

Exhibit No.:
Issue: *Application for Designation as an Eligible
Telecommunications Carrier*
Witness: *Kathryn G. Zentgraf*
Sponsoring Party: *Northwest Missouri Cellular Limited
Partnership*
Type of Exhibit: *Direct Testimony*
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**NORTHWEST MISSOURI CELLULAR
LIMITED PARTNERSHIP**

**DIRECT TESTIMONY
OF
KATHRYN G. ZENTGRAF**

CASE NO. TO-2005-0466

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1 A. I directed all company activities in sales, advertising, marketing, billing, customer
2 service, staff development, budgets, financials, purchasing, inventory, system design,
3 site acquisition and construction. I established and oversaw three retail stores. I also
4 lead regulatory and legislative efforts on all state, federal and FCC mandates/issues
5 and facilitated all contract negotiations, interconnection agreements, roaming
6 contracts and oversaw financing covenants. I oversaw the preparation and successful
7 prosecution of all company FCC filings and was directly involved in the preparation
8 of the initial Mid Missouri Cellular Eligible Telecommunications Company (“ETC
9 Application”). I directed company from start-up to maturity and reported directly to
10 the Board of Directors.

11 **Q. To what professional associations have you or your firm belonged?**

12 A. While operating Mid-Missouri Cellular, I was a member of the Missouri
13 Telecommunications Industry Association and served as First Vice Chairman. I was
14 also a Board Member of the Rural Cellular Association (“RCA”) involved directly
15 with facilitating Regulatory and Legislative efforts at the FCC and before Congress
16 with respect to issues that effected small wireless carriers. Since forming Zentgraf
17 Consulting, I have been involved in the formation of the Rural Telecommunications
18 Group, an association also focused on the needs of small, rural wireless carriers and
19 have served on its Board of Directors.

20 **Q. What is your familiarity with the rules and regulations of the Federal**
21 **Communications Commission (“FCC”)?**

22 A. I am quite familiar with the requirements of those rules and regulations as they
23 pertain to operation of wireless networks.

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1 **Q. Are you familiar with the applicable statutory requirements, FCC rules and**
2 **regulations, and precedent as it relates to the designation of a wireless carrier as**
3 **an ETC?**

4 A. Yes I am.

5 **Q. What professional services have you provided to Northwest Missouri Cellular**
6 **Limited Partnership (“NWMC”)?**

7 A. I have advised the Company with respect to seeking designation as an ETC and have
8 interfaced with legal and technical consultants with respect to the preparation of the
9 NWMC ETC application.

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

11 A. My testimony will support and expand upon certain statements and factual
12 representations in NWMC’s Application For Designation As An Eligible
13 Telecommunications Carrier for Purposes of Receiving Federal Universal Service
14 Support Pursuant to Section 214(e)(2) Of The Telecommunications Act Of 1996
15 (“Application”) in this docket. I will set forth the current legal framework and
16 regulatory guidelines as they relate to ETC designations to assist the Missouri Public
17 Service Commission in its determination of this matter, and why I believe that
18 NWMC has demonstrated that the grant of ETC designation is in the public interest.

19 **Q. Please provide some background information concerning NWMC’s cellular**
20 **service in Missouri RSA 1.**

21 A. Pursuant to its FCC cellular license (Call Sign KNKN816), NWMC provides analog
22 and digital cellular service in Missouri RSA No. 1, Market No. 504B, which is
23 comprised of Atchison, Gentry, Holt, Nodaway and Worth counties.

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1 The FCC licenses cellular systems on the basis of a Cellular Geographic
2 Service Area (“CGSA”) and not on a per site basis. The CGSA is determined by
3 applying FCC formulas to the operating parameters of a licensee’s cell sites to
4 determine the Service Area Boundary (“SAB”) for each cell site, and then using the
5 composite of the area encompassed within those SABs, as limited by the particular
6 market boundary, to define the CGSA. Accordingly, only cell site locations with
7 SABs that are used to form a part of the CGSA are listed on the FCC license.
8 Additional cell sites having SABs that are wholly contained within the CGSA are not
9 listed on the FCC license.

10 **Q. Before discussing the communication services required by a company seeking**
11 **ETC status, please comment on the “rural telephone company” service areas**
12 **that are included within NWMC’s proposed ETC area.**

13 A. Appendix A of the Application shows NWMC’s composite Cellular Geographic
14 Service Area (“CGSA”) as licensed by the FCC. NWMC’s proposed ETC designated
15 area is discussed at Section II of the Application, which references to Appendices C
16 and D. The map set forth as Appendix C of the Application shows the area in which
17 NWMC seeks ETC designation. That area is superimposed over a map depicting the
18 various wire centers for local exchange carriers (“LECs”) providing traditional
19 wireline telephone service in this area. NWMC’s proposed ETC service area is
20 comprised of the wire centers listed in Appendix D of the Application. All of these
21 appendices were prepared by NWMC’s technical consultants, and are appended as
22 attachments to the Direct Testimony of Mr. Jonathan D. Reeves.

