

Exhibit No.

Issue:

*Northwest Missouri Cellular
Application for Designation as
an Eligible Telecommunications Carrier*

Witness:

Type of Exhibit:

Sponsoring Party:

Case No.:

Date:

William J. Warinner

Rebuttal Testimony

Holway Telephone Company

TO 2005-0466

May 9, 2006

HOLWAY TELEPHONE COMPANY

CASE NO. TO 2005-0466

REBUTTAL TESTIMONY

OF

WILLIAM J. WARINNER

(NON PROPRIETARY)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

TABLE OF CONTENTS
REBUTTAL TESTIMONY
OF
WILLIAM J. WARINNER
CASE NO. TO 2005-0466

Introduction	2
Background Information	5
Universal Service Fund Support	10
NWMC Investment Plans	22
NWMC Services	26
Quality of Service	34
Consumer Protection	37
Public Interest	39
Summary and Conclusion	46

INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Q. Please state your name and business address.

A. My name is William J. Warinner. My business address is 10561 Barkley Street, Suite 550, Overland Park, Kansas, 66212-1835.

Q. By whom are you employed and what is your position?

A. I am the managing principal in the firm of Warinner, Gesinger & Associates, LLC, Certified Public Accountants.

Q. Please describe your educational and professional background.

A. I am a 1975 graduate of Rockhurst College in Kansas City, Missouri where I received a Bachelor of Science degree in Business Administration with a major in Accounting. In 1975, I was employed by the certified public accounting firm of Troupe Kehoe Whiteaker & Kent (TKWK) to assist in the preparation of income tax returns and certified financial audits. In 1976, I transferred to the Firm's regulated utility department where I was responsible for preparing rate case support and division of revenue cost studies for telephone company clients of the Firm. In 1978, I became manager of telecommunications regulatory services at TKWK. In 1983, I joined the consulting firm of Drees Dunn & Company as manager of regulatory services where my responsibilities included preparation of certified financial audits of independent telephone companies, preparation of tollcost studies, preparation of access charge tariff filings, business planning and economic modeling. In 1988, I co-founded the certified public accounting

1 firm of Frederick & Warinner (F&W). F&W was formed specifically to address the
2 financial needs of rural independent telephone companies. At F&W, I developed
3 *Revenue Management Systems*, a Part 36/69 cost allocation software system designed for
4 use with personal computers. On January 1, 1995, I organized Frederick & Warinner,
5 L.L.C. of which I am currently the managing principal. In April of 1999, the firm
6 became Warinner, Gesinger & Associates, LLC.

7 I am a Certified Public Accountant and member of the American Institute of Certified
8 Public Accountants. I currently hold a license to practice in the States of Kansas,
9 Louisiana, Minnesota, Missouri, New York, Oklahoma, Texas, Wyoming and
10 Washington, D.C.

11 My resume, presented as Exhibit WJW-1, contains descriptions of the major
12 engagements I have managed and provides the names of clients with whom I have
13 worked.

14
15 **Q. On whose behalf do you present this rebuttal testimony?**

16 A. My testimony is presented on behalf of Holway Telephone Company (Holway).
17

18 **Q. What is the purpose of your rebuttal testimony in this proceeding?**

19 A. The purpose of my Rebuttal Testimony is to reply to statements made in the Direct
20 Testimony of the following individuals on behalf of Northwest Missouri Cellular Limited
21 Partnership's (NWMC) application for designation as an Eligible Telecommunications
22 Carrier (ETC): (1) Ms. Kathryn G. Zentgraf regarding the impact on universal service
23 fund; (2) Mr. Robert Bundridge related to the description of NWMC's services, including

1 rates and service and the requirements imposed by the Federal Communication
2 Commission (FCC) for NWMC services; (3) Mr. Jonathan Reeves regarding technology,
3 and; (4) the important role of the Missouri Public Service Commission (MoPSC) in this
4 process.

5
6 **Q. What is the role of the MoPSC in the process of designating ETC status to
7 telecommunications carriers?**

8 A. The Federal Communications Commission (FCC) established suggested guidelines for
9 states to use in granting ETC status. Some of the related rules are provided in the
10 "Background Information" below. In addition, the MoPSC's rule regarding applications
11 for ETC status, 4 CSR 240-3.570, was sent to the Missouri Joint Committee on
12 Administrative Rules on March 7, 2006 for ultimate publication in the Missouri Register
13 and Code of State Regulations.

14
15 **Q. What issues should the Missouri Public Service Commission (MoPSC) address in
16 NWMC's request for ETC status?**

17 A. Upon the MoPSC's evaluation of the testimony presented in this case, the basic issues to
18 be determined are whether NWMC has met the criteria established by the MoPSC's rule
19 for ETC designation, to ensure that the MoPSC's decision is competitively neutral, and to
20 decide if funding multiple providers is in the public interest in high-cost areas where it is
21 uneconomical for even one provider to operate without support in order to meet the
22 principles of universal service.

23

BACKGROUND INFORMATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Q. What are the standards for designation of ETC status for the purpose of receiving federal Universal Service Fund (USF) support?

A. Section 214(e)(1) requires that a common carrier designated as an ETC “shall be eligible to receive universal service support in accordance with 254 and shall throughout the service area for which the designation is received;

(A) offer the services that are supported by federal universal service support mechanisms under 254(c), either using its own facilities or a combination of its own and resale of another carrier’s services (including the services offered by another ETC); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

Q. What services are supported by the federal USF support mechanisms under 254(c)?

A. The following services are required of an ETC by the FCC in 47 C.F.R. §54.101(a) for eligibility as an ETC:

- (1) Voice grade access to the public switched network
- (2) Local usage
- (3) Dual tone multi-frequency signaling or its functional equivalent
- (4) Single-party service or its functional equivalent
- (5) Access to emergency services
- (6) Access to operator services

- 1 (7) Access to interexchange service
2 (8) Access to directory assistance
3 (9) Toll limitation for qualifying low-income consumers.
4

5 **Q. Who has authority to grant ETC status to NWMC?**

6 A. The Missouri Public Service Commission (MoPSC) has authority to grant ETC status to
7 NWMC for the State of Missouri. Section 214(e)(2) of the Telecommunications Act of
8 1934, as amended by the Telecommunications Act of 1996 (the Act) states, in relevant
9 part:

10 “Upon requests and consistent with the public interest, convenience, and
11 necessity, the State commission **may, in the case of an area served by a rural**
12 **telephone company**, and shall, in the case of all other areas, **designate more**
13 **than one common carrier as an eligible telecommunications carrier** for a
14 service area designated by the State commission, so long as each additional
15 carrier meets the requirements of paragraph (1)”, (as stated above). **“Before**
16 **designating an additional eligible telecommunications for an area served by a**
17 **rural telephone company, the State commission shall find that the**
18 **designation is in the public interest.**” (Emphasis added.)
19

20 **Q. What are the USF principles?**

21 A. Section 254(b) of the Act requires that the Joint Board and the FCC base policies for the
22 preservation and advancement of universal service on the following principles:

1 (5) Acknowledge that it may be required to provide equal access if all other
2 ETCs in the designated area relinquish their designations pursuant to
3 section 214(e) (4) of the Act.

4

5 **Q. Has the FCC adopted additional principles?**

6 A. Yes, the FCC adopted the following additional principle:²

7 **Competitive Neutrality** - Universal support mechanisms and rules should be
8 competitively neutral. In this context, competitive neutrality **means that**
9 **universal support mechanisms and rules neither unfairly advantage nor**
10 **disadvantage one provider over another**, and neither unfairly favor or disfavor
11 one technology over another. (Emphasis added)

12

13 **Q. Does the MoPSC's rule on carrier designation as an ETC place additional**
14 **requirements on carriers?**

15 A. Yes.

16

17 **Q. Will you please identify some of these additional requirements?**

18 A. The following additional and/or revised requirements for applicants seeking ETC
19 designation are included in the MoPSC's Rules on Carrier Designation:

20 (1) Provide specific details of their two-year plan (FCC's requirement is a
21 five-year plan) including specific geographic areas and the related
22 estimated investment and estimated population that will be served;

² Refer to the Report and Order in CC Docket No. 96-45, FCC 97-157, Issued May 8, 1997 (paragraph 47).

