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MEMORANDUM

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TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

Arizona Corporation Commission

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DATE: October 29, 2003

RE: STAFF REPORT FOR ALLTEL COMMUNICATIONS, INC.'S APPLICATION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER PURSUANT TO SECTION 214(e)(2) OF THE COMMUNICATIONS ACT OF 1934 (DOCKET NO. T-03887A-03-0316)

Attached is the Staff Report for ALLTEL Communications, Inc.'s Application for designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(2) of the Communications Act of 1934. Staff recommends approval of the Application. An intervenor in this docket requested a hearing. Staff is not opposed to holding a hearing in this matter.

EGJ:MGK:hml

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Docket No. T-03887A-03-0316

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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

ALLTEL COMMUNICATIONS, INC.

DOCKET NO. T-03887A-03-0316

**APPLICATION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER PURSUANT TO SECTION 214(e)(2) OF THE COMMUNICATIONS ACT OF
1934**

OCTOBER 2003

STAFF ACKNOWLEDGMENT

The Staff Report for ALLTEL Communications, Inc. (Docket No. T-03887A-03-0316) was the responsibility of the Staff members listed below. Marta Kalleberg was responsible for the review and analysis of the Company's Application. Richard Boyles was responsible for the technical analysis.



Marta Kalleberg
Public Utilities Analyst



Richard Boyles
Utilities Engineer—Telecommunications

EXECUTIVE SUMMARY
ALLTEL COMMUNICATIONS, INC.
DOCKET NO. T-03887A-03-0316

ALLTEL Communications, Inc. ("ALLTEL") is a Commercial Mobile Radio Service ("CMRS") provider. ALLTEL is licensed to provide services in the Phoenix MSA, Tucson MSA, Arizona RSA 2 (which includes Coconino and Yavapai counties), and Arizona RSA 5 (which includes Gila and Pinal counties). Both non-rural and rural ILECs provide wireline service within these areas.

ALLTEL is seeking designation as an Eligible Telecommunications Carrier ("ETC") for that portion of its licensed service area in which there is a certificated Incumbent Local Exchange Carrier ("ILEC") or in which an ILEC has been authorized to provide service. Designation as an ETC will enable ALLTEL to apply for and receive Federal Universal Service Fund ("FUSF") support. The Federal Communications Commission ("FCC") has set forth criteria which a carrier must meet in order to be designated as an ETC: 1) provide nine core telecommunications services using its own facilities or a combination of its own facilities and resale of another carrier's services, 2) advertise its service offerings, and 3) offer Lifeline and Link Up service to all qualifying low-income consumers within its service area. In the areas served by rural ILECs, a finding that it is in the public interest to designate the carrier as an ETC is also required. ALLTEL states that it meets these criteria for designation as an ETC.

Staff concludes that ALLTEL has satisfied the criteria for being designated as an ETC in the areas served by non-rural and rural ILECs in the State of Arizona for which it seeks designation. Staff recommends that ALLTEL's Application be approved with conditions.

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I. Procedural History

On May 19, 2003, ALLTEL Communications, Inc. ("ALLTEL" or "the Company") filed an Application requesting designation as an Eligible Telecommunications Carrier ("ETC") pursuant to 47 U.S.C. § 214(e)(2) and 47 C.F.R. § 54.201.

In its Application, ALLTEL is licensed to provide wireless service in the following areas: Phoenix Metropolitan Statistical Area ("MSA"), Tucson MSA, Arizona Rural Service Area ("RSA") 2, and Arizona RSA 5. ALLTEL requests that the Arizona Corporation Commission ("Commission") designate it as an ETC for that portion of its licensed service area in which an ILEC is also certificated or authorized to provide service.

On June 16, 2003, Table Top Telephone Company, Inc. ("Table Top") filed a Motion to Intervene.

On June 18, 2003, a Procedural Order was issued which set a date for a Procedural Conference of June 25, 2003.

On June 25, 2003, a Procedural Conference was held at which ALLTEL, Table Top, and Commission Staff appeared. Table Top's Motion to Intervene was granted at the Procedural Conference.

On July 11, 2003, a Procedural Order was issued which set a Staff Report filing deadline of October 1, 2003.

