

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Northwest Dakota Cellular of North  
Dakota Limited Partnership  
Designated Eligible Carrier  
Application** **Case No. PU-1226-03-597**

**North Central RSA 2 of North Dakota  
Limited Partnership  
Designated Eligible Carrier  
Application** **Case No. PU-386-03-598**

**North Dakota RSA No. 3 Limited  
Partnership  
Designated Eligible Carrier  
Application** **Case No. PU-897-03-599**

**Badlands Cellular of North Dakota  
Limited Partnership  
Designated Eligible Carrier  
Application** **Case No. PU-1225-03-600**

**North Dakota 5 – Kidder Limited  
Partnership  
Designated Eligible Carrier  
Application** **Case No. PU-338-03-601**

**Bismarck MSA Limited Partnership  
Designated Eligible Carrier  
Application** **Case No. PU-494-03-602**

**ORDER**

**February 25, 2004**

**Preliminary Statement**

On October 15, 2003, applications for designation as an Eligible Telecommunications Carrier (ETC) were filed by: North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless (North Central RSA 2); Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless (Badlands Cellular); North Dakota RSA 3 Limited Partnership d/b/a Verizon Wireless (North Dakota RSA 3); Bismarck MSA Limited Partnership d/b/a Verizon Wireless (Bismarck MSA); North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless (North Dakota 5); and

Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless (Northwest Dakota Cellular); (collectively the Partnerships).

The Partnerships seek ETC designation for purposes of receiving federal universal service support for certain rural study areas and non-rural exchanges. For certain rural telephone company study areas not wholly within each applicant's FCC licensed service area, the Partnerships seek redefinition of those areas rural study areas. The Partnerships propose to provide universal services using its own facilities, or a combination of its own facilities and leased facilities, pursuant to 47 U.S.C. §214(e) and the FCC's regulations.

On October 22, 2003 the Commission issued a Notice of Opportunity for Hearing and Notice of Informal Hearing. An informal hearing was held on December 17, 2003. The notice stated that the Commission could determine the matter without a hearing.

The issues to be considered are:

1. The qualification of the applicant under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding.
2. The ETC universal service support area to be designated for the applicant.

On December 5, 2003, BEK Communications Cooperative, Consolidated Telcom, Dakota Central Telecom I, Dakota Central Telecommunications Cooperative, Dickey Rural Access, Inc., Dickey Rural Communications, Inc., Dickey rural Telephone Cooperative, Inter-Community Telephone Company, LLC, Missouri Valley Communications, Inc., Nemont Telephone Cooperative, Inc., North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation, Polar Telecommunications, Inc., Reservation Telephone Cooperative, Turtle Mountain Communications, and United Telephone Mutual Aid Corporation; collectively the Rural Telephone Company Group (RTCG) filed a request to appear in the proceeding. The RTCG stated requested that, if the Commission does not deny the application for redefinition of study areas without a hearing, the RTCG requests a hearing.

On December 17, 2003 the applicants filed affidavits of Mark R. Smith, Director—Financial Reporting and Partnership Relations in support of the applications of the Partnerships.

On December 18, 2003 the Commission issued a Notice of Hearing.

On December 29, 2003 Inter-Community Telephone Company, L.L.C. filed a request to withdraw as an intervenor. The Commission granted the request on January 14, 2004.

On February 6, 2004, the parties filed a Joint Stipulation and six separate Service Area Stipulations setting forth an agreement to resolve objections of the RTCG.

On February 10, 2004, the Commission held an Informal Hearing.

### **ETC Designation**

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as eligible telecommunications carriers (ETCs) and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

The universal services designated for support by Federal universal service support mechanisms include voice grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation for qualifying low-income consumers.