- 1 (2) Provide a statement how the plans would not occur without funding;
- 2 (3) Comply with a bill design that can be easily interpreted;
- 3 (4) Commitment to provide Lifeline and Link Up;
- 4 (5) Publicize construction of all new facilities in unserved areas;
- 5 (6) Extend networks to serve a customer upon a reasonable request;
- 6 (7) Prepare annual filing requirements for the certification process; and
- 7 (8) Submit report on customer complaints.

8

9

UNIVERSAL SERVICE FUND SUPPORT

10

11 **Q. Does NWMC currently receive federal USF support?**

12 A. No. NWMC is not an ETC.

13

14 **Q. Does Holway currently receive federal USF support?**

15 A. Yes.

16

17 **Q. If NWMC is granted ETC status, how would the amount of federal USF support be**
18 **calculated?**

19 A. NWMC would receive the same amount of federal USF support per line that Holway and
20 the other incumbent local exchange carriers (ILECs) receive in NWMC's designated
21 ETC area receive.

22

23 **Q. What is the amount of USF support NWMC could receive as an ETC?**

1 A. Ms. Zentgraf stated this amount would be \$1,468,614 annually.³

2

3 **Q. What is the amount of support received by ILECs for the same area that NWMC**
4 **serves?**

5 A. Data is not available to determine the amount of USF that would be specific to the area
6 served by NWMC, as USF support is provided to ILECs on a total study area basis. The
7 comparison of \$17,911,380⁴ used by Ms. Zentgraf is not valid since this amount
8 represents support for all of the ILEC's areas throughout the state of Missouri compared
9 to a much smaller area for NWMC in Missouri.

10

11 **Q. Please provide a description of the support included in the federal USF.**

12 A. USF support includes the following funding mechanisms: High Cost Loop (HCL) is
13 provided to recover a portion of the cost of subscriber loop plant in high cost areas; Local
14 Switching Support (LSS) is provided for switch support utilizing the frozen weighted
15 interstate Dial Equipment Minute (DEM) factor; and Interstate Common Line Support
16 (ICLS)⁵ is provided based upon the residual amount of the interstate Carrier Common
17 Line (CCL) revenue requirement, not recovered from subscriber line charges (SLC).

18

19 **Q. What was the amount of USF support received by Holway in 2005?**

20 A. During the year 2005, Holway received approximately \$167,000 of HCL support,
21 \$121,000 of LSS support and \$134,000 of ICLS support.⁶

³ Refer to page 15, line 23 of Ms. Zentgraf's direct testimony.

⁴ Refer to page 16, line 3 of Ms. Zentgraf's direct testimony.

⁵ Beginning July 2004, Long Term Support (LTS) is included in the ICLS amount of USF.

⁶ From Universal Service Administration Company's published filings with the FCC.

1 **Q. How is the amount of Holway's HCL support calculated?**

2 A. Holway's HCL support is based upon actual costs and investments that have been made
3 in its service area. The HCL support that Holway received in 2005 was for
4 reimbursement of loop costs incurred by Holway during the year 2003. The recovery of
5 Holway's loop costs incurred in 2004 will be received in 2006. HCL support is based
6 upon a calculation that includes only certain expenses and investments (related to
7 subscriber plant), and consideration of only subscriber access lines (or loops). For
8 example, customer service expenses, and interexchange plant investments including
9 related expenses **are not included** in HCL costs. The 2004 HCL workpaper for Holway
10 is included as Proprietary Exhibit WJW-2. Holway's 2004 Study Average Cost per Loop
11 (SACPL) was *\$ * compared to the National Average Cost per Loop (NACPL), which
12 was \$318.74 for the 2005 data collection period (2004 cost study period). The HCL
13 algorithm calculates USF at 65% of the loop costs of Holway above 115% of the NACPL
14 and up to 150% of the NACPL. Loop costs above 150% of the NACPL are recovered at
15 75%. For Holway, this represents a reimbursement of *\$ * applied to * * loops for
16 the year 2004. The recovery of 2004 costs will be remitted to Holway during 2006.

17

18 **Q. How is Holway's amount of LSS determined?**

19 A. LSS represents the difference between the cost of switching equipment and related
20 expenses allocated to the interstate jurisdiction and the revenue generated from local
21 switching access charges at market-based rates, without any artificial weighting. LSS
22 was previously included as implicit support in the local switching rates charged to
23 Interexchange carriers (IXCs). LSS was subsequently moved to an explicit support

1 mechanism in an attempt to provide more efficient market-based pricing for access
2 charges.

3 LSS is calculated based upon a portion of the switch investment and related expenses
4 determined by the actual costs in the interstate cost study submitted to NECA each July
5 for the preceding calendar year. The LSS calculations are submitted to NECA, reviewed
6 and subsequently approved. Holway's 2004 LSS Data Collection Form is attached as
7 Proprietary Exhibit WJW-3.

8

9 **Q. How is the amount of ICLS determined?**

10 A. Like LSS, ICLS represents the difference between the cost of non-traffic sensitive
11 investments and expenses charged to the interstate jurisdiction and the revenue generated
12 from subscriber line charges billed to end user customers. ICLS is another cost recovery
13 mechanism that was initially billed to carriers in the form of carrier common line charges.
14 During the restructure of access charges, this recovery mechanism was moved to a form
15 of explicit support and is now charged to carriers through universal service charges.
16 Payments are made to carriers like Holway through cost-based settlements with NECA.

17 ICLS support is determined based on the amount of CCL revenue requirement from
18 Holway's approved interstate cost study less SLC revenue and other revenue. Holway's
19 2005 ICLS Verification information, from the 2004 cost study, is attached as Proprietary
20 Exhibit WJW-4.

21

22 **Q. Are LSS and ICLS portable to other ETCs?**

1 A. Yes, the amount per line received by Holway is portable to other ETCs. However, I
2 believe the amount of support-per-line based upon Holway's costs should not be portable
3 to other ETCs. Competitive ETCs, such as NWMC if designated an ETC, should be
4 required to provide the same information required of Holway to support the CETC's
5 costs in order to obtain local switching support and recovery of interstate carrier common
6 line revenue requirement.

7 The LSS support mechanism was implemented to provide incentives for ILECs to invest
8 in state-of-the-art switching technologies before their existing switches were fully
9 depreciated. The LSS support mechanism served its purpose as nearly one hundred
10 percent of all ILEC switches are digital. This support mechanism should be made
11 available to CETC's based on a similar cost showing by the CETC that it is entitled to the
12 support. LSS should not be calculated and made portable to CETCs on a per line basis.

13 The ICLS support mechanism was implemented in order to reduce interstate access rates
14 that are calculated based upon the ILEC's interstate costs and related demand (minutes-
15 of-use). Evidently this goal of the FCC was very successful as the current interstate rate
16 for CCL is now \$0.00. Since the ICLS support mechanism was created as a result of
17 interstate price restructuring between ILECs and IXCs, it does not represent a true
18 support fund and should not be portable to CLECs. This revenue stream reflects a
19 recovery system for wireline loop costs that wireless carriers don't have. Providing a
20 similar revenue stream to wireless carriers would place wireline carriers at a tremendous
21 competitive disadvantage.

22

1 **Q. What is the process for Holway to obtain approval for the amount of HCL, LSS and**
2 **ICLS support?**

3 A. Every year on or before July 31, Holway, as a cost company, is required to file an
4 interstate cost study for the preceding year with the National Exchange Carrier
5 Association (NECA). This cost study includes adjustments for investments and expenses
6 not allowed in the cost study, such as non-regulated operations; the categorization of
7 investment, (examples are identification of subscriber plant for HCL and CCL, wideband
8 investment for direct assignment to interstate jurisdiction); the assignment to non-access
9 elements, such as billing and collection; and reconciliation to audited book investments
10 and expenses. This is the basis for NECA settlements and HCL, LSS and ICLS
11 payments.

