

considered ICTC's petition for modification at its regularly scheduled open public meeting of October 12, 2005.

II. ICTC's PETITION FOR MODIFICATION

A. ICTC's Position

4 ICTC petitions for modification of the Commission order granting ETC designation that required ICTC to petition the FCC for concurrence in the Commission's designation of ICTC for service areas that overlap, in part, the service areas of rural telephone companies. *Petition for Modification at 2, 4.* ICTC makes this request because the Universal Service Administrative Company (USAC) has not provided federal support to ICTC for the service it provides to customers in those portions of its cellular geographic service area (CGSA) that overlap, in part, rural telephone company service area. *Id. at 2.* USAC has relied on paragraphs 71 and 90 of the *ICTC Designation Order* as support for its position that something more is required of ICTC before USAC may disburse federal support. *Id. at 2-3.*

5 ICTC contends that the Commission erroneously required ICTC to petition the FCC for concurrence. ICTC maintains in its petition for modification that concurrence by the FCC with the designations made by the Commission in 2002 is unnecessary and not supported by law. *Id. at 3.* ICTC states that the Commission reached that conclusion in response to a petition from RCC Minnesota on the same issue presented by ICTC. *Id.*

B. Commission Staff's Analysis

6 Commission Staff's analysis is that ICTC's petition presents the same issue under consideration in the RCC Minnesota petition for modification. *Open Meeting Memo, at 2.* Commission staff notes that in previous instances when carriers sought designation for service areas that overlapped parts of wireline exchanges concerns were raised that designation of a wireless company for a service area

that overlaps part of an incumbent's exchange might result in cream skimming. Commission Staff contends that many precedents of the Commission support the conclusion that cream skimming is not a concern when federal support is disaggregated.² Commission Staff asserts that accepting geographic boundaries as they are recognizes the technological differences that exist between carriers, and takes into account the variations in the statutory and regulatory requirements placed on wireline and wireless carriers. *Id.*

III. COMMISSION DISCUSSION AND DECISION

7 ICTC petitions for modification of that portion of the *ICTC Designation Order* that required ICTC to petition the FCC for concurrence in the Commission's designation of ICTC for service areas that overlap in part service areas (exchanges) of rural telephone companies and non-rural incumbents.

8 We have already determined that it is in the public interest to designate wireless companies as additional ETCs for locations served by rural telephone companies; that it is in the public interest to make those designations whether the boundaries of the respective rural and wireless carriers' service areas are coincident or overlap; and that disaggregation eliminates concerns about cream skimming.

9 In the *RCC Modification Order* we encountered the same request presented today; we make the same decision.

10 We base our decision on the written materials provided in this docket and on our knowledge and experience regarding ETC designation. We have a substantial number of thorough and reasoned decisions on which we rely to reach our conclusion. As a result, we will not discuss in detail every issue that has come

² See *In the Matter of the Petition of RCC Minnesota d/b/a Cellular One for Designation as an Eligible Telecommunications Carrier*, Order No. 2, Order Granting Modification, Docket No. UT-023033, ("*RCC Modification Order*") (March 16, 2005). (NB-2004 appears incorrectly in the ordering clause.)

before the Commission and has been discussed and decided in prior proceedings.

11 We conclude that it is in the public interest to grant the modification requested by ICTC. Our action will preserve and advance universal service and promote competition. *RCW 80.36.300; 47 U.S.C. § 254.*

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

12 Having reviewed the *Petition* of ICTC and Commission Staff's *Open Meeting Memo*, having discussed above all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary findings of fact and conclusions of law:

- 13 (1) Inland Cellular Telephone Company is a telecommunications company doing business in the state of Washington.
- 14 (2) The Commission has jurisdiction over the subject matter of this petition and over ICTC with respect to its designation as an ETC.
- 15 (3) No statute or rule requires FCC concurrence with our designations of ICTC.
- 16 (4) Granting the requested modification is in the public interest.
- 17 (5) The Commission has authority to modify, suspend, or revoke this order at a future date.

V. ORDER

18 This Order decides issues raised in a non-adjudicative proceeding. Based on the foregoing, the Commission orders:

- 19 (1) The petition of Inland Cellular Telephone Company is granted, as modified
by this Order.
- 20 (2) Inland Cellular Telephone Company is not required to petition the FCC for
concurrence in designation as an ETC for service areas that overlap parts
of rural telephone company service areas and non-rural incumbent service
areas (exchanges).
- 21 (3) The Commission may modify, suspend, or revoke this order at a future
date.

DATED at Olympia, Washington, and effective this 12th day of October, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner