

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

Before Commissioners: Brian Moline, Chair  
Robert E. Krehbiel, Commissioner  
Michael C. Moffet, Commissioner

JAN 13 2006

 Docket  
Room

In the Matter of a General Investigation )  
Addressing Requirements for Designation ) Docket No. 06-GIMT-446-GIT  
of Eligible Telecommunications Carriers. )

**REPLY COMMENTS OF THE  
CITIZENS' UTILITY RATEPAYER BOARD**

COMES NOW the Citizens' Utility Ratepayer Board (CURB) and files the following reply comments in this docket related to the Kansas Corporation Commission's (KCC or Commission) October 26, 2005, Order Opening Docket and Requesting Comments regarding the Commission's requirements for designation of eligible telecommunications carriers (ETC).

**I. INTRODUCTION**

1. In the Order Opening Docket and Requesting Comments, the Commission requested parties to file comments and reply comments on the Order and requested parties to address issues specified in Staff's September 29, 2005, memorandum.

2. CURB submits the following reply comments in response to the Commission's request. CURB will not comment on each issue, but reserves the right to respond to all issues in any other forum in this docket.

3. CURB continues to support the positions put forth by the Federal Communications Commission (FCC) in their Report and Order dated March 17, 2005 in CC Docket No. 96-45,

captioned “In the Matter of Federal-State Joint Board on Universal Service.”<sup>1</sup> (FCC ETC Order). The FCC ETC Order explicitly states that it “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 support.”<sup>2</sup> Thus, while RCC Minnesota, Inc. (RCC) and USCOC of Nebraska/Kansas LLC (USCOC) argue in initial comments that as they read the FCC ETC Order, “the guidelines do not represent a ‘floor’ or ‘baseline’ level of regulation that states are invited to exceed”,<sup>3</sup> it is clear that the FCC acknowledged the possibility of additional requirements.

4. While the FCC ETC Order was issued pursuant to the FCC’s authority to designate ETCs when a state commission does not have authority to designate ETCs, the FCC specifically noted:

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. (footnote omitted) We believe that application of these additional requirements by the Commission and state commissions will allow for a more predictable ETC designation process. (footnote omitted).<sup>4</sup>

5. Initial comments in this docket show general agreement that the FCC ETC requirements are an appropriate starting point. However, the parties diverge on whether all the FCC requirements should be enacted in Kansas, and on whether additional Kansas-specific requirements are needed or appropriate. CURB will address clarification of certain FCC service quality measures in these comments at section E. Annual Certification Requirements.

6. The following comments address CURB’s primary areas of concern based on initial comments in this docket.

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<sup>1</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, released March 17, 2005, FCC 05-46. (FCC ETC Order)

<sup>2</sup> FCC ETC Order, at ¶ 1 (emphasis added).

<sup>3</sup> Comments of RCC Minnesota, Inc. and USCOC of Nebraska/Kansas LLC, December 16, 2005, ¶ 8.

<sup>4</sup> FCC ETC Order, ¶ 1.

## II. ISSUES FROM THE ALLTEL AND RCC ORDERS.

### A. Minimum Local Usage.

7. CURB recommends that a minimum number of local usage minutes be established and that the minimum be set at the average number of local usage minutes of the incumbent local exchange carrier. The FCC states,

We encourage state commissions to consider whether an ETC offers a local usage plan **comparable** to those offered by the incumbent in examining whether the ETC applicant provides adequate local usage to receive designation as an ETC. In addition, although the Commission has not set a minimum local usage requirement, there is nothing in the Act, Commission's rules, or orders that would limit state commissions from prescribing some amount of local usage as a condition of ETC status.<sup>5</sup>

8. Sprint Nextel Corporation, on behalf of Sprint Communications Company L.P., Sprint Spectrum L.P. d/b/a Sprint PCS, Nextel West Corp. d/b/a Nextel, United Telephone Company of Kansas d/b/a Sprint, United Telephone Company of Eastern Kansas d/b/a Sprint, United Telephone Company of Southcentral Kansas d/b/a Sprint, and Sprint Missouri, Inc. d/b/a United Telephone Company of Southeastern Kansas (collectively Sprint), Alltel Kansas Limited Partnership (Alltel), RCC and USCOC oppose the setting of specific minimum local usage requirements from a policy and legal position. They prefer instead to allow the marketplace to define the plans and services that customers want.

