

Exhibit No.:
Issue: ETC Designation
Witness: William J. Warinner
Type of Exhibit: Rebuttal Testimony
Sponsoring Party:
KLM Telephone Company
Date: September 15, 2004

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. TO 2004-0527

**REBUTTAL TESTIMONY
OF
WILLIAM J. WARINNER**

ON BEHALF OF:

KLM TELEPHONE COMPANY

In the matter of the Application of WWC License,)
LLC, d/b/a Cellular One, for designation as an)
Eligible Telecommunications Carrier, and Petition)
For Redefinition of Rural Telephone Company Areas)

Case No. TO-2004-0527

County of Johnson)
State of Kansas)

AFFIDAVIT OF

WILLIAM J. WARINNER

William J. Warinner, being first duly sworn, deposes and says that he is the witness who sponsors the accompanying testimony entitled "Rebuttal Testimony of William J. Warinner," that said testimony and schedules attached thereto was prepared by him and/or under his direction and supervision; that if inquiries were made as to the facts in said testimony and schedules, he would respond as therein set forth; and that the aforesaid testimony and schedules are true and correct to the best of his knowledge, information and belief.

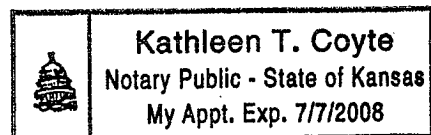
William J. Warinner
William J. Warinner

Subscribed and sworn to before me this 13th day of September, 2004.

Kathleen T. Coyte
Notary Public

My Commission expires:

7/7/2008



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3 **OF**
4 **WILLIAM J. WARINNER**
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INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

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

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?

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

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

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

1 cost studies, preparation of access charge tariff filings, business planning and
2 economic modeling. In 1988, I co-founded the certified public accounting firm of
3 Frederick & Warinner (F&W). F&W was formed specifically to address the
4 financial needs of rural independent telephone companies. At F&W, I developed
5 *Revenue Management Systems*, a Part 36/69 cost allocation software system
6 designed for use with personal computers. On January 1, 1995, I organized
7 Frederick & Warinner, L.L.C. of which I am currently the managing principal. In
8 April of 1999, the firm became Warinner, Gesinger & Associates, LLC.

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

14
15 My resume, presented as Schedule WJW-1, contains descriptions of the major
16 engagements I have managed and provides the names of clients with whom I have
17 worked.

18
19 **Q. ON WHOSE BEHALF DO YOU PRESENT THIS TESTIMONY?**

20 A. My testimony is presented on behalf of KLM Telephone Company (KLM).

21
22 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS**
23 **PROCEEDING?**

1 A. The purpose of my rebuttal testimony is to respond to the following issues
2 presented in the direct testimony of Mr. James H. Blundell on behalf of Western
3 Wireless, WWC License LLC, (WWC): (1) standards for eligible
4 telecommunications carrier (ETC) status; (2) description of WWC's services; (3)
5 advertisement of WWC services; (4) the public interest; and (5) the impact on
6 universal service fund. In addition, I will respond to the public interest issue
7 presented in the direct testimony of Mr. Don J. Wood on behalf of WWC d/b/a
8 Cellularone®.

9
10 **STANDARDS FOR ETC DESIGNATION**
11

12 **Q. WHAT ARE THE STANDARDS FOR DESIGNATION OF ETC**
13 **STATUS FOR THE PURPOSE OF RECEIVING UNIVERSAL**
14 **SERVICE SUPPORT?**

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

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

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

1 **Q. WHAT SERVICES ARE SUPPORTED BY THE FEDERAL**
2 **UNIVERSAL SERVICE SUPPORT MECHANISMS UNDER 254(c)?**

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

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

14
15 **Q. WHO HAS THE AUTHORITY TO GRANT ETC STATUS TO WWC?**

16 A. The Missouri Public Service Commission (MoPSC) has authority to grant
17 ETC status to WWC for the State of Missouri. Section 214(e)(2) of the
18 Telecommunications Act of 1934, as amended by the Telecommunications
19 Act of 1996 (the Act) states, in relevant part:

20
21 “Upon requests and consistent with the public interest, convenience, and
22 necessity, the State commission may, in the case of an area served by a
23 rural telephone company, and shall, in the case of all other areas,

1 designate more than one common carrier as an eligible
2 telecommunications carrier for a service area designated by the State
3 commission, so long as each additional carrier meets the requirements of
4 paragraph (1)", (as stated above). "Before designating an additional
5 eligible telecommunications for an area served by a rural telephone
6 company, the State commission shall find that the designation is in the
7 public interest." (Emphasis added.)
8

9 **Q. DO YOU AGREE WITH MR. BLUNDELL'S STATEMENT¹ THAT**
10 **"THE FCC (FEDERAL COMMUNICATIONS COMMISSION) ALSO**
11 **SPECIFICALLY RECOGNIZED THAT FEDERAL PREEMPTION OF**
12 **STATE REGULATION OF WIRELESS CARRIERS UNDER 47U.S.C. §**
13 **332 (c)(3)(A) PROHIBITS STATES FROM DENYING WIRELESS**
14 **CARRIERS ETC STATUS"?**

15 A. I do not agree with Mr. Blundell's statement. As noted in Section 214(e)(2),
16 quoted above, and also stated in Title 47, FCC, Part 54 Universal Service,
17 54.201 (2)(c), "the State commission may, in the case of an area served by a
18 rural telephone company, ... designate more than one common carrier as
19 an" ETC. Therefore, the FCC's authority does not preempt that of the
20 MoPSC in its responsibility regarding granting ETC status in areas served by
21 rural telephone companies.

¹ Refer to Mr. Blundell's direct testimony, page 38, lines 10 to 12 , filed on August 5, 2004 in this case.

1 **Q. DO FEDERAL REGULATIONS PROHIBIT THE MoPSC FROM**
2 **DENYING ETC STATUS FOR WWC IF THE MoPSC DETERMINES**
3 **THAT IT WOULD NOT BE IN THE PUBLIC INTEREST?**

4 A. No, it does not. FCC regulations and the Act allow the MoPSC to determine
5 whether or not WWC will be granted ETC status in the rural area served by
6 KLM. ETC status is determined based upon WWC's ability to offer services
7 that are supported by Federal universal service support mechanisms including
8 advertising the availability of such services to all customers within KLM's
9 serving area. The MoPSC should also consider whether granting ETC status
10 to WWC would be consistent with the public interest.

11
12 **Q. DO YOU BELIEVE THAT WWC HAS DEMONSTRATED THAT IT**
13 **MEETS THESE STANDARDS?**

14 A. No. I do not. However, before addressing the reasons why I do not believe
15 WWC has demonstrated it meets the standards for ETC status in KLM's area,
16 the Universal Service Principles should be considered.

17
18 **Q. PLEASE DEFINE THE UNIVERSAL SERVICE PRINCIPLES.**

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

- 22 (1) Quality and Rates – Quality services should be available at just,
23 reasonable and affordable rates.

- 1 (2) Access to Advanced Services – Access to advanced telecommunications
2 and information services should be provided in all regions of the Nation.
- 3 (3) Access in Rural and High Cost Areas – Consumers in all regions of the
4 Nation, including low-income consumers and those in rural, insular, and
5 high cost areas, should have access to telecommunications and
6 information services, including interexchange services and advanced
7 telecommunications and information services that are reasonably
8 comparable to those services provided in urban areas at rates that are
9 reasonably comparable to rates charged for similar services in urban
10 areas.
- 11 (4) Equitable and Nondiscriminatory Contributions – All providers of
12 telecommunications services should make an equitable and
13 nondiscriminatory contribution to the preservation and advancement of
14 universal service.
- 15 (5) Specific and Predictable Support Mechanisms – There should be
16 specific, predictable and sufficient Federal and State mechanisms to
17 preserve and advance universal service.
- 18 (6) Access to Advanced Telecommunications Services for Schools, Health
19 Care and Libraries – Elementary and secondary schools and classrooms,
20 health care providers, and libraries should have access to advanced
21 telecommunications services (as described in subsection (h)).
- 22 (7) Additional Principles – Such other principles as the Joint Board and
23 Commission determine are necessary and appropriate for the protection

1 of the public interest, convenience and necessity and are consistent with
2 this Act.

