STATE OF SOUTH CAROLINA)
)

(Caption of Case)

Application of Allied Wireless Communications Corporation d/b/a Alltel for Designation as an Eligible Telecommunications Carrier)

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 2010 - 385 - C

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Submitted by: Margaret M. Fox, Esquire

Address: McNair Law Firm, P. A.
P. O. Box 11390
Columbia, SC 29211

SC Bar Number: 65418
Telephone: 803-799-9800
Fax: 803-753-3219
Other:
Email: pfox@mcnair.net

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ATTORNEYS

February 10, 2011

Margaret M. Fox

pfox@mcnair.net
T (803) 799-9800
F (803) 753-3219

Ms. Jocelyn Boyd
Chief Clerk and Administrator
South Carolina Public Service Commission
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Application of Allied Wireless Communications Corporation d/b/a Alltel for Designation as an Eligible Telecommunications Carrier
Docket No. 2010-385-C

Dear Ms. Boyd:

Enclosed for electronic filing please find the Public Version of the Direct Testimony of Glenn H. Brown on behalf of Farmers Telephone Cooperative, Inc., FTC Communications, LLC, Horry Telephone Cooperative, Inc., Piedmont Rural Telephone Cooperative, Inc., and PRTCommunications, LLC.

Portions of Mr. Brown's testimony reference confidential information of Allied Wireless Communications that was obtained pursuant to a confidentiality agreement and that has been afforded confidential treatment by Directive of the Hearing Officer dated December 16, 2010 in this proceeding. The Confidential Version of Mr. Brown's testimony is being mailed to the Commission in a sealed envelope, appropriately marked.

By copy of this letter, we are serving copies of the Public Version of Mr. Brown's testimony on parties of record. We are also serving copies of the Confidential Version of Mr. Brown's testimony on Allied Wireless' counsel. We plan to provide a copy of the Confidential Version of Mr. Brown's testimony to the Office of Regulatory Staff upon confirmation that the appropriate agreements are in place to protect the confidentiality of Allied Wireless' information.

Very truly yours,

McNAIR LAW FIRM, P.A.

Margaret M. Fox

Margaret M. Fox

MMF/rwm
Enclosure

cc: Parties of Record

McNair Law Firm, P. A.
1221 Main Street
Suite 1600
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

**** PUBLIC VERSION ****

BEFORE THE

PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

In the Matter of Application of Allied Wireless Communications for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934	)))))	Docket No. 2010-385-C

DIRECT TESTIMONY OF

GLENN H. BROWN

ON BEHALF OF

FARMERS TELEPHONE COOPERATIVE, INC. AND FTC COMMUNICATIONS, LLC, HORRY TELEPHONE COOPERATIVE, INC., AND PIEDMONT RURAL TELEPHONE COOPERATIVE, INC., AND PRTCOMMUNICATIONS, LLC

February 10, 2011

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1 **I. INTRODUCTION**

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

3 A. My name is Glenn H. Brown, and my business address is PO Box 21173, Sedona,
4 Arizona 86341.

5 **Q. Please summarize your current employment and prior business experience.**

6 A. I am President of McLean & Brown, a telecommunications consulting firm specializing
7 in universal service and intercarrier compensation issues. Prior to joining McLean &
8 Brown in 1998, I worked for U S WEST for 28 years, during which time I held a number
9 of senior management positions in the regulatory and public policy area. I have testified
10 before numerous state regulatory commissions, the Federal Communications
11 Commission (FCC) and the United States Congress on a wide variety of
12 telecommunications costing, pricing and regulatory issues. My last six years with U S
13 WEST were spent in Washington, DC, where I was very involved in the implementation
14 of the Telecommunications Act of 1996, with particular emphasis on universal service
15 and access charge issues.

16 **Q. Please summarize your educational experience.**

17 A. I have a Bachelor of Science in Industrial Engineering from Lehigh University, and an
18 MBA from the University of Colorado. Both of my degree programs focused on
19 computer modeling technology and applications.

20 **Q. Please describe your experience with universal service issues.**

21 A. I have been active in almost every major universal service proceeding before the FCC
22 since the passage of the 1996 Act. In 1998, the FCC appointed the Rural Task Force
23 (RTF) to develop universal service policy recommendations for rural telecommunications

carriers. While not a member of the RTF, I attended almost all of its meetings, and assisted it in both analytical matters and in the preparation and drafting of several RTF white papers. In my current position I provide advice and assistance to small and mid-size telecommunications companies regarding universal service, intercarrier compensation, rural broadband development, and other regulatory and pricing issues before federal and state regulatory bodies.

Q. Have you previously testified before the Public Service Commission of South Carolina?

A. Yes. I have appeared before the Commission several times on behalf of the South Carolina Telephone Coalition (SCTC) in matters related to universal service.

Q. On whose behalf are you presenting testimony?

A. I am presenting testimony on behalf of the following companies: Farmers Telephone Cooperative, Inc. and FTC Communications, LLC (FTC), Horry Telephone Cooperative, Inc. (Horry); and Piedmont Rural Telephone Cooperative, Inc.; and PRTCommunications, LLC (Piedmont).

Q. Could you briefly summarize your understanding of the issue in this proceeding?

A. Allied Wireless Corporation, d/b/a "Alltel" (Allied) has applied for designation as a competitive Eligible Telecommunications Carrier (CETC) for purposes of receiving federal universal service support in the State of South Carolina. Under Commission Regulation 103-690, before designating a carrier for CETC status the Commission must find that the requesting carrier meets a defined set of minimum qualifying criteria. Additionally, if the carrier is requesting CETC designation for an area served by a rural

telephone company, the Commission must find that doing so would be in the public interest.

