

1 ongoing process of adjusting capital spending priorities based on customer feedback and
2 efforts to improve network reliability; this process can help ensure that any funds
3 invested (whether derived from USF support or other sources of capital) provide the
4 maximum benefit to customers.

5 With all due respect to Mr. McKinnie, I believe that Staff's concern is misplaced
6 in this regard. I would be much more concerned about the future performance of a
7 potential ETC that had demonstrated a rigid adherence to prior capital spending priorities
8 while ignoring feedback from customers and opportunities to increase network reliability.
9 Such a carrier might be in technical compliance with the requirements of 47 CFR §54.7
10 and yet make network investments that do not provide the maximum customer benefit in
11 the shortest time. In contrast, USCOC will – as it must – demonstrate to the Commission
12 each year that it has used all USF support only for the intended purposes, and it will also
13 engage in an ongoing process to be as responsive to customers as possible while doing so.

14
15 **Response to the Additional Testimony of Mr. Brown, Mr. Schoonmaker, and Mr. Stidham**

16 **Q. HAS MR. BROWN, MR. SCHOONMAKER, OR MR. STIDHAM PROVIDED**
17 **ANY NEW INFORMATION REGARDING USCOC'S PLANS TO "USE THE**
18 **SUPPORT IT WOULD RECEIVE FROM THE UNIVERSAL SERVICE FUND**
19 **TO IMPROVE ITS NETWORK THROUGH IMPROVED COVERAGE, SIGNAL**
20 **STRENGTH, OR CAPACITY"?**

21
22 **A.** No. Instead, the ILEC witnesses compare USCOC's plans to a set of fictitious standards
23 that do not exist in federal or state law and with which the ILECs could not (and do not)
24 comply.

1 Q. WHAT ARE THE REQUIREMENTS REGARDING USCOC'S USE OF
2 FEDERAL USF SUPPORT?
3

4 A. Pursuant to federal law, any carrier that is designated as an ETC and receives federal
5 universal service support must "use that support only for the provision, maintenance, and
6 upgrading of facilities and services for which the support is intended" (47 U.S.C.
7 § 254(e); 47 C.F.R. § 54.7).⁶ According to the Missouri ETC Rule, an ETC applicant
8 must provide a two-year plan showing its intentions to use universal service support only
9 "for the provision, maintenance, and upgrading of facilities and services for which the
10 support is intended in the Missouri service area in which ETC designation was granted ...
11 For purposes of this section, 'support is intended' is defined consistent with the
12 Telecommunications Act" (4 CSR 240-3.570 (2)(A)(2)).
13

14 Q. DO MR. BROWN, MR. SCHOONMAKER, OR MR. STIDHAM PROVIDE ANY
15 EVIDENCE THAT USCOC HAS NOT OR WILL NOT COMPLY WITH THESE
16 REQUIREMENTS?
17

18 A. No.
19

20 Q. MR. BROWN (P. 13), MR. SCHOONMAKER (PP. 16-18), AND MR. STIDHAM
21 (PP. 2-4) ALL ARGUE THAT USCOC SHOULD NOT BE DESIGNATED AS AN
22 ETC IN THE REQUESTED AREAS BECAUSE IT DOES NOT CURRENTLY
23 HAVE SIGNAL COVERAGE THROUGHOUT THESE AREAS. IS THIS
24 OBSERVATION A BASIS FOR DENYING USCOC'S APPLICATION UNDER
25 FEDERAL OR STATE LAW?
26

⁶ As I explained in my October 3, 2005 surrebuttal testimony, compliance with this requirement is impossible to demonstrate up front (i.e. before the carrier receives an ETC designation for a given area and before any investments are made), but such a demonstration should be part of the annual recertification process for *all* ETCs.

1 A. No. Mr. Schoonmaker devotes a significant amount of his testimony (beginning at p. 16)
2 to an effort to show that USCOC does not currently “provide service throughout the
3 [ILEC] study area.” Mr. Stidham argues (p. 2) that the buildout plan is meant to
4 demonstrate a carrier’s ability to serve throughout an area. Mr. Brown refers (p. 13) to
5 USCOC’s coverage maps and the “white area” where USCOC currently does not provide
6 service, and concludes that USCOC should not be designated as an ETC for this reason.⁷
7 Yet Mr. Schoonmaker, Mr. Stidham, and Mr. Brown all neglect to mention that neither
8 the FCC nor any state regulator has ever adopted such a standard.