3
4 In addition, the FCC adopted the following additional principle²:

5 Competitive Neutrality - Universal support mechanisms and rules should
6 be competitively neutral. In this context, competitive neutrality means
7 the universal support mechanisms and rules neither unfairly advantage
8 nor disadvantage one provider over another, and neither unfairly favor or
9 disfavor one technology over another.

10
11 **Q. HAS THE FEDERAL-STATE JOINT BOARD ON UNIVERSAL**
12 **SERVICE PROVIDED ADDITIONAL RECOMMENDATIONS**
13 **REGARDING THE ETC DESIGNATION PROCESS?**

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

17 “The characteristics of many rural carrier service areas also support a more
18 rigorous standard of eligibility. Rural carrier service areas often have low
19 customer densities and high per-customer costs. These circumstances support
20 our belief that state commissions should apply a particularly rigorous standard
21 to the minimum qualifications of applicants seeking ETC designation

22

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

1 in rural carrier service areas.”³

2
3 **Q. WILL YOU PLEASE SUMMARIZE THE JOINT-BOARD’S**
4 **RECOMMENATIONS?**

5 A. Yes. The Joint-Board recommended that States may appropriately establish
6 minimum qualifications focused on the carrier’s ability to provide the
7 supported services to all consumers in the designated area upon reasonable
8 request because an ETC must be prepared to serve all customers within a
9 designated service area, and must be willing to be the sole ETC should other
10 ETCs withdraw from the market.⁴

11
12 The Joint Board recommended that state commissions consider the additional
13 minimum qualifications listed below when evaluating ETC designation
14 requests:

15 (a) Adequate Financial Resources – State commissions should evaluate
16 whether ETC applicants have the financial resources and ability to
17 provide quality services throughout the designated service areas. Long-
18 term viability can be based, for example, on plans that tie investment to
19 customer growth and demands.

20 (b) Commitment and Ability to Provide Supported Services – ETC
21 applicants should be required to demonstrate their capability and

³ Refer to Pages 7 and 8, of CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004.

⁴ Refer to Page 5, paragraph 11 of CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004.

1 commitment to provide service throughout the designated service areas
2 to all customers who make a reasonable request for service. State
3 commissions may choose to implement this requirement, for example,
4 by requiring a formal build-out plan for areas where facilities are not
5 yet built, at the time the ETC application is considered.

6 “We also recommend that the Commission adopt guidelines encouraging
7 states, as a condition of ETC designation, to require competitive ETCs to
8 be prepared to provide equal access if all other ETCs in that service area
9 exercise their rights to relinquish their designations. Incumbent local
10 exchange carriers (ILECs) are required to provide equal access.”⁵

11 (c) Ability to Remain Functional in Emergencies – This is an important
12 guideline because the “security of a carrier’s network and the ability to
13 protect critical telecommunications infrastructure should be a major
14 consideration in evaluating the public interest.”⁶

15 (d) Consumer Protection – State commissions may properly impose
16 consumer protection requirements as part of the ETC designation
17 process and are “free to impose their own eligibility requirements in
18 making ETC determinations, consistent with the Fifth Circuit’s

⁵ Refer to CC Docket No. 96-45, FCC 04J-1, Paragraph 28, page 12, issued February 27, 2004.

⁶ OPASTCO Comments, Attachment at 35, from page 13 of CC Docket No. 96-45, F04J-1, issued February 27, 2004.

1 (e) interpretation of the Act.”⁷ Some ETCs, including CMRS (Commercial
2 Mobile Radio Service) carriers are not otherwise subject to state
3 consumer protection requirements. However, states may extend
4 generally applicable requirements to all ETCs to ensure universal service
5 goals are met, including the provision of high-quality service throughout
6 the designated service area.

7 (f) Local Usage – This is one of the supported services that an ETC is
8 required to provide in order to receive federal universal service support.
9 The FCC has not set a minimum local usage requirement. However,
10 there is nothing in the Act, FCC rules or orders that would limit state
11 commissions from prescribing some amount of local usage as a
12 condition of ETC status. In fact, the Fifth Circuit in *TOPUC v. FCC*
13 determined that states may establish their own eligibility requirements
14 for ETC applicants.⁸

15 (g) Public Interest Determination – This additional requirement
16 demonstrates Congress’ recognition that supporting competition might
17 not always serve the public interest in areas served by rural carriers, and
18 Congress’ intent that state commissions exercise discretion in deciding
19 whether the designation of an additional ETC serves the public interest.⁹

⁷ Refer to CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004, Page 14, paragraph 32.

⁸ Refer to CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004, Page 15, paragraph 35

⁹ Refer to CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004, pages 16 and 17, paragraph 38.

1 **Q. WHAT FACTORS HAVE THE FCC CONSIDERED IN ANALYZING**
2 **THE PUBLIC INTEREST?**

3 A. The FCC has considered whether consumers were likely to benefit from
4 increased competition: whether the additional designation will provide
5 benefits not available from incumbent carriers; whether consumers may be
6 harmed should the incumbent withdraw from the service area; and whether
7 there would be harm to a rural incumbent LEC.¹⁰

8
9 **Q. DID MR. BLUNDELL ADDRESS ANY OF THE ITEMS OF THE**
10 **JOINT BOARD'S FEBRUARY 27, 2004 RECOMMENDATION IN HIS**
11 **DIRECT TESTIMONY?**

12 A. Mr. Blundell provided the amount of WWC's financial resources in terms of
13 annual revenues, market capitalization, and cash-on-hand. KLM issued a data
14 request requesting the amount of USF revenue included in the amount of
15 revenue. WWC responded that the information could be publicly obtained
16 from the Universal Service Administrative Company (USAC).¹¹ Access to
17 the data from the website address that was provided in response to the data
18 request was denied because authorization was required "to view this page."
19 Therefore, in order to summarize the data from USAC, each of the universal

¹⁰ Refer to CC Docket No. 96-45, FCC 04J-1, issued February 27, 2004, page 17, paragraph 40

¹¹ From WWC's response to data requests 33 from KLM received September 10, 2004.

1 support funds, (high cost loop, long-term support, local switching, and
2 interstate carrier common line charge), were obtained from the website.
3 Schedule WJW-2 provides a summary of the information from the web-site,
4 by state, as listed for WWC. Per this data, WWC is receiving \$28,886,803 in
5 universal service support in the States of Colorado, Iowa, Kansas, Minnesota,
6 Nevada, New Mexico, North Dakota, South Dakota, Texas and Wyoming.
7 The data indicates that WWC reported 176,675 “working loops” which
8 calculates to \$163.50 per loop. KLM, on the other hand, as calculated by
9 WWC, receives \$23.68 per loop.¹²

10
11 WWC currently has petitions for ETC status pending in the States of Arizona,
12 Idaho, Missouri and Montana, with additional dockets pending in Kansas,
13 Minnesota, Nevada, South Dakota, Texas and Wyoming.¹³

14
15 Mr. Blundell advised in his direct testimony that WWC will commit
16 additional resources to KLM’s service area if WWC receives additional USF
17 support; indicated that each cell site can operate on battery power in the event
18 of a power outage; and that WWC’s network includes redundant components
19 that allow functionality in case of network breakdown.¹⁴

¹² From WWC’s response to data request 24 from KLM received September 10, 2004.

¹³ From WWC’s response to data request 26 from KLM received August 9, 2004

¹⁴ Refer to Pages 25 and 26 of Mr. Blundell’s direct testimony filed on August 5, 2004 in this case.

