

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

In the Matter of:

**Tennessee Rural Independent
Coalition Petition for Suspension
And Modification Pursuant to
47 U.S.C. Section 251(f)(2)**

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Docket No. 06-00228

**PETITION FOR RECONSIDERATION OF ORDER GRANTING,
IN PART, CMRS PROVIDERS' MOTION TO COMPEL
ISSUED APRIL 23, 2007, AND ADDENDUM THERETO**

The Tennessee Rural Independent Coalition, by counsel, respectfully moves, pursuant to T.R.A. Rule 1220-1-2.20 for an Order modifying the Hearing Officers' Order on the CMRS Providers' Motion to Compel issued on April 23, 2007, and the Addendum thereto issued on April 25, 2007.

As grounds for this Petition, the Tennessee Rural Independent Coalition would show as follows:

1. The entire purpose of this proceeding is to determine whether or not the performance of TELRIC Studies imposes an undue burden on the members of the Coalition.
2. The discovery requests of the CMRS Providers and the April 23 Order granting in part their Motion to Compel pose an undue burden on the CMRS Providers.
3. In particular, accumulating the information in response to Requests For Production of Documents 1 and 2 and in response to Interrogatories 2 and 7 and Request For Production of Document 7 will take a significant amount of manpower and time.

4. In support of this Petition, the members of the Coalition submit the testimonies of Jeffrey W. Reynolds, attached as Exhibit A, Emmanuel Staurulakis, attached as Exhibit B and Steven E. Watkins with accompanying Summary of Work Experience and Education of Steven E. Watkins, attached as Exhibit C. The exhibits to Jeffrey W. Reynolds' testimony (Exhibits 1, 2, 3 and 4) are filed subject to the terms of the confidentiality order entered among the parties in Docket No. 03-00585, a copy of which was attached as Exhibit 1 to William T. Ramsey's letter to Chairman Pat Miller, dated March 29, 2007, and filed in the docket of this matter on the same date.

5. Accordingly, the Members of the Tennessee Rural Coalition request that the Hearing Officer deny, in its entirety, the CMRS Providers' Motion to Compel.

6. In the alternative, the Members of the Tennessee Rural Coalition respectfully request that the deadline for responding to these requests be extended to, and include May 4, 2007. At a minimum, it will require that much time to accumulate the voluminous information necessary to respond to these requests.

Respectfully submitted,

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DATED: April 27, 2007

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on April 16, 2007, a true and correct copy of the foregoing was served on the parties of record via the method indicated:

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William J. Ramsey

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

In the Matter of:

**Tennessee Rural Independent
Coalition Petition for Suspension
And Modification Pursuant to
47 U.S.C. Section 251(f)(2)**

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Docket No. 06-00228

TESTIMONY OF

JEFFREY W. REYNOLDS

ON BEHALF OF

**BLEDSON TELEPHONE COOPERATIVE
DTC COMMUNICATIONS
CENTURYTEL OF ADAMSVILLE, INC.
CENTURYTEL OF CLAIBORNE, INC.
CENTURYTEL OF OOLETEWAH-COLLEGE DALE, INC.
CONCORD TELEPHONE EXCHANGE, INC.
Humphreys County Telephone Company
TELLICO TELEPHONE COMPANY
TENNESSEE TELEPHONE COMPANY**

DATED: April 27, 2007

EXHIBIT A

1 **Q. Please state your name and business address.**

2 A. My name is Jeffrey W. Reynolds. My business address is 10905 Fort
3 Washington Road, Suite 307, Fort Washington, MD 20744

4
5 **Q. By whom are you employed and in what capacity?**

6 I am a principal in the consulting firm of Parrish, Blessing and Associates,
7 Inc.

8
9
10 **Q. Please describe your experience in the telecommunications industry.**

11 A. I have over thirty years experience in the telecommunications industry
12 with management and executive positions in engineering, finance,
13 marketing and regulatory areas. Prior to joining Parrish, Blessing and
14 Associates, I was Vice President – Wholesale Product Management for
15 ALLTEL Communications Services, Inc.

16 I have been preparing or overseeing the production of cost analyses and
17 studies for my entire professional career. While at Alltel I was responsible
18 for the development of the regulatory costing models that supported the
19 company's access and universal service filings. I also established an
20 economic costing group to develop studies where a non-traditional
21 regulatory approach was not available. This group performed a variety of
22 cost analysis including long run service incremental cost (LRSIC) studies;
23 total service long run incremental cost (TSLRIC) studies as well as other
24 forms of cost analysis.

1 With the passage of the Telecommunications Act of 1996 I was tasked
2 with formulating Alltel's TELRIC compliant cost models for use in
3 interconnection proceedings.

4 I have testified in a number of state jurisdictions on costing issues,
5 particularly in the area of costing policy as it relates to intercarrier
6 compensation, interconnection and universal service. Over the years I
7 have been involved at a federal level with cost and rate development
8 issues as they relate to access and universal service.

9
10 **Q. What is the purpose of your testimony?**

11
12 **A.** I believe that the Authority should suspend the requirement for the
13 companies identified in my testimony (Bledsoe Telephone Cooperative,
14 DTC Communications, CenturyTel of Adamsville, Inc.,
15 CenturyTel of Claiborne, Inc., CenturyTel of Ooletewah-Collegedale
16 Inc., Concord Telephone Exchange, Inc., Humphreys County Telephone
17 Company, Tellico Telephone Company and
18 Tennessee Telephone Company – collectively "The Companies")¹
19
20 to conduct a TELRIC cost study to establish a rate for the transport and
21 termination of traffic exchanged pursuant to Sec. 251(b)5 of the
22 Communications Act. The Companies have requested that I provide
23 testimony in support of this conclusion.
24
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32
33
34
35
36
37

¹ Each of these companies is a rural company pursuant to the definition set forth in Sec 153 (37) of the Act.

1
2
3 **Q. What are the established criteria for determining whether a**
4
5 **requested suspension or modification of an interconnection**
6
7 **requirement should be granted?**

8
9 A. Section 251(f)(2) of the Communications Act states that:
10
11 The State commission shall grant such petition to the extent
12
13 that, and for such duration as, the State commission determines
14
15 that such suspension or modification—

16
17 **(A)** is necessary--

- 18
19 **(i)** to avoid a significant adverse economic impact on
20 users of telecommunications services generally;
21
22 **(ii)** to avoid imposing a requirement that is unduly
23 economically burdensome; or
24
25 **(iii)** to avoid imposing a requirement that is technically
26 infeasible; and
27

28
29 **(B)** is consistent with the public interest, convenience, and
30 necessity.
31

32 **Q. On what basis have you concluded that the requested suspension is**
33
34 **warranted?**

35
36 A. I have concluded that a suspension is warranted because it is
37
38 necessary to avoid a significant adverse economic impact on users of
39
40 telecommunications services generally; and to avoid imposing a
41
42 requirement that is unduly economically burdensome. A grant of the
43
44 the request is consistent with the public interest requirements.
45
46

1
2
3 **Q. Why do you conclude that the suspension and modification request**
4
5 **is necessary “to avoid a significant adverse economic impact on**
6
7 **users of telecommunications services generally,” and consistent**
8
9 **with the public interest, convenience and necessity?**

10
11 A. While the determination of whether to grant a requested suspension or
12
13 modification is clearly assigned by the Act to the state regulatory authority
14
15 there is no quantitative or qualitative guideline or standard provided by the
16
17 Statute for determining what constitutes “...a significant adverse economic
18
19 impact on users of telecommunications services generally.”
20
21 The FCC has, however, provided guidance with respect to its interpretation
22
23 of the impact of forward-looking price methodology on rural telephone
24
25 company subscribers. The FCC has continually and consistently refrained
26
27 from imposing TELRIC costing methodology on the rural companies for any
28
29 purpose because of its concern for the potential impacts on the users of rural
30
31 telephone services. The Authority should find it reasonable and prudent
32
33 to consider this despite what it may have heard from the CMRS providers.
34
35 The FCC's most recent remarks on this matter reiterate the existing policy
36
37 not to impose TELRIC on rural companies. In August of 2004, the Federal-
38
39 State Universal Service Joint Board issued a notice to consider whether any
40
41 form of forward-looking cost methodology should be imposed on rural
42
43 companies. The Joint Board explained the FCC's reasoning for refraining
44
45 from imposing TELRIC or any form of forward-looking costs on rural
46

1 companies.

