



*Advisors to the Rural Communications Industry*

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November 27, 2006

*Via Federal Express Overnight Delivery*

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Idaho Public Utilities Commission  
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Re: Case No. INC-T-06-02

Dear Ms. Jewel:

Enclosed please find the original and seven copies of the Comments of the Potlatch Telephone Company, Inc. for filing in the referenced matter,

If you have questions concerning these filings, please contact me at (303) 550-4772.  
Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Barry L. Hjort", written over a printed name.

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF IDAHO**

IN THE MATTER OF THE PETITION )  
OF INLAND CELLULAR FOR )  
DESIGNATION AS ELIGIBLE )  
TELECOMMUNICATIONS CARRIERS )  
UNDER 47 U.S.C. SECTION 214(e)(2) )

Case No. INC-T-06-02

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**COMMENTS OF THE POTLATCH TELEPHONE COMPANY, INC.**

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Potlatch Telephone Company Inc., ("Potlatch") through its undersigned counsel, pursuant to Idaho Public Utility Commission ("IPUC") Order No. 30152 issued in this matter, submits its Comments in opposition to the Petition and the two supplements thereto of Inland Cellular Telephone Company ("ICTC") seeking designation as an Eligible Telecommunications Carrier and in support thereof states as follows:

## INTRODUCTION

On June 27, 2006 ICTC filed its Petition for Designation as an Eligible Telecommunications Carrier. Potlatch filed a timely Petition to Intervene. By Commission Order No. 30144, dated October 4, 2006, the Potlatch petition was granted. Subsequent to its initial filing, ICTC filed a Supplemental Petition with attachments on September 27, 2006 and a second Supplement with attachments on October 12, 2006.

As this Commission is aware, Potlatch is an independent local exchange carrier (“ILEC”) which provides local exchange and other telecommunications services to customers in rural areas of the state. It is and has been certified by the Idaho Public Utilities Commission (“IPUC”) to receive federal universal service support for the basic service it provides to its customers. Both the company and its customers will be potentially affected by the IPUC decision in this case.

As the ICTC Petition indicates in Exhibit C, the applicant seeks ETC designation in the Potlatch wire centers of Julietta, Kendrick and Troy. ICTC is the first wireless carrier to file a petition seeking ETC designation in the referenced Potlatch wire centers.

Potlatch opposes the ICTC petition and urges its rejection by this Commission. As is outlined in more detail below, Potlatch argues that the ICTC Petition is procedurally deficient in that it fails to comply both with certain of the applicable Federal Communications Commission (“FCC”) certification requirements, as well as with several of the IPUC rule requirements concerning ETC certification applications. In addition, the Petition, its Supplements and the associated attachments provide insufficient factual information for this Commission to reach an informed, substantive conclusion that the

grant of ETC designation to ICTC would be in the public interest. The Petition and its supplements contain a variety of generalized assertions pertaining to the requirements that must be met by an ETC designee, but taken as a whole, lack both the specificity and concrete commitments that are required of an applicant that seeks ETC designation.

### **BACKGROUND**

On March 17, 2005, the FCC adopted new rules for designating eligible telecommunications carriers (“ETC’s”). *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 20 F.C.C.R. 637. The referenced FCC Order is appended to these comments as Attachment A. In its decision, the FCC urged state commissions to adopt similar requirements to be applied when considering the designation of new ETC’s pursuant to 47 U.S.C. Section 214(e).

Subsequently, in Case No. WST-T-05-1 this Commission sought comments from interested parties concerning the new FCC rules. After considering those comments, the IPUC adopted new ETC eligibility and reporting requirements in Order No. 29841 issued on August 4, 2005. That Order with the new Idaho ETC certification rules appended are attached as Attachment B. Those rules are applicable to and govern the review of the instant ICTC Petition and its supplements.

In addition to the referenced federal and state rules, because the ICTC Petition seeks ETC designation in areas served by rural telephone companies, including three wire centers served by Potlatch, this Commission is required pursuant to 47 U.S.C. Section 214(e)(2) to find that the designation is in the public interest. In analyzing that federal law requirement in the appended Order adopting new ETC certification rules, this Commission

specifically enumerated the public interest factors that it would consider that are specifically applicable to those applications seeking ETC designation in rural telephone company service areas.

