

Exhibit Number:

Issue: ETC Designation and  
Public Interest  
Witness: Robert C. Schoonmaker  
- Rebuttal Testimony  
Sponsor: Small Telephone  
Company Group  
Case No.: TO-2005-0384

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

**In the Matter of the Application of USCOC )  
of Greater Missouri, LLC of Designation as )  
a Telecommunications Carrier Eligible for ) Case No. TO-2005-0384  
Federal Universal Service Support Pursuant )  
to the Telecommunications Act of 1996. )**

**REBUTTAL TESTIMONY OF ROBERT C. SCHOONMAKER**

**On behalf of The Small Telephone Company Group**

**September 12, 2005**

**NON-PROPRIETARY**

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**REBUTTAL TESTIMONY OF ROBERT C. SCHOONMAKER**

**I. BACKGROUND OF WITNESS**

Q. Please state your name and address.

A. My name is Robert C. Schoonmaker. My business address is 2270 La Montana Way, Colorado Springs, Colorado 80918.

Q. By whom are you employed and in what capacity?

A. I am President and CEO of GVNW Consulting, Inc., a consulting firm specializing in working with small telephone companies.

Q. Would you please outline your educational background and business experience?

A. I obtained my Masters of Accountancy degree from Brigham Young University in 1973 and joined GTE Corporation in June of that year. After serving in several positions in the revenue and accounting areas of GTE Service Corporation and General Telephone Company of Missouri, I was appointed Director of Revenue and Earnings of General Telephone Company of Missouri in May, 1977 and continued in that position until March, 1981. In September, 1980, I also assumed the same responsibilities for General Telephone Company of Wisconsin. In March, 1981, I was appointed Director of General Telephone Company of Michigan and in August, 1981 was elected Controller of that company and General Telephone Company of Indiana, Inc. In May, 1982, I was elected Vice President-Revenue Requirements of General Telephone Company of the

1 Midwest. In July, 1984, I assumed the position of Regional Manager of GVNW  
2 Inc./Management (the predecessor company to GVNW Consulting, Inc.) and was  
3 later promoted to the position of Vice President. I served in that position until  
4 October 1, 2003 except for the period between December 1988 and November,  
5 1989 when I left GVNW to serve as Vice President-Finance of Fidelity and  
6 Bourbeuse Telephone Companies. I was elected to the position of President and  
7 Chief Executive Officer effective October 1, 2003. In summary, I have had over  
8 30 years of experience in the telecommunications industry working with  
9 incumbent local exchange carrier companies.

10

11 Q. What are your responsibilities in your present position?

12 A. In my current position I have overall responsibility for the management and  
13 direction of GVNW Consulting, Inc. In addition, I consult with independent  
14 telephone companies and provide financial analysis and management advice in  
15 areas of concern to these companies. Specific activities which I perform for client  
16 companies include regulatory analysis, consultation on regulatory policy,  
17 financial analysis, business planning, rate design and tariff matters,  
18 interconnection agreement analysis, and general management consulting.

19

20 Q. Have you previously testified in regulatory proceedings?

21 A. Yes. I have submitted testimony and/or testified on regulatory policy, local  
22 competition, rate design, accounting, compensation, tariff, rate of return,  
23 interconnection agreements, and separations related issues before the Illinois

1 Commerce Commission, the Public Service Commission of Wisconsin, the  
2 Michigan Public Service Commission, the Iowa Utilities Board, the Tennessee  
3 Public Service Commission, the New Mexico Public Regulation Commission, the  
4 Public Utilities Commission of the State of South Dakota and the Missouri Public  
5 Service Commission. In addition, I have filed written comments on behalf of our  
6 firm on a number of issues with the Federal Communications Commission and  
7 have testified before the Federal-State Joint Board in CC Docket #96-45 on  
8 Universal Service issues.

9

10 Q. On whose behalf are you testifying in this case?

11 A. I am presenting testimony on behalf of The Small Telephone Company Group  
12 (“STCG”) in whose member companies’ study areas U.S. Cellular has sought  
13 ETC designation and who have intervened in this proceeding. Those companies  
14 are identified in RCS Schedule 1 to my testimony. I will refer to the companies  
15 identified on RCS Schedule 1 as the “STCG ILECs” to distinguish them from  
16 other local exchange carriers in whose study areas U.S. Cellular seeks ETC  
17 designation and who may, or may not, be participating in this proceeding. Each  
18 of the STCG ILECs are rural telephone companies as defined in the  
19 Telecommunications Act of 1996 (“the Act”) and each of the STCG ILECs has  
20 its own unique study area. Each of the STCG ILECs has been designated an ETC  
21 within its respective study area.

22

23 **II. PURPOSES OF TESTIMONY**

24

25 Q. What is the purpose of your testimony?

1 A. The purpose of my testimony is to respond to the Application of USCOC of  
2 Greater Missouri, LLC d/b/a U.S. Cellular, requesting that U.S. Cellular be  
3 designated as an eligible telecommunications carrier (“ETC”) for receipt of  
4 federal Universal Service Funds (“USF”) in the rural high-cost areas served by the  
5 STCG ILECs. I will present the legal framework and regulatory guidelines and  
6 factors to assist the Missouri Public Service Commission (the “MPSC”) in its  
7 determination of this matter. I will respond to U.S. Cellular’s proposals regarding  
8 the designation of service areas smaller than the study areas of some of the STCG  
9 ILECs. I will also respond to the testimony presented by U.S. Cellular supporting  
10 that Application and will describe why I do not believe that U.S. Cellular has  
11 demonstrated that such a designation is in the public interest.

12  
13 Q. Does it appear that U.S. Cellular’s usage of anticipated USF support is to fulfill  
14 the prime intent of maintaining local service rates at lower and more affordable  
15 levels and to preserve and advance universal service?

16 A. No. Based upon its Application and testimony, it appears that U.S. Cellular’s  
17 anticipated usage of USF support is to finance the extension of its network to  
18 provide an alternative to the service provided by the incumbent LEC. Its focus is  
19 not to provide phone service to those without such.<sup>1</sup> When discussing its  
20 implementation of a Lifeline program, U.S. Cellular states that high-cost support  
21 will provide an opportunity to “afford [a] choice in telephone service” rather than

---

<sup>1</sup> The sole mention of underserved customers is when U.S. Cellular briefly opines that rural customers are underserved by wireless and then states a commitment that it will provide service to wireline customers that do not have service but “upon reasonable request”. [emphasis added] Application at pp. 17-18.

1 the universal service principle of affording a telephone.<sup>2</sup> The problem with U.S.  
2 Cellular's underlying premise is that there already is competition prior to U.S.  
3 Cellular gaining ETC designation. This is an issue that I explore further in my  
4 testimony.

5

6 **III. THE FEDERAL TELECOMMUNICATIONS ACT AND THE**  
7 **FCC'S CORRESPONDING REGULATIONS AND DECISIONS**  
8 **PROVIDE THE BASIC FOUNDATION FOR ETC DESIGNATION**  
9 **AND USF SUPPORT.**

10

11 Q. The U.S. Cellular witnesses discuss some of the Federal provisions related to the  
12 provision of USF and the granting of ETC status. From your viewpoint, what are  
13 the key sections of Federal law and Federal Communications Commission  
14 ("FCC") rules, pertaining to ETC designations and Universal Service, which the  
15 MPSC should focus on?

16 A. The key or primary sections of focus should be:

- 17 • Section 214(e) of the Telecommunications Act of 1934, as amended by the  
18 Telecommunications Act of 1996 (hereinafter "the Act") which pertains to the  
19 designation of ETCs.  
20  
21 • FCC Rule 54.201 (47 C.F.R. § 54.201) which contains the implementing  
22 regulations.  
23  
24 • FCC Rule 54.101(a) (47 C.F.R. § 54.101(a)) which lists the nine services  
25 supported by the federal Universal Service Fund and which are required for  
26 ETC status.  
27

---

<sup>2</sup> Application at p. 13.



- 1 • FCC Rule 54.202 (47 C.F.R. § 54.202) which is a recent amendment to  
2 Part 54 of the FCC’s rules and includes additional requirements for ETC  
3 designations approved by the FCC.<sup>3</sup>  
4
- 5 • Section 254(b) of the Act (47 C.F.R. § 254(b)) which defines the  
6 “Universal Service Principles” to guide regulatory bodies such as the MPSC  
7 in preserving and advancing universal service.  
8

9  
10 Q. What responsibility does the Act give to State commissions in the ETC  
11 designation process?

12 A. Section 214(e)(2) of the Act states in relevant part:

13 Upon request and consistent with the public interest, convenience, and  
14 necessity, the State commission *may, in the case of an area served by*  
15 *a rural telephone company*, and shall, in the case of all other areas,  
16 designate more than one common carrier as an eligible  
17 telecommunications carrier for a service area designated by the State  
18 commission, so long as each additional requesting carrier meets the  
19 requirements of paragraph (1). Before designating an additional  
20 eligible telecommunications carrier for an area served by a rural  
21 telephone company, the *State commission shall find that the*  
22 *designation is in the public interest.* (emphasis added)  
23

24 In regard to *rural areas*, the MPSC *may* designate more than one carrier *only if*  
25 the commission finds that the designation is in the public interest. Additionally,  
26 the requirements of Section 214(e)(1) must be met under the Act; namely, U.S.  
27 Cellular must offer the nine required services listed in 47 C.F.R. § 54.101(a) and  
28 advertises those services. Finally, the principles of universal service found in  
29 Section 254(b) provide a clear description of the purpose of Universal Service  
30 Funds which U.S. Cellular is seeking to receive and those guidelines to assist in

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<sup>3</sup> Rules 54.202, and the additional FCC ETC designation requirements, were ordered in the FCC’s recently released Report and Order 05-46. *Federal-State Joint Board on Universal Service*; Report and Order, CC Docket No. 96-45 (rel. March 17, 2005) (*Report and Order*).

1 determining whether such designation of U.S. Cellular as an ETC would be in the  
2 public interest.

3

4 Q. Has the FCC issued rules that the MPSC can use as guidance in making a public  
5 interest finding for competitive ETC designations in areas served by rural  
6 telephone companies in Missouri?

7 A. Yes. Recently the FCC released the *Report and Order* which adopted additional  
8 requirements for ETC proceedings before the FCC. The *Report and Order* is a  
9 statement of the minimum public interest requirements that the FCC will follow in  
10 such cases and, though not binding on State commissions, provides guidance to  
11 State commissions in their ETC designations. These additional minimum  
12 requirements became effective earlier this year.<sup>4</sup>

13

14 Q. Mr. Wood characterized the changes adopted by the FCC in the *Report and Order*  
15 as “additional filing requirements.”<sup>5</sup> Do you agree with this as a complete  
16 characterization of these requirements?

17 A. While the requirements did include additional filing requirements, the purpose of  
18 these requirements was to provide significantly additional information for the  
19 FCC to review to determine whether the application in fact was in the public  
20 interest. The order went beyond just asking for additional materials to be filed.

21 The requirements for new ETC applications are already in effect. There are

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<sup>4</sup> The amendments to Part 54 became effective on or about April 1, 2005, or 30 days after the March 2 Federal Register publication. See *Report and Order*, Section VIII Ordering Clauses, ¶ 109.

<sup>5</sup> Testimony of Don Wood, P. 6, L. 21.

1 further requirements that will be implemented in October, 2006 for existing ETCs  
2 to achieve certification for the years after that.

3

4 Q. What is the FCC's recommendation regarding states using these guidelines in  
5 their individual ETC proceedings?

6 A. The FCC strongly encourages the State commissions to adopt these minimum  
7 recommendations. In the context of preserving the federal USF and reducing  
8 fund growth attributable to lax ETC designations, the FCC was concerned that the  
9 States adopt its much more rigorous guidelines for ETC designation than have  
10 been used in the past.<sup>6</sup> I wish to emphasize that these are *minimum*  
11 recommended guidelines for the States. The MPSC need not be constrained by  
12 the FCC in establishing ETC criteria that the MPSC believes better defines the  
13 public interest. Indeed, the MPSC may deviate from the FCC's recommended  
14 ETC guidelines and adopt criteria different and more restrictive than the criteria  
15 used by the FCC.

16

17 Q. Would you recommend the MPSC consider the FCC's rules in its public interest  
18 evaluation of U.S. Cellular's Application for ETC status?

19 A. Yes, the MPSC should use the FCC's recommended guidelines as criteria starting  
20 point and build upon that foundation, along with other public interest  
21 considerations to reach a conclusion regarding U.S. Cellular's Application.

22

1 Q. What specific measures did the FCC adopt in its recent Report and Order?

2 A. The FCC stated that competition, by itself, is insufficient to satisfy the public  
3 interest test, but that numerous other factors should be considered and weighed.

4 The new FCC criteria for initial ETC designation include the following:

5 (1) **Eligibility Requirements** – An ETC applicant, in addition to the Act’s  
6 requirements, must now, throughout the service area for which it seeks  
7 designation:

- 8
- 9 • Provide a five-year plan demonstrating how high-cost universal service
- 10 support will be used to improve its coverage, service quality or capacity;
- 11 • Demonstrate its ability to remain functional in emergency situations;
- 12 • Demonstrate that it will satisfy consumer protection and service quality
- 13 standards;
- 14 • Offer local usage plans comparable to those offered by the incumbent
- 15 local exchange carrier (LEC); and
- 16 • Acknowledge that it may be required to provide equal access if all other
- 17 ETCs in the designated service area relinquish their designations.<sup>7</sup>
- 18

19 (2) **Public Interest Determinations** –The FCC clarified that its public  
20 interest examination will review many of the same factors for ETC  
21 designations in areas served by non-rural and rural incumbent LECs. In  
22 addition, as part of its public interest analysis, the FCC will examine the  
23 potential for creamskimming effects where an ETC applicant seeks  
24 designation below the study area level of a rural incumbent LEC.<sup>8</sup>

25

26 I will discuss each of these criteria later in my testimony.

27

28 Q. On the federal level, what else could assist the MPSC in determining ETC  
29 designation?

30 A. Given that it is Federal Universal Service funds for which U.S. Cellular would be  
31 eligible under an ETC designation, it is appropriate that the principles of

---

<sup>6</sup> *Id.* at ¶ 2 (“We also believe that because these requirements create a more rigorous ETC designation process, their application by the Commission and state commissions will improve the long-term sustainability of the universal service fund.”) and ¶ 5.

<sup>7</sup> *See Report and Order* at ¶ 2 (emphasis added).

1 Universal Service, in the Federal Act, should guide the MPSC. It is noteworthy  
2 that the purpose of these principles is to base future policy decisions “for the  
3 preservation and advancement of universal service”. The Act defines the  
4 following Universal Service Principles in Section 254(b):

5 (b) UNIVERSAL SERVICE PRINCIPLES.--The Joint Board and the  
6 Commission shall base policies for the preservation and advancement of  
7 universal service on the following principles:  
8

9 (1) QUALITY AND RATES.--Quality services should be  
10 available at just, reasonable, and affordable rates.

11 (2) ACCESS TO ADVANCED SERVICES.--Access to advanced  
12 telecommunications and information services should be provided  
13 in all regions of the Nation.

14 (3) ACCESS IN RURAL AND HIGH COST AREAS.--Consumers  
15 in all regions of the Nation, including low-income consumers and  
16 those in rural, insular, and high cost areas, should have access to  
17 telecommunications and information services, including  
18 interexchange services and advanced telecommunications and  
19 information services, that are reasonably comparable to those  
20 services provided in urban areas and that are available at rates that  
21 are reasonably comparable to rates charged for similar services in  
22 urban areas.