On July 24, 2003, Arizona Telephone Company ("ATC") filed a Motion to Intervene. On August 11, 2003, the Arizona Local Exchange Carriers Association ("ALECA") filed a Motion to Intervene.

On August 7, 2003, the Motion to Intervene filed by ATC was granted.

On August 21, 2003, the Motion to Intervene filed by ALECA was granted.

On August 22, 2003, Table Top filed Initial Comments on ALLTEL's Application.

On September 10, 2003, ALLTEL and Commission Staff filed a Stipulation for Extension of Time. This Stipulation stated that the parties agreed to extend the deadline for the Staff Report to October 29, 2003.

On September 22, 2003, a Procedural Order was issued which ordered that the Staff Report be filed by October 29, 2003.

On October 14, 2003, ALECA filed Comments on ALLTEL's Application and requested that a hearing be held in this matter.

II. Background

ALLTEL is a telecommunications corporation as defined in A.R.S. § 40-201. ALLTEL is a Commercial Mobile Radio Service ("CMRS") provider as defined in 47 C.F.R. 20.3¹ and the Company provides telecommunications services as defined in 47 U.S.C. § 157(45). The Company's Federal Communications Commission ("FCC") licensed wireless service area includes the entirety of the following counties: Maricopa, Pinal, Gila, Pima, Yavapai, and Coconino. In other words, ALLTEL is licensed to provide services in the Phoenix MSA, Tucson MSA, Arizona RSA 2 (which includes Coconino and Yavapai counties), and Arizona RSA 5 (which includes Gila and Pinal counties).

ALLTEL is seeking ETC designation in the portions of its licensed service area in which there is a certificated ILEC. This includes areas served by non-rural and rural ILECs within the State of Arizona. Designation as an ETC will enable ALLTEL to apply for and receive monies from the Federal Universal Service Fund ("FUSF"). While ETC designation is necessary prior to receiving support from the Arizona Universal Service Fund ("AUSF"), ALLTEL's present application is not requesting that it be considered to receive AUSF at this time. The Arizona Administrative Code ("A.A.C.") sets forth the Commission's rules regarding AUSF. ALLTEL would be required to submit a separate Application and comply with additional requirements in order to receive AUSF.

III. Requirements for Designation as an ETC

Designation as an ETC entitles a carrier to be eligible to receive federal universal service funds. The requirements for designation of ETCs are specified by 47 U.S.C. § 214(e)(1). It states that "A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall throughout the service area for which the designation is received – (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such services and the corresponding charges using media of general distribution."

The Telecommunications Act of 1996 ("1996 Act") defines "service area" as a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural ILEC, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.²

¹ Commercial Mobile Radio Service is defined as a "mobile service that is: (a)(1) provided for profit, i.e. with the intent of receiving compensation or monetary gain; (2) An interconnected service; and (3) Available to the public, or to such class of eligible users as to be effectively available to a substantial portion of the public."

² 47 U.S.C. § 214(e)(5).

47 C.F.R. § 54.101, sets forth the services that a carrier must offer in order to receive Federal universal service fund support. The services include:

- (1) Voice Grade Access to the Public Switched Network. "Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For purposes of this Part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz;
- (2) Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;
- (3) Dual Tone Multi-Frequency Signaling of its Functional Equivalent. "Dual tone multi-frequency" ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;
- (4) Single-party service or its functional equivalent. "Single-party service" is a telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;
- (5) Access to Emergency Services. "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911", to call emergency services through a Public Service Access Point ("PSAP") operated by the local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information ("ANI"), which enables the PSAP to call back if the call is disconnected, and automatic location information ("ALI"), which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;
- (6) Access to Operator Services. "Access to operator services" is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

- (7) Access to Interexchange Service. "Access to interexchange service" is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;
- (8) Access to Directory Assistance. "Access to directory assistance" is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- (9) Toll Limitation for Qualifying Low-Income Consumers. Toll limitation for qualifying low-income consumers is described in Subpart E of this part.

In order to be designated as an ETC, a carrier must also offer Lifeline and Link Up service to all qualifying low-income consumers within its service area.³ Lifeline service provides basic telephone service with discounts on monthly telecommunications charges. Link Up service provides financial assistance to help cover the installation charges for telecommunications service.