(T)he value of increased competition, by itself, is not sufficient to satisfy the public interest test in rural areas. Instead, in determining whether designation of a competitive ETC in a rural telephone company's service area is in the public interest, we weigh numerous factors, including the benefits of increased competitive choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the competitor's service offering, any commitments made regarding the quality of the telephone service provided by competing providers, and the competitive ETC's ability to provide the supported services throughout the designated service area within a reasonable time frame.

Citing the *Clear Talk Order* at p. 6 (quoting *Virginia Cellular*, 19 F.C.C.R. at 1574)

## **ARGUMENT**

1. **Provision of Supported Services.** The first requirement of the IPUC rules concerning additional eligibility requirements for ETC certification indicates that an ETC Applicant must certify that it will:

(a) provide service on a timely basis to reporting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and (b) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network

coverage, if service can be provided at reasonable cost by (i) modifying or replacing the requesting customer's equipment; (ii) deploying roof-mounted antenna or other equipment; (iii) adjusting the nearest cell tower; (iv) adjusting network or customer facilities; (v) reselling services from another carrier's facilities to provide service; or (vi) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.

A review of the ICTC petition and its supplements will reveal that no such mandatory certification is contained within the filing papers. In the initial petition at paragraph 25, which purports to address this rule requirement, the Applicant simply describes its company history. No commitment or certification of compliance with the specifics of the applicable IPUC rule is found. Additionally, while the relevant rule is referenced at II., p. 2 of the Applicant's second supplement filed on October 12, 2006, again there appears no promise, commitment or certification by the Applicant to the rule's requirements. Instead, the Applicant both skirts the certification commitment and qualifies any potential compliance: "...Inland Cellular must have the flexibility to redirect investment to those areas requiring additional facilities. This flexibility is also important in order to be in compliance with the requirement...."

The commitment to provide the required supported services is central to qualification as an ETC under both the federal and state rules. Further, as this Commission noted in its Order adopting its ETC certification rules, the ETC applicant must demonstrate an ability to provide the supported services throughout its proposed designated service area within a reasonable time frame.

The Applicant's failure to provide the required certification, whether by oversight or by design, coupled with an absolute absence of any commitment to provide the required supported services throughout its designated service area must be adjudged fatal to its Application.

2. **Network Improvement Plan.** Associated with this Commission's rule requirement to provide supported services is the additional requirement to "... submit a two-year network improvement plan that describes with specificity proposed improvement or upgrades to the applicant's network on a wire center by wire center basis throughout its proposed designated service area." Again the Applicant's petition and supplements fail to provide any information that approximates even rough compliance with this requirement.

At paragraph 26 of the initial Petition, Applicant states: "Its two-year plan, 2006 and 2007, involves an estimated investment of \$2,100,000 in Idaho; budgeted sites or site improvements at Genesee, Kamiah, Nuxall (near Kooskie), Troy, Track (outside of Moscow), Highway 95 North and Highway 95 Summit." There is no indication in the pleading whether this "two year plan" budget estimating a \$2M-plus investment is Applicant's ordinary course of business budget planning number; or is intended as additional investment which the company contemplates based upon securing ETC designation. Thus no conclusion can be reached as to whether the company's representation constitutes an actual proposal for "network improvement" or is simply a description of the "ordinary course of business" infrastructure investments that wireless carriers routinely make. Obviously an Applicant commitment on this requirement is very important to this Commission as the tenor of its ETC certification rules plainly indicates

that it expects network improvements and upgrades as a condition of granting ETC designation.

