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BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of IAT
Communications, Inc., d.b.a. NTCH-Idaho, Inc.)
or Clear Talk, for Designation as an Eligible)
Telecommunications Carrier.)

CASE NO. Docket No. GNR-T-03-08

In the Matter of the Application of NPCR, INC.)
d/b/a NEXTEL PARTNERS)
Seeking Designation as an Eligible)
Telecommunications Carrier that may receive)
Federal Universal Service Support.)

CASE NO. Docket No. GNR-T-03-16

REBUTTAL TESTIMONY
OF
LARRY CURRY
ON BEHALF OF
IAT COMMUNICATIONS, INC., D.B.A. NTCH-IDAHO, INC.

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Q. Please state your name and business address.

A. My name is Larry Curry. I am a director of IAT Communications, Inc., a Delaware corporation, and the president and general manager of NTCH-Idaho, Inc., an Idaho corporation, collectively doing business as Clear Talk (“Clear Talk”). Clear Talk’s offices are located at 233 N. Main Street, Pocatello, Idaho, 83204. I live and work in Pocatello, Idaho.

Q. Have you read the testimony submitted by Lance A. Tade on behalf of Citizens Telecommunications Company of Idaho (“CT-Idaho”)?

A. Yes.

Q. Have you read the testimony submitted by Daniel L. Trampush on behalf of the Idaho Telephone Association (“ITA”) and CT-Idaho?

A. Yes.

Q. What is the purpose of the testimony you are filing today?

A. The purpose of my testimony today is to rebut the misinformation and mischaracterizations contained in the testimony of Mr. Tade and Mr. Trampush.

Q. Let’s start with Mr. Tade’s testimony. Generally speaking, what misinformation and/or mischaracterizations do you believe require rebuttal?

A. Well, there are three general areas of Mr. Tade’s testimony that I would like to address: (1) that disaggregation of the Aberdeen exchange would result in Clear Talk’s unfair arbitrage of the federal Universal Support Fund system; (2) that Clear Talk’s local usage service is not equivalent to CT-Idaho’s; and (3) that this Commission is charged with resolving national telecommunications policy matters in the context of its Section 214(e)(2) public interest inquiry.

1 **Q. What specific concerns do you have regarding Mr. Tade’s**
2 **testimony that disaggregation of the Aberdeen exchange would result in Clear Talk’s**
3 **unfair arbitrage of the federal Universal Support Fund system?**

4 A. First of all, the whole concept of wire centers is based on 20th
5 century wireline technology and has no applicability to today’s wireless technology. So,
6 CT-Idaho’s insistence that the Commission adhere to that archaic perspective in
7 considering Clear Talk’s application for ETC designation is purely self-serving, does not
8 reflect today’s reality, and is not reasonably related to any public benefit. Secondly, Clear
9 Talk’s application is based on its Federal Communications Commission (“FCC”)
10 spectrum licenses, not on some arbitrary decision to concentrate its buildout in low-cost,
11 high-profit areas. For all we know, Clear Talk’s license in the Aberdeen exchange area
12 may only be for the highest cost portion rather than the lowest cost portion. That is a risk
13 we are willing to take. Clear Talk has aggressively met demand within its licensed areas
14 and seeks ETC designation in order to allow it to continue to meet demand in the higher-
15 cost portions of its licensed areas. This is precisely what the Universal Service Fund was
16 designed for – deployment of universal service and state of the art technology to all
17 consumers, regardless of where they live.