9. Commission Staff (Staff) suggests a calculation of minimum local usage could be developed by the incumbent local exchange carriers (ILECs), noting that Mr. Paul Cooper, a witness for the Independent Telecommunications Group in the Alltel ETC designation docket,

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<sup>5</sup> *Id.*, ¶ 34 (citing *Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, 19 FCC Rcd 4257, 4258, ¶ 2 (2004) (Recommended Decision) (emphasis added)).

testified that the average amount of local usage by rural ILEC customers in Kansas is over 1,000 originating and terminating minutes per month.<sup>6</sup> CURB agrees with this suggestion.

10. Staff comments discuss the alternative to a minimum local usage requirement, in the event the Commission finds that it is not feasible to make a determination regarding a specific number of local minutes that must be provided by an ETC. CURB would first note that the feasibility of determining the average amount of local usage by customers of the ILECs has been demonstrated by the testimony of Mr. Cooper in the Alltel ETC designation proceeding. Further, CURB submits that the alternative to a minimum local usage requirement discussed by Staff is a much more difficult, imprecise, and subjective determination for the Commission. Staff suggests the alternative to a minimum local usage requirement is a case-by-case examination of service plans offered by each ETC to determine whether they are reasonable, considering “comparable” local usage, including analysis of calling scope, bundled services, and an allocation of price among the various services and what otherwise would be considered long-distance service. CURB agrees with Staff that this case-by-case determination would be “difficult to precisely determine,”<sup>7</sup> and further suggests that this approach would likely result in inconsistent ETC determinations.

11. As a result, CURB is not convinced that subjective discussions of “comparable” local usage will produce predictable, definable, and verifiable requirements. CURB continues to recommend fixed, quantifiable local usage minutes based on local usage minutes of the ILEC unless determining the average number of local usage by customers of the ILEC is not feasible.

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<sup>6</sup> Comments of Commission Staff, December 16, 2005, ¶ 6 (citing Rebuttal Testimony of Paul L. Cooper in Docket No. 04-ALKT-283-ETC, p. 22, fn. 60).

<sup>7</sup> *Id.*, ¶ 7.

**B. Per-Minute Blocking For Wireless Carriers.**

12. CURB supports free per-minute blocking for Lifeline customers for usage sensitive local minutes and if local usage cannot be separated from total usage then free per-minute blocking for all usage sensitive minutes. However, in no case should 911 service be blocked or denied.

13. Staff, State Independent Alliance (SIA) and Independent Telecommunications Group, Columbus et al., (Columbus), generally support this requirement. SIA and Columbus state, “The Commission should pursue identification and requirement of a technological solution more closely aligned to toll blocking, allowing wireless CETC customers continuing affordable access to local service while blocking, as may be appropriate, excessive and unaffordable calling beyond the local community.”<sup>8</sup>

14. Alltel notes that the FCC has not adopted a requirement for per minute blocking for Lifeline customers and Alltel does not believe such a requirement is necessary.

15. CURB’s concerns on this issue are centered on avoiding high wireless bills for Lifeline customers and on ensuring access to emergency services. Per minute blocking and a prohibition on 911 blocking under all scenarios appears to be the only solution to these concerns.

**C. Billing Standards.**

16. In initial comments in this docket, and in Docket No. 06-GIMT-187-GIT, CURB addressed the threshold issue of whether billing standards apply to wireless carriers and will not repeat those arguments here. In summary, CURB supports Kansas billing standards for all carriers and believes the Commission has authority to impose them on Kansas providers. For

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<sup>8</sup> Comments of the State Independent Alliance and Independent Telecommunications Group, December 16, 2005, ¶ 9.

purposes of this docket, CURB recommends that the Commission defer billing standards issues to the billing standards docket.