At section VI., p. 6, paragraph 13 – 18 of the Applicant's first supplement, filed on September 27, 2006 there is an expanded explanation of the company's two-year plan. In paragraph 15, Applicant represents that "...although budgeted for 2006, the Troy, Track, Highway 95 North and Highway 95 Summit sites will not be built until 2007." (There is no indication as to whether this decision to delay upgrades and network improvements will have an effect upon the company's investment plans or investment numbers for 2006 or 2007.) In paragraph 16, it is noted that: "The Genesee site should be able to cover Genesee, Kendrick and Julietta and Inland Cellular's Orofino site would also over-lap Julietta." And finally, in the second Supplement of October 12, 2006, Applicant states:

Although in the Supplement, estimated investment figures were provided for proposed sites, we re-iterate that Inland Cellular is in a highly competitive business and in order to answer customer demand, Inland Cellular must have the flexibility to redirect investment to those areas requiring additional facilities.

Nowhere in the Applicant pleadings is there a reference to its investment intentions or a network improvement plan, laid out on a wire center-by-wire center basis that addresses each of the wire centers in its proposed designated service area. Indeed it is impossible on the face of the pleadings to ascertain whether the two year plan referenced by the Applicant relates to "proposed improvements or upgrades" at all or is simply a recounting of ordinary course of business investment planning. And finally, given the careful qualification of the wording contained in the second supplement, it appears that



ICTC, in a desire to preserve its "flexibility", reserves to itself the ultimate decision as to whether the investments it has noted that constitute elements of its two year plan will ever be made at all.

For the affected Potlatch wire centers of Julietta, Kendrick and Troy the only conclusions that can be drawn about the Applicant's "network improvement plan" is that the building of a Troy site will be delayed into 2007; and that the Genesee site, when built, "should be able to cover" Juliaetta and Kendrick.

Potlatch submits that the bare assertions of the Applicant's petition and supplements do not, in any respect, satisfy the IPUC rules requiring "specificity" concerning "proposed improvements or upgrades" on a "wire center-by-wire center basis", particularly in light of the Applicant's careful qualification concerning any potential investment commitments.

3. **Signal Quality, Coverage and Capacity.** Also associated with the Applicant commitment to provide supported services is the IPUC rule requirement that:

"Each applicant must also demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements."

Applicant makes no pretense of attempting to comply with this requirement. A careful reading of the Petition and its supplements will disclose no mention of how the receipt of high cost support will cause an improvement in ICTC's signal quality, coverage or capacity. The only reference in the pleadings that even tangentially touches this

requirement with respect to the Potlatch wire centers is the assertion, noted above, that the Genesee site, when built, “should be able to cover” Julietta and Kendrick.

Potlatch submits that this section of the IPUC certification rules requires more than a single sentence expression of hope from an ETC applicant. Critical factual information, and concrete commitments, both central to compliance with this Commission’s rules are simply not provided in Applicant’s pleadings.

It must be noted that this application, its supplements and attachments are singular in their lack of supporting detail. The maps of the Applicant’s licensed service areas are of little use in any analysis because there are no geographic reference points except county boundaries. Because existing cell site locations are not identified, terrain obstacles noted, or proposed new site locations identified on the maps and because no propagation studies are affixed to provide corroboration of the pleading assertions – it is impossible for this Commission, or indeed for any interested party, to determine whether any of the proposed Applicant investments will result in any improvement in the company’s signal quality, coverage or capacity as required by the rule.

An associated rule requirement here requires Applicant information concerning the projected start date and completion date for each improvement and the estimated amount of investment for each project, as well as the specific geographic areas where the improvements will be made and the estimated population that will be served. Again the pleadings provide no meaningful insights. For the Potlatch wire centers, the pleadings only reveal as has been noted above, that the building of a Troy site will be delayed into 2007 and that the Genesee site, when built, “should be able to cover” Julietta and

Kendrick. The pleadings contain no commitment to build, no project by project information concerning projected cost or start or completion date, and beyond the Genesee reference – no geographic specifics. In the second supplemental, a minimal effort at providing “population served” information is supplied, but again no effort is made to identify “population served” estimates by wire center or geographic location.