2
3
4 The Commission explained that rural carriers generally have higher
5
6 operating and equipment costs, which are attributable to lower
7
8 subscriber density, small exchanges and a lack of economies of
9
10 scale. [Footnote omitted] Therefore, the Commission stated that it
11
12 would not implement a forward-looking support mechanism for rural
13
14 carriers before January 1, 2001 and it encouraged the Joint Board
15
16 to establish a task force representing a broad range of rural
17
18 interests to assist in developing a forward-looking mechanism
19
20 appropriate for these carriers. (Federal-State Joint Board on
21
22 Universal Service Seeks Comment on Certain of the Commission's
23
24 Rules Relating to High-Cost Universal Service Support, Public
25
26 Notice, CC Docket No. 96-45, 19 FCC Rcd 16083 (2004) (August
27
28 2004 Public Notice) para. 3.)

29
30 The issue remains pending at the Joint Board and the FCC has not altered
31
32 its policy.

33
34 It is my understanding that the inception of the arbitration proceeding in
35
36 Docket No. 03-00585 was in the Authority's generic Rural Universal
37
38 Service Docket No. 00-00523. The very specific underlying policy that has
39
40 resulted in the FCC's decision not to apply forward-looking economic cost
41
42 methodology to the rural LECs is based on the potential adverse impact to
43
44 telecommunications users. In addition, the FCC has noted in the context
45
46 of interconnection rates that its forward-looking cost methodologies should

1
2 not apply to rural companies because of concerns with respect to the
3 ramifications on rural telecommunications users. Addressing concerns
4
5 regarding the potential impact of applying these cost methodologies to
6
7 rural carriers, the FCC stated:

8
9 We also address the impact on small incumbent LECs. For
10
11 example, the Western Alliance argues that it is especially
12
13 important for small LECs to recover lost contributions and
14
15 common costs through termination charges. We have
16
17 considered the economic impact of our rules in this section
18
19 on small incumbent LECs. For example, we conclude that
20
21 termination rates for all LECs should include an allocation of
22
23 forward-looking common costs, but find that the inclusion of
24
25 an element for the recovery of lost contribution may lead to
26
27 significant distortions in local exchange markets. We also
28
29 note that certain incumbent LECs are not subject to our rules
30
31 under Section 251(f)(1) of the 1996 Act, unless otherwise
32
33 determined by a state commission, and certain other small
34
35 incumbent LECs may seek relief from their state
36
37 commissions from our rules under Section 251(f)(2) of the
38
39 1996 Act. (First Report and Order, In the Matter of
40
41 Implementation of the Local Competition Provisions in the
42
43 Telecommunications Act of 1996; and Interconnection
44
45 Between Local Exchange Carriers and Commercial Radio
46

1 Service Providers, CC Docket Nos. 96-98 and 95-185, 11
2
3 FCC Rcd. 15499, 16013 (para. 1059) (1996). (“FCC
4
5 *Interconnection Order*”).
6
7

8 As noted above, the Joint Board and the FCC continue to consider
9
10 alternative costing methodologies for rural companies, but have reached
11
12 no conclusions that overcome the expressed concerns regarding the
13
14 impact of using forward looking cost methodologies on
15
16 telecommunications users in general. The very same concerns
17
18 recognized by the FCC and Joint Board warrant a determination that the
19
20 Authority should grant the requested modification and suspension of the
21
22 TELRIC costing methodology imposed in the Arbitration Order in Docket
23
24 No. 03-00585 because the suspension is necessary “to avoid a significant
25
26 adverse economic impact on users of telecommunications services
27
28 generally,” and accordingly in the public interest as previously determined
29
30 by the FCC.
31
32

33 **Q. Why do you conclude that the suspension and modification request**
34
35 **is necessary “to avoid imposing a requirement that is unduly**
36
37 **economically burdensome,” and consistent with the public interest,**
38
39 **convenience and necessity?**
40

41 A. PBA has provided four (4) separate estimates to the companies
42
43 represented by this testimony. Company representatives have provided
44

1 and attested to these estimates in earlier parts of this proceeding. I have
2 attached four proprietary exhibits to my testimony that provide a summary
3 of those estimates. The costs contained in these estimates are for PBA's
4 fees only. The estimates vary by the availability of data, the detail of the
5 underlying records and a variety of other factors. Since rural companies
6 do not routinely (if ever) perform forward-looking, economic-type cost
7 studies, basic information required in a TELRIC cost study must be
8 painstakingly developed. The estimates do not include the costs
9 associated with the internal or other external resources to produce basic
10 underlying data. These types of costs cannot even be estimated until the
11 TELRIC cost study process has begun. Regardless, the cost of
12 developing a full-blown TELRIC cost study is significant regardless of
13 company size. The cost of performing TELRIC cost study is a data
14 intensive exercise. Company size plays only a small part in determining
15 the work necessary to complete the study. As such the TELRIC cost
16 study process is not scaleable to any degree with small rural companies
17 expending time and financial resources equivalent to companies hundreds
18 of times larger.

19 The estimates provided are for a "bare-bones" study. While some cost
20 has been estimated for the defense of the study before the Authority it is
21 my experience that a "straightforward, non-protracted" legal proceeding is
22 virtually unheard of. The costs of acquiring the data, producing the study,
23 defending the study and all of the related legal, internal and external costs

1 are a completely inefficient use of the company's resources and an
2 unnecessary burden.

3 There is no need for a TELRIC study (or a cost study of any form) since
4 the Telecommunications Act has essentially created a "fail safe"
5 mechanism by establishing a transport and termination structure that is
6 based on the concept of "reciprocity and symmetry". In the context of
7 discussing the establishment of reciprocal compensation rates between a
8 large incumbent carrier and a smaller competitive carrier on the basis of
9 symmetrical rates, FCC stated, "In addition, symmetry will avoid the need
10 for small businesses to conduct forward-looking economic cost studies in
11 order for small businesses to arbitrate reciprocal compensation disputes."
12 The FCC understood the burden of imposing a forward-looking cost study
13 on a rural LEC or any "small business" can be avoided. (*FCC*
14 *Interconnection Order*, para. 1088)
15

16 The rural telephone companies identified in my testimony should not be
17 required to undertake a time-consuming, costly TELRIC cost study to
18 accommodate the interests of the CMRS providers. The
19 Telecommunications Act allows that a company specific study is not
20 necessary to arrive at a rate that reasonably approximates the cost of the
21 transport and termination of LEC-CMRS traffic.
22

1 Every dollar spent on producing a TELRIC study and the related legal
2 activity defending such a study represents an opportunity cost. A more
3 compelling use of those dollars would be to encourage investment in the
4 infrastructure of rural Tennessee to promote the provision of broadband
5 and advanced services.

6
7 The CMRS providers will undoubtedly argue that the rural companies
8 identified in this testimony can "afford" to conduct a TELRIC study,
9 presumably funding such a study out of its earnings. Not only is this line
10 of reasoning self-serving it is also flawed. The economic burden is not
11 measured by whether a company can or cannot afford to pay for a
12 TELRIC study but goes to the burden of imposing unnecessary,
13 unwarranted and inefficient costs on a company. As discussed earlier in
14 my testimony, the production of a TELRIC study and the related costs is
15 completely unnecessary when the Telecommunications Act only requires
16 that a reciprocal compensation rate simply be "a reasonable
17 approximation of the additional costs of terminating such calls."

18
19 The public interest is not served by requiring rural Tennessee LECs
20 to expend earnings to subsidize the interests of the CMRS providers by
21 underwriting an unnecessary cost study. Such a requirement signals to
22 rural Tennessee consumers and investors alike that dollars are being

1 diverted that could be better used to support advanced communications
2 networks in rural Tennessee.