Both federal law and state law provide that the Commission designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

The affidavits of Mark Smith state that:

- 1) Verizon Wireless is a common carrier, is licensed by the FCC to provide commercial mobile radio service (CMRS), and is currently providing CMRS throughout nearly all North Dakota.
- 2) The Partnerships will provide, throughout the areas in which they are seeking ETC designation, the required telecommunications services that are supported by universal service funding. The Partnerships will participate in Lifeline and Link-Up as required.
- 3) The Partnerships advertise the federally supported universal services throughout its requested designated service areas using different media of general distribution including newspaper, television, radio, and billboard advertising, and once designated, will advertise the availability of the supported services and charges using media of general distribution, in accordance with 47 C.F.R. § 54.201(d)(2).
- 4) The Partnerships will comply with all service area requirements, subject to the requested Commission's redefinition of the same.
- 5) Granting ETC designation to the Partnerships will serve the public interest by offering competitive services to North Dakota customers on a more even-handed basis than is the case today. The Partnerships' service offerings have a larger

local calling area as compared to the incumbent landline carriers, as well as benefits of mobility, and customers will be able to combine basic universal services with advanced data services if they so desire.

- 6) The Partnerships will use federal universal service support to provide universal services and extend its wireless networks in rural areas of North Dakota.
- 7) Designation of the Partnerships as ETCs will provide an incentive to the incumbent carrier to improve their existing networks in order to remain competitive, resulting in improved services and benefits to consumers including better service, lower rates, new technology, and provision of new and innovative services for consumers.

All areas for which the Partnerships request ETC designation, with the exception of the Qwest Corporation exchanges, are study areas of rural telephone companies.

The Partnerships agree that an applicant for ETC status is not required to be providing the required universal services to 100% of a service area before receiving designation as an ETC and that facilities to serve customers are required at some reasonable time after the customer agrees to the terms and conditions of the service provided. We continue to subscribe to this policy.

The Partnerships agree to provide quarterly reports describing the status of its E911 implementation in North Dakota.

### **Universal Service Support Areas**

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

47 U.S.C. § 214(e)(5) defines service area:

- (5) **SERVICE AREA DEFINED**-- The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

Table 1 lists, for purposes of federal universal service funding, the North Dakota study areas that have been established by the Federal Communications Commission and listed by the Universal Service Administrative Company (USAC) for incumbent local exchange companies (ILECs) serving customers in North Dakota:

**TABLE 1**

<b>Study Area Name</b>	<b>Included Local Exchange Companies</b>
Absaraka Cooperative Telephone Co., Inc.	Absaraka Co-operative Telephone Company, Inc.
BEK Communications Cooperative	BEK Communications Cooperative
Consolidated Telcom	Consolidated Telcom
Dakota Central Telecommunications Cooperative	Dakota Central Telecommunications Cooperative Dakota Central Telecom I, Inc.
Dickey Rural Telephone Cooperative	Dickey Rural Communications, Inc. Dickey Rural Telephone Cooperative Dickey Rural Access, Inc.
Griggs County Telephone Company	Griggs County Telephone Co
Inter-Community Telephone Company L.L.C.	Inter-Community Telephone Company, L.L.C.
Midstate Communications Inc.	Midstate Communications Inc.
Midstate Telephone Company	Midstate Telephone Company
Moore & Liberty Telephone Company	Moore and Liberty Telephone Company
Nemont Telephone Cooperative, Inc.	Nemont Telephone Cooperative, Inc. Missouri Valley Communications, Inc
Noonan Farmers Telephone Company	Noonan Farmers Telephone Company
North Dakota Telephone Company	North Dakota Telephone Company
Northwest Communications Cooperative	Northwest Communications Cooperative, a Cooperative Association
Polar Communications Mutual Aid Corporation	Polar Communications Mutual Aid Corporation
Polar Telecommunications, Inc.	Polar Telcom, Inc.
Qwest Corporation	Qwest Corporation
Red River Rural Telephone Association	Red River Rural Telephone Association Red River Telecom, Inc.
Reservation Telephone Cooperative	Reservation Telephone Cooperative
SRT Communications, Inc.	SRT Communications, Inc.
United Telephone Mutual Aid Corporation	United Telephone Mutual Aid Corporation Turtle Mountain Communications, Inc.
West River Telecommunications Cooperative	West River Telecommunications Cooperative
Wolverton Telephone Company	Wolverton Telephone Company

Table 2 lists, for purposes of federal universal service funding, the Minnesota study areas that have been established by the Federal Communications Commission and listed by the USAC for ILECs serving customers in North Dakota:

**TABLE 2**

<b>Study Area Name</b>	<b>Included Local Exchange Companies</b>
Citizens Telecommunications Company of MN	Citizens Telecommunications Company of Minnesota, Inc.
Halstad Telephone Co.	Halstad Telephone Company
Loretel Systems, Inc	Loretel Systems, Inc.

