

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

USCOC of Illinois RSA #1, LLC,)
USCOC of Illinois RSA #4, LLC,)
USCOC of Rockford, LLC and)
USCOC of Central Illinois, LLC.)
)
)
Petition for Designation as an Eligible)
Telecommunications Carrier Under)
47 U.S.C. Section 214(e)(2).)

Docket No. 04-0653

REBUTTAL TESTIMONY OF ROBERT C. SCHOONMAKER

On behalf of the Illinois Independent Telephone Association and Certain Member
Companies

June 30, 2005

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21 **REBUTTAL TESTIMONY OF ROBERT C. SCHOONMAKER**

22
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24 **I. OVERVIEW**

25
26
27 Q. Please state your name and address.

28 A. My name is Robert C. Schoonmaker. My business address is 2270 La Montana
29 Way, Colorado Springs, Colorado 80918.

30
31 Q. Are you the same Robert C. Schoonmaker who prefiled Direct Testimony in this
32 docket on behalf of the Illinois Independent Telephone Association (“IITA”) and
33 certain member companies?

34 A. Yes.

35
36 Q. Please indicate the witnesses’ testimony that you will be responding to in your
37 Rebuttal Testimony.

38 A. I will be responding to the Direct Testimony of the five Staff witnesses, which
39 were filed on May 12, 2005. Also, I will be responding to the Rebuttal Testimony
40 filed on June 9, 2005, by Don J. Wood and Conrad Hunter on behalf of USCOC
41 of Illinois RSA #1, LLC, USCOC of Illinois RSA #4, LLC, USCOC of Rockford,
42 LLC and USCOC of Central Illinois, LLC (collectively, “U.S. Cellular”).

43
44 Q. Has U. S. Cellular had its opportunity to respond to both the Direct Testimony
45 that you filed on April 28, 2005 and the Direct Testimony of the five Staff
46 witnesses filed on May 12, 2005?

47 A. Yes. Whatever testimony U. S. Cellular desired to submit in response to my
48 Direct Testimony and the Direct Testimony of the Staff witnesses should have
49 been included in the Rebuttal Testimony filed by U. S. Cellular on June 9.

50

51 Q. How is your Rebuttal Testimony organized?

52 A. I will first respond to the various sets of Staff testimony, as necessary. Following
53 that, I will address the Rebuttal Testimonies filed on behalf of U.S. Cellular by
54 Mr. Wood and finally by Mr. Hunter.

55

56 In connection with my response to Staff's Direct Testimony, I will address
57 whether U. S. Cellular, in its Rebuttal Testimony, has responded to and met its
58 burden of proof with regard to the criteria that the Staff recommends the Illinois
59 Commerce Commission (the "ICC") employ in connection with ETC designation
60 and the required public interest determination related to rural areas. Thus,
61 although the bulk of my rebuttal of U.S. Cellular's testimony will be found in the
62 section specifically devoted to that, discussion and references to U.S. Cellular's
63 rebuttal testimony will also be found in my response to the Staff's Direct
64 Testimony.

65

66 II. RESPONSE TO STAFF'S TESTIMONY

67

68 Q. Do you have any general comments concerning the testimony submitted by the
69 five Staff witnesses?

70 A. The Staff, through the collective testimony of the Staff witnesses, recommends
71 that the ICC conduct a rigorous examination and apply, at a minimum, the
72 standards and requirements contained in the FCC’s recent ETC Order (“ETC
73 Order”), released on March 17, 2005. Unless U. S. Cellular can demonstrate that
74 some modifications in those requirements would still allow the ICC to determine
75 that it is in the public interest to grant U. S. Cellular ETC status in rural areas, the
76 Staff indicates the Application should be denied. The testimony of Staff
77 witnesses Hoagg and McClerren, in particular, could not be clearer that it is U. S.
78 Cellular, as the Applicant for ETC designation, that bears the burden of proof to
79 show that they have met each of the elements required for ETC designation and
80 that the designation would be in the public interest. I agree with Mr. Hoagg that
81 the FCC’s ETC Order provides an appropriate analytical framework for
82 considering ETC designation. I further agree that it would be appropriate for the
83 ICC to impose more stringent obligations than those contained in the FCC ETC
84 Order if the ICC finds that those obligations would serve the public interest in
85 Illinois.¹

86
87 While I may not be in agreement with all of the points and recommendations
88 contained in the Staff’s Direct Testimony, Staff has recommended appropriate
89 baseline requirements for ETC designation and the burden of proof that must be
90 met by U. S. Cellular as an Applicant for ETC designation.

91

¹ Direct Testimony of Jeffrey S. Hoagg; ICC Staff Exhibit 1.0 at lines 189-191 and 180-182. (“Hoagg Testimony”)

92 Q. Mr. Hoagg indicates, in lines 244 – 274, that the FCC’s ETC Order is consistent
93 with the intent of Section 241(e) of the 1996 Act. Do you agree?

94 A. Yes, I do. As Mr. Hoagg states: “Section 214(e) effectively conveys the
95 following message: once you’re in, you can’t simply opt out, as in a competitive
96 market devoid of universal service support.” That necessitates the upfront
97 demonstration by a CLEC or a wireless carrier seeking ETC designation that they
98 could effectively provide the designated services and otherwise meet the
99 minimum standards set forth in the FCC’s ETC Order.

100

101 Consistent with the referenced testimony, Mr. Hoagg recommends that the ICC
102 should ensure that an ETC applicant demonstrate that it is positioned to step into
103 the role of provider of last resort.² I agree with Mr. Hoagg on that point, as well.

104 In my Direct Testimony I indicated that the IITA did not challenge the general
105 ability of U.S. Cellular to offer the list of services designated for USF support.

106 However, I presented coverage area information to determine whether U.S.

107 Cellular is currently delivering those services to the service areas of the IITA

108 member companies. Those coverage maps demonstrate that U. S. Cellular is

109 currently not delivering urban quality service throughout many of the service

110 areas. In that regard, I am not talking about a few “dead spots” here and there

111 caused by terrain or other limitations, but U. S. Cellular’s general inability to offer

112 and deliver an acceptable quality of service throughout many of these rural

113 service areas.

114

² ICC Staff Exhibit 1.0 at lines 233-234.

115 Q. Mr. Hoagg stated, at lines 209 and 215-217 of his testimony, the belief that a five-
116 year investment plan, as called for by the FCC’s ETC Order, or an acceptable
117 alternative, is “an essential bedrock requirement for ETC designation for any new
118 entrant”. Do you agree?

119 A. As to prospective ETC applicants, yes, I do. That is consistent with the required
120 demonstration that both Mr. Hoagg and I discussed in our Direct Testimonies.

121
122 Q. Why is the five-year plan, or an acceptable alternative, “an essential bedrock
123 requirement” for any new ETC applicant?

124 A. As discussed by Mr. Hoagg, at lines 209 – 215 of his testimony, the essence of the
125 five-year plan is to ensure that support received by a “newly designated ETC is
126 invested to upgrade, improve or extend facilities in ways that will directly benefit
127 customers” in order “to achieve better ‘targeting’ of universal service support.”
128 Mr. Hoagg’s views would appear to be in stark contrast to Mr. Wood’s view that
129 these plan requirements – and the other FCC recommendations – are not
130 fundamental changes in the ETC designation criteria but simply a change in
131 compliance documentation.³ Also whereas Mr. Wood states, at lines 162 – 169,
132 that upfront compliance with the requirement that federal USF be used only for
133 the provision, maintenance, and upgrading of facilities and intended services “is
134 impossible”, Mr. Hoagg clearly views the essence of the five-year plan as
135 ensuring this very requirement.

³ Rebuttal Testimony of Don J. Wood at lines 128 – 133, p.7. (“Wood Rebuttal Testimony”). (“[T]he FCC did not fundamentally change the ETC designation ‘criteria,’ as Mr. Schoonmaker suggests, but rather changed the way it plans to require carriers to document their compliance with the existing criteria.”)

136 I submit that these recommendations raise the evidentiary bar and provide state
137 commissions with much more, and more significant, information to perform its
138 public interest analysis. If these FCC recommendations were truly only an
139 insignificant change in compliance documentation, then U.S. Cellular could easily
140 have provided this additional information when given the opportunity to do so.⁴

141

142 Q. Has U. S. Cellular presented a detailed five-year investment plan, or an
143 alternative, in either their Direct or Rebuttal Testimony?

144 A. No. U.S. Cellular admits that it has failed to present such information.⁵ U.S.
145 Cellular continues to only commit to building 10 cell sites, unchanged from its
146 Application and Direct Testimony, but provides no further detail in their rebuttal
147 testimony concerning those 10 proposed cell sites. As I discussed at lines 822 –
148 827 of my Direct Testimony, even their commitment to build those 10 cell sites
149 appears to be somewhat in question, since they indicate that they may, or may not,
150 build those cell sites depending upon future conditions.

151

152 Mr. Hoagg, at lines 529-533 and at lines 559-562 of his Direct Testimony,
153 testifies that U. S. Cellular has not met its burden of proof demonstrating that U.
154 S. Cellular will make the commitments necessary to warrant the Commission's
155 approval and has not supplied the required level of detail and rigor to give force to

⁴ In light of the March release of the FCC's recent ETC Order and its additional recommendations, it is my understanding that U.S. Cellular was provided an opportunity to amend and refile its Application and Direct Testimony but declined to do so and agreed that it would be inappropriate to make such a showing in the later stages of this proceeding.

⁵ Wood Rebuttal Testimony at lines 144 – 147, p. 8. Mr. Wood's testimony admits that U.S. Cellular has not yet provided information to comply with the FCC's new filing guidelines.

156 their intent. With regard to an investment plan or a demonstration of the ability to
157 deliver the supported services in the rural areas served by IITA member
158 companies, U. S. Cellular has provided little, if any, further demonstration in their
159 Rebuttal Testimony.

160

161 Q. At lines 490-494 of his testimony, Mr. Hoagg indicates that the study area level
162 analysis in connection with ETC designation appears to be consistent with the
163 1996 Act and state and federal requirements and recommends that the
164 Commission use that approach. Please comment.

165 A. Mr. Hoagg's observation and recommendation are both correct. As I indicated in
166 my Direct Testimony, Sections 214(e)(1) and (2) require that designation be made
167 on a study area by study area basis. U. S. Cellular's rebuttal evidence, just like
168 their direct evidence, fails to present evidence and analysis on a study area by
169 study area basis. If for no other reason, the lack of study area specific evidence
170 should require a finding by the Commission that U. S. Cellular has failed to meet
171 its burden of proof to be designated an Eligible Telecommunications Carrier.

172

173 Q. At lines 522 – 527 of his testimony, Mr. Hoagg clearly states that U.S. Cellular
174 has failed in its burden in demonstrating that that its ETC designation will result
175 in the benefit of lower rates. Please comment.

176 A. I agree with Mr. Hoagg. As I discussed at lines 1053 – 1059, it is U.S. Cellular's
177 burden to show that such benefits as lower prices and service availability
178 throughout its proposed ETC service area will occur. I concluded that if such

179 benefits do not, or will not, occur, then U.S. Cellular has failed in its evidentiary
180 obligation. In U.S. Cellular’s rebuttal testimonies, neither Mr. Wood nor Mr.
181 Hunter counter that its ETC designation will result in lower prices upon
182 designation, although Mr. Wood reiterated the Application’s theme that as a
183 matter of theory, and over the long run, this ETC designation would result in
184 decreased prices. Again, I addressed this rationale in my Direct Testimony at
185 lines 1109 – 1140 when I discussed U.S. Cellular’s national pricing strategy.

186

187 Q. At lines 222 – 224, Mr. Hoagg states that it is “virtually axiomatic that
188 competitive entry into the serving territories of existing ILECs will financially
189 weaken these incumbent carriers to some (unknown) extent.” How does this view
190 compare with U.S. Cellular’s?

191 A. U.S. Cellular’s previously stated that its ETC designation will not harm ILECs “in
192 any way except requiring them to compete for customers”.⁶ I agree with Mr.
193 Hoagg and, as I discussed in my Direct Testimony at pages 52 – 53, there will
194 most certainly be financial impacts that rural ILECs will bear as competition
195 increases.

196

197 Q. Do you have any general comments or response to the Direct Testimony of Staff
198 witness Samuel S. McClerren (Staff Exhibit 3.0)?

199 A. Yes, I do. Mr. McClerren addresses service quality and consumer protection
200 issues in connection with U. S. Cellular’s request for ETC designation. I agree
201 with Mr. McClerren’s observation, at lines 63 – 74 of his testimony that the

⁶ Direct Testimony of Conrad Hunter at lines 152 – 154.

202 FCC's ETC Order requires that an ETC applicant, such as U. S. Cellular, has the
203 burden of proof to demonstrate:

204 (1) Its ability to remain functional in emergency situations, and

205 (2) That it will satisfy consumer protection and service quality standards

206

207 I also agree with Mr. McClerren's observation that for a wireless carrier to be
208 designated an ETC, there has to be enough, or sufficient, service quality and
209 consumer protections to assure the ICC that Illinois consumers will have adequate
210 recourse. In my view, that is not only consistent with the FCC's requirements but
211 is fundamental to any determination by this Commission that a designation of an
212 additional ETC is in the public interest. While Mr. McClerren did not address it
213 in his testimony, a wireless carrier's ability to demonstrate that it is willing to be
214 subject to comparable consumer protection and service quality standards as those
215 to which a rural ILEC is required to meet, should be closely considered in
216 addressing whether ETC requirements meet the "competitive neutrality" standard.

217

218 Q. Mr. McClerren, at lines 97-106 of his testimony, recommends the application of
219 Code Parts 730 and 735 in considering whether a wireless ETC applicant will
220 satisfy consumer protection and service quality standards in Illinois. Do you
221 agree?

222 A. Yes, those Code Parts are the standards which local exchange carriers are required
223 to comply with in Illinois and will provide Illinois consumers with protection and
224 recourse. I concur with Mr. McClerren's underlying assumption that "there have

225 to be enough service quality and consumer protections [in a wireless ETC
226 designation] to assure the ICC that Illinois consumers will have adequate
227 recourse.” (Lines 95 – 97). I recognized in my Direct Testimony, as has Mr.
228 McClerren, that certain variations to those specific requirements may be
229 appropriate based upon the technology that is being used to provide service.

230

231 Q. Can you draw a distinction between the issue of U.S. Cellular meeting its burden
232 of proof as to demonstrating its commitment to meeting consumer protection and
233 service quality standards on one hand, versus an ICC-imposed requirement that,
234 in connection with any ETC designation, the ETC must be subject to the various
235 sections of Parts 730 and 735 of the Illinois Administrative Code?

