

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Federal-State Joint Board on |) | |
| Universal Service |) | CC Docket No. 96-45 |
| |) | |
| Corr Wireless Communications, LLC |) | |
| |) | |
| Petition for Designation as an |) | |
| Eligible Telecommunications Carrier in the State |) | |
| of Alabama |) | |

ORDER

Adopted: February 3, 2006

Released: February 3, 2006

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the petition of Corr Wireless Communications, LLC (Corr), as amended, to be designated as an eligible telecommunications carrier (ETC) in portions of its licensed service area in the state of Alabama, pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act).¹ We conclude that Corr, a commercial mobile radio service (CMRS) carrier, has satisfied the statutory eligibility requirements of section 214(e)(1) of the Act to be designated as an ETC.²

2. Corr requests ETC designation for portions of its rural and non-rural service areas in Alabama as discussed herein. Specifically, Corr seeks designation for the entire study areas served by seven rural telephone companies: Blountsville Telephone Company, Inc.; Brindlee Mountain Telephone Company; Farmers Telephone Cooperative, Inc.; Hopper Telecommunications Company, Inc.; New Hope Telephone Cooperative; Otelco Telephone, LLC; and Peoples Telephone Company, Inc. Corr also requests designation for portions of the study area served by CenturyTel Telecommunications, Inc., a non-rural telephone company.

¹ See Corr Wireless Communications, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, filed May 13, 2003 (Corr Petition); Corr Wireless Communications, LLC, Supplement to Petition of Corr Wireless Communications, LLC to be Designated as an Eligible Telecommunications Carrier, filed May 14, 2004 (Corr May 14, 2004 Supplement); Corr Wireless Communications, LLC, Second Supplement to Corr Wireless Communications, LLC Petition to be Designated as an Eligible Telecommunications Carrier, filed June 30, 2005 (Corr June 30, 2005 Second Supplement); Third Supplement to Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier, filed Oct. 21, 2005 (Corr Oct. 21, 2005 Third Supplement).

² 47 U.S.C. § 214(e)(1).

II. BACKGROUND

A. The Act

3. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.”³ Pursuant to section 214(e)(1) of the Act, a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.⁴

4. Section 214(e)(2) of the Act provides state commissions with the primary responsibility for performing ETC designations.⁵ Section 214(e)(6), however, directs the Commission, upon request, to designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”⁶ Under section 214(e)(6), the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of section 214(e)(1).⁷ Before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.⁸

B. Commission Requirements for ETC Designation

5. An ETC petition must contain the following: (1) a certification and brief statement of supporting facts demonstrating that the petitioner is not subject to the jurisdiction of a state commission; (2) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act; (3) a certification that the petitioner offers or intends to offer the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services;” (4) a description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefor using media of general distribution;” and (5) if the petitioner meets the definition of a “rural telephone company” pursuant to section 3(37) of the Act, an identification

³ *Id.* § 254(e).

⁴ *Id.* § 214(e)(1).

⁵ *Id.* § 214(e)(2). See also *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 15 FCC Rcd 12208, 12255, para. 93 (2000) (*Twelfth Report and Order*).

⁶ 47 U.S.C. § 214(e)(6). See, e.g., *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, 19 FCC Rcd 1563 (2004) (*Virginia Cellular Order*); *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, 19 FCC Rcd 6422 (2004) (*Highland Cellular Order*).

⁷ 47 U.S.C. § 214(e)(6).

⁸ *Id.*

of the petitioner's study area, or, if the petitioner is not a rural telephone company, a detailed description of the geographic service area for which it requests an ETC designation from the Commission.⁹

6. On June 30, 2000, the Commission released the *Twelfth Report and Order* which, among other things, set forth how a carrier seeking ETC designation from the Commission must demonstrate that the state commission lacks jurisdiction to perform the ETC designation.¹⁰ Carriers seeking designation as an ETC for service provided on non-tribal lands must provide the Commission with an "affirmative statement" from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission's jurisdiction.¹¹ The requirement to provide an "affirmative statement" ensures that the state commission has had "a specific opportunity to address and resolve issues involving a state commission's authority under state law to regulate certain carriers or classes of carriers."¹²

7. On January 22, 2004, the Commission released the *Virginia Cellular Order*, which granted in part and denied in part the petition of Virginia Cellular, LLC (Virginia Cellular) to be designated as an ETC throughout its licensed service area in the Commonwealth of Virginia.¹³ In that Order, the Commission utilized a new public interest analysis for ETC designations and imposed ongoing conditions and reporting requirements on Virginia Cellular.¹⁴ The Commission stated that the framework in the *Virginia Cellular Order* would apply to all ETC designations for rural areas, pending further action by the Commission.¹⁵

8. On April 12, 2004, the Commission released the *Highland Cellular Order*, which granted in part and denied in part the petition of Highland Cellular, Inc. (Highland Cellular) to be designated as an ETC in portions of its licensed service area in the Commonwealth of Virginia.¹⁶ In the *Highland Cellular Order*, the Commission concluded, among other things, that a telephone company in a rural study area may not be designated as a competitive ETC below the wire center level.¹⁷ In light of the new ETC designation framework established in the *Virginia Cellular Order*, the Bureau released a public notice inviting all parties to update the record pertaining to pending ETC petitions.¹⁸