**D. Carrier of Last Resort Responsibilities.**

17. Based on initial comments, CURB continues to recommend that K.S.A. 66-2009, requiring the incumbent, or its successor, to be the carrier of last resort (COLR), be the on-going standard in Kansas. Sprint views any review of the impact of ETC designation on COLR as a violation of the principle of competitive neutrality. Alltel, RCC and USCOC state that because wireless ETCs must provide service upon a reasonable request, the Commission already has a workable standard. CURB is not convinced that ILEC COLR responsibilities and CETC requirements to provide service upon a reasonable request are comparable. Over time, if CETC market share becomes significant, perhaps the standards will approach parity. However, at this time, the Commission must continue to ensure universal service provisioning and thus a mandated showing of the impact on COLR and universal service must be made a part of the public interest showing by CETC applicants.

**E. Build-Out Plans.**

18. While wireless carriers generally oppose the requirement for filing a five-year plan, CURB continues to support the Commission and FCC requirements.

**F. Application of Termination Fees.**

19. Sprint opposes any rule requiring ETCs to offer at least one plan with no termination fees. Alltel states, "Alltel does not require customers to enter into a contract that includes termination fees. Customers choose to enter into such contracts in order to receive

significant discounts on wireless handset purchases.”<sup>9</sup> RCC and USCOC do not make such a statement or argument. It is therefore unclear whether RCC and USCOC offer any plans without termination requirements.

20. CURB’s concern remains that customers are fully informed in clear and unequivocal language about the termination liabilities they face; how those differ from buying basic local service from an incumbent provider; and whether the termination liability is for wireless service and/or for the wireless handset.

21. CURB urges the Commission to require ETCs to offer at least one plan that (1) does not require a customer to enter into a long-term contract and (2) does not have a termination fee.

### **III. ISSUES RAISED IN THE FCC ORDER.**

#### **A. Emergency Situations.**

22. CURB concurs with Staff in supporting the FCC’s requirement of ETCs to annually certify that they are able to function in emergency situations and submit data regarding outages in their designated service areas on an annual basis.

#### **B. Consumer Protection and Service Quality Standards.**

23. After review of the initial comments in this docket, CURB’s position remains that all companies providing universal service should be subject to the same consumer protection and service quality standards.<sup>10</sup> CURB addresses some related service quality issues later in these comments at section E. Annual Certification Requirements.

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<sup>9</sup> Comments of ALLTEL Kansas Limited Partnership, December 16, 2005, ¶ 33.

<sup>10</sup> See, Comments of The Citizens’ Utility Ratepayer Board, December 16, 2005, and Reply Comments filed Jan. 25, 2005 in Docket No. 05-GIMT-187-GIT.

**C. Equal Access.**

24. CURB has no additional comments on this issue.

**D. Public Interest Issues.**

**1. Issue 1 – Consumer Choice and Advantages and Disadvantages of an ETC’s Service Offerings.**

25. CURB’s position on this issue remains the same as that in its initial comments. CURB supports the FCC’s position that customers do not necessarily benefit from the mere existence of increased choices from new ETC competitors and that other factors should be used to determine whether the designation of an additional ETC is in the public interest. Some of these factors include the unique advantages and disadvantages of the competitor’s service offering, the impact on the universal service fund, affordability, quality of service, service to unserved customers, comparison of benefits to public cost, and consideration of material harm.<sup>11</sup>

**2. Issue 2 – Population Density Analysis (Creamskimming) and Bright-Line Test.**

26. CURB continues to support its initial position on this issue consistent with the FCC ETC Order. CURB believes some kind of density analysis should be performed to test for creamskimming, but only when the ETC applicant seeks designation in a rural service area below the study area level of an RLEC. CURB clarifies its initial position that it does not support a bright-line test to determine if creamskimming is present, and the issue of creamskimming should be evaluated on a case-by-case basis.<sup>12</sup>

27. Southwestern Bell Telephone, L.P. (SWBT) appears to support both a creamskimming test for rural and non-rural carrier applications.<sup>13</sup> However, SWBT admits that

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<sup>11</sup> Comments of The Citizens’ Utility Ratepayer Board, ¶¶ 21-28.

