

OPEN MEETING ITEM



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ORIGINAL



COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

22

ARIZONA CORPORATION COMMISSION

DATE: August 23, 2005

DOCKET NO: T-04248A-04-0239

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Teena Wolfe. The recommendation has been filed in the form of an Order on:

WWC LICENSE LLC (WESTERN WIRELESS CORPORATION)
(DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

SEPTEMBER 2, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

September 7 and 8, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 WWC LICENSE LLC (WESTERN WIRELESS
10 CORPORATION) FOR DESIGNATION AS AN
11 ELIGIBLE TELECOMMUNICATIONS CARRIER
12 AND REDEFINITION OF RURAL TELEPHONE
13 COMPANY SERVICE AREA.

DOCKET NO. T-04248A-04-0239

DECISION NO. _____

ORDER

14 Open Meeting
15 September 7 and 8, 2005
16 Phoenix, Arizona

17 **BY THE COMMISSION:**

18 WWC License LLC dba CellularOne (“Western Wireless” “Applicant” or “Company”) is a
19 commercial mobile radio services (“CMRS”) provider operating under the “CellularOne” national
20 brand name. Western Wireless currently serves customers in LaPaz, Mohave and Yuma Counties in
21 Arizona. Pursuant to the Federal Communications Act of 1934, as amended by the
22 Telecommunications Act of 1996 (“1996 Act” or “Act”) and the rules and regulations of the Federal
23 Communications Commission (“FCC”), Western Wireless filed with the Arizona Corporation
24 Commission (“Commission”) on March 26, 2004, an application for designation as an eligible
25 telecommunications carrier (“ETC”) in the wire centers listed on Exhibits A and B, attached hereto
26 and incorporated herein by reference. Designation as an ETC will enable Western Wireless to apply
27 for and receive Federal universal service support from the Federal Universal Service Fund. Western
28 Wireless is currently licensed and provides signal coverage throughout the rural study areas and non-
rural wire centers identified on Exhibit A, and unconditionally requests ETC designation in those
study areas and non-rural wire centers. In addition, Western Wireless requests that the Commission
conditionally designate Western Wireless as an ETC in the service area of the wire centers described
in Exhibit B, subject to approval of the redefinition by the FCC under 47 C.F.R. § 54.207(c) to
effectuate Western Wireless’ designation.

1 Public notice of the application was given as outlined herein. The notice set a deadline for
2 requesting intervention, and set a separate deadline for requesting a hearing. Intervention was
3 requested by and granted to the Arizona Local Exchange Carriers Association ("ALECA").¹ No
4 other parties requested intervention. Three procedural conferences were held at which Western
5 Wireless, ALECA, and the Commission's Utilities Division Staff ("Staff") appeared. Also appearing
6 at the initial procedural conference was Verizon California, Inc. ("Verizon"). Opportunity for
7 requesting a hearing was provided at each procedural conference. No parties requested a hearing.

8 Staff filed an initial Staff Report on the application, and subsequently filed a Supplemental
9 Staff Report on the application following the FCC's release, on March 17, 2005, of a Report and
10 Order addressing the minimum requirements for a telecommunications carrier to be designated an
11 ETC.² A notable addition to prior FCC requirements for ETC designation is the requirement that
12 ETC applicants file a five-year network improvement plan outlining the use of universal service
13 funds as a condition of ETC designation, and a requirement that ETCs already designated by the FCC
14 file such a plan no later than October 1, 2006.³ The *ETC Minimum Requirements Report and Order*
15 also imposes annual reporting requirements and urges State Commissions to adopt requirements
16 similar to those adopted by the FCC.

17 Staff recommended that Western Wireless be required to file a five-year network
18 improvement plan prior to a hearing or Decision in this matter, and that Staff be allowed to provide a
19 supplemental filing in response to the plan within 60 days following the filing of the plan. Staff also
20 recommended that following ETC designation, Western Wireless be required to comply with annual
21 reporting requirements related to the five-year plan.

22

23 ¹ ALECA is a non-profit trade association whose members include the following rural Commission-regulated incumbent
24 local exchange carriers ("ILECs"): Arizona Telephone Company, CenturyTel, Copper Valley Telephone, Frontier
25 Communications, Midvale Telephone Exchange, Navajo Communications, South Central Communications, Southwestern
26 Telephone Company, Table Top Telephone Company, and Valley Telephone Cooperative. ALECA also includes the
27 following tribally-owned ILECs: Fort Mojave Telephone Company, Gila River Telecommunications, San Carlos Apache
28 Telecom Utility and Tohono O'Odham Utility Authority.

26 ² *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 05-46* (rel. March 17,
2005) ("*ETC Minimum Requirements Report and Order*" or "*Report and Order*").

27 ³ This requirement does not apply to ETCs designated by State Commissions. Section 214(e)(2) of the 1996 Act provides
28 state public utility commissions with the primary responsibility for designating ETCs. However, section 214(e)(6) of the
Act directs the FCC to designate carriers when those carriers are not subject to the jurisdiction of a state public utility
commission. Western Wireless is subject to the jurisdiction of this Commission.

1 Western Wireless states that it will accept Staff's recommendations in this matter with the
 2 exception of Staff's recommendation that it be required to file a five-year network improvement plan
 3 prior to designation. Western Wireless made two alternative proposals, one to make a post-
 4 designation compliance filing instead of filing a five-year plan, and the second, to file a five-year
 5 plan by October 1, 2006.

6 As set forth in the following Findings of Fact, we find that because Western Wireless will be
 7 entitled to receive universal service funds upon designation as an ETC, it is in the public interest to
 8 require Western Wireless to file, prior to receiving an ETC designation, a five-year network
 9 improvement plan for Commission approval that demonstrates how those universal service funds will
 10 be spent to improve coverage, signal strength or capacity that would not otherwise occur absent the
 11 receipt of high-cost support, for the purpose of expanding or preserving wide access to phone
 12 services in Arizona. We find that any burden that the requirement to file such a plan as a condition of
 13 becoming eligible for a Federal subsidy may impose is outweighed by the need to ensure that
 14 Western Wireless is willing and able to provide the supported services throughout the requested
 15 designation area, and to ensure that ratepayer-funded universal service support funds are used in the
 16 manner intended, which is to aid in the provision of access to affordable telecommunications and
 17 information services to rural and high-cost telecommunications services consumers. The annual
 18 progress report requirement recommended by Staff and adopted herein can serve as a vehicle for an
 19 annual "true-up" of the Company's network improvement plans as the Company deems necessary to
 20 comport with technological advances and possible changes in the business and regulatory
 21 environment. We will require that Western Wireless' annual progress report include a notification of
 22 such changes to its current-year plans and will also require that the annual progress report include
 23 updates to the Company's future-year plans to reflect its actual planning.

24 * * * * *

25 Having considered the entire record herein and being fully advised in the premises, the
 26 Arizona Corporation Commission finds, concludes, and orders that:

27
 28 **FINDINGS OF FACT**

1 1. Western Wireless is a CMRS provider operating under the "CellularOne" national
2 brand name. Western Wireless currently serves customers in LaPaz, Mohave and Yuma Counties in
3 Arizona.

4 2. Western Wireless is licensed by the FCC to provide non-wireline service in the
5 northern portion of Arizona Rural Service Area ("RSA") 1 and Arizona RSA 4.

6 3. Section 214(e) of the 1996 Act, and the rules and regulations of the FCC establish
7 criteria for designation as a Federal ETC in Arizona.

8 4. On March 26, 2004, pursuant to the 1996 Act and the rules and regulations of the
9 FCC, Western Wireless filed with the Commission an application for designation as an ETC in the
10 wire centers listed on Exhibits A and B, attached hereto and incorporated herein by reference.
11 Designation as an ETC will enable Western Wireless to apply for and receive Federal universal
12 service support from the Federal Universal Service Fund.

13 5. Western Wireless is currently licensed and provides signal coverage throughout the
14 rural study areas and non-rural wire centers identified on Exhibit A, and unconditionally requests
15 ETC designation in those study areas and non-rural wire centers.

16 6. Western Wireless requests that the Commission conditionally designate Western
17 Wireless as an ETC in the service area of the wire centers described in Exhibit B, subject to approval
18 of the redefinition by the FCC under 47 C.F.R. § 54.207(c) to effectuate Western Wireless'
19 designation.

20 7. On August 17, 2004, Western Wireless filed a Request for a Procedural Conference to
21 address the timing and conduct of the proceeding in this docket.

22 8. A Procedural Conference was held as scheduled on September 2, 2004. Western
23 Wireless, ALECA, Verizon, and Staff entered appearances through counsel and discussed public
24 notice requirements, time required for discovery, and proposed dates for the filing of a Staff Report
25 as well as for filing comments on the Staff Report.

26 9. A Procedural Order issued September 3, 2004 established public notice requirements
27 which included deadlines for intervention, for requesting a hearing on the application, for the filing of
28 the Staff Report and for the filing of responses thereto. The Procedural Order also established a

1 deadline of October 29, 2004 for filing any requests for a hearing on the application.

2 10. On September 22, 2004, pursuant to the September 3, 2004 Procedural Order, Western
3 Wireless filed a Notice of Filing Affidavit of Mailing and Notice of Filing Affidavit of Publication,
4 and on October 8, 2004, filed a Notice of Filing Supplemental Affidavit of Mailing.

5 11. On October 14, 2004, ALECA filed a Motion to Intervene, which was granted by
6 Procedural Order of October 27, 2004.

7 12. No other requests to intervene were filed, and no requests for hearing were received.

8 13. On December 28, 2004, ALECA filed a Notice of Filing Decision No. 67403 Granting
9 ETC Status to Alltel Communications, Inc.

10 14. On December 30, 2004, Staff filed a Staff Report on the application, recommending
11 approval of Western Wireless' application subject to conditions.

12 15. On February 18, 2005, ALECA and Western Wireless each filed a response to the
13 December 30, 2004 Staff Report. Both parties requested that the Commission modify the conditions
14 Staff recommended.

15 16. On March 1, 2005, a Procedural Order was issued setting a Procedural Conference for
16 March 10, 2005 to discuss the need for a hearing in this matter. The Procedural Conference was
17 convened as scheduled on March 10, 2005. Western Wireless, ALECA and Staff appeared through
18 counsel. The parties stated that the FCC had recently issued a press release stating that it would soon
19 issue a Report and Order adopting additional requirements to apply to carriers seeking designation as
20 an ETC from the FCC. Staff proposed to review the new FCC ETC Order, ascertain how it applies to
21 this case, and file a supplemental Staff Report within 30 days of the public release of the new FCC
22 ETC Order. Western Wireless and ALECA both agreed with the concept proposed by Staff.
23 Western Wireless, ALECA and Staff all stated a belief that a hearing was not required, although
24 ALECA maintained its right to request a hearing, if after release of the new FCC ETC Order, it found
25 a hearing to be necessary.

26 17. A Procedural Order issued April 8, 2005, directed Staff to file its Supplemental Staff
27 Report on the application within 30 days of the date the FCC Report and Order in FCC Docket No.
28 FCC 05-46 was made publicly available.

1 18. On March 17, 2005, the FCC's Wireline Competition Bureau released the *Minimum*
2 *ETC Requirements Report and Order* addressing the minimum requirements for a
3 telecommunications carrier to be designated an ETC.

4 19. On April 15, 2005, Staff filed a *Supplemental Staff Report* on the application,
5 recommending approval subject to revised conditions and reporting requirements. Staff
6 recommended that Western Wireless be required to file a five-year network improvement plan prior
7 to a hearing or Decision in this matter, and that Staff be allowed to provide a supplemental filing in
8 response to the plan within 60 days of its filing.

9 20. On April 22, 2005, a telephonic procedural conference was held for the purpose of
10 allowing the parties to discuss remaining procedural issues associated with this proceeding. Western
11 Wireless, ALECA and Staff appeared through counsel. Western Wireless stated that it wished to
12 have an opportunity to formally respond to legal and practical issues raised in the *Supplemental Staff*
13 *Report*. ALECA indicated that it wished to have the opportunity to reply to Western Wireless'
14 response. All parties indicated their continuing belief that a hearing on the application was
15 unnecessary.