12
13 **Q. What additional approval is required for Holway to receive the USF support?**

14 A. Each year, Holway provides information to the MoPSC that supports its request for USF
15 support certifying that as a carrier who receives USF support, Holway “shall use that
16 support for the provision, maintenance, and upgrading of facilities and services for which
17 it is intended.”⁷ An example of this information is provided as Proprietary Exhibit WJW-
18 5. The MoPSC, upon review of the information and an examination of the data, provides
19 the appropriate certification to the FCC.

20
21 **Q. If NWMC is granted ETC status, will NWMC be required to obtain approval in the**
22 **same manner in which Holway obtains approval for its USF “cost-per-line”?**

⁷ Refer to Section 254 (e) of the 1996 Telecommunications Act on Universal Service.

1 A. No. NWMC is not required to provide detailed information to NECA or the MoPSC on
2 their specific costs in order to receive USF support. NWMC is only required to provide
3 information to the MoPSC in order for the Commission to certify that the USF support
4 will be used for the purposes stated in Section 254(e) of the Telecommunications Act,
5 (see above).

6 Unlike Holway, which is allowed to recover its USF costs previously spent, NWMC will
7 be entitled to the same cost recovery before any costs are incurred. In fact, NWMC may
8 well receive support for costs that will never be incurred. This is a major flaw in the
9 current system for designation of USF support to CETCs and must be reviewed carefully
10 by the Commission in determining whether additional ETCs will serve the public interest.

11

12 **Q. Is it possible that both NWMC and Holway will receive the same amount of USF**
13 **support for the same subscriber?**

14 A. Yes, if NWMC's subscriber has a billing address in Holway's service area and if that
15 subscriber retains their landline telephone. In fact, depending upon the number of
16 telephone numbers assigned to a billing address, it may be possible for NWMC to receive
17 USF support for two, three, or four lines compared to Holway's one landline number.
18 This is another one of the reasons why I believe the rules must be changed for
19 determining support paid to CETCs or the current USF system could be jeopardized.

20

21 **Q. Will this place a substantial burden on the federal USF?**

22 A. Yes. In fact, there has been a substantial increase in the amount of USF support provided
23 to competitive ETCs (CETCs) from approximately \$131 million in 2003 to

1 approximately \$638 million in 2005.⁸ Over the same time-period, the amount of USF
2 provided to ILECs has remained constant \$3.2 billion. This equates to a 79% growth for
3 CETCs compared to a 1% growth for ILECs.

4 I believe that if the MoPSC grants ETC status to wireless carriers such as NWMC, the
5 amount of USF paid to wireless carriers will exceed the amount of USF paid to the ILECs
6 that Ms. Zentgraf referenced in her direct testimony. This will cause an additional strain
7 on federal USF and may jeopardize the future of this cost recovery system.

8

9 **Q. Then, you disagree with Ms. Zentgraf's statement: "While there is concern that the**
10 **current practice could threaten the long-term viability of USF, to date the evidence**
11 **suggest that wireless ETC designations have not had an adverse impact on USF"?⁹**

12 A. Yes, I disagree. The evidence, as previously noted and that follows, does not support Ms.
13 Zentgraf's statement.

14

15 **Q. Could the increase in federal USF have an adverse affect on consumers?**

16 A. That possibility exists due to the manner in which the federal USF is funded.

17

18 **Q. How is funding obtained for USF in order to provide support payments to ETCs?**

19 A. As required under the Act, the FCC established procedures to finance on a competitively
20 neutral basis "interstate telecommunications relay services (TRS), universal service
21 support mechanisms, administration of the North American Numbering Plan (NANPA),

⁸ From the Universal Service Administration Company's Fund Facts at www.universalservice.org.

⁹ Refer to Page 11, lines 14 to 16, of Ms. Zentgraph's direct testimony.

1 and shared-costs of local number portability administration (LNPA)”¹⁰ All providers of
2 telecommunications within the United States, with very limited exceptions, must file
3 FCC Form 499A Telecommunications Reporting Worksheet, annually by April 1 of the
4 year following the calendar year for which the revenues are reported.

5 Revenues included in the telecommunications carrier’s universal service base for most
6 ILECs are the Subscriber Line Charge (SLC), interstate Digital Subscriber Lines (DSL),
7 and interstate toll services.¹¹ Based upon the amount of interstate revenues from the
8 contribution base, the telecommunications carrier is assessed a percentage that will be
9 paid into the federal USF. If the amount of the interstate contribution base times this
10 factor is less than \$10,000, the telecommunications carrier is not required to pay into the
11 federal USF, but is still required to pay into the other funds, TRS, NANPA and LNPA.

12
13 **Q. Do telecommunications carriers have the option to assess the cost of their USF**
14 **contributions to their customers?**

15 **A.** Yes. The Federal End User Service Charge (FUSC) recovers the telecommunications
16 carrier’s contributions to the federal universal service fund. The carrier applies a
17 surcharge factor each month to the end-user billed interstate services. For those carriers
18 who participate in NECA’s tariff, such as Holway, the authorization for the FUSC is
19 Section 3.9 and applies to services provided under the NECA tariff. The FUSC factor is
20 determined by the amount of funding required to meet the demand from ETCs for USF.
21 This factor has ranged from 8.9% to 11.1%; the factor used for the recent FCC Form

¹⁰ From the Instructions to the Telecommunications Reporting Worksheet, FCC Form 499A, March 2006.

¹¹ The contribution base is determined by the amount of interstate end user revenue.

1 499A was 10.4%. Therefore, for the most part, the costs of the federal USF are paid by
2 consumers.

3

4 **Q. As the requirement for additional USF support increases, how could the growth in**
5 **the federal USF be controlled?**

6 A. The growth in Federal USF can best be controlled by state commissions (and the FCC)
7 adopting rigorous standards for the designation of more than one ETC in rural, high cost
8 areas. Designation of more than one ETC in rural, high cost areas will not result in lower
9 overall costs, but will actually lead to higher total fund costs as additional wireless
10 carriers seek ETC status. For example, once the first wireless carrier obtains ETC
11 designation (and receives Federal USF support) there will be significant pressure on the
12 other wireless carriers serving the same areas to obtain ETC status and receive the same
13 financial support. So, while the costs to serve the rural, high cost area have not been
14 decreased by the designation of multiple ETCs, the size of the fund has increased
15 dramatically in order to provide support to multiple carriers.

16 As the fund increases, the carrier's universal service contribution factor will increase
17 since the factor is a result of the amount of funding required to maintain the escalating
18 federal USF. The FUSC that is applied to consumers is calculated to recover the
19 telecommunications carrier's payment into the federal USF. Pressure may be placed on
20 State Commissions by consumers if the FUSC factor plus the SLC and other surcharges
21 become a significant percentage of the total bill. Currently, for every \$20.00 of interstate
22 end user charges, the consumer would pay \$2.08 for the purpose of funding the federal
23 USF.

1 Thus, the threshold question State commissions need to carefully consider is what
2 additional benefits will result from the designation of multiple ETCs in rural, high cost
3 areas that would out-weigh these additional costs. In this case, there appears to be little,
4 if any, benefit to a grant of ETC status, as the same carriers will be providing essentially
5 the same services at the same rates.

6
7 **Q. If NWMC is granted ETC status, do you believe that NWMC should be eligible for**
8 **USF support immediately upon approval?**

9 A. I believe this could be considered discriminatory since the investments and expenses for
10 an ILEC must be spent up to two-years before any portion of cost recovery can be
11 provided through USF support. Therefore, NWMC should be required to invest in each
12 of the service areas from which they will receive USF at least two-years before receiving
13 the USF support, rather than receiving this support before investing in the designated
14 ETC area.