One additional requirement exists in making an ETC determination in areas served by a rural ILEC. Under 47 U.S.C. § 214(e)(2), a state commission may grant ETC status to a company that provides service in an area served by a rural ILEC only if the state commission finds that doing so is in the public interest.

IV. ALLTEL's Compliance with the Requirements for ETC Designation

A. Offering the Services Designated for Support

ALLTEL states that it currently offers the services designated for support by the Federal universal support mechanisms under 47 U.S.C. § 51.101(a) which include the following:

1. Voice grade access to the public switched network.
2. Local usage.
3. Dual tone, multi-frequency 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 service.
8. Access to directory service.
9. Toll limitation for qualifying low-income consumers.

³ 47 C.F.R. §§ 54.405 and 54.411(a).

ALLTEL intends to provide digital and analog wireless service in the proposed ETC coverage area to subscribers taking service under its plans.

ALLTEL states that it will offer the supported services (including the nine services listed above and Lifeline and Link Up services) using its own facilities. Therefore, Staff recommends that the Commission find that ALLTEL meets this requirement for ETC designation in the portions of its ETC requested area that are served by non-rural and rural ILECs.

In its First Report and Order in CC Docket 96-45, the FCC found that any telecommunications carrier using any technology, including wireless technology, is eligible to receive universal service support if it meets the criteria under 47 U.S.C. § 214(e)(1). The FCC found that "wholesale exclusion of a class of carriers by the Commission would be inconsistent with the language of the statute and the pro-competitive goals of the 1996 Act."⁴ The FCC has reaffirmed these findings in both its Seventh Report and Order and in its Ninth Report and Order and Eighteenth Order on Reconsideration on Universal Service, CC Docket No. 96-45, finding that "federal universal service high-cost support should be made available to all eligible telecommunications carriers that provide the supported services, including wireless carriers, regardless of the technology used."

B. Advertising of Supported Services

ALLTEL states that it will advertise the availability of its supported services (which include all nine services listed above and Lifeline and Link Up services) and the corresponding charges using media of general distribution as required by 47 U.S.C. § 214(e)(1)(B). ALLTEL states that the methods of advertising it currently utilizes include television, newspaper, radio, and direct mailings.⁵ ALLTEL also states that it anticipates beginning Spanish advertising campaigns in the near future. ALLTEL submitted examples of prior relevant advertisements to Staff.

The FCC has ruled on wireless ETC applications from states in which the state lacked jurisdiction to review these applications. In these rulings, the FCC has stated that ETC designation requires that a carrier advertise its supported services once it has been designated as an ETC, but that a carrier is not required to advertise its supported services prior to ETC designation.⁶ ALLTEL indicates that it currently advertises its services through media of general distribution. ALLTEL also states that it will continue to do so following ETC designation.

Based upon the above, Staff concludes that ALLTEL will advertise the availability of its supported services and charges using media of general distribution as required by 47 U.S.C. § 214(e)(1)(B). Staff recommends that the Commission find that ALLTEL also meets this ETC

⁴ *Id.*, at para. 145.

⁵ ALLTEL's Response to MK 1-36 of Staff's First Set of Data Requests.

⁶ *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunication Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket No. 96-45, Memorandum Opinion and Order, Rlsd. November 27, 2002, para. 21.

designation criteria in the portions of its ETC requested area that are served by non-rural and rural ILECs.

C. Universal Service Support Area

The Commission must establish a geographic area for the purpose of determining universal service obligations and support mechanisms for each designated ETC. *See* 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.201(b).

For wire centers served by non-rural ILECs, no analysis with respect to redefinition of a LEC service area is required. In areas served by a rural ILEC, however, 47 U.S.C. § 214(e)(5) provides that the "service area" is the LEC study area. Where the requested service area differs from the LEC study area, the carrier must obtain approval of the modified service area definition from the Federal-State Joint Board for Universal Service. *Id.*

Exhibit A contains a listing of the wire centers that exist within the requested ETC service area that are served by a non-rural ILEC, Qwest. Qwest is the only non-rural ILEC in the State of Arizona. ALLTEL listed in its Application all of the non-rural (i.e., Qwest) wire centers which it serves and for which it is seeking ETC designation. ALLTEL stated in its Application that of all the Qwest wire centers it serves, it partially serves one Qwest wire center and that it is only seeking designation in the portion of that wire center which it serves. For these non-rural wire centers, however, no analysis with respect to redefinition of an ILEC service area is required.