16 21. On April 22, 2005, a Procedural Order was issued setting a procedural schedule for the
17 filing of responsive comments to the *Supplemental Staff Report*, and for the filing of reply comments
18 thereto. The Procedural Order directed that the responsive and reply comments include supporting
19 legal arguments.

20 22. On May 12, 2005, Western Wireless filed a *Response to Supplemental Staff Report*.

21 23. On May 13, 2005, ALECA filed a *Response to Staff's Supplemental Report*.

22 24. On May 27, 2005, Staff filed a *Reply to Responses to Supplemental Staff Report*.

23 25. Also on May 27, 2005, ALECA filed a *Reply to Western Wireless' Response to*
24 *Supplemental Staff Report*, and Western Wireless filed a *Reply to ALECA's Response to*
25 *Supplemental Staff Report*.

26
27 **Statutory and FCC Requirements for ETC Designation**

28 26. Western Wireless' Application seeks ETC designation pursuant to Section 214(e)(2)

1 of the 1996 Act for purposes of receiving Federal universal service support in Arizona.

2 27. Section 214(e)(2) of the 1996 Act,⁴ as set forth below, provides state commissions
3 with the primary responsibility for performing ETC designations:

4 (2) Designation of eligible telecommunications carrier

5 A State commission shall upon its own motion or upon request designate a
6 common carrier that meets the requirements of paragraph (1) as an eligible
7 telecommunications carrier for a service area designated by the State commission.
8 Upon request and consistent with the public interest, convenience, and
9 necessity, the State commission may, in the case of an area served by a rural
10 telephone company, and shall, in the case of all other areas, designate more than
11 one common carrier as an eligible telecommunications carrier for a service area
12 designated by the State commission, so long as each additional requesting
13 carrier meets the requirements of paragraph (1). Before designating an additional
14 eligible telecommunications carrier for an area served by a rural telephone
15 company, the State commission shall find that the designation is in the public
16 interest.

12 28. Section 214(e)(1) of the 1996 Act⁵ provides as follows:

13 (e) Provision of universal service

14 (1) Eligible telecommunications carriers

15 A common carrier designated as an eligible telecommunications carrier under
16 paragraph (2), (3), or (6) shall be eligible to receive universal service support in
17 accordance with section 254 of this title, and shall, throughout the service area for
18 which the designation is received -

19 (A) offer the services that are supported by Federal universal service support
20 mechanisms under section 254(c) of this title, either using its own facilities or a
21 combination of its own facilities and resale of another carrier's services
22 (including the services offered by another eligible telecommunications carrier);
23 and

24 (B) advertise the availability of such services and the charges therefor using
25 media of general distribution.

26 29. Pursuant to section 254(a)(1) of the 1996 Act⁶ the FCC promulgated regulations
27 designating the nine services that an ETC must offer in order to receive Federal universal service
28 support as follows:

- 1) Voice grade access to the public switched network;
- 2) Local usage;

27 ⁴ 47 U.S.C. § 214(e)(2).

28 ⁵ 47 U.S.C. § 214(e)(1).

⁶ 47 U.S.C. § 254.

- 3) Dual tone multi-frequency ("DTMF") signaling or its functional equivalent;
- 4) Single-party service or its functional equivalent;
- 5) Access to emergency services, including 911 and enhanced 911;
- 6) Access to operator services;
- 7) Access to interexchange services;
- 8) Access to directory assistance; and
- 9) Toll limitation for qualifying low-income consumers.⁷

30. FCC regulations further require that in order to be designated as an ETC, a carrier must also offer Lifeline and Link Up services to all qualifying low-income consumers within its service area.⁸ 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. FCC regulations require an ETC to publicize the availability of Lifeline and Link Up support in a manner reasonably designed to reach those likely to qualify for the services.⁹

31. With its *ETC Minimum Requirements Report and Order*, the FCC adopted, consistent with the recommendations of the Federal-State Joint Board on Universal Service, additional mandatory requirements for ETC designation proceedings in which the FCC acts pursuant to section 214(e)(6) of the Act.¹⁰ The *Report and Order* adopted the recommendation of the Joint Board, to encourage states such as Arizona that exercise jurisdiction over ETC designations pursuant to section 214(e)(2) of the Act to adopt the requirements of the *Report and Order* when deciding whether a common carrier such as Western Wireless should be designated as an ETC.¹¹ The *Report and Order* includes the FCC's public interest analysis,¹² and encourages State Commissions to require ETC applicants to meet the same conditions and to conduct the same public interest analysis the FCC

⁷ 47 C.F.R. § 54.101.

⁸ 47 C.F.R. §§ 54.401, 54.405 and 54.411(a).

⁹ 47 C.F.R. §§ 54.405(b) and 54.411(3)(d).

¹⁰ Section 214(e)(2) of the Act provides state public utility commissions with the primary responsibility for designating ETCs. However, section 214(e)(6) of the Act directs the FCC to designate carriers when those carriers are not subject to the jurisdiction of a state public utility commission. Western Wireless is subject to the jurisdiction of this Commission.

¹¹ *ETC Minimum Requirements Report and Order*, para 19.

¹² *Id.*, para 40-57.

1 requires.¹³ The *Report and Order* states that the FCC's permissive guidelines for state ETC
 2 designation proceedings are designed to ensure designation of carriers that are financially viable,
 3 likely to remain in the market, willing and able to provide the supported services throughout the
 4 designated service area, and able to provide consumers an evolving level of universal service.¹⁴ The
 5 FCC further states in the *Report and Order* that a set of guidelines allows for a more predictable
 6 process among the states, and that its guidelines will improve the long-term sustainability of the
 7 universal service fund, because under its guidelines, only fully qualified carriers that are capable of
 8 and committed to providing universal service will be able to receive support.¹⁵

10 32. In addition to implementing additional requirements for new applicants for ETC
 11 designation, the *ETC Minimum Requirements Report and Order* makes new reporting requirements
 12 applicable on a prospective basis to all ETCs previously designated by the FCC, and requires those
 13 ETCs to submit evidence demonstrating how they comply with the new ETC designation framework
 14 by October 1, 2006, at the same time they submit their annual certification filing.¹⁶ The *Report and*
 15 *Order* further states that the FCC does not believe that different ETCs should be subject to different
 16 obligations associated with receiving universal service support because of when they happened to
 17 first obtain ETC designation.¹⁷ On that basis the FCC encourages State Commissions to apply the
 18 new reporting requirements to all ETC applicants over which they exercise jurisdiction, regardless of
 19 the date of initial ETC designation.¹⁸

21 33. The additional requirements for FCC designation of ETCs that the FCC adopted in the
 22 *Minimum Requirements Report and Order* include the following:

24 **§ 54.202 Additional Requirements for [Federal Communications] Commission
 25 designation of eligible telecommunications carriers.**

26 ¹³ *Id.*, para 19, 58-62.

27 ¹⁴ *Id.*, para 60.

28 ¹⁵ *Id.*, para 58.

¹⁶ *Id.*, para 68-72.

¹⁷ *Id.*, para 20.

¹⁸ *Id.*, para 71-72.

1 (a) On or after the effective date of [the rules adopted by the FCC], in order to be designated
2 an eligible telecommunications carrier under section 214(e)(6), any common carrier in its
3 application [to the FCC] must:

4 (1) (A) commit to provide service throughout its proposed designated service area to all
5 customers making a reasonable request for service. Each applicant shall certify that it
6 will (1) provide service on a timely basis to requesting customers within the
7 applicant's service area where the applicant's network already passes the potential
8 customer's premises; and (2) provide service within a reasonable period of time, if the
9 potential customer is within the applicant's licensed service area but outside its
10 existing network coverage, if service can be provided at reasonable cost by (a)
11 modifying or replacing the requesting customer's equipment; (b) deploying a roof-
12 mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting
13 network or customer facilities; (e) reselling services from another carrier's facilities to
14 provide service; or (f) employing, leasing or constructing an additional cell site, cell
15 extender, repeater, or other similar equipment; and

16 (B) submit a five-year plan that describes with specificity proposed improvements or
17 upgrades to the applicant's network on a wire center-by-wire center basis throughout
18 its proposed designated service area. Each applicant shall demonstrate how signal
19 quality, coverage or capacity will improve due to the receipt of high-cost support; the
20 projected start date and completion date for each improvement and the estimated
21 amount of investment for each project that is funded by high-cost support; the specific
22 geographic areas where the improvements will be made; and the estimated population
23 that will be served as a result of the improvements. If an applicant believes that
24 service improvements in a particular wire center are not needed, it must explain its
25 basis for this determination and demonstrate how funding will otherwise be used to
26 further the provision of supported services in that area.

27 (2) demonstrate its ability to remain functional in emergency situations, including a
28 demonstration that it has a reasonable amount of back-up power to ensure
functionality without an external power source, is able to reroute traffic around
damaged facilities, and is capable of managing traffic spikes resulting from emergency
situations.

(3) demonstrate that it will satisfy applicable consumer protection and service quality
standards. A commitment by wireless applicants to comply with the Cellular
Telecommunications and Internet Association's Consumer Code for Wireless Service
will satisfy this requirement. Other commitments will be considered on a case-by-case
basis.

(4) demonstrate that it offers a local usage plan comparable to the one offered by the
incumbent LEC in the service area for which it seeks designation.

(5) certify that the carrier acknowledges that the [Federal Communications] Commission
may require it to provide equal access to long distance carriers in the event that no
other eligible telecommunications carrier is providing equal access within the service

1 area.

2 (b) Any common carrier that has been designated under Section 214(e)(6) as an eligible
3 telecommunications carrier or that has submitted its application for designation under section
4 214(e)(6) before the effective date of [these new rules adopted by the FCC] must submit the
5 information required by paragraph (a) of this section no later than October 1, 2006, as part of
6 its annual reporting requirements under section 54.209.

7 (c) *Public Interest Standard.* Prior to designating an eligible telecommunications carrier
8 pursuant to section 214(e)(6), the [Federal Communications] Commission shall determine that
9 such designation is in the public interest. In doing so, the [Federal Communications]
10 Commission shall consider the benefits of increased consumer choice, and the unique
11 advantages and disadvantages of the applicant's service offering. In instances where an
12 eligible telecommunications carrier applicant seeks designation below the study area level of
13 a rural telephone company, the [Federal Communications] Commission shall also conduct a
14 creamskimming analysis that compares the population density of each wire center in which
15 the eligible telecommunications carrier applicant seeks designation against that of the wire
16 centers in the study area in which the eligible telecommunications carrier applicant does not
17 seek designation. In its creamskimming analysis, the [Federal Communications] Commission
18 shall consider other factors, such as disaggregation of support pursuant to § 54.315 by the
19 incumbent local exchange carrier.

20 (d) A common carrier seeking designation as an eligible telecommunications carrier under
21 section 214(e)(6) for any part of tribal lands shall provide a copy of its petition to the affected
22 tribal government and tribal regulatory authority, as applicable, at the time it files its petition
23 with the Federal Communications Commission. In addition, the [Federal Communications]
24 Commission shall send the relevant public notice seeking comment on any petition for
25 designation as an eligible telecommunications carrier on tribal lands, at the time it is released,
26 to the affected tribal government and tribal regulatory authority, as applicable, by overnight
27 express mail.¹⁹

28 34. The *ETC Minimum Requirements Report and Order* also adopted annual reporting
requirements for FCC-designated ETCs that include the following:

§ 54.209 Annual reporting requirements for designated eligible telecommunications carriers.