⁹ See Section 214(e)(6) Public Notice, 12 FCC Rcd at 22948-49 (1997); 47 U.S.C. § 3(37); *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 20 FCC Rcd 6371 (2005) (*ETC Designation Order*), pet. for review filed, *Virginia Cellular LLC v. FCC*, No. 05-1807 (4th Cir.). The *ETC Designation Order* and rules became effective on June 24, 2005. See 70 Fed. Reg. 29960 (May 25, 2005); *Federal-State Joint Board on Universal Service, Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, Declaratory Ruling, CC Docket No. 96-45, 15 FCC Rcd 15168 (2000) (*Declaratory Ruling*), recon. pending.

¹⁰ See *Twelfth Report and Order*, 15 FCC Rcd at 12255-65, paras. 93-114.

¹¹ *Id.* at 12255, para. 93.

¹² *Id.*

¹³ See *Virginia Cellular Order*, 19 FCC Rcd at 1564, para. 1.

¹⁴ See *id.* at 1565, 1575-76, 1584-85, paras. 4, 27, 28, 46.

¹⁵ See *id.* at 1565, para. 4.

¹⁶ See *Highland Cellular Order*, 19 FCC Rcd at 6422, para. 1.

¹⁷ See *id.* at 6438, para. 33.

¹⁸ See *Parties are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, Public Notice, CC Docket 96-45, 19 FCC Rcd 6409 (Wireline Comp. Bur. 2004) (*Bureau*

9. On March 17, 2005, the Commission released the *ETC Designation Order*, generally affirming the holdings of the *Virginia Cellular Order* and *Highland Cellular Order* and adopting additional requirements for ETC designation proceedings in which the Commission acts pursuant to section 214(e)(6) of the Act.¹⁹ All carriers seeking ETC designation from the Commission must satisfy these requirements. ETCs designated by the Commission prior to the *ETC Designation Order* must make such showings when they submit their annual certification filing on October 1, 2006.²⁰ Carriers that had ETC petitions pending before the *ETC Designation Order* took effect, such as Corr, will also be required to make such showings, should they be designated as ETCs, when they submit their annual certification filing no later than October 1, 2006.²¹

C. Corr Petition

10. Pursuant to section 214(e)(6) of the Act, Corr filed with this Commission a petition seeking designation as an ETC in study areas served by eight rural incumbent LECs and one non-rural incumbent LEC in the state of Alabama.²² The Wireline Competition Bureau (Bureau) released a public notice seeking comment on the petition.²³ In response, a number of parties filed comments and oppositions.²⁴ On April 12, 2004, the Bureau released a public notice inviting parties with pending ETC petitions to supplement their petitions in light of the new ETC designation framework established in the *Virginia Cellular Order*.²⁵ Corr filed a supplement to its ETC petition on May 14, 2004.²⁶ Four parties filed additional comments responsive to the Corr petition,²⁷ and Corr filed replies on June 4 and June 9,

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Public Notice). Applicants were allowed to supplement their petitions by May 14, 2004. Comments were due on May 28, 2004 and reply comments were due on June 4, 2004.

¹⁹ See generally *ETC Designation Order*.

²⁰ See *id.*, 20 FCC Rcd at 6380, para. 20.

²¹ See *id.* at 6418-6421, Appendix A – Final Rules, 47 C.F.R. § 54.202(b); 70 Fed. Reg. 29960 (May 25, 2005).

²² See *supra* note 1.

²³ See *Wireline Competition Bureau Seeks Comment on Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier in Certain Rural Service Areas in the State of Alabama*, Public Notice, CC Docket No. 96-45, 18 FCC Rcd 11386 (2003).

²⁴ See Appendix A, attached.

²⁵ See *supra* note 18.

²⁶ See generally Corr May 14, 2004 Supplement.

²⁷ See Appendix A, attached. The Bureau addressed issues raised in Verizon's comments in response to similar comments filed by Verizon in the *ETC Designation Order* and the *NTELOS Order*. See *ETC Designation Order*, 20 FCC Rcd at 6395-96, para. 54; *Virginia PSC Alliance, L.C. and Richmond 20 MHz LLC d/b/a NTELOS*, Order, CC Docket No. 96-45, 20 FCC Rcd 10716, 10719, paras. 9, 17-18 (2005) (*NTELOS Order*). In addition, commenters contend that the Commission should not act on pending ETC petitions until the Commission addresses issues raised in the ETC designation proceeding. See Comments of the Alabama Rural Local Exchange Carriers at 5-18 (filed July 28, 2003) (Alabama Rural LECs July 28, 2003 Comments); Comments of the Alabama Rural Local Exchange Carriers at 2-7 (filed May 28, 2004) (Alabama Rural LECs May 28, 2004 Comments); Comments of Verizon at 1-6 (filed May 28, 2004) (Verizon May 28, 2004 Comments). However, as discussed in the *NTELOS Order*, the Bureau declined to delay ruling on pending ETC petitions. *NTELOS Order*, 20 FCC Rcd at 10721-22, para. 17. Similarly, the Bureau has already addressed Verizon's concerns that additional competitive ETCs could have a significant impact on the access plan charges established by the *CALLS Order* and determined that the *CALLS* plan is functioning as contemplated. *NTELOS Order*, 20 FCC Rcd at 10722, para. 18. See also Verizon May 28, 2004