15
16 **Q. Are you proposing that the application of ETC designation be viewed independently**
17 **from certifying carriers for receipt of USF?**

18 A. Yes. Even if NWMC were to qualify under the MoPSC's guidelines for designation as
19 an ETC, certification for authority to receive USF support should be withheld until
20 NWMC, or any other carrier seeking ETC designation, can prove that the amount of USF
21 it is expected to receive has been spent on infrastructure and its associated operating
22 costs.

23

1 **Q. Would this result in a more competitively neutral application of USF support for**
2 **ILECs and competitive service providers?**

3 A. Yes. I believe it is a step in the right direction.
4

5 **Q. Should ETCs be required to justify their USF on an annual basis?**

6 A. Yes. CETCs should be required to prove that monies have been spent prior to receiving
7 USF support. That is the requirement currently imposed on ILECs for receipt of USF. In
8 addition, the amount of USF granted to CETCs should be limited to applying the same
9 ratio of loop cost recovery that the corresponding ILEC receives, not the same loop cost
10 recovery that the ILEC receives. The ratio of loop cost recovery for Holway's HCL
11 support is 37.85%, which is *\$ * divided by *\$ *. Therefore, a CETC should only
12 be allowed to receive 37.85% of its equivalent loop costs associated with services
13 provided in Holway's exchange areas.

14 For example, the only investment NWMC has made to date in Holway's service area is
15 one tower located in the very northwest area of the Skidmore exchange. To be
16 competitively neutral, NWMC's support should be limited to 37.85% of the cost of the
17 investment in this tower and related operating costs rather than an amount equal to
18 Holway's wireline loop costs that have been incurred and approved by NECA.
19

20 **Q. Do other entities support the requirement that investments should be made before**
21 **support is awarded?**¹²

¹² Press release March 31, 2006 from www.keepamericaconnected.org

1 A. Yes. The Coalition to Keep America Connected recommends that “true universal service
2 reform encompass the following steps:

- 3 • Require that investments be made before support is awarded;
- 4 • Adopt national eligibility requirements for all CETCs;
- 5 • Eliminate the identical support rule and require support for all ETCs be
6 based on their own costs and network characteristics;
- 7 • Broaden the base of contributors to the fund.”

8 In addition, FCC Chairman (then Commissioner) Kevin Martin stated in a separate
9 statement.¹³

10 “I also note that I have some concerns with the Commission’s policy – adopted long
11 before this Order – of using universal service support as a means of creating
12 ‘competition’ in high cost areas. I am hesitant to subsidize multiple competitors to serve
13 areas in which costs are prohibitively expensive for even one carrier. This policy may
14 make it difficult for any one carrier to achieve the economics of scale necessary to serve
15 all of the customers in a rural area, leading to inefficient and/or stranded investment and a
16 ballooning universal service fund.”

17

18

NWMC INVESTMENT PLANS

19

20 **Q. Does NWMC currently offer service in Holway’s local exchange service area?**

21 **A.** Yes.

22

¹³ 15th Report and Order and, CC Docket No. 96-45, Released November 8, 2001.

1 **Q. Does NWMC have investment within Holway's exchange area?**

2 A. As stated above, it appears that NWMC has one tower within Holway's exchange area.
3 NWMC currently "operates 21 individual cellular base stations (cell sites) with 17 of
4 those sites providing service utilizing analog (AMPS) and time division multiple access
5 (TDMA) technology. In addition, NWMC has overbuilt 17 of its cell sites with CDMA
6 digital technology while adding four CDMA-only sites."¹⁴

7
8 **Q. Does NWMC plan to make investments in Holway's exchange area?**

9 A. Based upon Highly Confidential (HC) Appendix E,¹⁵ it appears that NWMC does not
10 plan to invest within the exchange areas of Holway. However, Holway's exchange area
11 would have enhanced coverage for Code Division Multiple Access (CDMA). Mr.
12 Reeves provided the analyses where "the existing network would benefit from
13 enhancement and advised NWMC concerning infrastructure modifications that would
14 improve and expand reliable coverage."¹⁶

15 However, it appears that NWMC plans to construct additional cell sites **only if granted**
16 **ETC status and USF support**. "The higher-cost of providing service in this rural area
17 must be supported solely from revenues derived in this market."¹⁷

18
19 **Q. Does NWMC plan to provide ubiquitous coverage in the geographic area for which**
20 **ETC designation is requested?**

21

¹⁴ Refer Mr. Roger Bundridge's direct testimony, page 2, lines 14 to 18.

¹⁵ Refer to NWMC's Application for designation as an ETC as revised with the direct testimony of Mr. Roger Bundridge.

¹⁶ Refer to Mr. Reeves direct testimony, page 2 lines 16, 17, 20, 21 and 22.

¹⁷ Refer to Mr. Bundridge's direct testimony, page 10, lines 13 and 14.

1 A. I do not believe NWMC plans ubiquitous coverage based on Ms. Zentgraf's statement
2 that: "the prevalence of 'dead spots' is presumed".¹⁸
3

4 **Q. Ms. Zentgraf states that requiring a prospective ETC to "demonstrate that it can**
5 **provide services before it receives the ETC designation effectively prohibits these**
6 **aspiring entrants from providing service. In many cases, it is the availability of**
7 **high-cost support that allows rural carriers to extend their networks into high cost**
8 **areas."¹⁹ Do you agree with Ms. Zentgraf's statements?**

9 A. No, I do not. First of all, Holway's USF support is based upon its historic costs and, as
10 noted above, USF support is an "after the fact" cost-recovery mechanism. Secondly, one
11 of the major purposes of universal service, and the MoPSC rule is that "consumers in all
12 regions of the Missouri, including those in rural, insular, and high cost areas will have
13 access to telecommunications and information services, that are reasonably comparable
14 to those services provided in urban areas at rates that are reasonably comparable to rates
15 charged for similar services in urban areas."²⁰

16 In NWMC's application and in response to a data request from the MoPSC Staff,²¹
17 NWMC does not plan to make investments within the exchange area of Holway. In fact
18 Holway's wire centers were not listed as benefiting from CDMA coverage with
19 enhancements in NWMC's five-year network plan. Based on this information, NWMC
20 evidently does not plan to invest in Holway's area even with USF support.
21

¹⁸ Refer to Ms. Zentgraf's direct testimony, page 21 lines 22 and 23 and page 22, lines 1 and 2.

¹⁹ Refer to Ms. Zentgraf's direct testimony, page 22, lines 4 through 8

²⁰ From Missouri's proposed rule 4 CSR 240-3.570, (2).A.2.(III)

²¹ Refer to the HC response to the MoPSC Staff's Data Request 1 attached as Exhibit WJW-6.

1 **Q. Is the amount of the cost-based federal USF support considered in establishing**
2 **“reasonably comparable” rates in Missouri?**

3 A. Yes. Holway uses the support received from federal USF in determining intrastate rates,
4 such as basic local service. All intrastate rates are approved by the MoPSC. If Holway
5 decides to “extend their network”, the cost is incurred **before** receiving any USF support.
6 If a rate increase is necessary to recover the additional costs not recovered from HCL
7 support, then Holway must file with the MoPSC for cost recovery. Nonetheless,
8 additional costs must be incurred by Holway before any recovery can be realized from
9 USF support or rate increases.

10

11 **Q. Then Holway’s “higher-cost of providing service in this rural area must be**
12 **supported solely from revenues derived in this market” as mentioned above from**
13 **Mr. Bundridge’s testimony regarding NWMC?**

14 A. Yes. That is correct. The rates for Holway’s services, along with USF support, produce
15 the revenues that cover the higher-cost of providing service in the rural area of Holway.

16

17 **Q. What other investment plans does NWMC have that require recovery from USF**
18 **support?**

19 A. NWMC is “also incurring increased costs to meet its obligations to comply with federal
20 mandates such as E911 services.” “Only CDMA handsets are capable of providing the
21 critical locational information [for E911] and then, only when operating in a CDMA

1 coverage area.”²² NWMC will offer new services, such as Lifeline, Link Up and an
2 ILEC Equivalent plan with USF support as discussed below.