23 (4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.-  
24 -All providers of telecommunications services should make an  
25 equitable and nondiscriminatory contribution to the preservation  
26 and advancement of universal service.

27 (5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS.--  
28 There should be specific, predictable and sufficient Federal and  
29 State mechanisms to preserve and advance universal service.

30 (6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES  
31 FOR SCHOOLS, HEALTH CARE, AND LIBRARIES.--Elementary and  
32 secondary schools and classrooms, health care providers, and  
33 libraries should have access to advanced telecommunications  
34 services as described in subsection (h).

35 (7) ADDITIONAL PRINCIPLES.--Such other principles as the  
36 Joint Board and the Commission determine are necessary and  
37 appropriate for the protection of the public interest, convenience,  
38 and necessity and are consistent with this Act.  
39

40 Q. Did the FCC adopt any additional principles under 254(b)(7)?

---

<sup>8</sup> See *Report and Order* at ¶ 3.

1 A. Yes. It adopted the following additional principle in its Report and Order in CC  
2 Docket No. 96-45, FCC 97-157 Issued May 8, 1997 (¶ 47):

3 COMPETITIVE NEUTRALITY -- Universal service support  
4 mechanisms and rules should be competitively neutral. In this  
5 context, competitive neutrality means that universal service  
6 support mechanisms and rules neither unfairly advantage nor  
7 disadvantage one provider over another, and neither unfairly favor  
8 nor disfavor one technology over another.  
9

10  
11 Q. What is the relevance of these principles as adopted by Congress and the FCC in  
12 relationship to the Application of U.S. Cellular for ETC status?

13 A. In evaluating U.S. Cellular's Application for ETC status in the rural study areas,  
14 the MPSC should utilize this set of universal service principles as a guide in  
15 evaluating the public interest benefits of granting that status. Also, as reflected in  
16 its *Report and Order*, the FCC is increasingly concerned about the impact of  
17 multiple ETC designations on the high-cost Universal Service Fund and the  
18 resultant effect in rural areas. It is not simply the extra burden on the Universal  
19 Service Fund that is at issue in this case, but also the implications for the  
20 overarching public policy goal of universal service, starting in the 1930's, to  
21 provide affordable phone service to all.  
22

23 **IV. THE MPSC'S APPROACH AND RESPONSIBILITY TO**  
24 **DEVELOP ITS OWN ETC CRITERIA.**  
25

26 Q. U.S. Cellular witness Mr. Wood recognizes that the MPSC can impose new  
27 requirements for the determination of ETC status, but recommends that they be  
28 done through a general rulemaking. What is your response?

1 A. While I don't disagree that a general rulemaking is one way that such  
2 requirements could be formalized, I do not believe it precludes the MPSC from  
3 applying whatever criteria it feels is appropriate in evaluating the public interest  
4 in an individual case. This is similar to what the FCC did in the *Virginia Cellular*  
5 *Case* that Mr. Wood refers to several times.

6

7 Q. Can the MPSC impose additional obligations on carriers seeking ETC status  
8 beyond those established by the FCC?

9 A. Yes, the Act allows that "States may adopt regulations not inconsistent with the  
10 Commission's [FCC's] rules *to preserve* and advance universal service."<sup>9</sup> A  
11 Federal Court has upheld a State commission's right to impose additional  
12 requirements when designating carriers as eligible for federal USF.<sup>10</sup> In addition,  
13 in the *Report and Order* the FCC repeatedly stated that a State can add additional  
14 requirements,<sup>11</sup> and indeed appears to encourage the States to do so.<sup>12</sup> It is  
15 important for the MPSC to note that in the very first sentence of the *Report and*  
16 *Order*, the FCC stated that that they were adopting additional measures  
17 addressing "the *minimum* requirements" for a carrier's ETC designation.<sup>13</sup>

18

19 Q. Have other State commissions imposed additional obligations?

---

<sup>9</sup> 47 U.S.C. § 254(f) (emphasis added).

<sup>10</sup> *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5<sup>th</sup> Cir. 1999). The Fifth Circuit overturned a portion of the FCC's universal service order that attempted to prohibit a state commission's imposition of additional ETC requirements.

<sup>11</sup> *Report and Order* at ¶ 25 (geographically-specific factors for emergency functionality); ¶ 30 (consumer protection); ¶ 34 ("there is nothing ... that would limit state commissions from prescribing some amount of local usage as a condition of ETC status").

<sup>12</sup> *See generally, Id.* at ¶ 61.

<sup>13</sup> *Id.* at ¶ 1 (emphasis added).

1 A. Yes. As one example, the Oklahoma Corporation Commission, on January 12,  
2 2005, adopted additional requirements for ETC designation including a  
3 requirement of unlimited local calling for Lifeline subscribers.<sup>14</sup> U.S. Cellular  
4 strongly objected to this requirement

5  
6 Q. U.S. Cellular also indicates that several States have already designated it as an  
7 ETC. How significant is this as a precedent to the MPSC?

8 A. In my mind this is not terribly significant as a precedent. U.S. Cellular states that  
9 it has obtained ETC designation in Iowa, Washington, Wisconsin, Oregon, and  
10 Oklahoma.<sup>15</sup> With the exception of the decision in Oregon, those ETC  
11 designations predate the *Virginia Cellular* Order, which was released on January  
12 22, 2004<sup>16</sup> and were primarily based on criteria related solely to the existence of  
13 competition, a criteria the FCC has now found inadequate. Although the Oregon  
14 order was released subsequent to the FCC's adoption of the more stringent criteria  
15 of the *Virginia Cellular* Order's framework, the Oregon Commission did not fully  
16 use those criteria. The current FCC rules are even more fully developed. I  
17 disagree with U.S. Cellular's testimony that their "success in other states" is

---

<sup>14</sup> See, Agency Rule Report, Oklahoma Corporation Commission, Permanent Rulemaking, Cause No. RM 200400014 at: <http://www.occ.state.ok.us/Divisions/GC/OCCRULES/Proprules/ARR%202004-14.pdf>  
See also, News Release, "A Win for Consumers, Industry", January 12, 2005 at:  
[http://www.occ.state.ok.us/Divisions/NEWS/nrp\\_publicfullarticle.htm](http://www.occ.state.ok.us/Divisions/NEWS/nrp_publicfullarticle.htm).

<sup>15</sup> Application at p. 5. Mr. Wright's testimony also adds the state of Oklahoma to the Application's list of states. See Wright's Testimony at p. 5.

<sup>16</sup> The Washington Order was released in January 2000; the Iowa Order in January 2002; the Wisconsin Order in December 2002; and in Oklahoma no Order was issued. In Oklahoma, U.S. Cellular was granted ETC status in a Settlement Agreement. See Oklahoma Corporation Commission's 97<sup>th</sup> Annual Report, p. 39 at: <http://www.occ.state.ok.us/Divisions/NEWS/Annual%20Reports/FY04-C%20annual.pdf>



1 “strong evidence” for the MPSC to produce a ruling similar to those other State  
2 commissions.<sup>17</sup>

3

4 Q. Does U.S. Cellular have the burden of proof on all aspects of its Application?

5 A. Yes. U.S. Cellular has the burden to demonstrate that it meets the requirements of  
6 the statute and the FCC rules, and that its Application is in the public interest.

7

8 Q. U.S. Cellular’s Application and testimony, while recognizing that it impacts  
9 individual study areas, does not generally address those study areas on a separate  
10 basis, or draw distinctions between them as to whether it should be designated an  
11 ETC in each of these study areas (with the exception of the “redefinition” issue).  
12 In your view, does this burden of proof relate in broad terms to its Application  
13 throughout the State as a whole only, or does it extend to each individual study  
14 area?

15 A. While U.S. Cellular’s Application involves a large number of companies and  
16 study areas and is being handled in a single proceeding, the MPSC needs to take  
17 an individualized analytical approach regarding each affected study area.

18

19 Section 214(e)(2) of the Act directs that a State commission, before it designates  
20 an additional ETC for an area served by a rural telephone company, “shall find  
21 that the designation is in the public interest.” Thus, the State commissions have  
22 the responsibility to analyze the public interest for each individual rural telephone

---

<sup>17</sup> Testimony of Wright at p. 4.

1 study area. The FCC, in its recent Order, endorsed such an approach. The FCC  
2 stated that:

3 [A]lthough we adopt one set of criteria for evaluating the public interest  
4 for ETC designations in rural and non-rural areas, *in performing the public*  
5 *interest analysis, the Commission and state commissions may conduct the*  
6 *analysis differently, or reach a different outcome, depending upon the*  
7 *area served.* For example, the Commission and state commissions may  
8 give more weight to certain factors in the rural context than in the non-  
9 rural context and *the same or similar factors could result in divergent*  
10 *public interest determinations, depending on the specific characteristics of*  
11 *the proposed service area,* or whether the area is served by a rural or a  
12 non-rural carrier.<sup>18</sup> (emphasis added)

13  
14 In his Concurring Comments, FCC Commissioner Adelstein noted that the ETC  
15 designation criteria should not be applied in a rote or mechanical fashion. Rather,  
16 the FCC should carefully consider “the unique nature of individual  
17 circumstances” to satisfy the FCC’s obligation as stewards of the USF.<sup>19</sup>

18

19 Q. You mention that the MPSC’s approach should be on individualized analysis;  
20 what, in your opinion, is meant by that?

21 A. The MPSC must analyze the fact-specific circumstances and make a  
22 determination for each individual LEC’s study area or areas separately, on an  
23 individual basis, and not under a global or blanket approach. In making its  
24 determination for each study area, the MPSC should consider such factors as  
25 comparisons to the telco local service offerings, the extent of competition in each  
26 area, U.S. Cellular’s existing service coverage, U.S. Cellular’s plans for future

---

<sup>18</sup> *Report and Order* at ¶ 43. (emphasis added)

<sup>19</sup> *Id. Statement of Commissioner Jonathan S. Adelstein*, attached to FCC’s Memorandum Opinion and Order.

1           enhancements, and other factors on an individual study area basis, rather than  
2           focusing primarily or solely on U.S. Cellular’s total statewide plans.

3

4           **V.       ETC DESIGNATION PROCESS – THE ELIGIBILITY**  
5           **REQUIREMENTS. A DISCUSSION OF U.S. CELLULAR’S**  
6           **APPLICATION.**

7

8           Q.     On Lines 9-11, Page 4 of Mr. Wood’s testimony he provides an italicized  
9           statement of his view of the major questions before the Commission in regard to  
10          the rural telephone companies (which include the STCG ILECs). Do you  
11          generally agree with this characterization?

12          A.     Yes. ETC applicants have to meet statutorily prescribed requirements in order to  
13          become eligible as an ETC, including showing that such designation is in the  
14          public interest. The statutory requirements under Section 214(e) are: (1) Offer  
15          the nine supported services; and (2) Advertise those services and charges  
16          (including the Lifeline and Link-up programs). The MPSC then has to further  
17          make a determination as to whether granting the ETC status is in the public  
18          interest. The recent FCC Order provides minimum additional guidelines in five  
19          specific areas for determining whether the public interest is being served by such  
20          an application.

21

22          Q.     One of the requirements for ETC eligibility status is providing the nine services  
23          required by the FCC in 47 C.F.R. § 54.101(a). What are your comments  
24          regarding the provision of these services?

25          A.     The nine services supported by the federal universal service are:

- 1 (1) Voice grade access to the public switched network;
- 2 (2) Local usage;
- 3 (3) Dual tone multi-frequency signaling or its functional equivalent;
- 4 (4) Single-party service or its functional equivalent;
- 5 (5) Access to emergency services;
- 6 (6) Access to operator services;
- 7 (7) Access to interexchange service;
- 8 (8) Access to directory assistance;
- 9 (9) Toll limitation for qualifying low-income consumers.

10 U.S. Cellular, in its Application, discusses each of these services and asserts that  
11 it is providing them. The STCG ILECs do not, at least at this time, question that  
12 U.S. Cellular is providing these nine services, in general, although in some of the  
13 areas where it has requested ETC status there is a question of whether they are  
14 providing any of them. However, U.S. Cellular's provision of these services, in  
15 comparison to the offerings by the affected rural Local Exchange Carriers  
16 (RLECs) and Incumbent Local Exchange Carriers (ILECs) generally, raise issues  
17 regarding how well the public interest will be served by granting ETC status to  
18 U.S. Cellular. There are also issues raised regarding the competitive neutrality  
19 principle established by the FCC.  
20

21  
22 Q. Do the FCC rules for the nine required services discuss a specific price at which  
23 such services are offered?

24 A. No, they do not. However, the first principle in the Act related to Universal  
25 Service which I previously quoted states "...quality service should be available at  
26 just, reasonable and affordable rates." If one reviews the history of Universal  
27 Service, a prime intent of providing USF funds is so that rates for local service are

1 maintained at lower, more affordable levels. In other words, the purpose of the  
2 fund is to preserve and advance universal service.

3

4 Q. What regulatory oversight does the MPSC have to assure that the rates of rural  
5 incumbent LECs are maintained at just and reasonable levels?

6 A. The MPSC has the power to regulate the local rates for incumbent LECs (other  
7 than telephone cooperatives and those companies that have elected price cap  
8 status). In addition, it has the authority to regulate the access rate levels for all  
9 incumbent LECs as well as regulate quality of service and establish billing  
10 standards.

11

12 Q. Does the MPSC have any authority to regulate the rates or service of U.S.  
13 Cellular?

14 A. No, by federal and State statute, the MPSC does not have that authority.

15

16 Q. What are the rates that the STCG ILECs charge for local service?

17 A. RCS Schedule 2 provides a listing of the total local rates for the STCG ILECs,  
18 including the basic tariffed local exchange rates and the mandatory federal  
19 Subscriber Line Charge (SLC). In general, these rates range between \$11 and \$19  
20 per month for residential service when the federal SLC is included.

21

22 Q. What are the rates that U.S. Cellular charges for “local” service?

1 A. There is some question about this. In Mr. Wright's testimony, U.S.Cellular stated  
2 that its lowest priced rate plan is \$25.00 per month which includes a maximum of  
3 125 "anytime minutes" and further discussed a \$39.95 local plan.<sup>20</sup> When my  
4 staff reviewed U.S. Cellular's web site on September 8, 2005, no \$25/125 minute  
5 rate plan was found for Missouri customers. The lowest priced calling plan on the  
6 web site is priced at \$39.95 (before taxes) for 1,000 minutes with a \$0.40 per  
7 minute overage charge. RCS Schedule 3 contains an online brochure of U.S.  
8 Cellular's rate plans as of September 8, 2005. This brochure appears to be  
9 applicable for all Missouri towns for which U.S. Cellular provides service.

10

11 Q. Does U.S. Cellular intend that all of its plans qualify for federal USF?

12 A. Based on U.S. Cellular's Application, it is my understanding that they intend for  
13 all of their service offerings to be eligible for USF.

14

15 Q. Has U.S. Cellular given any indication that it would reduce any of its rates if it is  
16 designated an ETC ?

17 A. U.S. Cellular has given no indication in its Application or filed testimony that it  
18 would reduce rates if it is designated an ETC.

19

20 Q. If U.S. Cellular's rates are considerably higher than the ILEC's rates in each of  
21 the STCG ILECs' requested study areas, and U.S. Cellular shows no indication  
22 that it will reduce its rates if granted ETC status and USF support, what is your

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<sup>20</sup> Wright's Testimony at p. 6.

1 assessment of the public interest determination as it relates to the rates that U.S.  
2 Cellular charges.

3 A. It does not seem like the public will gain much benefit from reduced or lower  
4 rates by granting ETC status to U.S. Cellular in any of these study areas.

5

6 Q. What is the “access to interexchange service”?

7 A. “Access to interexchange service” is one of the supported services and provides  
8 the ability of a telephone subscriber to originate and terminate interexchange  
9 calls.

10

11 Q. On Page 4 of U.S. Cellular witness Mr. Lowell’s testimony he indicates that U.S.  
12 Cellular provides access to interexchange services using direct interconnections  
13 with IXCs. He then indicates that U.S. Cellular does not provide equal access, but  
14 would be willing to if an ILEC withdrew from the area. What is your response to  
15 Mr. Lowell’s testimony?

16 A. I agree with Mr. Lowell’s statement that the FCC has not specified equal access  
17 as part of a supported service, though it has considered doing so. However, I  
18 believe that there are policy issues in regard to interexchange services that may  
19 have a bearing on the public interest determination in this proceeding.

20

21 Q. Can you discuss the policy issues regarding access to interexchange services?

22 A. Yes. Pursuant to the Act, ILECs are required to offer dialing parity. Under FCC  
23 rules implementing dialing parity, ILECs are obligated to offer each end user a

1           presubscription choice from all interexchange carriers to be dialed using (1+) *and*  
2           code dialing (101xxxx) for all other carriers – i.e., “dialing around”. If Congress  
3           and the FCC felt that choice in interexchange carriers was so important to the  
4           public interest that they obligated, by legislation and rules, wireline ILECs to  
5           offer those choices, it would appear they should be important considerations in  
6           relationship to the public interest.

7  
8       Q.     Does U.S. Cellular offer similar access to interexchange carriers?

9       A.     No. U.S. Cellular’ Application states that it has interconnection agreements with  
10           interexchange carriers (“IXCs”) and that its customers may “dial around” to reach  
11           IXCs.<sup>21</sup> Mr. Lowell’s testimony makes clear that U.S. Cellular doesn’t offer  
12           equal access on a presubscribed basis.

13  
14           When contrasting this with the type of access to interexchange services required  
15           of the affected STCG ILECs, it would not appear to be in the public interest or  
16           competitively neutral to provide universal service support to a wireless carrier  
17           who did not provide that choice. Such treatment unfairly advantages wireless  
18           providers over wireline providers.

19  
20       Q.     Is Lifeline service one of the nine supported services?

21       A.     No. But the FCC rules require that ETCs offer Lifeline Service.<sup>22</sup>

22

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<sup>21</sup> Application at p. 8.

<sup>22</sup> 47 CFR 54.405.



1

2 Q. What is the purpose of the Lifeline program?

3 A. The purpose of the low income programs, of which the Lifeline program is a  
4 component, is to help low-income customers establish and maintain local service.  
5 Thus, the purpose of the program is to provide affordable telephone service to low  
6 income individuals.

7

8 Q. What information does U.S. Cellular provide regarding its Lifeline and Link-up  
9 offerings?

10 A. In its Application, U.S. Cellular states that it will implement its Lifeline and Link-  
11 up programs to low-income customers who do not have a choice in service.<sup>23</sup> In  
12 its testimony (and further from brochures on its website for States where it has  
13 been designated an ETC), U.S. Cellular's Basic Lifeline Plan would appear to be  
14 a \$25/month plan (\$16.75 after Lifeline discounts) which includes only 125  
15 minutes of calling with additional minutes at \$ 0.40 per minute.<sup>24</sup>

16

17 Q. How does the cost of U.S. Cellular's Lifeline plan compare to ILEC plans?

18 A. The cost, assuming that the 125 minute allowance is not exceeded, is greater than  
19 the STCG ILECs rates for Lifeline service (the local rates shown in RCS  
20 Schedule 2 less \$1.75), but the U.S. Cellular plan has a wider local calling area.  
21 Also, if the customer exceeds the 125 minute allowance (either originating or  
22 terminating minutes), the cost escalates very quickly. With an additional 10

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<sup>23</sup> Application at p.13 .

<sup>24</sup> See Wright Testimony at p. 6.

1 minutes the cost would increase by \$4.00 and if the customer exceeded this limit  
2 by 100 minutes, the service would cost \$40.00 more or a total of \$57.75. I would  
3 note that a customer who terminates service in less than the two-year contract  
4 period would also face a termination fee.

5

6 Q. Can you briefly describe the required toll limitation service?

7 A. Yes. The FCC rules require the provision of “Toll Control” (limitation on the  
8 dollar amount of toll calls per month) or “Toll Blocking” (the blocking of all toll  
9 calls) for customers qualifying for Lifeline service.

10

11 Q. What was the intent of requiring the offering of toll limitation/blocking service to  
12 Lifeline customers?

13 A. The primary concern of the FCC was providing a way for low-income customers  
14 qualifying for these services to assure that their cost for telephone service would  
15 be limited to a relatively small amount per month and that they could not incur  
16 large costs for toll service which could cause them to have their local service  
17 disconnected.

18

19 Q. Given the rate structure of U.S. Cellular’s Lifeline Plan, will “toll limitation  
20 service” as implemented in an ILEC environment provide the protection intended  
21 by the FCC?

22 A. It seems unlikely that it would. U.S. Cellular’s Lifeline brochure indicates that  
23 “nationwide toll calling” is a part of its \$17.75 Lifeline service. I understand this

1 to mean that as long as the customer makes or receives less than 125 minutes of  
2 calls he can call any location within the United States within that 125 minute  
3 allowance. Thus, the ILEC based “toll limitation” that contemplated, in most  
4 cases, limitation of originating calls outside the “local calling area” but unlimited  
5 originating calling and unlimited receipt of terminating calls from both within and  
6 without the local calling area has very little meaning in this U.S. Cellular plan.  
7 However, if the customer either makes or receives more than 125 minutes of  
8 calling, even if this is all within a very local area, his bill will increase rapidly,  
9 \$24.00 for every hour of usage over the 125 minute limit.

10

11 Q. What evidence does U.S. Cellular offer as to how it will offer toll limitation  
12 service?

13 A. U.S. Cellular’s Application states that it can offer toll limitation by utilizing toll  
14 blocking upon ETC designation.<sup>25</sup> Its on-line brochure for lifeline calling plans  
15 indicates that long-distance “may be blocked at customer’s request for no  
16 additional charge”. However, there is no additional evidence either in its  
17 Application, filed testimony, or on its website as to how this will be accomplished  
18 and whether this blocking will relate to a geographic area, or to the number of  
19 minutes that can be used. Thus, it does not appear that U.S. Cellular has provided  
20 sufficient evidence regarding how toll limitation service would work and how  
21 low-income customers are prevented from having high payments. While the  
22 “offer” of toll limitation may meet the “supported service” standard from a strict

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<sup>25</sup> Application at p. 8.

1 interpretation, I question whether a geographical limitation placed on calls under  
2 U.S. Cellular’s plan would provide the intended public protection.

3

4 **. VI. FCC RECOMMENDED PUBLIC INTEREST**  
5 **CONSIDERATIONS.**

6

7 Q. On pages 5 and 6 of his testimony, U.S. Cellular witness Mr. Wood briefly  
8 discusses the recent FCC *Report and Order*. In your mind, does he give that  
9 order appropriate consideration?

10 A. No. As I mentioned earlier he describes the order as containing “additional filing  
11 requirements” only and implies that it doesn’t make any fundamental changes in  
12 the FCC’s longstanding requirements. While I would agree that it doesn’t change  
13 the statutory criteria, it clearly contains a considerably more thorough review of  
14 ETC applications and areas to consider in determining the public interest than the  
15 FCC has had in the past.

16

17 Q. What are the FCC’s five recommendations to be considered in evaluating the  
18 public interest that the FCC enunciated in its *Report and Order and rules*?

19 A. They are:  
20 (1) Offer local usage plans comparable to those offered by the incumbent  
21 LEC in the areas for which it seeks designation.  
22  
23 (2) Demonstrate its ability to remain functional in emergency situations.  
24  
25 (3) Acknowledge that it may be required to provide equal access if all  
26 other ETCs in the designated service area relinquish their carrier of last  
27 resort obligations.  
28

1 (4) A demonstration that it will satisfy consumer protection and service  
2 quality standards,<sup>26</sup> and  
3

4 (5) Provide a five-year plan demonstrating how high-cost support will be  
5 used to improve its coverage, service quality or capacity in every wire  
6 center.  
7

8  
9 **A. THE RECOMMENDATION THAT LOCAL USAGE**  
10 **PLANS BE COMPARABLE.**  
11

12 Q. What is the “local usage” recommendation?

13 A. In addition to the requirement that U.S. Cellular offer a local usage component as  
14 one of the nine supported services, the FCC has recommended in its *Report and*  
15 *Order* that a comparison of the ETC petitioner’s local usage plan should be made  
16 to the plans offered by the specific incumbent LEC in the area. Thus, a “[c]ase-  
17 by-case consideration of these factors is necessary”<sup>27</sup> to determine if the plan is  
18 comparable.  
19

20 Q. Can the MPSC formulate its own local usage requirement?

21 A. Yes. The FCC clearly recognized that a State commission, such as the MPSC,  
22 could prescribe a minimum amount of local usage as a prerequisite condition to  
23 ETC status.<sup>28</sup>  
24

25 Q. What issues does U.S. Cellular’s “local usage” offering raise?

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<sup>26</sup> See *Report and Order* at ¶¶ 2, 17 and 20.

<sup>27</sup> *Id.* at ¶ 33.

<sup>28</sup> *Id.* at ¶ 34. (“[T]here is nothing in the Act, Commission’s rules, or orders that would limit state commissions from prescribing some amount of local usage as a condition of ETC status.”)

1 A. In the wireline industry, the vast majority of the rural carriers in the nation,  
2 including all the STCG ILECs offer unlimited local usage, both originating and  
3 terminating, for a flat monthly rate. Pursuant to the information on U.S.  
4 Cellular's website, it appears that none of U.S. Cellular's wireless service  
5 offerings include unlimited local usage for a flat fee.<sup>29</sup> As of September 8, 2005,  
6 U.S. Cellular's website shows its lowest priced regular calling plan rated at  
7 \$39.95 per month with 1,000 minutes of originating and terminating usage. There  
8 are some plan additions and promotional features that give unlimited calling for  
9 certain service subcategories, but this is not a true unlimited calling plan.

10

11 Q. How should the MPSC evaluate local prices and usage plans in its public interest  
12 evaluation?

13 A. I believe that the MPSC should carefully consider the substantially lower rates  
14 charged by the STCG ILECs and the unlimited calling plans of each of the STCG  
15 ILECs in comparison to the U.S. Cellular rate plans, in conjunction with the  
16 purposes of USF funds to provide universal network connectivity. I do not see a  
17 strong public interest need for providing Universal Service Funds to U.S. Cellular  
18 from this standpoint.

19

20 **B. THE EQUAL ACCESS RECOMMENDATION.**

21

22

---

<sup>29</sup> See RCS Schedule 3.

1 Q. You discussed dialing parity and “equal access” in relationship to the requirement  
2 to provide “access to interexchange carriers”. Can you briefly summarize your  
3 conclusions in that section?

4 A. Yes. Congress in the Act and the FCC in its rules implementing the Act placed  
5 requirements on Local Exchange Carriers (LECs) to provide dialing parity to  
6 interexchange carriers, indicating a strong public interest need to have such  
7 service. As I described, U.S. Cellular provides substantially less robust access to  
8 interexchange carriers than do LECs, including each of the STCG ILECs. I  
9 recommended that the MPSC take this into account in making its public interest  
10 determination regarding U.S. Cellular’s ETC Application.

11

12 Q. What additional criteria did the FCC recommend in its rules?

13 A. In its recent *Order*, the FCC indicated the need for ETC applicants to  
14 acknowledge that they may be required to provide equal access in the future if  
15 there is no other certified ETC in the area.

16

17 Q. Has U.S. Cellular acknowledged such a potential requirement to provide dialing  
18 parity and presubscription?

19 A. Yes.

20

21 **C. THE EMERGENCY FUNCTIONALITY**  
22 **RECOMMENDATION.**  
23

24 Q. What is the FCC’s emergency functionality recommendation?

1 A. The FCC's recommendation is for an ETC applicant to demonstrate its ability to  
2 remain functional in emergency situations. Specifically, the FCC requires a  
3 demonstration of reasonable back-up power, ability to reroute traffic and  
4 capability of managing traffic spikes.<sup>30</sup> The FCC also invited State commissions  
5 to adopt geographically specific factors for their own emergency functionality  
6 requirements.<sup>31</sup>

7  
8 Q. Has the MPSC established emergency operations requirements for LECs  
9 operating in Missouri?

10 A. Yes, such requirements are contained in 4 CSR 240-32.060(5). In order to be  
11 competitively neutral, a wireless ETC such as U.S. Cellular should be required to  
12 meet the same emergency power requirements as a wireline LEC must meet.  
13 Thus, at a minimum, the MPSC should require U.S. Cellular to adhere to these  
14 Emergency Operation requirements. Failure to do so would create a framework  
15 which unfairly advantages U.S. Cellular over the incumbents affected by this  
16 Application.

17  
18 Q. Does U.S. Cellular's Application and testimony address the FCC's  
19 recommendations?

20 A. U.S. Cellular witness Mr. Lowell addresses U.S. Cellular's emergency  
21 capabilities on Pages 5-6 of his testimony. He indicates that the battery capability  
22 at cell sites is four hours, with portable generators available. This would meet the

---

<sup>30</sup> *Report and Order* at ¶ 25.

<sup>31</sup> *Id.*



1 MPSC standards for battery power. Mr. Lowell describes other capabilities as  
2 well, although I did not see any discussion of dealing with traffic spikes.

3

4 **D. THE RECOMMENDATION THAT AN ETC MUST**  
5 **DEMONSTRATE ITS COMMITMENT AND ABILITY TO**  
6 **PROVIDE THE SUPPORTED SERVICES.**

7

8

9 Q. What does this FCC recommendation consist of and how can you measure it?

10 A. The recommendation, simply stated, is that an ETC applicant must demonstrate  
11 its commitment and its ability to provide the nine supported services, upon a  
12 reasonable request, throughout the designated service area. This demonstration is  
13 made through specific commitments to provide service,<sup>32</sup> and through the  
14 submission of a formal five-year plan with specific details of how universal  
15 service support will be used.

16

17 Q. You mentioned “reasonable request”. Who decides what is “reasonable”?

18 A. The FCC recommends that the State commissions, pursuant to their State law,  
19 determine what constitutes a “reasonable request” for service.<sup>33</sup> U.S. Cellular  
20 through its witness Mr. Wright has described a process it proposes for responding  
21 to requests. Mr. Wright indicates that he “understands” that this is the “best way”  
22 to meet such requirements.<sup>34</sup> Included in this process is a report to the  
23 Commission of “those cases” where customers aren’t served on any schedule  
24 required by the Commission. On Page 20 of his testimony Mr. Wright further

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<sup>32</sup> These specific commitments are delineated at *Report and Order* at ¶ 22.

<sup>33</sup> *Report and Order*, ¶ 21.

1 indicates that “if required to do so” U.S. Cellular would report annually on the  
2 “number of requests for service from potential customers in its service areas that  
3 were unfilled.” I believe it would behoove the Commission to explore how well  
4 these procedures are working in other jurisdictions where U.S. Cellular has been  
5 approved as an ETC to see whether such procedures are really being followed.

6

7 Q. Do you have concerns with the process Mr. Wright outlined in his testimony.

8 A. Yes, while Mr. Wright has delineated the steps to be taken in his testimony,<sup>35</sup> I  
9 am unsure how a potential customer finds out about this process, or how it is  
10 really implemented. In response to a data request, U.S. Cellular indicated that it  
11 was in the process of preparing materials to train U.S. Cellular employees in  
12 regard to these procedures. The data request specifically requested documents  
13 used in other states where U.S. Cellular has been designated an ETC. No  
14 documents from other states were provided. In my mind it raises the question as  
15 to whether such procedures have been implemented in other states.

16

17 Q. In evaluating the commitment to provide the supported services, do you believe  
18 that the Commission should take into consideration whether U.S. Cellular is  
19 currently offering services in these areas?

20 A. Yes, I believe that is a factor that should clearly be considered. While there may  
21 be a need to consider the extension of service to portions of exchanges that are not  
22 well served as U.S. Cellular improves its service, I believe that the Commission

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<sup>34</sup> See Wright Testimony, p. 8.

<sup>35</sup> Wright Testimony at P. 8.

1 should closely consider denying ETC status in areas where U.S. Cellular does not  
2 profess to provide service at all.

3

4 Q. Do you have any specific information in this regard?

5 A. I do. To test whether U.S. Cellular is professing to provide service in the STCG  
6 ILECs areas for which it seeks ETC designation, we recently did a search on U.S.  
7 Cellular's web site. When one enters the web site, the individual is invited to get  
8 information on service plans by state, and then by the name of the town, or the zip  
9 code. The web site provides a listing of towns where service is provided. If one  
10 queries by zip code, either the appropriate plan is returned, or there is a message  
11 stating that U.S. Cellular does not provide service in that area. Our ZIP code  
12 search test showed that U.S. Cellular through its web site told customers it did not  
13 provide service to thirty-seven exchanges in ten of the STCG ILEC companies'  
14 study areas. These exchanges are shown on RCS Schedule 4. In some of the  
15 cases, exchanges on the list for a company are all the exchanges in the service  
16 area that U.S. Cellular has requested.

17

18

19 Q. What rationale has the FCC given in describing its service commitment  
20 recommendation?

21 A. In its Report and Order the FCC stated: "In addition, we encourage states to  
22 follow the Joint Board's proposal that any build-out out commitments adopted by  
23 states be harmonized with any existing policies regarding line extensions and

1 carrier of last resort obligations.”<sup>36</sup> FCC Commissioner and Joint Board Chair  
2 Kathleen Abernathy put it more bluntly in discussing the purpose of a more  
3 rigorous designation process to ensure that all ETCs are prepared to serve  
4 throughout the designated service area: “In other words, competitive carriers  
5 seeking ETC status must serve as carriers of last resort, just as incumbents  
6 must.”<sup>37</sup>

7  
8 Q. What guidance did the FCC give to customize or individualize this  
9 recommendation for each affected incumbent LEC study area?

10 A. Generally, the FCC suggested that the 5-year network improvement plan  
11 specifically describe proposed improvements or upgrades “on a wire center-by-  
12 wire center basis throughout its designated service area”.<sup>38</sup> Also, the FCC  
13 implicitly invited State commissions to develop their own approach when the  
14 FCC rejected suggestions for uniformity and instead stated that its approach  
15 accounts for “unique circumstances” and “allows consideration of fact-specific  
16 circumstances of the carrier and the designated service area”.<sup>39</sup> Thus, the MPSC’s  
17 approach should be to analyze U.S. Cellular’s demonstration of its commitment  
18 and ability to provide the nine supported services throughout the designated  
19 service area for each affected study area.

20

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<sup>36</sup> *Report and Order at ¶ 21.* (quoting *Federal-State Joint Board on Universal Service, Recommended Decision*, CC Docket No. 96-45, 19 FCC Rcd 4257, 4268, para. 27 (2004) (*Recommended Decision*)).

<sup>37</sup> *Report and Order, Statement of Commissioner Kathleen Q. Abernathy*, attached to FCC’s Memorandum Opinion and Order.

<sup>38</sup> *Report and Order*, at ¶ 23.

<sup>39</sup> *Id.* at ¶ 24.

1 Q. Does U.S. Cellular’s Application meet the FCC’s “commitment and ability”  
2 recommendation to the States?

3 A. No. The information and plans provided in its Application only covered an 18  
4 month period, and were somewhat tentative. There was no demonstration of the  
5 impact of these plans by study area level. From my review it would appear that a  
6 majority of the STCG ILEC study areas will see no service improvement from  
7 these proposed plans.

8

9 Q. Has U.S. Cellular provided specific plans as to how it will use the USF money, if  
10 received?

11 A. U.S. Cellular does not provide any specific financial detail in its Application or  
12 testimony about how this money will be used. U.S. Cellular does provide a list of  
13 sixteen (16) proposed cell sites for construction as part of its Application.<sup>40</sup>  
14 However, it also notes that the proposed sites’ locations and quantity “are subject  
15 to shifts in demand and other factors, and “... to available funding...”<sup>41</sup> which  
16 appears to indicate that these are tentative proposed sites.

17

18 Q. On Pages 13 and 14 of U.S. Cellular witness Mr. Wright’s testimony he discusses  
19 broadly the amount of USF that U.S. Cellular expects to receive in relationship to  
20 the cost of the sixteen towers they proposed to construct. Can you comment on  
21 this testimony?

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<sup>40</sup> Application, Exhibit E “Proposed Sites for Initial Build-out with Use of High-Cost Support.”

<sup>41</sup> Application at p. 14.

1 A. Yes. Mr. Wright mentions that the cost of each cell site would “typically exceed  
2 \$250,000”. Based on that broad cost estimate, one could project that the cost of  
3 the sixteen cell sites would be in the neighborhood of \$4 million. He also  
4 indicates that the quarterly amount of USF that U.S. Cellular would receive if  
5 granted ETC status would be roughly \$2 million, or \$8 million per year. The  
6 Commission will need to decide whether a commitment to construct \$4 million in  
7 new cell sites during a period when U.S. Cellular would be projected to receive  
8 \$12 million indicates an appropriate use of USF funds. This \$2 million per  
9 quarter estimate is substantially greater than the Application’s estimate of  
10 \$200,000 per quarter, and a review of the Commission’s Electronic Filing and  
11 Information System (EFIS) reveals that U.S. Cellular has not yet amended its  
12 Application as Mr. Wright indicated on Page 14 of his testimony that it would do.

13

14 Q. Is the purpose of U.S. Cellular’s proposed cell sites to bring service to the  
15 unserved or underserved areas?

16 A. The stated purpose is to improve service quality levels to rural Missouri  
17 consumers.<sup>42</sup> How well that purpose is accomplished is something the  
18 Commission should consider in making its public interest determination.

19

20 Q. What level of federal USF support are the STCG ILECs currently receiving?

21 A. There are four different segments of federal USF support that an STCG ILEC  
22 currently receives. These are high cost loop support (HCL), safety net additive  
23 (SNA), local switching support (LSS), and interstate common line support,

1 (ICLS). Based on the 4th Qtr, 2005 projected USF projections by the Universal  
2 Service Administration Corporation (USAC), the affected ILECs would receive  
3 levels of support per line as shown on RCS Schedule 5.<sup>43</sup> As can be seen from  
4 RCS Schedule 5, the amount of support varies between \$8.62 and \$135.51 per  
5 month for the STCG ILECs. These amounts would be portable to any competitive  
6 ETC that serves customers in the areas served by these STCG ILECs.

7

8 Q. What conclusions do you have about U.S. Cellular's usage of anticipated USF  
9 support?

10 A. It does not appear that U.S. Cellular intends to lower rates to its end users, and has  
11 relatively limited plans that have been provided to upgrade its infrastructure in  
12 Missouri. Thus, I am concerned a significant portion of the USF funds received  
13 could be used to increase the profits of its stockholders. Or, as FCC  
14 Commissioner and Joint Board Chair Kathleen Abernathy put it: "This  
15 requirement [formal build-out requirements] is critical, because universal service  
16 support is designed to fund investments in network; it should not be used to pad  
17 the bottom line".<sup>44</sup>

18

19 **E. THE RECOMMENDATION FOR A CONSUMER**  
20 **PROTECTION AND SERVICE QUALITY STANDARDS**  
21 **DEMONSTRATION.**  
22

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<sup>42</sup> Application at p. 11.

<sup>43</sup> RCS Schedule 5 shows the amount of high-cost support/month/line based on the 4th Quarter 2005, USAC data.

<sup>44</sup> *Ensuring the Sustainability of Universal Service*, Remarks by FCC Commissioner Kathleen Q. Abernathy, OPASTCO Winter Meeting, January 21, 2004.

1 Q. What does the FCC recommend in regard to consumer protection and service  
2 quality?

3 A. The recommendation is that an ETC applicant must demonstrate its commitment  
4 to meeting consumer protection and service quality standards in its application.  
5

6 Q. Has U.S. Cellular presented testimony related to protecting consumers and  
7 addressing service quality standards?

8 A. It has in the testimony of both Mr. Lowell and Mr. Wright. U.S. Cellular has  
9 discussed in broad terms some of its internal service measurement policies and  
10 procedures, has made commitments to adhere to service reporting requirements if  
11 it is required by the MPSC, and has committed to adhere to the voluntary CTIA  
12 code. While these are appropriate steps for the MPSC to consider in regard to  
13 meeting the appropriate level of customer service commitments, I would  
14 encourage the MPSC to consider other issues as well.  
15

16 Q. Can a State regulate CMRS providers in regard to service quality?

17 A. Yes. The FCC stated that Section 332(c)(3) specifically allows States to regulate  
18 CMRS terms and conditions, not dealing with rates and entry, in order to preserve  
19 and advance universal service.<sup>45</sup> Further, the FCC encouraged States to consider  
20 consumer protection in the wireless context as a prerequisite for obtaining ETC  
21 designation from the State.<sup>46</sup> The FCC invited State commissions either to use the

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<sup>45</sup> *Report and Order* at ¶ 31.

<sup>46</sup> *Id.* at ¶ 30.



1 FCC's framework or to impose their own requirements that ensure consumer  
2 protection and service quality.<sup>47</sup>

3  
4 Q. Are Missouri ILECs required to adhere to any State-imposed service  
5 requirements?

6 A. Yes, pursuant to the Commission's rules in Chapter 32 and Chapter 33, all LECs  
7 are required to meet a variety of requirements related to providing service and  
8 billing procedures and practices. The LECs are also required to file various  
9 reports with the MPSC, generally on a quarterly basis, to keep the Commission  
10 informed of the current service quality status.

11  
12 Q. Can you describe the types of standards that are in these rules?

13 A. Yes. Chapters 3 and 32 of the Commission's rules contain rules related to the  
14 provision of service to customers. These rules require the LEC to monitor, collect  
15 and report performance data including service installations, trouble reports,  
16 responding to customer inquiries and missed appointments. Chapter 33 contains  
17 rules regarding billing and payment practices. These rules include requirements  
18 for the establishment of credit, deposits and practices, content of bills and billing  
19 practice, issuance of telephone directories, and practices for the discontinuance of  
20 service and resolving disputes and complaints. Other parts contain specific  
21 provisions regarding tariff requirements, the provision of operator services and  
22 pre-subscription for long-distance service. These administrative rules, which  
23 have been developed over a period of years and modified periodically, contain

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<sup>47</sup> FCC's *Report and Order* at ¶ 30.

1 provisions the MPSC felt necessary to protect the public interest by establishing  
2 standards for such services. However, in sum, regulation of terms and conditions  
3 is a method that constrains actions of the ILECs to protect the public interest.

4

5 Q. Are CMRS providers, such as U.S. Cellular, subject to these rules?

6 A. Under the current provisions of the Missouri Public Service Commission Law and  
7 Chapter 4 CSR 240 of the Missouri's Code of State Regulations, it would appear  
8 they are not.

9

10 Q. If the MPSC felt such standards were important enough to incorporate into formal  
11 rules for ILECs, is it likely that the lack of such rules for CMRS providers will  
12 lead to a service offering that fills the public interest needs in these areas at a level  
13 less than the service provided by the ILECs?

14 A. I would think so. The imposition of these service and billing requirements in  
15 many cases imposes additional financial and administrative burdens on the ILECs  
16 which the MPSC believes are justified in order to give greater protection and  
17 choice to consumers. Wireless carriers, who do not have to meet these  
18 requirements, will likely not conform to these requirements found necessary for  
19 the provision of telecommunications service and thus provide service that is less  
20 likely to fulfill/advance the public interest.

21

22 Q. Does the imposition of tariffs, service standards, and other regulatory  
23 requirements on ILECs to meet service and billing standards, while allowing

1 CMRS providers to avoid such requirements, lead to a USF system that is  
2 “competitively neutral” as described by the USF principle adopted by the FCC?

3 A. I do not believe that it does and would recommend that the MPSC consider this in  
4 its deliberation and analysis of the public interest standard. Imposing  
5 requirements such as providing directory listing and directories, specific deposit  
6 and disconnection procedures, service installation criteria, call completion  
7 standards and other required service level measures create specific additional  
8 costs on ILECs. While some of these may be technology related and not  
9 specifically applicable to wireless carriers, many are not. It is not competitively  
10 neutral to provide CMRS providers the benefits of USF when they are not  
11 required to meet the same service standards as the ILECs nor incur the same costs  
12 to meet these service standards. This creates an unfair disparity between U.S.  
13 Cellular and the incumbent LECs affected by this Application.

14

15 Q. Are the terms of service provision for U.S. Cellular similar to those that ILECs  
16 are required to provide through the tariff approval process?

17 A. No. There are differences that are not necessarily to the subscribers’ benefit. For  
18 example, U.S. Cellular generally requires a two-year service contract and  
19 termination before the end of two years will invoke a termination charge of  
20 \$150.<sup>48</sup> The MPSC requires by rule (4 CSR 240-32.050(1)) ILECs to advise a  
21 consumer of the lowest basic monthly service offering. While I am not aware of a

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<sup>48</sup> See U.S. Cellular’s web site under “Plans”:  
[http://www.uscc.com/uscellular/SilverStream/Pages/b\\_plan.html?zip=62612&mkt=606730&tm=0](http://www.uscc.com/uscellular/SilverStream/Pages/b_plan.html?zip=62612&mkt=606730&tm=0)

1 rule prohibiting termination charges, I am not aware of circumstances where  
2 ILECs are allowed to charge termination penalties to residence customers.

3

4 Q. If the MPSC decides to grant U.S. Cellular ETC status in some study areas should  
5 it impose service conditions upon U.S. Cellular as a condition of granting that  
6 status?

7 A. Yes. Such conditions should be similar to those imposed on ILECs, although  
8 there may need to be some differences to recognize the different technologies in  
9 the two networks.

10

11 Q. U.S. Cellular has stated that it will comply with the CTIA's Consumer Code.<sup>49</sup> Is  
12 that sufficient?

13 A. No. Because the CTIA code is a voluntary code, a major problem is a lack of  
14 enforceability; there is no body to hold U.S. Cellular accountable for  
15 implementation of the Code. For example, U.S. Cellular promises to disclose  
16 rates and terms of service of each rate plan on its web site. In contrast, the  
17 wireline companies are subjected to mandatory MPSC regulation and  
18 enforcement. Thus, U.S. Cellular's voluntary compliance does not mitigate the  
19 concerns about competitive neutrality.