236 A. Yes. Unless the ICC steps in and requires U.S. Cellular, and thus all subsequent
237 wireless ETCs, to adhere to Parts 730 and 735 and provide proof demonstrating
238 such adherence, then wireless ETCs could prove their consumer protection and
239 service quality standards through such proffers as the touting of the “market’s”
240 self-regulating corrections and adherence to voluntary industry pacts. Mr.
241 McClerren recognizes the need for the ICC to step in when he discusses his
242 recommended regulations for U.S. Cellular at page 5 of his testimony. At lines
243 111 – 113, he also recognizes the precedential purpose when he notes that “the
244 ICC has to develop service quality and consumer protections to guard against
245 unscrupulous wireless carriers that may follow on USCOC’s [U.S. Cellular’s]
246 efforts”.

247

248 I discussed at length in my Direct Testimony (*See generally* pages 38 – 43) the
249 background and importance of the application of consumer protection and service
250 quality standards to CMRS providers. At lines 894 – 896, I stated that in Section
251 332 (c)(3) of the Act the FCC specifically allows the ICC to regulate CMRS
252 providers in regard to service quality in order to preserve and advance universal
253 service. Further, the FCC, in its ETC Order, encouraged state commissions to
254 consider “the extent to which a particular regulation is necessary to protect
255 consumers in the ETC context, as well as to the extent to which it may
256 disadvantage an ETC specifically because it is not the incumbent LEC.”⁷

257
258 Q. Did Mr. McClerren request U. S. Cellular to provide additional information in
259 their Rebuttal Testimony concerning various sections of Code Parts 730 and 735
260 since they had failed to do so in their Application or Direct Testimony?

261 A. Yes, he did. At this point, I will not recite the various sections of Parts 730 and
262 735 referenced in Mr. McClerren’s testimony; but he specifically requested U. S.
263 Cellular to indicate in their Rebuttal Testimony with regard to each of those
264 Sections whether U. S. Cellular is: (1) already complying with these
265 requirements; (2) willing to make the necessary changes to comply with these
266 requirements; or (3) unable to comply with these requirements. He went on to
267 request that if U. S. Cellular is unable to comply with a particular requirement that
268 they indicate why they are unable to comply or why the requirement is not
269 appropriate to a wireless carrier seeking ETC designation.

⁷ *Federal-State Joint Board on Universal Service*; Report and Order, CC Docket No. 96-45 (rel. March 17, 2005) (*Report and Order*) at ¶ 30. (“ETC Order”)

270

271 Q. Did U. S. Cellular, in their Rebuttal Testimony, provide the responses requested
272 by Mr. McClerren with regard to the various sections of Code Parts 730 and 735?

273 A. U. S. Cellular, in the Rebuttal Testimony of Conrad Hunter at lines 674-784,
274 references the various sections of Parts 730 and 735 referenced in Mr.

275 McClerren's testimony but does not appear, in many cases, to provide the
276 information requested by Mr. McClerren. With regard to many of the sections,
277 Mr. Hunter indicates that U. S. Cellular "can comply". He does not indicate, as
278 Mr. McClerren requested, whether U. S. Cellular is "already complying with
279 these requirements" nor does he indicate that U. S. Cellular is "willing to make
280 the necessary changes to comply with the requirements". Perhaps most
281 significantly, while Mr. Hunter indicates that U. S. Cellular "can comply", he
282 does not indicate that U. S. Cellular "will comply" or agree to have compliance
283 with the various Code Parts be a condition of ETC designation.

284

285 Q. Could you provide any specific examples of Mr. Hunter's responses to Mr.
286 McClerren's requests, and comment on the adequacy thereof?

287 A. Yes. Mr. McClerren noted at lines 283 – 284 that U.S. Cellular had not yet
288 addressed Section 730.115 – "Reporting, a quarterly reporting mechanism to the
289 Commission for key service quality measures". U.S. Cellular's response on lines
290 677 – 680 of Mr. Hunter's Rebuttal Testimony was that this "does not fit well
291 with wireless technology generally, or USCC's business model." Mr. Hunter then
292 proposes to simply rely on the FCC's ETC Order. In other words, U.S. Cellular

293 appears unwilling to comply with Section 730.115, although Mr. Hunter did not
294 address whether it is *unable* to comply.

295 As another example, I thought Mr. Hunter's response with regard to Section
296 730.325 (Emergency Operations) fell short of the information requested by Mr.
297 McClerren at lines 138 – 147 of his Direct Testimony. The detail that Mr.
298 McClerren appears to be looking for such as adherence to maintenance standards,
299 testing, and battery capability appeared to be lacking.

300

301 Q. What did Mr. Wood provide regarding U.S. Cellular's view of the need to meet
302 service requirements in order to receive ETC status?

303 A. Mr. Wood, at lines 356 – 363 and at lines 512 - 530 of his testimony, advances
304 market competition as a proxy for ICC oversight regarding service quality. In
305 sum, if customers do not care for U.S. Cellular's quality, they will move on to the
306 competition. He does, however, suggest that ILEC ETCs should continue to be
307 subject to specific service regulation rules.

308

309 Q. Did Mr. Hunter provide comment in his Rebuttal Testimony on U.S. Cellular's
310 commitment to meet consumer protection standards?

311 A. Yes. As in U.S. Cellular's Application and initial testimony, both Mr. Hunter, at
312 lines 618 - 624, and Mr. Wood, at lines 361 – 363 and again at lines 585 - 593,
313 suggest that U.S. Cellular's compliance with the CTIA Code is sufficient. I
314 certainly recognize the FCC's endorsement of the CTIA Code in *Virginia*
315 *Cellular* in its recent ETC Order. However, as I discussed at lines 981 – 1000 of

316 my Direct Testimony, I disagree that such is a sufficient commitment and noted,
317 at lines 894 – 900, that the FCC specifically invited state commissions to impose
318 other requirements that protect consumers with an objective standard

319
320 I disagree with Mr. Hunter’s implicit assertion, at lines 621 – 622, that the CTIA
321 Code is “involuntary”. Based on U.S. Cellular’s press release announcing the
322 signing of the CTIA Consumer Code, it is described as a “voluntary code to help
323 consumers better understand their wireless service and rate plans”.⁸

324

325 Q. Are the coverage maps and service quality information presented in your Direct
326 Testimony and Attachments, on a study area by study area basis, relevant to the
327 service quality and consumer protection considerations addressed in Mr.
328 McClerren’s Direct Testimony?

329 A. Yes. While Mr. McClerren does not discuss my Direct Testimony and Exhibits,
330 the service quality that U. S. Cellular is now providing, or commits to provide, in
331 each study area is an important consideration in the Commission’s public interest
332 determination. That information and evidence is also highly relevant to the
333 carrier of last resort issue discussed by Mr. McClerren in his response, appearing
334 at lines 229-236 of his testimony.

335

⁸ U.S. Cellular Supports Industry Effort to Improve The Customer Experience, Corporate News Release, February 11, 2004. Linked at: http://www.uscc.com/uscellular/SilverStream/Pages/x_page.html?p=a_press040211b

336 Q. Do you have any general comments concerning the Direct Testimony of Staff
337 witness Mark A. Hanson (ICC Exhibit 4.0)?

338 A. Mr. Hanson’s testimony deals with the issue as to whether or not U. S. Cellular
339 offers a rate plan that is comparable to the rate plans offered by each individual
340 ILEC in the areas for which they seek ETC designation. Mr. Hanson correctly
341 points out, at lines 271 and 272 of his testimony, that U. S. Cellular bears the
342 burden of proof with regard to this issue; and he observes, at line 281, that the
343 determination to be made under the comparability requirements should be
344 “exchange specific”. The Commission should review the evidence regarding
345 local rate plans in evaluating whether ETC status should be granted to U.S.
346 Cellular.