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2004.²⁸ Among other things, Corr amended its petition to withdraw its request for ETC designation in one rural LEC study area that it had proposed to serve only in part.²⁹ Accordingly, Corr now seeks designation for seven rural LEC study areas in their entirety, as set forth in Appendix C, herein, and portions of one non-rural LEC study area, as set forth in Appendix B, herein. On June 30, 2005, Corr filed a second supplement to its ETC petition providing additional certifications and information about the requested service areas.³⁰ Corr further amended its petition on October 21, 2005 to withdraw certain wire centers that had been mistakenly included in prior wire center exhibits.³¹

III. DISCUSSION

11. We find that Corr has met all the requirements set forth in section 214(e)(1) and (e)(6) of the Act to be designated as an ETC for the portions of its licensed service area described herein. We therefore designate Corr as an ETC for the wire centers and rural LEC study areas in the state of Alabama as set forth in Appendices B and C. In all these areas, Corr's ETC designation is effective immediately. We note, however, that Corr is required to make the additional showings set forth in the *ETC Designation Order* when it submits its annual certification filing on October 1, 2006.³²

A. Commission Authority to Perform the ETC Designation

12. We find that Corr has demonstrated that the Commission has authority to consider its petition under section 214(e)(6) of the Act.³³ Corr's petition includes an affirmative statement from the Alabama Public Service Commission (Alabama PSC) that designation as an ETC should be sought from the Commission.³⁴

B. Offering and Advertising the Supported Services

13. Offering the Services Designated for Support. Corr has demonstrated through the required certifications and related filings that it now offers, or will offer upon designation as an ETC, the services supported by the federal universal service mechanism. Corr is authorized to provide CMRS in the service areas of Alabama for which it seeks ETC designation.³⁵ Corr certifies that it now provides or

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Comments at 2-7; *Access Charge Reform*, Sixth Report and Order, CC Docket Nos. 96-262 and 94-1, Report and Order, CC Docket No. 99-249, Eleventh Report and Order, CC Docket No 96-45, 15 FCC Rcd 12962 (2000) (*CALLS Order*) (*subsequent history omitted*).

²⁸ See Appendix A, attached.

²⁹ Corr June 4, 2004 Reply Comments at 8.

³⁰ See generally Corr June 30, 2005 Second Supplement.

³¹ See Corr Oct. 21, 2005 Third Supplement at Exhibit A. Specifically, Corr deleted the wire centers for ICG Telecom Group – AL and ICG Telecom Group – TN, as well as duplicative entries for the Scottsboro wire centers. *Id.*

³² See *ETC Designation Order*, 20 FCC Rcd at 6380, para. 20.

³³ 47 C.F.R. § 214(e)(6).

³⁴ See Corr Petition at 4 and Exhibit 2 (*Pine Belt Cellular, Inc. and Pine Belt PCS, Inc., Petition for ETC Status and/or clarification Regarding the Jurisdiction of the Commission to Grant ETC Status to Wireless Carriers*, Docket U-4400, Order (rel Mar. 12, 2002) (indicating that the Alabama PSC lacks jurisdiction to perform ETC designations for wireless service providers)).

³⁵ Corr Petition at 2.

will provide throughout its designated service area the services and functionalities enumerated in rule section 54.101(a) of the Commission's rules.³⁶ Corr has also certified that, in compliance with rule section 54.405, it will make available and advertise Lifeline service to qualifying low-income consumers.³⁷ Specifically, Corr will advertise the availability of Lifeline and Link-Up benefits throughout its service area by advertising and reaching out to local unemployment, social security, and welfare offices to provide information to those people most likely to qualify for Lifeline and Link-Up benefits.³⁸

14. Furthermore, Corr has committed to comply with the Cellular Telecommunications and Internet Association (CTIA) Consumer Code for Wireless Service.³⁹ Corr also states that it will commit to the conditions outlined in the *Virginia Cellular Order*.⁴⁰ These conditions include, but are not limited to: (1) annual reporting of progress towards build-out plans, unfulfilled service requests, and complaints per 1,000 handsets; and (2) specific commitments to provide service to requesting customers in the area for which it is designated, including those areas outside existing network coverage.⁴¹

15. We reject the claims of commenters that Corr has not satisfied the framework in the *Virginia Cellular Order* and section 214 of the Act because it has not committed to provide quality service throughout the entire study areas and/or wire centers for which it seeks designation as an ETC and it has not provided meaningful calling plans or demonstrated the ability to provide access to emergency service.⁴² As discussed above and consistent with the framework established in the *Virginia Cellular Order*, Corr has made detailed commitments to provide service to requesting customers throughout the service areas in which it seeks designation.⁴³ In addition, where Corr's licensed service area does not fully cover the rural study areas and/or wire centers in which we designate it as an ETC, Corr has committed to offer service to customers in the entirety of these wire centers and/or study areas through a combination of its own facilities and roaming or resale agreements with other carriers.⁴⁴

³⁶ *Id* at 4-7.