9
10 **Q. WAS THIS ISSUE THOROUGHLY ADDRESSED IN PREVIOUS TESTIMONY**
11 **AND AT THE PRIOR HEARING IN THIS PROCEEDING?**

12
13 A. Yes. The ILECs’ claims are not new and certainly did not arise as a result of USCOC’s
14 compliance filing. I responded to the testimony of Mr. Brown and Mr. Schoonmaker in
15 my October 3, 2005 surrebuttal testimony (pp. 43-52),⁸ and they have provided no new
16 evidence in their additional testimony.

17
18 **Q. DOES USCOC CONTEND THAT IT CURRENTLY PROVIDES SERVICE**
19 **THROUGHOUT THE AREA FOR WHICH IT SEEKS DESIGNATION AS AN**
20 **ETC IN MISSOURI?**

21
22 A. No. USCOC has made investments, without USF support, in these areas whenever such
23 investment has proven to be economically rational. It began by investing in the more

⁷ Interestingly enough, when arguing that USCOC should not be designated as an ETC because it does not currently serve throughout the proposed area, Mr. Brown makes no attempt to reconcile this position with his previous argument that USCOC should not be designated because it already provides service in these areas (see p. 25 of Mr. Brown’s September 12, 2005 rebuttal testimony).

⁸ This issue was discussed in USCOC’s Post-Hearing brief at pp. 7-9.

1 densely populated areas (or areas of more dense potential usage) first, before building out
2 into less dense areas. The ILECs built out their networks, over time, in exactly the same
3 way: they began with construction in areas of highest density and expanded outward from
4 those areas. The key distinction between the history of the ILECs' network expansion
5 and USCOC's network buildout to date is that the ILECs made their investments while
6 receiving either implicit or explicit support.

7 USCOC now seeks to expand its geographic coverage to improve its service
8 quality, and to reinforce its service reliability in order to provide to people in rural areas a
9 level of service that is comparable to that which is available in urban areas. This is the
10 investment that is made possible, whether the carrier is an incumbent ETC or CETC,
11 through USF support. The fact that USCOC or any other potential ETC cannot currently
12 serve throughout the area represents compelling evidence in support of a conclusion that
13 USF support is needed in order to make further investment feasible.

14
15 **Q. IS AN ETC REQUIRED TO PROVIDE SERVICE THROUGHOUT ITS ETC**
16 **SERVICE AREA AT THE TIME OF DESIGNATION?**

17
18 A. No. The FCC has explicitly recognized that it is unlikely that a CETC will be able to
19 offer ubiquitous service prior to receiving USF support: "to require a carrier to actually
20 provide the supported services before it is designated as ETC has the effect of prohibiting
21 the ability of prospective entrants from providing telecommunications services."⁹

22 Instead, the FCC has focused on a CETC's ability and willingness to respond to

⁹ *Virginia Cellular Order*, ¶ 17, citing *Declaratory Ruling*, 15 FCC Rcd at 15173-74.

1 reasonable requests for service.¹⁰ As set forth in USCOC's Application, the company has
2 agreed to adopt the same checklist that was approved by the FCC in the *Virginia Cellular*
3 *Order*. This checklist provides a step-by-step means of providing service to customers
4 who do not currently receive coverage at their home or business location.

5
6 **Q. MR. BROWN PROPOSES TO TAKE THIS FICTIONAL REQUIREMENT A**
7 **STEP FURTHER AND ASKS THE COMMISSION TO CONCLUDE THAT IT IS**
8 **NOT IN THE PUBLIC INTEREST TO DESIGNATE A CARRIER AS AN ETC**
9 **UNLESS THAT CARRIER IS WILLING TO "ENTER INTO AN**
10 **ENFORCEABLE COMMITMENT TO EVENTUALLY PROVIDE SERVICE**
11 **THROUGHOUT THE SERVICE TERRITORY." WOULD SUCH A**
12 **REQUIREMENT HAVE AN IMPACT ON THE ILECS?**

