BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF WWC LICENSE LLC ("WESTERN WIRELESS CORPORATION") FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND REDEFINITION OF RURAL TELEPHONE COMPANY SERVICE AREA.	Docket No. T-04248A-04-0239

WWC LICENSE LLC REQUEST FOR ACCEPTANCE OF LATE-FILED EXCEPTIONS

I. INTRODUCTION

WWC License LLC ("Alltel")[1] requests the Arizona Corporation Commission ("Commission") accept as a late-filed document the following exceptions to the Recommended Opinion and Order ("ROO") of the Administrative Law Judge in the above-captioned matter. The ROO was docketed on August 23, 2005, along with a cover memorandum stating that exceptions to the ROO were due September 2, 2005, allowing the required ten-days for exceptions under A.A.C. R14-3-110(B). No exceptions to the ROO were filed by any party. The ROO was initially scheduled to be heard at the Commission's Open Meeting held on September 7 and 8, 2005. The Commission did not consider this matter during its September meeting, and has not yet scheduled this matter for consideration in any subsequent open meetings. Alltel hereby requests that the Commission waive the filing deadline for exceptions set forth in the cover memorandum to the

[1] On August 1, 2005, Western Wireless Corporation merged with Alltel Corporation and is now a part of Alltel Corporation. WWC License LLC is now a wholly owned subsidiary of Alltel Corporation.

ROO and accept and consider the following exceptions.[2]

To put this request in context, on August 1, 2005, Western Wireless Corporation (and its wholly-owned subsidiary WWC License LLC) merged with Alltel Corporation and is now part of Alltel Corporation. Subsequent to the merger, the two companies began the complex and time-consuming process of integrating their businesses, including network operations, information technology, human resources, and customer service. Indeed, the merger of the two companies will result in a stronger combined entity better able to serve its combined wireless customers in Arizona, and moreover, a stronger candidate for Eligible Telecommunications Carrier ("ETC") designation.

Although the merger and actual integration of the two companies was a complicating factor that affected the filing of exceptions by September 2, 2005, this matter was not heard on the originally scheduled open meeting date. Since no action has yet been taken by the Commission on the ROO, and given the intervening merger, Alltel contends that good cause exists for the Commission's waiver of the exception deadline, and hereby requests the Commission accept for consideration the following late-filed exceptions.[3] These exceptions are being submitted well in advance of an open meeting on the matter (which has not yet been scheduled by the Commission). It is within the Commission's discretion to waive the exception filing deadline and consider late-filed exceptions. There is no conflict with law. Accepting the late-filed exceptions does not affect the substantial interests of the parties, nor are the exceptions being submitted at the eleventh hour just prior to open meeting. The Commission will have adequate time to consider these exceptions.

II. EXCEPTIONS

A. Five-Year Network Improvement Plan

Instead of the five-year service improvement plan contained in ¶ 111(1) of the ROO, Alltel

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[2] Pursuant to A.A.C. R14-3-101(B), "[i]f good cause appears, the Commission or the presiding officer may waive application of these rules when not in conflict with law and does not affect the substantial interests of the parties."

[3] Alltel also would not oppose late-filed exceptions by other parties to this docket.

urges the Commission to adopt a more practical and realistic two-year service improvement plan. In response to the FCC's March 17, 2005, Report and Order[4], on June 24, 2005, CTIA filed a Petition for Reconsideration, asking that the FCC replace the five-year planning requirement with a twelve to eighteen month plan. In its petition CTIA stated, "Wireless carriers face too many variables to accurately and predictably project or plan their network improvements for five years in the future.

Moreover, the variables are often outside the control of the wireless carrier. Technological innovations and changing customer needs require carriers to constantly update their plans. Population patterns change, affecting where improvements in the network are needed." Alltel agrees with CTIA. Five-year plans are not realistic for any American business and especially not for telecommunications providers because of the rapidly changing marketplace and the rapid evolution of new technologies. Such a plan would be speculative at best in the latter years of the plan. Alltel does not forecast its capital expenditures and network improvements out five years in advance. The wireless industry is dynamic and requires carriers to continually adjust and modify their capital expenditures to satisfy changing market conditions and customer expectations. A five-year plan is too far reaching, and it is highly likely that the actual network construction occurring in latter years will have little resemblance to the proposed network improvement plan submitted in year one.