1 **Q. DID MR. BLUNDELL ADDRESS THE OTHER PROPOSED**
2 **RECOMMENDATIONS FROM THE JOINT BOARD?**

3 A. Mr. Blundell did not specifically address the other items in the portion of his
4 direct testimony that referenced the Joint Board's recommendation because he
5 stated that "the Joint Board recommendations have no legal effect
6 whatsoever".¹⁵ However, some of the items that the Joint Board addressed in
7 their additional recommendations may have been discussed in Mr. Blundell's
8 direct testimony, as covered later in my rebuttal testimony.

9
10 **DESCRIPTION OF WWC'S SERVICES**

11
12 **Q. YOU STATED ABOVE THAT YOU DO NOT BELIEVE THAT WWC**
13 **HAS DEMONSTRATED THAT WWC MEETS THE STANDARDS**
14 **FOR ETC STATUS. PLEASE EXPLAIN.**

15 A. One of the universal service principles is to ensure that quality services are
16 available at just, reasonable and affordable rates. In order to explain my
17 opinion regarding whether WWC has met the standards for ETC status, I will
18 provide information from WWC related to these two principles. First, I will
19 discuss the "just, reasonable and affordable rates".

¹⁵ Refer to Page 24 of Mr. Blundell's direct testimony filed on August 5, 2004 in this case.

1 In response to a data request, WWC lists calling plans that range from \$20.00
2 to \$140.00 that include from 60 to 3,000 “anytime minutes.” WWC’s
3 definition of “anytime minutes” is that these minutes “apply to calls placed or
4 received within the home calling area only, and when other calling plan
5 allowances are exhausted or do not apply.” The minute-of-use rate for
6 minutes not included in “any-time” minutes is \$0.39 per minute and \$0.59 per
7 minute for roaming.

8 WWC offers several plans that allow “toll free calls” if calling within the
9 home coverage area or specific NPAs. WWC defines “free” nationwide long
10 distance (toll) as applying “to calls made from the home calling area to
11 anywhere within the United States only. Long distance calls made outside the
12 home calling area may incur roaming and/or long distance charges.” In
13 addition, WWC states that “unlimited night and weekend minutes apply only
14 while on Western Wireless Corp. network within the home calling area.”¹⁶

15
16 **Q. DOES KLM OFFER SIMILAR SERVICES TO THOSE NOTED**
17 **ABOVE BY WWC?**

18 A. Yes, however the description of the services is somewhat different. KLM’s
19 “anytime minutes” represent unlimited non-measured local minutes-of-use in
20 the local exchange area for \$7.25 per month for residence and \$12.75 per
21 month for business. Unlike WWC, KLM offers real equal access to its

¹⁶ In response to data request 5 from KLM received August 9, 2004.

1 customers where the customer can choose from multiple long distance carriers
2 and dial their presubscribed carrier using standard "1 +" dialing. WWC meets
3 the equal access requirement by requiring its customers to use a dial around
4 solution to access a different long distance carrier other than themselves.
5

6 **Q. ARE KLM's RATES JUST, REASONABLE AND AFFORDABLE?**

7 A. Yes. KLM has been able to maintain "just, reasonable and affordable rates"
8 because of this universal service principle. When the universal service fund
9 (USF) was established, the intent was to provide funding to high cost areas so
10 that basic telephone services could be provided to all areas of the nation. In
11 order to receive USF support, KLM provides cost data to the USF
12 Administrator and its universal service support is determined from its
13 subscriber investments and related expenses. In fact, KLM's universal service
14 fund support amount is included with their intrastate service revenues for
15 purposes of determining the reasonableness of KLM's intrastate revenue
16 requirements and rates.
17

18 **Q. ARE WWC's RATES JUST, REASONABLE AND AFFORDABLE?**

19 A. The criteria for WWC's rates is market-driven, and without understanding the
20 amount of USF support that WWC receives, it is difficult to determine if their
21 rates have been adjusted for funding from universal service, or would be
22 adjusted for receipt of this revenue in the future. WWC is not required to

1 provide cost data in order to qualify for USF support, but instead receives the
2 same amount of support per line as the incumbent LEC in those areas where
3 WWC has been granted ETC status.
4

5 **Q. HAS WWC PROVIDED ANY INDICATION THAT THEY WILL**
6 **REDUCE RATES IF THEY RECEIVE USF SUPPORT?**

7 A. No such indication has been provided in their testimony or petition for ETC
8 status.
9

10 **Q. THE OTHER PRINCIPLE IS "QUALITY SERVICES." DOES THE**
11 **MoPSC HAVE SERVICE QUALITY STANDARDS?**

12 A. Yes, there are a number of standards. For example, KLM is required to
13 ensure that ninety-eight percent (98%) or more of calls shall receive a dial
14 tone within three (3) seconds, and that ninety-eight percent (98%) or more of
15 local exchange switched calls shall be completed without encountering a
16 blockage of equipment busy condition.¹⁷ These are just two among the many
17 quality of service requirements applicable to LECs.
18

19 **Q. DOES THE MoPSC HAVE CONSUMER PROTECTION**
20 **STANDARDS?**

¹⁷ Refer to Chapter 32, 4 CSR 240-32.080 of the Missouri Public Service Commission Rules.

1 A. Yes. The consumer protection standards include rules for responding to
2 customer complaints. KLM has one (1) day to acknowledge receipt of
3 inquires from the MoPSC Staff regarding denial or discontinuance of service,
4 and three (3) days to acknowledge receipt for all other informal complaints. If
5 KLM and the MoPSC Staff have not informally agreed to a resolution of the
6 informal complaint, a status report is required within fifteen (15) days. KLM
7 shall provide its plan and time frame to resolve the informal complaint no
8 later than thirty (30) days after receiving an informal inquiry.

9
10 The above examples of the MoPSC rules provide just two of many consumer
11 protection standards that are required of KLM.

12
13 **Q. IS WWC REQUIRED TO MEET THE SAME STANDARDS AS KLM?**

14 A. WWC is not an ETC in Missouri and is not currently required to meet the
15 same service standards required as KLM. Mr. Blundell attached a copy of the
16 CTIA Consumer Code (Code) for Wireless Service to his direct testimony.
17 The Code provides for ten (10) items that are agreed upon by the wireless
18 carrier: (1) disclose rates and terms of services to customers; (2) make
19 available maps showing where service is generally available; (3) provide
20 contract terms to customers and confirm changes in service; (4) allow a trial
21 period for new service; (5) provide for specific disclosures in advertising; (6)
22 separately identify carrier charges from taxes on billing statements; (7)

1 provide customers the right to terminate service for changes on contract terms;
2 (8) provide ready access to customer service; (9) promptly respond to
3 customer inquires and complaints received from government agencies; and
4 (10) abide by policies for protection of consumer privacy.

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

10
11 **Q. ARE YOU AWARE OF ANY COMPLAINTS REGARDING WWC's**
12 **QUALITY OF SERVICE OR RATES?**

13 A. WWC was asked in a data request for the number of complaints involving
14 customer service or rates within the last two (2) years before any state or
15 federal administrative agency. WWC's response to the data request
16 referenced their Application for ETC, page 2, footnote 2,¹⁸ which states:
17 "There are no pending actions or final unsatisfied judgments against Western
18 Wireless within the last three years concerning customer service or rates." In
19 my opinion, WWC's answer was rather evasive and unresponsive to the
20 question.

¹⁸ In response to data request 31 from KLM received August 9, 2004.

1 However, Mr. Blundell stated that WWC has procedures in place to track
2 customer complaints, which are logged and recorded by Customer Service
3 Specialists who “work with individual customers on an ongoing basis.”
4 WWC “commits to providing the Commission on an annual basis with the
5 number of customer complaints per 1,000 handsets.”¹⁹

6
7 If WWC is committed to resolving customer complaints, and is willing to
8 provide the number of complaints per 1,000 handsets, I find it very curious
9 that WWC was not responsive to the data request requesting such information.
10 Therefore, we do not know if WWC has had any complaints from either a
11 state or federal agency within the last two (2) years, or how the complaint was
12 resolved.