<sup>12</sup> Comments of The Citizens’ Utility Ratepayer Board, ¶¶ 29-32.

<sup>13</sup> Initial Comments of Southwestern Bell Telephone, L.P., ¶¶ 16, 17.



the FCC's discussion of creamskimming, "is found in the context of considering a rural carrier's application."<sup>14</sup> CURB does not support the application of a creamskimming or bright-line test for non-rural areas, and this is consistent with FCC findings. The FCC states, "As part of the public interest analysis for ETC applicants that seek designation below the service area level of a **rural incumbent LEC**, we will perform an examination to detect the potential for creamskimming effects that is similar to the analysis employed in the *Virginia Cellular ETC Designation Order* and the *Highland Cellular ETC Designation Order*."<sup>15</sup> Also, the FCC states that it strongly encourages states to examine for creamskimming in wire centers served by "rural incumbent LECs."<sup>16</sup> Finally, the FCC stated that a creamskimming analysis is unnecessary for ETC applicants in service areas of "non-rural incumbent LECs" because the rural mechanism uses embedded costs to distribute support on a service area-wide basis and the non-rural mechanism uses a forward-looking cost model to distribute support to individual wire centers where costs exceed the national average by a certain amount.<sup>17</sup>

28. Sprint does not believe the Commission needs to conduct a creamskimming analysis because rural companies have the option of disaggregating for federal universal purposes.<sup>18</sup> The FCC ETC Order states that rural carriers are allowed to disaggregate support below the service area level, but the FCC indicates that disaggregation "may be a less viable alternative for reducing creamskimming opportunities" because an incumbent's service area may include wire centers with disparate population densities and resulting disparate cost characteristics.<sup>19</sup> In addition, the determination of disaggregated support for each rural LEC

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<sup>14</sup> *Id.*, ¶ 16.

<sup>15</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46, 20 FCC Rcd. 6371 (rel. March 17, 2005) (FCC ETC Order), ¶ 48 (emphasis added).

<sup>16</sup> FCC ETC Order, ¶ 49.

<sup>17</sup> FCC ETC Order, ¶ 52.

<sup>18</sup> Comments of Sprint Nextel Corporation, p. 14.

<sup>19</sup> FCC ETC Order, ¶ 51.

would be a costly and time-consuming effort for the FCC or the KCC. Therefore, CURB does not support Sprint's position.

**3. Issue 3 – Impact of ETC Designation on the KUSF and Per-Line Support Ported to ETCs.**

29. CURB supports the same position as stated in its initial comments regarding the impact of ETC designation on the KUSF and per-line support ported to ETCs. However, CURB provides further clarification of its position based on issues raised by other parties.

30. CURB believes that the Commission should reserve the ability to evaluate the number of ETC designations in a rural area and the impact of per-line support upon the KUSF when considering ETC applications. CURB believes that ETC designations need to be evaluated on a case-by-case basis and that specific situations could warrant further evaluation of the number of ETC designates and the per-line support impact on the KUSF. For example, if an incumbent RLEC uses a cable or wireless affiliate to provide overlapping service in its wireline service areas, therefore resulting in additional KUSF funds, then the value of additional competition and the negative impact on the KUSF are legitimate concerns.

31. CURB believes that it is important for the Commission to retain the ability to evaluate the impact of the number of ETC designations and the per-line support upon the KUSF. CURB does not believe that this type of analysis will be necessary in each ETC application, but it should be available to consider on a case-by-case basis as necessary and applicable. Also, CURB believes that these issues should be preserved for future consideration because the definition of competitive neutrality is under consideration by both the FCC and the KCC.