³⁷ See Corr May 14, 2004 Supplement at 7-8; 47 C.F.R. § 54.405. We note that ETCs must comply with state requirements in states that have Lifeline programs. See *Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, 19 FCC Rcd 8302, 8320 at para. 29 (2003).

³⁸ Corr May 14, 2004 Supplement at 2.

³⁹ See Corr May 14, 2004 Supplement at 3; CTIA, *Consumer Code for Wireless Service*, available at http://www.wow-com.com/pdf/The_Code.pdf.

⁴⁰ See Corr May 14, 2004 Supplement at 3; *Virginia Cellular Order*, 19 FCC Rcd at 1576-77, para. 30; *Highland Cellular Order*, 19 FCC Rcd at 6433, para. 24.

⁴¹ See Corr May 14, 2004 Supplement at 3-7. Corr has provided detailed information on how it will use universal service support to expand its CMRS coverage throughout Alabama. See Corr May 14, 2004 Supplement at 5-7 and Exhibits B & C. Specifically, Corr provides the location of cell sites it plans to construct, the timeframe for commencement of construction, the populations served by new cell sites, the predicted contours of each of the proposed cell sites, and the estimated cost of its build-out plans. See *id*. We recognize that Corr's plans may change over time depending on consumer demand, fluctuation in universal service support, and related factors. See, e.g., *Virginia Cellular Order*, 19 FCC Rcd at 1571, para. 16.

⁴² See Alabama Rural LECs July 28, 2003 Comments at 25; Alabama Rural LECs May 28, 2004 Comments at 9.

⁴³ See *Virginia Cellular Order*, 19 FCC Rcd at 1570, para. 15; Corr May 14, 2004 Supplement at 3-5.

⁴⁴ See Corr May 14, 2004 Supplement at 4-5.

16. We also disagree with the Rural Telcos' contention that Corr should be required to commit to providing supported services to customers in its designated service area within a specific time frame.⁴⁵ Similarly, we reject the Alabama Rural LECs argument that Corr has not sufficiently demonstrated how receiving high cost support will alter its build out plans and that it is committed to those plans.⁴⁶ As Corr notes in its reply comments, its commitments to provide service to requesting customers in a reasonable time frame and build out its network to improve its wireless coverage to closely track the commitments made in the *Virginia Cellular Order*.⁴⁷ In addition, Corr states that many of the sites it proposes to construct will not be built absent receipt of high cost support.⁴⁸ As the Commission said in the *ETC Designation Order*, in those instances where a request for service comes from a potential customer outside the existing coverage area, the ETC should provide service within a reasonable time if service can be provided at reasonable cost.⁴⁹ In addition, as part of its ETC designation, Corr has committed to annually report information detailing the number of unfulfilled requests for service from potential customers and its progress towards meeting its build out plans.⁵⁰ We note that if Corr fails to fulfill any of the requirements of section 214 of the Act, the Commission's rules, or terms of this Order, after it begins receiving universal service support, the Commission has authority to revoke its ETC designation.⁵¹

17. With respect to Alabama Rural LECs' argument that Corr does not offer meaningful calling plans,⁵² we note that the Commission has not established a minimum local usage requirement.⁵³ Moreover, Corr incorporates local usage in its calling plans, including at least one plan that includes 5,000 minutes per month.⁵⁴

18. We also reject the Alabama Rural LECs' concerns regarding the sufficiency of Corr's commitment to providing emergency service.⁵⁵ Corr states in its reply comments that it does provide access to emergency service to all subscribers and will provide access to all new customers as well.⁵⁶ However, given the importance of public safety, we condition this ETC designation on Corr's compliance

⁴⁵ See Comments of Blountsville Telephone Company, Brindlee Mountain Telephone Company, Hopper Telecommunications, Inc. and Otelco Telephone, LLC at 2, 3 (filed July 28, 2003) (Rural Telcos July 28, 2003 Comments).

⁴⁶ Alabama Rural LECs May 28, 2004 Comments at 10.

⁴⁷ See Corr May 14, 2004 Supplement at 5-7; see also Corr June 4, 2004 Reply Comments at 5.

⁴⁸ See Corr May 14, 2004 Supplement at 6-7.

⁴⁹ *ETC Designation Order*, 20 FCC Rcd at 6380-81, para. 22.

⁵⁰ *Id.* at 3, 7. Upon review of this information, if the Commission believes Corr is not satisfying its commitments to provide supported services to customers, the Commission may exercise its authority to revoke Corr's ETC designation. See *Highland Cellular Order*, 19 FCC Rcd at 6441-42, para. 43; *Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46. See also 47 U.S.C. § 254(e).