Therefore, all requirements for ETC designation with respect to ALLTEL's ETC requested area that is served by a non-rural ILEC have been fulfilled. According to 47 U.S.C. § 251(e)(2), the Commission must designate multiple ETCs in areas served by non-rural ILECs if the carriers requesting ETC designation meet the federal requirements. Staff recommends that ALLTEL's Application with respect to the ETC requested area that is served by a non-rural ILEC be approved.

Exhibit B contains a listing of the wire centers that exist within the requested ETC service area that are served by a rural ILEC and the names of rural ILECs for which ALLTEL serves all of their wire centers. ALLTEL is seeking ETC designation in the areas served by the following rural ILECs: Accipiter Communications, Inc. ("Accipiter"); Gila River Telecomm Inc. ("Gila River"); San Carlos Apache Telecommunications ("San Carlos"); Tohono O'Odham Utility Authority ("TOUA"); ATC; CenturyTel of the Southwest, Inc. ("CenturyTel"); Citizens Telecommunications Company of the White Mountains d/b/a Frontier Communications of the White Mountains ("Citizens"); Midvale Telephone Exchange, Inc. ("Midvale"); Navajo Communications Company ("Navajo"); South Central Utah Telephone Association ("South Central"); and Table Top. For the wire centers of Accipiter, Gila River, San Carlos, and the TOUA, no service area redefinition would be required, should the Commission grant ALLTEL's Application, since ALLTEL serves the entire study area. For the wire centers of ATC, CenturyTel, Citizens, Midvale, Navajo, South Central, and Table Top, ALLTEL is requesting redefinition since ALLTEL is not licensed to serve the entire study areas of these companies.

For certain wire centers within these rural ILECs' study areas, ALLTEL is requesting that it receive ETC designation for partial wire centers since ALLTEL is only licensed to provide wireless service to portions of these wire centers.

In determining whether to define the service area of ALLTEL differently than the ILEC study area, the Commission must consider three factors.⁷

First, the Commission must consider whether ALLTEL is attempting to "cream skim" by only proposing to serve the lowest cost exchanges.⁸ ALLTEL stated in its Application that it has chosen its ETC requested area based on its licensed service area and not on where the lowest cost exchanges exist.

Second, the Commission must consider the rural carrier's special status under the 1996 Act.⁹ ALLTEL states that no action in this proceeding will affect or prejudge any future action the Commission may take with respect to the rural ILECs' status as rural telephone companies.

Third, the Commission must consider the administrative burden a rural ILEC could face as a result of the proposed service area designation.¹⁰ ALLTEL states that redefining rural ILEC study areas will not impact the way rural ILECs calculate their costs. Therefore, ALLTEL believes that no additional administrative burden will be incurred by the rural ILECs in this case.

ALLTEL seeks ETC designation in both high and low-cost areas within the rural ILECs' study areas. ALLTEL's ETC requested area is based on the area in which it is licensed to serve. Therefore, Staff has no concerns that ALLTEL is trying to "cream-skim" lower cost customers. In addition, Staff has not received information from rural ILECs that indicates that they would be administratively burdened if ALLTEL was designated as an ETC.

Staff recommends that ALLTEL's request for redefinition of the study areas of ATC, CenturyTel, Citizens, Midvale, Navajo, South Central, and Table Top be granted.

⁷ Federal-State Joint Board on Universal Service, Recommended Decision, Docket 96-45, 12 FCC Rcd 87 (1996).

⁸ Federal-State Joint Board on Universal Service, Recommended Decision, Docket 96-45, 12 FCC Rcd 87 (1996) at para. 172.

⁹ Federal-State Joint Board on Universal Service, Recommended Decision, Docket 96-45, 12 FCC Rcd 87 (1996) at para. 173.

¹⁰ Federal-State Joint Board on Universal Service, Recommended Decision, Docket 96-45, 12 FCC Rcd 87 (1996) at para. 174.