20 Further, the tone of "The Code" is ambiguous. For example, U.S. Cellular  
21 promises to provide maps showing where service is generally available.  
22 However, U.S. Cellular's map for Missouri shows a potential customer that the  
23 major sections of the state are covered with little detail of service gaps. I will

1 present later in my testimony a more detailed map provided by U.S. Cellular  
2 which shows substantial gaps in their coverage in those areas. Not only is this  
3 vague and misleading, but there is no body to enforce any violations. The 14-day  
4 trial period in The Code fails to address billing problems that arise only after the  
5 first 30 days of service. A telecommunications attorney sums the problems with  
6 The Code well: “The bottom line is that this 10-point manifesto is both hollow  
7 and unenforceable. So despite the great advance publicity, wireless customers  
8 still, as always, need follow the famous Latin phrase *caveat emptor*.”<sup>50</sup>  
9

## 10 **VII. ADDITIONAL PUBLIC INTEREST CONSIDERATIONS.** 11

12 Q. What additional public interest analysis did the FCC recommend in considering  
13 ETC Designations?

14 A. The *Report and Order* contained additional public interest concerns that a State  
15 commission should consider in reviewing ETC designation requests. These  
16 concerns include an examination of (1) the benefits of increased consumer choice,  
17 (2) the unique advantages and disadvantages of the ETC applicant’s service  
18 offerings, and (3) the impact on the federal USF. The FCC further stated that, for  
19 ETC designations in rural carrier areas, there should be a more rigorous public  
20 interest analysis than for non-rural areas and for a redefinition of an RLEC’s  
21 study area, there will be an examination for cream-skimming potential.  
22

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<sup>49</sup> Application at p. 14.

<sup>50</sup> Martha Buyer, *Consumer Code for Wireless – Help or Hindrance?* The Daily Record (Sept. 15, 2003).  
Link at: <http://www.marthabuyer.com/Tele915.pdf>

1 Q. What advice or recommendations did the FCC have for State commissions such  
2 as the MPSC?

3 A. The FCC strongly encouraged State commissions to use the FCC’s framework in  
4 a manner to be consistent with the universal service principles – preserving and  
5 advancing universal service and competitive neutrality<sup>51</sup> - and to be consistent  
6 among the States with an eye to improving the long-term sustainability of the  
7 USF. The FCC is, undoubtedly, concerned about the national implications of  
8 individual State commissions’ ETC decisions and their collective effects on the  
9 federal USF.<sup>52</sup> The FCC acknowledged that State commissions can and have  
10 used additional factors in their public interest analysis.<sup>53</sup> Finally, the FCC  
11 stressed the customized approach that State commissions should use in their  
12 public interest analysis.<sup>54</sup>

13  
14 Q. What further suggestions would you have for the MPSC’s approach to  
15 consideration of these issues in its public interest analysis?

16 A. As I have stated throughout this testimony, the FCC requirements and  
17 recommendations should be the minimum foundation upon which the MPSC  
18 should build its own public interest analysis. The FCC, as stated above,  
19 acknowledges and even encourages the State commissions to develop their own  
20 framework. Further, the FCC encourages an individualized analytical approach

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<sup>51</sup> *Report and Order* at ¶¶ 18-19.

<sup>52</sup> *Id.* at ¶¶ 57 and 60.

<sup>53</sup> *Id.* at ¶ 40.

<sup>54</sup> *Id.* at ¶ 60. (“We believe that section 214(e)(2) demonstrates Congress’s intent that state commissions evaluate local factual situations in ETC cases ....” “[N]othing in section 214(e) of the Act prohibits the states from imposing their own eligibility requirements in addition to those described ....”)

1           whereby the MPSC is to examine the public interest on a study area level using  
2           cost-benefit balancing. For example, the FCC suggests that the State commission  
3           may consider limiting the number of ETCs due to the strain on the USF by  
4           examining per-line USF support received by the individual LEC<sup>55</sup> on a case-by-  
5           case approach.<sup>56</sup> I would encourage the MPSC to do likewise for U.S. Cellular’s  
6           Application.

7  
8   Q.     What are some of the benefits that one would expect from U.S. Cellular’s  
9           designation as an ETC?

10  A.     The MPSC should expect to see benefits such as an increase of the choice of  
11           service offerings or an upgrade of such, lower prices, improvements in service  
12           quality, and investments in infrastructure to bring wireless services to underserved  
13           and non-served areas. These are the benefits that one would expect to be caused  
14           by U.S. Cellular’s ETC designation and receipt of USF support. Further, these  
15           benefits would be expected throughout U.S. Cellular’s prospective ETC service  
16           area.

17  
18  Q,     You used the phrase “to be caused” in describing the relationship between  
19           expected benefits and U.S. Cellular’s ETC designation. Could you expand upon  
20           that relationship?

21  A.     Yes. I would reiterate my earlier testimony where I discussed U.S. Cellular’s  
22           obligation in this proceeding to produce sufficient evidence that its ETC

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<sup>55</sup> *Id.* at ¶ 55.

<sup>56</sup> *Id.* at ¶ 56.

1 designation and subsequent receipt of USF support will cause benefits to occur,  
2 such as lower prices and availability of service throughout its designated service  
3 area. If such benefits do not occur or if the MPSC determines that such benefits  
4 will occur without ETC designation and USF support, then U.S. Cellular has  
5 failed in its evidentiary obligation.

6

7 Q, U.S. Cellular’s listed benefits of its ETC designation are to promote competition,  
8 facilitate the provision of advanced services,<sup>57</sup> improve service quality and  
9 reliability,<sup>58</sup> and competitive response.<sup>59</sup> Has U.S. Cellular adequately  
10 demonstrated that such benefits will occur throughout its designated ETC service  
11 area should its Application be granted?

12 A. No. As a threshold matter, I question whether the listed benefits and wireless  
13 competition would occur only if U.S. Cellular receives ETC designation. As I  
14 develop later in this testimony, it may be the case that receipt of federal USF  
15 support is not a necessary prerequisite to U.S. Cellular’s entry into the areas  
16 affected by its Application. U.S. Cellular’s promised benefits are frequently  
17 generalized statements and rely heavily on the oft-repeated “benefits of  
18 competition”. Its Application and testimony lack the type of “fact-intensive”  
19 analysis necessary for the MPSC to determine whether the public interest benefits  
20 outweigh the costs. In the subsections directly below, I provide testimony, data  
21 and other evidence that will provide the MPSC with a fact-intensive analysis to  
22 make a determination as to the public interest test. The first subsection addresses

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<sup>57</sup> Application at p.11 .

<sup>58</sup> *Id.* at .p.14



1 the purported generic benefits of competition, competitive response and lower  
2 prices as well as the costs. In the second subsection, I address the purported  
3 benefits of improved service and reliability and provision of services to  
4 underserved areas through increased infrastructure.

5

6 **A. THE ALLEGED BENEFITS OF PRICING AND**  
7 **INCREASED CONSUMER CHOICE FROM U.S.**  
8 **CELLULAR'S ETC APPLICATION.**  
9

10 Q. In analyzing ETC designations, what weight should the MPSC give to the  
11 competition factor in rural areas?

12 A. The MPSC should give much less weight to the factor of competition than many  
13 States did before the *Report and Order*. In the past, i.e., prior to *Virginia*  
14 *Cellular*, many wireless ETC designations, including those of U.S. Cellular in the  
15 States of Wisconsin, Iowa, and Washington, rested primarily or even solely on the  
16 benefits of competition. Now, under the FCC's recommended more rigorous and  
17 thorough public interest analysis, competition will simply be one factor (and in  
18 my mind a relatively small one) to consider whether an ETC designation is  
19 consistent with the public interest, convenience and necessity under section 214 of  
20 the Act and serves the public interest under section 254.

21

22 Q. Do you agree with U.S. Cellular's statements that only its ETC designation will  
23 result in competition and the facilitation of wireless services to rural Missouri  
24 customers?

---

<sup>59</sup> Application at p. 20.

1 A. No. The underlying premises in U.S. Cellular’s statements<sup>60</sup> that increased  
2 competition will result from its ETC designation and that the benefits outweigh  
3 the harms are: (1) Competition through a USF-supported competitor has no, or  
4 negligible costs; (2) There is no competition or insufficient competition in the  
5 targeted area; and (3) U.S. Cellular needs USF support in order to enter and  
6 compete. I believe each of these underlying premises to be subject to question  
7 and will discuss the three assumptions further below.

8

9 Q. You previously mentioned pricing and that U.S. Cellular has no stated plans to  
10 lower prices; did U.S. Cellular fail to address lower pricing?

11 A. It addressed the benefits of lower pricing but made no assurances of such. In its  
12 Application, U.S. Cellular stated that “it has every incentive ... to lower its prices  
13 over time”, but it never stated that granting of its ETC Application and receipt of  
14 USF funds would result in lower pricing.<sup>61</sup>

15

16 Q. Following up on U.S. Cellular’s statement to “lower its prices over time”, what  
17 would prevent U.S. Cellular from reducing pricing in the future to its rural  
18 Missouri customers?

19 A. The wireless industry’s and U.S. Cellular’s national strategies, which include  
20 pricing and advertising of a uniform service on a national basis, may be a  
21 hindrance to this. From reviewing U.S. Cellular’s pricing plans on its website for  
22 Missouri, several of the States where it has already gained ETC status and several

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<sup>60</sup> See generally, Application at p. 11 to p. 21.

<sup>61</sup> Application at p. 15.

1 of its “non-ETC” status states, it is obvious that there is a national pricing plan.  
2 This means, for example, that U.S. Cellular will charge a customer the same price  
3 for the same 1,000-minute plan in California, Washington, Iowa, and rural  
4 Missouri. In essence, U.S. Cellular’s and other wireless carriers’ national  
5 strategies of uniform pricing and service offering is already bringing the benefits  
6 of competition from the national geographic area to the local geographic area and  
7 comparable rates with the urban areas. This effect may be particularly  
8 pronounced in rural areas, and a recent survey submitted to the FCC shows that  
9 strong national cellular competition is bringing benefits to rural consumers.<sup>62</sup> The  
10 conclusion to be drawn is that U.S. Cellular’s pricing scheme to customers in the  
11 affected areas of this Application is not likely to be impacted whether it does, or  
12 does not, receive a favorable ruling on its ETC Application from the MPSC. In  
13 other words, ETC designation in Missouri and subsequent receipt of Federal USF  
14 support are not likely to cause lower prices for Missouri consumers. That is not to  
15 say that U.S. Cellular may not have an incentive to lower its prices over time, but  
16 should it do so it would be done on a national basis rather than on a regional basis.

17  
18 **i. U.S. Cellular’s Statement that USF Support is**  
19 **Necessary to Promote Competition in the Rural Areas is**  
20 **Incorrect.**  
21

22 Q. Is there a lack of competition in rural areas in general?

---

<sup>62</sup> Michael Katz, *Measuring Competition Effectively*, In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market. Conditions With Respect to Commercial Mobile Services, WT Docket 04-111, filed May 10, 2004 (filed as an attachment to the Reply Comments of CTIA). (Katz is quoting other material for the survey.)

1 A. It would appear not. According to the President of the wireless association,  
2 CTIA, the results of a Rural Cellular Association survey in 2004 found that “an  
3 average of 5.1 competitors provide service in any given rural area.”<sup>63</sup>  
4

5 Q. Is there a lack of competition in the rural areas affected by U.S. Cellular’s ETC  
6 Application?

7 A. No. U.S. Cellular states, repeatedly, that its ETC status will result in more  
8 competition. However, given that U.S. Cellular is already in many of the affected  
9 service areas, the question should be what *additional* competition will be  
10 generated by allowing U.S. Cellular to draw from the federal USF. If U.S.  
11 Cellular does not use USF support, especially in the study areas from which it  
12 would receive USF funds, to reach remote areas beyond its existing coverage  
13 area, then Missouri consumers will not reap the public benefit commensurate with  
14 the public costs. Further, I disagree with U.S. Cellular’s statements that U.S.  
15 Cellular’s receipt of high-cost support will “make available for the first time a  
16 potential competitor for primary telephone service” for rural Missouri LECs<sup>64</sup>  
17 The underlying premise to this statement is that there is no wireless competition  
18 in rural Missouri. That is simply untrue.  
19

20 Q. Have you prepared schedules to your testimony to demonstrate why you believe  
21 there is considerable wireless competition in rural Missouri already?

---

<sup>63</sup> Testimony of Steve Largent before the Congressional Rural Caucus Task Force on Telecommunications, February 2, 2005. See

[http://www.house.gov/johnpeterson/ruralcaucus/telecomtaskforce/largenttest\\_020205.pdf](http://www.house.gov/johnpeterson/ruralcaucus/telecomtaskforce/largenttest_020205.pdf).

<sup>64</sup> Application at p. 20.

1 A. Yes. RCS Schedules 10-13 to my testimony are a series of maps taking from  
2 wireless carriers web sites which show, at least in general terms, the coverage that  
3 these carriers offer in Missouri. They are similar in detail to the map that I  
4 included in RCS Schedule 4 from U.S. Cellular showing its Missouri serving area.  
5 Specifically Schedules RCS 10(Alltel), RCS-11(Cingular) and RCS-13(Verizon)  
6 depict that these carriers provide service throughout the state to a significantly  
7 greater area than does U.S. Cellular, although each of them has some portions of  
8 the state where coverage is not provided. Schedule RCS-12(Dobson) is the map  
9 for Dobson Cellular which is a smaller regional carrier. Dobson provides  
10 coverage in the northwest corner of the state, one of the areas where U.S. Cellular  
11 has asked for ETC status in a large area including several STCG ILEC study areas  
12 where it does not provide service. There are other providers which provide  
13 coverage in portions of the state as well, although some of these carriers focus  
14 more on the major cities and interstate corridors.

15  
16 Q. Do you have any additional evidence of wireless competition in the rural LEC  
17 areas affected by this Application?

18 A. Yes. A review of the web sites of these providers demonstrate that there is a great  
19 deal of competition including a wide variety of pricing plans and packages  
20 without federal USF funds being provided to any of them. A more detailed  
21 review of these plans shows: 1) variations in the packages of minutes, and the  
22 times of the day various services are offered; 2) a wide variety of additional  
23 features; and 3) new services such as Blackberry, PDA services, data and text

1 services, and picture services. It is important to note that all of these services are  
2 being offered to Missouri consumers without the provision of universal service  
3 support.

4

5 **ii. U.S. Cellular's ETC Application and the Costs of**  
6 **Competition.**  
7

8 Q. On Page 8 of his testimony, U.S. Cellular witness Mr. Wood indicates his  
9 agreement with an FCC statement that competition will bring operating  
10 efficiencies, lower prices, and better service. What is your response to this  
11 statement?

12 A. I recognize that on a broad basis of economic theory those types of responses are  
13 the expected result of competition. To the extent that those motivations work in  
14 rural telecommunications markets, I would argue that they are already at work  
15 because of the competition that already exists without providing USF support to  
16 U.S. Cellular. However, I am also not confident that those will necessarily be the  
17 results of competition in telecommunications in rural Missouri.