347

348 Q. As a follow-up, as Mr. Hanson correctly stated, U.S. Cellular bears the burden of
349 proof, and on lines 95 – 101, Mr. Hanson stated that he did not see any U.S.
350 Cellular plan priced lower than \$ 39.95 and challenged U.S. Cellular to “spell out
351 the plan in rebuttal testimony”. Did U.S. Cellular do such?

352 A. No. U.S. Cellular, despite being requested by Mr. Hanson, failed to meet its
353 burden of proof. Mr. Hunter, at lines 561 – 562 of his Rebuttal Testimony, stated
354 that U.S. Cellular offers rates plans that are “competitive with or cheaper” than
355 landline carriers’ plans, but did not present any supporting evidence beyond what
356 was presented in his Direct Testimony. Again, Mr. Hunter cites that U.S. Cellular
357 offers a \$ 24.95 rate plan with 125 anytime minutes (lines 66, 68-69), but as I
358 pointed out on p. 20 of my Direct Testimony, a review of U.S. Cellular’s website

359 failed to reveal this plan.⁹ Neither Mr. Hunter nor Mr. Wood addressed Mr.
360 Hanson's concern in rebuttal testimony. I reviewed U.S. Cellular's website again
361 on June 28, 2005, and the situation is unchanged; the lowest priced plan that I
362 found for an Illinois "local calling plan" is, once again, \$ 39.95.

363

364 Q. Mr. Hanson, in his testimony and exhibits, proposes a standard or test based upon
365 what he terms "coverage percentage" to determine whether U. S. Cellular offers a
366 rate plan that is comparable to the particular ILEC's rate plan in terms of usage.
367 Do you have any comment with regard to his proposed standard or test?

368 A. While at this point I am not willing to endorse the particular test or standard
369 suggested by Mr. Hanson, the Commission will need to make a determination, on
370 a study area by study area basis, as suggested by Mr. Hanson, using what the
371 Commission believes is an appropriate standard or criteria. Mr. Hanson's
372 position and my position appear to be far different concerning those issues than
373 the position of U. S. Cellular. Mr. Hunter, in his Rebuttal Testimony for U. S.
374 Cellular, indicates at lines 150-153 that he "cannot imagine this Commission
375 basing the certification of our company on a fine analysis of rate plans that are
376 based on a different service than ILECs". To ignore U. S. Cellular's rates and rate
377 plans, both with regard to comparability and with regard to public interest
378 determinations, is inconsistent with the FCC's criteria for ETC designation.

379

380

⁹ In Mr. Hunter's Direct Testimony, he stated that "We currently offer rate plans for as little as \$ 25." See Schoonmaker Direct Testimony at p. 10, footnote 22.

381 Q. Do you have any comments concerning the Direct Testimony of Staff witness Dr.
382 James Zolnierek (ICC Staff Exhibit 2.0)?

383 A. Yes, I do. Dr. Zolnierek's testimony analyzes and responds to U. S. Cellular's
384 redefinition of the service areas for five local exchange carriers as set forth in U.
385 S. Cellular's Application and Direct Testimony. Dr. Zolnierek sets forth and then
386 applies the FCC guidelines with regard to the cream skimming analysis and its
387 importance in the public interest considerations related to the requests for the
388 redefinition.

389 Dr. Zolnierek correctly notes, at lines 95-100 of his testimony, that the FCC
390 guidelines are not directed at whether an ETC applicant intends to cream skim but
391 whether the proposed service area has the effect of cream skimming. It is
392 interesting to note that the Rebuttal Testimony of Mr. Wood, at lines 1188-1339,
393 completely ignores those FCC guidelines and Dr. Zolnierek's testimony and
394 recommendations.

395

396 Q. Has U. S. Cellular responded to the potential cream skimming issues related to the
397 redefinition of the Wabash service area as identified in Dr. Zolnierek's testimony?

398 A. No, U. S. Cellular has not provided the type of evidence and information
399 requested by Dr. Zolnierek. In fact, Mr. Wood chose to respond at length to my
400 testimony while ignoring Dr. Zolnierek's.

401

402 Q. Do you have any comments or response to the Direct Testimony of Staff witness
403 Marci Schroll (ICC Staff Exhibit 5.0)?

404 A. Yes, Ms. Schroll indicates, at lines 36-38, that the purpose of her testimony is to
405 ensure that any wireless carrier who seeks ETC status is properly providing 9-1-1
406 services in the state of Illinois. She goes on to outline the requirements for the
407 provisioning of 9-1-1 services for wireless carriers as governed by the FCC and
408 testifies concerning the Illinois Wireless Emergency Telephone Safety Act and
409 the provisions contained in 83 Ill. Adm. Code Part 728. The critical importance
410 of reliable 9-1-1 service is beyond debate.

411 It would appear from Ms. Schroll's testimony, at lines 68-75, that she has
412 accepted the conclusary statements contained in the Direct Testimony of U. S.
413 Cellular witness Ken Borner that U. S. Cellular is fully compliant with all federal
414 requirements for 9-1-1 service and has deployed Phase I and Phase II services
415 within the six month time frame required and that their vendors are working with
416 individual PSAPs to make further deployments subject to the individual PSAP
417 making the necessary upgrades. Ms. Schroll went on to request that U. S. Cellular
418 indicate in their Rebuttal Testimony that they are not only aware of the Illinois
419 wireless legislation and the requirements of Code Part 728 but to present
420 testimony that U. S. Cellular has been, and will continue to be, both able and
421 willing to meet all of those requirements.

422

423 Q. Did U. S. Cellular in their Rebuttal Testimony respond to Ms. Schroll's request?

424 A. No, neither Mr. Wood nor Mr. Hunter responded to Ms. Schroll's request.

425

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III. RESPONSE TO U. S. CELLULAR'S REBUTTAL TESTIMONY: DON J. WOOD

431 Q. Mr. Wood suggests that you inaccurately described the purposes of the 1996
432 Telecommunications Act by stating that I assert "...that the 1996 Act, including
433 its language regarding universal service "is not about promoting and advancing
434 competition." Please comment.

435 A. Unfortunately, at lines 61 – 68 and 77 – 79, Mr. Wood mischaracterizes my
436 testimony which specifically referred only to the Universal Service section of the
437 Act, not to the Act as a whole. Mr. Wood cites from the Conference Report of the
438 Act, which refers to the Act as a whole, and indicates that my statement appears
439 to be "at odds" with the Conference Report. I do not disagree that the Act as a
440 whole was intended to promote competition and that major sections of the Act
441 such as Section 251 and 252 along with a number of others were specifically
442 designed to promote competition, nor did I say that in my testimony. However, I
443 would repeat the statement from my Direct Testimony that the "Universal Service
444 provisions of the Act [in Section 254] are not about promoting and advancing
445 competition". The principles enunciated by Congress in Section 254 do not
446 include a principle of "promoting competition". Furthermore Congress
447 specifically gave state commissions the authority to grant or deny applications for
448 ETCs in rural areas based on public interest determinations, thus recognizing that
449 limits on providing support for competitors might be appropriate. Despite Mr.
450 Wood's attempts to interject competition as the primary and overarching factor in

451 ETC designations,¹⁰ the FCC stated in its ETC Order that competition, by itself, is
452 insufficient to satisfy the public interest test.¹¹

