely,

Boris Djokovic P.E.
CSE Wireless, Inc.

**Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I,* Public Notice, DA 12-271 (reI. Feb. 24, 2012), 77 Fed. Reg. 14012 (Mar. 8, 2012) *("February* 24 *Public Notice"*

• *Eligible Telecommunications Carrier Designation for Participation in Tribal Mobility Fund Phase 1,* Public Notice, DA 13-1672 *(para. 43) and (para. 93), See Petitions For Designation As An Eligible Telecommunications Carrier For Purposes of Participation in Mobility Fund Auctions, Protective Order, WC Docket No. 09-197, WT Docket No. 10-208, DA 13-81, 28 FCC Rcd 318 (2013)*

∇ DA 13-81, PROTECTIVE ORDER Adopted: January 22, 2013,

ENCLOSURE

REDACTED - FOR PUBLIC INSPECTION

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

Telecommunications Carriers Eligible To Receive Universal Service Support	)	WC Docket No. 09-197
	)	WT Docket No. 10-208
Tribal Mobility Fund Phase 1 Auction 902	)	
Universal Service Reform - Mobility Fund	)	
CSE Wireless, Inc.	)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina	)	

PETITION OF CSE WIRELESS, INC.,
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
FOR SERVICE AREAS IN THE STATE OF NORTH CAROLINA

Boris Djokovic PE
CSE Wireless Inc.
7488 Tiki Ave
Suite 100
Cincinnati, OH 45243
(513) 235-1836

September 14, 2013

TABLE OF CONTENTS

I. BACKGROUND 4
A. CSE Wireless, Inc 4
B. Designation of Eligible Telecommunications Carriers 10
C. Description of CSE Wireless's Proposed ETC Service Areas 10
D. Limited Forbearance 13
II. NORTH CAROLINA DOES NOT REGULATE CMRS CARRIERS FOR ETC DESIGNATION PURPOSES 16
III. CSE WIRELESS SATISFIES ALL OF THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC 18
A. CSE Wireless Is a Common Carrier 18
B. CSE Wireless Will Provide the Supported Services Through a Combination of Facilities-Based Service and (If Necessary) Resale 18
C. CSE Wireless Will Offer All of the Services and Functionalities Supported by the Universal Service Program 19
1. Voice-Grade Access to the Public Switched Telephone Network. 20
2. Minutes of Use for Local Service at No Additional Charge 21
3. Access to Emergency Services 21
4. Lifeline; Toll Limitation 21
D. CSE Wireless Will Advertise the Availability of and Charges for Its Universal Service Qualifying Offerings 22
E. CSE Wireless Will Satisfy Its Additional Obligations as an ETC 23
1. Compliance with Service Requirements and Service Improvement Plan 23
a. Compliance with Service Requirements 23
b. Service Improvement Plan 24
2. Ability To Remain Functional in Emergency Situations 25
3. Consumer Protection 30
4. Financial and Technical Qualifications 33
5. Protections Against Fraud, Waste, and Abuse 33

IV. DESIGNATING CSE WIRELESS AS AN ETC WILL SERVE THE PUBLIC INTEREST 33

A. CSE Wireless's Designation Will Bring Improved Coverage and Service Quality 35

B. CSE Wireless's Investment of USF Support in Its Proposed ETC Service Area Will Lead to Significant Health and Safety Benefits 36

C. CSE Wireless's Designation Will Enhance Service Availability for Low-Income Consumers 37

D. Benefits of Competition 38

E. CSE Wireless's Designation as an ETC Will Not Result in "Cream-Skimming." 40

V. HIGH-COST CERTIFICATION 41

VI. ANTI-DRUG ABUSE CERTIFICATION 42

VII. CONCLUSION 42

Exhibit A- North Carolina Utilities Commission Certification Order

Exhibit B- List of Rural and Non-Rural Study Areas and Wire Centers To Be Served by CSE Wireless in Its Proposed Identified ETC Service Areas

Exhibit C- CSE Wireless Certification

Exhibit D – CSE Wireless's Service Improvement Plan

REDACTED - FOR PUBLIC INSPECTION

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

Telecommunications Carriers Eligible To Receive Universal Service Support	)	WC Docket No. 09-197
Mobility Fund Phase I Auction	)	
Universal Service Reform -Mobility Fund	)	WT Docket No. 10-208
CSE Wireless, Inc.	)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina	)	

PETITION OF CSE WIRELESS, INC.,
FOR DESIGNATION AS AN ELIGBLE TELECOMMUNICATIONS CARRIER
FOR SERVICE AREAS IN THE STATE OF NORTH CAROLINA

1. CSE Wireless, Inc. ("CSE Wireless" or the "Company"), pursuant to Section 214(e) of the Communications Act of 1934 ("Act")[1] and Sections 54.201 through 54.207 of the Commission's Rules,[2] hereby submits this Petition for designation as an Eligible Telecommunications Carrier ("ETC") in areas of North Carolina for the purpose of participating in the High-Cost Universal Service Fund ("USF") support mechanism, including the newly established Tribal Mobility Fund,[3] and in the Lifeline support

1 47 U.S.C. § 214(e).

2 47 C.F.R. § 201-207.

3 *Connect America Fund, et al.,* WC Docket No. 10-90, *et al.,* Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Red 17663, 17798-99 (paras. 389-392) *for review pending, Direct Commc'ns Cedar Valley* v. *FCC,* No. 11-9581

mechanism for low-income customers ("Petition").[4] CSE Wireless seeks this ETC designation to be conditioned upon its winning support in the Tribal Mobility Fund Phase I reverse auction scheduled for December 19, 2013 ("Auction 902").[5] Such a condition is contemplated and permitted in the *CAF Order*[6] and the Commission's rules.[7]

.

[4] 47 C.F.R. § 400-422.

[5] *Tribal Mobility Fund Phase I Auction Scheduled for October 24, 2013; Comment Sought on Competitive Bidding Procedures for Auction 902 and Certain Program Requirements,* Public Notice, DA 13-323 (rel. Mar 29, 2013), (AU Docket 13-52) *("March 29 Public Notice"),* at para. 1.The Commission noted in the *March 29 Public Notice* that:

"Public Notice, the Wireless Telecommunications and Wireline Competition Bureaus (the Bureaus) announce a reverse auction to award up to $50 million in one-time Tribal Mobility Fund Phase I support and seek comment on auction procedures and certain related programmatic issues. This auction is scheduled to begin on October 24, 2013, and is designated as Auction 902….. Auction 902 will award high-cost universal service support through reverse competitive bidding…."

Id. at para. 6 (footnotes omitted). *See CAF Order,* 26 FCC Red at 17831 (para. 517).

[6] *CAF Order,* 26 FCC Red at 17799 (para. 391 n.665), 17809 (para. 439).

[7] *See 47 C.F.R. §54.1003(a) (stating that "a party might obtain the required ETC designation but not be subject to those obligations unless and until it wins any Mobility Fund support, the Commission further determined that a party might participate with an ETC designation conditioned upon the party winning support in the auction." affirming the applicant's designation as an Eligible Telecommunications Carrier may be conditional subject to the receipt of Mobility Fund support"); Tribal Mobility Fund Phase I Auction Scheduled for December 19, 2013, Notice and Filing Requirements and Other Procedures for Auction 902, AU Docket No. 13-53, Public Notice, DA 13-1672 (rel. August 7, 2013) ("August 7 Public Notice"), at para. 104.*

CAF Order, 26 FCC Red at 17798 (para. 389). *See Feb. 24 Public Notice* at para. 103; *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I,* Public Notice, DA 12-271 (rel. Feb. 24, 2012), 77 Fed. Reg. 14012 (Mar. 8, 2012) *("February 24 Public Notice")* (setting forth the requirements for ETC designation to participate in Auction 901 for Mobility Fund Phase I support), *as modified by* Erratum, FCC Public Notice, DA 12-271 (rel. Feb. 27, 2012);

2. As set forth in the *CAF Order,* designation as an ETC is a requirement prior to participating in Auction 902.[8] As demonstrated in this Petition, CSE Wireless meets all of the statutory and regulatory prerequisites for ETC designation for the purpose of bidding in Auction 902, and designation of the Company as an ETC for this purpose in the areas requested in North Carolina will serve the public interest by enabling CSE Wireless to participate in Auction 902 and, if CSE Wireless is successful in the reverse auction, to use Tribal Mobility Fund Phase I support to deploy third generation ("3G") service in service areas in which such service currently is not available.