13
14 A. Yes. Mr. Brown's proposed requirement, if adopted in a competitively neutral fashion,
15 would disqualify the ILECs as ETCs. As explained in detail in my October 3, 2005
16 surrebuttal testimony (pp. 45-49), no ILEC, using its wireline network, can "provide
17 service throughout its service area;" in reality it can provide service only to a very small
18 percentage of this area (specifically, to the area at or very near the end of a transmission
19 wire). Service coverage by wireline carriers can *never* meet Mr. Brown's proposed
20 standard, and it would be unreasonable for the Commission to require the ILECs to "enter
21 into an enforceable agreement" to extend their networks to provide service *throughout*
22 the entirety of their service area. It would be similarly unreasonable to require a carrier
23 seeking ETC designation to demonstrate an ability to provide such service prior to
24 designation and in over two dozen ETC designation cases in which I have participated at
25 the FCC and across the country I am not aware of a case in which such a requirement has
26 ever been imposed.

¹⁰ *Virginia Cellular Order*, ¶ 15.

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Q. MR. BROWN AND MR. SCHOONMAKER ARGUE THAT AN ETC APPLICANT’S PLAN FOR THE INTENDED USE OF USF SUPPORT MUST SHOW A BROAD EXPANSION OF THE CARRIER’S NETWORK COVERAGE FOOTPRINT IN ORDER TO BE VALID. DOES SUCH A REQUIREMENT EXIST?

A. No. Mr. Brown argues (pp. 6-7, 11) that USCOC’s plan for the use of USF support is somehow improper because some of the planned construction “will not be used to expand service into currently unserved areas.”

While such a geographic expansion of coverage is one permissible use of USF support, it is certainly not the only permissible use. The use of all support received for the provisioning, maintenance, and upgrading of facilities and services for which the support is intended” (47 CFR §54.7, 4 CSR 240-3.570 (2)(1)) is not limited exclusively to the expansion of a carrier’s network footprint; in fact, 4 CSR (3) refers explicitly to three possible uses of universal service support: increasing coverage, improving service quality, and increasing capacity.

In this light, Mr. Schoonmaker’s argument (p. 16) that USCOC’s plan should be rejected (or otherwise found to be inadequate) because some of the proposed new cell sites will “strengthen coverage” in some areas rather than expand USCOC’s network footprint falls flat: investments made in order to *strengthen coverage* certainly fall well within a requirement to use support for the “provisioning, maintenance, and upgrading of facilities” in order to “improve coverage, service quality, or capacity.”

Q. UNDERSTANDING THAT EXPENDITURES MADE TO “STRENGTHEN COVERAGE” ARE A PERMISSIBLE USE OF FEDERAL USF SUPPORT THAT CAN PROVIDE SUBSTANTIAL PUBLIC BENEFIT, ARE MR. BROWN AND MR. SCHOONMAKER RIGHT WHEN THEY CLAIM THAT MOST OF

1 **USCOC’S PLANNED INVESTMENTS WILL DO LITTLE TO EXPAND ITS**
2 **COVERAGE FOOTPRINT?**

3
4 A. No. As USCOC witness Johnson explains in detail in his testimony, USCOC’s planned
5 network investments will – when considered from the perspective of an engineer who
6 designs wireless systems – expand the company’s coverage into unserved and
7 underserved areas.

8
9 **Q. MR. STIDHAM ARGUES (PP. 4-5) THAT THE PUBLIC HEALTH AND SAFETY**
10 **BENEFITS DESCRIBED IN YOUR DIRECT TESTIMONY WILL NOT BE**
11 **REALIZED UNLESS USCOC’S PRIMARY FOCUS IS ON INVESTMENTS**
12 **THAT WILL EXPAND ITS FOOTPRINT. DO YOU AGREE?**

13
14 A. Absolutely not. It is certainly true that expanding USCOC’s network footprint will
15 provide public health and safety benefits, but such an expansion is not the only method of
16 doing so. Investments that fill in areas of weak or no coverage within the existing
17 footprint, investments that increase service reliability, and investments that increase
18 service quality (collectively what Mr. Schoonmaker disparagingly refers to as
19 investments made to “strengthen coverage”) can also be expected to provide important
20 public health and safety benefits that Mr. Stidham should not be so quick to dismiss.