18 **Q. Other than the fact that accepting CT-Idaho’s argument that**
19 **wireless ETCs should be required to serve an incumbent rural LEC’s entire Study**
20 **Area would arbitrarily prevent Clear Talk from being designated an ETC, are there**
21 **broader public interest concerns regarding such an approach?**

22 A. Yes. If the Commission were to accept CT-Idaho’s argument that
23 ETCs should be designated on a Study Area basis only, then the Commission would, by
24 default, create a situation whereby only large, wireless carriers with wall-to-wall license
25 coverage would qualify for ETC designation in Idaho. Often times, the smaller wireless

1 carriers can serve customers more cost-effectively than their larger counterparts. Smaller
2 companies can be more efficient in terms of the cost of capital and cost of operations and
3 this translates into savings for consumers. For instance, Clear Talk already offers
4 unlimited wireless calling at anytime of the day for a flat rate of \$39.95 or less. Based on
5 a monthly average of 1460 minutes of use per customer in Idaho, Clear Talk provides at
6 least twice the average minutes of use as any national wireless carrier for a service charge
7 that is at least 20% less on the average. This statement is based on public reports filed by
8 our competitors for the third quarter of 2002, as detailed on Exhibit 2, attached to this
9 testimony.

10 **Q. Anything else?**

11 **A. Yes.** Let me point out some of the benefits that a local wireless
12 carrier like Clear Talk can provide to the areas where we seek ETC designation that can
13 not be provided by large national carriers.

14 A small wireless carrier like Clear Talk typically has greater network security from
15 catastrophic events or terrorism than larger wireless carriers. We provide local switching
16 with a separate switch in Idaho Falls, Pocatello and Twin Falls, so if one part of our
17 system were knocked out by an act of God or terrorism, the impact would be limited to the
18 immediate local calling area, not our entire southern Idaho operation. This should be
19 contrasted with national wireless carriers and their affiliates which may switch multiple
20 states from a single switch and accordingly expose entire states to a loss of service if the
21 operation of that switch or the lines feeding are compromised.

22 Furthermore, because we provide local switching, we are providing high-
23 technology jobs in Idaho, unlike some of our larger competitors whose switches are
24 located outside the state. In fact, we are the only wireless carrier that we are aware of that
25 has even a single switch, let alone the three switches that we have in our Idaho FCC

1 licensed areas. Not only are our switch operators located in Idaho, but our customer care
2 centers are local as well. So, again, that has a positive impact on Idaho employment but,
3 more importantly for our customers, it ensures that our customers will be able to talk to a
4 customer care representative that has firsthand knowledge of the area and of our network
5 facilities in the area and who works side-by-side daily with the operations people who can
6 actually do something to improve our customers experience. This contrasts favorably with
7 other large wireless and wireline carriers who have started to export customer care
8 functions to foreign countries to take advantage of cheap labor rates in those foreign
9 countries.

10 Unlike our larger competitors, Clear Talk provides four-digit dialing which allows
11 our customers to dial any other Clear Talk customer in their area by just dialing the last 4
12 digits. In rural areas we encourage customers and businesses to use the last four digits of
13 their wireline phone as the four-digit number for their wireless phone. This technology
14 helps simplify our customers' transition between wireline and wireless service in these
15 areas.

16 Finally, since we view ourselves as a "local player", we are far more receptive to
17 working cooperatively with other local telecommunications providers than larger, national
18 carriers are. In fact, we have consistently sought out cooperative opportunities with the
19 small rural carriers in all of the areas we serve. This includes some of the same carriers
20 that are opposing us in this action.

21 **Q. So, how would you sum up your concerns regarding the**
22 **potential cost to Idaho of a decision based solely on a rural LEC's Study Area?**

23 **A.** It would reduce cost-effective competition in the wireless sector,
24 reduce network security, deny Idaho consumers the benefit of innovations unique to small
25

1 wireless service providers like four-digit dialing, and reduce contributions to the local
2 economy through the loss of high-technology jobs.

3 **Q. What about Mr. Tade's concerns regarding "asymmetric**
4 **regulation"?**

5 **A.** Mr. Tade's testimony regarding asymmetric regulation is curious.

6 **Q. In what sense?**

7 **A.** Mr. Tade testified that, "Asymmetric regulation may be defined as
8 the practice of imposing market constraints on the incumbent firm not likewise borne by
9 its competitors." (P. 7, LL. 10-12, L. Tade Direct Testimony). Yet, Mr. Trampush, who
10 testified as an expert witness on behalf of CT-Idaho, stated that the wireless carriers are not
11 direct competitors of incumbent LECs. (P. 27, LL. 5 - 16, D. L. Trampush, Direct
12 Testimony.)