453

454 Q. How do you respond to Mr. Wood’s attempt, at lines 99 – 103, to narrowly frame
455 the questions before the ICC.

456 A. Mr. Wood urges the ICC to not even consider the question of, let alone apply, the
457 FCC’s new requirements and states that “[i]t would be reasonable for the
458 Commission to evaluate” its Petition “based on the requirements in place at the
459 time the petition was filed.”¹² I disagree that application of the FCC’s new
460 recommendations is a question not before the ICC and I disagree with Mr.
461 Wood’s statement which, by inference, would deem application of the FCC’s new
462 ETC recommendations as “unreasonable”. Regarding Mr. Wood’s statement, at
463 lines 107 – 108, that this proceeding is not “an opportunity to second guess
464 Congressional policy”, I would submit that Section 214(e)(1) requires an ETC to
465 provide service throughout the designated service area and the ICC’s adoption of
466 the FCC’s minimum recommendations will assist it in implementing and ensuring
467 this statutory policy. The statute prior to the issuance of the FCC’s ETC Order
468 required the ICC to make a public interest determination before granting an ETC
469 certification in a rural study area. The FCC’s ETC Order outlines specific
470 guidelines that the ICC may use, but the ICC could have used those same or
471 similar criteria, even absent the FCC ETC Order.

¹⁰ Wood Rebuttal Testimony at lines 77 – 88.

¹¹ In my Direct Testimony, I suggested for the Illinois Commerce Commission (the “ICC”), what weight should be given to the competition factor. IITA Exhibit 1.0, Direct Testimony of Robert C. Schoonmaker at p. 47. (“Schoonmaker Direct Testimony”).

¹² Wood Rebuttal Testimony at lines 105 – 109; p. 6 and lines 122 – 123; p. 7.

472

473 As I previously testified, I believe that it would be reasonable for the ICC to use
474 the FCC's recommended guidelines as a minimum starting point for ETC
475 applicants and build upon that foundation.¹³ In testimony above, I discussed Mr.
476 Hoagg's view of the five-year investment plan as an "essential 'bedrock'
477 requirement for new ETC entrants. Such is a solid example of why it would be
478 reasonable for the ICC to consider and apply the FCC's new recommendations.

479

480 Q. Further along in his testimony, at lines 284 – 297, Mr. Wood again attempts to
481 limit the questions before the ICC. What is your response?

482 A. I disagree with Mr. Wood. Congress gave to the state commissions the
483 responsibility to determine whether ETC designations are in the public interest
484 and the ICC has wide discretion to determine what questions it considers in
485 determining the public interest. I believe those questions are appropriate for the
486 ICC to consider, specifically as they relate to granting US Cellular its requested
487 designation.

488

489 Q. On lines 191 – 205 of his testimony, Mr. Wood discusses that the ICC should
490 ensure that Federal USF is being used for the intended purposes for all ETCs and
491 that such oversight should be competitively neutral. What is your response?

492 A. I agree and I recognize that the FCC, in its recent ETC Report and Order,
493 encouraged state commissions to apply additional annual reporting requirements

¹³ See generally, Schoonmaker Direct Testimony at p. 10.

494 to all ETCs.¹⁴ However, this case is not the appropriate forum to address that
495 question.

496

497 **PUBLIC INTEREST ANALYSIS AND FACTORS**

498

499 Q. Mr. Wood challenges, at lines 208 – 221, that the FCC has changed its view
500 regarding the benefits of competition.¹⁵ Please comment.

501 A. It is, or should be, an undisputed fact that the FCC changed its reliance on the
502 benefits of competition in its *Virginia Cellular* Order when it concluded, “the
503 value of increased competition, by itself, is not sufficient to satisfy the public
504 interest test in rural areas.”¹⁶ Staff witness Hoagg also spelled out the FCC’s
505 significantly reduced reliance on competition, at lines 455 – 459 of his testimony,
506 when discussing the FCC’s cost-benefit analysis. Mr. Wood failed to present any
507 evidence to the contrary to support his challenge.

508

509 Q. What are your comments on U.S. Cellular’s continued reliance on the “benefits of
510 competition” to support its ETC application?

511 A. Just as in its Application and Direct Testimony, U.S. Cellular continues to rely on
512 the oft-repeated “benefits of competition” for its ETC designation.¹⁷ Starting with
513 *Virginia Cellular*, the factor that is “benefits of competition” decreased
514 significantly in importance. But Mr. Wood refuses to concede the point. For

¹⁴ Report and Order at ¶ 71.

¹⁵ Wood Rebuttal Testimony at lines 208 - 221; pp. 11 -12. (“Mr. Schoonmaker argues (p. 11) that the FCC has concluded that ‘competition, by itself, is insufficient to satisfy the public interest test’ and suggests that such a statement represents a significant departure from previous FCC policy. I disagree.”)

¹⁶ *Virginia Cellular, LLC*, 19 FCC Rcd 1563 at ¶ 4. (“*Virginia Cellular*”).

¹⁷ Wood Rebuttal Testimony at lines 258 - 280; pp. 14 -15. *See generally, Id.* at pp. 11 – 17.

515 example, at lines 246 – 254, Mr. Wood cites to the *Wyoming Western Wireless*
516 case (which the Application also cited numerous times) to buttress his argument
517 that competitive benefits may accrue from ETC designation. As I stated in my
518 Direct Testimony, FCC ETC orders predating the *Virginia Cellular* Order – such
519 as Mr. Wood’s *Wyoming Western Wireless* Order from 2000 - were primarily, or
520 even solely, based on criteria related to the existence of competition. After
521 *Virginia Cellular* and under the FCC’s recommended more rigorous and thorough
522 public interest analysis, competition will simply be one factor to consider whether
523 an ETC designation is consistent with the public interest, convenience and
524 necessity under section 214 of the Act and serves the public interest under section
525 254.

526

527 Q. Mr. Wood states at lines 542 – 554 that the imposition of service quality standards
528 on U.S. Cellular is not necessary to ensure “competitive neutrality”. Please
529 comment.

530 A. I disagree. At page 12 of my Direct Testimony, I directly cited to the FCC’s
531 language, which, in part, states “... competitive neutrality means that universal
532 service support mechanisms and rules neither unfairly advantage nor disadvantage
533 one provider over another” At pages 41 – 42 and elsewhere in my Direct
534 Testimony, I specifically testified as to why imposition of certain regulatory
535 requirements on the IITA ILECs and not on U.S. Cellular unfairly disadvantages
536 the latter. In one sentence, at lines 548 – 549, Mr. Wood’s response appears to
537 agree with the concept that competitors should be treated “in a similar fashion”,

538 but in the next, lines 549 – 551, argues that ILECs should be treated differently
539 because of their “market power”. With the number of wireless phones in the
540 nation greater than the number of wireline phones, one has to wonder how much
541 “market power” ILECs really have.

542

543 Q. Mr. Wood argues that the service requirements imposed on ILECs would pose a
544 “barrier to entry” for competitive carriers. What is your response?

545 A. If those service requirements that are imposed on ILECs are so severe that they
546 would create a “barrier to entry” that would cause “any sort of competitive
547 entry...[to] be *impossible*” (emphasis added), as Mr. Wood states at line 561, it
548 seems difficult to understand how it could be “competitively neutral” to impose
549 those requirements on ILECs, but not on their competitors.

550

551 Q. Mr. Wood, at lines 600 – 603, states that it is not U.S. Cellular’s burden to
552 demonstrate that it will provide the supported services throughout the service
553 areas for each separate ILEC study area, because such is not the standard. Do you
554 agree?