3

4

NWMC SERVICES

5

6 **Q. What specific services are required by the MoPSC’s proposed rule regarding ETC**
7 **designation?**

8 A. The MoPSC’s rule requires a commitment to offer a local usage plan comparable to those
9 offered by the ILEC in the areas for which NWMC is seeking ETC designation and to
10 provide Lifeline and Link Up discounts and equal access.²³ These requirements are
11 consistent with the universal service principles to ensure that quality services are
12 available at just, reasonable and affordable rates.

13

14 **Q. What local usage plan does NWMC offer in Holway’s service area?**

15 A. Based upon NWMC’s response to Data Request 1.09,²⁴ copy attached as Exhibit WJW-7,
16 NWMC offers calling plans that range from \$22.00 to \$145.00 that include plans ranging
17 from 90 minutes to 2,400 minutes for “Regional Coverage.” Mobile-to-mobile can be
18 added for additional price of \$9.99 or \$4.99, depending upon the plan selected; toll is
19 included for all of Missouri, Kansas, Iowa and Nebraska for an additional fifteen cents
20 \$0.15 per minute. Fifty-percent (50%) of the plan minutes must be used in the five (5)
21 Missouri counties of Atchison, Nodaway, Holt, Genty and Worth, which is the “local

²² From the direct testimony of Mr. Roger Bundridge, page 10, lines 18 and 19, page 12, line 22 and page 13, line 1 and 2.

²³ Missouri Rule 4 CSR 240-3.570 (2). (A).9.

²⁴ Response to data request issued on March 8, 2006; received on April 6, 2006.

1 coverage area”. NWMC also offers a National Coverage Plan that is for the lower 48
2 states. The additional minute-of-use rate for the regional plan ranges from \$0.35 with the
3 90 minute plan to \$.20 for the 2,400 minute plan. Roaming is \$0.65 per minute with toll
4 included.

5 **Q. Does Holway offer similar services to those noted above for NWMC?**

6 A. Yes, however the description of the services is somewhat different. Holway’s “plan
7 minutes” represent unlimited non-measured local minutes-of-use in the local exchange
8 area for \$13.00 per month for residence and \$25.00 per month for business. If Holway’s
9 basic local rate were converted to “plan minutes”, there would be 43,800²⁵ minutes per
10 month for either \$13.00 or \$25.00, with \$0.00 for additional minutes-of-use.

11 In addition, Holway charges the mandatory FCC SLC of \$6.50 to its residential and
12 single-line business subscribers and \$9.20 to multi-line business customers. NWMC
13 does not charge the SLC since this is a cost-recovery surcharge for part of the interstate
14 CCL revenue requirement. Considering these additives, Holway’s residential rate would
15 be \$19.50 per month with 43,800 minutes compared to NWMC’s lowest rate of \$22.00
16 per month with 90 minutes.

17
18 **Q. Does Holway offer Lifeline and Link up?**

19 A. Yes. Holway’s P.S.C. MO. NO.1 Consolidated Local Exchange Tariff, 2nd Revised Sheet
20 No. 5.11 provides a Lifeline reduction in the monthly local service charge of \$6.75 per
21 month. The 1st Revised Sheet No. 5.9 provides for Link Up which is a reduction to the
22 Service Connection Charge of fifty-percent (50%), or \$30.00, whichever is less. Holway

²⁵ Average minutes are calculated based on 365 days times 24 hours times 60 minutes divided by 12 months.

1 has a Service Order Charge of \$5.00 and a Central Office Charge of \$7.50 for a combined
2 connection charge of \$12.50; the reduction for Link Up would be \$6.25.
3

4 **Q. Does NWMC offer Lifeline and Link Up?**

5 A. No. NWMC does not currently offer Lifeline or Link Up. In fact, Mr. Bundridge states
6 that "NWMC is unable to provide Lifeline plans without ETC support."²⁶ A commitment
7 to provide Lifeline and Link Up discounts and Missouri Universal Fund discounts are
8 requirements placed upon carriers seeking ETC designation.²⁷ Therefore, NWMC is not
9 required to offer Lifeline plans without ETC support.
10

11 **Q. Will NWMC offer Lifeline and Link Up with USF support?**

12 A. NWMC states they will offer two Lifeline only plans. The first, for \$9.70 per month will
13 include only the "traditional ILEC calling area for the subscriber's address."²⁸ The other
14 plan for \$13.70 per month will include the entire service area for NWMC. NWMC did
15 not provide adequate information on the number of minutes that would be included or the
16 charge for minutes over those unknown minutes. Additionally, NWMC states they will
17 offer Link Up discounts of 50% off the \$35 activation fee and establish a deferred non-
18 interest payment plan not to exceed one year for the \$200 connection charge.²⁹
19

20 **Q. Please compare the Lifeline and Link Up plans of Holway and NWMC?**

²⁶ Refer to Page 8, lines 13 and 14 of Mr. Bundridge's direct testimony.

²⁷ Refer to Missouri Rule 4 CSR 240-3.570 (2).(A).10.

²⁸ Refer to page 7, lines 10 and 11 of Mr. Bundridge's direct testimony.

²⁹ Refer to page 8, lines 16 to 21 of Mr. Bundridge's direct testimony.

1 A. Holway's Lifeline rate is \$6.25 for **unlimited** local minutes compared to the proposed
2 \$9.70 or \$13.70 for NWMC with **unknown** minutes. The least expensive NWMC
3 regional coverage plan is \$22.00 with 90 minutes; the next plan for \$30.00 includes 200
4 minutes; and the most expensive plan for \$145.00 has 2,400 minutes. Additional minutes
5 range from \$0.35 to \$0.25 per minute.

6 Holway's Link Up rate is \$12.50 compared to \$217.50 (50% of \$35 plus \$200) for
7 NWMC. Lifeline service is available to qualifying low-income subscribers.
8

9 **Q. Has NWMC provided any indication that they will reduce rates if they receive USF**
10 **support?**

11 A. No. NWMC states it will offer Lifeline and Link-up and an ILEC-equivalent plan if
12 designated as an ETC in response to a data request.³⁰ The Lifeline and Link Up services
13 are described above. The ILEC-equivalent plan would be priced at \$17.95 per month,
14 would be available to all NWMC subscribers, and would include only the "traditional
15 ILEC calling area for the subscriber's address." NWMC plans are minute-of-use based
16 and region specific. Since the details provided in testimony and responses to data
17 requests did not provide adequate information on the per-minute rate when the customer
18 is away from the home site, I assume that the roaming rate of \$0.65 per minute would
19 apply, or \$39.00 per hour.
20

³⁰ Response to Data Request 1.11 requested on March 8, 2006; response received on April 6, 2006; provided as Exhibit WJW-8.

1 **Q. NWMC's application stated that the "grant of ETC designation would expand the**
2 **competitive service offering in the proposed ETC service area."**³¹ **Has NWMC**
3 **identified the new competitive services that will be available as a result of receiving**
4 **USF support?**

5 A. The new services identified by NWMC are Lifeline and Link-Up, which are required of
6 all ETCs, and an ILEC-equivalent plan with incomplete details. In response to a data
7 request, NWMC did not identify any "state-of-the art, innovative services and new
8 wireless technologies" or competitive services, but referred to its testimony where
9 "NWMC proposed a detailed build-out plan which would expand its CDMA service into
10 more of the most-rural portions of its market".³² It does not appear that NWMC has any
11 definite plans for new competitive service offerings, other than the required Lifeline,
12 Link Up, and an additional local plan.

13
14 **Q. Will NWMC offer equal access upon designation as an ETC?**

15 A. NWMC will "offer any customer the option to pre-select its toll carrier in any area where
16 the underlying LEC relinquishes its ETC designation."³³ Currently, NWMC does not
17 offer its customer equal access even with the option to use a dial around solution to
18 access a different long distance carrier.³⁴ NWMC's application stated "NWMC has
19 direct connection to multiple access tandems" and "provides indirect access to one or

³¹ Refer NWMC's application for ETC designation page 19, paragraph 31.

