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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
T-MOBILE WEST CORPORATION FOR) CASE NO. TMW-T-10-01
CONDITIONAL DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS) COMMENTS OF THE
CARRIER.) COMMISSION STAFF
_____)**

The Staff of the Idaho Public Utilities Commission, by and through its Attorney of Record, Neil Price, Deputy Attorney General, in response to the Notice of Application and Notice of Modified Procedure, issued on May 3, 2012, Order No. 32543, submits the following comments.

BACKGROUND

On April 11, 2012, T-Mobile West Corporation, a wholly owned subsidiary of T-Mobile U.S.A., Inc. ("T-Mobile" or "Company"), filed an Application, pursuant to 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.1003 and Order No. 29841, seeking conditional designation as an eligible telecommunications carrier ("ETC") in the State of Idaho for the purpose of participating in the Mobility Fund Phase I Auction (Auction 901) scheduled to be held by the Federal Communications Commission (FCC) on September 27, 2012.¹

¹ Application at 1-2.

On August 9, 2011, the Commission previously approved T-Mobile's Application for designation as an ETC carrier in specific rural and non-rural service areas identified in its Application.²

Overview of the Mobility Fund, Phase 1

On, November 19, 2011, the FCC released the USF/ICC Transformation Order (the Order) in which it established the Auction 901.³ The FCC set aside \$300 million to be used to increase the availability of current generation mobile broadband and mobile voice across the country.⁴ The FCC recognized that the current system⁵ is not efficient and that universal service funding for mobile networks must be deployed in a more targeted and efficient fashion.

Auction 901 will award funds to carriers that commit to deploying 3G or better mobile voice and broadband services in census blocks where such services are unavailable. Support will be allocated to maximize the road miles covered by new mobile services without exceeding the budget of \$300 million. Winning bidders will be obligated to choose whether to deploy 3G service within two years or 4G within three years of the award.⁶

In order to identify the under-served areas of the country, the FCC began by documenting "the availability of service at the census block level as the first step in identifying those areas that are eligible for the Auction 901 support." The census block is the smallest geographic unit for which the Census Bureau collects and tabulates decennial census data. By determining the extent of current-generation mobile wireless services by census block, a detailed picture would emerge of the availability of 3G mobile services.⁷ Some census blocks, particularly in rural areas, may include both served and unserved areas.⁸

² See Order No. 32319, Case No. TMW-T-10-01.

³ *USF/ICC Transformation Order*, released on November 18, 2011 para. 299

⁴ *Id.* para. 295.

⁵ "Yet despite growth in annual funding [of USF] for competitive ETCs of almost 1000 percent over the past decade—from less than \$17 million in 2001 to roughly \$1.2 billion in 2010—there remain many areas of the country where people live, work, and travel that lack any mobile voice coverage, and still larger geographic areas that lack current generation mobile broadband coverage." *Id.* at para. 295

⁶ *Auction 901 Procedures Public Notice DA12-721*, released on May 8, 2012, para. 2.

⁷ *USF/ICC Transformation Order* para. 331.

⁸ *Id.* para. 332.

In order to participate in Auction 901 and receive monetary support, “an applicant must demonstrate, for the areas on which it wishes to bid, that it has been designated as an ETC and has access to the spectrum necessary to satisfy the applicable performance requirements.”⁹

On February 10, 2012, the FCC issued DA 12-187. In this notice, the FCC provided an updated list of potentially eligible Census Blocks. The Summary of Updated List of Potentially Eligible Census Blocks provides information for each state.

Census Block information for Idaho¹⁰

Total No. of Tracts with Unserved Blocks	93
Total No. of Counties with Unserved Blocks	39
Total Population of Unserved Blocks	43,207
Total Area (square miles) of Unserved Blocks	38,962

Pre-Auction Dates and Deadlines¹¹

FCC Form 180 (Short Form) Application Filing Window Opens	6/27/12; 12:00 noon ET
FCC Form 180 (Short Form) Application Filing Deadline	7/11/12; 6:00 p.m. ET
Mock Auction	9/25/12
Auction Start	9/27/12

Specific Mobility Fund Phase 1 Eligibility Requirements and Certifications¹²

1. ETC Designation Certification. To be eligible to participate in Auction 901, the applicant must be designated as an ETC pursuant to Section 214 of the Communications Act in any geographic area for which it seeks support, with the exception of Tribally-owned or controlled entities. The entity, and not a subsidiary or parent holding company, must be designated by a State or the FCC as an ETC in that geographic area to be eligible to participate in the auction.¹³

ETC status carries with it certain obligations. A party might obtain the required ETC designation but may not be subject to the obligations unless and until it is awarded Mobility Fund

⁹ *Auction 901 Procedures Public Notice* para. 32.

