

Exhibit No.:

Issue: ETC Designation
Witness: James H. Blundell
Type of Exhibit: Direct Testimony

Sponsoring Party: Western Wireless
Case No.: TO-2004-0527
Date Testimony Prepared: August 5, 2004

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

In the Matter of the Application of WWC)
License, LLC, d/b/a CellularOne® for)
Designation as an Eligible)
Telecommunications Carrier, and Petition for)
Redefinition of Rural Telephone Company)
Service Areas)

Case No. TO-2004-0527

DIRECT TESTIMONY

OF

JAMES H. BLUNDELL

ON BEHALF OF WWC LICENSE LLC

AUGUST 5, 2004

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1 **I. IDENTIFICATION OF WITNESS, FACTUAL BACKGROUND,**
2 **AND PURPOSE OF TESTIMONY**

3 **Q: PLEASE STATE YOUR NAME, PLACE OF EMPLOYMENT, AND BUSINESS**
4 **ADDRESS.**

5 A: My name is James H. Blundell. I am employed by Western Wireless Corporation as the
6 Executive Director of External Affairs. My business address is as follows:

7 James H. Blundell, Esq.
8 Executive Director of External Affairs
9 Western Wireless Corporation
10 3650 131st Avenue SE - Suite 400
11 Bellevue, Washington 98006
12 Telephone: (425) 586-8736
13 Fax: (425) 586-8090

14 **Q: WHAT ARE YOUR RESPONSIBILITIES WITHIN WESTERN WIRELESS?**

15 A: My primary responsibility is to represent Western Wireless and its subsidiaries, including
16 WWC License, LLC ("Western Wireless" or the "Company") in all government and
17 industry affairs. I am responsible for many regulatory and legislative matters for the
18 Company, at both the state and federal levels. I have lead responsibility for the filing and
19 management of Western Wireless' applications for Eligible Telecommunications Carrier
20 ("ETC") designation before several state commissions and the Federal Communications
21 Commission ("FCC"). In that capacity, I have gained substantial knowledge about the
22 products and services offered by Western Wireless, as well as the Company's network
23 and business operations. I have substantial knowledge about Western Wireless' service
24 offerings in Missouri, including their features, pricing, and services. I am also
25 responsible for the management of regulatory proceedings in several states involving the
26 reform of state universal service rules, slamming/cramming, E911, numbering, etc.

1 **Q: PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

2 A: Since January 1999, I have worked for Western Wireless as the Director and Executive
3 Director of External Affairs. Prior to joining Western Wireless, I served as House
4 Counsel to the Washington State House of Representatives. Before working for the
5 Washington State House of Representatives, I was an associate at the law firm of Owens
6 Davies Mackie in Olympia, Washington, where I practiced in the areas of land use and
7 municipal law.

8 **Q: PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

9 A: I hold a Juris Doctor degree from Santa Clara University in Santa Clara, California and a
10 Bachelor of Arts degree in Political Science from the University of Washington in
11 Seattle, Washington.

12 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A: The purpose of my testimony is to describe how Western Wireless provides the supported
14 services in Missouri; to identify the Company's plans for providing universal service
15 within the state of Missouri in satisfaction of the federal ETC requirements; to show how
16 the designation of Western Wireless as a competitive ETC in rural telephone company
17 service areas is in the public interest; and to explain why the Commission should redefine
18 the service area requirement where necessary to permit Western Wireless' entry as a
19 competitive ETC.

20 **Q: DOES WESTERN WIRELESS PROVIDE TELECOMMUNICATIONS SERVICES**
21 **IN MISSOURI?**

22 A: Yes. Western Wireless is a "telecommunications carrier" as defined in Section 153(44)
23 of the Telecommunications Act of 1996 (the "Act"). Western Wireless is authorized by
24 the FCC and provides commercial mobile radio services ("CMRS") under the brand

1 name "CellularOne®" in the following Missouri counties: Bates, Cedar, Henry, St. Clair
2 and Vernon. Western Wireless is the non-wireline FCC licensee in the cellular license
3 area in Missouri identified as: Missouri 9 – Bates RSA, Market No. 512A. Western
4 Wireless' FCC-licensed service area includes the rural telephone company study areas
5 and non rural telephone company wire centers listed on **Exhibit JHB-1**. Western
6 Wireless is also licensed by the FCC to provide service throughout the rural telephone
7 company wire centers listed in **Exhibit JHB-2**. The areas listed on **Exhibits JHB-1** and
8 **JHB-2** are referred to herein as the "Designated Areas." The services provided by
9 Western Wireless in Missouri include analog and digital mobile telephony,
10 data/facsimile, 911, voice mail, and other features and services.

11 **Q: IS WESTERN WIRELESS REQUIRED TO HOLD A CERTIFICATE OF PUBLIC**
12 **CONVENIENCE AND NECESSITY TO OPERATE IN MISSOURI?**
13

14 **A:** No. Congress has preempted States from regulating the entry or rates of CMRS
15 providers. *See* 47 U.S.C. § 332(c)(3)(A). This preemption is recognized in
16 Section 386.020(53) RSMo., which specifically excludes CMRS providers from the
17 Commission's jurisdiction. This Commission has also recognized the preemption of
18 entry regulation in a proceeding involving ETC designation for another company that
19 provided CMRS services, noting: "Mid-Missouri Cellular is a commercial mobile
20 services carrier, and is not certificated by the Commission." *In the Matter of the*
21 *Application of Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular for*
22 *Designation as a Telecommunications Company Carrier Eligible for Federal Universal*
23 *Service Support Pursuant to Section 254 of the Telecommunications Act of 1996,*
24 *Case No. TO-2003-0531, Order Denying Motion to Dismiss, Setting Prehearing*
25 *Conference, and Directing Filing of a Proposed Procedural Schedule, p. 1 (September*

1 16, 2003) ("*Mid-Missouri Order*"). Accordingly, Western Wireless is not required to
2 hold a certificate from the Commission.

3 **Q: DOES WESTERN WIRELESS CURRENTLY CONTRIBUTE TO THE FUNDING**
4 **FOR UNIVERSAL SERVICE?**

5 A: Yes. Western Wireless contributes to the federal universal service fund. Federal
6 regulations require carriers like Western Wireless to contribute approximately 8.9 percent
7 of their interstate revenues to the funding of federal universal service.

8 **Q: IS THE COMPANY PRESENTLY ABLE TO RECEIVE FEDERAL UNIVERSAL**
9 **SERVICE SUPPORT FOR THE PROVISION OF SERVICE IN THE**
10 **DESIGNATED AREAS?**

11 A: No. Until Western Wireless is designated as an ETC, it is not eligible to receive support
12 from the federal universal service fund.

13 **Q: WOULD THE RECEIPT OF FEDERAL UNIVERSAL SERVICE SUPPORT BY**
14 **WESTERN WIRELESS PROMOTE THE PROVISION OF UNIVERSAL**
15 **SERVICE IN THE DESIGNATED AREAS?**
16

17 A: Yes. Obtaining federal universal service funding will allow Western Wireless to compete
18 equitably with the incumbent telephone companies in those areas, which are currently
19 eligible for, and are actually receiving, federal universal service support. It will also
20 allow Western Wireless to make additional investments in the network infrastructure in
21 the Designated Areas. Unlike urban areas where carriers are able to compete based upon
22 the cost of providing service, rural and high-cost areas will not experience the full
23 benefits of competition unless competitive carriers are designated as ETCs, and are,
24 thereby, allowed entry to the universal service market.

25 **Q: DID WESTERN WIRELESS FILE AN APPLICATION FOR DESIGNATION AS A**
26 **COMPETITIVE ETC IN THE STATE OF MISSOURI?**

27 A: Yes. Western Wireless' Application in this proceeding was originally filed with the
28 Public Service Commission of the State of Missouri ("Commission") on April 13, 2004.

1 **Q: HAS WESTERN WIRELESS PREVIOUSLY BEEN DESIGNATED AS AN ETC IN**
2 **MISSOURI?**

3 A: No.

4 **Q: HAS WESTERN WIRELESS BEEN DESIGNATED AS AN ETC IN ANY OTHER**
5 **JURISDICTIONS?**

6 A: Yes. The State commissions of California, Colorado, Iowa, Kansas, Minnesota,
7 Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and
8 Utah, and the FCC for Wyoming and the Pine Ridge Indian Reservation in South Dakota,
9 have already determined that Western Wireless meets the requirements for ETC
10 designation.

11 **Q: WHY IS WESTERN WIRELESS SEEKING DESIGNATION AS AN ETC?**

12 A: Section 214(e) of the Act provides that a carrier must obtain designation as an ETC to be
13 eligible to receive federal universal service support.

