



provide telecommunications services in Basic Trading Area (“BTA”) 050 in Idaho that includes the following Idaho counties: Adams, Boise, Gem, and northern Washington.

The Company’s proposed ETC wireless service area in Idaho includes both non-rural and rural wire centers served by four ILECs: Qwest Communications (“Qwest”), Cambridge Telephone Company (“Cambridge”), Citizens Communications/Frontier Communications (“Citizens”) and Midvale Telephone Company (“Midvale”).

## **STAFF ANALYSIS**

CTC is an Idaho corporation, and it is a wholly-owned subsidiary of Cambridge Telephone Company. CTC was granted a Certificate of Public Convenience and Necessity on August 19, 1998, to provide basic local exchange service to an area known as Hidden Springs in Ada County, Idaho. *See* Order No. 27673. On June 8, 1999, this Certificate was amended to expand CTC’s potential service area to include US WEST Communications, Inc’s southern Idaho territory. *See* Order No. 28059.

Staff has reviewed CTC’s Application and has conducted an analysis of the Company’s fulfillment of the federal Telecommunications Act of 1996 (“the Act”) and of Commission Order No. 29841. In addition, Staff has analyzed the merits of awarding ETC designation separately under the two wire center classifications of non-rural and rural wire center service areas.

### **Non-rural Wire Centers**

CTC identifies the non-rural wire centers, Emmett and Idaho City, in the Qwest service territory. Application, Exhibit B1.

The Act treats rural and non-rural service areas differently for the purposes of ETC designation. When a carrier meets the service requirements set forth in 47 U.S.C. § 214(e)(1) and requests designation in a non-rural area served by an incumbent local exchange carrier (ILEC), the statute provides that the Commission shall designate more than one common carrier as an ETC. 47 U.S.C. § 214(e)(2).

Designating more than one ETC in a non-rural area is consistent with past Commission decisions in which the Commission granted ETC status to Clear Talk, a wireless company, in the non-rural Qwest wire centers in eastern Idaho and the Magic Valley (Case No. GNR-T-03-8). *See* Order No. 29261. The Commission granted ETC designation to Western Wireless in the non-rural wire centers of Emmett, New Plymouth, and Weiser (Case No. WST-T-05-1). *See*

Order No. 29791. Inland Cellular was granted ETC status in the non-rural Verizon and Qwest wire centers in northern Idaho (Case No. INC-T-06-2). *See* Order No. 30212. Edge Wireless Company was granted ETC designation in the non-rural Qwest wire centers in southern Idaho (Case No. EDG-T-07-1). *See* Order No. 30360. Finally, on August 28, 2008, the Commission granted ETC status to Syringa Wireless LLC (Case No. SRY-T-08-1). *See* Order No. 30629.

Staff believes CTC meets all the statutory ETC requirements of Commission Order No. 29841 as it relates to non-rural wire centers. Designating CTC as an ETC in the non-rural service areas is consistent with the “public interest, convenience, and necessity” pursuant to 47 U.S.C. § 214(e)(2). Staff also believes granting ETC designation in the non-rural areas is in the public interest and will benefit the recipients of the Idaho Telecommunications Service Assistance Program (“ITSAP”).

Based upon past Commission decisions, and consistent with the requirements of Section 214 of the Act, Staff recommends approval of CTC’s request for ETC designation in the non-rural wire centers set forth in Exhibit B1 of the Application.

### **Rural Wire Centers**

CTC’s Application, includes nine rural wire centers in central and southern Idaho. These rural wire centers are: Cambridge, Council/Cuprum, Indian Valley and Lowman wire centers served by Cambridge Telephone Company; Garden Valley, Horseshoe Bend, New Meadows and Sweet served by Citizens Communications, and Midvale wire center served by Midvale Telephone. Application, Exhibit B1.

As noted above, the Act treats rural service areas differently for the purposes of ETC designation. When a carrier meets the statutory ETC requirements and requests designation in a rural area served by an ILEC, the Act gives the State Commission more discretion, stating that the State commission may grant ETC designation to the additional carrier provided that ETC designation of the additional carrier is in the public interest. 47 U.S.C. § 214(e)(2).