4. **Remaining Functional in Emergencies.** The applicable Commission rule requires a demonstration that the Applicant has reasonable back-up power to ensure operability without an external power source, can re-route traffic around damaged facilities, and can manage traffic spikes. Concerning this rule requirement, Applicant indicates at paragraph 22, p. 8 of its September 27, 2006 Supplemental that if a cell site becomes nonfunctional, that “...the wireless customer could receive service from any of Inland Cellular’s roaming partners should their service remain in tact (sic) and a signal can be obtained.” This representation is repeated at paragraph 8, p.4 of the October 12 Applicant Supplement.

Potlatch recognizes that wireless providers have the ability to program their cellular handsets to default to their own channel. If the handset cannot be connected to the primary provider’s channel, it can also be programmed to then automatically search for another channel or signal. This default and search process is the same regardless if the call is initiated within the wireless provider's own serving area or outside its own serving area. It is not clear from the application how the Applicant programs its handsets.

In some circumstances such as in an urban location with a relatively flat landscape and a variety of competing wireless providers this back-up strategy may be a viable one.

However, in the mountainous terrain of the rural Potlatch service area, for wireless customers to rely upon overlapping roaming partner signals for communications back-up is a dubious proposition at best.

5. **Local Usage.** The federal and the IPUC requirements concerning local usage plans differ. In 47 C.F.R. Section 54.202(a), an ETC Applicant is required to offer a local usage plan “comparable to that of the incumbent local exchange carrier.” The relevant IPUC rule simply requires that an Applicant describe its local usage plans and those of the competing ILEC. The IPUC decision adopting its new certification rules notes that Applicant information concerning local usage plans “...is essential to the public interest analysis.”

The ICTC Petition contains information concerning local usage and its plan descriptions at paragraphs 14 and 29 as well as at paragraphs 28 and 29, pp. 10-11 of the September 27, 2006 Supplement. Applicant represents that it will comply with “...any and all minimum local usage requirements adopted by the FCC or the IPUC.” It identifies two of its existing calling plans as options to meet local usage requirements. The first is a \$29.95 per month post-pay plan for unlimited minutes of in-network calling and the second is a post-pay plan of \$19.95 for 150 minutes of non-toll usage.

Potlatch has two concerns with the Applicant’s representations. First, it proposes no specific basic universal service plan tailored to meet customer needs that is associated with its proposed receipt of ETC designation by this Commission. The Applicant simply describes its existing plans and by employing a “round peg in a square hole” analysis,

seeks to cram the terms and conditions of two of its existing plans into the local usage requirement.

Second, the Applicant makes no effort to demonstrate that its plan offerings which are touted as responsive to the local usage requirement meet the federal rule requirement concerning comparability with the basic service offering of the incumbent – either as to price or as to minutes of use. Notwithstanding the provisions of the IPUC’s rule requirement concerning local usage, any Applicant proposal for local usage that does not meet the federal rule requirement of “comparability” fails to meet the required public interest test.

It is the Potlatch contention that any Idaho applicant for ETC certification should be required to establish a specific basic universal service offering with local usage deemed adequate by the IPUC Staff which is comparable to that of the competing incumbent ILEC in order to meet the applicable public interest standard for certification in the service area of a rural ILEC. Such a basic universal service plan offering should not only be proposed, but should be required to be separately identified in marketing materials, and should be offered, advertised and posted along with all other service offerings on the Applicant’s Website. In its ETC rulemaking decision attached which referenced the federal “comparability requirement”, this Commission noted: “The Commission Staff supported this requirement explaining that the local usage plan need not be a fully flat-rated plan but should allow sufficient minutes of use to meet customer needs.”

Potlatch contends that by any calculus, 150 minutes of local usage per month for a rate of \$19.95 cannot be deemed adequate to meet either “customer needs” or the IPUC

or the FCC local usage rule requirements. It also urges this Commission to require a specific basic universal service offering with adequate local usage as a condition of the receipt of ETC designation.

**6. Impact on Universal Service Fund.** The new FCC certification rules, upon which the IPUC rules build, include a public interest standard that applies to all competitive ETC applicants. See, 47 C.F.R. Section 54.202(c). The public interest standard requires a cost-benefit analysis that considers several factors. Included among these factors is the requirement to examine “the impact of the designation on the universal service fund.” This Commission has adopted the public interest analysis contained in the FCC rules. In its attached Order No. 29841 at page 15 the Commission stated: “Noting that all of the commenters support the FCC’s proposed public interest analysis, the Commission adopts this analysis.”