14 **Q: WHY IS WESTERN WIRELESS SEEKING THIS DESIGNATION BEFORE THE**
15 **PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI?**

16 A: Although the law governing ETC designation is primarily federal, Section 214(e)(2)
17 delegates to state commissions the authority to determine whether applicants for ETC
18 designation have met the federally required standards.

19 **Q: HAS THIS COMMISSION EXERCISED ITS JURISDICTION TO GRANT ETC**
20 **DESIGNATION UNDER SECTION 214(e)?**

21 A: Yes. In fact, the Commission has previously granted ETC designation to several
22 competitive carriers. Examples include *In the Matter of the Application of Green Hills*
23 *Area Cellular Telephone, Inc. d/b/a Green Hills Telecommunications Services for*
24 *Designation as a Telecommunications Company Carrier Eligible for Federal Universal*
25 *Service Support Pursuant to Section 254 of the Telecommunications Act of 1996*, Case
26 No. CO-2003-0162, *Order Approving Stipulation and Agreement* (Mar. 4, 2003) (“Green

1 *Hills Designation Order”), In the Matter of the Application of ExOp of Missouri, Inc.*
2 *d/b/a Unite for Designation as a Telecommunications Carrier Eligible for Federal*
3 *Universal Service Support in the Platte City Exchange Pursuant to Section 254 of the*
4 *Telecommunications Act of 1996, Case No. CO-2003-0252, Order Granting Designation*
5 *as an Eligible Carrier, (April 20, 2003) (“ExOp Designation Order”) and In the Matter*
6 *of the Application of The Pager Company for Designation as a Telecommunications*
7 *Carrier Eligible for Federal Universal Service Support Pursuant to Section 254 of the*
8 *Telecommunications Act of 1996, Case No. CO-2003-0094, Order Granting Designation*
9 *as an Eligible Carrier, (April 1, 2003).*

10 **II. STANDARDS FOR ETC DESIGNATION**

11 **Q: IN WHAT AREAS IS WESTERN WIRELESS SEEKING DESIGNATION AS AN**
12 **ETC?**

13 A: Western Wireless is seeking designation as an ETC in two non-rural telephone company
14 wire centers, one rural telephone company study area where the company is licensed to
15 serve the entire study area, and the Pleasanton wire center, which is Craw-Kan (Kansas)’s
16 only wire center in Missouri. These service areas are identified on **Exhibit JHB-1**. In
17 addition, Western Wireless is seeking conditional designation as an ETC in certain rural
18 telephone company wire centers where it does not serve the entire study area. These
19 service areas are identified on **Exhibit JHB-2**. Western Wireless’ request for ETC
20 designation in these areas is subject to the agreement of the Commission and the FCC to
21 redefine the service area requirement in these areas, which is essential to allow for
22 Western Wireless’ competitive entry.

1 **Q: WHAT ARE THE FEDERAL REQUIREMENTS FOR DESIGNATION AS A**
2 **COMPETITIVE ETC?**

3 A: The federal requirements for ETC designation are set forth in Section 214(e)(1)-(2) of the
4 Act and FCC Rules 54.101 and 54.201(d). In order to be designated as a competitive
5 ETC, an applicant must meet the following requirements: (1) it must be a common
6 carrier; (2) it must offer the supported services and functionalities set forth in
7 FCC Rule 54.101(a)(1)-(9); and (3) it must meet the service and advertising obligations
8 of an ETC. Further, to be designated as a competitive ETC in an area served by a rural
9 telephone company, Section 214(e)(2) requires that the Commission make a separate
10 public interest finding.

11 **Q: ARE THERE ANY APPLICABLE STATE LAW REQUIREMENTS?**

12 A: No. Section 392.248 RSMo. and 4 CSR 240-31.010-110 establish the operation and
13 administration of the Missouri State Universal Service Fund, but because Western
14 Wireless is not seeking to become eligible for state funding, those laws are not applicable
15 to this proceeding. Other than the laws and regulations governing the conduct of
16 proceedings before the Commission (such as those found at Section 386.410 RSMo. and
17 4 CSR 240 Chapter 2), there are no other state laws or regulations addressing ETC
18 designation.

19 **Q: IS WESTERN WIRELESS A COMMON CARRIER?**

20 A: Yes. Western Wireless is a “common carrier” for the purposes of obtaining ETC
21 designation under Section 214(e)(1). Section 153(10) of the Act defines a common
22 carrier as a person engaged as a common carrier on a for-hire basis in interstate
23 communications utilizing either wire or radio technology. The FCC’s regulations

specifically provide that CMRS, such as that provided by Western Wireless, is a common carrier service. *See* FCC Rule 20.9(a)(7).

Q: WHAT ARE THE “SUPPORTED SERVICES” THAT AN ETC MUST OFFER?

A: The FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by the federal universal service support mechanisms: (1) voice-grade access to the public switched network, (2) local usage, (3) dual tone multi-frequency (“DTMF”) signaling or its functional equivalent, (4) single-party service or its functional equivalent, (5) access to emergency services, (6) access to operator services, (7) access to interexchange services, (8) access to directory assistance, and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a)(1)-(9). Western Wireless provides all of these services and/or functionalities over its existing network infrastructure in Missouri.

III. DESCRIPTION OF WESTERN WIRELESS’ SERVICES

Q: PLEASE EXPLAIN EACH OF THE SUPPORTED SERVICES AND HOW WESTERN WIRELESS PROVIDES THE SERVICE OR FUNCTIONALITY.

A: Western Wireless is currently able to provide all of its customers within the Designated Areas with the services and functionalities identified by the FCC in Rule 54.101(a) utilizing its own network facilities or a combination of its own facilities and the resale or lease of other carriers’ services or facilities. Each of these supported services is discussed more fully below.

a. Voice-grade access to the public switched telephone network. Voice-grade access means the ability to make and receive phone calls within a voice bandwidth range of between 300 and 3000 Hertz (approximately 2700 Hertz). 47 C.F.R. § 54.101(a)(1); *In the Matter of Federal State Joint Board on Universal Service*, CC Docket No. 96-45,

1 *Fourth Order on Reconsideration*, FCC 97-420, ¶¶ 15-16 (rel. Dec. 30, 1997). There is
2 no requirement to support high-speed data transmissions. *In the Matter of Federal-State*
3 *Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-
4 157, ¶ 63-64 (rel. May 8, 1997) (“*Universal Service Order*”). Western Wireless has
5 interconnection arrangements with local telephone companies. Through its
6 interconnection arrangements with other carriers, including SBC, Sprint, ALLTEL,
7 CenturyTel of Missouri and Spectra, all of Western Wireless’ Missouri customers are
8 able to make and receive calls on the public switched telephone network within the
9 specified bandwidth.

10 b. Local usage. Western Wireless provides its customers with an amount of local
11 usage, free of charge, as required by Rule 54.101(a)(2). Unlimited local usage is not
12 required of any ETC. *In the Matter of Federal-State Board on Universal Service*,
13 CC Docket No. 96-45, *Order and Order on Reconsideration*, FCC 03-170
14 (rel. July 14, 2003) (“*July 2003 Order*”). Western Wireless will include local usage in all
15 of its service offerings, and intends to offer unlimited local usage in at least one service
16 offering in Missouri. Western Wireless will also comply with any local usage
17 requirements adopted by the FCC in the future and required of federal ETCs.

18 c. DTMF signaling, or its functional equivalent. DTMF is a method of signaling
19 that facilitates the transportation of call set-up and call detail information. *Universal*
20 *Service Order*, ¶ 71. The FCC has recognized that because “wireless carriers use out-of-
21 band digital signaling mechanisms ... it is appropriate to support out-of-band signaling
22 mechanisms as an alternative to DTMF signaling.” *Id.* Western Wireless currently uses

1 out-of-band digital signaling and in-band multi-frequency signaling that is functionally
2 equivalent to DTMF signaling.

3 d. Single-party service or its functional equivalent. “Single party service” means
4 that only one party will be served by each subscriber loop or access line, in contrast to a
5 multi-party line. Under FCC Rule 54.101(a)(4), a CMRS provider meets this
6 requirement when it offers a dedicated message path for the length of a user’s particular
7 transmission. Western Wireless provides a dedicated message path for the duration of all
8 customer calls.