21
22 **Q. MR. BROWN AND MR. SCHOONMAKER ARGUE THAT THE COMMISSION**
23 **SHOULD REQUIRE USCOC TO MAKE A MINIMUM LEVEL OF**
24 **INVESTMENT THAT EXCEEDS THE AMOUNT OF USF SUPPORT**
25 **RECEIVED. IS THERE ANY REASONABLE BASIS FOR SUCH A**
26 **REQUIREMENT?**

27
28 A. No. If designated as an ETC, USCOC – like all ETCs – must demonstrate to the
29 Commission that all federal USF support received has been used for the “provision,
30 maintenance, and upgrading of facilities and services for which the support is intended.”

1 A carrier seeking designation must, according to the Missouri ETC Rule, provide a two-
2 year plan that sets forth that carrier's then-current plans for the use of these funds. As a
3 part of the annual recertification process, *all* ETCs (ILECs and CETCs) must demonstrate
4 that all support received was in fact properly used during the preceding year.

5 Mr. Brown and Mr. Schoonmaker have become fixated on the number of cells
6 sites that USCOC has constructed and expects to construct going forward. For example,
7 Mr. Brown points out (p. 12) that during the past year, USCOC has been able to construct
8 **** ____ **** cell sites in the area for which it seeks designation as an ETC. In other words,
9 USCOC has been able to make a business case for the construction of these sites and has
10 been able to obtain the necessary capital for their construction from sources other than
11 USF support. With no factual basis whatsoever, Mr. Brown makes a leap of logic and
12 concludes (p. 12) that this level of construction "should form a conservative baseline for
13 the determination of the normal construction activity that could be expected absent high-
14 cost support," and argues that USCOC should be required, going forward, to make annual
15 investments of this amount *in addition to* the amount of any federal USF support
16 received.¹¹

17 Mr. Brown's proposed new "baseline expenditure" requirement must be rejected
18 for several reasons. First, no such requirement exists in the federal or state rules. All
19 ETCs must demonstrate that all USF support received has been used only for the intended
20 purposes, but there has been no proposal from either the Joint Board or FCC that carriers
21 be required to make some additional level of minimum investment beyond that amount.

¹¹ Mr. Schoonmaker makes a similar argument at pp. 24-26 of his testimony.

1 Second, Mr. Brown’s proposal is based on the unsupported (and ultimately
2 flawed) assumption that an inexhaustible supply of projects (pursuant to Mr. Brown’s and
3 Mr. Schoonmaker’s fixation, “cell sites” or “towers”) that can be justified without USF
4 support. In other words, Mr. Brown is assuming that USCOC will be able to make a
5 rational business case – exclusive of USF support – for a *minimum* of ** __ ** additional
6 cell sites within its Missouri ETC service area *every year*. This is absurd. Mr. Brown has
7 no factual basis for this assumption at all – for all he knows, the ** __ ** sites constructed
8 by USCOC in past year represent the total list of available projects for which a rational
9 business case can be made. It is more likely that, based on expectations of demand
10 growth and other factors, a carrier like USCOC will be able to make a rational business
11 case for a varying number of projects each year.

12 Third, Mr. Brown’s proposal is based on the unsupported (and ultimately flawed)
13 assumption that a carrier such as USCOC has a constant and unwavering level of capital
14 available each year. In reality, a company such as USCOC is much more likely to have a
15 varying level of capital available for investment from year to year.

16 Fourth, Mr. Brown’s tower fixation has caused him to improperly equate
17 “network investment” with “cell site construction.” His recommendation is actually for
18 the Commission to require USCOC to construct a minimum number of cell sites in
19 addition to those proposed in its two-year plan. Of course, there are many ways for a
20 wireless carrier to “improve coverage, service quality, or capacity” that are unrelated to
21 the construction of cell sites. A wireless carrier may invest in new switching facilities
22 that will increase the quality of service provided in a given area, for example, or it might
23 increase network capacity by investing in the transmission facilities used to connect cell

1 sites to those switching facilities. Even an effort to “improve coverage” is not necessarily
2 related to “tower construction” as Mr. Brown assumes; new transmission equipment can
3 be placed on structures owned by other entities (thereby obviating the need to construct a
4 new “tower”), or more robust transmission equipment can be placed on an existing
5 towers.