3

4 In conclusion, based on my opinion the Authority should grant the
5 requested modification and suspension of the TELRIC costing
6 methodology since spending money on an unnecessary cost study is an
7 economic burden on the companies, and is not in the public interest

8

9 **Q. Does this conclude your testimony?**

10 A. Yes. Thank you.

11

12 Attached: Four (4) Proprietary Exhibits

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Docket No. 06-00228

TESTIMONY OF

EMMANUEL STAURULAKIS

ON BEHALF OF

Ardmore Telephone Company, Inc.
Ben Lomand Rural Tel. Coop. Inc.
Highland Telephone Cooperative, Inc.
Loretto Telephone Company, Inc.
Millington Telephone Company, Inc.
North Central Telephone Cooperative, Inc.
Twin Lakes Telephone Cooperative Corporation
United Telephone Company
Yorkville Telephone Cooperative

TEC Companies
Crockett Telephone Company, Inc.
Peoples Telephone Company, Inc.
West Tennessee Telephone Company, Inc.

DATED: April 27, 2007

EXHIBIT B

1 **Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A: My name is Emmanuel Staurulakis. My business address is 7852 Walker Drive,
3 Suite 200, Greenbelt, Maryland 20770.

4 **Q: BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

5 A: I am President of John Staurulakis, Inc. ("JSI"). JSI is a telecommunications
6 consulting firm providing a full range of financial, regulatory and management
7 consulting services to independent telecommunications providers throughout the
8 nation.

9 **Q: PLEASE BRIEFLY OUTLINE YOUR EDUCATION, TRAINING AND**
10 **EXPERIENCE IN THE TELEPHONE INDUSTRY.**

11 A: In 1980, I received a Bachelor's degree in Business Administration from the
12 American University, Washington, D.C. From May 1980 until December 1984, I
13 worked at JSI as a Cost Separations Consultant. My responsibilities included
14 preparing jurisdictional toll cost separations studies for clients in several states.

15
16 In December 1983, I earned a Masters degree in Accounting from the George
17 Washington University, Washington D.C. In January 1985, I became a
18 Supervisory Consultant responsible for the overall preparation and submission of

1 numerous jurisdictional toll cost separations studies, rate case work, and intrastate
2 tariff filings for a number of JSI clients.

3

4 In November 1987, I was promoted to Director of the Separations Department. In
5 October 1992, I was promoted to Vice President of Operations and given day to
6 day responsibility for all financial and regulatory matters affecting our clients. I
7 am also a member of the National Exchange Carrier Association's (NECA)
8 Universal Service Fund Committee.

9

10 In July of 1997, I was promoted to my current position of President of JSI.

11 **Q: ON WHOSE BEHALF ARE YOU PRESENTING THIS PRE-FILED**
12 **DIRECT TESTIMONY?**

13 A: I am testifying on behalf of the following members of the Tennessee Rural
14 Independent Coalition: Ardmore Telephone Company, Inc., Ben Lomand Rural
15 Tel. Cooperative, Inc., Highland Telephone Cooperative, Inc., Loretto Telephone
16 Company, Inc., Millington Telephone Company, Inc., North Central Telephone
17 Cooperative, Inc., Twin Lakes Telephone Cooperative Corporation, United
18 Telephone Company, Yorkville Telephone Cooperative, and three TEC
19 companies – Crockett Telephone Company, Inc., Peoples Telephone Company,

1 Inc., and West Tennessee Telephone Company, Inc. (collectively referenced as
2 “JSI Coalition Members”).

3 **Q: PLEASE DESCRIBE THE APPROXIMATE SIZE OF EACH JSI**
4 **COALITION MEMBER IN TERMS OF WIRE CENTERS AND NUMBER**
5 **OF LINES SERVED.**

6 A: I identify and report the number of wire centers and reported working loops for
7 each JSI Coalition Member in Table 1. I obtained the number of wire centers for
8 each member from the National Exchange Carrier Association (“NECA”) Tariff
9 No. 4. I identified the number of wire centers with NPA/NXX codes listed. The
10 number of working loops is from the Universal Service Administrative Company
11 High Cost Loop Support by State and Study Area, Second Quarter 2007
12 (Appendix HC-05).

13

14 As shown in the table below, all of these carriers are rural local exchange carriers
15 that have widespread geographic coverage with a low number of loops per wire
16 center.

17

18

19

20

Table 1

<i>JSI Coalition Member</i>	<i>Wire Centers (WC)</i>	<i>Working Loops</i>	<i>Loops per WC</i>
ARDMORE	3	10,278	3,426
BEN LOMAND	17	35,198	2,070
CROCKETT	3	4,129	1,376
HIGHLAND	8	27,203	3,400
LORETTO	5	5,890	1,178
MILLINGTON	7	27,014	3,859
NORTH CENTRAL	9	22,257	2,473
PEOPLES	3	5,325	1,775
TWIN LAKES	16	37,683	2,355
UNITED	4	17,179	4,295
WEST TENNESSEE	4	4,327	1,082
YORKVILLE	4	1,846	462

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A: My testimony is intended to explain why, in my professional opinion, the Tennessee Regulatory Authority (“TRA” or “Authority”) should suspend the requirement for JSI Coalition Members to conduct individual total element long-run incremental cost (“TELRIC”) studies to establish a company specific rate for the transport and termination of traffic exchanged pursuant to Section 251(b)5 of the Communications Act of 1934, as amended (“Act”). Each of the JSI Coalition Members have requested that I provide my testimony in support of this conclusion.

Q: WHAT ARE THE ESTABLISHED CRITERIA FOR DETERMINING WHETHER A REQUESTED SUSPENSION OR MODIFICATION OF AN INTERCONNECTION REQUIREMENT SHOULD BE GRANTED?

1 A: The Act establishes the criteria for receiving a suspension or modification.

2 Section 251(f)(2) of the Act states:

3 The State commission shall grant such petition to the extent that, and for
4 such duration as, the State commission determines that such suspension or
5 modification--

6 (A) is necessary--

7 (i) to avoid a significant adverse economic impact on users of
8 telecommunications services generally;

9 (ii) to avoid imposing a requirement that is unduly economically
10 burdensome; or

11 (iii) to avoid imposing a requirement that is technically infeasible;
12 and

13 (B) is consistent with the public interest, convenience, and necessity.

14 **Q: ON WHAT BASIS HAVE YOU CONCLUDED THAT THE REQUESTED**
15 **SUSPENSION IS WARRANTED?**

16 A: I believe the suspension request should be granted because it would: (1) avoid a
17 significant adverse economic impact on users of telecommunications services
18 generally; (2) avoid imposing a requirement that is unduly economically
19 burdensome; and, (3) granting the request is consistent with the public interest for
20 citizens living in Tennessee.

21 **Q: WHY DO YOU CONCLUDE THAT THE SUSPENSION AND**
22 **MODIFICATION REQUEST IS NECESSARY "TO AVOID A**
23 **SIGNIFICANT ADVERSE ECONOMIC IMPACT ON USERS OF**
24 **TELECOMMUNICATIONS SERVICES GENERALLY," AND**
25 **CONSISTENT WITH THE PUBLIC INTEREST?**

1 A: The determination of whether to grant a requested suspension or modification is
2 assigned by the Act to the discretion of the state regulatory authority. No absolute
3 quantitative guidelines are provided by the Act to assist the state regulatory
4 authority in making a determination of whether a suspension or modification is
5 necessary "to avoid a significant adverse economic impact on users of
6 telecommunications services generally."

7
8 Regardless of the fact that there is no precise quantitative guideline by which to
9 measure "significant adverse economic impact on users of telecommunications
10 services, the Authority may find it reasonable and prudent to look for guidance
11 from the FCC with respect to its interpretation of the impact of forward-looking
12 price methodology on rural telephone company subscribers. Regarding this
13 matter, the FCC has refrained from imposing TELRIC costing methodology on
14 rural companies because of concern regarding the impact on users.