The ICTC Petition and its associated Supplements contain no reference to or information concerning the impact of its proposed ETC certification upon the federal universal service fund. The Application is silent concerning this requirement. In the absence of relevant data, this Commission simply cannot perform and complete the public interest “cost-benefit” analysis required both by applicable federal rules and its own requirements. This omission constitutes an additional ground upon which the Applicant’s Petition must be rejected.

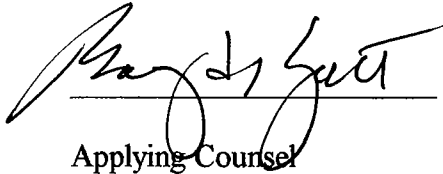
**7. Summary.** To meet its obligation to perform a public interest analysis concerning an application for ETC certification, this Commission requires certain specific information and positive, unqualified commitments from an Applicant. There are clear procedural

requirements embodied in the Commission's rules that must be met by any Applicant in order to permit the Commission to reach substantive conclusions. The deficiencies of the ICTC Petition and its Supplements have been outlined above. Those deficiencies are of such a magnitude that adequate analysis cannot be performed nor substantive conclusions reached.

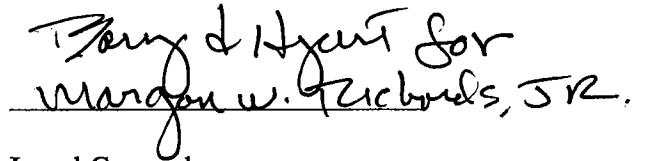
Perhaps some of the shortcomings of the instant application could be considered technical in nature. But there are certain bedrock assurances that this Commission must have in order to complete its required public interest analysis and to approve Applicant ETC status. These include: (a) specific information about where infrastructure and network improvement investments will be made; (b) the projects that those investments will be directed toward; (c) the dollar amount of those investments; (d) a positive, unqualified commitment to make those investments if ETC status is granted; and (e) the assurance that the investments proposed will be made because of the receipt of ETC designation, not simply in the ordinary course of business. In short, the Commission needs to be assured that that the citizens of Idaho will realize an improvement in communications service in the state in exchange for the Applicant's receipt of federal support. None of these bedrock assurances are contained in the ICTC application. The Application fails the public interest test. It should be rejected.

WHEREFORE, having fully set forth its Comments, Potlatch respectfully requests that the Commission deny the Application of ICTC for ETC status.

DATED this 27<sup>th</sup> day of November, 2006.



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### CERTIFICATE OF SERVICE

I, Barry L. Hjort, hereby certify that I have, on this 27<sup>th</sup> day of November, 2006, served the foregoing **COMMENTS OF THE POTLATCH TELEPHONE COMPANY, INC.** upon all parties listed in the Certificate provided with the Inland Cellular Application. A copy of the foregoing **COMMENTS OF THE POTLATCH TELEPHONE COMPANY, INC.** filed today was placed in the United States mail, first class postage pre-paid, addressed to the following:

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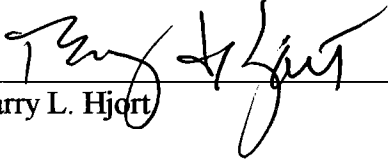
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Barry L. Hjort

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Federal-State Joint Board on
Universal Service
CC Docket No. 96-45

REPORT AND ORDER

Adopted: February 25, 2005

Released: March 17, 2005

By the Commission: Commissioners Abernathy, Copps, and Adelstein issuing separate statements;
Commissioner Martin approving in part, and dissenting in part.

TABLE OF CONTENTS

Table with 2 columns: Heading and Paragraph #. Includes sections I. INTRODUCTION, II. BACKGROUND, III. SCOPE OF SUPPORT, IV. ETC DESIGNATION PROCESS, V. ANNUAL CEF, VI. OTHER ISSUES.

