

OPEN MEETING ITEM



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ORIGINAL

COMMISSIONERS
PHIL GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE



ARIZONA CORPORATION COMMISSION

DATE: NOVEMBER 2, 2007

Arizona Corporation Commission
DOCKETED

DOCKET NO: T-04248A-04-0239

NOV 02 2007

TO ALL PARTIES:

DOCKETED BY

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
(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 ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

November 13, 2007

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 Working Session and Open Meeting to be held on:

NOVEMBER 27, 2007 and NOVEMBER 28, 2007

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 MIKE GLEASON, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 WWC LICENSE LLC (WWC-ALLTEL
CORPORATION) FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER
AND REDEFINITION OF RURAL TELEPHONE
COMPANY SERVICE AREA.

DOCKET NO. T-04248A-04-0239

DECISION NO. _____

ORDER

10 Open Meeting
11 November 27 and 28, 2007
12 Phoenix, Arizona

13 **BY THE COMMISSION:**

14 Pursuant to the Federal Communications Act of 1934, as amended by the
15 Telecommunications Act of 1996 ("1996 Act" or "Act") and the rules and regulations of the Federal
16 Communications Commission ("FCC"), Western Wireless Corporation, a commercial mobile radio
17 services ("CMRS") provider, filed with the Arizona Corporation Commission ("Commission") on
18 March 26, 2004, an application for designation as an eligible telecommunications carrier ("ETC") in
19 the wire centers listed on Exhibits A and B, attached hereto and incorporated herein by reference. On
20 August 1, 2005, Western Wireless Corporation ("Company") merged with Alltel Corporation and is
21 now part of Alltel Corporation. WWC License LLC ("WWC-Alltel" or "Company") is now a wholly
22 owned subsidiary of Alltel Corporation, and currently serves customers in LaPaz, Mohave and Yuma
23 Counties in Arizona. Designation as an ETC will enable WWC-Alltel to apply for and receive
24 federal universal service fund support from the Federal Universal Service Fund. WWC-Alltel is
25 currently licensed and provides signal coverage throughout the rural study areas and non-rural wire
26 centers identified on Exhibit A, and unconditionally requests ETC designation in those study areas
27 and non-rural wire centers. In addition, WWC-Alltel requests that the Commission conditionally
28 designate WWC-Alltel as an ETC in the service area of the wire centers described in Exhibit B,

1 subject to approval of the redefinition by the FCC under 47 C.F.R. § 54.207(c) to effectuate WWC-
2 Alltel's designation.

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

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

19 In its Supplemental Staff Report, Staff recommended that the Company be required to a five
20 year network and service quality improvement plan ("Five Year Plan") prior to a hearing or Decision
21 in this matter, and that Staff be allowed to provide a supplemental filing in response to the 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.

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*").

³ This requirement does not apply to ETCs designated by State commissions. Section 214(e)(2) of the 1996 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. WWC-Alltel is subject to the jurisdiction of this Commission.

1 within 60 days following the filing of the plan. Staff also recommended that following ETC
2 designation, the Company be required to comply with annual reporting requirements related to the
3 Five Year Plan.

4 On August 23, 2005, a Recommended Opinion and Order on the application was issued
5 ("August 23, 2005, ROO"). The August 23, 2005, ROO adopted Staff's recommendations, some
6 over the objections of the Company, who had presented alternative proposals. Consideration of the
7 August 23, 2005, ROO was tentatively scheduled for the Commission's September 7 and 8, 2005,
8 Open Meeting. Prior to that Open Meeting, Staff requested that the ROO not be considered at that
9 time in order to allow time for Staff to review a complaint proceeding in Colorado concerning the
10 Company's status as an ETC.

11 On January 26, 2007, after its review of the Colorado complaint proceeding, Staff filed a
12 Second Supplemental Staff Report, in which it recommended that the Commission adopt eligibility
13 conditions and associated reporting requirements in addition to those appearing in the August 23,
14 2005, ROO.

15 On March 2, 2007, WWC-Alltel filed a Response to the Second Supplemental Staff Report.
16 Therein, WWC-Alltel stated that it was willing to abide by the requirements of the August 23, 2005
17 ROO, in addition to the additional requirements included in the Second Supplemental Staff Report.
18 WWC-Alltel requested that the August 23, 2005, ROO be modified to include the additional Staff
19 recommendations from the Second Supplemental Staff Report, and that the modified ROO be
20 docketed for consideration by the Commission.

21 On April 4, 2007, ALECA filed Comments to the Second Supplemental Staff Report, in
22 which it raised the issue of an October 30, 2006, complaint filed by an individual against Alltel
23 Communications Inc. before the North Dakota Public Service Commission.

24 On May 15, 2007, Staff filed a Third Supplemental Staff Report addressing the October 30,
25 2006, North Dakota complaint issue. Staff stated that should a circumstance such as the North
26 Dakota consumer complaint occur in Arizona, the requirements contained in the August 23, 2005,
27 ROO, along with Staff's additional recommendations in the Second Supplemental Staff Report,
28 provide assurance that federal universal service funds will be used in a manner consistent with

1 universal service goals as well as provide for consumer protection. Staff pointed out that the August
2 23, 2005, ROO included a requirement that the Company annually certify that it is complying with
3 the Commission's rules regarding customer service complaints, and that Staff's additional
4 recommendation six in the Second Supplemental Staff Report provides an additional safeguard in that
5 it would require WWC-Alltel to report any actions in any states brought against the Company
6 involving a failure to comply with its ETC obligations. Staff stated that it would thus be made aware
7 of ETC problems that might arise in other jurisdictions, and would investigate WWC-Alltel's
8 Arizona operations if necessary.

9 As set forth in the following Findings of Fact, we find that because WWC-Alltel will be
10 entitled to receive universal service funds upon designation as an ETC, it is in the public interest to
11 require WWC-Alltel to file, prior to receiving an ETC designation, a Five Year Plan for Commission
12 approval that demonstrates how those universal service funds will be spent to improve coverage,
13 signal strength or capacity that would not otherwise occur absent the receipt of high-cost support, for
14 the purpose of expanding or preserving wide access to phone services in Arizona. We find that any
15 burden that the requirement to file such a plan as a condition of becoming eligible for a federal
16 subsidy may impose is outweighed by the need to ensure that WWC-Alltel is willing and able to
17 provide the supported services throughout the requested designation area, and to ensure that
18 ratepayer-funded universal service support funds are used in the manner intended, which is to aid in
19 the provision of access to affordable telecommunications and information services to rural and high-
20 cost telecommunications services consumers.⁴ The annual progress report requirement recommended
21 by Staff and adopted herein can serve as a vehicle for an annual "true-up" of the Company's network
22 improvement plans as the Company deems necessary to comport with technological advances and
23 possible changes in the business and regulatory environment. We will require that WWC-Alltel's
24 annual progress report include a notification of such changes to its current-year plans and will also
25 require that the annual progress report include updates to the Company's future-year plans to reflect
26 its actual planning. In addition, we find that it is in the public interest to adopt the additional
27

28 ⁴As stated above, WWC-Alltel has agreed to this requirement, as well as to all the other requirements set forth in the August 23, 2005, ROO and the additional Staff recommendations in the Second Supplemental Staff Report.

1 safeguards and reporting requirements recommended by Staff in its Second Supplemental Staff
 2 Report, as described in Findings of Fact No. 90 herein. We find that the conditions and requirements
 3 set forth herein provide for consumer protection, and provide assurance that federal universal service
 4 funds will be used in a manner consistent with universal service goals.

5 * * * * *

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

8 **FINDINGS OF FACT**

- 9 1. WWC-Alltel, a wholly owned subsidiary of Alltel, is a CMRS provider that currently
 10 serves customers in LaPaz, Mohave and Yuma Counties in Arizona.
- 11 2. WWC-Alltel is licensed by the FCC to provide non-wireline service in the northern
 12 portion of Arizona Rural Service Area ("RSA") 1 and Arizona RSA 4.
- 13 3. Section 214(e) of the 1996 Act, and the rules and regulations of the FCC establish
 14 criteria for designation as a federal ETC in Arizona.
- 15 4. On March 26, 2004, pursuant to the 1996 Act and the rules and regulations of the
 16 FCC, WWC-Alltel's predecessor in interest, Western Wireless Corporation, filed with the
 17 Commission an application for designation as an ETC in the wire centers listed on Exhibits A and B,
 18 attached hereto and incorporated herein by reference. Designation as an ETC will enable WWC-
 19 Alltel to apply for and receive federal universal service support from the federal Universal Service
 20 Fund.
- 21 5. WWC-Alltel is currently licensed and provides signal coverage throughout the rural
 22 study areas and non-rural wire centers identified on Exhibit A, and unconditionally requests ETC
 23 designation in those study areas and non-rural wire centers.
- 24 6. WWC-Alltel requests that the Commission conditionally designate WWC-Alltel as an
 25 ETC in the service area of the wire centers described in Exhibit B, subject to approval of the
 26 redefinition by the FCC under 47 C.F.R. § 54.207(c) to effectuate WWC-Alltel's designation.
- 27 7. On August 17, 2004, the Company filed a Request for a Procedural Conference to
 28

1 address the timing and conduct of the proceeding in this docket.

2 8. A Procedural Conference was held as scheduled on September 2, 2004. WWC-Alltel,
3 ALECA, Verizon, and Staff entered appearances through counsel and discussed public notice
4 requirements, time required for discovery, and proposed dates for the filing of a Staff Report as well
5 as for filing comments on the Staff Report.

6 9. A Procedural Order issued September 3, 2004, established public notice requirements
7 which included deadlines for intervention, for requesting a hearing on the application, for the filing of
8 the Staff Report, and for the filing of responses thereto. The Procedural Order also established a
9 deadline of October 29, 2004, for filing any requests for a hearing on the application.

10 10. On September 22, 2004, pursuant to the September 3, 2004, Procedural Order, WWC-
11 Alltel filed a Notice of Filing Affidavit of Mailing and Notice of Filing Affidavit of Publication, and
12 on October 8, 2004, filed a Notice of Filing Supplemental Affidavit of Mailing.

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

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

16 13. On December 28, 2004, ALECA filed its Notice of Filing Decision No. 67403
17 Granting ETC Status to Alltel Communications, Inc.

18 14. On December 30, 2004, Staff filed a Staff Report on the application, recommending
19 approval of WWC-Alltel's application subject to conditions.

20 15. On February 18, 2005, ALECA and WWC-Alltel each filed a response to the
21 December 30, 2004 Staff Report. Both parties requested that the Commission modify the conditions
22 Staff recommended.

23 16. On March 1, 2005, a Procedural Order was issued setting a Procedural Conference for
24 March 10, 2005, to discuss the need for a hearing in this matter. The Procedural Conference was
25 convened as scheduled on March 10, 2005. The Company, ALECA and Staff appeared through
26 counsel. The parties stated that the FCC had recently issued a press release stating that it would soon
27 issue a Report and Order adopting additional requirements to apply to carriers seeking designation as
28 an ETC from the FCC. Staff proposed to review the new FCC ETC Order, ascertain how it applies to

1 this case, and file a supplemental Staff Report within 30 days of the public release of the new FCC
2 ETC Order. The Company and ALECA both agreed with the concept proposed by Staff. The
3 Company, ALECA and Staff all stated a belief that a hearing was not required, although ALECA
4 maintained its right to request a hearing, if after release of the new FCC ETC Order, it found a
5 hearing to be necessary.

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

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

12 19. On April 15, 2005, Staff filed a Supplemental Staff Report on the application,
13 recommending approval subject to revised conditions and reporting requirements. Staff
14 recommended that the Company be required to file a Five Year Plan prior to a hearing or Decision in
15 this matter, and that Staff be allowed to provide a supplemental filing in response to the plan within
16 60 days of its filing.