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1 The term “rural telephone company” is defined in Section 153(37) of the
2 Communications Act, 47 U.S.C. § 153(37) as a local exchange carrier (“LEC”) that
3 meets that statutory provision’s requirements with respect to size or service area
4 criteria. LECs that do not qualify for designation as a “rural telephone company” are
5 designated as non-rural, even though they may, in fact be providing service to a rural
6 geographic area.

7 **Q. What is the significance of the rural versus non-rural telephone company**
8 **designation in the context of an application seeking designation for a competitive**
9 **ETC?**

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

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

21 Thus, from the language of the statute, the Commission must designate
22 more than one carrier as an ETC in an area served by a non-rural telephone
23 company if the requesting carrier meets the requirements of Section 214(e)(1)

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1 of the Act. With respect to areas served by a rural telephone company, the
2 Commission may make the ETC designation if it finds that the designation is
3 consistent with the public interest, convenience and necessity; and the
4 requirements of Section 214(e)(1) of the Act are met. The requirements of
5 Section 214(e)(1) of the Act are as follows:

6 (e) PROVISION OF UNIVERSAL SERVICE –

7 (1) ELIGIBLE TELECOMMUNICATIONS CARRIERS. – A
8 common carrier designated as an eligible telecommunications carrier
9 under paragraph (2) or (3) shall be eligible to receive universal service
10 support in accordance with section 254 and shall, throughout the
11 service area for which the designation is received –

12 (A) offer the services that are supported by Federal
13 universal service support mechanisms under section 254(c),
14 either using its own facilities or a combination of its own
15 facilities and resale of another carrier's services (including
16 services offered by another eligible telecommunications
17 carrier); and

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

20 **Q. What are the services that are supported by Federal universal service support**
21 **mechanisms under Section 254(c)?**

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- 1 A. Pursuant to Section 54.101(a) of the FCC's Rules, the following core services and
2 functions are to be offered by an ETC and should be supported by federal universal
3 support mechanisms:
- 4 a. Voice grade access to the public switched network; (the FCC concluded that
5 voice-grade access means the ability to make and receive phone calls, within a
6 bandwidth of approximately 2700 Hertz, within the 300 to 3000 Hertz
7 frequency range).^{1/}
- 8 b. Local usage; (to date, the FCC has not quantified any minimum amount of
9 local usage required to be included in a universal service offering, but has
10 initiated a separate proceeding to address this issue.^{2/} Any minimum local
11 usage requirement established by the FCC as a result of this proceeding will
12 be applicable to all designated ETCs.)
- 13 c. Dual tone multi-frequency signaling or its functional equivalent; (DTMF is a
14 method of signaling that facilitates the transportation of call set-up and call
15 detail information). Consistent with the principles of competitive and
16 technological neutrality, the FCC permits carriers to provide signaling that is
17 functionally equivalent to DTMF in satisfaction of this service requirement.^{3/}

^{1/} See Federal-State Board on Universal Service (First Report and Order in CC Docket No. 96-45) 12 FCC Rcd 8776, 8810-11 (1997) ("First Report and Order").

^{2/} See, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252 (1998). As recently as March 17, 2005, the FCC has re-affirmed that while there is a local service requirement, it has set no minimum level of local usage as a pre-condition to ETC designation. See, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC-05-46 (Rel. March 17, 2005) ("FCC Guidelines Report & Order") at ¶ 34.

^{3/} 47 C.F.R. § 54.101(a)(3).

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- 1 d. Single-party service or its functional equivalent; (“Single-party service”
2 means that only one party will be served by a subscriber loop or access line, in
3 contrast to a multi-party line.)^{4/}
- 4 e. Access to emergency services; (The ability to reach a public emergency
5 service provider through dialing “911” is a required universal service offering.
6 A wireless carrier such as NWMC is not required to provide E911 services
7 until a local emergency provider has made arrangements for delivery of ALI
8 and ANI from carriers.)^{5/}
- 9 f. Access to operator services; (Access to operator services is defined as any
10 automatic or live assistance provided to a consumer to arrange for the billing
11 or completion, or both, of a telephone call.)
- 12 g. Access to interexchange service; (An ETC providing universal service must
13 offer consumers access to interexchange service to make or receive toll or
14 interexchange calls. Interexchange service access entails access to live or
15 automatic operator assistance for the placement and billing of telephone calls,
16 including collect calls, calling card calls, credit card calls, person-to-person
17 calls, and third party calls, as well as obtaining related information.)
- 18 h. Access to directory assistance; and
- 19 i. Toll limitation for qualifying low-income consumers. On December 30, 1997,
20 the FCC changed its definition of toll-limitation services in its Fourth Order
21 on Reconsideration of the Universal Service Report and Order, CC Docket
22 Nos. 96-45 et al. The FCC stated, “we define toll-limitation services as either

^{4/} See, 12 FCC Rcd at 8810.