¹⁰ *Id.* Attachment A at 1.

¹¹ *Id.* para. 40.

¹² *Id.* at 29.

¹³ *Id.* para. 93

support. The FCC will allow a party to participate in the auction if it has an ETC designation conditioned upon the party winning support in the auction.¹⁴

2. Access to Spectrum Description and Certification. Pursuant to the USF/ICC Transformation Order, any applicant for Auction 901 must have access to the necessary spectrum to fulfill any obligations related to support.¹⁵

3. Financial and Technical Capability Certification. The FCC requires that an applicant certify in the pre-auction short-form application that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas for which it seeks support.

4. Certification that Applicant Will Not Seek Support for Areas in Which It has Made a Public Commitment to Deploy 3G or Better Service by December 31, 2012. The FCC requires each applicant for Auction 901 support to certify that it will not seek support for any areas in which it has previously made a public commitment to deploy 3G or better wireless service by December 31, 2012.¹⁶

Staff believes T-Mobile satisfies or will meet the first three requirements and that the Company will be required to meet the last requirement upon participate in the Auction 901.

The Application

T-Mobile is a commercial mobile radio services (CMRS) carrier licensed by the FCC to provide wireless services in various areas of Idaho. T-Mobile West Corporation is a wholly-owned subsidiary of T-Mobile USA, Inc. and is doing business as T-Mobile.¹⁷ The Company is a national facilities-based wireless telecommunications carrier and has been granted ETC status in nine state jurisdictions and one U.S. territory: Idaho, Florida, Georgia, Hawaii, Kentucky, Louisiana, Minnesota, North Carolina, Washington, and Puerto Rico.¹⁸

The Company asserts that it satisfies all of the requirements for designation as an ETC, including: (i) common carrier status; (ii) offering all of the supported services; (iii) offering service throughout its designated ETC service area; (iv) advertising the availability of its

¹⁴ *Id.* para. 94.

¹⁵ *Id.* para. 96.

¹⁶ *Id.* para. 98.

¹⁷ Application at 1.

¹⁸ *Id.* at 4-5.

universal service offerings; and (v) meeting all other requirements for designation as an ETC.¹⁹ T-Mobile's conditional designation as an ETC serves the public interest by expanding the availability of next generation networks if T-Mobile receives Mobility Fund Phase 1 support. Additionally, the Company's conditional designation will increase customer choice and service availability and make available to consumers new service offerings, including wireless broadband and Lifeline services.²⁰

The Company states that conditional designation will further advance the public interest by permitting T-Mobile to participate in Auction 901. A successful bid in the auction will potentially allow the Company to deploy mobile wireless infrastructure in order to provide mobile voice and broadband wireless and lifeline service to unserved areas in Idaho.²¹ The Company asserts that "conditional designation as an ETC for census blocks outside its existing ETC area is in the public interest because, if T-Mobile is successful in obtaining Mobility Fund support, consumers will benefit from competitive pricing, new services, a higher level of service quality, and enhanced customer service."²² This will further the goals of the universal service program by allowing the Company to bid to serve portions of Idaho that currently do not have access to 3G or better mobile wireless services.²³ All census blocks in Idaho are outside of its current ETC area are designated as eligible for bidding in the Mobility Fund Phase 1 auction.²⁴

STAFF ANALYSIS

Staff has reviewed the T-Mobile Application and has conducted an analysis of the Company's fulfillment of 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.1003, Order No. 29841 and the Auction 901 requirements. In addition, Staff has analyzed the public interest benefits of awarding the Company a conditional ETC designation.

T-Mobile seeks ETC designation conditioned upon T-Mobile winning support from the Mobility fund Phase 1 auction, as outlined in the FCC's USF/ICC Transformation Order.²⁵ The Company does not seek ETC designation if it does not receive any funds from Auction 901.

¹⁹ *Id.* at 7-9.

²⁰ *Id.* at 9.

²¹ *Id.*

²² *Id.* at 16.

²³ *Id.* at 16.

²⁴ *Id.* at 6.

²⁵ Application at 7, *USF/ICC Transformation Order* para. 390.