3 Sections 214(e) and 254 of the Act[9] expressly authorize the Commission to designate CSE Wireless as an ETC. Section 214(e)(6) of the Act[10] provides that the Commission may designate a common carrier as an ETC where, as here, that carrier's services are not subject to the jurisdiction of a state commission. For the Commission's review CSE Wireless is providing along with this Petition, "Exhibit A". Exhibit A[11] is a

---

8 *CAF Order,* 26 FCC Rcd at 17798 (para. 389). *See May* 2 *Public Notice* at para. 94; *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase* 1, Public Notice, DA 12-271 (reI. Feb. 24, 2012), 77 Fed. Reg. 14012 (Mar. 8, 2012) *("February* 24 *Public Notice")* (setting forth the requirements for ETC designation to participate in Auction 901 for Mobility Fund Phase I support), *as modified by* Erratum, FCC Public Notice, DA 12-271 (reI. Feb. 27, 2012); 47 C.F.R. § 54.1003(a) (stating that "an applicant shall be an Eligible Telecommunications Carrier in an area in order to receive Mobility Fund Phase I support for that area"),. As it relates to *DA 13-1672 (August 7, 2013) TRIBAL MOBILITY FUND PHASE I AUCTION RESCHEDULED FOR DECEMBER 19, 2013NOTICE AND FILING REQUIREMENTS AND OTHER PROCEDURES FOR AUCTION 902*(para 103)

9 47 U.S.C. §§ 214(e), 254.

10 47 U.S.C. §§ 214(e)(6).

11 See Exhibit A.

product of "Carolina West Inc." (CW) petitioning the "North Carolina Utilities Commission" (NCUC) requesting State ETC designation in exemplary circumstance for ETC designation in Auction 901 to become an Eligible Bidder. Exhibit A is the conclusion of that state level petition request that clearly states the NCUC identified that it "lacks jurisdiction" over wireless providers for purposes of ETC designation. Exhibit A is our premise argument that the Commission has the right to provide ETC designation to CSE Wireless under Section 214(e), Section 254 and specifically Section 214(e)(6) of the Act[9] and for ETC Designations in the State of North Carolina for wireless providers.[11]

4 CSE Wireless respectfully requests that the Commission grant this Petition expeditiously so that the Company may participate in Auction 902 in the expanded areas described herein,[12] and so that more North Carolina residents are able to benefit from the high-quality and high-value services that the Company will offer in the state. As noted above, wireless carrier wishing to participate in Auction 902 must be designated as an ETC at the time it submits its short-form application.[13] The deadline for short-form applications for Auction 902 is October 9, 2013.[14]

---

[12] *See February 24 Public Notice* at para 2 (encouraging any party "that wishes to participate in Auction 901 with respect to an area for which it is not already designated an ETC [to] initiate the designation process as soon as possible to increase the likelihood that the process will be completed prior to the deadline for submitting an application for Auction 901").

13 8 47 C.F.R. 54 Subpart L § 54.1003(a) ("an applicant shall be an Eligible Telecommunications Carrier in an area in order to receive Mobility Fund Phase I support for that area. The applicant's designation as an Eligible Telecommunications Carrier may be conditional subject to the receipt of Mobility Fund support.")

[14] TRIBAL MOBILITY FUND PHASE I AUCTION RESCHEDULED FOR DECEMBER 19, 2013NOTICE AND FILING REQUIREMENTS AND OTHER PROCEDURES FOR AUCTION 902 at para. 93. *14* DA 13-1672" Every entity seeking support available in Auction 902 must file a short-form application electronically via the FCC Auction System prior to 6:00 p.m. ET on October 9, 2013"(para, 93)

I. BACKGROUND.

A) CSE Wireless, Inc.

CSE Wireless, headquartered in Cincinnati, Ohio is a small business corporation that is an Engineering firm providing Consulting services with Registered Professional Engineers (P.E.) who specialize in the engineering for, design, construction, and operations for wireless systems to Wireless Commercial Mobile Radio Service (CMRS) carriers and others with specific radio and communications needs, primarily high reliability mission critical system types[15]. Our staff is highly experienced in Turn-key digital systems development since 1991. Our original group was formed in 1991 when we became party to a Corporation "Cross Country Cellular" in which we were part owners. The Corporation entrusted us with the task of providing a Cellular system to cover six rural counties in S.E. Missouri (RSA 520). In 1990 we created a business plan and obtained finance for the Corporation and subsequently engineered, designed and constructed digital mobile system[15]. Our group continued with technical operations of the Corporation with regard to Switch operations, billing, construction, and planning. The group performed-

15 The Act defines "mobile service" as follows:
The term "mobile service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:
(A) both one-way and two-way radio communication services,
(B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and
(C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules· to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.

these functions until 1997 when the corporation was sold to Southwestern Bell just after the 1996 Telecom Act was passed. Our group continued on providing Consulting, operations and construction services to other Wireless carriers, primarily helping carriers with low population densities find unique low cost solutions to provide wide coverage areas solutions utilizing existing resources, site accusation techniques, and obtaining tower sitting permits, and switch integration techniques as some examples.

In 2001 our group was named lead engineering group to Turn-key design and construct the Cincinnati-Dayton MSA for Cincinnati Bell. This challenge was a dense urban build and we were successful in meeting their five year build out requirements as is

demonstrated by FCC certification on file for the PCS E block for that market. Our staff group has stayed together for over the last twenty years and are united in a clear vision of our mission of providing high quality digital 3G and 4G mobile voice and data services to the residents and visitors of North Carolina. The executive summary of our company demonstrates the depth and breadth of our experience in engineering, design and implementation of turn-key Cellular Mobile radio systems we have constructed in the past and the milestones as mentioned above. Our twenty plus years of consulting services, operations, and building of Digital Mobile Radio systems for our clients in the U.S. we have developed an acute team of skilled employees and contractors which we, CSE Wireless intend on utilizing to drive the most cost efficient 3G and 4G Voice and Data services and deliver them to the residents of North Carolina for many years to come as a consistent reliable carrier and partner to the residents of the market and providing improvement of their standard of living.

We at CSE Wireless in conjunction with the USF support mechanisms such as the Tribal Mobility Fund Phase I funding mechanism, are committed to delivering 3G data services and, eventually, fourth generation ("4G") data services, throughout rural, underserved markets in which it seeks to operates in North Carolina.

CSE Wireless' staff has a long history of providing quality service in market areas in dense urban areas as well as the more challenging low Pop Density environment. As consumers in rural America seek faster broadband speeds, CSE Wireless, through participation in the Auction process will assist in the achievement of the FCC's goal of acceleration[1] of deployment of 3G and 4G to underserved markets.

6. In ordering the designation of CSE Wireless as an ETC, in conjunction with universal service offering will provide a variety of benefits to customers including consumer choice and advantageous service offerings. For instance, universal service support will enable CSE Wireless to construct facilities to improve quality of service and extend telephone service to people who have no choice of telephone provider," [16] and that "CSE Wireless will use support to offer a basic universal service package to subscribers who are eligible for Lifeline support and CSE Wireless will make detailed commitments to provide high quality service throughout the proposed service areas for which it seeks designation." Furthermore designation of CSE Wireless as an ETC

---

[16] *See CAF Order,* 26 FCC Red at 17781 (para. 322) (stating that "[t]he goal of the Mobility Fund Phase I is to extend the availability of mobile voice service on networks that provide 3G or better performance and to accelerate the deployment of 4G wireless networks in areas where it is cost effective to do so with one-time support").

provider and conditioned upon success in the 902 Auction or further auctions will ensure wireless service will more rapidly allow and provide further benefits to consumers in a more timely manner, such as access to emergency services in geographically isolated areas. CSE Wireless's designation as an ETC also will potentially allow its customers to be subject to fewer toll charges and provide customer access to premium services such as numeric paging, call forwarding, and call waiting.