^{5/} See, 12 FCC Rcd at 8815-8817.

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1 toll blocking or toll control and require telecommunications carriers to offer
2 only one, and not necessarily both, of those services at this time in order to be
3 designated as eligible telecommunications carriers.”

4 **Q. What LEC wire centers are included in the NWMC proposed ETC service area**
5 **and which of those LECs are rural and non-rural telephone companies?**

6 A. The specific LEC wire centers identified in Application Appendix D as being
7 encompassed within the proposed ETC service area of ALLTEL Missouri, Inc.
8 (“ALLTEL”), Grand River Mutual Telephone Company (“Grand River”), Holway
9 Telephone Company (“Holway”), IAMO Telephone Company (“IAMO”); Iowa
10 Telecomm Services d/b/a Iowa Telecom - North (“Iowa Telecom”), Oregon Mutual
11 Telephone Company (“Oregon Mutual”), Rockport Telephone Company
12 (“Rockport”), and Sprint/United Telephone Co. of Missouri (“Sprint”) are rural
13 telephone companies while the wire center set forth in Appendix D of the Application
14 for Southwestern Bell Telephone Company (“SBC”) is a non-rural telephone
15 company wire center.

16 **Q. How did NWMC determine what areas to include within its proposed ETC**
17 **service area?**

18 A. NWMC is a facilities-based wireless CMRS FCC licensee. To the greatest extent
19 possible, NWMC tried to specify an ETC service area that corresponded to its FCC-
20 licensed CGSA. However, where the NWMC CGSA boundary crosses the area
21 served by a rural LEC, NWMC modified its proposed ETC service area to follow the
22 LEC wire center boundaries. Application Appendix C shows the relationship

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1 between the NWMC CGSA and the wire centers that are included in the NWMC
2 proposed ETC service area.

3 **Q. Why did NWMC follow the wire center boundaries in the areas served by rural**
4 **LECs as opposed to its FCC-licensed CGSA?**

5 A. The FCC has recently issued a pair of orders providing guidance to state commissions
6 in determining when the grant of an ETC designation will serve the public interest.
7 Those orders are *In the Matter of Federal-State Joint Board on Universal Service,*
8 *Virginia Cellular, LLC Application for Designation as an Eligible*
9 *Telecommunications Carrier In the Commonwealth of Virginia, Memorandum*
10 *Opinion and Order*, CC Docket No. 96-45, FCC 03-338 (rel. January 22, 2004),
11 ("Virginia Cellular Order"); and *In the Matter of Federal-State Joint Board on*
12 *Universal Service, Highland Cellular Petition for Designation as an Eligible*
13 *Telecommunications Carrier In the Commonwealth of Virginia, Memorandum*
14 *Opinion and Order*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004),
15 ("Highland Cellular Order"). In the *Highland Cellular Order* the FCC held that a
16 proposed ETC service area may not specify an area below the wire center level for a
17 rural LEC. Accordingly, where the NWMC CGSA crossed a rural LEC wire center,
18 NWMC modified its proposed ETC service area to include only entire wire centers.

19 In its *Virginia Cellular Order*, the FCC made it clear that where a wire center
20 lies partially beyond a wireless ETC's FCC-licensed CGSA, it can meet its
21 obligations as an ETC by providing service in those areas through agreements with
22 other wireless carriers and NWMC will do so with respect to the portions of wire
23 centers that lie beyond the boundaries of NWMC's FCC-licensed service area.

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1 **Q. How would NWMC's USF support be determined?**

2 A. The level of support available to NWMC is a function of the level of support
3 available to the LEC whose area is encompassed within NWMC's ETC service area.
4 Where an NWMC subscriber has a billing address in a particular LEC wire center, the
5 amount of support available to NWMC is based upon the per line level of support
6 received by that LEC.

7 **Q. Does that result in a loss of USF for the underlying LEC?**

8 A. No, except in the limited case where an NWMC subscriber disconnects its landline
9 phone and replaces it with an NWMC phone. Otherwise, from a USF support
10 perspective, the NWMC subscriber phone would look the same as an additional line
11 for the underlying LEC.