³² In response to Data Request 1.16 issued March 8, 2006; response received April 6, 2006; attached as Exhibit WJW-9.

³³ Refer to Mr. Bundridge's supplemental direct testimony, page 10, lines 14 to 16.

³⁴ In response to Data Request 1.14 issued March 8, 2006; response received April 6, 2006; attached as Exhibit WJW-10.

1 more interexchange carriers.” “As a result, NWMC meets the requirement to provide all
2 of its customers the ability to make and receive interexchange or toll calls.”³⁵

3 I do not believe that NWMC’s equal access plans meet the MoPSC’s definition for equal
4 access in its rule for Provision of Basic Local and Interexchange Telecommunications
5 Service: “Equal access in the sense of dialing parity and presubscription among
6 interexchange telecommunications companies for calling within and between local access
7 and transport areas.”³⁶

8 Unlike NWMC, Holway offers **true** equal access to its customers where the customer can
9 choose from multiple long distance carriers and dial the carrier of their choice by using
10 the standard “1 +” dialing. NWMC acts as the Long Distance Carrier with NO equivalent
11 access to other Long Distance Carriers.

12

13 **Q. Does wireless service provide advantages to landline service?**

14 A. The only advantage is mobility. NWMC does not provide any enhanced or better quality
15 of service for the specific “Essential Telecommunications Services” that are used to
16 determine eligibility requirements for ETC status. It could easily be argued that
17 throughout Holway’s entire service area NWMC’s quality of service levels (as defined by
18 the MoPSC) would be far inferior with considerably more dropped calls and static than
19 what Holway customers currently experience today. NWMC does not offer equal access.
20 It could also be argued that NWMC’s local service plans are more costly to the consumer
21 than those of Holway.

³⁵ Refer to page 7, paragraph (g) of NWMC’s Application.

³⁶ From MoPSC Rule 4 CSR 240-32.100 (1).(G).

1 Wireless service does provide mobility to consumers that a landline provider cannot
2 provide. However, I believe that the universal service principles are not served by
3 providing support that will be used to fund facilities for the purpose of providing mobile
4 services, especially in those rural areas where landline services already fulfill the
5 requirements for universal service. In fact, **mobility is not a supported service.**³⁷ The
6 purpose of the universal service fund is to provide resources to allow telecommunications
7 carriers to provide service in those areas that are not economically feasible to serve.
8 Holway provides all of the services that are required for USF support and is also the
9 carrier of last resort for all customers in its service area that request service.

10

11 **Q. Are you aware of customers in Holway's service area that have requested telephone**
12 **service and do not have service?**

13 A. To my knowledge, Holway has not refused service to anyone that qualifies for service
14 under the terms and conditions of its approved tariffs.

15

16 **Q. Will NWMC's services be capable of fulfilling all of the USF principles identified**
17 **above?**

18 A. NWMC did not provide specific information regarding how NWMC will respond to one
19 of the USF principles from Section 254(b) of the Act, "Access to Advanced
20 Telecommunications Services for Schools, Health Care and Libraries." Holway is
21 capable of providing advanced telecommunications services, including high speed

³⁷ Refer to CC Docket No. 96-45, FCC 04J-1, page 27, of the Joint-Board's Recommendation released on February 22, 2004.

1 circuits of 1,544 mbps and higher, to elementary and secondary schools and classrooms,
2 health care providers and libraries.

3 NWMC should be required to provide specific plans on whether it will be capable of
4 providing advanced telecommunications. Without specific identification of the “new
5 services” that NWMC will offer with USF support, it is difficult to determine if NWMC
6 will address this USF principle.

7

8 **Q. Are Holway’s rates “just, reasonable and affordable”?**

9 A. Yes. Holway has been able to maintain “just, reasonable and affordable rates” because of
10 this universal service principle. When the USF was established, the intent was to provide
11 funding to high cost areas so that basic telephone services could be provided to all areas
12 of the nation. As stated above, in order to receive USF support, Holway provides cost
13 data for USF approval and the USF support amount is included with their intrastate
14 service revenues for purposes of determining the reasonableness of Holway’s intrastate
15 revenue requirement and rates.

16

17 **Q. Are NWMC’s rates “just, reasonable and affordable”?**

18 A. The criteria for establishing NWMC’s rates is market-driven. Clearly, the MoPSC has
19 made no finding that NWMC’s rates are just and reasonable, as it must do in approving
20 ILEC rates, such as Holway’s. NWMC is not required to consider support from USF in
21 developing its rates to provide service. Holway, on the other hand, must consider its USF
22 support for rate-making purposes and must adjust its rates in accordance with the amount
23 of USF received.

1 **QUALITY OF SERVICE**

2

3 **Q. Does the MoPSC have service quality standards?**

4 A. Yes, there are a number of standards. For example, Holway is required to ensure that
5 ninety-eight percent (98%) or more of calls receive a dial tone within three (3) seconds,
6 and that ninety-eight percent (98%) or more of local exchange switched calls are
7 completed without encountering a blockage of equipment busy condition.³⁸ These are
8 just two of the quality of service requirements applicable to LECs.

9

10 **Q. Is NWMC required to meet the same standards as Holway?**

11 A. NWMC is not an ETC in Missouri and is not currently required to meet the same service
12 standards as Holway. Mr. Bundridge attached a copy of the CTIA Consumer Code
13 (Code) for Wireless Service to his direct testimony. The Code provides for ten (10) items
14 that are agreed upon by the wireless carrier: (1) disclose rates and terms of services to
15 customers; (2) make available maps showing where service is generally available; (3)
16 provide contract terms to customers and confirm changes in service; (4) allow a trial
17 period for new service; (5) provide for specific disclosures in advertising; (6) separately
18 identify carrier charges from taxes on billing statements; (7) provide customers the right
19 to terminate service for changes on contract terms; (8) provide ready access to customer
20 service; (9) promptly respond to customer inquires and complaints received from
21 government agencies; and (10) abide by policies for protection of consumer privacy.

³⁸ Refer to Chapter 32, 4 CSR 240-32.080 of the Missouri Public Service Commission Rules.

1 The Code does not address one quality of service standard. However, MoPSC service
2 standards should be applicable to a CMRS provider requesting ETC status. If not, CMRS
3 providers such as NWMC will have a distinct competitive advantage over ILECs such as
4 Holway.

5 Item (9) of the Code states that: "Wireless carriers will respond in writing to state or
6 federal administrative agencies within 30 days of receiving written consumer complaints
7 from any such agency." The requirement for Holway regarding customer complaints was
8 listed above, and is a requirement of the MoPSC's rule.

9

10 **Q. Are you aware of any complaints regarding NWMC's quality of service?**

11 A. Holway did not specifically request the number of complaints that NWMC may or may
12 not have received. However, if granted ETC designation, then NWMC should be
13 required to follow the quality of service standards regarding customer complaints as is
14 required of Holway by the MoPSC.

15

16 **Q. Mr. Bundridge states that "imposing LEC-like quality of service requirements on**
17 **the wireless carriers without the wireless carrier being able to recover costs**
18 **associated with meeting those requirements would be to place further unfunded**
19 **mandates on the wireless carrier".³⁹ Would you please comment on this statement**
20 **by Mr. Bundridge?**

21 A. The statement of Mr. Bundridge is ironic in that NWMC stands to receive USF based on
22 the services and costs of Holway even if it doesn't implement the quality of service

³⁹ Refer to Mr. Bundridge's direct testimony Page 20, line 2 through 6.