5. CSE Wireless has access to the spectrum necessary to satisfy the applicable performance requirements established by the Commission. CSE Wireless currently has the following licenses lease options for various radio services in North Carolina: See Table below:

Radio Service	Call Sign	Market
700 MHz	WQJQ702	BEA040 - Atlanta GA-AL-NC
700 MHz	WQJQ690	REA002 - Southeast
Cellular	KNKN626	CMA565 - North Carolina 1 - Cherokee
AWS - 1	WQGA934	BEA040 - Atlanta
AWS - 1	WQGA935	BEA042 - Asheville NC
Broadband PCS	KNLH707	BTA020 - Asheville-Hendersonville, NC
Broadband PCS	WQEM930	BTA020 - Asheville-Hendersonville, NC

6. CSE Wireless participates in Verizon Wireless's "LTE in Rural America" program. Pursuant to this program, Verizon Wireless and CSE Wireless have entered into a conditional leasing agreement option for the purpose of allowing CSE Wireless to use Verizon Wireless's spectrum rights for a new commercial wireless service where Verizon does not currently have service or, they are not planning to have service offering

in the following markets in North Carolina: Graham County, Jackson County, Swain and Haywood Counties. The Lease term will be for five (5) years per interval. The lease option is conditioned upon successful acquisition of support in the 902 Auction in connection with the above counties. Spectrum is to be utilized primarily to provide coverage to the defined "Eligible areas" as per the Auction 902 defined areas in those counties. There is currently no Verizon service in the eligible areas as defined per Auction 902 eligible areas in the above counties. Verizon has agreed conditionally to provide one of its 700 MHz Blocks for 4G deployment of the above table, and Verizon will provide one of its other frequency spectrum blocks for 3G operations provided that CSE Wireless qualifies as an ETC in the above counties, along with the other requirements as stated above. CSE Wireless reserves the rights to seek other potential spectrum to lease form other carriers that control licensed spectrum that meets CSE Wireless's proposed system design requirements inside the boundaries[17] as defined by Auction 902 "eligible areas" [18]. If other Spectrum becomes available for lease that is more advantageous to CSE Wireless we reserve the right to change the available spectrum prior to the Bid date of December 19, 2013. Otherwise the above noted Verizon spectrum will be CSE Wireless's default spectrum for Auction 902.

17 Counties that contain FIPS Tract in North Carolina – Swain, Jackson, Graham

18 FIPS Tract Boundries, 37173940100, 37099940200, 37075920300

B. Designation of Eligible Telecommunications Carriers.

7. Sections 214(e) and 254 of the Act[19] expressly authorize the Commission to designate CSE Wireless as an ETC. Section 214(e)(6) of the Act provides that the Commission may designate a common carrier as an ETC where, as here, that carrier's services are not subject to the jurisdiction of a state regulatory commission.[20] That provision further states that the Commission may, in the case of any area served by a rural telephone company, and shall, in the case of any other area, designate more than one common carrier as an ETC, provided the requesting carrier (1) offers services that are supported by federal universal service support mechanisms; and (2) advertises the availability of such services.[21] The Commission's rules impose additional requirements on a common carrier seeking designation as an ETC. As demonstrated in the following sections,[22] CSE Wireless will satisfy each of these requirements.

C. Description of CSE Wireless's Proposed Identified ETC Service Areas.

8. CSE Wireless, in its capacity as a provider of mobile services and broadband Personal Communications Service, is not a "rural telephone company" as that term is defined in Section 3(37) of the Act[23] Accordingly, CSE Wireless is required to de-

[19] 47 U.S.C. §§ 214(e), 254.

[20] 47 U.S.C. § 214(e)(6). The North Carolina Utilities Commission has confirmed that wireless communications carriers, such as CSE Wireless, are not subject to state jurisdiction for purposes of ETC designation. See Exhibit A.

[21] 47 U.S.C. § 214(e)(6).

[22] See Sections III and IV, *infra*.

[23] 47 U.S.C. § 153(37). Section 3(37) of the Act provides that:
The term "rural telephone company" means a local exchange carrier operating entity to the extent that such entity-

scribe the geographic area in which it requests designation[24] In this Petition, CSE Wireless requests ETC designation in certain areas served by incumbent local exchange carriers ("LECs") classified as "non-rural" and "rural," respectively. These areas are set forth in Exhibit B.[25]

9. Pursuant to Section 54.207 of the Commission's Rules[26] a "service area" is a "geographic area established by a state commission for the purpose of determining

> (A) provides common carrier service to any local exchange carrier study area that does not include either-
>
> (i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or
>
> (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;
>
> (B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;
>
> (C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or
>
> (D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

CSE Wireless does not meet any of the criteria established in the definition.

[24] *See* 47 U.S.C. § 214(e); *February 24 Public Notice* at para. 6.

[25] See Exhibit B (List of Rural and Non-Rural Study Areas and Wire Centers To Be Served by CSE Wireless in Its Proposed Additional ETC Service Area). To the extent that any wire centers have been inadvertently excluded from Exhibit B, the Company seeks designation in certain wire centers in the study areas of the following non-rural incumbent LECs: Bell South Telecomm Inc., d/b/a Southern Bell Tel. & Tel. and Verizon South Inc.-NC (Contel). The Company seeks designation throughout the entire study areas of the rural LECs as defined in the Act of 1934 for zip code areas boundary areas of 28713, 28719, 28751, 28789 Frontier Communications of the Carolinas Inc.-NC that may have a small portion of their exchange inside those boundaries' that may have been inadvertently omitted in exhibit B that our study was not able to locate as per defined geographical area sought. Lastly, the Company seeks designation in wire centers of the identified rural incumbent LECs that may have historical precedence that we are currently unaware of that may have interests. As discussed to this Petition, these rural LECs' service areas were already redefined at the wire-center level; accordingly, no further redefinition is required and the Commission's designation of CSE Wireless in these areas would take effect immediately.

[26] 47 C.F.R. § 54.207.

universal service obligations and support mechanisms."[27] In an area served by a rural telephone company, the Commission's rules define "service area" to mean the LEC study area unless a different definition of service area is established for the rural company.[28] As set forth herein and in Exhibit B, the Commission may designate CSE Wireless throughout its proposed ETC service area without the need for redefinition.

12. First, CSE Wireless's requested ETC service area includes wire centers of non-rural incumbent LECs and entire study areas of rural incumbent LECs. The Company seeks designation in certain wire centers in the study areas of the following non-rural incumbent LECs: BellSouth Telecomm fuc., d/b/a Southern Bell Tel. & Tel. and Verizon South Inc.-NC (Contel).[29]

13. Second, the CSE Wireless's proposed ETC service area may include portions of rural incumbent LEC service areas[30] that have already been redefined pursuant to the process set forth in Section 54.207 of the Commission's Rules.[31] Specifically, the Company seeks designation if applicable in certain wire centers of the following rural

[27] 47 C.F.R. §54.207(a).

[28] 47 C.F.R. §54.207(b). *See Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers,* CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, Further Notice of Proposed Rulemaking, Report and Order, 16 FCC Red 11244 (2001).

[29] To the extent that any wire centers of these incumbent LECs have been inadvertently excluded from Exhibit B, the Company clarifies that it commits to offer and advertise the supported services throughout the entire study area of each.

[30] Only entire wire centers are included within the CSE Wireless's proposed ETC service area.