(a) A common carrier designated under section 214(e)(6) as an eligible telecommunications carrier shall provide:

- (1) a progress report on its five-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;

¹⁹ See *ETC Minimum Requirements Report and Order, Appendix A, amending Part 54 of Title 47 of the Code of Federal Regulations.*

- 1 (2) detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5, of at
 2 least 30 minutes in duration for each service area in which an eligible
 3 telecommunications carrier is designated for any facilities it owns, operates, leases, or
 4 otherwise utilizes that potentially affect (a) at least ten percent of the end users served
 5 in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. §
 6 4.5(e). Specifically, the eligible telecommunications carrier's annual report must
 7 include information detailing: (a) the date and time of onset of outage; (b) a brief
 8 description of the outage and its resolution; (c) the particular services affected; (d) the
 9 geographic areas affected by the outage; (e) steps taken to prevent a similar situation
 10 in the future; and (f) the number of customers affected;
- 11 (3) the number of requests for service from potential customers within the eligible
 12 telecommunications carrier's service areas that were unfulfilled during the past year.
 13 The carrier shall also detail how it attempted to provide service to those potential
 14 customers, as set forth in § 54.202(a)(1)(A);
- 15 (4) the number of complaints per 1,000 handsets or lines;
- 16 (5) certification that it is complying with applicable service quality standards and
 17 consumer protection rules;
- 18 (6) certification that the carrier is able to function in emergency situations as set forth in
 19 §54.201(a)(2);
- 20 (7) certification that the carrier is offering a local usage plan comparable to that offered by
 21 the incumbent LEC in the relevant service areas; and
- 22 (8) certification that the carrier acknowledges that the [Federal Communications]
 23 Commission may require it to provide equal access to long distance carriers in the
 24 event that no other eligible telecommunications carrier is providing equal access
 25 within the service area.²⁰

26 Staff's Recommendations

27 35. In its initial Staff Report, which was issued prior to the *ETC Minimum Requirements*
 28 *Report and Order*, Staff recommended approval of Western Wireless' application subject to the
 following ten conditions:

- 1) Western Wireless shall docket 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) and other services for which it receives Federal Universal
 Service Fund support in its ETC service area approved herein within 30 days of an Order

²⁰ See *id.*

1 in this matter. On an ongoing basis Western Wireless shall comply with A.R.S. § 40-367
2 in amending its tariffs.

- 3 2) Western Wireless shall make available Lifeline and Link Up services to qualifying low-
4 income applications in its ETC service area no later than 90 days after a Commission
5 Decision. Western Wireless shall docket a letter providing notification of the
6 commencement date for the service within 100 days of a Commission decision.
- 7 3) Western Wireless shall docket its advertising plan for Lifeline and Link Up services, for
8 Staff's review, within 60 days of a decision in this matter or prior to commencing service,
9 whichever occurs first. The Company must also demonstrate its intention to advertise
10 throughout its entire service area.
- 11 4) Western Wireless shall publicly file, with its informational tariff, accurate coverage-area
12 maps of the portions of its service areas for which this Decision designates it an ETC
13 within 30 days of this Decision. Western Wireless shall docket, by April 1 of each year,
14 commencing with 2005, the most accurate coverage-area maps available. Western
15 Wireless shall also provide updated coverage-maps upon request by the Commission. On
16 an ongoing basis, prior to entering into any service contract with a potential customer,
17 Western Wireless shall provide that potential customer with copies of the most accurate
18 coverage-area maps available, in order to enable the potential customer to ascertain where,
19 within the ETC designation areas, Western Wireless can actually provide service to that
20 customer.
- 21 5) Western Wireless shall be required to provide service quality data following a request by
22 Commission Staff. Western Wireless shall provide such data within the timeframe given
23 in Staff's request to the Company.
- 24 6) Western Wireless shall submit any consumer complaints that may arise from its ETC
25 service offerings to the Commission's Customer Service Division, provide a regulatory
26 contact, and comply with the provisions of the Commission's customer service rules,
27 including establishment of service, minimum customer information requirements, service
28 connection and establishment, provision of service, billing and collection, and termination

1 of service. Western Wireless shall include the Commission's Consumer Service
2 Division's telephone number on all bills issued to customers in its ETC service area.

3 7) Western Wireless shall be required to utilize all federal high-cost support for its rural ETC
4 service area within the State of Arizona. Western Wireless shall docket an affidavit
5 confirming that all federal high-cost support for its Arizona exchanges will only be used
6 for the provision, maintenance, and upgrading of facilities and services for which the
7 support is intended, consistent with Section 254(e) of the 1996 Act. This Affidavit shall
8 reflect the calendar year and be due by April 1 of each year following ETC approval,
9 beginning with April 1, 2006.

10 8) Western Wireless shall maintain and retain auditable records of all expenditures of
11 universal service funds received as a result of the ETC designation granted herein, and
12 shall be required to submit to an audit of its expenditures of its universal service funds
13 upon a request by Commission Staff.

14 9) Western Wireless shall docket a plan that details proposed projects to be supported by the
15 Federal Universal Fund within ninety (90) days after an Order in this matter.

16 10) Western Wireless shall be required to docket an annual filing detailing how it is utilizing
17 its federal high-cost support for its Arizona exchanges, service quality performance data,
18 and consumer complaint data. This annual filing should reflect the calendar year and
19 should be due by April 1 of the first four years following ETC approval, beginning with
20 April 1, 2006, and ending on April 1, 2009.

21 36. In its Supplemental Staff Report on Western Wireless' application, Staff states that
22 after considering the *ETC Minimum Requirements Report and Order*, Staff recommends that Western
23 Wireless be required to meet certain eligibility conditions and associated reporting requirements.
24 Staff recommends that in order to be designated as an ETC, Western Wireless must:

25 1) Demonstrate a commitment and ability to provide supported services throughout the
26 ETC service area and provide a five-year network improvement plan.

27 a. File with the Compliance Section of the Utilities Division an Initial formal five-year
28 network improvement plan that shows for each wire center within the designated ETC

1 service area:

- 2 i. Planned improvements in signal quality, coverage, or capacity;
- 3 ii. Projected start date and completion date and investment amount for each
4 planned improvement;
- 5 iii. Specific geographic areas where each planned improvement will occur;
- 6 iv. Estimated population served by each planned improvement; and
- 7 v. Coverage area maps detailing how high cost monies will be used to improve its
8 network, and where signal strength coverage or capacity will be improved
9 where funding is received.
- 10 b. File with the Compliance Section of the Utilities Division an Annual Progress Report
11 on five-year service quality improvement plan providing the following information at
12 the wire center level:
- 13 i. Maps detailing progress towards meeting its plan targets including how high
14 cost monies were used to improve its network, and where signal strength
15 coverage or capacity have been improved where funding was received;
- 16 ii. An explanation of how much universal service support was received and how
17 the support was used to improve signal quality, coverage, or capacity;
- 18 iii. An explanation of any unfulfilled improvement goals; and
- 19 iv. A description of why any targets in the five-year plan have not been met.
- 20 2) Demonstrate a commitment and ability to advertise supported services and lifeline and
21 linkup throughout the ETC service area.
- 22 a. File with the Compliance Section of the Utilities Division an Initial Advertising Plan
23 for supported services throughout the ETC service area.
- 24 b. File with the Compliance Section of the Utilities Division an Annual Certification that
25 Western Wireless is advertising the supported services including lifeline and linkup
26 throughout the ETC service area.
- 27 3) Offer Lifeline and Linkup.
- 28 a. File with the Compliance Section of the Utilities Division an Initial Letter indicating

- 1 provision of lifeline and linkup.
- 2 b. File with the Compliance Section of the Utilities Division an Annual Certification that
- 3 Western Wireless is offering lifeline and linkup.
- 4 4) Demonstrate the ability to remain functional in Emergency Situations.
- 5 a. File with the Compliance Section of the Utilities Division an Annual Certification that
- 6 Western Wireless is able to function in emergency situations.
- 7 5) Demonstrate a commitment to meeting Service Quality Standards.
- 8 a. File with the Compliance Section of the Utilities Division an Annual report of
- 9 unfulfilled requests for service from potential customers within the ETC service area,
- 10 how Western Wireless attempted to provide service, and why it was unsuccessful.
- 11 b. File with the Compliance Section of the Utilities Division Information on any outage
- 12 lasting at least 30 minutes in any part of the ETC service area including:
- 13 i. The date and time of onset of the outage;
- 14 ii. A brief description of the outage and its resolution;
- 15 iii. The particular services affected;
- 16 iv. The geographic areas affected;
- 17 v. Steps taken to prevent a similar situation in the future; and
- 18 vi. The number of customers affected.
- 19 6) Demonstrate a commitment to meeting consumer protection standards and compliance
- 20 with Arizona Corporation Commission Customer Service Rules including R14-0-503
- 21 – Establishment of Service; R14-2-504 – Minimum Customer Information
- 22 Requirements; R14-2-505.A – Service Connection and Establishment; R14-2-507.A,
- 23 C and D – Provision of Service; R14-2-508 – Billing and Collection; R14-2-509
- 24 excluding A(2) – Termination of Service; R14-2-510 – Customer Complaints.
- 25 a. File with the Compliance Section of the Utilities Division an Annual Certification that
- 26 Western Wireless is in compliance with CTIA Consumer Code for Wireless Service.
- 27 b. File with the Compliance Section of the Utilities Division an Annual Certification that
- 28 Western Wireless is providing accurate coverage area maps to potential customers

- 1 consistent with CTIA Consumer Code.
- 2 c. File with the Compliance Section of the Utilities Division an Annual Report
- 3 documenting the number of consumer complaints per 1,000 handsets/lines.
- 4 d. Include Arizona Corporation Commission contact information on customers' bills.
- 5 7) Offer a Local Usage plan comparable to the one offered by the underlying local
- 6 exchange carrier.
- 7 a. File with the Compliance Section of the Utilities Division an Annual Certification that
- 8 Western Wireless is offering an acceptable Local Usage Plan.
- 9 8) Acknowledge willingness to provide Equal Access in the designated ETC service area
- 10 in the event that no other ETC is providing equal access within the service area.
- 11 a. File with the Compliance Section of the Utilities Division an Annual Certification that
- 12 Western Wireless is willing to provide Equal Access in the event that no other ETC is
- 13 providing equal access within the service area.
- 14 9) Acknowledge willingness to file an annual informational tariff.
- 15 a. File with the Utilities Division and Consumer Services an Annual (or as updated by
- 16 the ETC) Informational Tariff setting forth the rates, terms and conditions for all
- 17 service offerings within ETC service area.
- 18 10) Acknowledge willingness to file a service coverage map consistent with CTIA
- 19 Consumer Code that requires the company to provide potential customers with a map
- 20 depicting approximate voice service coverage generated using generally accepted
- 21 methodologies and standards to depict the carrier's outdoor coverage.
- 22 a. File with Utilities Division and Consumer Services an Initial Service Coverage Map
- 23 consistent with CTIA Consumer Code.
- 24 b. File with the Utilities Division and Consumer Services an Annual (or as updated by
- 25 the ETC) Service Coverage Map consistent with CTIA Consumer Code.
- 26 11) Maintain and retain auditable records as required by the FCC, USAC, and as kept in the
- 27 normal course of business of all expenditures of universal service funds received and
- 28 submit to an audit of its expenditures of its universal service funds upon request by

1 Commission Staff.

2 37. The Supplemental Staff Report further recommends that Western Wireless be required
3 to file the five-year network improvement plan described in its Condition No. 1.a above prior to a
4 hearing or Decision in this matter, and states that within 60 days following the filing of the plan, Staff
5 will provide a supplemental filing in response to the plan.

6 38. The Supplemental Staff Report states that subject to filing its five-year network
7 improvement plan, Western Wireless has met the eligibility requirements set forth in Findings of Fact
8 No. 36 above. Staff recommended that upon Staff's review and supplemental filing in response to
9 the Company's five-year network improvement plan, this Commission grant Western Wireless'
10 application for ETC designation for its requested non-rural and rural service areas consisting of the
11 study areas of Rio Virgin Telephone Co. Inc. and Southwestern Telephone Co., five of the six wire
12 centers served by Verizon California, Inc., and those wire centers within Arizona RSA No. 4 served
13 by Qwest Corporation.

14 39. The Supplemental Staff Report recommends that this Commission require Western
15 Wireless to file a consolidated annual filing with the Compliance Section of the Utilities Division in
16 fulfillment of Staff's recommended reporting requirements described above.

17 40. The Supplemental Staff Report further recommends that this Commission grant
18 Western Wireless' request to redefine the service territory of Verizon California, Inc. from the study
19 area to the wire center level.