12 **Q. Doesn't that place a substantial burden on the USF?**

13 A. All telecommunications carriers contribute to the USF. That includes all wireless
14 carriers. While there is concern that the current practice could threaten the long-term
15 viability of the USF, to date the evidence suggests that wireless ETC designations
16 have not had an adverse impact on the USF. While wireless ETC designations have
17 been increasing over the last two years, the level of carrier contribution to the USF
18 (calculated as the percent of revenues needed to support the fund) has actually been
19 decreasing. Specifically, the contribution factor has declined from 9.5% (3rd quarter
20 2003), to 9.2% (4th quarter 2003) to 8.7% (1st quarter 2004) to 8.7%, the same factor
21 as for the 1st quarter of 2004, for the 2nd quarter of 2004. The 3rd and 4th quarter
22 2004 Universal Service Contribution Factors of 8.9% remained well below the
23 contribution factor for the prior year and is a further indication of the current fund

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1 stability. The contribution factors for 2005 increased to 10.7% for the 1st quarter and
2 11.1% for the second quarter. *Proposed Second Quarter 2005 Universal Service*
3 *Contribution Factor*, DA 05-648 (CC Docket No. 96-45) (Rel. March 10, 2005).
4 While this does represent an increase in the contribution factor, it should be noted that
5 the increase is primarily attributable to increased program support costs for the
6 Schools and Libraries Program. Comparing the Program Support levels from the 4th
7 quarter 2004 to those projected for the 2nd quarter of 2005, the Schools and Libraries
8 Projected Program Support increased 36.33% as compared to an increase of 5.21% in
9 the High-Cost program. The contribution factors for the 3rd and 4th quarters of 2005
10 were again reduced to 10.2% for each quarter and are proposed to remain at the same
11 10.2% level for the 1st quarter of 2006. *Proposed First Quarter 2006 Universal*
12 *Service Contribution Factor*, DA 05-3203 (CC Docket No. 96-45) (Rel.
13 December 15, 2005)

14 **Q. While that may currently be the case, shouldn't this Commission be worried**
15 **about the global impact on the USF of designating additional wireless ETCs?**

16 A. No. The NWMC Application is before this Commission under an established set of
17 rules and statutory requirements. Denial of NWMC's Application will not affect the
18 ability of wireless carriers in other states to draw upon the USF; it will only affect the
19 ability of the citizens of rural Missouri to benefit from those federal funds. The grant
20 of the NWMC Application will, in and of itself, place an insignificant burden on the
21 USF. Accordingly, the Commission should avoid consideration of generalized policy
22 arguments relating to the wisdom of including wireless ETCs in the USF and the
23 present funding mechanisms. These concerns are presently being fully considered by

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1 the Federal-State Joint Board on Universal Service, Congress and the FCC. The FCC
2 issued a Notice of Proposed Rulemaking to consider recommendations advanced by
3 the Federal-State Joint Board on Universal Service which could ultimately result in a
4 change in the methodology for determining the level of wireless support from the
5 USF. *In re Federal-State Joint Board on Universal Service*, FCC 04-127 (CC Docket
6 No. 96-45) (Rel. June 8, 2004).

7 **Q. Hasn't the FCC recently adopted new guidelines for its evaluation of ETC**
8 **applications?**

9 A. Yes. On March 17, 2005, the FCC issued *its FCC Guidelines Report & Order*
10 adopting certain changes in the manner in which the FCC will process ETC
11 applications on a going forward basis and setting forth those procedures as suggested
12 guidelines for state commissions to follow in processing ETC applications. In
13 adopting those changes, the FCC again made it clear that rule changes adopted as a
14 result of that or any future proceeding would affect the methodology for calculating
15 USF support for all ETCs, including NWMC if the subject ETC designation is
16 granted. ETCs are not "grand-fathered" with respect to the method of determining
17 their ongoing level of support. The FCC has made this abundantly clear in its
18 *Virginia Cellular Order*. The *FCC Guidelines Report & Order* made no changes to
19 the method by which USF support for ETCs would be calculated.

20 **Q. So shouldn't the NWMC ETC Application be evaluated under those new FCC**
21 **guidelines?**

22 A. The *FCC Guidelines Report & Order* largely codifies the individual FCC cases I have
23 been discussing in this testimony. The FCC has made it clear that it intends to

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1 evaluate all ETC proposals that come before it under these criteria and urges the
2 various state commissions to use these processes as guidelines in evaluating ETC
3 applications that come before them. In adopting specific reporting requirements, the
4 FCC will make those requirements applicable not only to new applicants but also to
5 entities previously designated as ETCs by the FCC, after a reasonable transition
6 period.

7 However, the FCC has set forth its specific processes merely as a suggested
8 framework for states to use in evaluating ETC applications. The FCC recognizes that
9 in many instances the state commissions are in a better position to weigh the various
10 factors in making the public interest evaluations required by the Communications
11 Act. While the FCC has left room for the state commissions to establish processes
12 that may differ from those followed by the FCC, in doing so the FCC has made it
13 absolutely clear that any conditions imposed by the state commissions must be
14 "...consistent with federal law to ensure that supported services are offered in a
15 manner that protects consumers..." and that any state imposed requirements are
16 imposed "...only to the extent necessary to further universal service goals." *FCC*
17 *Guidelines Report & Order* at ¶ 30.