17 20. On April 22, 2005, a telephonic procedural conference was held for the purpose of
18 allowing the parties to discuss remaining procedural issues associated with this proceeding. The
19 Company, ALECA and Staff appeared through counsel. The Company stated that it wished to have
20 an opportunity to formally respond to legal and practical issues raised in the Supplemental Staff
21 Report. ALECA indicated that it wished to have the opportunity to reply to the Company's response.
22 All parties indicated their continuing belief that a hearing on the application was unnecessary.

23 21. On April 22, 2005, a Procedural Order was issued setting a procedural schedule for the
24 filing of responsive comments to the Supplemental Staff Report, and for the filing of reply comments
25 thereto. The Procedural Order directed that the responsive and reply comments include supporting
26 legal arguments.

27 22. On May 12, 2005, the Company filed a Response to Supplemental Staff Report.

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

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

2 25. Also on May 27, 2005, ALECA filed a Reply to the Company's Response to
3 Supplemental Staff Report, and the Company filed a Reply to ALECA's Response to Supplemental
4 Staff Report.

5 26. On August 23, 2005, the August 23, 2005, ROO was docketed, and was placed on the
6 Commission's Open Meeting Agenda for September 7-8, 2005. At the request of Staff, the August
7 23, 2005, ROO was not considered at a Commission Open Meeting, in order to provide Staff an
8 opportunity to review a complaint proceeding in Colorado concerning the Company's status as an
9 ETC.

10 27. On February 27, 2006, WWC-Alltel filed a Request for Acceptance of Late-Filed
11 Exceptions to the August 23, 2005, ROO.

12 28. On March 15, 2006, ALECA filed a Motion for Thirty Day Extension to File
13 Comments to Request for Acceptance of Late-Filed Exceptions.

14 29. On January 24, 2007, WWC-Alltel filed a Notice of Withdrawal of Exceptions and
15 Request that Recommended Opinion and Order be Heard at Open Meeting.

16 30. On January 26, 2007, Staff filed a Second Supplemental Staff Report in this docket, in
17 which Staff recommends that the Commission adopt eligibility conditions and associated reporting
18 requirements in addition to those appearing in the August 23, 2005, ROO.

19 31. On March 2, 2007, WWC-Alltel filed a Response to the Second Supplemental Staff
20 Report. WWC-Alltel's March 2, 2007, filing requests that an amended Recommended Opinion and
21 Order be issued to incorporate the six additional recommendations appearing in the Second
22 Supplemental Staff Report, and that the amended Recommended Opinion and Order be considered at
23 the April 11-12, 2007, Open Meeting.

24 32. On March 7, 2007, a Procedural Order was issued directing ALECA to file responsive
25 comments, if any, to the January 26, 2007, Second Supplemental Staff Report and to WWC-Alltel's
26 March 2, 2007, filing.

27 33. On March 15, 2007, a telephonic procedural conference was held at the request of
28 ALECA and WWC-Alltel. Counsel for WWC-Alltel and ALECA appeared and requested that the

1 deadline for ALECA's comments be extended. Counsel explained that data responses from WWC-
2 Alltel were outstanding, and that the parties stipulated to a filing date seven calendar days following
3 ALECA's receipt of the data responses.

4 34. On March 16, 2007, a Procedural Order was issued granting WWC-Alltel's and
5 ALECA's request.

6 35. On April 4, 2007, ALECA filed its Comments to the Second Supplemental Staff
7 Report. In the Comments, ALECA raised the issue of an October 30, 2006, complaint filed by an
8 individual against Alltel Communications Inc. before the North Dakota Public Service Commission.

9 36. On April 17, 2007, WWC-Alltel filed Reply Comments of WWC License LLC to
10 ALECA's Comments on the Second Supplemental Staff Report and Request that Recommended
11 Opinion and Order be Heard at May 8, 2007, Open Meeting.

12 37. On May 15, 2007, Staff filed a Third Supplemental Staff Report addressing the issue
13 of the October 30, 2006, North Dakota complaint. Staff stated that should a circumstance such as the
14 North Dakota consumer complaint occur in Arizona, the requirements contained in the August 23,
15 2005, ROO, along with those recommended in the Second Supplemental Staff Report, provide
16 assurance that federal universal service funds will be used in a manner consistent with universal
17 service goals as well as provide for consumer protection. Staff pointed out that the August 23, 2005,
18 ROO included a requirement that the Company annually certify that it is complying with the
19 Commission's rules regarding customer service complaints, and that Staff's additional
20 recommendation six in the Second Supplemental Staff Report also provides an added safeguard, in
21 that it would require WWC-Alltel to report any actions brought against it in any states involving a
22 failure to comply with its ETC obligations. Staff stated that it would thus be made aware of ETC
23 problems that might arise in other jurisdictions, and would investigate WWC-Alltel's Arizona
24 operations if necessary.

25 **Statutory and FCC Requirements for ETC Designation**

26 38. WWC-Alltel's application seeks ETC designation pursuant to Section 214(e)(2) of the
27 1996 Act for purposes of receiving federal universal service support in Arizona.

28

1 39. Section 214(e)(2) of the 1996 Act,⁵ as set forth below, provides State commissions
2 with the primary responsibility for performing ETC designations:

3 (2) Designation of eligible telecommunications carrier

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

16 40. Section 214(e)(1) of the 1996 Act⁶ provides as follows:

17 (e) Provision of universal service

18 (1) Eligible telecommunications carriers

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

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

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

 41. Pursuant to section 254(a)(1) of the 1996 Act⁷ the FCC promulgated regulations
designating the nine services that an ETC must offer in order to receive federal universal service
support as follows:

- 1) Voice grade access to the public switched network;
- 2) Local usage;
- 3) Dual tone multi-frequency ("DTMF") signaling or its functional equivalent;
- 4) Single-party service or its functional equivalent;
- 5) Access to emergency services, including 911 and enhanced 911;

⁵ 47 U.S.C. § 214(e)(2).

⁶ 47 U.S.C. § 214(e)(1).

⁷ 47 U.S.C. § 254.

- 1 6) Access to operator services;
 2 7) Access to interexchange services;
 3 8) Access to directory assistance; and
 4 9) Toll limitation for qualifying low-income consumers.⁸

5 42. FCC regulations further require that in order to be designated as an ETC, a carrier
 6 must also offer Lifeline and Link Up services to all qualifying low-income consumers within its
 7 service area.⁹ Lifeline service provides basic telephone service with discounts on monthly
 8 telecommunications charges. Link Up service provides financial assistance to help cover the
 9 installation charges for telecommunications service. FCC regulations require an ETC to publicize the
 10 availability of Lifeline and Link Up support in a manner reasonably designed to reach those likely to
 11 qualify for the services.¹⁰

12 43. With its *ETC Minimum Requirements Report and Order*, the FCC adopted, consistent
 13 with the recommendations of the Federal-State Joint Board on Universal Service, additional
 14 mandatory requirements for ETC designation proceedings in which the FCC acts pursuant to section
 15 214(e)(6) of the Act.¹¹ The *Report and Order* adopted the recommendation of the Joint Board, to
 16 encourage states such as Arizona that exercise jurisdiction over ETC designations pursuant to section
 17 214(e)(2) of the Act to adopt the requirements of the *Report and Order* when deciding whether a
 18 common carrier such as WWC-Alltel should be designated as an ETC.¹² The *Report and Order*
 19 includes the FCC's public interest analysis,¹³ and encourages State commissions to require ETC
 20 applicants to meet the same conditions and to conduct the same public interest analysis the FCC
 21 requires.¹⁴ The *Report and Order* states that the FCC's permissive guidelines for state ETC
 22 designation proceedings are designed to ensure designation of carriers that are financially viable,
 23

24 _____
 25 ⁸ 47 C.F.R. § 54.101.

26 ⁹ 47 C.F.R. §§ 54.401, 54.405 and 54.411(a).

27 ¹⁰ 47 C.F.R. §§ 54.405(b) and 54.411(3)(d).

28 ¹¹ 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. WWC-Alltel is subject to the jurisdiction of this Commission.

¹² *ETC Minimum Requirements Report and Order*, para 19.

¹³ *Id.*, para 40-57.

1 likely to remain in the market, willing and able to provide the supported services throughout the
 2 designated service area, and able to provide consumers an evolving level of universal service.¹⁵ The
 3 FCC further states in the *Report and Order* that a set of guidelines allows for a more predictable
 4 process among the states, and that its guidelines will improve the long-term sustainability of the
 5 universal service fund, because under its guidelines, only fully qualified carriers that are capable of
 6 and committed to providing universal service will be able to receive support.¹⁶

7
 8 44. In addition to implementing additional requirements for new applicants for ETC
 9 designation, the *ETC Minimum Requirements Report and Order* makes new reporting requirements
 10 applicable on a prospective basis to all ETCs previously designated by the FCC, and requires those
 11 ETCs to submit evidence demonstrating how they comply with the new ETC designation framework
 12 by October 1, 2006, at the same time they submit their annual certification filing.¹⁷ The *Report and*
 13 *Order* further states that the FCC does not believe that different ETCs should be subject to different
 14 obligations associated with receiving universal service support because of when they happened to
 15 first obtain ETC designation.¹⁸ On that basis the FCC encourages State commissions to apply the
 16 new reporting requirements to all ETC applicants over which they exercise jurisdiction, regardless of
 17 the date of initial ETC designation.¹⁹

18
 19 45. The additional requirements for FCC designation of ETCs that the FCC adopted in the
 20 *Minimum Requirements Report and Order* include the following:

21 **§ 54.202 Additional Requirements for [Federal Communications] Commission**
 22 **designation of eligible telecommunications carriers.**

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

26 ¹⁴ *Id.*, para 19, 58-62.

¹⁵ *Id.*, para 60.

¹⁶ *Id.*, para 58.

¹⁷ *Id.*, para 68-72.

¹⁸ *Id.*, para 20.

¹⁹ *Id.*, para 71-72.

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

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

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

(b) Any common carrier that has been designated under Section 214(e)(6) as an eligible
telecommunications carrier or that has submitted its application for designation under section

1 214(e)(6) before the effective date of [these new rules adopted by the FCC] must submit the
 2 information required by paragraph (a) of this section no later than October 1, 2006, as part of
 its annual reporting requirements under section 54.209.

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

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

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

18 **§ 54.209 Annual reporting requirements for designated eligible telecommunications
 carriers.**

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

- 21 (1) a progress report on its five-year service quality improvement plan, including maps
 22 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,
 23 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
 24 level;
- 25 (2) detailed information on any outage, as that term is defined in 47 C.F.R § 4.5, of at
 26 least 30 minutes in duration for each service area in which an eligible
 telecommunications carrier is designated for any facilities it owns, operates, leases, or
 27 otherwise utilizes that potentially affect (a) at least ten percent of the end users served

28 ²⁰ See *ETC Minimum Requirements Report and Order, Appendix A, amending Part 54 of Title 47 of the Code of Federal
 Regulations.*

1 in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. §
 2 4.5(e). Specifically, the eligible telecommunications carrier's annual report must
 3 include information detailing: (a) the date and time of onset of outage; (b) a brief
 4 description of the outage and its resolution; (c) the particular services affected; (d) the
 5 geographic areas affected by the outage; (e) steps taken to prevent a similar situation
 6 in the future; and (f) the number of customers affected;

- 7 (3) the number of requests for service from potential customers within the eligible
 8 telecommunications carrier's service areas that were unfulfilled during the past year.
 9 The carrier shall also detail how it attempted to provide service to those potential
 10 customers, as set forth in § 54.202(a)(1)(A);
- 11 (4) the number of complaints per 1,000 handsets or lines;
- 12 (5) certification that it is complying with applicable service quality standards and
 13 consumer protection rules;
- 14 (6) certification that the carrier is able to function in emergency situations as set forth in
 15 §54.201(a)(2);
- 16 (7) certification that the carrier is offering a local usage plan comparable to that offered by
 17 the incumbent LEC in the relevant service areas; and
- 18 (8) certification that the carrier acknowledges that the [Federal Communications]
 19 Commission may require it to provide equal access to long distance carriers in the
 20 event that no other eligible telecommunications carrier is providing equal access
 21 within the service area.²¹

22 **Staff's Initial Recommendations**

23 47. In its initial Staff Report, which was issued prior to the *ETC Minimum Requirements*
 24 *Report and Order*, Staff recommended approval of the Company's application subject to the
 25 following ten conditions:

- 26 1) The Company shall docket an informational tariff with the Commission, setting forth the
 27 rates, terms and conditions for its general services (including, but not limited to, its Life
 28 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
 in this matter. On an ongoing basis the Company shall comply with A.R.S. § 40-367 in
 amending its tariffs.