[31] 47 C.F.R. §.54.207

incumbent LECs: Frontier Communications of the Carolinas Inc.-NC (ILEC), which may comprise less than 2% of the incumbents system or of the defined eligible area proposed by Auction 902. These rural ILECs' service areas have already been redefined at the wire-center level by the Commission and the relevant state authorities.[32] Accordingly, no further redefinition is required and the Commission's designation of CSE Wireless in these areas would take effect immediately.[33]

D. Limited Forbearance

An ETC's "service area" is a geographic area within which an ETC has universal service obligations and may receive universal service support.

A carrier seeking to become an ETC typically requests designation in a specific service area, but it is the commission designating that carrier that establishes the ETC's service area. When a competitive carrier seeks to serve an area already served by a defined wire center rural telephone company[34], as per section

[32] *Designation of Carriers Eligible for Universal Service Support -Petition of US Cellular for Commission Concurrence in Redefining Certain Ser- vice Areas,* Docket No. P-100, SUB 133e, Order of Concurrence (N.C. Util. Comm'n, Oct. 31, 2008); *Petition of US. Cellular for Concurrence in Redefining Certain Rural Service Areas,* Docket Nos. TMC-3, SUB 3, TMC-4, SUB 2, and TMC-9, SUB 2, Order of Concurrence (N.C. Rural Electrif. Auth., Nov. 17, 2008).

[33] *See High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, All- tel Communications, et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment,* WC Docket No. 05-337 and CC Docket No. 96-45, Order, 23 FCC Red 8834, 8864-67 (paras. 24, 28, 29, 31, 43) (2008) (subsequent history omitted).

34 47 U.S.C. § 214(e)(5); Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1582, para. 41 (2004) (Virginia Cellular Order) ("In order to designate [a competitive carrier] as an ETC in a service area that is smaller than the affected rural telephone company [service] areas, we must redefine the service areas of the rural telephone companies in accordance with section 214(e)(5) of the Act."); Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6422, 6439, paras. 37–38 (2004) (Highland Cellular Order) (same).

214(e)(5) of the Act[35] requires that the competitive ETC's service area must conform to the rural telephone company's service area. Accordingly, if a commission wishes to designate a competitive ETC for an area that differs from a rural telephone study area[36] as is the case with respect to all service areas set forth in Exhibit B of this petition, which differ with respect to size relative of the existing defined study area of the incumbent LEC's historical defined wire center boundaries and definition. Then in all of Exhibit B's proposed ETC requests, of the service area's that we intend to serve are substantially smaller than the historical wire center boundaries, and by restriction in correspondence to acknowledged "eligible areas" designated by the Commission as un-served or under-served geographical areas of at least 3G service coverage. The size of the proposed system's service area relative to each incumbents LEC's wire center boundaries are only a small percentage of each of the requested LEC's exchange area ETC obligatory territory. It is our argument that the reason the defined "eligible areas" defined by the Commission are a product of current spectrum holders and rural telephone companies on an individual basis and

---

[35] Section 10 (a-d) Telecom Act 1934

[36] FCC 12-70, SECOND REPORT AND ORDER, June 26, 2012 (para. 6), *Designation of Carrier Eligible for Universal Service Support* – (N.C. Rural Electrif. Auth., Nov. 17, 2008); *Designation of Carriers Eligible for Universal Ser- vice Support -Petition of US Cellular for Commission Concurrence in Redefining Certain Service Areas,* Docket No. P-100, SUB 133e, Order of Concurrence (N.C. Util. Comm'n, Oct. 31, 2008); *Petition of US. Cellular for Concurrence in Redefining Certain Rural Service Areas,* Docket Nos. TMC-3, SUB 3, TMC-4, SUB 2, and TMC-9, SUB 2, Order of Concurrence (N.C. Rural Electrif. Auth., Nov. 17, 2008).

therefore collectively have determined that the inscribed area boundary to be economically unfeasible as a single entrant, directly implying that there is an extremely low potential of "cream skimming"[37] and implying that the sensitive economic zones inside the Study area have current ambient 3G or 4G offerings, thereby balancing justifying the underlying rural telephone carrier's study area be "*potentially*" redefined, in order to promote the publics' interest to accelerate 3G or 4G deployment to the residence of those areas, and still justifying providing reasonable rates to the centroids of population in the study area.

1) Recognizing that neither the State nor the Commission as a sole entity can redefine the study area, and that it will be a joint decision to be reached in the future upon mutual agreement. In order to allow CSE Wireless to participate in Auction 902 in a timely manner we request the Commission to forbear the application of regulations to section 214(e)(5) of the Act and section 54.207(b) of the Commission's rules and appropriate parts of section 10 of the Act of 1934 in order to effect the designation.

[37] FCC 12-70, SECOND REPORT AND ORDER, the Act's special treatment of rural telephone companies, and the administrative burdens of redefinition.
See High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, All- tel Communications, et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment, WC Docket No. 05-337 and CC Docket No. 96-45, Order, 23 FCC Red 8834, 8864-67 (paras. 24, 28, 29, 31, 43) (2008) (subsequent history omitted).

II. NORTH CAROLINA DOES NOT REGULATE CMRS CARRIERS FOR ETC DESIGNATION PURPOSES.

14. Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific universal service support."[38] The Act reserves the authority to designate entities as ETCs to state public utility commissions. Pursuant to Section 214(e)(6), however, the Commission may designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission.[39] The Commission has established that a carrier must demonstrate that it "is not subject to the jurisdiction of a state commission" before the Commission will review any ETC designation application.[40] The Commission also has stated that any carrier seeking ETC designation from the Commission must provide an "affirmative statement from the state commission involved that it lacks jurisdiction to perform the ETC designation.[41]

[38] 47 U.S.C. § 254(e).39 !d.

[39] 47 U.S.C. § 214(e)(6).

[40] L Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, Public Notice, 12FCC Red 29947,29948 (1997).

41 See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriber- ship in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Red 12208, 12264 (para. 113) (2000) ("Tweffth Report and Order"); February 24 Public Notice at para. 5.

15. The North Carolina Utilities Commission has affirmatively stated that it lacks jurisdiction over wireless providers for purposes of ETC designations. The Order attached as Exhibit A meets the FCC's requirements for an "affirmative statement" from a state commission that requests for ETC designation are not within its jurisdiction and should be sought from the FCC.[42] Accordingly, CSE Wireless requests that the Commission designate it as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission . . . ."[43]

[42] *See Twelfth Report and Order,* 15 FCC Red at 12214 (para. 7).

[43] 47 U.S.C. § 214(e)(6).

III. CSE WIRELESS SATISFIES ALL OF THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC.

16. As demonstrated in the following sections, CSE Wireless satisfies each of the statutory and regulatory prerequisites for designation as an ETC, as set forth in the Act and the Commission's rules.

A. CSE Wireless Is a Common Carrier.

17. Section 3(10) of the Act, defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio ....'[44] CSE Wireless meets the definition of a person, offers interstate communications by radio, and is a common carrier for hire. As a CMRS carrier, CSE Wireless is regulated as a common carrier.[45]

B. CSE Wireless Will Provide the Supported Services Through a Combination of Facilities-Based Service and (If Necessary) Resale.

18. In accordance with Section 214(e)(l)(A) of the Act,[46] CSE Wireless will provide the supported services specified in Section 54.101(a) of the Commission's Rules[47] in the identified areas using new and in stock infrastructure. Specifically, CSE Wireless will provide the supported services: (1) by using CSE Wireless's existing stock equipment network infrastructure in combination with new equipment, which consists of switching, trunking, cell sites base stations, and network equipment, including microwave backhaul, and associated components together combined

[44] 47 U.S.C. § 153(10). See 47 U.S.C. § 214(e)(l); 47 C.F.R.§ 54.20l(d).

[45] 47 C.F.R. 20.9(a).

[46] 47 U.S.C. § 214(e)(l)(A). See 47 C.F.R. §§ 54.201(d)(l), 54.405.

[47] 47 C.F.R.§ 54.101(a).