Any attempt to develop a network plan beyond an eighteen to twenty-four month window is extremely unreliable. Market conditions and technology are changing so rapidly that any plans beyond this window are certain to change greatly. Additionally, Alltel's actual buildout in unserved areas will be driven by consumers' request for service. Alltel believes that the Commission would be better served and that carriers will be able to provide more useful information if this requirement is modified to require, at most, a two-year build out plan rather

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[4] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, released March 17, 2005, FCC 05-26 ("FCC Order").

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than a five-year plan.

Furthermore, such a requirement would be a significant administrative burden. To ensure the receipt of better information and reduce unnecessary regulatory expenses, Alltel proposes that the Commission require a two-year plan rather than a five-year plan. The Commission should require a one-year network improvement plan for the purpose of determining ETC eligibility and then require all carriers to file detailed expenditure and network improvement reports covering a two-year period for the purpose of annual certification. These two-year reports would cover the previous year's spending and the future year's anticipated spending. This would give the Commission timely, detailed, and reliable information upon which to make designation and certification decisions. This arrangement will accomplish the same objective in a more efficient manner. The Commission will still receive build out information well in advance of the actual build out, but at a time when the provided information is more accurate. The last three years of data that would be provided under a five-year plan will be provided as part of subsequent two-year plans, when it is more reflective of actual expenditures. Other states have adopted one-year or two-year build out plans rather than five-year plans.

Additionally, these reports from wireless ETCs should be based on information from the ETC's designated service area as a whole, as opposed to specific wire centers. The wire center is a key element in a wireline network, but it is largely irrelevant in the wireless network architecture. Similar to the advertising and outage requirements where the Commission seeks reporting information on the ETC designation area as a whole, Alltel proposes that its reporting obligations under ¶ 111(1) of the ROO also require reporting on the ETC designation area as a whole.

B. Consumer Protection Standards

Alltel adheres to the CTIA Consumer Code for Wireless Service ("CTIA Code") and will file an Annual Certification that it is in compliance with the CTIA Code. As part of this Annual Certification, it will annually file service coverage maps consistent with the CTIA Code. However, the provisions of ¶ 111(6)(c) of the ROO requiring updated maps be filed any time service coverage or maps are updated are unnecessary. Wireless networks and coverage are

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frequently changing due to the routine maintenance and re-tuning of the network and cell site antennas. It is not uncommon for cell sites to be adjusted and reconfigured as a result of regular system engineering projects such as converting omni cell sites to sectorized cell sites, or when new channels are added to an existing cell site to improve capacity. Such changes may occur multiple times throughout the year, and may not warrant filing new maps with the Commission at the completion of each project. To constantly refile new maps as a result of slight changes to the network is a task that would be administratively burdensome and would likely result in many insignificant changes being filed with the Commission. Alltel proposes that it file new network and coverage maps with the Commission on an annual basis as opposed to whenever service coverage is modified by the Company.

The requirement in ¶ 111(6)(f) that Alltel include on every bill the Commission's contact information is unnecessary. Customers are frequently concerned about the complexity and appearance of their wireless bill, including the layout and content of their bill, and adding another contact number will only further complicate the appearance of the bill. Also, some customers will likely be confused and inadvertently contact the Commission when they intended to reach the Company. Alltel recognizes the need to inform customers about the availability of the Commission's services, but including the agency's contact information on every bill is excessive. Alltel proposes that it include a bill message with the Commission's contact information twice a year on its Arizona customer's bills. This is a much more effective method of periodically reminding customers in Arizona about how to reach the Commission for assistance.