D. Intervenor Comments and Public Interest Determination for Areas Served by Rural ILECs

1. Intervenor Comments

a. Table Top

On August 22, 2003, Table Top filed Initial Comments on ALLTEL's Application. Table Top asserts that ALLTEL's Application should be denied because it is not in the public interest. Table Top gives four reasons behind its assertion. First, ALLTEL does not provide factual support that there would be a public interest benefit if the Application was granted. Second, benefits must exceed costs if more than one ETC in a rural area is designated. Third, the Federal-State Joint Board on Universal Service is currently reviewing issues related to competitive ETC designation. Table Top proposes that the Commission await the Joint Board's recommendations and the FCC ruling on this issue before issuing a decision on ALLTEL's Application. Fourth, approval of the Application would lead to increased pressure on the FUSF and could impact the Arizona Universal Service Fund ("AUSF").

Table Top states that although ALLTEL's Application refers to the Smith Bagley, Inc. ("Smith Bagley") ETC applications which were approved by the Commission in Decision Nos. 63269, 63421, and 65054, those applications contained certain tribal issues which are not present in ALLTEL's Application.

Table Top states that there is no assurance by ALLTEL that it will invest in Arizona infrastructure with the FUSF monies that it receives. Table Top also is concerned that ALLTEL does not seem to offer the Commission an opportunity to review its use of FUSF support.

Table Top states that the FCC has recognized the differences between rural and non-rural ILECs. Rural ILECs have a greater reliance on access charges and universal service support. Table Top states that part of the intent of the Telecommunications Act of 1996 ("1996 Act") was to ensure that universal service is protected in rural areas before designating a second ETC in these areas. The benefit of increased competition cannot be the primary reason for designating another ETC in rural areas.

b. ALECA

On October 14, 2003, ALECA filed Comments on ALLTEL's Application. ALECA is composed of rural ILECs, including each of the seven rural ILECs in whose territory ALLTEL seeks redefinition of the service areas. ALECA asserts that ALLTEL's Application should be denied because it is contrary to the public interest.

ALECA mentions that ALLTEL has not quantified its claims that rural customers will benefit from its ETC designation. ALECA asks whether the products and advanced services that ALLTEL states it will provide are not already available from rural ILECs. Contrary to ALLTEL's claim that rural ILECs have no incentive to innovate and introduce new offerings

(including advanced services), ALECA states that rural ILECs have these incentives now due to wireless competition and that they have introduced digital switching, DSL-capable facilities, and other modern features.

ALECA states that wireless carriers do not compensate rural ILECs when they terminate calls on the local networks of rural ILECs. However, the rural ILECs are burdened with the maintenance and construction of these local networks. ALLTEL has also not provided information on the infrastructure it will construct. ALECA believes that if ALLTEL is able to receive FUSF support without a requirement that this money be used to construct infrastructure in rural Arizona, then the limited FUSF resources will be siphoned away from their intended purposes.

ALECA mentions the public interest criteria that the Commission utilized in approving Smith Bagley's request for ETC designation in Decision No. 63269. The Commission stated that approval of Smith Bagley's ETC Application would confer benefits to Native Americans with low telephone subscribership. Smith Bagley would serve areas in which no wireline carrier is even available for residents.

ALECA states that ALLTEL has not shown that its Application is in the public interest considering the same public interest factors that were reviewed in the Smith Bagley Decision. ALLTEL claims it will serve underserved areas, but it does not indicate where these areas are. There are multiple wireless carriers serving the ETC requested area in ALLTEL's Application and ALLTEL is currently serving these areas. ALECA asks what additional benefits would be received by customers if ALLTEL's Application were granted that these customers do not already receive. ALECA believes that the Commission must address the fundamental question of what criteria it will assess in making ETC determinations for wireless carriers.

ALECA states that FUSF support is indispensable for rural ILECs that serve high-cost areas. ALECA details the conditions under which rural ILECs receive FUSF. First these ILECs must construct infrastructure. Then, after approximately 18 months, these rural ILECs will receive FUSF support to cover their infrastructure investments. However, a carrier like ALLTEL will receive FUSF support before showing that it has made any infrastructure investments. By approving ETC designation for wireless carriers without thorough deliberation, state commissions have threatened the sustainability of the FUSF. ALECA states that if FUSF support is lessened, then Arizona would be required to utilize AUSF to compensate for the shortfall.

