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Long Lines Wireless
Request for ETC status
Public Interest Statement

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

In designating Virginia Cellular as an ETC, the FCC enunciated an expanded public interest framework for its consideration of future ETC designations. In determining the public interest the FCC considered:

- The benefits of increased competitive choice;
- The impact of designation on the universal service fund;
- The unique advantages and disadvantages of the competitor's service offering;
- Any commitments made regarding the quality of telephone service; and
- The competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.

Long Lines Wireless (LLW) sets forth below specific facts demonstrating how its designations as an ETC in South Dakota will advance the public interest under these five factors.

As an initial matter, LLW believes strongly that any public cost likely to be incurred as a result of LLW designation are negligible compared to the benefits specifically articulated below. LLW notes that it is public cost that matters, not the cost to individual companies, as the 5th Circuit made clear in *Alenco Communications v FCC*, 201 F3d 608, 622 (5th Cir. 2000). Moreover, LLW believes that the impact of its designation as an ETC in South Dakota on the size of the USF would be negligible. This minimal cost is far outweighed by numerous public interest benefits which will accrue to South Dakota Consumers as a result of LLW designation as follows:

A. Increased Consumer Choice and Service Quality.

Designation of LLW will advance universal service, promote competition and facilitate the provision of advanced communications services to the residents of rural South Dakota. Residents in many rural areas have long trailed urban areas in receiving competitive local exchange service and advanced telecommunications services. In many rural areas, no meaningful choice of local exchange carrier exists.

To date, a number of wireless carriers have been designated as ETCs in various states. In its orders granting ETC status to wireless carriers in rural areas the FCC has emphasized the advantages wireless carriers can bring to the universal service program. For example, in its order designating Western Wireless as an ETC in the State of Wyoming the FCC observed: "Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."(1) Recognizing these

unique advantages, the FCC has found that “imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.” (2)

In addition, with ETC designation, LLW will implement its Lifeline and Link-up programs which offer service to low-income consumers who have not previously had the opportunity to afford any choice in telephone service. Universal Service support will enable LLW to reach out to those counties in South Dakota that have no choice of service and provide them with quality phone service.

LLW commits to use its high cost support to improve service in areas it would not otherwise invest in. As LLW constructs additional cell sites in high cost areas to improve the quality of its radio frequency (RF) signal, its customers will have a greater choice among service providers and will receive more reliable service. Customers will see service quality and reliability improvement such that they may choose LLW service instead of ILECs, as opposed to confining their use of LLW service to an ancillary communications tool. The company has every incentive to meet its commitment because use of such funds in this manner will improve its competitive position in the market place. Moreover, it has every incentive to maintain or improve reliability and to lower its prices over time because it can only receive high cost support when it has a customer.

As an ETC, LLW will have the obligation to provide service to consumers upon reasonable request. Specifically, the company commits to undertake the following steps in responses to consumer requests for services:

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1. WWC Wyoming Order, supra, 16 FCC Rcd at 55
 2. First Report and Order, supra, 12 FCC Rcd at 8882-83

1. If a request comes from a customer within its existing network, LLW will provide service immediately using its standard customer equipment.
2. If a request comes from a customer residing in any area where LLW does not provide service, LLW will take a series of steps to provide service.
 - First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.
 - Second, it will determine whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.
 - Third, it will determine whether there are any other adjustments to the nearest cell site that can be made to provide service.
 - Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.
 - Fifth, it will explore the possibility of offering the resold services of carriers that have facilities available to the location.
 - Sixth, LLW will determine whether an additional cell site, a cell extender, or repeater can be employed or can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service. If there is no possibility of providing service short of these measures, LLW will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled. The Commission will retain authority to resolve any customer complaints that LLW has refused to respond to a reasonable request for service.

LLW believes these service provision commitments – which have been accepted by the FCC and other state commissions (3) – will ensure that the company is responsive to the consumers' needs while acting as a proper steward of available high-cost support funds.

In the Nextel Partners order, the FCC addressed the question of whether designating NPCR, Inc. d/b/a Nextel Partners ("Nextel") as an ETC in Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee and Virginia would cause undue strain on the federal high-cost fund. (4) In making that determination, the FCC used the unrealistic scenario of Nextel capturing each and every ILEC subscriber in Alabama – the state in which affected ILECs receive the largest amount of support, equivalent to 1.88 percent of the total high-cost fund. Based on that analysis, the FCC concluded that Nextel's designation in all seven states would not "dramatically burden" the federal high-cost fund.