Q. Could you briefly summarize your conclusions on this issue?

A. Based upon my analysis of both Federal and South Carolina universal service policies, and past actions of the Federal Communications Commission (FCC) and the South Carolina Public Service Commission (SCPSC or Commission) to implement those policies, as well as the facts in this case, I have reached the following conclusions that I will be describing more fully in the remainder of my testimony.

- Universal service funding is an important component in the delivery of basic and advanced telecommunications services, both wireline and wireless, in high-cost rural areas of South Carolina and this nation. The universal service fund, itself, is a scarce and valuable national resource that must be prudently managed.
- In a well-intentioned, but misguided, effort to "create competition" during the period from 2000 – 2007, the FCC and many other state commissions established lax standards with low qualifying thresholds for the granting of CETC status. This resulted in the designation of so many CETCs that the sustainability of the federal universal service fund, itself, became threatened. As a result, in May of 2008, the FCC imposed a cap on the amount of CETC support that could be paid within each state.
- Unlike many other states, this Commission took a more prudent course, and did not award any CETC designations until rigorous qualifying standards were in place, and binding commitments were made that high-cost funding would be used for its intended purposes, and the public interest would be served.

- In late 2007 and early 2008, the Commission made its initial CETC awards to HTC Communications (Horry) and FTC Communications.[1] These carriers have been receiving federal high-cost support for almost three years, and have been diligently using these funds to meet their commitments to invest in rural wireless infrastructure to better serve rural South Carolina customers.
- Alltel also participated in the 2007 ETC proceeding round, however due to voluntary commitments made as part of its efforts to secure its merger with Verizon, Alltel asked that its application be delayed. Now, over three years later and late to the game, Allied (which subsequently acquired the Alltel licenses) asks that it be awarded CETC status for the legacy Alltel licenses.
- The CETC funding cap creates a "zero-sum-game" where a new applicant can receive funding only to the extent that money is taken away from current CETC recipients. Thus, in making its cost/benefit analysis, the Commission must ask itself whether the benefits that consumers might receive from providing new CETC funding to Allied will be greater than the costs that will be incurred by an equal, and significant, reduction in CETC support to current rural CETC recipients. FTC, Horry and Piedmont respectfully suggest that the answer to this question is "no."
- The public interest dynamic regarding universal service has been further changed since, as part of the implementation of the National Broadband Plan, the FCC has proposed fundamental changes to the current wireline and wireless high-cost funding processes, including a phase-out of CETC support. The FCC proposes to replace current high-cost universal service funding mechanisms with a new Connect America

[1] The Commission also awarded CETC status to Hargray Wireless, LLC, which was subsequently acquired by Cricket Communications, Inc.

Fund, and support wireless infrastructure investment in currently unserved areas with a new Mobility fund. These changes will have a profound impact on rural South Carolina wireline and wireless carriers.

- For all of the above reasons, the approval of Allied's request for CETC status would not be in the public interest, and therefore must be denied.

II. DESIGNATION OF A COMPETITIVE ETC FOR AN AREA SERVED BY A RURAL TELEPHONE COMPANY UNDER SECTION 214(E)(2) REQUIRES A FINDING THAT SUCH DESIGNATION IS IN THE PUBLIC INTEREST

Q. What are the key sections of the Telecommunications Act of 1996 and the FCC and SCPSC rules that deal with the designation of CETCs?

A. Section 214(e) of the 1996 Act (47 U.S.C. § 214(e)) deals with the designation of multiple ETCs; 47 CFR 54.201-202 contains the FCC's corresponding federal rules, and Commission Regulation 103-690 contains the rules that currently apply in South Carolina.

Q. Please summarize the key elements of Section 214(e) regarding the designation of multiple ETCs.

A. 47 U.S.C. Section 214(e)(2) states that, to be eligible for ETC status, a carrier must offer the defined universal service elements (the FCC rules currently define nine elements) throughout the service area for which the designation is received, and advertise the availability of such services in media of general distribution. Section 214(e)(2) states that, "Consistent with the public interest, convenience and necessity, the Commission *may*, for rural telephone companies, and *shall*, for non-rural companies, designate more than one ETC." It further states that, "before designating an additional [ETC] for an area

1 served by a rural telephone company, *the State commission shall find that the designation*
2 *is in the public interest.*"

3 **Q. Does the 1996 Act say how this public interest determination should be made?**

4 A. No. The standards that federal and state regulators have used to evaluate applications and
5 award CETC funding have evolved significantly over the past ten years.

6 **Q. Could you describe how these CETC standards have evolved over time?**

7 A. In the early CETC decisions[2], made between 2000 and 2004, the mere possibility that the
8 CETC designation might "increase competition" was sufficient to justify the award of
9 significant federal universal service dollars. As the number of ETC designations
10 increased, and the amount of CETC funding began to grow dramatically, the FCC issued
11 the *Virginia Cellular* Order[3] in 2004 and the *ETC Designation* Order[4] in 2005 that
12 provided increasingly specific guidelines for the type of data and showings that ETC
13 applicants should be required to file with their ETC applications. In 2007, as the amount
14 of funding going to CETCs continued to grow and accelerate, the Federal-State Joint
15 Board on Universal Service proposed "an interim, emergency cap on the amount of high-
16 cost support that CETCs may receive," in order to "rein in the explosive growth" in

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[2] One of the earliest decisions was made by the FCC for Western Wireless in the State of Wyoming. See *In the matter of Federal-State Joint Board on Universal Service, Western Wireless Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, DA 00-2896, released December 26, 2000. The Order states "We find that the designation of Western Wireless as an ETC ... serves the public interest by promoting competition and the provision of new technologies to consumers in high-cost and rural areas of Wyoming", at page 1.