18 Q. What effect does competition have on telecommunication costs and services in  
19 rural areas that makes you less confident that these results will be forthcoming in  
20 rural areas?

21 A. The introduction of a competitor into a rural environment does not necessarily  
22 lead to lower costs or higher quality service for consumers. A high-cost market,  
23 by definition, is still a high-cost market even after the introduction of competition.  
24 The primary reason the ILECs are eligible to receive funding from the federal

1 USF is that they are providing service in geographic areas where it is not  
2 economically feasible to serve at reasonable rates. U.S. Cellular supports this  
3 rationale when it states that without the federal USF “it is doubtful that many rural  
4 areas would have wireline telephone service even today.”<sup>65</sup> Given U.S. Cellular’s  
5 view - that it is not economical to provide wireline telephone service to many  
6 rural areas – one needs to ask U.S. Cellular why we should invite another  
7 subsidized competitor into these same areas? In fact, the introduction of  
8 additional competition may increase the cost for each of the carriers above the  
9 level that would be experienced if there was only one carrier serving the area.

10

11 Q. But why would costs increase for both carriers?

12 A. With the introduction of a competitive ETC, the only difference is that the market  
13 and the federal USF will now have to support multiple entrants with limited  
14 financial resources in the market and in the USF. Since costs of a  
15 telecommunications network are relatively fixed, the splitting of a rural market  
16 between two or more providers generally causes the cost of service to increase for  
17 each of the providers on a per customer basis. The FCC Chairman, Kevin Martin,  
18 recognized this aspect in his concern of using USF to create “competition” in  
19 high-cost areas:

20 I am hesitant to subsidize multiple competitors to serve areas in which  
21 costs are prohibitively expensive for even one carrier. This policy may  
22 make it difficult for any one carrier to achieve the economies of scale

---

<sup>65</sup> Application at p. 20.

1                    necessary to serve all of the customers in a rural area, leading to inefficient  
2                    and/or stranded investment and a ballooning universal service fund.<sup>66</sup>  
3

4    Q.     What are your comments regarding U.S. Cellular’s views on the cost or harm of  
5             its ETC designation in Missouri on ILECs?

6    A.     I agree with U.S. Cellular’s statement that the MPSC may weigh the costs against  
7             the benefits in the public interest analysis.<sup>67</sup> I disagree with U.S. Cellular’s  
8             statement that its ETC designation will ”have no impact on the operation of the  
9             ILECS...”.<sup>68</sup> As I have just stated, the splitting of a rural market in Missouri  
10            between the existing ILEC and U.S. Cellular and other carriers will cause the cost  
11            of service to increase for both while at the same time potentially reducing the  
12            revenues for both. Competition from U.S. Cellular and other CMRS providers  
13            has already reduced access minute levels and growth in small Missouri study  
14            areas, thereby reducing revenue levels that had supported the network  
15            infrastructure. The FCC suggested, in the context of evaluating the USF impact  
16            of ETC applications, that the State commission might consider evaluating those  
17            areas where the federal high-cost per-line support to be received by a potential  
18            ETC applicant is “high enough” and deny multiple ETCs in such high-cost  
19            areas.<sup>69</sup> As the FCC invited, this is a matter where the MPSC should carefully  
20            evaluate the local factual situation. RCS Schedule 5 provides the federal USF per  
21            line being received by each company to assist the MPSC in this evaluation.

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<sup>66</sup> 2<sup>nd</sup> R&O and FNPRM in CC Docket No. 00-256, 15<sup>th</sup> R&O in CC Docket No. 96-45. and R&O in CC Docket Nos. 98-77 and 98-166, released Nov. 8, 2001, *Separate Statement of Commissioner Kevin J. Martin*.

<sup>67</sup> Application at p.10 .

<sup>68</sup> Wood Testimony at p. 25.

<sup>69</sup> *FCC’s Report and Order* at ¶ 55.



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Q. Does granting ETC status to a competitor such as U.S. Cellular provide a disincentive for an ILEC to make additional investments?

A. Unfortunately, it may. Under the current environment, when there is more than one ETC, an ILEC that makes the decision to make more investment in telecommunications infrastructure must take into consideration that the increased investment it makes, resulting in additional USF support to the ILEC, will result in more USF support to the competitive ETC. The critical difference is that the ILEC will be getting the funding to recover a portion of the actual cost of the investment already made, while the competitor gets the money as a windfall without any tie to additional investment. Moreover, given that the ILEC no longer has any assurance that high cost customers will remain with the ILEC long enough for it to recover an investment that typically spans 20-25 years (the average service lives for cable and wire plant), there is a disincentive to invest in these longer-term investments. Therefore, the ILEC faces a conundrum or “Catch-22” situation where its investments yield additional support for its competitor, who does not face the same costs, and the ILEC’s risk associated with recovering the investment is thereby magnified. This does provide the ILEC a disincentive to invest in additional infrastructure.

**B. THE ALLEGED BENEFITS OF HIGHER QUALITY AND WIDER SERVICE THROUGHOUT THE SERVICE AREA.**

1 Q. You indicated earlier in your testimony that you would be presenting some fact-  
2 intensive information for the MPSC to consider in evaluating the benefits of the  
3 service that U.S. Cellular would provide if it is designated an ETC. What is the  
4 general nature of the data you will be providing?

5 A. I will be providing data regarding the extent and quality of service coverage that  
6 U.S. Cellular is providing in the STCG ILECs study areas where it proposes to be  
7 designated as an ETC.

8

9 Q. Is there a statutory requirement that relates to the extent of service that should be  
10 provided?

11 A. Yes. Section 214(e) of the Act states that for an ETC applicant to receive  
12 designation and support in a rural telephone company's service area, it must  
13 provide services for which it might receive support "throughout the service area  
14 for which the designation is received". Thus, U.S. Cellular's burden is to  
15 demonstrate that it will provide the supported services throughout the service  
16 areas for each separate ILEC study area. While U.S. Cellular asserts that it is  
17 providing such service, it has not offered specific evidence of its service coverage.

18

19 Q. Can you give an overview of the evidence you will be providing?

20 A. Yes. I will be presenting detailed information regarding the service coverage and  
21 service quality in the STCG ILEC study areas using data regarding U.S. Cellular's  
22 cellular and PCS cell sites as well as propagation data received from U.S. Cellular  
23 through the data request process. This data will show the extent of the study areas

1 where U.S. Cellular provides service and will give an indication of the quality of  
2 service that a person would expect in those areas. This will be done using a series  
3 of maps of the study areas and a table which shows the household and area  
4 coverage provided under two alternative service quality assumptions.

5  
6 Q. Was this analysis prepared under your supervision and direction?

7 A. Yes, under my direction Mr. Glenn Brown of the telecommunications consulting  
8 firm of McLean & Brown, was commissioned to conduct radio propagation  
9 analysis and to prepare cellular propagation maps for the STCG-ILECs' study  
10 areas and compare those with the data received from U.S. Cellular that will  
11 illustrate U.S. Cellular's network and signal coverage. Mr. Brown is a witness for  
12 CenturyTel in this proceeding and will describe in more detail the procedures  
13 used to develop the data.

14  
15 Q. What is propagation analysis?

16 A. Propagation analysis is the best way to determine U.S. Cellular's network  
17 coverage – the serving area and the service quality. This type of analysis uses  
18 factors such as the cellular tower's transmission characteristics, the radio  
19 spectrum used and the topographical contour of the area. All of these factors  
20 impact the coverage area of, and signal quality for, U.S. Cellular's consumers.

21  
22 Q. How does a cell tower's transmission characteristics affect U.S. Cellular's  
23 network performance?

1 A. The tower's height and the radio transmitter's and antenna's electromagnetic  
2 power are factors that significantly affect a tower's coverage area. Using the laws  
3 of physics, generally, the higher the tower and the more powerful the transmitter,  
4 the larger will be the radius that can be covered.

5

6

7 Q. How do topographical features influence U.S. Cellular's network performance?

8 A. Radio waves cannot penetrate hills which is why we experience dropped calls or  
9 temporarily lose a connection when we drive through a hilly area or through a  
10 downtown area. Part of a propagation analysis is to take the U.S. Geological  
11 Survey's terrain data and predict areas where signal coverage will be good,  
12 marginal or non-existent.

13

14 Q. Why should the MPSC consider U.S. Cellular's coverage areas and signal quality  
15 that customers experience, and the different coverage characteristics?

16 A. Section 254(b)(3) of the Act describes that the purpose of universal service  
17 funding is to provide access for all consumers – including those in rural, insular  
18 and high-cost area – telecommunications services that are reasonably comparable  
19 to the rates and services available in urban areas. In addition, as I indicated  
20 earlier, the statutory requirements for receiving ETC status describe the provision  
21 of service “throughout the study area for which designation is received.” Thus,  
22 the MPSC should consider the quality of the signal coverage and range of

1 coverage that U.S. Cellular's consumers experience as a key factor in the  
2 cost/benefit analysis of the public interest examination.

3

4 To the extent that the signal coverage provides adequate coverage of the areas that  
5 U.S. Cellular is seeking to be designated an ETC, that would be a positive factor  
6 in the public interest test for their receiving such a designation. To the extent that  
7 such signal coverage is not adequate, that would clearly be a negative factor in the  
8 public interest test for the receiving that designation.

9

10 Q. Do you have a schedule that shows the area the area which U.S. Cellular has  
11 requested ETC status in relationship to the STCG ILECs exchanges?

12 A. Yes. RCS Schedule 6, Page 1, is a map of Missouri depicting the area for which  
13 U.S. Cellular has requested ETC designation in Missouri. As you can see, the  
14 requested area included within the blue line covers a large part of the State. Only  
15 the west central part of the State extending around the Kansas City area and two  
16 small areas in the southeast and southwest corners of the State are excluded from  
17 their requested ETC area. The red lines represent the exchange boundaries of the  
18 STCG ILECs. As indicated by the legend in the upper right hand corner, the map  
19 also depicts in various colors the population density of areas throughout the State.  
20 Most of the area served by the STCG ILECs has relatively low population density  
21 levels.

22

23 Q. Would you describe RCS Schedule 6, pages 2 and 3?

1 A. Yes, these pages show a closer view of Missouri, with a northern half and  
2 southern half of the State, with the STCG ILECs exchanges indexed with a  
3 number to identify the particular company study areas. The map also gives  
4 somewhat greater detail in regard to the density, but still displays that the bulk of  
5 the STCG ILECs exchanges fall within the two lowest density levels, although  
6 there are small areas representing the towns in some exchanges that have a higher  
7 density.

8

9 Q. Could you describe RCS Schedule 7(HC), pages 1 and 2?

10 A. Yes. RCS Schedule 7(HC), pages 1 and 2 are maps of the State of Missouri  
11 similar to RCS Schedule 6, pages 2 and 3 but with some additional details. Of  
12 particular significance is that U.S. Cellular's PCS and cellular towers (both  
13 present and the prospective sixteen to be constructed) are located based on data  
14 made available by U.S. Cellular through responses to data requests. These pages,  
15 along with all pages in Schedule 7 have been designated as Highly Confidential  
16 by U.S. Cellular. The existing towers are represented by black symbols while the  
17 sixteen new towers are shown in blue.

18 Q. What is shown on RCS Schedule 7(HC), pages 3 and 4?

19 A. Based on propagation maps received from U.S. Cellular of their coverage area  
20 Mr. Brown created the maps shown on pages 3 and 4 of RCS Schedule 7(HC).  
21 Page 3 depicts the current coverage provided by U.S. Cellular with their current  
22 coverage area depicted in dark grey. Page 4 is also based on a map from U.S.  
23 Cellular and depicts the new coverage areas in light grey, in addition to the

1 current coverage shown in dark grey. The red lines depict the STCG ILECs  
2 exchange boundaries.

3

4 Q. What are your general observations in reviewing these maps?

5 A. First, I observe that U.S. Cellular's depiction of its coverage area is much smaller  
6 than the area for which it is requesting ETC status. It is clear that they do not  
7 provide service "throughout the study areas", and they clearly provide no service  
8 to many study areas for which they have requested ETC service.

9 Second, in comparing the light grey areas on Page 4 with the dark grey areas on  
10 Page 3, I notice that in some cases, the addition of the 16 new cell sites increases  
11 the overall coverage area in some cases, but in other cases, it appears that they  
12 primarily overlay the existing coverage area without substantially increasing the  
13 depicted area of coverage.

14

15 Q. Would you now describe Schedule RCS 7(HC), page 5?

16 A. Yes. This page depicts a statewide propagation analysis performed by Mr. Brown  
17 of McLean and Brown (M&B). Mr. Brown will explain in his detail the methods  
18 used to develop his analysis and the significance of the two separate analyses at  
19 -75 dbm and -100 dbm. In summary, though, the -75dbm area depicted in yellow  
20 provides a higher quality of service than the area depicted in the -100 dbm. Mr.  
21 Brown also explains two differences in his analysis from the U.S. Cellular  
22 analysis, the fact that it does not include the sixteen new towers and does not  
23 include the towers in the metropolitan St. Louis area.

1

2 Q. Can you provide a comparison between the coverage areas shown by the U.S.  
3 Cellular analysis and the M&B analysis?

4 A. Yes, RCS Schedule 7(HC) page 6 provides such a comparison. Mr. Brown has  
5 created an overlay of the boundaries of the U.S. Cellular coverage areas  
6 (excluding the 16 proposed towers) with light black boundaries that is  
7 superimposed on the M&B analysis shown on page 7. I believe the significance  
8 of this overlay is the relative similarities between the analysis done by Mr. Brown  
9 and by U.S. Cellular. While there are some differences, the U.S. Cellular  
10 coverage area is quite similar to the -75dbm area depicted by the yellow areas of  
11 the M&B analysis. In general, the comments made hereafter regarding coverage  
12 of specific study areas will be applicable under either propagation analysis.

13

14 Q. RCS Schedule 7(HC), pages 3 and 4 shows this analysis on a statewide basis. Do  
15 you have more detailed analysis for each of the STCG ILECs study areas?

16 A. I do. RCS Schedule 8 is an index of the individual pages of RCS Schedule 7(HC)  
17 for each of the STCG ILEC study areas. Pages 7 through 54 are individual pages  
18 for each study area consisting of two pages for each study area.

19

20 Q. Please describe the two pages shown for each company.

21 A. The first page for each company shows a close-up map of the individual company  
22 study area and the propagation analysis results as developed by M&B. The  
23 second page shows a similar close-up map of the individual company study area



1 with the propagation analysis as developed by U.S. Cellular and depicted by Mr.  
2 Brown. These maps are based on the U.S. Cellular analysis including the sixteen  
3 proposed cell sites. The coverage areas of these cell sites, where appropriate, are  
4 depicted in the lighter grey color.

5  
6 Q. The maps for each study area provide a visual analysis of the coverage provided  
7 by U.S. Cellular. Do you have any other data that provides numerical analysis of  
8 that coverage?

9 A. Yes, I do. RCS Schedule 9(HC) is a numerical analysis prepared by Mr. Brown  
10 showing each exchange of the STCG ILECs specific study areas. It also shows  
11 the total number of households and the square miles or area in each exchange and  
12 the % of households and the % of the area in each exchange that are covered  
13 using the U.S. Cellular coverage area as the basis for determining these  
14 percentages. The Schedule shows this coverage both under the existing U.S.  
15 Cellular towers and under the coverage provided by the sixteen proposed new  
16 towers. The increase in coverage provided by the sixteen new towers is also  
17 shown and provides a means for the MPSC to evaluate U.S. Cellular's plans for  
18 improving coverage in each of the study areas.