⁵¹ See *infra* para. 32.

⁵² Alabama Rural LECs May 28, 2004 Comments at 9.

⁵³ *ETC Designation Order*, 20 FCC Rcd at 6385, para. 32.

⁵⁴ Corr June 4, 2004 Reply Comments at 6.

⁵⁵ See Alabama Rural LECs May 28, 2004 Comments at 9.

⁵⁶ Corr June 4, 2004 Reply Comments at 6.

with the E911 requirements. To demonstrate compliance with this condition, Corr must obtain a certification from each Public Safety Answering Point (PSAP) where it provides service confirming that Corr provides its customers with access to basic and E911 service. Corr must furnish copies of these certifications to the Commission upon request.

19. Finally, Farmers Telephone Cooperative, Inc. argues that Corr does not provide equal access to interexchange services.⁵⁷ Section 54.101(a)(7) of the Commission's rules states that one of the supported services is access to interexchange services, not equal access to those services.⁵⁸ Accordingly, we find sufficient Corr's showing that it will offer access to interexchange services.

20. Offering the Supported Services Using a Carrier's Own Facilities. Corr has demonstrated that it satisfies the requirement of section 214(e)(1)(A) of the Act that it offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.⁵⁹ Corr states that it intends to provide the supported services using its existing network infrastructure, which includes "the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing customers."⁶⁰

21. Advertising Supported Services. Corr has demonstrated that it satisfies the requirement of section 214(e)(1)(B) of the Act to advertise the availability of the supported services and the related charges using media of general distribution, including television, radio, newspaper, and billboard advertising.⁶¹ In addition to its current advertising, Corr has committed to specific methods to publicize the availability of Lifeline and Link-up service and improved service in unserved or underserved areas, such as providing notices at unemployment, social security, and unemployment offices.⁶² Contrary to the argument of the Alabama Rural LECs, the Commission's rules do not require Corr to advertise these services before or during the ETC designation process.⁶³ Corr's commitment to advertise is sufficient.

C. Public Interest Analysis

22. As explained below, we conclude that it is consistent with the public interest, convenience, and necessity to designate Corr as an ETC for the portion of the requested service area that is served by the non-rural telephone company CenturyTel. We also conclude that it is in the public interest to designate Corr as an ETC in the study areas of the seven rural LECs for which it is seeking

⁵⁷ See Reply Comments of Farmers Telephone Cooperative, Inc. at 5-6 (filed Aug. 8, 2004) (Farmers August 8, 2003 Reply Comments).

⁵⁸ 47 C.F.R. § 54.101(a)(7). We note that in July 2002, four members of the Joint Board recommended adding equal access to interexchange service as a supported service. See *Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, 17 FCC Rcd 14095, 14124-27, paras. 75-86 (2002). In July 2003, the Commission decided to defer consideration of this issue pending resolution of the Commission's proceeding examining the rules relating to high-cost universal service support in competitive areas. See *Federal-State Joint Board on Universal Service*, Order and Order on Reconsideration, CC Docket No. 96-45, 18 FCC Rcd 15090, 15104, para. 33 (2003).

⁵⁹ See Corr May 14, 2004 Supplement at 5.

⁶⁰ *Id.*

⁶¹ 47 C.F.R. § 214(e)(1)(B); Corr May 14, 2004 Supplement at 7-8.

⁶² See Alabama Rural LECs July 28, 2003 Comments at 26-27; Corr May 14, 2004 Supplement at 7-8.

⁶³ See *Virginia Cellular Order*, 19 FCC Rcd at 1574, para. 25; *Highland Cellular Order*, 19 FCC Rcd at 6430-31, para. 19.

ETC designation.⁶⁴ In determining whether the public interest is served, the Commission places the burden of proof upon the ETC applicant.⁶⁵ Corr has satisfied the burden of proof in establishing that its universal service offering in these areas will provide benefits to rural and non-rural consumers.

23. Non-Rural Study Areas. We find that it is “consistent with the public interest, convenience, and necessity” to designate Corr as an ETC for the requested service area that is served by the non-rural telephone company CenturyTel.⁶⁶ In the *Virginia Cellular Order* and the *Highland Cellular Order*, the Commission determined that designation of an additional ETC in a non-rural telephone company’s study area based merely upon a showing that the requesting carrier complies with section 214(e)(1) of the Act does not necessarily satisfy the public interest in every instance.⁶⁷ We conclude that Corr’s public interest showing is sufficient because of the detailed commitments Corr has made to ensure that it provides high quality service throughout the proposed rural and non-rural service areas, including its commitments that it will comply with the conditions outlined in the *Virginia Cellular Order*⁶⁸ and that it will use high-cost support to construct new facilities and improve existing facilities in Alabama.⁶⁹ These commitments are the same or similar to those deemed sufficient for carriers seeking ETC designation in areas served by rural carriers. The public interest standard for designating an ETC in an area served by a rural carrier is at least as stringent as the standard for designating an ETC in an area served by a non-rural carrier.⁷⁰