32. Staff's comments indicate that while the FCC ETC Order states it is unlikely that any individual ETC designation would have a substantial impact on the FUSF, the FCC also indicated if per-line support is great enough, a state may be justified in limiting the number of

ETCs in that study area.<sup>20</sup> Staff states that the Commission already considers the impact of an additional ETC on the size of the FUSF. However, Staff believes that examining the impact of designating additional ETCs on the size of either the FUSF or KUSF would appear to be contrary to the goal of both the Federal Telecommunications Act (FTA) and the Kansas Telecommunications Act (KTA) to bring competition to rural areas. Also, Staff notes that examination of the per-line support amount that would be ported to the competitive ETC may not be competitively neutral, although Staff admits that the definition of competitive neutrality is under consideration at both the FCC and this Commission. Staff does not support this type of analysis as a condition of gaining designation as an ETC to receive KUSF support.<sup>21</sup>

33. CURB respectfully disagrees with Staff's position on this issue. First, CURB disagrees that examining the impact of designating additional ETCs on the size of either the FUSF or KUSF is contrary to the goal of either the FTA or the KTA to bring competition to rural areas. Both the FTA and the KTA support a strong public interest standard, and more importantly, both strongly support universal service in rural and urban areas. The Commission can rely on the universal service and public interest considerations to establish reasonable criteria for ETC designations in this proceeding. In a worse case scenario, if the number of ETCs in a rural area and the amount of per-line support would cause the KUSF to increase significantly, this could result in Kansas customers experiencing a sizeable increase in the monthly amount they pay on their bills for the KUSF assessment (because Kansas telecom, cable, long distance and wireless customers pay monthly universal service fees based on the level of the KUSF). Increases in the monthly KUSF assessment on customer bills could affect the affordability of service and have a negative impact on universal service of Kansas customers.

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<sup>20</sup> Comments of Commission Staff, ¶ 32.

<sup>21</sup> *Id.*, at ¶ 33.

34. Second, both the Commission and the FCC already impose ETC guidelines (not including the additional criteria that will result from this proceeding) that arguably inhibit some carriers from seeking ETC designation in rural areas, and these actions serve to restrict competition in rural areas. The FCC has stated that, “the value of increased competition, by itself, is unlikely to satisfy the public interest test.”<sup>22</sup> Staff even admits that the Commission already considers the impact of the designation of an additional ETC on the size of the FUSF. If the only goal of this proceeding was to promote unlimited competition to rural areas, then it would not be necessary to impose any criteria or conditions on ETC designations. Clearly, competition, for competition’s sake, should not be the overriding focus of ETC guidelines; the Commission must also consider universal service, public interest, just and reasonable rates (including those paid by ratepayers for KUSF assessments), and the interests of ILECs.

35. Furthermore, CURB agrees with SWBT’s comments that while a single ETC designation is unlikely to have a significant impact on either the FUSF or the KUSF, “the impact of multiple designations may have a large, cumulative impact that needs to be fully evaluated.”<sup>23</sup>

36. Sprint believes that the overall level of the USF is growing far too rapidly and must be controlled. However, Sprint does not believe the Commission should apply any specific test based on the amount of support to be provided or the level of per-line support currently provided to an area. In addition, Sprint does not believe that the ETC designation process should be used to control the size and growth of the fund because this would violate the principle of competitive neutrality. Sprint believes the only factor the Commission should consider in an ETC designation proceeding is whether the applicant satisfies the established eligibility criteria. Sprint states that the per-line support provides no information about the harms or benefits of

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<sup>22</sup> *Federal-State Joint Board on Universal Service, In re Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order*, CC Docket No. 96-45, 19 FCC Rcd 1563, 1575, ¶ 27. (rel. Jan. 22, 2004).