²¹ See *id.*

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

- 1 7) The Company shall be required to utilize all federal high-cost support for its rural ETC
 2 service area within the State of Arizona. The Company shall docket an affidavit
 3 confirming that all federal high-cost support for its Arizona exchanges will only be used
 4 for the provision, maintenance, and upgrading of facilities and services for which the
 5 support is intended, consistent with Section 254(e) of the 1996 Act. This Affidavit shall
 6 reflect the calendar year and be due by April 1 of each year following ETC approval,
 7 beginning with April 1, 2006.
- 8 8) The Company shall maintain and retain auditable records of all expenditures of universal
 9 service funds received as a result of the ETC designation granted herein, and shall be
 10 required to submit to an audit of its expenditures of its universal service funds upon a
 11 request by Commission Staff.
- 12 9) The Company shall docket a plan that details proposed projects to be supported by the
 13 federal Universal Fund within ninety (90) days after an Order in this matter.
- 14 10) The Company shall be required to docket an annual filing detailing how it is utilizing its
 15 federal high-cost support for its Arizona exchanges, service quality performance data, and
 16 consumer complaint data. This annual filing should reflect the calendar year and should
 17 be due by April 1 of the first four years following ETC approval, beginning with April 1,
 18 2006, and ending on April 1, 2009.

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

- 23 1) Demonstrate a commitment and ability to provide supported services throughout the
 24 ETC service area and provide a Five Year Plan.
- 25 a. File with the Compliance Section of the Utilities Division an Initial formal Five Year
 26 Plan that shows for each wire center within the designated ETC service area:
- 27 i. Planned improvements in signal quality, coverage, or capacity;
- 28 ii. Projected start date and completion date and investment amount for each

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

- 1 a. File with the Compliance Section of the Utilities Division an Annual Certification that
2 the Company is able to function in emergency situations.
- 3 5) Demonstrate a commitment to meeting Service Quality Standards.
- 4 a. File with the Compliance Section of the Utilities Division an Annual report of
5 unfulfilled requests for service from potential customers within the ETC service area,
6 how the Company attempted to provide service, and why it was unsuccessful.
- 7 b. File with the Compliance Section of the Utilities Division Information on any outage
8 lasting at least 30 minutes in any part of the ETC service area including:
- 9 i. The date and time of onset of the outage;
- 10 ii. A brief description of the outage and its resolution;
- 11 iii. The particular services affected;
- 12 iv. The geographic areas affected;
- 13 v. Steps taken to prevent a similar situation in the future; and
- 14 vi. The number of customers affected.
- 15 6) Demonstrate a commitment to meeting consumer protection standards and compliance
16 with Arizona Corporation Commission Customer Service Rules including R14-0-503
17 – Establishment of Service; R14-2-504 – Minimum Customer Information
18 Requirements; R14-2-505.A – Service Connection and Establishment; R14-2-507.A,
19 C and D – Provision of Service; R14-2-508 – Billing and Collection; R14-2-509
20 excluding A(2) – Termination of Service; R14-2-510 – Customer Complaints.
- 21 a. File with the Compliance Section of the Utilities Division an Annual Certification that
22 the Company is in compliance with CTIA Consumer Code for Wireless Service.
- 23 b. File with the Compliance Section of the Utilities Division an Annual Certification that
24 the Company is providing accurate coverage area maps to potential customers
25 consistent with CTIA Consumer Code.
- 26 c. File with the Compliance Section of the Utilities Division an Annual Report
27 documenting the number of consumer complaints per 1,000 handsets/lines.
- 28 d. Include Arizona Corporation Commission contact information on customers' bills.

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

26 49. The Supplemental Staff Report further recommends that the Company be required to
27 file the Five Year Plan described in its Condition No. 1.a above prior to a hearing or Decision in this
28 matter, and states that within 60 days following the filing of the plan, Staff will provide a

1 supplemental filing in response to the plan.

2 50. The Supplemental Staff Report states that subject to filing its Five Year Plan, WWC-
3 Alltel has met the eligibility requirements set forth in Findings of Fact No. 48 above. Staff
4 recommended that upon Staff's review and supplemental filing in response to the Company's Five
5 Year Plan, this Commission grant the Company's application for ETC designation for its requested
6 non-rural and rural service areas consisting of the study areas of Rio Virgin Telephone Co. Inc. and
7 Southwestern Telephone Co., five of the six wire centers served by Verizon California, Inc., and
8 those wire centers within Arizona RSA No. 4 served by Qwest Corporation.

9 51. The Supplemental Staff Report recommends that this Commission require the
10 Company to file a consolidated annual filing with the Compliance Section of the Utilities Division in
11 fulfillment of Staff's recommended reporting requirements described above.

12 52. The Supplemental Staff Report further recommends that this Commission grant the
13 Company's request to redefine the service territory of Verizon California, Inc. from the study area to
14 the wire center level.

15 **ALECA's Response to Staff's Recommendations and Reply to the Company's Response**

16 53. ALECA stated that it supports the recommendations contained in the Supplemental
17 Staff Report. ALECA believes that the recommendations are necessary to ensure that WWC-Alltel
18 meets all of its duties as an ETC, and that Staff's recommendations are consistent with the FCC's
19 recent pronouncements in the *ETC Minimum Requirements Report and Order*. ALECA also urged
20 that several recommendations appearing in the original Staff Report be adopted in addition to the
21 recommendations in the Supplemental Staff Report, as discussed below.

22 54. ALECA supported Staff's recommendation in the Supplemental Staff Report that the
23 Company be required to file a Five Year Plan as a precondition to designation as an ETC, and
24 recommended that the Company's request for elimination of this requirement be denied. ALECA
25 argued that adoption of the requirement that an applicant submit a Five Year Plan as a precondition to
26 designation as an ETC will ensure that telecommunications infrastructure is constructed and
27 expanded in rural Arizona. ALECA also pointed out that if designated an ETC, the Company will
28 become eligible to receive millions of dollars in federal high cost support, and that with this benefit

1 comes the obligation to deploy federal support in a way that furthers the policy of universal
2 telecommunications service. ALECA posited that submittal of the Five Year Plan prior to ETC
3 designation is necessary to ensure that the Company actually complies with the Five Year Plan
4 requirement. In support of Staff's recommendation that the Five Year Plan be filed prior to the
5 Company's designation, ALECA stated that while pending federal ETC applicants may not be
6 required to submit a Five Year Plan until 2006, there was nothing that prohibited this Commission
7 from adopting the Five Year Plan requirement effective immediately in this docket.

8 55. ALECA noted that Staff's recommendation does not require the Five Year Plan to be
9 docketed, and requested that the Company's initial Five Year Plan be made available to it at the same
10 time it is provided to Staff, so that ALECA may file comments on the plan prior to a hearing or
11 Decision in this docket.

12 56. ALECA stated that it believes that this Decision should include specific language
13 restricting the Company's use of federal high-cost support from its rural ETC service area in Arizona
14 to the deployment of telecommunications infrastructure in rural Arizona, and that such a restriction
15 should continue as long as the Company is receiving high-cost support.

16 57. ALECA stated a belief that the filing of additional network improvement plans beyond
17 the Five Year Plan proposed by Staff would be valuable to the Commission in assessing the
18 Company's compliance with ALECA's proposed requirement that federal high-cost support from the
19 Company's rural ETC service area be used in rural Arizona, and recommended that if the Company is
20 required to file successive Five Year Plans following the initial plan, Staff's proposed annual
21 reporting requirement should continue as long as the successive Five Year Plans are in place.

22 58. ALECA expressed concern that the Cellular Telecom and Internet Association's
23 Consumer Code for Wireless Service ("CTIA Code") lacks a mechanism to address and resolve
24 consumer complaints. ALECA recommended that in addition to requiring the Company to comply
25 with the CTIA Code, any Order approving the Company's request for ETC designation adopt Staff's
26 Recommendation No. 6 in the original Staff Report, which reads as follows:

27 6. The Company shall submit any consumer complaints that may arise
28 from its ETC service offerings to the Commission's Customer Services

1 Division, provide a regulatory contact, and comply with the provisions of the
 2 Commission's customer service rules, including establishment of service,
 3 minimum customer information requirements, service connection and
 4 establishment, provision of service, billing and collection, and termination of
 service. The Company shall include the Commission's Consumer Service
 Division's telephone number on all bills issued to customers in its ETC
 service area.

5 59. ALECA stated that while the Supplemental Staff Report recommended that the
 6 Company be required to file annual outage reports and annual reports of unfulfilled requests for
 7 service, that the Staff recommendation stops short of the requirement set forth in paragraph 22 of the
 8 *ETC Minimum Requirements Report and Order*. ALECA urged that this Decision adopt the
 9 requirements referenced at paragraph 22 of the *ETC Minimum Requirements Report and Order*.

10 **The Company's Response to Staff's Recommendations and Reply to ALECA's Response**

11 60. In its Response to the Supplemental Staff Report, the Company stated that with one
 12 exception, it would accept Staff's recommended conditions. The Company objected to Staff's
 13 recommendation requiring the Company to file a Five Year Plan Five Year Plan modeled after the
 14 five-year plan required in the *ETC Minimum Requirements Report and Order* prior to a Decision or
 15 hearing on its application. The Company proposed instead that the Commission adopt one of two
 16 alternative compliance conditions the Company recommends. The Company advanced the following
 17 legal arguments in support of its objection. First, the Company asserted that adoption of Staff's
 18 condition as is would violate the universal service principle of competitive and technological
 19 neutrality set forth in the FCC's 1997 Universal Service Order²² because the Company would be the
 20 only ETC in Arizona required to submit a Five Year Plan and subsequent annual progress reports,
 21 causing it a competitive disadvantage. Second, the Company argued that this Commission's ability
 22 to impose requirements on ETCs is limited to the adoption of formal regulations. Third, the
 23 Company asserted that denial of WWC-Alltel's application due to its failure to file a Five Year Plan
 24 prior to a Decision or hearing would prevent it from providing telecommunications services as an
 25 ETC, in violation of 47 U.S.C. § 253(a).²³ The Company also argued that in the event the FCC's
 26

27 ²² *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).

28 ²³ 47 U.S.C. § 253 provides as follows:

1 five-year plan requirement adopted by its *ETC Minimum Requirements Report and Order* is modified
 2 as a result of requests for reconsideration, modification, or clarification that the Company expects to
 3 be filed, this Commission would have processed the instant application based on standards never
 4 enforced at the federal level.