13
14 **Q. WHAT IS WWC’S VIEWPOINT ON QUALITY OF SERVICE**
15 **STANDARDS?**

16 A. My opinion of WWC’s viewpoint on quality of service standards is based
17 upon a response to a data request in which WWC advised: “Western Wireless
18 will comply with all applicable quality of service standards required of a
19 CMRS (Commercial Mobile Radio Service) provider by the FCC,” and

¹⁹ Refer to Mr. Blundell’s direct testimony, Page 22, filed on August 5, 2004 in this case.

1 “understands that any quantity (sic) of service standards required by the
2 Missouri Commission of Craw-Kan and KLM are not applicable to a CMRS
3 provider like Western Wireless.”²⁰

4
5 If MoPSC service standards are not applicable to a CMRS provider requesting
6 ETC status, then CMRS providers such as WWC will have a distinct
7 competitive advantage over incumbent LECs such as KLM.

8
9 **Q. DO YOU HAVE OTHER EXAMPLES OF AREAS WHERE YOU**
10 **BELIEVE WWC DOES NOT MEET THE ETC STANDARDS?**

11 A. Yes. WWC states that their service is not TTY (TeleTypewriter) compatible.
12 KLM’s service is TTY compatible and KLM subscribers can reach hearing
13 and speech impaired consumers through the use of landline TTY
14 communications through the Missouri Relay Service. Toll limitation for
15 qualifying low-income consumers is a service required by the FCC for ETCs.
16 WWC advises that they are “not currently capable of providing toll control,
17 but does offer toll blocking services.”²¹

²⁰ In response to data request 24 from KLM received August 9, 2004.

²¹ Refer to Mr. Blundell’s direct testimony, pages 11 and 12, filed in this case on August 5, 2004.

1 Lastly, KLM offers Life-Line and Link-up services. WWC refers to Lifeline
2 and Link-up programs and customers,²² but did not provide documentation
3 (either in direct testimony or in response to data requests regarding service
4 plans that are currently available to customers served by KLM) that
5 referenced Lifeline or Link-up service programs offered by WWC.

6
7 **Q. DOES KLM MEET THE RIGOROUS CONSUMER PROTECTION**
8 **RECOMMENDATIONS OF THE JOINT-BOARD?**

9 A. Yes. The MoPSC has consumer protection rules (Chapter 32) that meet the
10 consumer protection recommendations of the Joint-Board. KLM abides with
11 Chapter 32 of the MoPSC rules which cover the provisioning of directories
12 and directory listings; technical standards for the provision of service;
13 customer commitment requirements for installing service; standards for
14 responding to customer inquires; and standards for completion of calls on the
15 network.

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

²² Refer to Mr. Blundell's direct testimony, pages 12 and 20, filed in this case on August 5, 2004.

1 **Q. DO THE CONSUMER PROTECTION STANDARDS OF WWC MEET**
2 **THE SAME STANDARDS REQUIRED BY KLM?**

3 A. I do not believe so. A detailed comparison was not made between each of the
4 terms and conditions of WWC's service agreements and the rules and
5 regulations of the MoPSC regarding landline services. However, a cursory
6 review indicates that WWC's terms and conditions do not fully comply with
7 the MoPSC's rules in Chapter 32 and 33. For example, WWC can cancel
8 service without notice if the customer is in default. KLM must follow the
9 procedures for discontinuance of service that include notifying its customers
10 before canceling service. With WWC, all plans, except two that are not yet
11 offered, require a 24-month contract and are subject to a \$200.00 early
12 termination fee.²³ KLM is not allowed to offer minimum-term contracts for
13 basic local service and cannot impose early termination fees for cancellation
14 of basic local service.

15
16 If WWC is granted ETC status, the MoPSC should ensure that WWC revises
17 its terms and conditions for subscribing to their services to include the same
18 MoPSC rules regarding customer protection and quality of service standards
19 imposed on LECs. If not, WWC will enjoy a distinct competitive advantage
20 over the service requirements of KLM.

²³ In response to data request 5 from KLM received August 9, 2004.

1 **Q. DO YOU AGREE WITH WWC’S CONCLUSION THAT MISSOURI’S**
2 **QUALITY OF SERVICE STANDARDS SHOULD NOT APPLY TO**
3 **WWC?**

4 A. Missouri’s definition of telecommunications carriers may exclude CMRS,
5 however, I believe that the MoPCS may impose service standards as a
6 condition of ETC status. I agree with the Joint Board’s statement that
7 “preemption from state regulation afforded under section 332 of the Act
8 should not be equated with conditions that apply only to carriers that choose
9 to seek ETC designation and universal service support.”

10
11 Further, while Section 332(c)(3) of the Act generally preempts states from
12 regulating the rates and entry of CMRS providers, it specifically allows states
13 to regulate the other terms and conditions of commercial mobile service.
14 “Nothing in this subparagraph shall exempt providers of commercial mobile
15 services (where such services are a substitute for land line telephone exchange
16 service for a substantial portion of communications within such State) from
17 requirements imposed by a State commission on all providers of
18 telecommunications services necessary to ensure the universal availability of
19 telecommunications services at affordable rates.”²⁴ KLM believes that the
20 MoPSC can, and should, impose quality of service standards, as well as
21 customer protection standards, as a condition of ETC status.

²⁴ From page 15 of CC Docket No. 96-45, FCC 04J-1, issued by the Joint Board on February 27, 2004.

1 **ADVERTISEMENT OF WWC SERVICES**

2

3 **Q. DOES WWC ADVERTISE THEIR SERVICES?**

4 A. Mr. Blundell advises that WWC uses different media to advertise their
5 services.²⁵

6

7 **Q. DOES THE MoPSC REQUIRE ADVERTISEMENT OF SERVICES?**

8 A. Yes. LECs are required to provide advertisement for Life-line and Link-up
9 services at least annually.

10

11 **Q. DOES WWC ADVERTISE LIFE-LINE AND/OR LINK-UP?**

12 A. Judging from the information provided in the direct testimony of Mr. Blundell
13 and WWC responses to data requests, it appears that WWC is not currently
14 advertising Life-line or Linkup services. It is not known whether Life-line or
15 Linkup services are available to WWC customers in Missouri.

16

17 Interestingly, WWC's website makes no mention of Life-line or Link-up
18 services, even though WWC has been designated as an ETC in other states
19 and should be offering these services in those states.

²⁵ Refer to Mr. Blundell's direct testimony, pages 14 and 15, filed in this case on August 5, 2004.

PUBLIC INTEREST

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Q. WHAT PUBLIC INTEREST FACTORS SHOULD BE CONSIDERED BY THE MoPSC IN DETERMINING WHETHER TO GRANT WWC's REQUEST FOR ETC STATUS IN KLM's SERVICE AREA?

A. As stated above, the FCC has considered several factors. For example, the MoPSC should determine whether consumers are likely to benefit from increased competition and whether the additional designation will provide benefits to consumers that are not available from KLM.

CMRS competition is already robust in the exchange areas served by KLM. There are five (5) CMRS providers²⁶ serving approximately 1,600 customers in the exchange areas served by KLM which is equivalent to the number of access lines served by KLM.²⁷ Furthermore, KLM is adequately and efficiently serving the customers in its service area and offers enhanced services such as Digital Subscriber Line (DSL) which are not available from

²⁶ Potentially, KLM customers could subscribe to Nextel, T Mobile, Cingular, Sprint PCS and WWC as determined from information on the services and coverage areas obtained from the carriers' websites.

²⁷ From the public testimony in KLM's Local Number Portability Case in Missouri, TO 2004-0401, WWC stated it serves about 400 customers or 25% of the wireless market share in KLM's service area.