555 A. No. Pursuant to Section 214(e)(1), an ETC must offer the services supported by
556 the federal universal service mechanisms throughout the designated service area.
557 This is the statutory standard with which U.S. Cellular has the burden to
558 demonstrate compliance. Mr. Wood correctly indicates that the FCC has
559 interpreted responding to “reasonable requests” as sufficient, in their mind, to
560 meet this statutory requirement, but the statutory standard is to serve “throughout

561 the service area. I would reiterate lines 741 – 745 of my Direct Testimony that it
562 should be ICC’s determination what is a “reasonable request” and not U.S.
563 Cellular’s subjective determination.

564

565 Q. Do Mr. Wood’s claims on lines 605 through 607 that U.S. Cellular’s purported
566 agreement to follow the checklist presented in their petition satisfy your
567 concerns?

568 A. No. As pointed out in my direct testimony at lines 752-757, U.S. Cellular
569 apparently has no instructions to its customer service personnel on implementing
570 these procedures. In rebuttal testimony U.S. Cellular did not refute this statement
571 or offer evidence that it in fact implements these procedures.

572

573 Q. What is your response to Mr. Wood’s accusation on lines 611 - 613 that you have
574 your signal coverage analysis and conclusion “exactly backwards”?

575 A. Section 254(b)(3) describes the purpose of USF as providing access to services
576 for consumers in all regions, including those in rural, insular, and high-cost areas,
577 that are reasonably comparable to those provided in urban areas in both quality
578 and price. I would reiterate to the ICC that in its public interest analysis it should
579 assess the signal coverage. If it is not adequate, *and U.S. Cellular's plans do not*
580 *address the inadequacy*, in my mind this should be a negative factor in the public
581 interest test.

582

583 I am in agreement with Mr. Wood that further investment by U.S. Cellular in
584 areas of incomplete or inadequate signal strength would be a positive factor in the
585 public interest determination. However, as I demonstrated in my Direct
586 Testimony at lines 818 – 827 and 835 – 861, U.S. Cellular has failed to present a
587 plan to do such. Further, I presented evidence at pp. 67 - 68, where U.S. Cellular
588 chose to place one of its 10 proposed towers in an area of Adams Telephone's
589 study area with adequate signal coverage, but ignored low-density exchanges
590 where coverage was not as adequate. Exhibit 1.0, Attachment 1.1.13.1 presented
591 in my Direct Testimony (an overlay map of U.S. Cellular's 10 proposed cell sites)
592 provided a visual illustration of the paucity of U.S. Cellular's proposed tentative
593 build-out and the relative concentration of the 10 sites in comparison to the
594 expanse in the east, south and center of the proposed ETC service area.

595

596 Q. Did U.S. Cellular directly address either Attachments 1.1.13.1 or 1.8 in their
597 Rebuttal Testimony?

598 A. No. However, Mr. Hunter, at lines 321 – 329, lists the rural ILEC service areas in
599 which the ten proposed cell towers will be located. Glasford Telephone and
600 Adams Telephone, from my Attachment 1.8,¹⁸ have been replaced by Madison
601 Telephone and SBC/Ameritech in Mr. Hunter's list. Thus, per Mr. Hunter, only
602 two out of the twenty-five IITA ILECs will be targeted for a cell tower.

603

¹⁸ Attachment 1.8, my "Cell Construction" matrix, was based on U.S. Cellular's Exhibit G attached to its Application. The ILECs corresponding to U.S. Cellular's 10 proposed cell sites were arrived at by matching the specific city listed by U.S. Cellular to the incumbent LEC for that city. I viewed the ICC's ILEC map, various internet websites, and in a few cases literally called numbers in the particular city to determine the "local telephone company".

604 Q. At lines 632 – 634, Mr. Wood states that Mr. Glenn Brown’s propagation analysis
605 is not accurate and promises that he will explain further below in his testimony.

606 Did he?

607 A. No. At lines 702 – 706 of his testimony, Mr. Wood again states that Mr. Brown’s
608 propagation analysis is “flawed” and that his results “have been thoroughly
609 discredited” elsewhere but offers no further explanation.

610

611 Q. Do you agree with Mr. Wood’s statement that Mr. Brown’s propagation analysis
612 has been thoroughly discredited “in every proceeding where it has been
613 presented”?

614 A. No. Mr. Brown informs me that this type of analysis has been presented in
615 wireless ETC cases in two states where hearings have been held, Nevada and
616 South Dakota. In neither of these jurisdictions was the propagation analysis
617 discredited. In fact, in Nevada, the Commission Staff supported that analysis.

618

619 Q. Does Mr. Wood discuss Mr. Brown’s propagation analysis any further?

620 A. No. However, at lines 1057-1077, in challenging my testimony regarding the
621 impact of competition on the cost of service in rural areas, Mr. Wood assumes
622 that my testimony is based on some density analysis that Mr. Brown has
623 apparently presented in some other jurisdiction. Mr. Wood spends a page of
624 testimony attacking my testimony and this other analysis of Mr. Brown’s, which
625 apparently uses the BCPM model, based on his mistaken assumption that my
626 testimony relied on this analysis. My testimony did not rely in any manner on this

627 density analysis of Mr. Brown's and I did not present this density analysis
628 anywhere in my testimony.

629

630 Q. Do you believe that the statement you made on page 53 of your direct testimony,
631 that the splitting of a rural market between ILECs and other carriers will cause the
632 cost of service to increase for both carriers, has a factual basis?

633 A. Based on my experience in the industry reviewing cost studies of various types
634 and on my general knowledge of the design and costs of building networks, it
635 probably would have been more precise to say that the cost of service for both
636 carriers would be higher with the presence of competitors than it would be
637 without.

638

639 Q. Did you provide the factual basis for that statement?

640 A. No, Mr. Wood is correct in his criticism that I didn't provide the factual basis, but
641 that doesn't mean that it isn't factually based. Actually from a broad conceptual
642 basis, the concept is fairly simple. In rural areas the construction of networks to
643 serve those areas involve a significant amount of costs that are relatively fixed.
644 For wireless service this involves cell sites, towers, and power equipment
645 associated with those sites. For wireline service it includes both the cost of
646 switches that have a significant fixed cost component, and the cost of fiber or
647 cable to reach customers throughout the area which also has a significant fixed
648 cost component. In either case, if the provider serves all the customers in the
649 market, the average cost per customer will generally be lower than if the provider

650 serves a smaller portion, whether 80% or 50% or 30% of the total. In my review
651 of various types of cost analysis, these general trends have been evident in a wide
652 variety of circumstances.

653

654 Q. Was Mr. Wood correct in his assumption on lines 1072-1074 that you assumed
655 that customer density can accurately predict network costs?

656 A. No, his assumption and criticism based on that assumption are invalid. I
657 recognize that there are a variety of factors that impact network costs. However,
658 my observation has been that customer density does have a significant impact on
659 network cost.

660

661 Q. Mr. Wood disagrees, at lines 822 – 834, with your alleged suggestion that U.S.
662 Cellular can provide the same services across the same geographic area and will
663 make network investments with or without USF support. Do you have a
664 comment?

665 A. Yes. I am unable to find such a suggestion in my Direct Testimony, although I
666 did state on page 46 that “it may be the case that receipt of federal USF support is
667 not a necessary prerequisite to U.S. Cellular’s entry into the areas affected by this
668 Petition”.

669

670 Q. Mr. Wood states that ILEC networks expanded over time in the exact way that
671 U.S. Cellular has, but the ILECs were receiving USF support. See lines 622 –
672 626 and lines 810 – 816. What is your response?