5 61. The Company stated that it supports the goal that the proposed Five Year Plan
 6 requirement is intended to achieve, which it described as giving this Commission the opportunity to
 7 ensure that federal universal service support received in Arizona is used for the provision,
 8 maintenance and upgrading of facilities and services for which the support is intended, as required by
 9 47 U.S.C. § 254(e). The Company claimed, however, that Staff's recommendation was an onerous
 10 requirement with which the Company was unable to comply, and that the requirement was unlikely to
 11 be an effective means of ensuring compliance with the requirements of 47 U.S.C. § 254(e) because
 12 any Five Year Plan in a dynamic, competitive market would by necessity be very general and would
 13 be modified substantially each year to account for changes in technology, business conditions, and
 14 universal service funding. The Company posited that the proposed plan's predictive value to Staff
 15 and the Commission for years beyond 2006 might be minimal; that it was not clear what Staff would
 16 do with projected plans for 2007-2010; and that in the event Staff questioned a proposed expenditure
 17 under a plan, it would not be efficient to litigate over speculative proposed investments projected two
 18 to five years into the future.

19 62. The Company stated that It could not comply with Staff's Five Year Plan
 20 recommendation because it did not at that time plan investment, buildout, and network projects five
 21 years into the future, and that it could not do so with any degree of confidence, because wireless
 22 technology was changing rapidly and it was nearly impossible to predict the next technology that
 23 would best deliver that which consumers will demand; and that because the business and investment
 24 climate was uncertain, no company could know how much and what source of capital will be

25 (a) No State or local statute or regulation, or other State or local legal requirement, may prohibit or have
 26 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
 28 consistent with section 254 of this title, requirements necessary to preserve and advance universal service,
 protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard
 the rights of consumers.

1 available for investment three, four, or five years in the future. The Company stated that uncertainty
2 also existed over how federal universal service funding would be calculated and distributed over the
3 long run, and how much any particular carrier would receive.

4 63. The Company stated, as an additional reason that it could not comply with Staff's Five
5 Year Plan recommendation, that carriers designated at the federal level had until October 2006 to
6 conduct their analysis and develop their Five Year Plan, such that there was not yet any industry
7 standard or FCC-endorsed plan in existence upon which the Company could model a Five Year Plan
8 for Arizona.

9 64. The Company stated that it "could develop a methodology and process for projecting
10 possible network improvements five years out, but that doing so would be a significant company
11 undertaking that will require a great deal of thought, analysis and input from various parts of the
12 Company." The Company further stated that "such a projection would be a guess as to what might
13 take place that far in the future and will not drive the actual planning that the company will have to
14 do for years three, four and five of the plan."

15 65. The Company stated that it could not comply with Staff's proposed requirement to
16 submit plans on a wire center basis because it did not track capital investment, coverage or demand
17 on a wire center basis and therefore could not provide project and budget information on a wire
18 center level. The Company stated that organizing and tracking capital investment, coverage, network
19 planning and customer demographics by wire center would require a reconfiguration of the
20 Company's business and accounting practices. The Company conceded that it might be required to
21 develop such a reconfiguration for 2006 federal reporting, but stated that it was not positioned to do
22 that at that time for Arizona.

23 66. The Company proposed in place of Staff's Five Year Plan recommendation two
24 alternative compliance conditions, and stated that the alternatives were intended to provide
25 information showing how the Company would spend universal service funds in the future and its
26 progress in extending its network in the requested ETC designation area.

27 67. The Company's first alternative proposal was for this Commission to adopt the
28 following post-designation requirements:

- 1 a. Within 90 days of designation, the Company would file its list of 2005
2 proposed projects supported by universal service funds;
- 3 b. Each year by April 1, the Company would make a filing showing how support
4 had been used; and
- 5 c. The Company would maintain records and be subject to audit by Commission
6 Staff regarding its use of funds.

7 68. The Company stated that the above proposed post-designation requirements were
8 based on Staff's recommendations in the Staff Report it issued prior to the FCC's *ETC Minimum*
9 *Requirements Report and Order*. The Company stated that the above proposal could be made
10 stronger by requiring that the Company's annual April 1 filing showing how federal universal service
11 support had been used in the prior year also include a projection for use of the federal funding for that
12 calendar year.

13 69. The Company's second alternative proposal was that in lieu of requiring submission of
14 Staff's proposed Five Year Plan prior to a Decision or hearing, the Company be allowed to file a Five
15 Year Plan by October 1, 2006.

16 70. The Company requested a clarification of the Condition No. 6 Staff recommended in
17 the Supplemental Staff Report. The Company stated that it believed that the word "including" as it
18 appears in this condition created unnecessary uncertainty about whether other Customer Service
19 Rules exist with which it must comply, and requested that the word be deleted from Condition No. 6.

20 71. The Company also responded to ALECA's suggested changes to the conditions Staff
21 recommended in the Supplemental Staff Report. Regarding ALECA's recommendation to add
22 language to Staff's Five Year Plan proposal that would restrict the Company's use of federal high-
23 cost support from its rural ETC service area in Arizona to the deployment of telecommunications
24 infrastructure in rural Arizona for as long as it receives such support, the Company argued that such
25 language could cause confusion because 1) the Company seeks ETC designation in both non-rural
26 and rural study areas and wire centers; and 2) because the term "deployment" is imprecise, and
27 section 254(e) allows universal service support to be used not just for deployment of
28 telecommunications infrastructure, but for the "provision, maintenance and upgrading of facilities

1 and services.” WWC-Alltel also responded that its use of federal high-cost support would remain
2 limited to the provision, maintenance and upgrading of facilities and services by section 254(e)
3 indefinitely into the future, such that any further time restriction was unnecessary. The Company
4 additionally responded that if ALECA’s intent with the term “deployment of telecommunications
5 infrastructure” was to limit its use of high-cost support to the buildout of new facilities, that this
6 would violate the universal service principle of competitive and technological neutrality, because it
7 would restrict the Company’s use of support as compared to other carriers, especially wireline
8 carriers.

9 72. In response to ALECA’s statement that the filing of additional annual network
10 improvement plans beyond the Five Year Plan period proposed by Staff would be valuable to this
11 Commission, the Company asserted that it would be premature to determine compliance requirements
12 that would not be relevant until 2010.

13 73. Regarding ALECA’s proposal that the Company be required to submit consumer
14 complaints to this Commission, the Company responded that it did not specifically oppose this
15 recommendation, but that its adoption was unnecessary for the following reasons: the competitive
16 nature of the wireless industry provided a strong incentive for the Company to provide prompt and
17 complete responses to customer complaints; Staff’s proposed Condition No. 6 already required the
18 Company to comply with A.A.C. R14-2-510, which sets forth detailed provisions governing
19 investigations and responses to consumer complaints and billing disputes; the FCC had stated that for
20 a wireless ETC, a commitment to comply with the CTIA Consumer Code for Wireless Service
21 constituted a sufficient commitment to consumer protection and service quality,²⁴ and the Company
22 would be required to submit to this Commission an annual certification of its compliance to the CTIA
23 Code.

24 74. The Company stated that it would be unnecessary for the Commission to adopt
25 ALECA’s recommendation that the service extension requirements set forth in paragraph 22 of the
26 *ETC Minimum Requirements Report and Order* because the Company had already specifically
27

28 ²⁴ The Company cited to paragraph 28 of the *ETC Minimum Requirements Report and Order*.

1 committed to nearly identical service extension requirements, but that it did not object to the
2 incorporation of those service extension standards into a Commission Order.

3 **Staff's Reply to ALECA and the Company's Responses**

4 75. In its Reply, Staff continued to recommend that ETC status not be granted to the
5 Company until Staff had the opportunity to review the Company's Five Year Plan. Staff argued that
6 if ETC designation were granted to the Company, it would expect to qualify for and receive federal
7 universal service funds for years to come, and that because the Company would be required by 47
8 U.S.C. § 254(e) to utilize support it would receive in the future for the provision, maintenance, and
9 upgrading of facilities and services for which support was intended, it would be reasonable to assume
10 that the Company had some idea of how it would comply. Staff asserted that it is appropriate for this
11 Commission to require the Company to file the Five Year Plan in order to demonstrate how universal
12 service funds would be used to improve coverage, signal strength or capacity that would not
13 otherwise occur absent the receipt of high-cost support prior to granting the Company an ETC
14 designation in Arizona.

15 76. In response to the Company's objections that it could not comply with Staff's
16 recommended Five Year Plan requirement, Staff expressed that it understood that the Company
17 might not at that time have had detailed plans in place for network expansion and improvement in
18 Arizona that extended five years into the future; that the level of certainty and detail in the proposed
19 Five Year Plan would decline with each successive year; that projected expenditures for years three,
20 four and five would not be as specific as those for earlier years and were subject to change; and that
21 plans for year five are likely to be based on projections. Staff pointed out, however, that the annual
22 progress reports Staff was also recommending would allow the Company to notify the Commission
23 of deviations from its current-year plans and to update its future-year plans.

24 77. In response to the Company's concern that the Five Year Plan must be based on a wire
25 center level, Staff stated that given the relatively small number of cell sites present in the requested
26 ETC service area, the Company should be able to correlate the coverage area of a cell site to the
27 ILEC wire center(s), and pointed out that the Company was fully capable of providing information on
28 a wire center level in its request for redefinition of Verizon's service territory.

1 78. In response to the Company's contention that the FCC's five-year plan requirement
2 adopted by its *ETC Minimum Requirements Report and Order* might be modified as a result of
3 requests for reconsideration, modification, or clarification that the Company expected to be made,
4 Staff responded that the Commission's Decision in this docket is independent of the FCC's
5 rulemaking, and continued to recommend that the Company be required to comply with Staff's
6 proposed Five Year Plan requirement regardless of any further action by the FCC.

7 79. Staff argued that requiring the Five Year Plan to be filed prior to a hearing or Decision
8 would not put the Company at a competitive disadvantage, because ETC status in itself would give
9 the Company an advantage in the form of a substantial government subsidy over its competitors who
10 are not designated as ETCs. Staff further argued that wireless ETCs are not subject to the sort of in-
11 depth regulatory review to which wireline ILECs designated as ETCs are subject, such as rate cases.
12 Staff believed that wireless ETCs ought to be subject to some sort of monitoring given the substantial
13 public funds they will receive, and that Staff's recommended Five Year Plan condition would serve
14 this purpose by requiring the Company to explain how it intends to spend public money.

15 80. Staff disagreed with the Company's claim that Staff's recommended Five Year Plan
16 requirement could be imposed only with adoption of a rule applicable to all ETCs. Staff asserted that
17 this Commission has broad discretion under fundamental administrative law principles to choose
18 between rulemaking and case-by-case adjudication.²⁵ Staff stated that the difficult public interest
19 issues raised by ETC cases suggest that an individually tailored, case-by-case approach is
20 appropriate.

21 81. Staff stated that the Company's argument that Staff's Five Year Plan recommendation
22 would bar it from entering the market was without merit because the Company had long served the
23 markets in question without federal universal service funding. Staff argued that its proposed f Five
24 Year Plan an requirement did not constitute a barrier to entry, because imposition of this condition

25 _____
26 ²⁵ Staff cited *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 noted that the Company voluntarily waived its right to a hearing in this case.

1 would not require the Company to actually build expensive facilities prior to applying for support,
2 but would require only that the Company submit a plan explaining how it intends to spend the
3 substantial subsidy it would receive. Staff further argued that even if its proposed Five Year Plan
4 condition did pose a barrier to entry, it would be acceptable under 47 U.S.C. § 253(b)²⁶ because the
5 condition is necessary in order to ensure that the public's funds are spent by the ETC to expand or
6 preserve wide access to phone services, rather than simply providing a windfall to the recipient ETC.

7 82. In response to the Company's request for clarification regarding the scope of Staff's
8 recommended Condition No. 6, Staff recommended that the word "including" be deleted from its
9 recommended Condition No. 6 in order to clarify that Staff meant the list of Customer Service Rules
10 presented in Condition No. 6 to be an exhaustive list of applicable Customer Service Rules with
11 which the Company must comply.