15
16 The FCC's most recent remarks on this matter reiterate the existing policy not to
17 impose TELRIC on rural companies. In August of 2004, the Federal-State Joint
18 Board issued a notice to consider whether any form or forward looking cost
19 methodology should be imposed on rural companies. The Joint Board explained
20 the FCC's reasoning for refraining from imposing TELRIC or any form of
21 forward-looking costs on rural companies:

1 The Commission explained that rural carriers generally have
2 higher operating and equipment costs, which are attributable to
3 lower subscriber density, small exchanges and a lack of economies
4 of scale. Therefore, the Commission stated that it would not
5 implement a forward-looking support mechanism for rural carriers
6 before January 1, 2001 and it encouraged the Joint Board to
7 establish a task force representing a broad range of rural interests
8 to assist in developing a forward-looking mechanism appropriate
9 for these carriers.¹
10

11 The issue remains pending at the Joint Board and the FCC has not altered its
12 policy. The very specific underlying policy that has resulted in the FCC's
13 decision not to apply forward-looking economic cost methodology to the rural
14 LECs is based on the potential adverse impact to telecommunications users.
15

16 In addition to the above reference to universal service policy, the FCC has noted
17 in the context of interconnection rates that its forward-looking cost methodologies
18 should not apply to rural companies because of concerns with respect to the
19 ramifications on rural telecommunications users. Addressing concerns regarding
20 the potential impact of applying these cost methodologies to rural carriers, the
21 FCC stated:

22 We also address the impact on small incumbent LECs. For
23 example, the Western Alliance argues that it is especially
24 important for small LECs to recover lost contributions and
25 common costs through termination charges. We have considered
26 the economic impact of our rules in this section on small
27 incumbent LECs. For example, we conclude that termination rates

¹ Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support, Public Notice, CC Docket No. 96-45, 19 FCC Rcd 16083 (2004) (August 2004 Public Notice) para. 3 (Footnotes omitted).

1 for all LECs should include an allocation of forward-looking
2 common costs, but find that the inclusion of an element for the
3 recovery of lost contribution may lead to significant distortions in
4 local exchange markets. We also note that certain incumbent
5 LECs are not subject to our rules under section 251(f)(1) of the
6 1996 Act, unless otherwise determined by a state commission, and
7 certain other small incumbent LECs may seek relief from their
8 state commissions from our rules under section 251(f)(2) of the
9 1996 Act.²
10

11 As noted above, the Joint Board and the FCC continue to consider alternative
12 costing methodologies for rural companies, but have reached no conclusions that
13 overcome the expressed concerns regarding the impact of using forward looking
14 cost methodologies on telecommunications users in general.³ The very same
15 concerns recognized by the FCC and Joint Board warrant a determination that the
16 Authority should grant the requested modification and suspension of the TELRIC
17 costing methodology imposed in the Arbitration Order in Docket No. 03-00585
18 because the suspension is necessary “to avoid a significant adverse economic
19 impact on users of telecommunications services generally,” and accordingly in the
20 public interest as previously determined by the FCC.

² First Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; and Interconnection between Local Exchange Carriers and Commercial Radio Service Providers, CC Docket Nos. 96-98 and 95-185, 11 FCC Rcd. 15499, 16013 (para. 1059) (1996) (“FCC Interconnection Order”) (Emphasis supplied).

³ I note that concerns expressed regarding the requirement of a TELRIC cost study apply to both cost companies as well as average schedule companies. The average schedule companies have fewer operational and accounting requirements than cost companies. Since some of this information is used for the development of a company study (e.g., developing annual cost factors), the average schedule companies will face a higher burden to produce their study.

1 **Q: WHY DO YOU CONCLUDE THAT THE SUSPENSION AND**
2 **MODIFICATION REQUEST IS NECESSARY “TO AVOID IMPOSING A**
3 **REQUIREMENT THAT IS UNDULY ECONOMICALLY**
4 **BURDENSOME,” AND CONSISTENT WITH THE PUBLIC INTEREST,**
5 **CONVENIENCE AND NECESSITY?**

6 **A:** My firm has estimated that the costs of providing a TELRIC cost study for the JSI
7 Coalition Members will be approximately \$33,000 to \$36,000 per company.⁴ In
8 addition to this initial study cost, it is likely that in the course of a proceeding
9 before the Authority to establish a reciprocal compensation rate based on a
10 TELRIC study, the company will incur additional costs including professional
11 time from my firm to defend the study, legal costs and internal costs. I expect that
12 imputed internal costs to each company would be similar to the external
13 consulting costs I stated above. TELRIC studies require the resources and
14 attention of telephone company staff that would otherwise be used in other
15 activities. All of these costs place an unnecessary burden on the company. There
16 is no need for a TELRIC study to establish a reciprocal compensation rate with
17 CMRS providers. According to the Act, the rate for transport and termination is
18 supposed to be based on “a reasonable approximation of the additional costs of
19 terminating such calls.”⁵

⁴ This estimate is slightly lower (\$30,000 to \$32,000 per company) for the TEC companies due to anticipated economies of scale in performing three studies for the TEC companies.

⁵ 47 U.S.C. § 252(d)(2)(A)(ii). See also 47 U.S.C. § 252(d)(2)(B)(ii).

1 The FCC has recognized that a requirement to conduct forward-looking cost
2 studies can be unduly economically burdensome on a small business. In the
3 context of discussing the establishment of reciprocal compensation rates between
4 a large incumbent carrier and a smaller competitive carrier on the basis of
5 symmetrical rates, the FCC stated, "In addition, symmetry will avoid the need for
6 small businesses to conduct forward-looking economic cost studies in order for
7 the states to arbitrate reciprocal compensation disputes." ⁶ The FCC clearly
8 understood that whether imposed on a rural LEC or on any "small business"
9 competitor, conducting a forward-looking cost study is a burden that can be
10 avoided.

11
12 Rural telephone companies should not be required to undertake a TELRIC cost
13 study to accommodate the individual interests of the CMRS providers. As
14 indicated by the Telecommunications Act, a company specific study is not
15 necessary to arrive at a rate that reasonably approximates the cost of the transport
16 and termination of traffic. Every dollar spent on the TELRIC study could be
17 better utilized by the JSI Coalition Members. Obviously, every dollar not wasted
18 performing a TELRIC study is available for other purposes including but not
19 limited to the maintenance of existing services, and network upgrades to foster the

⁶ FCC Interconnection Order, para. 1088.

1 provision of broadband and advanced services in the rural areas of Tennessee
2 served by the JSI Coalition Members.

3
4 The CMRS providers may contend that the company could “afford” the costs of
5 the study out of its earnings. I respectfully recommend the Authority reject any
6 such argument. It is self-serving on the part of the CMRS providers to suggest
7 that the shareholders or member owners of the JSI Coalition Members should
8 subsidize the interests of the CMRS providers by underwriting an unnecessary
9 cost study to establish a reciprocal compensation rate that is “a reasonable
10 approximation of the additional costs of terminating such calls.” Forcing the
11 company to spend earnings on a TELRIC study would be an economic burden
12 that has no public interest benefit.

13 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

14 **A:** Yes.

15

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In the Matter of:)	
)	
Tennessee Rural Independent)	Docket No. 06-00228
Coalition Petition for Suspension)	
and Modification Pursuant to)	
47 U.S.C. Section 251(f)(2))	

DIRECT TESTIMONY OF STEVEN E. WATKINS

on behalf of the

Tennessee Rural Coalition

DATED: April 27, 2007

EXHIBIT C

1
2 Q: Please state your name, business address and telephone number.
3

4 A: My name is Steven E. Watkins. My business address is 2154 Wisconsin Avenue, N.W.,
5 Suite 290, Washington, D.C., 20007. My business phone number is (202) 333-5276.
6

7 Q: What is your current position?
8

9 A: I am a self-employed telecommunications management consultant.
10

11 Q: Please briefly describe your activities and work background.
12

13 A: I provide management assistance and regulatory analysis to smaller local exchange
14 carriers ("LECs") and other smaller firms providing telecommunications and related
15 services in rural and small town areas. My work involves assisting client LECs and
16 related entities in their analysis of regulatory requirements and industry matters requiring
17 specialty expertise; negotiating, arranging and administering connecting carrier
18 arrangements; and assisting clients in complying with the rules and regulations arising
19 from the passage of the Telecommunications Act of 1996 (the "Act"). Prior to the
20 beginning of 2006, I worked for client companies in association with the law firm of
21 Kraskin, Moorman & Cosson, LLC. Prior to my association with the law firm, I was the
22 senior policy analyst for the National Telephone Cooperative Association ("NTCA"), a
23 trade association whose membership consists of approximately 500 small and rural
24 telephone companies. While with NTCA, I was responsible for evaluating the then
25 proposed Telecommunications Act and the implementation of the Act by the Federal
26 Communications Commission ("FCC"). I was also directly involved in the association's
27 efforts with respect to the advocacy of provisions and rules addressing the issues
28 specifically related to rural companies and their customers.
29

30 Q: Have you prepared and attached further information regarding your background and
31 experience?
32

33 A: Yes, this information is included in Exhibit 1 following my testimony.
34

35 Q: On whose behalf are you testifying?
36

37 A: I am testifying on behalf of the petitioners in the proceeding captioned above (to be
38 referred to as the "Rural Coalition"). The members of the Rural Coalition are small and
39 rural LECs providing services to end users located primarily in rural and small-town
40 Tennessee (to be referred to as the "RLECs"). My testimony is in support of the Petition
41 filed by the Tennessee Rural Coalition on June 23, 2006 seeking suspension of
42 interconnection requirements that would require certain costing and pricing methodology
43 to be used for determining rates to be charged for the transport and termination of
44 Commercial Mobile Radio Service ("CMRS") telecommunications traffic that is subject
45 to Section 251(b)(5) of the Act.