A. Service Area Redefinition Process.....	73
B. Pending Redefinition Petitions.....	76
C. Identification of Wireless Customer Locations.....	80
D. Accurate, Legible, and Consistent Maps.....	84
E. Support to Newly Designated ETCs.....	87
F. Accepting Untimely Filed Certifications For Interstate Access Support.....	93
VII.....	PROCEDURAL MATTERS
VIII. ORDERING CLAUSES.....	108
Appendix A - Final Rules	
Appendix B - Parties Filing Comments and Reply Comments	
Appendix C - Final Regulatory Flexibility Analysis	

## I. INTRODUCTION

1. This Report and Order addresses the minimum requirements for a telecommunications carrier to be designated as an “eligible telecommunications carrier” or “ETC,” and thus eligible to receive federal universal service support. Specifically, consistent with the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), we adopt additional mandatory requirements for ETC designation proceedings in which the Commission acts pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act).<sup>1</sup> In addition, as recommended by the Joint Board, we encourage states that exercise jurisdiction over ETC designations pursuant to section 214(e)(2) of the Act, to adopt these requirements when deciding whether a common carrier should be designated as an ETC.<sup>2</sup> We believe that application of these additional requirements by the Commission and state commissions will allow for a more predictable ETC designation process.<sup>3</sup>

2. We also believe that because these requirements create a more rigorous ETC designation process, their application by the Commission and state commissions will improve the long-term sustainability of the universal service fund.<sup>4</sup> Specifically, in considering whether a common carrier has satisfied its burden of proof necessary to obtain ETC designation, we require that the applicant: (1) provide a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality or capacity in every wire center for which it seeks designation and expects to receive universal service support; (2) demonstrate its ability to remain functional in emergency situations; (3) demonstrate that it will satisfy consumer protection and service quality standards; (4) offer local usage plans comparable to those offered by the incumbent local exchange carrier (LEC) in the areas for which it seeks designation; and (5) acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to section 214(e)(4) of the Act. In addition, we make these additional requirements applicable on a prospective basis to all ETCs previously designated by the Commission, and we require these ETCs to submit evidence demonstrating how they comply with this new ETC designation framework by October 1, 2006, at the

<sup>1</sup>47 U.S.C. § 214(e)(6). Section 214(e)(6) of the Act directs the Commission to designate carriers when those carriers are not subject to the jurisdiction of a state commission.

<sup>2</sup>47 U.S.C. § 214(e)(2). Section 214(e)(2) of the Act provides state commissions with the primary responsibility for designating ETCs.

<sup>3</sup>See *Federal-State Joint Board on Universal Service, Recommended Decision*, CC Docket No. 96-45, 19 FCC Rcd 4257, 4258, para. 2 (2004) (*Recommended Decision*).

<sup>4</sup>See *id.*

same time they submit their annual certification filing. As explained in greater detail below, however, we do not adopt the Joint Board's recommendation to evaluate separately whether ETC applicants have the financial resources and ability to provide quality services throughout the designated service area because we conclude the objective of such criterion will be achieved through the other requirements adopted in this Report and Order.

3. In this Report and Order, we also set forth the analytical framework the Commission will use to determine whether the public interest would be served by an applicant's designation as an ETC. We find that, under the statute, an applicant should be designated as an ETC only where such designation serves the public interest, regardless of whether the area where designation is sought is served by a rural or non-rural carrier. Although the outcome of the Commission's section 214(e)(6) analysis may vary depending on whether the area is served by a rural or non-rural carrier, we clarify that the Commission's public interest examination for ETC designations will review many of the same factors for ETC designations in areas served by non-rural and rural incumbent LECs. In addition, as part of our public interest analysis, we will examine the potential for creamskimming effects in instances where an ETC applicant seeks designation below the study area level of a rural incumbent LEC. We also encourage states to apply the Commission's analysis in determining whether or not the public interest would be served by designating a carrier as an ETC.