18 **Q. Has the FCC yet evaluated any ETC applications under its new guidelines?**

19 A. Not to my knowledge. The FCC is not applying these guidelines to any ETC
20 applications that were pending at the time they were issued and has continued to
21 apply the applicable statutory and regulatory precedent to applications that were filed
22 before the guidelines were adopted. Accordingly, although the *FCC Guidelines*

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1 *Report & Order* sets forth suggested guidelines, those guidelines have not yet been
2 applied or interpreted by the FCC.

3 I should also point out that the *FCC Guidelines Report & Order* has not yet
4 even become a final FCC action. Many parties on both sides of the various issues
5 have sought further review of those guidelines and have raised, including, but not
6 limited to whether some of the requirements found in the guidelines are consistent
7 with the controlling statutory provisions.

8 Because of this, I have set forth the current applicable precedents. To the
9 extent that the guidelines are codifications of those cases, this Commission has the
10 benefit of FCC interpretation of its requirements. I will also discuss how application
11 of the guidelines against the NWMC ETC filing would bear on designation of
12 NWMC as an ETC for informational purposes.

13 Finally, it is my understanding that the Commission is currently in the process
14 of a rulemaking to develop its own ETC designation requirements. NWMC
15 understands that it will ultimately be required to comply with all applicable
16 requirements once they are fully adopted and in place. However, since the
17 Commission has not yet adopted such rules, NWMC assumes that it will be afforded
18 a reasonable time to comply with any requirements that are not in effect as of the date
19 of its ETC application filing, just as the FCC has allowed in adopting its guidelines.

20 **Q. With respect to this particular ETC designation, what would be the impact on**
21 **the USF?**

22 A. Based upon current subscriber counts and locations, the total USF support NWMC
23 expects to receive for its proposed service area is \$1,468,614 annually. That would

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1 represent approximately .0357% of the total high cost support received by carriers
2 from the USF. In sharp contrast, the LECs in the proposed ETC service area receive
3 \$17,911,380⁶ annually in high cost support from the USF for their service areas
4 throughout the state of Missouri placing more than twelve (12) times the burden on
5 the USF that designation of NWMC as an ETC would place on the fund. In any
6 event, the FCC has held that a potential high cost support of 1.88% of the total level
7 of high-cost support, or approximately fifty-three (53) times the burden of the
8 proposed NWMC designation, did not represent a significant increased burden on the
9 USF. See, *In the Matter of Federal-State Joint Board on Universal Service, NPCR,*
10 *Inc. d/b/a Nextel Partners Application for Designation as an Eligible*
11 *Telecommunications Carrier In the states of Alabama, Florida, Georgia, New York,*
12 *Pennsylvania, Tennessee and the Commonwealth of Virginia, Memorandum Opinion*
13 *and Order*, CC Docket No. 96-45, DA 04-2667 (rel. August 25, 2004) (“*Nextel*
14 *Order*”), at paragraph 21. Indeed, in the *FCC Guidelines Report & Order*, the FCC
15 acknowledged that “...given the size of the total high cost fund – approximately \$3.8
16 billion a year – it is unlikely that any individual ETC designation would have a
17 substantial impact on the overall size of the fund.”⁷¹

18 **Q. Returning to the specific NWMC proposal as it relates to the rural LEC wire**
19 **centers, how is the level of support determined for the rural LEC?**

⁶ Annualizing USAC’s projected first quarter 2006 filings with the FCC, the ILECS operating in NWMC’s proposed ETC service area would receive the following in annual support for all of their wire centers in the state of Missouri: ALLTEL - \$2,550,288; Grand River - \$4,837,104; Holway - \$422,832; IAMO - \$466,380; Oregon Mutual - \$674,868; Rockport - \$527,004; Sprint - \$5,277,600; and SBC - \$3,155,304.

⁷¹ *FCC Guidelines Report & Order* at ¶ 53 (footnote omitted).

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1 A. The rural LEC support is based upon its cost of providing service. These costs are
2 either determined through a specific cost study or by following an average schedule
3 of costs. The LEC wire centers of an individual carrier throughout the state are
4 typically considered on an aggregated basis. Collectively, these wire centers are
5 referred to as that LEC's study area. In the NWMC Application, it has proposed
6 including the entire study area for Holway, IAMO, Iowa Telecom, Oregon Mutual
7 and Rockport. However, in the case of ALLTEL, Grand River and Sprint, the
8 NWMC proposal does *not* encompass the entire LEC study area.