13 **Q. IF Clear Talk receives ETC designation for a portion of the**
14 **Aberdeen exchange, will it "pick and choose" the geographic extent of its ETC**
15 **obligations within the designated ETC service area?**

16 **A.** No. Clear Talk is committed to providing service throughout its
17 ETC-designated service areas, based on customer demand to the extent it is federally
18 licensed to provide service in that area.

19 **Q. What about Mr. Tade's testimony regarding the issue of local**
20 **usage?**

21 **A.** Mr. Tade's testimony is off the mark with respect to Clear Talk.
22 Our subscribers in southeast Idaho get unlimited local usage for a flat monthly fee of
23 \$39.95 no matter what day of the week or time of the day a call is placed. There are no
24 maximum number of minutes and, therefore, no hidden charges.

25

1 **Q. In what ways is Clear Talk's local usage service superior to CT-**
2 **Idaho's?**

3 A. Well, we would argue that our service is superior to CT-Idaho's on
4 several levels, but a clear advantage that we offer to our southeastern Idaho customers in
5 terms of local usage is the breadth of the local calling area, which far exceeds that offered
6 by CT-Idaho.

7 **Q. Please explain.**

8 A. For a flat fee of \$39.95 per month, our customers in southeast Idaho
9 can call virtually anywhere in the area comprised of the Idaho Falls, Twin Falls and
10 Pocatello Basic Trading Areas ("BTA") without a toll call. In our market research, we
11 have found that there are many areas within even a single southern Idaho BTA where the
12 incumbent wireline carrier, supported by USF funds, charges a toll call where Clear Talk
13 does not. For example, according to our research, a toll would be charged for wireline
14 calls from Burley to Twin Falls, whereas Clear Talk customers can make unlimited calls
15 between Burley and Twin Falls as part of our flat fee service in that area.

16 **Q. Let's turn our attention now to Mr. Tade's testimony regarding**
17 **CT-Idaho's Public Interest concerns.**

18 A. OK.

19 **Q. How would you characterize Mr. Tade's testimony regarding**
20 **the Commission's public interest inquiry in this docket?**

21 A. The focus of Mr. Tade's testimony is on national
22 telecommunications policy rather than on the local public interest.

23 **Q. How so?**

24 A. Well, the chief points Mr. Tade makes regarding the Commission's
25 public interest inquiry are: 1) designation of multiple ETCs will lead to unbridled growth

1 of the Universal Service fund and a decline in the rural LECs' draws against the funds; 2)
2 lack of inter-carrier compensation for use of networks; and 3) lack of infrastructure build-
3 out accountability.

4 **Q. Let's start with the first point. How is that a matter of federal**
5 **telecommunications policy?**

6 A. It simply does not make sense that, in passing Section 214(e)(2) of
7 the Telecommunications Act of 1996, Congress intended to charge this Commission with
8 balancing the benefits of designating rural ETCs in Idaho against national public policy
9 concerns, if any. The Telecommunications Act of 1996 clearly envisions that multiple
10 ETCs will be designated throughout the United States so, Congress was either not worried
11 about unbridled growth of the Universal Service fund or, more likely, felt that the benefits
12 of bringing wireless and state of the art telecommunications to areas currently subsidized
13 by Universal Service funds outweighed any detriments associated with a growth in the
14 fund.

15 I would also like to point out that the current growth of the fund is almost entirely
16 attributable to the incumbent wireline carriers. It is public record that more than 96% of
17 all Universal Service funds currently go to wireline, not wireless, carriers. Growth of the
18 fund is a reflection of the healthy growth in Americans' use of telecommunications
19 technology in their homes, such as adding additional lines for fax and internet
20 connections.