20 **ALECA's Response to Staff's Recommendations and Reply to Western Wireless' Response**

21 41. ALECA states that it supports the recommendations contained in the Supplemental
22 Staff Report. ALECA believes that the recommendations are necessary to ensure that Western
23 Wireless meets all of its duties as an ETC, and that Staff's recommendations are consistent with the
24 FCC's recent pronouncements in the *ETC Minimum Requirements Report and Order*. ALECA also
25 urges that several recommendations appearing in the original Staff Report should be adopted in
26 addition to the recommendations in the Supplemental Staff Report, as discussed below.

27 42. ALECA supports Staff's recommendation in the Supplemental Staff Report that
28 Western Wireless be required to file a five-year network improvement plan as a precondition to

1 designation as an ETC, and recommends that Western Wireless' request for elimination of this
2 requirement be denied. ALECA argues that adoption of the requirement that an applicant submit a
3 five-year network improvement plan as a precondition to designation as an ETC will ensure that
4 telecommunications infrastructure is constructed and expanded in rural Arizona. ALECA also points
5 out that if designated an ETC, Western Wireless will become eligible to receive millions of dollars in
6 Federal high cost support, and that with this benefit comes the obligation to deploy Federal support in
7 a way that furthers the policy of universal telecommunications service. ALECA posits that submittal
8 of the five-year network improvement plan prior to ETC designation is necessary to ensure that
9 Western Wireless actually complies with the five-year plan requirement. In support of Staff's
10 recommendation that the five-year plan be filed prior to Western Wireless' designation, ALECA
11 states that while pending Federal ETC applicants may not be required to submit a five-year plan until
12 2006, there is nothing that prohibits this Commission from adopting the five-year plan requirement
13 effective immediately in this docket.

14 43. ALECA notes that Staff's recommendation does not require the five-year plan to be
15 docketed, and requests that Western Wireless' initial five-year plan be made available to it at the
16 same time it is provided to Staff, so that ALECA may file comments on the plan prior to a hearing or
17 Decision in this docket.

18 44. ALECA believes that this Decision should include specific language restricting
19 Western Wireless' use of Federal high-cost support from its rural ETC service area in Arizona to the
20 deployment of telecommunications infrastructure in rural Arizona, and that such a restriction should
21 continue as long as Western Wireless is receiving high-cost support.

22 45. ALECA believes that the filing of additional network improvement plans beyond the
23 five-year plan proposed by Staff would be valuable to the Commission in assessing Western
24 Wireless' compliance with ALECA's proposed requirement that Federal high-cost support from the
25 Company's rural ETC service area be used in rural Arizona, and recommends that if Western
26 Wireless is required to file successive five-year plans following the initial plan, Staff's proposed
27 annual reporting requirement should continue as long as the successive five-year plans are in place.

28 46. ALECA expresses concern that the Cellular Telecom and Internet Association's

1 Consumer Code for Wireless Service ("CTIA Code") lacks a mechanism to address and resolve
2 consumer complaints. ALECA recommends that in addition to requiring Western Wireless to
3 comply with the CTIA Code, any Order approving Western Wireless' request for ETC designation
4 should adopt Staff's Recommendation No. 6 in the original Staff Report, which reads as follows:

5 6. Western Wireless shall submit any consumer complaints that may
6 arise from its ETC service offerings to the Commission's Customer Services
7 Division, provide a regulatory contact, and comply with the provisions of the
8 Commission's customer service rules, including establishment of service,
9 minimum customer information requirements, service connection and
10 establishment, provision of service, billing and collection, and termination of
service. Western Wireless shall include the Commission's Consumer Service
Division's telephone number on all bills issued to customers in its ETC
service area.

11 47. ALECA states that while the Supplemental Staff Report recommends that Western
12 Wireless be required to file annual outage reports and annual reports of unfulfilled requests for
13 service, that the Staff recommendation stops short of the requirement set forth in paragraph 22 of the
14 *ETC Minimum Requirements Report and Order*. ALECA urges that this Decision adopt the
15 requirements referenced at paragraph 22 of the *ETC Minimum Requirements Report and Order*.

16 **Western Wireless' Response to Staff's Recommendations and Reply to ALECA's Response**

17 48. In its Response to the Supplemental Staff Report, Western Wireless states that with
18 one exception, it will accept Staff's recommended conditions. Western Wireless objects to Staff's
19 recommendation requiring Western Wireless to file a five-year plan modeled after the five-year plan
20 required in the *ETC Minimum Requirements Report and Order* prior to a Decision or hearing on its
21 application. Western Wireless proposes instead that the Commission adopt one of two alternative
22 compliance conditions the Company recommends. Western Wireless advances the following legal
23 arguments in support of its objection. First, the Company asserts that adoption of Staff's condition as
24 is would violate the universal service principle of competitive and technological neutrality set forth in
25 the FCC's 1997 Universal Service Order²¹ because Western Wireless would be the only ETC in
26 Arizona required to submit a five-year network improvement plan and subsequent annual progress

27 _____
28 ²¹ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, FCC 97-157,
para 47 (rel. May 8, 1997).

1 reports, causing it a competitive disadvantage. Second, Western Wireless argues that this
2 Commission's ability to impose requirements on ETCs is limited to the adoption of formal
3 regulations. Third, Western Wireless asserts that denial of Western Wireless' application due to its
4 failure to file a five-year plan prior to a Decision or hearing would prevent Western Wireless from
5 providing telecommunications services as an ETC, in violation of 47 U.S.C. § 253(a).²² Western
6 Wireless also argues that in the event the FCC's five-year plan requirement adopted by its *ETC*
7 *Minimum Requirements Report and Order* is modified as a result of requests for reconsideration,
8 modification, or clarification that Western Wireless expects to be filed, this Commission will have
9 processed the instant application based on standards never enforced at the Federal level.

10 49. The Company states that it supports the goal that the proposed five-year plan
11 requirement is intended to achieve, which it describes as giving this Commission the opportunity to
12 ensure that Federal universal service support received in Arizona is used for the provision,
13 maintenance and upgrading of facilities and services for which the support is intended, as required by
14 47 U.S.C. § 254(e). Western Wireless claims, however, that Staff's recommendation is an onerous
15 requirement with which Western Wireless is unable to comply, and that the requirement is unlikely to
16 be an effective means of ensuring compliance with the requirements of 47 U.S.C. § 254(e) because
17 any five-year plan in a dynamic, competitive market will by necessity be very general and will be
18 modified substantially each year to account for changes in technology, business conditions, and
19 universal service funding. Western Wireless posits that the proposed plan's predictive value to Staff
20 and the Commission for years beyond 2006 may be minimal; that it is not clear what Staff would do
21 with projected plans for 2007-2010; and that in the event Staff questioned a proposed expenditure
22 under a plan, it would not be efficient to litigate over speculative proposed investments projected 2-5
23 years in the future.

24 _____
25 ²² 47 U.S.C. § 253 provides as follows:

26 (a) No State or local statute or regulation, or other State or local legal requirement, may prohibit or have
the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications
service.

27 (b) Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and
consistent with section 254 of this title, requirements necessary to preserve and advance universal service,
28 protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard
the rights of consumers.

1 50. Western Wireless states that it cannot comply with Staff's five-year plan
2 recommendation because it does not today plan investment, buildout, and network projects five years
3 into the future, and that it cannot do so with any degree of confidence, because wireless technology is
4 changing rapidly and it is nearly impossible to predict the next technology that will best deliver that
5 which consumers will demand; and that because the business and investment climate is uncertain, no
6 company knows how much and what source of capital will be available for investment three, four, or
7 five years in the future. Western Wireless states that uncertainty also exists over how Federal
8 universal service funding will be calculated and distributed over the long run, and how much any
9 particular carrier will receive.

10 51. Western Wireless states, as an additional reason that it cannot comply with Staff's
11 five-year plan recommendation, that carriers designated at the Federal level have until October 2006
12 to conduct their analysis and develop their five-year plan, such that there is not yet any industry
13 standard or FCC-endorsed plan in existence upon which the Company can model a five-year plan for
14 Arizona.

15 52. Western Wireless states that it "could develop a methodology and process for
16 projecting possible network improvements five years out, but that doing so would be a significant
17 company undertaking that will require a great deal of thought, analysis and input from various parts
18 of the Company." Western Wireless further states that "such a projection would be a guess as to
19 what might take place that far in the future and will not drive the actual planning that the company
20 will have to do for years three, four and five of the plan."

21 53. Western Wireless states that it cannot comply with Staff's proposed requirement to
22 submit plans on a wire center basis because it does not track capital investment, coverage or demand
23 on a wire center basis and therefore cannot provide project and budget information on a wire center
24 level. Western Wireless states that organizing and tracking capital investment, coverage, network
25 planning and customer demographics by wire center would require a reconfiguration of Western
26 Wireless' business and accounting practices. Western Wireless concedes that it may be required to
27 develop such a reconfiguration for 2006 Federal reporting, but states that it is not positioned to do
28 that today for Arizona.

1 54. Western Wireless proposes in place of Staff's five-year plan recommendation two
2 alternative compliance conditions, and states that the alternatives are intended to provide information
3 showing how Western Wireless will spend universal service funds in the future and its progress in
4 extending its network in the requested ETC designation area.

5 55. Western Wireless' first alternative proposal is for this Commission to adopt the
6 following post-designation requirements:

- 7 a. Within 90 days of designation, Western Wireless would file its list of 2005
8 proposed projects supported by universal service funds;
- 9 b. Each year by April 1, Western Wireless would make a filing showing how
10 support had been used; and
- 11 c. Western Wireless would maintain records and be subject to audit by
12 Commission Staff regarding its use of funds.

13 56. Western Wireless states that the above proposed post-designation requirements are
14 based on Staff's recommendations in the Staff Report it issued prior to the FCC's *ETC Minimum*
15 *Requirements Report and Order*. Western Wireless states that the above proposal could be made
16 stronger by requiring that the Company's annual April 1 filing showing how Federal universal
17 service support had been used in the prior year also include a projection for use of the Federal
18 funding for that calendar year.

19 57. The Company's second alternative proposal is that in lieu of requiring submission of
20 Staff's proposed five-year plan prior to a Decision or hearing, Western Wireless be allowed to file a
21 five-year plan by October 1, 2006.

22 58. Western Wireless requests a clarification of the Condition No. 6 Staff recommends in
23 the Supplemental Staff Report. The Company believes that the word "including" as it appears in this
24 condition creates unnecessary uncertainty about whether other Customer Service Rules exist with
25 which it must comply, and requests that the word be deleted from Condition No. 6.

26 59. Western Wireless also responds to ALECA's suggested changes to the conditions
27 Staff recommends in the Supplemental Staff Report. Regarding ALECA's recommendation to add
28 language to Staff's five-year plan proposal that restricts Western Wireless' use of Federal high-cost

1 support from its rural ETC service area in Arizona to the deployment of telecommunications
2 infrastructure in rural Arizona for as long as it receives such support, Western Wireless argues that
3 such language could cause confusion because 1) Western Wireless seeks ETC designation in both
4 non-rural and rural study areas and wire centers; and 2) because the term "deployment" is imprecise,
5 and section 254(e) allows universal service support to be used not just for deployment of
6 telecommunications infrastructure, but for the "provision, maintenance and upgrading of facilities
7 and services." Western Wireless also responds that its use of Federal high-cost support will remain
8 limited to the provision, maintenance and upgrading of facilities and services by section 254(e)
9 indefinitely into the future, such that any further time restriction is unnecessary. Western Wireless
10 additionally responds that if ALECA's intent with the term "deployment of telecommunications
11 infrastructure" is to limit its use of high-cost support to the buildout of new facilities, that this would
12 violate the universal service principle of competitive and technological neutrality, because it would
13 restrict Western Wireless' use of support as compared to other carriers, especially wireline carriers.

14 60. In response to ALECA's statement that the filing of additional annual network
15 improvement plans beyond the five-year plan period proposed by Staff would be valuable to this
16 Commission, Western Wireless asserts that it would be premature to determine compliance
17 requirements at this time that will not be relevant until 2010.