Under the Act and Order No. 29841, greater emphasis is place on scrutinizing the public interest issues for ETC Applications in rural service areas. Rural wire centers often have widely disparate population densities, and therefore, highly disparate cost characteristics. In the Matter of the Federal-State Joint Board on Universal Services, CC Docket No. 96-45 (rel. March 17, 2005) 2005 WL 646635 at 21-22 (the “FCC Order”). As such, Staff believes the public interest analysis plays a more important role when reviewing ETC designation in rural service areas.

## **Public Interest Analysis**

Under Section 214 of the Act, the State commission must determine that an ETC designation is consistent with the public interest, convenience and necessity. 47 U.S.C. § 214(e)(2). In accordance with the Act, and the ETC requirements of the FCC rules, the Commission has stated:

(i)n adopting the FCC's proposed public interest analysis, this Commission adopts an analytical framework for making a public interest determination. This framework necessarily involves the consideration of certain enumerated factors, such as the benefits to consumer choice, the unique advantages and disadvantages of the applicant's service offering, and, where applicable, consideration of creamskimming. However, the Commission may consider other relevant public interest determinations in its public interest determination." Order No. 29841 at 15-16.

This Commission has consistently applied the public interest analysis in previous decisions. The Commission denied the ETC Applications of three wireless carriers, IAT Communications, Inc. dba NTCH-Idaho, Inc., NPCR, Inc dba Nextel Partners (Case No. GNR-T-03-8) and, most recently, Inland Cellular Telephone Company (Case No. INC-T-06-2), because the applicants failed to carry out their burden of demonstrating that their Applications for areas served by rural companies were in the public interest. *See* Order Nos. 29541 and 30212. These Applications failed the public interest test by placing too much emphasis on competition and relying on approved state and federal applications in very different service areas rather than explaining how the particular applicant's ETC designation would benefit all the customers in a service area. The term service area means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of a rural telephone company, service area means such company's study area unless and until the FCC and the State Commission, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company. 47 U.S.C. § 214(e)(5).

Applicants have the burden of proof to demonstrate that the public interest is served by designating them as an ETC in these rural areas. Order No. 29541 at 6 (citing Virginia Cellular, LLC Petition/or Designation as an ETC, 19 F.C.C.R. 1563 (2004)). CTC's Application makes four primary public interest arguments.

1. Cost-Benefit Analysis

CTC asserts its universal service offering not only increases competition in the rural areas, but also provides greater consumer choice for the rural consumer. Application at 13. CTC states the increased competitive choice and quality service will benefit the rural Idaho consumers and will also “speed the delivery of advanced wireless services to rural Idaho citizens.” *Id.* The Company further states that, “[w]ithout CTC’s wireless service, many consumers in areas surrounding Indian Valley, Idaho would have to rely solely on traditional wireline services.” *Id.* CTC claims mobility will offer “increased flexibility, public safety, and service options...by offering the benefits of mobility, CTC’s wireless universal offering will provide unique and essential services to consumers in Lowman, Montour, Idaho City, Garden Valley and Emmett, Idaho.” Application at 14. The Application states that an additional benefit will be offered to low-income consumers who are eligible for federal Lifeline benefits. *Id.* Finally, CTC claims it provides several advantages: Mobility, access to E911, voicemail, three-way calling, call waiting, call forwarding, expanded calling scopes and several calling plans. *Id.* CTC concludes its Cost-Benefit Analysis by describing how the federal high cost support would be used to improve its infrastructure in rural areas and how these improvements would positively impact the residents, travelers, and recreators [sic] in remote areas. Application at 15.

Staff does not advocate one technology over another, but instead recognizes that each has unique advantages and disadvantages depending upon the geography, demographics, and technological needs of the community. CTC states its wireless service will provide greater benefits and high-quality service to its consumers, but does not provide any data or facts to substantiate these claims. CTC’s list of advantages is not necessarily unique to nor exclusively associated with wireless technology and, as such, Staff is not convinced that a positive cost benefit analysis exists for wireless service that cannot also be claimed by the ILECs. Staff acknowledges that mobility is unique to wireless service, but Staff also understands the unique disadvantages and service quality challenges a mountainous terrain poses for wireless service providers. Further, the Company’s presumptive disadvantage associated with a consumer having to “rely solely on traditional wireline service,” is not a compelling argument to satisfy the public interest requirement.