9 e. Access to emergency services. The ability to reach a public service answering
10 point (“PSAP”) by dialing 911 is a required service in any universal service offering.
11 47 C.F.R. § 54.101(a)(5); *Universal Service Order*, ¶ 72. The FCC also requires that a
12 carrier provide access to enhanced 911 (“E911”), which includes the capability to provide
13 both automatic numbering information (“ANI”) and automatic location information
14 (“ALI”) when a PSAP submits a compliant request to the carrier.
15 47 C.F.R. § 54.101(a)(5). In order to qualify a request as compliant, the PSAP must be
16 capable of receiving and utilizing the data, and a mechanism for recovering the PSAP’s
17 costs of the E911 service must be in place. 47 CFR § 20.18(j). Western Wireless
18 provides 911 service to all of its customers in Missouri, and stands ready to implement
19 E911 services once a PSAP submits a compliant request for E911 service. Although
20 Western Wireless has not received any requests for either Phase I or Phase II E911
21 service in its Missouri service area, the Company will work with PSAPs within its
22 designated service areas to make E911 service available according to federal
23 requirements.

1 f. Access to operator services. Access to operator services means any automatic or
2 live assistance provided to a consumer to arrange for the billing or completion, or both, of
3 a telephone call. 47 C.F.R. § 54.101(a)(6). Western Wireless meets this requirement by
4 providing all of its customers with access to operator services provided by either the
5 Company or other entities (e.g., LECs, interexchange carriers (“IXCs”), etc.).

6 g. Access to interexchange service. As explained by the FCC, an ETC must offer
7 consumers access to interexchange service for the purposes of making and receiving toll
8 or interexchange calls. 47 C.F.R. § 54.101(a)(7). Equal access to interexchange service -
9 i.e., the ability of a customer to access a presubscribed long distance carrier by dialing
10 1+number - is not a requirement. *See Universal Service Order*, ¶ 78; *July 2003 Order*,
11 ¶ 33. Western Wireless provides all of its customers with the ability to make and receive
12 interexchange, or toll, calls through direct interconnection arrangements the Company
13 has with several IXCs. Additionally, customers can reach their IXC of choice by dialing
14 the appropriate access code. Western Wireless thus satisfies this service requirement.

15 h. Access to directory assistance. An ETC must also provide access to directory
16 assistance. 47 C.F.R. § 54.101(a)(8). Western Wireless meets this requirement by
17 providing all of its customers with access to directory assistance by dialing “411” or
18 “555-1212.”

19 i. Toll limitation for qualifying, low-income consumers. An ETC must offer toll
20 limitation services to qualifying Lifeline customers at no charge.
21 47 C.F.R. § 54.101(a)(9). “Toll limitation” is defined as either toll blocking or toll
22 control if a carrier is incapable of providing both, but as both toll blocking and toll
23 control if a carrier can provide both. 47 C.F.R. § 54.400(d). Western Wireless is not

1 currently capable of providing toll control, but does offer toll blocking services for
2 Lifeline customers in states in which it has been designated as an ETC. Western Wireless
3 will offer toll blocking to Lifeline customers at no additional charge in the Designated
4 Areas as required by FCC rules.

5 **Q: IS AN APPLICANT REQUIRED TO PROVIDE UBIQUITOUS COVERAGE**
6 **PRIOR TO BEING DESIGNATED AS A COMPETITIVE ETC?**

7 A: No. The FCC has made clear that an applicant for ETC designation does not have to
8 provide ubiquitous service prior to being designated as an ETC, and that any such
9 requirement would be an unlawful barrier to entry:

10 We find that an interpretation of section 214(e) requiring carriers to
11 provide the supported services throughout the service area prior to
12 designation as an ETC has the effect of prohibiting the ability of
13 prospective entrants from providing telecommunications service. A new
14 entrant faces a substantial barrier to entry if the incumbent local exchange
15 carrier (LEC) is receiving universal service support that is not available to
16 the new entrant for serving customers in high-cost areas. We believe that
17 requiring a prospective new entrant to provide service throughout a service
18 area before receiving ETC status has the effect of prohibiting competitive
19 entry in those areas where universal service support is essential to the
20 provision of affordable telecommunications service and is available to the
21 incumbent LEC. Such a requirement would deprive consumers in high-
22 cost areas of the benefits of competition by insulating the incumbent LEC
23 from competition.

24 * * *

25 In addition, we believe the fact that a carrier may already be providing
26 service within the state prior to designation is not conclusive of whether
27 the carrier can reasonably be expected to provide service throughout the
28 service area, particularly in high-cost areas, prior to designation. While a
29 requirement that a carrier be providing service throughout the service area
30 may not affect the provision of service in lower-cost areas, it is likely to
31 have the effect of prohibiting the ability of carriers without eligibility for
32 support to provide service in high-cost areas.

33 We find the requirement that a carrier provide service to every potential
34 customer throughout the service area before receiving ETC designation
35 has the effect of prohibiting the provision of service in high-cost areas. As
36 an ETC, the incumbent LEC is required to make service available to all
37 consumers upon request, but the incumbent LEC may not have facilities to
38 every possible consumer. We believe the ETC requirements should be no
39 different for carriers that are not incumbent LECs. A new entrant, once

1 designated as an ETC, is required, as the incumbent is required, to extend
2 its network to serve new customers upon reasonable request. We find,
3 therefore, that new entrants must be allowed the same reasonable
4 opportunity to provide service to requesting customers as the incumbent
5 LEC, once designated as an ETC. Thus, we find that a
6 telecommunications carrier's inability to demonstrate that it can provide
7 ubiquitous service at the time of its request for designation as an ETC should
8 not preclude its designation as an ETC.

9 *In the Matter of Federal-State Joint Board on Universal Service, Western Wireless*
10 *Corporation Petition for Preemption of an Order of the South Dakota Public Utilities*
11 *Commission*, CC Docket 96-45, FCC 00-248, ¶ 17 (rel. Aug. 10, 2000) (footnotes
12 omitted) (“*South Dakota Preemption Order*”).

13 **Q: WHAT DOES THIS MEAN FOR WESTERN WIRELESS?**

14 A: Although Western Wireless is not required to be currently able to provide service to
15 every potential subscriber in the Designated Areas to be designated as an ETC, it does
16 have an obligation as an ETC to meet reasonable requests for service. Western Wireless
17 will be fully able to meet all such requests.

18 **Q: HOW WILL WESTERN WIRELESS SATISFY THESE REQUESTS FOR**
19 **SERVICE?**

20 A: When Western Wireless receives a request for service within an area served by its
21 existing facilities, it can activate service almost instantly. If Western Wireless receives a
22 request for service in an area outside its existing cellular signal coverage, there are
23 numerous ways for Western Wireless to provide service based on a graduated process
24 specific to the facts. First, the Company will ensure that the customer's equipment is
25 working properly and that it is the appropriate equipment for the customer's location and
26 usage. Second, enhancements can be made to the customer's premises to enhance the
27 signal there, including the addition of a high-powered antenna or the reconfiguration of
28 the customer's equipment. Third, new technology is now available that can be added to

1 the customer's equipment to boost the signal. Fourth, the wireless network in the area of
2 the customer's use can be enhanced by adjusting power levels, signal strength, and
3 directional transmission of cell sites, and by deploying network signal boosting
4 technology. Finally, it is possible to enhance a customer's signal coverage through
5 network expansion, such as the construction of cell site extenders and cell sites. The
6 choice of network expansion, however, is an expensive one that is available after all other
7 options have been fully explored based on the specific circumstances. Through one or
8 more of these options, Western Wireless will be able to meet reasonable requests for
9 service throughout its designated ETC service areas.

10 **Q: HAS THE FCC ADDRESSED THIS ISSUE?**

11 A: Yes. For example, in designating *Virginia Cellular* as a competitive ETC in Virginia, the
12 FCC specifically endorsed the Company's commitment to use roof mounted antennas or
13 other customer equipment to meet service requests from potential customers within its
14 licensed service area but outside its existing network signal coverage. *In the Matter of*
15 *Federal-State Board on Universal Service, Virginia Cellular, LLC Petition for*
16 *Designation as an Eligible Telecommunications Carrier In the Commonwealth of*
17 *Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338, ¶ 15
18 (rel. Jan. 22, 2004) ("*Virginia Cellular Order*").

19 **IV. ADVERTISING OF WESTERN WIRELESS' SERVICES**

20 **Q: HOW DOES WESTERN WIRELESS INTEND TO ADVERTISE THE**
21 **AVAILABILITY OF THE SUPPORTED SERVICES?**

22 A: The FCC has declined to adopt particular standards regarding advertising under Section
23 214(e)(1). *Universal Service Order*, ¶ 148. Western Wireless currently offers and
24 advertises its wireless services through several different media, including newspaper,

1 television, radio, and billboard advertising, as well as websites such as
2 <http://www.cellularonewest.com/>. Western Wireless also maintains various retail store
3 locations throughout its authorized service areas, which provide an additional source of
4 advertising. Western Wireless will use the same media of general distribution that it
5 currently employs to advertise its service offerings throughout the Designated Areas.