[3] *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia* CC Docket No. 96-45, FCC 03-338, released January 22, 2004. Among other things, this order concluded: that competition, alone, was not sufficient to satisfy the public interest test; a fact-specific analysis was necessary to demonstrate that benefits exceeded costs; and the ETC must demonstrate its commitment and ability to serve throughout the service area within a reasonable time frame.

[4] *Report and Order, In the Matter of Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, FCC 05-46, released March 17, 2005. This Order required additional showings including a multi-year service improvement plan, a demonstration of its ability to remain functional in emergency situations, and a requirement to offer local usage plans reasonably comparable to those offered by the ILEC.

CETC USF disbursements.[5] In May of 2008, the FCC issued an Order capping CETC support, for each state, at the annualized level of payments received by all CETCs in that state in March of 2008, to remain in place until the FCC adopts comprehensive high-cost universal service reform.[6] I will have more to say later in my testimony about the factors that led to these decisions to cap CETC funding.

Q Does Commission Rule 103-690C contain a "checklist" of minimum qualifying criteria for CETC designations?

A. Yes.

Q. If a CETC applicant can "check-off" each of these items, does that mean that it automatically receives CETC status?

A. No. The items enumerated in Commission Rule 103-690 are only minimum qualifying criteria. The rule also clearly and unambiguously states "Prior to designating an ETC pursuant to Section 214(e)(2), the commission must determine that such designation is in the public interest."

Q. What guidelines has the State of South Carolina adopted to guide this Commission during the public interest analysis?

A. Commission Regulation 103-690C(b) states that the Commission should evaluate

1. The benefits of increased consumer choice, and
2. The unique advantages and disadvantages of the applicant's service offering.

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[5] Recommended Decision *In the Matter of High-Cost Universal Service Support and Federal-State Joint Board on Universal Service,* WC Docket No. 05-337 and CC Docket No. 96-45, FCC 07J-1, released May 1, 2007 at paragraph 1. The Joint Board goes on to state at paragraph 4 "While support to incumbent local exchange carriers has been flat or even declined since 2003, by contrast in the six years from 2001 to 2006, competitive ETC support grew from $15 million to almost $1 billion – an annual growth rate of over 100 percent."

[6] Order *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petetions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment,* WC Docket No. 05-337 and CC Docket 96-45, FCC 08-122, Released May 1, 2008, at page 1. (CETC Capping Order)

Q. Why is high-cost universal service support critically important for rural telecommunications service providers?

A. Rural companies exist because in the early days of the telephone, large companies like the Bell System and GTE chose not to serve there because they could not make a profit. Due to the realities of low population density and long distances, there would not be a rational business case to build rural networks absent some form of public support. The 1996 Act made it the law of the land that that rural consumers should have access to services reasonably comparable to those available in urban areas, at reasonably comparable prices, and that there should be "specific, predictable and sufficient" federal and state mechanisms to make this possible.[7] The weighted average federal high-cost support currently going to the eight rural carrier study areas for which Allied requests CETC status is $32.16 per line per month.[8] This support allows them to offer reasonably priced basic telephone service to their customers and to carry out their important Carrier of Last Resort (COLR) obligations.

III. THE PUBLIC POLICY ENVIRONMENT REGARDING UNIVERSAL SERVICE FUNDING HAS CHANGED IN TWO SIGNIFICANT WAYS SINCE THE COMMISSION'S LAST CONSIDERATION OF CETC ISSUES.

Q. How has the telecommunications policy landscape changed since this Commission last considered CETC issues?

A. The universal service policy landscape has changed in two significant ways. First the FCC has imposed a cap on the amount of CETC funding that is available in each state. This cap changes the process of designating a new CETC into a "zero-sum-game," where any support that the new applicant might get would need to be taken away from existing

[7] Telecommunications Act of 1996, Sections 254(b)((3) and (5).
[8] Source, USAC Reports HC01 and HC05 1Q10-4Q10. Without such support, consumer rates would need to be so high as to violate the basic principles of universal service.

CETCs. The other fundamental change in the national universal service policy debate is that the focus has shifted from the support for voice services to the support of networks, both wireless and wireline, capable of delivering both broadband and voice services.

Q. How has broadband become the focus of the current universal service policy debate?

A. Recognizing the enormous enabling power of high-speed broadband services, Congress directed the FCC to develop a National Broadband Plan (NBP) to ensure that every American has access to high-speed broadband services, and to establish clear benchmarks and strategies for achieving that goal.[9] On March 16, 2010 the FCC delivered the NBP to Congress. In addition to explaining the many benefits that broadband will bring to our Nation,[10] the NBP also lays out a plan to fundamentally reform the current universal service mechanisms to support deployment of broadband and voice service in high-cost rural areas.

Q. How have policy makers embraced the challenges and opportunities presented in the National Broadband Plan?

A. Addressing the NARUC Convention this past November, FCC Chairman Julius Genachowski said the following:

> The great infrastructure challenge of our generation – one that the FCC and the states will have to tackle together with the private sector – is broadband. The National Broadband Plan, which the FCC released in March, is an ambitious strategy to build a world-leading broadband ecosystem that unleashes innovation and brings the benefits of high-speed Internet to all Americans.[11]

[9] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (Recovery Act). The Recovery Act was signed into law on February 17, 2009 at § 6001(k)(2).

[10] Among the benefits of widespread broadband deployment described in the NBP are health care, education, economic opportunity, government performance, civic engagement, and public safety.

[11] Remarks of Julius Genachowski, *Our Innovation Infrastructure; Opportunities and Challenges,*NARUC Annual Meeting, Atlanta, GA, November 15, 2010.