Table 3 lists, for purposes of federal universal service funding, the South Dakota study areas that have been established by the Federal Communications Commission and listed by the USAC for ILECs serving customers in North Dakota:

**TABLE 3**

<b>Study Area Name</b>	<b>Included Local Exchange Companies</b>
James Valley Cooperative Telephone Company	James Valley Cooperative Telephone Company
Roberts County Telephone Cooperative Association	Roberts County Telephone Cooperative Association RC Communications, Inc.
Venture Communications Cooperative	Venture Communications, Inc.
West River Cooperative Telephone Company	West River Cooperative Telephone Company

Table 4 lists, for purposes of federal universal service funding, the Montana study areas that have been established by the Federal Communications Commission and listed by the USAC for ILECs serving customers in North Dakota:

**TABLE 4**

<b>Study Area Name</b>	<b>Included Local Exchange Companies</b>
Mid-Rivers Telephone Cooperative, Inc.	Mid-Rivers Telephone Cooperative, Inc.

Table 5 lists the study areas for which the Partnerships request ETC designation and that do not require redefining:

**TABLE 5**

<b>Applicant name</b>	<b>Study area(s) requested for designation not requiring redefinition under 47 C.F.R. § 54.207(c)</b>
Northwest Dakota Cellular	Noonan Farmers Telephone Company Northwest Communications Cooperative
North Dakota RSA 3	Citizens Telecommunications Company of MN

	Halstad Telephone Co James Valley Cooperative Telephone Company Roberts County Telephone Cooperative Association Red River Rural Telephone Association Venture Communications Cooperative Wolverton Telephone Company Qwest Corporation exchanges of Grafton, Minto, Northwood, Hatton, Mayville, Reynolds, Hillsboro, Jamestown, Valley City, Leonard, Kindred, Wahpeton, Gardner, Hickson and Thompson.
Badlands Cellular	Consolidated Telcom West River Cooperative Telephone Company Qwest Corporation exchanges of Belfield, Mandan, Dickinson, Sidney MT, Fairview MT, McIntosh SD, and Morristown SD
North Dakota 5	Qwest Corporation exchange of Jamestown
Bismarck MSA	Qwest Corporation exchanges of Bismarck and Mandan

The Partnerships have not requested that a designated service area include the Absaraka Cooperative Telephone Co., Inc. or Loretel Systems, Inc. study areas or the Qwest Corporation exchanges of Casselton, Comstock MN, Emerado, Fargo, Larimore, Manvel, Sabin MN, or West Fargo.

### **Redefinition of Service Areas**

The Partnerships have requested that the Commission redefine the service area requirement for certain rural telephone companies from a study area to an individual wire center or partial wire center to the extent that the Partnerships' wireless service area does not cover the entirety of a rural telephone company's study area. Table 6 lists the rural telephone company study areas for which the Partnerships request redefinition.

**TABLE 6**

<b>Applicant name</b>	<b>Requested redefined study areas under 47 C.F.R. § 54.207(c)</b>
Northwest Dakota Cellular	BEK Communications Cooperative Midstate Telephone Company Nemont Telephone Cooperative, Inc. Reservation Telephone Cooperative SRT Communications, Inc. West River Telecommunications Cooperative
North Central RSA 2	SRT Communications, Inc. United Telephone Mutual Aid Corporation