[48] footnote deleted

producing the network;[49] and (2) should it become necessary, through the resale of another carrier's service. The Company may consider the use of resale as an option only. CSE Wireless has the technical capability to maintain its facilities in emergencies. Upon designation as an ETC, CSE Wireless will report annually any expansions and enhancements to its network within its proposed ETC designation area at the same time it submits its reports and annual certification required under the Commission's Rules.[50] Therefore, CSE Wireless meets the requirement that it provide the supported services using its own facilities.[51]

C. CSE Wireless Will Offer All of the Services and Functionalities Supported by the Universal Service Program.

19. To be designated an ETC, the Act requires carriers to certify that they provide each of the supported services.[52] Attached as Exhibit C is a sworn declaration that CSE Wireless will be able to offer, all of the services designated for support by the Federal Communications Commission"[53] in the identified areas requested herein.

---

[49] See 47 U.S.C. § 214(e)(l)(A); 47 C.F.R. § 54.20l(d)(l).

[50] 47 C.F.R.§§ 54.313, 54.314.

[51] 47 U.S.C. § 214(e)(l)(A). *See February 24 Public Notice* at para. 5; *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, 12 FCC Red 8776, 8870-71 (1997) (subsequent history omitted) (noting that "[w]e conclude, therefore, that, if a carrier uses its own facilities to provide at least one of the designated services, and the carrier otherwise meets the definition of 'facilities' adopted above, then the facilities requirement of section 214(e) is satisfied"); *id.* at 8871 (indicating that "section 214(e) does not mandate the use of any particular level of a carrier's own facilities").

[52] *See, e.g.,* 47 U.S.C. §§ 214(e)(l)(A), 254(c); 47 C.F.R. § 54.201(d)(l); *February 24 Public Notice*

[53] *Designation of Fort Mojave Telecommunications, Inc., at a/., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act,* AADIUSB File No. 98-28, Memorandum Opinion and Order, 13 FCC Red 4547, 4552 (para. 11) (1998) *("Fort Mojave Or- der").* In the *Fort Mojave Order,* the Commission made it clear that it will designate carriers as ETCs, pursuant to Section 214(e)(6) of the Act, upon finding that they "offer or will be able to offer" the supported services throughout the service areas involved.

Upon a grant of this Petition, CSE Wireless will offer all of the supported services as set forth in the Commission's rules, as recently modified by the *Lifeline Reform Order,*[54] throughout the identified areas in which CSE Wireless is requesting designation as an ETC.[55] In addition, CSE Wireless will use Tribal Mobility Fund Phase I support to offer a basic universal service package to subscribers who are eligible for Lifeline support.[56] CSE Wireless is committed to providing high quality universal service offerings in North Carolina and will ensure that the supported services are available throughout the designated service area to all customers who make a reasonable request for service.

1. Voice-Grade Access to the Public Switched Telephone Network.

20. CSE Wireless will offer customers voice grade access to the Public Switched Telephone Network, as required by Section 54.101(a)(l) of the Commission's Rules.[57] "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive

[54] *Lifeline and Link Up Reform and Modernization,* WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012), 77 Fed. Reg. 12952 (Mar. 2, 2012) *("Lifeline Reform Order").*

[55] *See* 47 C.F.R. §54.101(a). As recently modified, the Commission's rules have identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms:

> Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911 systems . . . ; and toll limitation services to qualifying low- income consumers as described in subpart E of this part.

47 C.F.R. § 54.101(a) (as modified by the *Lifeline Reform Order).*

[56] *See* 47 C.F.R. § 54.405(a); *Lifeline Reform Order.*

[57] 47 C.F.R. § 54.101(a)(l).

voice communications, including receiving a signal that there is an incoming call. CSE Wireless will provide its customers with "voice grade access" by providing mobile voice communications service and by enabling such customers to make and receive calls on the Public Switched Telephone Network.

2. **Minutes of Use for Local Service at No Additional Charge.**

21. CSE Wireless's service in North Carolina will include local usage that allows customers to originate and terminate calls within a local calling area without incurring toll charges. CSE Wireless will continue to offer service plans that include varying amounts of local usage. CSE Wireless will comply with any and all minimum local usage requirements the Commission may adopt with respect to universal service offerings. Therefore, CSE Wireless satisfies the local usage criterion for ETC designation.

3. **Access to Emergency Services.**

22. CSE Wireless will provide access to emergency services in conformance with the Commission's requirements. All of the handset devices that CSE Wireless will distribute to subscribers will be capable of delivering automatic numbering information and automatic location information, and otherwise satisfy applicable enhanced-911 requirements. CSE Wireless also will meet all requests for E911 service received from Public Service Answering Points.

4. **Lifeline; Toll Limitation.**

23. Certain low-income consumers in North Carolina will be eligible to pay reduced monthly fees under the Federal Lifeline program in which CSE Wireless will participate.

24. CSE Wireless will offer toll limitation services, which may be in the form of "toll control" or "toll blocking" services, to qualifying Lifeline customers.[58] Toll blocking allows customers to block the completion of outgoing toll calls. Toll control allows the customer to limit the toll charges a subscriber may incur during a billing period. Upon designation as an ETC in the additional service areas described in this Petition, CSE Wireless will offer toll limitation services to Lifeline customers in those areas, at no charge. Therefore, CSE Wireless meets the ETC requirement of offering toll limitation services to Lifeline customers.

D. CSE Wireless Will Advertise the Availability of and Charges for Its Universal Service Qualifying Offerings

25. In accordance with Section 214(e)(l)(B) of the Act[59] and Section 54.20l(d)(2) of the Commission's Rules,[60] CSE Wireless will advertise the availability of the supported services detailed above, and the corresponding rates and charges, in a manner designed to inform the general public within its identified North Carolina ETC service area.[61]

26. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine, and store based advertisements, outdoor advertising, direct marketing, and the Internet. In addition, CSE Wireless will advertise the availability of Lifeline benefits throughout its identified ETC service area by includ-

---

[58] 47 C.F.R. § 54.101(a). *See Federal-State Joint Board on Universal Service,* CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, Report and Order, 13 FCC
Rcd5318 (1997).

[59] 47 U.S.C. § 214(e)(l)(B).

[60] 47 C.F.R. § 54.201(d)(2).

[61] *See id.;* 47 U.S.C. § 214(e)(l)(B); *February 24 Public Notice* at para. 5.

ing mention of such benefits in advertising and reaching out to community health, welfare, and employment offices to provide information to those people most likely to qualify for Lifeline benefits.

E. CSE Wireless Will Satisfy Its Identified Obligations as an ETC.

27. In addition to those requirements set forth in Section 54.201 of the Commission's Rules,[62] CSE Wireless will satisfy other ETC requirements adopted by the Commission. In particular:

1. Compliance with Service Requirements and Service Improvement Plan.

28. Section 54.202(a)(1) of the Commission's Rules[63] requires an ETC applicant to: (1) certify that it will comply with the service requirements applicable to the support it receives; and (2) submit a service improvement plan that describes proposed improvements or upgrades to the applicant's network throughout its proposed service area.[64]

a. Compliance with Service Requirements.

29. CSE Wireless certifies that it will comply with the service requirements applicable to the support that it receives.[65] It will provide service throughout the proposed designated ETC area using its mobile handset supported customer equipment and service offerings where available.

---

[62] 47 C.F.R. § 54.201.

[63] 47 C.F.R. § 54.202(a)(l) (as modified by the *Lifeline Reform Order).*

[64] 47 C.F.R. § 54.202(a)(l)(i)-(ii). *See February 24 Public Notice* at para. 5.

[65] *See* 47 C.F.R. § 54.202(a)(l)(i).

b. Service Improvement Plan.

30. CSE Wireless submits its proposed Service Improvement Plan ("Plan"), attached hereto as Exhibit D, in accordance with Section 54.202(a)(l)(ii) of the Commission's Rules.[66] Because the Plan contains highly confidential information, the CSE Wireless reqsuests confidential treatment of Exhibit D in accordance with the Commission's Rules. The Plan describes the projected improvements in the proposed service areas in the State of North Carolina in which the Company seeks ETC designation in this Petition.