3. See e.g., USCC Oregon Order, *supra*, at p.10; ADT Alaska order, *supra*, at pp 8-9; Nextel Louisiana Order, *supra*, at pp. 7-8; SBI Gallup Decision, *supra*, at p. 14; RCC Vermont Rural Order, *supra*, at pp 28-29, Easterbrooke W.V. Rural Order, *supra*, at p. 19.

4. See Nextel Partners, *supra*, 19 FCC Rcd at 16540

ETC

Here in as well, LLW designation will not burden the USF. LLW estimates that the funds that it will receive annually if it is designated as an RTC in South Dakota will be approximately \$200,000 per year. Even in the implausible event LLW captures all of the ILEC subscribers in its South Dakota service area, LLW estimates its total support would amount to only 0.02 percent of the fund, a significantly lower percentage than the 1.88 figure corresponding to just one of the seven states approved in Nextel partners. By any measure, therefore, a grant of the instant Petition will not unduly burden the fund.

Long Lines Wireless Customer Agreement

This Customer Agreement, which incorporates the attached Terms and Conditions of Service and any calling plan descriptions or brochures that we provide to you, is the contract between you and Long Lines Wireless that specifies each of our obligations. This Customer Agreement covers important issues such as how long the agreement lasts, fees you will be obligated to pay Long Lines Wireless if you terminate the agreement early or if you do not pay your bills when they are due, the rights of Long Lines Wireless to change the terms of this agreement and your wireless services, limitations of liability for Long Lines Wireless to you, and settlement of disputes by arbitration instead of in court. If you accept this Customer Agreement, it will apply to all your wireless services provided by Long Lines Wireless.

This Customer Agreement, including the attached Terms and Conditions of Service, begins when you accept it, which you do by (i) giving us your written or electronic signature, or (ii) by activating your Service through your Phone, or (iii) by using your Service after making any change or addition when we've told you that the change or addition requires acceptance. In accepting this Customer Agreement, you represent to Long Lines Wireless that you are at least 18 years old and have the legal capacity to accept this agreement. If you accept this agreement for a company or other entity, you represent to us that you are authorized to sign on behalf of that company or entity.

Please read this Customer Agreement, including the attached Terms and Conditions of Service and your Calling Plan, carefully before you accept it. If there are any parts you do not understand, please ask us and we will be happy to explain them. We suggest that you file the agreement in a safe place for future reference.

You may cancel this agreement for any reason within 30 days after acceptance. If you advise us of your desire to cancel the Service, you return the Phone in like-new condition with all components including original packaging, and you agree to pay for all service fees and charges (including activation fee, if any) incurred up until the end of the day in which we terminate the Service. If you satisfy each of these conditions, you will not be obligated to pay an early termination fee.

Important definitions of terms used in this Customer Agreement:

- "Long Lines," "we," "our," or "us" refers to Long Lines Wireless, LLC and its affiliated entities.
- "You" or "your" refers to the individual accepting this Agreement and, if signed on behalf of an entity, on that entity as well.
- "Service" refers to the wireless voice and/or data services that are provided to you by Long Lines Wireless and its roaming carriers.
- "Phone" refers to your wireless telephone or other device that you use to receive our Service.

Our Service. Wireless calls and data transmissions are carried by means of radio signals, so you cannot use our Service when your Phone is not in range of one of our antenna sites or an antenna site of another carrier that has agreed to carry our customers' calls outside our coverage area, or if there isn't sufficient network capacity available at that moment. There are places in our coverage area, particularly in hilly or remote areas, with no service at all because they are not within range of the radio signals from an antenna site. Weather, topography, buildings, and other conditions, including your Phone, that we cannot control may also cause weak or no service, dropped calls, or other problems.