6 **V. PUBLIC INTEREST**

7 **Q: IS THE COMMISSION REQUIRED TO MAKE A PUBLIC INTEREST FINDING**
8 **BEFORE DESIGNATING WESTERN WIRELESS IN AN AREA SERVED BY A**
9 **NON-RURAL TELEPHONE COMPANY?**

10 **A:** No. For an area served by a non-rural telephone company, the Commission is not
11 required to make a public interest determination. 47 U.S.C. § 214(e)(2). The statutory
12 standard is met whenever the applicant satisfies the requirements of Section 214(e)(1)
13 and can offer consumers a competitive alternative to the incumbent carrier. As
14 previously discussed, Western Wireless fully satisfies each of the requirements of
15 Section 214(e)(1). In addition, Western Wireless will provide Missouri consumers with a
16 genuine competitive alternative to Southwestern Bell by increasing customer choice and
17 providing access to larger local calling areas, innovative services, new technologies and
18 mobility of service. Western Wireless' designation as a competitive ETC in the two
19 Southwestern Bell wire centers identified on **Exhibit JHB-1** should, therefore, be
20 granted.

21 **Q: IS THE COMMISSION REQUIRED TO FIND THAT WESTERN WIRELESS'**
22 **ETC DESIGNATION IS IN THE PUBLIC INTEREST IN THOSE AREAS**
23 **SERVED BY A RURAL TELEPHONE COMPANY?**

24 **A:** Yes. The KLM Telephone Company study area listed in **Exhibit JHB-1** is a rural
25 telephone company study area, and the areas listed on **Exhibit JHB-2** are entire wire
26 centers within rural telephone company study areas. Thus, before designating Western

1 Wireless as an ETC in those areas, Section 214(e)(2) of the Act requires the Commission
2 to find that such designation is in the public interest.

3 **Q: WHAT PRINCIPLES ARE USED TO DETERMINE WHETHER AN ETC**
4 **DESIGNATION IS IN THE PUBLIC INTEREST?**

5 A: The public interest determination required under Section 214(e) of the Act depends on
6 whether the designation of the additional ETC will promote competition, and if so
7 whether consumers will ultimately realize benefits related to competition and the services
8 provided by the competitive carrier. These principles are set forth in the Act, which
9 states that its express purposes are “to promote competition and reduce regulation in
10 order to secure lower prices and higher quality services for American
11 telecommunications consumers and encourage the rapid deployment of new
12 telecommunications technologies.” Pub. L. No. 104-104, 100 Stat. 56 (1996).

13 These factors are also echoed in Missouri state law dictating the general principles
14 applicable to the Commission’s activities, which include promoting diversity in the
15 supply of telecommunications services and products throughout Missouri, permitting
16 flexible regulation of competitive telecommunications companies, and allowing full and
17 fair competition to function as a substitute for regulation. *See* Section 392.185 RSMo.

18 **Q: HAS THE FCC ADDRESSED THE PUBLIC INTEREST REQUIREMENT?**

19 A: Yes. The FCC has determined that in order to assess whether the designation of a
20 competitive ETC is in the public interest, a state commission should balance the benefits
21 of designating a competitive carrier against any demonstrable harm that may result.
22 *Virginia Cellular Order*, ¶ 28.

1 **Q: HOW DOES PROTECTION OF INCUMBENT RURAL LECS FIT INTO THE**
2 **PUBLIC INTEREST ANALYSIS?**

3 A: The public interest analysis should emphasize competition and consumer benefits, and
4 not incumbent protection. *See Alenco Communications, Inc., v. FCC*, 201 F.3d 608, 620
5 (U.S. 5th Cir., 2000) (“The Act ... is intended to introduce competition into the market.
6 Competition necessarily brings the risk that some telephone companies will be unable to
7 compete...[But] so long as there is sufficient and competitively-neutral funding to enable
8 all customers to receive basic telecommunications services, the FCC has satisfied the Act
9 and is not further required to ensure sufficient funding of every local telephone provider
10 as well.”)

11 **Q: HAS THIS COMMISSION PREVIOUSLY ADDRESSED THE PUBLIC**
12 **INTEREST REQUIREMENT?**

13 A: Yes. This Commission found that the public interest is served by the designation of a
14 competitive ETC in both the *ExOp* and *Green Hills* proceedings. In both cases, the
15 Commission approved the designations because, as stipulated by the parties, “the
16 granting of [the] application will expand the availability of innovative, high quality
17 reliable communications services, and further stimulate economic development within the
18 state of Missouri.” *ExOp Designation Order*, pp. 4-5; *Green Hills Designation*
19 *Order*, p. 4.

20 **Q: IS THE DESIGNATION OF WESTERN WIRELESS AS A COMPETITIVE ETC**
21 **IN THE PUBLIC INTEREST?**

22 A: Yes. Designating Western Wireless as a competitive ETC in the Designated Areas of
23 Missouri will expand the availability of innovative, high quality and reliable
24 communications services, and will stimulate economic development in Missouri.
25 Western Wireless’ ETC designation will bring beneficial competition to rural and high-

1 cost areas. Indeed, the hallmark of a competitive marketplace, and perhaps the most
2 beneficial impact for consumers, is the maximization of consumer choice.

3 **Q: WHAT ARE THE BENEFITS OF DESIGNATING WESTERN WIRELESS AS A**
4 **COMPETITIVE ETC?**

5 A: I will defer to Western Wireless witness Don Wood with respect to how consumers will
6 generally benefit from an economic standpoint, but I can describe some specific benefits
7 that will come from the Company's ETC designation. First, consumers should be able to
8 choose services based on their own needs, not just the service of the incumbent LEC.
9 When the Commission designates a competing carrier as an additional ETC, consumers
10 in rural and high-cost areas can choose their service provider on the basis of the most
11 advantageous pricing, services, service quality, customer service, and service availability.
12 Absent a choice of service providers, the consumer is unable to make a selection based
13 upon these factors. The incumbent provider has little or no incentive to introduce
14 innovative or advanced service offerings.

15 Second, consumers in rural and high-cost areas of Missouri will benefit because
16 Western Wireless' service offerings will provide benefits not otherwise available from
17 the landline LECs. For example, current incumbent LEC service offerings have restricted
18 local calling areas and are bound by the limitations of landline technology. In contrast,
19 Western Wireless provides an expanded local calling area, which greatly benefits
20 consumers in rural and high-cost areas who otherwise have to pay toll charges to reach
21 local government offices, health care providers, businesses or family outside of a
22 restricted local calling area. *Universal Service Order*, ¶ 114. Western Wireless' services
23 also provide the benefits of mobility, which has great appeal to many consumers in rural
24 and high-cost areas and can mitigate the risks of living in isolated areas. *Virginia*

1 *Cellular Order*, ¶ 29. In addition, Western Wireless' service offerings will support
2 advanced services, such as data services and 1XRTT capability. Therefore, these
3 advanced services will be available, and can be combined with the basic supported
4 services, if a customer so chooses.

5 Third, consumers will benefit from having increased choices as to the level of
6 customer service that is provided. Western Wireless provides 24-hour customer service,
7 including technical and operational support, which is typically more responsive than the
8 support currently available from many landline LECs.

9 Finally, Western Wireless competitively markets a variety of service offerings,
10 which are offered to customers in rural and high-cost areas at the same or similar rates
11 offered in urban areas. Likewise, Western Wireless will provide consumers in the
12 Designated Areas with enhanced services comparable to those provided in urban areas,
13 including voicemail, call waiting, call forwarding, caller ID, three-way calling, text
14 messaging, enhanced directory assistance, wireless data services, access to 24-hour
15 emergency roadside assistance, etc. Thus, through the establishment of a competitive
16 universal service system, Missouri consumers in rural and high-cost areas will be able to
17 keep pace with, and perhaps even outpace, their urban counterparts in terms of the choice
18 of telecommunications services.

19 **Q: IS INCREASED CHOICE THE ONLY BENEFIT TO CONSUMERS?**

20 A: No – it's only the beginning. Other benefits that will arise from the designation of
21 Western Wireless as an ETC include allowing consumers who don't have telephone
22 service to obtain service for the first time, the competitive pressure that will be applied to

1 the incumbent LECs, and increased investment in the communications infrastructure of
2 Missouri.