Q. Does the NBP address the provision of high-cost universal service support to competitive ETCs?

A. Yes, it calls for the present system of CETC support to be totally phased out. The NBP states:

> The FCC should phase out the remaining legacy high-cost support for competitive ETCs. In some areas today, the USF supports more than a dozen CETCs that provide voice service, and in many instances companies receive support for multiple handsets on a single family plan. Given the national imperative to advance broadband, subsidizing this many CETCs for voice service is clearly inefficient.[12]

Q. How does the NBP propose to support the delivery of wireless broadband and voice services in high-cost rural areas in the future?

A. In a recently released NPRM, the FCC proposes to create new Mobility Fund that would support the construction of 3G wireless networks in currently unserved areas by a single provider chosen through some form of market-based mechanism.[13]

Q. How does the NBP address the delivery of high-cost universal service support to wireline networks?

A. The NBP proposes to eventually phase-out the current high-cost mechanisms and replace them with a new Connect America Fund (CAF). On February 8, 2011, the FCC issued an NPRM to begin the process of defining the CAF and related transitions.[14] The NPRM also proposes fundamental reform of the intercarrier compensation regime by which carriers compensate each other for use of their networks to originate and terminate traffic.

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[12] *Connecting America: The National Broadband Plan*, released March 17, 2010, at p. 148, available at http://www.broadband.gov/download-plan/

[13] *In the Matter of Universal Service Reform --Mobility Fund*, Notice of Proposed Rulemaking, Released October 14, 2010, FCC 10-182.

[14] In the Matter of: *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking, FCC 11-43, Released February 9, 2011.

Intercarrier compensation is another mechanism that supports the cost of building and operating high-cost rural networks, and helps rural carriers to meet their important COLR objectives.

Q. What threats and opportunities does implementation of the NBP pose to rural telecommunications providers?

A. The NBP, as originally written, has raised serious concerns regarding the ability of rural carriers to continue providing world-class telecommunications services to their communities. The Plan has raised the specter of an urban/rural "digital divide," and the new universal service funding mechanisms (CAF and MF) and related transitions leave many unanswered questions. These ongoing NBP proceedings will clearly have an impact on the wireless CETC issues at issue in this proceeding, and we believe that the Commission's valuable time and resources might be better spent on helping the FCC get these new mechanisms and transitions right, rather than rehashing old CETC issues that may soon be obsolete.

IV. THE ARGUMENTS USED BY ALLIED TO JUSTIFY ITS CETC APPLICATION ARE COUCHED IN THE RATIONALE AND REGULATORY THINKING OF THE LAST DECADE TO SUPPORT THE DELIVERY OF VOICE SERVICES

Q. How has Allied attempted to justify that its Application for CETC status is in the public interest?

A. On page 19 of its Application, Allied States – "In cases decided by state public utility commissions, including this Commission, and by the FCC, the question of whether it is in the public interest to designate a wireless carrier in areas served by incumbent LECs has been decided in the affirmative." Footnotes 55, 56 and 57 appearing on page 19 cite 28 federal and state cases in support of this statement. TABLE I summarizes these cases by

the year in which each case was decided. Notice that half of these cases were decided in 2004 or earlier, when a much more lax public interest standard was prevalent. Also notice that only one new CETC designation has been made since the FCC ordered the imposition of a cap on CETC funding in March of 2008[15]

Cases Cited by Allied

Year	Number of Cases	Year	Number of Cases
2000	1	2006	5
2001	3	2007	4
2002	2	2008	1*
2003	1	2009	1
2004	7	2010	1*
2005	2		

(* See Footnote 15)

TABLE I

Q. What is the significance of the fact that most of these decisions were made in the early and middle part of the last decade?

A. It indicates that that these decisions were made during an earlier time when policy makers were attempting to understand and implement the pro-competitive policies of the Telecommunications Act of 1996 through the universal service funding process. Among the well-intentioned (but later shown to be flawed) assumptions underlying these early CETC decisions were beliefs that:

- In the name of "competitive neutrality," a CETC should be given the same "per-line" support as the incumbent local exchange carrier (ILEC), regardless of the actual costs of CETC to serve its customers;

[15] The one case decided in 2008 (HTC Communications, now known as Horry) was decided in April of 2008. The one case in 2010 (Allied Wireless) represented transfer of CETC status that had been granted to Alltel in North Carolina in 2004, and was assigned to Allied subsequent to the transfer of wireless licenses earlier in 2010.

- No single ETC designation, by itself, would increase the size of the fund to the point that the fund would become unsustainable;
- Funding multiple CETCs in high-cost rural areas that could not economically support even one carrier would somehow "increase competition;" and
- Until very late in the process, there were few explicit requirements for what a CETC was expected to do with the high-cost funding that it was given.

Of course these beliefs, and the large number of resulting CETC designations, led to a ballooning high-cost fund, a capping of support to existing CETCs, and questions about whether the public was getting the expected "bang-for-the-buck" in terms of rural telecommunications infrastructure for this large amount of universal service funding.

V. PAST EFFORTS BY THE FCC TO "CREATE COMPETITION" HAVE LED TO COSTLY MARKET FAILURES THAT HAVE HARMED THE PUBLIC INTEREST

Q. Have there been other instances in the past where attempts by the FCC to implement the pro-competitive objectives of the 1996 Act created unintended consequences?