21 **Q. Are there any other problems with Mr. Tade's testimony**
22 **regarding growth of the Universal Service fund?**

23 A. Yes. Mr. Tade's testimony is based on the assumption that
24 consumers will substitute wireless telephones for wireline telephones. Yet, as I previously
25 noted, CT-Idaho's own expert, Mr. Trampush, has testified that, despite the presence of

1 multiple wireless carriers in CT-Idaho's Study Area, CT-Idaho has not lost a significant
2 number of access lines over the last three years and, to the extent it has lost any, that loss
3 may be attributed to the local economy. [P. 27, LL. 6 – 10, D.L. Trampush Direct
4 Testimony.] In addition, each new phone that is added to the telecommunications mix –
5 whether wireles or wireline - adds an additional contribution to the fund, so you do not
6 have a situation of fewer and fewer subscribers paying for a bigger and bigger fund.

7 The FCC has consistently adjusted the method in which the Universal Service fund
8 contribution is assessed. There is no indication that they will not continue to do this and,
9 accordingly, any testimony about the future state of the fund, the level of future
10 contributons and/or consumers' future response to as yet unknown future scenarios is
11 speculative at best.

12 **Q. What about Mr. Tade's testimony regarding inter-carrier**
13 **compensation?**

14 **A. Mr. Tade does not appear to be arguing that Clear Talk's**
15 **application presents an inter-carrier compensation issue unique to its Study Area or unique**
16 **to Idaho. The issue of inter-carrier compensation on a national basis is addressed by the**
17 **1996 Telecommunications Act. To the extent CT-Idaho believes that the Act does not**
18 **adequately address the issue of inter-carrier compensation in the present context, then that**
19 **is a matter for Congress to address in setting future federal telecommunications policy.**

20 **Q. I believe you identified "accountability" as the final concern**
21 **that Mr. Tade raised in his direct testimony regarding the Commission's local public**
22 **interest inquiry. Please explain your disagreement with Mr. Tade's testimony.**

23 **A. Perhaps the best way to answer is by asking a rhetorical question:**
24 **Was CT-Idaho required to provide this Commission with a build-out plan for its network**
25 **prior to receiving ETC designation and prior to knowing where customer growth would**

1 occur in its targeted area? And, if not, why should Clear Talk be held to a different
2 standard? I sincerely doubt that CT-Idaho or any of its affiliates would agree to have its
3 network build-out plans a matter of public record and inquiry if they were in a competitive
4 industry such as wireless telecommunications, as opposed to the publicly subsidized
5 monopoly that they seek to retain.

6 Clear Talk has taken the crucial initial first step: it has begun extending its service
7 into the edges of rural southeastern and south central Idaho. We have begun our master
8 build out and we stand ready, willing and able to bring wireless service deeper into rural
9 Idaho if we are able to offset some of the higher costs associated with serving these less
10 densely populated areas through receipt of Universal Service fund support. Since our
11 entrance into the market will give customers choices they did not previously have,
12 customer demand and acceptance will drive our build-out within the ETC designated area.
13 Apart from the issue of Universal Service support, Clear Talk has built out in a customer-
14 driven manner and will remain so. As the Commission can see from Exhibit 3, Clear Talk
15 has a proven track record of aggressively deploying advanced wireless
16 telecommunications in its FCC license areas.

17 **Q. Mr. Tade concluded his testimony by identifying four**
18 **conditions that CT-Idaho believes the Commission should impose on Clear Talk as**
19 **part of its designation as an ETC. What is Clear Talk's reaction to those condtions?**

20 **A.** I will address each condition separately. The first condition CT-
21 Idaho recommends is that Clear Talk be required to publish and adhere to a Commission-
22 approved tariff. We don't believe that is necessary for a number of reasons. First, unlike
23 CT-Idaho which is a regulated monopoly, Clear Talk cannot expect to stay in business
24 unless it remains competitive. As Mr. Trampush testified, there are several wireless
25 service providers currently offering service in CT-Idaho's Study Area. P. 26, LL. 14 - 20,

1 D.L. Trampush Direct Testimony.] Clear Talk cannot remain competitive unless it offers
2 the best product at the lowest cost. An artificial market control such as a Commission-
3 approved tariff isn't necessary where competition exists. Furthermore, Clear Talk is
4 willing to stipulate that it will not charge more for its rural wireless service than it does for
5 its urban wireless service – the very communications parity that the Universal Service
6 fund seeks to encourage through monetary support.

7 The second condition that CT-Idaho suggests is that Clear Talk be required to
8 publish service area maps identifying areas for which it has received ETC designation.
9 Clear Talk already publishes service area maps, and updates those maps quarterly. These
10 maps are available on Clear Talk's website (www.cleartalk.net), and an exemplary map
11 was submitted to this Commission as Exhibit A, to Clear Talk's Second Amended
12 Petition. A current map is attached as Exhibit 4 to this testimony. In addition, Clear Talk
13 has committed to advertise the availability of its service throughout the areas for which it
14 receives ETC designation. [Clear Talk Petition for ETC Designation, p. 8.]
15 Consequently, Clear Talk doesn't believe there is any reason to require it to do what it
16 already does.

17 The third condition suggested by CT-Idaho is that Clear Talk be required to
18 provide service quality data within thirty days of a request by the Commission. Clear Talk
19 would be willing to stipulate to this condition, provided there are adequate safeguards in
20 place regarding the circumstances pursuant to which such a Commission request would
21 arise and provided any such information that is produced would be adequately protected
22 from public disclosure.

23 Finally, the last condition suggested by CT-Idaho relates to consumer relations,
24 and actually has three parts: (1) that Clear Talk be required to respond to Consumer
25 Assistance Section inquiries regarding consumer complaints concerning ETC service

1 offerings; (2) that Clear Talk provide a regulatory contact; and (3) that Clear Talk comply
2 with the Commission's Customer Relations Rules. As for the first part, Clear Talk is
3 willing to stipulate to responding to Consumer Assistance Section inquiries regarding
4 consumer complaints concerning its ETC service offerings in the areas for which it has
5 received ETC designation. As for the second requirement, Clear Talk is willing to provide
6 a regulatory contact for Consumer Assistance Section inquiries. And, finally, Clear Talk
7 is willing to stipulate to compliance with the Commission's Customer Relations Rules for
8 universal services offered in the areas for which it receives ETC designation.

9 **Q. Mr. Curry, did you have an opportunity to review the Utah**
10 **Public Service Commission's decision cited by Mr. Tade as support for this**
11 **Commission's denial of Clear Talk's application?**

12 A. Yes.

13 **Q. And the Utah Supreme Court decision cited by Mr. Tade?**

14 A. Yes.

15 **Q. What is your reaction to the relevancy of those decisions to this**
16 **proceeding?**

17 A. These decisions are irrelevant to Clear Talk's application. First, it
18 should be noted that at least one of the ILECs who existed in the areas that Western
19 Wireless applied for, South Central Utah, provided its own wireless voice offering in a
20 large portion of the area applied for by Western Wireless, using its own switch and
21 wireless infrastructure. This is not the case in the three Idaho BTA's where Clear Talk
22 has applied for ETC designation.

23 Second, the Utah commission's decision was based in large part on its
24 finding that granting Western Wireless ETC status would create a financial burden on the
25 State of Utah Universal Service fund. This is not the case with Clear Talk's application.

1 And, to the extent that there is any impact on the federal Universal Service fund, it will be
2 extremely minor given that the federal fund contains more than 7 billion dollars and
3 distributions to wireless carriers amount to less than 4% of that total. Clear Talk would
4 only represent an extremely small percent of the extremely small percentage of the fund
5 being allocated to wireless carriers.

6 **Q. Could designating Clear Talk as an ETC actually benefit**
7 **Idaho?**

8 A. Yes. Designating Clear Talk will allow more federal Universal
9 Service funds to flow toward Idaho in the form of subsidies for wireless service in rural
10 areas. On the other hand, if wireless carriers are not designated in Idaho, the state
11 Universal Service fund could in fact be burdened because more demands on the federal
12 fund could be made by other states such as Mississippi, which already facilitates more
13 than 75 million dollars of payments from the federal fund to local wireless carriers. The
14 end result being that a decision to not designate a wireless carrier will, on a percentage
15 basis, decrease Idaho's allocation from this fund and leave the financial burden of paying
16 for wireless services in rural areas completely on Idaho's rural consumers, unlike other
17 states that have facilitated this cost being shared with the federal Universal Service fund.