31. The Plan reflects capital expenditures that exceed the level of expenditures CSE Wireless would be able to commit in the absence of Mobility Fund Phase I support in order to provide 3G service in those areas.

32. CSE Wireless's Plan is contingent upon receiving funding through Tribal Mobility Fund Phase I. Further, the Plan must be flexible in order to respond to general consumer demand, changes in technology, and other appropriate factors, and, thus, the Plan, including the priority of construction of each cellular site, is subject to change for these reasons. CSE Wireless commits to provide the Commission with annual progress reports consistent with Section 54.213(a)(l) of the Commission's Rules.[67]

33. The Plan satisfies the ETC designation requirements and constitutes a good faith estimate of the universal service benefits, including expanded coverage and improved signal and service quality, which both residents and visitors will

[66] 47 C.F.R. § 54.202(a)(l)(ii).
[67] 47 C.F.R. § 54.213(a)(l).

enjoy if the Commission designates CSE Wireless as an ETC if successful in obtaining Mobility Fund Phase I support.

2. Ability To Remain Functional in Emergency Situations.

34. CSE Wireless will be able to remain functional in emergency situations in the identified areas, while it is in its existing ETC service area.[68] The network designed will remain functional in emergency situations. Specifically, CSE Wireless (1) will have adequate amounts of back-up power to ensure functionality without an external power source; (2) will be able to reroute traffic around damaged facilities; and (3) will be capable of managing traffic spikes resulting from emergency situations.[69]

35. CSE Wireless's system will be reinforced by the presence of fixed power generator backups at remote sites, and by six-hour battery-powered back-up and generators at all sites. Additionally, if necessary we will maintain a contract relation with a fleet portable generator supplier that can move power to individual cellular sites, as needed. The Company will also have ready access to alternate generators if the need for such generators should arise.

36. CSE Wireless's switch connectivity to the public switched voice network will be based on a protected ring topology and will be redundant-traffic and would be re-routed if necessary. All cellular sites will be covered by the availability of emergency support on a 24- hours-per-day, seven-days-per-week NOC basis. Response time to an outage report would be normally less than 30 minutes.

[68] *See* 47 C.F.R. § 54.202(a)(2); *February 24 Public Notice* at para. 6.

[69] *See* 47 C.F.R.§ 54.202(a)(2).

37. In accordance with Section 54.313(a)(6) of the Commission's Rules[70] CSE Wireless will annually certify that it is able to function in emergency situations. The Company will also fulfill the annual outage reporting requirement described in Section 54.313(a)(2), which requires an ETC applicant to submit detailed information on any outage of at least thirty (30) minutes in duration that potentially affects (1) at least 10 percent of the end users served in a designated area; or (2) a 911 special facility, as defmed in Section 4.5(e) of the Commission's Rules.[71]

38. As required by the Commission's Rules, the outage report will include information detailing: (1) the date and time of onset of the outage; (2) a brief description of the outage and its resolution; (3) the particular services affected; (4) the geographic areas affected by the outage; (5) steps taken by CSE Wireless to prevent a similar situation in the future; and (6) the number of customers affected.[72] Therefore, CSE Wireless will meet the requirement that its facilities and equipment will remain functional in emergency situations.

3. Consumer Protection.

39. Section 54.202(a)(3) of the Commission's Rules states that an ETC applicant must "demonstrate that it will satisfy applicable consumer protection and service quality standards."[73] A commitment by wireless applicants to comply with the Consumer Code for Wireless Service adopted by CTIA. The Wireless Association® ("CTIA Code")

[70] 47 C.F.R. § 54.313(a)(6).

[71] *Id.;* 47 C.F.R. §4.5(e).

[72] 47 C.F.R. § 54.313(a)(6).

[73] 47 C.F.R. § 54.202(a)(3). *See February 24 Public Notice* at para. 6.

satisfies this requirement.[74] CSE Wireless is committed to abide by the CTIA Code, as it may be amended from time to time, throughout its service area.[75]

40 Moreover, if designated as an ETC for the purpose of receiving Tribal Mobility Fund Phase I support, CSE Wireless will abide by the requirements of Sections 54.313(a)(4) and 54.313(a)(5) of the Commission's Rules.[76] Specifically, the Company will, on an annual basis, certify its compliance with the CTIA Code and report the number of customer complaints per thousand handsets. Accordingly, CSE Wireless meets the consumer protection requirements.

---

[74] *Id.* The CTIA Code can be viewed on the Web at http://files.ctia.org/pd:ti'Consumer Code.pdf.

[75] CTIA amended the CTIA Code in October 2011 to provide that wireless carriers agree to provide consumers with free notifications for voice, data and messaging usage, and international roaming. In explaining this "bill shock" provision, CTIA has indicated the following:

> Each wireless provider will provide, at no charge: (a) a notification to consumers of currently-offered and future domestic wireless plans that include limited data allowances when consumers approach and exceed their allowance for data usage and will incur overage charges; (b) a notification to consumers of currently-offered and future domestic voice and messaging plans that include limited voice and messaging allowances when consumers approach and exceed their allowance for those services and will incur overage charges; and (c) a notification to consumers without an international roaming plan/package whose devices have registered abroad and who may incur charges for international usage. Wireless providers will generate the notifications described above to postpaid consumers based on information available at the time the notification is sent. Wireless consumers will not have to affirmatively sign up in order for these notifications to be sent. Each wireless provider shall provide its customers at least two of these alerts by October 17, 2013 and all of these alerts by April 7, 2014. Wireless providers will clearly and conspicuously disclose tools or services that enable consumers to track, monitor and/or set limits on voice, messaging and data usage.

CTIA Code, www.ctia.org/consumer_info/service/index.cfm/ AID/10352. CSE Wireless certifies that it intends to comply with the provisions of the eleventh point of the CTIA Code pursuant to the implementation schedule established in the Code and its modifications.

[76] 47 C.F.R. §§ 54.313(a)(4), 54.313(a)(5) (as modified by the *CAF Order).*

4. Financial and Technical Qualifications.

40. CSE Wireless certifies that it is financially and technically qualified to provide, and intends to provide, broadband services meeting the Commission's requirements, *i.e.,* either 3G service in the supported areas within two years after the date CSE Wireless is authorized to receive Tribal Mobility Fund Phase I support, or 4G service within three years after such date.[77]

5. Protections Against Fraud, Waste, and Abuse.

41. CSE Wireless will take all steps necessary to prevent fraud, waste, and abuse in connection with its use of Tribal Mobility Fund Phase I support, and will comply with all applicable Lifeline requirements adopted by the Commission for purposes of preventing fraud, waste, and abuse.[78]

IV. DESIGNATING CSE WIRELESS AS AN ETC WILL SERVE THE PUBLIC INTEREST.

42. For CSE Wireless to be designated as an ETC in a rural service area, the Commission must find that the grant of ETC status to CSE Wireless in the rural service area would serve the public interest.[79] In cases decided by the Commission, the question of whether it is in the public interest to designate a wireless carrier in areas served by rural incumbent LECs has been decided in the affirmative.[80]

---

[77] *See CAF Order,* 26 FCC Red at 17801 (paras. 400-403); 47 C.F.R.§§ 54.1003(c), 54.1006.