Your Phone. Whether you purchase your Phone from Long Lines Wireless or from someone else is entirely your choice. However, your Phone must comply with federal Communications Commission regulations and be compatible with our GSM/GPRS network and your Calling Plan. From time to time, we may change your Phone's software, applications, or programming remotely and without notice. This could affect data you've stored, the way you've programmed, or the way you use your Phone. If you bought your Phone from Long Lines, it may contain software that prevents it from being used with any other company's wireless service, even if it is no longer being used to receive our Service.

Your Wireless Phone Number. You are responsible for all charges, including surcharges and other fees, for Service provided over the wireless phone number Long Lines Wireless assigns to your Phone, even if you are not the individual using or consuming the Service and did not authorize that individual to use your Phone. While this Customer Agreement is in effect, you may use your assigned wireless phone number with our Service or you may port the number to another carrier's service, but you do not have any other rights in the wireless phone number we assign to you. Long Lines Wireless does not publish a directory of our customers' wireless phone numbers, and we do not provide them to other parties for listing in their directories.

Activation Fee. Long Lines Wireless charges a one-time fee for each new wireless phone number that is assigned to you. This fee is not refundable even if you cancel our Service as provided above.

Your Calling Plan. Your Calling Plan is an important part of what you're agreeing to in this Customer Agreement. Be sure to review it carefully, and if there's anything you don't understand, please ask us to explain. Your Calling Plan determines the nature of, and the charges for, the Service we will provide, including your monthly access, monthly allowance minutes, roaming, and toll charges, if applicable. Your Calling Plan also describes the features included with your Service, as well as any optional services that are available for an additional charge. These included features and options may include data services such as text messaging and Internet access. You have the option to change to any qualifying Calling Plan at any time at no additional fee, although you may have to purchase a new Phone, or extend the term of your Customer Agreement, to be able to take advantage of a new Calling Plan.

- **Monthly Access.** This is your monthly charge based on your chosen Calling Plan, which specifies your allowed minutes of use, coverage area, etc. Paying this charge gives you the right to use Long Lines Wireless, and it is usually billed one month in advance.
- **Monthly Usage.** Your Calling Plan may have a set number of minutes that may be used each month, including a monthly allowance for "home area" use, night and weekend use, and calls to other Long Lines customers. These minutes will be prorated the first month. Unused allowance minutes are not carried forward or credited against the next month's usage. Toll charges, such as regional calling and wireless long distance charges, and service-related fees are not included in the monthly allowance minutes and are charged separately on your bill.
- **Roaming.** The "home" rate and coverage area for your Service is specified in your Calling Plan and may be local, regional, or national. Calls (or data services) originated or received by your Phone outside the home coverage area for your Calling Plan are "roaming" calls and may be assessed additional per minute usage charges as described in your Calling Plan.
- **Toll Charges.** Depending on your Calling Plan, regional calling and long distance charges may apply for calls placed from locations outside your home calling area. These charges are based on where you start the call and don't change even if you move during the call.

Minimum Customer Commitment/Early Termination Fee. In part because you are purchasing your Phone from Long Lines Wireless at a special reduced price, your Calling Plan specifies a minimum of two years that you agree to do business with us. This minimum period (the "Term") begins when your Service is first activated. If you subsequently change to a different Calling Plan that requires a minimum customer commitment, the Term starts over again when the new Calling Plan is activated. Subject to your cancellation right described above, if you terminate service before the end of the Term, you will be responsible for an Early Termination Fee ("Fee") for each line of service terminated early. The fee is \$175 per line. After the Term is satisfied, this Customer Agreement will automatically renew on a month-to-month basis, until either you or Long Lines Wireless terminates it.

How We Measure your Minutes. For calls made from your Phone (including calls to 800 numbers and to check your voicemail), we measure the duration of a call beginning when the "Send" (or similar) key is pressed to originate the call and ending when you or the called party press the "End" (or similar) key or otherwise terminate the call and we receive a signal to disconnect, which may be a few seconds later. For calls placed to your Phone (including calls routed to your voicemail, even if no message is left), we measure the duration of the call beginning when we receive the signal to direct the call to your Phone (which may be a few seconds before your Phone rings) and ending when we receive a signal to disconnect the call. All calls are measured in full minutes. Partial minutes are rounded up to the next full minute. With respect to your monthly allowance minutes, this means, for example, that a 25-second call counts as one full minute, and a 2-minute, 10-second call counts as three full minutes. Calls that begin in one rate period and end in another rate period may be billed in their entirety at the rates for the period in which the call began.