18 **Q. Any other distinctions between Clear Talk's application and the**
19 **Western Wireless proceeding in Utah?**

20 A. Yes. In the Western Wireless proceeding, the Utah commission
21 only considered two potential public benefits - lower cost service from allowing wireless
22 competition and the potential of wireless to cover areas previously unserved by the
23 wireline LECs. The commission found no significant public benefit in Western Wireless'
24 application because Western Wireless refused to say in advance what its pricing would be
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1 - only that it would be competitive - and Western Wireless refused to file maps of its
2 coverage with the Utah commission.

3 Clear Talk's position in this proceeding is substantially different in three main
4 ways. First of all, Clear Talk has indicated what its pricing would be and has not refused
5 to file maps with this Commission. But there are additional benefits flowing from Clear
6 Talk's application that were not considered in the Utah proceeding, namely: (1) network
7 security, (2) local customer care service, (3) four-digit dialing, (4) low-cost reliable
8 service, and (4) high technology jobs. Not to mention the public benefits not necessarily
9 exclusive to Clear Talk, such as including emergency service access in remote areas,
10 environmental benefits due to the less intrusive wireless technology, and productivity
11 gains for rural consumers resulting from the convenience of on-demand wireless
12 communications.

13 **Q. What about the issue of pricing?**

14 **A.** As I previously stated, Clear Talk delivers unlimited calling
15 throughout southeast Idaho for \$39.95 and is willing to provide the same pricing to rural
16 areas as it does in the whole of its Idaho service area. Clear Talk has been in business for
17 more than two years and its pricing today is the same as when it launched service. Clear
18 Talk has no plans to either increase or decrease its pricing. Clear Talk also offers up to
19 1500 minutes of long distance calling for an additional \$15.00 per month, or a combined
20 plan with unlimited local calling and 1500 minutes of long distance for \$48.95. That is
21 lower than the MCI "neighborhood" plan that is available only on wireline networks. In
22 addition, Clear Talk will provide a fixed wireless product to those that qualify for Lifeline
23 support at the same price that Lifeline service is provided by the ILEC.

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1 **Q. What about service coverage maps?**

2 A. Clear Talk has already provided its current coverage maps in this
3 proceeding. Furthermore, Clear Talk will provide coverage maps in strict confidence to
4 the Commission for its service in some of the more remote high-cost areas that it has
5 applied for ETC designation in, only after attempting to use assets in place such as
6 communication sites and backhaul networks of the ILECs and after considering the
7 economics of serving those areas with the assistance of USF support. For example, we
8 currently feel that any area that will bring us 250 customers warrants a cell site. If there
9 was significant USF support in an area, we may be willing to outlay the capital with an
10 expectation of only half that amount of customers. Or, we might be willing to put in two
11 cell sites to get that same number of expected customers with one site being a highway
12 site that would tie in a remote community to our network.

13 **Q. Is Clear Talk willing to condition its ETC designation on the**
14 **filing of service maps for remote areas?**

15 A. Yes. Clear Talk is willing to allow our ETC designation to be
16 conditioned on filing maps that serve the remote areas for which we intend to seek USF
17 support and certification of a date that the additional sites will be deployed, provided the
18 same is demanded of all carriers. Thereafter, depending on the demand for our offerings,
19 we will file maps to increase the coverage area in the same manner.

20 In the interest of reducing the environmental impact in these areas, we urge the
21 Commission to make subsequent carriers (Clear Talk was the first carrier to file for ETC
22 designation in the three Southeastern Idaho BTAs) hold off on their deployment plans so
23 they can make use of the same communication sites.