12 83. In response to ALECA's recommendation that Staff's recommended Condition No. 6
13 be replaced by language from Staff's recommendations in the original Staff Report, Staff stated that it
14 believed the revised Condition No. 6 appearing in the Supplemental Staff Report provides ample
15 opportunity for consumers and the Commission to address any deficiencies in service and billing that
16 might arise in the Company's designated ETC area.

17 84. In response to ALECA's proposal that this Decision adopt language from paragraph
18 22 of the *ETC Minimum Requirements Report and Order* (regarding the provision of service within a
19 reasonable time at a reasonable cost within the ETC designation area), Staff stated that it agreed with
20 the intent of the proposed language but believed it was not necessary in light of Staff's recommended
21 Condition 1.b (filing of annual progress reports on network improvements) and 47 U.S.C. § 254(e)
22 (requires a carrier receiving universal service support to use that support "only for the provision,
23 maintenance, and upgrading of facilities and services for which the support is intended"). Staff stated
24 that the annual reporting of all unfulfilled requests for service, which is included in Staff's proposed
25 Condition No. 5.a, is the most effective tool to address any potential concerns with respect to the
26 Company's obligation to serve its designated ETC area.

27
28 ²⁶ See footnote 22 above.

1 85. Staff also responded to ALECA's request that the Five Year Plan be made available to
2 ALECA for comment, and to ALECA's requests for clarification regarding whether Staff's proposal
3 contemplated the filing of additional Five Year Plans beyond the initial Five Year Plan Staff
4 recommended and how long the annual network improvement plan progress reports would be
5 required to be filed pursuant to Staff's recommended Condition No. 1.b. Staff stated that much of the
6 detailed and sensitive information about the Company's network, facilities, customers and investment
7 decisions that would be included in the Five Year Plan should be provided pursuant to the protective
8 agreement between the parties to this docket. Staff stated that it intended by its recommendations
9 that the Company be required to file one Five Year Plan with five annual progress reports that
10 describe the Company's progress towards meeting its five-year improvement goals, and clarified that
11 the word "initial" was used to indicate the timing of the filing, which Staff recommended should
12 occur prior to the Company's ETC designation.

13 86. In its January 24, 2007, Notice of Withdrawal of Exceptions by WWC License and
14 Request that Recommended Opinion and Order be Heard at Open Meeting, the Company stated that
15 while it had objected to certain of the conditions for approval recommended by Staff and adopted by
16 the August 23, 2005, ROO, it currently more fully understands the conditions outlined in the ROO
17 and has resolved its concerns. The Company also stated that Alltel's acquisition of Western Wireless
18 Corporation resulted in an integration of those companies' network and business operations, and that
19 the Company has improved certain internal operations that make it better able to implement and
20 adhere to the reporting requirements established by the FCC and in the August 23, 2005, ROO's
21 conditions of approval. WWC-Alltel further stated that it strongly desires to work cooperatively with
22 the Commission and Staff as an ETC in full compliance in Arizona, and commits to delivering the
23 required services of an ETC and will abide by the conditions set forth in the August 23, 2005, ROO.

24 **Staff's Second Supplemental Staff Report Recommendations**

25 87. In its Second Supplemental Staff Report filed on January 26, 2007, Staff described the
26 complaint filed by the Colorado Telecommunications Association ("CTA") against Western Wireless
27 Holding Company, Inc. ("WWHC") on September 17, 2004. Intervenors in that proceeding included
28 the Colorado Office of Consumer Counsel and Staff of the Colorado Public Utilities Commission.

1 The CTA alleged that WWHC failed to offer and advertise a Basic Universal Service Plan for \$14.99
2 as it had committed to do. The Colorado Public Utilities Commission found that WWHC failed to
3 offer or advertise the Basic Universal Service Plan product until the commencement of the hearing on
4 the complaint (Decision No. C05-1378 of the Colorado Public Utilities Commission, October 5,
5 2005, para. 43).

6 88. Staff states in the Second Supplemental Staff Report that based on its concerns with
7 the issues raised in the Colorado proceeding, it believes that granting the Company ETC status would
8 be in the public interest only if this Commission imposes additional safeguards. Staff states that it
9 designed the additional safeguards, set forth below, to ensure that what happened in Colorado does
10 not occur in Arizona. Staff states that these safeguards, together with the requirements set forth in the
11 August 23, 2005, ROO, should prevent any incidents similar to those found to have occurred in
12 Colorado from occurring in Arizona. In addition to the recommended requirements contained in the
13 August 23, 2005, ROO, Staff recommended adoption of the following additional requirements:

- 14 1) The Company be required to post within each of its retail outlets, prior to receipt
15 of any federal universal service funds and ongoing thereafter, signage which
16 informs prospective customers of the availability of the Comparable Local Usage
Plan and the rates for the Plan;
- 17 2) The Company be required, no later than January 31st of each year (beginning in
18 2008 and ending in 2010), to file with Docket Control as a compliance item in this
19 docket, a sampling of its Arizona Lifeline advertisements for the prior year. Such
20 advertisements shall include information on the availability and price of the
Comparable Local Usage Plan;
- 21 3) The Company be required to take measures to ensure adequate ongoing training of
22 retail personnel with respect to Arizona Lifeline offerings;
- 23 4) The Company be required to file a report with Docket Control as a compliance
24 item in this docket, no later than January 31st of each year (beginning in 2008 and
25 ending in 2010), a report indicating monthly subscription rates for the Comparable
Local Service Plan for the prior year;
- 26 5) The Company be required to file with Docket Control as a compliance item in this
27 docket, no later than January 31st of each year, an affidavit signed by an officer of
the Company indicating full compliance with recommendations 1 and 3 above for
the prior year; and
- 28 6) The Company be required to a) report any actions brought against it in any states

1 involving failure to comply with its ETC obligations, and b) report on the ultimate
2 resolution reached by the FCC on the Colorado docket.

3 89. Staff recommended that the parties be allowed an opportunity to comment on Staff's
4 Second Supplemental Report and request a hearing, if so desired, and that Staff have the opportunity
5 to file reply comments. Staff requested that if no hearing is requested, Staff's additional
6 recommended requirements be incorporated into the August 25, 2005, ROO and that the modified
7 Recommended Opinion and Order be considered by the Commission.

8 **WWC-Alltel and ALECA's Response to Staff's Second Supplemental Staff Report**
9 **Recommendations**

10 90. On March 2, 2007, in its Response to the Second Supplemental Staff Report, WWC-
11 Alltel stated that it is willing to abide by the conditions set forth in the August 23, 2005, ROO, and
12 also by the six additional recommendations of Staff in the Second Supplemental Staff Report.
13 WWC-Alltel requested that an amended Recommended Opinion and Order be issued to incorporate
14 the six additional recommendations appearing in the Second Supplemental Staff Report, and that the
15 amended Recommended Opinion and Order be considered at an Open Meeting of the Commission.

16 91. On April 4, 2007, ALECA filed its Comments to the Second Supplemental Staff
17 Report, in which it raised the issue of an October 30, 2006, complaint filed by an individual against
18 Alltel Communications Inc. before the North Dakota Public Service Commission. ALECA
19 recommended that Staff evaluate the complaint proceeding, then determine whether any of the
20 recommendations in the Second Supplemental Staff Report require revision.

21 92. On April 17, 2007, WWC-Alltel filed its Reply Comments of WWC License LLC to
22 ALECA's Comments on the Second Supplemental Staff Report and Request that Recommended
23 Opinion and Order be Heard at May 8, 2007 Open Meeting. WWC-Alltel stated that the North
24 Dakota complainant, who is one of 157,000 customers to whom Alltel provides ETC service in North
25 Dakota, is able to make and receive calls from his residence, but is not able to take advantage of some
26 of the more advanced digital services and products that Alltel offers in other places within North
27 Dakota. WWC-Alltel further stated that Alltel is committed to expanding and improving its network,
28 that it recently announced the activation of 15 new cell sites in North Dakota, and that it expects to

1 activate another 20 sites before the end of the year. WWC-Alltel stated that the rapid expansion of its
2 network is made possible, in part, by federal universal service fund support.

3 93. On May 8, 2007, ALECA filed Supplemental Comments to the Second Supplemental
4 Staff Report. ALECA stated therein that on April 26, 2007, the Federal-State Joint Board on
5 Universal Service issued a Recommended Decision (released on May 1, 2007) which includes a
6 recommendation that the FCC impose an interim emergency cap on the amount of high-cost support
7 that competitive ETCs may receive from the High Cost Universal Service Fund for each state based
8 on the average level of competitive ETC support distributed in that state in 2006.²⁷

9 94. A Procedural Conference was convened on May 21, 2007. Counsel for WWC-Alltel,
10 ALECA and Staff appeared.

11 95. At the May 21, 2007, Procedural Conference, counsel for ALECA asserted that it
12 would be appropriate to delay this proceeding to "see where the FCC goes" with the Federal-State
13 Joint Board on Universal Service Recommended Decision; that Staff "should issue yet another
14 supplemental Staff report that addresses this issue" and that Staff should also examine whether there
15 is any impact of an upcoming private equity acquisition of Alltel on the ETC designation. ALECA
16 reiterated its concern with the pending North Dakota complaint proceeding. ALECA also stated its
17 belief that current ETC designees in Arizona, who are not parties to this proceeding, and who
18 probably have constructive notice of the Federal-State Joint Board on Universal Service
19 Recommended Decision, may be affected by an FCC decision adopting the Federal-State Joint Board
20 on Universal Service Recommended Decision.

21 96. At the May 21, 2007, Procedural Conference, counsel for WWC-Alltel responded to
22 the concerns raised by ALECA. WWC-Alltel stated that the ETC designation process for the
23 Company, which has been underway since 2004, should not be delayed by the possibility that the
24 FCC may adopt the Federal-State Joint Board on Universal Service Recommended Decision, as part
25 of contemplated universal service fund reforms. WWC-Alltel pointed out that nothing in the Federal-
26 State Joint Board on Universal Service Recommended Decision restricts the USF funds being paid-in

27 _____
28 ²⁷ See, *In the Matter of High Cost Universal Service Support Federal-State Joint Board on Universal Service*, WC Docket
No. 05-337, CC Docket No. 96-45, Public Notice, FCC 07J-1 (rel. May 1, 2007).

1 by Arizona consumers, and stated its belief that even if the FCC were to adopt the Federal-State Joint
2 Board on Universal Service Recommended Decision, there would be only a temporary change in
3 fund distribution that would potentially limit the dollars available to ETC designees in Arizona for a
4 period of time.

5 97. At the May 21, 2007, Procedural Conference, counsel for Staff responded to the issues
6 raised by ALECA. Staff stated that the Federal-State Joint Board on Universal Service
7 Recommended Decision constitutes a notice of proposed rulemaking, on which the FCC has sought
8 comment, and that the FCC has not indicated when it will otherwise act upon it. Regarding the
9 pending acquisition of Alltel, Staff stated that the announcement does not necessitate any delay in
10 processing WWC-Alltel's application for ETC status. In regard to the North Dakota complaint case,
11 Staff stated that it addressed the issue in its Third Supplemental Staff Report, and that it views that
12 case much differently from the complaint case in Colorado. Staff stated that overall, it does not
13 believe the three matters raised by ALECA require further delay or need for review at this time, and
14 that it would be appropriate to proceed with processing the application.

15 **Staff's Third Supplemental Staff Report Recommendations**

16 98. Staff states in its Third Supplemental Staff Report that should a circumstance such as
17 the North Dakota consumer complaint occur in Arizona, the requirements contained in the August 23,
18 2005, ROO provide assurance that universal service funds will be used in a manner consistent with
19 universal service goals as well as provide for consumer protection. Staff points out that in particular,
20 in addition to incorporating the eligibility requirements which the FCC has established for ETCs it
21 designates, and has encouraged states to adopt, the August 23, 2005, ROO, in Findings of Fact No.
22 111, condition 6) g requires the filing of an annual certification that the Company is complying with
23 the Commission's rules regarding customer service complaints.