1 WWC. ETC designation for WWC will not enhance universal service in
2 KLM's service area nor will it enhance competition which is already vigorous
3 and robust in KLM's service area.
4

5 **Q. WHAT OTHER PUBLIC INTEREST FACTORS SHOULD BE**
6 **CONSIDERED BY THE MoPSC?**

7 A. Another important public interest factor is whether there will be harm to
8 KLM, a rural incumbent LEC. When ETC status is granted to a wireless
9 provider, such as WWC, the MoPSC should consider whether there is a
10 regulatory disparity between KLM and WWC. By granting ETC status to
11 WWC, the MoPSC has declared that there is more than one provider in
12 KLM's area that is willing to provide basic telecommunications throughout
13 KLM's service area. This places KLM at a disadvantage because KLM does
14 not have flexibility to react to competitive pressures since KLM is a rate-of-
15 return regulated LEC. Should the MoPSC grant ETC status to WWC in
16 KLM's service area, I believe that KLM's basic local service should be
17 considered a competitive service. KLM should be regulated (or deregulated)
18 on the same basis as WWC which would allow KLM total pricing flexibility
19 on basic service rates.
20

21 **Q. WHAT IS THE PUBLIC INTEREST BENEFIT THAT WWC**
22 **BELIEVES WILL BE SERVED BY OBTAINING ETC STATUS?**

1 A. Mr. Blundell offers the following benefits; consumers will have a choice of
2 providers based on advantageous pricing, services, service quality, customer
3 service, and service availability; expanded calling; mobility;
4 advanced/enhanced services; and WWC's ETC status would allow "customers
5 who don't have telephone service to obtain service for the first time."²⁸

6
7 Mr. Blundell further states that WWC's service offerings "will support
8 advanced service offerings, such as data services and 1XRTT capability."²⁹ It
9 is KLM's understanding that 1XRTT is a 2.5G CDMA based technology that
10 helps wireless providers use spectrum capacity more efficiently. 1XRTT is
11 not a universal service supported service but is an enhancement for data
12 services provided by wireless carriers.

13
14 **Q. DOES KLM CURRENTLY OFFER QUALITY SERVICES**
15 **INCLUDING ADVANCED AND ENHANCED SERVICES?**

16 A. Yes. Competition for advanced services like High Speed Internet is already
17 robust with high-speed solutions available through both KLM and competitors
18 operating in KLM's service area today.

²⁸ Refer to Mr. Blundell's direct testimony, pages 18 to 20, in this case filed on August 5, 2004.

²⁹ Refer to Mr. Blundell's direct testimony, page 19, in this case filed on August 5, 2004.

1 **Q. ARE YOU AWARE OF CUSTOMERS IN KLM's SERVICE AREA**
2 **THAT HAVE REQUESTED TELEPHONE SERVICE AND DO NOT**
3 **HAVE IT?**

4 A. To my knowledge, KLM has not refused service to anyone that qualifies for
5 service under the terms and conditions of its approved tariffs. In response
6 to a data request asking for the identification of those customers residing
7 within KLM's service area who desire telephone service but do not currently
8 have telephone service, WWC responded [it] "does not currently possess
9 information responsive to this data request."³⁰ In addition, WWC in response
10 to a data request, stated that "Western Wireless does not have any specific
11 projections as to the number of new customers that will subscribe to its
12 service over the next five (5) years."

13
14 Therefore, WWC has no evidence that there are customers in KLM's service
15 area "who have requested service but don't have telephone service" or that
16 could "obtain service for the first time."

17
18 **Q. IS WWC ABLE TO PROVIDE SERVICE TO ALL CUSTOMERS**
19 **WITHIN THE LOCAL SERVICE AREA OF KLM?**

³⁰ Response to Data Request 32 from KLM that was received on September 10, 2004.

1 A. WWC was asked this question in a data request and WWC responded that
2 “Western Wireless is licensed and able to provide service to all customers
3 located within the local service areas of KLM.”³¹ Yet, Mr. Blundell states
4 that “obtaining federal universal funding will allow Western Wireless to
5 compete with the incumbent telephone companies in those areas. actually
6 receiving federal universal support.”³² From WWC’s data request response it
7 appears that WWC is able to provide service within KLM’s service area
8 without universal service support.

9

10 **Q. ARE THE RATES OF WWC ABOVE THE RATE LEVELS OF KLM?**

11 A. Yes, as discussed above, WWC’s rate plans range from \$20.00 to \$140.00 per
12 month offering “any time minutes” in blocks of 60 to 3,000, depending upon
13 the rate plan chosen by the customer. Additional minutes (local or toll) above
14 the block are \$0.39 per minute, with \$0.59 per minute for roaming. KLM’s
15 local rate is \$7.25 per month for residential service that includes unlimited
16 local calling. KLM customers today can purchase long distance service from
17 approximately 20 different long distance carriers. Published rates on several
18 of these companies state they offer long distance rates as low as 5 cents per
19 minute.

³¹ From the response to data request 4 from KLM received on August 9, 2004.

³² Refer to Mr. Blundell’s direct testimony, page 4, filed in this case on August 5, 2004.

1 **Q. DO YOU BELIEVE THAT THE PUBLIC INTEREST IS SERVED BY**
2 **PROVIDING USF SUPPORT TO WWC WHEN THEIR RATE**
3 **LEVELS EXCEED THAT OF KLM?**

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

13
14 There are no landline competitors in the exchanges of KLM because the
15 customer base cannot sustain duplicate investments in landline facilities.
16 Even with USF, the existence of competing landline carriers would be
17 jeopardized because the revenues would not cover the cost of providing
18 service and neither carrier would be able to provide communications services
19 at rates comparable with urban areas. However, in the case of CMRS
20 providers, there is already robust competition in the exchange areas served by

1 KLM and the rates and services offered by the CMRS providers are already
2 comparable with the rates and services offered by CMRS providers in urban
3 areas.

4
5 **Q. DOES WIRELESS SERVICE PROVIDE ADVANTAGES TO**
6 **LANDLINE SERVICE?**

7 A. WWC does not provide any enhanced or better quality of service for the
8 specific "Essential Telecommunications Services" that are used to determine
9 eligibility requirements for ETC status. It could easily be argued that
10 throughout KLM's entire service area WWC's quality of service levels (as
11 defined by the MO PSC) would be far inferior with considerably more
12 dropped calls and static than what KLM customers currently experience
13 today.

14
15 Wireless service provides mobility to consumers that a landline provider
16 cannot provide. However, I believe that the universal service principles are
17 not served by providing support that will be used to fund facilities for the
18 purpose of providing mobile services, especially in those rural areas where
19 landline services already fulfill the requirements for universal service. In fact,

1 mobility is not a supported service.³³ The purpose of the universal service
2 fund is to provide resources to allow telecommunications carriers to provide
3 service in those areas that are not economically feasible to serve. KLM
4 provides all of the services that are required for USF support and is the carrier
5 of last resort for all customers in its service area that request service.

6
7 **Q. DOES WWC OFFER ADDITIONAL PUBLIC INTEREST**
8 **TESTIMONY?**

9 A. Yes. Mr. Don Wood believes that “the interest of the consumers of
10 telecommunications services is consistent with the FCC’s stated principle of
11 ‘competitive neutrality’” and should be considered “in the operation of any
12 rural universal service mechanism.”³⁴

13
14 **Q. DO YOU BELIEVE THAT THE FCC MAY HAVE A DIFFERENT**
15 **OPINION REGARDING FUNDING OF MORE THAN ONE ETC IN**
16 **RURAL AREAS FOR COMPETITION?**

17 A. Yes. The FCC’s Virginia Cellular Order states: “We conclude that the value
18 of increased competition, by itself, is not sufficient to satisfy the public
19 interest test in rural areas. Instead, we weigh numerous factors, including the

³³ Refer to CC Docket No. 96-45, FCC 04J-1, page 27, of the Joint-Board’s Recommendation released on February 22, 2004.

³⁴ Refer to Mr. Wood’s direct testimony, page 11, filed in this case on August 5, 2004.

1 benefits of increased competitive choice, the impact of multiple designations
2 on the universal service fund, the unique advantages and disadvantages of the
3 competitor's service offering, any commitments made regarding quality of
4 telephone service, and the competitive ETC's ability to provide the supported
5 services throughout the designated area in a reasonable time frame."³⁵

6
7 In addition, the separate statements of Commissioners Kathleen Q. Abernathy,
8 and Michael J. Copps, and the remarks of Jonathan S. Adelstein filed in
9 January of 2004³⁶ offer further insight into this matter. Commissioner
10 Abernathy stated: "While promoting competition is undoubtedly a core goal
11 under the Telecommunications Act of 1996, the use of universal funding to
12 engender competition where market forces alone cannot support it presents a
13 more complex question. Particularly in rural study areas where the cost of
14 providing service typically far exceeds retail rates, regulators must carefully
15 consider whether subsidizing the operations of an additional ETC promotes
16 the public interest".

17
18 Commissioner Copps stated that: "We must give serious consideration to the
19 consequences that flow from using the fund (universal service fund) to
20 support multiple competitors in truly rural areas."

³⁵ Paragraph 4 of CC Docket No. 96-45, FCC 03-338, released January 22, 2004 Virginia Cellular.

³⁶ Refer to the CC Docket No. 96-45, FCC 03-338, released January 22, 2004, Virginia Cellular LLC.

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

9
10 I agree with the above statements that the value of competition is not a
11 sufficient factor to satisfy the public interest test for designating additional
12 ETCs in rural areas, and urge the MoPSC to carefully consider the statements
13 of the FCC Commissioners in this case.

14
15 **Q. DO YOU BELIEVE THAT USF SUPPORT FOR WWC WILL ENABLE**
16 **WWC TO COMPETE?**

17 A. There is no evidence that WWC will be better able to compete in the future
18 with USF support than it is competing today. For example, wireless
19 penetration in the KLM serving area is at or near saturation, with WWC
20 enjoying a 25% market share. In addition WWC is unable to identify or
21 quantify any additional customers it will add over the next five years if it

1 receives USF support. Therefore, not only is WWC competing quite well as
2 the present time without USF support, but it cannot identify how receipt of
3 USF support will enable it to better compete in the future.
4

5 It would appear, however, that USF directed only toward WWC will provide
6 WWC a competitive advantage over all other wireless carriers operating in the
7 same service area. In order to maintain competitive neutrality, USF support
8 would have to be directed to all other wireless providers operating in KLM's
9 service area. This is precisely the concern that is being raised by regulators
10 across the country. Expanding USF support to all wireless providers in rural
11 areas wouldn't impact wireless competition in rural areas, but may have a
12 devastating impact on USF for rural wireline service providers because USF
13 support would be redirected away from wireline carriers to wireless carriers
14 whose costs are significantly less than the wireline providers.
15

16 **Q. DOES WWC PLAN TO SERVE ALL OF KLM's CUSTOMER BASE?**

17 A. Mr. Blundell stated that upon designation as an ETC, WWC "will further the
18 deployment of Western Wireless' facilities-based network in Missouri ... that
19 meet or exceed what can be provided on a landline network."³⁷

³⁷ Refer to Mr. Blundell's direct testimony, page 21, filed in this case on August 5, 2004.

1 WWC was asked in a data request to provide the specific plans for
2 infrastructure improvement and the new technologies that WWC intends to
3 introduce in the rural markets of Missouri upon obtaining ETC status.
4 WWC's response was that they had not finalized their plans or budget for any
5 future enhancements and were "unlikely to do so without the assurance that it
6 will receive universal support to assist with such capital expenditures." WWC
7 advised that they are evaluating the construction of two new cell sites in RSA
8 9 subject to its designation as an ETC and that Western Wireless is currently
9 evaluating upgrading its network to EDGE technology in 2005.³⁸
10

11 I do not believe that WWC has demonstrated that they plan to serve all the
12 customers in KLM's service area, which is an important consideration when
13 granting ETC status, even though WWC said they were "able to provide
14 service to all customers" as discussed above. An ETC must be prepared, or
15 have specific plans, to serve all customers in the service area upon request.
16 USF was implemented to support those consumers in high cost rural service
17 areas. The LECs who serve high cost areas demonstrate their high costs
18 annually with the submission of investments and expense data to USAC
19 and/or its agents.

³⁸ In response to data request 22 from KLM received on August 9, 2004.

1 **IMPACT ON THE UNIVERSAL SERVICE FUND**

2

3 **Q. DOES WWC ADDRESS THE IMPACT OF ITS ETC DESIGNATION**
4 **ON THE FEDERAL UNIVERSAL SERVICE FUND?**

5 A. Yes. Mr. Blundell's direct testimony stated that "this case will have only a *de*
6 *minimis* impact on the federal universal service fund. Western Wireless
7 estimates that it would receive approximately \$146,000 per quarter (\$584,000
8 annually) which is 0.015% of the total high cost support available to LECs."³⁹

9

10 However, the amount of high cost support stated in Mr. Blundell's direct
11 testimony does not provide the entire picture, because WWC's total high cost
12 support reported by USAC for 2003 was \$28,886,803, and does not include
13 Missouri, or other states where WWC may have been granted ETC status or
14 where WWC's petition is pending.⁴⁰ WWC's annual high cost support
15 represents an average of \$163.50 of support per customer in areas where it
16 receives high cost support.

17

18 Schedule WJW-3, attached to my rebuttal testimony, reflects a chart from
19 USAC's web-page that demonstrates the growth in wireless high cost support
20 since 1999 when this amount was \$535,104 for wireless providers. As shown

³⁹ Refer to Mr. Blundell's direct testimony, pages 26 and 27, filed in this case on August 5, 2004.

⁴⁰ Refer to Schedule WJW-2 attached to this testimony.

1 on the chart, the high cost amount through the second quarter of 2004 is
2 \$114,541,479. When annualized, high cost support for wireless providers for
3 2004 is estimated at \$229,082,958, representing a growth rate of 604% over
4 the average high cost support paid to wireless providers during the years 1999
5 through 2003. For ILECs, the growth in 2004 high cost support over the
6 average support paid during the years 1999 through 2003 is 29%. Wireless
7 high cost distributions for the year 2004 are projected to increase
8 approximately 80.8% over wireless distributions for the year 2003. For
9 ILECs, high cost support is projected to decrease slightly during 2004.
10 According to USAC, WWC was projected to receive approximately \$28.8
11 million of high cost support during 2003 representing approximately 22.7% of
12 the total wireless amount distributed by USAC in 2003. These statistics show
13 that wireless high cost support is increasing at an alarming rate and with no
14 cost justification required by the wireless providers.

15
16 KLM is concerned that each additional ETC designation increases the
17 pressure on the resources of the Federal USF, and therefore jeopardizes the
18 fund and the support to high cost areas, such as the area served by KLM, the
19 carrier of last resort. As stated above, there are five CMRS providers

1 providing wireless services in KLM's service area. Therefore, KLM is
2 concerned that granting ETC status to one wireless carrier in a rural area
3 provides an incentive for other wireless carriers to seek ETC status for the
4 sole purpose of obtaining USF support. Sprint and Alltel are actively seeking
5 ETC status in other states, and it is reasonable to assume they will do so in
6 Missouri, if WWC's application is approved.

8 SUMMARY AND CONCLUSION

9
10 **Q. WILL YOU PLEASE SUMMARIZE YOUR TESTIMONY?**

11 **A.** Yes. KLM believes that WWC has not demonstrated that it meets the ETC
12 standards that should be applied for granting of ETC status. These include,
13 but are not limited to, quality of service and customer protection requirements.