673 A. Mr. Wood’s unsupported description as to historical ILEC network build-out and
674 that such was accomplished “while receiving USF support” is a very simplified
675 view of how rural ILEC networks were built and the economics associated with
676 them. USF support did not specifically come into being until the 1980’s though
677 there were some implicit mechanisms for the recovery of costs earlier than that
678 are now described as support or subsidy mechanisms. Early providers of wireless
679 service also received some “implicit subsidies” through the granting of spectrum
680 licenses through lotteries at no cost.

681

682 **ETC DESIGNATION PROCESS – THE ELIGIBILITY**
683 **REQUIREMENTS – LOCAL RATES**
684

685 Q. Did Mr. Wood, on lines 410 – 414, mischaracterize your testimony as to U.S.
686 Cellular’s services and rates?

687 A. Yes, I did not state that U.S. Cellular’s services are “not affordable” in my Direct
688 Testimony. I did advise the ICC to carefully consider the purposes of the USF
689 fund to provide universal network connectivity in comparing the IITA ILECs’
690 lower rates and unlimited calling plans to the U.S. Cellular rate plans. Also, at
691 lines 420 – 421 Mr. Wood states that my comparison of local rates for IITA
692 members and “what he characterizes as ‘local rates’ for U.S. Cellular is
693 meaningless. I would note that U.S. Cellular, itself, uses the word “local” in
694 describing one category of its calling plans, and I reiterate that such a comparison
695 is an important part of the ICC’s analysis.

696

697 Q. Did Mr. Wood, on lines 433 – 441, mischaracterize your understanding of how
698 the Federal USF works when he suggests that it is your belief that higher-priced
699 services will garner a higher level of support?

700 A. Yes, I have no such belief that higher priced services garner a higher level of USF
701 support and I don't know how Mr. Wood arrived at that assumption. In regard to
702 the public interest benefit of U.S. Cellular's rates in comparison to ILEC rates, I
703 do repeat the following Question and Answer at p. 21 of my Direct Testimony. It
704 is as follows:

705

706 *Q. If U.S. Cellular's rates are considerably higher than the ILEC's rates in*
707 *each of the IITA ILECs requested study areas, and U.S. Cellular shows no*
708 *indication that it will reduce its rates if granted ETC status and USF*
709 *support, what is your assessment of the public interest determination as it*
710 *relates to the rates that U.S. Cellular charges.*

711 *A. It does not seem like the public will gain much benefit by granting ETC*
712 *status to U.S. Cellular in any of these study areas. I would be concerned*
713 *that U.S. Cellular's stockholders may be the primary beneficiaries of such*
714 *a designation.*

715

716 Q. Mr. Wood, at footnote 13, suggests that federal USF either should not or can not
717 be used to reduce retail rates. What are your comments?

718 A. Mr. Wood's footnote 13 states:

719 It is also unclear that funds that may only be used for the provisioning,
720 maintenance, and upgrading of facilities could instead be used to reduce

721 retail rates. Mr. Schoonmaker may be attempting to criticize U.S. Cellular
722 for complying with federal law.
723

724 As I stated in my Direct Testimony at lines 458 – 463, the first principle of the
725 Act related to Universal Service states “... quality service should be available at
726 just, reasonable and affordable rates.” I further noted the history of universal
727 service and the prime intent of providing funds to maintain local rates at lower
728 and more affordable levels; in other words, to preserve and advance universal
729 service. This is the essence of the public interest analysis. If revenues from
730 customers are currently being used to provision, maintain, and upgrade facilities,
731 and new funds become available through the receipt of USF support, with all
732 other things being equal, there clearly could be reductions in customer rates to
733 more affordable levels while maintaining company earnings.

734

735 Q. Mr. Wood returns to the issue of affordable local rates at lines 464 – 473 and
736 states that the market; i.e. customers, and not the ICC, should be allowed to
737 determine what is “affordable”. Do you agree?

738 A. While I agree that ultimately it is up to consumers to decide if they can afford a
739 particular service or product, it does not follow that the ICC should be barred
740 from determining “affordability” of local rates as part of its public interest
741 analysis. It also does not follow that the federal USF should be tapped to support
742 “premium services”.

743

744 Q. Mr. Wood, at lines 475 – 489, suggests that you view U.S. Cellular’s minimum
745 contract periods as making service less affordable. Do you wish to clarify?

746 A. Yes. The only reference I find in my direct testimony to the term “contract
747 period” is at lines 571 – 573 in my Direct Testimony. In that testimony I compare
748 U.S. Cellular’s Lifeline plan to those of ILECs, and note that “a [U.S. Cellular]
749 customer who terminates service in less than the two-year contract period would
750 also face a substantial termination fee.” I made no comment regarding whether
751 the service was less affordable, but apparently Mr. Wood recognizes that it is and
752 defends the recovery of the cost of a mobile phone instrument in this manner.
753 While I recognize that the high cost of a mobile phone instrument needs to be
754 recovered, this is a valid cost component to take into consideration in evaluating
755 the public benefit of such service, particularly Lifeline service. Because the ICC
756 requires ILECs to advise a consumer of the lowest basic monthly service offering
757 and does not allow for a termination fee or penalty, this is a difference between
758 ILECs and U.S. Cellular that is not to a customer’s benefit.

759

760 Q. Mr. Wood, at lines 491 – 493, states that you suggested that as a condition of
761 being designated an ETC U.S. Cellular should be required to offer “unlimited
762 local usage for a flat fee”. Did Mr. Wood properly characterize your testimony?

763 A. No. While I discussed unlimited local calling in my testimony more than once, I
764 encouraged the Commission to take into consideration the difference between
765 ILEC pricing which generally includes unlimited local calling in relationship to
766 U.S. Cellular’s offerings, which do not, in determining the public interest of

767 granting them ETC status. However, I did not suggest that U.S. Cellular should
768 be required to offer unlimited local calling as a requirement for being granted
769 ETC status.

770

771 **III. RESPONSE TO U. S. CELLULAR’S REBUTTAL**
772 **TESTIMONY: CONRAD HUNTER**

773

774 Q. Do you have any general comments concerning the Rebuttal Testimony of U. S.
775 Cellular witness Conrad Hunter?

776 A. While Mr. Hunter’s testimony is labeled “Rebuttal Testimony”, large portions of
777 his testimony appear to be an improper attempt by U. S. Cellular to supplement
778 their Direct Testimony. As I have indicated earlier, it is my understanding that U.
779 S. Cellular was given an opportunity after the FCC entered its ETC Order to
780 supplement or revise its Direct Testimony and chose not to do so. The IITA may
781 ask the Administrative Law Judge to determine whether a portion of Mr. Hunter’s
782 so-called Rebuttal Testimony is, in fact, improper Supplemental Direct
783 Testimony, and therefore, should be stricken.

784

785 For example, Mr. Hunter’s testimony, beginning at line 230 on page 10 and
786 continuing through line 300 on page 14, neither references nor rebuts any
787 testimony that I submitted or was submitted by any of the Staff witnesses but is
788 clearly an attempt to enhance U. S. Cellular’s direct case. In a similar vein, Mr.
789 Hunter’s testimony, beginning at line 360 on page 16 and continuing through line
790 585 on page 26, would appear to be an attempt by U. S. Cellular to either “rebut”
791 the minimum requirements contained in the FCC’s ETC Order and/or is an

792 attempt to supplement their direct case rather than rebutting the Direct Testimony
793 I submitted on behalf of the IITA or the testimony submitted by the five Staff
794 witnesses.