19  
20 Q. What are your general observations regarding the results shown on RCS Schedule  
21 s 7(HC) and 9(HC)?

22 A. In some cases, U.S. Cellular is providing no coverage to exchanges or study areas  
23 for which they are asking to be certified as an ETC. In other cases they are

1 providing partial coverage to either individual exchanges or to all of the  
2 exchanges in the study area. In some instances the coverage is of the quality  
3 contemplated under the universal service principles, i.e. at a level comparable to  
4 urban coverage throughout the study area.

5  
6 Q. Let's look at the study areas more specifically. What study areas show either very  
7 little or no coverage from U.S. Cellular.

8 A. These include the BPS, Goodman, Holway, IAMO, LeRu, and Steelville study  
9 areas. Each of these study areas has no or very limited coverage under U.S.  
10 Cellular's coverage area, though each falls within the area for which U.S. Cellular  
11 has requested ETC status. I would recommend that the MPSC deny ETC status  
12 for these study areas because U.S. Cellular does not provide service "throughout  
13 the study area". In fact it doesn't provide service at all or only to a minimal  
14 extent. This is also confirmed by reviewing RCS Schedule 4. In these areas, U.S.  
15 Cellular indicates that it provides no service.

16  
17 Q. Are there study areas where the coverage is high, i.e. the service for most of the  
18 customers is available and close to urban quality?

19 A. Yes. The Choctaw, Farber, Granby, Miller, New Florence, and New London  
20 study areas are areas where the U.S. Cellular coverage is relatively close to  
21 \*\*\_\_\_\_\_\*\*. The M&B analysis in most of these study areas shows that even the  
22 -75 dbm (urban level) of coverage is evident through most of the exchange,  
23 although in Farber and Miller the coverage under this analysis is shown to be of a

1 lower quality. In general, though, the analysis indicates that the level of service is  
2 demonstrated to be adequate in these areas.

3

4 Q. Does this mean that these areas should be granted ETC status?

5 A. Not necessarily. From a service quality standpoint, these areas would be potential  
6 candidates for ETC status. However, as I have outlined throughout my testimony,  
7 there are a number of factors that should be considered in determining whether  
8 ETC status should be granted, and even though service levels are adequate, there  
9 may be other public interest factors which lead to a determination that ETC status  
10 should not be granted.

11

12 Q. Are there study areas which indicate some level of service provision, but where  
13 the overall service is questionable as to its adequacy?

14 A. Yes. Most of the remainder of the study areas fall into this category. In some  
15 cases, there is coverage in some of the exchanges, but not in others. In others  
16 there is some coverage in most, or all of the exchanges, but the coverage is far  
17 from complete. In others the coverage is in only a small portion of the study area.

18

19 Q. Let's look at these study areas on an individual basis. First can you comment on  
20 the Craw-Kan study area?

21 A. Yes. This study area is an interesting one since the study area encompasses two  
22 or three non-contiguous segments. U.S. Cellular has requested that this study area  
23 be redefined to only include two of Craw-Kan's exchanges, Asbury and Purcell,

1 which fall within their license area. Coverage in the requested exchanges is  
2 reasonably good, while it is non-existent in the exchanges which U.S. Cellular  
3 requests be excluded from its redefined service area.

4

5 Q. Can you comment next on the Ellington study area?

6 A. Yes. This is an area where the coverage is certainly less than fully adequate. In  
7 three of the exchanges there is very little coverage. In the other two, where the  
8 bulk of the population resides the coverage for the population is quite high,  
9 although the area coverage is only about \*\*\_\_\_\_\*\* in those exchanges. I note  
10 further that the U.S. Cellular plans for increased coverage would only provide a  
11 very minor improvement in coverage in one of the exchanges. I think there are  
12 serious questions as to whether the current coverage would constitute coverage  
13 “throughout the study area”.

14

15 Q. Do you believe that the coverage of the Fidelity study area is sufficiently adequate  
16 for U.S. Cellular to receive ETC status?

17 A. I do not. Of the nine Fidelity exchanges, U.S. Cellular provides some coverage in  
18 only four of the exchanges, and in only one, Owensville, does it provide coverage  
19 to a majority of the customers. No coverage is provided to Sullivan which is the  
20 largest Fidelity exchange.

21

22 Q. If U.S. Cellular is not granted ETC status for the Fidelity study area does it mean  
23 that customers there will have no access to cellular service?

1 A. It does not. I have been in the Fidelity study area several times recently,  
2 particularly in the Sullivan and Stanton exchanges. Other wireless providers offer  
3 coverage in this area, certainly better coverage than U.S. Cellular provides.

4

5

6 Q. Let's now turn to the Grand River Mutual Telephone Company study area. What  
7 are your comments about Grand River?

8 A. Grand River has a total of 36 Missouri exchanges. US Cellular has requested a  
9 redefinition of the Grand River study area with 30 exchanges remaining in the  
10 ETC service area that US Cellular has requested. Six Grand River exchanges fall  
11 outside of US Cellular's licensed area. Of the remaining 30 exchanges, the  
12 coverage schedule in RCS Schedule 9(HC) for Grand River shows that twenty-  
13 three exchanges have no service provided by U.S. Cellular, at the present time.  
14 Of the seven exchanges that have service, at the present time one has coverage to  
15 \*\* \_\_\_\_\*\* of that exchanges customers and three exchanges have coverage rates  
16 between \*\* \_\_\_\_\_\*\* , and three exchanges have coverage of \*\* \_\_\_\_\_  
17 \_\_\_\_\*\* of the population. With the construction of the 16 proposed towers, two of  
18 the Grand River exchanges would have fairly good coverage, and two others  
19 would have some slight coverage improvement. The maps on Pages 23 and 24 of  
20 Schedule RCS -7(HC) show a similar picture. Based on this data, I would  
21 recommend that U.S. Cellular not be granted ETC status in the Grand River study  
22 area.

23

1 Q. Are there other cellular providers that provide mobile service in the Grand River  
2 study area?

3 A. Based on past negotiations with other cellular providers and discussions with the  
4 company management, I am confident that the Grand River customers have  
5 access to mobile service from other CMRS providers that provide substantially  
6 greater coverage than U.S. Cellular does.

7  
8 Q. Turning now to the Kingdom Telephone Company study area. What are your  
9 observations on U.S. Cellular's coverage in this area?

10 A. They are mixed. The maps on pages 29 and 30 of Schedule RCS-7(HC) as well  
11 as the data on Schedule RCS-9(HC) show some coverage in each of the Kingdom  
12 Telephone exchanges, but the degree of coverage varies from exchange to  
13 exchange. The data on Schedule RCS-9(HC) shows one small exchange with  
14 over \*\*\_\_\_\_\*\* coverage with the rest ranging from \*\*\_\_\_\_\_\*\* of the  
15 population covered. The planned additional coverage from the 16 proposed new  
16 cell sites will only impact one of the Kingdom exchanges by a very minor  
17 amount. In my opinion, the coverage in the Kingdom area still does not  
18 adequately meet the criteria of serving "throughout the study area".

19  
20 Q. Mark Twain Rural Telephone Company serves fourteen exchanges. How do you  
21 evaluate the coverage in this study area?

22 A. In some ways it is like Kingdom Telephone Company with coverage in all but one  
23 of the exchanges that varies widely based on the particular location. The U.S.

1 Cellular coverage displayed on page 34 of Schedule RCS 7(HC) shows some  
2 areas with coverage and others without. The M&B coverage displayed on page  
3 33 of Schedule RCS-7(HC) shows coverage over most of Mark Twain's area  
4 although a large part of that is at the lower quality -100dbm level. The maps and  
5 data on Schedule RCS-9(HC) also show that two of the Mark Twain exchanges  
6 will receive substantially better coverage when the 16 proposed towers are built.  
7 Again in Mark Twain's case I believe the coverage does not adequately meet the  
8 criteria of serving "throughout the study area".  
9

10 Q. What does the data on Schedule RCS-9(HC) and pages 35 and 36 of Schedule  
11 RCS-7 show in regard to Mid-Missouri Telephone Company.

12 A. First, it can be seen that US Cellular is only requesting ETC status in seven of the  
13 12 Mid-Missouri exchanges and is seeking redefinition of the study area to  
14 exclude the five exchanges outside their license area. In regard to coverage, like  
15 some of the other larger companies I have discussed, there is a significant  
16 variation between exchanges with some having very good coverage and some  
17 having relatively small coverage. As in the case of Kingdom and Mark Twain,  
18 my personal view is that the coverage is not sufficient to warrant granting ETC  
19 status.  
20

21 Q. The last of the larger multi-exchange companies on Schedule RCS-9(HC) is  
22 Northeast Missouri Telephone Company. What are your comments in regard to  
23 this study area?

1 A. The coverage in this study area is somewhat better than in the companies that I  
2 have most recently addressed, though it could still use improvement. There is one  
3 exchange that has no coverage at all based on the US Cellular analysis, very few  
4 have full coverage, but the overall coverage percentages are higher than in some  
5 of the other larger companies. In this case I would recognize that the coverage  
6 that is being provided is closer to meeting the “throughout the study area” criteria,  
7 although that is not true in the exchange of Winigan.

8

9 Q. Orchard Farm Telephone Company lies north of the St. Louis Metropolitan area  
10 along the Mississippi River. Does US Cellular provide adequate coverage in the  
11 Orchard Farm study area?

12 A. In my opinion it does not. Schedule RCS-9(HC) shows only \*\*\_\_\_\_\_\*\* of the  
13 population and \*\*\_\_\_\_\_\*\* of the land area of Orchard Farm having coverage  
14 currently. This is shown visually on Schedule RCS-7, page 46. I would note in  
15 regard to Schedule RCS-7, page 45 that the M&B analysis shows no coverage in  
16 the Orchard Farm and surrounding area because, as Mr. Brown explains in his  
17 testimony, he was unable to complete the analysis in the St. Louis metropolitan  
18 area. Given the low coverage in the Orchard Farm study area, I would submit that  
19 US Cellular’s coverage in this study area also does not meet the standard of  
20 coverage “throughout the study area”.

21

22 Q. What are your comments on the Peace Valley study area?



1 A. RCS Schedule-9(HC) shows coverage of about \*\*\_\_\_\_\_\*\* of the area and  
2 \*\*\_\_\_\_\_\*\* of the population of Peace Valley telephone company. The coverage  
3 maps at pages 47 and 48 of RCS Schedule-7(HC) show similar partial coverage of  
4 the exchange. The M&B analysis in this case, on page 47, shows lower quality  
5 (non-urban level) in the portion of the exchange where the US Cellular coverage  
6 shows no coverage. The Commission should consider carefully whether the  
7 coverage in the Peace Valley exchange is appropriate in conjunction with other  
8 criteria they consider in making an ETC certification determination.

9

10 Q. Do you believe that the Seneca study area coverage is sufficient to consider a  
11 grant of ETC status?

12 A. I do not. Review of the maps in RCS Schedule 7(HC), pages 49 and 50, and RCS  
13 Schedule 9(HC) show very little coverage in the Tiff City exchange with coverage  
14 in the Seneca exchange at \*\*\_\_\_\_\_\*\* of the population and \*\*\_\_\_\_\_\*\* of the area. I  
15 note further that US Cellular does not claim on its web site to offer service in Tiff  
16 City as shown on RCS Schedule 4.

17

18 Q. What is your recommendation regarding the Stoutland study area?

19 A. The adequacy of service coverage in the Stoutland study area should be  
20 considered carefully by the Commission in relationship to other factors that  
21 should impact the granting of ETC status to US Cellular. The data on RCS  
22 Schedule 9(HC) supported by RCS Schedule 7(HC), page 54 shows coverage of  
23 \*\*\_\_\_\_\_\*\* of the population and \*\*\_\_\_\_\_\*\* of the area of the Stoutland study area.

1 On the other hand, the M&B propagation study on RCS Schedule 7(HC), page 53  
2 shows a somewhat different picture with relatively little -75 dbm coverage in the  
3 Stoutland study area, and even spotty coverage at the -100 dbm level throughout  
4 the remainder of the exchange.

5  
6 Q. Before leaving this section can you summarize your analysis in this area?

7 A. Yes. I believe that the Commission should closely review the type of service  
8 coverage that US Cellular is offering in making a determination of their eligibility  
9 for ETC status. The analysis I have presented emphasizes the importance of  
10 doing so on an individual study area basis and making a determination on that  
11 basis. The coverage varies from non-existent to good. I believe that the lack of  
12 any coverage, or only limited coverage, does not meet the statutory requirement  
13 of service “throughout the study area”.

14

15 **C. THE ADVANTAGES AND DISADVANTAGES OF U.S.**  
16 **CELLULAR’S SERVICE OFFERINGS.**

17

18 Q. What consideration does the FCC recommend the States give in regard to the  
19 CMRS providers service offerings?

20 A. The FCC recommended in its *Report and Order* that the unique advantages and  
21 disadvantages of the ETC applicant’s service offerings should be considered when  
22 analyzing the public interest.

23

24 Q. What was the primary advantage that U.S. Cellular listed for its service offering?

1 A. U.S. Cellular stated that mobility will mitigate the effects of isolation in rural  
2 areas such as for access to emergency services.<sup>70</sup> I would note that “mobility” is  
3 not a supported service. It should also be recognized that “mobility” is already  
4 being offered without USF support.

5  
6 Q. What are the disadvantages of U.S. Cellular’s service offerings?

7 A. As suggested by the FCC, dropped call rates and poor coverage are disadvantages.  
8 This should be of particular concern for the MPSC given that U.S. Cellular is not  
9 subject to mandatory service quality standards. As I have demonstrated in my  
10 analysis of U.S. Cellular’s coverage, the service quality offered to customers in  
11 many of the areas where ETC status is being sought is questionable or  
12 insufficient. Another disadvantage is that U.S. Cellular does not offer unlimited  
13 local usage. The plan it does put forward as its most likely Lifeline Plan, 125  
14 minutes for \$17.75, will need to cover both originating and terminating calls. The  
15 example that Mr. Wright provides in his testimony neglects to recognize that the  
16 hypothetical customers’ anytime minutes includes both originating and  
17 terminating minutes, even those from terminating toll calls.<sup>71</sup>

18  
19 Q. But isn’t “mobility” an advantage?

20 A. Yes, although it could be considered a premium feature for which customers are  
21 willing to pay extra and thus would not need to be supported by universal service  
22 funds. U.S. Cellular touts the advantage of mobile service for public safety

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<sup>70</sup> See Application at p. 18.

<sup>71</sup> Wright Testimony at p. 6.

1 reasons in some situations. However, the mobility aspect is not without its own  
2 disadvantages. If the service coverage is spotty, or calls are dropped even in areas  
3 with good service, the cellular service may not be an acceptable service where  
4 other more reliable service is available.

5  
6 **D. THE IMPACT ON THE USE FROM U.S. CELLULAR'S**  
7 **ETC APPLICATION.**  
8

9 Q. What did the FCC recommend for State commissions in analyzing the impact  
10 upon the federal USF?

11 A. The FCC focused on a case-by-case approach and prominently suggested that a  
12 State commission, such as the MPSC, could consider the level of federal high-cost  
13 per-line support received by the ILEC and whether it would be in the public  
14 interest to have an additional ETC. The FCC concluded that if the per-line  
15 support is high enough, the State commission may indeed be justified in limiting  
16 to one ETC in that study area because funding multiple ETCs could impose  
17 strains on an already burdened federal USF.<sup>72</sup>

18  
19 Q. Did U.S. Cellular make a per-line USF showing and provide analysis on such?