1 Q: What is the purpose of your testimony?

2
3 A: The purpose of my testimony is to discuss and analyze the impact on end users as it
4 relates to the request for suspension of the specific pricing rules. In 1996, Congress
5 decided to provide certain protections from adverse effects that fulfillment of certain
6 interconnection obligations could cause for rural users and Rural Telephone Companies.
7 The other Rural Coalition witnesses will provide testimony regarding the economic
8 burdens on the telephone companies, including the cost for the RLECs to conduct Total
9 Element Long Run Incremental Cost ("TELRIC") studies and the relative benefits, or lack
10 thereof, in conducting such studies. The cost to conduct TELRIC studies would create a
11 significant adverse economic impact for end users in that ultimately they will have to pay
12 for these costs through higher rates or through offsets in operations by the RLECs. My
13 testimony will discuss some of the other adverse economic effects on end users that
14 should be avoided by concluding in this proceeding that TELRIC study methods should
15 not be imposed on the RLECs.
16

17 Q: How do the rural protections in the Act address the related, but separate, adverse effects
18 of interconnection requirements on small telephone companies and on rural users?
19

20 A: Section 251(f)(2) of the Act contains protections for both users of telecommunications
21 services and small telephone companies (those serving less than 2 percent of access lines,
22 nationwide):
23

24 [Section 251.f](2) Suspensions and modifications for rural carriers.--A local
25 exchange carrier with fewer than 2 percent of the Nation's subscriber lines
26 installed in the aggregate nationwide may petition a State commission for a
27 suspension or modification of the application of a requirement or requirements of
28 [subsections 251(b) or 251(c)] to telephone exchange service facilities specified in
29 such petition. The State commission shall grant such petition to the extent that,
30 and for such duration as, the State commission determines that such suspension or
31 modification--

32 (A) is necessary--

33 (i) to avoid a significant adverse economic impact on users of
34 telecommunications services generally;

35 (ii) to avoid imposing a requirement that is unduly economically
36 burdensome; or

37 (iii) to avoid imposing a requirement that is technically infeasible; and
38 (B) is consistent with the public interest, convenience, and necessity.
39

40 Under Section 251(f)(2)(A)(i), a State commission is afforded the authority to grant a
41 suspension for smaller LECs of the interconnection requirements contained in Sections
42 251(b) and 251(c) to protect end users from an adverse economic impact that fulfillment
43 of the interconnection requirement would otherwise generally impose. In addition,
44 Section 251(f)(2)(A)(ii) addresses all undue economic burdens to be avoided, such as
45 those to which the Rural Coalition members would be subjected if they were required to

1 perform TELRIC studies.
2

3 Q: Before discussing some of the specifics, can you summarize some of the adverse
4 economic effects on users of telecommunications services that would be the result of
5 imposing TELRIC study requirements on the RLECs?
6

7 A: Any requirement to apply TELRIC methods would result in transport and termination
8 rates that, if applied here, would limit the RLECs in their recovery from CMRS Providers
9 of the network costs incurred in transporting and terminating CMRS Providers' wireless
10 service calls. The application of the TELRIC theory would result in minimizing the
11 compensation from CMRS Providers for use of the RLECs' networks. This will, in turn,
12 shift the RLECs' total network cost recovery unfairly and inequitably to other service
13 rates and to other service providers' compensation obligations. The users of these other
14 services will bear a disproportionate and unfair burden of cost recovery through higher
15 prices than would otherwise be the case. In other words, non-CMRS services will bear a
16 greater relative burden of that overall cost recovery through higher rates.
17

18 TELRIC methods are complex and based on complicated economic theory and
19 assumptions. As such, TELRIC cost study methods are subject to debate, wide
20 disagreement among experts, and wide variations in the resulting rates. Regardless of
21 whether the specific theory has merit or whether such theory has been applied correctly,
22 the consequences of the application of TELRIC method over the last decade has been
23 rates that are much less than the rates that carriers otherwise charge for transporting and
24 terminating traffic. As such, rates for transport and termination of traffic under TELRIC
25 are almost always significantly less than existing rates for termination of traffic.
26

27 Furthermore, if the CMRS Providers do not contribute equitably to the recovery of RLEC
28 network costs based on the CMRS providers' use of those networks relative to the
29 equivalent use by other services and other service users, then there will also be greater
30 demands on Universal Service sources of cost recovery, and all users will be called upon
31 for further funding of these sources beyond that which would have been necessary.
32

33 The net result of too little recovery from CMRS providers for transport and termination of
34 their traffic will be higher prices to users for other services or higher rates to fund residual
35 Universal Service sources of network cost recovery, or both.
36

37 Finally, an additional or alternative consequence of minimizing cost recovery through the
38 imposition of TELRIC methods would be that Rural Telephone Companies may not
39 recover their actual costs or the risk of recovery is increased. Under these conditions, the
40 small carrier may understandably decide to curtail further investment in networks as an
41 obvious reaction to the lower probability of recovery. Again, this sequence of events
42 would be detrimental to the end users residing in rural areas in that it would have an
43 adverse effect on the availability of modern, advanced network services.
44

45 Hundreds of interconnection agreements between CMRS Providers and smaller LECs

1 have been finalized across the country without any need or requirement for any party to
2 perform TELRIC cost studies (or for that matter, any special cost study). A prudent
3 public policy result can be and should be obtained here without any such cost study
4 requirement.
5

6 Q: Are there any extraordinary regulatory considerations regarding the application of
7 interconnection obligations where rural users of telecommunications services are
8 involved or potentially affected?
9

10 A: Yes. Congress addressed the unique characteristics of rural areas and the need to
11 introduce competition in rural areas in a manner different from the areas served by the
12 non-rural carriers. First, Congress adopted explicit Universal Service provisions
13 throughout the Act to address these needs. Secondly, Congress included provisions to
14 exempt carriers serving rural areas from the most onerous interconnection obligations,
15 and further afforded the opportunity for suspension and/or modification of all of the
16 interconnection requirements to address potential adverse impacts that could be the result
17 of applying those requirements in rural areas. *See* Sections 251(f)(1) and (2) of the Act.
18 As such, Congress clearly recognized the need to modify and moderate the manner in
19 which competition should be introduced in rural areas and for rural users.
20

21 The Rural Coalition members serve areas that are characterized by higher per-unit costs
22 as a result of their less than average customer density. It is important to them and their
23 customers that they recover the costs of their networks so that they can continue to
24 operate and invest in networks to serve their rural users. Carriers' network costs are
25 recovered through rates charged for services, charges to other carriers that use the
26 RLECs' networks, and from Universal Service cost recovery sources. Over the last
27 several decades, policymakers at both the federal and state level have developed a rational
28 policy approach under which cost recovery is spread across these available sources in a
29 balanced and thoughtful manner as an effective means to address the challenges of
30 service to rural areas and higher than average network costs. The result of this policy is
31 the moderation of basic local service rates to end users and predictable cost recovery to
32 support rural networks and upgrades.
33