A. In all fairness it must be stated that the regulators attempting to introduce competition in the previously monopoly markets for local telephone service faced daunting challenges and were sailing into totally uncharted waters. It is not surprising, then, that well-meaning attempts to start a competitive local market led to unintended results. A good example of this was the early efforts to create competitive entry in the local market by providing new entrants access to piece-parts of the incumbents' networks at very low prices, and providing other benefits and advantages. Many of the new entrants experienced market failure, and their investors suffered significant financial losses when

the "dot-com bubble" burst in 2000 and 2001. Reflecting on this experience, then FCC Chairman Michael Powell stated:

> Government policy was to create a competitive industry to compete in the local telecommunications market. And it did. Government policy was to provide extraordinary advantages to competitive entrants in order to bring competition into being rapidly. And it did. Government policy also explicitly and implicitly signaled that it would protect these new entrants from failure. No matter how weak or shoddy the fundamentals or poor business models were, and no matter how irresponsible the debt levels or exaggerated the growth expectations were, policy promised that all competitors could be salvaged and sustained in the name of competition. And when the first signs of trouble from the dot com crash surfaced, capital went running scared.
>
> F.A. Hayek, in his famous book, *The Road to Serfdom*, observed: "We are ready to accept almost any explanation of the crisis . . . except one: that the present state of the world may be the result of genuine error on our part and that the pursuit of some of our most cherished ideals has apparently produced results utterly different from those which we expected."[16]

Q. What does this have to do with the CETC designation issues in this proceeding?

A. Like earlier attempts at creating a competitive marketplace in the local market, the FCC made some significant mistakes in the early attempts to use high-cost universal service funding to "create competition" in rural telecommunications markets.[17]

By 2007 there was a growing realization that:

- the methods and standards for awarding CETC status;
- the way that funding amounts were determined;
- the designation in many states of multiple CETCs in the same high-cost rural study areas; and

[16] Remarks of Michael K. Powell, Goldman Sachs Communicopia XI Conference, New York, NY, October 2, 2002.
[17] Of course not all federal regulators got this wrong. In his Separate Statement in the 2001 MAG Order, then Commissioner Kevin Martin famously stated "I also note that I have some concerns with the Commission's policy – adopted long before this Order – of using universal service support as a means of creating "competition" in high-cost areas. I am hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. This policy may make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in rural areas, leading to inefficient and/or stranded investment and a ballooning universal service fund. *Separate Statement of Commissioner Kevin J. Martin*, Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket 96-45, and Report and Order in CC Docket Nos. 98-97 and 98-166, FCC 01-304, Released November 8, 2001.

- in some states, the lack of specific directions as to what the recipients were supposed to do with the money,

had resulted in inefficiencies and explosive growth in fund size that led the Joint Board to recommend, and the FCC to implement, a cap on the level of CETC support.[18]

Q. Could you provide an example of the inefficiencies in the current CETC funding process?

A. Perhaps the best (or worst) example of the type of problems that caused the fund to grow so rapidly is the "identical support rule." The FCC decided early on that, in the name of "competitive neutrality," CETCs should be given the same "per-line" support as the incumbent ILEC receives, even though the CETCs' costs may be very different. The average support for the eight rural telephone company service areas where Allied is requesting CETC status is $32.16 per-line per-month. Compounding this irrational situation is the fact that, since a wireless carrier does not have a physical "line," support is awarded to the CETC based on the number of "handsets" in service. This means that a CETC serving a household subscribing to a family plan with 4 handsets in these rural service areas would receive an average of $128.64 per month in "support," while the ILEC that actually built the physical line to that same household would receive $32.16. This makes absolutely no sense, and was a contributing factor in the rapid growth of the fund.

Q. Has the FCC spoken about how the identical support rule impacts the incentives for a CETC to actually make high-cost rural infrastructure investments?

A. Yes. In its Order implementing the cap, the FCC stated

[18] *Op cit.*

> Because a competitive ETC's per-line support is based solely on the per-line support received by the incumbent LEC, rather than its own network investments in an area, the competitive ETC has little incentive to invest in, or expand, its own facilities in areas with low population densities, thereby contravening the Act's universal service goal of improving the access to telecommunications services in rural, insular and high-cost areas.[19]

Under the current process, on the day after a wireless carrier receives CETC status, and without investing a single dime, it begins receiving "per-line" support for each and every handset in its existing customer base. With this money in hand, the CETC has no economic incentive to make substantial infrastructure investments in sparsely populated areas where it would obtain relatively little incremental revenue. Unless there is a strong, enforceable commitment to actually spend this money for its intended purposes, then the public may not be getting the rural service improvements that it thought it would be receiving in the first place.

Q. How has the South Carolina Public Service Commission handled the evolution of universal service funding and the subsequent grant of CETC status?

A. Shortly after the signing of the Telecommunications Act of 1996, the SCPSC implemented a state universal service fund and began the process of removing implicit subsidy from intrastate access charges. I have analyzed access charges in many states across the country, and I am not aware of any state that moved more quickly or more decisively than South Carolina to remove implicit support from intrastate access rates. Combined with subsequent actions to make additional amounts of implicit support explicit, South Carolina now has among the lowest intrastate access rates in the nation, and South Carolina consumers are benefiting from a vibrant and competitive long

[19] CETC Order at ¶21.

distance market.[20] With regards to granting CETC support, this Commission was initially patient, and took the time to get the ETC designation process right. The first CETC applications were not granted until 2007 when the CETC process had evolved to the point where the Commission could have a reasonable expectation that fund recipients would actually use high-cost funding to build and maintain telecommunications infrastructure in the more remote and rural areas of the state. The Commission also imposed strong enforcement measures to ensure that this occurs. Today, three wireless providers, including FTC and Horry, are receiving a total of approximately $6 million of annual high-cost support, and are proceeding with robust service improvement plans.

VI. GRANTING ALLIED'S APPLICATION FOR CETC STATUS WOULD NOT BE IN THE PUBLIC INTEREST

1. ALLIED'S APPLICATION FAILS TO MEET THE STATUTORY PUBLIC INTEREST TEST IN AS DEFINED IN COMMISSION REGULATION 103-690C(b)

Q. Does Allied meet the statutory public interest test defined in Commission Regulation 103-690C(b)?

A. No. In the more pragmatic policy world of 2011, I believe that it would be difficult for the Commission to conclude that the grant of ETC status to Allied would meet the two specific questions asked in 603-690C(b), which, to paraphrase, are:

1. Would granting ETC status to Allied result in increased customer choice?
2. Do Allied's services offer unique advantages to consumers?