24 99. Staff further states in its Third Supplemental Staff Report, that it believes that its
25 recommended Condition 6 as contained in the Second Supplemental Staff Report provides an
26 additional safeguard, in that Staff would be made aware, by the required Company filings, of ETC
27 problems that might arise in other jurisdictions and thus would be able to make a determination if
28 investigation in Arizona is warranted.

1 Company's statement that its initial Five Year Plan may not drive the actual planning that the
2 Company will have to do for years three, four and five of the plan. However, the annual progress
3 report requirement recommended by Staff and adopted herein can serve as a vehicle for an annual
4 "true-up" of the Company's network improvement plans as the Company deems necessary to
5 comport with technological advances and possible changes in the business and regulatory
6 environment. As set forth in Findings of Fact Nos. 139 and 140 below, we will require that WWC-
7 Alltel's annual progress report include a notification of such changes to its current-year plans and will
8 also require that the annual progress report include updates to the Company's future-year plans to
9 reflect its actual planning.

10 103. ALECA is concerned that the CTIA Code lacks a mechanism to address and resolve
11 consumer complaints, and recommends that WWC-Alltel be required to submit any consumer
12 complaints that may arise from its ETC service offerings to our Customer Services Division. We
13 note that Condition 6 as recommended by Staff in the Supplemental Staff Report requires the
14 Company to commit to comply with Rule A.A.C. R14-2-510, which governs customer service
15 complaints for telephone utilities. We find that WWC-Alltel's commitment to comply with Rule
16 A.A.C. R14-2-510, in conjunction with our adoption of Staff's recommended Condition 5.a, which
17 requires WWC-Alltel to file an annual report of unfulfilled requests for service from potential
18 customers within the ETC service area, and our adoption of Staff's additional recommendations in
19 the Second Supplemental Staff Report, provides the most effective combined tool to address
20 ALECA's concerns with respect to the Company's obligation to serve its designated ETC area. As
21 set forth in Findings of Fact No. 139 below, we will also require the Company to include in its annual
22 compliance filing a certification that the Company continues to comply with the customer service
23 rules included in requirement number 6 (f), which requires the Company to include the Commission's
24 contact information on its customers' bills.

25 104. ALECA proposes that we adopt as a requirement for WWC-Alltel the requirements
26 referenced in paragraph 22 of the *ETC Minimum Requirements Report and Order*. We note that
27 while paragraph 22 of the *Report and Order* references reporting to the FCC of unfulfilled requests
28 for service within 30 days, the language of the rule adopted by the FCC requires reporting on

1 unfulfilled requests for service annually. Staff's recommended Condition 5.a also requires an annual
2 report of unfulfilled requests for service from potential customers within the ETC service area. We
3 find that annual reporting of unfulfilled requests for service is a reasonable requirement when viewed
4 in conjunction with the filing of an appropriate Five Year Plan and annual progress reports. We will
5 also direct Staff to pay particular attention to the number of unfulfilled requests for service in WWC-
6 Alltel's consolidated annual compliance filing, and to file a Staff Report that includes an analysis of
7 the filing and any necessary recommendations to the Commission.

8 105. In regard to ALECA's recommendation to add language to the Five Year Plan
9 restricting the Company's use of federal high-cost support from its rural ETC service area in Arizona
10 to the deployment of telecommunications structure in rural Arizona, we agree with WWC-Alltel that
11 section 254(e) allows universal service support to be used not just for deployment of
12 telecommunications infrastructure, but for the "provision, maintenance and upgrading of facilities
13 and services." We find that the factors Staff recommends be included in the Five Year Plan are
14 adequate to allow Staff to review the planned improvements and determine whether the plan is
15 adequate to meet universal service goals, and that the particular language proposed by ALECA is not
16 necessary at this time. In the memorandum that we direct Staff to file after its review of the Five
17 Year Plan, we expect Staff to inform the Commission of its analysis of whether planned
18 improvements will serve the universal service goal of aiding in the provision of access to affordable
19 telecommunications and information services to rural and high-cost telecommunications services
20 consumers.

21 106. ALECA suggests that the filing of additional network improvement plans beyond the
22 Five Year Plan proposed by Staff would be valuable to the Commission. Staff states that it
23 contemplates the filing of only one initial Five Year Plan and five annual consolidated compliance
24 filings. It is unknown at this time whether five years of compliance filings will be adequate or not.
25 We will therefore direct Staff to include in its Staff Report following the Company's fifth annual
26 consolidated filing in fulfillment of the reporting requirements set forth in Findings of Fact Nos. 139
27 and 140 below, a recommendation regarding whether a need exists for continuing compliance filings.

28 107. We agree with the FCC that different ETCs should not be subject to different

1 obligations, going forward, associated with receiving universal service support because of when they
 2 happened to first obtain ETC designation.²⁹ We will therefore direct Staff to initiate proceedings as
 3 necessary to ensure that existing eligible telecommunications carriers in Arizona are not subject to
 4 different obligations, going forward, associated with receiving universal service support than WWC-
 5 Alltel because of when they happened to first obtain eligible telecommunications carrier designation
 6 from this Commission.

7 108. For the reasons iterated by Staff, we do not believe that the procedural matters raised
 8 by ALECA at the May 21, 2007, Procedural Conference warrant further delay in processing WWC-
 9 Alltel's application for ETC status, or require further review at this time. ALECA stated during that
 10 Procedural Conference that if WWC-Alltel is designated as a competitive ETC, the recommendations
 11 that Staff made in its Staff Report and Supplemental Staff Reports are appropriate and important, and
 12 should be included in any order granting WWC-Alltel ETC designation. We agree with ALECA in
 13 this regard.

14 **WWC-Alltel's Provision of Nine Supported Services**

15 109. Voice-grade access to the public switched network – Voice-grade access means the
 16 ability to make and receive phone calls within a voice frequency range of between 300 and 3500
 17 Hertz, a bandwidth of approximately 2700 Hertz.³⁰ The Company states in its application that
 18 through its interconnection arrangements with local telephone companies, including Qwest, all
 19 Arizona customers of the Company are able to make and receive calls on the public switched network
 20 within the prescribed frequency range (Application at 4).

21 110. Local usage – The Company states in its application that it provides its customers with
 22 an amount of local usage, free of charge, as required by FCC rules.³¹ The Company attested that
 23 once it is designated as an ETC, it will comply with all minimum local usage requirements adopted
 24 by the FCC (Application at 5).³² In the Supplemental Staff Report, Staff states that the Company

25 ²⁹ See ETC Minimum Requirements Report and Order, para 20.

26 ³⁰ See Universal Service Fourth Order on Reconsideration, FCC 97-420 (rel. Dec. 30, 1997).

27 ³¹ See 47 C.F.R. § 54.101(a)(2).

28 ³² We note that while toll limitation for qualifying low-income customers (see Findings of Fact No. 119 below) serves the purpose of limiting the size of those customers' bills in order to help ensure continuation of their access to local usage, 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. WWC-Alltel may wish to pursue some type of a "minutes-limitation" option

1 currently offers 12 calling plans in its western Arizona service territory and 11 calling plans in its
2 northwestern Arizona service territory.

3 111. Dual tone multi-frequency signaling or its functional equivalent – Dual tone, multi-
4 frequency (“DTMF”) signaling is a method of signaling that facilitates the transportation of call set-
5 up and call detail information. The FCC permits carriers to provide this supported service by
6 providing signaling that is the functional equivalent to DTMF.³³ The Company currently uses out-of-
7 band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF,
8 and therefore, meets this requirement (Application at 5).

9 112. Single-party service or its functional equivalent – “Single-party service” means that
10 only one party will be served by each subscriber loop or access line, in contrast to a multi-party line.
11 The FCC has concluded that a wireless provider offers the equivalent of single-party service when it
12 offers a dedicated message path for the length of a user’s particular transmission.³⁴ The Company
13 provides a dedicated message path throughout the duration of all customer calls in satisfaction of this
14 element (Application at 5).

15 113. Access to emergency services – The Company states that it currently provides all of its
16 customers with access to the appropriate public safety answering point (“PSAP”) by dialing 911, and
17 stands ready to provide Enhanced 911 (“E911”) service to its customers once a PSAP submits a
18 compliant request for E911 service (Application at 5-6). E911 service includes the capability of
19 providing both automatic numbering information (“ANI”) and automatic location information
20 (“ALI”).

21 114. Access to operator services - Access to operator services is defined as any automatic
22 or live assistance provided to a consumer to arrange for the billing or completion, or both, of a
23 telephone call.³⁵ The Company states that it meets this requirement by providing all of its customers
24 with access to operator services provided by either the Company or other entities (Application at 6).

25 115. Access to interexchange service – An ETC must offer consumers access to
26 or a pre-paid option for its qualifying low-income customers in order to limit the potential size of those customers’ bills,
27 to help ensure the continuation of their access to local usage.

28 ³³ 47 C.F.R. § 54.101(a)(3).

³⁴ *Universal Service First Report and Order* at 8810.

³⁵ 47 C.F.R. § 54.101(a)(6).

1 interexchange service for the purposes of making and receiving toll or interexchange calls.³⁶ The
 2 Company states that equal access to interexchange service, i.e., the ability of a customer to access a
 3 pre-subscribed long distance carrier by dialing 1+number, is not required.³⁷ WWC-Alltel states that
 4 it presently provides all of its customers with the ability to make and receive interexchange or toll
 5 calls through direct interconnection arrangements it has with several interexchange carriers
 6 (“IXCs”), and that additionally, customers are able to reach their IXC of choice by dialing the
 7 appropriate access code (Application at 6-7).

8 116. Access to directory assistance – Access to operator services means the ability to place
 9 a call directly to directory assistance.³⁸ The Company states that it provides all of its customers with
 10 access to directory assistance by dialing “411” or “555-1212” in satisfaction of this requirement
 11 (Application at 7).

12 117. Toll limitation for qualifying low-income consumers – ETCs must offer either toll
 13 control or toll blocking services to qualifying Lifeline customers at no charge.³⁹ The Company points
 14 out that FCC Rules define “toll limitation” as either “toll blocking” or “toll control” if a carrier is
 15 incapable of providing both, but as both “toll blocking” and “toll control” if a carrier can provide
 16 both.⁴⁰ Toll blocking allows consumers to elect not to allow the completion of outgoing toll calls.
 17 Toll control allows consumers to specify a certain amount of toll usage that may be incurred per
 18 month or per billing cycle.⁴¹ The Company states that it is not currently capable of providing toll
 19 control (Application at 7). Only carriers designated as ETCs can participate in Lifeline.⁴² WWC-
 20 Alltel states that it offers toll-blocking services for Lifeline customers in states in which it has been
 21 designated as an ETC, and that it will provide toll blocking to Arizona Lifeline customers at no
 22 charge in the requested ETC designation areas (Application at 7).

23 _____
 24 ³⁶ 47 C.F.R. § 54.101(a)(7).

25 ³⁷ *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*
 26 *Reconsideration*, FCC 03-170 (rel. July 14, 2003); 47 U.S.C. § 332(c)(8).

27 ³⁸ 47 C.F.R. § 54.101(a)(8).

28 ³⁹ *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).

⁴⁰ 47 C.F.R. § 54.400(d).

⁴¹ 47 C.F.R. § 54.500(b)-(c).

⁴² See 47 C.F.R. § 54.400-415.

1 118. In its Staff Report, Staff states that the Company currently provides mobile telephony,
 2 data/facsimile, 911, and other wireless services in its proposed ETC service area to subscribers taking
 3 service under its plans, and will offer the required nine supported services required by FCC rules⁴³
 4 and Lifeline and Link Up services, using the Company's own facilities (Staff Report at 5).