14
15 KLM believes that WWC's services do not benefit KLM's designated area
16 because WWC is not proposing to offer USF supported services to areas that
17 are not being served by KLM. Furthermore, WWC is not offering any USF
18 supported services that are not already available to KLM's customers. In fact,
19 KLM offers services that are not available to WWC customers, such as TTY
20 and DSL even though DSL is not a supported service.

1 KLM does not believe that the public interest will be served by granting ETC
2 status to WWC because robust competition already exists without the
3 necessity of providing additional USF support to WWC and because KLM's
4 customers will not be offered any universal service benefits that they do not
5 currently have.

6
7 KLM believes that there are substantially different regulatory requirements
8 imposed on KLM, such as providing equal access, requiring rate regulations
9 for pricing of services, and adhering to service and billing standards, to which
10 WWC is not required to comply. Therefore, WWC, as a requirement of ETC
11 status if approved, should comply with the same standards as KLM, or KLM
12 should be regulated or deregulated on the same basis as WWC.

13
14 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

15 **A.** Yes, it does.

William J. Warinner, CPA

Schedule WJW-1

Managing Principal

Mr. Warinner, the managing principal in the firm of Warinner, Gesinger and Associates, LLC (formerly Frederick & Warinner, L.L.C.), has over twenty-five years of experience in all aspects of financial reporting and modeling for regulated telecommunications service providers. In engagements directed by Mr. Warinner on behalf of telecommunications service providers, he performed one or more of the following activities: certified financial audits, business valuations, development of cost allocation and earnings reporting systems including cost allocation manuals (CAM's), development of affiliated interest cost allocation and reporting systems and multi company cost allocation manuals, designed and implemented affiliate interest contracts for billing of inter company services between affiliates, jurisdictional cost allocation studies, development of toll access charge tariffs including tariff structure, rate development, earnings reporting and rate of return monitoring, revenue requirement development and rate design in conjunction with rate proceedings before state regulators and the Federal Communications Commission, development of management reporting systems using cost of service analysis models, development of management efficiency standards, and price analysis with earnings forecasting.

As a leading expert in the area of telecommunications, Mr. Warinner has sponsored testimony and presented on issues involving jurisdictional cost separations, interconnection billing issues, competition, toll access billings, wireless communications, business valuations, management reporting systems and business planning before organizations including the National Exchange Carriers Association (NECA), the Organization for the Preservation and Advancement of Small Telephone Companies (OPASTCO), State Independent Telephone Association of Kansas (SITA) and the Alaska Public Utilities Commission.

Mr. Warinner developed the first telecommunications jurisdictional cost reporting system for use with portable computers and licensed the software to over two hundred telephone utilities across the United States. The copyrighted software, titled Revenue Management Systems (RMS), is designed to provide jurisdictional cost separations, revenue requirement development and rate of return monitoring for telecommunications service providers. RMS has been certified by the National Exchange Carriers Association (NECA) for use in determining interstate revenue requirements for division of revenue settlements between NECA participants.

Mr. Warinner has directed, managed or conducted over two hundred jurisdictional cost allocation studies for telecommunications clients. He has performed as a lead auditor in the focused management audits of seven utilities and has managed or assisted in the performance of rate cases and earnings investigations of over twenty telephone utilities. Mr. Warinner has represented the interests of both consumers and companies in rate cases before regulatory agencies. As a consultant to consumers, he has assessed operational efficiencies of major telecommunication service providers, analyzed cost allocations between regulated and nonregulated services, analyzed jurisdictional allocations between state and interstate regulated services and assessed business practices for compliance with regulatory statutes. As a consultant to utility companies, he has testified and sponsored adjustments relating to normalization of test period costs, cost allocations, jurisdictional cost separations, income taxes, property records, customer service, rates and tariffs and interconnection billing issues.

Recently, Mr. Warinner had a lead role in the planning and preparation of six rate cases for the largest local exchange service provider in the state of Alaska. He designed the overall work plan implemented by the utility to analyze test period investments, revenues and expenses, identify and determine pro forma adjustments, review and implement nonregulated cost allocations, review and implement jurisdictional cost allocations, determine comparative industry cost benchmarking and assess revenue deficiencies on rates in a competitive marketplace.

Within the past year Mr. Warinner has presented testimony before the Kansas Corporation Commission and the Missouri Public Service Commission concerning the development of intrastate revenue requirements for ratemaking purposes, earnings monitoring and jurisdictional cost allocations, the need to establish a state high-cost fund to provide an alternative recovery mechanism for state access reform and intrastate access costing and pricing procedures applicable to rural telephone companies.

William J. Warinner, CPA

Page Two

Specific Work Experience

- Provided testimony before the Kansas Corporation Commission (KCC) in response to the KCC's analysis of the Kansas Universal Service Fund (KUSF) and order for an earnings investigation of a rural telephone company for the purpose of reducing contributions provided by the KUSF.
- Provided testimony before the Missouri Public Service Commission to address intrastate access costing and price reforms proposed by a contractor to the Commission. Provided recommendations for alternative costing and pricing methodologies to increase value of services provided to customers in rural areas.
- Provided testimony before the Missouri Public Service Commission to support the implementation of a Missouri Universal Service Fund (MoUSF) to provide assistance to low income ratepayers and to provide an alternative cost recovery mechanism for state access costing and price reforms to be addressed by the Commission in a separate proceeding.
- Provided testimony before the Regulatory Commission of Alaska in support of the local service revenue requirement and jurisdictional cost allocation studies of five local exchange carriers providing local exchange and private line services in Alaska.
- Provided testimony before the Regulatory Commission of Alaska in support of the intrastate access revenue requirement and jurisdictional cost allocation studies of five local exchange carriers providing intrastate access services in Alaska.
- Provided testimony before the Kansas Corporation Commission about deficiencies in current billing practices for the reporting of terminating minutes-of-use for billing between communications carriers in the state of Kansas.
- Provided testimony and exhibits in conjunction with earnings investigations of four independent telephone companies before the Missouri Public Service Commission.
- Testified as an expert witness before the Arkansas Public Service Commission about deficiencies in inter-company terminating MOU billing practices. Recommended alternative billing procedures more suited for a competitive telecommunications market place.
- Performed role as a lead auditor in compliance reviews of the Standards of Competitive Conduct by electric utilities in the State of New Jersey.
- Testified as an expert witness before the Public Utility Board of Puerto Rico on matters concerning the implementation of dialing parity and carrier access billing systems by competitive local exchange carriers.
- Testified as an expert witness before the Public Utility Commission of Texas about inherent problems in the current inter-company settlements process which utilizes Southwestern Bell's Category 92 originating records exchange procedures. Recommended alternative consistent with the competitive telecommunications environment which are in compliance with Texas Rules.
- Provided litigation support to Puerto Rico Telephone Company for case involving dial around compensation to payphone service providers.
- Performed analysis of billing systems and procedures for billing of interconnection traffic for Puerto Rico Telephone Company and negotiated settlement agreement for billing disputes with competitive service providers.
- Presented as an expert witness for the adoption of alternative switching equipment allocation methodology before the Regulatory Commission of Alaska.
- Designed toll resale business cases for independent telephone companies in states of Missouri and Kansas.
- Led strategic planning initiative for large local exchange carrier.

William J. Warinner, CPA

Page Three

- Testified as an expert witness about dialing parity and terminating compensation issues concerning small telephone companies before the Missouri Public Service Commission.
- Performed an evaluation of a Minnesota Local Exchange Carrier.
- Project director for tariff services provided to Anchorage Telephone Utility.
- Performed cost separation services for Fairbanks Municipal Utilities System.
- Project director for valuation of \$300 million municipal utility.
- Project director for affiliate interest review of Illinois Bell Telephone Company.
- Lead consultant in the affiliate interest review of Pennsylvania Bell Telephone Company.
- Project director for tariff services provided to statewide equal access provider.
- Developed multi-company cost allocation system for the reporting of affiliate transactions of several local exchange carriers.
- Project director for the audit of Percent Interstate Use (PIU) factors on behalf of two regional Bell operating companies.
- Project director for the audit of Common Line Usage Credits of NYNEX.
- Project director for the preparation of business office studies of Century Telephone.
- Performed valuation of a Minnesota Local Exchange Carrier.
- Designed *Revenue Management Systems (RMS)*, to facilitate the processing of FCC Parts 36 and 69 cost allocations and projections on a microcomputer.
- Designed and implemented a software model for the development and reporting of access rates using the FCC's "Price Cap" methodology.
- Assisted in the development of traffic measurement systems using real time measurements.