20 A. No, it did not. If the MPSC requires a federal high-cost per-line support showing  
21 in order to determine what is in the public interest, than it is U.S. Cellular's  
22 burden to make such a showing. Further, such a showing and the subsequent

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<sup>72</sup> *Report and Order.* at ¶ 55.

1 analysis should be done on an individualized LEC service area basis, due to the  
2 many factors affecting the level of high-cost support.<sup>73</sup>

3

4 Q. If U.S. Cellular is granted ETC status, what will be the basis of its support?

5 A. Under current FCC rules, U.S. Cellular will receive federal USF support based on  
6 the identical amount per line that the ILEC receives. A rural ILEC receives  
7 support based on its actual embedded costs of providing the service and making  
8 investments in its area. This support is based on annual cost filings prepared by  
9 the ILEC to reflect its costs and submitted to the Universal Service  
10 Administration Corporation (“USAC”). These study results are verified by both  
11 USAC and NECA (the National Exchange Carrier Association). A competitive  
12 ETC, on the other hand, merely reports the number of customers it is serving in its  
13 designated ETC area and then receives the same amount of support per line as the  
14 ILEC without verification of its costs or the underlying need for support being  
15 made by any regulatory or administrative entity. There is certainly a question as  
16 to whether this approach meets the competitive neutrality principle.

17

18 Q. On a broad national policy basis, what are some of the implications of the  
19 Commission granting ETC status to U.S. Cellular?

20 A. The granting of ETC status to wireless carriers is causing a dramatic growth in the  
21 size of the federal USF. Between the 4<sup>th</sup> quarter of 2001 and the 2d quarter of  
22 2005, the amount of USF received (or proposed to be received) by competitive

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<sup>73</sup> *Id.* at ¶ 56. Factors such as topography, population density, line density, distance between wire centers, loop lengths and investment levels.

1 ETCs, the vast majority of which are wireless carriers, grew from approximately  
2 \$11 million annually to \$736 million annually.<sup>74</sup> In a Joint Board proceeding  
3 addressing this issue, comments of the National Association of State Utility  
4 Consumer Advocates stated:

5 “Under the current ETC designation rules, in the near future there will  
6 likely be a sharp upward curve in the growth of the high-cost fund  
7 related to the issues being examined here. A substantial portion of this  
8 growth is a result of additional funds needed to support multiple lines  
9 per customer and to support lines provided by new competitive eligible  
10 telecommunications carriers (“CETCs”), mostly wireless ETCs.

11 and:  
12

13 The current and anticipated rate of growth in fund requirements needed  
14 to support additional lines suggests that the current support mechanisms  
15 will be strained unless the Commission makes substantial changes to  
16 the ETC designation rules.”  
17

18 There clearly is concern that growth in the federal fund resulting from the large  
19 increase in wireless ETC designations ultimately may jeopardize the sustainability  
20 of the USF fund for all providers.  
21

22 Q. What are the implications of granting ETC status to U.S. Cellular in relation to the  
23 current regulatory scheme imposed on the ILECs?

24 A. The current regulatory scheme imposed on the ILECs is based on the assumption  
25 that the ILECs are monopoly providers of service and that regulation of the  
26 services and prices of the ILEC offerings are necessary to protect the public  
27 because of the lack of competition. When ETC status is granted to a competitive  
28 carrier such as U.S. Cellular, the Commission is essentially determining that there

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<sup>74</sup> Universal Service-Rural Infrastructure at Risk, McLean & Brown, March 2005, p. 21. Filed with the

1 is more than one provider in the designated area that is fully capable and willing  
2 to provide basic telecommunications services throughout these areas and that will  
3 be publicly supported in doing so. Once this occurs, the rationale for imposing  
4 regulation on the ILECs is no longer valid, and the whole purpose of regulation of  
5 the ILEC by the Commission is subject to question. If regulation is to continue,  
6 the ILEC should be regulated on the same basis as the competitor. This could  
7 occur in one of three ways. Regulation of the ILEC could be relaxed or  
8 eliminated, the wireless entrant could be regulated to the same extent the ILEC is  
9 currently, or some middle ground of lessened regulation could be applied to both.  
10 While this case is not the appropriate forum to address all those issues, the  
11 Commission should be aware that its decision in this case will raise those types of  
12 fundamental questions which may need to be addressed should it decide to grant  
13 ETC status to U.S. Cellular.

14  
15 **VIII U.S. CELLULAR'S REQUEST FOR STUDY AREA**  
16 **REDEFINITION.**  
17

18 Q. Do you generally agree with the description of the process for redefining a study  
19 area described by U.S. Cellular Wood at pages 16 and 17 of his direct testimony?

20 A. Yes. In order for the MPSC to designate U.S. Cellular as an ETC in a service area  
21 that is smaller than the affected rural telephone company study areas, the MPSC  
22 must redefine the service areas of the rural companies pursuant to Section  
23 214(e)(5) of the Act. That Section states that a rural company's service area will

1 be that company's study area unless and until the state commission and the FCC  
2 establish a different definition.

3

4 Q. What guidelines or recommendations are available to the MPSC for analyzing a  
5 redefinition request?

6 A. As stated by U.S. Cellular in its Petition,<sup>75</sup> the Joint Board recommended that a  
7 state commission consider three issues for a redefinition request as to each  
8 affected rural LEC's service area: (1) Analyze the potential for cream-skimming,  
9 (2) Recognize that the Act places rural companies on a different competitive  
10 footing from other LECs, and (3) recognize the administrative burden on  
11 requiring rural companies to calculate costs at something other than a study area  
12 level. The FCC strongly encouraged state commissions, to examine for cream-  
13 skimming potential by analyzing the degree of population density disparities  
14 among wire centers, the extent that an ETC applicant would be disproportionately  
15 serving the most densely concentrated areas within a rural service area and  
16 whether the incumbent LEC has disaggregated its support.<sup>76</sup> While these are the  
17 guidelines outlined by the FCC, the MPSC could consider other criteria as well.

18

19 In considering U.S. Cellular's redefinition request, the MPSC has the duty to  
20 consider the disproportionate burdening of the universal service fund, the adverse  
21 effects on rural customers, and that such a redefinition is in the public interest and  
22 consistent with universal service principles.

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<sup>75</sup> Petition at pp. 22 - 24.

<sup>76</sup> *Report and Order* at ¶ 49.



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Q. What is the focus of your testimony on U.S. Cellular's redefinition request?

A. Of the companies that U.S. Cellular has targeted for redefinition in Exhibit F of its Petition six of those are STCG ILEC study areas. These are BPS, Craw-Kan, Goodman, Grand River, Le-Ru, and Mid-Missouri.

Q. For some of these areas is a cream-skimming analysis necessary or appropriate?

A. For four of them, I do not believe that any such analysis needs to be done. As I have discussed earlier in my testimony and demonstrated through RCS Schedules 7(HC) and 9(HC) and the related analysis, U.S. Cellular provides no service in the BPS, Goodman, and Le-Ru study areas and a very minimal amount of service in the Grand River service area. If the Commission agrees with that analysis and determines that U.S. Cellular is not providing adequate service in these areas to grant ETC status there is no need to get to a redefinition of these study areas.

Q. What is cream-skimming?

A. Cream-skimming occurs where a carrier primarily serves the low-cost and high-revenue customers in a rural telephone company's study area, but receives USF support based on the presumption that it is serving throughout the service area. The FCC mandates that a cream-skimming analysis be done whenever an ETC applicant requests that a rural LEC's service area (also its study area) be redefined and reduced.

1 Q. U.S. Cellular's cream-skimming analysis was presented in Exhibit G of the  
2 Petition. Do you have any comments about this analysis?

3 A. While I do not have concerns about the general trends that are represented by U.S.  
4 Cellular's analysis, I do have some concern about the way their data was  
5 summarized. From my review of their analysis it appears that the averages used  
6 in this analysis are not weighted by population but simply arrived at by totaling  
7 the population density for each wire center and dividing by the number of wire  
8 centers. However, we did a parallel analysis to validate the numbers arrived at by  
9 U.S. Cellular and find their results reasonably reflect the densities of the areas  
10 inside and outside the service areas proposed by U.S. Cellular.

11  
12 Q. U.S. Cellular argues that redefinition is necessary in order to facilitate competitive  
13 entry and advance universal service. Do you agree with this statement?

14 A. No. As I stated previously, numerous competitors, including U.S. Cellular in  
15 many areas, already provide wireless service in the proposed ETC service area  
16 with a variety of pricing plans and service options. U.S. Cellular offers no  
17 evidence that it will improve its service offering in the many of the STCG ILEC  
18 study areas where redefinition is requested if the redefinition of the study area and  
19 ETC status is granted. There has been no substantial evidence presented that the  
20 granting of ETC status to U.S. Cellular will cause it to offer technologies or  
21 services that it would not offer if it is not granted ETC status. Nor is there  
22 evidence that competition will increase substantially if such status was granted.

23

1 Q. In regard to the cream-skimming analysis presented by U.S. Cellular in Exhibit G  
2 for the STCG ILECs, what are your comments.

3 A. In regard to BPS, Goodman, Grand River, and Le-Ru, I would agree that the  
4 cream-skimming analysis does not present substantially convincing evidence that  
5 the study areas should not be redefined. However, as I stated earlier, in my mind  
6 there is clear evidence that U.S. Cellular is not providing adequate service in these  
7 study areas, so the question of cream-skimming, in my mind, is irrelevant.

8  
9 In regard to the Mid-Missouri study area, the analysis presented by U.S. Cellular  
10 shows nearly a 25% difference in density between the exchanges inside the  
11 service area requested and those outside that area, so there is a case for making a  
12 decision against redefinition on the cream-skimming analysis. The Commission  
13 should consider this in conjunction with the less than fully adequate coverage that  
14 U.S. Cellular offers in the Mid-Missouri study area and other factors in making a  
15 decision as to whether ETC status and redefinition should be granted in regard to  
16 the Mid-Missouri study area.

17  
18 In regard to the request to redefine the Craw-Kan study area, I have some  
19 disagreement with U.S. Cellular's analysis and conclusion.

20  
21 Q. Would you describe your concerns regarding the cream-skimming analysis for  
22 Craw-Kan?

1 A. Both in the Petition (page 25) and Mr. Wood's testimony (page 19) in referring to  
2 the *Virginia Cellular* order by the FCC there is mention of the 8:1 ratio that  
3 existed in that case. I am concerned that the Commission not infer from  
4 statements made that the FCC somehow indicated that a ratio of 8:1 was  
5 necessary in order to deny a redefinition. While the factual situation in that case  
6 was a difference of 8:1, nothing the FCC said indicated that a different factual  
7 situation with a lower ratio might not still provide sufficient reason to deny a  
8 redefinition.

9

10 Q. What is the density ratio between the customers in the Asbury and Purcell  
11 exchanges which U.S. Cellular wants defined as its service area in comparison to  
12 the other Craw-Kan exchanges?

13 A. Based on U.S. Cellular's data the density of the two exchanges is 44.85 customers  
14 per square mile vs. 10.63 in the other Craw-Kan exchanges, a ratio of  
15 approximately 4.2 to 1. I believe that this is sufficient to raise concerns that,  
16 when combined with other factors related to U.S. Cellular's ETC application for  
17 the Craw-Kan study area, to seriously considering both the request for ETC  
18 designation and the redefinition of its service area.

19

20 **IX. RECOMMENDATIONS AND CONCLUSIONS.**

21

22 Q. Throughout this testimony you have presented a wide variety of testimony  
23 regarding public interest issues that the MPSC should take into consideration in  
24 evaluating the Application of U.S. Cellular. Do you have any final general

1           comments on how the Commission should approach its evaluation of the  
2           Application?

3    A.    Yes.  First, I believe that is important that the primary purpose of providing  
4           universal service funds, as outlined in Section 254(a) of the Act is focused on the  
5           provision of quality services to high cost rural areas that are comparable in price  
6           and quality to urban areas.  The Universal Service provisions of the Act are not  
7           about promoting and advancing competition.  Second, I would encourage the  
8           Commission to recognize that the determination of ETC status is something that  
9           needs to be done on an individual study area basis, even though there are a large  
10          number of study areas that are encompassed in this one case.  The legal standards,  
11          in some cases, and the factual situations vary between companies and study areas,  
12          and the Commission needs to focus on those issues related to each individual  
13          study area.  Third, I would emphasize that while the FCC has adopted rules that  
14          they have imposed upon themselves to follow, and those rules provide, in many  
15          cases, good guidelines for the Commission to follow, that they are not binding  
16          upon the Commission and the Commission is free to make its own determinations  
17          based on its perception of the “public interest”.

18

19   Q.    What are some of the significant points that you would emphasize that the  
20          Commission should consider?

21   A.    There are several:

- 1           1. The Commission should evaluate whether the pricing plans offered by U.S.  
2 Cellular will really add to the “public interest”, particularly in light of the fact that  
3 there will be no apparent rate changes if ETC status is granted.
- 4           2. The Commission should closely evaluate U.S. Cellular’s tentative plans to  
5 improve service. I believe it should carefully consider whether the stated plans  
6 will really serve the high cost areas which are the source of the universal service  
7 funds that U.S. Cellular would receive if granted ETC status and whether such  
8 plans are adequate to provide quality service to the areas for which it is seeking  
9 designation.
- 10          3. The Commission should closely consider whether U.S. Cellular has met an  
11 adequate burden of proof regarding the quality of service that it currently provides  
12 and will if designated an ETC. I would submit that the analysis I have presented  
13 would suggest that in many cases, that U.S. Cellular has not demonstrated that its  
14 service will be adequate.
- 15          4. The fact that U.S. Cellular has been granted ETC status in other jurisdictions  
16 should have little impact on whether the MPSC grants such status. The MPSC  
17 should use a much stricter set of criteria and analysis than other States did in  
18 granting that status.
- 19          5. The Commission should consider whether U.S. Cellular’s Lifeline plan and  
20 “toll limitation”, with only 125 minutes of usage and a \$0.40 per minute charge  
21 beyond that allowance will give the appropriate protection to Lifeline customers.  
22
- 23 Q.       Should the MPSC approve U.S. Cellular’s Application as filed?

1 A. I do not believe that it should. I believe that in many, if not all, of the study areas  
2 requested, U.S. Cellular has not demonstrated that it will be in the public interest  
3 to approve its Application.

**Small Telephone Company Group (STCG ILECs)**

1. BPS Telephone Company
2. Choctaw Telephone Company
3. Craw-Kan Telephone Cooperative
4. Ellington Telephone Company
5. Farber Telephone Company
6. Fidelity Telephone Company
7. Goodman Telephone Company
8. Granby Telephone Company
9. Grand River Mutual Telephone Corporation
10. Holway Telephone Company
11. IAMO Telephone Corporation
12. Kingdom Telephone Company
13. Le-Ru Telephone Company
14. Mark Twain Rural Telephone Company
15. Mid-Missouri Telephone Company
16. Miller Telephone Company
17. New Florence Telephone Company
18. New London Telephone Company
19. Northeast Missouri Rural Telephone Company
20. Orchard Farm Telephone Company
21. Peace Valley Telephone Company
22. Seneca Telephone Company
23. Steelville Telephone Exchange
24. Stoutland Telephone Company