3 **Q: HOW WILL DESIGNATION OF WESTERN WIRELESS AS A COMPETITIVE**
4 **ETC HELP THOSE CONSUMERS WHO DON'T CURRENTLY HAVE**
5 **TELEPHONE SERVICE?**

6 A: Because Western Wireless will be providing services consistent with the federal universal
7 service requirements, the designation of Western Wireless as an ETC may allow those
8 consumers who are not currently receiving telephone service of any kind an opportunity
9 to obtain it. Moreover, Western Wireless' participation in the Lifeline and Link-Up
10 programs may make the difference for some consumers, allowing them telephone service
11 for the first time. Also, Western Wireless does not charge line extension charges, making
12 it less expensive for consumers to sign up for telephone service. It is also important to
13 remember that wireless technology and networks have been rapidly deployed in the past
14 15 years. The designation of Western Wireless as an ETC may allow some Missouri
15 consumers in rural and high-cost areas to have access to this technology for the first time.

16 **Q: YOU MENTIONED THE EFFECTS OF COMPETITION ON THE INCUMBENT**
17 **PROVIDERS. CAN YOU ADDRESS THAT?**

18 A: Designation of Western Wireless as an ETC will mean that Western Wireless is
19 competing with the incumbent LECs on a more level playing field. The increased
20 competition means that the incumbent LECs will have an incentive to improve their
21 existing networks and competitively price their service offerings – if they don't do so,
22 they will not be providing competitive services, and may be seen as less attractive by
23 consumers. The improvements they make will result in improved services, competitive
24 prices and wider choices for consumers.

1 **Q: YOU ALSO MENTIONED INVESTMENT IN FACILITIES IN MISSOURI. CAN**
2 **YOU ADDRESS THAT?**

3 A: Yes. Western Wireless is a facilities-based telecommunications provider serving an area
4 of Missouri utilizing state-of-the-art wireless technology. Designating Western Wireless
5 as an ETC will further the deployment of Western Wireless' facilities-based network in
6 Missouri, and this network infrastructure will be available to provide services to more
7 and more consumers in rural and high-cost areas in Missouri. Moreover, the Western
8 Wireless network – the same network providing the supported services – will also have
9 the capability of providing advanced and enhanced services that meet or exceed what can
10 be provided on a landline network. The Commission should continue to facilitate the
11 development of the Western Wireless network so that Missouri's consumers in rural and
12 high-cost areas will have access to these developing technologies to the same degree as
13 urban consumers. In short, Missouri consumers will benefit as Western Wireless
14 continues to build out and develop its network facilities over time, stimulating economic
15 development in Missouri.

16 **Q: IS WESTERN WIRELESS COMMITTED TO PROVIDING QUALITY**
17 **WIRELESS SERVICES?**

18 A: Absolutely. In fact, the Company has adopted the CTIA Consumer Code for Wireless
19 Service to ensure quality service. A copy of the CTA Consumer Code is attached as
20 **Exhibit JHB-3**. Western Wireless prominently displays the CTIA Consumer Code on its
21 website at <http://www.cellularonewest.com/terms.asp?p=cc>. The CTIA Consumer Code
22 contains important customer protections, such as mandatory disclosure of terms and
23 conditions, disclosure of maps, implementation of a fourteen-day trial period without an
24 early termination penalty, and a response to complaints made to governmental entities
25 within 30 days. In the recent *Virginia Cellular* proceeding, the FCC recognized that a

1 wireless carrier's adoption of the CTIA Consumer Code's standards evidences a wireless
2 ETC's commitment to customer service and service quality. *Virginia Cellular Order*,
3 ¶ 30.

4 **Q: DOES WESTERN WIRELESS TAKE OTHER STEPS TO ENSURE ITS**
5 **CUSTOMERS ARE SATISFIED WITH THEIR SERVICE?**

6 A: Yes. To begin with, Western Wireless has a strong incentive to provide quality customer
7 service — it needs to meet or exceed the quality of services provided by the incumbent
8 LECs in order for it to attract and retain customers.

9 If complaints are received, Western Wireless has procedures in place to ensure
10 they are resolved appropriately. Customer complaints are tracked by the Company's
11 Customer Care Centers. They are then logged and recorded by Customer Relations
12 Specialists, who work with individual customers on an ongoing basis to resolve specific
13 inquiries, disputes and grievances. In addition, Western Wireless commits to providing
14 the Commission, on an annual basis, with the number of consumer complaints per 1,000
15 handsets. These types of steps have been approved by the FCC as fully addressing any
16 concerns about the quality of wireless service. *Virginia Cellular Order*, ¶ 30.

17 **Q: IS THERE ANY EVIDENCE THAT WESTERN WIRELESS' CUSTOMERS**
18 **VALUE THE COMPANY'S SERVICE QUALITY?**

19 A: Yes. The overall usage of Western Wireless' services by consumers suggests that it is
20 providing a high-quality service. If consumers found that Western Wireless' service was
21 not of sufficient quality, they simply would not subscribe to the service. On the whole,
22 the relative adoption and usage of wireless services as compared to wireline services also
23 suggests that consumers place a relatively high value on wireless services and a
24 dwindling value on wireline services. The number of wireless subscribers and the
25 number of minutes of use on wireless networks — including Western Wireless' network —

1 is increasing as the number of wireline access lines and the number of minutes of use on
2 wireline networks is decreasing. This is the most powerful indicator of high-quality
3 service in my opinion.

4 **Q: WILL WESTERN WIRELESS' DESIGNATION AS A COMPETITIVE ETC**
5 **AFFECT THE INCUMBENT RURAL LECS?**

6
7 A: No. The designation of Western Wireless as a competitive ETC will not result in any
8 significant adverse impact to any incumbent telephone company. None of the areas in
9 which Western Wireless is seeking designation are incapable of supporting more than one
10 ETC. Western Wireless is not aware of any empirical evidence that the rural LECs in the
11 Designated Service area are not well suited to compete with Western Wireless.

12 **Q: WILL WESTERN WIRELESS' ETC DESIGNATION AFFECT THE AMOUNT**
13 **OF UNIVERSAL SUPPORT RECEIVED BY THE RURAL LECS?**

14
15 A: No. Under the current federal funding mechanisms, rural telephone companies will
16 continue to receive funding based on an embedded cost methodology until 2006. This
17 extended transition period – as well as their continued receipt of implicit subsidies within
18 intrastate access rates – ensures the rural telephone companies can successfully make the
19 move to competitive markets. This was noted by the FCC in the *Virginia Cellular*
20 proceeding: “to the extent that [a competitive ETC] captures incumbent rural telephone
21 company lines, provides new lines to currently unserved consumers, or provides second
22 lines to existing wireline subscribers, it will have no impact on the amount of universal
23 service support available to the incumbent rural telephone companies for those lines they
24 continue to serve.” *Virginia Cellular Order*, ¶ 43.

1 **Q: ARE YOU FAMILIAR WITH THE FEDERAL-STATE JOINT BOARD ON**
2 **UNIVERSAL SERVICE ("JOINT BOARD")?**

3 A: Yes. The Joint Board is an advisory body. It periodically makes recommendations
4 which may be then adopted or rejected by the FCC. Until the FCC acts to adopt or
5 decline a recommended decision of the Joint Board, the recommendations are merely
6 advisory.

7 **Q: HAVE YOU REVIEWED THE JOINT BOARD'S FEBRUARY 2004**
8 **RECOMMENDATIONS?**

9 A: Yes. In February 2004, the Joint Board issued a set of recommendations that addressed
10 various issues related to ETC designations. Pursuant to 47 U.S.C. § 254(a)(2), the FCC
11 has up to one year in which to act on the Joint Board's recommendations. Earlier this
12 month, the FCC published a notice of proposed rulemaking to solicit comments on the
13 Joint Board's recommendations. Thus, whether the FCC will adopt or decline any of the
14 Joint Board's recommendations will not be known for some time. Until then, the Joint
15 Board recommendations have no legal effect whatsoever.

16 **Q: DO ANY OF THE JOINT BOARD RECOMMENDATIONS ALTER THE**
17 **PUBLIC INTEREST ANALYSIS?**

18 A: No. The Joint Board recommendations do not substantively alter the public interest
19 standard, but rather simply suggest that the FCC consider adopting certain "permissive
20 guidelines," which, if adopted, would generally require that an applicant for ETC
21 designation address various additional issues at the time of application. The issues
22 identified by the Joint Board include whether the applicant has adequate financial
23 resources, whether it has the ability to remain functional during emergencies, and the
24 effect of the designation on the universal service fund.