34 To preserve these policy successes of the past, the exemption, suspension and
35 modification provisions of Section 251(f) of the Act provide States with the tools to
36 address the unique dynamics in rural areas and to modify the manner in which
37 competition is introduced into those areas (*i.e.*, suspend and alter the manner in which the
38 interconnection requirements are applied) so as not to cause undue adverse economic
39 consequences for users or for the carriers that serve those areas. If the TELRIC pricing
40 approach were applied, the carefully balanced and rational cost recovery policy plan
41 would be undermined, and the success of that plan would be threatened.
42

43 If one component of cost recovery is disrupted, the overall, balanced plan is
44 compromised. If CMRS providers terminate traffic that is identical to interexchange
45 carrier traffic but such terminating traffic is subject to different compensation terms, and

1 if the rate charged for transporting and terminating such traffic is cut to minimal levels to
2 conform to a theoretical pricing approach such as TELRIC (as the CMRS providers seek
3 here), that policy is undermined. The ultimate result is higher rates to users for other
4 services. The RLECs seek to avoid the adverse effects that TELRIC would impose and
5 the consequential undermining of those long-standing policies.
6

7 Q: Subsequent to the adoption of its pricing rules in the *First Report and Order* in 1996, has
8 the Federal Communications Commission addressed TELRIC methods?
9

10 A: Yes. There is a pending FCC Notice of Proposed Rulemaking in WC Docket No. 03-173
11 (released September 15, 2003) ("*TELRIC NPRM*") under which the FCC is conducting a
12 comprehensive review of its TELRIC pricing concepts and methods. The analysis,
13 observations, and conclusions set forth by the FCC in the *TELRIC NPRM* bear directly on
14 the rationale and justification for the grant of the Rural Coalition Petition for suspension
15 of the TELRIC methods.
16

17 Q: How do TELRIC methods limit the transport and termination rates?
18

19 A: Originally, the concept of TELRIC was developed by the FCC for use in determining the
20 prices for unbundled network elements. In adopting the separate rules for the
21 determination of the rates for transport and termination of traffic subject to Section
22 251(b)(5) of the Act, the FCC relied on and referenced the pricing rules it developed
23 more specifically for unbundled network elements. (The rules governing the
24 development of the transport and termination rates reference the pricing rules found in the
25 FCC's unbundled network elements rules. Section 51.705(a)(1) of the FCC rules within
26 the section entitled "Subpart H - Reciprocal Compensation for Transport and Termination
27 of Telecommunications Traffic" references Sections 51.505 and 51.511 that are contained
28 within the unbundled network elements section of the FCC's rules. As Rural Telephone
29 Companies, the RLECs are not subject to the FCC's unbundled network element rules.)
30

31 It is my opinion and the position of the Rural Coalition members that the application of
32 the TELRIC theory over the last decade, primarily to Bell operating companies, has lead
33 to unrealistically low rates for transport and termination, below actual costs. There are a
34 number of reasons that have combined to cause this result.
35

36 First, the FCC and the states applied TELRIC in a manner that "placed a premium on the
37 need to stimulate [competitive] entry into the local exchange market." *TELRIC NPRM* at
38 para. 2. Since it was the new, competitive entrants that would be paying for unbundled
39 network elements, it was accepted for initial policy purposes that keeping these rates
40 artificially low would "kick start" new entrance into the local service market by
41 competitive providers.
42

43 Second, the TELRIC methodology and study proceedings are characterized by reliance on
44 assumptions, conflicting views of experts about those assumptions, and judgements by
45 state commission about those views. *TELRIC NPRM* at paras. 5 and 6. The FCC notes

1 that, as a result of the complexity of issues, there are significant differences in the rates
2 determined from state to state, and from carrier to carrier within the same state. *Id.* at
3 para. 6. The FCC has expressed concern that the results of these TELRIC proceedings
4 “may not reflect genuine cost differences” but are the result of the complexity and
5 uncertainty about how the rules should apply. *Id.* In some cases, the deviation from
6 genuine costs is undoubtedly the result of error in applying the theory or evaluating the
7 assumptions. Regardless, in keeping with the competitive entry motivation, and
8 presented with a large range of output possibilities, states have tended to opt for the very
9 low end of the available range in choosing a rate. The FCC is now questioning that
10 approach as evidenced in its *TELRIC NPRM*.
11

12 Q: What are the assumptions that lead to wide ranges in views about how inputs should be
13 reflected in the methodology leading to the output rate results?
14

15 A: There are countless judgmental decisions that policymakers must make in the conduct of
16 such studies. Arguably, each decision involves some level of non-objective judgement by
17 state commissions among the available options presented by the opposing parties:
18

19 . . . State commissions typically are presented with at least two conflicting cost
20 models, and hundreds of inputs to those models, all supported by the testimony of
21 expert witnesses. These cases are extremely complex, as state commissions must
22 make dozens of detailed decisions regarding the calculation of the forward-
23 looking cost of building a local telecommunications network.
24

25 *TELRIC NPRM* at para. 6
26

27 In any event, there are two key assumptions that become inputs in the process that
28 contribute to the very low rate level results.
29

30 First, the general TELRIC theory seeks to forecast, in a forward-looking manner, what the
31 most efficiently configured network, utilizing the most efficient technology available,
32 would be. For costs and technical developments characteristic of the telecommunications
33 industry in recent decades, this tends to reduce estimated costs to levels below the costs
34 actually incurred by carriers, even in a competitive market. That is because no carrier
35 ever has a network that is made up of the newest and most efficient technology. As the
36 FCC concludes, even the arguably “most efficient carrier’s network will reflect a mix of
37 new and older technology . . .” *TELRIC NPRM* at para. 50-51. No carrier is capable of
38 constant updates of its network to deploy the most advanced and cost efficient
39 technology, and if it tried, it would quickly go bankrupt.
40

41 Second, the theory, as it has been applied, presumes that the TELRIC cost of the most
42 efficient network is one whereby the carrier serves all customers. *Id.* at para. 49. This
43 approach incorrectly assumes that the carrier for which the rates are to be calculated
44 enjoys the maximum level of economy of scale, because the theory assumes that the
45 carrier serves all customers. Of course, in a competitive market, no single carrier serves

1 every customer. The FCC also recognizes this flaw. *Id.* at para. 50.

2
3 Therefore, as a result of the wide range of method options and inputs that state
4 commission can decide among, a predisposition towards the very low end of possible
5 ranges of inputs and outputs, and the systematic effect of the two presumptions I have
6 discussed above, the TELRIC pricing methods have lead to distortions in the estimation
7 of actual costs incurred by carriers. *Id.* at para. 51.

8
9 Q: Does the FCC have concerns about the rate level result under TELRIC as has been the
10 experience over the last 10 years?

11
12 A: Yes. The FCC initiated the *TELRIC NPRM* for several reasons including whether the
13 pricing method is “conducive to facilities investment.” *Id.* at para. 3. For example, “[t]o
14 the extent that the application of our TELRIC pricing rules distorts our intended pricing
15 signals by understating forward-looking costs, it can thwart one of the central purposes of
16 the Act: the promotion of facilities-based competition.” *Id.* As I have explained in this
17 testimony, the application of this method distorts the level of compensation that the
18 RLECs receive for the transport and termination of telecommunications traffic, and
19 therefore would not only send the wrong signal but acts to distort and undermine the
20 rational and balanced approach to overall cost recovery that is the long-standing policy.

21
22 Q: In considering what pricing method should apply in determining the rates for transport
23 and termination under its local interconnection rules, has the FCC recognized the
24 provisions in the Act designed to address the extraordinary circumstances of rural users
25 and rural carriers?

26
27 A: Yes. In the FCC’s *First Report and Order* (CC Docket No. 96-98 released August 8,
28 1996), the FCC discusses, in at least 8 instances where it addresses rate making methods,
29 how rates for various interconnection services should be determined in the context of
30 competitive interconnection. In every instance, in response to rural company concerns
31 that the FCC’s pricing mechanism would be harmful to small LECs and their rural users,
32 or in response to alternative proposals of small and rural LECs (different from the
33 proposed forward-looking TELRIC approach), the FCC stated that rural and small
34 carriers that possess an exemption (or suspension) pursuant to Section 251(f) are not
35 subject to its pricing rules. *First Report and Order* at paragraphs 706, 783, 934, 957,
36 1059, 1068, 1088, and 1115.