18 61. Regarding ALECA's proposal that Western Wireless be required to submit consumer
19 complaints to this Commission, Western Wireless responds that it does not specifically oppose this
20 recommendation, but that its adoption is unnecessary for the following reasons: the competitive
21 nature of the wireless industry provides a strong incentive for the Company to provide prompt and
22 complete responses to customer complaints; Staff's proposed Condition No. 6 already requires the
23 Company to comply with A.A.C. R14-2-510, which sets forth detailed provisions governing
24 investigations and responses to consumer complaints and billing disputes; the FCC has stated that for
25 a wireless ETC, a commitment to comply with the CTIA Consumer Code for Wireless Service
26 constitutes a sufficient commitment to consumer protection and service quality;²³ and Western
27

28 ²³ Western Wireless cites to paragraph 28 of the *ETC Minimum Requirements Report and Order*.

1 Wireless will be required to submit to this Commission an annual certification of its compliance to
2 the CTIA Code.

3 62. Western Wireless states that ALECA's recommendation that the service extension
4 requirements set forth in paragraph 22 of the *ETC Minimum Requirements Report and Order* is
5 unnecessary because it has already specifically committed to nearly identical service extension
6 requirements, but that it does not object to the incorporation of those service extension standards into
7 a Commission Order.

8 **Staff's Reply to ALECA and Western Wireless' Responses**

9 63. In its Reply, Staff continues to recommend that ETC status not be granted to Western
10 Wireless until Staff has had the opportunity to review Western Wireless' five-year network
11 improvement plan. Staff argues that if ETC designation is granted to Western Wireless, the
12 Company would expect to qualify for and receive Federal universal service funds for years to come,
13 and that because the Company would be required by 47 U.S.C. § 254(e) to utilize support it will
14 receive in the future for the provision, maintenance, and upgrading of facilities and services for which
15 support is intended, it is reasonable to assume that Western Wireless has some idea of how it will
16 comply. Staff asserts that it is appropriate for this Commission to require Western Wireless to file
17 the five-year plan in order to demonstrate how universal service funds will be used to improve
18 coverage, signal strength or capacity that would not otherwise occur absent the receipt of high-cost
19 support prior to granting the Company an ETC designation in Arizona.

20 64. In response to the Company's objections that it cannot comply with Staff's
21 recommended five-year plan requirement, Staff expresses that it understands that Western Wireless
22 may not currently have detailed plans in place for network expansion and improvement in Arizona
23 that extend five years into the future; that the level of certainty and detail in the proposed five-year
24 plan will decline with each successive year; that projected expenditures for years three, four and five
25 will not be as specific as those for earlier years and are subject to change; and that plans for year five
26 are likely to be based on projections. Staff points out, however, that the annual progress reports Staff
27 is also recommending will allow Western Wireless to notify the Commission of deviations from its
28 current-year plans and to update its future-year plans.

1 65. In response to Western Wireless' concern that the five-year network improvement
2 plan must be based on a wire center level, Staff stated that given the relatively small number of cell
3 sites present in the requested ETC service area, Western Wireless should be able to correlate the
4 coverage area of a cell site to the ILEC wire center(s), and points out that Western Wireless was fully
5 capable of providing information on a wire center level in its request for redefinition of Verizon's
6 service territory.

7 66. In response to Western Wireless' contention that the FCC's five-year plan requirement
8 adopted by its *ETC Minimum Requirements Report and Order* may be modified as a result of
9 requests for reconsideration, modification, or clarification that Western Wireless expects to be made,
10 Staff responds that the Commission's Decision in this docket is independent of the FCC's
11 rulemaking, and continues to recommend that the Company be required to comply with Staff's
12 proposed five-year plan requirement regardless of any further action by the FCC.

13 67. Staff argues that requiring the five-year plan to be filed prior to a hearing or Decision
14 will not put Western Wireless at a competitive disadvantage, because ETC status in itself will give
15 Western Wireless an advantage in the form of a substantial government subsidy over its competitors
16 who are not designated as ETCs. Staff further argues that wireless ETCs are not subject to the sort of
17 in-depth regulatory review to which wireline ILECs designated as ETCs are subject, such as rate
18 cases. Staff believes that wireless ETCs ought to be subject to some sort of monitoring given the
19 substantial public funds they will receive, and that Staff's recommended five-year plan condition
20 serves this purpose by requiring Western Wireless to explain how it intends to spend public money.

21 68. Staff disagrees with Western Wireless' claim that Staff's recommended five-year plan
22 requirement can be imposed only with adoption of a rule applicable to all ETCs. Staff asserts that
23 this Commission has broad discretion under fundamental administrative law principles to choose
24 between rulemaking and case-by-case adjudication.²⁴ Staff believes the difficult public interest issues

25 _____
26 ²⁴ Staff cites *Arizona Corp. Comm'n v. Palm Springs Util. Co.*, 24 Ariz. App. 124, 129, 536 P.2d 245, 250 (1975)(the
27 Commission can proceed on a case by case approach, so long as there exists a rational statutory or constitutional basis for
28 the action); *General Motors Corp. v. Arizona Dept. of Revenue*, 189 Ariz. 86, 98, 938 P.2d 481, 493 (App.
1997)(applying Palm Springs); and *Cagle Bros. Trucking Serv. v. Arizona Corp. Comm'n*, 96 Ariz. 270, 272-73, 394 P.2d
203, 205 (1964)(the Commission may adopt new requirements without a rule if it affords the affected company a
hearing). Staff correctly notes that Western Wireless voluntarily waived its right to a hearing in this case.

1 raised by ETC cases suggest that an individually tailored, case-by-case approach is appropriate.

2 69. Staff states that Western Wireless' argument that Staff's five-year plan
3 recommendation would bar it from entering the market is without merit because Western Wireless
4 has long served the markets in question without Federal universal service funding. Staff argues that
5 its proposed five-year plan requirement does not constitute a barrier to entry, because imposition of
6 this condition would not require Western Wireless to actually build expensive facilities prior to
7 applying for support, but would require only that the Company submit a plan explaining how it
8 intends to spend the substantial subsidy it will receive. Staff further argues that even if its proposed
9 five-year plan condition did pose a barrier to entry, it would be acceptable under 47 U.S.C. § 253(b)²⁵
10 because the condition is necessary in order to ensure that the public's funds are spent by the ETC to
11 expand or preserve wide access to phone services, rather than simply providing a windfall to the
12 recipient ETC.

13 70. In response to Western Wireless' request for clarification regarding the scope of
14 Staff's recommended Condition No. 6, Staff recommends that the word "including" be deleted from
15 its recommended Condition No. 6 in order to clarify that Staff means the list of Customer Service
16 Rules presented in Condition 6 to be an exhaustive list of applicable Customer Service Rules with
17 which Western Wireless must comply.

18 71. In response to ALECA's recommendation that Staff's recommended Condition No. 6
19 be replaced by language from Staff's recommendations in the original Staff Report, Staff states that it
20 believes the revised Condition No. 6 appearing in the Supplemental Staff Report provides ample
21 opportunity for consumers and the Commission to address any deficiencies in service and billing that
22 may arise in Western Wireless' designated ETC area.

23 72. In response to ALECA's proposal that this Decision adopt language from paragraph
24 22 of the *ETC Minimum Requirements Report and Order* (regarding the provision of service within a
25 reasonable time at a reasonable cost within the ETC designation area), Staff states that it agrees with
26 the intent of the proposed language but believes it is not necessary in light of Staff's recommended
27

28 ²⁵ See footnote 22 above.

1 Condition 1.b (filing of annual progress reports on network improvements) and 47 U.S.C. § 254(e)
2 (requires a carrier receiving universal service support to use that support “only for the provision,
3 maintenance, and upgrading of facilities and services for which the support is intended”). Staff states
4 that the annual reporting of all unfulfilled requests for service, which is included in Staff’s proposed
5 Condition No. 5.a, is the most effective tool to address any potential concerns with respect to the
6 Company’s obligation to serve its designated ETC area.

7 73. Staff also responds to ALECA’s request that the five-year plan be made available to
8 ALECA for comment and to ALECA’s requests for clarification regarding whether Staff’s proposal
9 contemplates the filing of additional five-year plans beyond the initial five-year plan Staff
10 recommends and how long the annual network improvement plan progress reports must be filed
11 pursuant to Staff’s recommended Condition 1.b. Staff states that much of the detailed and sensitive
12 information about the Company’s network, facilities, customers and investment decisions that will be
13 included in the five-year plan should be provided pursuant to the protective agreement between the
14 parties to this docket. Staff states that it intends by its recommendations that Western Wireless be
15 required to file one five-year network improvement plan with five annual progress reports that
16 describe Western Wireless’ progress towards meeting its five-year improvement goals, and clarifies
17 that the word “initial” was used to indicate the timing of the filing, which Staff recommends should
18 occur prior to Western Wireless’ ETC designation.

19 ANALYSIS

20 74. Upon designation as an ETC, Western Wireless will be entitled to receive universal
21 service funds. For this reason, we find that it is in the public interest to require Western Wireless to
22 file, prior to receiving an ETC designation, a five-year network improvement plan for Commission
23 approval that demonstrates how those universal service funds will be spent to improve coverage,
24 signal strength or capacity that would not otherwise occur absent the receipt of high-cost support, for
25 the purpose of expanding or preserving wide access to phone services in Arizona. We find that any
26 burden that the requirement to file such a plan as a condition of becoming eligible for a Federal
27 subsidy may impose is outweighed by the need to ensure that Western Wireless is willing and able to
28 provide the supported services throughout the requested designation area, and to ensure that

1 ratepayer-funded universal service support funds are used in the manner intended, which is to aid in
2 the provision of access to affordable telecommunications and information services to rural and high-
3 cost telecommunications services consumers.

4 75. While we have considered Western Wireless' alternative proposal to instead make a
5 post-designation compliance filing, and its alternative proposal to file a five-year plan by October 1,
6 2006, also post-designation, we find that the filing of a five-year network improvement plan prior to
7 designation is the best and most reasonable means of ensuring that universal service funds will be
8 directed where most needed to serve universal service goals. We acknowledge the Company's
9 arguments that wireless technology is changing rapidly and that Western Wireless faces difficulty in
10 predicting the next technology that will be able to best deliver that which its customers will demand;
11 that uncertainty exists over how Federal universal service funding will be calculated and distributed
12 in the future, and that consequently there may be some uncertainty regarding how much universal
13 service subsidy Western Wireless will receive. The existence of uncertainty, however, does not
14 justify a lack of strategic planning, especially when public funding is involved. We firmly believe
15 that the Company must have an appropriate forward-looking network improvement plan in place,
16 organized by wire center,²⁶ in order to qualify for the public funding it plans to receive. We
17 acknowledge the Company's statement that its initial five-year plan may not drive the actual planning
18 that the Company will have to do for years three, four and five of the plan. However, the annual
19 progress report requirement recommended by Staff and adopted herein can serve as a vehicle for an
20 annual "true-up" of the Company's network improvement plans as the Company deems necessary to
21 comport with technological advances and possible changes in the business and regulatory
22 environment. As set forth in Findings of Fact No. 111 below, we will require that Western Wireless'
23 annual progress report include a notification of such changes to its current-year plans and will also
24 require that the annual progress report include updates to the Company's future-year plans to reflect
25 its actual planning.

26 76. ALECA is concerned that the CTIA Code lacks a mechanism to address and resolve

27 ²⁶ Western Wireless concedes that it may be required to reconfigure its business and accounting practices to organize and
28 track capital investment, coverage, network planning and customer demographics by wire center for Federal reporting
purposes for 2006.

1 consumer complaints, and recommends that Western Wireless be required to submit any consumer
2 complaints that may arise from its ETC service offerings to our Customer Services Division. We
3 note that Condition 6 as recommended by Staff in the Supplemental Staff Report requires the
4 Company to commit to comply with Rule A.A.C. R14-2-510, which governs customer service
5 complaints for telephone utilities. We find that Western Wireless' commitment to comply with Rule
6 A.A.C. R14-2-510, in conjunction with our adoption of Staff's recommended Condition 5.a, which
7 requires Western Wireless to file an annual report of unfulfilled requests for service from potential
8 customers within the ETC service area, provides the most effective combined tool to address
9 ALECA's concerns with respect to the Company's obligation to serve its designated ETC area. As
10 set forth in Findings of Fact No. 111 below, we will also require the Company to include in its annual
11 compliance filing a certification that the Company continues to comply with the customer service
12 rules included in requirement number 6, which includes a requirement that the Commission's contact
13 information appear on customers' bills.