1 **Q: DO YOU WISH TO ADDRESS THE JOINT BOARD'S GUIDELINES IN THIS**
2 **PROCEEDING?**

3 A: Yes. However, I do so with some hesitation because the submission of this information
4 is not currently required of any ETC under federal or state law. Western Wireless wants,
5 though, to provide this Commission with as much information as possible.

6 **Q: IS THERE ANY DOUBT THAT WESTERN WIRELESS HAS SUFFICIENT**
7 **FINANCIAL RESOURCES TO MEET ITS OBLIGATIONS AS AN ETC IN THE**
8 **DESIGNATED SERVICE AREAS?**

9 A: No. Western Wireless Corporation, the parent company of WWC License, LLC, is a
10 publicly-traded company with a market capitalization of approximately \$2.4 billion (as of
11 August 3, 2004), annual revenues of \$970,237,000 (as of December 31, 2003) and
12 available cash on hand of approximately \$69 million (as of December 31, 2003). Thus,
13 the Company is well positioned to assume and perform the obligations of an ETC in the
14 areas requested in this proceeding.

15 **Q: COULD YOU PLEASE ADDRESS WESTERN WIRELESS' ABILITY TO**
16 **REMAIN FUNCTIONAL DURING EMERGENCIES.**

17 A: Yes. Each cell site and mobile switch within the Western Wireless network serving
18 Missouri has a sufficient, alternative source of power. In the event of an outage of
19 commercial power, each switch and cell site immediately begins operating on battery
20 power. In fact, there is no interruption of power because the operations are powered
21 directly from the batteries, which during normal operations are being continuously
22 recharged by commercial power. All batteries used on the network maintain a minimum
23 of 4 hours of power and some maintain 8 hours of power. The Company has also
24 deployed gas-powered generators at many cell site and switch locations. In the event of a
25 commercial power outage, the generators engage and can be maintained indefinitely,
26 assuming a continuing source of fuel.

1 In addition, Western Wireless' network includes redundant components that allow
2 for functionality in the case of network breakdown. First, cell sites are constructed in
3 such a way that their signal coverage overlaps with adjacent cell sites. Customers may
4 still have signal coverage from an adjacent cell site in the event of an outage at another
5 cell site. Second, in most areas of the Western Wireless network there are other carriers
6 with networks using the same technology. A customer might be able to roam on such
7 networks in the event of network outages on the Western Wireless network. Third,
8 Western Wireless maintains numerous "Cells On Wheels" (or "COWs") that can be
9 deployed on a temporary basis in the event of a loss of a single cell site. Finally, the
10 network's connection to the public switched telephone network is accomplished through
11 trunks that have redundant backups, thereby allowing continued connection in the event
12 of a break in the first set of trunks.

13 **Q: WILL WESTERN WIRELESS' ETC DESIGNATION SUBSTANTIALLY**
14 **IMPACT THE FEDERAL UNIVERSAL SERVICE FUND?**

15 A: No. Western Wireless' designation as an ETC in this case will have only a *de minimis*
16 impact on the federal universal service fund. To begin with, the FCC has stated that the
17 impact of any one competitive ETC designation on the universal service fund is, at best,
18 "inconclusive." *Virginia Cellular Order*, ¶ 31 n. 96. Furthermore, in this proceeding
19 Western Wireless is seeking designation for a total of only 30 wire centers out of the
20 nearly 750 wire centers in Missouri. As we addressed in response to Staff's information
21 requests in this matter, Western Wireless currently estimates that it would receive
22 approximately \$146,000 per quarter in federal universal service support if designated as
23 an ETC in the Designated Areas. If the high-cost universal service fund (as estimated by
24 the Universal Service Administrative Company) is \$942,299,324 for the 3rd Quarter of

2004, then Western Wireless would only receive approximately 0.015% of the total high-cost support available to all ETCs. This negligible impact is far less than the increases the FCC found inconsequential in both *Virginia Cellular* (0.105%) and *In the Matter of the Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 04-37 (rel. April 12, 2004) (“*Highland Cellular Order*”) (0.04%).

VI. SERVICE AREAS IN WHICH WESTERN WIRELESS SEEKS ETC DESIGNATION

Q: HOW SHOULD THE COMMISSION ESTABLISH WESTERN WIRELESS’ ETC SERVICE AREA?

A: Section 214(e)(2) provides that the Commission has the authority to designate universal service areas: “A State Commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission.” (emphasis added). The service areas established by the Commission must be consistent with the universal service goals of competitive and technological neutrality.

Q: HOW ARE SERVICE AREAS DETERMINED UNDER SECTION 214(e) FOR PURPOSES OF ETC DESIGNATION?

A: Section 214(e)(5) of the Act defines the term “service area” as a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. It further provides that an applicant for ETC designation may be designated in an area served by a non rural telephone company for a service area determined by the Commission. For an area served by a rural telephone company, Section 214(e)(5) and FCC Rule 54.207(b) provide that the term “service area”

means the rural telephone company's "study area," unless and until the FCC and the State commission establish a different definition for such company under the procedures prescribed in FCC Rule 54.207(c) and (d). A "study area" is generally considered to be the rural incumbent LEC's existing certificated service areas in a given state. *Universal Service Order*, ¶ 172, n. 434. The FCC encourages states to redefine the service area when it will better accommodate competition and serve the universal service policy objectives of the Act. *Universal Service Order*, ¶ 190. Western Wireless seeks redefinition for certain areas on this basis.

Q: PLEASE IDENTIFY WESTERN WIRELESS' REQUESTED ETC SERVICE AREAS.

A: Western Wireless first requests designation throughout each of the areas set forth in **Exhibit JHB-1**. These areas include: (1) two Southwestern Bell wire centers; (2) the entire study area served by KLM Telephone Company; and (3) the Pleasanton Wire Center, Craw-Kan (Kansas)'s only wire center in the State of Missouri. In addition, Western Wireless requests conditional designation in each of the wire centers set forth in **Exhibit JHB-2**, subject to the Commission's redefinition of the service area requirement to permit it to serve as an ETC in an area smaller than the rural telephone companies' study areas.

Q: ARE THERE ANY CHANGES TO WESTERN WIRELESS' REQUESTED ETC SERVICE AREAS?

A: Yes. Due to a clerical error, the Blairstown wire center in Sprint/United's study area (shown as a "strikethrough" on the attached **Exhibit JHB-2**) was inadvertently included on Attachment 2 to Western Wireless' Application. Western Wireless' FCC-licensed service area does not extend throughout the Blairstown wire center, so Western Wireless hereby withdraws its request for ETC designation in that wire center.

1 **Q: HOW DID WESTERN WIRELESS SELECT THE AREAS IN WHICH IT SEEKS**
2 **ETC DESIGNATION?**

3 A: Western Wireless identified the Missouri wire centers where it could best meet its
4 obligation to serve immediately and to respond to reasonable requests for service. To do
5 that, I personally reviewed our existing signal coverage and authorized FCC-licensed
6 service area. Using publicly available mapping software and the Company's own radio
7 frequency ("RF") propagation information (*i.e.*, signal coverage), I determined the extent
8 to which each wire center is covered by our signal today, and where the Company plans
9 to extend coverage in the near future. Second, I analyzed the percentage of the
10 population within each wire center that is covered by Western Wireless' existing network
11 today. I included only those wire centers where the Company's network will reach at
12 least 85% of the population in the wire center.

13 **Q: SHOULD SOME AREAS BE EVALUATED DIFFERENTLY FROM OTHER**
14 **AREAS?**

15 A: Yes. First, the Southwestern Bell wire centers listed on **Exhibit JHB-1** are not rural
16 telephone company study areas. As I previously discussed, Section 214(e)(2) of the Act
17 provides that when designating an ETC in areas served by a non-rural telephone
18 company, "a State commission shall upon its own motion or upon request designate a
19 common carrier that meets the requirements of paragraph (1) as an eligible
20 telecommunications carrier..." The Application and my testimony, above, show that
21 Western Wireless meets the requirements to be designated as an ETC in the Southwestern
22 Bell wire centers. Western Wireless is a common carrier, provides the required
23 supported services, and will meet all service and advertising obligations of an ETC.
24 Moreover, Western Wireless will provide a genuine competitive alternative to the
25 services provided by Southwestern Bell. Therefore, Western Wireless should be

1 immediately designated as an ETC in the Southwestern Bell wire centers identified on
2 **Exhibit JHB-1**.