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

6 119. Advertising - The Company states that it currently advertises the federally supported
 7 services throughout its requested designated service areas through various media forms, including
 8 newspaper, television, radio and billboard advertising; that it maintains retail store locations
 9 throughout its licensed coverage areas, which provide additional advertising; and that it will continue
 10 to advertise the availability of the supported services and the corresponding charges using media of
 11 general distribution upon designation (Application at 7). In its Supplemental Staff Report, Staff
 12 recommends that the Company be required to file with the Compliance Section of the Utilities
 13 Division its initial advertising plan and an annual certification that it is advertising the supported
 14 services, including Lifeline and Link Up, throughout the service area (Supplemental Staff Report at
 15 9). This is a reasonable recommendation and we will adopt it.

16 120. Lifeline and Link Up - As a condition of ETC designation, Staff recommends in its
 17 Supplemental Staff Report that the Company should make these services available to qualifying low-
 18 income applicants in its ETC service area no later than 90 days after a Commission Decision and
 19 should docket a letter providing notification of the commencement date for the service within 100
 20 days of a Commission Decision (Supplemental Staff Report at 9). Staff further recommends that The
 21 Company be required to file an annual certification that it is offering Lifeline and Link Up throughout
 22 its ETC service area. We find this to be a reasonable recommendation and will adopt it.

23 **Additional ETC Minimum Requirements**

24 121. Five Year Plan - In its *ETC Minimum Requirements Report and Order*, the FCC
 25 encourages State commissions to require an applicant to provide a five-year plan demonstrating how
 26 high-cost universal service support will be used to improve its coverage, service quality or capacity in
 27

28 ⁴³ 47 C.F.R. § 54.101.

1 every wire center for which it seeks designation and expects to receive universal service support. For
2 the reasons discussed above, we find Staff's recommendation to require that the Company file an
3 appropriate Five Year Plan prior to its designation as an ETC to be reasonable and necessary in order
4 to ensure that the Company can demonstrate that it will use universal service funds in a manner that
5 justifies an ETC designation, and will adopt it.

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

12 123. Satisfaction of Consumer Protection and Service Quality Standards - In its *ETC*
13 *Minimum Requirements Report and Order*, the FCC states that in considering whether a common
14 carrier has satisfied its burden of proof necessary to obtain ETC designation, the FCC requires, and
15 encourages State commissions to require, an applicant to demonstrate that it will satisfy consumer
16 protection and service quality standards. We find Staff's recommendation in the Supplemental Staff
17 Report that the Company demonstrate a commitment to meet consumer protection standards and to
18 comply with Arizona Corporation Commission Customer Service Rules, to include the Commission's
19 contact information on its bills and to annually certify compliance with the CTIA Code to be
20 reasonable and will adopt it. We will also require that the Company's annual certification filing
21 include certification that the Company is complying with Arizona Corporation Commission
22 Customer Service Rules as recommended by Staff.

23 124. Comparable Local Usage Plans - In its *ETC Minimum Requirements Report and*
24 *Order*, the FCC states that in considering whether a common carrier has satisfied its burden of proof
25 necessary to obtain ETC designation, the FCC requires, and encourages State commissions to require,
26 an applicant to offer local usage plans comparable to those offered by the incumbent local exchange
27 carrier ("LEC") in the areas for which it seeks designation. We find Staff's recommendations for an
28 annual certification in this regard to be reasonable and will adopt it. Following the issues brought to

1 light in the Colorado complaint, we also find Staff's recommendations in the Second Supplemental
2 Staff Report on this issue to be reasonable and will adopt them, as set forth in Findings of Fact No.
3 140 below.

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

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

16 127. Public Interest Determination - Before designating the Company as an additional ETC
17 for an area served by a rural telephone company, in addition to determining whether the Company
18 meets the requirements for ETC designation, this Commission must find that the designation is in the
19 public interest.⁴⁴ In its *ETC Minimum Requirements Report and Order*, the FCC adopts the public
20 interest framework from the *Virginia Cellular ETC Designation Order*⁴⁵ and clarifies that an
21 applicant should be designated as an ETC only where such designation serves the public interest,
22 regardless of whether the area where designation is sought is served by a rural or non-rural carrier,
23 and encourages states to apply the FCC's analysis in determining whether or not the public interest
24 would be served by designating a carrier as an ETC. The *Report and Order* encourages states to
25 apply the FCC's analysis in determining whether or not the public interest would be served by

26 _____
27 ⁴⁴ 47 U.S.C. § 214(e)(2).

28 ⁴⁵ *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").

1 designating a carrier as an ETC.⁴⁶ In its original Staff Report, Staff performed a public interest
2 analysis consistent with *Virginia Cellular*. Staff states that the presence of a wireless competitor
3 benefits customers by offering a choice in telecommunications providers and unique services that are
4 not offered by ILECs; that the Company may even be able to reach customers in the region that do
5 not have access to wireline service; that the Company's service offerings provide customers with the
6 advantages of expanded local calling areas, the convenience of mobile phone service, the safety and
7 security advantages of mobile telephone service, advanced data services, and innovative bundled
8 services. In addition, Staff points out that ETC designation will allow the Company to offer Lifeline
9 and Link Up services to eligible customers.

10 128. In its *ETC Minimum Requirements Report and Order*, the FCC did not adopt a
11 specific test to consider the cost impact on the Universal Service Fund, stating that it is unlikely that
12 any individual ETC designation would have a substantial impact on the overall size of the fund.⁴⁷ In
13 its original Staff Report, Staff analyzed the possible impact on the Universal Service Fund of granting
14 the Company's request, and noted that the additional support received by the Company, which in
15 Staff's estimate could be between approximately \$82,341 and \$175,210 per quarter, would not
16 dramatically burden the fund.

17 129. We agree with Staff that the Company's voice and data services offerings could offer
18 increased competitive choice and other service benefits in the requested service area, and find that in
19 conjunction with the filing of an appropriate Five Year Plan, that it will be in the public interest to
20 designate the Company as an ETC in the requested service area.

21 Study Area Redefinition

22 130. The Company is currently licensed to serve only 5 of the 6 wire centers located in the
23 rural study area served by Verizon. Those 5 wire centers are listed in Exhibit B. Unless the service
24 area standard is redefined for purposes of the Company's ETC designation from study area to wire
25 center, the Company would be precluded from being designated as an ETC in any of the 6 wire
26 centers in Verizon's service area.⁴⁸ The Company has therefore requested that the Commission and

27 ⁴⁶ *ETC Minimum Requirements Report and Order*, para 3, 43.

28 ⁴⁷ *Id.*, para 54.

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

1 the FCC redefine, for purposes of the Company's ETC designation, Verizon's service area from the
2 study area level to the wire center level, pursuant to 47 C.F.R. § 54.207, and has made its request for
3 ETC designation for the 5 wire centers listed in Exhibit B contingent upon the requested redefinition.

4 131. Pursuant to the 1996 Act and FCC regulations,⁴⁹ an ETC designation involves the
5 designation of a geographic area for the purpose of determining universal service obligations and
6 support mechanisms for each designated ETC, and this Commission may designate a requested ETC
7 service area that differs from the rural ILEC study area.

8 132. The *ETC Minimum Requirements Report and Order* states that in cases where the
9 applicant seeks to redefine the rural service area of the underlying ILEC, as the Company does in the
10 case for the portion of its service territory served by Verizon, a creamskimming analysis should be
11 employed to determine whether a potential for creamskimming exists.⁵⁰ The *Report and Order* states
12 that application of its permissive guidelines for state ETC designation proceedings will facilitate the
13 FCC's review of petitions seeking redefinition of incumbent LEC service areas filed pursuant to
14 section 214(e)(5) of the 1996 Act.⁵¹ Staff conducted a creamskimming analysis in this case.

15 133. Pursuant to a Federal-State Joint Board on Universal Service Recommended
16 Decision,⁵² there are three factors to be considered in determining whether to define the service area
17 of a provider seeking ETC designation differently from the ILEC study area: 1) whether the provider
18 is attempting to "cream skim" by only proposing to serve the lowest cost exchanges; 2) the regulatory
19 and competitive status of rural ILECs as a result of the 1996 Act; and 3) the administrative burden
20 imposed on rural ILECs as a result of calculating costs on a level other than the study area.

21 134. Staff stated that the Company's request for redefinition of Verizon's service territory
22 is essentially a request to exclude the Parker Dam wire center from its ETC service area. Staff
23 evaluated this request to determine whether it constitutes an attempt at creamskimming. Staff
24 determined that the Parker Dam wire center has a greater density than the majority of rural wire
25 centers included in the requested ETC service area, and that the Company has not limited its

26 ⁴⁹ 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.201(b).

27 ⁵⁰ *ETC Minimum Requirements Report and Order*, para 49.

28 ⁵¹ *Id.*, para 60.

⁵² *Federal-State Joint Board on Universal Service, Recommended Decision*, Docket 96-45, 12 FCC Rcd at 179-180, para 172-174 (1996).

1 requested service area to only high-density (i.e. lower cost) wire centers. Staff therefore has no
2 concerns that the Company is trying to “cream-skim,” or serve only the low-cost, high revenue
3 customers in a rural telephone company’s service area.

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

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

15 137. Based on its creamskimming analysis, Staff recommended approval of Company’s
16 request for redefinition of the Verizon study area for purposes of the Company’s ETC designation in
17 the wire centers within its service area as shown on Exhibit B.

18 138. Consideration of the three factors outlined above demonstrates that when the
19 Company has demonstrated compliance with the requirements set forth in Findings of Fact Nos. 139
20 and 140, Verizon’s study area should be redefined for purposes of the Company’s ETC designation in
21 the wire centers within its service area as shown on Exhibit B.

22 CONCLUSION

23 139. Based on the analysis herein, we find that it is reasonable to require WWC-Alltel to
24 meet the following requirements in order to be designated as an ETC.⁵³

- 25 1) Demonstrate a commitment and ability to provide supported services throughout the
26 ETC service area and provide a Five Year Plan.

27 ⁵³ These requirements are largely the requirements recommended by Staff as they appear in Findings of Fact No. 48
28 above, but include some clarifications consistent with the discussion herein, and require the filings to be made in this
docket in accordance with current Commission practice.

- 1 a. File with Docket Control as a compliance item in this docket an initial formal Five
2 Year Plan that shows for each wire center within the designated ETC service area:
- 3 i. Planned improvements in signal quality, coverage, or capacity;
4 ii. Projected start date and completion date and investment amount for each
5 planned improvement;
6 iii. Specific geographic areas where each planned improvement will occur;
7 iv. Estimated population served by each planned improvement; and
8 v. Coverage area maps detailing how high cost monies will be used to improve its
9 network, and where signal strength coverage or capacity will be improved
10 when funding is received.
- 11 b. File with Docket Control as a compliance item in this docket an Annual Progress
12 Report on its Five Year Plan providing the following information at the wire center
13 level:
- 14 i. Maps detailing progress towards meeting its plan targets including how high
15 cost monies were used to improve its network, and where signal strength
16 coverage or capacity have been improved where funding was received;
17 ii. An explanation of how much universal service support was received and how
18 the support was used to improve signal quality, coverage, or capacity;
19 iii. An explanation of any unfulfilled improvement goals;
20 iv. A description of why any targets in the Five Year Plan have not been met;
21 v. A notification of changes to its current-year plans that the Company deems
22 necessary to comport with technological advances and possible changes in the
23 business and regulatory environment; and
24 vi. Updates to its future-year plans to reflect the Company's actual planning.
- 25 2) Demonstrate a commitment and ability to advertise supported services and Lifeline and
26 Link Up throughout the ETC service area.
- 27 a. File with Docket Control as a compliance item in this docket an Initial Advertising
28 Plan for supported services throughout the ETC service area.