[78] *See Lifeline Reform Order.*

[79] *See* 47 U.S.C. § 214(e)(2). No public interest fmding is required where a carrier is seeking ETC designation in a non-rural service area. *Id.*

[80] *Footn.otedeleted*

44. The Telecommunications Act of 1996 ("1996 Act"), and the Commission in its enabling orders, provide guidance for determining the public interest.[81] The overarching principles embodied in the 1996 Act are to "promote competition and reduce regulation, secure lower prices and higher quality services, and encourage the rapid deployment of new telecommunications technologies."[82]

45. In conformity with the Act and the Commission's rules, the Commission has repeatedly found that wireless carriers satisfy the federal requirements for ETC designation, and has cautioned state commissions against imposing artificial barriers to competitive entry by wireless carriers, particularly in rural areas where wireless carriers are best positioned to compete with wireline carriers.[83]

46. Although the Commission's rules do not provide specific public interest criteria, the Commission has previously enunciated a framework of five factors for consideration in ETC designations. In determining the public interest, the Commission has indicated that the following should be considered:

- The benefits of increased competitive choice;
- The impact of designation on the federal USF;

(2004) *("Virginia Cellular Order'); NPCR, Inc., d/b/a Nextel Partners,* 19 FCC Red 16530 (2004); *Highland Cellular, Inc.,* CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Red 6422 (2004).

[81] *See, e.g., Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, 12 FCC Red 8776, 8801 (para. 47) (1997) *("Universal Service First Report and Order")* (subsequent history omitted); *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Red 20432, 20480 (para. 90) (1999) *("Universal Service Ninth Report and Order").*

[82] 1996 Act (preamble).

[83] *See Federal-State Joint Board on Universal Service,* CC Docket Nos. 96-45, 96-262, Seventh Report and Order, 14 FCC Red 8078 (1999).

- The unique advantages and disadvantages of the competitor's service offering;
- Any commitments made regarding the quality of telephone service; and
- The likelihood that cream-skimming will result from the designation.[84]

47. CSE Wireless sets forth below specific facts demonstrating how its designation will advance the public interest in the service areas requested in this Petition.

A. CSE Wireless's Designation Will Bring Improved Coverage and Service Quality.

48. Through participation in the Tribal Mobility Fund Phase I support mechanism, CSE Wireless will operate, maintain, its communications infrastructure in North Carolina to provide advanced wireless services, improve signal coverage, enhance wireless call quality, and provide more advanced services to North Carolina consumers. These investments will be above and beyond other investments CSE Wireless undertakes with internally generated capital. If it is granted ETC status in the proposed ETC service areas, and is successful in securing funding in Auction 902, CSE Wireless intends to bring and expand 3G wireless services to the area, and eventually 4G services.

49. CSE Wireless states on information and belief that there are areas within its proposed ETC service areas in which 3G or better broadband service is unavailable.[85] As set forth above, we commit to provide service to consumers upon reasonable request, and to use Tribal Mobility Fund Phase I support to upgrade and expand its network

[84] *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, 20 FCC Red 6371, 6390-96 (paras. 44-57) (2005) *("ETC Designation Requirements Order").*

[85] *See February 2 Public Notice* at para. 2 (indicating that "Auction 901 will award one-time sup- port to carriers that commit to provide 3G or better mobile voice and broadband services in areas where such services are unavailable").

to provide improved coverage and capacity. The mobility of the Company's wireless service will assist "consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations."[86]

50. CSE Wireless employs an experienced Registered Professional Engineers (P.E.) and qualified technical support team that will monitor service quality and service outages across the Company's planned network, and will provide on-call emergency support 24 hours a day, seven days a week. CSE Wireless's response time to an outage report will be less than 30 minutes normally.

51. In areas where signal strength is weak and where no business plan supports construction of new facilities, CSE Wireless will use Tribal Mobility Fund Phase I support to construct facilities capable of providing 3G service, which will improve signal strength and serve consumers with the same top quality mobile service that urban consumers enjoy today.

B. CSE Wireless's Investment of USF Support in Its Proposed ETC Service Area Will Lead to Significant Health and Safety Benefits.

52. People in rural areas depend on mobile phones more and more to provide critical communications needs. Designating CSE Wireless as an ETC in the areas requested in this Petition will provide additional consumer choice and a potential solution to health and safety risks associated with the rural nature of these areas.[87] If CSE Wireless is successful in obtaining Tribal Mobility Fund Phase 1 support, then its

[86] *Virginia Cellular Order,* 19 FCC Red at 1576 (para. 29).

[87] *See, e.g., Corr Wireless Communications, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama,* CC Docket No. 96-45, Order, 21 FCC Red 1217, 1246 (2006) (stating that "[t]he mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other locations").

deployment of 3G mobile service will increase channel capacity and increase the number of completed calls, including important health and safety calls. Thus, for every cellular site that CSE Wireless constructs for the deployment of 3G service, the reliability and performance of CSE Wireless's E911 service will improve.

53. Important public safety benefits will be realized if the Commission designates CSE Wireless as an ETC in its proposed service area and the Company is successful in obtaining Tribal Mobility Fund Phase I support in Auction 902. Federal high-cost support would significantly bolster CSE Wireless's ability to build a 3G network that can offer state-of-the- art services that we are committed to providing.

54. CSE Wireless's network will be reinforced by the presence of battery and generator backups, capable of running for significant periods in the event of a major electrical outage. Portable generators can be moved to individual cellular sites in the event of a catastrophic electrical failure. Each cellular site on the network will be protected by the availability of 24 hour a day, seven days a week emergency support.

C. CSE Wireless's Designation Will Enhance Service Availability for Low-Income Consumers.

55. Designation of CSE Wireless as an ETC in the areas of North Carolina requested, combined with CSE Wireless 's receipt of Tribal Mobility Fund Phase I support in Auction 902, will enable the Company to offer more appealing and affordable service offerings to low-income customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, wireless services have become essential for lower-income citizens, providing them with value for their resources', and access to emergency services on wireless devices, and a reliable

means of contact for prospective employers, social service agencies, and dependents.

56. A commitment to reach out to the low income community through active participation in the Lifeline program is an essential element in demonstrating that the public interest will be served by a grant of this Petition. Many low income persons need a mobile phone and CSE Wireless will offer them the opportunity to choose a mobile service plan for the first time. CSE Wireless makes this commitment to serve low income communities, and also points out that providing the Company with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

D. Benefits of Competition.

57. One of the principal goals of the 1996 Act is, again, to "promote competition and reduce regulation in order to secure lower prices and high-quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."[88] Designation of a competitive ETC in rural areas increases facilities and spurs development of advanced communications as carriers vie for a consumer'sbusiness.[89] Further, as the Commission has stated, the "goal of the Mobility Fund is to extend the availability of mobile voice service on networks that provide 3G or better performance and to accelerate the deployment of 4G wireless networks

[88] *See* 1996 Act (preamble).

[89] *See, e.g., Alltel Michigan Order* at 11; *NE. Colorado Cellular, Inc. d/b/a Viaero Wireless,* Ap- plication No. C-3324 (Neb. PSC, Oct. 18, 2005) at 11-12.

in areas where it is cost effective to do so with one-time support."[90] CSE Wireless's plans for the use of Tribal Mobility Fund Phase I support directly support this goal.

58. Designation of CSE Wireless as an ETC will promote competition and facilitate the provision of high-quality communications services to those living and working within the Company's proposed service area.[91] Residents in many rural areas have long trailed consumers in urban areas in receiving competitive local exchange service and advanced telecommunications services, and in some rural areas no meaningful choice of local exchange carrier exists. It is also evident that the deployment of high-quality wireless telecommunications infrastructure is essential to economic development in rural areas.

59. CSE Wireless will have every incentive to meet its commitments made in this proceeding to use Tribal Mobility Fund Phase I support to improve its network and reliability. If designated an ETC by the Commission in the proposed ETC service area and successful in obtaining Tribal Mobility Fund Phase I support, CSE Wireless will be able to better compete for customers, service quality and customer service will improve, and 3G services (and, ultimately, 4G services) will be deployed more quickly to more North Carolina residents. Wider local-calling areas and lower prices overall may also be introduced by CSE Wireless to retain and attract customers.[92]

[90] *See CAF Order,* 26 FCC Red at 17781 (para. 322).

[91] *See CSE Wireless Order,* 21 FCC Red at 9156 (para. 17) (fmding that "CSE Wireless's uni- versal service offering will provide a variety of benefits to customers including consumer choice and advantageous service offerings. For instance, universal service support will enable CSE Wireless to construct facilities to improve quality of service and extend telephone service to people who have no choice of telephone provider.").