<sup>23</sup> Initial Comments of Southwestern Bell Telephone, L.P., ¶ 18.

designating a competitive ETC, and that, “A relatively high amount of per-line support to a rate-of-return rural ILEC may simply mean that the ILEC has expended excessive funds in an inefficient manner; it does not necessarily correlate with factors such as topography, population density, line density, distance between wire centers, loop lengths and levels of investment.”<sup>24</sup>

37. If Sprint believes that per-line support is excessive because of rural ILEC (RLEC) inefficiencies, then providing this same level of excessive per-line support to ETCs only serves to further negatively impact the KUSF and the FUSF. Providing excessive per-line support to both RLECs and ETCs is not viable and reasonable. Sprint’s statement about excessive per-line support and RLEC inefficiencies supports the proposition that RLEC and ETC per-line support should be based on a model that assumes efficient forward-looking costs of a carrier. This suggests that an incremental cost model<sup>25</sup> should be used rather than the actual embedded costs of RLECs that are currently used to determine per-line support under K.S.A. 66-2008(e).<sup>26</sup>

#### **E. Annual Certification Requirements.**

38. CURB stated that it did not oppose implementation of the FCC’s eight proposed miscellaneous annual certification requirements, subject to the ETCs explaining why these

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<sup>24</sup> Comments of Sprint Nextel Corporation, pp. 14, 15.

<sup>25</sup> Beginning with the First Report and Order the FCC has consistently stated that long run incremental costs should ultimately be the cost standard. *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8917-8918, 8934-8939. This position was reiterated by the FCC in its *Rural Task Force Order*. *In the Matter of Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11310, ¶¶ 169-170 (2001) (*Rural Task Force Order*). This position was again recommended by the Federal-State Joint Board in its Recommended Decision in 2004. *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, FCC 04J-1 (Rel. February 27, 2004). However, to date the FCC has not implemented a LRIC standard for rural LECs. At this time, CURB recommends that the Commission continue to monitor the FCC and change the Kansas standard when the FCC implements a LRIC standard for RLECs.

<sup>26</sup> The sunset provision in K.S.A. 66-2008(e), requiring the use of embedded costs to determine KUSF support for rate of return regulated local exchange carriers, expires on June 30, 2006.

certification requirements should not be implemented. CURB provides further clarification to its initial comments based on other parties' comments.

39. Item 1 of the FCC's proposed annual certification requirements include: Item 1) Progress reports on five-year service quality improvement plan. This report will include a map detailing the progress in meeting targets set out in the initial plan, an explanation of how FUSF support has been used to improve service quality, coverage, capacity, signal quality, etc, and an explanation of why any targets were not met. Information is to be provided at the wire center level. CURB does not oppose implementation of this five-year service quality improvement plan.

40. Items 2, 3 and 4 of the FCC's proposed annual certification requirements regarding service quality include:

- Item 2) Detailed information on any outage lasting at least 30 minutes for any facilities that an ETC owns, operates, leases, or otherwise utilizes that potentially affect at least 10% of the end users in a service area, or that could affect 911. The ETC must report: date and time of outage, description of the outage and resolution, particular services affected, geographic areas affected, steps taken to prevent it from happening again, and number of customers affected;
- Item 3) Number of service requests unfulfilled. The ETC must provide a detailed explanation of how it attempted to serve the potential customer; and
- Item 4) Number of complaints per 1,000 handsets or lines.

41. Staff's position on these three service quality measures is somewhat unclear. Staff Comments at paragraph 29 (regarding service quality in general) state that ETC's should be required to comply with the Commission's service quality standards that are addressed in Docket No. 06-GIMT-187-GIT (Docket 187). However, at paragraph 38 (when addressing these three

miscellaneous FCC service quality measures), Staff indicates that the Commission already requires some of the FCC-identified information (although it is not clear if Staff is referring to these three FCC-identified service quality measures) but the Commission should require all of this information to be provided by ETCs. CURB believes that the service quality standards determined by the Commission in Docket 187 should be applicable to ETCs and over-ride any additional miscellaneous service quality measures identified by the FCC. CURB does not believe that there should be two sets of service quality standards, or that additional standards should apply to ETCs that do not apply to other ILECs unless the KCC determines that this is appropriate in Docket 187.