Q. Would grant of ETC status increase customer choice?

[20] Another benefit of this foresighted policy is that when it comes to implementing the intercarrier compensation reform provisions in the National Broadband Plan, South Carolina will be spared the pain that many other states will experience in the rebalancing of local rates

1 A. No. Exhibit GHB-1 lists the 22 rural wire centers where Allied requests ETC status, and
2 indicates the number of wireless carriers providing mobile services in each. In every one
3 of these communities, between two and seven wireless providers compete to offer mobile
4 voice services. In addition, between 2 and 6 carriers offer mobile broadband service.
5 The facts clearly show that there is robust competition, and it is notable that multiple
6 carriers have invested many millions of dollars to serve throughout their service areas
7 without the need for explicit high-cost universal service support. In a world of unlimited
8 resources, it might be possible to rationalize that using universal service funds to add a
9 few towers at the periphery of Allied's network might make some small increase in the
10 number of consumers that might have a higher probability of getting a stronger wireless
11 signal, and that a few customers might have an additional choice of carrier. In a world of
12 constrained high-cost CETC funding, however, the reality is that consumer choice will
13 not be affected in any material way by the designation of Allied as an additional CETC.
14 Indeed, as will be discussed shortly, with overall CETC support funding capped, approval
15 of an additional CETC could actually lead to *less* consumer choice in high-cost rural
16 areas.

17 **Q. Does Allied offer any "unique" services or advantages vis-à-vis its competitors that**
18 **might justify its designation as a CETC?**

19 A. No. I have examined the web sites of each of these providers, and I have found nothing
20 unique about Allied's service offerings vis-à-vis those of its competitors.

2. TWO SIGNIFICANT CHANGES SINCE THE SCPSC's LAST CONSIDERATION OF ETC MATTERS FUNDAMENTALLY CHANGE THE PUBLIC INTEREST DYNAMIC

A. THE TOTAL AMOUNT OF CETC FUNDING IN SOUTH CAROLINA IS NOW CAPPED, AND NEW CETC DESIGNATIONS CAN ONLY COME AT THE EXPENSE OF REDUCTIONS TO CURRENT RECIPIENTS

Q. What impact does the FCC's imposition of a statewide cap on CETC funding have on the Commission's analysis of whether granting Allied's application would be in the public interest?

A. The imposition of a cap on the total level of statewide ETC funding essentially makes the designation of additional CETCs a "zero-sum-game" – meaning that any support that a new CETC might get would only come at the expense of a reduction in support for previously approved CETCs. In essence, this adds a new dimension to the "cost" side of the cost/benefit analysis that should always be an integral part of any public interest analysis related to the expenditure of scarce public funds.[21]

Q. What is the total amount of CETC funding currently being received in the state of South Carolina?

A. Presently, FTC, Horry and Cricket Communications, Inc. (Cricket)[22] receive a total of approximately $6M in annual federal high-cost universal service support. This $6M represents the current "cap" on the size of all CETC funding in the state of South

[21] In earlier times, the true cost of an ETC designation was somewhat masked due to the fact that while the state made the public interest determination, it was the federal USF that picked up the actual cost. When the cumulative nationwide total of these ETC costs began to exceed the ability of the federal USF funding process to sustain them, the imposition of some sort of cap, or other common-sense restraint, became inevitable.

[22] Cricket has acquired and is now operating the wireless properties previously owned by Hargray Wireless, LLC, and has taken Hargray's place as a CETC for receipt of federal high-cost funds.

Carolina.[23] The following TABLE II summarizes the amount of funding received by each of these three carriers in 2010:[24]

Carrier	2010 CETC Support ($ Thousands)
Cricket	$809.4
FTC	$3,228.5
HTC	$2,046.4
	$6,081.3

TABLE II

Q. How much high-cost universal service funding is Allied requesting in this proceeding?

A. Neither Allied's Application nor Mr. Ranaraja's testimony state how much CETC funding Allied expects to receive if granted CETC status. While Allied's two-year service improvement plan is proprietary, Mr. Ranaraja has testified that "Allied Wireless projects it will invest approximately $8M to expand and upgrade its coverage footprint in the state of South Carolina within the first two years of designation."[25] He further testifies that "Allied Wireless projects it will invest another $850K to upgrade existing cell sites in the first two years of designation."[26]

Q. Has Alltel previously applied for ETC status in South Carolina?

A. Yes, twice. On April 29, 2003, Alltel filed an application for CETC status in Docket No. 2003-151-C. Alltel filed an amended application on July 2, 2003. A contested case

[23] As I will be describe shortly, these companies would receive substantially more funding under the "equal-per-line" support rule if the CETC funding cap were not in place. According to the formula in the FCC's 2008 capping order, this amount represents the annualized value of the monthly support that all CETCs in South Carolina were receiving in March of 2008.
[24] The source for the data in TABLE II is USAC Reports HC01 for the first through fourth quarters of 2010.
[25] Ranaraja testimony at p17, line 24.
[26] *Id.* At p18, line 6.

hearing on Alltel's first application was held before the Commission on September 11, 2003.