	<p>North Dakota Telephone Company</p> <p>Midstate Communications Inc. (formerly known as York Telephone Company)</p> <p>Polar Telecommunications, Inc.</p> <p>Polar Communications Mutual Aid Corporation</p>
North Dakota RSA 3	<p>Dakota Central Telecommunications Cooperative</p> <p>Dickey Rural Telephone Cooperative</p> <p>Griggs County Telephone Company</p> <p>Inter-Community Telephone Company LLC</p> <p>Moore &amp; Liberty Telephone Company</p> <p>North Dakota Telephone Company</p> <p>Polar Communications Mutual Aid Corporation</p> <p>Polar Telecommunications, Inc.</p> <p>United Telephone Mutual Aid Corporation</p>
Badlands Cellular	<p>Mid-Rivers Telephone Cooperative, Inc.</p> <p>Midstate Telephone Company</p> <p>Midstate Communications Inc. (formerly known as York Telephone Company)</p> <p>Reservation Telephone Cooperative</p> <p>West River Telecommunications Cooperative</p>
North Dakota 5	<p>BEK Communications Cooperative</p> <p>Dakota Central Telecommunications Cooperative</p> <p>Dickey Rural Telephone Cooperative</p> <p>Griggs County Telephone Company</p> <p>North Dakota Telephone Company</p> <p>West River Telecommunications Cooperative</p> <p>SRT Communications, Inc.</p>
Bismarck MSA	<p>BEK Communications Cooperative</p> <p>West River Telecommunications Cooperative</p>

Table 7 lists the requested service areas within the requested redefined study areas for which the Partnerships request ETC designation.

**TABLE 7**

<b>Applicant name</b>	<b>Requested designated service areas within study areas requiring redefinition under 47 C.F.R. § 54.207(c)</b>
Northwest Dakota Cellular	all exchanges and partial exchanges of BEK Communications Cooperative, Nemont Telephone Cooperative, Inc., Midstate Telephone Company,

	Reservation Telephone Cooperative, SRT Communications, Inc., Missouri Valley Communications and West River Telecommunications Cooperative within the geographic boundaries of its Federal Communications Commission (FCC) licensed cellular service area in North Dakota (Rural Service Area 1 (RSA 1))
North Central RSA 2	all exchanges and partial exchanges of SRT Communications, Inc., Turtle Mountain Communications, United Telephone Mutual Aid Corporation, North Dakota Telephone Company, York Telephone Company (now know as Midstate Communications Inc.), Polar Telecommunications, Inc., and Polar Communications Mutual Aid Corporation within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 2)
North Dakota RSA 3	all exchanges and partial exchanges of Dakota Central Telecom I, Inc., Dakota Central Telecommunications Cooperative, Dickey Rural Access, Inc., Dickey Rural Communications, Inc., Dickey Rural Telephone Cooperative, Griggs County Telephone Company, Inter-Community Telephone Company LLC, Moore and Liberty Telephone Company, North Dakota Telephone Company, Polar Communications Mutual Aid Corporation, Polar Telecommunications, Inc., and United Telephone Mutual Aid Corporation within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 3)
Badlands Cellular	all exchanges and partial exchanges of Midstate Telephone Company, West River Telecommunications Cooperative, Reservation Telephone Cooperative, Mid-Rivers Telephone Cooperative, Inc., and York Telephone Company (now known as Midstate Communications Inc.) within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 4)
North Dakota 5	all exchanges and partial exchanges of BEK Communications Cooperative, Dickey Rural Telephone Cooperative, Dakota Central Telecommunications Cooperative, Griggs County Telephone Company, North Dakota Telephone Company, West River Telecommunications Cooperative, SRT Communications, Inc., Dakota Central Telecom I, Inc., and Dickey Rural Communications, Inc. within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 5)
Bismarck MSA	All exchanges and partial exchanges of BEK Communications Cooperative and West River Telecommunications Cooperative within the geographic boundaries of its FCC licensed cellular service area in North Dakota (Bismarck Metropolitan Statistical Area (Bismarck MSA))

### *Factors for Consideration*

The Act and the FCC's regulations authorize the FCC and the Commission to act in concert to develop an alternative service area standard for areas served by rural telephone companies in accordance with 47 § C.F.R. 54.207(c)-(d). In defining a service area other than the study area we are required to take into account three factors as follows: (1) minimizing cream skimming; (2) recognizing that the 1996 Act places rural telephone companies on a different competitive footing from other LECs; and (3)

recognizing the administrative burden of requiring rural telephone companies to calculate costs at something other than a study area level.<sup>1</sup>