795

796 Q. Mr. Hunter mentioned the existence of other wireless providers at lines 506 – 507
797 such as “Verizon, Sprint, Alltel, Midwest Wireless, and others” and at lines 513 –
798 515 states “that the FCC licensed two cellular carriers to serve rural Illinois
799 around 1990 and there are six additional PCS licensees, plus an SMR license that
800 could provide service to this area.” Do you agree?

801 A. Yes, I agree that there are several other wireless carriers providing competition to
802 U.S. Cellular (and to the particular ILEC). I discussed at page 51 of my Direct
803 Testimony the current existence of wireless competition. I do wish to clarify that
804 my Attachment 1.11 demonstrates the number of carriers that could provide
805 service inasmuch as they hold licenses to serve in those exchanges. However, as I
806 noted at lines 1175 – 1185, I reviewed numerous wireless carrier websites which
807 demonstrated numerous competitors in U.S. Cellular’s service area.

808

809 Q. At lines 668-671 of Mr. Hunter’s Rebuttal Testimony, he states as follows: “I
810 note that Mr. Hoagg recognizes that whether to apply the FCC requirements
811 contained in its recent Order is not before the Commission in this docket, and
812 need not be addressed in order for the Commission to fully rule on USCC’s ETC
813 Application (p. 18 at lines 428-436). We agree.” Has Mr. Hunter correctly
814 characterized Mr. Hoagg’s testimony?

815 A. Absolutely not. Mr. Hunter has either totally misunderstood a portion of Mr.
816 Hoagg's testimony, or for whatever reason, has chosen to mischaracterize it. The
817 question and answer that Mr. Hunter, in part, references appears at lines 426-436
818 of Mr. Hoagg's testimony and states as follows:

819 "Q. Do the requirements of the FCC's ETC Order apply to previously
820 designated ETCs?

821
822 "A. The FCC apparently intends to apply many of these requirements
823 to carriers that previously have been designated ETCs, including
824 incumbent rural ILECs. This Commission has not yet had an opportunity
825 to decide whether any requirements applied to new entrants seeking ETC
826 designation in Illinois rural territories (such as US Cellular) should apply
827 to existing incumbent rural ILECs. I believe the Commission has broad
828 discretion in this regard.¹¹ In any event, these issues are not before the
829 Commission in this docket, and need not be addressed in order for the
830 Commission to rule fully on US Cellular's ETC application."
831

832 Footnote 11 of Mr. Hoagg's testimony states as follows:

833 "11 For example, the Commission might determine all ETCs should be
834 subject to essentially identical requirements, or it might find it would
835 better serve the public interest to impose different obligations upon new
836 entrant ETCs and existing incumbent ETCs."
837

838 Mr. Hoagg clearly indicates that the issue that is not before the Commission in
839 this docket is whether any of the requirements contained in the recent FCC ETC
840 Order that are applicable to new Applicants should apply to existing rural
841 incumbent ILECs. He is not saying, as Mr. Hunter would suggest, that
842 requirements similar to those set forth in the FCC's ETC Order should not be
843 applied by the Commission to U. S. Cellular in connection with its request for
844 ETC designation. In fact, Mr. Hoagg clearly stated that those requirements, or

845 ones similar to them, should be applied by the Commission in his testimony
846 appearing at lines 107-122 of ICC Staff Exhibit 1.0.

847

848 Q. Please comment on the series of questions and answers, beginning at line 586 and
849 concluding on line 651 of Mr. Hunter's testimony.

850 A. In this series of questions and answers, Mr. Hunter apparently tries to finesse his
851 way around the requirements contained in the FCC Order as conditions to be met
852 prior to designation as an ETC, by indicating that U.S. Cellular could comply with
853 these requirements in the future, though they haven't attempted to address them in
854 the testimony they have presented.

855

856 It is also interesting to note that in each of the questions, beginning on lines 592,
857 601, 609, 615, 618, 625, 629 and 634, the questions are prefaced with the phrase
858 "if required to do so" before referring to various requirements contained in the
859 FCC Order. In this series of questions and answers, U. S. Cellular is not
860 demonstrating that they are in compliance with the minimum requirements of the
861 FCC at this time nor are they even volunteering to demonstrate their ability to
862 meet the FCC requirements prior to ETC designation, they are only agreeing to
863 submit plans or reports after ETC designation if ordered to do so.

864

865 IV. CONCLUSION

866

867 Q. Do you have any concluding comments as to the Staff's direct testimony and U.S.
868 Cellular's Rebuttal Testimony?

869 A. Yes. I concur with Mr. Hoagg’s conclusion, at lines 692 – 695, that Staff’s
870 collective direct testimony demonstrated “serious deficiencies” in U.S. Cellular’s
871 ETC Application. Several of the Staff witnesses, Mr. McClerren, Dr. Zolnierек
872 and Ms. Schroll, invited U.S. Cellular to provide additional proof or evidence to
873 supplement its Application and direct testimony. As I have discussed in my
874 rebuttal testimony, it is my belief that U.S. Cellular has failed to produce
875 sufficient and additional evidence even after it was specifically invited to do so.

876

877 Q. At lines 1804 – 1824 of the “conclusion” section of your direct testimony, you
878 listed certain and significant points that this Commission should consider. Did
879 U.S. Cellular’s rebuttal testimony do anything to alleviate your concern regarding
880 those points?

881 A. No, and to the contrary, U.S. Cellular’s responses in rebuttal heighten my concern
882 because even though U.S. Cellular has been made aware of certain concerns by
883 both myself and the Staff, it still has not met its burden of proof adequately. I
884 would echo and endorse Mr. Hoagg’s view, on lines 504 – 508 of his testimony,
885 that were stated *before* U.S. Cellular’s rebuttal testimony: “Unless and until U.S.
886 Cellular seriously addresses and accomplishes these tasks [the FCC’s ETC Order
887 recommendations], the Commission has insufficient basis to conclude that ETC
888 designation for U.S. Cellular would be in the public interest.”

889

890 Q. Should the ICC approve U.S. Cellular’s Petition as filed and as supplemented by
891 its rebuttal testimony?

892 A. No. U.S. Cellular has failed to meet its evidentiary burden of proof that it would
893 be in the public interest to be designated as an ETC in many, if not all, of the IITA
894 study areas under consideration in this proceeding.

895

896 Q. Does this conclude your rebuttal testimony?

897 A. Yes.

898

Certificate of Service

Docket No. 04-0653

A copy of the foregoing Corrected Rebuttal Testimony of Robert C. Schoonmaker filed on behalf of the Illinois Independent Telephone Association and certain other rural local exchange carriers was served upon those persons by electronic this 13th day of September, 2005.

John Riley

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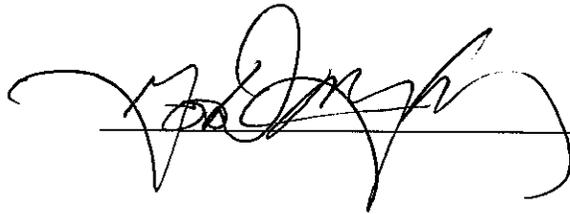
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A copy of the foregoing Corrected Rebuttal Testimony of Robert C. Schoonmaker filed on behalf of the Illinois Independent Telephone Association and certain other rural local exchange carriers was served upon those persons by regular U.S. Mail this 13th day of September, 2005.

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A handwritten signature in black ink, appearing to read "S. Chernoff", written over a horizontal line.