37
38 For example, in Section XI. A of the *First Report and Order* (entitled “Reciprocal
39 Compensation for Transport and Termination of Telecommunications” at paragraph
40 1027), the FCC addresses the transport and termination of traffic and compensation for
41 transport and termination of traffic subject to Section 251(b)(5) of the Act. Subsection 3
42 of that section is entitled “Pricing Methodology.” At paragraph 1053 within this “Pricing
43 Methodology” subsection, the FCC notes the comments and concerns of the Western
44 Alliance (an organization representing small and rural incumbent wireline LECs) which
45 were reflective of the position of most small and rural LECs in the proceeding. The FCC

1 notes that the Western Alliance (at paragraph 1048) had expressed concern that the FCC's
2 pricing methodology would be harmful to small and rural LECs and their customers:
3

4 The . . . rates for the transport and termination of traffic must allow rural LECs to
5 recover the incremental cost of local access, a reasonable apportionment of joint
6 and common costs, and any lost contribution to basic, local service rates
7 represented by the interconnecting carriers' service. The Western Alliance argues
8 that recovery of lost contribution is especially important for smaller LECs because
9 they are unlikely to have alternative sources from which to support basic service
10 rates.
11

12 At the close of the FCC's discussion in the section on "Cost-Based Pricing Methodology"
13 for transport and termination set forth in the *First Report and Order*, the FCC again
14 notes (at paragraph 1059) the concerns of the Western Alliance and addresses the impact
15 on small incumbent LECs:
16

17 . . . We have considered the economic impact of our rules in this section on small
18 incumbent LECs. For example, we conclude that termination rates for all LECs
19 should include an allocation of forward-looking common costs, but find that the
20 inclusion of an element for the recovery of lost contribution may lead to
21 significant distortions in local exchange markets. *We also note that certain small*
22 *incumbent LECs are not subject to our rules under section 251(f)(1) of the 1996*
23 *Act, unless otherwise determined by a state commission, and certain small*
24 *incumbent LECs may seek relief from their state commissions from our rules*
25 *under section 251(f)(2) of the 1996 Act.*
26

27 Emphasis added.
28

29 These eight citations demonstrate the FCC's full awareness that Rural Telephone
30 Companies were granted exemptions of certain interconnection obligations, and that
31 smaller incumbent LECs are also afforded the opportunity to seek suspension of certain
32 interconnection obligations under Section 251(f)(2) of the Act. The FCC did not need to
33 address the separate considerations of its pricing methods on rural area users and carriers
34 beyond these statements. By concluding that Rural Telephone Companies are exempt
35 from its pricing rules, and any other small carriers that do not possess an exemption by
36 virtue of their Rural Telephone Company status can also seek suspensions, the FCC had
37 no need to address the rural issues further.
38

39 Q: Are CMRS provider calls equivalent to other service calls for which LECs receive
40 compensation for transport and termination?
41

42 A: Yes. While a RLEC has network facilities in a specific and relatively small defined
43 service area, a wireless carrier is authorized by the FCC to consider a very large area -- a
44 Major Trading Area ("MTA") -- as its operating area for purposes of transport and
45 termination of traffic. The potential for disparate treatment arises as a result of the FCC's

1 special rules that utilize the MTA for the transport and termination of wireless carriers'
2 traffic. MTAs cover relatively large geographic areas which can encompass areas that are
3 in more than one state. This means that a wireless carrier can originate a call anywhere
4 within a huge MTA and utilize the "interconnection" form of transport and termination
5 services to terminate calls on the small RLEC's network. The same calls terminated by
6 other carriers (*i.e.*, interexchange carriers) are subject to the payment of either intrastate
7 or interstate terminating access charges for transporting and terminating such calls.
8

9 As end users calling from distant areas migrate from wireline interexchange services
10 (subject to terminating access charges) to wireless carriers' services, the RLECs are
11 terminating more traffic subject to the "interconnection" form of transport and
12 termination rate application. Indeed, the disparate treatment afforded CMRS carriers and
13 their wireless services has contributed arbitrarily in fostering this trend. Moreover, to the
14 extent that transport and termination rates differ, the rational, balanced, overall cost
15 recovery plan is distorted.
16

17 Q: Is there a continuing shift of traditional long distance traffic to wireless carriers' service?
18

19 A: Yes. The distortion I discussed above continues to grow. The amount of CMRS
20 providers' traffic that represents a replacement for traditional wireline long distance
21 traffic will continue to increase from already significant levels. Everyone is aware that
22 end users are using their wireless phones as a replacement for traditional intrastate and
23 interstate long distance interexchange calls. Consistent with this phenomena, the FCC
24 has observed that interstate CMRS traffic is increasing:
25

26 To address the concerns raised in the record that the current interim safe harbor
27 [for the percentage of interstate revenue] for mobile wireless providers is
28 inappropriate in light of changing market conditions, we raise the safe harbor from
29 15 to 28.5 percent.
30

31 *Report and Order and Second Further Notice of Proposed Rulemaking, In the Matter of*
32 *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review -*
33 *Streamlined Contributor Reporting Requirements Associated with Administration of*
34 *Telecommunications Relay Service, North American Numbering Plan, Local Number*
35 *Portability, and Universal Service Support Mechanisms; Telecommunications Services*
36 *for Individuals with Hearing and Speech Disabilities, and the American with Disabilities*
37 *Act of 1990; Administration of the North American Numbering Plan and North American*
38 *Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource*
39 *Optimization; Telephone Number Portability; and Truth-in-Billing and Billing Format,*
40 *released by the FCC on December 13, 2002, in CC Docket Nos. 96-45, 98-171, 90-571,*
41 *92-237, 99-200, 95-116 and 98-170, FCC 02-329 ("Safe Harbor Order") at para. 19.*
42

43 The FCC went on to state that:
44

45 We conclude that the 15 percent interim mobile wireless safe harbor no longer

1 reflects the extent to which mobile wireless consumers utilize their wireless
2 phones for interstate calls, particularly in light of the increased substitution of
3 wireless for traditional wireline services.
4

5 *Id.* at para. 21. Similarly, consumers are also utilizing their wireless phones for intrastate
6 calls, with increased substitution of wireless for what would have been traditional
7 intrastate long distance calls.
8

9 On June 21, 2006, the FCC announced that it was again raising the wireless "safe harbor"
10 interstate percentage.
11

12 Q: Do the state and the federal policymakers continue to recognize, as a valid policy, what
13 you refer to as the rational approach to cost recovery under which network costs are
14 recovered on a balanced basis across all of the services?
15

16 A: Yes. I have been involved in several state regulatory proceedings over the last decade
17 where state commissions were considering what changes should be made to intrastate
18 access rates that long distance carriers pay to LECs for the termination of their long
19 distance calls. In all of these proceedings, state commissions continue to recognize that
20 the amount carriers pay for the transport and termination of traffic on LECs' networks
21 remains a significant component of the rural LECs' overall network cost recovery plan
22 and have maintained that component in the overall, balanced approach. While the trend
23 has been to lower intrastate access charge rate levels, the experience in states has been to
24 lower them no more than to levels equal to interstate access rates. And where the
25 lowering of intrastate access rate compensation has had an effect on the overall cost
26 recovery, several states have augmented their plan with state universal service plans that
27 provide residual cost recovery disbursement for the cost recovery displacement.
28

29 Furthermore, the FCC's intercarrier compensation rulemaking has as its central premise
30 the value of, and need for, uniform compensation rates for the transport and termination
31 of traffic. *See, e.g., Further Notice of Proposed Rulemaking*, in CC Docket No. 01-92
32 released March 3, 2005 ("*Intercarrier Comp FNPRM*"). As discussed above, the FCC
33 has also initiated a proceeding regarding its pricing methods which questions the merits
34 of TELRIC. In its intercarrier compensation proceeding, the FCC is seeking comment on
35 what measures may be available for the determination of transport and termination rates
36 that would be uniform, and its rulemaking recognizes that negotiations and arbitrations
37 are burdensome processes. *Intercarrier Comp FNPRM* at para. 140. Under the most
38 current industry group proposal, the rates for transporting and terminating traffic would
39 be uniform for all traffic types, and rural carriers would be permitted to determine the
40 uniform rate based on the same methods currently used to determine the rate for the
41 transport and termination of interstate access traffic. While this plan admittedly has not
42 received support from all industry segments, the concept of uniform rates for transport
43 and termination of traffic is clearly an objective of the FCC, and it is also clear that the
44 FCC intends to move forward to address compensation rates.
45