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C. Local Usage

In ¶ 111(7), the ROO requires an ETC to offer a "Local Usage plan comparable to the one offered by the underlying local exchange carrier." The key in determining if two local usage plans are "comparable" is to look at the value as determined by the customer. Comparable does not mean identical. A wireless plan that is comparable to a LEC plan should not be required to be exactly the same in all features and operations. Local usage is a concept that is rapidly changing in today's world of telecommunications and is evolving into something quite different than in the

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days of monopoly wireline service. Then, local usage generally meant unlimited calling to a relatively small geographic area. Calls beyond a very limited geographic area resulted in additional toll charges often based on both time and distance. As competition entered the telecommunications marketplace, providers found that while some customers were satisfied with existing local calling scopes, others preferred a much broader geographic area for local calling without necessarily needing unlimited local usage. The competitive marketplace provides many different options for local calling from which consumers may choose. Different competitors offer different options to consumers and consumers are free to choose the option and carrier that best fits their individual preferences. The idea that one size fits all no longer appeals to today's consumers.

Consumers are the winners in a competitive market as each consumer can choose the services and service provider that meet his or her needs most effectively. Consumers consider many factors as they evaluate their choice of service. Some consumers prefer low monthly rates and may opt for a limited geographic calling area and limited minutes. Consumers who make most of their calls to a small local area may prefer a larger number of minutes or even unlimited minutes as opposed to a broader local calling area. Consumers who spend much of their workday outside of their home or office may place significant value on mobility and larger local calling areas rather than on a large number of local minutes. The value of various local-calling options varies greatly from consumer to consumer. Today's competitive marketplace gives consumers the opportunity to choose a plan or service provider that gives them the best value based on their individual preferences.

The FCC was correct when it chose not to mandate a specific number of local minutes for ETC purposes. The FCC specifically noted that:

> an ETC applicant may offer a local calling plan that has a different calling area than the local exchange area provided by the LECs in the same region, or the applicant may propose a local calling plan that offers a specified number of free minutes of service within the local service area. We also can envision circumstances in which an ETC is offering an unlimited calling plan that bundles local minutes with long distance minutes. The applicant may also plan to provide unlimited free calls to government, social service, health facilities, educational institutions, and

> emergency numbers. Case-by-case consideration of these factors is necessary to ensure that each ETC provides a local usage component in its universal service offerings that is comparable to the plan offered by the incumbent LEC in the area.[5]

The reality of today's market is that if a provider does not provide value to a consumer, then the consumer will not purchase service from that provider. To the extent that consumers choose to purchase service from one provider over others, then that provider must be providing adequate local usage. Unlike wireline carriers, when a competitive ETC does not retain a customer, it also loses the federal support associated with that customer. Therefore, the customer determines not only what service to use and what rate plans meet expectations, but also whether the competitive ETC continues to receive federal universal service support. It would be foolhardy for a carrier to undergo the designation process and not provide competitive rate plans that are attractive in the marketplace.

The Commission should follow the standards contained in the FCC's March 17, 2005, Report and Order and refrain from mandating any specific number of local minutes that must be included in all plans. Consumers enjoy the benefits of choice provided by the competitive marketplace and any effort to mandate specific local plans would only serve to limit those choices.

C. Informational Tariffs

Alltel opposes the requirement that it file informational tariffs with the Commission whenever the rates, terms and conditions of its service offerings change. In a competitive business like the wireless industry, a carrier must be able to quickly respond to the service offerings of its competitors, whether in or outside of an ETC designated area. Carriers often respond to a competitor's business by making service offerings and rate changes on short notice. Sometimes these changes occur frequently so as to remain competitive in a given market. Alltel plans to offer the same level of choice in rate plans and features to customers living in ETC areas as it does for those customers in non-ETC areas, and therefore needs the same flexibility and quick response time. Updating the Commission each time such an adjustment is made is unnecessary

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[5] FCC Order at ¶33.

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and administratively burdensome.

In some cases, informational tariffs may be very short lived due to the fierce competition in the wireless business. Alltel proposes that an annual filing of an informational tariff with rates, terms and conditions is sufficient to update the Commission on the service offerings available within the ETC service area. Alltel is obligated under the CTIA Code to give customers 14 days notice of any material change in terms and rates. Customers are allowed to disconnect free of charge if they don't agree with or accept the change.