Finally, ALECA agrees with Table Top that the Commission should stay a decision on ALLTEL's Application until the issues pending before the Federal-State Joint Board on Universal Service are resolved.

2. Public Interest Determination

As mentioned previously, one additional criteria, public interest, is required in making an ETC determination in areas served by a rural ILEC. Under 47 U.S.C. § 214(e)(2), a state

commission may grant ETC status to a company that provides service in an area served by a rural ILEC only if the state commission finds that doing so is in the public interest.

ALLTEL provides customers with mobility, versus the fixed location of wireline service, and a variety of local and long distance options. ALLTEL's wireless plans offer expanded local coverage areas far beyond that offered by wireline carriers. All ALLTEL plans offer long distance as well. ALLTEL also offers advanced services, such as internet service and text messaging. In ALLTEL's Application, it commits to using all federal high-cost support for the maintenance, construction, and upgrading of facilities serving areas in which a rural ILEC is certified. In its response to Staff's First Set of Data Requests, ALLTEL confirms that it will use federal universal service support in accordance with 47 U.S.C. § 214(e)(1).¹¹

ALLTEL's current coverage area (i.e., area in which it is capable of serving customers) is less than its entire licensed service area.¹² While ALLTEL's Application does not solely encompass tribal areas, as did Smith Bagley's initial ETC application, ALLTEL's requested ETC service area does include some tribal lands. Navajo, San Carlos Apache, and Tohono O'Odham tribes are within ALLTEL's requested ETC service area. ALLTEL states that ETC designation would provide it with the FUSF support to enable it to expand its coverage area within the ETC requested area. ALLTEL also states that FUSF support will enable it to improve its services.¹³ To the extent that customers are underserved and wireline line extension charges are applicable, ALLTEL states that it seeks to provide these customers with an alternative to wireline service which may be unaffordable.¹⁴ Where the wireline carrier has not constructed facilities, the availability of a robust wireless network provides options to residents that might not otherwise be available. ALLTEL's eligibility to receive FUSF support may allow it to expand its network into areas where it would otherwise be uneconomical to do so.

Wireless carriers receive the same level of FUSF support as the wireline ILECs in whose service territory they are designated as ETCs. Staff would note that, under current FCC methodology for providing high-cost support, wireline carriers, like Table Top, do not lose support when customers select a wireless ETC as their service provider. This is true regardless of whether the customer chooses wireless service as a complement to its wireline service or as a substitute for wireline service. Rural ILECs receive support based upon their network costs and not "per line" support. Thus when a customer leaves the wireline carrier's network, the rural ILEC re-averages its network costs across the remaining customer base in each subsequent reporting period so as to recover its full measure of high-cost support. This was discussed in the FCC's Fourteenth Report and Order.¹⁵

¹¹ ALLTEL's Response to MK 1-42 of Staff's First Set of Data Requests.

¹² ALLTEL's Response to MK 1-4 of Staff's First Set of Data Requests.

¹³ ALLTEL's Response to MK 1-19 of Staff's First Set of Data Requests.

¹⁴ ALLTEL's Response to MK 1-41 of Staff's First Set of Data Requests.

¹⁵ *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244, 11296-97 (2001) ("*Fourteenth Report and Order*").

Staff also wants to emphasize that rural ILECs have the ability to disaggregate their study areas. This enables FUSF support to be targeted below the study area level so that support would be distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service. By disaggregating, a rural ILEC can ensure that when a wireless carrier serves low-cost exchanges it will receive a lower level of FUSF support than when it serves high-cost exchanges. This further eliminates the benefit to a wireless carrier of "cream-skimming" low-cost customers.

In Decision No. 65846, the Commission approved the disaggregation plans of Citizens, Navajo, Citizens Utilities Rural Company d/b/a Frontier Citizens Utilities Rural ("Citizens Rural"), and ATC. These disaggregation plans further alleviate concerns regarding "cream-skimming." The Commission also has the authority to approve disaggregation plans of other rural ILECs upon petition of an interested party, such as a rural ILEC itself.