24 **Q. Please summarize the differences that you believe distinguish**
25 **Clear Talk's Idaho application from that submitted by Western Wireless in Utah.**

1 A. As previously stated, a larger company such as Western Wireless is
2 unlikely to provide the same amount of public benefits that Clear Talk has described that it
3 can provide including local switching, local customer care, local employment, a more
4 secure network in a crisis, four digit dialing, and the quick response to network issues that
5 results from having the complete technical staff living locally in the area we serve in
6 Idaho. These public benefits are unique to Clear Talk and need to be considered in Clear
7 Talk's application.

8 **Q. Can you summarize the additional public benefits that will**
9 **result from widespread deployment of wireless services in Idaho that the Utah**
10 **commission did not consider in the Western Wireless case?**

11 A. Another public benefit of universal deployment of wireless service
12 in rural Idaho that the Commission should consider is emergency service access. From
13 our viewpoint, if even one rural customer is able to make a life saving call from a wireless
14 phone in what would have been an unserved area then the greater public benefit is clear.
15 Given the remote nature and outdoor activities in the areas under consideration it is very
16 likely that these situations will occur. From an environmental standpoint, we only ask the
17 Commission to consider the impact of a whole string of telephone poles in some of these
18 incredibly scenic rural areas as opposed to one antenna on a remote rooftop about the size
19 of a pizza dish. From a productivity standpoint, it's the difference between shutting off
20 the tractor to come inside and take a phone call or just idling down the tractor, having your
21 conversation and being able to immediately go back to work.

22 **Q. Mr. Curry, let's turn our attention now to Mr. Trampush's**
23 **testimony.**

24 A. OK.
25

1 **Q. In his direct testimony, Mr. Trampush identifies four criteria to**
2 **aid the commission in determining whether Clear Talk has the “commitment and**
3 **capability” to provide universal service throughout the areas for which it receives**
4 **ETC designation. Would you please discuss whether Clear Talk is able to meet those**
5 **criteria?**

6 A. I would be happy to. The first criteria suggested by Mr. Trampush
7 is whether Clear Talk has a “clear business plan” and “timetable” for build-out of its
8 network. Obviously, Clear Talk has a clear business plan for extending its service into the
9 more rural portions of its FCC license areas or it would not have gone to the trouble and
10 expense of applying for ETC designation. In addition, as I previously testified, Clear
11 Talk’s network build-out has been and will continue to be customer-driven, especially in
12 the more remote portions of its FCC license areas.

13 The second criteria suggested by Mr. Trampush is that Clear Talk demonstrate its
14 financial capability to provide ETC services. Clear Talk has provided financial data in
15 this proceeding pursuant to a Protective Agreement which amply demonstrates its
16 financial capabilities.

17 **Q. Didn’t Mr. Trampush raise a question about the bankruptcy of**
18 **Leap Wireless?**

19 A. Yes. Mr. Trampush is correct that Leap Wireless, which owns a
20 thirty percent (30%) minority interest in Clear Talk, filed a petition for bankruptcy
21 reorganization. But, as can be seen from the financial data produced by Clear Talk in
22 response to the Intervenors’ data request, Clear Talk is in solid financial condition.
23 Furthermore, neither NTCH-Idaho nor its parent company nor any its or its parent’s
24 affiliates - comprising operating wireless networks in seven states - have ever filed a
25 bankruptcy petition. The downturn in the telecommunications industry affected many

1 companies that were not as well managed as the Clear Talk group and many, including
2 GST Telecommunications, Inc., of which Mr. Trampush was the Chief Financial Officer,
3 were forced to file bankruptcy. The good news is, that Leap Wireless's plan for emerging
4 from bankruptcy has been approved by the federal bankruptcy court and, having
5 restructured, Leap Wireless now has a solid financial base.