3 Second, the KLM wire centers listed in **Exhibit JHB-1** comprise the entirety of
4 the KLM study area. For areas served by a rural telephone company such as KLM, the
5 Commission must find that designation serves the public interest in accordance with
6 Section 214(e)(2). My testimony above shows that designation of Western Wireless as a
7 competitive ETC in KLM's study area is in the public interest. Because Western
8 Wireless seeks designation in the entirety of the KLM study area, redefinition is not
9 necessary. There are no further requirements, and so Western Wireless should be
10 immediately designated as an ETC in the KLM study area

11 Third, the Pleasanton wire center in the study area of Craw-Kan Telephone
12 Cooperative, Inc. (Kansas), listed on **Exhibit JHB-1**, presents a slightly different
13 situation. Most of Craw-Kan (Kansas)'s study area is in the state of Kansas; Pleasanton
14 is its only wire center in Missouri. This Commission does not have jurisdiction to
15 designate Western Wireless as an ETC in Kansas. *In the Matter of Federal-State Board*
16 *on Universal Service, Western Wireless Corporation Petition for Designation as an*
17 *Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45,
18 *Memorandum Opinion and Order*, DA 00-2896 (rel. Dec. 26, 2000) ("*Western Wireless*
19 *Wyoming Order*"). In the *Western Wireless Wyoming* proceeding, the FCC determined
20 that when a rural telephone company study area extends across state lines, the state
21 commission's jurisdiction to designate a competitive ETC extends only to the borders of
22 the state. *Id.*, ¶¶ 23-24. It further determined that the redefinition procedures set forth in
23 FCC Rule 54.207 are not applicable to study areas that cross state boundaries. *Id.*,

¶ 24 n.71. See also *In the Matter of Federal-State Board on Universal Service, Petitions for Reconsideration of Western Wireless Corporation's Designation as an Eligible Telecommunications Carrier on Reconsideration*, CC Docket 96-45, *Order*, FCC 01-311, ¶¶ 7-13 (rel. Oct. 19, 2001). Thus, the Commission should immediately grant Western Wireless' application for ETC designation in the Pleasanton wire center — it has met the other requirements, and no redefinition requirement applies.

Finally, because Western Wireless cannot serve the entirety of the remaining rural telephone company study areas listed on **Exhibit JHB-2**, due to the limitations of its FCC-licensed service area, the Commission must redefine these service areas from the study area to individual wire centers to enable Western Wireless to be designated as a competitive ETC in those areas. Accordingly, for the remaining areas listed on **Exhibit JHB-2**, Western Wireless seeks conditional ETC designation on a wire center basis, contingent on the FCC and the Commission establishing different service areas in accordance with FCC Rule 54.207(c) and (d).

Q: BUT DIDN'T WESTERN WIRELESS IDENTIFY THE CRAW-KAN (KANSAS) SERVICE AREA AS REQUIRING REDEFINITION IN ITS APPLICATION?

A: Yes, the Pleasanton wire center, in Craw-Kan (Kansas)'s rural telephone company study area, was inadvertently included on the list of rural telephone company study areas for which redefinition was sought in the Application. Western Wireless hereby clarifies that it is not seeking redefinition of the Craw-Kan (Kansas) study area for the reason I previously explained.

1 **Q: DOES WESTERN WIRELESS HAVE TO BE LICENSED TO SERVE AN ENTIRE**
2 **NON-RURAL TELEPHONE COMPANY WIRE CENTER IN ORDER TO BE**
3 **DESIGNATED AS A COMPETITIVE ETC THERE?**

4 A: No. The FCC has confirmed that a competitive ETC may be designated in any portion of
5 a non-rural telephone company wire center that it is licensed to serve. *Virginia Cellular*
6 *Order*, ¶ 36, n.114; *Universal Service Order*, ¶¶ 184-85.

7 **Q: DOES WESTERN WIRELESS HAVE TO BE LICENSED TO SERVE THE**
8 **ENTIRE STUDY AREA OF A RURAL TELEPHONE COMPANY TO BE**
9 **DESIGNATED AS AN ETC IN ANY PORTION OF THE STUDY AREA?**

10 A: No. In fact, the FCC has determined the opposite: requiring a carrier to serve every wire
11 center of a rural telephone company study area as a prerequisite of designation imposes a
12 serious barrier to entry, especially for wireless carriers whose FCC-licensed service areas
13 are often incongruous with the rural telephone company's study area. *Universal Service*
14 *Order*, ¶¶ 189-190. The FCC determined that such a barrier would be "particularly
15 harmful to competition in rural areas, where wireless carriers could potentially offer
16 service at much lower costs than traditional wireline service." *Id.* ¶ 190.

17 **Q: WHAT ARE THE REQUIREMENTS FOR REDEFINING THE SERVICE AREA**
18 **TO THE WIRE CENTER LEVEL?**

19 A: The FCC and the Commission are authorized by law to act in concert to develop an
20 alternative service area for a rural telephone company in accordance with FCC
21 Rule 54.207(c)-(d). To do so, the FCC and the Commission must give full consideration
22 to the three factors originally identified by the Joint Board in 1996. 47 U.S.C.
23 § 214(e)(5); 47 C.F.R. § 54.207(b); *Universal Service Order*, ¶ 187.

24 **Q: WHAT ARE THE THREE JOINT BOARD FACTORS YOU REFERRED TO?**

25 A. The Joint Board identified three factors for consideration when determining whether it is
26 appropriate to redefine a rural telephone company service area. These factors were

1 subsequently adopted by the FCC. *In the Matter of Federal-State Joint Board on*
2 *Universal Service*, CC Docket 96-45, *Recommended Decision*, FCC 96J-3, ¶ 172 (Nov. 8,
3 1996) (“*Joint Board Recommendations*”). The first factor is the risk that a new entrant
4 will seek to serve only the low cost portions of the study area, a practice known as
5 “creamskimming.” The second factor to consider is the regulatory status enjoyed by rural
6 telephone companies under the Act. The last factor to be considered is whether any
7 administrative burden might result from the redefinition of the service area.

8 **Q: SHOULD THE COMMISSION GRANT WESTERN WIRELESS’ REQUEST FOR**
9 **REDEFINITION OF THE SERVICE AREA?**

10 A: Yes. The study areas of these rural telephone companies in which Western Wireless is
11 seeking redefinition contain multiple wire centers that are either wholly or partially
12 outside of Western Wireless’ FCC-licensed service area. The most logical and
13 appropriate method of redefining these service areas is by individual wire centers.
14 Moreover, redefinition is consistent with the FCC’s policy favoring redefinition in
15 instances where it is necessary to permit competitive entry by a wireless carrier.

16 **Q: IS THE FIRST JOINT BOARD FACTOR, “CREAMSKIMMING,” PRESENT**
17 **HERE?**

18 A: No. The risk of creamskinning is not present in this case. Western Wireless seeks
19 redefinition of the study area to an individual wire center basis in order to be designated
20 as an ETC in those areas for which it is licensed and has the ability to provide facilities-
21 based services, not for the purpose of intentionally engaging in creamskinning. Western
22 Wireless’ choice of wire centers in which it seeks designation was based entirely on the
23 Company’s licensed area, signal coverage and ability to meet requests for service, not on
24 the basis of the most universal service funding. In short, Western Wireless has included
25 all wire centers that it can serve in its request.

1 **Q: HAS THE FCC IDENTIFIED A CONCERN ABOUT “INADVERTENT”**
2 **CREAMSKIMMING?**

3 A: Yes. In the *Virginia Cellular* proceeding, the FCC noted that for reasons beyond a
4 competitive carrier’s control, its licensed service area may cover only the lowest cost
5 portion of a rural telephone company study area. *Virginia Cellular Order*, ¶ 33. In this
6 situation, redefinition of the study area could result in “inadvertent” creamskimming if it
7 had the same effect on the incumbent provider as intentional creamskimming.

8 **Q: IS SUCH INADVERTENT CREAMSKIMMING PRESENT HERE?**

9 A: No. In the *Virginia Cellular* proceeding, the FCC examined and compared the
10 population densities of the wire centers where designation was sought and the wire
11 centers where designation was not sought to determine whether inadvertent
12 creamskimming might occur. *Virginia Cellular Order*, ¶¶ 34-35. If the wire centers
13 where ETC designation is sought had a much higher population density than the rest of
14 the study area, that would indicate inadvertent creamskimming. *Id.*

15 I have conducted the same type of analysis here and attached a copy as
16 **Exhibit JHB-4**. That table shows that for every rural telephone company study area in
17 which Western Wireless seeks redefinition, the wire centers served by Western Wireless
18 have a substantially equal or lower population density than the remainder of the study
19 area, and so no “inadvertent” creamskimming is present here.