ALLTEL states in its Application that if designated as an ETC, it will provide Lifeline Service to any customer that requests it within the ETC designated area. ALLTEL clarifies that while it has not yet finalized its Lifeline program, it will establish a Lifeline service offering that complies with all federal requirements.¹⁶ Should ALLTEL's Lifeline offering not meet the needs of a qualifying Lifeline customer, Lifeline support (Tiers 1, 2 and 3) is transferable to the Company's other service offerings thus making these packages available at a reduced cost. Eligible consumers thus benefit by having additional choices in addition to what is offered by the wireline carrier for their area.

ALLTEL has received awards and recognition for its customer satisfaction with its wireless service within the Phoenix area and from readers of the *Arizona Business Magazine*. Each ALLTEL call center utilizes a Language Line vendor which can provide service to Spanish speaking customers and to non-English speaking residents of the Native American communities desiring ALLTEL's customer service, operator service, and directory assistance services.¹⁷

ALLTEL states that it will meet the requirement for wireless carriers to implement Local Number Portability by November 24, 2003, in the Phoenix and Tucson MSAs.¹⁸ ALLTEL has deployed Phase I E-911 in Pima and Pinal counties. ALLTEL has not received a request from Maricopa county at this time. However, ALLTEL states that it will provide Phase I and II E-911 based on schedules for its deployment that are agreed upon by ALLTEL and the E-911 providers.¹⁹

Carriers designated as ETCs are required to certify annually with the FCC and the Universal Service Administrative Company ("USAC") that all federal high-cost support that they will receive in the next year will only be used for the provision, maintenance, and upgrading of

¹⁶ ALLTEL's Response to MK 1-8 of Staff's First Set of Data Requests.

¹⁷ ALLTEL's Response to MK 1-37 and MK 1-38 of Staff's First Set of Data Requests, and MK 3-16 of Staff's Third Set of Data Request.

¹⁸ ALLTEL's Response to MK 1-26 of Staff's First Set of Data Requests.

¹⁹ ALLTEL's Response to MK 1-39 of Staff's First Set of Data Requests and MK 3-17 of Staff's Third Set of Data Request.

facilities and services for which the support is intended, consistent with Section 254(e) of the 1996 Act.²⁰ This requirement will provide further assurances that ALLTEL will utilize its FUSF support appropriately. As a wireless, competitive ETC, Staff would recommend that this requirement for ALLTEL would be applicable and conditioned upon the Commission's reservation of right, upon a request from Staff, to audit all expenditures of these funds. Additionally, penalties, including revocation of ETC status, can be assessed if a carrier is untruthful in its certification.

Other potential benefits to consumers from designation of ALLTEL as an ETC for this geographic area include the following. Consumers should have improved access to ALLTEL's network and services as a result of FUSF support being applied to growth and enhancement of ALLTEL's facilities. Furthering the growth of competition should enhance a consumer's range of choices for their telecommunications services. For example, consumers may weigh the unlimited local usage of wireline service versus a variety of wireless packages with varying minutes of usage. Other choices a consumer may evaluate in the selection of a service provider are service mobility versus service at a fixed location as well as potential differences in local calling scope, toll calling plans, or other feature offerings. Designating ALLTEL as an ETC would further competition in rural areas. The FCC has concluded that increased competition in rural areas, through the designation of more than one ETC, is beneficial and a key part of the public interest analysis.²¹

In its Alabama Order²² the FCC indicates that questions surrounding potential growth of the high-cost fund are not properly addressed in the course of an ETC determination. Furthermore, the FCC has requested that the Federal-State Joint Board on Universal Service provide it with recommendations relating to high-cost universal support in study areas where a competitive ETC is providing service, as well as, for example, FCC rules regarding support for second lines.²³ It is uncertain when the Federal-State Joint Board on Universal Service will issue its recommendation and when the FCC will issue its ruling. Therefore, Staff recommends that the Commission review this ETC request under the current FCC guidelines rather than hold the Application in abeyance for an unquantifiable period of time.

ALLTEL has filed ETC applications in fifteen states, including Arizona. In Michigan and Wisconsin, ALLTEL has been approved as an ETC. In West Virginia, a Recommended Decision approving ALLTEL's Application has been issued. It is anticipated that this approval will be effective on October 23, 2003. ALLTEL states that there are no differences in technical

²⁰ FCC's Fourteenth Report and Order and Twenty-Second Order on Reconsideration in CC Docket No. 96-45, rlsd on May 23, 2001.