9 **Q. What is the significance of the fact that only a portion of the ALLTEL, Grand**
10 **River and Sprint study areas are included in the proposed NWMC ETC service**
11 **area?**

12 A. As I previously stated, the level of support received by these rural LECs in any given
13 wire center is based upon their cost to provide service throughout their respective
14 study areas. Where, as here, a competitive ETC seeks to only include a portion of the
15 LEC study area in its ETC service area, there is concern that a competitive ETC not
16 be providing service to only a lower-cost portion of the LEC study area while
17 receiving support based upon an overall higher average cost spread across the entire
18 LEC study area.

19 In its *Virginia Cellular Order* and *Highland Cellular Order*, the FCC
20 examined the relative population densities for the portions of the study areas for each
21 LEC that lie within the proposed CETC service area as compared to the population
22 densities of the entire LEC study area. The FCC held that where the population
23 densities of the entire ILEC study area are significantly lower than the population

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1 density within the ETC service area, cream skimming has occurred. As detailed in
2 Mr. Reeves' testimony, that is *not* the case with respect to the service area
3 redefinitions proposed by NWMC in its ETC Application.

4 **Q. Is population density the only consideration in these types of cases?**

5 A. While the FCC based its *Virginia Cellular Order* and *Highland Cellular Order*
6 decisions on this single factor, the FCC has previously considered this issue and
7 formulated a procedure to virtually eliminate this concern even where the population
8 density might not be as set forth herein.

9 "[A]s the Commission concluded in *Universal Service Order*, the
10 primary objective in retaining the rural telephone company's study
11 area as the designated service area of a competitive ETC is to ensure
12 that competitors will not be able to target only the customers that are
13 the least expensive to serve and thus undercut the incumbent carrier's
14 ability to provide service to the high-cost customers. Rural telephone
15 companies now have the option of disaggregating and targeting high-
16 cost support below the study area level so that support will be
17 distributed in a manner that ensures that the per-line level of support is
18 more closely associated with the cost of providing service. *Therefore,*
19 *any concern regarding "cream-skimming" of customers that may*
20 *arise in designating a service area that does not encompass the entire*

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1 *study area of the rural telephone company has been substantially*
2 *eliminated.*^{8f}

3 ALLTEL and Grand River have already disaggregated their study areas into distinct
4 zones.

5 Finally, while there are clearly no cream-skimming issues involved in the
6 proposed redefinition, I note that the FCC has also recognized that the principle of
7 competitive neutrality controls in the designation of CETCs, holding that

8 “Universal service support mechanisms and rules should be
9 competitively neutral. In this context, competitive neutrality means
10 that universal service support mechanism rules neither unfairly
11 advantage nor disadvantage one provider over another and neither
12 unfairly favor nor disfavor one technology over another.”^{9f}

13 In the case of ALLTEL and Sprint, the various wire centers that comprise
14 their study areas (or disaggregated portion thereof) are scattered in non-contiguous
15 geographic clusters throughout the state. In cases such as NWMC’s, which is a
16 Missouri-only regional CMRS carrier, the situation where the ILEC study area is
17 scattered statewide warrants additional consideration. A CMRS ETC cannot
18 effectively provide service to geographic areas far removed from its FCC-licensed
19 service area. Accordingly, where, as here, the study area is comprised of numerous
20 non-contiguous regions scattered throughout an expansive geographic area, the

^{8f} *Petitions for Reconsideration of Western Wireless Corporation’s Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 19144, 19149 (2001) (emphasis added, footnotes omitted).

^{9f} Report and Order, CC Docket No. 96-45, FCC 97-157 (May 8, 1997) (¶ 47).

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1 Commission should not apply a standard that would allow only one class of CMRS
2 licensee (large nationwide licensees) to qualify for ETC status by being the only
3 carriers that can cover an entire LEC study area.

4 Since no cream-skimming would result, NWMC requests that this
5 Commission redefine the ALLTEL, Grand River and Sprint service areas to allow
6 NWMC to be designated as a competitive ETC only in the specified portions of those
7 study area.

8 **Q. Since ALLTEL, Grand River and Sprint apparently prepare all of their cost**
9 **analysis based upon several wire centers, wouldn't this re-definition result in**
10 **increased costs and administrative burden for those LECs?**

11 A. No. It is important to note that NWMC is *not* seeking to redefine the *study* area for
12 any rural LEC. Rather, NWMC is seeking only to redefine the LEC *service* areas for
13 purposes of designating a competitive ETC ("CETC"). As the FCC fully explained in
14 the *Virginia Cellular Order*, the proposed *service* area redefinition would have no
15 impact on the rural LEC reporting or administrative obligations. Specifically, the
16 FCC found that redefining the rural telephone company *service* areas would not
17 require rural telephone companies to determine their costs on any basis other than the
18 *study* area level. The redefinition, therefore, only enables NWMC, as an ETC, to
19 serve an area that is smaller than the entire LEC study area. Accordingly, NWMC
20 respectfully requests the redefinition of the ALLTEL, Grand River and Sprint *service*
21 area, but not *study* area, to include only those wire centers identified in Appendix D
22 of the Application.