For immediate updates on currently available rates, Alltel would refer the Commission to its public website. On www.alltel.com the Commission is able to view all of the rates and services offered by Alltel in Arizona, including the services offered in the ETC service area. The website can serve as a quick, accurate and easy resource for the Commission in lieu of burdensome informational tariffs.

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D. Implicit Conditions

Alltel is unable to comply with the implicit conditions contained in A.R.S. § 40-367(1)-(4) prohibiting changes to rates without first giving the Commission and the public 30 days notice. As mentioned above in the section regarding informational tariffs, the wireless industry is highly competitive and carriers must be free to timely respond to the competitive forces in the marketplace. To require a wireless carrier to first seek Commission permission prior to changing its rates is an unworkable situation. Such a notice would give the Company's wireless competitors advance notice on its business strategy, thus creating an unfair business advantage for non-ETC wireless carriers.

Furthermore, it would significantly inhibit the Company's ability to timely respond to a competitor's offerings or changes in the marketplace, ultimately providing less competitive choice for the consumer. Since the Commission does not regulate or approve the rates of wireless carriers, there is no reason to require 30 days notice to the Commission for rate changes.

E. Establishment of Service

The requirements of R-14-2-503 of the A.A.C. should not apply to the establishment of wireless service. It is unnecessary for the Commission to determine what information Alltel may or may not collect from new subscribers. Carriers should be allowed to collect the necessary information needed to provision wireless service. Whether the customer is an owner or tenant of his residence is irrelevant. Information regarding if and where the customer previously had service is not necessary. Such information is largely irrelevant in the context of provisioning new wireless service.

Additionally, business decisions on deposits and credit checks should be left up to the carrier. Different carriers have specific business plans that may largely impact their decisions on whether or not to require customers and subscribers submit a deposit before receiving service. Section 332 of the Communications Act prohibits states from regulating the entry of or rates charged by a commercial mobile carrier. A deposit is an amount paid by customers to obtain service to compensate carriers for bad debt losses. As such, deposits directly affect the rates that carriers charge their customers. The FCC has recognized that the phrase "rates charged" in Section 332(c)(3)(A) is not limited to rate levels, but encompasses rate structures as well. Deposits are clearly a part of carriers' rate structures.

Furthermore, the FCC encouraged states to "consider, among other things, the extent to which a particular regulation is necessary to protect consumers in the ETC context, as well as the extent to which it may disadvantage an ETC specifically because it is not the incumbent LEC" and agreed with the Joint Board's conclusion that "states should not require regulatory parity for parity's sake."[6]

Alltel proposes that it be allowed to obtain a deposit for customers who do not pass a credit check, and that it also be allowed to waive the deposit requirement when customers sign up for Lifeline service and agree to certain usage limitations on their service. For the most part, the individual specific requirements of R-14-2-503 simply do not apply to customers establishing new wireless service, and the Commission should not make them a condition of ETC designation.

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[6] FCC Order at ¶30.

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F. Minimum Customer Information Requirements

A.A.C. R-14-2-504 requires carriers to provide their customers with a certain amount of minimum information, such as the rates and terms of the carriers services. This condition seems to be duplicative of the carrier's requirement to abide by the CTIA Carrier Code of Conduct which includes a provision that carriers provide customers with this information. Furthermore, wireless customers typically choose to subscribe to a one-year or two-year service contract, in which case the terms of the contract do not change during the life of the contract, and therefore, there is little need to inform the customer of a change in the tariff.

G. Service Connection and Establishment

Section R-14-2-505 of the A.A.C. concerning service connection and establishment of service does not apply in the context of establishing wireless service.

H. Provision of Service

Section R-14-2-507(A) of the A.A.C. concerning the provision of service does not apply in the wireless industry where customers own their own handsets. Alltel is not responsible for the maintenance and operation of each customer's handset. Alltel is, however, responsible for the operation and maintenance of its wireless network, including towers, switches, circuits and transmission facilities. Alltel will make every reasonable effort to supply a satisfactory and continuous level of service, and reestablish service within the shortest possible time when service interruptions occur.