- 1 b. File with Docket Control as a compliance item in this docket an Annual Certification
2 that WWC-Alltel is advertising the supported services including Lifeline and Link Up
3 throughout the ETC service area.
- 4 3) Offer Lifeline and Link Up.
- 5 a. File with Docket Control as a compliance item in this docket an Initial Letter
6 indicating that it has commenced provision of lifeline and linkup services within 90
7 days of ETC designation, with the letter to be filed within 100 days of a Commission
8 Decision granting ETC designation.
- 9 b. File with Docket Control as a compliance item in this docket an Annual Certification
10 that WWC-Alltel is offering Lifeline and Link Up.
- 11 4) Demonstrate the ability to remain functional in emergency situations.
- 12 a. File with Docket Control as a compliance item in this docket an Initial Plan and an
13 Annual Certification that WWC-Alltel is able to function in emergency situations.
- 14 5) Demonstrate a commitment to meeting Service Quality Standards.
- 15 a. File with Docket Control as a compliance item in this docket an Annual Report of
16 unfulfilled requests for service from potential customers within the ETC service area,
17 how WWC-Alltel attempted to provide service, and why it was unsuccessful.
- 18 b. File with Docket Control as a compliance item in this docket information on any outage
19 lasting at least 30 minutes in any part of the ETC service area including:
- 20 i. The date and time of onset of the outage;
- 21 ii. A brief description of the outage and its resolution;
- 22 iii. The particular services affected;
- 23 iv. The geographic areas affected;
- 24 v. Steps taken to prevent a similar situation in the future; and
- 25 vi. The number of customers affected.
- 26 6) Demonstrate a commitment to meeting consumer protection standards.
- 27 a. File with Docket Control as a compliance item in this docket an Annual Certification
28 that WWC-Alltel is in compliance with CTIA Consumer Code for Wireless Service.

- 1 b. File with Docket Control as a compliance item in this docket an Initial Service
2 Coverage Map consistent with CTIA Consumer Code.
- 3 c. File with Docket Control as a compliance item in this docket an Annual (or any time
4 maps are updated by the ETC) Service Coverage Map consistent with CTIA Consumer
5 Code.
- 6 d. File with Docket Control as a compliance item in this docket an Annual Certification
7 that WWC-Alltel is providing accurate coverage area maps to potential customers
8 consistent with CTIA Consumer Code.
- 9 e. File with Docket Control as a compliance item in this docket an Annual Report
10 documenting the number of consumer complaints per 1,000 handsets/lines.
- 11 f. Include Arizona Corporation Commission contact information on customers' bills.
- 12 g. File with Docket Control as a compliance item in this docket an Annual Certification
13 that WWC-Alltel is complying with Arizona Corporation Commission Customer
14 Service Rules A.A.C. R14-0-503 – Establishment of Service; A.A.C. R14-2-504 –
15 Minimum Customer Information Requirements; A.A.C. R14-2-505.A – Service
16 Connection and Establishment; A.A.C. R14-2-507.A, C and D – Provision of Service;
17 A.A.C. R14-2-508 – Billing and Collection; R14-2-509 excluding A(2) – Termination
18 of Service; and A.A.C. R14-2-510 – Customer Complaints; and that it continues to
19 include Arizona Corporation Commission contact information on customers' bills.
- 20 7) Offer a Local Usage plan comparable to the one offered by the underlying local
21 exchange carrier (“Comparable Local Usage Plan”).
- 22 a. File with Docket Control as a compliance item in this docket an Initial Certification and
23 an Annual Certification that WWC-Alltel is offering an acceptable Comparable Local
24 Usage Plan.
- 25 8) Acknowledge willingness to provide equal access in the designated ETC service area in
26 the event that no other ETC is providing equal access within the service area.
- 27 a. File with Docket Control as a compliance item in this docket an Initial Certification and
28 an Annual Certification that WWC-Alltel is willing to provide equal access in the event

1 that no other ETC is providing equal access within the service area.

2 9) File with Docket Control as a compliance item in this docket an Annual (or as updated
3 by the ETC) Informational Tariff setting forth the rates, terms and conditions for all
4 service offerings within ETC service area.

5 10) File with Docket Control as a compliance item in this docket an Initial Certification
6 that it will maintain and retain auditable records as required by the FCC, USAC, and as
7 kept in the normal course of business, of all expenditures of universal service funds
8 received and submit to an audit of its expenditures of its universal service funds upon
9 request by Commission Staff.

10 140. In addition to the above requirements, it is also reasonable to require WWC-Alltel to
11 comply with the following:⁵⁴

12 (1) WWC-Alltel shall post within each of its retail outlets, prior to receipt of any federal
13 universal service funds and ongoing thereafter, signage which informs prospective
14 customers of the availability of and rates for the Comparable Local Usage Plan, and
15 shall file an Initial Certification that it will do so. The Initial Certification shall include
an example of the planned signage;

16 (2) WWC-Alltel shall, no later than January 31st of each year (beginning in 2008 and
17 ending in 2010), file with Docket Control as a compliance item in this docket, a
18 sampling of its Arizona Lifeline advertisements for the prior year. Such advertisements
19 shall include information on the availability and price of the Comparable Local Usage
20 Plan. WWC-Alltel shall file, at the time it files its initial Five Year Plan, an Initial
21 Certification stating how the Company plans to advertise Arizona Lifeline in the year
2008;

22 (3) WWC-Alltel shall take measures to ensure adequate ongoing training of retail
23 personnel with respect to Arizona Lifeline offerings. WWC-Alltel shall file, at the time
24 it files its initial Five Year Plan, an Initial Certification describing the measures it plans
25 to take to ensure adequate ongoing training of retail personnel with respect to Arizona
Lifeline offerings;

26 (4) WWC-Alltel shall file a report with Docket Control as a compliance item in this
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1 docket, no later than January 31st of each year (beginning in 2008 and ending in 2010),
 2 a report indicating monthly subscription rates for the Comparable Local Service Plan
 3 for the prior year. WWC-Alltel shall file, at the time it files its initial Five Year Plan,
 4 an Initial Certification describing how it plans to measure and report monthly
 subscription rates for the Comparable Local Service Plan;

5 (5) WWC-Alltel shall file with Docket Control as a compliance item in this docket, no
 6 later than January 31st of each year, an affidavit signed by an officer of WWC-Alltel
 7 indicating full compliance with recommendations 1 and 3 above for the prior year,
 8 which affidavit shall include an example of the Comparable Local Usage Plan signage
 9 posted during the prior year, and shall include a description of the measures it has taken
 10 during the prior year to ensure adequate ongoing training of retail personnel with
 respect to Arizona Lifeline offerings; and

11 (6) WWC-Alltel shall: a) report to the Arizona Corporation Commission any actions
 12 brought against it in any states involving failure to comply with its ETC obligations,
 13 within 30 days of the filing of such an action, and b) report on the ultimate resolution
 14 reached by the FCC on the Colorado docket within 30 days of such resolution.

15 141. With the exception of demonstrating compliance with the requirements outlined in the
 16 preceding Findings of Fact Nos. 139 and 140 above, WWC-Alltel otherwise meets the criteria
 17 necessary for ETC designation.

18 142. We will therefore require Staff to file in this docket, within 60 days of the date WWC
 19 License files the Five Year Plan and Initial Plans and Initial Certifications referenced in Findings of
 20 Fact Nos. 139 and 140 above, a Memorandum indicating whether the Five Year Plan and Initial Plans
 21 and Initial Certifications as filed 1) demonstrate a commitment to provide universal service
 22 supported services throughout the requested designation areas as shown on Exhibit A and Exhibit B
 23 and 2) meet the requirements listed in Findings of Fact Nos. 139 and 140 above. The Memorandum
 24 shall be accompanied by a Recommended Order that either approves or denies WWC License LLC's
 25 application. The Memorandum shall inform the Commission of Staff's analysis of whether planned
 26 improvements will serve the universal service goal of aiding in the provision of access to affordable

27
 28 ⁵⁴ These requirements are largely the requirements recommended by Staff as they appear in Findings of Fact No. 88
 above, but include some clarifications regarding specific filing requirements.

1 commitment to provide universal service supported services throughout the requested designation
2 areas as shown on Exhibit A and Exhibit B; 2) meets the requirements listed in Findings of Fact Nos.
3 139 and 140 above; and 3) includes all the Initial Certifications and Plans listed in Findings of Fact
4 Nos. 139 and 140, above.

5 IT IS FURTHER ORDERED that the request of WWC License LLC to redefine the service
6 territory of Verizon California, Inc. set forth in Exhibit B attached hereto from the study area to the
7 wire center level will be approved when this Commission makes a determination that WWC License
8 LLC has filed with Docket Control as a compliance item in this docket a Five Year Plan and Initial
9 Plans and Initial Certifications that 1) demonstrate a commitment to provide universal service
10 supported services throughout the requested designation areas as shown on Exhibit A and Exhibit B;
11 and 2) meet the requirements listed in Findings of Fact Nos. 139 and 140 above. Approval for
12 redefinition of the service area set forth in Exhibit B attached hereto is also subject to approval of the
13 requested redefinition by the Federal Communications Commission under 47 C.F.R. § 54.207(c).

14 IT IS FURTHER ORDERED that within 60 days of the date WWC License LLC files the
15 Five Year Plan and Initial Plans and Initial Certifications referenced in the above Ordering Paragraph,
16 the Commission's Utilities Division Staff shall file in this docket a Memorandum indicating whether
17 the Five Year Plan and Initial Plans and Initial Certifications as filed in this docket 1) demonstrate a
18 commitment to provide universal service supported services throughout the requested designation
19 areas as shown on Exhibit A and Exhibit B and 2) meet the requirements listed in Findings of Fact
20 Nos. 139 and 140 above. The Memorandum shall inform the Commission of Staff's analysis of
21 whether planned improvements will serve the universal service goal of aiding in the provision of
22 access to affordable telecommunications and information services to rural and high-cost
23 telecommunications services consumers. The Memorandum shall be filed in this docket and shall be
24 accompanied by a Recommended Order that either approves or denies WWC License LLC's
25 application.

26 IT IS FURTHER ORDERED that after being designated an eligible telecommunications
27 carrier, WWC License LLC shall file with Docket Control as a compliance item in this docket on or
28 before April 1 of each year in fulfillment of the annual progress reporting requirements and

1 certification filing requirements set forth in Findings of Fact Nos. 139 and 140 above for the duration
2 of its initial Five Year Plan.

3 IT IS FURTHER ORDERED that the Commission's Utilities Division Staff shall, on or
4 before May 15 of each year for the duration of WWC License LLC's initial Five Year Plan, file a
5 Staff Report in this docket on WWC License LLC's consolidated annual compliance filing. The
6 Staff Reports shall inform the Commission of the Commission's Utilities Division Staff's analysis of
7 whether planned and executed improvements serve the universal service goal of aiding in the
8 provision of access to affordable telecommunications and information services to rural and high-cost
9 telecommunications services consumers. The Staff Reports shall address, but shall not be limited to,
10 the number of unfulfilled requests for service in the designation area, and shall also include any
11 recommendations the Commission's Utilities Division Staff may have based on WWC License
12 LLC's consolidated annual filing. The Staff Report filed following WWC License LLC's fifth
13 annual consolidated filing shall include the Commission's Utilities Division Staff's recommendation
14 regarding whether a need exists for continuing compliance filings.

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1 IT IS FURTHER ORDERED that the Commission's Utilities Division Staff shall, no later
2 than January 31, 2008, 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.

7
8
9 CHAIRMAN _____ COMMISSIONER

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12 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER

13 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
14 Executive Director of the Arizona Corporation Commission,
15 have hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this ____ day of _____, 2007.

18 _____
19 DEAN S. MILLER
20 INTERIM EXECUTIVE DIRECTOR

21 DISSENT _____

22 DISSENT _____

23 TW:dp

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