1 Q: How would TELRIC rates, if applied to the RLECs, affect the availability of services to
2 rural users?

3
4 A: Compensation rates for transport and termination of CMRS traffic that reflect predictable
5 and reasonably comparable rates to those the RLECs receive for the termination of other
6 traffic will yield cost recovery that will allow the RLECs to continue to build and operate
7 modern, quality networks used to serve rural users.
8

9 As changes are adopted in the competitive telecommunications marketplace, it is
10 incumbent on policymakers, consistent with the rural protections enacted by Congress, to
11 provide a stable, predictable and rational plan with regard to rate design and cost recovery
12 for the RLECs provision of networks serving their rural customers. The RLECs are
13 currently the critical providers of Universal Service. The revenues that the smaller
14 RLECs have historically derived from the overall, balanced cost recovery plan have been
15 an integral component in supporting their ability to provide quality networks and services
16 in the more rural parts of the State at reasonable and generally comparable rates for their
17 end users.
18

19 If competitors' use of the networks of the RLECs does not yield cost recovery that is fully
20 compensatory with respect to the cost of networks, there will be a long term chilling
21 effect on future investment and capital risked in areas vulnerable to such interconnection
22 results; *i.e.* an inability to recover network costs. A similar effect is the subject of the
23 FCC's discussion in its *TELRIC NPRM* with regard to its TELRIC methods and whether
24 those methods discourage investment by either the incumbent or the new entrant. For the
25 RLECs, if recovery of their rural network costs is relegated to inadequate and uncertain
26 sources such as that which TELRIC methods would impose, the result will be an unstable
27 cost recovery environment for the smaller, rural LECs. This uncertainty may also result
28 in inappropriate inflation of the universal service funding mechanism. These factors will
29 heighten the RLEC's risk of cost recovery for its higher cost rural network which, in turn,
30 will adversely impact its ability to continue to invest and commit capital in rural America.

31 Carriers cannot and will not risk capital investment and expenditures, in already
32 challenging, higher cost service areas, if the risk of recovery is unreasonably high.
33 Networks will suffer, and the availability of quality services to the rural users will be
34 adversely affected. The application of TELRIC would inappropriately heighten those
35 risks and effects and, therefore, should be avoided.
36

37 Q: Do you have any final conclusions to summarize your points?
38

39 A: The RLECs recovery of their network and operational costs should not be limited by the
40 application of TELRIC. If the CMRS providers do not pay their fair share for the cost of
41 transport and terminating traffic, then other service users and other carriers that use
42 RLECs' networks will pay disproportionately more. This would be a significantly
43 adverse effect for those end users affected with disproportionately higher rates.
44

45 The RLECs' cost recovery should also not be limited by TELRIC because the net result

1 would be to put more pressure on Universal Service funding mechanisms to fund what
2 carriers like the CMRS providers would not pay. All users would pay higher universal
3 service contribution rates.
4

5 TELRIC methods should not apply to the RLECs because to do so would heighten the
6 uncertainty and risk of recovery of their already higher than average network costs. This
7 would, in turn, negatively affect their ability to continue to invest in rural networks, and
8 services available to rural users would be adversely affected.
9

10 Literally hundreds of interconnection agreements between CMRS Providers and smaller
11 LECs just like the RLECs have been successfully resolved across the country, including
12 some in Tennessee, without any necessity to perform TELRIC cost studies. A rational
13 public policy approach here need not and should not impose such burdensome and costly
14 process.
15

16 For all of these reasons, the Tennessee Regulatory Authority should suspend any
17 interconnection requirement that would impose TELRIC cost study obligations and rate
18 results on the RLECs.
19

20 Q: Does that conclude your Direct Testimony?

21
22 A: Yes.

SUMMARY OF WORK EXPERIENCE AND EDUCATION

Steven E. Watkins

April 2007

My entire 31-year career has been devoted to service to smaller, independent telecommunications firms that primarily serve the small-town and rural areas of the United States.

I am currently a Telecommunications Management Consultant working in conjunction with client companies and their telecommunications attorneys in several states. From June 1996 through the end of 2005, I was a consultant working with the firm of Kraskin, Moorman & Cosson, LLC. My management consultant involvement with telecommunications law firms over the last 10 years has been to augment their practice in providing professional services to small telecommunications carriers. I have assisted smaller, rural, independent local exchange carriers ("LECs") and competitive local exchange carriers ("CLECs") in their analysis of a number of regulatory and industry issues, many of which arose with the passage of the Telecommunications Act of 1996. I am involved in regulatory proceedings in several states and before the Federal Communications Commission on behalf of many small LECs. I am currently involved in the resolution of interconnection requirements, review and analysis of intercarrier relationships, and universal service policy and rules.

I have over the last ten years instructed smaller, independent LECs and CLECs on the specific details of the implementation of the Act including universal service mechanisms, interconnection requirements, and cost recovery. On behalf of clients in several states, I have drafted interconnection contracts, analyzed interconnection agreements, and conducted interconnection negotiations and arbitrations pursuant to the 1996 Act. I have also represented groups of small LECs in several state proceedings regarding ongoing telecommunications policy and rules affecting the client companies.

From late 1984 to June of 1996, I held the position of Senior Industry Specialist with the Legal and Industry Division of the National Telephone Cooperative Association ("NTCA") in Washington, D.C. In my position at NTCA, I represented several hundred small and rural local exchange carrier member companies on a wide array of regulatory, economic, and operational issues. My work involved research, analysis, formulation of policy, and expert advice to member companies on industry issues affecting small and rural telephone companies.

My association work involved extensive evaluation of regulatory policy, analysis of the effects of policy on smaller LECs and their rural customers, preparation of formal written pleadings in response to FCC rulemakings and other proceedings, weekly contributions to association publications, representation of the membership on a large number of industry committees and task forces, and liaison with other telecom associations, regulators, other government agencies, and other industry members. I also attended, participated in, and presented seminars and workshops to the membership and other industry groups too numerous to list here.

For those not familiar with NTCA, it is a national trade association of approximately 500 small, locally-owned and operated rural telecommunications providers dedicated to improving the quality of life in rural communities through advanced telecommunications. The Association advocates the interests of the membership before legislative, regulatory, judicial, and other organizations and industry bodies.

Prior to my work at NTCA, I worked for over eight years with the consulting firm of John Staurulakis, Inc., located in Maryland. I reached a senior level position supervising a cost separations group providing an array of management and analytical services to over 150 small local exchange carrier clients. The firm was primarily involved in the preparation of jurisdictional cost studies, access rate development, access and exchange tariffs, traffic analysis, property records, regulatory research and educational seminars.

For over ten years during my career, I served on the National Exchange Carrier Association's ("NECA") Industry Task Force charged with reviewing and making recommendations regarding the interstate average schedule cost settlements system. For about as many years, I also served in a similar role on NECA's Universal Service Fund ("USF") industry task force.

I graduated from Western Maryland College with a Bachelor of Arts degree in physics. I have also attended industry seminars too numerous to list on a myriad of industry subjects over the years.

During my career representing small telecommunications firms, I estimate that I have prepared formal written pleadings for submission to the Federal Communications Commission on behalf of NTCA member and client LECs in over two hundred proceedings. I have also contributed written comments in many state proceedings on behalf of client LECs. I have provided testimony in proceedings before the Georgia, Pennsylvania, Indiana, Kentucky, Missouri, Nebraska, Minnesota, Mississippi, Montana, Tennessee, Kansas, South Carolina, New Mexico, West Virginia, Louisiana, Iowa, South Dakota, and Florida public service commissions. Finally, I have testified before the Federal-State Joint Board examining jurisdictional separations changes.