42. Items 5, 6, 7, and 8 of the FCC's proposed annual certification requirements regarding include:

- Item 5) Certification that the ETC is complying with quality of service standards;
- Item 6) Certification that the ETC is able to function in an emergency;
- Item 7) Certification that the ETC is offering a local usage plan comparable to that of the incumbent; and
- Item 8) Certification that the carrier acknowledges that it may be required to provide equal access in the event that there is no other ETC in the service area.

43. CURB does not oppose implementation of items 5, 6, 7 and 8 of the FCC's proposed annual certification requirements.

#### **IV. OTHER ISSUES.**

##### **A. Service Options Available To Lifeline Customers.**

44. CURB is concerned with the possibility of limited service offers to Lifeline customers by ETCs. For instance, Alltel recommends that Lifeline discounts only be applied to the providers' lowest priced service. Such a limited application may not meet the needs of the

Lifeline customer and CURB opposes such a restriction. A far better approach appears the manner in which RCC and USCOC implement Lifeline. They state,

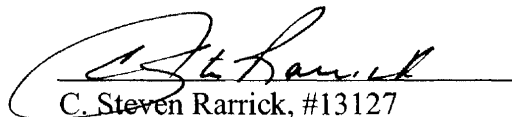
Neither carrier restricts Lifeline customers' ability to choose a rate plan. On the contrary, qualifying low-income consumers can select any rate plan they wish. RCC and USCOC each offer basic Lifeline plans for those Lifeline-eligible consumers who cannot pay a deposit or pass a credit check. These rate plans are highlighted in Lifeline advertisements and suggested by sales staff. If a consumer wishes, he or she may select another rate plan, subject to a credit check and the possibility of a deposit requirement. Regardless of whether a qualifying low-income customer takes the highlighted plans or another plan, that customer will receive the applicable Lifeline and Link-up discounts.<sup>27</sup>

The policy should be simple – all plans should be available and the discounts applied to those plans.

## V. CONCLUSION

45. CURB appreciates the opportunity provided in this docket to submit these reply comments on behalf of Kansas small business and residential ratepayers regarding the requirements for designation of ETCs in Kansas.

Respectfully submitted,



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<sup>27</sup> Comments of RCC Minnesota, Inc. and USCOC of Nebraska/Kansas LLC, ¶ 52.



**VERIFICATION**

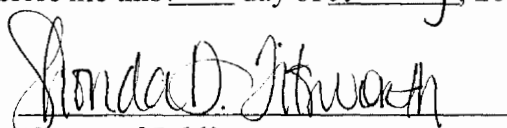
STATE OF KANSAS )  
 ) ss:  
COUNTY OF SHAWNEE )

C. Steven Rarrick, of lawful age, being first duly sworn upon his oath states:

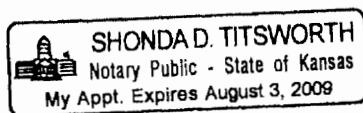
That he is an attorney for the Citizens' Utility Ratepayer Board; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

  
C. Steven Rarrick

SUBSCRIBED AND SWORN to before me this 13<sup>th</sup> day of January, 2006.

  
Notary of Public

My Commission expires:



**CERTIFICATE OF SERVICE**

06-GIMT-446-GIT

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, or hand-delivered this 13th day of January, 2006, to the following:

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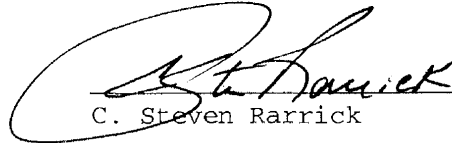
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