14 77. ALECA proposes that this Commission adopt as a requirement for Western Wireless
15 the requirements referenced in paragraph 22 of the *ETC Minimum Requirements Report and Order*.
16 We note that while paragraph 22 of the *Report and Order* references reporting to the FCC of
17 unfulfilled requests for service within 30 days, the language of the rule adopted by the FCC requires
18 reporting on unfulfilled requests for service annually. Staff's recommended Condition 5.a also
19 requires an annual report of unfulfilled requests for service from potential customers within the ETC
20 service area. We find that annual reporting of unfulfilled requests for service is a reasonable
21 requirement when viewed in conjunction with the filing of an appropriate five-year plan and annual
22 progress reports. We will also direct Staff to pay particular attention to the number of unfulfilled
23 requests for service in Western Wireless' consolidated annual compliance filing, and to file a Staff
24 Report that includes an analysis of the filing and any necessary recommendations to the Commission.

25 78. In regard to ALECA's recommendation to add language to the five-year network
26 improvement plan restricting the Company's use of Federal high-cost support from its rural ETC
27 service area in Arizona to the deployment of telecommunications structure in rural Arizona, we agree
28 with Western Wireless that section 254(e) allows universal service support to be used not just for

1 deployment of telecommunications infrastructure, but for the “provision, maintenance and upgrading
2 of facilities and services.” We find that the factors Staff recommends be included in the five-year
3 plan are adequate to allow Staff to review the planned improvements and determine whether the plan
4 is adequate to meet universal service goals, and that the particular language proposed by ALECA is
5 not necessary at this time. In the memorandum that we direct Staff to file after its review of the five-
6 year plan, we expect Staff to inform the Commission of its analysis of whether planned
7 improvements will serve the universal service goal of aiding in the provision of access to affordable
8 telecommunications and information services to rural and high-cost telecommunications services
9 consumers.

10 79. ALECA suggests that the filing of additional network improvement plans beyond the
11 five-year plan proposed by Staff would be valuable to the Commission. Staff states that it
12 contemplates the filing of only one five-year plan and five annual consolidated compliance filings. It
13 is unknown at this time whether five years of compliance filings will be adequate or not. We will
14 therefore direct Staff to include in its Staff Report following the Company’s fifth annual consolidated
15 filing in fulfillment of the reporting requirements set forth in Findings of Fact No. 111 below, a
16 recommendation regarding whether a need exists for continuing compliance filings.

17 80. We agree with the FCC that different ETCs should not be subject to different
18 obligations, going forward, associated with receiving universal service support because of when they
19 happened to first obtain ETC designation.²⁷ We will therefore direct Staff to initiate proceedings as
20 necessary to ensure that existing eligible telecommunications carriers in Arizona are not subject to
21 different obligations, going forward, associated with receiving universal service support than WWC
22 License LLC dba CellularOne because of when they happened to first obtain eligible
23 telecommunications carrier designation from this Commission.

24 **Western Wireless’ Provision of Nine Supported Services**

25 81. Voice-grade access to the public switched network – Voice-grade access means the
26 ability to make and receive phone calls within a voice frequency range of between 300 and 3500
27

28 ²⁷ See *ETC Minimum Requirements Report and Order*, para 20.

1 Hertz, a bandwidth of approximately 2700 Hertz.²⁸ Western Wireless states in its application that
 2 through its interconnection arrangements with local telephone companies, including Qwest, all
 3 Arizona customers of Western Wireless are able to make and receive calls on the public switched
 4 network within the prescribed frequency range (Application at 4).

5 82. Local usage – Western Wireless states in its application that it provides its customers
 6 with an amount of local usage, free of charge, as required by FCC rules.²⁹ Western Wireless attested
 7 that once it is designated as an ETC, it will comply with all minimum local usage requirements
 8 adopted by the FCC (Application at 5).³⁰ In the Supplemental Staff Report, Staff states that Western
 9 Wireless currently offers 12 calling plans in its western Arizona service territory and 11 calling plans
 10 in its northwestern Arizona service territory.

11 83. Dual tone multi-frequency signaling or its functional equivalent – Dual tone, multi-
 12 frequency (“DTMF”) signaling is a method of signaling that facilitates the transportation of call set-
 13 up and call detail information. The FCC permits carriers to provide this supported service by
 14 providing signaling that is the functional equivalent to DTMF.³¹ Western Wireless currently uses
 15 out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to
 16 DTMF, and therefore, meets this requirement (Application at 5).

17 84. Single-party service or its functional equivalent – “Single-party service” means that
 18 only one party will be served by each subscriber loop or access line, in contrast to a multi-party line.
 19 The FCC has concluded that a wireless provider offers the equivalent of single-party service when it
 20 offers a dedicated message path for the length of a user’s particular transmission.³² Western Wireless
 21 provides a dedicated message path throughout the duration of all customer calls in satisfaction of this
 22 element (Application at 5).

23
 24 ²⁸ See *Universal Service Fourth Order on Reconsideration*, FCC 97-420 (rel. Dec. 30, 1997).

25 ²⁹ See 47 C.F.R. § 54.101(a)(2).

26 ³⁰ We note that while toll limitation for qualifying low-income customers (see Findings of Fact No. 89 below) serves the
 27 purpose of limiting the size of those customers’ bills in order to help ensure continuation of their access to local usage,
 28 toll limitation may not fulfill this purpose for wireless customers, whose bills are based on total minutes of usage as
 opposed to a flat charge for all local usage. Western Wireless may wish to pursue some type of a “minutes-limitation”
 option or a pre-paid option for its qualifying low-income customers in order to limit the potential size of those customers’
 bills, to help ensure the continuation of their access to local usage.

³¹ 47 C.F.R § 54.101(a)(3).

³² *Universal Service First Report and Order* at 8810.

1 85. Access to emergency services – Western Wireless states that it currently provides all
 2 of its customers with access to the appropriate public safety answering point (“PSAP”) by dialing
 3 911, and stands ready to provide Enhanced 911 (“E911”) service to its customers once a PSAP
 4 submits a compliant request for E911 service (Application at 5-6). E911 service includes the
 5 capability of providing both automatic numbering information (“ANI”) and automatic location
 6 information (“ALI”).

7 86. Access to operator services - Access to operator services is defined as any automatic
 8 or live assistance provided to a consumer to arrange for the billing or completion, or both, of a
 9 telephone call.³³ Western Wireless states that it meets this requirement by providing all of its
 10 customers with access to operator services provided by either the Company or other entities
 11 (Application at 6).

12 87. Access to interexchange service – An ETC must offer consumers access to
 13 interexchange service for the purposes of making and receiving toll or interexchange calls.³⁴ Western
 14 Wireless states that equal access to interexchange service, i.e., the ability of a customer to access a
 15 pre-subscribed long distance carrier by dialing 1+number, is not required.³⁵ Western Wireless states
 16 that it presently provides all of its customers with the ability to make and receive interexchange or
 17 toll calls through direct interconnection arrangements it has with several interexchange carriers
 18 (“IXCs”), and that additionally, customers are able to reach their IXC of choice by dialing the
 19 appropriate access code (Application at 6-7).

20 88. Access to directory assistance – Access to operator services means the ability to place
 21 a call directly to directory assistance.³⁶ Western Wireless states that it provides all of its customers
 22 with access to directory assistance by dialing “411” or “555-1212” in satisfaction of this requirement
 23 (Application at 7).

24 89. Toll limitation for qualifying low-income consumers – ETCs must offer either toll
 25

26 ³³ 47 C.F.R. § 54.101(a)(6).

27 ³⁴ 47 C.F.R. § 54.101(a)(7).

28 ³⁵ *In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45 Report and Order* (rel. May 8, 1997); *In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, Order and Order on Reconsideration, FCC 03-170* (rel. July 14, 2003); 47 U.S.C. § 332(c)(8).

³⁶ 47 C.F.R. § 54.101(a)(8).

1 control or toll blocking services to qualifying Lifeline customers at no charge.³⁷ Western Wireless
 2 points out that FCC Rules define “toll limitation” as either “toll blocking” or “toll control” if a carrier
 3 is incapable of providing both, but as both “toll blocking” and “toll control” if a carrier can provide
 4 both.³⁸ Toll blocking allows consumers to elect not to allow the completion of outgoing toll calls.
 5 Toll control allows consumers to specify a certain amount of toll usage that may be incurred per
 6 month or per billing cycle.³⁹ Western Wireless states that it is not currently capable of providing toll
 7 control (Application at 7). Only carriers designated as ETCs can participate in Lifeline.⁴⁰ Western
 8 Wireless states that it offers toll-blocking services for Lifeline customers in states in which it has
 9 been designated as an ETC, and that it will provide toll blocking to Arizona Lifeline customers at no
 10 charge in the requested ETC designation areas (Application at 7).

11 90. In its Staff Report, Staff states that Western Wireless currently provides mobile
 12 telephony, data/facsimile, 911, and other wireless services in its proposed ETC service area to
 13 subscribers taking service under its plans, and will offer the required nine supported services required
 14 by FCC rules⁴¹ and Lifeline and Link Up services, using Western Wireless’ own facilities (Staff
 15 Report at 5).

16 **Advertising, Lifeline, and Link Up Requirements**

17 91. Advertising - Western Wireless states that it currently advertises the Federally
 18 supported services throughout its requested designated service areas through various media forms,
 19 including newspaper, television, radio and billboard advertising; that it maintains retail store
 20 locations throughout its licensed coverage areas, which provide additional advertising; and that it will
 21 continue to advertise the availability of the supported services and the corresponding charges using
 22 media of general distribution upon designation (Application at 7). In its Supplemental Staff Report,
 23 Staff recommends that Western Wireless be required to file with the Compliance Section of the
 24 Utilities Division its initial advertising plan and an annual certification that it is advertising the
 25

26 ³⁷ *Universal Service First Report and Order* at 8810; *Universal Service Fourth Order on Reconsideration*, FCC Docket
 No. 96-45; and *Report and Order* in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318 (1997).

27 ³⁸ 47 C.F.R. § 54.400(d).

28 ³⁹ 47 C.F.R. § 54.500(b)-(c).

⁴⁰ See 47 C.F.R. § 54.400-415.

⁴¹ 47 C.F.R. § 54.101.

1 supported services, including Lifeline and Link Up, throughout the service area (Supplemental Staff
2 Report at 9). This is a reasonable recommendation and we will adopt it.

3 92. Lifeline and Link Up – As a condition of ETC designation, Staff recommends in its
4 Supplemental Staff Report that Western Wireless should make these services available to qualifying
5 low-income applicants in its ETC service area no later than 90 days after a Commission Decision and
6 should docket a letter providing notification of the commencement date for the service within 100
7 days of a Commission Decision (Supplemental Staff Report at 9). Staff further recommends that
8 Western Wireless be required to file an annual certification that it is offering Lifeline and Link Up
9 throughout its ETC service area. We find this to be a reasonable recommendation and will adopt it.

10 **Additional ETC Minimum Requirements**

11 93. Five Year Plan - In its *ETC Minimum Requirements Report and Order*, the FCC
12 encourages State Commissions to require, an applicant to provide a five-year plan demonstrating how
13 high-cost universal service support will be used to improve its coverage, service quality or capacity in
14 every wire center for which it seeks designation and expects to receive universal service support. For
15 the reasons discussed above, we find Staff's recommendation to require that Western Wireless file an
16 appropriate five-year plan prior to its designation as an ETC to be reasonable and necessary in order
17 to ensure that the Company can demonstrate that it will use universal service funds in a manner that
18 justifies an ETC designation, and will adopt it.

19 94. Ability to Remain Functional in Emergency Situations - In its *ETC Minimum*
20 *Requirements Report and Order*, the FCC states that in considering whether a common carrier has
21 satisfied its burden of proof necessary to obtain ETC designation, the FCC requires, and encourages
22 State Commissions to require, an applicant to demonstrate its ability to remain functional in
23 emergency situations. We find Staff's recommendation for an annual certification in this regard to be
24 reasonable and will adopt it.