Auction 901 Analysis for Idaho

On February 10, 2012, the FCC released DA 12-187 – The Mobility Fund Phase I Auction Updated List of Potentially Eligible Census Blocks. Attachment A of this notice provided a summary of the updated list of potentially eligible Census Blocks. In Idaho, there are 197 unserved blocks serving a total population of 43,307 over 38,962 square miles.

Public Interest Analysis

Under Section 214 of the Telecommunications Act of 1996, individual State Commissions must determine that an ETC designation is consistent with the public interest, convenience and necessity.²⁶

Mobility Fund Phase 1 recipients must offer voice service with coverage of at least 75 percent or more of the designated road miles within the area for which support is provided. Additionally, receipt of the Mobility Fund Phase 1 support is conditioned upon the recipient providing service over a network that achieves particular data rates under particular conditions, which the FCC refers to as 3G networks or better.²⁷

T-Mobile's Application is for ETC designation outside of its current ETC service area and in unserved areas. As such, the public interest analysis is a simple one. The fact that no other carriers serve these census blocks suggests that it would be in the public interest to allow T-Mobile the opportunity to deploy services to these areas.

Other Public Interest Considerations

When applying the public interest test for an ETC Application, Staff has reviewed other requirements that ETCs must satisfy. These public interest considerations are summarized below:

Company contribution to the Idaho Telephones Service Assistance Program (ITSAP). Staff has verified that the Company is remitting ITSAP fees to the program Administrator.²⁸

²⁶ 47 U.S.C. § 214(e)(2).

²⁷ *Auction 901 Procedures Public Notice* para. 26.

²⁸ 2011 ITSAP Annual Report, *Confidential Monthly Reports*.

T-Mobile has the ability to remain functional in emergency situations.²⁹ T-Mobile “has the ability to remain functional in emergency situations.” As demonstrated in its Emergency Operation Plan,³⁰ the Company has a reasonable amount of back-up power to ensure functionality without an external power source, is able to re-route traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.³¹

For the reasons stated above, Staff believes that T-Mobile satisfies the public interest analysis.

Other ETC Designation Requirements

Additional requirements for ETC designation, not previously discussed, are detailed in the Appendix 1 of Order No. 29841 and discussed more fully below.

1. Common Carrier Status. T-Mobile is a Commercial Mobile Radio Services (CMRS) carrier providing “mobile service” as defined in 47 U.S.C. § 153(27).³²

2. Provide the Universal Services. T-Mobile offers the federally designated services listed at 47 U.S.C. § 54.10(a).³³

3. Advertising. T-Mobile will advertise the availability and pricing of its universal service offering.³⁴

4. The Commitment and Ability to Provide Supported Service. T-Mobile will use USF support as set forth under the Phase 1 Mobility Fund.³⁵

5. Commitment to Consumer Protection and Service. T-Mobile will satisfy applicable consumer protection and service quality standards in accordance with 47 C.F.R, § 54.202(a)(3) and the IPUC ETC Requirements Order.³⁶

6. Description of the Local Usage Plan. T-Mobile’s service offering are comparable to the offerings of the incumbent local exchange carrier (ILEC), taking into consideration all of the attributes of its and the ILECs’ service offering.³⁷

²⁹ Application at 13.

³⁰ See Order No. 32319, Case No. TMW-T-10-01.

³¹ Application at 13.

³² *Id.* at 10.

³³ *Id.* at 8.

³⁴ *Id.* at 12.

³⁵ *Id.*

³⁶ *Id.* at 14.

³⁷ *Id.*

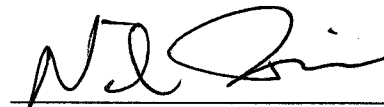
7. Tribal Notification. T-Mobile will comply with this requirement. T-Mobile submitted a copy of its Application to Coeur d'Alene Tribe, Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho, Nez Perce Tribe of Idaho and Kootenai Tribe of Idaho.³⁸

STAFF RECOMMENDATION

Staff has reviewed the application of T-Mobile for the conditional designation as an ETC for the purpose of participating in the Mobility Fund Phase 1 Auction for areas outside of its existing ETC area and only in the areas in which it is awarded Mobility Fund Support.

Staff believes that T-Mobile's Application for a conditional ETC designation in the unserved census blocks in Idaho is in the public interest and recommends approval of the Application.

Respectfully submitted this 24th day of May 2012.



Neil Price
Deputy Attorney General

Technical Staff: Grace Seaman

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³⁸ Application Cover Letter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 24TH DAY OF MAY 2011, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. TMW-T-10-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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