[92] *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act ofl993, An-*

E. CSE Wireless's Designation as an ETC Will Not Result in "Cream-Skimming."

60. As part of its public interest analysis, the Commission must determine whether CSE Wireless's designation will enable it to "cream-skim," that is, target low-cost portions of a rural incumbent LEC's service area in which uneconomically high levels of support are available.

61. The purpose of the cream-skimming evaluation that the Commission typically has performed as part of its public interest analysis in reviewing petitions for ETC designation has been to ensure that a competitive ETC does not provide service only in the lowest-cost portions of an incumbent LEC's service area, and to ensure that the support a competitive ETC receives is reflective of the incumbent LEC's costs to serve the relevant wire centers.

---

anual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Service, WT Docket No. 06-17, Eleventh Report, 21 FCC Red 10947, 10984-85 (para. 92) (2006) (describing how consumers have benefited from the proliferation of service offerings, including free mobile-to-mobile, nationwide toll-free or roaming-free calling, family plans, and unlimited calling to a list of designated numbers); *Applications of AT&T Wireless Services, Inc. and Cingu- lar Wireless Corp.,* WT Docket Nos. 04-70, 04-254, 04-323, Memorandum Opinion and Order, 19 FCC Red 21522, 21554 (para. 63) (2004) (footnote omitted):

> By fostering continuing experimentation with a variety of different pricing options, service packages, and policies on handset subsidies, competition to attract and retain customers has resulted in complicated and ever-changing pricing and feature structures. Today all of the nationwide operators offer some version of a national rate pricing plan in which customers can purchase variously sized buckets of minutes to use on a nationwide or nearly nationwide network without incurring roaming or long-distance charges. Other significant trends in mobile telephony pricing have been the offering of free night and weekend minutes, and the expansion of free calling among a particular company's customers, known as "in- network" or "mobile-to-mobile" calling. Moreover, although most U.S. mobile telephony subscribers pay their mobile phone bills after they have incurred charges (known as postpaid service), all the nationwide operators offer some version of a prepaid service either directly to their retail customers or through third- party resellers.

62. The Commission has been concerned that, if an ETC seeks designation in a disproportionate share of higher-density wire centers in an incumbent LEC's service area, the "ETC may receive more support than is reflective of the rural incumbent LEC's cost 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 ...."[93]

63. The *CAF Order* has eliminated any possibility of cream-skimming by recipients of Mobility Fund support. The Commission has frozen competitive ETC support[94] and also has provided for the phase-down of this frozen support. Thus, the level of a competitive ETC's support in a given service area is no longer based on the per-line support received by the rural incumbent LEC in that service area.[95] In addition, the new Mobility Fund support regime adopted by the Commission for wireless competitive ETCs will disburse support to the lowest bidders participating in reverse auctions.[96] These actions taken by the Commission in the *CAF Order* have the effect of mooting the Commission's prior concerns regarding cream-skimming.

V. IDGH-COST CERTIFICATION.

64. Under Section 54.314 of the Commission's Rules,[97] carriers wishing to obtain high-cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the

[93] *ETC Designation Requirements Order,* 20 FCC Red at 6392 (para. 49).

[94] *See* 47 C.F.R. § 54.307(e)(l).

[95] *See CAF Order,* 26 FCC Red at 17825-30 (paras. 498-511).

[96] *See id.* at 17773-17818 (paras. 30 l-478), 17824-25 (paras. 493-497).

[97] 47 C.F.R. § 54.314.

Commission and the Universal Service Administrative Company their compliance with Section 254(e) of the Act.[98]

65. CSE Wireless commits to use available federal USF support for its intended purposes-the provision> maintenance> and upgrading of facilities and services for which support is intended.[99] Therefore CSE Wireless respectfully requests that the Commission issue a finding that the Company has met the high-cost certification requirement and that CSE Wireless is therefore entitled to receive federal USF high-cost support.

VI. ANTI-DRUG ABUSE CERTIFICATION.

66. No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998.[100]

VII. CONCLUSION.

For the reasons discussed in this Petition CSE Wireless respectfully requests that (1) the Commission act expeditiously to designate the Company as an Eligible Telecommunications Carrier for the requested designated service areas in North Carolina> and for the purpose of participating in Auction 902; and (2) the Commission make such designation contingent upon CSE Wireless's receipt of Tribal Mobility Fund Phase1 support in Auction 902.

//

//

//

[98] 47 U.S.C. § 254(e).

[99] See Exhibit C.

[100] 21 U.S.C. § 862.

Respectfully submitted,

Boris Djokovic P.E.
CEO
CSE WIRELESS, INC.
7488 Tiki Ave.
Cincinnati, OH 45243
(513) 235-1836

May 14, 2013

EXHIBIT A

North Carolina Utilities Commission Certification Order

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Designation of Carriers Eligible for Universal)
Carrier Support) ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS form the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23)j, enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

Patricia Swenson

Patricia Swenson, Deputy Clerk

EXHIBITB

List of Rural and Non-Rural Study Areas and Wire Centers To Be Served by CSE Wireless in Its Proposed Additional ETC Service Areas

LIST OF NON-RURAL WIRE CENTERS TO BE SERVED
BY CSE WIRELESS IN ITS PROPOSED IDENTIFIED ETC SERVICE AREAS

WCCODE	COMPANY NAME	EXCHANGE	PROPOSED ETC
MGVANCCE	BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	MAGGIE VALLEY	Y
BRCYNCXA	VERIZON SOUTH INC.-NC (CONTEL)	BRYSON CITY	Y
CHRKNCXB	VERIZON SOUTH INC.-NC (CONTEL)	CHEROKEE	Y
SYLVNCXA	VERIZON SOUTH INC.-NC (CONTEL)	SYLVA	Y

LIST OF RURAL WIRE CENTERS TO BE SERVED
BY CSE WIRELESS IITS PROPOSED IDENTIFIED ETC SERVICE AREAS

WCCODE	COMPANY NAME	EXCHANGE	ETC PROPOSED
CHRKNCXBRS0	None ***	CHEROKEE	Y
BRCYNCXARS0	None ***	BRYSONCITY	Y
SYLVNCXADS0	None ***	SYLVA	Y

*** Rural Local Exchange Carrier Has Less Than 2% of lines in area in defined Geographical Service Area

EXHIBIT C

CSE Wireless Certification

CERTIFICATION

State of Ohio)
)
County of Hamilton)

I, Boris Djokovic, being duly sworn, state that I file this Petition as the Chief Executive Officer of CSE Wireless, Inc. ("CSE Wireless"); that in such capacity, I am qualified and authorized to file and verify such Petition; that I have carefully examined all the statements and matters contained in the Petition; and that all such statements made and matters set forth therein are true and correct to the best of my knowledge, information, and belief.

I further state that CSE Wireless offers or will be able to offer, all of the services designated for support by the Federal Communications Commission, and for which CSE Wireless receives support pursuant to Mobility Fund Phase I, throughout the areas in which CSE Wireless is requesting designation as an Eligible Telecommunications Carrier, that the Petition is made in good faith, with the intention of presenting evidence in support thereof in every particular.

I further certify that, in my capacity as the Chief Executive Officer of CSE Wireless, that if CSE Wireless is designated an Eligible Telecommunications Carrier by the Commission, CSE Wireless will use any Universal Service Fund support received only for the purposes for which the support is intended and that I am authorized to make this certification on behalf of CSE Wireless.

Executed: September 13. 2013

Boris Djokovic

Subscribed and sworn to before me, a Notary Public in and for the State and County named above, this day of September 13, 2013.

NOTARY PUBLIC STATE OF OHIO

STEVE FREDERICK
Notary Public, State of Ohio
My Comm. Expires Jan. 03, 2017

EXHIBIT D

CSE Wireless's Service Improvement Plan

This Exhibit Is Withheld from the Public Copy
As the Filer Has Requested Confidential Treatment