24. Rural Study Areas. We also conclude that it is consistent with the public interest, convenience, and necessity to designate Corr as an ETC for the requested service areas that are served by certain rural telephone companies, as provided in Appendix C, herein.⁷¹ In considering whether designation of Corr as an ETC in areas served by rural telephone companies will serve the public interest, we have considered whether the benefits of an additional ETC in such study areas outweigh any potential harms. Specifically, we weigh the benefits of increased competitive choice, the unique advantages and disadvantages of the competitor’s service offering, any commitments made regarding quality of telephone service, the competitive ETC’s ability to satisfy its obligation to serve the designated service areas within a reasonable time frame, and the impact of the designation on the universal service fund.⁷²

⁶⁴ See Appendix C, attached.

⁶⁵ See *Highland Cellular Order*, 19 FCC Rcd at 6431, para. 20; *Virginia Cellular Order*, 19 FCC Rcd at 1574-75, para. 26.

⁶⁶ See 47 U.S.C. § 214(e)(6). See also Appendix B, attached.

⁶⁷ See *Virginia Cellular Order*, 19 FCC Rcd at 1575, para. 27; *Highland Cellular Order*, 19 FCC Rcd at 6431-32, para. 21.

⁶⁸ Corr May 14, 2004 Supplement at 2; *Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46.

⁶⁹ Corr May 14, 2004 Supplement at 5-7.

⁷⁰ Section 241(e)(6) of the Act provides that, consistent with the public interest, convenience and necessity, the Commission *may* designate more than one carrier as an ETC in an area served by a rural telephone company and *shall* do so in the case of all other areas. See 47 U.S.C § 241(e)(6).

⁷¹ See *id.* § 214(e)(6). See also Appendix C, attached.

⁷² See, e.g., *Highland Cellular Order*, 19 FCC Rcd at 6435, at para. 28; *Virginia Cellular Order*, 19 FCC Rcd at 1573, para. 22. Although we are concerned about growth of the fund, and ensuring that the fund is sustainable, there is no evidence that designating Corr as an ETC will have a dramatic impact on the fund such that it would justify deviating from prior decisions and practices in this instance. See USAC Federal Universal Support Mechanism, Fund Size Projection for the First Quarter, 2006 (Nov. 2, 2005).

25. Contrary to the claims of certain commenters, we find that Corr's universal service offering will provide a variety of benefits to customers.⁷³ For instance, universal service support will enable Corr to construct facilities that, according to Corr, may not otherwise be built in rural Alabama.⁷⁴ Corr will also use support to offer a basic universal service package to subscribers who are eligible for Lifeline support.⁷⁵ In addition, Corr has committed to provide service to any requesting customers in the service areas in which it is designated as an ETC. Corr also offers a larger local calling area than is available from the individual rural LECs.⁷⁶

26. Moreover, the mobility of Corr's wireless service will provide other benefits to consumers. For example, the mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other locations. The availability of a wireless universal service offering also provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.⁷⁷

27. In addition, Corr has made service quality commitments comparable to those made by petitioners in the *Virginia Cellular* and *Highland Cellular Orders*, including compliance with the [full name] ("CTIA") Consumer Code for Wireless Service.⁷⁸ Likewise, Corr has committed to report annually to the Commission on the number of complaints per 1,000 handsets and how many requests for service from potential customers were unfulfilled for the past year.⁷⁹

28. We conclude that the designation of Corr as an ETC in the study areas served by the rural telephone companies identified in its petition does not raise concerns about creamskimming. Rural creamskimming occurs when competitors seek to serve only the low-cost, high revenue customers in a rural telephone company's study area.⁸⁰ Because Corr requests ETC designation in the entire study area of each rural telephone company identified in its petition, as amended, designation of Corr as an ETC in

⁷³ See Alabama Rural LECs May 28, 2004 Comments at 5-8; Rural Telcos July 28, 2003 Comments at 5; Farmers August 8, 2003 Reply Comments at 3-4.

⁷⁴ See Corr May 14, 2004 Supplement at 6-7 and Exhibit E.

⁷⁵ *Id.* at 7-8.

⁷⁶ *Id.* at 9 and Exhibit E.

⁷⁷ *Id.* at 8-9; *Virginia Cellular Order*, 19 FCC Rcd at 1577, para. 29. See also *Twelfth Report and Order*, 15 FCC Rcd at 12212, para. 3.

⁷⁸ See Corr May 14, 2004 Supplement at 3; *CTIA, Consumer Code for Wireless Service*, available at http://www.wow-com.com/pdf/The_Code.pdf; *Highland Cellular Order*, 19 FCC Rcd at 6433, para. 24; *Virginia Cellular Order*, 19 FCC Rcd at 1576-77, para. 30.

⁷⁹ See Corr May 14, 2004 Supplement at 3; *Highland Cellular Order*, 19 FCC Rcd at 6433, para. 24; *Virginia Cellular Order*, 19 FCC Rcd at 1576-77, para. 30.