25 95. Satisfaction of Consumer Protection and Service Quality Standards - In its *ETC*
26 *Minimum Requirements Report and Order*, the FCC states that in considering whether a common
27 carrier has satisfied its burden of proof necessary to obtain ETC designation, the FCC requires, and
28 encourages State Commissions to require, an applicant to demonstrate that it will satisfy consumer

1 protection and service quality standards. We find Staff's recommendation in the Supplemental Staff
2 Report that the Company demonstrate a commitment to meet consumer protection standards and to
3 comply with Arizona Corporation Commission Customer Service Rules, to include the Commission's
4 contact information on its bills and to annually certify compliance with the CTIA Code to be
5 reasonable and will adopt it. We will also require that the Company's annual certification filing
6 include certification that the Company is complying with Arizona Corporation Commission
7 Customer Service Rules as recommended by Staff.

8 96. Comparable Local Usage Plans - In its *ETC Minimum Requirements Report and*
9 *Order*, the FCC states that in considering whether a common carrier has satisfied its burden of proof
10 necessary to obtain ETC designation, the FCC requires, and encourages State Commissions to
11 require, an applicant to offer local usage plans comparable to those offered by the incumbent local
12 exchange carrier ("LEC") in the areas for which it seeks designation. We find Staff's
13 recommendation for an annual certification in this regard to be reasonable and will adopt it.

14 97. Equal Access Requirement - In its *ETC Minimum Requirements Report and Order*, the
15 FCC states that in considering whether a common carrier has satisfied its burden of proof necessary
16 to obtain ETC designation, the FCC requires, and encourages State Commissions to require, an
17 applicant to acknowledge that it may be required to provide equal access if all other ETCs in the
18 designated service area relinquish their designations pursuant to section 214(e)(4) of the Act. We
19 find Staff's recommendation for an annual certification in this regard to be reasonable and will adopt
20 it.

21 98. Annual Reporting Requirements - In its *ETC Minimum Requirements Report and*
22 *Order*, the FCC sets forth annual reporting requirements for all ETCs designated by the FCC, and
23 encourages states to require such annual progress reports to be filed by all ETCs over which they
24 have jurisdiction. We find Staff's recommendations in this regard to be reasonable and will adopt
25 them.

26 99. Public Interest Determination - Before designating Western Wireless as an additional
27 ETC for an area served by a rural telephone company, in addition to determining whether Western
28 Wireless meets the requirements for ETC designation, this Commission must find that the

1 designation is in the public interest.⁴² In its *ETC Minimum Requirements Report and Order*, the FCC
2 adopts the public interest framework from the *Virginia Cellular ETC Designation Order*⁴³ and
3 clarifies that an applicant should be designated as an ETC only where such designation serves the
4 public interest, regardless of whether the area where designation is sought is served by a rural or non-
5 rural carrier, and encourages states to apply the FCC's analysis in determining whether or not the
6 public interest would be served by designating a carrier as an ETC. The *Report and Order*
7 encourages states to apply the FCC's analysis in determining whether or not the public interest would
8 be served by designating a carrier as an ETC.⁴⁴ In its original Staff Report, Staff performed a public
9 interest analysis consistent with *Virginia Cellular*. Staff states that the presence of a wireless
10 competitor benefits customers by offering a choice in telecommunications providers and unique
11 services that are not offered by ILECs; that Western Wireless may even be able to reach customers in
12 the region that do not have access to wireline service; that the Company's service offerings provide
13 customers with the advantages of expanded local calling areas, the convenience of mobile phone
14 service, the safety and security advantages of mobile telephone service, advanced data services, and
15 innovative bundled services. In addition, Staff points out that ETC designation will allow Western
16 Wireless to offer Lifeline and Link Up services to eligible customers.

17 100. In its *ETC Minimum Requirements Report and Order*, the FCC did not adopt a
18 specific test to consider the cost impact on the Universal Service Fund, stating that it is unlikely that
19 any individual ETC designation would have a substantial impact on the overall size of the fund.⁴⁵ In
20 its original Staff Report, Staff analyzed the possible impact on the Universal Service Fund of granting
21 Western Wireless' request, and noted that the additional support received by Western Wireless,
22 which in Staff's estimate could be between approximately \$82,341 and \$175,210 per quarter, would
23 not dramatically burden the fund.

24 101. We agree with Staff that Western Wireless's voice and data services offerings could
25

26 ⁴² 47 U.S.C. § 214(e)(2).

27 ⁴³ *Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible
Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-
45, 19 FCC Rcd at 1563, 1570-1571, para 15-16 (rel. January 22, 2004) ("*Virginia Cellular*").

28 ⁴⁴ *ETC Minimum Requirements Report and Order*, para 3, 43.

⁴⁵ *Id.*, para 54.

1 offer increased competitive choice and other service benefits in the requested service area, and find
2 that in conjunction with the filing of an appropriate five-year network improvement plan, that it will
3 be in the public interest to designate Western Wireless as an ETC in the requested service area.

4 **Study Area Redefinition**

5 102. Western Wireless is currently licensed to serve only 5 of the 6 wire centers located in
6 the rural study area served by Verizon. Those 5 wire centers are listed in Exhibit B. Unless the
7 service area standard is redefined for purposes of Western Wireless' ETC designation from study
8 area to wire center, Western Wireless would be precluded from being designated as an ETC in any of
9 the 6 wire centers in Verizon's service area.⁴⁶ Western Wireless has therefore requested that the
10 Commission and the FCC redefine, for purposes of Western Wireless' ETC designation, Verizon's
11 service area from the study area level to the wire center level, pursuant to 47 C.F.R. § 54.207, and has
12 made its request for ETC designation for the 5 wire centers listed in Exhibit B contingent upon the
13 requested redefinition.

14 103. Pursuant to the 1996 Act and FCC regulations,⁴⁷ an ETC designation involves the
15 designation of a geographic area for the purpose of determining universal service obligations and
16 support mechanisms for each designated ETC, and this Commission may designate a requested ETC
17 service area that differs from the rural ILEC study area.

18 104. The *ETC Minimum Requirements Report and Order* states that in cases where the
19 applicant seeks to redefine the rural service area of the underlying ILEC, as Western Wireless does in
20 the case for the portion of its service territory served by Verizon, a creamskimming analysis should
21 be employed to determine whether a potential for creamskimming exists.⁴⁸ The *Report and Order*
22 states that application of its permissive guidelines for state ETC designation proceedings will
23 facilitate the FCC's review of petitions seeking redefinition of incumbent LEC service areas filed
24 pursuant to section 214(e)(5) of the 1996 Act.⁴⁹ Staff conducted a creamskimming analysis in this
25 case.

26
27 ⁴⁶ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b).

⁴⁷ 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.201(b).

⁴⁸ *ETC Minimum Requirements Report and Order*, para 49.

⁴⁹ *Id.*, para 60.

1 105. Pursuant to a Federal-State Joint Board on Universal Service Recommended
2 Decision,⁵⁰ there are three factors to be considered in determining whether to define the service area
3 of a provider seeking ETC designation differently from the ILEC study area: 1) whether the provider
4 is attempting to “cream skim” by only proposing to serve the lowest cost exchanges; 2) the regulatory
5 and competitive status of rural ILECs as a result of the 1996 Act; and 3) the administrative burden
6 imposed on rural ILECs as a result of calculating costs on a level other than the study area.

7 106. Staff stated that Western Wireless’ request for redefinition of Verizon’s service
8 territory is essentially a request to exclude the Parker Dam wire center from its ETC service area.
9 Staff evaluated this request to determine whether it constitutes an attempt at creamskimming. Staff
10 determined that the Parker Dam wire center has a greater density than the majority of rural wire
11 centers included in the requested ETC service area, and that Western Wireless has not limited its
12 requested service area to only high-density (i.e. lower cost) wire centers. Staff therefore has no
13 concerns that the Company is trying to “cream-skim,” or serve only the low-cost, high revenue
14 customers in a rural telephone company’s service area.

15 107. Staff affirmed in its original Staff Report that redefinition of Verizon’s study area will
16 not alter its status as a “rural” telephone company, and will not affect the amount of universal service
17 support Verizon will receive.

18 108. Staff states that currently, Verizon’s universal support payments are based on the
19 study area level costs, and that Verizon has the option to disaggregate its per-line high-cost universal
20 service support to the wire center level. Disaggregation involves the ILEC conducting cost studies
21 that segregate its cost areas at the wire center level rather than throughout its entire service area, and
22 ensures that lower-cost areas receive lower levels of universal service support. Staff states that it
23 recognizes that should Verizon choose to disaggregate its funding, it would face some administrative
24 costs, but notes that disaggregation is not mandatory, and that redefinition of the study area does not
25 change the existing rules applicable to Verizon for calculation of its embedded costs.

26 109. Based on its creamskimming analysis, Staff recommended approval of Applicant’s
27

28 ⁵⁰ *Federal-State Joint Board on Universal Service, Recommended Decision*, Docket 96-45, 12 FCC Rcd at 179-180, para 172-174 (1996).

1 request for redefinition of the Verizon study area for purposes of Western Wireless' ETC designation
2 in the wire centers within its service area as shown on Exhibit B.

3 110. Consideration of the three factors outlined above demonstrates that when Western
4 Wireless has demonstrated compliance with the requirements set forth in Findings of Fact No. 111,
5 Verizon's study area should be redefined for purposes of Western Wireless' ETC designation in the
6 wire centers within its service area as shown on Exhibit B.

7 CONCLUSION

8 111. Based on the analysis herein, we find that it is reasonable to require Western Wireless
9 to meet the following requirements in order to be designated as an ETC.⁵¹

- 10 1) Demonstrate a commitment and ability to provide supported services throughout the
11 ETC service area and provide a five-year network improvement plan.
- 12 a. File with the Compliance Section of the Utilities Division an initial formal five-year
13 network improvement plan that shows for each wire center within the designated ETC
14 service area:
- 15 i. Planned improvements in signal quality, coverage, or capacity;
 - 16 ii. Projected start date and completion date and investment amount for each
17 planned improvement;
 - 18 iii. Specific geographic areas where each planned improvement will occur;
 - 19 iv. Estimated population served by each planned improvement; and
 - 20 v. Coverage area maps detailing how high cost monies will be used to improve its
21 network, and where signal strength coverage or capacity will be improved
22 when funding is received.
- 23 b. File with the Compliance Section of the Utilities Division an Annual Progress Report
24 on its five-year service quality improvement plan providing the following information
25 at the wire center level:
- 26 i. Maps detailing progress towards meeting its plan targets including how high
27

28 ⁵¹ These requirements are largely the requirements recommended by Staff as they appear in Findings of Fact No. 36 above, but include some clarifications consistent with the discussion herein.

- 1 cost monies were used to improve its network, and where signal strength
2 coverage or capacity have been improved where funding was received;
- 3 ii. An explanation of how much universal service support was received and how
4 the support was used to improve signal quality, coverage, or capacity;
- 5 iii. An explanation of any unfulfilled improvement goals;
- 6 iv. A description of why any targets in the five-year plan have not been met;
- 7 v. A notification of changes to its current-year plans that the Company deems
8 necessary to comport with technological advances and possible changes in the
9 business and regulatory environment; and
- 10 vi. Updates to its future-year plans to reflect the Company's actual planning.
- 11 2) Demonstrate a commitment and ability to advertise supported services and Lifeline and
12 Link Up throughout the ETC service area.
- 13 a. File with the Compliance Section of the Utilities Division an Initial Advertising Plan
14 for supported services throughout the ETC service area.
- 15 b. File with the Compliance Section of the Utilities Division an Annual Certification that
16 Western Wireless is advertising the supported services including Lifeline and Link Up
17 throughout the ETC service area.
- 18 3) Offer Lifeline and Link Up.
- 19 a. File with the Compliance Section of the Utilities Division an Initial Letter indicating
20 that it has commenced provision of lifeline and linkup services within 90 days of ETC
21 designation, with the letter to be filed within 100 days of a Commission Decision
22 granting ETC designation.
- 23 b. File with the Compliance Section of the Utilities Division an Annual Certification that
24 Western Wireless is offering Lifeline and Link Up.
- 25 4) Demonstrate the ability to remain functional in emergency situations.
- 26 a. File with the Compliance Section of the Utilities Division an Initial Plan and an Annual
27 Certification that Western Wireless is able to function in emergency situations.
- 28 5) Demonstrate a commitment to meeting Service Quality Standards.