The first factor is the risk that a competitor would selectively target service only to the low cost areas of the rural ILEC's study areas. The affidavits of Mark Smith state that the risk of cream skimming has been practically eliminated because incumbent rural telephone companies can now utilize a process known as "disaggregation," which allows these companies to target their per-line support to better reflect the actual costs of serving different areas throughout their study areas. In the *Virginia Cellular ETC Order* the FCC determined that, because Virginia Cellular was limited to providing facilities-based service only where it is licensed by the FCC, and because Virginia Cellular commits to providing universal service throughout its licensed territory, concerns regarding cream skimming are minimized.<sup>2</sup> We find no evidence in this proceeding of rural cream skinning effects in redefining the service areas requested by the Partnerships.

The second factor to consider is the regulatory status enjoyed by rural telephone companies under the Act. The affidavits of Mark Smith state that nothing in the service area redefinition process for an ETC applicant affects the rural carrier's various statutory exemptions under the Act, nor does the redefinition process eliminate the public interest analysis to the designation of an additional ETC in the rural telephone company's service area. In the *Virginia Cellular ETC Order* the FCC determined that (1) the high-cost universal service mechanisms support all lines served by ETCs in rural areas; (2) receipt of high-cost support by Virginia Cellular will not affect the total amount of high-cost support that the incumbent rural telephone company receives; (3) to the extent that Virginia Cellular or any future competitive ETC captures incumbent rural telephone company lines, provides new lines to currently unserved customers, or provides second lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve; and (4) redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.<sup>3</sup> Based on the evidence in this proceeding we conclude that there is little likelihood of harm to the rural companies. No evidence in this proceeding regarding the regulatory status enjoyed by rural telephone companies under the Act leads us to conclude that the Partnerships' request for redefined study areas should not be granted.

The third factor to consider is whether any administrative burdens might result from the redefinition of the service area requirement. The affidavits of Mark Smith state that the administrative ease of calculating costs on a less-than-study area level is not an issue because any federal universal service support available to a competitive ETC in

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<sup>1</sup> *In the Matter of Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338, adopted December 31, 2003, released January 22, 2004 (***Virginia Cellular ETC Order***)

<sup>2</sup> *Id.* ¶ 42

<sup>3</sup> *Id.* ¶ 43

an area served by one of the rural telephone companies would be determined based on the per-line support available to the rural telephone company itself. In the *Virginia Cellular ETC Order* the FCC determined that redefining the rural telephone company service areas will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire incumbent local exchange company study area. The redefinition does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. The FCC found that the concern that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies was not at issue.<sup>4</sup> No evidence in this proceeding regarding administrative burdens for rural telephone companies leads us to conclude that the Partnerships' request for redefined study areas should be denied.

The affidavits of Mark Smith state that redefinition is in the public interest because it will enable the Partnerships to bring new services and new technologies to customers of North Dakota's rural telephone companies, who now have no choice of universal service providers. The affidavit further states that, because competitor and incumbent licensed service territories are geographically different, and because the study areas of the rural telephone companies wide-ranging, it would be nearly impossible for any other competitive carriers to compete with the incumbents without redefinition.

#### *State Statute Considerations*

The North Dakota Legislature enacted N.D.C.C. § 49-21-01.8 in 1999. This law provides that “[a] telecommunications company may not be an eligible telecommunications carrier unless the company offers all services supported by federal universal service mechanisms throughout the study area.” During the same session, the Legislature further amended N.D.C.C. § 49-21-01.7 relating to powers of the Commission, specifically granting the Commission the power to:

12. Designate telecommunications companies as eligible telecommunications carriers to receive universal support under sections 214 and 254 of the federal act.
13. Designate geographic service areas for the purpose of determining universal service obligations and support mechanisms under the federal act.

The established rules of statutory interpretation under N.D.C.C. § 1-02-07 require the Commission, if possible, to construe provisions in the same statute so that effect can be given to all provisions. N.D.C.C. § 1-02-09.1 requires that amendments to a statute enacted at the same legislative session are to be harmonized, if possible, so that

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<sup>4</sup> Id. ¶ 44

effect can be given to each. N.D.C.C. § 1-02-38 provides that when the Legislature enacts a statute, it is presumed that the entire statute is intended to be effective, a just and reasonable result is intended, and that it complies with the constitutions of the State of North Dakota and the United States.