6 **Q. What is the third criteria Mr. Trampush suggested for aiding**
7 **the Commission in assessing Clear Talk's "capability and commitment" to provide**
8 **universal service throughout the area for which it receives ETC designation?**

9 A. Spectrum adequacy.

10 **Q. Does Clear Talk have adequate spectrum?**

11 A. Yes. Clear Talk's ETC application is for designation in areas that
12 are coterminous with its FCC spectrum licenses, all of which comprise 15 MHZ of
13 licensed spectrum. By comparison, larger companies serve large cities like Phoenix and
14 Cleveland with only 10 MHZ of licensed spectrum.

15 **Q. And the fourth and final criteria suggested by Mr. Trampush?**

16 A. ETC compliance history in other jurisdictions.

17 **Q. Is that criteria applicable to Clear Talk?**

18 A. Not really.

19 **Q. Why not?**

20 A. Because Clear Talk has not yet received ETC designation in any
21 jurisdiction other than Idaho, where it has received ETC designation in Qwest
22 Communications' southern Idaho service area.

23 **Q. Did Mr. Trampush raise public interest concerns regarding**
24 **Clear Talk's application for ETC designation?**

25 A. Yes.

1 **Q. Did he raise any different issues than those raised by CT-Idaho**
2 **and previously discussed in this rebuttal testimony?**

3 A. Yes.

4 **Q. Would you please identify those issues and explain Clear Talk's**
5 **response to Mr. Trampush's testimony on those issues?**

6 A. The first public interest issue raised by Mr. Trampush that differs
7 from those raised by CT-Idaho in Mr. Tade's testimony is whether it is fair to subsidize
8 wireless competition with inter-exchange carriers. Clear Talk's response to that argument
9 is: (1) the Intervenors in this proceeding are not inter-exchange carriers and, thus, they do
10 not have standing to raise an argument on behalf of inter-exchange service providers; and
11 (2) the issue raised by Mr. Trampush is one of federal telecommunications policy – not an
12 issue regarding the local public interest.

13 **Q. Any other public interest issues raised by Mr. Trampush that**
14 **you have not already addressed in your response to Mr. Tade's testimony?**

15 A. Yes. Mr. Trampush testified that because wireless carriers are
16 unregulated, do not have Carrier of Last Resort responsibility, do not provide equal access
17 to inter-exchange carriers, and Universal Service fund support would be based on the
18 incumbent LEC's costs rather than the wireless carrier's costs, Universal Service fund
19 support would be a windfall to a wireless carrier.

20 **Q. And your response to that assertion?**

21 A. First of all, Clear Talk is agreeing to be bound by the
22 Commission's Customer Relations Rules for the services it provides in areas for which it
23 receives ETC designation, so it is agreeing to appropriate regulation. As for the Carrier of
24 Last Resort argument, if Clear Talk receives ETC designation in the requested areas, it
25 will be able to provide wireless service in areas where it may be cost-prohibitive for a

1 wireline LEC to provide service, thus alleviating the regulatory burden of which Mr.
2 Trampush complains. And, I might add, Clear Talk can provide that service with far less
3 impact to the environment than traditional wireline service providers.

4 **Q. Anything else?**

5 A. Yes. Although Clear Talk is not required to provide equal access
6 to inter-exchange service providers, Clear Talk provides low-cost long distance service at
7 rates far below what individual consumers can negotiate on their own from inter-exchange
8 carriers. In addition, consumers can use "dial around" access codes to connect to discount
9 long distance service providers of their choice.

10 **Q. What about the issue of Universal Service fund support being**
11 **based on an incumbent LEC's costs rather than on the wireless service provider's**
12 **costs?**

13 A. Again, that is a matter of federal telecommunications policy, not a
14 matter concerning the local public interest that the Commission is charged with
15 considering. Furthermore, the incumbent LECs may petition the FCC to disaggregate
16 their wire centers, thus eliminating the possibility that a wireless ETC will receive
17 Universal Service support based on an incumbent LEC's entire Study Area that is out of
18 line with the costs of the LEC's wire center or centers that are coterminous with a
19 wireless service provider's FCC spectrum licenses.

20 **Q. Mr. Curry, does that conclude your Rebuttal Testimony in this**
21 **proceeding?**

22 A. Yes, it does.
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