6 Finally, Mr. Brown’s proposal, if applied in a competitively neutral manner, is
7 likely to be problematic for the ILECs. It is unlikely that the ILECs can demonstrate that
8 their annual network expenditures exceed the total amount of USF support received plus
9 the level of expenditures that could be justified absent such support.

10
11 **Q. MR. BROWN (PP. 3-4) AND MR. SCHOONMAKER (PP. 27-29) ARGUE THAT**
12 **BECAUSE TWO ILEC-AFFILIATED WIRELESS CARRIERS HAVE BEEN**
13 **DESIGNATED AS ETCS IN PARTS OF THE AREA FOR WHICH USCOC**
14 **SEEKS DESIGNATION, THAT IT IS NOT IN THE PUBLIC INTEREST TO**
15 **DESIGNATE USCOC AS AN ETC IN THOSE AREAS. DO THEIR**
16 **ARGUMENTS MAKE SENSE?**

17
18 A. No. Mr. Schoonmaker argues (p. 27) that “the public policy question that the
19 Commission is faced with for the first time with this application is the question of
20 whether it is an appropriate use of universal service funds to support multiple wireless
21 carriers in the same service area.” To the extent that Mr. Schoonmaker is suggesting that
22 it would somehow be more costly or result in a greater draw from the federal fund to
23 “support multiple wireless carriers” than it would to support a single wireless carrier in a
24 given area, Mr. Schoonmaker is simply wrong. As Mr. Schoonmaker is (or ought to be)
25 aware, wireless carriers (whether or not ILEC-affiliated) receive funding on a different
26 basis than the ILECs. The ILECs receive a total amount of support based on the prior
27 year’s qualifying expenditures, but this amount does not vary based on the number of

1 customers served. As a result, it would be inherently inefficient and very costly to
2 support multiple ILEC networks in the same area. In direct contrast, a wireless carrier
3 receives support based on the number of customers actually served in the area. Because
4 the number of customers remains constant, the total amount of USF support being
5 provided to a given area is the same whether one or one hundred wireless carriers have
6 been designated as ETCs in that area.¹²

7
8 **Q. MR. SCHOONMAKER ARGUES THAT THE COMMISSION'S PREVIOUS**
9 **DESIGNATION OF TWO OTHER WIRELESS ETCS DIMINISHES THE**
10 **PUBLIC INTEREST OF USCOC'S DESIGNATION. DO YOU AGREE?**

11
12 A. No. Specifically, Mr. Schoonmaker argues (p. 28) that "the Commission must determine
13 if there is any incremental benefit to granting an ETC designation to USCOC."¹³ As an
14 initial matter, Mr. Schoonmaker is again attempting to create a standard that does not
15 exist in federal or state law. Setting aside the question of the legal standard, there are
16 several reasons that I disagree with Mr. Schoonmaker's conclusion that the designation of
17 USCOC will not result in incremental benefits to customers.¹⁴

18 First, as Mr. Schoonmaker points out (p. 27), Northwest Missouri Cellular and
19 Chariton Valley Cellular operate only within Missouri and only in rural areas, while

¹² For example, in an area with 100 wireless subscribers and USF support available of \$10/line/month, the total USF provided to the area would be \$1000/month. If a single wireless ETC serves every customer in the area, the total support disbursed is \$1000/month; if two wireless ETCs serve the area, the total amount of support remains unchanged (assuming each wireless ETC serves one-half of the wireless subscribers, each carrier would be eligible for \$500/month).

¹³ Mr. Brown makes a similar argument at p. 16 of his testimony.

¹⁴ As explained above, Mr. Schoonmaker's claim of an incremental cost is incorrect. Mr. Brown also made a number of claims regarding the impact of an ETC designation on carrier costs in his September 12, 2005 rebuttal testimony. I responded to Mr. Brown's flawed analysis at pp. 54-68 of my October 3, 2005 surrebuttal testimony.