²¹ *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunication Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket No. 96-45, Memorandum Opinion and Order, Rlsd. November 27, 2002, para. 23; *Cellular South License, Inc. Petition for Designation as an Eligible Telecommunication Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket No. 96-45, Memorandum Opinion and Order, Rlsd. December 4, 2002, para. 25.

²² *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunication Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket No. 96-45, Memorandum Opinion and Order, Rlsd. November 27, 2002, para. 32.

²³ *Federal-State Joint Board on Universal Service*, CC Docket 96-45, FCC 02-307, Order (rlsd November 8, 2002).

capabilities between its Arizona facilities and its facilities in any other state in which it has received ETC designation or in which a request is pending.²⁴

In summary, Staff has reviewed ALLTEL's Application and believes that it will provide additional consumer choice and may further the availability of advanced telecommunications services. Therefore, Staff recommends that the Commission find that ALLTEL's Application for ETC status with respect to areas served by a rural ILEC is in the public interest.

E. Staff Recommendation

Consistent with prior ETC Orders of the Commission, Staff recommends ALLTEL's Application for designation as an ETC be granted subject to the following conditions:

1. ALLTEL shall make available Lifeline and Link Up services to qualifying low-income applicants in its ETC service area no later than 90 days after a Commission Decision.
2. ALLTEL shall file an informational tariff with the Commission, setting forth the rates, terms and conditions for its general services (including, but not limited to, its Life Line and Link Up service) in the areas approved herein within thirty (30) days of an Order in this matter. On an ongoing basis ALLTEL shall comply with ARS 40-367 in amending its tariffs.
3. ALLTEL shall be required to file service area maps of the areas for which it is granted ETC status by the Commission within thirty (30) days of an Order in this matter.
4. ALLTEL shall be required to provide service quality data following a request by Commission Staff. ALLTEL shall provide such data within the timeframe given in Staff's request to ALLTEL.
5. ALLTEL shall submit any consumer complaints that may arise from its Lifeline or Link Up offerings to the Commission's Consumer Service Division, provide a regulatory contact, and comply with the provisions of the Commission's customer service and termination of service rules.
6. ALLTEL shall submit its advertising plan for Lifeline and Link Up services to Staff for review prior to commencing service.
7. ALLTEL shall be required to submit to an audit of its expenditures of its universal service funds upon a request by Commission Staff.
8. ALLTEL shall submit to the Commission an affidavit that all federal high-cost

²⁴ ALLTEL's Response to MK 3-8 of Staff's First Set of Data Requests.

support for its Arizona exchanges will only be used for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the 1996 Act, by September 15 of each year following ETC approval, beginning with September 15, 2004.

9. ALLTEL shall be required to utilize all federal high-cost support for its Arizona exchanges within the State of Arizona.
10. ALLTEL shall be required to submit an annual filing detailing how it is utilizing its federal high-cost support for its Arizona exchanges by September 15 of the first five years following ETC approval, beginning with September 15, 2004, and ending on September 15, 2009.

Staff also recommends that prior to a hearing in this matter, or prior to the issuance of an Order, ALLTEL shall be required to file updates to its Exhibits D and E that were filed with its Application and which included the list of wire centers within the service areas of rural ILECs for which ALLTEL is requesting ETC designation. These updated Exhibits shall include all wire centers within the study areas of the rural ILECs cited in Exhibit D and all relevant wire centers for each of the seven rural ILECs which were cited in Exhibit E.

V. Conclusion

Staff recommends that the Commission find that the ALLTEL Application for Designation as an Eligible Telecommunications Carrier under U.S.C. § 214(e)(1), for areas served by non-rural ILECs, be granted for those areas within its existing licensed service contour in which Qwest is authorized to provide service.

Staff recommends that the Commission find that ALLTEL's Application for ETC designation in the areas served by rural ILECs is in the public interest. Staff further recommends that the ALLTEL Application for Designation as an Eligible Telecommunications Carrier under U.S.C. § 214(e)(2) be granted for those areas within its existing licensed service area in which a rural ILEC is certificated to provide service.

Finally, ALECA has requested a hearing in this matter. Staff is not opposed to holding a hearing in this docket.