Q. What was the outcome of Docket No. 2003-151-C?

A. On November 3, 2003, after the hearing and shortly before briefs were due in the case, Alltel filed a letter asking the Commission for permission to withdraw its application without prejudice. The South Carolina Telephone Coalition, a party to the case, objected that it had expended considerable time, effort, and expense in preparing for and litigating the case, and that it would not be appropriate for the Commission to allow Alltel to withdraw its application without placing a condition on the withdrawal. On November 7, 2003, Alltel filed an amended letter, and subsequently the Commission allowed Alltel to withdraw the application on the condition that Alltel would not file another ETC application within one year.[27]

Q. When did Alltel file its second application for ETC status in South Carolina?

A. On April 17, 2007, Alltel filed its second application for CETC status. The Commission opened Docket No. 2007-151-C to consider this Application. A contested case hearing was held on July 11, 2007, with Mr. Rohan Ranaraja serving as one of Alltel's two witnesses. Briefs were filed on or around November 13, 2007, and Reply Briefs were filed on November 30, 2007. In the meantime, on October 26, 2007, the FCC issued an order approving a merger to which Alltel was a party.[28] In that Order, the FCC noted that Alltel was the "largest beneficiary of competitive ETC funding and account[ed] for 29

[27] *See* Commission Order No. 2003-702 in Docket No. 2003-151-C, December 8, 2003.
[28] Memorandum Opinion and Order, *In the Matter of Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings, LLC, Transferee, for Consent to Transfer Control of Licenses, Leases and Authorizations,* WT Docket No. 07-128, FCC 07-185 (rel. October 26, 2007).

percent of all high cost fund payments to ETCs."[29] The FCC went on to place an immediate cap on Alltel's receipt of competitive ETC funding, finding that it was in the public interest to do so in the context of the proposed transaction because of "Alltel's significant role in the expansion of the high cost fund."[30] According to the FCC, expansion of the federal high cost universal service fund was the basis for the Federal-State Joint Board's recommendation that the FCC cap the competitive ETC portion of the fund[31] -- a recommendation the FCC subsequently adopted.[32]

Q. What was the outcome of Docket No. 207-151-C?

Shortly after all of the briefs were filed in the proceeding, and as a result of the FCC's cap on Alltel's competitive ETC funding, Alltel asked the Commission to hold in abeyance its ruling on Alltel's ETC application, effectively withdrawing that application as well.

Q. Is it your understanding that Allied holds the licenses for some of the legacy Alltel wireless properties in South Carolina?

A. Yes, and those are the same properties for which Allied is now seeking designation. In fact, Allied is even doing business as Alltel in South Carolina.

Q. How is the support amount for the three current CETCs, Horry, RTC and Cricket, developed under the CETC cap?

A. The algorithm that USAC uses to determine the capped funding amount for all CETCs in a state first calculates the amount of support that each carrier would qualify for, assuming there was no cap in place, and that the support was calculated according to the "equal-

[29] *Id.* At ¶ 9.
[30] *Id.*
[31] *Id.*
[32] CETC Cap Order.

per-line" support rule. For the three current CETCs, this amount was approximately $10M in 2010.[33] The formula then divides the $6M "cap" by the $10M of projected funding "need" to develop the "adjustment factor," which in this case would be 60%:

$$\$6M \div \$10M = 0.60^{34}$$

This adjustment factor is then multiplied by the support that each carrier would receive under the equal-per-line support rule to determine the amount of capped funding that carrier would actually receive.[35] These are the numbers that are shown on TABLE II.

Q. If Allied is given CETC status, how much would the funding to Horry, FTC and Cricket need to be reduced?

A. Using data provided in response to ORS data request 1.7 by Allied on Confidential Exhibit 6, I can compute that, under the equal-per-line support rule, Allied would receive annual high-cost support of approximately ** ___ **. To get the impact that Allied's designation would have on support to current CETCs, I would then add Allied's uncapped support amount to the $10M of uncapped support for FTC, Horry and Cricket, and then divide that number into the $6M support cap level to determine the new adjustment factor as follows:

Adjustment Factor = $6M ÷ (**____** + $10M) = **____**

This would mean that rather than receiving the $6M of high-cost support as they do today, Cricket, FTC and HTC would collectively receive ** ___ ** ($10M x ** ___ ** = ** ___ **), or a ** ___ ** reduction from what they had previously been receiving. Since these companies had previously committed to this Commission that any high-cost

[33] Source, USAC Reports HC01a 1Q2010 – 4Q2010.
[34] This adjustment factor is computed quarterly, and is displayed on USAC Report HC01. The actual average adjustment factor in South Carolina 4Q10 was 0.5877, but has been rounded to 60% for ease of illustration in my testimony. The approximately $10M of uncapped support was calculated by dividing the actual 2010 disbursements by this adjustment factor.
[35] This formula is described in the CETC Capping Order, *Op. cit.*, at ¶27.

1 funding that they received would be invested in service-improving infrastructure in their
2 service territories, this would result in less investment and fewer new towers in their rural
3 service territories.

4 **Q. Are there other harms to the public interest that will occur if Allied is granted**
5 **CETC status while the CETC cap is in place?**

6 A. Yes. This designation would entail a shift of scarce, and currently capped, high-cost
7 funding resources from rural areas of South Carolina to the more urban areas of the state.
8 Allied's confidential two year plan shows that **___** of Allied's proposed tower
9 additions will be in the more suburban and lower-cost service areas served by AT&T or
10 Verizon. Horry, FTC and Piedmont would suggest that the public interest is not served
11 when support for new tower construction in rural areas is reduced so that towers in more
12 urban areas can be increased.

13 **Q. Given that approval of Allied's application for CETC status would result in**
14 **significant reductions in funding to the current group of CETCs, would it be in the**
15 **public interest to grant Allied's application for CETC status in this proceeding?**

16 A. No, for several reasons. First, the current CETCs have made commitments to this
17 Commission, and more importantly to their customers, to make specific service-
18 improving investments based upon the expectation of receiving CETC funding.[36]
19 Second, there is no reasonable way for the Commission to weigh the benefit that Allied's
20 customers might gain from service improvements in their service area, against the costs
21 that HTC, FTC and their respective customers might experience if expected high-cost
22 funding were to suddenly be significantly reduced. Third, since the funding reductions to

[36] In truth, their actual commitments were made on the expectation of receiving the full $10M of funding, since these commitments were made prior to the FCC's decision to implement the CETC funding cap. The further reductions that would be necessary to fund Allied's ETC status would thus be even more unfair.

existing recipients would result in cutbacks to their service improvement plans, there would be finite reductions in the consumer benefits anticipated with the initial grant of CETC status. Finally, there is no way to know, at this time, whether Allied would make these service improvements in the ordinary course of business, even if they did not receive CETC status.