1 standards (QOS) that Holway is required to meet. In effect, NWMC will receive federal
2 support without being required to implement QOS standards mandated by the MoPSC.
3

4 **Q. Do you agree with NWMC's conclusion that the MoPSC's Quality of Service**
5 **Standards are "appropriately regulated" with "lack of competition"⁴⁰ and do not**
6 **apply to wireless service?**

7 A. I do not believe that "lack of competition" is the basis for "regulated" quality of service
8 standards, as the MoPSC is responsible for protecting the consumer while balancing the
9 associated costs to the providers. Even though Missouri's definition of
10 telecommunications carriers may exclude Commercial Mobile Radio Service (CMRS)
11 providers, I believe that the MoPSC may impose service standards as a condition of ETC
12 status. I agree with the Joint Board's statement that "preemption from state regulation
13 afforded under section 332 of the Act should not be equated with conditions that apply
14 only to carriers that choose to seek ETC designation and universal service support."
15

16 Further, while Section 332(c)(3) of the Act generally preempts states from regulating the
17 rates and entry of CMRS providers, it specifically allows states to regulate the other
18 terms and conditions of commercial mobile service. "Nothing in this subparagraph shall
19 exempt providers of commercial mobile services (where such services are a substitute for
20 land line telephone exchange service for a substantial portion of communications within
21 such State) from requirements imposed by a State commission on all providers of

⁴⁰ Mr. Bundridge's direct testimony, page 19, line 11.

1 telecommunications services necessary to ensure the universal availability of
2 telecommunications services at affordable rates.”⁴¹

3

4 **Q. Should the same MoPSC requirements regarding quality of service that is mandated**
5 **for Holway apply to NWMC?**

6 **A.** Yes. The MoPSC’s proposed rule includes the requirement for NWMC to commit to the
7 Consumer Code for Wireless Service, which does not include “quality of service”
8 requirements. The MoPSC’s proposed rule requires the “ability to remain functional in
9 emergency situations.” These quality of service requirements are not equivalent to the
10 same quality of service standards imposed on Holway. This is not “competitively
11 neutral”, and is an area of discrimination between Holway and a wireless ETC.

12

13 **CONSUMER PROTECTION**

14

15 **Q. Does the MoPSC have consumer protection standards?**

16 **A.** Yes. The consumer protection standards include rules for responding to customer
17 complaints. Holway has one (1) day to acknowledge receipt of inquiries from the
18 MoPSC Staff regarding denial or discontinuance of service, and three (3) days to
19 acknowledge receipt for all other informal complaints. If Holway and the MoPSC Staff
20 have not informally agreed to a resolution of the informal complaint, a status report is
21 required within fifteen (15) days. Holway must provide its plan and time frame to

⁴¹ From page 15 of CC Docket No. 96-45, FCC 04J-1, issued by the Joint Board on February 27, 2004.

1 resolve the informal complaint no later than thirty (30) days after receiving an informal
2 inquiry.

3 The above examples of the MoPSC rules provide just two of many consumer protection
4 standards that are required of Holway.

5

6 **Q. Does Holway meet the rigorous Consumer Protection recommendations of the**
7 **MoPSC?**

8 A. Yes. In fact, the MoPSC consumer protection rules (Chapter 32) also meet the consumer
9 protection recommendations of the Joint-Board. Holway complies with Chapter 32 of the
10 MoPSC rules which cover the provisioning of directories and directory listings; technical
11 standards for the provision of service; customer commitment requirements for installing
12 service; standards for responding to customer inquires; and standards for completion of
13 calls on the network.

14 Furthermore, Holway complies with Chapter 33 of the MoPSC rules covering billing
15 practices that include requirements on content of bills; practices for the discontinuance of
16 service and resolution of disputes; customer deposit practices; operator services
17 provisioning; and pre-subscription for long-distance and pre-paid calling card services.

18

19 **Q. Should the same MoPSC's requirements of Holway regarding consumer protection**
20 **apply to NWMC?**

21 A. Yes. The MoPSC's proposed rule includes, in my opinion, limited billing and service
22 requirements and not the same level of consumer protection that is required of Holway.

23 If the MoPSC would require the same consumer protection to NWMC's designation as an

1 ETC, the consumer would benefit and it would be “competitively neutral” and not
2 discriminatory.

3 Wireless carriers who are designated as ETCs should be subject to the same Customer
4 Proprietary Network Information, (CPNI), standards as ILECs.

5

6

PUBLIC INTEREST

7

8 **Q. What factors has the FCC considered in analyzing the public interest?**

9 A. The FCC considers factors such as whether consumers were likely to benefit from
10 increased competition: whether the additional designation will provide benefits not
11 available from incumbent carriers; whether consumers may be harmed should the
12 incumbent withdraw from the service area; and whether there would be harm to a rural
13 incumbent LEC.⁴²

14

15 **Q. Has the Federal-State Joint Board on Universal Service provided additional
16 recommendations regarding the ETC designation process?**

17 A. Yes, in CC Docket No.96-45, FCC 04J-1, issued February 27, 2004. When issuing the
18 Joint-Board recommendation, the following statement was included:

19 “The characteristics of many rural carrier service areas also support a more rigorous
20 standard of eligibility. Rural carrier service areas often have low customer densities and
21 high per-customer costs. These circumstances support our belief that state commissions

⁴² Refer to CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004, page 17, paragraph 40

1 should apply a particularly rigorous standard to the minimum qualifications of applicants
2 seeking ETC designation in rural carrier service areas.”⁴³

3 In this recommendation, the Joint Board included comments on public interest
4 determination: “This additional requirement demonstrates Congress’ recognition that
5 supporting competition might not always serve the public interest in areas served by rural
6 carriers, and Congress’ intent that state commissions exercise discretion in deciding
7 whether the designation of an additional ETC serves the public interest.”⁴⁴

8

9 **Q. Do Federal regulations prohibit the MoPSC from denying ETC status for NWMC if**
10 **the MoPSC determines that it would not be in the public interest?**

11 A. No. The FCC regulations and the Act allow the MoPSC the discretion to determine
12 whether or not NWMC will be granted ETC status in the rural area served by Holway.

13

14 **Q. Do you believe the FCC Commissioner’s opinions support funding more than one**
15 **ETC in rural areas for competition?**

16 A. No. I believe the opinion in the FCC’s Virginia Cellular Order does not support more
17 than one ETC in rural areas for competition: “We conclude that the value of increased
18 competition, by itself, is not sufficient to satisfy the public interest test in rural areas.
19 Instead, we weigh numerous factors, including the benefits of increased competitive
20 choice, the impact of multiple designations on the universal service fund, the unique
21 advantages and disadvantages of the competitor’s service offering, any commitments

⁴³ Refer to Pages 7 and 8, of CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004.

⁴⁴ Refer to CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004, pages 16 and 17, paragraph 38.

1 made regarding quality of telephone service, and the competitive ETC's ability to provide
2 the supported services throughout the designated area in a reasonable time frame."⁴⁵

3 In addition, the separate statements of Commissioners Kathleen Q. Abernathy, and
4 Michael J. Copps, and the remarks of Jonathan S. Adelstein filed in January of 2004⁴⁶
5 offer further insight into this matter. Commissioner Abernathy stated: "While promoting
6 competition is undoubtedly a core goal under the Telecommunications Act of 1996, the
7 use of universal funding to engender competition where market forces alone cannot
8 support it presents a more complex question. Particularly in rural study areas where the
9 cost of providing service typically far exceeds retail rates, regulators must carefully
10 consider whether subsidizing the operations of an additional ETC promotes the public
11 interest."

12 Commissioner Copps stated that: "We must give serious consideration to the
13 consequences that flow from using the fund (universal service fund) to support multiple
14 competitors in truly rural areas."

15 Commissioner Adelstein's filed remarks stated that: "This ETC process has raised a lot of
16 questions from those who are concerned that many States and the FCC began using
17 universal service to 'create' competition in areas that could barely support just one
18 provider, let alone multiple providers. They question if this is what Congress intended.
19 It may come down to a choice Congress never envisioned between financing competition
20 or financing network deployment that will give Rural America access to advanced
21 services like broadband."

⁴⁵ Paragraph 4 of CC Docket No. 96-45, FCC 03-338, released January 22, 2004 Virginia Cellular.

⁴⁶ Refer to the CC Docket No. 96-45, FCC 03-338, released January 22, 2004, Virginia Cellular LLC.