Directory Assistance. When you dial 411, your call is routed to our directory assistance service. Unless your Calling Plan provides otherwise, directory assistance calls will be charged against your monthly allowance minutes and you will be billed a separate fee of \$1.53 for each such call.

Taxes, Surcharges, and Other Fees. Your bill will include sales, excise, and other taxes and surcharges that we are required by law to bill to customers. They will be based on the taxes and surcharges applicable to the street address you provided to us. If you are tax-exempt, you must provide us with copies of your exemption certificates and pay for any filings we are required to make. Your bill will also include a Regulatory Cost Recovery Fee of \$1.25 per month to recover or help offset the costs of government surcharges and fees imposed on Long Lines Wireless and costs associated with government regulations and mandates on our business including, for example, number porting, number portability, E-911 service, and federal and state Universal Service Fund charges. Taxes, surcharges, and the Regulatory Cost Recovery Fee are not part of your Calling Plan or of our rates, and we may change them without prior notice to you.

Payments. Payment is due in full as stated on your bill. If we do not receive full payment of your bill when due, we may, to the extent permitted by the law of the state of your billing address charge you a late fee of 1.5% per month (18% annually), or a flat \$5 per month, whichever is greater, on your unpaid balance. We may, to the extent permitted by law, charge you for any collection agency fees. We may charge you up to \$25 for a returned check, as permitted by law, and we cannot honor any banking notations you make on or with your checks.

Our Rights to Terminate this Customer Agreement. You agree not to resell our Service to someone else without our prior written permission. You also agree that your Phone will not be used for any purpose that isn't allowed by this Customer Agreement, the Terms and Conditions of Service, and/or your Calling Plan, or for any illegal purpose. We can, without notice, suspend or terminate your Service and this Customer Agreement for this or any other good cause including, but not limited to, your: (i) failure to pay your bills when due more than once in any 12-month period, (ii) harassing our employees or agents, (iii) lying to us, (iv) interfering with our operations or Service, (v) filing for bankruptcy, (vi) "spoofing" or other abusive calling or messaging, (vii) modifying your Phone from its manufacturer's specifications, or (viii) using your Service in a way that adversely affects our network or other customers.

Limit on Our Liability. If Service is interrupted in your home area for more than a 24-hour period due to our fault, we will give you a credit for the period of interruption. As more fully described in the attached Terms and Conditions of Service, our liability to you for Service failures is limited solely to credits for Service interruption, and we shall not be liable to you or to any other party for any direct or indirect, incidental, or consequential losses or damages, including loss of business or goodwill, loss of revenues or profits, or claims of personal injuries resulting from the use of or inability to use your Phone or our Service (for example, for missed calls or voicemails or for deletions of voicemails from your mail box). LONG LINES WIRELESS MAKES NO WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, OR PERFORMANCE CONCERNING YOUR PHONE OR OUR SERVICE. WE CANNOT AND DO NOT PROMISE UNINTERRUPTED OR ERROR-FREE SERVICE AND DO NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES OR SUCH REPRESENTATIONS ON OUR BEHALF. THIS STATEMENT DOES NOT DEPRIVE YOU OF ANY WARRANTY RIGHTS YOU MAY HAVE AGAINST ANY OTHER PARTY.

Dispute Resolution and Mandatory Arbitration. You and Long Lines Wireless each agree that we will attempt to settle any disputes between us by negotiation. If one of us has an issue that can only be resolved with third party intervention, we agree that it will be resolved by arbitration and not by filing a lawsuit. You understand that there is no judge or jury in an arbitration, and review is very limited, but an arbitrator will apply the provisions of this Customer Agreement including the Terms and Conditions of Service in the same way as a court would, and can award damages and relief as a court could. The Public Utilities Commission will regulate disputes that fall under its jurisdiction.

Our Rights to Make Changes. Long Lines Wireless retains the right to change the terms of this Customer Agreement, of the attached Terms and Conditions of Service, and of your Calling Plan at any time by sending you written notice prior to the billing period in which the changes would go into effect. If you use our Service after that billing period begins, you accept our changes. If the changes have a material adverse effect on you, however, you may terminate our Service without being required to pay the fee.