I. Billing and Collection

Alltel is able to comply with the requirements of R-14-2-508, except for R-14-2-508(D), in that it does not bill customers under any applicable tariff because it does not use tariffs to offer its service to the public. Furthermore, in contrast to R-14-2-508(H), Alltel does not differentiate between business and residential customers.

J. Termination of Service

Sections R-14-2-509(D) and (E) of the A.A.C. concerning the termination of service should not apply to wireless carriers. Generally speaking, the hotlining procedures that Alltel uses

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is dependent on a number of factors, including (1) the amount of the delinquency; (2) the subscriber's payment history with the Company; (3) the amount of pending charges; (4) the subscriber's credit class, and (5) the account type. As a result, the hotlining of an account can begin as soon as one day and up to 120 days after the account has become due. Under this practice customers are automatically directed to an Alltel call center when they attempt to make an outbound call on a delinquent account. This process allows Alltel to talk with the customer and inform them of the status of the account and make arrangements to bring the account current. Additionally, and generally speaking, Alltel notifies customers in writing, through a separate notification letter, of their delinquent status.

III. CONCLUSION

Alltel requests that the Commission waive its ten-day filing deadline and consider and accept these late-filed exceptions to the ROO of the Administrative Law Judge in this docket. The Commission has discretion to waive the filing deadline, and since the Commission has not yet taken further action in this case or on the ROO, and because no parties would be harmed by considering these exceptions, Alltel respectfully requests that it do so. These exceptions are minimal and only slightly modify the scope and intent of the ROO. Alltel shares the Commission's concern about providing quality service to the customer. In fact, Alltel must attract and retain customers in order to receive support. Therefore, Alltel is keenly aware of the need to compete for customers by providing quality service. Alltel is able to largely comply with the ROO, and only offers exceptions in instances where practical business considerations warrant a slightly different requirement than those offered in the ALJ's recommendation. Alltel has attached proposed amendment language that reflects the above exceptions (Attachment 1).

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RESPECTFULLY SUBMITTED this 27th day of February, 2006.

By [signature]
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ATTACHMENT

1

ATTACHMENT 1

ALLTEL COMMUNICATIONS, INC.'S
PROPOSED AMENDMENT

At page 40, line 11

DELETE: "five-year" **INSERT:** "two-year

At page 40, line 18

DELETE: "each planned improvement" **INSERT:** "the planned improvements"

At page 40, line 19

DELETE: "each planned improvement" **INSERT:** "the planned improvements"

At page 40, line 24

DELETE: "five-year" **INSERT:** "two-year"

At page 41, line 8

INSERT:" . . . necessary to comport with technological advances, **customer requests for service,** and possible changes in . . . ."

At page 41, line 26

DELETE: "an Initial Plan" **INSERT:** "a description of how Western Wireless is able to function in emergency situations,"

At page 41, line 28

INSERT: "Demonstrate a commitment to meeting **applicable** Service Quality Standards."

At page 42, line 12

INSERT: "Demonstrate a commitment to meeting **applicable** consumer protection standards."

At page 42, line 17

DELETE: "(or any time maps are updated by the ETC)"

At page 42, line 24

INSERT: "Include Arizona Corporation Commission contact information **twice a year** on customers' bills **in the form of a bill message**."

At page 42, line 26

INSERT: ". . . Western Wireless is complying with **applicable** Arizona Corporation Commission Customer Service Rules . . . ."

At page 42, line 27

DELETE: ". . . A.A.C R14-0-503 – Establishment of Service; . . . ."

At page 42, line 28

DELETE:". . . A.A.C. R14-2-505.A – Service Connections and Establishment; . . . ."

At page 42, line 3

INSERT: " . . . and that it continues to include Arizona Corporation Commission contact information **twice a year** on customers' bills **in the form of a bill message**."

At page 43, line 8

DELETE: "acceptable" **INSERT:** "comparable"

At page 43, line 9

DELETE: "willingness to" **INSERT:** "that Western Wireless may be required to"

At page 43, line 12

DELETE: "is willing" **INSERT**: "acknowledges that it may be required"

At page 43, line 14

DELETE: "(or as updated by the ETC)"