⁸⁰ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87, 180, para. 172 (1996). "Creamskimming" refers to instances in which a carrier serves only the customers that are the least expensive to serve, thereby undercutting the ILEC's ability to provide service throughout the area. See *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8881-2, para. 189 (1997).

these study areas does not create creamskimming or related concerns.⁸¹ Thus, we find that designation of Corr as an ETC in Alabama is in the public interest.

D. Designated Service Areas

29. We designate Corr as an ETC in the state of Alabama in the requested areas served by the non-rural telephone company, CenturyTel, as listed in Appendix B, herein. We designate Corr as an ETC in Alabama for the entire study areas served by seven rural telephone companies: Blountsville Telephone Company, Inc.; Brindlee Mountain Telephone Company; Farmers Telephone Cooperative, Inc.; Hopper Telecommunications Company, Inc.; New Hope Telephone Cooperative; Otelco Telephone, LLC; and Peoples Telephone Company, Inc., as listed in Appendix C, herein.

E. Regulatory Oversight

30. We note that Corr is obligated under section 254(e) of the Act to use high cost support “only for the provision, maintenance, and upgrading of facilities and services for which support is intended” and is required under sections 54.313 and 54.314 of the Commission’s rules to certify annually that it is in compliance with this requirement.⁸² Corr has certified to the Commission that, consistent with sections 54.313 and 54.314 of the Commission’s rules, all federal high cost support will be used “only for the provision, maintenance and upgrading of facilities and services for which support is intended” pursuant to Section 254(e) of the Act in the area for which Corr is designated as an ETC.⁸³

31. Separate from and in addition to its annual certification filing under rule sections 54.313 and 54.314, Corr has committed to submit records and documentation to the Commission and USAC on an annual basis detailing: (1) its progress towards meeting its build-out plans; (2) the number of complaints per 1,000 handsets; and (3) how many requests for service from potential customers were unfulfilled for the past year.⁸⁴ We require Corr to submit these additional records and documentation to the Commission and the Universal Service Administrative Company (USAC) on October 1 of each year, beginning October 1, 2006.⁸⁵ We find that reliance on Corr’s commitments is reasonable and consistent with the public interest, the Act, and the Fifth Circuit decision in *Texas Office of Public Utility Counsel v. FCC*.⁸⁶ We conclude that fulfillment of these additional reporting requirements will further the

⁸¹ See, e.g., *Highland Cellular Order*, 19 FCC Rcd at 6434-35, at para. 26; *Virginia Cellular Order*, 19 FCC Rcd at 1578, para. 32. We note that Corr is no longer seeking ETC designation for a portion of the Ardmore Telephone Company study area that is located in rural Alabama. See Corr June 4, 2004 Reply Comments at 8.

⁸² 47 C.F.R. §§ 54.313, 54.314.

⁸³ See Corr June 30, 2005 Second Supplement at 1.

⁸⁴ See Corr May 14, 2004 Supplement at 3; *Highland Cellular Order*, 19 FCC Rcd at 6441-42, para. 43; *Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46.

⁸⁵ Corr’s initial submission concerning consumer complaints per 1,000 handsets and unfulfilled service requests will include data from the date ETC designation is granted through June 30, 2006. Future submissions concerning consumer complaints and unfulfilled service requests will include data from July 1 of the previous calendar year through June 30 of the reporting calendar year.

⁸⁶ *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 417-18 (5th Cir. 1999) In *TOPUC v. FCC*, the Fifth Circuit held that that nothing in section 214(e)(2) of the Act prohibits states from imposing additional eligibility conditions on ETCs as part of their designation process. See *id.* Consistent with this holding, we find that nothing in section 214(e)(6) prohibits the Commission from imposing additional conditions on ETCs when such designations fall under its jurisdiction. See also *Highland Cellular Order*, 19 FCC Rcd at 6441-42, para. 43; *Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46.

Commission's goal of ensuring that Corr satisfies its obligation under section 214(e) of the Act to provide supported services throughout its designated service area.⁸⁷

32. We note that the Commission may institute an inquiry on its own motion to examine any ETC's records and documentation to ensure that the high-cost support it receives is being used "only for the provision, maintenance, and upgrading of facilities and services" in the areas where it is designated as an ETC.⁸⁸ Corr will be required to provide such records and documentation to the Commission and USAC upon request. We further emphasize that if Corr fails to fulfill the requirements of the statute, the Commission's rules, or the terms of this Order after it begins receiving universal service support, the Commission may exercise its authority to revoke this ETC designation.⁸⁹ The Commission also may assess forfeitures for violations of Commission rules and orders.⁹⁰

IV. ANTI-DRUG ABUSE ACT CERTIFICATION

33. Pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, no applicant is eligible for any new, modified, or renewed instrument of authorization from the Commission, including authorizations issued pursuant to section 214 of the Act, unless the applicant certifies that neither it, nor any party to its application, is subject to a denial of federal benefits, including Commission benefits.⁹¹ This certification must also include the names of individuals specified by section 1.2002(b) of the Commission's rules.⁹² Corr has provided a certification consistent with the requirements of the Anti-Drug Abuse Act of 1988.⁹³ We find that Corr's certification satisfies the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001-1.2003 of the Commission's rules.