- 1 a. File with the Compliance Section of the Utilities Division an Annual Report of
2 unfulfilled requests for service from potential customers within the ETC service area,
3 how Western Wireless attempted to provide service, and why it was unsuccessful.
- 4 b. File with the Compliance Section of the Utilities Division information on any outage
5 lasting at least 30 minutes in any part of the ETC service area including:
- 6 i. The date and time of onset of the outage;
7 ii. A brief description of the outage and its resolution;
8 iii. The particular services affected;
9 iv. The geographic areas affected;
10 v. Steps taken to prevent a similar situation in the future; and
11 vi. The number of customers affected.
- 12 6) Demonstrate a commitment to meeting consumer protection standards.
- 13 a. File with the Compliance Section of the Utilities Division an Annual Certification that
14 Western Wireless is in compliance with CTIA Consumer Code for Wireless Service.
- 15 b. File with Utilities Division and Consumer Services an Initial Service Coverage Map
16 consistent with CTIA Consumer Code.
- 17 c. File with the Utilities Division and Consumer Services an Annual (or any time maps
18 are updated by the ETC) Service Coverage Map consistent with CTIA Consumer Code.
- 19 d. File with the Compliance Section of the Utilities Division an Annual Certification that
20 Western Wireless is providing accurate coverage area maps to potential customers
21 consistent with CTIA Consumer Code.
- 22 e. File with the Compliance Section of the Utilities Division an Annual Report
23 documenting the number of consumer complaints per 1,000 handsets/lines.
- 24 f. Include Arizona Corporation Commission contact information on customers' bills.
- 25 g. File with the Compliance Section of the Utilities Division an Annual Certification that
26 Western Wireless is complying with Arizona Corporation Commission Customer
27 Service Rules A.A.C. R14-0-503 – Establishment of Service; A.A.C. R14-2-504 –
28 Minimum Customer Information Requirements; A.A.C. R14-2-505.A – Service

1 Connection and Establishment; A.A.C. R14-2-507.A, C and D – Provision of Service;
2 A.A.C. R14-2-508 – Billing and Collection; R14-2-509 excluding A(2) – Termination
3 of Service; and A.A.C. R14-2-510 – Customer Complaints; and that it continues to
4 include Arizona Corporation Commission contact information on customers' bills.

- 5 7) Offer a Local Usage plan comparable to the one offered by the underlying local
6 exchange carrier.
- 7 a. File with the Compliance Section of the Utilities Division an Initial Certification and an
8 Annual Certification that Western Wireless is offering an acceptable Local Usage Plan.
- 9 8) Acknowledge willingness to provide Equal Access in the designated ETC service area
10 in the event that no other ETC is providing equal access within the service area.
- 11 a. File with the Compliance Section of the Utilities Division an Initial Certification and an
12 Annual Certification that Western Wireless is willing to provide Equal Access in the
13 event that no other ETC is providing equal access within the service area.
- 14 9) File with the Utilities Division and Consumer Services an Annual (or as updated by the
15 ETC) Informational Tariff setting forth the rates, terms and conditions for all service
16 offerings within ETC service area.
- 17 10) File an Initial Certification that it will maintain and retain auditable records as required
18 by the FCC, USAC, and as kept in the normal course of business of all expenditures of
19 universal service funds received and submit to an audit of its expenditures of its
20 universal service funds upon request by Commission Staff.

21 112. With the exception of demonstrating compliance with the requirements outlined in the
22 preceding Findings of Fact, Western Wireless otherwise meets the criteria necessary for ETC
23 designation.

24 113. We will also require Staff to file a Staff Report on or before May 15 of each year for
25 the duration of Western Wireless' initial five-year plan, which addresses the Company's annual April
26 1 filing, and will require that the Staff Report include, but not be limited to, the number of unfulfilled
27 requests for service in the designation area. The Staff Report shall also include any recommendations
28 Staff may have based on the Company's consolidated annual filing. *The Staff Report filed following*

1 Western Wireless' fifth annual consolidated filing shall include Staff's recommendation regarding
2 whether a need exists for continuing compliance filings.

3 **CONCLUSIONS OF LAW**

4 1. Western Wireless is a public service corporation within the meaning of Article XV of
5 the Arizona Constitution and A.R.S. § 40-202; a CMRS provider as defined in 47 U.S.C § 153(27)
6 and A.A.C. R14-2-1201; a telecommunications carrier as defined in 47 U.S.C. § 153(44); and a
7 common carrier as defined in 47 U.S.C. § 153(1).

8 2. The Commission has jurisdiction over the subject matter of the application.

9 3. Section 214(e)(2) of the 1996 Act demonstrates Congress' intent that State
10 Commissions evaluate local factual situations in ETC cases and exercise discretion in reaching
11 conclusions regarding the public interest, convenience, and necessity, and nothing in section 214(e)
12 of the 1996 Act prohibits this Commission from imposing ETC eligibility requirements in addition to
13 those described therein.

14 4. It is in the public interest to require, prior to Western Wireless' ETC designation, that
15 Western Wireless demonstrate compliance with the requirements set forth in Findings of Fact No.
16 111, in order to preserve and advance universal service, protect the public safety and welfare, ensure
17 the continued quality of telecommunications services, and safeguard the rights of consumers.

18 5. With the exception of demonstrating compliance with the requirements outlined in
19 Findings of Fact No. 111, Western Wireless otherwise meets the criteria necessary for ETC
20 designation in all the requested service areas, including those that are served by rural ILECs.

21 6. Because Western Wireless will be entitled to receive universal service funds upon
22 designation, it is in the public interest to require Western Wireless to file a five-year network
23 improvement plan for Commission approval that demonstrates how those universal service funds will
24 be spent to improve coverage, signal strength or capacity that would not otherwise occur absent the
25 receipt of high-cost support, for the purpose of expanding or preserving wide access to phone
26 services in Arizona.

27 7. When Western Wireless has demonstrated compliance with the requirements set forth
28 in Findings of Fact No. 111, it will be in the public interest to grant its application for ETC

1 designation.

2 8. When Western Wireless has demonstrated compliance with the requirements set forth
3 in Findings of Fact No. 111, it will be in the public interest to grant Western Wireless' request for
4 redefinition of the Verizon study areas listed in Exhibit B, for purposes of Western Wireless' ETC
5 designation, subject to approval of the redefinition by the Federal Communications Commission
6 under 47 C.F.R. § 54.207(c).

7 9. Once Western Wireless is designated an ETC, it is in the public interest to require
8 Western Wireless to file a consolidated annual compliance filing including the compliance items set
9 forth in Findings of Fact No. 111 for the purpose of examining whether Western Wireless continues
10 to comply with the requirements of section 214(e) of the 1996 Act, and should therefore remain
11 eligible to receive Federal universal service funding.

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ORDER

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IT IS THEREFORE ORDERED that the request of WWC License LLC dba CellularOne for a designation as an eligible telecommunications carrier in the service areas of the rural telephone company wire centers listed on Exhibit A and Exhibit B, attached hereto and incorporated by reference, will be approved when this Commission makes a determination that WWC License LLC dba CellularOne has filed a five-year plan that 1) demonstrates a commitment to provide universal service supported services throughout the requested designation areas as shown on Exhibit A and Exhibit B; 2) meets the requirements listed in Findings of Fact No. 111 above; and 3) includes all the Initial Certifications and Plans listed in Findings of Fact No. 111 above.

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IT IS FURTHER ORDERED that the request of WWC License LLC dba CellularOne to redefine the service territory of Verizon California, Inc. set forth in Exhibit B attached hereto from the study area to the wire center level will be approved when this Commission makes a determination that WWC License LLC dba CellularOne has filed a five-year plan and initial plans that 1) demonstrate a commitment to provide universal service supported services throughout the requested designation areas as shown on Exhibit A and Exhibit B and 2) meet the requirements listed in Findings of Fact No. 111 above. Approval for redefinition of the service area set forth in Exhibit B

1 attached hereto is also subject to approval of the requested redefinition by the Federal
2 Communications Commission under 47 C.F.R. § 54.207(c).

3 IT IS FURTHER ORDERED that within 60 days of the date WWC License LLC dba
4 CellularOne files the five-year plan and the initial plans referenced in the above Ordering Paragraph,
5 the Commission's Utilities Division Staff shall file in this docket a Memorandum indicating whether
6 the five-year plan and Initial Certifications and Plans as filed 1) demonstrate a commitment to
7 provide universal service supported services throughout the requested designation areas as shown on
8 Exhibit A and Exhibit B and 2) meet the requirements listed in Findings of Fact No. 111 above. The
9 Memorandum shall be accompanied by a Recommended Order that either approves or denies WWC
10 License LLC dba CellularOne's application.

11 IT IS FURTHER ORDERED that after being designated an eligible telecommunications
12 carrier, WWC License LLC dba CellularOne shall make a consolidated annual compliance filing with
13 the Commission's Utilities Division's Compliance Section on or before April 1 of each year in
14 fulfillment of the annual progress reporting requirements and certification filing requirements set
15 forth in Findings of Fact No. 111 above for the duration of its initial five-year plan.

16 IT IS FURTHER ORDERED that the Commission's Utilities Division Staff shall, on or
17 before May 15 of each year for the duration of WWC License LLC dba CellularOne's initial five-
18 year plan, file a Staff Report on WWC License LLC dba CellularOne's consolidated annual
19 compliance filing. The Staff Reports shall address, but shall not be limited to, the number of
20 unfulfilled requests for service in the designation area, and shall also include any recommendations
21 Staff may have based on WWC License LLC dba CellularOne's consolidated annual filing. The
22 Staff Report filed following WWC License LLC dba CellularOne's fifth annual consolidated filing
23 shall include Staff's recommendation regarding whether a need exists for continuing compliance
24 filings.

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1 IT IS FURTHER ORDERED that the Commission's Utilities Division Staff shall, no later
2 than November 30, 2005, initiate proceedings as necessary to ensure that existing eligible
3 telecommunications carriers in Arizona are subject to obligations associated with receiving universal
4 service support similar to those adopted herein.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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9 CHAIRMAN _____ COMMISSIONER _____

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13 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
15 Director of the Arizona Corporation Commission, have
16 hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this ____ day of _____, 2005.

19 _____
20 BRIAN C. McNEIL
21 EXECUTIVE DIRECTOR

22
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24 DISSENT _____

25
26 DISSENT _____

27 TW:mj
28

1 SERVICE LIST FOR: WWC LICENSE LLC

2 DOCKET NO.: T-04248A-04-0239

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**Rural Telephone Company Study Areas for Which Western Wireless Seeks ETC
Designation**

<u>Company Name</u>	<u>Study Area Code</u>
RIO VIRGIN TELEPHONE CO., INC.	552356
SOUTHWESTERN TELEPHONE CO.	452174

**Non-Rural Telephone Company Wire Centers for Which Western Wireless Seeks ETC
Designation**

<u>Company Name</u>	<u>Wire Center Locality</u>	<u>Wire Center Code</u>
QWEST CORPORATION	Somerton	SMTNAZMA
QWEST CORPORATION	Wellton	WLTNAZMA
QWEST CORPORATION	Yuma	YUMAAZFT
QWEST CORPORATION	Yuma	YUMAAZMA
QWEST CORPORATION	Yuma	YUMAAZSE

**Rural Telephone Company Wire Centers for Which Western Wireless Seeks Conditional
ETC Designation Subject to Redefinition of the Service Area**

<u>Company Name</u>	<u>Wire Center Locality</u>	<u>Wire Center Code</u>
VERIZON CALIFORNIA INC.	Bouse	BOUSAZXC
VERIZON CALIFORNIA INC.	Cibola	CIBLAZXC
VERIZON CALIFORNIA INC.	Ehrenberg	EHRNAZXF
VERIZON CALIFORNIA INC.	Parker	PRKRAZXC
VERIZON CALIFORNIA INC.	Poston	PSTNAZXC