4. In addition, we further strengthen the Commission's reporting requirements for ETCs in order to ensure that high-cost universal service support continues to be used for its intended purposes. An ETC, therefore, must submit, among other things, on an annual basis: (1) progress updates on its five-year service quality improvement plan, including maps detailing progress towards meeting its five-year improvement plan, explanations of how much universal service support was received and how the support was used to improve service quality in each wire center for which designation was obtained, and an explanation of why any network improvement targets have not been met; (2) detailed information on outages in the ETC's network caused by emergencies, including the date and time of onset of the outage, a brief description of the outage, the particular services affected by the outage, the geographic areas affected by the outage, and steps taken to prevent a similar outage situation in the future; and (3) how many requests for service from potential customers were unfulfilled for the past year and the number of complaints per 1,000 handsets or lines. These annual reporting requirements are required for all ETCs designated by the Commission. We encourage states to require these reports to be filed by all ETCs over which they possess jurisdiction.

5. As explained below, we do not adopt the recommendation of the Joint Board to limit high-cost support to a single connection that provides access to the public telephone network. Section 634 of the 2005 Consolidated Appropriations Act prohibits the Commission from utilizing appropriated funds to "modify, amend, or change" its rules or regulations to implement this recommendation.<sup>5</sup> Nevertheless, we believe the rigorous ETC designation requirements adopted above will ensure that only ETCs that can adequately provide universal service will receive ETC designation, thereby lessening fund growth attributable to the designation and supporting the long-term sustainability of the universal service fund.

6. We also agree with the Joint Board's recommendation that changes are not warranted in our rules concerning procedures for redefinition of service areas served by rural incumbent LECs. In addition, in this Report and Order, we grant several petitions for redefinition of rural incumbent LEC service areas. Moreover, we direct the Universal Service Administrative Company (USAC), in

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<sup>5</sup>Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, § 634, 118 Stat 2809 (2004) (*2005 Consolidated Appropriations Act*). The prohibition against using any appropriated funds for adopting a primary line restriction expires September, 30, 2005. *See id.*

accordance with direction from the Wireline Competition Bureau, to develop standards as necessary for the submission of any maps that ETCs are required to submit to USAC under the Commission's rules. We also modify the Commission's annual certification and line count filing deadlines so that newly designated ETCs are permitted to file that data within sixty days of their ETC designation date. This will allow high-cost support to be distributed as of the date of ETC designation. In addition, to enable price cap LECs and/or competitive ETCs that miss the June 30 annual interstate access support (IAS) certification deadline to receive IAS support, we modify the quarterly certification schedule for the receipt of IAS support. These carriers may file their certification after June 30 in order to receive IAS support in the second calendar quarter after the certification is filed. Finally, we decline to define mobile wireless customer location in terms of "place of primary use," as defined by the Mobile Telecommunications Sourcing Act (MTSA), for universal service purposes.

## II. BACKGROUND

### A. The Act

7. Section 254(e) of the Communications Act of 1934, as amended (the Act),<sup>6</sup> provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support."<sup>7</sup> Pursuant to section 214(e)(1), a common carrier designated as an ETC must offer the services supported by the federal universal service mechanisms throughout the designated service area either by using its own facilities or by using a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC), and must advertise these services throughout the designated service area.<sup>8</sup>

8. Section 214(e)(2) of the Act provides state commissions with the primary responsibility for performing ETC designations.<sup>9</sup> Under section 214(e)(2), "[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier" for a designated service area, so long as the requesting carrier meets the requirements of section 214(e)(1).<sup>10</sup> Section 214(e)(2) further states: "[b]efore designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest."<sup>11</sup> Section 214(e)(6) provides that, "[i]n the case of a common carrier providing telephone exchange service and exchange access that is not

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<sup>6</sup>See 47 U.S.C. § 254(e). The Communications Act of 1934 was amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

<sup>7</sup>47 U.S.C. § 254(e).

<sup>8</sup>47 U.S.C. § 214(e)(1).

<sup>9</sup>47 U.S.C. § 214(e)(2). See also *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12255, para. 93 (2000) (*Twelfth Report and Order*).

<sup>10</sup>47 U.S.C. § 214(e)(1).

<sup>11</sup>47 U.S.C. § 214(e)(2).