Q. Are there other reasons that the Commission should be wary of granting additional CETC designations in the current capped environment?

A. If the Commission awards CETC status to Allied based upon the showing that it has made in this case, it is likely that other carriers could choose to apply as well to, at best, attempt to get a piece of the capped CETC pie, or at worst, to reduce the amount of support going to their competitors. This would create a downward spiral that would clearly not be in the public interest.

B. THE PUBLIC INTEREST IN 2011 AND BEYOND IS NOW DRIVEN BY THE NECESSITY TO UBIQUITOUSLY DELIVER BROADBAND SERVICES

Q. How does the current focus on implementing the National Broadband Plan impact the public interest dynamic in this proceeding?

A. Quite simply, broadband is the future. FCC Chairman Genachowski has described the current federal USF funding system to be "broken. "[37] The NBP and the recently issued NPRM have called for current CETC funding to be phased-out, and support for wireless services in currently unserved areas to be provided through a new "Mobility Fund" (MF). The current high-cost universal service support system for wireline services is likewise proposed to be phased out and replaced with a new Connect America Fund (CAF). As providers of both wireline and wireless services in rural areas of South Carolina, FTC,

[37] Genechowski remarks to the NARUC Convention, Atlanta, GA, November 15, 2010, *Op. cit.*

1 Horry and Piedmont have an enormous stake in how both of these new funds are defined,
2 structured, and implemented. These proceedings will have a significant impact of our
3 ability to continue serving our rural South Carolina customers. FTC, Horry and
4 Piedmont intend to be active participants in the coming public debate regarding the MF,
5 CAF and related transitions. With due respect for this Commission's past wisdom in
6 managing complex telecommunications policy transitions, we would suggest that its
7 valuable time and energies might likewise be best spent working in this national debate to
8 ensure that consumers in rural and high-cost areas of South Carolina continue to receive
9 services that are reasonably comparable to those available in urban areas, at reasonably
10 comparable rates.

11 **VII. CONCLUSION**

12 **Q. Could you please summarize your testimony?**

13 A. For the many reasons that I have described above, the Commission should find that the
14 designation of Allied for CETC status, at this point in time, would not serve the public
15 interest, and therefore Allied's application should be denied.

16 **Q. Does this conclude your testimony at this time?**

17 **A.** Yes.

Exhibit GHB-1

CLLI Code	Name	Number of Competitors	Number Providing 3G	Carriers
CHSNSCXA	Chesnee	6	6	1,2,3,4,5,7
CHESSCXA	Chester	6	5	1,2,3,4,6,7
GRFLSCXA	Great Fall	5	3	1,2,3,4,6
LWVLSCXA	Lewisville-Richburg	7	6	1,2,3,4,5,6,7
LCKHSCXA	Lockhart	2	2	2,6
NRWYSCXA	Norway	4	2	1,2,3,6
ENORSCXA	Enoree	6	5	1,2,3,4,5,7
GRCRSCXA	Gray Court	7	6	1,2,3,4,5,6,7
HCTVSCMA	Hickory Tavern	7	6	1,2,3,4,5,6,7
LRSNSCXC	Laurens	7	6	1,2,3,4,5,6,7
WENDSCXA	West End	7	6	1,2,3,4,5,6,7
WTRLSCXA	Waterloo	7	6	1,2,3,4,5,6,7
RDWYSCXA	Ridgeway	7	6	1,2,3,4,5,6,7
CLHLSCXA	Clark's Hill	7	6	1,2,3,4,5,6,7
DWSTSCXA	Due West	7	5	1,2,3,4,5,6,7
IVASCXA	Iva	7	5	1,2,3,4,5,6,7
MTCRSCXA	Mount Carmel	6	2	1,2,3,4,5,6
PLBHSCXA	Plum Branch	7	5	1,2,3,4,5,6,7
STRRSCXA	Starr	7	6	1,2,3,4,5,6,7
WAVLSCXA	Warrenville	6	5	1,2,3,4,5,7
NRTHSCXB	North	7	5	1,2,3,4,5,6,7
WLSTSCXA	Williston	6	4	1,2,3,5,6,7

Source: Individual company web sites

Carrier Code	Carrier
1	AT&T
2	Verizon
3	T-Mobile
4	Nextel
5	Sprint
6	Alltel
7	Boost Mobile

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2010-385-C

IN RE:

Application of Allied Wireless Communications Corporation d/b/a Alltel for Designation as an Eligible Telecommunications Carrier	))))	**CERTIFICATE OF SERVICE**

I, Rebecca W. Martin, do hereby certify that I have this date served one (1) copy of the attached Public Version of the Testimony of Glenn H. Brown upon the following parties causing said copy to be deposited with the United States Postal Service, first class postage prepaid and properly affixed thereto, and addressed as follows:

David A. LaFuria, Esquire
Todd Lantor, Esquire
Lukas, Nace, Gutierrez & Sachs, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102

Charles L. A. Terreni, Esquire
Terreni Law Firm, LLC
1508 Lady Street
Columbia, South Carolina 29201

C. Lessie Hammonds, Esquire
Nanette S. Edwards, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

Rebecca W. Martin

Rebecca W. Martin, Legal Assistant
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

February 10, 2011

Columbia, South Carolina