1 **Q. Does NWMC offer ubiquitous service throughout its proposed ETC service**
2 **area?**

3 A. As Mr. Bundridge has testified, the NWMC network offers analog service throughout
4 most of its market and TDMA digital service throughout much of its market.
5 Recently, NWMC, in response to decisions by the major nationwide carriers to
6 abandon the TDMA digital technology, has found it necessary to migrate its network
7 to CDMA. NWMC has been able to overlay CDMA at all of its cell sites that provide
8 service to the largest population centers and major traffic arteries within its FCC-
9 licensed service area. However, there are areas within the market where the quality
10 of primarily CDMA digital services could be enhanced. These areas include some of
11 the rural-most portions of the market. Application Appendix F depicts the areas
12 where CDMA coverage would be available by the proposed additional CDMA sites
13 testified to by Mr. Bundridge as representing NWMC's proposed use of USF funds to
14 enhance NWMC's network coverage over the next five years, to the existing NWMC
15 CDMA sites.

16 **Q. Does the existence of "dead spots" in the proposed ETC area preclude NWMC**
17 **from satisfying its commitment to provide the core services set forth in FCC**
18 **Rule 54.101(a)?**

19 A. No, it does not. Any carrier or operator that provides CMRS is virtually certain to
20 have "dead spots" somewhere in the geographic area in which it provides service.
21 Indeed, with respect to cellular service, the FCC's Rules (47 C.F.R. § 22.99)
22 expressly acknowledge the existence of "dead spots," which are defined as "small
23 areas within a service area where the field strength is lower than the minimum level

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1 for reliable service.” Acknowledging the prevalence of “dead spots,” the very same
2 rule states that “[s]ervice within dead spots is presumed.” Moreover, the FCC has
3 never required an ETC applicant to demonstrate an ability to provide ubiquitous
4 coverage in the geographic area for which ETC designation was sought. To require a
5 prospective ETC to demonstrate that it can provide the supported services before it
6 receives the ETC designation effectively prohibits these aspiring entrants from
7 providing service. In many cases, it is the availability of high-cost support that allows
8 rural carriers to extend their networks into high cost areas.

9 This is consistent with the way LEC service is presently deployed. LEC
10 service is available throughout its ETC service area only where there is a phone jack.
11 Once the subscriber moves out of reach of his phone’s cable, the subscriber is
12 essentially in a LEC “dead spot”. That is not to say that the LEC is not providing
13 quality service. Rather, it merely highlights that any type of communications service,
14 wired or wireless, is subject to areas of no service.

15 NWMC is committed to extending its existing cellular network into the
16 remote and high-cost regions of its proposed ETC area. The high-cost support that
17 NWMC will receive once its Application is granted will allow it to fulfill this
18 commitment.

19 **Q. Continuing with that analogy to LEC service, doesn’t the LEC ETC have to**
20 **provide ubiquitous service throughout its designated service area as a carrier of**
21 **last resort?**

22 A. The LEC ETC has an obligation to provide service as a carrier of last resort.
23 However, that is not to say that the LEC has to build lines and have phone jacks

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1 “standing by” in every corner of its market. LECs are continuously expanding their
2 networks to extend their service to new areas (such as newly constructed retail and
3 residential areas) as the need arises. LECs use their USF support to meet their
4 ongoing construction and operational costs. The very fact that LECs continue to
5 construct new lines year after year is indicative that even LEC ETCs are not
6 providing ubiquitous service throughout their ETC service areas at the time of ETC
7 designation and are continuously working to fill in their “dead spots”.

8 **Q. What steps is NWMC willing to undertake to provide service to a potential**
9 **customer?**

10 A. Mr. Bundridge has testified as to the precise steps NWMC would take to provide
11 service to a potential customer. These steps comport with the requirements identified
12 by the FCC in the *Virginia Cellular Order*.

13 **Q. Aside from the issues and topics already discussed in your testimony, what other**
14 **matters should the Commission consider when it undertakes the public interest**
15 **analysis required by Section 214(e)(2) of the Act?**

16 A. In accordance with controlling precedent, the Commission should consider the effects
17 on competition and consumer welfare resulting from a grant of NWMC’s
18 Application. The FCC and many state public utility commissions have recognized
19 that designation of qualified ETCs promotes marketplace competition, which
20 enhances consumer welfare by increasing customer choice, and by promoting
21 innovative services and new technologies. Designating NWMC as an ETC will
22 make it easier for customers in rural Missouri to choose telecommunications service
23 based on pricing, service quality, customer service and service availability. In

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1 addition, this designation will facilitate universal service in NWMC's proposed ETC
2 area by creating incentives to ensure that quality services are available at just,
3 reasonable and affordable rates.