2. Potential for Cream Skimming.

CTC states that it is not targeting low cost areas or avoiding high cost areas, but instead will serve all customers where it is able to provide wireless service to varied population

densities. Application at 16. CTC is not seeking ETC designation in partial wire centers and is proposing to serve some of the most sparsely populated and costliest to serve study areas in Idaho. Application at 18. This statement is supported by a wire center population density chart. Confidential, Exhibit C-2.

Staff notes that the list of wire centers in the Application includes the entire service area of Cambridge. CTC's Application, however, includes partial service areas of Citizens and Midvale. These two rural ILECs serve non-contiguous service areas in Idaho.

Staff agrees that Applications for ETC designation that include an entire service area avoid the specter of cream skimming. The opposite is true when an Application seeks ETC designation that does not include all the wire centers that make up a service area. Edge Wireless, in its ETC designation Application, understood that the Commission would not grant ETC status for partial service areas without first receiving FCC approval of a petition to redefine a service area down to the wire center. For this reason, Edge Wireless chose to eliminate a wire center that represented partial service areas. *See* Case No. EDG-T-07-1, Edge Wireless, LLC's ERRATA to Application and Exhibits.

The partial service area for Citizens is unique and must be analyzed separately. In the Rural Task Force (RTF) Order (FCC 01-157, released May 23, 2001), all rural ILECs were required to select one of three available disaggregation paths and to notify USAC of its selections. The path selected by an ILEC affects the support provided to competitive carriers. Citizens elected to disaggregate its service area at the exchange level. This decision changed the high cost support from an averaged cost across all lines served by a carrier in a service or "study" area to average line cost at each wire center. For this reason, Staff makes an exception to the partial service area test for the wire centers served by Citizens.

Staff believes that CTC partially meets the cream skimming test. Staff agrees that CTC avoids the appearance of cream skimming in those areas where CTC proposes to serve an entire study area, but not for those areas that represent a partial service area.

### 3. Impact on the Fund.

CTC asserts that receipt of high cost funds will have a nominal impact on the federal USF fund if calculated using the FCC's current "identical support" rule. CTC conducted a study using customer zip codes from its billing system to identify the location of its customers relative to the exchange area boundaries of the ILEC with whom CTC competes for wireless service customers. CTC's calculation of total per-line support (using USAC data from September 2008)

that each competing ILEC currently receives, including high cost, local switching, interstate common line, and long-term support when multiplied by the individual ILEC per-line support amount with the number of CTC wireless consumers shows CTC would receive an estimated \$171,288.59 per year in USF support. Application at 17. Based upon CTC's calculations, "[t]his represents less than 0.0041 percent of the high-cost portion of the federal USF, assuming \$4.2 billion in high cost support disbursement in a single year. Accordingly, grant[ing] of CTC's ETC request will have minimal impact on the USF." *Id.* CTC goes on to state, "[t]he benefits of designating CTC as an ETC outweigh any potential harm to the sustainability of the fund." Application at 18.

As stated earlier, CTC Telecom markets and sells wireless service under the brand name Snake River PCS. Application at 2. Staff notes that CTC Telecom is a Competitive Local Exchange Carrier ("CLEC") and a subsidiary of Cambridge Telephone Company. Cambridge is a Title 61 company and is price-regulated by the Idaho PUC. In addition to the federal high-cost funds it receives, Cambridge also receives approximately \$167,000 annually from the Idaho USF fund.

Staff notes that most of CTC's wireless emergency operation features are identical to the features stated in the Syringa Wireless ETC designation Applications (Case No. SYR-T-08-1). Application at 8.

Syringa Wireless is owned by a consortium (Member Partners) of the following ILECs: Albion Telephone Company, Project Mutual, Direct Communications, Filer Mutual Telephone Co., and Silver Star. *See* Syringa Wireless website, <http://www.syringawireless.com/>. Albion Telephone Company, Direct Communications, and Silver Star are price-regulated Title 61 companies. Project Mutual and Filer Mutual Telephone Co. are Cooperative Telecommunications Companies that are not regulated by the Commission. All five members of the Syringa Wireless Board of Directors are employees of the Member Partners. *Id.* Three of the ILECs, Albion Telephone Company, Direct Communications, and Silver Star/Teton also receive a combined Idaho USF funding of over \$900,000 annually or 47% of the total Idaho USF fund disbursement. With the inclusion of CTC, the Idaho USF funds provide to the four affiliated ILECs totals over \$1,070,000 annually or more than 50% of the total Idaho USF fund disbursement. These companies also receive federal USF money.