1 I agree with the above statements that the value of competition is not a sufficient factor to
2 satisfy the public interest test for designating additional ETCs in rural areas, and urge the
3 MoPSC to carefully consider the statements of the FCC Commissioners in this case.
4

5 **Q. Ms. Zentgraf states that denial of NWMC's Application "will only affect the ability**
6 **of the citizens of rural Missouri to benefit from those federal funds."⁴⁷ How will the**
7 **citizens benefit from NWMC's receipt of federal funds?**

8 A. This is not clear. Based on NWMC's direct testimony and its application for ETC
9 designation, NWMC currently offers the core "services using its existing network
10 infrastructure." With USF support, NWMC would deploy additional CDMA cell sites,
11 offer Lifeline, Link Up and an ILEC-equivalent plan.⁴⁸ Each of these services is already
12 available to Holway's customers. Identification of other benefits, including services not
13 currently offered by Holway, were not specifically identified or discussed by NWMC.
14

15 **Q. Could the granting of ETC designation, and receipt of USF support, place**
16 **additional costs on all the citizens of rural Missouri whether they subscribe to**
17 **NWMC's services or not?**

18 A. Yes, that is a possibility. As discussed earlier in my testimony, the FUSC is assessed by
19 telecommunications carriers to their customers to recover the escalating amount of USF.
20 All citizens of rural Missouri currently benefit from federal funds through the rates of the
21 rural ILEC's intrastate services. Some, but not all, citizens of rural Missouri may benefit

⁴⁷ Refer to Ms. Zentgraf's direct testimony, page 12, lines 18 and 19.

⁴⁸ From NWMC's Application for designation as an ETC, pages 12, 19, 23, 24 and 25.

1 from NWMC's service, but could ultimately pay more due to an increased demand on
2 USF and thus an increase in consumer charges for the FUSC.

3

4 **Q. Should the MoPSC consider the benefits from increased competition in granting**
5 **NWMC's request for designation as an ETC in Holway's service area?**

6 A. Yes. The MoPSC should weigh the costs consumers may incur and what benefits the
7 consumer may gain from increased competition and whether the additional ETC
8 designation for NWMC will provide new services that are not already available from
9 Holway, other than mobility.

10 CMRS competition is already robust in the exchange areas served by Holway. There are
11 five (5) other CMRS providers⁴⁹ serving in Holway's exchange areas. Furthermore,
12 Holway is adequately and efficiently serving the customers in its service area and offers
13 enhanced services such as Digital Subscriber Line (DSL) which is not available from
14 NWMC. ETC designation for NWMC will not enhance universal service in Holway's
15 service area nor will it enhance competition which is already vigorous and robust in
16 Holway's service area.

17

18 **Q. What other public interest factors should be considered by the MoPSC?**

19 A. Another important public interest factor is whether there will be harm to Holway, a rural
20 incumbent LEC. When ETC status is granted to a wireless provider, such as NWMC, the
21 MoPSC should consider whether there is a regulatory disparity between Holway and
22 NWMC. By granting ETC status to NWMC, the MoPSC has declared that there is more

⁴⁹ Potentially, Holway customers could subscribe to T Mobile, Cingular, Sprint, Verizon, and Cellular One.

1 than one provider in Holway's area that is willing to provide basic telecommunications
2 throughout Holway's service area. This places Holway at a disadvantage because
3 Holway does not have flexibility to react to competitive pressures since Holway is a rate-
4 of-return regulated LEC. Should the MoPSC grant ETC status to NWMC in Holway's
5 service area, I believe that Holway's basic local service should be considered a
6 competitive service. Holway should be regulated (or deregulated) on the same basis as
7 NWMC which would allow Holway total pricing flexibility on basic service rates and
8 quality of service flexibility, thus creating a more "competitively neutral" treatment for
9 Holway.

10
11 **Q. Do you believe that USF support will enable NWMC to compete more effectively**
12 **against Holway and other CMRS providers?**

13 A. There is no evidence that NWMC will be better able to compete in the future with USF
14 support than it is competing today. For example, NWMC did not identify or quantify any
15 additional customers it will add over the next five years if it receives USF support.⁵⁰
16 Therefore, we can assume that NWMC is competing quite well at the present time
17 without USF support since NWMC cannot identify the number of new customers or new
18 competitive services that may occur with USF support.

19 It would appear, however, that USF directed only toward NWMC will provide NWMC a
20 competitive advantage over all other wireless carriers operating in the same service area.
21 In order to remain competitive all other wireless providers operating in Holway's service
22 area will likely seek ETC Status and USF Support. This is precisely the concern that is

⁵⁰ In response to Data Request 1.18 issued March 8, 2006; HC response received April 6, 2006; attached as Exhibit WJW-11.

1 being raised by regulators across the country. Expanding USF support to all wireless
2 providers in rural areas may not impact wireless competition in rural areas, but may have
3 a devastating impact on USF because each and every wireless carrier would now become
4 eligible for USF support and the fund could escalate to an unsustainable level.

5
6 **Q. Do you believe that the public interest is served by providing USF support to**
7 **NWMC when their rate levels exceed that of Holway?**

8 A. No, I do not. One of the principles of universal service, as stated previously, is to provide
9 just, reasonable and affordable rates for basic telephone service comparable to the
10 services and rates offered in urban areas. Holway's services and rates conform to that
11 USF principle. USF support has allowed Holway to improve the services offered to its
12 customers while maintaining basic local rates at affordable levels. If future USF support
13 is impacted from the designation of additional ETCs, Holway's earnings level would be
14 impacted and may require Holway to request increases in basic local rates from the
15 MoPSC that would cause their basic local rates to exceed those of urban areas.

16 There are no landline competitors in the exchanges of Holway because the customer base
17 cannot sustain duplicate investments in landline facilities. Even with USF, the existence
18 of competing landline carriers would be jeopardized because the revenues would not
19 cover the cost of providing service and neither carrier would be able to provide
20 communications services at rates comparable with urban areas. However, in the case of
21 CMRS providers, there is already robust competition in the exchange areas served by
22 Holway and the rates and services offered by the CMRS providers are already
23 comparable with the rates and services offered by CMRS providers in urban areas.

SUMMARY AND CONCLUSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Q. Will you please summarize your rebuttal testimony?

A. Yes. The MoPSC should determine whether NWMC has met the criteria established by the MoPSC's rule for ETC designation, to ensure that the MoPSC's decision is competitively neutral, and to decide if funding multiple providers is in the public interest in high-cost areas where it is uneconomical for even one provider to operate without support in order to meet the principles of universal service.

I do not believe that NWMC has demonstrated that it meets all of the standards that should be applied in determining whether to grant ETC designation, including but not limited to, equivalent access, new competitive services, enhanced quality of service and comprehensive customer protection requirements.

Furthermore, NWMC is not offering any USF supported services that are not already available to Holway's customers, nor has it identified any new competitive innovative services. In fact, Holway offers services that are not available to NWMC customers, such as DSL even though DSL is not a supported service.

I do not believe that the public interest will be served by granting ETC status to NWMC because robust competition already exists without the necessity of providing additional USF support to NWMC and because Holway's customers will not be offered any universal service benefits that are not currently available. I am concerned about the potentially devastating impact on USF because with each approval of ETC designation, such as that of NWMC, every other wireless carrier will be encouraged to submit an ETC

1 application and become eligible for USF support and the fund could escalate to an
2 unsustainable level.

3 In addition, I believe that there are substantially different regulatory requirements
4 imposed on Holway, such as requiring rate regulations for pricing of services that include
5 consideration of USF support, and adhering to more stringent quality of service, equal
6 access, and billing standards, to which NWMC is not required to comply. I believe these
7 differences do not satisfy the FCC principle of “competitive neutrality” and are, in fact,
8 “discriminatory” towards ILECs such as Holway. Therefore, NWMC, as a requirement
9 of ETC designation, should comply with the same standards as Holway, or Holway’s
10 services should be regulated or deregulated on the same basis as NWMC.

11

12 **Q. Does this conclude your rebuttal testimony?**

13 **A. Yes, it does.**