Mr. Warinner directed or actively participated in engagements for the following companies:

- NYNEX
- U.S. West
- Sprint
- AT&T
- Puerto Rico Telephone Company
- Alaska Communications Systems
 - ACS of Anchorage
 - ACS of Fairbanks
 - ACS of the Northland
 - ACS of Alaska
- Michigan Exchange Carriers Association
- Iowa Network Services, Inc.
- Arvig Communications Systems
 - Callaway Telephone Company
 - East Otter Tail Telephone Company
 - Twin Valley-Ulen Telephone Company
 - Tekstar Cablevision, Inc.
- Anchorage Telephone Utility
- Kansas Independent Networks, Inc.
- Fairbanks Municipal Utilities System
- Century Telephone Enterprises, Inc.
- Citizens Utilities Company of Arizona
- Citizens Utilities Company of California

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- SJI, Inc.
 - Lafourche Telephone Company
 - MobileTel, Inc.
 - CSI, Inc.
 - SOLA Communications, Inc.
- Matanuska Telephone Association, Inc.
- Townes Telecommunications, Inc.
 - Walnut Hill Telephone Company
 - Haxtun Telephone Company
 - Tatum Telephone Company
 - Electra Telephone Company
 - MoKan Dial, Inc.
- Golden Wheat Inc.
 - Wheat State Telephone Company
 - Wheat State Telecable, Inc.
- Lynch Communications, Inc.
 - JBN Telephone Company
 - Haviland Telephone Company
 - Western New Mexico Telephone Company
- RBJ, Inc.
 - Holway Telephone Company
 - KLM Telephone Company
- CLR Video, L.L.C.
- MJD Communications, Inc.
- Mid-South Telecommunications, Inc.
 - Ontonagon Telephone Company
 - Midway Telephone Company
 - S&A Telephone Company
 - Kingsgate Telephone Company
- Northeast Florida Telephone Company
- GT Communications, Inc.
- Alma Telephone Company
- Gulf Telephone Company
- Vista United Telephone Company
- Project Mutual Telephone Company
- IAMO Telephone Company
- Green Hills Telephone Corporation
- Oregon Farmers Mutual Telephone Company
- Rock Port Telephone Company
- Rainbow Telephone Cooperative Association, Inc.
- Rural Telephone Service Company
- Northeast Missouri Rural Telephone Company
- Modern Telephone Company
- Mid-Missouri Telephone Company
- Fidelity Telephone Company
- Bourbeuse Telephone Company

Mr. Warinner directed or actively participated in engagements for the following regulatory agencies:

- Illinois Commerce Commission
- Alaska Public Utility Commission
- Pennsylvania Public Utility Commission
- New Jersey Board of Public Utilities

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Mr. Warinner has presented or testified before the following regulatory agencies:

- Illinois Commerce Commission
- Alaska Public Utility Commission
- Regulatory Commission of Alaska
- Texas Public Utility Commission
- Arkansas Public Service Commission
- Kansas Corporation Commission
- Missouri Public Service Commission
- Ohio Public Utilities Commission
- Indiana Utility Regulatory Commission
- Oklahoma Corporation Commission

Business Experience

Warinner, Gesinger & Associates, LLC

Certified Public Accountants

Principal

Drees Dunn & Company

Partner and Public Utility Consultant

Troupe Kehoe Whiteaker & Kent

Certified Public Accountants

Manager, Regulated Services

Education

Rockhurst University, Kansas City

Bachelor of Science in Business Administration, Major - Accounting

Licensed CPA

States of Kansas, Louisiana, Minnesota, Missouri, North Dakota, Oklahoma, Texas, Wyoming and Washington D.C.

Professional Memberships

American Institute of Certified Public Accountants

Presentations

"Access Reform – The Next Step", WGA Annual Seminar, 2002

"Rural Broadband Financing", Kansas Rural Broadband Conference, 2002

"Telecommunications Act '96 Fallout", Indiana Telecommunications Association, Inc. 1997

"Regulatory Update Forum", OPASTCO 1997

"Valuing Telephone Companies", OPASTCO 1994

"Wireless Communications", NECA 1993

"Separations Reforms", SITA 1992

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Industry Involvement

Member of the OPASTCO Separations and Access Committee which follows industry and regulatory proposals for telecommunications separations access reform.

Publications

"Warinner, Gesinger & Associates, LLC Report", Quarterly newsletter published through TeleInfoSystems, Inc.

Western Wireless ETC Status - TO 2004-0527
 Prepared by WGA from Web site from WWC in Response to Data Request 26
 USAC Data - First Quarter 2003 Annualized

Schedule WJW-2

State	Docket No.	Status	Rural	Working Loops	High Cost Loop	Safety-net Additive	Long-term Support	Local Switching	Interstate CCL	Interstate Total
Arizona	T-04248A-04-0239	Pending		-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
California	Resolution T-16436	Granted								
California	U-3025C	Granted								
Colorado	00K-255T	Granted	R	115	8,684		3,696	13,908	-	27,288
Colorado	03A-061T	Granted								
Colorado	04A-018T	Granted								
Idaho	Not Assigned	Pending								
Iowa	199 IAC 39.2(4)	Granted	R	2,221	49,092		24,576	168,792	-	242,460
Kansas	99-GCC2-156-ETC	Granted	R	11,700	1,637,616		248,340	519,048	613,820 *	3,018,624
Kansas	04-WWC2-551-ETC	Pending								
Minnesota	P-5695/NA-98-1285	Granted	R	912	213,492		5,892	89,076	5,951 *	314,411
Minnesota	P-5695/M-04-226	Pending								
Missouri	TO-2004-0527	Pending								
Montana	CC Docket 96-45	Withdrawn								
Montana	(Crow Reservation)									
Montana	D2003.1.14	Pending								
Nebraska	C-1889	Granted								
Nevada	Unknown	Withdrawn								
Nevada	00-6003	Granted	R	12,401	1,948,884		78,756	830,292	202,144 *	3,060,076
Nevada	04-3030	Pending								
New Mexico	09-484-TC	Granted	R	19,645	718,920		268,080	923,724	-	1,910,724
North Dakota	PU-1564-98-428	Granted								
North Dakota	PU-2077-03-636	Granted	R	45,331	4,367,448		1,798,044	2,957,652	-	9,123,144
Oklahoma	PUD 98 0000470	Granted								
South Dakota	CC Docket 96-45	Granted	R	30,108	2,726,364		1,061,664	2,076,216	-	5,864,244
South Dakota	(Pine Ridge)									
South Dakota	TC98-146	Granted								
South Dakota	TC03-191	Pending								
Texas	Unknown	Withdrawn								
Texas	22289/22295	Granted	N	Same as R	846,348		-	-	-	846,348
Texas	22289/22295	Granted	R	48,095	839,016		449,028	589,376	-	1,857,420
Texas	28688	Pending								
Utah	92-2216-01	Granted								
Wyoming	Cc Docket 96-45	Granted	R	6,147	1,534,896		584,144	447,552	75,472 *	2,622,064
Wyoming	70042-TA-04-4	Pending								
Total				176,675	\$ 14,891,760	\$ -	\$ 4,502,220	\$ 8,595,636	\$ 897,187	\$ 28,886,803
Average Support/Loop										\$ 163.50

Note: * Only some of loops receive this support.