V. ORDERING CLAUSES

34. Accordingly, IT IS ORDERED that, pursuant to the authority contained in section 214(e)(6) of the Communications Act, 47 U.S.C. § 214(e)(6), and the authority delegated in sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, Corr Wireless Communications, LLC IS DESIGNATED AN ELIGIBLE TELECOMMUNICATIONS CARRIER for portions of its licensed service area in the state of Alabama, to the extent described and subject to the conditions stated herein.

35. IT IS FURTHER ORDERED that Corr Wireless Communications, LLC will submit additional information in support of its ETC status, consistent with the *ETC Designation Order*, with its annual certification filing on October 1, 2006.

⁸⁷ 47 U.S.C. § 214(e).

⁸⁸ 47 U.S.C. §§ 220, 403; 47 C.F.R. §§ 54.313, 54.314.

⁸⁹ See *Declaratory Ruling*, 15 FCC Rcd at 15174, para. 15; *Highland Cellular Order*, 19 FCC Rcd at 6441-42, para. 43; *Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46. See also 47 U.S.C. § 254(e).

⁹⁰ See 47 U.S.C. § 503(b).

⁹¹ 47 U.S.C. § 1.2002(a); 21 U.S.C. § 862.

⁹² See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947, 22949 (1997). Section 1.2002(b) provides that a "party to the application" shall include: "(1) If the applicant is an individual, that individual; (2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting/and or non-voting) of the petitioner; and (3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership." 47 C.F.R. § 1.2002(b).

⁹³ See Corr Petition at 9 and Exhibit 1.

36. IT IS FURTHER ORDERED that a copy of this Order SHALL BE transmitted by the Wireline Competition Bureau to the Alabama Public Service Commission and the Universal Service Administrative Company.

FEDERAL COMMUNICATIONS COMMISSION

Dana R. Shaffer
Deputy Chief
Wireline Competition Bureau

APPENDIX A

PARTIES FILING COMMENTS, REPLY COMMENTS, SUPPLEMENTAL COMMENTS

**Petition for Designation as an
Eligible Telecommunications Carrier
in the State of Alabama**Comments

Alabama Rural Local Exchange Carriers (Alabama Rural LECs) (7/28/03)

Blountsville Telephone Company, Brindlee Mountain Telephone Company,
Hopper Telecommunications, Inc. and Otelco Telephone, LLC (Rural Telcos) (7/28/03)

Cellular Telecommunications and Internet Association (CTIA) (7/28/03)

Reply Comments

Corr Wireless Communications, LLC (Corr) (8/11/03)

Farmers Telephone Cooperative, Inc. (Farmers) (8/8/03)

Supplement

Corr (5/14/04)

Supplemental Comments

Alabama Rural LECs (5/28/04)

TDS Telecommunications Corp. (TDS Telecom) (5/28/04)

Verizon Communications, Inc. (Verizon) (5/28/04)

CenturyTel of Alabama, LLC, CenturyTel of Eagle, Inc. and CenturyTel, Inc. (CenturyTel) (5/28/04)

Supplemental Reply Comments

Corr (6/4/04)

Corr (6/9/04)

Second Supplement

Corr (6/30/05)

Third Supplement

Corr (10/21/05)

APPENDIX B

ALABAMA NON-RURAL WIRE CENTERS
FOR INCLUSION IN CORR'S SERVICE AREA

| Service Area | Wire Center Name | Wire Center Code |
|---|-------------------------|-------------------------|
| CenturyTel Telecommunications, Inc. (Northern) | Ashland | ASLDALXADS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Chulafinne | CHLFALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Delta | DELTALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Falkville | FLVLALXADS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Heflin | HFLNALXADS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Lecta | LECTALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Lineville | LNVLALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Massey | MSSYALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Mentone | MENTALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | MRNSCRSRDS | MRCRALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Oden Ridge | ODRGALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Valleyhead | VYHDALXADS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Wadley | WDLYALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Wedowee | WEDWALXARS0 |
| CenturyTel Telecommunications, Inc. (Northern) | Woodland | WDLDALXRS0 |

| | | |
|---|------------|-------------|
| CenturyTel Telecommunications, Inc. (Southern) | Scottsboro | SCBOALXADS0 |
| CenturyTel Telecommunications, Inc. (Southern) | Section | SECTALXADS0 |
| CenturyTel Telecommunications, Inc. (Southern) | Skyline | SKLNALXARS0 |

APPENDIX C

**ALABAMA RURAL TELEPHONE COMPANY STUDY AREAS
FOR INCLUSION IN CORR'S ETC SERVICE AREA**

Blountsville Telephone Company, Inc.

Brindlee Mountain Telephone Company

Farmers Telephone Cooperative, Inc.

Hopper Telecommunications Company, Inc.

New Hope Telephone Cooperative

Otelco Telephone, LLC

Peoples Telephone Company, Inc.