20 **Q: HAS THE FCC DONE ANYTHING TO AMELIORATE THE POTENTIAL**
21 **AFFECTS OF CREAMSKIMMING?**

22 A: Yes. The FCC has offered rural telephone companies the option to disaggregate, or
23 target, the federal universal service support amounts they receive to higher-cost and
24 lower-cost portions of their study areas. Disaggregation allows rural carriers to ensure
25 that a competitive ETC would receive less per-line support in low-cost areas and,

1 conversely, to ensure that a competitive ETC would only receive higher per-line support
2 in the more high-cost portions of their study areas. In fact, ALLTEL Missouri and
3 Spectra Communications, two of the five companies in whose service areas Western
4 Wireless seeks ETC designation, have already disaggregated their high-cost support.

5 This means that for those wire centers that are within ALLTEL Missouri's and
6 Spectra Communications' service areas, any risk of creamskimming has already been
7 eliminated. It also means that the other three rural telephone companies within whose
8 service area Western Wireless is seeking redefinition are probably not concerned about
9 creamskimming, because otherwise they would have availed themselves of the
10 opportunity to disaggregate their support.

11 **Q: HOW ABOUT THE JOINT BOARD'S SECOND FACTOR, THE REGULATORY**
12 **STATUS ENJOYED BY RURAL TELEPHONE COMPANIES.**

13 A: Redefinition of the study areas also comports with the second Joint Board factor.
14 Redefinition to an individual wire center level will not compromise or impair the unique
15 treatment of these companies as rural telephone companies under Section 251(f) of the
16 Act. The companies will still retain the statutory exemptions from interconnection,
17 unbundling and resale requirements provided in Section 251(c) even if the service area
18 standard is redefined for purposes of Western Wireless' ETC designation. In addition,
19 the FCC has issued rules that ensure that the designation of Western Wireless as an ETC
20 will have no effect on the amount of support that incumbent rural telephone companies
21 will continue to receive. *Virginia Cellular Order*, ¶ 43.

22 **Q: CAN YOU ADDRESS THE JOINT BOARD'S THIRD FACTOR,**
23 **ADMINISTRATIVE BURDENS?**

24 A: The third and final Joint Board factor, relating to the administrative ease of calculating
25 the costs of the rural telephone companies on a less-than-study-area level, is likewise not

1 an issue. As the FCC has observed, redefining the service area will not require any rural
2 telephone company to determine their costs for purposes of universal service support on a
3 basis other than the study area level. *Virginia Cellular Order*, ¶ 44.

4 **Q: BUT WHAT ABOUT A RURAL LEC'S DECISION TO DISAGGREGATE ITS**
5 **SUPPORT UPON ENTRY BY A COMPETITIVE ETC, ISN'T THAT AN**
6 **ADMINISTRATIVE BURDEN?**

7 A: No. In other ETC designation proceedings, incumbent LECs have argued that should
8 they choose to disaggregate, such disaggregation represents an additional, and thus
9 unnecessary, administrative burden. This argument is meritless. The FCC's regulations
10 fully anticipate that a rural LEC may choose to disaggregate support in response to the
11 designation of a competitive ETC. *See* 47 C.F.R. § 54.315; *Virginia Cellular Order*,
12 ¶ 35 n. 112. Accordingly, any administrative burden associated with that disaggregation
13 is not an additional burden, but a response that has already been contemplated by the
14 FCC.

15 **Q: ARE THERE ADDITIONAL REASONS WHY REDEFINITION IS SOUND**
16 **PUBLIC POLICY?**

17 A: Absolutely. Redefinition of the requested service areas is necessary for the promotion of
18 competition and the advancement of universal service. Unless the service areas are
19 redefined, Western Wireless is precluded from being designated as an ETC in any of the
20 requested rural telephone companies' service areas merely because Western Wireless
21 cannot serve the entire study area. Redefinition is in the public interest because it will
22 enable Western Wireless, and other competitive carriers, to bring new services and new
23 technologies to customers in rural and high-cost areas of Missouri who may now have no
24 choice of universal service providers. Unless the Commission establishes a different
25 service area definition for the companies in this proceeding, those wide-ranging study

1 areas will pose an impenetrable barrier to entry for not only Western Wireless, but also
2 any other competitive carrier, especially wireless carriers, seeking ETC status. Because
3 competitive and incumbent service territories are geographically different, it may be
4 impossible for any competitive carrier to compete with the incumbents for provision of
5 universal service.

6 The FCC has previously determined that redefinition to the exchange or wire
7 center basis facilitates local competition by enabling new providers to serve relatively
8 small areas. *In the Matter of Petition for Agreement With Designation of Rural Company*
9 *Eligible Telecommunications Carrier Service Areas and for Approval of the Use of*
10 *Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal*
11 *Service Support*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 99-1844,
12 ¶ 8 (Sept. 9, 1999). Redefinition of the service areas of the rural telephone companies
13 indicated on **Exhibit JHB-2** to an individual wire center basis will foster competition in
14 Missouri. Redefining the service areas will enable Western Wireless and other carriers to
15 offer competitive universal service to the customers of these rural telephone companies.
16 This effort at fostering competition furthers the goals of the Act and federal
17 telecommunications policies. Unless the Commission approves redefinition, the
18 customers in these wire centers will be denied the benefits of competition that Congress
19 and the FCC intended. Therefore, the Commission should agree to redefine the service
20 areas in this proceeding.

1 **VII. COMMISSION OVERSIGHT OF WESTERN WIRELESS**

2 **Q: TO WHAT EXTENT WILL WESTERN WIRELESS BECOME SUBJECT TO**
3 **COMMISSION OVERSIGHT ONCE IT IS GRANTED ETC STATUS?**

4 A: The FCC was aware that not all telecommunications carriers are subject to the
5 jurisdiction of a state commission. 47 U.S.C. § 332(c)(3)(A). Nevertheless, it has stated:
6 “Nothing in section 214(e)(1) . . . requires that a carrier be subject to the jurisdiction of a
7 state commission in order to be designated an eligible telecommunications carrier. Thus,
8 tribal telephone companies, CMRS providers, and other carriers not subject to the full
9 panoply of state regulation may still be designated as eligible telecommunications
10 carriers.” *Universal Service Order*, ¶ 147. The FCC also specifically recognized that
11 federal preemption of state regulation of wireless carriers under 47 U.S.C. § 332(c)(3)(A)
12 prohibits states from denying wireless carriers ETC status. *Universal Service Order*,
13 ¶ 145. Since Western Wireless will utilize its federally licensed CMRS spectrum to
14 provide the services, Western Wireless’ service offerings will be governed by federal law
15 as CMRS rather than by State law as a local exchange service. However, because this
16 Commission is responsible for making designations under Section 214(e), this
17 Commission will have continuing oversight over Western Wireless – or any ETC – to
18 ensure that it continues to meet the applicable requirements of federal and State law.

19 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A: Yes.

VERIFICATION AND AFFIDAVIT

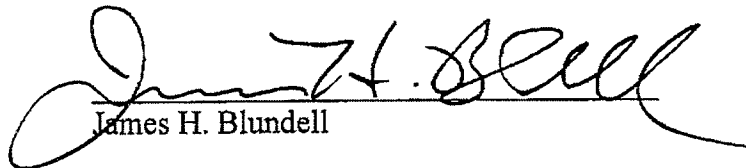
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
WWC License, LLC, d/b/a CellularOne® for)
Designation as an Eligible)
Telecommunications Carrier, and Petition for)
Redefinition of Rural Telephone Company)
Service Areas)

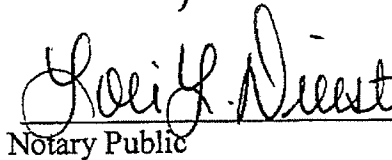
Case No. TO-2004-0527

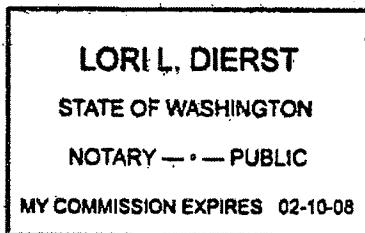
James H. Blundell, being first duly sworn, states:

That he is the person identified in the foregoing prepared testimony filed by WWC License, LLC, d/b/a CellularOne®, in Case No. TO-2004-0527 of the Public Service Commission of the State of Missouri; that such prepared testimony was prepared by him or under his direction; that the answers and information set forth therein are true to the best of his own knowledge and belief; and that if asked the questions set forth therein, his answers thereto would, under oath, be the same.


James H. Blundell

Subscribed and sworn to before me in the County of King, State of Washington,
this 4 day of August, 2004.


Notary Public



My Commission expires on:

2-10-08