4 At the same time, the likelihood that consumers in NWMC's proposed ETC
5 area will be harmed by a grant of NWMC's Application is negligible or non-existent.
6 The strict public interest requirement with respect to areas served by a rural telephone
7 company has been interpreted by the FCC as an expression of Congressional concern
8 that consumers in rural areas continue to be adequately served if an ILEC exercises its
9 right to relinquish ETC status under Section 214(e)(4) of the Act. Because NWMC is
10 committed to and capable of providing the core services set forth in FCC Rule
11 54.101(a) using its own facilities, there is no reason to anticipate that consumers in
12 the proposed ETC area will be inadequately served if one or more ILECs relinquish
13 their ETC designation. Additionally, NWMC has expressly committed to undertake
14 carrier of last resort obligations in the event that a LEC within NWMC's ETC
15 designated service area were to seek to drop its designation as an ETC with carrier of
16 last resort obligations.

17 **Q. Are there any other CMRS carriers licensed to provide service in the same area?**

18 A. Yes. In addition to the two cellular licenses previously discussed, the FCC has issued
19 six Personal Communications Service ("PCS") licenses throughout the United States.
20 While the PCS licenses are issued on a Major Trading Area and Basic Trading Area
21 basis (which does not match the MSA/RSA licensing scheme used for cellular
22 licenses), just as with MSAs and RSAs, the BTAs combine to cover the entire
23 country.

1 **Q. Since you have testified that there are other CMRS licenses for the same**
2 **geographic area, how can the Commission find that the grant of ETC status**
3 **would increase competition or otherwise be in the public interest where, as here,**
4 **the ETC applicant is already providing service?**

5 A. The FCC has addressed this very issue. In the *Nextel Order*, the FCC's Wireline
6 Competition Bureau considered these very arguments that had been advanced against
7 granting ETC designation and found them unpersuasive. The FCC stated:

8 "Other commenters argue that the Commission should not designate
9 Nextel as an ETC because such designation will not increase
10 competition. They argue that Nextel is not a new entrant in the various
11 markets and other CMRS operators are currently offering service in
12 the designated service areas. [footnote omitted] We disagree. Quality
13 service available at just, reasonable, and affordable rates is a
14 fundamental principle of the Commission's universal service policies.
15 [footnote omitted] Although Nextel and other CMRS operators may
16 already offer service in the subject markets, designating Nextel as an
17 ETC will further the Commission's universal service goals by enabling
18 Nextel to better expand and improve its network to serve a greater
19 population and increase competitive choice for customers within the
20 study areas of its ETC designation. (*Nextel Order* at ¶20)."

21 In the Nextel case, the FCC considered specific showings, comparable to
22 those made by NWMC here, and found that grant of the requested ETC designation
23 would serve the public interest. Specifically, the FCC looked at the proposed

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1 network enhancement and service offerings and the expansion into the more rural
2 portions of the market, coupled with the much larger local calling area being offered
3 by the CMRS carrier and the benefits of mobility, especially in the context of
4 "...access to emergency services that can mitigate the unique risks of geographic
5 isolation associated with living in rural communities." (*Nextel Order* at ¶ 18). The
6 grant of NWMC's ETC application would be wholly consistent with FCC precedent
7 which has repeatedly found that the types of showings made by NWMC in its
8 Application and in Mr. Bundridge's testimony, more than sufficient to satisfy the
9 public interest requirement of the applicable statutory provisions.

10 **Q. Returning now to the new FCC guidelines, how would the NWMC application**
11 **be evaluated under these FCC guidelines?**

12 A. The NWMC proposal has been developed in accordance with the established FCC
13 precedent. Inasmuch as the *FCC Guidelines Report & Order* is largely a codification
14 of those orders, following those guidelines would result in the designation of NWMC
15 as an ETC. The *FCC Guidelines Report & Order* does add some additional
16 suggested analysis to be performed on a "per wire center" basis. NWMC has
17 included such information in its filing and testimony. Taken as whole, the guidelines
18 set forth in *FCC Guidelines Report & Order* are intended to enable a state
19 commission to be satisfied that the applicant, if designated as an ETC, would use the
20 USF support it receives in a manner consistent with the Act and the applicable FCC
21 rules and regulations and for the benefit of the citizens residing in the area from
22 which the support is drawn. NWMC has made a detailed showing as to how it would
23 use USF support to enhance service throughout its proposed ETC service area.

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1 Accordingly, designation of NWMC as an ETC would be consistent with the Act and
2 an analysis based upon the *FCC Guidelines Report & Order* would lead to that
3 determination.

4 **Q. Does that conclude your testimony?**

5 **A. Yes, it does.**