As noted above, N.D.C.C. § 49-21-01.7(12) specifically empowers the Commission to designate ETCs under sections 214 and 254 of the federal act. Furthermore, N.D.C.C. § 49-21-01.7(13) expressly gives the Commission the power to designate geographic service areas . . . under the federal act.” These delegations of power from the Legislature necessarily includes the power to redefine a rural company’s “service area” to something less than the company’s “study area” as permitted under 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207. If N.D.C.C. § 49-21-01.8 were construed to restrict an ETC designation to only a study area basis, and without the opportunity for an applicant to seek to redefine the service area requirement consistent with section 214(e)(5), the state law would have the effect of denying the applicant rights that have been conferred by federal law and would render the delegation of power to the Commission meaningless.

Another consideration is that a state law provision that would be construed to limit a federal ETC to providing the supported services throughout a rural telephone company’s “study area” would likely be preempted under both 47 U.S.C. § 254(f) and 47 U.S.C. § 253(a). Section 254(f) limits a state’s authority to adopting “regulations not inconsistent with the [FCC’s] rules to preserve and advance universal service.” Restricting ETC designations under state law to only a study area basis would be inconsistent and directly in conflict with both 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b), which both expressly contemplate and permit the redefinition of the service area requirement for purposes of federal ETC designations. Also, 47 U.S.C. § 253(a) provides that no state statute or regulation may prohibit or have the effect of prohibiting the ability of any entity to provide interstate telecommunications service. A state law that would be construed to deny designation of federal ETC status based on a study area requirement could essentially prohibit the Partnerships’ ability to provide the supported services.

The Commission finds that the proper focus of N.D.C.C. § 49-21-08.1 is that an ETC is required to offer all services supported by federal universal service mechanisms throughout the applicable area in which it has been granted ETC status. This requirement makes the state statute consistent with the obligation of an ETC under 47 U.S.C. § 214(e)(1) of the federal act.

The Commission’s action to redefine the service area requirement as requested by the Partnerships is necessary to facilitate the granting of the federal ETC to the Partnerships in the areas of the rural telephone companies’ service areas that fall within Verizon Wireless’ CMRS licensed areas.

*Joint Stipulation*

The RTCG members have withdrawn their opposition in these proceedings. The February 6, 2004 Joint Stipulation states that, based on the Commission's decision granting ETC status to Western Wireless in Case No. PU-1564-98-428, the RTCG does not contest the designation of the Partnerships as a federal ETC in those areas where the Partnerships serve the entire study area. The parties stipulate that the Commission may issue Orders in each of the captioned dockets to grant conditional ETC designation in rural service areas where the Partnerships redefine the service area requirement for purposes of ETC designation, subject to the FCC approval of the redefined service area requirement under 47 C.F.R. § 54.207(c). The parties stipulate that redefining the rural service areas for the purposes of the Partnerships universal service support shall not be construed as an agreement to redefine the study areas for purposes of RTCG members universal service support nor construed to constitute a waiver of the RTCG's rights to object to or contest any future ETC applications.

### **Conclusion**

Based on the evidence in this proceeding, each applicant is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding and it is in the public interest the Partnerships each be designated as an ETC in the requested designated service areas.

### **Order**

The Commission orders:

1. Northwest Dakota Cellular of North Dakota Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.
2. North Central RSA 2 of North Dakota Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested conditioned upon FCC approval under 47 C.F.R. § 54.207(c) of the requested redefined study areas.
3. North Dakota RSA No. 3 Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.
4. Badlands Cellular of North Dakota Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.

5. North Dakota 5 – Kidder Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.

6. Bismarck MSA Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.

7. Each of the applicants is designated as an eligible telecommunications carrier for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings.

8. Each of the applicants shall file quarterly reports to the Commission describing the status of its wireless E-911 implementation in North Dakota.

## **PUBLIC SERVICE COMMISSION**

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**Susan E. Wefald**  
**Commissioner**

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**Tony Clark**  
**President**

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**Kevin Cramer**  
**Commissioner**